

**MATRILINY AND WOMEN IN
MEDIEVAL KERALA**

**Thesis Submitted
for the Award of the Degree of
Doctor of Philosophy in History**

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CERTIFICATE

This is to certify that the thesis entitled “**Matriliney and Women in Medieval Kerala**” submitted to the University of Calicut for the award of the Degree of Doctor of Philosophy in History is a record of bonafide research carried out by Smt.Ammukutty.K.P under my supervision and guidance, and that no part of it has been presented before for any other Degree, Diploma or title.

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DECLARATION

I, Ammukutty.K.P do hereby declare that this thesis “**Matriliney and Women in Medieval Kerala**” is a bonafide record of work done by me and no part of the thesis has not previously formed the basis for award of any degree, diploma, associate-ship, fellowship or other similar title or recognition.

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LIST OF ABBREVIATIONS

A.I.R	:	All India Reporter
A.S	:	Appeal Suit
AS	:	Appellate Suit
BORD	:	Board of Revenue Proceedings
GO	:	Government Order
IESHR	:	Indian Economic and Social History Review
ILR	:	Indian Law Report
IOLR	:	India Office Library and Records, London
J.R.A.I	:	Journal of Royal Anthropological Institute
JAS	:	Journal of Asian Studies
K.L.J	:	Kerala Law Journal
KRA	:	Kozhikode Regional Archives
KS	:	Kerala Secretariat, Cellar Records
M.H.C.R	:	Madras High Court Reports
M.I.A	:	Moore's Indian Appeals
M.L.J	:	Madras Law Journal
M.M.C.R	:	Malabar Marriage Commission Report
M.W.N	:	Madras Weekly Notes
Mal.	:	Malayalam
MAS	:	Modern Asian Studies
MCTIA	:	Malabar Compensation for Tenants Improvements Act, I of 1900
MCTIB	:	Malabar Compensation for Tenants Improvements Bill
MHCR	:	Madras High Court Report

MLTCR	:	Report of the Malabar Land Tenures Committee
MLTR	:	Malabar Land Tenures Report
MMCR	:	Report of the Malabar Marriage Commission
MTA	:	Malabar Tenancy Act
MTCR	:	Report of the Malabar Tenancy Committee
NMML	:	Nehru Memorial and Museum Library, New Delhi
NNR	:	Native Newspaper Reports
O.S	:	Original Suit
P.C	:	Privy Council
PBOR	:	Proceedings of the Board of Revenue
PP	:	Parliamentary Papers
RACJM	:	Report on the Administration of Civil Justice in the Madras Presidency
RJC	:	Report of the Joint Commission from Bengal and Bombay
RPIMP	:	Report on the Public Instruction in the Madras Presidency
S.A	:	Sadar Appeals
S.C	:	Supreme Court
T.L.R	:	Travancore Law Reports
T.V.M	:	Trivandrum
TNA	:	Tamil Nadu Archives

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CHAPTER I

INTRODUCTION

The system of inheritance prevalent in Medieval Kerala and most probably earlier to it is known as matriliney or *Marumakkathayam*. Compared to the system in the other regions of India, it is unique in the sense that inheritance in this context is traced through the female line. In Kerala, the matrilineal system or the female matrix continued much later and had received the notice of foreign travellers.

Though it is fundamentally associated with the Nayar communities of Kerala, even the Nambuthiris, Pothuvals, Mappilas, etc had followed this system. Copious evidences of the associated family structure can be easily traced. Later studies on these sources point to different reasons for its origin. A student of history is often puzzled by the heterogeneity of these opinions. To trace its origin, it is necessary to analyze the literary and epigraphic sources relevant to the times and the subject.

Our analysis becomes more relevant in the present context of the feminist school of thought gaining prominence. Hence the approach of the study to some extent is feminine-centric.

The present study is confined to two landowning communities of Kerala, namely Nayars and Mappilas of Malabar, who followed this system. How these two communities were influenced by the socio-economic developments in Kerala is traced. The impact of colonial interventions in Kerala introduced changes and these changes are analysed in the light of available sources. Special importance is given to

the life of women. An attempt is made to trace the living conditions and status enjoyed by women of these two communities.

The methodology adopted is the thematic system analysis of the available inscriptional and literary sources, including foreign accounts and folksongs. The Cera inscriptions from 9th century A.D were utilised for writing this treatise. The literary sources such as *Musaka Vamsa Kavya*, *Manipravala* works, foreign literary works such as Arab, Chinese and European accounts are made use of. The archival materials kept in Tamil Nadu Archives and Regional Archives Kozhikode were also utilised.

Scheme of Study

The Thesis is divided into five chapters and a conclusion.

Chapter One deals with the importance of Matriliney which is a unique system of descent and inheritance. The study becomes relevant especially after the feminist school of thought gained prominence. All the earlier works done on this subject are examined and the viewpoints of scholars are discussed. Scholars from William Logan to Arunima studied this system, and their viewpoints are incorporated. Besides these, certain sociologists and anthropologists also studied the subject from various angles. Fawcett, Gopala Panikkar, Fuller, Jeffrey, Imtiaz Ahmad, etc are noteworthy among them.

A survey of sources is also included in this chapter. The primary sources and secondary sources are analysed in this chapter. *Musakavamsa kavya* written by Atula mentions the matrilineal succession of Kings in the last three chapters dealing with the history of the period from the 9th century to the 11th century. It records the shift from a patrilineal system of inheritance to that of a matrilineal system.

The second chapter describes the origin of this institution in Kerala. Matriliney was a system prevalent in all primitive societies of the world. But unlike in other parts of the world, it continued in Kerala even after the emergence of a state. Different theories about this system are discussed in this chapter. The circumstances of its continuity is discussed and the opinions of all the scholars who worked on this are evaluated.

To trace the functioning of this system the political background upto 1200 A.D. is discussed here. The earlier scholars tried to assign a late medieval origin to this system. But the sources reveal that the system was prevalent among the primitive communities of early Kerala. Now that we know that *Marumakkathayam* existed among some communities like Nayars and Kshatriyas and Vetkovans even during the 9th century of the Christian era, we can safely assume that, as in the rest of the world, this mode of succession has a pre-historic tribal origin in Kerala too. After the advent of the Brahmins they allowed the people to continue this system from which the Brahmins benefitted a lot. There are evidences to prove that the ruling rajas followed this system. Inscriptional evidences testify that this system was followed by the trading communities who visited Kerala during that period. Following the disintegration of the Perumal rule, the successor states also followed this system. The political, social and economic situation provided circumstances for the strengthening of this institution. The need for joint venture in the agricultural field cemented the joint families during the post-Cera period. All the four important Kingdoms followed *Marumakkathayam*.

The third chapter is about the functioning of the joint family. An attempt is made to trace the role of different persons in the hierarchical order ranging from

Karanavan (eldest male member) to ananthiravar (younger male members in the hierarchy). The role of women in the joint family and the peculiar status of the women is also discussed. The most important feature of matriliney was the joint family. Under the joint family the eldest male member of the family was the manager of the property and all other members of the joint family got their maintenance. Marriage got a prominent place in these joint families and this was known as *Sambandham*. Besides *Sambandham*, a mock marriage also existed which is called *Thalikettukalyanam*. Compared to the patriarchal groups women of matrilineal groups enjoyed additional sense of security and privileges.

We can see the different types of kinship relations within the family. The relationship between sister and brother is noteworthy. In these joint families though women is the actual owner of land, on her behalf the eldest male member manages everything. In such a situation the women enjoyed all the facilities in the family and she had some ritual rights. The actual rights enjoyed by the women is explained in this chapter.

Chapter four deals with the economic aspects of the system. *Marumakkathayam* system which centred on matrifocal families is just actually corporate land owning units. Joint families which possessed huge landed property cultivated the land jointly and in this venture the women folk contributed to a great extent. They aided the menfolk in all the workset of the agrarian front. Thus strengthening the system of matriliney.

Much scope for rivalries arose in the absence of centralised administration during the post-cera period as reflected in the *Vatakkal pattukal* or medieval folk songs. To solve such rivalries the members of matrilineal communities were recruited

and the remuneration they got enriched such families. There economic interactions, especially agrarian and commercial operations, strengthened matriliney.

The fifth chapter discusses the changes in society and the decline of matriliney. Matriliney which was the strength of joint families in Kerala got challenged by the post-16th century developments. One of the important developments during the period was the organised trade after the advent of the Europeans. Contrary to the earlier centuries this period witnessed organised trade under the Portuguese, Dutch and British administrators. This enabled the local people to enhance their economic position. Indigenous trade and commercial relations introduced money economy. There was an urge for self-earned income among them. This self-earned income which was given to wives and children of the male members of joint families automatically weakened the matrilineal system.

The attack of Tippu Sultan shattered and shook the agricultural set up of Malabar. The repeated invasion of Mysore Sultans resulted in the decline of *Marumakkathayam* families which ruined the agricultural phase. The intervention of British administrators in the local administration played a crucial role in the disintegration since it dealt with land and land revenue system. This peculiar law of inheritance was always a headache to the British and they supported the English-educated younger members who demanded the partition of joint family property in order to promote their self interest and their ability to support wives and children.

The English-educated Keralites supported the British in introducing a series of rules related to Malabar Marriage. This is reflected in some of the novels of this period. For this they cited the Victorian morality and this resulted in the abolition of the system legally.

Kerala has been known for the prevalence of unique social institutions and cultural practices. *Marumakkathayam* could be treated as one such social institution, which attracted the interest of colonial bureaucrats and modern scholars. Studies ranging from administrative reports of scholars to research monographs have been brought out on the institution of *Marumakkathayam*. The following is an attempt to sketch out various studies on *Marumakkathayam*.

A different treatment of the subject could be found in the Report of the Joint Commissioners. They also saw the system as the law of inheritance. But they added to emphasis on the freedom enjoyed by women in this system. For the Joint Commissioners, the institution of *Marumakkathayam* was totally different from their home experience. They also saw the instrumentality of the system in determining inheritance among certain communities in Kerala.

Colonialism had always shown interest in understanding social practices of the people, whom they ruled. Such a generalization is not irrelevant in the case of Kerala. William Logan,¹ who authored *Malabar* referred to the institution of *Marumakkathayam*, when he discusses the ‘people’ of the region. In this book, he provides a description about the law of inheritance followed by certain communities of Malabar, which was centred around mother. While discussing the manners and customs followed by the people of Malabar Logan states, “The most important of the customs in which the people of Malabar differs from people elsewhere is that connected with the inheritance of property”. It is a sufficiently perplexing thought to a person brought up in Western modes of life and with Western ideas, that a father can stand in no recognized legal relation to his own children, and that a father’s property

¹ William Logan, II Vols. *Malabar*, Madras 1989.

does not, as a matter of course, descend to his offspring. And yet, that is how the law stands at present in regard to the vast majority of the inhabitants of the district”². He did not go into the details of this institution.

Next work, which looked at *Marumakkathayam* is *Malabar and its Folk*, authored by T.K.Gopal Panikkar³. The book is on the various communities in Kerala, with special emphasis on their social practices. He provides details about *Marumakkathayam* and also of Nair *tarawadus*. The familial practices like *Kettu Kallyanam*, etc. are also discussed here. He also provides information about various festivals in Kerala. This book is largely an informative one, and does not engage in a serious analysis of any community or institution.

Matriliny has attracted the attention of anthropologists also. F.Fawcett has studied about the Nayers and the various subdivisions which existed among them. Though he describes the festivals and practices of the Nayers. He has not made any reference to the institution of *Marumakkathayam*.

Malabar District Gazetteer, published by Innes and Evans,⁴ seems to be the first colonial bureaucratic record, which details the institution of *Marumakkathayam*. Unlike the previous endeavors of the colonial officials, *Malabar District Gazetteer* of Innes and Evans provides a lengthy description of *Marumakkathayam* with its detailed social practices. When discussing the life of the people they state, “In North Malabar Mappilas as a rule, follow the *Marumakkathayam* system of inheritance, though it is opposed to the precepts of the Koran, but a man’s self-acquisitions usually descend to his wife and family in accordance with the Muhammadan law of

² P.J.Cheryan, (ed) William Logan’s *Malabar Manual*, Tvm, 2000

³ T.K.Gopal Panicker, *Malabar and its Folk*, Madras, 1900.

⁴ C.A.Innes, *Malabar District Gazatter*, Madras Govt. Press, 1951

property”. But the main lacuna one could find in this work is its inclination towards colonial governmentality they perceive *Marumakkathayam* from an administrative standpoint and hence, they fail to have a comprehensive understanding about it.

Elamkulam P.N.Kunjan Pillai assigns a late origin to *Marumakkathayam*. He argues that the prolonged war between the Ceras and Cholas resulted in the emergence of *Marumakkathayam*. He also became a prey of simplistic logic while analyzing *Marumakkathayam*. We have to consider extra-political manifestations while approaching *Marumakkathayam*⁵.

Robin Jeffrey's *The Decline of Nair Dominance: Society and Politics in Travancore 1847-1908*⁶ is another notable work on the Nayars and *Marumakkathayam*. The book is primarily concerned with the loss of Nair prominence in Travancore politics after 1908. He argues that the Travancore Act in 1908 brought certain changes in the Nayar community, which resulted in the decline of Nayar dominance in the society and politics of Travancore. The scope of the study is confined to politics for a period of 50 years and it is also in the political segment of Travancore alone. But, we must consider the genesis and growth of matriliney and it could be stretched back to the 9th or 10th centuries. Further, it was not the exclusive feature of Travancore, and a study of this nature should have an all, Kerala perspective.

While analyzing matriliney, scholars are always anchored around its decline and it could be seen in C.J.Fuller's *Nayars Today* also⁷. The work is largely devoted to the descriptions of the Nayars of Kerala and the customs and practices followed by

⁵ Elamkulam.P.N. Kunhan Pillai, *Studies in Kerala History*, Trivandrum, 1970.

⁶ Robin Jeffrey, *The Decline of Nayar Dominance*, Delhi, 1994.

⁷ C.J.Fuller, *The Nayars Today*, Cambridge: Cambridge University Press, 1976

them. Attempts have been made to understand *Marumakkathayam* as the system of successions which existed among the Nayars. But Fuller's focus was on the disintegration of matriliney.

Fr.J.Puthenkalam S.J's *Marriage and the Family in Kerala with Special Reference to Matrilineal Communities*⁸, is a novel work in many respects. The study is about the matrilineal communities and their social practices. Unlike the previous attempts, the study deals with the matriliney among the different communities in Kerala. The author lists out the major communities which practiced matriliney in Kerala. It included the Brahmins of Payyannur, Nayars and also the Thiyyas and Mappilas.

As time went on, several scholars began to get attracted towards matriliney, and it could be evidenced in the attempt to undertake specific studies. *Matrilineal system in Malabar* by Dr.P.V.Balakrishnan is an attempt in this regard.⁹ He undertakes a detailed study of the matrilineal system prevalent in Malabar during the 18th and 19th centuries. The study is largely focused on the legal aspects and judicial pronouncements on the subject. He has conducted a painstaking analysis of the intervention of legality into the system of matriliney. But has given undue importance to legality and focused only on the legalistic dimensions of matriliney and failed to understand the social factors which shaped and sustained matriliney.

M.G.S.Narayanan, in his *Perumals of Kerala*, has identified Matriliney as the form of succession practiced by the Perumals¹⁰. He is of the opinion that the system was in vogue even during the 9th century. Inscriptional evidences attest the practice of

⁸ Fr. Puthenkalam, *Marriage and Family in Kerala*, New Delhi, 1977.

⁹ P.V.Balakrishnan, *Matrilineal System-Special Reference to Legal Aspects*, Calicut University, 1985

¹⁰ M.G.S.Narayanan, *Perumals of Kerala*, Kozhikode, 1996

Matriliny by the trading communities in the 10th century. In order to establish the wide acceptance of the system he states that the four successor states of the Perumals had inherited power through matriliney. M.G.S. also makes only categorical references about matriliney. He saw matriliney only as a form of inheritance and nothing more. But while studying matriliney, we must understand the extended practices related to it and the role of *tarawadu* in making the system organical.

Susan Thomas in her doctoral dissertation “Property, Relation and Family Forms in colonial Kerala”, approaches *Marumakkathayam* from an innovative standpoint.¹¹ Her primary concern is the emergence of a new form of family – nuclear family - in Kerala during colonial period. She is of the opinion that the vacuum created by the disintegration of joint families in Kerala was filled by the nuclear families. She further underlines the changes in property relations which were the reasons for this fundamental change in family structure. The significance of the study is that it assigned changes in property relations as having prime importance in explaining the replacement of joint family by nuclear family, and the study is remarkable on account of its in depth analysis. But, while analyzing a system like *Marumakkathayam*, one cannot have a monocausal or simplistic logic of explanation. One must consider all factors, social, cultural, political and even economic, into consideration.

G.Arunima’s *There comes Pappa - Colonialism and the transformation of Matriliny in Kerala, Malabar – C.1850 – 1940*,¹² is an attempt to study the changes in Matriliny in Malabar, consequent to the policies of the British. She traces the changes

¹¹ Susan Thomas, *Property Relations and Family Forms in Colonial Kerala*, Unpublished Ph.D Thesis M.G.University, Kottayam, 2002.

¹² G.Arunima, *There comes Pappa –, Colonialism and the transformation of Matriliny in Kerala, Malabar – New Delhi 2003*.

taken place in the structure of the matrilineal tarawad from 18th to the 20th century. According to her “the reasons for these changes ranged from the legal redefinition of the family by the colonial state of economic and ideological pressure that was brought to bear on the *Tarawad* by the changing circumstances of Malabar in this period.” She offers a historical and alternative method for studying matrilineal kinship. She further looks at the overall social impact of the changes brought in matriliney. In her study, she gave undue importance to the family and household without detailing the practices and rituals related to *Marumakkathayam*.

There is no single book dealing exclusively with the matrilineals of Kerala. A large number of books and articles on the Nayars are available. The early Portuguese writers like Duarte Barbosa (1540 AD)¹³ and Castenhada (1951 A.D). provide us with interesting details of the Nayar way of life in their books which portray the Kerala of their time. Camoens, the Portugues epic poet, has given us his estimate of the Nayar social complex; Johnston in his ‘Early Relations’ of the Most Famous Kingdom in the World’ (1611), M.Mahe de la Bourdannis, Hector Monn roe (1761), and J.Duncan, in the Asiatic Researches, (1972) give us a picture of the Kerala of the 18th and 19th centuries. F.Fawcett published a detailed study of the Nayars in 1903¹⁴. Edgar Thurston¹⁵ has relied much on Fawcett for his treatment of the Nayars in the *Castes and Tribes of Southern India* (1906). Most of the books mentioned above deal with British Malabar, the old Kingdom of the Zamorin.

Materials for the study of the social history of the Nayars of the two native states of Cochin and Travancore have been gathered from the *Cochin State Manual* by

¹³ Durrate Barbosa: *A Description of the Coasts of East Africa and Malabar in the beginning of the sixteenth century*, Hakluyt Society, 1866.

¹⁴ F.Fawcett, *Nayars of Malabar*, Madras 1901

¹⁵ Edgar Thurston, *Castes and Tribes of Southern India*, Madras 1906.

C.Nagam Ayya (1906)¹⁶ and T.K.Velu Pillay (1940)¹⁷. The Travancore Census Report of 1901 by N.Subramonia Aiyer and Cochin Census Report of the same year by Sankara Menon provide some material for the study of the matrilineal castes in Travancore and Cochin. L.Ananthakrishna Aiyer's *Cochin Tribes and Castes* (1918) is the first anthropological study of the various castes of Cochin.¹⁸ K.P.Padmanabha Menon's voluminous *History of Kerala* (1929) is in the form of annotations and notes on a bunch of letters of Vischer, a Dutch military chaplain in Cochin (1602)¹⁹. He has tagged on to these a wealth of information about Kerala. His treatment of the Nayers seems excellent and exhaustive. We have therefore ample material for the study of the Nayers.

The study, though confined to Malabar area, has occasionally drawn on materials from Travancore where the same system prevailed. Much research has not been done regarding the historical development of the institution during the colonial period though have been made by a few indigenous as well as foreign scholars. Buchanan gives a descriptive account of matriliney in Malabar in his travel account, *A journey through Madras, Mysore and Malabar* (1811)²⁰. C.Ramachandra Ayyar in his *Manual of Malabar Law* (1883) gives an account of the legal aspects of the system.

Malabar Law and Custom (1905) by Lewis Moore²¹ traces the legal aspects of the system. Edgar Thurston in his *Castes and Tribes of Southern India* (1906) gives an elaborate account about the customs and manners of the matrilineal people

¹⁶ Nagam.V.Ayya, *The Travancore State Manual*, Trivandrum, 1906.

¹⁷ T.K.Velu Pillai, *The Travancore State Manual*, 4 Vols.Trivandrum, Govt. Press, 1940

¹⁸ L.Ananda Krishna Ayyar, *The Cochin Tribes and Castes*, Delhi 1922.

¹⁹ K.P.Padmanabha Menon, *History of Kerala*, 4 Vols. Ernakulam, 1984.

²⁰ Buchanan, *A Journey through Madras, Mysore and Malabar 1800*.

²¹ Lewis Murray, *Malabar Law and Custom*, Madras, 1905.

of Malabar. Sundara Ayyar in his *Malabar and Aliyasanthana Law* (1922) gives an account of the Malabar Law²².

Baron Omar Rolf Ehrenfels has made a study of the Mother Right in India (1941). He bestowed more attention on the matrilineal society of Malabar and he suggested a probable relationship between matriliney in Malabar and the ancient civilization. *Kerala Charitram* (1962) is a Malayalam work by K.Damodaran in which he denies the responsibility of the Chera-Chola war, and the role of Nambuthiris in creating the institution. His view is that the primitive communism prevailed during the sangam age caused the origin of the system. *Keralam Malayalikalude Mathrubhumi* (1969) is a Malayalam work by E.M.S. Nambudiripad²³ which speaks about the origin of the institution. He denies the theory that the military life of the Nayars caused the origin of the system. His view was that the interaction of cultures of the natives and the immigrants might have caused the system. *Marumakkathayam and Allied Systems of Law* (1969) is a work by Sreedhara Varier which speaks about the legal aspects of the system²⁴. Elamkulam Kunjan Pillai in his *Studies in Kerala History* (1970) make an attempt to trace the origin of the system and attributes it to the Chera-Chola war of 11th century and the circumstance controlled by it as the cause of the origin of the system.

Some anthropological studies on matriliney were undertaken by Katheline Gough²⁵, Kutty A.R and Leela Dube. The most important among them is *Matrilineal Kinship* (1972) by Katheline Gough. K.K.N. Kurup in his work *William Logan, A*

²² Sundara Ayyar: *A Treatise on Malabar and Aliyasantana Law*, Madras: Madras Law Journal Office, 1922.

²³ E.M.S.Namboodiripad, *Keralam Malayalikalude Mathrubhumi*, (mal) Thrissur, 1969.

²⁴ K.Sreedhara Varier, *Marumakkathayam and Allied System of Law*, Cochin, 1969.

²⁵ E.Katheleen Gough, *Changing Kinship Usages in the Setting up of Political and Economic Change among the Nayars of Malabar* Journal of the Royal Institute of Great Britain and Ireland 82, No.1 1952.

Study in the Agrarian Relations of Malabar (1981) gives an account of *Tarawad* and land monopoly system²⁶. *Mappilas of Malabar* (1983) by S.M. Mohammad Koya speaks about the matriliney among the Muslims of Malabar²⁷.

William Logan's Special Commission Report 1881 had attempted an understanding of the existing society from various angles and though it is informative, his approach was the official exigency of a colonial administrator. Moreover, it was not the result of any scientific approach or based on source materials. The main handicap one confronts in all such works is due to the application of western social concepts to a traditional society of this region. Most of these works portray the traditional society with a tendency to generalize, without looking into variations and the socio-economic and moral issues involved in behaviour pattern of these two communities. Moreover, they leave out several aspects from the ambit of study. Still they remain valuable as source materials. Apart from these, sources like *Vadakkan Pattukal* or Northern Ballads throw much light about on contemporary society. Family records like *Koodali Granthavari* (1995)²⁸ and *Kavalappara Papers* (1984)²⁹ help in understanding the structure and characteristics of joint family houses. *Studies in Kerala History* 1971 and *Janmi Sambradayam Keralathil* 1959 by Elamkulam Kunjan Pillai have focused on various aspects of Kerala life and he has raised a series of academic questions and discussions on various aspects of Kerala's socio-economic history. This initiative has stimulated research, though many of his generalizations and findings have been questioned.³⁰

²⁶ K.K.N.Kurup, William Logan – *A Study in Agrarian Relations of Malabar*, Kozhikode, 1987.

²⁷ S.M.Muhammed Koya, *Mappilas of Malabar*, Calicut, 1983.

²⁸ K.K.N.Kurup, *Koodali Granthavari*, Calicut University, 1995.

²⁹ K.K.N.Kurup, *Kavalappara Papers*, 1984.

³⁰ Elamkulam.P.N.Kunhan Pillai, *Janmi Sambradayam Keralathil*, 1959.

We have a rich literature reflecting the characteristics of the time. Both novels and plays had emerged during the 1880s. Literary works are generally assessed and examined from a literary angles. The approach here is to assess literature as historical reflections and as such this is a new attempt. The period under discussion was one of struggle for freedom and socio-economic rights and it is just natural that perceptions of change and aspirations are reflected in the artistic manifestations of contemporary writers.

From the foregoing analysis, we can see that several studies have been made on *Marumakkathayam* and each has its own merits and are not free from limitations. No study has yet looked at the origin and development of *Marumakkathayam*. The questions like when and why it originated still remain unanswered. They also fail to trace the development of matriliney from time to time. We have to look into the detailed practices related to *Marumakkathayam*. No scholar has made use of oral traditions like Northern Ballads, while studying *Marumakkathayam*. The studies on the decline of matriliney attribute the legal interventions of colonial and indigenous states as responsible for bringing the end of matriliney without considering certain internal factors. The urge for self-earned income and the development of cash crops economy did also contribute to the decline of matriliney.

SOURCES

The source materials consist of a variety of texts like travel accounts of foreigners, official reports like census, commission reports, Legislative Department Proceedings of the period, Native Newspaper Reports from the 1870s, Newspapers like Mathrubhumi, Malayala Manorama and Judicial records, autobiographies and talks with contemporaries.

Primary sources have been utilized from National Archives of India, Tamil Nadu Archives and Regional Archives, Kozhikode. The judicial proceedings have been collected from the District Court of Thalasserry and Kozhikode. Some of the materials were obtained from the library collection of the late Sardar Chandroth Kunhiraman Nair of Thalasserry. Periodicals like *Yogakshema*, *journals* and *Unni Nambudiri* are available at Appan Tampuran Smaraka Library. Some of the magazines available at Sri Chithra Tirunal Library, Thiruvananthapuram have been useful for this study. Other institutions which facilitated the collection of sources are The Sahitya Academy, Trissur, Department Libraries of History and Malayalam of Calicut University and C.H.Muhammed Koya Library of Calicut University. Talks with some contemporary social activists like K.Madhavan, Priyadatta Kallat helped to have a clear insight into the contemporary social trends.

There are recorded evidence in the form of literature and epigraphic records on the functioning of this system of inheritance. Information from folklore also throws light into the structure of this system. Evidences from written records themselves stretch back this system to as far as the A.D. 9th century. There are numerous references to *Marumakkathayam* in the writings of foreign travellers. But earlier historians took reference from the writings of traveler from the 14th century onwards alone. But recent researchers show that there are evidences for this system of inheritance from the 9th century A.D.

Friar Jordanus who lived at Quilon in the 14th century was the first foreign visitor to refer to the peculiar law of inheritance in vogue in Kerala. He observed, "In this India never do even the legitimate sons of great kings or barons inherit the goods of their parents but only the sons of their sisters for they say that they have no surety

that those are their sons, but it is not so with the sister, for whatever man may be the father they were certain that the offspring is of their sister and it is consequently truly of their blood”.

The travellers who visited Malabar in the succeeding years also refer to matriliney in the region. Ibn Batutah traveling through Malabar observed the law of inheritance of the kings of Malabar and says, “The sovereigns of this country transmit their royalty to their sister’s son to the exclusion of their own children”.

Abdur Razaak, Nicolo Conti and others also speak of this social system prevailing among the people of Kerala. Ma-Huan, who visited Calicut in the 15th century A.D, gives us a note on the succession pattern followed by the ruler of Calicut. He says, “The succession to the throne is settled in a somewhat curious manner. The king is not succeeded by his son, but by his sister’s son, because his nephew, being born of his sister’s body is considered nearer to him by blood. If the king has no sister the succession goes to his brother, if he has no brother it goes to a man of ability and worth. Such has been the rule for many generations”.

Till the beginning of the 20th century the writers on early Kerala history mainly depended on legends as sources. The first decade of the 20th century opened a new chapter in the historiography of Kerala with the discovery of Sangam literature and inscriptions. *Marumakkathayam* being the subject of interest to both sociologists and anthropologists, their writings also contributed to our knowledge of the subject of study. Those who wrote the history of matriliney during the beginning of the 20th century relied upon traditional sources such as *Keralolpathy* and *Kerala Mahatmyam*. The services rendered by early epigraphists such as Gopinatha Rao, Subhramanya Ayyer and Ramanatha Ayyer, have enabled the students of history to understand the

history of Matriliney in the light of these historical sources. An attempt is made here to trace the sources which are made use of to reconstruct the history of matriliney.

Inscriptions provide valuable information for reconstructing the history of Kerala. Due to the services rendered by the early epigraphists the inscriptions of Kerala have been brought to light. The history of Kerala from 9th century to 12th century A.D is reconstructed by Prof.Elamkulam Kunhan Pillai and Prof.M.G.S.Narayanan mainly based on these inscriptions. Prof.Elamkulam did not realize the significance of inscriptions in tracing the history of *Marumakkathayam* and he postulated a later origin to this system in Kerala that is after the Cera-Cola war in the 11th century. Whereas Prof.M.G.S.Narayanan advocates an earlier origin and has proved that *Marumakkathayam* was prevalent in Kerala among the tribal people even before the coming of the Aryans. From these inscriptions we can infer that the rulers of Kerala followed matriliney from the 9th century itself.

The existence of matriliney among certain sections of the common people in Kerala during the Cera period is proved by other epigraphic evidences also. Therefore, its absence or presence in foreigner's writings would become irrelevant to the general question. A record of Parthivapuram in the country which may be assigned to 964 A.D, mentions the matrilineal order of succession among the potters of the village. Therefore, the natural assumption is that matriliney existed among certain tribes and classes in this area from the very early period either among the aboriginals or among the groups of dependants whom the Aryan Brahmin settlers brought here. The Aryan Brahmin settlers who possessed the best cultivated lands and dominated the economic and social life of the country must have approved it and made use of it for furthering their political interests. They must have persuaded the

rulers who came to power with their support to adopt the system, so that they could become part of the ruling class without giving up their exclusiveness and their social organization.

The *Mushakavamsakavya*, written by Atula, the court poet of Musaka king Srikanta, refers to *Marumakkathayam*. This is the earliest native literary work where reference about matriliney is available. Though the first part of this work is legendary, in the light of epigraphical evidences now this is assigned to the first half of the 11th century. The author traces the history of Musakas in fifteen sargas from the time of Ramaghata, the legendary founder of the dynasty, to the reign of his patron Srikanta whose period is explained in the present tense.

The 10th sloka in the 12th sarga describes Isaravarma's marriage with Nandini, a Chedi princess. Since there were no issues in this alliance, Isaravarma married a Cola Princess. A son was born to Isaravarma namely Nriparama. Nandini, who was in great sorrow, began to worship Devi, for getting a son. She was blessed with a son and daughter and given a boon that thereafter the succession will be through female line. Though the facts are interwoven with legends, it can be taken as an indication of the shift from patriliney to matriliney in the Musaka Dynasty.

A very useful source for studying the medieval history of Kerala is the literary works known as *Manipravalam* works. Important works of this category are *Chandrotsavam*, *Unnili Sandesam*, *Koka Sandesam*, *Suka Sandesam*, *Unnili Charitam* etc. The theme of these works are centred around women of medieval Kerala who were devadasis. These works throw light on the socio-economic conditions of medieval Kerala. Since the theme is centred around women we can understand the prominence of women in medieval society.

The Northern Ballads or *Vatakkann pattukal* which comes under folk literature occupies a very relevant source for reconstructing the history of *Marumakkathayam*. This literature mainly deals with two important families of Kerala. These Ballads provide valuable information to understand the history of *Marumakkathayam*. The two important groups of ballads among the northern ballads are the *Puthuram* and the *Thacholi* ballads which deal with Aromal Chekavar's family and Thacholi Othenan's family respectively. Apart from these two groups, there are several other ballads also which dealing with other heroes. The important collections of *Vatakkann pattukal* used for writing the present work are Chelanat Achutha Menon's *Vatakkann Pattukal*, K.V.Achuthanandan's 24 *Vatakkann pattukal* and, Appunni Nambiar's *Vatakkann pattukal*. Since these songs mainly depict the conditions prevalent in Malabar, they can be used as a primary source for writing the history of the law of inheritance followed by them. We can trace the relationship between uncle and nephew, the special privileges enjoyed by women during those periods and also the gradual decline of *Marumakkathayam*.

Kerala's geographical position encouraged the traders to come to Kerala from time immemorial and those who came here for trade left their own accounts about what they saw and experienced here. These accounts help students to reconstruct the history of Kerala. The Arabs geographers' accounts provide materials for us to understand the system of inheritance and the position of women during the period. From the 15th century onwards, European travellers came here and left their own records, foremost among them was Barbosa. Barbosa, the Portuguese traveler who came here and stayed here for some years left valuable accounts about the life of the people of Malabar. There is no other detailed cultural and historical document prior to the date of Logan's Malabar for knowing Malabar in the past.

There is internal evidence in Barbosa's writings, compiled as the book of Durate Barbosa to show that he sailed to India probably in 1500 A.D with the fleet of Pedro Alvarz Cabral. Barbosa stayed here for more than fifteen years and studied Malayalam language. His account provides ample evidence about the people, the customs followed by them, and his book is an invaluable source for drawing an outline of contemporary socio-cultural history of Kerala. It opens up a window to the region's medieval life-world-ideas, institutions, groups, relations, customs, practices, rituals, political power and so on.

Following the Portuguese the Dutch scholars also came to Kerala and noteworthy among them is Canter Visscher. It is mainly based on his writings that K.P.P.Menon wrote the history of Kerala in four volumes and the account left by Canter Visscher provides valuable information in understanding the medieval Kerala life and condition. Then comes the English, among whom special mention must be given to Buchanan. While traveling from the countries of Canara and Malabar he explained in detail what he saw and explained the living conditions of the people. Foreigners who visited Kerala from time to time had left their accounts about the law of succession prevalent here. Though the purpose of their visit was economic they did not forget to record what they saw and felt. Foreign travellers like Jordanus, Ibn Batutah and Barbosa left elaborate accounts about the social and economic history of Kerala.

There is no other detailed cultural and historical document prior to the date of Logan's Manual for knowing Malabar in the past. Barbosa's book provides an ethnographic description of Malabar in the beginning of the sixteenth century.

Barbosa's book is an invaluable source for drawing an outline of contemporary socio-cultural history of Kerala.

From the above analysis, the following inferences can be made. As in other parts of the world *Marumakkathayam* became extant in Kerala as an antecedent to the patriarchal set up. Its origin can be pinpointed to the 9th century as exemplified in the epigraphic sources. Its continuity is traceable to the period as late as 20th century when it was finally abolished through the act in 1933. It is possible that in its intensity, nature and structure various changes occurred from time to time. The dynamic processes of its genesis and evolution are analyzed in the following chapters.

CHAPTER II

ORIGIN AND DEVELOPMENT OF MATRILINEAL SYSTEM

The matrilineal kinship and family system in traditional Kerala society assimilated most of its features from the social and economic relations of production that existed during the post 11th century in the region. As in other parts of the world, it must have had its origins in the primitive social structures. In most parts of peninsular India the process of agriculturisation and expansion of trade had ushered in the emergence of state with all its ritualistic and functional performances. The society had started evolving as distinct patriarchal entities. But in the case of Kerala, we notice that the continuation of the matrilineal structure late into the medieval times. This chapter deals with the chronological framework of the origin of the matrilineal families, the geo-political and socio economic specificities and the circumstances that enabled its entrenchments during the existence of a pan-Kerala political structure and even after its disintegration. The search takes us occasionally to the domains of land-based system of production and distribution which acted as the feeder channels of the entire setup.

A distinctive feature of the social organisation of Kerala till recently was the prevalence of *Marumakkathayam* or the matrilineal system among certain castes and communities. It involved inheritance and succession through the sister's children in the female line. The antiquity of the system has been a theme of controversy among scholars. The traditional view propagated by the Brahmin aristocracy and expounded by the authors of the *Keralolpathi* is that *Marumakkathayam* is of hoary antiquity and

that *Makkathayam* or the patrilineal system of inheritance was unknown to ancient Kerala. As opposed to this is the view that *Makkathayam* was the system of inheritance prevalent in ancient Kerala and that *Marumakkathayam* came into vogue at a later period in Kerala history under the impact of some compelling forces. The fact that succession to the throne among the early Cheras and the Kulasekharas of Mahodayapuram was from father to son is cited as evidence in support of this view. P.T.Srinivasa Iyengar, author of the *History of the Tamils* is categorical that *Marumakkathayam* was unknown in Kerala till the tenth century A.D. K.P.Padmanabha Menon has expressed the view that the *Marumakkathayam* system was non-existent in Kerala till the thirteenth century and that it came into vogue in the fourteenth century in response to the challenge of certain compelling circumstances. The fact that Friar Jordanus of Severic (early fourteenth century) is the first foreign traveller to mention the existence of the system and no other foreign observer before him has alluded to it is adduced as evidence in support of this contention¹. The observations of Friar Jordanus are as follows: "In this India never do even the legitimate sons of great kings or princes or barons inherit the goods of their parents but only the sons of their sisters for they say that they have no surety that those are their sons; but it is not so with the sister, for whatever man may be the father, they are certain that the offspring is of their sister and is consequently truly of their blood." Prof. Elamkulam Kunjan Pillai who too believed in the later origin of *Marumakkathayam* accepted the view of P.T.Srinivasa Iyengar that the system was unknown in Kerala till the tenth century, but he agreed with the substance of

¹ It is interesting to refer in this context to the view of A. B. Saletore that *Aliyasantana* law or Mairilineal system arose in South Canara only towards the end of the thirteenth century. He has remarked that it was legalised in Tuluva only in the fifteenth century. See his *Ancient Karanataka*, pp. 296-367

Padmanabha Menon's view that it was the product of certain compelling circumstances.²

As distinct from the two extreme views given above, there is also a compromise view which suggests that *Marumakkathayam* must have been the system of inheritance and succession prevailing in ancient Kerala and that it must have been in a state of suspended animation during the period of the ascendancy of the patrilineal Brahmin caste, till it staged a revival at a later period. A.L.Basham has given expression to a similar view, He says, "In the early days of the Chera kingdom of Kerala, inheritance was through the male line but about the twelfth century a matrilinear system became regular, according to which the heir to the throne was the son not of the king, but of his eldest sister. This system, called *Marumakkathayam*, continued in Cochin and Travancore until very recent times, both for royal succession and the inheritance of estates, Perhaps it existed in Kerala at an early period, but was dropped by the upper classes for a while under Brahmanical influence, to be revived in the course of centuries."³

Theories of Origin

The advocates of various theories seek to explain the origin of *Marumakkathayam* in their own ways. Those who subscribe to the Brahmanical theory attribute to the system a divine origin by arguing that Parasurama, the legendary founder of Kerala, ordered Sudra women "to put off chastity and the clothes that covered their breasts" and do their best to satisfy the desires of the

² Prof. Elamkulam Kunjan Pillai, *Studies in Kerala History*, op-cit, Pp. 292-323

³ Bhasam A.L. *The Wonder That was India*, New Delhi, 1967, p.94.

Brahmins. This argument served the interests of the Brahmin aristocracy admirably well because among the Namboothiris only the eldest male members could marry from within the' caste and all the junior members who were condemned to lifelong bachelorhood had to consort with women of Nair families in the vicinity of their *illams*. A loose union known as *Sambandham* which was in the nature of concubinage came into existence and the Namboothiris could enjoy all the pleasures of matrimony with none of its obligations. The fear of divine wrath prevented the senior male members of Nair families from questioning the right of the Namboothiris to cohabit with their women and the *Sambandham* form of marriage consequently came to have general acceptance. The Brahmanical theory like the Parasurama legend relating to the origin of Kerala, is more fanciful than convincing as an explanation of the origin of *Marumakkathayam*. Hence the origin of the system has to be sought elsewhere.

Some scholars have advanced socio-economic reasons for the origin of *Marumakkathayam*. T.K. Gopala Panikkar has expressed the view that "the real origin of *Marumakkathayam* is to be sought in the system of polyandry or if we go further back, in promiscuity, which marks the dawn of married life."⁴ He suggests that in polyandry, as in promiscuity, paternity was a matter of opinion while maternity was an undoubted fact and therefore, family property came to devolve on the sons of the sisters in the female line rather than on those of the sons in the male line. Some other writers have advanced what is called the "Property theory" of the origin of *Marumakkathayam* according to which the system was introduced to prevent the partition and destruction of family property and keep the Nair *tarawad* intact-a contingency which had to be ruled out under a system of valid marriages in a patrilineal society. Yet another theory that has been advanced to explain the origin of

⁴ T.K.Gopal Panicker, Op-cit, p 34

Marumakkathayam is what may be called the 'military theory.' According to this the male members of the Nair families were condemned to military service from the early days of their youth to the decline of manhood so much so, regular married life with its attendant obligations was not possible in their case and under the circumstances necessitated by this peculiar military organisation, the Nair women were forced to have the *Sambandham* form of marriage as a necessary evil.

None of the arguments advanced above is convincing enough to explain such a major socio-economic phenomenon as the transition from patriliney to matriliney. Certainly there must have been really compelling circumstances. Prof. Elamkulam Kunjan Pillai regards the *Marumakkathayam* system, like the *Janmi* and the *Kalari* systems, as the product of the compelling socio-economic forces let loose by the Cola-Cera war of the eleventh century A.D. He has pointed out that the political and religious dominance of the Namboothiris, their rise to economic ascendancy as the *janmis* of Kerala and the introduction of compulsory military training leading to the formation of the suicide squads or *chavers* during the Cola-Cera war were the compelling circumstances which led to the switch-over from the patrilineal to the matrilineal system in Kerala. Dr M.G.S. Narayanan, however, considers this view as rather exaggerated, if not distorted. He has tried to show that the rulers of Mahodayapuram were matrilineal at least from the ninth century and that some of the other Kerala powers like the Mushakas accepted matriliney under their influence. It has been pointed out by him on the evidence of *Mushakavamsa* (eleventh century A.D.) that the matrilineal order of succession was established among the Mushakas by the early part of the tenth century.⁵ Even if it can be established that the matrilineal

⁵ M. G. S. Narayanan, *Reinterpretations in South Indian History*, Trivandrum, 1977, p. 62.

system of succession came into vogue in Kerala in the ninth or tenth century A.D. among the rulers of Mahodayapuram (eleventh century A.D) and other royal dynasties who were Kshatriyas, considering the crucial importance of the period of the Chola-Chera war, that is, the eleventh century A.D., as a watershed in Kerala history, it may safely be assumed that the pace of the change-over from patriliney to matriliney among the rank and file of other non-Brahmin castes like the Nairs must have been accelerated by the events of this period.

Joint Family

Having discussed the various views regarding the antiquity and origin of *Marumakkathayam*, we may proceed to examine the implications of the system and trace its fortunes in Kerala. The joint family, polygamy and polyandry were the by-products of *Marumakkathayam* family called the *tarawad*, which consisted of all the descendants of a common ancestress in the female line. They lived together within the four walls of the same house and shared a common kitchen. Every member of the matrilineal family was entitled to maintenance from the family property but the partition of the family could be affected only by the unanimous consent of all the members of the *tarawad*. Though the joint properties belonged in law to the female members, they were considered incapable of family management and hence the eldest male member of the family called the *karanavar* was vested with the power of managing it. The *karanavar* had no power to alienate the family property unless all the junior members or *anantaravans* signified their approval of the proposal. He could also be removed from the managership through legal proceedings in case of mismanagement of family affairs. The *Marumakkathayam* system also came to be

associated with certain peculiar matrimonial customs. It became customary for the Namboothiris, Kshatriyas and other high castes who had their caste wives to have *sambandham* with women of the Nair families. In fact, polygamy among these castes was fairly widespread. There was also, at the same time, the widespread practice of polyandry among the Nair women. The men who cohabited with these women had no responsibility for the maintenance of the offspring of their alliances because under the matrilineal system they were taken care of by the *tarawad*. "The Kerala system of *Marumakkathayam*," says A.L.Basham, "shows that the pattern of matrimonial relations had more variety than allowed by the legal texts."⁶

The *Marumakkathayam* system in Kerala was followed by several Hindu castes like the Kshatriyas, Ambalavasis and Nairs. The Brahmins of all categories followed the patrilineal system enjoined upon them by the *Mitakshara* law, but sixteen Namboothiri families in the Payyannur *gramam* of north Kerala have all along followed the *Marumakkathayam* system.⁷

The Ezhavas followed a mixture of *Makkathayam* and *Marumakkathayam* while the Kammalas followed *Makkathayam*. The Pulayas and several hill tribes have also had among them a mixed system. The non-Hindu communities of the Christians and Muslims have generally followed the *Makkathayam* law of inheritance with the

⁶ Basham, A. L. op- cit., p. 176.

⁷ The *Keralolpathi* attributes this phenomenon to the mandate of Parasurama, but some scholars have assigned a sociological reason for the observance of the *Marumakkathayam* system by the Payyanur Namboothiris. K. V. Krishna Ayyar suggests that in the quarrel between the Kolathiri and the Perumchellur Brahmins the Payyannur *gramam* sided with the former and suffered excommunication at the hands of the latter. Consequently, if the Namboothiris who did not belong to Payyannur married Payyanur women, they would have lost caste and also their rights in their family. The Payyannur women were, therefore, not in a position to go and live with their husbands and had to stay in their own homes with their husbands and children under the care of their brothers (See K. V. Krishna Ayyar, *A History of Kerala*, Calicut, 1943, P.73.)

exception that a section of the Muslims have *Marumakkathayis*. The Mappilas of north Kerala including the members of the Arakkal royal house and the Keyis of Tellicherry and Koyas of Kozhikode have subscribed to the *Marumakkathayam* system. In addition, there are a few Muslim families in the Mayyand and Paravur areas of south Kerala who too have subscribed to *Marumakkathayam*.

