

TRADITIONAL FUTURES: LAW AND CUSTOM IN INDIA'S LAKSHADWEEP ISLANDS (2006). By V. Vijayakumar. Oxford University Press. New Delhi. Pp. xvii+337 Price (HB). Rs. 650/-.

LAKSHADWEEP CONJURES up an idyllic holiday destination, of palm-fringed sandy beaches and azure seas, forming a chain of islands off the coast of Kerala. Its position on the map, along the coast of Kerala and also falling along the trade route used by traders from the Arab world has resulted in a remarkable fusion of property rights bearing the imprint of the matrilineal systems of property devolution of Kerala, the Islamic systems of inheritance combined with the British colonial ideas of administration and property titles. The result is the system of property rights one sees in Lakshadweep today.

Vijayakumar's fascinating and remarkably well-researched book focuses on these islands that mark a site where syncretism of religious tradition has evolved over the centuries in a manner that is perhaps unique in the world. What makes the book extremely readable, informative and at the same time instructive is the pains he has taken to delve into the available social, economic, cultural and historical material in order to present a picture of the law relating to property rights in their social setting. No dry, black letter law book this; rather a book that brings to the reader through broad, yet detailed brush-strokes, a vivid picture of society as it is, its dynamics and the changes brought about both by the introduction of the laws of the rest of India into this unique landscape and the growing Islamisation within the islands, in order to understand where this society may be headed for in the future. The author brings to bear his detailed knowledge of the legal history and traditions of Lakshadweep acquired as a judicial officer and what is clearly his abiding interest in its people to produce this meticulous study of the property rights in Lakshadweep.

The reception of alien legal systems into a cohesive well-knit community has always held special interest for legal anthropologists. Lakshadweep presents a classic case. Earlier known as the northern or Amindivi group or South Kanara Islands and the southern or Laccadive and Minicoy group or Malabar Islands, these islands had been under the domination of Cannanore kings, later of Tipu Sultan, then the British East India Company, later made a part of erstwhile Madras state and finally a union territory in 1956 that was then renamed Lakshadweep in 1973. The author notes that the Minicoy groups of islands are distinct in that they do not follow the joint family system of Lakshadweep and the book is confined to these Lakshadweep islands.



The customary laws of a people classified totally as scheduled tribes and who are 100 percent Muslims, presents us a sub-culture of Indian society that is unusually homogenous — socially, economically and culturally. Lakshadweep is a deeply religious society with the author pointing out that the “number of mosques in proportion to population and land area is the highest in India.”¹ The author notes that this mono-cultural environment is unique to these islands, quite unlike the rest of South Asia where the development of Islam took place in a multicultural and multi-religious setting. This feature may have also contributed to the continued existence of customary practices and the lack of the need to carve out a distinct identity based exclusively on the Sharia in order to distinguish the group from other communities. The Shariat Application Act, 1937 has not been made applicable to these islands and as a result the process of homogenisation of the law has not taken place and customary law continue to govern the Muslims in the islands. However, the author mentions that in recent years, syncretic rituals, dances and music in religious festivals are slowly disappearing and practices in conformity with the Sharia are now insisted upon.

The caste system and joint family system are prevalent in the islands and the author observes that they maintain endogamy at the caste level and exogamy at the level of the matrilineal *tharawad*. It is a society with remarkably high levels of literacy and with a unique position accorded to women a result of the system of property devolution in the islands based on “customary *Marumakkathayam* and Sharia with many variations”.²

The concept of property that developed on the islands is quite distinctive. The author notes that “the islanders had no concept of property in the form of land. Their concept related entirely to trees and houses on land.”³ The British introduced the system of private property in land and the book traces how this idea continues to be fraught with problems until today. The author notes that “only those persons both of whose parents are ...from these islands alone can own property in the Lakshadweep islands”.⁴ The author is of the view that rules restricting the entry and residence in the islands have helped preserve the ecosystem and cultural identity of the islands.

The impact of the reception of law, the manner in which it dislodged erstwhile legal concepts and the resultant tensions in the social fabric are well-captured in chapter of the book dealing with property, land tenures and land reforms. That the direction of several legal changes have sometimes

1. V. Vijayakumar, *Traditional Futures: Law and Custom in India's Lakshadweep Islands*, 33 (2006).

2. *Id.* at 19.

3. *Id.* at 52.

4. *Id.* at 4.



served to undermine the sense of community ownership are brought out sharply with respect to rights (or their absence) over land. The important role played by the community in achieving amicable and consensual settlement of land reforms in a society with caste division and with inequalities in holdings of land and coconut trees are described in the book.

The book notes that the Marumakkathayam form of property devolution continues in its pristine form in Lakshadweep as several enactments reforming such property rights in Kerala have not been extended to the islands. The dual property system in the islands shows clearly how plural legal regimes with respect to property can co-exist harmoniously side by side with neither threatening the other. Thus, joint family property or Friday property continues to be dealt with by the rules of Marumakkathayam, while self acquired or Monday property are governed by the rules of customary Sharia. The reasons why the author uses the expression 'customary Sharia' become clear as the book unfolds, given the acceptance of the idea of ancestral property and the unfettered testamentary rights that are followed here.

The author demonstrates how matrilineal systems of property devolution have had a pivotal role in enforcing monogamy. The high social status accorded to women under customary law is visible in the practice in Lakshadweep of women going to the mosques for prayers. Yet the situation is slowly changing. The impact in the decline of the matrilineal systems of property devolution and the slow conversion of joint family property to individual property has its impact on women. The author's own research shows us that the incidence of individual property is slowly increasing and there is a decline in the forms of common property. Not only in terms of economic rights, socially too, the author records the shifts in the position of women; the *purdah*, which had never been a feature of the islands is now becoming more common.

The book notes the important role played by the courts in interpretation of matters relating to religion, land and governance. The splinters among the different sects of Muslims in the islands have been a cause of much litigation. Thus, the court has helped establish that a Muslim could worship in any mosque regardless of sect; that the office of the *Kazi* was open to all, ending centuries of the practice of the post of *Kazi* based on matrilineal inheritance. This ended the practice where many prominent families had mosques as *tharawad* property which was managed by the head of the family as the hereditary *Kazi*. The book reviews the important cases that have had an effect on the modernisation of customs. It also points out that court decisions have had an important impact in changing property rights. In the chapter discussing the important judgments, the author points out how judicial interpretation has resulted in conversion of joint family



property and in the increase of individual property rights. He also points out that the confusion with respect to many important matters relating to property rights continues despite judgments rendered by the highest court.

The book serves as a timely reminder that plural legal regimes often co-exist and can produce their own unique, syncretic traditions. Such intertwining of legal tradition evolves in a context of historical specificity and therefore provides acceptability and legitimacy to such varied legal norms among the people. The author must be commended for bringing out a book that places the law in its social setting and for bringing to a wider audience a facet of the plural legal traditions that reflect the diversity of the 'lived' legal systems of today. This is certainly a book that must be read by judges, lawyers, scholars, and students of law and the social sciences.

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