

Catholics and Others: Religion and Legal Pluralism in Early Colonial Madras

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Under East India Company rule, early colonial urbanism in the south Indian port city of Madras was characterized by an exceptional degree of legal pluralism marked by the co-existence of English, European, international and indigenous law, as well as custom. In this patchwork of multiple and overlapping jurisdictions, the administration of the city's Catholic churches with their large numbers of native worshippers - many of them from the lowest rungs of society - was a particularly complex matter. European church officials claimed sovereign authority over the spiritual and religious lives of their congregations even as they struggled with an increasingly powerful Protestant English government that sought to control quotidian secular matters concerning the churches.

In this paper, I begin by examining a series of disputes from the early 19th century between outcaste "Pariah" worshippers and their European priests over the administration of their churches. The former's negotiations with the plural legal context that they inhabited is evidenced in their self-articulation as urban, legal subjects on the one hand, and as Christians on the other. At the same time, I argue that a discussion of native agency has to be understood in the context of the reformation of subjectivities, and the re-organization of the legal terrain by the East India Company. Thus, by this time, the growing consolidation of Company rule with its inexorable shift to a territorial empire was to sharpen the hierarchical character of colonial legal pluralism. The ideology and practices of early colonial governance both enabled, and shaped the language and forms of the legal subjectivity of colonized subjects, as well as the character of subaltern Christianity, and the category of religion itself.

Universal Templates, Local Renditions: Feeding Prisoners in the Colonial Jails of the 1840s

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Between 1838-41, the colonial state in India, imposed standardized dietaries and common messing for prisoners inside its jails. The measure arose from a larger wave of Utilitarian reformism that sought to make punishment more frugal, predictable and uniform. Depriving prisoners of the 'pleasure' of cooking, and simultaneously imposing the obligation to do hard work was designed to add to the terrors of imprisonment, and thus enhance the punitive and deterrent components of punishment. While bland jail circulars laid out universalizing templates for these transformations within penal regimes, the actual arrangements that were transacted at the local level varied tremendously from jail to jail, to the extent of seriously qualifying the import of the regulations.

In this paper, I look at a range of ways in which prisoners, administrators and ordinary civilians weighed in to secure adjustments or changes in the proposed norms for standardized messing. The official specification of equal-sized messes of twenty prisoners each was thwarted by the pressure to accommodate caste and commensality norms that, in the process came to be represented in highly specific and variable ways. For example, regional food practices were invoked to decide upon the relative merits of ghee (clarified butter) and mustard oil when deciding whether a particular food item constituted a luxury to be expunged from the jail dietary. The nutritive value of different foods were calculated with a view to the history of illness and mortality in a particular jail, the labour regimes prevailing there, and the larger population segments within which the prisoners were based. Thus, the history of a specific mode of penal reformism in the early 19th century serves as a rich context from which one can prise open the shades of legal pluralism in early colonial regimes

Community and Jurisprudence in Malabar, 1500-1600: A Reading of Fath-ul-Muin

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This paper focuses on the Fath-ul-Muin written by Zainuddin Makdhum II, a major scholar of shafi'ite Islam in the pre-modern period in the background of the Portuguese invasions in late 16th century Malabar. Makdhum II, who saw himself as a mujtahid or an independent interpreter, wrote the text by incorporating into it legal ideas from a range of Islamic juridical scholars who belonged to different, and often conflicting, schools of law.

Addressing the political, economic and religious turmoil that engulfed the coastal Muslims of Malabar with pietistic anxiety in the late 16th century, the Muin is a legal and religious text directed at “freeman, free women, children, slave and protected non-Muslims.” For Makhdum II, Malabar was the Darul Islam, the originary land of Islam, and as the foremost legal and spiritual authority of Muslims in the region, he deployed the Muin to enable the Muslims of Malabar to weather the storm of the transitional period of turmoil that he referred to as fasad. Written in Arabi-Malayalam in the context of the impending loss of political support and economic stability, the Muin is a didactic text that sought to provide its readers a sense of kinship and a notion self governing community to allow it to negotiate with its troubled times.

The Curious Incident of Yusuf Aindar: Contesting Orders of Justice and Politics in Early Modern Kashmir

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My paper focuses on the case of a homicide in Kashmir in the 16th century in order to reflect on how law was understood and practiced in a regional Sultanate, in a context marked by jurisdictional conflicts with the Mughal imperial authority that was aspiring to consolidate its power in the region. I argue that contrary to a normative understanding of Islamic jurisprudence that sees it as emanating from the state and its institutions like the qazat (collective of judges), the adjudication of justice in Kashmir was characterized by debates and deliberations at different levels – from the courts to public forums inhabited by informed subjects.

I analyze an unusual case from the city of Srinagar where a local court appeared to have overstepped the bounds of its power, and of accepted convention in dealing with particular types of crimes. In 1581, Yusuf Aindar was executed on the orders of the Kashmiri qazat on the charges of having hurt a man in a scuffle. The unusual severity of the punishment meted out caused widespread disquiet that resulted in heated public debates about the role and powers of the Sultan on the one hand and the Mughal emperor on the other. The case both presented, and was constitutive of the jurisdictional tensions between the regional Sultanate of Kashmir and the supra regional Mughal state. Thus, I argue that the case of Yusuf Aindar, which played out in multiple theatres, and through a web of deliberations between state and non- state actors, illuminates the complexities of a regional legal order at the cusp of assimilation into a larger imperial system, marked as it was, by quotidian negotiations between different sources of law and notions of justice.