The literary works and folk songs of the medieval period throw light on several aspects of the *Marumakkathayam* system. Zainudheen has made the following observations on the system: "The inheritance both to property and kingdom amongst Nairs and those who are allied to them belongs first to their brothers from the mother or to the children of their sisters or to the maternal aunts or to the relatives who are descended from the mother and not to the immediate offspring. The custom of excluding the immediate offspring to inheritance has been adopted by most of the Muslims of Kannanur and its neighbourhood".⁸ Referring to the custom of the junior male members of the Namboothiri families cohabiting with women of Nair caste without marriage, the same writer observes further "If it happens that any such woman gives birth to children, they cannot succeed their father as heirs". The Northern Ballads (*Vadakkan Pattukal*) also show the predominance of the matrilineal system and the special position occupied by the *karanavar* in the family. The *karanavar* was consulted on all important matters and his decision was generally final. Any insult to the *karanavar* by outsiders was avenged by the nephew as is evidenced by the action of Aromalunni against Chandu even 20 years after the murder of his uncle. The action of Tacholi Otenan in submitting all the wealth gained from his heroic exploits to his brother Koma Kurup who was the *karanavar* also shows the high esteem in which the junior members of the matrilineal families held the

⁸ Sheik Zainuddin, op cit, p.44

karanavar. It may also be mentioned in this context that the northern ballads also allude to the prevalence of *Makkathayam* among certain sections. The advice of Aromal Chekavar to his younger brother before he started for the *ankam* fight shows that in the case of the Chekavars patriliney was the system of inheritance in vogue⁹.

The origin of *Marumakkathayam* system has been a topic of different opinions and inferences. A remarkable assumption is as expressed by Sreedhara Variar, tracing the origin of *Marumakkathayam* in the manusha form of marriage and objects and concepts thereof. The payment of bride price (*Sulka*) is a characteristic feature of the Manusha form.¹⁰ The bride does not separate from her family on marriage¹¹. It is not the husband, but the mother or father of childless woman who succeeds to *stridhanam*¹². On the basis of such authorities, Sreedhara Variar observes that "It is possible to infer that the uniform practice of manusha form of marriage in the earlier days must have been responsible for the formation of *Marumakkathayam* family groups¹³. The learned author adds, "It is also interesting to note that the primary heirs to Stridhanam under Hindu law are daughters and the supposition that the *Marumakkathayam* properties originally were vested in women is also not without any substance. The higher caste husbands used to be very liberal in their bounties towards their wives which must have been the nucleus of some of the big Tarawad holding large landed estates now. We find, until very recently, several Tarawad where Nambuthiris alone were allowed to marry the girls. We can understand that if the higher caste husbands insist that the properties gifted by them should not be dissipated

⁹ E.H.Devi "The Medieval Society of Kerala as Reflected in the customs and practices of the Ballads of North Malabar, Folklore Monthly, vol.8, No.4 p.118.

¹⁰ Manu - III 31 Yajn - Ach. 61, Kane. III. 774.

¹¹ Mayne John.D, *Treatise on Hindu Law and Usage*, Madras, 1922, P 125.

¹² Kane, vol.W-P 794

¹³ K. Sreedhara Variar- *Marumakkathayam and Allied System of law*, Madras, 1967, P.7.

and should remain with their progeny, the children of their sons, who belong to entirely different Tarawad often in still lower communities, will not acquire rights therein. The restraint against partition under the customary law also could be attributed to some kind of safeguard provided for the conservation of the property within the unit in which it is gifted"¹⁴. But the *manusha* form prevalent in all the places has not invariably led to the system of *Marumakkathayam*. The bride price was often very small. V.T. Induchoodan refers to the view attributing the origin of the system to the practice of men having more than one wife at certain stages of history¹⁵. There is no well-accepted theory in this regard.

MARUMAKKATHAYAM

The matrilineal line of descent is the basis of *Marumakkathayam* and the *Aliyasanthana* system. According to Sreedhara Variar the concept of a family elsewhere in the world is patriarchal in character.¹⁶ In a patriarchal family we find a common ancestor and his descendants in the male line. The females are members of the original family till their marriage, but after the marriage, they are regarded as the members of the husband's family. Under the *Marumakkathayam*, the picture is entirely different. The female remains as the centre of the family. The marriage does not result in the change of her family. The word *Marumakkathayam* literally means inheritance by nephews or *Marumakans*. K.Madhavan Nair explains the difference between *Marumakkathayam* and *Makkathayam* as follows:

¹⁴ Ibid

¹⁵ V.T. Induchoodan. *Bhashaposhini* 1993 Sept.

¹⁶ Sreedhara Variar, P.3. also see V.T. Induchoodan , *opcit.*

"In the former the common ancestress is the female while in the latter it the male. In the former the wife and children of the males have no place. In the latter the daughters and their children have no place. The main difference between the two systems is that while no members of the family changes his or her family or no member of another family can be brought into that family by marriage under the *Marumakkathayam* system, there is a constant exchange of Members by marriage under the Makkathayam law"¹⁷

As against the view expressed by Sreedhara Variar, there is another opinion that in the distant past, *Marumakkathayam* was familiar to at least a few countries. In the modern times even, it is seen prevailing very rarely in some aboriginal tribes.¹⁸

Matrilineal system as the matrix of family organisation is something unique to the Kerala region. This system has survived upto 1933 when it was legally abolished by the British. There are many writings on the prevalence of this system during the post 16th century period. But regarding the origin and development of *Marumakkathayam*, there are no authentic studies. There is copious information in the legal documents of the 19th and the 20th centuries in which references to the division of joint property are present. But an elaborate study of its historical dynamics was made initially by Logan¹⁹. Logan, while dealing with the people of Malabar, describes the matrilineal system followed by the Nair community. He describes the features of this system that existed during the 19th century.

¹⁷ K.Madhavan Nair, Op cit, p.9

¹⁸ V.T.Induchoodan, *Bhashaposhini*-93 Sept, p.37.

¹⁹ William Logan, *Malabar*, 2 vols., Madras 1989, p.79-82

K.P.Padmanabha Menon and Prof.Elamkulam are of the opinion that this system suddenly emerged in Kerala and the beginning they ascribe to the post 11th century. K.P.Padmanabha Menon in his *Marumakkathayam* Committee Report has attempted to trace the origin of the system and its development.²⁰ Based on the observations in the accounts of Friar Jordanus, K.P.P.Menon traces a late origin to it. His view naturally was limited because of the constraints of the resources he depended upon. This illusion in the case of K.P. Padmanabha Menon was the result of pathetic dependence on foreign sources. He had no access to the early records of the Cera Kingdom of the Perumals of Mahodayapuram.

To Elamkulam Kunhan Pillai goes the credit of initiating a systematic study of Kerala history. It was he who brought out the phenomenon of hundred years war and its impact on the evolution of many of the medieval social institutions of this land. According to him, three major developments occurred as a result of the hundred years war, namely origin of the suicide squads, Jenmi system and the origin of *Marumakkathayam*.²¹ His studies on these things were considered as path-breaking approaches in Kerala historiography and were reiterated in many of the later books. In the case of Elamkulam, he imagined contrary to the experience of history so far that it sprang up from the anarchic conditions of a prolonged Cera-Cola conflict (the Hundred years war as he called it) in which most of the male members were in the battlefield for a long period or perished there. He forgot that society had witnessed several wars greater than the cera-cola wars and had not given rise to such a system of inheritance. Therefore, they both attributed a late medieval origin to *Marumakkathayam*.

²⁰ K.P.Padmanabha Menon, *History of Kerala*, vols.II, Ernakulam, p.86, See also appendix to *Marumakkathayam* Committee Report 1908.

²¹ Elamkulam.P.N.Kunhan Pillai, *Studies in Kerala History*, Tvm, 1970, Pp.292-322

Sreedhara Menon's *Survey of Kerala History*, which was considered as a Bible in the classrooms related to Kerala History, accepts these points of view enmasse.²²

Many studies have appeared in the latter half of the 20th century dealing with the institution of *Marumakkathayam*. Most of them were by scholars of either anthropology or sociology. They described the system in its organizational and functional aspects. But as their studies were mainly confined to the modern period most of these studies were silent about the origin and genesis of the system.²³

It was Prof. M.G.S Narayanan, who through his research thesis, offered a corrective to these longstanding theories on Kerala social systems.²⁴ Now that we know that *Marumakkathayam* existed among some communities like Nayars, Kshatriyas and Vetkovans even during the 9th century we can safely assume that, as in the rest of the world, this mode of succession had a pre-historic tribal origin in Kerala too.

It is not the special circumstances of the origin, but the causes of the long survival in Kerala, which have to be problematised. Its origin was natural in the hill country as in many other hilly regions of the world like the Himalayan Valley. The special feature of Kerala was that it survived long after the establishment of private property state and religion. The rejection of the earlier thesis of late medieval origin enables us to secure an insight into the peculiar development of Kerala society with its Aryan – Brahmin synthesis that produced the Brahmin oligarchy and the special form of matrimony called "*Sambandham*" between the Brahmins and non-Brahmins in Kerala.

²² A. Sreedhara Menon, *A Survey of Kerala History*, Madras, 1984 Pp.23-40

²³ Kathleen Gough, *Robin Jeffrey, Fuller etc studied the institution of Marumakkathayam*

²⁴ M.G. S. Narayanan, *Perumals of Kerala*, Kozhikode, 1996, p.151.

The Brahmins being a small group, needed land for agriculture, who had their own traditions. They were advanced in philosophy, astronomy, and technology of agriculture. The original inhabitants, probably Dravidian could gain much from the contact with these outsiders. It appears that their chieftains welcomed the immigrants and gave them all support in organizing a new way of life around their *grama Kshetras*. Having come to the possession of land, they needed physical support and co-operation from a large number of labourers. Therefore, there was a situation in which peaceful give and take between these two communities and the adjustment of their different roles in society could proceed in such a way that an integration between the Aryan and Dravidian elements and the synthesis of these two cultures could develop in Kerala. In this process, the *Marumakkathayam* system of succession which prevailed among the original inhabitants and the practice of *Sambandham* through which the Brahmins accepted family partners from non-Brahmins played an important role.

We get recorded evidence in detail about this system of inheritance in the writings of foreign travellers from the 14th century onwards. Friar Jordanus who lived at Quilon early in the fourteenth century was the first foreign visitor to refer to the peculiar law of inheritance in vogue in Kerala.²⁵

To trace the genesis and growth of this system in Kerala we should look into the sources of the pre-14th century, period. The historical epoch in Kerala starts in the Sangam period. The corpus of Tamil literature of this period does not mention the

²⁵ He observed "In this India never do (even) the legitimate sons of great Kings, or princes, or barons-inherit the goods of their parents, but only the sons of their sisters; for they say that they have no surety that those are their own sons, because wives and mistresses may conceive and generate by some one else; but it is not so with the sister, for whatever man may be the father they were certain that the offspring-is from the womb of their sister and is consequently truly of their blood." Following Jordanus the travellers who visited in the succeeding centuries mentioned matriliney.

institution of *Marumakkathayam*. Though scholars tried to trace features of *Marumakkathayam* during the Sangam period their attempts were not fruitful. Elamkulam also concludes that matriliney was not practised by the people of Sangam Age.²⁶ But these literary works mention only some pockets like Elimalai region in the north, the Perar-Periyar region in the centre and the Potiyilmalai region in the extreme south. The tribal people who lived in the interior regions were not noticed by the Sangam poets. The possibility was the thick forests in the plains of Kerala could not have been settled or the later Brahmin settlers brought with them groups of matrilineal tribal folk to help them clear the forests or tamed such wild groups, who had been already living in the forests in isolation from the civilised Tamil people. If the Brahmins were forced to live in the midst of such people, it is quite understandable that they left matriliney undisturbed and even strengthened it and prolonged its life indefinitely for their own conveniences²⁷.

From the 9th to the 12th century Kerala was under the rule of the Perumals and the reference to matriliney is visible in the records of this period. The early historians

²⁶ N.Sam, (ed) *Prof.P.N.Kunhanpillayude Thiranjadutha Krithikal* (mal) Trivandrum 2005, p.550

²⁷ M.G.S.Narayanan, *Perumals of Kerala*, Thrissur, 2013, p 64-69, Prof. Elamkulam has rightly stressed the distinction between tribal matriarchy analysed by sociologists like Henry Maine, Morgan et al. and matriliney among Nayars and others in medieval Kerala. See Elamkulam, *Marumakkattayam Keralattil*. Etukal, pp. 134-210. It is also true that matriliney cannot be traced among the Cera kings or other chieftains of the Sangam age. Elamkulam's argument that prolonged Cola wars changed the system of inheritance in Kerala goes against all the accepted canons of social evolution. It is more logical to assume that elements of tribal matriarchy survived in Kerala and the Brahmin elite of the new settlements could have given a new lease of life to the institution. The emergence of a class of people born of Aryan Brahmin fathers and Dravidian mothers might have occurred in the post-Sangam period. This class, favoured by the powerful Brahmin oligarchy and inducted into the army and administration, could have formed the nucleus of the Nayar sub-caste. Such a phenomenon of a mixed breed has parallels in the European colonies of Latin America and in ancient Rome. Roman matrimonial custom sanctioned two usages *justae nuptioe* or real marriage and marriage according to natural law, commonly called concubinage, but in reality corresponding with morganatic marriage. A woman united to man by the second was described as concubine, *arnica*, *convictrix*, etc. She did not bear the name of matron, nor did she share her husband's titles. The child of such a union, called *nothus*, was a natural child and though his father was known, he had no right of succession. This implied no slur on the woman's character also. Since the law of the twelve tables forbade marriage between patricians and plebians, concubinage became popular and it was in the interests of the plebian women too. See Louis de Combes, (Translated by Lingi Cappadetta) *The Finding of the Cross* (New York, 1907) pp. 94-6 quoted by T.K. Joseph, K.S.P., II, no.9, p. 204. The anxiety of the Brahmin settlers to keep their family property undivided could have led them to encourage younger male members to take more and more to this form of concubinage. Thus it is Brahmin socio-economic leadership and race mixture, not wars, that institutionalised, re-inforced and popularised matriliney in Kerala. For further details see M.G.S.Narayanan, *Perumals* p.292-293.

who studied the history of matriliney did not take into account the reference to this system in the inscriptions. K.P.Padmanabha Menon, who even prepared the *Marumakkathayam* committee report in 1908 held the view that *Marumakkathayam* originated in Kerala in the 14th century. This was mainly based on the description left by Friar Jordans about which reference has already been made (see foot note No.2). Based on this K.P.P. Menon says that matriliney originated in Kerala in the fourteenth century. Writing in the beginning of the 20th century, the inscriptions were not accessible to him. These were published after his period.

Elamkulam states that the Chera kings followed patrilineal succession. An attempt was made by him to look into the history of *Marumakkathayam* also. After examining the various theories of Mc.Lennan, Morgan and others, in the light of both native and foreign sources he concluded that the anarchy prevailed after the Cera-Cola war compelled the Nayars to keep away from their houses and this opportunity was utilised by Nambuthiris to enter into alliances with the Nayar women and this situation gave rise to matrilineal system. He assigned the 11th century as the period of its emergence. He overlooked the references to matriliney in the inscriptions and in the *Musakavamsa Kavya*.

The findings of Elamkulam were further examined and re-interpreted by M.G.S. Narayanan. He studied many inscriptions to which Elamkulam had no access. The initiative taken by M.G.S.Narayanan enabled the students of history to form a different picture about the origin of matriliney. He ascribes an earlier origin to matriliney. While analysing the nature of monarchy and succession pattern of the Perumals of Kerala he was able to identify the prevalence of matriliney in the 9th

century itself. The ruler Stanu Ravi was succeeded by Vijayarayadeva and as reflected in the inscriptions the latter was the son-in-law and nephew of the former²⁸.

There are also other inscriptions belonging to this period which refer to the prevalence of matriliney in Kerala. The Parthivapuram inscription refers to the cowherds who followed matriliney. This may be assigned to 964 A.D. Another 10th century inscription refers to one Valiya Kumaran Iyyakkam giving certain things to the temple. His mother and mother's sister are mentioned in this inscription and from this we can infer that during the 10th century itself *Marumakkathayam* started functioning as a system of inheritance.²⁹

Thiruvalla copper plates of the 11th century mention matrilineal succession in connection with certain families in the neighbourhood of Thiruvalla. Here we get reference about one Kovinan Achuthan and *marumakkal* jointly giving certain grants to the temple. There are also references about certain ladies in this inscription. From the house name it is clear that the ladies mentioned in this inscription belonged to Nayar families. This inscription refers to Nayattiyar that is the feminine gender of Nayar³⁰. It is mentioned in the Jewish Copper Plates (1000 AD) that the 72 privileges granted to Joseph Rabban, the chief of Jewish traders at Mahodayapuram could be enjoyed by his *makkal* (children) and *marumakkal* (nieces and nephews) and *makkale konda marumakkal* (son-in-law).³¹

Musakavamsa kavya written by Atula mentions the matrilineal succession of kings in the last three chapters, dealing with the history of the period from the 9th to

²⁸ Ibid.

²⁹ M.R.RaghavaVarier, *Keraliyatha Charithramangal* (mal) Sukapuram, 1990, Pp.70-80

³⁰ M.G.S.Narayanan, *Perumals*, op-cit, Pp.64-69

³¹ M.G.S. *Cultural Symbiosis in Kerala*, Tvm, 1972

the 11th century. It is true that the earlier chapters describe patrilineal succession, but the contents of the chapters are legendary and fictitious³².

Functioning of Marumakkathayam

The beginning of the 12th century witnessed the decline of Perumal rule in Kerala. The legendary chronicle, *Keralolpathi*, describes the partition of the kingdom among near relatives and feudatories of the last Perumal. When the rule of the Perumal ended, the different *natus* under him became independent and most prominent among them were Kolattunad, Eranad, Valluvanad and Venad. Some others were less powerful and the least powerful ones disappeared from the scene. In fact, the history of the political processes and political forms in Kerala in the post-Cera period is the history of the rise of certain principalities into more powerful kingdoms and the reduction of certain others to less powerful chiefdoms or even to ciphers with all the internal mutations that such a situation offered³³.

Among these successors, the rulers of Kochi claimed direct matrilineal descent from the Perumal. But the fact that all the successor states of the Perumals followed *Marumakkathayam* law of inheritance is clear from the contemporary sources. We have *granthavaris* of the Zamorins of Calicut, rulers of Kochi and Venad. It is also attested by the foreign travellers like Barbosa and others. The Sanketams which developed into huge agrarian corporations strengthened these successor states to a great extent. The matrimonial connections (*sambandham*) of Brahmins with the women of these families strengthened successor states to a great extent.

³² M.G.S.Narayanan, *Re-interpretations in South Indian History*, Tvm, 1977, p.10-15

³³ Dr.M.P.Unni, *The History of Mushikavamsa*, Trivandrum, 1980, Pp-17-28.

All these minor principalities of Kerala later became prominent as Swarupams. The Kurvalcha and residences of these families indicate the existence of extended kinship groups during the early period and the branches were known as *tavazhis*. The term *tavazhi* is derived from tai+vazhi (the mother's line) which clearly denotes *Marumakkathayam* succession. The matrilineal system was sustained as a mode of preserving the rights, privileges and the control of the Swarupam territory within the family itself.

The Manipravala literature assigned to the post-cera period refer to matriliney. In the *Unniati Caritam* assigned to the 14th century it is described that Iravikerala Varma became the King of Odanad following his uncle Iravi Varman. Iravi Varman had a fascination for ladies like Cherukara Kuttathi, the heroine of the poem and finally he entrusted the administration to his nephew Iravi Kerala Varma.³⁴ This is a clear reference to *Marumakkathayam* followed by the rulers of this period.

Granthavari or Palace records occupy an important source material to trace the functioning of *Marumakkathayam* system. All successor states of the Perumals had left their own palace records. Being the records of day-to-day affairs, they reflect the social and economic aspects also.

The *Vanjeri Granthavari* which contains the records of Trikkandiyur sanketam deal with *kaval* duty entrusted to important Nayar *tarawad* and these *tarawad* continued to exist even during modern times.³⁵ The term '*anantharavan*' is also mentioned in these records. *Kootali Granthavari* and *Kavalappara papers* also throw light on the functioning of *Marumakkathayam*.

³⁴ Ullur S.Parameswara Iyyer, *Kerala Sahithya Charithram*, (Siva Vilasam) (mal) Tvm. 1953, Pp-12-33

³⁵ M.G.S.Narayanan, *Vanjeri Grandhavari*, Calicut University, 1987 Pp XXIII-XXV

Still another important source material for understanding the working of *Marumakkathayam* is none other than *Vatakkann pattukal* or Northern ballads. This corpus of literature which is oral in character was collected and published mainly by Achutha Menon, K.V.Achuthanandan and T.V.Appunni Nambiar. Though these songs mainly deal with the heroic achievements of medieval heroes, they also contain incidental references to socio-economic aspects like kinship, lineage and property rights.³⁶ Two important families are mentioned in the Northern ballads. They are the Puthuram family and Thacholi family of which the former followed patriliney and the latter matriliney.

In one of the songs on Aromal Chekavar, we get reference about a dispute over inheritance after the death of Kaimal of Kurungottitam, a Nayar chief. Two of his nephews claimed heirship and Aromal was invited to fight on one's side in order to settle the dispute. An *ankam* or dual was fought between Aromal and Aringotar. The main theme of the song is centred around this *ankam*. Along with this, we get reference about the law of inheritance among the Nayar chieftains and the kinship relations. From the conversation between Aromal and his younger brother, we can infer that the *chekons* also adopted some features of matriliney. For example when Chandu's parents died he was brought to his uncle's house.³⁷

The Tacholi songs mainly deal with the Nayar families which followed matriliney. These songs are replete with references to the functioning of matriliney. From these songs we can understand the relationship between uncles and nephews,

³⁶ K.V.Achuthanandan, *Irupathinalu Vadakkan Pattukal*, Thrissur, 1996, Pp-1-62.

³⁷ Aromal's uncle had no sons. In such a situation it was the duty of the nephews to perform the funeral rites of his uncle. The relationship between Aromal and his sister Unniarcha is described in the songs which highlights the kinship relation between brother and sister, This is another example of the influence of *marumakkathayam* on the patrilineal communities.

elder brother and younger brother, mother and son, brother and sister, etc. When a fort was conquered, the name of the Karanavar was written there. It is the right of the nephews to collect the revenue due to the family after the demise of the uncle. And those who were responsible for paying the dues respected the nephews and they were given warm welcome and allegiance.

Shaykh Zainuddin Makhdum's *Tuhfat-al-Mujahiddin* is a work in Arabic of the late sixteenth century. Though this work mainly deals with the struggles of the Malabar Muslims against the Portuguese colonisers' encroachment in India, it also gives a brief account of certain strange customs prevalent among the non-believers of Malabar. While discussing the law of inheritance, he states "the inheritance both to property and kingdom amongst the Nayars and those who are allied to them belong first to their brothers from the mother to the children of their sisters, or to their maternal aunts or to the relatives who are descended from the mother and not to the immediate offspring. This description given by Zainuddin towards the end of the sixteenth century helps us to conclude that the accepted law of inheritance was *Marumakkathayam* among the Nayars³⁸.

Foreign travellers also left their accounts about practices observed by the natives of this land. Mention had already been made to Jordanus and Arab travellers. Barbosa says, the heirs of these kings are their brothers or their nephews, sons of their sisters. They consider that these are their true sons, for they know who is their mother,

³⁸ Zainuddin also observes the influence of *marumakkathayam* on other communities. In another context he mentions this system "has crept into most families of the Muslim community in Kannur and the neighbouring places. They read the Quran, they learn it by heart; they recite it beautifully; they acquire religious learning; they perform prayers and other forms of worship; yet it is extremely strange and surprising that this custom prevails among them". Also see Shaykh Zainuddin, Makhdum, *Tuhfat al-mujahidin*, Calicut 2007, Pp 39-48

and in this country for that the women are very free of their bodies the true stock of the Royal descent is through the women, and the first son born to the King's eldest sister is heir to the throne, and thus all brothers inherit one after the other, and when there are no brothers, the nephews, the sons of the eldest sister succeed³⁹.

The foregoing account of the early manifestation of *Marumakkathayam* enables us to assume that it existed in Kerala from pre-historic times. Its prevalence in Brahmin-related communities like Nayars and Kshatriyas in the Cera period would compel us to think about the role of the dominant Brahmins who were patrilineal in preserving matriliney in Kerala where the peculiar form of Brahmin non-Brahmin matrimonial alliance called *sambandham* had developed. This will be discussed later when we analyse the causes for the survival of *Marumakkathayam* in Kerala while it perished everywhere else with the rise of private property and state.

Kerala's geospecificities proved as a catalyst to the development of this institution and naturally it attained augmentation. The food-producing potential in this area was limited unlike in other riparian tracts of Brahmin ascendancy, Kerala sandwiched between the western ghats and Arabian sea had to depend on the narrow river banks in the middle for their major food crop paddy. Hence it is possible that

³⁹ When there was no heir they adopted a heir from another family. They always adopt more than one member, and mother along with children are adopted. Barbosa says "For this reason the kings of Malabar are always old, their nieces and sisters from whom the heir to throne is to proceed are watched and served and have their own revenues on which they live, and when any of them attains the age of 12 or 14 and fit for intercourse with men they send to summon some youth of noble lineage from outside the Kingdom appointed therefore that purpose, sending him money and gifts in order that he may come and take the maidenhood of that girl".

Varthema while discussing the ceremonies connected with death states, "the heir of the King is the son of one of his sisters; and if there is no son of a said sister, the nearest (collateral) relation of the King succeeds him". Also see M.Gangadharan, (ed) *Durate, Barbosa, The Land of Malabar*, Kottayam, 2000, Pp.17-43

Brahmins here adopted and legitimized the institution of matriliney prevalent among some of the indigenous communities.

The low food-producing potential must have acted as an impediment against the numerical expansion of the Brahmin communities who were inhabitants of Kerala. It is quite evident that paddy cultivation, the major food crop known to the Brahmins was feasible only to a limited extent. When numerical expansion is not possible it is only natural that one integrates with others for social and economic necessities. The matrimonial ties between Brahmins and non-Brahmin communities would have been the result of such a phenomenon.

THE MATRILINEAL BRAHMINS OF PAYYANNUR

The Thirumumpus of Payyannur are matrilineal Brahmins. As far as known, this is the only Brahmin sub-caste who follows matriliney. Payyannur 'Gramam' (settlement) was, according to *Keralolpathi*, one of the four 'tali's' (consortiums) entrusted during the Perumal period with the government of Kerala, but there is no way of knowing whether at that distant period also inheritance among them was through females.

Though authors speak of them as *Payyannur* Brahmins, it is by no means correct to restrict their ecology to that one village. The Payyannur settlement included the present Payyannur town, which is the headquarters of the taluk, and its environs within a radius of 15 miles. The Payyannur 'Magana' roughly embraced the area from Nileswaram in the north to Valapatanam, 5 miles north of Cannanore. One family of the Payyannur Brahmins settled in Thavam, nearly 20 miles from Payyannur and their 'mana' is known as Thavathu mana. Whether the locality received its name from the

Brahmin house or the mana adopted the name of the village is difficult to say, but most of the land in this area once belonged to this mana.

Though Payyannur Thirumumpus are classed as Brahmins, the Nambuthiris consider themselves superior to Thirumumpus. While the Nambuthiris among themselves speak, for example, of the senior or junior Edamanaor Puvalli (by the names of their illams), similar to the English customs of calling one another Mr. Smith or Mr. Brown, they have devised a new mode of address 'amoman' for the Payyannur Thirumumpus, which is like the nondescript English form of address, 'uncle'. Endearing perhaps, none the less, it betokens no intimacy of relation nor equality of caste status. Among themselves, while talking to one another, Nambuthiris use the personal name. They consider the Thirumumpus at best as 'samanya' Nambuthiris (ordinary folk), with whom they do not associate closely. Snobbish and fastidious as the Nambuthiris are in their contacts with the rest of the people, these little distinctions count for much. Besides, the Payyannur Nambuthiris were Yajur Vedins and a minority. They have no priesthood. Even in their own temples, the Payyannur Thirumumpus do not officiate but employ Nambuthiri priests. Their Kshatriya duties of protection and war implied the use of arms and this also reduced the Thirumumpus in the estimation of the purely sacerdotal Nambuthiris. For the 'Murajapam' ceremony which used to be conducted by the Maharaja of Travancore once every six years, for which Nambuthiris from the length and breadth of Kerala were invited and treated as State guests, the Payyannur Thirumumpus were not invited. They do not take nor are given gifts (dakshina), considered a tribute to the sanctity and holiness of the Nambuthiris. Neither do Thirumumpus attend the *sradhas* of the Nayars for which Nambuthiris are called to bless the house and treated most honourably by the Nayar host. A plausible reason given for this is: The Payyannur

Nambuthiris, having had ruling powers and Kshatriya duties of war and protection, kept themselves apart with marks from others. At their *sradhas*, the Thirumumpus receive other Nambuthiri with marks of honour, who in their turn sprinkle them with water for purification. Other castes call Payyannur Nambuthiris, Thirumumpu (holy presence), but have reserved the term 'Thirumenis' (holy persons) to Nambuthiris⁴⁰. Besides consideration of caste there may have been also that economic deterrent against such marriages because the Thirumumpu males had no right in the family except maintenance and the Nambuthiris woman lost all her financial rights in her father's *illam* on marriage. The Nambuthiris junior contracting *Sambandham* with a Thirumumpu lady married into affluence, because previously they were a rich landed gentry. Till very recently, Thirumumpu women were always married to Nambuthiris but it was very rare that the Nambuthiris took their Thirumumpu wives home. Formerly Nambuthiris husbands stayed on and were maintained by their wives' families. When Thirumumpu families were getting extinct without women, the custom was to adopt girls from other Thirumumpu *manas* or from Nambuthiris *illams* and there were two cases of Nambuthiris girls from the south being adopted *manas* for survival. One such adoption saved the Reramangalam *mana* seventy five years ago, and the second adoption in 1911, the Kunjimangalam *mana*. With adoption and 'sarvaswadanam' (gifting away everything) to them, the Nambuthiris girls lost their Nambuthiris status. I was also told that the Nambuthiris bridegrooms of Thirumumpu women were baptized Thirumumpus', and in almost all cases, they lost touch with

⁴⁰ The Nayers talking to Thirumumpus respectfully say, *Ezhunelliyidathuninnu*", which is a circumlocution for 'Thou, who was come. Still lower castes call the Thirumumpu males 'Thampuram (Lord) and their women 'Thampuratti'(Lady). The Thirumumpu are called 'Thampayis'. Married and unmarried Thirumumpu women are Ghoshas like Nambuthiri ladies. While the Nambuthiri house is *illam* occasionally '*mana*'), the Thirumumpu home is '*mana*'. This may be also because of the Kanarese influence in North Malabar. Nambuthiris contracted *sambandham* from Thirumumpus but it was rare that Nambuthiri women were given in marriage to Thirumumpus.

their illams. Whether this was only due to the spatial distance from their own illam, or for reasons of caste superiority, it is difficult to say⁴¹.

The Thirumumpus follow all the marriage rites prescribed for Nambuthiris, but being matrilineal, marriages are matrilocal. Their marriage is as much a sacrament as the marriage of the Nambuthiris. To adopt it to the system of inheritance through females, they use the well-known formula of the smritis applicable to the marriage of a girl whose issues are intended to become the children of her father⁴². Among other Nambuthiris, that formula is used only where the father of the bride has no sons, the formula being, "this girl, *without a brother*, I give you...the children born of her shall be my children". The Payyannur Brahmins adopt this formula in all cases of marriage but omit the words without a brother⁴³.

The children have no right to inherit their father's properties, while they become entitled to the properties of their mother's family. Only after the Nambuthiris Act of 1933, did they get any claim to his property. Nambuthiris fathers of Thirumumpu children had no right of guardianship until the Act gave it to them, the right being previously vested in the senior male of the mana. The husband was largely a sexual partner only. The Nambuthiris male's marriage with a Thirumumpu female was equated to Nambuthiris-Nayar *Sambandham*; he did not consider it a caste

⁴¹ Thirumumpus belong to the Nambutiri milieu. They too observe all the 16 samskarams, 'Shodasa Samskarams' prescribed for all Brahmins, besides the 60 'acharams' and four anacharams peculiar to the Nambutiris of Kerala. They wear the sacred thread, keep the frontal tuft (purasikha) and are addicted to the mania of purificatory bath as any Nambutiri. Their boys have the brahmacharya period, but in a mitigated form. The study of the Vedas is not very seriously taken, for they require it only for a few personal occasions. They are not a sacerdotal caste. As our informant said, "they have all the 'karmas' (personal duties) but not all the 'mantras' (religious incantations) of the Nambutiris". Nambutiris officiated at all their religious functions, directing them and dictating mantras etc. to the Thirumumpus. From time immemorial, Payyannur was recognized as one of the 64 gramams (Brahmin settlements).

⁴² K.V.Krishna Iyer, *Brahmins of Kerala* (Mal.) Mathrubhurni Illustrated Weekly, February 25, 1962.

⁴³ P.R. *Malabar and Aliyasantana Law*, op cit, p.230.

marriage. This may be adduced as an argument against the equality of the two castes. In the past, itinerant Nambuthiris passing through Payyannur on their pilgrimages and stopping for a time in the free guest house (Uttupura) of the Payyannur Gramam, used to be lured to stay on as the '*sambandhakkaran*' of some Thampayi or other. But as this marriage was solemnized, he was 'baptized' a Thirumumpu by being adopted to one of the extinct Thirumumpu manas. In this way the Thirumumpus procured Nambuthiris fathers⁴⁴.

How the Thirumumpus became matrilineal is shrouded in tangled mystery. The current legend among the Thirumumpus is that they adopted the custom prevailing among the local people at the behest of Parasurama. On their obedience, Parasurama blessed them and made them rulers of the land. The other version is that Nambuthiris refusing to comply with Parasurama's suggestion, he brought the Thirumumpus and settled them in Kerala as rulers. This theory of exotic origin may explained the absence of integration between Nambuthiris and Thirumumpus. There is a big Parasurama Temple in Payyannur, which was the only temple dedicated to him.

Mr.K.V.Krishna Iyer, the historian of *the Zamorins of Calicut* says that matriliney arose among the Payyannur Brahmins from the custom of *sarvaswadanam* (gifting away the entire property) by the father to daughters so that their children would become his heirs. For the Nambuthiris, *paterfamilias* male children were a need to pay off his debt to the mana; and *sarvaswadanam* and *niyoga* were the two methods of getting an adoptive heir. Justice Sir Muthuswamy C.J. of the Madras

⁴⁴ One Raja- informant from the neighbourhood said that Nambuthiri pilgrims did not eat in the Thirumumpu homes, for fear of pollution; but Thirumumpu informants emphatically resented the insinuation. They said that the innuendo was deliberately calculated to insult. They pointed out facts of Nambuthiri husbands living and boarding with their Thirumumpu wives.

High Court expressed a view in Vasudevan V. the Secretary of State for India' that it was an act of *sarvaswadanam* (which he says is another form of *prakara*, or *niyoga*), which finally brought matriliney among Payyanur Nambuthiris⁴⁵. This explanation is not final. It is difficult to conceive a condition when all Payyannur Nambtiris were without male issue, the precondition of *sarvaswadanam*, and had to resort to the extraordinary step of gifting away their entire property to daughters.

With the little we know about Payyannur Nambuthiris, we cannot say when or how they became matrilineal. In the history of patrilineal communities, there were instances of adopting matriliney. B.A.Salatore in his book, *Ancient Karnataka*, tells of such a change among the Tulus of South Canara when one Alupa King, as late as 1444 A.D. enacted such a law⁴⁶. Elamkulam Kunjan Pillai, in his research essays on the history of Kerala, gives 15 instances of communities changing to matriliney, on settling down in Kerala. According to him, royal chieftaincies like Pandalam and Poonjar, the ancient Aye, and Kulasekhara kings, and the Kola kings of Kolathunad had been originally patrilineal, but changed over slowly to matriliney. He cites the example of some Jain families, who in comparatively recent times, took to the Aliyasanthana (matriliney of South Canara) law of inheritance. It is known that the yapari Nayars of Kurumbanad (North Kerala), the Krishnavakakkars (originally Gujarati settlers), the Chakkala Nayars, the Nanchinad Vellalar and other Tamil settlers accepted this form of lineage after they settled in Kerala⁴⁷. Nothing definite can be said about how and when *Marumakkathayam* was introduced among Payyannur Nambuthiris, or, for that matter, anywhere in Kerala.

⁴⁵ K.V.Krishna Iyer, op. cit., Ibid.

⁴⁶ Salatore, 11,A., *Ancient Karnataka*, op cit, p. 364.

⁴⁷ Elamkulam P.N.Kunhan Pillai, *Keralathinte Eruladhanja Edukal* (mal), opcit-p.160

At present, matrilineal customs are definitely established among Payyanur Brahmins. The daughters and their children keep the family name and inherit the property: the senior male is only a manager; it is a joint family system, a coparcenary, where all have rights in the *tarawad* properties but not out of it; and males marry outside the caste, and their children, as in the case of Nayers, do not belong to the father's caste or *tarawad*. A male Thirumumpu's chief mourners are his sister's children; and his children are excluded from the right of offering obsequies. While males have the *Sambandham* system, the Thirumumpu caste does not observe other marriage customs, such as the *talikettukalyanam*, *tirandukuli* etc., prevalent among matrilineals. Polyandry was not allowed and adultery was severely punished by a court of trial called *Smarthavicharam* as in the case of Nambuthiris. There is a Nayar branch of the Thirumumpus. This came into being as a result of one Thirumumpu woman, who had already been married to a Nambuthiris, conceiving an attachment to a Nayar. In olden days, her fate would have been decided in the caste court and judged as a fallen woman. She would have been disinherited and ostracized and mercilessly clapped out of the family, which would perform obsequies for her, as she was dead for them. No sanction could be applied in this particular case and she managed to get her share of the family property, according to matrilineal usage, through civil courts. The family considered her an outcaste and has ostracized her. Women marrying into the higher sub-castes or from the same castes is the rule among Thirumumpus also.

Before we deal with the social aspects of the marriage and family among Thirumumpus, it is necessary to give a brief history of this unique community to understand its background. According to their tradition, 16 families formed the original Payyannur settlement. Most of the families have become extinct and, on

extinction, been amalgamated with the rest. At present, there are only seven Thirumumpu families existing and altogether 110 members in this group. They are exogamous and formerly never married each other. The eldest living member of group, a retired Head Master, 75 years of age, told that about 120 years ago, for the first time, two Thirumumpus married each other. Since then, a few other such marriages also have taken place. He said that out of the existing seven families, two families on the verge of extinction were saved by adopting girls from Thazhekatt Mana, to which he himself belonged⁴⁸.

Among the Thirumumpu families, the most flourishing and the one that had ruling rights (*naduvazhcha*) was the Thazhekatt Mana. It held sway over most of the land from Nileswaram in the north to the Valapattanam River on the outskirts of Cannanore. Most of the land in this tract belonged in 'janmam' to the family or in 'devaswam' to their temple, Tippu's invasion and the occupation of Malabar was a hard blow to their power. Their temples were denuded and their lands fell to alien holders. Payyannur Temple has been repaired but not all their other 18 temples. We saw two of their temples lying in a state of disrepair. Most of their land being in the hands of tenants on rent, the present expropriatory tenancy regulations spell ruin for them. They have also been duped by their managers, who sold their lands for cheap prices or managed to secure some of them for themselves. One of our Thirumumpu informants said that he demanded partition on a 'per capita' basis as allowed by the

⁴⁸ The following are the names of the Thirumupu manas:

(1) Thazhekatt (2) Reramangalam (3) Thaliyil (4) Thavathu (5) Kunjimangalam (6) Kunnathu (7) Thelekattu. The first in the list has 75 members among its various branches, and the other six together only 35 members. The result is that these families are saved from extinction only by adoption, as it happened 75 years ago when a girl from Thazhekatt Mana was adopted into Reramangalam. (No. 2), and 5 years ago another into the Thavathu Mana (No. 4). Two Nambutiri girls from the South were adopted into the Kunjimangalam Mana (No. 5) to keep it going. The adopted girls were given in marriage to some Nambutiri, who also would be nominally adopted into an extinct mana; and they raised children for the wife's mana. My informant was one of the few Thirumumpus who married into other Thirumumpu families. His son, a teacher like the father, also married a Thampayi and looks after her mana. Since Thirumumpus are Yajur Vedins, belonging to its several exogamous gotras, they had perforce to seek grooms from outside their group. The paucity or the absence of eligible bachelors within their not so numerous caste naturally led them to look for marriage 'alliances from Nambutiris. For details see Fr. Puthenkalam.S.J., *Marriage and the Family in Kerala*, Calgary, 1977, p.192.

law, to salvage what could be. With the division of the property into individual shares, the family properties were dismembered. Only three branches of this once great aristocracy retain today even a middle class status. In their heyday of power, no one would have dared walk with shoes on their neighbourhood. The turrets and walled houses and the row of outhouses and the magnificent wooden structures, where they lived in the lap of luxury, remain an object of sardonic remarks and bitter sarcasm on the part of those who were once subject to them. Parts of their buildings were demolished and sold to meet daily needs. Their glory, power and prestige of yesterday are gone and with no hope of a return. Years ago, Payyannur was identified by the words 'Thazhekatt Mana' even for postal purposes; today Thazhekat remains but a name with historic associations for those who study Payyanur Numbutiris.

Educationally, the Thirumumpus are backward. There are altogether two graduates and two (secondary trained) teachers among them. Not one of their women, has received English education⁴⁹. Even today, the senior member of the family has some social prestige, and titles can be conferred by him on the lower castes like Tiyas, artisans and the rest who value them. The masons get the title *Maniyani*: the launderers *Kurup* Tiyas get such titles as are reminiscent of their association with temple service, as *Anthithiriyar* (having right of lighting the evening lamps in outer temples), *Achchan* (headman), *Kudakkaran* (who holds aloft the ornamental umbrella (kuda) or applying them for the feasts), *Kalasakkaran* (dancing with the 'kalasam' for the temple processions) etc. In the village 'set-up, these titles count even today with the less sophisticated older generation. The carpenters get such titles as *Kerala Varman*, *Udaya Varman* and *Ramavarmon*. Previously, for celebrating a feast in the village, the permission of the senior male of this family had to be sought, new-born

⁴⁹ Fr.J.Puthankalam, Opcit, p.193.

babies were to be presented before him, and on the occasions of marriage, birth etc. offerings made to him. The dependents received gifts in return. These customs were a sign and symbol of their ruling powers and an additional income. But in these democratic times, no one respects them more so because there is no prospect of any recompense from these impoverished erstwhile aristocrats.

Marriage and domestic customs of the Thirumumpus developed their own special features. They were always a small community where males and females looked for mates from outside their community and while some willing Nambuthiris, lured by their wealth, were found to marry the females, the males sought wives either in the Nayar community or some other matrilineal high caste.

THE MAPPILAS OF MALABAR

The Mappilas, like Nayars and Tiyas, are a typical Malayalee community. As the backbone of the navy of the Zamorin, who fought which the Portuguese from the shores of India for nearly a century, the Mappilas deserve more attention than they have received⁵⁰. The Mappilas confused them for Arab sailors. Most Indians have heard of them only in connection with the *Moplah Riot* (1921), when they rose up in rebellion, against the British, spreading terror and arson, and were mercilessly suppressed. The Mappilas are of interest to sociologists because they are matrilineal though Muslims are generally partilineal. Other matrilineal Muslims are Navayaths of Kanara and Menangkabaus of Sumatra, whose mother right according to a recent author, is traceable to the Mappilas⁵¹. The Mappila influence on the Navayaths is understandable, because Kanara and Malabar lie adjacent, but it is difficult to see how

⁵⁰ The Government of India has established a training ship I.N.S Kurifl in memory of Kunjali Marakkar, The Admiral of the Zamorin. Prof. O.K.Nambiars Book, *The Kunjalis*, 1963, (Asia Publishing House), is an attempt to spotlight the exploits of the Mappila Navy men against the Portuguese invaders.

⁵¹ Victor., D'Souza, *The Navayats of Kanara*, op-cit, p. 83.

Mappilas could diffuse matriliney among Menangkabaus, living thousands of miles away in South-East Asia. F.C.Cole thinks that the Navayaths are responsible for the matrilineal social organization among Menangkabaus. But considering the fact that Menangkabaus are the only matrilineal Muslim community in Sumatra belonging to the shafi sect of Islam, it is more probable, says Victor D'Souza, that they owe their social organization to the Malabar Muslims, whose contacts or connections with the islands of Malaya are well known, and whose mother-right social-organization manifests all the unaccounted-for traits of Manlangkabaus⁵².

Moplah is a corruption and the English contraction for Mappila. The word Mappila has been interpreted with a matrilineal slant by some authors, as *ma* (mother's) *pilla* (child), an obvious reference to the mutual temporary marriage of Arab traders from the 8th (or earlier) century onwards with the women of the Malabar coast. The responsibility for the children rested on the mothers after their Arab husbands went home. The 'mapilla' interpretation is of doubtful value. Such a combination of words, 'ma' from Sanskrit and 'pilla' from Tamil, looks philologically monstrous in Malayalam; moreover, there is no reason to dub them alone with the stigma of uncertain and irresponsible paternity, which other matrilineal communities also could be accused of. Others interpret the word, Mappilla, as a "component of *maha* (great or big) and *pillai* (accountant, in the sense of traders). The Jews and Syrian Christians are also called Mappilas. The Jews are *Juda Mappilas*: the Syrians are *Nazrani Mappilas* and the Muslims *Jonaka Mappilas*; Jonaka may have come from the word 'Yavana' (Greek), used for all foreigners as the word European was indiscriminately used for all Westerners. The distinction between these three trading

⁵² Ibid, p.84

communities was made by the addition of the various prefixes, Juda (Jewish), Nazrani (follower of Jesus the Nazarene), and Jonaka (Muslim)⁵³.

Mappilas are not confined to any particular locality or district in Kerala though they are found in larger numbers on the coastal belt particularly in North Kerala. According to the Census of 1961, there are 3027671 Mappilas in Kerala. In the Census of 1941, they numbered 1931541, i.e. 17.5% of the total population of 11031541. According to the same Census, the old British Malabar contained 14.2 lakhs (73.7%) of the Mappilas, while Travancore and Cochin accounted for 21.1% and 5.2% of them respectively. They formed nearly 40% of the total population of Malabar, and in the Calicut district they predominate as a single community even today. In the coastal towns of Calicut, Ponnani, Badagara and Tellichery in North Malabar, the Mappilla population forms the biggest single community. Anyone passing by bus or train from Shornur to Calicut, will be struck by the concentration of Mappilla population in this belt of nearly 60 miles. In the Calicut city, the Mappilas own the majority of business concerns. This is not surprising, because about half the population of the city of Calicut are Muslim. In Badgara, panthalayini, Ponnani and Tellichery also, Mappilas control most of the trade and commerce. In Tellicherry, are the Keyis (a Mappila sect), who own the sea-going country craft, which ply the ports of the Arabian Sea across to Arabia and the Middle East.

⁵³ The Jews of Cranganore and the Muslims of the Zamorin's territory were both *Anjuvannam* and in the case of the Jews, are told that it referred to their trading corporation. Some authors have interpreted Anjuvarnam (anju=five+varnam=colour=caste)—We think wrongly—as the fifth caste. Islam in Kerala is also sometimes called Ancham Vedam = the fifth Veda. We may be justified in suggesting that Mappilla stands for maha pillai—the trading caste's name—and is therefore associated with their profession rather than with their origin. Their religion is specified in the word Jonaka—the Malayalam colloquial word for Muslims. Such names as Navayats (people of the ship and sea), Marakkars (sea farers), Alirajas, the title of the Arakkal Kings, meaning the kings of the waves (i.e. maritime traders) etc. show the same tendency to name a people by their profession or function.

Mappilas can be roughly classified into three broad categories with regard to their social organization.⁵⁴ The problem is to understand how Mappilas in the different parts of Kerala came to adopt different systems of inheritance while the personal law of the Muslims is definitely patrilineal. In North Kerala, which is a matrilineal zone, Muslims also follow the same pattern of inheritance. The most likely reason for the matriliney among the Muslims of this zone is that many of them are converts from higher caste Hindus. On conversion, they retained such elements of their social system as did not contradict their faith. There is a tradition that the family of the *Arakkal Rajas* (a Muslim royal house) originated from the Chirakkal (Hindu) royal house itself. Matriliney and patriliney are mixed together in some areas of this zone as Kasargode, the northernmost part of Kerala, where Mappilas follow the Aliyasantana (matrilineal system prevalent in South Canara) Law. Perhaps this may be due to the influence of the land-holding gentry called Gaundas (a Canarese caste). There is a small Muslim village in Travancore called Edava, which is an island of matriliney in the midst of the completely patrilineal Muslim population. It has been explained that most of the able-bodied men were away in Malaya or Ceylon for work and returned only after intervals of 2 or 3 years and their wives remained at home under the guardianship of their mothers or the mothers' brothers. The husbands had however the duty to maintain the wives and children. Here we find matrilocality developed out of expediency. It differed from the Nayar type, because though the wife lived in her mother's house, she was maintained there by the husband. The custom

⁵⁴ i. Those of North Malabar, corresponding to the present Cannanore District, and Edava in Travancore, have a typical matrilineal organization (*Marumakkathayam*).
ii. Those of the coastal towns in the areas within a radius of 50 miles of Calicut and certain parts of Travancore have a mixed system, certain features of both mother-right and father-right system (*Misra Vazhi*).
iii. Those living in the interior of the old Malabar and the rest of Cochin and Travancore have the father-right system (*Makkathayam*).

prevailing in this village was similar to that prevailing in North Kerala, where we find sometimes matrilineal residence at the cost of the husband. The Mappila has the right of maintenance from her *tarawad* also⁵⁵.

It is worthwhile referring to the history of this most important Muslim matrilineage in Kerala. Its history forms an important chapter of the history of the Muslims of Kerala. William Logan,⁵⁶ Kottarathil Sankunni⁵⁷, Innes⁵⁸, Moorkoth Kumaran,⁵⁹ etc. who have written about Arakkal house say that it is an offshoot of the Kolathiri Kingdom of Chirakkal, claiming lineal succession to Cheraman Perumal, the legendary Emperor of Kerala. These writers, however, give different versions of the origin of the Arakkal family, such as:

1. A Nayar minister of the Chirakkal house, who was converted to Islam, founded it⁶⁰
2. A junior member of the Kolathiri family, who became a Muslim was its founder
3. A princess of the Kolathiri Swarupam, who loved a Muslim was married to him and they were the founders
4. An Arab saved the life of a Kolathiri princess who was drowning and the princess was married to him and they were given half the possessions of the kingdom⁶¹

⁵⁵ The Arakkal family in North Kerala or the Arakkal Swarupam (royal house) as it is called, is the best example and we had an opportunity to visit that family. Though Muslim Law does not recognize succession through females, succession has always been through females in the Arakkal family and the Beebees, the senior most ladies have been several times the rulers and managers of the royal chieftaincy.

⁵⁶ Logan, *Malabar District*, OP cit, p. 358.

⁵⁷ Kottarathil Sankunni, *Aithihya Mala*, (Mal), Op-cit, p.10

⁵⁸ Innes C.A, *Malabar and Angengo*, Op-cit, Pp.30-40

⁵⁹ Moorkoth Kumaran, *Essays* (mal)

⁶⁰ Logan, op. cit. quoted by Kathleen Gough, *Matrilineal Kinship*, p. 415.

Behind all these apocryphal stories of the beginnings of the Arakkal swarupam is the effort to explain its matrilineal character. The romantic story owning princess was the one so often repeated to us during the interviews. This was bound to be, as popularised by Kottarathil Sankunni in his *Aithihya Mala*. But the Raja of Arakkal told us during the interview that all these stories were false. According to him, the Arakkal royal house was descended from Sreedevi, the sister of Cheraman Perumal, who embraced Islam (in 64th Hejira) and the first king of the Arakkal Kingdom was *Mahabali*, her son, who took the name Mannali, Mammali kidavu or Mohomed Ali⁶².

“The origins of the family are obscure, according to Logan, the Arakkal Rajas were managers of the treasury of the Kolathiri kingdom, financed mainly from the revenues they collected at the port⁶³”. Arakkal became an independent kingdom in the late 17th century when it had vast lands not only in the mainland but also the Lacadive, Minicoy, Amin Dvi and Mahal islands in the Arabian sea in their possession, besides the monopoly rights of the trade in spices from Kerala and dates from Arabia. Joining hands with Hyder Ali Tippu Sultan spelled disaster to the family. Tippu Sultan stayed for a time in the Arakkal palace in Cannanore when he negotiated (but in vain) a marriage for his son with a princess of the family. When Tippu was defeated by the East India Company and was forced to sign the Treaty of Srirangapattam (1796), the Arakkal Beebee was also made to pay indemnity and cede her sovereignty over some part of other territory. Between 1796 and 1908, the Arakkal Kingdom lost all its sovereignty and most of its property, which was compensated by the British in the form of an annual malikhana of Rs. 23,000/- which

⁶¹ Sankunni, op. cit.

⁶² From the Ms. Notes on the History; of Arakkal Kingdom by Raja of Cannanore, p.25.

⁶³ Logan, op.cit. p.358.

they receive even today. They have since remained landlords of considerable wealth. The family still remains a *Marumakkathayam tarawad* and the Mappilla Succession Act of 1918 and the Mappilla *Marumakkathayam* Act of 1939 are applicable to them. The different branches of the *tarawad* have been fighting against each other to get control of the *tarawad* properties according to the Act and, here also as in Nayar *tarawad*, we find misunderstandings and consequent litigation between the *Karanavan* and his juniors.

Within the matrilineal Muslim community of North Malabar, there are theoretically two endogamous castes. The higher ranking caste is believed to comprise descendants of converts from Brahmins and Nayars. Most of this lineage appear to be those aristocrats who got large land gifts and wholesale trading rights from native rulers. They intermarry equally with others of this caste. The members of this caste are divided into six exogamous matrilineal clans dispersed throughout North Kerala, called *Kirlyams*, the word which is also used by aristocratic Nayars. The higher caste is much smaller than the lower caste of Mappilla 'commoners' supposed to be descendants of converts from polluting Hindu castes. This .caste is said to comprise of sixty-four dispersed exogamous matrilineal clans, called *illams* (the word used for the Tiya clans). High and low castes may interdine freely and worship together in mosques. With the social mobility which has characterized Muslim traders in the market economy of the nineteenth and twentieth centuries, the rule of endogamy has been frequently broken and has now practically died out. In both castes the common descent of clan members is merely stipulated and not demonstrated. A clan has no function other than exogamy and mutual hospitality⁶⁴.

⁶⁴ Kathleen Gough, op. cit. Pp. 418-419.

Mappilas of North Malabar live in joint families called *tarawad*, all the members of the *tarawad* tracing their descent from a common ancestress in the female line. The eldest male member, called the *Karanavan*, has the sole authority in the management of the common *tarawad* property and the affairs concerning the members of *tarawad*, according to *Marumakkathayam* system. Self-acquired property is divided according to the rules of the Muslim Law and this is a notable departure from *Marumakkathayam* Law, and was legalised by the Mappilla Succession Marriage is matrilocal; and usually the husband permanently stays in the house of his wife. If this is not feasible, or if he has to be absent from the locality for a long time, he may visit her occasionally and he may secure a separate house and live with his wife away from her *tarawad* but under no circumstances can she be compelled to settle down with him in his *tarawad* house. His wife and children receive allowances from their own *tarawad*, which are often sufficient for his maintenance also. But whatever private income he has apart from his *tarawad* property, can be inherited by his wife and children. The *Karanavan* of this *tarawad*, usually the maternal uncle, has great authority in respect of a person than his father. Even in such an important matter like the marriage of a girl, the responsibility of the father ceases when he brings to the notice of the *Karanavan* that his daughter reached the marriageable age the *Karanavan* is expected to do the rest⁶⁵.

The recognition of the *Marumakkathayam* rule of inheritance and at the same time of the Mahomedan rule as to marriage, led to the growth of certain customs among Mappilas. For instance, the junior members of Mappilla *tarawad* were entitled to maintenance from the *tarawad* when living in the houses of their consorts and to a higher rate of maintenance when living with their wives than when single and there

⁶⁵ D'Souza, Victor, op. cit., p. 85.

was also the practice of the relations of the wife making what is called *streedhana* gift to the husband to enable to maintain her, The gift was supposed to revert to her family on the death of the wife without issue, or on divorce. The gift seems to correspond to *kasi* in South Canara, which has similar incidents wasting their *streedhana*, a second claim cannot be made for maintenance from *tarawad*. There was also tenure known as *shreeothu* in which only female in which only female descendants of the grantee are entitled to the property.

The social organization of the Mappilas of the coastal towns of South (Br.) Malabar differs from those of North Malabar to a considerable extent. Here the family property is divided according to *Shariat* against the *Marumakkathayam* Law in North Malabar and a man is required to maintain his wife and family. But the stamp of mother-right is unmistakable. A person belongs by birth to the social group of his mother, and ancestry is traced in the female line. He also lives in his mother's *tarawad*. Although property is divided according to the Muslim Law, the house becomes the common property of all the members, the daughter having a permanent interest, since their progeny female lines are heirs to it, while the interest of the sons cease with their death. Marriage is matrilineal, but the husband does not permanently lodge in the *tarawad* of his wife as is the case in North Malabar. He goes to sleep in the wife's *tarawad* every night, which is similar to the Nayar custom. Although children are brought in their mother's *tarawad*, the husband has to contribute towards expenses and maintenance of his wife and children. Still, on all social matters, the *Karanavan* of the *tarawad* has greater authority than the father⁶⁶.

⁶⁶ Ibid.

There is a peculiar custom prevailing in the coastal towns. During our interview with a rich Mappilla merchant who was also a lawyer and an educationalist, he drew our attention to it from his own personal case. He said that while matrilocality was the feature of all the Mappilla marriages within the Calicut town, just outside the limits of the town, e.g. in Kallayi, which is across the river and two miles to the south, the Mappilas keep patriliney.

Though one of the; wealthiest merchants in Calicut, he also lived for a time after marriage in his wife's house but has since shifted his family to a house he has built for himself and the family. He mentioned that the same condition prevailed in Badagara, Panthalayni, Tellicherry and Ponnani. Outside the old limits of these coastal towns, everywhere else in Central and South Kerala, the Mappilas follow patriliney.

A historical explanation can be given for this custom, from the origins of the Malabar Muslims. It is a historical fact that many Mukkuas (fisherfolk) of Malabar have been converted to Islam⁶⁷. Obviously the people with whom the Arab sailors came into most intimate contact must have been the fishermen, both on account of their occupation in the sea and their settlements by the shore. Even when the Arabs married from these castes, their children, in conformity with the customs of the Mukkuvans and other mother-right peoples of Kerala, must have adopted the surnames of their mother's family. Everywhere the Mukkuva converts were raised to higher social status of the Mappilas, but continued their old matrilineal customs.

There was a custom of temporary marriage among the Arabs called *muta* marriage. Dr. Kapadia writes, "This was a union brought about with the mutual

⁶⁷ Thurston E. *Castes and Tribes of Southern India*, Vol.V, Op-cit, Pp. 96-108

consent of the parties without the intervention of the woman's kin. The contract was stipulated for a specific period and during that period the woman could not divorce her husband. The woman was not deprived of other original freedom, though it came to be limited and her kin continued to own the children⁶⁸. At least a part of the present Muslims of Kerala, are descended from such *muta* marriages of Arabs with local women. V.D'Souza says that the vestiges of temporary marriages are seen even at present at Calicut, where Arab sailors come and stay in the port sometime until the wares are sold out and return-cargo procured. He says that this information was supplied to him by Professor T. Abdullah and Abdul Rahaman of the Farook College, Calicut District⁶⁹. But such marriages are not very common. The children of this alliance retained the social customs of their mothers but had a new religion, that of their fathers superimposed on them.

Marriage among the Matrilineal Mappilas

For Mappilas, marriage is a civil contract, giving wide power to the husband to divorce his partner under certain circumstances⁷⁰. The average age of brides is around sixteen and of the groom about eighteen. The boy and the girl have little choice in matters regarding marriage, and custom forbids the bridegroom or the male members of his family to see the prospective bride until she is married. It is generally the boy's mother, sisters, or any other close female relations who have to approve the match. The formal betrothal ceremony takes place at the girl's house. The boy does not go for this ceremony, but his father and elder male relations accompanied by the *kazi* (priest), go there. The father of the bride would declare before the gathering that

⁶⁸ D'Souza, Victor, op. cit. Ibid

⁶⁹ Ibid

⁷⁰ Ibid

there has been a proposal to give his daughter in marriage to the son of his guest. A similar ceremony takes place in the boy's house, where the boy's father announces publicly that a marriage has been proposed for his son with so and sons daughter. This function is celebrated with a dinner. This is called *alochana*.

Preparations for the 'nikah' continue for a number of days. Among 'the preparatory ceremonial rites is the decoration of the bridal chamber and the night-long musical party when men and women sing separate by the *Moulid* songs on the life history of the Prophet. On the eve of the wedding day, there are separate functions at the houses of the bride and the groom. Women assist the bride during the ceremonial bath. After bath, her feet and hands are smeared with henna juice (*mailanchi*) which gives a red colour.

Towards nightfall, the bridegroom and the party move to the bride's house for the marriage. It is learned that most of the marriages are celebrated in the bride's house, though marriages may also be celebrated at the local mosque, or even in the house of the *kazi* (priest).

The nuptials take place the same night itself. Sometimes, the bride-groom return home after the banquet. If postponed, on the day of the nuptials the bridegroom would be taken for dinner but after dinner she returns home to await for the evening when he is taken to the bride's house after a visit to the mosque on the way. There for the first time he sits with his wife on the bridal cot in full view of her female relations. When he washes his hands in milk, he would drop his ring in the basin, which is meant for the wife. The assembled guests blessed the couple. Then he proceed home. The next item is taking the wife to the husband's house. On reaching home, some of his female relations are sent to the bride's house to fetch her. His mother receives the

bride with all marks of honour and she take meals with the family. After dinner, the couple sits together and friends and relations give them gift which are recorded, for they have to be reciprocated on a similar occasion. The bride is then taken home to await the nuptials later at night. Her relatives fetched the bridegroom from his house. After the preliminaries which etiquette demanded, an elderly lady led the bride to the bridal chamber and close the doors from without. Marriage is then consummated. Even if the girl bride is not mature, the formalities were gone through. The old custom was for the groom to return home very early in the morning as it was then considered shameful for him to be seen by others after his first night with his bride. Marriage from distant villages having become common, this is no more practical and he may continue to stay on for some days.

The expenses of marriage among the Mappilas are very high for the bride's father. Her trousseau, ornaments, and the festivities cost him a good deal, and fathers blessed with several daughters have a heavy burden. It is under such hard conditions that sometimes parents agree to give away their daughters to old widowers marrying for a second or third time, or to someone who has other wives. The expenses for the bridegroom were comparatively less. A dinner to the guests on the day of the *nikah* formed the bigger part of his expense. A father with many sons was better off, as each daughter-in-law brought a dowry.

Mahr is the bride's wealth, which a Mappila husband has to give to the wife as a condition sine qua non of the marriage contract. *Mahr* is always mentioned, even if not handed over, in every Mappila marriage contract and the husband is liable to pay it when demanded by the wife. There is no limit, however, on the amount of *mahr* and it depends on several factors. The ability and status of the parties are taken into

account at the time of fixing the *mahr*. When the divorced wife files a suit demanding the *mahr*, a hundred rupees are considered sufficient to pay off his debt.

Almost all Mappila men and women get married early. Celibacy is not held in honour among them. One explained that the single person was running away from his duty and responsibility to society. Another remarked that with women outnumbering men (1100 females to every 1000 males) a great incidence of polygyny was likely in the future. Unless too old, the widower married again. Generally, widowers married widows ordinarily virgins were not given to them. Bachelors marrying widows was also uncommon, unless considerations like beauty or wealth outweighed with the party. Marriages between the children of brothers and the children of brothers and sisters were not allowed⁷¹.

Mappila Matrilineal Pattern

Mappila marriages, unlike the present Nayar and Tiya marriage continue to be predominantly matrilineal, like the visiting husband system of Nayars. A compromise between virilocality and matrilocality is common among Mappilas. They are matrilineal as a community and this trait was more pronounced not only in aristocratic matrilineages but also in urban areas. Whereas for Nayars, residence in urban areas invariably reduced the custom of matrilocality, it remains with the Mappilas of the coastal town. In the interior villages, the poorer classes generally took the wife home or more commonly set up a new home for her as early as possible after marriage. In most other cases, the husband generally shifted his residence to the

⁷¹ To marry two sisters was 'haram' (not allowed), but on the death of the wife, it was allowed (halal) to marry his wife's sister. The hope that the wife's sister would better look after her deceased sister's children was one consideration for arranging such marriages.

wife's natal home on marriage and he was expected to maintain his wife and children there. Unlike the Nayar, he is not a mere visiting husband. A room was always set apart for him in his wife's house, where he kept his personal belongings.

Though the general tendency is toward matrilocal residence, it is very common for middle-aged husbands and fathers to move the wives and children into a new house to live together. The difference between such a dwelling group and the matrilineal *tarawad* is that the house and property are managed by the donor husband and father. If such a man later became the *Karanavan* of an undivided matrilineal property group, he may divide his time between his natal home and his private conjugal home. In aristocratic Mappilla *tarawad*, it is traditional for the senior male member to return to live with his sister in or near the ancestral home to look after its interests. Even young people divide their time between their own and the wife's natal homes, if there is no *Karanavan* or the husbands of his sisters to look after the *tarawad*. The seniormost member of Mappilla families, even when he did not remain in matrilocal residence, returned to settle disputes and attend to family celebrations. This was more especially so, if the husband's and wife's natal homes were in the same neighbourhood.

In the traditional type of Mappilla households, the husband defrayed all the expenses of his wife and children but a certain amount was given, to the senior lady for the upkeep of the house. The houses of middle class Mappilla traders in small bazaar towns thus often resembled small blocks of apartments. The house was owned

jointly by the woman's *tarawad*. What happened generally was that each woman in her middle age moved out to the new house provided by her husband⁷².

Matrilocality, the most salient feature of Mappilla matriliney, seems connected with their occupation. The men's work always tended them away from home. Given matriliney and with the men often away it was but natural that women live in their natal homes under protection of the head of their matrilineal group. It is the very same reason, which we can think, offer matriliney in Edava (a village south Quilon), where also it has developed on men going away for work in distant Malaya, and returning only after long intervals. Even for people working nearer home, the claims of sexuality and the desire for domestic would make it likely that when possible the Mappilla males stay in the house of a wife, which was conveniently located and composed of matrilineally related women of the property group, their unmarried sons, their *Karanavan* and sometimes his wife and unmarried children. Junior-men are absent in their wives homes and visit occasionally. Both husbands and junior-men may be engaged in subsidiary business in a nearby town, either by themselves or occasionally as partners with others connected with the wives or their own *Tarawad*. There is a single common kitchen. Each couple have their own private room. The household also is primarily maintained from the produce of the matrilineal estate, managed by the *Karanavan*. The junior members are given cash from this fund. Each husband also pays out of his private income cash sums to his wives each month who pay part of the sum to the senior lady of the house to supplement the

⁷² Kathleen Gough, op. cit., p. 421. In the matrilocal families of the poor, who are usually wage labour class with little or no *tarawad* property except perhaps a house, the men moved out leaving the house for their sisters and their husbands. General incomes being similar, the wages are pooled together so that all working members, men and women, may help support the old or the temporarily sick or unemployed. Even among the poor a husband built a hut of his own for his wife and children. It was in this group that marriages are less stable than in the upper income groups. The finding of Gough on the instability of marriage among the poorer Mappilas. It was also found that there were more polygynous marriage among the poorer section, as each wife meant a new earning member.

household's budget for food. If the husband's business had been developed with funds supplied by his *tarawad* a large portion of his profits will be handed over to his *Karanavan*; if it developed from his own resources or of his wife's *Tarawad*, he generally saves his profits to build a house for his wife and children. On account of this feature a few, modern aristocratic *Tarawad* are *complete*, because some of older women live away in the private houses of their husbands.

In the case of middle-class Mappilas, property was jointly owned by a *tarawad*, although it was originally bequeathed by the husband of the common ancestress. At any given time, most of the property of tin group (usually in shops or land) is owned by individuals. At his death, the property of such a man may help to start a new small *tarawad*. When such lived, in matrilineal extended families, the woman's *Karanavan* was less likely to be a permanent resident of their house. He came occasionally to collect the rents and distribute the income, although most of the household's maintenance was supplied by the resident husbands of women.

As in the case of the other matrilineals, Mappilla *Marumakkathayam* has also disintegrated and is being replaced by patriliney.

CHAPTER III

TARAWAD SYSTEM OF JOINT FAMILY

Among the social institutions of Kerala, the *Marumakkathayam* or matrilineal system of inheritance deserves special mention. This custom that prevailed in Kerala in marriage and succession to property attracted the attention of travellers from an early time and is well described in many works, both European and Indian. The most important feature of matriliney is the *tarawad* system or joint family.

By the 11th century the matrilineal families started functioning in a full-fledged way as indicated by the inscriptional sources. The matrilineal setup represented the nucleus of the social relations of production and also rendered stability to the society, especially during the discordant times of the polarization of the 'pan-Kerala' state from the 13th to the 15th centuries. The matrilineal families were different from their matriarchal prototypes in the sense that there was no matriarch here as the head of the unit. But the lineage was through the females and it was under the aegis of the eldest matriarchal uncle that the familial solidarity revolved. The eldest matriarchal uncle was called the *Karanavar*. In him was vested the collective economic and social identity of the family. Under him were the other members of the family, consisting of the females and their progenies who were called the '*Marumakkal*'. These members had well-defined roles to play both at the ceremonial and functional levels.

What is unique is perhaps the pivotal role that the females discharged at the functional and ritualistic levels in the hierarchy of the family organization. The system of marriage, which in patriarchal matrixes caused the displacement of the

females from their primary households. This is not the case with the matriarchal system. Here the female members remain and draw their sustenance as well as their functional identities from their own maternal houses; in form and spirit it is more akin to the tribal mode. The rights of the 'woman' did not get eroded but got enabled within the benevolent milieu of the primary households. Along with the males, the females also had definite and significant roles to play. The benevolence of the uncle, the reciprocal loyalties of the '*Marumakkal*' to the uncle and the close bonds between the brother-sister, the concepts celebrated in the contemporary folk literature provided the ideological base.¹

There are references to matrilineal system and family organization in the ballads which also may have added to the freedom enjoyed by the women during the period. Matrilineal system of inheritance and matrilineal residence were in vogue at the time of the *Putturam* ballads. Before setting out on his pilgrimage, the *valunnor* of Kurungattidom entrusted the management of the house to his two nephews and told them that whatever he had would become theirs. According to the custom, the one who inherited the property of the *Karanavar* had the obligation to do the *sesakriya* or last cremation rites. In the case of the *valunnor* of Kurungattidom, his nephews performed the ceremony of *sesakriya*. From this, it is evident that they inherited the property of the *valunnor*. Similarly, Aromunni was reminded by his friends of his obligation to take revenge upon Candu who murdered his uncle and consequently he set out with the purpose of murdering Candu. Another interesting

¹ The *Taravad* consists of the mother, her brothers and sisters, her sons and daughters and the latter's children. Under the joint family the eldest male member of the family was the manager of the property and all other members of the joint family got their maintenance. The property rights were traced through females. There was no room for the recognition of the relationship of husband and wife and father and child. The wives and children belonged to a different family and had no right in the property of the husband or father.

fact is that the copper plate on which the details of the death of Aromal Cevakar had been written was kept with Unniarcca. This was probably to indicate that it was the duty of her son, the nephew of Aromal Cevakar, to take revenge upon Candu. The matrilineal system was practiced by the people during the time of the *Taccoli* ballads also. Palattu Koman and Taccoli Candu pays reverence to their uncles. When the problem of his marriage came up, Koman approached his uncle Otenan, and got the matter settled. There was no mention of his father. After capturing the fort of Kander Menon, Taccoli Candu wrote the name of his uncle on the fort and later submitted to his uncle everything he had obtained. All these point to the predominance of maternal uncle and matrilineal system.

Further, the residence of the women was generally matrilocal. The *valunnor* of Kurungattidom went to take leave of his wife at her residence before he set out for his pilgrimage since she was residing in her parents' house. The seven brothers of Unniamma of Tonnuram *vidu* used to visit their wives in respective houses while their sisters were visited at their own residence. This again may have added to the independence of the women and improved their position during this period.

About the family and its organization, the Northern Ballads provide a general picture. The head of the family was the eldest male member. He was called *karanavar*. The *valunnor* of Kurungattidom was *karanavar of the family*. At the death of the *karanavar*, the eldest member, normally from among his nephews, became the *karanavar* as shown by the ballads dealing with Aromal Cevakar. The other members did not have anything to do with the affairs of the family. The entire property was in the name of the sisters and the brothers had to go to meet their wives at their residences. An instance of this is found in the life of the seven brothers of Unniamma

who went to the houses of their respective wives at night after dinner. They explicitly said that they had nothing to do with the affairs of their own family. It was the duty of the eldest uncle of a family to look after the household affairs. He had to see that different ceremonies were performed for the members of the house. Thus there is the instance of Nalupurackal Nambiar who made arrangements for the ceremony of *pulikudi* of his niece. In such a system of family organization, women occupied an important position.

A *Tarawad* is a *Marumakkathayam* family consisting of all the descendants in the female line of one common female ancestor. The *Tarawad* derived its name from the word *tara* which was a quasi political *Nayar* organization. The term *wad* is a corrupt form of *pad* which meant power, rank or authority². The memorandum to the *Marumakkathayam* committee defined the *Marumakkathayam* family “as a *tarawad* and consists of a group of persons, male and female all tracing descent from a common ancestors living under the control a management of the eldest male, who is called *Karanavan*”. In its simplest form family would consist of a mother and her children living together with their maternal uncle i.e. the mother’s brother as *Karanavan*. In its complex form it would consists of a mother and her children both sons and daughters, the children of such daughters and their descendents in the female line however distant, all living together under the control of the common *Karanavan* who would be the senior in age to all the males in the family³.

In the traditional Hindu society, the joint family, the caste, the linguistic group and village were the main units. Until recent times, the Malabar economy mainly depended on agriculture where little specialization of labour and scientific knowledge

² . B.H.Baden Powell, *Land System in British India III*, London 1972. P.35, 45

³ . K.P.Padmanabha Menon, Memorandum to the Marumakkathayam Committee, Para.2.

was essential. Under such an environment a stable way of life with tradition and custom as its dominant features could be developed, and the joint family in its ideal form existed. Identification with certain group gave each individual certain security and as well as some psychological satisfaction. The indispensable basis for the joint family was accumulation of the property. The land owned by the family promoted the family unit. Land ownership was also enjoined by prestige value. The *tarawad* as a joint family fulfilled a large range of varied functions. It was more family-centered, and was characterized by intimacy and mutuality of interests.

Tarawad, the matrilineal joint family in Malabar, was the epitome and synthesis of all that family and marriage stood for, among Nayars. The Nayar *tarawad* was a unique institution and had developed characteristics of its own. The domestic system presented by a *tarawad*, consisting of all the descendants in the female line of one common ancestress was the most perfect form of joint family then existed⁴. John.D.Mayne presents a perfect picture of the *tarawad*.⁵

A Malabar *tarawad* was like a corporation with perpetual succession. The head and the manager was the *Karanavan*, and the entire property was vested in his hands. He was not the absolute owner of the property but an agent or representative of the *tarawad*. The *Karanavan* and the other junior members, commonly known as *anantharavans* were in same sense co-parteners. Due to the impartibility of the *tarawad*, the members had no individual right to the property but only maintenance⁶.

⁴. Lewis Moore, *Malabar Law and Custom*, Madras, 1905, p.14.

⁵ Each *tarawad* lived in its own mansions, nestling among the palm trees and surrounded by its rice lands but apart from and independent of its neighbours. This arises from the peculiar structure of the family which traces its origin in each generation to females, who live in the same ancestral house, and not to males, who would naturally radiate from it as separate but kindred branches of the same tree. For further details, John.D.Mayne, *A Treatise on Hindu Law and Usage*, Madras, 1922, p.310.

⁶. *Ibid.*, Para 244.

A *Karanavan* in Malabar is the senior male member of a group of persons, all of them tracing their descent in the female line from a common female ancestor, owning joint property under the absolute control and management of the senior. This group forms a *Marumakkathayam tarawad*. i.e, the line of a single mother. While the senior male member is the *Karanavan* of all the members in the *tarawad* and hence is called the *Karanavan* of *tarawad*.⁷

It is somewhat difficult to define precisely the rights and duties of a *Karanavan* in a *Marumakkathayam tarawad*. He is, as we, the senior male member entitle to manage the *Tarawad* and to represent it to the outside world⁸. In the language of Mr.Justice Holloway, a family speaks through its head”. According to Dr. Ormsby it is an essential principle of *Marumakkathayam* law that for many purposes “the *Karanavan* is the *tarawad* and not merely its representative”. Mr. Wigram observes that “the *Karanavan* for the time being has an almost absolute control of the distribution of the family income and the family expenditure.” Similarly Mr.Strange in his Report as Special Commissioner on the affairs of Malabar observed that the theory of a Hindu family in Malabar is that the head thereof has entire control therein. Mr.Mayne says: “In Malabar and Canara where the property is indissoluble, the members of the family may be said rather to have rights of the property than rights to the property. The head of the family is entitled to its entire possession and is absolute in its management.”⁹ He has no more power in this respect than the manager of a *Mitakshara* family. He cannot give away the income to strangers, neither can he

⁷ About the rights and duties of a *Karanavan* K.P.P.Menon gives a detailed statement in the *Marumakkathayam Committee Report*.

⁸ . III, *Marumakkathayam Committee Report* (hereafter as M.M.CR, P.296.)

⁹ The absolute accuracy of this statement of the law has been disputed by a learned writer in the Madras Law Journal, Vol. IX.p.204. It is there pointed out that it is misleading to say that a *Karanavan* has absolute control over the distribution of the income. Indeed, his powers in this behalf are by no means unfettered.

use it for anything but *tarawad* purposes. He cannot take an undue proportion to himself to the detriment of the other members of the *tarawad*. In the administration of the family income, he is bound to be fair and impartial to all alike “equal dealing is the duty; all are equally entitled to support” and failure to do so will justify the other members of the *tarawad* seeking to remove him. Being in charge of the money chest, he regulates the relations of the family of which he is the head and provides for the due performance of the religious and other ceremonies which have to be performed. Mr. Mayne’s statement of the law is criticised as “misleading if not fallacious,” for the *Karanavan* is interested in the property of the *tarawad* as a member of it to the same extent as each of the other members.” All the members including the *Karanavan* are entitled to maintenance out of the *tarawad* property. He has been held to possess “in the management of the *tarawad* property somewhat larger powers than are accorded to a Hindu manager”. He has been sometimes described as an agent or manager of the *Tarawad*. He does manage indeed and his powers are essentially those of management; but he holds office by right of birth. While his powers are not the result of delegation by the other members of the family and cannot therefore be restricted or affected by the dissent or the opposition of the other members; he can always depute another to perform his duties¹⁰. The truth is that the office of *Karanavan* bears no very close analogy to anything in those systems of law with which we are familiar,

¹⁰ He cannot absolutely renounce his birthright though a Full Bench of the Madras High Court has recently held that he can renounce his right to manage. He is not bound to give an account of his stewardship. He has himself a vested interest in the estate. He has been frequently regarded as a trustee. But the analogy breaks down when we remember he himself has a beneficial interest and that he is not bound to render an account. The Madras High Court has expressly ruled that a *Karanavan* is not a mere trustee. The office however is one of a fiduciary character. Other analogies suggested are that he holds for some purposes the position of a tenant in tail; for other that of a life tenant; for others that of the managing partner of a business concern & c. At page 60 of XVI T.L. R, Govinda Pillai and Padmanabha Iyer JJ. Have observed, and the observation has been quoted in extension as pertinent, by a Full Bench at page 40 of XVIII T. L. R. “For proprietary purposes, the members of a *tarawad* form a whole, somewhat in the nature of a corporation, and as the *Karanavan* is the mouth – piece, manager and representative of the *Tarwad*, he alone can bring a suit for the recovery of property” “But probably the closest analogy”, says Dr. Ormsty, “is to the quasi-partriarchal power of the managing member of an ordinary undivided Hindu family, though here again the points of difference are so obvious that it seems unnecessary to state them.

and save for the purpose of illustrating some portion of a *Karanavan's* rights and duties these various terms, trustee, agent, manager, life-tenant and the like, are simply misleading”.

The property of the *tarawad* is said to be vested in the *Karanavan*, and according to Mr. Mayne, “not merely as an agent or principal partner but almost as an absolute ruler.” But it has to be noted that the property is vested, not in the *Karanavan* alone, but in all the members of the *tarawad*. As no junior member can claim an account and as partition can never be demanded the power of the junior in the *tarawad* may be somewhat important in practice, but it is one of his recognized rights to object to any improper administration of the *tarawad* by the *Karanavan* and to see that the property is duly conserved for the use of the *tarawad*.

With regard to a *Karanavan's* powers of alienation of *tarawad* property, in Travancore, he cannot by himself make a gift or absolute sale of such property without the express assent of his *Anandaravers*.¹¹ He has absolute power to deal with movables as he likes. The *Karanavan*, as the head of the family, has a certain disciplinary jurisdiction over the *Anandaravers*. As a part of this jurisdiction he has the right to decide where the members of the *tarawad* shall live. In XII T.L. R. 51, it was held that even where there are several *tarawad* houses, the consent of the *Karanavan* was required for a person for choosing any one of those houses as his residence before he can claim to be maintained. The rule laid down there, goes to the extent of saying that even where there is inconvenience to all the members of the *tarawad* living together in the house, the consent of the *Karanavan* should be

¹¹ This rule was subsequently affirmed and extended to all cases of permanent transfers. A mortgage for a fixed term is treated on the same footing as an absolute sale and is consequently held invalid, unless it is assented to by the junior members of the *tarawad*. *Otti* and *Kuzhikkanam* leases are also beyond his powers. He has at present larger powers to create simple debts and ordinary mortgages without any fixed term.

obtained before a junior can take up his abode in another house belonging to the *tarawad*¹².

A *Karanavan* may, during his life-time, appoint an acting manager of the *tarawad* property either of the whole or a part. Such an arrangement would be interpreted as the *Karanavan's* pleasure. He may resume personal management at any time he pleases. He may thus delegate his powers of management; but "it is capable of delegation only to a member of the *tarawad*, the principle being that the de facto manager thereby assists the *Karanavan* during his pleasure and is entitled to do so by reason of his connection with the *tarawad* and his interests in its property". He cannot, as we have said, renounce his right of management or status as *Karanavan*, though his powers of management may be limited or restricted by a family *karar* to which he is himself a party, which *karar* he is not entitled, of his own authority, to revoke or set aside. Unless the *Karanavan* de jure, who is capable of transacting business, is removed, by a family arrangement or by a decree of court, he remains a *Karanavan* and cannot delegate his representative capacity.

The most outstanding feature in the constitution of a Malabar Nair *tarawad* is that the system of kinship in which fathers are practically ignored and descent is reckoned through mothers. The civil law of the land takes cognisance only of relations on the female side. The constitution of the *tarawad* or family of people living together is exceedingly complex. A mother and all her children, both male and female, all her grand-children by her daughters, all her brothers and sisters and the

¹² The logical result of a strict application of this rule will be to confine *Anandaraven* to a particular room or corner of the *tarawad* house chosen by the *Karanavan* for him. Accordingly where a dispute arose as to the right of the *Karanavan* to redistribute the rooms in the *tarawad* house and the senior lady of the family refused to give up the key of one room which she had occupied for many years, the District Judge of South Malabar held that the power of the *Karanavan* was absolute and that he was entitled to possession of the room. For more details see Analysis of contents of the report of the *Marumakkathayam Committee*, published by Government of Travancore (year not available) p.XLIII

descendants on the sister's side, in short all the woman's relatives on the female side, however distant their relationship, live together in the same block of buildings, have a common table, enjoy all her property and share it after her death in common with one another. There are, at present, instances in the country of such *tarawad* with about two hundred members belonging to different branches and separated from one another by generations of descent yet all able to trace their descent from one common ancestress. When, by the constant addition of members to a *tarawad* it becomes too unwieldy to be governed and managed by one man, natural forces begin to work and bring about a division of it into various distinct *tarawad* which keep up the original traditions of their common descent but have no legal right to the property of one another. These partitions are often so arranged as to bring into separate *tarawad* closely related members who before belonged to one branch of the original constitution and the kindred sympathies of the members are thus placed on a better and stronger basis of relationship.¹³

Besides joint family and property rights another important aspect of *Marumakkathayam* is the brother-sister relations. The terms such as "*nerangala*" and "*nerpengal*" shows intimacy. The female members of the family gave much respect and love to their male siblings. There are instances where a woman showed more affection to her brother than to her husband. In the song which depict the story of Thottathil Kelappan, his sister is not ready to accept the wishes of her husband,

¹³ Over the whole of this group of members living in one *tarawad* the eldest male is by legal right appointed *Karanavan* or managing head; and on his death the next senior male member, to whatever branch of the family he may belong, succeeds to that office in preference to all others. Thus the joining property of the whole *tarawad* is kept under the control and management of the *Karanavan* who is legally responsible for its safe-keeping as well as for the education of its junior members and for all the necessities arising from its social status. For more details see Ibid, p.XLIV

Parakadavu vana Thampuran. Though he was ready to give her gold coins, she refused to open the door when he approached her¹⁴.

The law by which succession is regulated in these *tarawad* is called *Marumakkathayam* law (succession by nephews.) The name *Marumakkathayam* is somewhat misleading since it might suggest that the family succession is restricted to nephews alone; whereas a brother or any other kinsman on the female side who happens to be the eldest male member at the time of the death of a *Karanavan* succeeds to the headship to the exclusion of nephews. The spirit of the law governing these *tarawad* is that while the joint property belongs to the females, their natural incapacity for family government has made the eldest male member the life-trustee of the joint estate. These trustees are entitled only to maintenance out of the joint property and must in no way alienate their trust properties without the express or tacit consent of all the members of the *tarawad* unauthorized alienation of such properties or acts of mismanagement on the part of a *Karanavan* being legally sufficient cause for his removal from managership and for the substitution in his stead of some one in whom the family have full confidence.¹⁵

¹⁴ We also get examples of due respect and affection given to the sisters. Nobody is allowed to say any bad reference about their sisters. In such occasions they were given punishments. Even if they say anything about their father or mother it is pardonable. But '*Otavayar kootti parayuka*' is not forgivable. So many references are available in the folksongs. For more details see K.S.Mathew, *Society in Medieval Malabar*, Baroda, 1979, Pp.13-26.

¹⁵ The general presumption in law is that these *Karanavans* have no private property of their own; anything that they might happen to possess being generally presumed to have been earned out of the incomes of the joint estates which are at the time under their management. But in case of a legal dispute if a *Karanavan* proves to the satisfaction of a Court of law that certain property is his own acquisition such property is invariably declared his private earning. The junior members both male and female are allowed the free right of making acquisitions for themselves and these they are at absolute liberty to dispose of in any way they like during their life time. But the private acquisitions of every member, male or female, who dies intestate lapse to the joint property and thus become the common property of the *tarawad*. But of late years there has been a tendency shown by courts to declare such property to lapse to the nearest line in preference to the joint property. For more details Sri.T.K.Gopal Panicker, *Malabar and its Folk*, New Delhi, 1995, Pp.17 -33.

The joint property thus held is impartial except with the unanimous consent of all the members, an expression of disagreement by any one single adult member, male or female, being fully sufficient for breaking off a partition arrangement. In partitions the joint property both moveable and immoveable is divided in equal shares; but the *Karanavan* for the time being has a conventional right to a double share. Should a *Karanavan* by reason of his distant relationship to some particular branch of the family or through preference for his own immediate branch deprive the former of the benefits that are derivable from their legal claim to the joint property such a branch has the privilege of suing him for maintenance and getting a decree for the same against him.¹⁶

Marriage ties are somewhat loose amongst the Nayers. There are, in the first place, a great variety of social considerations to be satisfied before a marriage can be effected. The people, though consisting of one dominant class which goes under the wide denomination of Nayers, are yet split up into close on a hundred castes with very minute social distinctions separating them. Each of these separate castes generally consists of a number of families which may be collectively styled a *clan*. These families constituting the clan are all related to one another by community of pollution and as such are considered quasi-relationship to one another. Hence intermarriages between the members of the same clan are socially prohibited. Among the various clans some are socially superior or inferior to others; and some maintain equality of social standing with one another. Now the only socially valid marriages are those in which the parties belong to the last mentioned class or those in which the bridegroom

¹⁶ With regard to the question of succession another thing to be noticed is that in the absence of any male member to succeed to the office of *Karanavan* the eldest female takes precedence of all others and when a *tarawad* becomes extinct on the death of the last surviving member, the property is claimed by the reversioners of the *tarawad* or in the absence of even such heirs escheated to Government. See *Ibid* Pp.34-50

belongs to a clan superior to that to which the bride belongs. Those clans which are on the same social level may be together named a *tribe*. In all other cases the union entails social stigma upon the fame and dignity of the bride's family; and it not infrequently happens that the family is socially ostracized. There are still nicer social distinctions which in certain cases are made to operate as obstructions in the way of marriages even when the parties happen to belong to the same class¹⁷.

There is, in fact, no fixed rule or custom as to marriages in Malabar. They are terminable at the will of either party and the law takes no notice of them. No religious element enters into the performance of a marriage and there does not exist one generally adopted etiquette in the matter. The ceremonies if they may be so-called vary in the different parts of the country; and a union though effected and socially recognized in the most public manner possible does not in any way possess legal force or validity. There is no law of divorce or maintenance governing the married couples. Wife and children do not possess the legal privilege of claiming maintenance from the father who is invariably looked upon as a useless legal factor in Nair society. It is also curious to observe that a wife ceases to have any connection with her husband's *tarawad* after his death. Long established custom requires that she must quit her husband's house for her own as soon as he has drawn his last breath; and that she must never after come back to it even in case of dire necessity. But provided she happens to be the daughter of some deceased *Karanavan* of her husband, this difficulty can, on that plea, be got over and she may come to the husband's house

¹⁷ But with the spread of western notions and modes of thought scruples about these minor caste differences are fast disappearing. But all the same one peculiarity remains to be noticed. In the extreme South of British Malabar, there are instances of marriages contracted between high-caste bride and a lower –caste bridegroom. In such cases the husband does not touch the wife when she is engaged in taking her meals. See Fr.Puthenkalam, S.J, *Marriage and the Family in Kerala*, New Delhi, 1977, Pp 35-47.

without prejudice to her social position in her capacity of a daughter of a former member of family.¹⁸

With regard to the naming of children the one interesting point to be observed is that they are usually, with but few exceptions, named after their parents or some deceased ancestor of the *tarawad*, male or female, as the case may be. Thus the Nair names met within the country at the present day have most of them come down from the earliest times. But when once a child is thus named the members of the *tarawad* have an instinctive reluctance to use the name for the child, for it would call up the dear memories and associations of that ancestor after whom the child has been named. So the child is called in many cases by some pet name. The naming ceremony takes place on the twenty-eighth day after birth or in certain other places, at some auspicious moment and on some auspicious day in the sixth month.

An advanced section of the community had of late years been pressing for legislative interference in Nair marriages; and Mr.C.Sankara Nair, a prominent and worthy member of the community, introduced into the local Legislative Council a measure for legalizing such marriages. It was intended in effect to strike at the root of some at least of those traditions and usages, which, however much they commend themselves to the orthodox are ill-adapted to the conditions of the present day. Naturally it evoked much opposition, though curiously enough the opposition came from educated men. It is impossible to account for this except on the ground of unwillingness on the part of these men to make public the inner aspects of their social life. Malabar society is still a mystery to the civilized world. No accurate and

¹⁸ It is customary in Malabar for a wife to avoid mentioning the name of her husband. In cases of necessity he is usually called 'the father' of some one of her children or by some such euphemistic term. It is looked upon as a breach of female decorum to indulge in such prohibited forms of address. See Ibid p 18.

systematic elucidation of its nature and working is existent. However, a fair majority strongly espoused the main principles of the Bill. A commission was appointed by the Government to investigate the matter and it sat in almost all the principal centers of the district collecting evidence from all available sources. The final expression of opinion by the members was, in spirit, favourable to the reformers. It was reported by the commission that the existing systems had no religious sanction or authority to back them up; in which case there could be no objections of religious nature in the way of legislation and that legislation was, under circumstances, a necessity. They thought, however, that the country was not yet ripe for such sweeping and revolutionary measures as those advocated by the reform party, and indicated certain fresh lines of action upon which they recommended legislation. On the ground of its ultra-radical nature of the original Bill was thrown out; but subsequently another Bill on the lines recommended by the commission as framed by Mr. Sankara Nair and was passed into law by the Madras Legislature.

It seemed strange that the Bill should have been opposed by educated men. It was high time that some efforts were made to place the Nairs on a basis of equality with the enlightened nations of the world. The effects of western education had already begun to manifest themselves in the land. The manifold superstitions that block the path of national progress were rapidly vanishing off the face of the country. Time was on the side of the reformers. It was impossible to resist the progressive movement. It may be perfectly true that under the customs and usages that now remain amongst us our ancestors faced well. But the customs and usages that suited the people of a bygone age could not suit people who live amid very different

surroundings. The progress of the Nayar as a nation would become an impossibility if we are compelled to regulate our social life by customs that are antiquated.¹⁹

The union of man and woman goes by a variety of designations in the different parts of Malabar, such as *Sambandham*, *Kidakkara kallianam*, *Pudamuri*, *Uzhamporukkal* and others. But in not one of these is there the faintest shadow of a religious element. The ways in which unions are effected and the formalities observed also differ in different places. In some parts of the country when all the necessary social conditions are satisfied the marriage is talked of and arranged by, the *tarawad* people of both parties usually the *Karanavans*; and an auspicious day is fixed for the consummation. On the evening of the appointed day, a near relation of the bridegroom, along with a few others repairs to the bride's house taking with him a supply of cloths of diverse sorts and materials for chewing, such as betel-leaves, tobacco, and areca nuts and also a certain sum of money for meeting incidental expenses. Shortly after they reach the house, the bridegroom starts thither with a select few of his friends. A good supper is provided at the bride's house at the cost of the bride's people. In some parts the supper is preceded by the serving of a course of eatables. But in other parts this is not done. At supper all are seated on mats together. Presents of clothes are given by the bride's people to the servants and attendants of the bridegroom and *vice versa*.²⁰ Then in the presence of the assembled guests the cloths are taken by the bridegroom and given to the bride who accepts them with alacrity. Money-offerings are also made to Brahmins who may be present on the occasion. Thus the marriage ceremony is consummated. There are, local differences

¹⁹ However legislative remedies are being adopted towards the social elevation of the people. The most fundamental error into which the opponents of the Bill floundered consisted in their mixing up what is usually known as *Kettu Kallianam* with the kind of marriage which the reformers sought to legalize.

²⁰ Men of high position who may happen to be with him, being of course omitted for personal reasons.

in the various details that complete the ceremony for example, in some places the giving of the cloths to the bride by the bridegroom is postponed till after the expiry of six months from that time; in other the ceremony is conducted on a very grand scale. But none of these possess any solemn or binding character. The description given has special reference to the southern parts of the district. In the eastern parts the celebration is on a very grand scale—and even dowries are given by the bride's people²¹.

The members of a clan which keeps up the memory of their once common descent are all bound together by community of pollution. If a member of any one family of a clan dies, his death brings pollution upon all the members of all the families composing that clan. It lasts for fifteen days and it shuts out all the members of the clan from all social intercourse and dealings with members of stranger clans. On the morning of the fifteenth day the members of the clan have to be purified from pollution by a mixture of oil, water and cowdung thrown three times on their back by a class of people who goes by different denominations in different parts of the country. In the case of the death of a child below the age of puberty pollution rules are not very stringently enforced. In this case social intercourse with stranger clan is freely allowed. The purification on the fifteenth day requires only a bath in a tank. As in the case of death-pollution the birth of a child in any case likewise brings pollution on the rest of a clan for a period of fifteen days; in this case, however, the rules are not even so rigorous as in the case of the death of a child below the age of puberty. The only restriction is that the members of the clan are not allowed to

²¹ In North Malabar the sacredness of marital ties is rigidly observed; and it may be said that fathers amongst the Northerners keep and maintain the children and their mother out of the former's family all through their lives. With the widening of men's thoughts the details of the ceremony are undergoing desirable modifications.

worship inside sacred temples during the fifteen days; and there is no purification rite strictly so-called. But the child's mother has to observe the pollution to much the same extent as she would have to do in the case of a regular death pollution.²²

Another ceremony enjoined by the custom of the country is called *Pulikudi*. This is generally performed about the delivery period (usually the ninth month) of the first pregnancy of a woman. Like every other household ceremony this is also accompanied with a costly feast. The principal feature about this is that at an auspicious moment on some auspicious day, the girl is made to drink, after some ceremonials, a peculiar kind of mixture made of tamarind juice and other flavour-giving substances in the presence of guests. The mixture is usually poured into her mouth by one or more of her relatives. The exact motive or utility of this is yet unknown.

Nairs gained prominence as a result of the attention that has been paid to their customs not only by the travellers but also by the administrators. Their accounts are replete with descriptions of these customs like *talikettu-kallyanam*, *Sambandham* and *Marumakkathayam*. These descriptions of their unusual customs created an interest among anthropologists and sociologists about them. According to Barbosa, *talikettu*

²² The attainment of puberty by a girl is publicly announced by the celebration of a ceremony called *Thirandu Kallianam*, which is also accompanied with a feasting of guests. The girl has to bathe on the fourth day with the help of the *Enangar* females; and after that what is called a *Pattu* has to be celebrated. Of course, feasting is an inevitable accompaniment of this. This *Pattu* consists in certain ballads sung by the *Mannans*, a peculiar class privileged for the same. He is rewarded by the *Enangars* and the relations of the girl. This *Pattu* may be celebrated on any night from the fifth day onwards, and within the month or some time after that. The details differ in the various parts of the country. See G. Arunima, *There Comes Papa-Colonialism and the Transformation of Matriliny in Kerala, Malabar*, See 1850-1940, New Delhi, 2003, Pp 128-136.

kallyanam is the first rites which a woman undergoes when she is around 12 years. The *tali* tier is either a kinsman or a great friend of the family.²³

Forbes in his accounts wrote thus, “Among the Nayars wife is common to many husbands who co-habit with her by turns, during this temporary arrangement the arms of the inmate are placed over the door of the houses to prevent the intrusion of another husband²⁴.”

But since a woman could only enter into *Sambandham* relations with a man after *Talikettu kallyanam* this was not considered as marriage. Samuel Mateer looks at it as a mere formality (which) simply sets her at liberty to exercise and follow out her own inclinations in more mature years²⁵.

According to Nieuhoff, in the case of Nayar women having relations with the *Nambuthiris*, she could not have relations with other men. But in the case of women having relations with Nayar men such a restriction was not there and could have as many men as she liked²⁶. Jonathan Duncan talks about how these men distributed their time with the Nayar women. “Among the Nayar it is the custom for one Nayar woman to have attached to her two males or four or perhaps more and among these a distribution of time is made so as to afford to each one might.... But rarely happens that enmity and jealousy breakout among them on this account²⁷.”

²³ The 1901 census of India talks of 3 types of husbands in the west coast. “Those who merely tie the *tali* and have nothing to do with the girl thereafter, those who are married by the *sambandham* or cloth giving ceremony and those who are wedded by the rites. Ibid.

²⁴ . James Forbes, *Oriental Memories*, New Delhi, 1937. p.247.

²⁵ . Samuel Marteer, *The Land of Charity*, London, 1871 Pp 20-30.

²⁶ . John Nieuhoff’s *Remarkable Voyages and Travels into the Best Provinces of the West and East Indies*, London 1891 p.51.

²⁷ . *Ibid*, Jonathan Duncan – “*Historical Remarks on the Coast of Malabar with some Description of the Manners of its inhabitants Asiatic Researchers 5 (1799) P p. 1-36.*”

These men while they had relations with the women provided her with the daily necessities like oil, clothing and ornaments” These travellers’ accounts fired the interest and imagination of people in the west especially sociologists and anthropologists. Some of these pictured a merry choosing of men by the woman according to her whims. “She choose two, four or even as many as twelve husbands, on whom she bestows her favours and recovers in return small gifts for herself and her mother. Each lover remains at her command for 24 hours, and he must make himself useful to her during this period by fetching wood and the like, and he also enjoys the rights of a husband. Both parties are free to break off the connection without any ceremonies and divorces are very frequent. The paternity of every Nayar is unknown²⁸.

These images were written on the basis of images in travel documents like Barbosa. “If any of them wishes to leave her, he leaves her and takes another and she tells him to go and he does so or makes terms with her. Any children they may have stay with the mother who has to bring them up”²⁹. It was these images that got popularized and led to the creation of loose morals of the Nayar women. This then was repeated in colonial documents. But that this was a fallacy, as pointed out by Logan. “Although the theory of the law sanctions freedom in these relations, conjugal fidelity is very general. Nowhere is the marriage tie, albeit informal, more rigidly observed or respected, nowhere is, it more jealously guarded or its neglect more

²⁸ . C.N.Starke, *Primitive Family 1889*, cited in MMCR, APP.I, Pp.19-20. According to him, ‘Nuptials are here interposed only to emancipate the woman, and introduce her into the world. She takes a master to gain independence: with the contract of servitude in her hand, she acquires personal liberty. Provided she wears her *tali* round her neck, she is free of conjugal bonds. She intends to lead a married life and unite herself with whom she pleases, except with her lawful husband. That would be a slip for which public opinion would never pardon her.....In the north of Malayalam, which was advanced further towards the paternal family, it is not considered suitable for one lady to have more than one gallant at a time. But in the South... the more admirers a woman has the more she is esteemed.

²⁹ . Duarte Barbosa, *A Description of the Coasts of East Africa and Malabar*, (Tr. By H.E.J.Stanley, London, 1866) Pp.40-41.

savagely avenged absence of ceremonial has encouraged the popular impression, but ceremonial, like other conventionalities is an accident, and the nayar women are as chaste and faithful as their neighbours, just as modest as their neighbours, although their national costume does not include some of the details required by the conventional notions of modesty”³⁰.

Logan has correctly highlighted the reasons for this general impression of loose marriage ties. The fact that their practices were vastly different from the other castes in the society or from conventional notions of fidelity and modesty does not imply that their morals were lax, but they had their own codes of conduct. Another pitfall in this case was the theories of social evolution, which looked upon matriliney as a practice prevalent in the primitive societies and as societies developed they would become patrilineal. This notion was one of the many reasons that the Nayars in the twentieth century wanted to reform their customs after internalizing the Victorian morality. The easy facilities provided to begin and dissolve as a dissolve a relationship must have strengthened this feeling. Thus was established the fact that Nayars did not have marriage relations among them but practiced concubinage.³¹

But the colonial administrative documents did not take up Logan’s statement but stuck to the image created. H.S.Greame in his report talked about the marital relations of the Nayars as sexual commerce.³² Officially too it was accepted that the Nayar marriages was not legal. This was emphasized through the judiciary too in their judgements according to which it was ‘not marriage, but a state of concubinage’ MMCR concluded that *Marumakkathayam* did not recognize marriage. *Sambandham* relationship, unlike marriages elsewhere, was not seen as a sacred institution. “They

³⁰ . William Logan, *Malabar District Manual* (Madras 1887) p.136.

³¹ Ibid. p.136

³² . H.S.Grame, *The Report on the Revenue Administration of Malabar*, d.1896, Calicut 1898, p.8.

are not regarded as constituting a religious ceremony or *samskaram* or sacrament in the Hindu or European sense of the term. There is no officiating priest in attendance. There is no formula to be repeated, there is no *vedic* or *puranic* or religious chant or exhortation. There is no formal benediction³³. The Nayars too talked about their marriage in a similar way: “Every other religion and state has a code prescribed for prostitution but for the *Marumakkathayam* this is not deemed necessary is a crying shame.... It is the duty of the government to see that the subjects are living in the right way³⁴. Thus the weak marital ties and no responsibility and commitment to each other as seen in other castes became a glaring defect of the Nayar *Sambandham* due to which it was equated with concubinage³⁵.

Easy divorce was yet another reason why marriage ties were considered as loose. Heber talks about the amicable way in which a relation could be ended: “Should the husband after a certain period not be pleased with the lady of his choice, he has the option of returning her to her parents or relatives, when both are at liberty to seek a fresh union in other quarters. No decree is attached to this proceeding nor is the summary divorce and violent disruption of the marriage tie, in any way illegal. There is no actual marriage tie, such as we understand the sacred institute, in any way illegal and it is in consequence of a custom so abhorrent to our feelings of propriety and one so subversive of everything which should create and strengthen the ties and relationship of domestic life.”

Soon the Nayars themselves started looking at their marriage in which ‘both the legal and religious sides are wanting. They are not legal as they do not create any

³³ . Nagam Aiyar, *Travancore State Manual* 3 Vols, Trivandrum, 1906, p.357.

³⁴ . *Malayala Manorama Daily*, May, 31st, 1890.

³⁵ . K.R.Krishna Menon, MMCR.

co-relative rights and duties³⁶. The feelings the western educated nairs in the 20th century can be summed up in TNG Panikkar's words: "It is high time that some efforts were made to place the nairs on a basis of equality with the enlightened nations of the world³⁷. The Nayars and also other matrilineal castes in Kerala had an important ritual that had to take place before a girl reached puberty, the so-called *Talickettu Kallianam* (literally, the ceremony, *kalyanam*, at which the *tali*, the marital chain, *kettu*, is tied). For this ceremony, the Nayars preferred to invite a respected person, an older Namboodiri, for example, to tie the *tali*. When the *tali* was tied, the girl was considered to be an 'adult woman'. There is a saying that having gone through the *talickettu* ceremony, a girl has become *Amma*, mother. She was thus endowed with the status and the right to continue the lineage.

Kettu Kallianam or more properly *Thalickettu Kallaianam* is an important ceremony amongst the Nairs. It must be performed before the girl in respect of whom it is celebrated attains puberty. During the progress of the historic legislation concerning Malabar marriages some opponents of the measure based their objections upon the fancied religious nature of *Kettu Kallianam* and their dignified status as a proper substitute for the kind of marriage which the reformers sought to legalize viz., the legitimate union of the sexes³⁸. It is a ceremony at which a string with a small golden *tali* attached to it is tied for the first time round the girl's neck. The several items of it may be briefly detailed as follows: Astrologers are, of course, consulted

³⁶ . T.K.Gopal Panikkar, *Malabar and Its Folks*, New Delhi. 1995, p. 7.

³⁷ Ibid, p.125. The key word here being 'enlightened' this goes on to show how much the Nayars had internalized the images that were constructed through these writings.

³⁸ But this position was found by the eminent members who sat on the said Marriage Bill Commission under the presidency of the late Sir.Muthusami Iyer to be untenable that they felt no compunction in characterizing the ceremony as perfectly useless as a substitute for the other kind of marriage, viz. the lawful wedlock of man and woman. This ceremony has been not inaptly described by some of our native leaders of thought who were examined as witnesses by the said Commission as a "mock-ceremony" possessed of no legal or social force.

and an auspicious day and moment are selected for the performance of the ceremony. Then at another auspicious moment a coconut tree is cut down for use in connection with the ceremony, which process is styled, “*Puzhuthengu Murikkal*”. This over, a large *Pandal*, a temporary shed, is erected in which to conduct the ceremony and the feasting of guests incident to it. Preparations proportioned to the means of the family are made and guests are invited. Then follows what is popularly called *Ashtamangalliam Vekkal*, that is, the formal opening of the ceremony; which may be done a day before the ceremony or if necessary earlier still. On the day previous to the ceremony the *Attazhom* feast is celebrated. On the night of this day, the girl is dressed up in fine clothing and adorned with gaudy ornaments and is led by some of the tribeswomen to a reserved spot inside the house, with flaring torch-lights held in hand by them. Then some ceremonies are performed there attended with singing of songs by the Brahmini woman who is practically the officiating priestess in attendance at the whole ceremony. Then all these together lead the girl to the *pandal* where she is seated with her whole body except the face covered with a piece of fine cloth and some ceremonies with songs by the said priestess are gone through. The tribeswomen likewise gather round the girl. There may, according to circumstances, be more girls than one for the *Kallianam*, who may belong to any of the related families of the clan. After this comes a sumptuous feasting of guests and others³⁹.

The next day, that is the ceremony-day, the girl is again properly dressed up and adorned and is led a little before the appointed moment to this reserved spot.

³⁹ The place where the girl is seated for the ceremony inside the *pandal* is also a particular one of a square shape with the ground –floor made of clay stirred up and beaten down. Four poles of arecanut timber are stuck on the ground at equal distances and these are also connected on the tops by means of arecanut beams. The roofing of this is made of cotton or silk cloths; and hangings made of tender coconut leaves are attached to these beams downwards. See T.K.Gopala Panicker, *Malabar and its Folk*, New Delhi, 1995 Pp 135-144 also see Fr.Puthenkalam.S.J. Op.cit no.17, Pp6078.

There she is taken round the square shed three times and is led on to the worship of the sun called '*Athithianethozhikkal*'. In some places this is done on the bare ground; in others on the top of a terraced shed erected beforehand with four strong pillars and a ceiling of wooden planks. The girl then accompanied by the clanswomen and tribes women is taken to the top of this ceiling and is there made to worship the sun. In the meanwhile another process has to be gone through which is designated *mullakondu viral*. It consists in the carrying in of small stalks of the Jessamine plant placed inside a pitcher together with some other ingredients previously taken to a neighbouring temple and consecrated by the performance of a *pooja* by the temple priest with the pitcher placed near the idol. Inside the pitcher is also placed the *tali* which is to be tied round the girl's neck. This vessel with the substances in it is brought near the shed, either held in hand by some Brahmin or carried on an elephant's back with drums beating and trumpets blowing. It is then carried up the ceiling and thereafter some minor ceremonies, consisting of women young and old dancing or playing beneath a bunch made of ears of corn held in their hands over their heads are performed. It is taken down the ceiling to the reserved spot inside the *pandal* followed by the girl conducted by the women. In front of the shed and on its western side the girl is seated facing east.

The tier of the *tali* may be any tribesman of the mother of the girl, any man from amongst the *Elayad* or *Thirumulpad* sects or men of the Kiriya caste. Now the particular person who is to tie *tali*, whoever it may be, is then brought down from any neighbouring house where he is seated in readiness for it to the shed inside the *pandal* accompanied by men who indulge in vociferous shoutings all along his way. He is also seated on a chair or a stool behind the girl, dressed in gaudy attire and bathed in shining ornaments of gold. One of the girl's brothers then bathes his feet and

afterwards three times the question is put to the village-astrologer who is also in readiness near the *pandal*, whether it is time for the *tali* to be tied round the girl's neck. Of course, he returns an affirmative answer; and then the person takes the *tali* and ties it round the girl's neck. Then another *tali* is similarly tied round the forearm of her right hand by one of her brothers. This practically completes the ceremony. The tying is followed and preceded by sacred ballads song by the Brahmini woman spoken of before who mixes the same with the jingling sounds produced by her on a circular thin bell-metal vessel she holds in one hand, by gently striking it with a small metal-rod held in her other⁴⁰.

On the occasion of *Kettu-Kallianam* a typical Malabar feast is arranged. Preparations are made for it, and invitations are sent out. They are first sent to all clansmen and women, and all *Enangers* (those who belong to the same tribe, but are allowed inter-marriages with the members of the feast-celebrating family) clear eight days before the ceremony; and the smallest delay in sending out the invitation is looked upon as an infraction of the social etiquette, which would sufficiently justify the absence of the guests of the occasion. Under ordinary circumstances, the major portion of the clansmen and tribesmen are bound by social rules to be present on such occasions failure to do will be punished by the social chieftains with the imposition of the fines. At any rate all families of the tribe and clan should be represented on the occasion. Strangers are invited only a day or two before the feast. The women all

⁴⁰ To all these are added, from beginning to end, the rhythmic vociferous shouting made by parties of men arranged together for the purpose. But one other process yet remains to be noticed. All the while from the moment the girl is led from her seat inside the house up till she is brought back to her seat there, after all the tedious processes are over, every moment is occupied also with a peculiar sound produced by companies of women by beating their lips rapidly with their fingers of the right-hand and simultaneously forcing their breaths through the lips and the interstices made by the peculiar position of the fingers placed on the lips; so that the whole affair is invested with a kind of dignified solemnity. The tying of the *tali* practically closes the ceremony and after this a feasting of guests and others takes place. For more details see *Ibid*, Pp.68-78.

come in one after another dressed in splendid attire and deluged with golden ornaments of diverse sorts; and are all seated on mats inside the house or if the house is not sufficiently spacious, inside any temporary shed erected for the purpose. Between about 11 and 12 O'clock in the noon plantain-leaves are spread on the ground, and the guests are all seated on mats to partake of the meal. With regard to the arrangement of the seats certain fixed rules are in vogue. The clanswomen and tribeswomen are first served. Within the sacred precincts of the place where these are seated, no members of stranger clans and tribes and in some cases not even members of higher castes are allowed entrance. Any breach of this social decorum will necessarily result in the guests leaving the hall in a body with their meals left unfinished. Such is the stringency of caste rules. These are to be served either by Brahmins or other members of their own tribes or clans.

Before the determination of a feast an inventory or list is made out theoretically in consultation with the tribesmen in which the things required are carefully noted down and the subsequent preparations are made on the basis of this inventory. The total cost of a feast is about three times the number of *paras* of rice consumed. On the evening previous night to the feast a preliminary feast called an *Athazom* is celebrated to which only a limited number of guests are invited. But the tribesmen and clansmen are bound to be invited and to be present on that day. The day next after the main feast is called a *vanmuri*, which is also on a small scale and the kinds of guests to be invited except the tribesmen and clansmen are left to the option of the owner. After a feast is over, what is known as a *pakarcha* is distributed to the families of particular relations and friends which consists in an impartial

distribution to the houses of the latter of some of the most prominent ingredients of the feast⁴¹.

On the fourth day early in the morning, the members of the various tribes and clans and all specially invited people arrive and the girl takes an “oil-bath” along with the women. All of them throughout the occasion are dressed in the most magnificent finery, such as their respective stations in life might permit, and adorned with costly golden ornaments. They all then accompany the girl for worship in a neighbouring temple and after it is over all of them return home. Then they partake of a delicious course of milk *conjee* with sugar and other ingredients. An hour or two after, another feasting, not in such a splendid style as on the ceremony day, is celebrated. This over, the ceremony finally closes.

Thus terminates one of the prominent ceremonies connected with the social life of the Nayers. It symbolizes the springing up of a peculiar relationship between the girl and the man who ties the *tali* and the man is thereby in some places at least, debarred from marrying her all his life-time, though in other respects he may be eligible. The *Tali* is in some places destroyed on the fourth day. Thus instead of giving the man a right to marry the girl the ceremony destroys even what he previously possessed. Should he die before the girl, which indeed often happens, she must undergo death pollution and its attendant observances for fifteen just as she should do in the case of the death of one of her own clansmen. It was confusion between this marriage and the legal marriage ceremony recognized amongst all

⁴¹ In practice the *Kettu Kallianam* ceremony lasts for the next three days also. But on the second and third days nothing of any importance occurs excepting some dancing and music by young maidens inside the *pandal* and other varieties of amusements.

civilized nations that practically formed the basis of the long controversy carried on over the Malabar Marriage Act.

In the Kerala context, the concept *Marumakkathayam* has a specific value and meaning. It is distinguished from the *makkathayam* system that is linked to the patrilineal Brahmans who were the most important bearers of the process of Aryanization that developed in India as a whole. Kerala in this period is described as a country where *Marumakkathayam* was dominant and where women had a lot of (especially sexual) freedom.

Karanavar and Anandaravers

We have now to consider the position of the *Karanavar* and *Anandaravers* of a *Marumakkathayam tarawad* and their rights and duties therein. A *Karanavar* in Malabar is the senior male member of a group of persons, all of them tracing their descent in the female line from a common female ancestor, owning joint property under the absolute control and management of the senior. This group forms a *Marumakkathayam tarawad*.

Structural Principles of a Tarawad

“There are three structural principles ‘inter alia’,” says M.S.A. Rao, “involved in the *tarawad* lineage system, viz. matrilineal descent, the exogamous rule and impartibility”.⁴²

⁴² M.S.A.Rao, *Social Change in Malabar*, Bombay, 1957, p.75

I. Matrilineal descent:

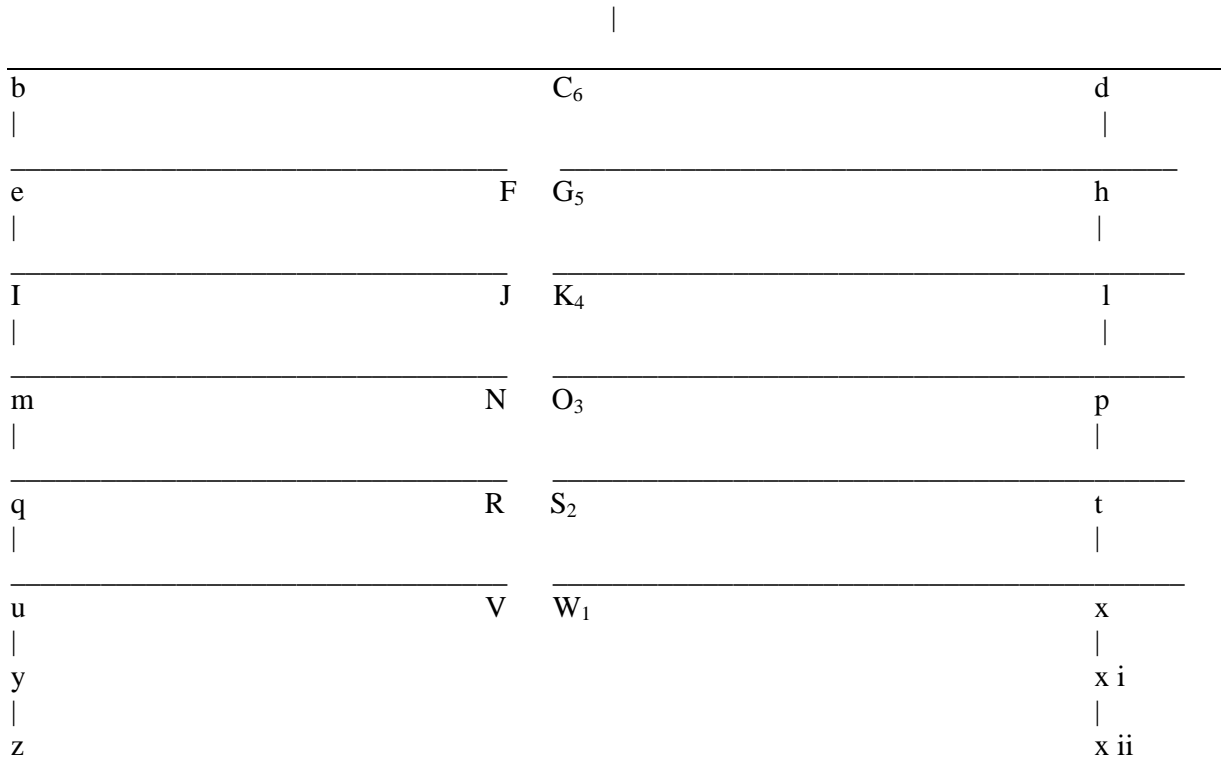
The *tarawad* is a *Marumakkathayam* family consisting of all the descendants in the female line of a *common female ancestor*.⁴³

The issue of the male children do not belong to the Tarawad of their fathers. In a joint family, there may be living-together members of several generations, some closely related and others related only in the third or fourth degree of consanguinity. When a *tarawad* became unwieldy in numbers, *tavazhis* are formed on the same principle as *tarawad*, members claiming descent from one ancestress in the direct line separating to form another home, which would in course of time ramify into a *tarawad*. When a division of this kind took place, there would be *pula Sambandham* (common observance of ritual pollution) but not *mutual Sambandham* (common property). It was the custom even formerly to portion the *tarawad* properties once in every three generation.

The kinship genealogical table of a *Marumakkathayam tarawad* may be drawn as follow:

⁴³ Lewis Moore, *Malabar Law and Custom*, Madras, 1905, p.42

a (Ancestress) 7



In this genealogical tree of *Marumakkathayam tarawad*, 'a' is the ancestress or root mother, and *b* and *d* her daughters. *C* is the son. The descendants up to *z* from *b* (left hand side of the diagram) and upto *x* (right side) from *d* are female descendants, whose line continues the *tarawad*. The sons had mere personal right of maintenance and 'spes successions' (hope of succeeding) to the *Tarawad Karanavanship*. If *W* is the *Karanavan of the Tarawad*, all the progeny of *u* would be his collaterals, related to him in the 7th. Degree. If a division were to be effected in the *tarawad*, it would be more probable that *x* and her line i.e. her children and daughters' children would branch off with *W* to start a new line, which would be the *tavazhi* of *x*⁴⁴.

⁴⁴ Fr.J.Puthankalam.S.J, *Marriage and Family in Kerala*, University of Calgary, Alberta, Canada, 1977, p.134.

The remarkable fact about such a household was that in its set-up there was no recognition of the relationship between husband and wife, or father and children. The husband of the women of the *tarawad* lived in their own *tarawad* and only visited their wives at night. If seniors in their *tarawad*, they looked after the children and grandchildren of their sisters and collateral sisters. The possible kin of a woman in such a family were: daughter, mother, sister, mother's mother, mother's sister and sister's daughters; the males are related to the women, as brothers, sons, daughter's sons and sister's son. The relationship of the males to one another is brother, mother's brother and sister's son. No affines generally lived in this house, except occasionally the *Karanavan's* wife. She was an unwanted guest, an intruder in the *tarawad*, a constant source of troubles, and a thorn on the side of all. The feeling of mutual hostility, antipathy, and suspicion of the Tarawad members about her is clearly expressed by the Malayalam proverb, "*Ammayiye Kallinmel Vechechittu Ammikkallukondu...Narayana*" (place the 'Ammayi' on a grinding stone and pound her with the pestle stone). In North Travancore, it was not the custom for the *Karanavan* to bring his wife into the *tarawad*.

The most notable exception to this was North Kerala, where the wife settled in the husband's home on marriage but left it on his death. The widow had to leave her husband's home even before the cremation of the husband. A red cloth was put on her head, and she was led out by the back door and usually never returned to this house again. Her children would follow her to their *tarawad* after the death 'pula'⁴⁵.

When a *tarawad* was in danger of becoming extinct by reason of the death of female members, or, of such members being barren or unable to bring forth children,

⁴⁵ Ibid, p.135

it was allowed to adopt persons for the perpetuation of the *tarawad*. There was no limit of age or number of persons to be adopted. Sometimes a whole family, and at other times a few females or, a few females and males were adopted. Generally, the parties were to be of the same sub-caste, but the adoption of a lower sub-caste was permissible as it happens e.g. in the case of the children of a *tarawad*, who might have married a lower sub-caste wife. The parties were to be Nayers. The conformation of the adoption by the ruler was essential in Travancore, where, on payment of *adiyara* fees, a royal *neet* (permission) was issued from the palace. The *adiyara* fees had to be paid by the adoptee. Where the adoptee was one's own children, the *adiyara* fee was one-third of the gross value of the adopter's property, and one half in the case of adoption for others. There was also the payment of *adukuvathoo*, two per ten, and other small payments. There was also the payment of $\frac{1}{4}$ of the estimated value of the property as *adiyara* fees to the government, as succession duty, on *koottakar* (distant kinred) inheriting the property of their *koottakar* dying without leaving any direct heirs. This duty was abolished by a Royal proclamation in Travancore in June 1888. The purpose of adoption was to prevent an escheat to the state.

Unless otherwise expressly stated in the royal *neet*, the general rule was that when a whole family was adopted, they did not lose their rights in their natural family, but when only a few members were adopted, they lost their rights in the natural family. The adoptive *Karanavan* did not derive any title to the properties of the adoptee's natural family by adoption. *Karanavan* was not competent to adopt strangers—e.g. his children into the *tarawad*, without the consent of the other members. The act of adoption was beyond the power of the *Karanavan*, and outside the scope of his managing powers. Under the *Aliyasntana Law*, the manager or

yegman had no authority to make an adoption without the consent of the other adult members.⁴⁶

The object of adoption in a *Marumakkathayam* Tarawad was purely secular, and unlike the *dattaka* form prescribed by modern Hindu Law, being primarily its perpetuation, or the conservation of its endowments, or its advancement in social scale—the last was known as *Jathi Sreshtatha* adoption. This comes from the fact that the adoptee is hereby admitted to a higher grade in the Nayar caste. Adoption in strict orthodox form was rare, and a simple device of executing an *udampadi* (deed) in favour of the adoptees was resorted to, so as to evade the *adiyara* fees and the royal confirmation.⁴⁷

⁴⁶ When the Matrilineal Royal Family of Travancore had no female members two princesses were adopted from Attingal '*sambandham*' family. H.H.Chithirathirunal, the ex-maharaja of Travancore was the son of a junior princess.

⁴⁷ Summarised from M.P.Joseph, *The Principles of Marumakkathayam Law*, Bombay, 1918, Pp.42-50, The working of law of female inheritance in modern times is found in The Kingdom of Travancore (succession in the Family of Raja of Cochin on the Malabar Coast is also governed in the same way). We quote from Sir Charles Aitchison's *Treaties*, which is the authoritative work on the subject. "The laws which govern the succession to the State of Travancore are very peculiar. The descent, according to the usage of Nayars of the Western Coast, is in the female line. Thus on the death of the Raja the sovereignty passes not to his sons who can in no case inherit, but to his uterine brothers if he has any. Failing these or on their demise it passes to his sister's sons, or to his sister's, daughter's sons and so on. Hence it follows that the only adoption which are performed by the Raja of Travancore are not of males to supply the place of sons of their own body, but of females through whom the line must be continued. Any failure of the direct female descent requires the selection and adoption of two or more females from immediate relatives of the family who reside at certain places in Travancore. The females so adopted are designated the Tumbrattees or Ranis. And by the laws and usages of Travancore are assigned a distinguished rank as alone entitled to give heirs to the state, and enjoy many important privileges. Such an adoption occurred in 1788, when two sisters were selected and adopted as Ranis of Attingal. The younger sister died after giving birth to a female child which also died. From the elder sister the present family of Travancore are descended, the late Raja being the grandson (daughter's son), the present the great grandson (daughter's daughter's son). In 1857 the line of Travancore was again threatened with eventual extinction. The sister of the late Raja (granddaughter-daughter's daughter-of the elder of the two sisters adopted in 1788) left five children, four sons, the second of whom is the present child, and one daughter. The daughter died suddenly, leaving two sons. The Tumbrattees of Attingah thus became extinct, and although the state after the death of the Raja would devolve successively on his four nephews and his two grandnephews, the line, unless recruited by the adoption of Tumbrattees as before, would have expired with them. Under these circumstances the late Raja intimated to the Resident that, in strict conformity with former usage and precedent, he proposed to bring in two most eligible female members from among his relations, as senior and junior Ranis. Two ladies were accordingly adopted with the sanction of the British Government. For more details *Royal Marriages and Matrilineal Descent*, Margaret Murray, *The Journal of the Royal Anthropological Institute of Great Britain and Ireland*, vol.45,(July-Dec 1915), Pp.307-308. Also see Sir Charles Aitchison, *Treaties, engagement and Sunnuds V*, London 1876, p.422

II. The rule of exogamy

Nayars consider the members of their mother's *tarawad* only as related to them by blood, and, however distant the degree of relationship, marriage between members of the *tarawad* does not take place. They do not consider their father's family as related by blood to them. Being matrilineal, relationship comes only from, and is calculated through, females. Marriage between members of *tarawad* (even distantly related) was incest, because the couple were related by blood. Exogamy was but a minor corollary of the wider concept of kinship. There were no taboo against cross-cousins marrying, because they belonged to different *tarawad* and were outside the kinship circle. Cross-cousins were the preferred mates as well.

The members of the same *tarawad* observed *pula* (ritual pollution) on occasions like death or birth in the family, and upon receipt of the information of death (or birth) in the family, entered into a period of ritual pollution. They would not eat with nor touch other Nayars, enter the temple or other places, or bathe in the public pools of their caste. The stricter death pollution (*pula*) and the milder birth pollution (*valayma*) cut off the *tarawad* from participation in the social life of the caste. It isolated the members as a group, set them apart in a special and dangerous ritual condition, who had to observe taboos for their own and each other's safety.⁴⁸ Nowadays, many consider themselves ritually purified after they took a bath on receiving the information and this is what is generally done, if the dead person was only a distant relation living far away. There is a ceremony for breaking up clan kinship and *tarawad* exogamy. Gough mentions an instance of this. It happened in the case of a branch of a Nayar *tarawad*, which had settled in another district, 15 miles away from the original *tarawad*. Severing clanship was called "cutting the

⁴⁸ Kathleen Gough, *Matrilineal Kinship: Nayar: Central Kerala*, op-cit, p.324.

pollution string'. Representatives of the branches met and decided not to inform each other, in future, of deaths in their respective groups. Exogamy was theoretically preserved as long as matrilineal ties were remembered—usually for about three generations after the division.⁴⁹

III. The Impartibility of the Tarawad

M.S.A. Rao says that impartibility of property was one of the three structural principles involved in the *tarawad* lineage system, but admits that though this was the rule, partition was possible by mutual consent.⁵⁰ It has been for a long time established both in the courts of the Native States of Travancore and Cochin and in British Malabar, that the unanimous vote of all the members of a *tarawad* was necessary to effect a partition. “Where there was a general consensus of opinion among the members of the family that a division was expedient or beneficial, a division was generally allowed, notwithstanding the dissent of a small minority”⁵¹. Justice Moore refers to a case decided in 1810, in which the individual share of a member of a *tarawad* was held liable to be sold for his debts. This presupposed the right of the purchaser to enforce partition. One of my informants, a barrister, said that Nayar *tarawad* used to have partition every three generations. There is a judgement, in North Malabar court (1878), based on this inference, in a case between two *tavazhis* of a Nayar *tarawad* for partition, when the judge held that if they were separated by three generations the two *tavazhis* could be held as good as separated, and the High Court ratified his decision⁵² In the opinion of Justice Pandalay, the

⁴⁹ Ibid

⁵⁰ M.S.A.Rao, Op Cit, p.75

⁵¹ P.R.Sundara Iyer, *Malabar and Aliyasanthans Law*, p.11. Also see Fr.J.Puthankalam, Op.cit Pp.137-138

⁵² P.R.Sundara Iyer, Op.Cit, p.11

earlier practice in the Travancore and Cochin courts was recognizing compulsory partition (till 1874 in Travancore and 1871 in Cochin), and the later turn against it betrays the strong Madras reaction due to the influence of judges trained in British India. But it must be admitted, says P.R. Sundara Iyer, that so far as Malabar was concerned, the law of impartibility has been laid down by the highest court ever since 1814, and this is the view upon which the *Marumakkathayam* people have acted ever since. Till recently no one thought it worthwhile raising the question.

Though impartibility was the rule, the Nayar *tarawad* used to divide its properties when numbers became unwieldy and domestic peace was jettisoned. According to P.R. Sundara Iyer, “In all probability, English judges, conceiving that impartibility is the legal consequence of a system of law which vests property in the females, rigidly enforced the rule of impartibility, contrary to the common practice among the people. Neither from my interviews nor from my readings on the Nayar *tarawad* did I ever come to know of any joint family more than 3 generations deep living under a *Karanavan*. But though different *tavazhis* lived under different roofs, every member bore the *tarawad* name and was affected by the community of pollution of birth or death (*pula sumbandham*) and was governed by exogamous regulations⁵³ .

⁵³ The informal division usually followed diverse patterns: sometimes the *karanavan* allowed junior members to cultivate rent-free waste lands belonging to the *tarawads*, and this source of income was regarded as the self-acquisition of the individual *tavazhis*. The full usufructuary rights of the property, where the branch settled, and the land which they cultivated were also considered their private income. More than one court decision declared that the branches of tarawads which had settled separately for two generations or more, were presumed to possess the lands allotted for their maintenance.

This quasi-partition of the tarawad properties for cultivation was the first step for division into tavazhis. Branches of the family living far away from the main tarawad slowly developed into independent units in course of time, and partition was a matter of mere formality. Sometimes these separate units came to possess more than their rightful share of the family estate and other members of the *tarawad* moved the courts to restrain the *tavazhi* from depriving them of their lawful share in the *tarawad* property. In the “Partition award of Koodali Thazathu Veedu Tarawad, North Kerala” (a copy of which was given to me by the *karanavan*), there is a reference to such a litigation between their two branches. They finally agreed on dividing the properties among the two branches.

The various ways in which partition was effected by mutual consent may be mentioned. When *tarawad* grew unwieldy, they split up into separate segments or *tavazhis*, depending on the number of main female lines. The partition was mainly for the sake of convenience and the *tavazhis* did not have absolute independent rights in the properties set apart for them. There was also the *karar* or *udampadi*—an agreement—by which the different *tavazhis*, privately or formally in the Registrar’s office agreed to divide certain properties among themselves. One of my informants spoke of the *vakkal bhagam*—verbal partition—which was an implicit understanding among the members about the division of *tarawad* properties.

The centralized control of the *Karanavan*, more than joint living under one roof, or a common kitchen, was the more important characteristic of the later *tarawad*. There were *tarawad* which were joint and undivided; others which were partitioned “verbally” (*vakkal bhagam*) among the different branches but were still under the control of the *Karanavan* and those with no joint living but with non-partitioned common properties and the *Karanavan* apportioning to each family the necessary expenses⁵⁴.

When the size of the sub-lineages became large in some Tarawad, they resorted to other working arrangements; they lived in the same house but occupied separate quarters. K.P. Kesava Menon, in his autobiography, says that the *karyasthan* of the house measured out and gave a fixed quantity of rice to the common cook, and the ration of dal, oil, etc. to each *tavazhi*. When there were guests, these quantities were increased in proportion. The *Karanavan* paid the barber, washerman, vaidyan, etc. who were generally paid in kind at the time of harvest. A fixed amount of cash was

⁵⁴ Fr.J.Puthankalam, Op.cit, p.139

also given to each grown-up male member as pocket-money, and the married among them got something extra for their customary gifts to their wives. It was the *Karanavan*, who provided clothing for all, at Vishu, Onam and Thiruvathira.

Besides the village functionaries, who were paid annually for their work besides perquisites of their office on several occasions during the year, many big *tarawad* had their own serfs, who tilled the soil, planted the crop, and looked after the fields. These agrestic slaves were the property of the *tarawad*. It may have been that they were bought with the land, because in olden days serfs who worked on those lands changed masters on the sale of the land. That may account for their being called ‘*Cherujanmam*’ or “*Chirjanmam*”—which is made up of ‘*cheru*’ (small) and ‘*janmam*’ (proprietary rights)⁵⁵. It was also the custom to leave some common properties undivided. They were intended to maintain a quasi-‘*sthanam*’ or to meet the expenses of the common family ceremonies in the ‘*kalari*’, or in the local temple (or the family temple), and charities. If the family had a Zamindari, it was left undivided. The succession to the undivided property rested generally on the basis of custom. In most cases, the properties which were divided formed the bulk of the family properties.

Big *Marumakkathayam* Tarawad in Kerala had, besides *tarawad* properties, ‘*sthanam*’ properties also. The question whether *sthanam* properties belonged at the same time to the *tarawad* came up recently before the Supreme Court of India, in *Kavalapara Kottarathil Kochunni alias Moopil Nayar v. States of Madras and Kerala and others*, and the case was decided on 4.5.1960. The judgement ‘*inter alia*’ says:

⁵⁵ *Ibid*, p.139

“The origin of the *sthanam* is lost in antiquity. It primarily means a dignity and denotes the status of the senior Raja in a Malabar Kovilagam or palace. It is surmised that *sthanams* were also created by the Rajas by giving certain properties to military chieftains and public officers, and also by *tarawad* creating them, and allocating certain properties for their maintenance. Most of the incidents of the *sthanam* are well settled. Usually the senior most male member of the family, and occasionally a female member, attains the *sthanam*. Properties are attached to the *sthanam* for the maintenance of its dignity. The legal position of a *sthanee* is equated to that of a Hindu widow, in that he represents the estate for the time being and he can alienate the properties for necessity or for the benefits of the estate. Unlike a Hindu widow, the successor to a *sthanee* is always a life-estate-holder. In that respect, his position is more analogous to that of an impartible-estate-holder. He ceases to have any present interest in the *tarawad* properties. Like a Hindu widow or an impartible-estate-holder, he has an absolute interest in the income of the *sthanam* properties or acquisitions therefrom. His position is approximated to a member separated from the family; and the members of the *tarawad* succeed to his acquisitions unless accreted to the estate and he succeeds to the *tarawad* properties, if the *tarawad* becomes extinct”.

Questions like—what would happen if there was no male heir to a *sthanam* at any point of time, whether the properties pertaining to the *sthanam* would escheat to the state or devolve upon the members of the *tarawad*, or whether a subsequent birth of a male heir would revive the *sthanam*, are raised by Sundara Aiyar in his book, but

there is a decision of the Madras High Court, where in the case of Punnathoor family, a subsequently born male heir was given a decree for the possession of the properties of a *sthanam*. On the question whether a *sthanam* property, not being the property of a member of *tarawad*, be blended with the property of the *tarawad* so as to make it a *tarawad* property, there is no direct decision. In principle if the *sthane*, on attaining the *sthanam* is in the position of a separated member of a Hindu family, there may not be any scope for the application of the doctrine of blending. No member of a *tarawad* has any right to maintenance from out of the *sthanam* properties, and the mere fact that a *sthane* for the time being, out of generosity or otherwise, had given maintenance to one or other members of the *tarawad*, cannot legally have the effect of converting the *sthanam* property into a *tarawad* property nor the fact that the *sthanam* properties are treated as *tarawad* properties can have such a legal effect.

Now, what is the relationship between the *tarawad* and a *sthane*? It is true that whatever may be the origin of the *sthanam*, ordinarily the seniormost member of a *tarawad* succeeds to that position, but once he succeeds, he ceases to have any proprietary interest in the *tarawad*. So too, the members of the *tarawad* have absolutely no proprietary interest in the *tarawad* property. Thereafter, they continue to be only “blood relations” with perhaps a right of succession to the property of each other on the happening of some contingency. The said right is nothing more than a *spes successionis*: the *tarawad* may supply future *sthanees*⁵⁶.

⁵⁶ Kavalappara Moopil Nayar V. *States of Madras, Kerala and others in Supreme Court of India: The Kerala Law Journal*, Vol.IV, -35, September, 1960, Pp.1108, 1109.

The Karanavan of a Nayar Tarawad

The *Karanavan* is the 'keystone of the nayar Tarawad' or "the keystone in the *Marumakkathayam* arch"⁵⁷. The Malayalam word *Karanavan* means mother's brother, though the strict term for the mother's brother is "*Ammavan*". Not all *ammavans* become *Karanavans*. Hence it is a designatory attribute for the mother's brother who is the manager of the *tarawad*. *Karanavan* in a Tarawad stands for its senior male manager and all the juniors are "*Anandaravans*" (those coming after). This technical meaning is similar to the connotation of "*yejmanan*" in the Aliyasantana Law, and denotes one with power to represent and manage the *tarawad*.

The senior male member of the Tarawad is, by right of birth, the *Karanavan*. Seniority of birth alone is the test applied and not nearness of descent to the common ancestress⁵⁸. The maternal uncle would be superseded by his sister's son who is senior in age.

The Travancore Nair Regulation defines *Karanavan* thus: "*Karanavan* means the senior male member, on whom the headship of the *tarawad*, the right of management of its affairs, and possession of properties there-of, are vested by law, and in the absence of such male member, the senior female member"⁵⁹. The definition given indicates the main rights of the *Karanavan*. The main rights given to him are: (a) the right of being the representative and mouthpiece of the *tarawad* properties. Courts held that in the absence of a male adult member, the senior adult female member is the *Karanavan* or rather the '*karanavathi*'⁶⁰. A Malabar *tarawad* may be described as a corporation. The *Karanavan* and the *anandaravans* or *sesshakar* are co-

⁵⁷ M.P.Joseph Op.cit, p.59

⁵⁸ Omsly. *Outlines of Marumakkathayam Law*

⁵⁹ Nair Regulations of Travancore, 1912, Section, 2. Nair Regulations (125) Chapter 1 Section 7

⁶⁰ T.L.R., p.174, Quoted by M.P.Joseph, Op.cit, p.516

parteners, and the only preferential right vested in the *Karanavan* by law is the right to act a manager. In virtue of this rights, he is entitled to the possession of the joint property. He directs the concerns of the family within itself and represents it to the world, but as regards substantial proprietorship in the corpus of the *tarawad* property, he has no greater interest than any of his juniors.

Previously, the *Karanavan's* powers were in some sense almost absolute, but his position and status were weakened by successive onslaughts on it in civil courts, and state laws have now reduced his powers to that of a mere co-parcener with restricted executive powers of management of the whole co-parcenary. The weakening of powers of the *Karanavan* is the index of the breakdown of the *tarawad* itself. The *Karanavan* was also the member of the neighborhood Nayar assembly. Within the assembly, a *Karanavan* acted on behalf of his property group in managing the temple, adjudicating in cases of offence against Nayar religious law. He also represented his *tarawad* in its relations with it feudal lord and with higher authorities of the kingdom. Each *Karanavan* was required to represent his property group in ceremonial attendance on his village landlord, the chief of the district (*naduvazhi*), or the king himself, (if he was a direct vassal) at all religious festivals associated with the temple of these dignitaries. The *Karanavan* of the Kudali Tarawad showed me photos taken at ceremonies in their own temple, where he had to appear in a soldier's outfit (of the Nayar militia) during the Theiyattam festival. The *Karanavan* was legally responsible for his juniors in most types of petty legal offences: he paid their fines from the *tarawad* funds: if a member of the *tarawad* was convicted in the royal court of treason, his *Karanavan* and the whole property-group might be put to death. Conversely, the whole property-group was rewarded for extraordinary valour on the part of its members. The reward generally took the form of land given in military

tenure, which became the property of the *tarawad*. These conditions obtaining in Malabar during the 18th century are no more in force but his social position a representative of the *tarawad* remains to this day. The *Karanavan*'s day-to-day authority over his juniors was conferred upon him by his feudal landlord in those days, backed by the judicial authority of the king. He had the right to command and discipline all junior members. In extreme cases, he could inflict on them corporal punishments or delegate a junior to do it on his behalf or temporarily expel one from the *tarawad* or deny maintenance to junior men who insulted or disobeyed him. He had also disciplinary rights over the tenants of the *tarawad* and fined them for minor offences. It is clear that, whatever his 'de jure' authority, the *Karanavan*'s 'de facto' authority was greater over the women and children than over the juniors, who were absent on military service". In theory, the *Karanavan* appears to have had rights of life and death over the serfs of his *tarawad*⁶¹.

In theory, according to Malabar usage and law, property is derived from the female members and in this view, all the rest of the *tarawad* claim it under them. But in practice, the property is acquired and possessed by, and in the name of, the *Karanavan* by his own independent act. All the other members claim it through him and are bound by his act. On account of his quasi-absolute power of management, he has full power over the distribution of the family income. He is not legally liable to render accounts to the junior members, though, in a suit for his removal; the *Karanavan* may be called upon by the civil court to prove how he spent the income. There were many civil cases in which the juniors sued the *Karanavan* on charges of recklessness, extravagance and neglect of duty. A decree against a *Karanavan* in his representative capacity bound all the other members of the *tarawad*, and would be 're

⁶¹ Cathleen Gough, op.cit Pp 339-341

judicata' against the members of the *tarawad*, and the only exception recognized by the courts if fraud or collusion on the part of the *Karanavan*. The only rights which the juniors had on the *Karanavan* were maintenance and the right to prevent him from squandering the family property or alienating it except in the interest of the *tarawad*. Because of his managerial rights, the *Karanavan* could incur debts on behalf of the *tarawad* on the security of *tarawad* property. For permanent alienations, such as sale, gifts, and mortgages for a term of 12 years or more, he was bound to consult all the adult members and get their assent. Alienations do not come under the scope of management. But releases do not require the consent of the junior members, nor is it necessary to prove *tarawad* necessity to make it valid *Karanavans* had made use of this loop-hole in the law to dispose of family property for private benefit. It is easy to see how these rights were fraught with the possibility of abuse and the fall of the *Karanavan* from power has been brought about by the abuse of his power⁶².

The Junior Members of a Tarawad (Anandaravar or Seshakar)

Instances of *Karanavan* not maintaining his juniors on a scale proportionate to the family income and status have been many. Many complain that the *Karanavan* has been using the *tarawad* income for his personal use. Court decisions point out that maintenance means not only food and raiment but also some pocket money for the expenses of the junior members, such as gifts to their wives for feasts etc. The junior members, however, could not insist on dividing the income of *Tarawad* properties and sharing it among the several members of the *Tarawad*, which is tantamount to a compulsory division of property. The Travancor Nayar Regulation (1925) expressly says that every member of a *Tarawad* shall be maintained by the *Tarawad*, whether such a member lives in the *Tarawad* house or not. The female

⁶² Kaleeswaram Raj and K.P.Suchithra, *Commentaries on Marumakkathayam*, Payyanur, 1995, Pp.41-51

members living with their husbands, with or without the *Karanavan's* consent, are entitled to maintenance as this is presumed to be "for a proper purpose". But junior male members, except in North Kerala where it was a custom, were not entitled to the maintenance of their wives and children from *tarawad* properties⁶³. If a member was forced to separate living because of the ill treatment or misconduct of the *Karanavan*, maintenance was accorded to him by the courts. The rate of maintenance, which was not mere subsistence, had to be decided in each case by the award of the courts. Once when a *Karanavan* had allotted properties for the maintenance of his juniors, he could not resume them without making suitable alternative arrangements, but the allottee had no right to alienate these properties.

With no authority in their own *tarawad* and no right nor responsibility for their wives and children, the junior Nayars (men) in a *Tarawad* were a problem to themselves and problematic to their *tarawad*. They had no impetus for work and no ambition to improve their financial position. If and when they earned, their acquisition merged into their *tarawad*. This was not always strictly observed, for human nature being what it is, it was not uncommon that junior Nayar husbands managed to give, on the sly at least a part of their earnings to their wives and children. An anomalous situation like this created social problems in its wake, undermining in course of time, the *tarawad* system itself. The younger men had to be doing something tangible and living for an ideal; the most natural thing should have been to ally themselves to the interest of their wives and children, work and save for them. Actually in the end, this is what happened, though in so doing they became the cause and instrument of the destruction of the age-old institution of the *Tarawad*. By claiming their portion of inheritance from their own, and forcing the partition of the

⁶³ MLJ Vol.VII, p.244, and vol.XIX, p.590

tarawad of their wives and children to bring them under their control, the junior members of *Tarawad* split the solidarity of the *tarawad* in the interest of personalism. The female junior members on their part preferred a stable marriage and family to the older unstable system of *Sambandham*, and preferred to live with and under the care of their husbands in penury or lesser affluence than live away under the care of their *Karanavans* even when that meant greater freedom and more affluence⁶⁴.

The old type of *Marumakkathayam tarawad* is not found anywhere in Kerala today. There were some *tarawad* of the old type all over North Kerala till the *Marumakkathayam* Act of Madras (1933), and in Travancore and Cochin till their passing of the respective Nair Regulations. In Travancore, at the time of the Nair Regulation, only one *tarawad* sought express permission to remain undivided. A retired Land Revenue Commissioner of Travancore, he mentioned that even his *tarawad* reversed its petition and was then divided. The Madras *Marumakkathayam* Act, 1933, in Appendix B gives the list of 8 *tarawad* (mostly chieftain families) in British Malabar, which sought permission to continue joint. In Cochin one of the few *tarawad* which remained a joint family was partitioned in 1953. There are still some *tarawad* approximating the old type in North Kerala in spite of all the changes around them.

A member of an undivided *tarawad* in Ottapalam, (Central Kerala), spoke of their living still under the *Karanavan*. There were 95 members in his *tarawad* of whom 65 lived in the *tarawad* house itself. The rest were either working outside the village or living with their husbands. When all the members of the *tarawad* came

⁶⁴ T.K.Gopal Panicker, *Malabar and its Folk*, New Delhi, 1995, Pp.17-30.

together for some common function, there was hardly enough room for all in the *tarawad* house. There is only one common kitchen even today⁶⁵.

Forces Which Brought About the Disintegration of Nayar Tarawad

The forces which brought about the disintegration of the Nayar *Tarawad* were many. Justice Hunt says, “There are at present two great factors snapping the *Marumakkathayam* system and gradually disintegrating it. One is the ever increasing growth of natural love and affection between father and their own children in preference to those who by blood are not so nearly related to them, viz. their nephews and nieces. The other is the tendency of the *Karanavans*, who are bound by no such ties, not to educate the male members of their *tarawad* to earn for themselves, because they are conscious that the *tarawad* will have to bear all the burdens incidental to the progress of its individual members, with but a remote chance of deriving any benefits from the sacrifices and outlay it may make. The result is only a demoralizing one; a rich *tarawad* endeavours to remain in ‘status quo’, while the poor becomes poorer still, because of the multiplying mouths it has to feed; and the community, save in a few isolated cases, retrogrades when it should advance⁶⁶.

K.M.Panikkar, in his autobiography, speaks of his *Karanavan* as the “last of the great *Karanavans*”. But good *Karanavans* were few and far between. One has only casually to scan the pages of the Travancore Law Reporter and Madras Law Journal to see notices of the innumerable court cases between *Karanavan* and juniors who sued him for malfeasance, gross neglect of his duty to work for the interest of the *tarawad*, fraud, and collusion with parties in order to cheat the *tarawad*. Hundreds of cases in which the *Karanavan* was accused of enriching himself and providing for his

⁶⁵ K.S.Mathew, *Society in Medieval Malabar*, Baroda, 1979, Pp 64-67.

⁶⁶ T.L.R.p 195 Quoted by M.P.Joseph, Op.cit, p 516

wife (or wives) and children at the expense of the *Tarawad* are reported in these pages. The process of the disintegration of Nayar *Tarawad* can be traced in the progress of these suits. When the concept of separate and self-acquired property, an exotic concept and something foreign to the *Marumakkathayam* system, began to appear in nayar *Tarawad*, disintegration had also set in. The custom of *Karanavans* bringing their wives into the *Tarawad* hastened the disruption of the unity of nayar families⁶⁷.

It was also the general complaint that *Karanavan's* children were treated better, when on a visit to their father's family or staying with him. During the interview, many informants said that it was not their uncles but fathers who defrayed the cost of their English education. The junior members naturally resented the fact that they were denied opportunities for higher education. The country was awakening to a new sense of values on account of the spread of Western education and the efforts of the junior members to shake the trammels of the authority of the absolute *Karanavan* was but a reflection of the spirit of the times. In his autobiography, Mannathu Padmanabhan describes graphically the fate of many *Karanavans* who were done to death 'neatly' by his juniors; and cases of criminal assault on the *Karanavan* and his wife and children were innumerable during the period before, and/or between the two Travancore Nair Regulations. We get in the pages of *Ethirpu*, the autobiography of Kesav Dev, details of the attempt by the junior members of his *Tarawad* on the life of their *Karanavan*. The most authoritative of all is the speech of

⁶⁷ The *karanavan's* wife (Ammayi) was an unwanted guest and the general feeling was one of antipathy towards her. She was suspected of enriching herself with the movable properties of the *tarawad*, which were alienable. A very common method used by the *karnavans* was to give the properties of the *tarawad* to her in "melcharthu", a lease of the property for a nominal rent. In many court cases against the *karanavan* by junior members to set aside alienations of *tarawad* property, the *karanavan's* wife also was a party to the suit, because she was a beneficiary of the alienations.

P.Thanu Pillai on the Nair Bill in the Travancore Legislature. He said: “The alarming growth of family dissensions and the unquenchable thirst for litigation in the Nayar Community is bringing about continual deterioration in the moral and material prosperity of Nayar *tarawad*”⁶⁸.

The *Marumakkathayam* Committee Report (Travancore) *inter alia*, gives the following statistical data, which shows the conditions prevailing in Nayar *tarawad* in the beginning of the present century.

The following is a statement showing the number of suits filed by *Sheshakar* or *Anandaravar* 1887—1906 A.D.

Table A

Suits by junior members for cancellation of the alienations made by <i>Karanavans</i>			Suits by junior for removal of the <i>Karanavan</i>			Suits to set aside attachments of <i>Tarawad</i> properties for <i>Karanavan</i> 's debts.		
No. of cases in which alienations were:			No. of cases in which			No. of cases		
Wholly set aside	Wholly up help	Partially set aside	<i>Karanavan</i> was deposed	Prayer for removal refused	<i>Karanavan</i> 's powers restricted and limited	Wholly set aside	Wholly up help	Partially set aside
2046	1700	619	62	68	12	29	32	6

Source: *Sreemoolam Assembly (Travancore) proceedings (16-4-1923) taken from regulations and proclamations of Travancore, Vol.V, (1923),Pp622-625.*

⁶⁸ As a result of a careful diagnosis, the disease of the tarawads was traced to the evil effects of the joint family system, in which the individual has no defined right or responsibility, where the incentive to personal exertion is the happiness of other people's children and where the manager is compelled to maintain a host of sturdy irregulars over whom he has no manner of control Nayar accepted the Regulation of 1912 under protest, and continued their agitation in more intensified from focusing all their attention on the question of *Makkathayam* and individual partition. The cry for these changes is so loud and persistent and so large in volume that it may be safely taken to be the deliberate desire of the community as a whole though there is still a negligible minority opposed to the change. The object of the Bill is to eradicate once for all the evils in the *Marumakkathayam* system with a view to better the moral, economic, and industrial conditions of its followers, by giving each member full scope for individuality and personal endeavour and by holding him responsible to take care of himself, his wife and children; in short, to compel him to earn his bread by the sweat of his brow or in the alternative to beg or to starve....., to give him a definite share in his *tarawad* property as well as in his father's property. *This will lead to the substitution of tarawads by families in the real sense of the word, united by bonds of natural love, where children will look up to the parents with affectionate regard for support and guidance. See Sreemoolam Assembly (Travancore) proceedings (16-4-1923) taken from regulations and proclamations of Travancore, Vol.V, (1923),Pp622-625.*

The statement showing the number of deeds of partition, maintenance, allotments and gifts to children (of *Karanavan*) executed by Nayars in the years 1887 to 1896, if read along with the previous table, will give a picture of the internecine conditions of the Nayar *tarawad*, previous to the Nayar Regulations I and II in Travancore.

Table B

Year	Partition	Allotments of maintenance	<i>Karanavan</i> gifts to his children
1887	301	205	293
1892	344	281	473
1896	516	385	601
Total	1161	871	1367

Source: Fr.J.Puthankalam, Pp 146-149

Every one of the 4365 suits filed by the junior members for cancellation of the alienations made by the *Karanavan* was a declaration of their want of confidence in him, whatever the judicial decisions in the case. It showed to what a degree disintegration had set in the *tarawad*. To this must be added the innumerable cases which were settled by mediation out of the courts. There were, during the same period, 142 suits filed by the junior member to remove the *Karanavan* from his office. Often the *Karanavan* executed deeds for his real and faked debts, which, in some cases, he had made out in favour of his wife and children. When creditors sued him in the courts, he acted in collusion with these so-called creditors. It is no wonder that junior members were obliged to move the court to set aside attachments of *tarawad*

property for the *Karanavan's* personal debts. All together 4574 court cases of this kind were pending in the Travancore courts alone during the period 1887-1906. In the same period there were 1161 petitions for partition of the *Tarawad* and 871 cases for allotment of maintenance to the junior members. The number of gift-deeds executed during this period alone (1887-1906) by the *Karanavan* in favour of his children was 1367. Here is a clear indication that the *Karanavans* were misusing their position as managers of the *tarawad*, in favour of their own children and against the interests of his *tarawad*⁶⁹.

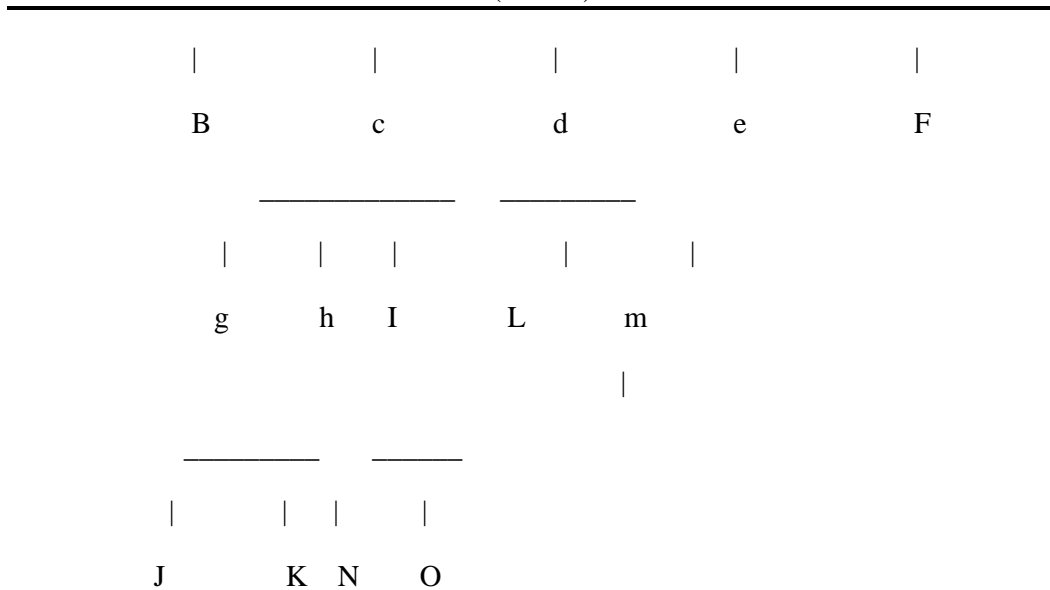
The situation was becoming alarming and the governments had perforce to interfere and reform the *Marumakkathayam* system itself. In the meanwhile, the courts of judicature were interpreting Nayar customs and usages and rectifying wrongs on the merit of the individual complaints which came before them. The trend of these judicial decrees differed with individual judges. It has been noticed that the general trend of the judicial decisions in the Travancore High Court, in the beginning, was for strengthening and supporting the *Karanavan*. Justice Hunt and Kunhiraman Nayar have made a name in this regard by their progressive judgements. In Travancore, under the long reign of its orthodox ruler, Sree Mulam Thirunal, the reform of *Marumakkathayam* laws could not make headway, and Cochin too was conservative in this regard. The first non-official Bill in Travancore (1888) to reform the *Marumakkathayam* system did not go beyond the Select Committee stage. It was with great unwillingness that the ruler gave his assent to the first Nair Regulation,

⁶⁹ Fr.J.Puthankalam, Op.cit, Pp 146-149

1912. The Nayar Regulation II was passed by his successor, H.H. Sethu Lakshmi Bhai, who gave the royal assent to it on 23rd. April, 1925⁷⁰.

Illustration

a (female)



Tharwad of *a*, owns Rs:2000/-. Partition takes place among the members after the death of *a*, *B*, *c*, *d*, *e*, *F*, i.e., the root mother of all her children. Rs: 1000/- is to be divided into three equal parts for the tavazhis of *c*, *d*, and, *e*. The balance, Rs.1000/-

⁷⁰ A study of the legislative measures affecting the destiny of the *Marumakkathayam* system and law leading to the disintegration of the Nayar *tarawad* are of abiding interest. The Malabar Marriage Act, (for British Malabar) 1896, the two Nayar Regulations of Travancore, 1912 and 1925, and the Cochin Nayar Act belong to the second phase of the Nayar *tarawad*. The Malabar Marriage Act, 1896, was the least innocuous, for it did not touch even lightly the constitution of the *tarawad*. It restricted itself to declaring that “a *sambandham* may be registered as marriage”, in which case only the wife got the right of maintenance, the right to half the property of the Nayar husband if he died intestate, and the right of alimony in the case of divorce for unjust reasons, but under certain conditions—all rights flowing from the validity of the marriage.

is to be divided into II equal shares, and out of these, 7 shares go to *g, h, I, j, K, N* and *D* together, 3 shares for *L, m,* and *P* together and one share to *Q*⁷¹.

Part VI of the Regulation, dealing with the “duties and powers of the *Karanavan* and *anandaravar*, restricts for the first time the absolutism of the *Karanavan*. Section 19 of the Regulation says that except with the *written consent* of all the major members of the *Tarawad*, “no *Karanavan* shall sell *Tarawad* property, or lease it for a period of more than 12 years, or mortgage it with possession for a period of more than 12 years”. The old law was modified to safeguard the interest of the *Tarawad* as a whole. Section 20 says that “no mortgages with possession for 12 years or less shall be valid, unless it is executed for ‘*Tarawad* necessity’ and with the consent of all the major members of the *Tarawad*”; and Section 21, “no debt contracted by the *Karanavan* shall bind the *Tarawad*, unless it be for the ‘*Tarawad* necessity’”. The Regulation I of 1912 contained provisions to ensure that the *Karanavan* did not abuse his powers by alienating the property of the *Tarawad*. His right of guardianship over all the members of the *Tarawad* was also restricted by the ‘de facto’ guardianship of the husband over the wife and children, granted by the Nair Regulation of 1912. The *Karanavan* still remained the ‘legal guardian’ of the juniors of his *Tarawad*, according to that Regulation. Part II and IV of the Nair Regulation (1912) recognize marriage, the relation as wife and husband and the consequential

⁷¹ Sri. P. Rajagopalachari, the Dewan of Travancore at this time, was known to be in favour of the Bill granting rights of partition to sub-lineages. The community at large was also in favour of the Bill. Opposition to the Bill came ironically enough from the four members nominated by the government. These, being ultra-conservative, stood four square against the measure, in spite of the general desire of the Nayar community, whom they were supposed to represent officially. Because of their stout opposition, the only possibility was either to reject the whole Bill or to by-pass the Clause on partition. Under these circumstances, the Dewan agreed to drop the Clause about partition of the *tarawad*. The Bill was originally meant for all *marumakkathayees*. The *Samanthans* (Kshatriyas) petitioned the government to exempt them from the purview of such a Bill and the government acceded to their request. The final Bill thus became applicable to Nayars only and hence is known as the Nair Regulation I of 1912.

rights against each other and the right of succession to the self-acquired or separate property of the husband or father. The maintenance of the wife and children is made the duty of the husband or father. The husband is given also the legal guardianship of his minor wife, and, the father is declared the legal guardian of his minor children, if they are maintained by him and live with him or are under his protection, but not if they are living in their *Tarawad*. But the guardianship did not extend to the right and interest of his wife and children in any properties to which they may be entitled, other than that given by him to the wife and children⁷².

For the next 10 years, Nayers agitated to amend the Nair Regulation of 1912 and to incorporate the provision for at least the *tavazhi* division of *Tarawad*, and the right to the self-acquisitions of the father, whatever be his community. There were, however, no unanimity among Nayers on this point. One section wanted only the *tavazhi* partition, while the other would not be satisfied with anything less than partition into individual shares. The latter stood for scrapping matriliney and introducing direct patriliney among Nayers. This party was agitating under the leadership of C.Krishna Pillay, who founded the *Samastha Karaleeya Nayar Samajam*. C.V. Raman Pillay, and his *Karaleeya Nayar Samajam* stood for moderation. *Tavazhi* division was all they wanted. The Nayar Service Society (N.S.S) sided with the former in the agitation. From 1920 to 1923 both parties organized many meetings all over the State to win adherents to their position. It may be said that the *Samastha Keraleeya Nayar Samajam* had a larger following and was

⁷² The whole tenor of the Regulation was not satisfactory to the majority of the Nayar community who wanted at least the partition of the *tarawad* into *tavazhis*. The more progressive among Nayers were asking for outright division into individual shares. The Regulation having left out the non-Nayar, especially the Nambutiri, husband from the purview of this law, on the plea of the personal law of the Nambutiris, the Nayar wife and children got no part even in the self-acquired properties of the Nambutiri father/husband.

able to carry its war into the enemy's camp. It happened at a meeting convened in Trivandrum (1920) by the *Keraleeya Nayar Samajam* for the express purpose of propagating their views, that M.N. Nair, belonging to the *Samastha Keraleeya Nair Samajam*, intervening in the proceedings, won a majority vote against the official resolution itself, though well-known leaders of their party spoke for the resolution. The meeting convened by the other party at Sasthamangalam (Trivandrum) for which delegates from all over Travancore were present unanimously passed a resolution in favour of individual partition and *makkathayam*, (Patriliny). Two Bills, one supporting *Marumakkathayam* and the other *Makkathayam*, were introduced in the Legislative Assembly in 1923 and on a compromise, one was to be withdrawn. It happened however that when the sponsor of the first Bill died, the sponsor of the alternative Bill was called upon to pilot it. The Bill was passed, and became the Nair Regulation II of 1925.

One of the main objects of the Regulation of 1925 was the partition in the *Marumakkathayam* Tarawad. The principles and rules of *Marumakkathayam* Law, accepted and followed in the country, are not abrogated or repealed, except to the extent expressly provided for in the Regulation. The Regulation not only makes provision for partition but departs radically in several important matters from the old Regulation. The amended Regulation makes the marriage tie more binding; and divorce is made practically impossible. Under the old Regulation, a man's self-acquisition was shared equally by his widow and children and his *tavazhi*. The amended Regulation gives the whole to the widow and children, reserving a share to his mother, if living. The widow and children of a non-Nayar dying intestate are given half of his self-acquisition, if the marriage was solemnized after the Regulation came into force, and, a quarter, if the marriage was subsisting on the date of the passing of

this Regulation. The provision for partition is *tavazhi* and individual partition combined. The *Karanavan* got the right to claim one-fourth of his acquisitions to the *Tarawad* at the time of partition⁷³. Throughout the whole Regulation, one may discern an attempt to change the system of inheritance from the *Marumakkathayam* to *Makkathayam*, and to pave the way for the formation of *Makkathayam* families. In this, the legislators have succeeded to a large extent. It was a bold attempt to break through the trammels of a worn-out and decaying system, an attempt which deserves all praise and honour, an attempt which was a great success. The revolution in ideas was brought about peaceably, to the lasting credit to the men who were chief actors in the field. It is invidious to pick and choose the names of the few among the many stalwarts, but certainly C.Krishna Pillay and Changanacherry Parameswaran Pillay deserve special mention.

With this Regulation, the impartibility of the *Tarawad* and its single management by the *Karanavan* were gone. The maintenance and guardianship of the wife and children were vested in the husband or father. Under the first Regulation, the husband got only a conditional 'de facto' guardianship of the wife. The new provision marked a change from the *Marumakkathayam* to *Makkathayam*. The joint interest of both the parents in the children strengthened the mutual bond. The guardianship, however, did not extend to the interest of the wife and children in the undivided *Tarawad* properties, over which the *Karanavan* was the recognized guardian. For the children of a female by a deceased or divorced husband, the *Karanavan* was also the legal guardian.

⁷³ The Cochin Nair Regulation 1926 has a provision that ¼ of the not realized income of a *tarward* is set apart for the *karanavan* upto a maximum of Rs.900/- which is deemed to be his self acquisition. The Madras *Marumakkathayam* Act had also the same affect.

The Regulation of 1925 gives to every adult member a right of individual partition, though with certain safeguards. The limitation and safeguards have been introduced with a view to the prevention of a too rapid disintegration of the *Tarawad*. In Clause 34, it is laid down that the consent of the lineal female ascendant is a pre-condition of partition. But if, (i) the female descendants of such a female ascendant (a) have no issue living or have only male issue, and (b) are past the child-bearing state, and (ii) if the majority of the adult members among her descendants consent to division; or (iii) if the female ascendant is past the child bearing age and has only adult male children, partition may be allowed⁷⁴.

The amended Nair Regulation, 1925, practically did away with nayar *Marumakkathayam* and introduced among the Nayars of Travancore a system which is in effect *Makkathayam*. The impartibility of the nayar *Tarawad* disappeared for good and with it also the *Karanavan*, its caretaker and protector. Along with *Karanavan's* exit, the cohesion of the *Marumakkathayam Tarawad* disappeared also. The Regulation envisaged no means for the increase of the *Tarawad* property, and foresaw that the successive partitions, *Tarawad* properties would cease altogether in 2—3 generations. *Tavazhi* is the basis for the division of the *Tarawad* property, which is a matrilineal feature. The acquisitions of the mother, her own earning, or property coming to her by bequest or gift is divided 'per stirpes' equally among the children. The *Tarawad* exogamy is still in tact. E.V.Krishna Pillay, in his autobiography says that nearly 100,000 partition deeds were registered in Travancore

⁷⁴ The division provided is a division *per capita* and not '*per stirpes*'. All the members of the *tarawad*, majors and minors at the time of the partition are counted and each is entitled to an 'aliquod' share in the *tarawad* properties. The *tavazhi* which has the largest number of children is the gainer. But since individual partition is created, the *tavazhi* may also break up, each member of the *tavazhi* demanding his or her separate share. The unborn child also gets a share. But until partition, no member of the *tarawad* shall be entitled to a definite, alienable or heritable share in the *tarawad* property.

since the Nair Regulation (1925) up to 1947. By the Madras *Marumakkathayam Act* (1933) nayars of British Malabar came to enjoy similar privileges as their counterparts in Travancore, but we find that individual partition spread less quickly in British Malabar. Once the right of claiming individual shares was granted, it was only a question of time for individuals to claim it.

The most outstanding feature in the constitution of a Malabar Nayar *tarawad* is that the system of kinship in which fathers are practically ignored and descent is reckoned through mothers. The civil law of the land takes cognisance only of relations on the female side. The constitutions of the *tarawad* or family of people living together is exceedingly complex. A mother and all her children, both male and female, all her grand-children by her daughters, all her brothers and sisters and the descendants on the sister's side, in short all the woman's relatives on the female side, however distant their relationship, live together in the same block of buildings, have a common table, enjoy all her property and share it after her death in common with one another. There are, at present, instances in the country of such *tarawad* with about two hundred members belonging to different branches and separated from one another by generations of descent yet all able to trace their descent from one common ancestress⁷⁵. When, by the constant addition of members to a *tarawad* it becomes too unwieldy to be governed and managed by one man, natural forces begin to work and bring about a division of it into various distinct *tarawad* which keep up the original traditions of their common descent but have no legal right to the property of one another. These partitions are often so arranged as to bring into separate *tarawad* closely related members who before belonged to one branch of the original constitution and the kindred sympathies of the members are thus placed on a better

⁷⁵ T.K.Gopal Panicker, *Malabar and its folk*, New Delhi, 1995, p.17
Ibid.p.18

and stronger basis of relationship. Over the whole of this group of members living in one *tarawad* the eldest male is by legal right appointed *Karanavan* or managing head; and on his death the next senior male member, to whatever branch of the family he may belong, succeeds to that office in preference to all others. Thus the joint property of the whole *tarawad* is kept under the control and management of the *Karanavan* who is legally responsible for its safe-keeping as well as for the education of its junior members and for all the necessities arising from its social status⁷⁶.

In addition to ceremonies related to marriage, *thirandu kallianam*, *pulikudi* there are great national festivals like Onam, Vishu, and Thiruvathira which were the occasions of manifestations and exposure of women in matrilineal society.

The Onam Festival

This important Malabar Festival is in commemoration of the reign of Mahabali which is believed to have been one uninterrupted period of peace, plenty and prosperity; and in fact the golden age of our national history. Theft robbery, murder and other crimes were altogether unknown as *may* be seen from the following couplet⁷⁷.

The national calm that prevailed was not, disturbed by any' acts of cruelty or oppression. The sanctity of contracts was fully realized. Honesty of purpose and probity of character were the dominant guides to every man's actions. In short men in

⁷⁶ Ibid, p 19.

⁷⁷ " *Maveli nadathu vazhum kalam
Kalla kkedilla kalavu milla,*"
which may be freely translated as follow.
"When Mahabali ruled the land
There was no theft nor dread of thief's."

those days lived in what has been called "a state of nature." This reign of nature was brought to a close by Vamana, the fifth incarnation of Vishnu, one of the members of our Divine Trinity. Mahabali was an Asura king against whom and whose prosperous reign the Devas entertained the deepest class-hatred and jealousy. With the object of putting an end to Mahabali's reign, the Devas repaired to Vishnu's presence and importuned him to adopt some means- to cripple the increasing prosperity of Mahabali. Vishnu readily acceded to the request and appeared as Vamana unto the king in all "the glory and freshness of his youth.' The king was so madly enamoured of this "gilded youth" that he resolved to welcome him at any cost. He asked the youth what he wanted; to which the boy replied that he wanted nothing more than three feet of earth. The demand was at once conceded; when the boy immediately assumed a gigantic figure and with his huge feet began to measure the earth. It was then found that the whole of the land measured three feet; and for the rest of the proffered earth Vamana trod upon Mahabali's head and pushed him down to the infernal regions'. But the popular outcry consequent upon Mahabali's deposition was so great that the ex-ruler it was eventually allowed to return to the earth once a year. The period of his visit was fixed for the Malayalam month of *Chingam* corresponding to about August or September ; and his stay in the country, short though it is, has ever since been celebrated as a grand national occasion which is now identified with the *Onam* Festivals. It is said that during the reign of Mahabali the whole year round was marked by pomp and revelry such was prevalent during the short period of the *Onam*. And the *Onam* festival forms the period during which Mahabali is supposed to re-visit the earth to see how the country prospers in his absence⁷⁸.

⁷⁸ T.K.Gopal Panicker, *Malabar and its Folk*, New Delhi, 1995, Pp 90-95

The festival lasts according to local variations for four, five or six days during which time feasting and games, mirth and jollity prevail. It concerns chiefly the male members, although females also, as a matter of course, enjoy the pleasantry and merry-making. The festival opens practically ten days before the *Thiruvonam* day when every family makes a point of beginning to keep the houses extra clean. A portion of the yard around the house and inside it is cleansed every morning with cow-dung water and elegantly beautified with the figures of certain birds, and animals made of flowers of varied colors strewn carefully in peculiar artistic fashions; so that the mornings look exceedingly bright and cheerful. On the opening day there is a small element of festivity universally indulged in. In some places the *Onam* begins two or three days before the *Thiruvonnm* day. But strictly speaking it commences only on the *Thiruvonum* day. The opening of the festival is marked by the distribution of clothes in the shape of presents by the heads of every respectable *tarawad* to the juniors and immediate relatives as well as to servants and workmen. The junior members also sometimes give presents to their relatives and hangers-on; but 'not to such an extent *as* in the case of *Karanavans* or heads of families. The people enjoy the merriment and revelry. They go about in the finest attire and in the neatest possible fashion. Images made of sticky clay of peculiar shapes with flower-branches stuck of the tops, are fashioned and kept in prominent places which are decorated with lines tastefully drawn along and about with water mixed with rice-flour and sanctified with a coating of cow-dung water, both inside and outside the house; and offerings of pooja are made to them both morning and evening by some one before the inmates begin to take their meals. This continues right up to the close of the festival. These images are called *Thrikkakarappan*; and they are introduced into the house on the day previous to the *Thiruvonam* day. After the dedication of these images a concourse of

people band themselves together and raise a peculiar rhythmic shouting cry; which practically proclaims the approach of *Onam*. The feasting all along is on a very grand scale; the essential element in it is *Nenthrapazhom* or banana, a plantain fruit almost indigenous to Malabar. They are taken and cut in twos and threes, and boiled in water and are eaten along with the various meals; the intervals between which also being sometimes closed up by fresh editions of plantain-eating. Both male and female members of the family sit together apart at meals. By mid-day the principal meal is over and then each one, goes his own way to participate in the out-door merry-making. Field games such as foot-ball matches, personal combats, games of chess, dice and curds, and dancing by females and music parties constitute the leading enjoyment from morning till evening. Foot-ball matches are different in detail to the corresponding European ones. A small stick is planted at a fixed spot, and people especially young lusty men resolve themselves into two rival camps and open the match. One party stands at the post, while the other stands a little away from it. The ball which is usually made of coir rope is propelled again with the palm of the hand towards the rival party who furiously scramble for it varying with each other to catch it and stop its onward career. This done, one of the members takes it in hand and aiming at the post throws the ball in its direction. If the ball hits the post or if any one member of the hostile rank catches the ball in its progress up through the air, but not when it has once touched the ground, then that particular player's turn is over. Then another man takes up the play and continues it; and when all the members" of the one party have had each his turn then the rival section begins the play exactly in the same manner and under the same rules as the previous section. The proceeds is continued

time after time and- then the whole lot of them together declare the issue of the match⁷⁹.

This process is then continued for sometime till the close of the day. The next kind goes by the name of *Attakalam*. This is essentially a boyish pastime though grown men also at time take part in it. A large circle is drawn on the plain sand floor and people are selected for each of the two sections from amongst the assemblage. One section is then placed in a collective body inside the circle, while the other stands around the outside. The latter then try, with of course as little personal injury to themselves as possible, to strike at and bring outside, the former who are inside, .each by each. In the interval between one outsider getting inside and touching the body of any one amongst the inside group the latter are allowed to beat and worry the antagonist. But the moment he touches the person of the inside man he obtains complete immunity from violence at the hands of the rest of the inside batch, But the person, who is caught is at liberty to strike him and struggle to prevent his being driven out. If he gets turned out then he is no more to remain inside; and when the whole of the inside section are thus driven out, the first batch has finished its turn and is then followed up by the other batch; and if anybody left inside who cannot be

⁷⁹ Combats are of two kinds, viz., those that are undertaken singly and those held in batches. In the first people of one locality divide themselves into two batches. When the match is opened the leader of one group sends forth one trained pugilist who paces along the intervening stretch of ground between the two groups shaking hands and challenging to meet in fair combat any one from the opposite camp. A little while after some one from the other party takes up the gauntlet and then after a few preliminary manœuvres the combat is begun. Every privilege and facility of a fair nature is afforded to the two-combatants. The issue of the fight is watched with eager concern by all interested spectators and the successful man is then deluged with presents of money and clothes by the rich and generous amongst the members.

driven out, his party is declared successful. Sometimes presents are given to the winners as tokens of appreciation of their training and strength⁸⁰.

The only other prominent item of enjoyment is dancing by young maidens. A number of these join together in a circular row at a pro-arranged spot and begin the dancing. There are many and varied. Some of them are isolated ones composed in pure Malayalam touching some specialized topic; while there-are some other and more dignified ones extracted from the dramatic literature of the country. Now standing in a ring without touching each other one member thereof opens the ball by reciting one couplet from one of these songs. She is then caught up by others is equally melodious and profuse strains. Then she sings the nest couplet and is then followed up by the rest of the party collectively and so on until the whole song is exhausted. Then another girl begins with another song which is similarly ended and so on the process goes. Thus the whole surrounding atmosphere of many a leading household is filled by the vociferous yet dulcet melody of charming choirs of lady singers adding to the jollity and attractiveness of the occasion all round.

Thus closes the *Onam* festival. On the last day the aforesaid clayey images are removed in the evening for which an auspicious day is selected, and the removal is symbolized by rhythmic shouting similar to that which marked it at the inauguration. The close of the festival is awaited with anxious solicitude by the people who when taking away these images on the closing day do so with special requests to them to come back again the next year.

⁸⁰ A kind of peculiar bow formed of a strong and slightly elastic wood with a small cord made of bamboo materials and attached-to-both ends of the bow by means of two knobs, which, when played on by means of a small stick produces a very dulcet musical tone is the familiar plaything for children. Sometimes they join together and organise a sort of bow party; and the pastime interests them deeply.

Then there is the tail-end of the Onam called *Pathinaram makam*. It comes off exactly on the sixteenth day from the Thiruvonam day when also the festivities of the Onam are indulged in to much the same extent as before.

The Vishu Festival

Vishu, like the *Onam* and the *Thiruvathira* Festivals, is a remarkable event amongst us. Its duration is limited to one day. The 1st of *Medom* (some day in April) is the unchangeable day on which it falls. Its origin is almost hopelessly obscured by time. It is practically the Astronomical New Year's Day and has many aspects in common with what is known as the *Holi*. This was one of the periods when in olden days the subjects of ruling princes or authorities in Malabar under whom their lots were cast, were expected to bring their New Year's offerings to such princes. Failure to comply with the said customary and time-consecrated demands was visited with royal displeasure resulting in manifold varieties of oppression. The British Government finding this was a great burden pressing rather heavily upon the people, obtained as far back as 1790, a binding promise from those Native Princes that such exactions of presents from the people should be discontinued thereafter. Consequently it was then shorn of much of its ancient sanctity and splendour. But suggestive survivals of the same are still to be found in the presents (explained further on) which tenants and dependants bring to leading families on the day previous to the Vishu, called Sankramam, and in some places on the morning of the *Vishu* day.. But such presents were no longer compulsory in nature, but only permissive with no unforceable penalty attaching to them.

Being thus the commencement of a New Year, native superstition surrounded it with a peculiar solemn importance. It is relieved that a man's whole prosperity-in

life depends upon the nature, auspicious or otherwise, of the first things that the happens to fix his eyes upon on this particular morning. According to Nair and even general Hindu Mythology there are certain objects which possess an inherent inauspicious character. For instance ashes, firewood, oil and a lot of similar objects are inauspicious ones which will render him who chances .to notice them first fare badly in life for the whole year, and their obnoxious effects will be removed only on his seeing holy things, such as, reigning princes oxen, cows, gold and such-like ones on the morning of the next New Year. Where as wholesome and favourable consequences can be produced by the sight of auspicious objects like those just enumerated. The effects of the sight of these various materials are said to apply even to the attainment of objects by a man starting on a special errand who happens for the first time to look at them after starting. However, with this view, almost every family religiously took to prepare the most sight-worthy objects on the New year morning. Therefore, on the previous night they "spare what is known, in native phraseology, as a *kant* small circular bell-metal vessel is taken and some holy objects are systematically arranged inside it. A *Grandha* or old book inside of *palmyra* leaves, a gold ornament, a new-washed clothe, some " unprofitably gay" flowers of the *Kant* tree, a measure of rice, a so-called looking glass made of bell-metal, and a few other things, are sill tastefully, arranged in the vessel and placed in a. prominent room inside the house⁸¹. The *Kani* is then taken round the place from house to house for the benefit of the poor families, which cannot afford to prepare such a costly adornment.

⁸¹ On either side of this vessel two brass or bell-metal lamps filled with cocoanut oil " clear as diamond sparks " are kept intensely burning and a until plank of wood or some other seat is placed in trunfc of it. At about 5 o'clock in the morning of the day some one who has got up first wakes up the inmates, both male and female, of the house and takes them blindfolded so that they may not gaze at anything else, to the seat near the *Kani*. The members are seated one after another in the seat and are then may not till then asked to open their eyes and carefully look at this *Kani*. Then each is made to look at some venerable, old grey-haired member of the house or sometimes a stranger even. This over, the little playful urchins of the house begin to fire small crackers which they have bought and stored or the occasion. For details see T.K.Gopal Panicker, Op-cit, Pp.98-99.

With the close of the carelessly confused, noise of the crackers the morning breaks and preparations are begun for this morning meal. This meal is in some parts confined to rice-kanji with a grand appendage of other eatable substances and in others to ordinary rice and its accompaniments, but in either case on grand scales.

Immediately the day dawns the heads of the families give to almost all the junior members and servants of the household and to wives and children, money-presents varying from 4 as to a rupee or two. Children preserve these presents to serve as their pocket money. In the more numerically large families similar presents are also made by the heads of particular branches of the same family to their juniors, children, wives and servants. These presents are intended *to* be the forerunners of incomes to them more splendid all the year round.

But one other item connected with the festival deserves mention. On the evening of the previous day, about four or five o'clock most well-to-do families distribute paddy or rice, as the case may be, in varying quantities with some other accessories to the family-workmen, whether they live on the family-estates or not, In return for this these labourers 'bring with them for presentation the fruits of their own labours such as vegetables of diverse sorts, cocoanut oil, jaggery, plantains, pumpkins, cucumbers, brinjals &c., in ways such as their respective circumstances might permit⁸².

With the close of the noon-meal the festival practically concludes, and nothing remains of it for the next day or for the same evening, for that matter. In some families after the noon-meals were over, dancing and games of various kinds were carried on, which contribute to the enhancement of the pleasantries incidental to the festival. As on other prominent occasions, card-playing and other games were also

⁸² See T.K.Gopal Panicker, Op.cit, p.102

resorted to. However, these enjoyments were only of an ephemeral character lasting for only a few hours or at most a day.

The Thiruvathira Festival

Thiruvathira is one of the three great national occasions of Malabar. It generally comes off in the Malayalam month of *Dhanu* (December or January) on the day called the *Thiruvathira* day. It is essentially a festival in which females are almost exclusively concerned and lasts for but a single day. It has got behind it a traditional antiquity stretching back to times almost out of mind. The popular conception of it is that it is in commemoration of the death of *Kamadevan*, the Cupid of our national mythology. As recorded in the old *Puranas*, *Kamadevan* was destroyed in the burning fire of the third eye of Siva, one of the chief members of our Divine Trinity. Hence he is now supposed as having only an ideal or rather spiritual existence, and thus he exerts a powerful influence upon the lower passions of human nature. The memory of this unhappy tragedy is still kept alive amongst us, particularly the female section, by means of the annual celebration of this important festival. About a week before the day, the festival practically opens. At about 4 in the morning every young female member of Nair families with pretensions to decency, gets out of her bed and takes her bath in a tank. Usually, a fairly large number of these young ladies collect themselves in the tank for the purpose. Then all or almost all of these plunge in the water and begin to take part in the singing that is presently to follow. One of these then leads off by means of a peculiar rhythmic song chiefly pertaining to Cupid. This singing is simultaneously accompanied by a curious sound produced with her hand on the water. The palm of the left hand is closed and kept immediately underneath the surface of the water. Then the palm of the other is forcibly brought down in a slanting direction and struck against its surface. So that the water is

completely ruffled and is splashed in all directions producing a loud deep noise. This process is continuously prolonged together with the singing. One stanza is now over along with the sound and then the leader stops awhile for the others to follow her in her wake. This being likewise over, she caps her first stanza, with another at the same time beating on the water and so on until the conclusion of the song. Then all of them make a long pause and then begin another. The process goes on until the peep of dawn when they rub themselves dry and come home to dress themselves in the neatest and grandest possible attire. They also darken the fringes of their eyelids with a sticky preparation of soot mixed up with a little oil or ghee; and sometimes with a superficial coating of antimony powder. They also wear white, black, or red marks lower down the middle of their foreheads close to the part where the two eyebrows near one another. They also chew *betel* and thus redden their mouths and lips. Then they proceed to the enjoyment of another prominent item of pleasure *vis.*, swinging to and fro, on what is usually known as an *Uzhinjal*. A long bamboo piece is taken and rent asunder from the root end of it leaving the other end whole and untouched. Then two holes are bored, one on the cut end of each one of the two parts into which the bamboo is split. Now another but a small piece of the same material about a yard in length is divided along the grain into two equal parts. One of these is taken and its both ends are cut into points which are thrust into the two holes of the long bamboo pieces spoken of before⁸³.

⁸³ This is securely nailed and strongly attached to the long bamboo; which is then hung by means of a very tight strong rope to a strong horizontal branch of a neighbouring tree. Then the player seats herself on the small piece attached between the split portions which are firmly held by her two hands; and then the whole thing is propelled a main by some one from behind. These ladies especially derive immense pleasure from this process of swinging backwards and forwards, sometimes very wide apart so as to reach the other and higher branches of the tree. Nevertheless, accidents are few and far between. This as well as the songs and early bath all close on the festival day when still greater care and scrupulousness are bestowed upon the various elements of enjoyments. See T.K.Gopal Panicker, *Op-cit*, Pp.103-107

On the festival day after the morning bath is over, they take a light chota and in the noon the family-dinner is voraciously attacked; the essential and almost universal ingredients of which being ordinary ripe plantain fruits and a delicious preparation of arrow-root powder purified and mixed with *jaggery* or sugar and also cocoanut. Then till evening dancing and merry-making are ceaselessly indulged in. The husband population are inexcusably required to be present in the wives houses before evening as they are bound to do on the *Onam* and *Vishu* occasions; failure to-do which is looked upon as a step or rather the first step on the part of the defaulting husband towards a final separation or divorce from the wife. Despite the rigour of the bleak December season during which commonly the festival falls, heightened inevitably by the constant blowing of the cold east wind upon their moistened frames, these lusty maidens derive considerable pleasure from their early baths and their frolics in water. The biting cold of the season which makes their persons shiver and quiver like aspen-leaves before the breeze, becomes to them in the midst of all their ecstatic; frolics an additional source of pleasure. In short, all these merely tend to brace them up to an extent the like of which they can scarcely find anywhere else. Thus at this stated season of the year the morning holds are invariably filled with the melodious warblings of certain indigenous birds diversified by the sweet cheering songs of our country maidens and constantly disturbed by the rough crowing of the domestic Cock; all of which drag their pleasing length along until the morning dawns upon them and bathes them in the crimson effulgence of the orb of day, driving off the country's face the mist of night which enveloped them in its hazy cover; thus forming the signal for the party to retire to their accustomed abodes for the day's festivities⁸⁴.

⁸⁴ Ibid

The two items described above viz., the swinging process and the beating on the water, have each its own distinctive significance. The former typifies the attempt which these-maidens make in order to hang themselves on these instruments and destroy their lives in consequence of the lamented demise of their sexual deity, *Kamadevan*. It is but natural that depth of sorrow will lead men to extreme courses of action. The beating on the water symbolizes their beating their chests in expression of their deep-felt sorrow caused by their Cupid's death. Such in brief is the description of a Nair festival which plays a conspicuous part in the social history of Malabar. Naturally enough, while within the Christians fold the festive pleasantries and mirth of the Christmas season are going their jolly round, within the limited circle of the Nair society a mournful occasion which time had completely altered into one of mirth, constitutes one of the best enjoyments of their national life.

Cock Festival at Cranganore

Cranganore is a little sea-port town in the Native State of Cochin. It is bounded on the west by the Arabian Sea, and on the east by a back-water, from which branches a small rivulet which joins the sea running by the south of the town, The western border of this backwater bulges out to a little distance, leaving only a small strip of land to connect the town on the northern side with the mainland; thus, on the whole, giving to the place an almost peninsular character. It is a historic town, with an antiquity stretching back to the beginnings of the Christian era. A Syrian Christian is said to have been founded in the mild amusements of this rural retreat during the Eastern Mission of St. Thomas the Apostle. Whatever value may be attached to this account which is, at best, only traditional, there are associations which have clustered round the town such as would be interesting to the antiquarian. Here are still to be

found the remnants of an old dilapidated fortress which admittedly belonged to the days of the Dutch on their first appearance on the west coast of India. Its inhabitants are a peaceful and law-abiding class. Abundance of green fields and luxuriant vegetation lends additional charm to the historic town. The weary traveler finds recreation in the genial puffs of wind which blow gently westward from the backwater, mingling with the bracing breeze which, at sunset, springs up from the sea. The midnight slumber of this lovely place is only disturbed by the solemn moan of the bar, and the rhythmic splash of the boatman's oar as he ploughs his venturesome boat through the classic waters of the river. Such are some of the elements of interest attaching to this blessed retreat.

In the midst of its native charms is situated a temple dedicated to Kali, the goddess who presides over the infectious diseases, cholera and small-pox. She is a virgin goddess whom no quantity of blood will satisfy. The temple is an old-fashioned one, presenting no striking architectural peculiarities. The priestly classes attached to it are not, as usual, Brahmins, but a peculiar sect called *Adigals*, of whom there are but three families in the whole of Malabar. The Brahmins are purposely excluded from participation in the *poojah* ceremonies, lest their extra sanctity might increase the powers of the goddess to a dangerous extent. Poojahs are daily offered to her.

An annual festival known as the Bharani connected with this goddess play a most important part in the religious history of Malabar. It comes off in the Malayalam month of *Meenam* (about March or April). Pilgrimages undertaken to the temple on this occasion are potent enough to safeguard the pilgrims and their friends and relations from the perilous attacks of cholera and small-pox. Hence people resort thither annually by the thousands from almost all parts of Malabar; and the more north

you go the stronger will you find the hold which the goddess has upon the popular imagination. The chief propitiatory offering on the occasion is the sacrifice of cocks. In fact, every family-makes a point of undertaking this sacred mission. People arrange to start on it at an auspicious moment on a fixed day in small isolated bodies. Of course/all the necessaries they take care to carry about their persons. Preparations are made for the journey. Rice, salt, chillies, curry-stuffs, betel-leaves and nuts, a little turmeric powder and pepper, and, above all a number of cocks form an almost complete paraphernalia of the pilgrimage. These are all gathered and preserved in separate bundles, inside a large, bag. When the appointed hour comes they throw this bag on their shoulders, conceal their money in their girdles, and with a native-fashioned umbrella in the one hand and a walking-stick in the other they start each from his own house to meet the brother-pilgrims at the rendezvous.

Here a foreman is selected practically by common consent.

Then commences the vociferous recitation of that series of obscene songs and ballads which characterizes the pilgrimage all along. The foreman it is that opens the ball. He is caught up by others in equally loud and profuse strains. This is continued right up till the beginning of their homeward journey. Nobody whom they come across on the way can successfully escape the coarse language of these religious zealots. Even women are not spared. Perhaps it is in their case that the pilgrims wax all the more eloquently vulgar. A number of cock-feathers are stuck or tied upon the tip of a stick, and with this as a wand they begin to dance and pipe in a set style which is extremely revolting to-every sense of decency. ,

Some of the pilgrims walk out all the distance down to the temple, while others go by boat or some other common conveyances; but in neither case do they

design to spare any passer-by. They usually cook their own meals oil the way; which consist of the ordinary rice preparations and plenty of fish and flesh. Hundreds of gallons of *arrack and toddy* are consumed during the festivals. In short one can hardly find a single sober pilgrim during their continuance. The pilgrims reach the temple in their dirty attire. Their very words smell strongly of its mixture of arrack and undigested animal food. They bathe and have their meals again. The temple premises are crowded to overflowing. The worship of the goddess is then commenced. The offerings consist of the sacrifice of cocks at the temple-altar, turmeric powder, but principally of pepper, as also some other objects of lesser importance. A particular spot inside the temple is set apart for the distribution of what is called *manjalprasadam* (turmeric powder on which divine blessings have been invoked). The work of doling it out is done by young maidens who are also during the process subjected to ceaseless volleys of vile and vulgar, abuses. With surely stoical endurance; they submit to attend to their work.

These out are the minor ceremonies, and the principal one, is the sacrifice of cocks.

The popular idea is, the greater the number of cocks sacrificed, the greater is the efficacy of the pilgrimage. Hence men vie with one another in the number of cocks that they carry on the journey. When the sacrifice is begins, and then there is a regular scramble for the sanctified spot reserved for this butchering ceremony. One man holds a cock by the trunk and another pulls out its neck by the head, and in the twinkling of eye, by the intervention of a sharpened knife, the head is severed from the trunk. The blood then gushes forth in forceful and continuous jets. Which is poured directly on a granite piece specially reserved. Then another is similarly

slaughtered, and then as many as each of the pilgrims can bring. The same process of butchering is also taken up by thousands of others and in no length of time the whole of the temple-yard is converted into one horrible expanse of blood, rendering it too slippery to be safely walked over. The piteous cries and death-throes of the poor devoted creatures greatly intensify the horror of the scene. The stench emanating from the blood mixing with the nauseating smell of arrack renders the occasion all the more revolting.

On other higher and more acceptable kind of offering requires more than a passing mention. When a man is taken ill of any infectious disease, his relations generally pray to this goddess for his recovery, solemnly pledging to perform what goes by the name of a *Thulabharam* ceremony⁸⁵.

The usual offerings being over, the homeward journey of the pilgrims takes place. But in the meanwhile one remarkable feature remains to be noticed. Though the festival is called *Bharani*, yet all the pilgrims must vacate the temple on the day previous to the *Bharani* day; for, from that day on wards the temple-doors are all shut up, and for the next seven days the whole place is given over to the worst depredations of the countless demons over whom this blood-thirsty goddess holds sway. No human beings can safely remain there lest they might become prey to these ravenous demons. In short, the *Bharani* day inaugurates a reign of terror in the locality, lasting for these seven days. After-wards all the dirt is removed. The temple is cleansed and sanctified, and again left open to public worship.

⁸⁵ This is more commonly performed during the *Bharani*, festivals, and I dare say at other seasons of the year like-wise. The process consists in placing the patient in one of the scale-pans of a huge balance and weighing him against gold or more generally pepper (and sometimes other substances as well) deposited in the other scale-pan. Then this weight of the substance is offered to the goddess. This is to be performed right -in front of the goddess in the temple yard.

The pilgrims return, but certainly not in the same manner" in which they repaired thither. During the backward journey no obscene songs or expressions are indulged in. They are to come back quietly and calmly without any kind of demonstrations. They get back to their respective homes and distribute the sandal paste and other pujah substances to their relations and friends who have elected to remain at home; and the year's pilgrimage is brought to a close.

Relics of polygamy are still preserved amongst the Nayars and polyandry may be said to be in practice in a modified form and in exceptional instances. In tracing the various stages of marriage McLennan makes mention of two forms of polyandry, viz, that which obtains amongst the Nayars where the husbands are strangers to each other and that in which obtains amongst the Nayars where the husbands are brothers. This statement requires to be corrected and modified. Though in ancient times polyandry must have been prevalent amongst the Nayars, it has for a long time ceased to be a recognized feature of Nair life. The forms of polyandry now obtaining are exceptional and sporadic". Forms of the first kind of polyandry viz., that in which the husbands are strangers are found in some places not yet brought under the influences of civilization; and those of the second in which the husbands are brothers obtain amongst the barber classes, who are themselves Nayars but who have fallen from their social estate by the degrading nature of their profession viz., shaving. Such instances are common enough. But polyandry obtains amongst the Nayars proper only in very rare cases and in particular localities. Such forms also obtain amongst the *Tiyya* classes and there is not social stain attached to this custom amongst either these *barbers* of *Tiyyas*. With regard to polygamy it has been noticed that it still prevails amongst the Nayars, and the want to legislative restrictions among them lends decided

support to its continuance. Exogamy is rigidly enforced. As I have already pointed out, no man is allowed to marry girl from among the members of his own clan for fear of social excommunication. But this strictness in the matter of Exogamy, seems to be due, not as McLennan thinks, to the scarcity of women, nor to female infanticide but, as Tylor conjectures, to an innate sense of the physiological evils of ill-breeding.

In speaking of household ceremonies we have dwelt at some length upon what may reasonably be styled ancestor-worship. Dead ancestors are deified and offerings are in some families made to their spirits; and sometimes even idols are set up for them to be worshipped as the abode of the deities. We are not however prepared to maintain that this a universal practice amongst the Nayars. But in certain *tarawad* it undoubtedly prevails. Besides ancestor-worship, animal-worship, tree-worship devil-worship and serpent-worship are not uncommon.

Certain aspects of our social life are of importance from a juristic point of view. They throw light upon a question of Comparative jurisprudence about which the great jurist Sir.H.Maine allowed himself to be drawn away into an apparent blunder. He maintained that the patriarchal system was the primitive and earliest stage in the development of the family and that all others obtaining at the present day are but developments from this system⁸⁶.

⁸⁶ This theory found universal acceptance with jurists until the publication of McLennan's Primitive Marriage and Prof.Bachoofer's Mutterrecht effectually showed it to be wrong. In the former work it was evidence chiefly collected from Australia and aboriginal America, proving the existence there of organizations in which succession is regulated through the female side and fathers are looked upon as insignificant elements in the progress of society which helped to dissipate the error. Now it has been shown that the system of kinship which obtains in the Nair families (the same is the case with the families of some other castes) is also one in which the fathers are practically ignored and descent is reckoned through mothers. And further there has been no period in the history of Malabar when a system of kinship obtained amongst the Nayars which makes the smallest approach to Maine's patriarchal system.

Marital Relations – Talikettu Kallyanam and Sambandham

Nayars gained prominence as a result of the attention that has been paid to their customs not only by the travellers but also by the administrators. Their accounts are replete with descriptions of these customs like *talikettu-kallyanam*, *Sambandham* and *Marumakkathayam*. These descriptions of their unusual customs created an interest among anthropologists and sociologists about them⁸⁷. The 1901 census of India talks of 3 types of husbands in the west coast. “Those who merely tie the tali and have nothing to do with the girl thereafter, those who are married by the *Sambandham* or cloth giving ceremony and those who are wedded by the rites.

Forbes in his accounts wrote thus, “Among the nayars wife is common to many husbands who co-habit with her by turns, during this temporary arrangement the arms of the inmate are placed over the door of the houses to prevent the intrusion of another husband⁸⁸.

Marriage as now existing-Legal recognition

The matriarchal family of Malabar has yet to evolve itself into the patriarchal family of the rest of civilised world and the first step towards that will be the institution of lawful marriage as part of the social system. Not that marriage, as a duly recognised social institution, does not exist in the Nair society at present. “Marriage, that is to say, a sexual association regulated by generally admitted

⁸⁷ According to Barbosa, talikettu kallyanam the first rites, which a woman undergoes is held when the girls are around 12 years. The tali tier is either a kinsman or a great friend of the family...

⁸⁸ James Forbes Oriental Memoirs, A narrative of seventeen years of residence in India 2nd edition. Vol.I London 1834. P.247.

convention”, has existed among Nairs now for at least a thousand years⁸⁹, in spite of the polyandrous customs that linger here and there. As observed by Westermarck, a lawful marriage is, indeed, quite a different thing from a marriage in the history sense of the term. The former which is contracted under the formalities and in accordance with the stipulations prescribed by the written or unwritten laws of the country, implies the recognition by society both of the validity of the union and the legitimacy of the children⁹⁰. In fact, what is sought for, is that the state should recognise as legal and valid the customary forms long recognised by society by which the relationship of husband and wife is created in the Nair community. Marriage in the Nair community will then become to be recognised and treated as a contract, the keeping of which is superintended by the state, and which may be dissolved only under certain stipulated conditions.

There can be no doubt that there is a growing sense in the community that the form of marriage known as *Sambandham*, now recognised as valid by the society, should also receive legal recognition. While among the one thousand and twenty one witness orally examined by the Committee a few-every few-only would prefer to leave things in their is a larger number who think that social recognition would be enough. There is, however, a very large majority who desire that the legislature should step in to regulate the social marriage by law so that there may be no scope for outsiders to point the finger of scorn at the Malayalees. The natural feeling for one's wife and children has developed to a large extent. There was a growing sense of the family the as between father and children. The rule was, that the union of man and woman lasts for life. Divorces are extremely rare. Respectable people discountenance polygamy and view the practice as altogether immoral, conjugal fidelity and self

⁸⁹ XX T. L.R. op-cit, Page 69

⁹⁰ Westermarck, op-cit, page 429.

sacrifice are generally admitted excellences in the Nair women of the country. In the South and in most parts of Central Travancore, the wife always lives with the husband, and in the North, the practice is becoming general. The children observe death pollution for the father, perform his funeral obsequies, observe *diksha* and continue to perform annual *sraddha*. The father makes ample provision during his life-time by what is known in this country as *Ishtadanam* gifts inter vivos and where he has failed to do so his *tarawad* makes provision for the widow and orphans. A species of properties known as *puthravakasom* or son's rights has sprung into existence. Thus it is clear that public opinion in the Nair community has been educated and brought up to the standard of requirements of modern civilisation. The promiscuity of savagery has passed into the polyandry of barbarism into the monogamy of civilisation. The sum total of all the evidence given before the committee shows distinctly that a marriage law in Travancore would simply legalise what is already the prevailing custom.

CHAPTER IV

CORPORATE LAND OWNING UNITS

The economic, relations agrarian and commercial relations which strengthened the matrilineal family structures evolved out of the basic production units of the earlier tribal setting. The ownership was held jointly by all the members of the family and the progenies of all females had membership in the family called the *tarawad*. These *tarawad* were the basic landowning units in the society and with the progress of times started gathering many complexities in their functional content. When the expansion of agriculture witnessed sub-infeudations and replications, many of the operational progresses assumed ritualistic connotations. These family units were also influenced by the subsequent political, marital, commercial and colonial institutions that emerged in the region. This chapter delineates the evolution of the kinship-based economic networks that got established within the framework of the matrifocal families. In the analysis we are indebted profusely to the word pictures and episodes projected in *Vadakkan Pattukal*.

An attempt is made here to trace the evolution of the land rights in Kerala through the ages. Such an attempt is made with a view to look at the emergence of the class of intermediary functionaries who later on are identified as forming the nayar caste. An attempt is made to place the *tarawad* in a historical context to understand what the *tarawad* meant to the people of the locality and how the *tarawad* exerted its influence on the people through the various institutions attached to it¹.

¹ Susan Thomas, *Property Relations and Family Forms in Colonial Kerala*, Unpublished Ph.D Thesis, M.G.University, Kottayam, 2002, p.37

The first reference to a Brahmadaia village comes by the 4th A.D. in the Pullankurichi Rock inscription. Prof.MGS Narayanan and Kesavan Veluthat have suggested that the epigraphic records of the 9th, 10th and 11th centuries show the changing nature of Brahmin village councils. These councils received donations in the form of land and gold not only from chieftains and princess but also from merchants, Brahmins, devadasis and others. Some of the members of the council surrendered their *brahmaswam* property to the temple. Gold was invested in land that was then leased out to tenants on liberal terms. These transactions made Brahmin *uralars* of the settlements, the biggest landlords in Kerala in their corporate capacity.

In the socio-economic hierarchy, the *uralars* was at the top. They had the proprietary right over the *Ur* (the *Uranmai*). Below them came the leaseholders or the *karalars* who held the *karanmai* or the right of cultivation². Then came the right of artisan-cum-craftsmen groups called the *kutimai*. At the bottom came the primary producers or the actual cultivators with the *atimai* right. These were the *pulayas* and the agrarian labourers of the society³. Thus the vast amount of land gave the *Uralar* with great authority over the tenants. The skilful blending of the sense of obligation to the landlord and devotion to the deity certainly made the lord-tenant relationship doubly strong and secure. Setting down conditions of tenancy with punitive clauses reinforced by priestly implications illustrate the degree to which the alliance between rulers and priests tightened feudal ties of dependence. It is also possible that the traditional Nayar militia of the Middle Ages in Kerala came to be recruited largely from these tenants of the temple. To avoid complications it was often prescribed that members of the council or their close relatives were unwelcome as tenants of the temple. That the members of the *Sabha* at Avittattur and Sukapuram were prohibited

² *Kar* means produce-see K.N.Ganesh, *Keralathinte Innalakai* (mal) Tvm, 1997, p.37

³ Dr.Rajan Gurukkal, *Kerala Temple and the early Medieval Agrarian System*, Sukapuram, 1992,p.67.

from counting alliance with the women of the tenants implies the existence of clandestine Brahmin-Sudra relations inspite of Orthodox Brahmin sentiment and strictures in Dharmasastra literature.

Thus two aspects of the relations between Nambuthiris and Nayars can be seen which later becomes deeply embedded in the Kerala society. Thus the secret of Successful development of settlements in Kerala lay partly in the good relations they established with the tenant class and the close contact through *Sambandham*. The confidence generated among the non-Brahmin population of tenants, coupled with the support of political authority, ensured peace and material prosperity for the Brahmin settlers⁴. In due course the association of the Nayars which began in agriculture as leaseholders and in conjugal relations through *Sambandham* enhanced the socio-economic status of the former.

Nayars emerged as the next most important caste to the Nambuthiris after the *antralajati* or those who were employed in the temples. The inscriptions of the period mention bodies like the *Ayiram* (Thousand) *Arunurruvar*, *Onnu Kurai Ayiram*, *Patinayiram*, *Arunnurravar* etc. They were in charge of not only the protection of the rulers but were also the law and order institutions of the community. For service rendered, they were paid in the form of land grants and could raise tax called *irai*, non-payment of which could lead to obstruction of cultivation by *koyil-manuccar* (king servants) as seen from the Tirunelli Copper plate⁵. By now they were called *chavers* or suicide squads who vowed to protect the person of the rulers⁶. They were

⁴ K.N.Ganesh, Op-cit, p.422

⁵ M.G.S.Narayanan, *Perumals of Kerala, Kozhikode*, 1996, p.113

⁶ K.N.Ganesh, *Structure of Political Authority in Medieval Kerala, in perspectives on Kerala History*, Tvm, p.227 also see K.N.Ganesh *Keralathinte Innalakai* Op-cit, p.54

the fighting forces under the *natuvazhis* of the region that had as dependents their *canagar* groups.

Rise of Natuvazhi Swarupams

By the first quarter of the 12th century the Perumal was no longer mentioned. Instead we hear of different *natus*. *Natus* and *Natuvazhis* had become more powerful after the breakdown of the Perumal regime. Some of the *natuvazhis* soon rose to the position of *swarupam* (Kolladu Nedumangadu) or were able to establish their independent status while remaining under the *natuvazhis* (Mangattu Achan, Timayanchera Elayattu) or as prominent Nayar families of the area (Kavalappara Nayar, Karappurathe Madampi). The *Natuvazhis* under the various groups of *nurruvar* (hundreds) functioned as companions of honour and wielded local authority. The *natuvazhi* was in charge of law and order in the *natu* and he collected *rakshabhoga* in the form of various dues. The *natuvazhis* belonged to the Nayar community and was called as *Raja*, *Accha*, *Kaimal* or merely Nayar⁷.

This period also saw the emergence of *swarupam* which later became the lineage of *natuvazhis*. The two powerful arms of the political authority of the *swarupams* were the Brahmins who exercised ritual power over the people and the non-Brahmins who exercised military and administrative powers, the latter evolving into the Nayar caste. The *swarupi* Nayar served the ruler in various capacities from minister, collector of dues, accountant and army commanders. They commanded large areas of land and a number of tenant cultivators and were thus able to provide the ruler with resources. The other service that they provided was that of militia called

⁷ M.S.A Rao, *Social Change in Malabar*, Op-cit, p.185

Akampadikkar or *janmam*⁸. This was also a period of expansion of agriculture and the Brahmin settlements started spreading their authority over these newly cultivated areas. Bringing new lands under plough cultivated areas. This is also meant the transformation of major chunks of tribal population into peasants. Land grants were assigned to minor chiefs by way of service tenure, and this resulted in their exercising military administrative and judicial control over it. A large number of Nayar *samanta* chiefs arose during this period like Nayanars, Nambiars, Moopil Nayar, Achan, Tampans, Menons, Kurups, Panikkarss, Kaimals and the like. They were all big landlords with some military pretensions. Enjoying control over large amount of land and people and ready to wield swords, they had all the features of feudal nobility and in the peripheral areas the real authority was in their hands. They further encouraged the agricultural expansion leading to strengthening of their position at the cost of major powers⁹. Another reason for the emergence of these people was in the lineage system. The *swarupam* soon became fragmented into different *tavazhis* and soon feuds arose among them as succession was according to muppil lineage system and there were frequent quarrels in which these retainers took sides. Hence every member of the family and major *swarupi* chiefs maintained their own service system—*Karyakkar*, accountants and militia leading to increasing militarization and segmentation of political authority.

By the end of the 12th century the organizations of the Hundred seems to have given way to the *cangatams* or *kaval cangatams* who were entitled to receive a share of production as *rakshabhogam* or *kaval panam*¹⁰. By the beginning of 12th century

⁸The *swarupams* usually brought them along to the new areas in which they settled to bring it under their control. For more details see K.N.Ganesh, Structure of Political Authority in Medieval Kerala, in P.J.Cheriyann, ed., *Perspectives on Kerala History*, Tvm, 1999, Pp226-227

⁹ Kesavan Veluthat, *Political Forms* in Ibid, Pp.73-74

¹⁰ M.G.S.Narayanan, ed., *Vanjeri Grandavari*, Calicut, 1987.

almost the entire land of Kerala had come under the control of Nambuthiris. They controlled temple administration and temple property. Temples fulfilled the role of today's schools, teaching rooms, religious centres, cinema houses, theatres, parks and even brothels¹¹.

It is enough for our present purpose to observe that a major part of the land came under the control of the Nambuthiris by the 12th century and that exemption from taxation helped them to further consolidate their position during the subsequent period. Ranked the highest in caste hierarchy and in ritual status and regarded as repository of Vedic knowledge and scholars of Sanskrit, their authority was supreme in all religious matters. Probably at the initial stage they also had some technical expertise like the knowledge of the calendar and ability to forecast weather cycles¹². They were “the holiest of human beings, representatives of God on earth”, whose person and property were sacred. They also wielded considerable political influence and acted as neutral channels of communication between various chieftains. Enjoying immunity from the normal processes of law, they were subject only to the authority of the head of their own community¹³.

The influence of the Nambudiri value system and of their material position is best reflected in the marriage system and law of inheritance. The Nambudiris followed patriliney and primogeniture with only the eldest son being allowed to marry within the caste, which was obviously intended to preserve the family property intact. The younger sons established liaisons, known as *Sambandham*, with matrilineal Nayar women which were not regarded as marriages by the Nambuthiris, though the

¹¹ Elamkulam P.N.Kunjan Pillai, *Studies in Kerala History*, Kottayam, 1970, p.332.

¹² D.D.Kosambi, 'Basis of Ancient Indian History' *Journal of American Oriental Society*, 1955, p.36

¹³ Francis Buchanan, *A Journey from Madras through the Countries of Mysore, Canara and Malabar*, II London, 1807, p.425

Nayars matriliney and Nambudiri primogeniture denied to the offsprings of these alliances any share in their father's property even for their daily needs. Reinforcing this was the popular belief that accepting *brahmaswam* (Brahmin property) was a great sin. Thus the *Sambandham* system met the sexual needs of the Nambuthiris without any obligation on their part.

It is generally accepted that the *Sambandham* system came into vogue only after the arrival of the Brahmins, prior to which the Nayars followed communal or group marriages. Did its origin represent the stage of transition from group marriages to separate marriages and did ecological and agrarian factors necessitate this change? Was it that the Brahmins, who had migrated to Kerala in the period when this transition was taking place, became a part of this system in the absence of enough women with them as well as due to the immediate need of preserving their family property from disintegration? Whatever its origin, during the post-twelfth century period, the Nambuthiris, aided by their control of land and a value system based on their scriptural knowledge and spiritual powers, succeeded in rationalising it as the ideal marital arrangement for the Nayars, but it was in reality a system of privileges for themselves.

The Nayar acceptance of Nambudiri privileges as a social deal was the result of the latter's ideological hegemony and control of land. The sexual morality of the Nayars, as laid down by the Nambuthiris, did not emphasize chastity as a virtue. According to *Keralolpathi*, for instance, the duty of Nayar women was to satisfy the desires of the Brahmins. Quoting *Smritis*, Ashtamurthi Nambudiri told the marriage commission that "if a Brahmin wished to have sexual intercourse with a Sudra's wife,

the Sudra would be bound to gratify the wish¹⁴. Apart from this religious rationale, the Brahmanic traditions propounded the idea that the Nambuthiris, living in accordance with Vedic rites, were the ideal sexual partners from whom alone brave and intelligent progeny could be conceived. Buchanan observed in 1800 that “they were the most favoured lovers, the young women of rank and beauty seldom admitting any person to bed, but a Brahmin, and more especially a Nambudiri”.¹⁵ The ideological influence was so strong that the privileges of the Nambuthiris arising out of their social dominance were perceived by the Nayars as a matter of prestige and privilege for themselves. Where ideology failed, the Nambuthiris had their material position to fall back upon.

Being landlords with absolute proprietary rights, they could assign lands to the families of women whose favours they sought, or in the event of refusal, cancel the assignment if one already existed¹⁶. Mencher and Goldberg have noticed cases where a Nambudiri took a fancy for a pretty Nayar girl whose family held land on some form of subsidiary tenure from his *illom*, and was able to force her to become his mistress, even if she was already married and devoted to her Nayar husband. Thus the traditional pattern of family organization, the system of marriage and the law of inheritance of the Nayars were closely linked with the nature of land relations and the over-riding influence of the values and ideology of the Nambuthiris. European trading activities considerably altered the pattern of traditional property relations and the

¹⁴ Malabar Marriage Commission Report (M.M.C.R) 1891, p.11

¹⁵ Buchanan, Op cit, p-426

¹⁶ “If a Nambudiri takes fancy” wrote a correspondent in *Kerala Sanchari*”, for a girl in the family of any of his unhappy tenants and is not allowed to have her as his concubine, the consequences to the tenant are disastrous. He will either be ejected from his holdings or his lands put on *melchart* (overlease) Madras Native Newspaper Report. *Kerala Sanchari* 27 May 1876). Mencher and Goldberg, ‘Kinship and Marriage Regulations’, Nambudiri Land Lords successfully use their influence that their wealth and position in Malabar give them to seduce Nayar women, Memorandum of O.Chandumenon, MMCR, P.10.

related ideological system, expansion of trade and the emergence of new urban centres. More important factors of social significance were the extension of commercial agriculture, the expansion of money economy, and the increasing use of cash transactions especially by the aristocratic elements in villages¹⁷. These paved the way for major changes in the traditional agrarian structure and relations the full impact of which, however, was felt only after the British conquest of Malabar in 1792.

The traditional agrarian structure was based on a three-tier relationship between *Janmis* (landlords), *Kanakkar* (tenants) and *Verumpattakkar* (sub-tenants). Nambuthiris lived on rent received from their tenants, mostly Nayers to whom they leased out or mortgaged their lands. Most of the Nayers, who were military retainers of feudal chieftains, also did not cultivate on their lands. They sub-leased the lands to Nayers of inferior economic position and to untouchable castes like Tiyyas or to Mappilas, extracting obviously, a higher rent from them. The customarily enforceable three-tier hierarchical relationship crystallized only during the post fifteenth century period under the immediate impact of money economy and greater occupational mobility. In the traditional system, the net produce of land was shared equally by Janmis, Kanakkar, and actual cultivators. If Logan's opinion about the role of Kanakkar is true, the distribution of surplus was based on the principle of mutual dependence within the framework of feudal exploitation. But certain erosion of this monopoly, both of *janmam* and of *kanam*, was taking place during the post 1500 period, Thomas Warden noted in 1801¹⁸.

¹⁷ K.M.Panicker, *Malabar and Portuguese*, Bombay, 1924, Pp 58, 206-208

¹⁸ "The Nambudiris are the principal landholders of the country. The lands which belong not to Nambudiris are either the property of the pagodas, rajahs or *naduwazhis*. There are ryots who have become by purchase the rightful owners of landed property, but they are few in proportion to the number of the others". See Thomas Warden, *Report to the Board of Revenue*, 1815.

During the post-1500 period changes also occurred in the nature of *kanam* tenure. In the traditional system, the *kanam* was a simple lease, stipulating an annual rent payment mainly in kind. With the expansion of money economy, the landlords, hard pressed for cash, resorted to the device of leasing land against an initial payment of a lump sum, which along with its interest, was adjustable against rent during the lease period¹⁹. The section of *Kanakkar* who benefited thus was not the old Nayar aristocracy but a new group which readily grabbed the opportunities offered by the administration of the East India Company²⁰. Most of the important Nayar families whose members became prominent in political and administrative fields had built up their fortunes through this process during the course of the nineteenth century. While the old aristocracy continued to cherish feudal values, the new group gave their children English education and sought and obtained employment in the administration of the British. Nayars were recruited in the offices – government jobs were given to them.

In many Nayar families the first generation in the beginning of the nineteenth century began as petty village officials, but the second generation rose to the high post of munsiffs, magistrates and judges²¹. It was the members of this class, who had on the one hand a certain degree of economic independence and, on the other, a new cultural and ideological perspective that initiated a critical evaluation of their social customs and institutions. The first expression of social awakening among the Nayars was a struggle against the existing value system as reflected in the *tarawad*

¹⁹ For details of British Land Revenue Policy and its Social Consequences, see K.N.Panicker, 'Peasant Revolts in Malabar in the Nineteenth and Twentieth Centuries', in A.R.Desai, (ed), *Agrarian Unrest in India*, Bombay 1978, Pp.215-227

²⁰ R.M.S.L. Para 329

²¹ Sir C.Sankaran Nair once told Lord Hardinge that his family had the honour of holding highest as well as the lowest post under the government. His ancestor was a village official and he was a member of the Viceroy's Executive Council. His father was a Tahsildar, and father's brother was a Sheristadar. See K.K.S.Menon, *C.Sankaran Nayar*, New Delhi, 1967, Pp.10-11.

organization and marriage arrangement. During the second half of the 19th century, these two institutions were increasingly subjected to critical evaluation. The educated section of Nayers had by then begun to perceive the connection between land control and their “symbiotic life” with the Nambudiri landlords and their family organization and marriage customs²². Therefore, their reform efforts were directed at all these aspects, namely, the *tarawad* organization, marriage customs and tenurial relations²³.

The emergence of money economy and socio-economic changes during British rule considerably undermined the cohesion and utility of Nayar *tarawad*. The *karanavan*, being the manager of the property controlled this income and most of them spent it on himself, his wife and children²⁴. The junior members, whose needs had considerably increased due to changes in the social climate and in the nature of the internal market, soon perceived the disparity between what was due to them what was actually received by them. The existence of the *tarawad* and the joint management of property were no more to their advantage. Therefore their loyalty and sense of belonging to the family and faith in the principle of impartibility were being rudely shaken.

²² *MNNR, Kerala Patrika*, 23 May 1891. Almost everyone who was involved with the question of marriage reform viewed the Nair law of inheritance, family organization and marriage custom as linked with Nambudiri dominance either in their origin or in their perpetuation. K. Kannan Nair. *The Matrimonial Custom of the Nayers*, *Malabar Quarterly Review*, 1903; Gopala Panikkar, *Malabar and its folk*, p. 36; and *Kerala Patrika*, 31 May 1890. A correspondent wrote in *Kerala Patrika* of 23 May 1891: 'Several tenants in Malabar are afraid to give evidence before the Marriage Commission for their landlords threaten them with evictions and *melcharts*, if they were to do so. Any reformation in the Malayali marriage customs is impossible unless it is made compulsory that all Nambudiri Brahmins should marry girls of their own caste. .

²³ The tenancy movement was a struggle for a larger share of rent between the landlords and intermediary *kanakkar*. See K.N. Panikkar, *Against Lord and State*, New Delhi, 1989, pp. 120-21. M. Othena Menon, *Remarks on C. Karunakara Menon's Observation on the Malabar Marriage Bill*, Madras, 1890, p. 22.

²⁴ One of the witnesses reported to the marriage commission: “Karanavans misappropriate the *tarawad* property and alienate it in favour of their wives and children. The *anantharavan* misbehave are disobedient and will not work” (MMCR p.30)

Individual Income for junior members also affected the solidarity of the *tarawad*. Eager to provide better facilities to the members of their immediate kin group, they were reluctant to pool their income in the common fund. The *tarawad* organization also militated against the newly acquired ideas of individual freedom and equality. These “marginal men” viewed the *tarawad* as an impediment to their progress rather than as a source of security and strength. These comparatively more affluent and ‘modern’ *tavazhis* became catalysts for the dissolution of *tarawad*, not simply because of their desire for independence but equally, if not more, due to the sense of deprivation they created in other units of family. In the absence of support coming from the *tarawad*, some of them depended upon the income of their fathers, which, in turn, affected their loyalty to and sense of solidarity with the *tarawad*.

While affluence acted as a catalyst for change, inadequacy of resources also became an equally important factor in the dissolution of *tarawad* ideology. The socio-economic changes resulting in the concentration of *kanam* land in the hands of a few intermediary *kanakkar*, and the increase of population during this period led to severe economic distress for a majority of Nayar families which, in turn, adversely affected *tarawad* solidarity. In other words by the second half of the 19th century, the economic and ideological props of the *tarawad* system had come under severe strain. The strife and litigation between the *Karanavans* and junior members of the family became the order of the day. “A house divided against itself cannot stand,” reported the Marriage Commission, “and most *tarawad* in Malabar are in this condition”²⁵.

The Malabar Marriage Act of 1896 was passed which provided that when a *Sambandham* was registered it would have the incidence of a legal marriage, the wife

²⁵ M.M.C.R, P.31

and children would be entitled to maintenance by the husband and father respectively and would succeed to half his self-acquired property, if he died intestate²⁶. The Act was the result of a long struggle by the enlightened section of Nayars, but it did not, as feared by the conservatives, destroy the *tarawad* system. It indeed made the first breach, but the most crucial demand, namely, the partition of property, was not incorporated in the Act. Even the provision for marriage registration, the Act being a permissive law, was not very effective²⁷. However the pressure of legislation was kept up and consequently the *Marumakkathayam* Act was passed in 1933 which provided for partition of family and inheritance of the father's self acquired property²⁸.

In the 13th century Kerala witnessed expansion of garden lands. An increase in population must have led to pressure on the land, which led people to reclaim forest lands. By this period wetland cultivation was almost entirely under the Brahmin landlords and ruling families. This led to the expansion of garden land or *parambu* along the red soil terraces that were only partly cultivated. The fragmentation of productive lands through reclamation of *parambu* was a simultaneous process of the proliferation of *puraidams* and expansion of *parambus*²⁹. It led to the loosening of ties of the landlords, as they did not have control over the newly reclaimed *parambu*. In these newly recovered *parambu* the *kani* right (full ownership) was with the reclaimers who were mostly *Karalar*. So the *janmis* staked a claim by virtue of being

²⁶ Legislative Department Proceedings June, 1896 Nos.1-27

²⁷ In the first fourteen months of the Act's operation only 51 *sambandham* were registered and after that interest rapidly declined. During the first ten years, fewer than 100 people registered their marriages. Robin Jeffrey, *The Decline of Nair Dominance*, New Delhi, 1976, Pp.186, 313

²⁸ MNNR, *West Coast Reformer*, 7 April, 1910, *Manorama*, 1 November, 1912, and *Kerala Sanchari*, 25 March 1914, also see K.N.Panicker, *Culture, Ideology and Hegemony: Intellectual and Social Consciousness in Colonial Kerala*, Delhi, 1995, Pp 196-197

²⁹ M.R.Raghava Varier, "Socio Economic Structure" in P.J.Cheryan (ed) *Perspectives on Kerala History*, Tvm, 1999, Pp.82-91

the janmi of that particular place and the *Karalar* started making the customary obligatory presents to them on Vishu and Onam etc.

Trade with Arabs, Chinese, Jews and Christians helped to accelerate the development of a market oriented agricultural economy in Kerala. With the arrival of the Portuguese, Kerala was initially linked with the world economy and later on, more extensively with the Dutch, French and the English. The period saw the full expansion and consolidation of *parambu – puraidam Sampad Vyavastha*. The period 16th – 18th centuries saw the growing importance of the *parambu*. It was expanded to the forest, sandy areas and fields. Coconut, arecanut, pepper, ginger, turmeric and tamarind were the important cash crops, which were exported. People also grew crops needed for daily use in them, like vegetables, roots and cereals. If conditions were favourable paddy too was grown. Thus it not only brought income but also helped families to subsist without outside help³⁰.

As *puraidams* increased we see that familial labour alone was not sufficient. Thus we see the development of labourers for daily wages on activities like plucking of coconuts, arecanut and ploughing the *parambu*. As the work force related to the *parambu* increased it soon became a hereditary occupation with certain rights. The climbers of coconut, arecanut and palm tree were the *ezhavas* or *tiyyas*. As monetary transactions increased people felt the need for money and the institution of mortgages or *panayam* developed. The lower orders started mortgaging their various rights for money, for example the right to pluck coconut or their importance of work that could be mortgaged. The Kerala started mortgaging their *kanom* right by pledging these lands. Thus *kana-panayam* came into being. But as loans could not be paid back the

³⁰ M.R.Raghava Varier, *Parambu – Purayidam Sampradayam*, *Vijnana Kairali*, vol.26, part 4 April, 1995, Pp.286-287

land got alienated. This land thus became the leased land called *kanam* land and was then leased by the *karaler* from the *janmi* to be cultivated. At times even the *janmis* had to borrow money from the hands of traders, as it was they who had money with them. Soon these mortgage and transactions became more complex.

By the beginning of the 10th century temples emerged as a major land holding institution, which were controlled by the Brahmins. Land directly held by the rules were called *cerikkal* lands. Simple leases were the most wide spread form of land holdings. Most of the tenant cultivators (*kudiyor*) were simple landholders paying *pattam* or rent for their right to hold the land. *Pattam* was fixed as a share of the produce usually taken after every crop and paid in kind. This period saw the growth of lease-cum-mortgage tenures that could be differentiated from *verumpattam*³¹.

Kanam seems to be wrongly understood. It is actually a unit of weight and by extension stood for so much of gold or silver in general. When land was leased out, gold or *kanam* was deposited as the security. From out of the total rent from that land, interest on this deposit was deducted and what remained was the due of the landlord. In leaseholds which had not such security, it was *verumpattam*. *Kanam* was a little more than mortgage. Mortgages were initially for a period from 3 to 12 years and redeemable by the landlords. By the 18th century these periods increased to 36 and 48 years. During this period, *kanam* and *otti* had become the pre-dominant form of tenure in Malabar. We have evidence about the growth of *kanam* and its variations with a class of intermediaries who held positions as servants, militia and accountants. The class of intermediaries were mostly from the class that were to form the Nayar caste later on. This indicated that though the land was with the hands of the customary

³¹ K.N.Ganesh, *Agrarian Society in Kerala, (1500-1800)* in P.J.Cheryan (ed) *Perspectives on Kerala History*, Tvm, 1999, Pp.141-142

owner the actual control had by then passed on to the hands of the intermediaries who had made themselves indispensable³².

Soon these organizations came to be associated with the Nayar. The heads of the *taras* were called *Karanavans Mutkhyastans* or *pramanis* or *Mudalali* or *Tandane*³³. Every *desam* or *tara* had a *kalari*, which imparted training to the young Nayar boys. Almost all the *tarawads* had a place in the organization and functioned as a village community co-ordinating and serving the different strata of society. It was as intermediaries that *Karakkudiyans* established a hierarchial relationship with the rulers and the Nayars and *tarawad* emerged. A similar form of heirarchical relationship can be found in the temples affairs also where too the *Tarawad* emerged as intermediate like temples collectives and warriors. Thus those intermediaries in the 16th to the 18th centuries grew in number as attested by the various documents of the Samutiri, and became centres of political, social, economic, cultural and ritual power.

Some of the bigger *tarawads* had temples or *kavus* like the *Koodali* and *Vanjeri tarawad*. The deities of these *kavus* involved not only ancestors of the *tarawad*, tribal gods, local heroes and heroines but also Brahmanical deities at times. This was a sacred space for not only the members of the *tarawad* but also to the people of the locality. There were three kinds of festivals of these kavus (1) involving different castes in separate stages in rituals, emphasizing the interdependence of the *tarawad*, shrine and worshippers (2) going on pilgrimages to different shrines by the upper and lower castes together (3) festivals that emphasized both community as well

³² By the 18th century in Travancore and Cochin these intermediaries were brought under control by the rulers. In Malabar however, their customary sway was disrupted by Mysore invasion and a new type of revenue settlement was imposed on the people. This loss of customary sway according to Dr.Ganesh led to the control of lands in to the lands of *kanam* and *kulikkanam* holders, Paradavara, devaswam and Brahmaswam. A small portion of land was held as dual property which in Kerala was called the *kanom* land. This was held by the Nayars. See K.N.Ganesh, *Keralathinte Innalakai*, (mal) Tvm, 1990.

³³ M.S.A.Rao, *Social Change in Malabar*, Bombay, 1957, Pp.50-67

as relations of power within the rural society. Thus through these temples and *kavus* the *tarawad* was able to exert certain power over the people of the locality³⁴. These temples also soon became financial institutions and centres administration of justice³⁵.

Usually a *Kalari* attached to the *tarawad*. In the case of the Kootali family the uncle or *Karanavan* who maintained the *kalari* was called the Gurikkalacham, a title bestowed by the chieftain, the Kottayam Raja for the Nayar commandant who maintained a *kalari* training centre³⁶. The *Karanavans* of such *tarawad* controlling the temple also enjoyed privileges attached to it. Such dignities attached were the *uraiyama*, *Ambalappati*, *desadhipatyam* and *desam*. *Uraiyma* meant management of all the lands of the temples and its servants³⁷. As an *Ambalappati*, he could direct temple festivals and get a seat of honour in public places or temples. The person who attained the right of *Ambalappati* in variably held the dignity of *uraiyma* but not necessarily vice versa. Supreme authority was signified by the title *Desadhipatyam*. It meant that the person could recruit men for fighting. These dignities were often attached to the *tarawad* and the hereditary position of the *karanavars* of the *tarawad*. Sometimes a *tarawad* could possess all the above dignities and manage the civil and military affairs of the *desam*³⁸.

Thus by the beginning of the colonial period, the Nayar *tarawads* had grown to become powerful controlling the surplus appropriation and distribution of the resources of the *taras*. A *tarawad* was related to other *tarawads* as *enangars* who

³⁴ Dilip Menon, *Caste, Nationalism and Communalism in South India, 1900-1948*, New Delhi, 1994, p.4.

³⁵ K.K.N.Kurup, *Koodali Grandhavari*, Calicut University, 1995, p XI

³⁶ Ibid, P.X

³⁷ Thomas Monrok, Report on the Revision of the Judicial System in the Province of Malabar, 1912, p.4

³⁸ K.K.N.Kurup, William Logan, Kozhikode, 1987, Pp 3-4

participated in the ceremonies of each other. Thus the leadership of the *tara* organization was in the hands of their *enangers*.

Tarawad and Land Relations

In the beginning of the colonial period the *tarawad* as an institution had grown to become the focal point in the local affairs. The British conquered Malabar with the help of the prominent local chieftains among whom the majority were Nayars. Once the conquest was completed, they entered into agreements with the various chieftains, Mukhyasthans and principal landlords regarding the collection of revenue and other administrative affairs of Malabar³⁹.

A look at the treaties signed and other agreements entered with the native chieftains and other prominent warriors shows the prominence of Nayars in the society. Out of 63 such people with whom such agreements were signed, 41 were Nayars. On going through many documents compiled, we can see that the Nayars played a prominent role in the civil, military and judicial functions. The areas ceded to the British a significant number belonged to the Nayars. John Shore talks of them as being the primary landholders along with the Nambuthiris leasing out their *jennam* to cultivating farmers or *kanakkars*⁴⁰.

Thus the *jennam* right from the beginning was equated with freehold lease prevalent in England. The majority of the Nayars who were *karalar* were seen as the intermediaries and the army of Nayars was replaced with the army of the British. Landlords being reduced to the position of intermediaries. “British made these

³⁹ Logan (ed) A collection of Treaties, New Delhi, 1989, A.E.S, Reprint, Pp.355-356

⁴⁰ John Shore, Governor General’s Minutes on Malabar Records 1797 Para.3, p.1 para 3 and 4 p.2.Refer Report of the Joint Commissioners.. They gave the British a clear picture of their possession.

tarawads absolute land-controlling units. In Bengal, farmers of revenue were converted into absolute proprietors. In the same way, in Malabar, the share-cropping feudalistic nobility of the *tarawad* were converted into private proprietors with a right of land monopoly. This consolidation of feudalistic land ownership introduced new agrarian relations in a colonial context. The landlords now abrogated the traditional rights of the peasantry and started to encroach upon the tenant's share of produce as an absolute owner enjoying the right in the Roman concept of dominion"⁴¹.

Some of the powerful Nayar *tarawads* had *jenmom* right on land. In the late 18th and early 19th centuries pioneering Nayar *tarawads* managed to carve out areas of influence with the opening up of forests and expanding into the interior regions through the setting up of the *tavazhis*. The younger members who were sent established contact with the tribal groups and through the Cherikallu systems their cultivation was brought under the Nayar *tarawad*. The younger members of the *tarawad* were allotted land in the *tarawad* with a Maniyani Tribal as supervisor. Rice and pepper were the main crops that were cultivated. Tarawad thus emerged as major landholders by subordinating tribal labour in the forest and through marriage alliances with other powerful *tarawad* ⁴². In Kasargod Taluk, when the females of the prominent Nayar families contracted a *Sambandham* alliance, the men were allotted certain number of agrestic labourers and slaves along with wastelands for bringing it under cultivation. Thus the *tarawads* consolidated their hold over land and increased the extent of cultivated land through kinsmen and affairs.

Wayanad, Mannarghat and all other regions came under important Nayar families. The prominent families had marriage relations with other such families of

⁴¹ K.K.N.Kurup, Op-Cit, p.8

⁴² Dilip Menon, Op-cit, p.11, 14

the region. The Kootali Thazhathu Veedu had marriage relations with all the major landholding families of the region like Kalliat, Vengayil, Echikkanath Chirakkara Tarawad and others. Thus we can see that the Tarawad had controlled large areas of land in Malabar and this position continued for a long time even after Malabar came under the British. With the establishment of the colonial rule, though the Nayars lost their traditional role as militia and other privileges, they soon adopted very well to the changed circumstances. Right from the beginning they were incorporated into the administrative hierarchy due to the exigencies arising in 1801 with the pensioning off of the Rajahs. In 1822 when H.S.Greame organized districts into revenue divisions called *amsoms* and *desoms* and the *adhikari* who was made responsible for the collection of revenue was chosen from the influential landholding families. Often the revenue division was congruent with the spheres of influence of the family. They took to western education and soon acquired a foothold in the colonial administration. This proved advantageous to them as it helped them to manipulate the rules and regulations⁴³.

Thus the caste that came to be identified as Nayars can be initially traced to the *karalars* who had the *karanmai* right. The superior right of myatei got superimposed with the coming of the Brahmins and the establishment of a temple centred society. The close relationship they had with the higher Nambuthiris caste enhanced their status, power and prestige. The relationship between these two castes could be compared to that between the church and baronage in the medieval European history. The Nayars or the Sudra caste included not only the agriculturalists but also militia, artisans and craftsmen. In fact they included all those people whose services were

⁴³ The educated Nayar professionals began to invest money on land. They could make profit by utilizing the labour of parayas or pulayas or by sub-leasing it to the tiyyas. See Govt. of India Legal proceedings No.9, 26-10-1885 cited by K.T.Thomas op.cit. Pp.187-188.

essential to the Nambuthiris. But through these various functions in the socio-political spheres, they were able to emerge as a class to reckon with. As militia they were close to the ruling aristocracy whom they served as retainers, accountants, ministers and collectors of dues, thereby making their presence felt in both administrative and military wings. With the emergence of the *natuvazhis* the nayars soon made their presence felt as chieftains. Big landholding families emerged that commanded sway over their respective areas. By the colonial period the majority of the intermediary *kanakkars* were able to take maximum advantage of the situation by taking to western education and getting a foothold in the colonial administrative machinery. They were able to manipulate the rules to their favour, their presence in judiciary helped them to get favourable decisions in cases relating to eviction and compensation of improvements, thereby reducing the *verumpattakars* to the position of tenants-at-will. Thus by the early 19th century the Nayars had emerged as a caste to reckon with.

The expansion of kingdoms, 'royal' households and landowning families occurred not only through land colonization, but also through the sale and purchase of land. By the eighteenth century there seems to have been an established trend for the sale of lands and the authority vested in them, which went alongside the ordinary sale and purchase of arable lands. This is evident from both the *attipettolakaryam* deeds which registered the sale and purchase of nadus and desams (administrative units) and the *atpettolakaranam* deeds that dealt merely with land or houses. For instance, in the seventeenth century, Puthuvaypa (known as Vypin from the colonial period onwards), an island situated between Cochin and Kodungallur, was sold by the Raja of Cochin to Paliath Raman Iravi and his family. The latter, though a branch of the Talapilli rajas, maintained their separate freehold estate. By this sale, everything that

was included in the property and all the rights, economic and others, were transferred from the Cochin raja to the Paliath Achan⁴⁴.

The sale of lands or houses executed through *attipetolakaranam* deeds on the other hand, would demarcate the exact location of the lands, and would include a detailed description of the property, ‘stones, nux vomica, thorn clump, cobras, holes, mounds, treasure, wells, skies, underground, water-course, in order to indicate that the sale represented a complete transfer of ownership, and that the property right was exhaustive’⁴⁵.

Some of the early eighteenth-century deeds reveal that such sales transferred rights over markets, rivers and ferries for transporting produce⁴⁶. At other times rights to the *tarawad*, *desam* and the temple complex, along with ritual and political suzerainty over these were transferred⁴⁷. The new owners became at one stroke both lords and landowners. Not only did they obtain right to the lands and its produce, but exclusive rights to forests and waters, as well as ritual authority (*urayma*), and the rights to manage the temple in that *desam*. The rights being transferred through sales, such as these, provided purchasers with a complex of resources, all of which enhanced their ritual, political and economic status. It is significant that these rights were vendible in the 18th century⁴⁸. By the 19th century, the colonial authorities, as a part of their redefinition of the *tarawad*, were to interpret the rights in these properties as both immemorial and impartible.

⁴⁴ The roster of items included “Canals, washing places, roads used by persons, streams, forests with deer ... *desam*, *desadhipatyam* (authority over the *desam*) *amsam*, *sathanam* (title), *ankam* (battle wager), *chunkam* (customs duty) with everything else”. See William Logan, *Malabar*, Vols.II, Madras, 1887, Deed 15, 1622, II Appendix XII, XXXII,-XXXIII

⁴⁵ *Ibid*, Deed 21, 1677, cxxxvi-vii

⁴⁶ *Ibid*, cxi, Deed 26, 1712

⁴⁷ *Ibid*, cxi, cxli, Deed 27, 1713

⁴⁸ *Ibid*, C.A.Bayly, *Indian Society and the making of the British Empire*, Cambridge, 1988, p.11

Taking the two kinds of vendible rights –one in land, and the other in authority – in conjunction, one can see that there were two different, yet coexisting notions of private property in Malabar. This can be one way of investigating the implications of political decentralisation in Malabar. Earlier it was argued that even though by the 18th century the powerful sections of local Nayar chiefs had appropriated ‘royal’ status, many definite characteristics of a state (for example, land revenue extraction) could not be identified in Malabar⁴⁹. If we were to examine this once again in the light of the present discussion of the privatisation of rights, this might begin to seem clearer. The right to own and exercise political authority over the territories acquired granted *naduvazhis* and *desavazhis* the ability to consolidate their powers as suzerains. However, the existence of *nirattiper* or freehold property sales meant that there could exist a rung of landowners who could possess complete rights over pieces of arable property within the former’s territory, without the need to pay tax. As long as there was no single source of power that held the monopoly of force, or, more importantly, of legality, ‘the state’ in Malabar was akin to a loose confederacy of households. Moreover, the absence of a central power meant not only that a system of revenue payments was non-existent but also that military obligations could not be enforced. The difference that emerged under the British was that the colonial state represented the overarching source of authority which could reinterpret laws in order to suit their military and fiscal needs.

The saleability of rights to title and authority in the 18th century did not impede the growing of the *tarawads*. In fact, the increasing market in titles and territory was consolidating the power of many petty potentates in the interior. Unlike

⁴⁹ By the end of 18th century, many of the powerful local potentates had the right to extract customs and similar commercial taxes from people. See G.Arunima, ‘Multiple Meanings: Changing Conceptions of Matrilineal Kinship in nineteenth and twentieth century Malabar’, *The Indian Economic and Social History Review* 33, 3C 1996, Pp.290-295

the Samuthiri, many of them showed a great proclivity for entering into treaties with foreign companies, thereby entering into direct trade relations, and ensuring the promise of political recognition in return.

Thus, till the 18th century there seems to have been two distinct processes that shaped the evolution of the matrilineal family. The first was the combination of familial upheavals and disruptions that led to new political formations among the *Samanthar* families in the shape of the 'royal' matrilineal families all over Malabar. The second was the integration of sections of both *Samanthars* and Nayers into existing commercial networks and the purchase of title of lord and landowner, thereby establishing their *tarawads* as the locus of authority in the region.

A third aspect regarding the emergence of *tarawads* in the 18th century was that by now most new *tarawads* were established by women. It was suggested earlier that there is no concrete historical evidence to the fact that the Nayers or the *Samanthar* had always followed matrilineal kinship. Here the object is not to explore why a shift occurred from patrilineal to matrilineal kinship in the 16th or 17th centuries, but to examine extant customs of kinship, residence and inheritance that were in evidence by the 18th century, in order to investigate the nature of power relations. A striking difference between the *tarawads* and matrilineages of the 18th from their mid-19th century counterparts was that these could have been set up in a variety of ways. Moreover, similar processes during both periods could have very distinct political implications.

Take for instance, the common enough strategy of establishing *tarawads* through elopement or marriage⁵⁰. While the 18th century sources suggest that women moving off in this manner did not forfeit their rights in the *tarawad* property, this was definitely not the case by the late 19th century. Another way of setting up a new *tarawad* was for women—either just with family retainers, or with their siblings – to move out to one of the granaries in the outlying areas of the property. This was often because the women had access to their own separate revenues and properties in far flung areas and setting up a new residence on one of these could tantamount to creating a new *tavazhi*⁵¹. Contrary to anthropological wisdom, it was not necessary for a woman and her brother, as a unit, to separate from the main family to be able to start a new branch. The critical difference lay in the fact that whether the new *tarawad* was set up by a woman along with her paramour or husband, her brother, or just several retainers, descent would be traced matrilineally through her. Besides, properties like *cherikal* lands and *sthanams* (a particular status within the *tarawad* which could have a monetary value too) demarcated specially for women within a *tarawad* would be inherited unilineally by them⁵².

Nevertheless, while differences on grounds of gender favoured women in the context of residence, descent and, to some extent, property, the situation regarding formal administrative authority in the public sphere differed. Positions within the local administrative hierarchy, like that of *vazhunnor*, *desavazhi*, *naduvazhi* or *raja* were held mainly by men (the exception being the *Bibi* or the queen of Arackal in

⁵⁰ In the case of the Nileshwaram Royal Family, a prince from the Samuthiri's Family eloped with a prince from Kolathanaad to establish her own dynasty. Sreedhara Menon, *A Survey of Kerala History*, p.181

⁵¹ This was evident especially in the case of *Samanthar* women, who had special *cherikal* lands set apart for themselves. Dames, *The Book of Duarte Barbosa: An Account of the Countries Bordering on the Indian Ocean*, vol.2, London, 1921, p.11. In many of the larger Nayar *tarawads* too this was very common. *Kavalapra Records*

⁵² *Sthanams*, such as *Naitear Amma*, were reserved for the older women in the Palghat Royal *Tarawads* and these represented status and power for these women. Francis Buchanan: *A Journey from Madras Through the Countries of Mysore, Canara, and Malabar*, London, 1807, vol.II, p351.

Cannanore, belonging to the Arackal *tarawad* who were matrilineal Muslims). In the light of available evidence, it is difficult to evaluate the transformative impact of gendered differences in formal political power of this nature on the relations within the household. It appears that despite formal political power being weighted in favour of men, the nature of authority or property rights within the *tarawad* were not affected significantly.

This is particularly interesting in the case of the *karanavasthanum* - the status of *Karanvar* that could be seen in some of the larger families. One such was the 'Coyotical Carnaver' (Koyitara Karnavar) identified by Barbosa, in the sixteenth century, as the governor of the Calicut kingdom. These were probably administrative functionaries who were given the title of *Karnavar*. There is nothing to suggest yet that the existence of a special *sthanum* of *karnavan* implied that the incumbents to this position were all male, or were the heads, or had greater and undisputed privileges than other members of the *tarawads*. In fact, in 1807, Buchanan noted with special reference to north Malabar that the Nayar *tarawads* were managed by older women and that this right was generally inherited through the female line⁵³. Therefore, until the early 19th century it could be argued that power differences within the household were more along lines of *generation* than gender.

The coexistence of a highly commercialized land market with separate rights to property, especially for women of large *tarawad*, implied that the principle of co-residence could not have been enforced. Similarly, movable properties of an intestate owner were divided equally among the surviving members, irrespective of their sex⁵⁴, unlike court dicta to the converse in the colonial period. Thus, the identifiers of

⁵³ Ibid, p 511

⁵⁴ Ibid, p 412

matrilineal kinship according to mid-19th century colonial jurists and judges, such as co-residence, impartibility and the inalienability of property, were definitely not an essential part of the customary practice in pre-colonial Malabar.

Colonial Redefinitions of the Tarawad

With the defeat of Tipu Sultan in 1792, Malabar was officially incorporated into the East India Company's dominions. The legal changes that ensued in the following decades of the Company's and later the Crown's rule had a profound effect on the changes in the matrilineal *tarawad*. It is argued here that Anglo-Indian law and its operation, both procedural (as in case-laws) and textual (as in law books and high court judgements) redefined the *tarawad* in the 19th century. Three broad changes occurred in the first four decades of the nineteenth century. These were the formal identification of a hierarchy of property rights and the legal definition of tenurial statuses; the redefinition of the *tarawad* as a impartible and corporate unit with inalienable rights in land, with the simultaneous selection of a single individual with whom revenue could be settled; and the choice of the eldest male on grounds of age and gender as the individual responsible for managing its economy and making revenue payments. All these changes affected both the internal structure of the *tarawad* and its relation with its external dependents.

In the first four or five decades of the Company's rule there was no clear consensus on how to treat the Nayar *tarawad* or its branches. At the level of the higher courts there was emerging a tendency to curtail the division of family property⁵⁵. This was often done on grounds of upholding matrilineal law on the basis of Nambudiri Brahmin opinion, which chose to vest greater rights in the property with

⁵⁵ Lewis Moore, *Malabar Law and Custom*, Madras, 1900, Pp 6-7

the eldest male⁵⁶. In Malabar, as in Bengal, court officials solicited Brahmin opinion on questions of customary practice in the belief that their origin lay in religious laws. It is interesting that Nambudiri interventions reflected their own customary familial arrangements.

In general, it could be said that lower-level courts had not yet begun to follow the precedents set by the sudr court. Court cases demonstrate that both in north and south Malabar it was local usages, and not Nambudiri precepts, that were paramount⁵⁷. Therefore, in the lower courts, if it could be demonstrated that all members of the *tarawad* were aware of, and had consented to, the division, it was considered legally permissible⁵⁸. This was to change by the latter half of the 19th century.

Nevertheless, in the early decades of the 19th century, even in the absence of a clear legal principle regarding either the treatment of the household or of matrilineal kinship there was beginning to emerge a distinctive difference in the state's treatment of the *tarawad*. The changes in the structure of authority within the *tarawad* affected the manner in which members within a landholding family could have control over land or as the head of the family, invested with incontrovertible rights over the management of the family property. The further recognition of these men as the figures to settle with bolstered their strength⁵⁹.

⁵⁶ AS 28, 1814, I Sudder Decisions, p.118. Also see G.Arunima, Op.cit, p 293

⁵⁷ Valia Kava Naitear Amma v Kavalappara Valia Nayar, Suit no. 992, 1817, Thekke Pakuthi Zilla Adalat, Vettathnad Thukkidi Munsif's court, Kavalappara Documents.

⁵⁸ AS 203, 1855 Tellicherry, *Zillah Decisions*, p. 15; AS 219, 1856, Calicut, *Zillah Decisions*, p. 19.

⁵⁹ Olivia Harris, 'Households as natural units', 11 K, Young, C. Walkowitz and R.Mc Cullagh, eds of *Marriage and the Market: Women's Subordination in an International Perspective*, London, 1981, pp. 49-66, argues conclusively that in most state formations household heads are made responsible in law for other household members, and that it is usually a male head who negotiates contracts, makes share-cropping arrangements, leases land or other property, and thereby exercises control over the lives of the dependent kin.

It is argued that redefining the *tarawad* in relation to its property was tantamount to reinterpreting property itself. Besides, gender rights and privileges within the *tarawad* had implications for economic and non-economic matters. The investiture of putative rights on men, to headship and to represent the *tarawad*, was akin to a sexual contract between these men and the state. It is argued here that such a sexual contract⁶⁰ not only altered power relations within the *tarawad*, by allowing for the evolution of a patriarchal figure in the person of the eldest uncle, it also helped to freeze the fluid cultural practices hitherto understood as integral to the Nayar community. For the first time the status of the mother's brother begins to acquire greater political significance, with the mother-child unit being represented as purely domestic or a political, transforming the meaning of matrilineal kinship. By the late 19th century sexual practices within the matrilineal community would itself come under severe criticism.

Agrarian Crisis and Legal Intervention

Mid-nineteenth century changes in agrarian relations further affected power relations within the *tarawad*. Between the 1840s and the 1870s the powers of the Hindu landowners were strengthened by the state's intervention in land rights. The 1840s in Malabar was a period of acute agrarian strife and political unrest, which

⁶⁰ Carole Pateman, *The Sexual Contract* (Polity, 1988) argues that readings of classic contract theories have tended to repress the 'sexual' aspects of what is actually a sexual-social pact. She argues, on the contrary, that patriarchal right exists throughout civil society. Therefore, modern civil society is the result of a contract between the state and men which *excludes* women on the grounds of 'individuality'. Pateman's argument is here used in two ways. One, her reading of fraternal patriarchy offers one a possibility of analysing patriarchal relations in a context where the locus of attention is not a patrilineal family. Therefore, the specific strengthening of the matrilineal *karnavan* can be seen as increasing the fraternal patrilineal power of Nayar men *as* men. Second, within the context of Malabar, the incorporation of the eldest male within the *tarawad* into a contractual sphere of interaction with the state can be seen as a close parallel to the story of the contract theory in western Europe, except that under colonialism even they did not possess complete civil freedom.

particularly affected the two southern taluks of Ernad and Walluvanad. It is argued here that while the spate of agrarian violence or the Mappila outbreaks of the mid-19th century provided an immediate reason for the judicial redefinition of the *tarawad*, these in turn were a result of the changing economic fortunes of the landed families.

The period between 1825-50 in Malabar had been, unlike the rest of the Presidency, a period of agricultural boom, which allowed the *tarawad* to regain their monetary status to some extent. This allowed the *tarawad* to redeem lands leased to tenants and cultivators, leading to evictions. Besides the continuation of revenue collection in this period aggravated the distressed condition of the cultivating populations. The violence against the *janmis*, bulwarks of the Company's rule, caused panic amongst the British administrators⁶¹.

In February 1852, Thomas Lumisden Strange was appointed as Special Commissioner to enquire into the causes of the Mappila 'outrages'. Strange's intervention in the agrarian relations of Malabar was the first step providing inalienable rights on lands to the Hindu proprietors. He argued, on the basis of 'Hindu law', that the landlords of Malabar could not part with their family estates as their religious duty bound them to it. The fact that landlords always parted with their estates, on mortgages or sales, was interpreted by Strange as a seasonal relinquishment, and he argued that it would, sooner or later, revert to them⁶². He went

⁶¹ There were a series of violent attacks on Hindu landowners by their Muslim cultivators, especially in the decades of the 1830s, '40s and '50s, culminating in the death of landowners and cultivators alike. Between 1836 and 1854, there were 16 outbreaks against mostly Nayar and Numbudiri *janmis*, leading to the 'Moplah outbreak' of 1855. Conrad Wood, 'Peasant Revolt: An Interpretation of the Nineteenth and Twentieth Centuries', in Clive Dewey and A.G. Hopkins. eds, *The Imperial Impact: Studies in the Economic History of Africa and India*, London. 1978, p. 138.

⁶² *Letter*, dated 10 October 1853, from Conolly to Pycroft, containing details of Strange's views on the subject of tenants' rights and family property, 'Correspondence regarding the relations of landlord and tenants', n.p

on to refine his opinions regarding the property laws of Malabar and emphasised that the head of the family had exclusive control over the family and its property.

“Hindus suffer by the idea which has been introduced that a joint share in property involves a number of individual shares any of which may be divided off from the estate and forfeited to a creditor of the assumed shareholder, *whereas the theory of a Hindu family in Malabar is that the head of a family has entire control*, his signature alone can be taken for exigencies of the family for due support of the whole, for whom he is responsible”⁶³.

From the latter half of the 1860s there was appreciable difference in the ways in which the courts treated the *tarawad*. Increasingly, it was being represented as an indivisible and co-residential unit of the members who lived together as part of a *tarawad*. Paradoxically, this meant undermining the power of the larger *tarawads*, as the higher courts tended to treat each branch as a house- and-land unit⁶⁴. These decisions were challenged by both the household heads and the junior branches. Most *karanavans*, in this period of their increasing power, did not welcome separation of the branches from the main *tarawad*, as they could not dictate terms to them or even hope to control their assets. Soon a novel strategy was evolved for subverting court orders that forbade the unity of material interests between the Tarawad *tarawad* and its branches. This was to establish formal leases with the branches, or with members of the family who had moved off to the outlying areas of the estates, and to appoint bailiffs to look after these lands. In other words, many of the younger members of the

⁶³ Ibid, Letter, 25 September 1853, Strange to Pycroft

⁶⁴ This term was coined by Melinda Moore, to signify the impact of British Legislation on the Malabar Tarawad. Melinda Moore, *A New Look at Nayar Tarwad*, Pp.527, 531-37

tarawad, or its branches, were treated as tenants of the family⁶⁵. Similarly, bailiffs appointed by the family could be its own members—thereby converting a family member into an employee, and providing his maintenance in the form of a salary⁶⁶.

The strategy of leasing lands to members of their own *tarawads* afforded the heads with many advantages in the latter half of the 19th century. Since the head's own powers were being legally bolstered during this period, this provided a good opportunity for keeping a tight rein over the management of the *tarawad* and the branches. Second, by reducing several members to the status of tenants, the power of the head over the family and agrarian economy grew significantly. Finally, as the improvements made by the members of the family on lands leased to them were not treated as part of the *tarawad* property, it could constitute a part (and often the whole) of their maintenance, reducing the burden on the *tarawad karanavan* to provide them with separate maintenance⁶⁷.

The changed notions of headship from the mid-19th century had critical repercussions for a redefinition of matriliney, especially regarding the guardianship, the rights of women to headship, and the rights of younger members within the family. The creation of the *Karanavan* as a natural, all-powerful figure of authority meant relegating all others within the *tarawad* to the status of dependents. In a representative dispute of 1872, the courts granted the *Karanavan* the authority to act as the guardian of two children within the *tarawad*, on grounds of natural right. By the principles of the laws of Malabar, the mother herself, while alive and her children too, were under the guardianship of the head of the family, the *Karanavan*. Their

⁶⁵ Kallati Kunju Menon v Palat Erracha Menon, Madras High Court Report (Hereafter M.H.C.R) 1862, p.62

⁶⁶ Chemmanathatti Chappunni Nayar v Meyene Itiyachi, Appeal No.64 1861, in judgement of Sudder part in Regular and Special Appeals, n.p.

⁶⁷ Sundara Ayyar, *Malabar and Aliyasantana Law*, Madras, 1922, p.185

position was precisely analogous to that of a guardian and representative for all purposes of property, of every member within the *Tarawad*, as the Roman father or grandfather⁶⁸.

Such a patriarchal interpretation of the customs of the matrilineal community had its roots in the steady process of transforming Malabar's customary practices which used not only Brahmanical precepts, but also Roman law and laws of equity in equal measure, and otherwise twisted procedure to fit the case. However, the legally bolstered powers of 'natural' headship granted to the *karnavan* were constantly put to test, and it was in the resolution of legal conflict that many new cultural practices evolved in Malabar⁶⁹.

An example of this was the contested right of women to head *tarawad*. The trouble was not related so much to the actual absence of female heads or *karanavattis*, but that now their authority required external, or judicial, legitimation. Also, the problem was to decide whether the right of headship was inherent in the eldest woman of the family by virtue of her age, or if it was to be granted to her in the absence of any adult males, or if it was simply a stand-by arrangement till a minor son came of age. In 1878, Herbert Wigram (the civil judge at the District Court) argued, "the management of [by] a female, like the management of [by] an *Anandaravan* [nephew]

⁶⁸ *Thathu Baputty v Chakyath Chathu*, Civil Miscellaneous Regular Appeal No.406, 1872, 7 MHCR, p 181.

⁶⁹ Lucy Carroll, in the context of Hindu Widow Re-marriage Act of 1856, argues that the interpretation of this Act at the three High Courts of Calcutta, Bombay and Allahabad utilised three different categories of law—Hindu, customary, and statutory—which over the years succeeded in introducing a pattern of behaviour that would never have been recognised within 'customary' law, and in fact invalidated customs prevalent a few generation ago, see Carroll, 'Law, Custom and Statutory Social Reform: The Hindu Widow Re-marriage Act of 1856', *IESHR*. Vol. 20(4), 1983, Pp. 363-88.

must, in my opinion, always be with the consent of those on whom the law confers the rights of management, i.e, the senior male, and by at any time be resumed”⁷⁰.

In other words, while headship by men had come to be seen as normative among the matrilineal Nayars, women who had held comparable rights in an earlier period had to take recourse to courts to prove it. What this also implied was that it was easier to contest the power of a female head than a male’s, as the former’s rights to the position was made much more conditional, while the latter was seen as a natural right. By the 1870s and 80s such gendered asymmetries of power began to become noticeable among the younger kin in *tarawads* too. While younger men could question a *karanavan*’s decision regarding the sale or management of property in an individual capacity⁷¹, women could do so only if they represented the family⁷². This meant that young men, who possessed putative rights to headship as a gendered right were, in addition, regarded as capable of questioning the legitimate authority of the *karanavan* as individuals. Thus, here one has access to a very legal understanding of individuality that privileged men in property disputes.

Differences in gendered rights of men and women were not restricted to questions of property alone. These began to be reflected in the changing patterns of residence where women could increasingly move away only after marriage⁷³. This was in contrast to both precolonial period and the early years of Company rule, when women could move out, either with a few retainers or with their siblings, in order to create new branches. In the case of property disputes where married women living

⁷⁰ AS 434, 1878 quoted in Moore, *Malabar Law and Custom*, Pp. 77-78

⁷¹ Padmanatha v Govjnda, *Indian Law Report* (hereafter ILR) 6, 1883.

⁷² Manika v Krishnan, *ILR*, 7, 1884.

⁷³ Of course, in this period virilocal residence did not necessarily imply patrilineal descent. Women moving off to live with their husbands after marriage were often seen as terming a new *Tavazhi* or branch. By the mid-twentieth century this would be severely in dispute.

away from home demanded a partition of property, the resolution was dependent on whether the *karnavan* approved of the union. Therefore, if it could be proved that a woman's relationship was promiscuous or without the *tarawads* assent it was tantamount to her forfeiting her right in the family property. Moreover, linking up residence and property issues shows how difficult it would have become for women to move away from the *tarawad* house, or claim their share of *tarawad* property, except when it was with the *karnavan's* consent⁷⁴.

Meanwhile, men were beginning to move away from the *tarawad* for a variety of reasons—from professional to educational. Besides, they were becoming increasingly successful in property disputes and received their share while living, and working, away from the *tarawad*⁷⁵. In addition, young professional men also had access to self-acquired incomes to support themselves. Therefore, while women's income, mobility and residence patterns were controlled largely by *tarawad* elders, for many young men the burgeoning educational and occupational opportunities of the period provided significant outlets. This naturally had important consequences for the constitution of the late nineteenth century matrilineal *tarawad*.

It has been to be stressed that it was from the corpus of mid-nineteenth century legal ideas that the contours of the matrilineal *tarawad* in the post 1860s period was shaped. The main source for this was from the judicial codification and consequent legal proceedings that utilized legal forms and precedents to settle domestic disputes.

⁷⁴ AS 675, *ILR*, 1879, in this particular dispute the woman was forced to forfeit her share of the *tarawad* property because her relationship with their lover was described as 'promiscuous intercourse' by her *karnavan*, and accepted as such by the court; in AS 59, *ILR*, 1879 the woman was outcasted, and her property not given to her because her relationship with a lower caste man was deemed to be an alliance without the *tarawad's* assent.

⁷⁵ Teyan Nair v Raghavan Nair, *ILR*, Peru Nair v Appu Nair, *ILR*, 2, 1880; Kunhambu v Paidal, AS 23, *ILR*, 5. 1882.

Family documents and contracts reveal the absorption of ideas of and changes introduced by the British courts in everyday language and practice, and its influence in transforming social values and conventions⁷⁶. The literature of the period reflects the concern of the times—laws, litigation and the discourse, reveals the contest between different ideas, ideologies and practices for ascendance. It is through this contest that a dominant strain of thought, and overtime practice, regarding matriliney and Malabar law emerged which helped to transform the matrilineal *tarawad*.

Land Legislations and Marital Disputes

By the 1880s the authority of the heads of the households in this period, both within the *tarawad* as the *karnavar* and on land as the *janmis*, was coming under increasing criticism. Here the *Tarawad* that was being attacked at this point was a young creature—a product of ‘court-made law’, especially of the 1850s onwards⁷⁷. The attack on the *tarawad* was almost a logical climax of its strengthening over the past decades. The sources of opposition against the land-owning *tarawad* were diverse and predictable— from the younger members of the *tarawad* to the dependent agricultural workers. The only unusual combatant was the colonial state itself.

The 1880s witnessed changes in attitudes of cultivators and tenants towards the *tarawad* as a land-owning force. The mid—century redefinitions of property rights had secured to the *tarawads* the right to redeem or renew tenures, which affected adversely the bargaining power of the tenants, cultivators and other dependents. The response was embodied in such diverse ways as the barrage of property disputes,

⁷⁶ Apart from family *karars* (contracts) which were being modified so as to utilise procedural elements of case law (like using the laws of limitation) *Echarattil ms.*, Malayalam language itself began to incorporate the translated equivalents of words such as 'plaintiff', 'defendant', 'court', and so on within its vocabulary. These became a part of common parlance, stories and general folk wisdom fairly soon.

⁷⁷ C.A. Turner, Minute on the Draft Bill Relating to Malabar Land Tenures, Madras, 1885.

petitions to the government to implement tenancy legislation, and in the Mappila riots of the 1870s.

The agrarian crises of the 1870s put the government into a predicament. Not only had the rights of dominium secured to the *tarawads* by the state-created tensions in the countryside., it had also given landowners immunity against colonial officials in such critical matters as the exaction of revenue, or failing that in the sale of land. As early as the 1805 settlement the revenue administrators had recognized the private rights of the landholders, while at the same time entering either them or their dependent cultivating tenants as revenue payers. By the latter half of the nineteenth century, this was beginning to create serious problems for the government. Tenants were becoming economically weaker and insecure and were beginning to find it difficult to meet revenue claims. In response to this situation, the state began an attempt to curtail the powers of the *tarawad*. Legislative measures, such as the Land Registration Act of 1896 and the Compensation for Tenants Act of 1897 were as much a product of state anxiety for undermining the authority of the *tarawad*, as a response to the agrarian crises of the preceding years⁷⁸.

It is in this context that one needs to examine late nineteenth century debates on marriage which formed yet another part of the strategy evolved by the younger members to redefine and undermine the extant power relations within the *tarawad*. In 1896, “the Malabar Marriage Bill of 1887 brought in the liberal principles of contract among a section of the educated minority of Malayali men. Marriage, as the prime

⁷⁸ Peter Robb has argued for a similar trend in the rent law and tenancy debates of eastern India in the same period, where officials were ranged against one another in '*pro-raiyat*' and '*pro-zamindar*' positions. This was clearly a time in colonial rule when official policy was avowedly '*pro-raiyat*'; the motivations of course could be various. Robb, 'Law and agrarian society: the case of Bihar and nineteenth-century tenancy', *Modern Asian Studies* (hereafter *MAS*). Vol. 22(2), 1988.

example of contract, was seen as offering a panacea for the predicament of the *tarawad*, a means of contracting themselves out of the trammels of the joint family system”⁷⁹. They wished to achieve the status of individuals and it was to this end that they engaged with the colonial state.

The ideas of dividing the matrilineal *tarawad* along the lines of patrivirilocal residence, with concomitant rights to property, was located in the evolutionary social theories of late nineteenth century. Theorists, for example, John McLennan and John Lubbock, who perceived marriage as a natural union, and represented the conjugal, co-residential unit with common rights over heirs and property as the legitimate domestic unit, were gaining greater popularity in this period. The young professional men who supported the demand for marriage reform for ensuring the partibility of the *tarawad* utilized the idea of marriage to gain control over the sexuality and fertility of women. More importantly, the deployment of such a notion of family when *tarawad* relations were already strained spelt the end of matrilineal kinship, even in its highly transformed late nineteenth century form. In Malabar, the slow process of social change succeeded in transferring rights over women to new figures of authority within the family- the father/husband. The Marriage Act of 1896 was a failure with respect to its inability to enforce the registration of all matrilineal marriages. However, the scene was set for the seduction of the matrilineal community with the lure of the natural morality of monogamous marriage, conjugal couples and patrilineal descent.

⁷⁹ Extract from the *Malabar and Travancore Spectator*. 15 August 1895, in Legislative, 0.0. No. 118, 8 November 1895, National Archives of India (hereafter NAI).

Towards Abolition: c.1900-1940

The first three decades of the twentieth century witnessed the critical transformation of the *tarawad* that led to its eventual legal abolition in 1933. The demand for marriage, property divisions and tenants' rights had been voiced in a variety of ways—through court rooms, newspapers and in Legislative Council chambers by the 1890s. The changes in the twentieth century, however, were of a different order and scale. It was only that matrilineal customs seemed undesirable, but that the immemorial powers of the *tarawad* were no longer legally supported. The three important factors that form the framework within which the legal abolition of the matrilineal *tarawad* took place are the survey and resettlement of Malabar, begun in 1902 and completed in 1936, effectively reducing the *tarawad* to the position of revenue paying intermediaries; the Tenancy Act of 1930 that strengthened the erstwhile dependents of the *tarawad* by giving them security of tenure; and the Matriliny Act of 1933 that guaranteed the legitimate partition of joint property and provided for individual inheritance. These circumstances, in conjunction, provided for individual inheritance. These circumstances, in conjunction, created the conditions under which the *tarawad* was eventually dismantled.

During the same period another issue dominated the politics of the region, which had consequences for the changing attitudes towards matriliney. This was the emergence of caste organizations which voiced the need for community identity – one that was, both in the case of the Nayars and the Nambuthiris, centred on issues of marriage, family and tenurial relations. A critical component of the rhetoric of both these caste movements was the attempt to create a homogenous community, defined in opposition to the other. This helped to transform the perceived iniquities of the

matrilineal system by offering an alternative source of identity for members of the *tarawad* – that of caste. The process of creating a putative community centred on caste gave the schisms within the agrarian community and landholding *tarawad* a new direction. Attempts to minimize the differences between the subcastes, and strategies to overcome disparities caused by age were among the central aims of the caste organizations.

The main issues that were discussed by the Nambuthiri reformers all the way to the late 1920s were those of *tarawad* reform, education and the relationship between landlord and tenant. According to the rules of patrilineal descent and inheritance, and strict rules of primogeniture followed by the Nambuthiris, only the eldest son could marry within the community (up to four wives), as well as manage the family property. As all the other members (younger sons and unmarried daughters) could merely have residence and maintenance rights in the family home, and be maintained at a subsistence level, none of them could expect a share of the joint property. Only in the case of the extremely wealthy families was education accessible to more than one son – that too was mainly Vedic learning.

The rhetoric of family reform was couched in highly emotive language: “the degenerate state of the Nambuthiri community is worse than any other in the world. Exogamous marriages on the one hand, and lifelong dependence of the younger people on the other. With the sorrowful state of unmarried women, and bickering and strife within families, it is impossible to find if any family enjoyed married life.”⁸⁰

⁸⁰ *Mathrubhumi*, 18 December 1923

The reformers argued that there was nothing more vulgar than the exogamous relations that the younger men had to enter into with Nayar women⁸¹. Reforming the structure of the *tarawad* was seen as the only way of ensuring endogamous and monogamous marriages. Thus the community, gently and subtly diverted the focus of the debate towards the partition of property and the reconstitution of the *tarawad* into nuclear units. It was stressed that while endogamy was essential for all Nambuthiris, it could not be realized until all members of the family could support themselves and their families according to the norms of patriliney⁸². The ideal community was represented as comprising several natural families, each constituted by a man, woman and their children. Such natural ties were to imbue the community with a greater sense of unity and cohesiveness, impossible earlier as caste norms had been divisive, disallowing either the formation of a true sense of community, or the longevity of one. Therefore, all through this period, caste and community sentiments were being used to foster internal reform and reorganization.

Just as the Nambuthiris were attempting to reform the character of the household through appeals to the idea of community, sections of the Nayars were also involved in the same process. The attempt was to create a structure of the matrilineal *Tarawad*. Over time it would help to discredit the practices of the community that the Nayars increasingly considered immoral and retrogressive. The new notions of progress that the Nayars invoked were defined by the need for an identity that would be both patrilineal and broad-based enough to encompass the interests of its different subcastes, with their varied ritual and material statuses. They were, therefore, targeting a wide range of interest groups, from the younger members of the land-

⁸¹ Ibid

⁸² Ibid, 17 May 1924

holding Tarawad, non-kin Nayar tenants, and even to poorer sections of the Nayar subcastes – who were mainly cultivators – to menial workers, in the bigger *tarawads*.

The persuasiveness of the caste argument lay in its very inchoate nature which enabled it to represent the putative community as one shorn of all hierarchies and differences. It was asserted repeatedly that drastic reform was essential within the matrilineal community, and this was to begin within the household : ‘the practices on the increase in *tarawads*, the suits to get rid of the powers of the *karnavar*, the demands for maintenance, the attempts towards division – all shows the change in people’s hearts, and the move towards patriliney⁸³.

Several Nayar organizations started mushrooming all over Malabar in response to the need for internal organization and caste reform. Endogamy was an important issue among them, as it had been with the Nambuthiris⁸⁴. The other two important aims of the community were to create opportunities for employment for its men, and provide husbands for its women⁸⁵. Various aspects of marriage reform were discussed endlessly in this period, where some called for the abolition of *talikettukalyanam*⁸⁶, or the puberty ritual for girls, while others formed into organizations and collected funds to conduct proper marriage unions themselves⁸⁷.

It was argued increasingly that the colonial state was standing in the way of progress. All that was needed was to ‘change laws to accommodate the interests of people who show the desire to move from a matrilineal to a patrilineal system’⁸⁸. ‘The only possible way [to achieve a patrilineal system] is individual partitioning and the

⁸³ *Mathrubhumi* 14 July, 1923.

⁸⁴ *Ibid*, 11 September 1923.

⁸⁵ K.P.Kunjanni Menon “ The Need for a Nayar Samajam”, *Ibid*, 14 July 1923.

⁸⁶ *Ibid*, 15 May 1924.

⁸⁷ *Ibid*

⁸⁸ ‘Matriliney and Individual Division of Property’, *Ibid*, 19 April 1924.

opportunities of shares. With this it can be said that a new path for progress has been discovered in Kerala⁸⁹. Central to this process of transformation was the creation of a new familial ideology premised on conjugal love. 'To achieve this new ideal type of female virtue and womanhood needed to be created, which would gently and without demur, accommodate itself to changing times. A perfect wife is the way to perfect marital happiness... Good behaviour, wealth and status make a woman an asset to the family...'⁹⁰ Thus slowly the stage was being set for the eventual transformation of the matrilineal community into a patrilineal one. And for this, *tarawad* reform and its substitution by nuclear family units remained essential. The Matriliny Act, enacted in 1933, was designed precisely with this end in mind. With their organizations and rhetoric, the young Nayar men had created the perfect idiom for the transformation of the old order into its new, progressive, form.

Partition

The Tenancy and Matriliny Acts were both passed in the 1930s. The first granted security of tenures to all *kanam* tenants and restricted arbitrary evictions and rack-renting. The latter sealed the demise of the *tarawad* by legitimizing partition into branches, by either male or female member. Three changes proposed under the Matriliny Act were legalizing of *sambandham* marriages, granting the right of adoption, and allowing branches the right to demand partition⁹¹. Each of these provisions were fundamentally at variance with the system of relationship then extant within the matrilineal community. Marriages and adoption together were to create the natural relationship that ensured under the patrilineal system, and the division of property was to sanction the first step towards individual partition.

⁸⁹ Ibid, 19 April 1924.

⁹⁰ Marital bliss, Ibid, 10 November 1923.

⁹¹ Department of Revenue, D.Dis, 11888, 14 January 1929, Kerala Regional Archives (hereafter KRA).

It was argued that the Act ought to be permitted to allow people to lead happier and better lives. The movement is a natural one and the expression of legitimate aspirations and progressive ideas⁹². An interesting twist to this argument was that it favoured the rights of the creditors of Malabar households, as under the present system it was impossible for them to recover their loans. As no member had the right (other than the head) to sell their share, this increased the insecurity of the creditor who could be trapped into lending money, but not receiving timely repayment. Though the legislation would affect the big, rich and influential *tarawads* adversely, it was inevitable as the agitation would continue till individual partition became the law.

Transforming the political economy of Malabar: The changing balance of power between the *janmis*, tenants and the state was observable not only in the acts of legislation and caste movements of the twentieth century, but also in the transformation of the official discourse in relation to the *tarawad*. With the tenancy legislation of 1930, as well as a completely unstable and unpredictable market situation, as a result of the Depression, the future of the big *tarawad* was beginning to look gloomy. Of the greatest importance in the changing relationship between the *taravads* and state in the post 1930s period was that the latter was able to encroach upon the former's hitherto sacrosanct private rights with impunity, without making even minimal concessions.

MarEwen's report on the settlement and resettlement of the eight talukas in the plains of Malabar district in 1936 formally transformed many of the piecemeal changes that had been effected over the past seven to eight years. Of chief importance

⁹² Ibid

in this report were the changes in the terminology and definitions relating to land usages, which formed the quintessence of the changing power relations of the landed *tarawad* and the state, to the latter's favour. The terms private *janmam* and government *janmam* were dispensed with, to be replaced with *ryotwari* and inam, respectively) were abolished, and a consolidated rate of assessment fixed⁹³.

Similarly, private lands held by Nambuthiri and Nayar *tarawad* temples were slowly brought within the ambit of state control, by being redesignated as government property⁹⁴. Thus, at least theoretically, all the private *janmam* rights of the Malabar landowners were destroyed, and they were equated with mere *ryotwari* holders. Besides, most of these changes were occurring during the greatest economic crisis of the period, the Depression; what was significant was that the government with its renewed efficiency had no trouble in collecting revenue from the people⁹⁵. Thus, MacEwan's resettlement decisively altered the relation of the big *tarawads* with the state and put an end to most of the immemorial private rights of these families.

This study has examined the transformation of matrilineal kinship and inheritance amongst the Nayars of Malabar from the eighteenth to the twentieth centuries. Through focusing on the *tarawad*, it was possible to explore a variety of cultural and legal meanings of matriliney in different historical phases. The changing alignments within the *tarawad*-especially in relation to property, authority, gender and generational power underlay the changes in kinship. While the ties of reciprocity and

⁹³ Department of Revenue, R.Dis. 3431/36, 2 April, 1936, KRA.

⁹⁴ Ibid. This was in accordance to the B.P.Misc.No.1814, 8 October, 1920 and Section 7, Malabar Land Registration Act, 1896, in B.P.Misc.No.640, dt 17 March 1926.

⁹⁵ C.J.Beker, *An Indian Rural Economy 1880-1955*, Delhi, 1984, has argued that the main impact of the Depression was to create significant structural changes in the economy. It is useful to consider the Mid-1930's in Malabar in this context. The Depression can be seen as an important catalyst in transforming the economic relation of the region. With changes in the *tarawad* structure already underway, the division and partition of property acquires a special significance. Not only did these process speed up, but the structural change in the economy meant that relations between kin and dependent were evaluated and re-established on a different footing.

interdependence that bound the Nayar *tarawad* to the agrarian economy did not vanish suddenly, its slow and irretrievable transformation resulted in the creation of new identities for women and men, and for the Nayars as a caste in the twentieth century.

The statutory abolition of the matrilineal *tarawad* provided a vent for many resentments against perceived inequities. But the right to exercise an individual claim to erstwhile joint property was only the tip of the iceberg. Legal changes masked beneath its transparent surface a new legal and social morality that was welcomed, and soon became normative among the matrilineal populations. The rhetoric of modernization that had been adopted by the Nayar reformers of late nineteenth and early twentieth centuries had found its apotheosis in the political idioms of nationalism and communism. In 1976, the Kerala Legislature abolished matriliney. In the process of their incorporation into mainstream politics and in a bid to integrate themselves with the rest of India, the Nayars of Kerala dismantled the last vestiges of barbarism. Hindu laws and patrilineal descent had become almost tactual parts of Nayar life and for many among them an impossible dream had been realized.

CHAPTER V

DECLINE OF MATRILINY

From the beginning of the 16th century the matrilineal families witnessed the process of decline. The causes for this are multifarious. The advent of organized trade and the advance of colonialism paved the way for the breakdown of the agrarian base of the relations of production and distribution, the very feeder force of the institution. The intervention of the British political structures and the onslaughts of the Mysore armies acted as catalysts. The challenges that these factors unleashed could not be met with the processes of adaptations and accommodations. The historical progression had to take deviations and usher in significant changes. The waves of transformation swept away many of the medieval institutions. One of the most important among them was the matrilineal system. The story of the disintegration of the matrilineal families is analyzed in this chapter.

Matrilineal kinship underwent significant changes in the early years of colonial rule. Many factors contributed to this process among them a key influence was the changing relationship between the state and households of propertied groups. An attempt is made to trace the changes in the Nayar *tarawad* and in matrilineal kinship, in the pre-colonial and colonial periods.⁹⁶

Tarawads emerged in Malabar in the eighteenth century Malabar in a variety of ways. Internal dissensions within existing households gave rise to new ones in other instances, families, united through marriage, created new *tarawads*. The

⁹⁶. See *Matrilineal kinship*, edited by David M. Schneider and Kathleen Gough, University of California Press, 1961. pp.780-784. It begins with a theoretical description, by David M Schneider, of the distinctive features of Matrilineal descent., and goes on to descriptions of nine societies with systems of matrilineal kinship.

political dissensions and rivalries of medieval Malabar were often resolved in this manner. The bigger *tarawad* often had many *thavazhis*, not all of which were located near each other. This reflected the fact that large households often had thousands of acres of land under their suzerainty. Moreover, despite later colonial reinterpretations, the members of those branches who were knitted into a *tarawad* through bonds of kinship were not expected to live in the same place, let alone in the same house.

Another interesting facet of the process of *tarawad* formation in the eighteenth century was that many families built their fortunes by entering into the nexuses of commerce on the Malabar coast. Both titles to property and authority were bought and sold in this period, and many *tarawads* invested the fortunes they made through trade in land. The coexistence of a vibrant, commercial economy with a growing privatization of rights, especially on land, indicated the emerging power of the Nayar *tarawads* in the interior⁹⁷.

Within the *tarawad* itself, relations were constituted both among the kindred and between the kin and non-kin members. These were expressed in terms of property or shared rights over the produce (*muthal Sambandham*) as well as in non-economic terms, such as all the members of a *tarawad* being bound together by bonds of 'pollution' (as in instances of all members of a *tarawad* having to observe death pollution or *pula Sambandham*). Despite the differences in the landholding and residence patterns in north and south Malabar, these relationships were common to *tarawads* all over the region.

⁹⁷. The most significant feature of *tarawad* formation was that women were central to the creation of many of them. Both the legends associated with the setting up of the 'royal' households and evidence from the larger landholding families testify to this. Moreover, descent was always traced from an ancestress. Other than the right to set up a new branch, the women in these matrilineal families had rights to property and decision-making in *tarawad* matters. Many families had a distinct position of *karanavathis* instituted within them. Moreover, decision making was more a matter of generational privilege rather than a gendered right available only to men.

Under the Company rule the diversity of matrilineal usage was increasingly circumscribed. Colonial officials accorded greater legitimacy to certain relations within the households in other instances, they creatively misinterpreted existing practices and transformed them into inflexible legal principles. These had an impact both on agrarian relations and the internal organization of the *tarawad*. The redefinition of land rights privileged the rights of the landholding *tarawads* to the extent of exempting them from the responsibility of revenue payments. Simultaneously, the desire to render the *tarawad* into a manageable and cohesive unit made the colonial officials redefine power relations within the *tarawadd*. The search for a responsible figure of authority to settle matters led to investing the oldest male of the household with paramount rights of headship. The position of the *Karanavan* as the head of the *tarawad* was one of the most significant changes in matrilineal kinship under colonial rule.

An examination of the changing economic relations in medieval Malabar provides an important context for the study of the emergence of the matrilineal *tarawad*. The brisk commercial activity off the Malabar Coast provided an opportunity for a variety of property rights to coexist. Interestingly, not just rights to property but also rights to offices and statuses were commercialized in the eighteenth century. The power of the emergent *tarawad* to withstand the inroads of political superiors was largely a result of the immunity provided by such economic autonomy.

By the eighteenth century, alongside the ordinary sale and purchase of arable lands, there seems to have been an established trend for the sale of lands along with the authority that went with them. Taking the two in conjunction, one can see that there emerged two different, yet coexisting, notions of private property in Malabar.

One was the freehold right over the property (*nirattiper*), acquired through the process of a legal sale. The other was, through the same process, the right to own and exercise political authority over the territories acquired. This meant that while the local rulers acquired both lands and authority through sales, there also existed a rung of landowners who could possess freehold rights over pieces of arable property within the former's territory without needing to pay any tax⁹⁸.

Similar sales occurred throughout the eighteenth century, and even into the early nineteenth century. Titles to property, as well as the authority vested in it, changed hands through monetary transactions; the rights being transferred provided purchasers with a complex of resources, all of which enhanced their ritual, political and economic status. Deeds to freehold properties in the early eighteenth century reveal that sales sometimes transferred rights over markets, as well as the rivers and ferries used for transporting the produce⁹⁹. At other times, rights to the Tarawad, its territory and temple complex along with ritual and political suzerainty over these, were transferred¹⁰⁰. The new owners, having paid the current market value, became at one stroke both lords and landowners. They obtained rights to the land and its produce, exclusive rights to forests and waters as well as ritual authority (*urayam*) and the rights to manage the temple in that desam. It is significant that these rights were vendible in the other parts of the subcontinent. He demonstrates that there was an increase in the commercialization of rights, offices and statuses in the wake of the military crises and administrative disruptions in the eighteenth century, which were

⁹⁸. This is evident from the land deeds (*attipettolakaryam*) which registered the sale of territories (nadus and desams). For instance, in the seventeenth century Puthuvaypa (known as Vypin in the colonial period), an island situated between Cochin and Kodungallur, was sold by the raja of Cochin to Paliyat Raman Iravi and his family. The latter were a branch of the Talapilli rajas, but had retained a separate freehold estate. By this sale, everything that was included in the property, and all rights, economic and others, were transferred from the Cochin rajas to Paliath Achan.

⁹⁹ Ibid, deed 26, (17-12) 140

¹⁰⁰ Ibid, deed 27, (17-13) 140-141

both a cause for and a product of the crisis in the Mughal Empire in the same period¹⁰¹. By the nineteenth century, however, the colonial authorities, as a part of their redefinition of the *tarawad*, interpreted the rights inherent in these properties as both immemorial and impartible.

Lands associated not only with the *tarawads* but temples, too, appear to have been bought and sold, extending both economic and ritual authority to the new owners. As temples (or shrines) in Malabar were not the exclusive preserve of the Brahmin community, lands could be acquired by the temples through several means than through *brahmadeya*. Transactions, be they purchases or sales, on behalf of the temples were carried out by the trustees (*urular*)¹⁰².

Having received the current market value from the hands of the *urular* in the blessed name of Kurichchikkare Tevar (the diety of Kurichchikkare temple) Techchikkot Chakkan Raman and heirs granted the *attiper* by pouring water of this Pati *paramba* in the Muti *dessam*¹⁰³.

Deeds of late eighteenth century reveal that sometimes sales of land included the transfer of certain other rights as well, such as policing, and the relationship of the owner with the tenants on the land. The new owner inherited a parcel of economic and non-economic rights that were associated with the property. If the sale happened

¹⁰¹ See C.A. Bayly, *Indian Society and the Making of the British Empire* (Cambridge:Cambridge University Press,1988),p.11.

¹⁰² Logan,*Malabar, deeds* 30,(1723),142-143;33,(1725),143-44;40,(1759),148-49.

¹⁰³ *Ibid.*, deed 40, (1759), 148-149

to be that of a *desam*, then the rights to a temple within it, and its management, would also be alienated¹⁰⁴.

It is amply clear that in the seventeenth and the eighteenth centuries both properties and rights relating to the temple could be alienated and sold. However, by the mid-nineteenth century, influential judges like Herbert Wigram had declared that the “*Uralar* have no authority to alienate trust property, but they may create subordinate tenures in accordance with local usage, and raise encumbrances if money is *bonafide* required for the property of the Devaswam”¹⁰⁵. Many temples, and their properties, in Malabar belonged to the *tarawads* and formed an extension of their ritual authority over their dependants. Nevertheless, the operation of the Anglo-Indian legal system in Malabar rendered temple and household properties separate and distinct, with the former now being governed according to rules dealing with ‘religious’ property. It is extremely significant to note in this context that precedents for determining questions regarding temple properties in Malabar were drawn from Bengal. The steady utilization of the Anglo-Indian legal system throughout the nineteenth century marked a shift in the framework within which the laws governing the matrilineal household were interpreted. This meant the slow, yet certain, transformation of matrilineal practices.

The power of the household was slowly being recognized, even though rights to titles, or authority, were still vendible. In fact, the increasing market in titles and territory was consolidating the strength of the petty potentates in the interior. Unlike

¹⁰⁴ Not only could the trustees of a temple carry on transactions in land, the temples themselves, and the rights over them, could also be sold. This was possible because temples, along with the various rights held by them, were privately owned by the *tarawadus*, whose members usually handled their management. *Ibid* deed 46 (1784) 152; and 47, (1788), 153.

¹⁰⁵ Lewis Moore, *Malabar Law and Custom*, Madras, 1990, p.269

the Samuthiri, many of them entered into treaties with foreign companies in order to facilitate direct trade relations, and often these carried a promise of political recognition in return.

The existence of such a wide array of private and monetized rights in the context of a thriving mercantile economy had several implications. Till the seventeenth century, coastal trade probably provided the greatest impetus for both the production of cash crops as well as the investment in, and sales of, houses and garden lands. The cultivator-trader-merchant nexus, that connected the rural hinterland to coastal commerce, would have allowed the cultivators the possibility of selling their produce to traders who offered greater prices. This would have fed back money into the system and created the opportunity for increasing their capital assets, especially in the form of land.

However, by the mid-eighteenth century the prevalence of organized competition in the form of first the Dutch, and later the English, trading companies created a sense of insecurity amongst the merchants. By 1760, Calicut, the greatest entrepot of the Malabar coast, was declining in strength¹⁰⁶. The final blow came in the form of the Mysorean invasion, which witnessed the felling of pepper vines and sandalwood trees, trade disruptions, and perhaps the most appalling to the merchants was Tipu Sultan's intervention in trading practices¹⁰⁷. Nevertheless, the tendency for the emergent Tarawad to establish trading and political links with the companies presented the flip side of the picture of commercial decline for local merchants and trader along the coast. The households and kingdoms emerging in the wake of this

¹⁰⁶ Ashin Das Gupta, *Malabar in Asian Trade, 1740-1800*, Cambridge University Press, 1967, p.93

¹⁰⁷ *Ibid.*, 112-114.

decline were quick to swallow up the fruits of commercial production, and subvert it in their own interests.

Both symbolically and sociologically, *thavazhis* and *tarawads* were constituted differently in the pre-colonial period than they were in subsequent times. It is argued here that the *tarawads*, both of the 'royal' Samanthar and the biggest Nayar landowning families, developed out of several processes. An important compulsion was the amalgamation of *thavazhis*, or the bifurcation of existing families through internal disputes to form new constellations of power. This could have occurred in a number of ways—through internecine power struggles and attempts to control land, as well as through the sale and purchase of lands and the symbols of power and administrative authority that went with it. Engaging with the ongoing commercial activity, which was both riverine and coastal, consolidated the gains of the *thavazhis* from these operations. By the seventeenth century, *thavazhis* with discrete and autonomous spheres of power and territorial allegiances seem to have come together in the form of *tarawads*. The *tarawad*, then, was characterized more by the bonds of kinship between the branches rather than the spatial contiguity of the lands, or members of these branches living together. It was thus possible for a *tarawad* to have larger areas under its suzerainty, underscored by its growing administrative, ritual and economic powers.

Politically, medieval Malabar was characterised by a remarkable degree of fragmentation. This was true despite the fact that the kingdoms of Kolathanad and Kozhikot (Nediyirippu Swarupam) exercised nominal suzerainty over north and south Malabar respectively. At the height of its power Kolathanad's territories extended from north to south between the Netravati and Korapuzha rivers, and from east to

west between the Kudakamala mountains and the Arabian Sea¹⁰⁸. However, dissension had riven the family of Kolathiri (ruler of Kolathanad), which split into five thavazhis, each exercising autonomous control over the territories under them¹⁰⁹. This meant that their dependants and other petty chieftains, too, shifted their allegiance. Nediyrippu Swarupam (the kingdom under the Samuthiri) similarly emerged out of several skirmishes, large and small¹¹⁰. Over time, the neighboring territories were ‘annexed’, often without resistance.

We suggest that the processes of the state formation, and the formation of landed households with extra-economic powers, probably went hand in hand in the period prior to the eighteenth century. There are two interrelated reasons to believe this, and a brief discussion of this relationship is germane to an exegesis on matrilineal kinship. First, patterns of territorial expansion and household formation seem to have been closely linked in the case of the landed groups. Second, the ‘customs’, or the patterns of marriage, inheritance and property relations of the ‘royal’ Samanthar caste and the Nayar were observed to have been similar to each other as early as the sixteenth century¹¹¹. It is significant in the context of Malabar that only a few ‘rajās’, like those of Kottayam in the north and Beypore and Parappanad in south Malabar, claimed the status of kshatriyas. All others, including the Samuthiri, called themselves Samanthar. Finally, the ‘caste’ of Samanthar appears to have evolved out of a differentiation, in status and power, of the Nayars.

¹⁰⁸ A.Sreedharamenon, *A Survey of Kerala History*, Kottayam, p.172. This was in the fourteenth century. By the sixteenth century, the Samuthiri’s sway had extended to many regions within the erstwhile Kolathanad Kingdom.

¹⁰⁹ Ibid, N.Rajendran, *Establishment of British Power in Malabar, 1664-1799*, Allahabad 1979, p.35.

¹¹⁰ A Sreedhara Menon, *Opcit* Pp.176-177

¹¹¹ See J. A. Thorne’s annotation in M. L. Dames, ed., *The Book of Duarte Barbosa: An Account of the Countries Bordering on the Indian Ocean*, vol. 2 (London: Hakluyt Society, 1921), p.7.

Scholars who have argued that the kings of Malabar evolved from local powers like the governor (*vazhunnor*) or administrative chiefs (*desavazhi* or *naduvazhi*) support the latter argument. The Putturam ballads of north Malabar, dated to the period between the twelfth and fifteenth centuries, have no reference to the Kolathiri, or king, of Kolathanad. However, references to *Vazhunnor* and *Naduvazhis* abound¹¹². Similarly, the ruler of Kadathanad was referred to as Bavanore (*vazhunnor*) in medieval European accounts. By 1750, the same ruler had adopted the title of 'raja', with the explicit consent of the Kolathiri¹¹³. What is of significance here is that most of the administrative functionaries, like the *vazhunnor*, were usually Nayers¹¹⁴. Such processes of upward mobility were not uncommon in the subcontinent. The emergence and growth of the Marathas as a powerful ruling group through the seventeenth and eighteenth centuries is one such case in point¹¹⁵.

Thus, if the Samanthar and the Nayar were indeed status differences, and consequently categories that emerged from within a larger body of people, then it would not be surprising that they had similar rules regarding patterns of sharing property, marriage and inheritance. Until the eighteenth century, there seems to have been two fairly discrete processes that shaped the evolution of the matrilineal household. The first was the process of realignment of the branches of the Samanthar families that created the *royal* matrilineal households in different parts of Malabar. The second was the establishment of large *tarawads* by elite *Nayar* groups, who integrated themselves into commercial networks and rose to power in the period of

¹¹² Chelnat Achuta menon, quoted in K.S. Mathew, *Society in Medieval Malabar: A Study Based on Vadakkan Pattukal* (Northern ballads) Kottayam, 1979, p.20 and p.69

¹¹³ Menon, *Kerala History*, 202.

¹¹⁴ Mathew, *Society*, p.34.

¹¹⁵ Stewart Gordon, *Marathas, Marauders and State Formation in Eighteenth Century India* (New Delhi, Oxford University Press, 1944, Pp.17-20.

the declining strength of the coastal merchants. This explains to some extent why such a large section of the Malayali population in the nineteenth century followed matrilineal kinship and inheritance. It is more interesting to explore the changing history of kinship in these ways rather than necessarily link it to the issue of its 'origins'.

The establishment of households by women

By the eighteenth century, it was the women who established most new households of the 'royal' and Nayar castes. Logan specifically mentions that the Kottayam royal family was exceptional in that they did not follow the ordinary custom of recognizing the oldest female as the head of the household¹¹⁶. As descent and succession within the kin-group, in the case of established Samanthar and Nayar families, were organized on the matrilineal principles, it was important for these households to trace their lineage from an ancestress. In the case of the Nilswaram royal family, a princess from the Samuthiri's family eloped with a prince from Kolathnad to establish her own dynasty¹¹⁷.

It was often possible for women to establish separate branches or households as they had access to their own separate revenues and properties. This was evident especially in the case of women from the wealthier *tarawads*, who had special *cherikkallu* lands set apart for themselves¹¹⁸. This meant that women could not only have a share in the common revenues of the households but also retain rights of unilineal succession to properties demarcated specially for them. This is an important

¹¹⁶ *Ola* (palm leaf manuscript) of the king of Cottiate to Mr. Stephen Law in William Logan, *A Collection of Treaties, Engagements and Other Papers of Importance Relating to Malabar*, vol.2, Madras, 1951, p.27.

¹¹⁷ Menon, *Kerala History*, p.181.

¹¹⁸ Dames, *Duarte Barbosa*, p.11.

point to remember, as the mid-nineteenth century judicial assumption regarding matrilineal households in Malabar was that women did not possess any distinct rights to the property and were the mere conduits through whom descent and inheritance could be traced. In fact, till the early nineteenth century, it is possible that divisions emerged along lines of age rather than gender, at least with relation to power within the households. With reference to the households of the Shekhari Achans (Palghat rajas), Francis Buchanan observed that “all the male children are called *Achun*, and all females called *Naitears*—and all are of equal rank according to seniority”¹¹⁹.

While gender differences in property relations in the pre-colonial period were not institutionalized, such differences seemed more prevalent in the formal political sphere. Positions of administrative functionaries, like *Vazhunnor*, *Desavazhi*, *Naduvazhi* or Raja, were all mainly held by men in Malabar (the exception was the Bibi of Arackal in Cannanore; the Arackal *tarawad* were matrilineal Mappilas). It is difficult to judge the impact of gendered differences in formal political power on relations within the household. It was possible that titles and dignities, such as *Karanavan* and *vazhunnor*, were granted, especially under the Samuthiri, to men along lines of seniority in age. These could over time have been redefined as status categories, with putative access to power. By the late eighteenth century, in cases like the Talapilli rajas, the eldest male amongst the three branches constituting the *tarawad* was given the title of *karnavappad*. This soon became institutionalized within the family¹²⁰.

¹¹⁹ Francis Buchanan, *A Journey from Madras Through the Countires of Mysore, Canara and Malabar*, vol.2, London, 1807, p.351.

¹²⁰ Menon, *Kerala History*, op-cit, P. 198.

However, there is nothing yet to suggest that the existence of a special status of *Karanavan* within some large *tarawads* necessarily implied that the incumbents of this position were the 'heads', or had greater, and undisputed, privileges over other members of the family. Besides, there does not seem to have been a ready, or 'natural', or even a legal consensus regarding matters of seniority within the household. Questions of seniority and attendant authority were severely disputed, and armed contests often ensued to settle these issues. The disaffection between uncle and nephew (the rajas of Kurumbranad and Pazhassi, respectively) for instance, was the cause for the latter's rebellion; the raja of Kurumbranad had assumed authority over regions that fell within his nephew's jurisdiction, and had entered into a treaty with officials of the Company¹²¹. Buchanan noted in 1807, with special reference to North Malabar, that older women managed the Nayar Tarawad and that this right was generally inherited in the female line¹²².

Thus, in the light of the above discussion, it appears that prior to British rule *tarawads* and *thavazhis* could evolve or dissolve as a result of personal, economic or political factors. Several and often contradictory forces were at work simultaneously. It suggests that definite rules regarding descent, succession or inheritance were not being followed, or even accepted, customarily. By the mid-nineteenth century, colonial jurists and judges identified co-residence and the impartibility of property as the main organizational principle of the matrilineal households. In the pre-colonial period, none of these identifiers surface as crucial indices along which households were organized. The coexistence of a highly commercialized land market with separate rights to property, especially for women of large *tarawads* implied that the

¹²¹ Mathew, Society, Pp.72-74; see also Logan, *Malabar Manual*, 1981, p.562.

¹²² Buchanan, *Journey from Madras*, op-cit, p.513.

principle of co-residence could not have been enforced. Moveable properties of an intestate owner were divided equally among the surviving members, respective of their sex¹²³.

Elements of basic social behaviour in a democratic order, such as readiness to compromise and legal protection of the psycho-physically weaker, are no doubt contained in the matrilineal family structure. Their fructification for the building up of a democratic society would appear to be possible, especially where a well-established tradition in political democracy is missing. The disintegration and, partly even disappearance, of powerful and by no means truly "primitive", matrilineal societies in all five continents of our planet, and during the last four to five thousand years, should not blind us to their intrinsic values nor their educational possibilities for a new society-structure at the present juncture. The great success of the patrilineal family and patriarchal state-organizations which were first evolved among the nomadic herdsmen in the Central Asiatic and east European *steppes* was partly due to the overwhelming military power which the domestication of the Horse lent to the organizations in the form of swift cavalry armies¹²⁴. With their help alone was it possible to overrun the richer city, and village civilization of the fertile valleys and tropical or subtropical plains, which were at least in part based on a matrilineal order of society¹²⁵. The disappearance of most matrilineal survivals is, even now, due mainly to the direct, or indirect influence which the prestige-value of the patrilineal order and its erstwhile cavalry regiments exercised;—*not* to any innate superiority, nor less to a necessarily "primitive" character of the matrilineal social structure. Undoubtedly existing

¹²³ Ibid., p.412.

¹²⁴ Ralph Turner, *The Great Cultural Traditions*, New York, 1941, Pp.242-361 and 473

¹²⁵ Gordon, Childe, *What Happened in History*, Harmondsworth, 1942, p.59

primitive features in many surviving, or extinct matrilineal societies are as accessory and as a little essential features of these societies as the undoubtedly existing progressive and organisatory qualities of Central Asiatic and East European horse-riding nomads were entirely confined to them.

The Nayar Community, *Marumakkathayam* and Tarawad : Aspects of Colonial Constructs.

We saw how the intermediary class in Kerala were able to emerge as a dominant community in the pre-colonial period and continue in the position by turning the situations in the early colonial period to their advantage. Colonialism was an enterprise that not merely involved military conquest of land and resources, but it also involved bringing into its sphere of influence, the colonized people and recasting their socio-cultural aspects. This was possible as a result of the operation of power-knowledge combine or due to discursive practices¹²⁶.

In the Gramscian concept the civil society is understood in the sense of political and cultural hegemony of a social group over the society as ethical content of the state. He made an analytical distinction between civil and political society in which the former is made up of voluntary associations like schools, families and unions while the latter consists of state institution like police, army and the central

¹²⁶ The colonial discourses placed the natives into a subject position. Colonial subjects were constituted by several distinct modes. The first was through divisive practices of constituting an opposition, pitting one against the other and thereby creating a 'gap'. For eg: The opposition between the educated and uneducated. The second mode is by objectifying the productive subject the subject who labours in the analysis of wealth and economics. Third is by objectifying the self or turning the self into a subject. For Foucault subjectification referred to the strategy of remoulding the human being into new subjects through the various modes of subjectification mentioned above. In the colonial society there were several stiles through which these process were carried out.

bureaucracy¹²⁷. But in this they were heavily influenced by the concept of the ‘Orient’ that has been analysed by Said in his seminal work.

British period in Malabar through the census classified the society into various castes and sub-castes which came under the main caste. This crystallisation of the various sub-jatis or jatis under a caste during the colonial period, soon, helped in the growth of the idea of the community. The creation of this consciousness, as a result of which certain common interest could be achieved, was the phenomenon of the colonial period. Soon caste based organizations and movements sprang up intensifying the caste feeling among the peoples. These organizations worked towards the reform of customs and practices and worked for the uplift of the people of that caste. In the context of Travancore, we see that they tried to even bargain for jobs in the administrations¹²⁸.

Martiliny and joint families: some conclusions.

For many decades, majority of the sociologists and anthropologists, historians and economists, held the opinion that there existed a universal tendency for matriliney to give way to patriliney or bilaterality, and for large joint families or extended kin groups to break down into nuclear families. In the nineteenth and early twentieth centuries, this view was embedded in an overall theory of evolution and progress. Later, consonant with the rise of the functionalist paradigm, it was asserted that there existed a functional ‘fit’ between, for example, nuclear families and modern, industrial, capitalist society on the one hand, and joint or extended families and

¹²⁷ In the colonial society these were sites through which subjectification occurred. Initial requirement then was the knowledge of the people and their culture and this was gathered and codified through surveys, manuals, historiography, census and other administrative reports. See Moustafa Bayoni and Andrew Rubi, op-cit, p.73

¹²⁸ For more details read-writings on *Malayalee Memorial* and *Ezhava Memorial*.

traditional, agricultural, pre-capitalist society on the other. Recently, however, there has been a shift of opinion among scholars working in this area, although it is probably true that the older view is still current amongst non-specialists. There are several reasons for this change of opinion, but two are especially important. The first has to do with conceptual and definitional muddles which have beset so much writing on the subject. It has now been realized that terms like 'family', 'household', 'kin group' etc. have often if not usually, been inadequately defined. For instance, analytically distinct aspects of the 'family'- as a kinship group, as a residential group, as a property-owning group, as a consumption group, etc. have not been separated. Needless to say, failures of this kind have vitiated much discussion of the subject. The second reason has to do with recent empirical research. Anthropologists and historians have demonstrated that nuclear families, and bilateral kinship system, are and were common enough in pre-industrial and pre-capitalist societies, disproving the notion that they are confined to the modern West. Further, work in such desperate area as Japan, India and West Africa has revealed that non-nuclear families and 'traditional' kinship systems do not inevitably die as a result of modern economic development. Altogether, then, serious doubts have emerged about the older theories, which linked family and kin organization to social structure, although it would be exaggerating to say that these theories have actually been refuted.

The literature on this subject is vast, and the range of topics which would have to be considered in the course of a full discussion is immense. In the Indian context, attention has naturally been focused on the disintegration—or otherwise—of joint families. Latest findings tend to suggest that disintegration is not apparent, or at least that no simple, unidirectional change is occurring. The Nayars have an extra interest for those concerned with this debate, for they not only raise the issue of joint-family

breakdown, but also, of course, supply evidence for the debate of the decline of matriliney¹²⁹.

We have already argued that there was a functional connection between the Nayar's military organization and their matrilineal joint-family system, and that the demobilization of the armies had an effect on this system, in that it promoted the strengthening of the *Sambandham* bond. We have argued that this development was significant, and that it probably represented the first crack in the old system's structure. But the Nayar armies and their disbandment were unique historical 'events', and cannot be assessed as regular features of modern socio-economic development. This particular feature of the changing Nayar system therefore provides no evidence about the general relation between kinship system and the wider society.

At the close of the eighteenth century and throughout the nineteenth, a series of fundamental economic changes occurred; the granting of ownership rights to various categories of landholders, the rise of cash-cropping and a capitalist agriculture, the expansion of employment opportunities, etc. Related to these developments, too, was increased demographic growth. An explanation of how these changes were linked to the disintegration of the matrilineal joint-family system has already been presented¹³⁰. Katheline Gough pays special attention to the case of the Nayars. She contends that the 'root cause' of modern change in matrilineal kinship

¹²⁹ As we have seen, there has been a break down of the Nayar's matrilineal joint-family system over the last hundred and fifty years or so, and the question we want to look at in his final section is whether the Nayars do in fact, as they at first sight appear to do, provide support for the older theories of family and kinship change. One old lesson which has, perhaps, been relearnt recently in the subject under investigation, is that analysed concepts, allied to unidirectional, 'catch-all' theories of change, must be rejected in favour of precisely-defined concepts, associated with careful scrutiny of evidence specific to the case in point. This lesson seems to us especially crucial when looking at the Nayar material.

¹³⁰ Kathleen Gough and D.M.Schneider (ed) *In Matrilineal Kinship, Nayar: Central Kerala; Nayar: North Kerala, Tiyyar: North Kerala Mappila: North Kerala; The modern disintegration of matrilineal descent groups*. Berkeley, Univ.of California Press, 1961, p.648.

systems, including the Nayars, is incorporation of the respective societies into a unitary, capitalist market economy. Especially critical is the entry of land into the market, and its effects on both matrilineal and patrilineal descent groups, for both of them 'lose their economic basis when land is constantly being bought and sold, by individuals or by joint-stock companies'¹³¹.

This argument is, however, too simple. In both Central Kerala and Travancore, land entered the market. But it did so in significantly different ways and at different times. The British conferred ownership rights on the Malabar landlords (*janmis*) in 1793, shortly after annexing the country. Although Cochin did not actually copy British policy, the situation there resembled Malabar more closely than Travancore. In the latter state, ownership rights were conferred on the state's tenants (*kanamdars*) in 1865. These divergent land policies were, immensely significant to the different ways in which northern and southern Kerala developed. But what is particularly pertinent is that ownership rights were conferred on a relatively small number of large landholders in Malabar (and effectively in Cochin), whereas they were granted to a relatively large number of smaller land-holders in Travancore. Now it is clear enough, from all the evidence, that poorer joint families tended to break up faster than wealthier joint families¹³². Giving joint families the opportunity to sell previously impartible, inalienable land clearly promotes such disintegration. But by themselves, differences in land policy are insufficient to explain the pattern of change. Land policies may have promoted *tarawad* break-up, in the sense that they allowed it to occur when previously it could not, but they alone did not cause it. What is critical here is the presence in Travancore, or more accurately in Central and northern Travancore, of significant numbers of people belonging to a lower-ranking

¹³¹ Ibid, 648

¹³² Ibid, Pp.645-646

community – the Syrian Christians) – who were growing more prosperous and wished to buy land. In Central Kerala, this situation did not exist.

Close attention to regional differences, and to the particularities of the process of change, leads to the conclusion that no single determinant, such as increasingly complete incorporation into the capitalist economy, can be regarded as the cause of the process. On one hand, unique factors like disbandment of the armies played a crucial role; on the other, economic development identical in all regions and, in any case, by itself it did not invariably bring about alterations in the family and kinship system.

Among the Nayars, the nuclear family has emerged as one of the principal types of residential group cum economic unit, and is found widely, if not ubiquitously, throughout Kerala. This has occurred as a consequence of the steadily growing strength of the *Sambandham* tie, in the end equivalent to a marital tie, and of the concomitant disintegration of the joint families. No special congruity between the nuclear family and the modern Kerala economy can be inferred from this historical evidence. In any case, many discussions on the supposed adaptation of nuclear families to modern societies tend to be vitiated by a failure to recognize that, in spite of their apparent similarities, nuclear families do not everywhere reveal the same structure and form, nor are they always linked identically to other kin groupings¹³³.

The process to which Goody refers has clearly occurred among the Nayars.

Wider matrilineal groupings no longer have their previous importance. In part, this

¹³³ Some writers, for example Goody, have pointed out that, overall, the historical trend has not been the breakdown of extended kin groupings into nuclear families, but rather as he puts it. “the disappearance of many functions of the wider ties of kinship, especially those centring on the kin groups such as clans, lineages and kinreds. These ties may continue but the functions radically alter with the proliferation of other institutional structures that take over many of their jobs. The range of kinship ties contracts, no doubt with some exceptions, to the families of birth and marriage.

merely restates that joint families have collapsed, but it also refers to the fact that kin groupings wider than the joint family – the clan or lineage – have also lost much of their significance. Most of their ritual and legal functions have gone, and the range over which kin ties are recognized, for example by common pollution observance, has shrunk. On the other hand, the importance of wider kin connections has not diminished to the level typical in the modern West. To some extent at least, this appears to be a simple consequence of the fact that the Nayers still mainly live in an agrarian society. In such a society, geographical mobility is inevitably restricted by land inheritance; this means that kin are often bound to live in fairly close proximity to each other. Although propinquity does not cause kin ties to be maintained, it clearly promotes it. Gough, in discussing the persistence of joint families in her Cochin village, correctly points too to the welfare functions of large families in a society like Kerala, where there is no ‘welfare state’ function of wider kin ties, as well as large families, which appears to be widespread in poorer communities¹³⁴.

A critical aspect of the entire process of change is ideological. A continuous weakening in the force of the Nayar matrilineal ideology has had its converse in an increasingly strong ideology stressing affinal and paternal ties. For instance, there has arisen a growing emphasis on the pre-marital virginity of women, sexual constancy in marriage, paternal authority over children, etc. But there has been no emergence of a powerful patrilineal ideology – over and above the concept of paternal authority within the family – like that in many other Indian communities. Nor has there come into being an ideology of marriage and the family, closely resembling that in the West, wherein an ideally exclusive love-relationship between husband and wife is regarded as central. Change in the ideology of male-female relations is evidently a

¹³⁴ Kathaleen Gough, Op-cit, 1975, p.120-135

critical part of the overall transformation. The autonomy of the Nayar woman vis-à-vis men has declined; their status and position has relatively worsened, although it remains, of course, considerably higher than that of the majority of Indian women.

Douglas compares the caste system as a whole with a body, where all castes constitute a functional part of the body. The Brahmans, for example, do the thinking, the lowest castes concentrate on disposing of the rubbish, such as faeces and corpses. In order to remain in existence, the various mutual 'functions' should stay pure.

“The Hindoo caste system, while embracing all minorities, embraces them each as a distinctive, cultural sub-unit... Therefore the revulsion from touching corpses and excreta does not merely express the order of caste in the system as a whole. The anxiety about bodily margins expresses danger to group survival. Since place in the hierarchy of purity is biologically transmitted, sexual behaviour is important for preserving the purity of caste”¹³⁵.

With the growing rigidity of caste rules, in the course of time, there came to be increased control over sexual relations, which formed the basis of the caste system. Marriage and sexual relations outside the caste were punished with social exile or death. The social and sexual freedom existed exclusively within the caste divisions, sexual partners had to be sought outside one's own lineage and within the socially accepted castes. This means that unlimited sexual freedom did not exist; in the society as a whole, there were strict social and sexual prohibitions, which had to be adhered to by both men and women.

¹³⁵ In other words, the kinship-based regulation of labour coincided with a kinship based regulation of sexuality, expressed in the hierarchy of the castes. Keeping the limits of the castes clear was especially a matter of control over female sexuality because women are the gates of entry to the caste.

The increasing control over female sexuality was given its own interpretation within the patrilineal castes. Among the high caste of patrilineal, patrilocal Namboodiris in particular, a control came into being, just as the case was elsewhere in India, which was expressed in a system of *pardah*, in limitation of women's freedom of movement, in chaperonage and seclusion. This growing control over female sexuality went hand in hand with young girls marrying at the lowest possible age, the disapproval of widows remarrying and social stigmatization of women who wanted to divorce their husbands.

During the development and prosperous years of *Marumakkathayam*, the position of women in virtually all of the other castes in Kerala was characterized however, by a relatively high degree of sexual and social freedom. Formal marriage ties were either absent, as in the Nayers' *Sambandham* relationships, or loose and easily dissoluble relations; divorces, remarriage and polygamy were socially permissible.

Changing conceptions of matrilineal kinship in Nineteenth and Twentieth century Malabar

In 1933 the Madras *Marumakkathayam* (matriliny) Act was passed by the Legislative Council, allowing the division and partition of the matrilineal *tarawad* (joint-family). This effectively brought to an end a pattern of kinship and descent, a mode of production centered on the *tarawad* and above all, a way of life. It is argued here that the eventual abolition of matriliny came at the end of a long process of transformation of matrilineal principles and practices. Historicising the changes in the *tarawad* allows one not only to explore the realignments of power amongst the Nayers along lines of gender, generation and changing access to property and

authority, but also to view this reordering of power relations as responsible for altering the structure of the *tarawad*.

It is argued that by focusing on the changes in the *tarawad* one can trace the changes in matrilineal kinship over a period of time. This in turn involves a reconceptualisation of matrilineal kinship – an exercise that examines why there were variations within the system over time. In other words, kinship is not treated like a compendium of rules which can be mechanically applied to understand the ideas, values or customs contained in the social practices of people. The attempt here is also to counter the essentialist notions inherent within lineage and later descent theories and their influence on an analysis of traditional societies. These have supported the view that in societies such as Africa and India, descent systems of kinship ensured the stability and continuity of society. The households or equivalent corporate structures that were a product of this system, then, are studied as unchanging, localized and exogamous units, perpetuating the system through unilineal (partilineal or matrilineal) descent.

The study of matrilineal kinship among the Nayars has traditionally been the preserve of anthropological scholarship¹³⁶. Most of this work was done from the 1950s onwards, and the primary ethnographical material collated by these scholars was often analysed through the filter of an odd assortment, over a long time-span, of secondary historical information like medieval travelogues, gazetteers and censuses. The result was an idealized notion of matrilineal kinship that was unvarying over time

¹³⁶ A representative selection includes essays by E. Kathleen Gough, 'Changing kinship usages in the setting up of political and economic changes among the Nayars of Malabar', *Journal of the Royal Anthropological Institute of Great Britain and Ireland* (hereafter *JRAI*), ' Vol. 89(1), 1959, pp. 23-44 and in D.M. Schneider and E. K. Gough, eds, *Matrilineal Kinship*, pp. 299-304; 384-404; Joan P. Mencher, 'Nayars of South Malabar, in M.F. Nimkoff, ed., *Comparative Family Systems*, Boston, 1965; C.J. Fuller, *The Nayars Today*, Cambridge, 197c; Melinda Moore, 'A New look at the Nayar Taravad', *Mart*, Vol. 20 (3), 1985, pp. 523-41.

as well as cross north, coastal and southern Malabar. Thus essentially, the twentieth-century model of matrilineal kinship is ahistorical; it does not account for changes in patterns of inheritance, marriage, residence or descent, either in the transformative period between the precolonial and the colonial or within the colonial period itself; and finally it does not provide a historically convincing analysis of the abolition of matrilineal inheritance in the twentieth century.

By focusing on the changes in three sets of relationships – between men and women; older and younger kin; and landowners and their agricultural dependents, it is argued that the Nayar Tarawad underwent significant changes in the nineteenth century. Nevertheless, even in the late nineteenth century, kinship amongst the Nayars was matrilineal – albeit a significant variation from its eighteenth or early nineteenth century versions.

This analysis is situated within the framework of the development of Anglo-Indian law. Anglo-Indian law was the product of the attempts of the colonial state to standardize customs all over the subcontinent, and to create a comparative framework for administering the country. As the emergence of the legal system was coeval with processes of revenue settlement, the colonial administration tried to devise laws that dealt with property and propertied groups. In Malabar, the *Nayar tarawad* was a premier land and property – owning group. The concern of the colonial administration with land and revenue meant that both internal relations of property of the *tarawad* such as inheritance, management and endowments, and the external relations, especially regarding land, such as sales, leases, mortgages or other contracts, would be affected by the new laws.

Anglo-Indian law was, in equal measure, about Brahmanisation and anglicisation¹³⁷. Integral to the creation of an Anglo-Indian legal system was the utilization of both texts and customs of the elite and literate groups, who in most instances were Brahmins¹³⁸. Besides, these were part of a legal strategy to standardize Anglo-Indian law – allowing the customs of *Nayars* to be compared to Nambuthiri Brahmins and those of Malabar to Bengal¹³⁹. Consequently, the *Nayar Tarawad* was included within the emergent legal discourse in the mid-nineteenth century in a genealogy of family forms of the joint Hindu family. This meant that all subsequent legal treatments of the Tarawad constantly referred it to its position within this framework, thereby bringing it in line with patrilineal Hindu families in Malabar, and elsewhere. The changes created in Malabar custom due to legal codification were further exacerbated by the vicissitudes of court procedure. By the late nineteenth century, Malabar was the most litigious district in the Madras presidency¹⁴⁰, and the changes in the *tarawad* were marked heavily by legal injunctions.

Anglo-Indian law also redefined and standardized property in men and women which affected internal changes in the *tarawad*. Gendering authority implied

¹³⁷ J.D.M. Derrett, *Religion, Law and, State in India*, London, 1968 has discussed the intricacies of this at great length.

¹³⁸ A system of using Brahmin *pandits* opinions on Questions of 'law' or give evidence in the Company's courts meant that changes in customary norms would be coloured by Brahmin practices. In Malabar, a lot of the early information during the period of settlement was collected from the members of the big land-holding Nayar, Nambuthiri or Samanthar families.

¹³⁹ As part of the Regulation for the administration of civil justice in Malabar, the Joint Commissioners recommended that the rules to be followed in the province were to be based on the 'same tendency for Bengal, Bihar and Orissa., *Report of the Joint Commission from Bengal and Bombay, 1792, Madras.11862*, p. 221. In other words, the Bengal Regulation was taken as the blueprint for Malabar, and only the finer points of difference, which were often to do tricky questions of 'native' authority, were to be elucidated.

¹⁴⁰ By the 1880s, Malabar had the highest number, in the entire Presidency, of suits (both ordinary and small causes) for 'money and? moveable property' and 'title and other suits'. The latter, 7,587 in total, constituted a fifth of the total number of cases in the Presidency. *Report of the Civil Administration of Madras Presidency, 1882*, p. 63.

that certain functions – such as the management and sale of land, maintaining family funds, entering into legal contracts or otherwise representing the family came to be seen as the preserve of men in the colonial period, thus creating a masculine identity, with distinct rights and privileges¹⁴¹. The changing profile of power within the *tarawad*, is the key to understanding the transformations in matrilineal kinship, and its eventual abolition.

Given the state of extant knowledge regarding matrilineal kinship in the eighteenth century, it is difficult to provide textured ethnography regarding such aspects as the nature of marriage, household formation, inheritance and property relations. Nevertheless, the available information points to a rich diversity of usages. By focusing on the *tarawad* it becomes possible to speculate about the nature of kinship and the state.

The three significant ways in which *tarawad* expansion and consolidation could have occurred in this period were, first, through the fission or fusion of the large, royal *tarawads*, for personal or political reasons; second, through the integration of smaller families, in the wake of increasing commercialization in property and titles to authority, into the emerging nexuses of power; and third, for women to move off and set up new branches, which over time would form a new *tarawads*. A majority of the *tarawads* which were increasing in power at this time, whether royal or merely landowning, also followed matrilineal kinship¹⁴². The

¹⁴¹ Joan Scott discusses the utilisation of the category of 'gender' to denote cultural construction of ideas about appropriate roles for men and women. In other words, it refers to the exclusively social origins of subjective identities of men and women—and becomes a 'social category imposed on a sexed body'. See Joan W. Scott, *Gender and the Politics of History*, New York, 1985, especially Chapter 2.

¹⁴² While locating any discussion on kinship within the context of a search for its origins is problematic—have the Nayars always been matrilineal?—it is significant to note that there exists a strong argument in favour of a switchover from patriliney to matrilineal kinship among the emerging ruling groups from the sixteenth century onwards. Elankulam Kunjan Pillai, *Studies in Kerala History*, Trivandrum, 1970, pp. 292-323. In the light of this, the question of historicising kinship, and understanding its 'rules' as a set of strategic transformations becomes more clear.

remarkable feature of matrilineal kinship in this period, as witnessed in the emergent *tarawads*, was that it did not display many of the definite rules regarding descent, succession or inheritance which were to be identified a century later by the colonial administration as constituting matrilineal kinship¹⁴³.

Politically, medieval Malabar was characterized by a remarkable degree of decentralization. This was true despite the fact that the kingdoms of Kolathunad and Calicut exercised nominal suzerainty over north and south Malabar respectively¹⁴⁴. The period between the fourteenth and sixteenth centuries can be seen as the critical phase of state formation in Malabar. Some of the remarkable characteristics of this period were family dissensions, fresh alignments and consequent expansion of territory and power. The Samuthiri's kingdom around Calicut in South Malabar, one of the strongest and most stable, can be seen to have emerged out of several skirmishes, large and small. Many of these represent the transformation of smaller families (like the Eradis of Nediyruppu) into the bigger royal families (the Samuthiris of Calicut) with increasing military success and consequent political power¹⁴⁵.

It is important to note that the extension of suzerainty of the Samuthiris of Calicut over a large part of South Malabar did not reveal the presence of critical aspects of state apparatus, such as a revenue extracting machinery or a standing army.

¹⁴³ The point that we wish to emphasise here is that there is nothing pro-cultural or inherent about kinship systems. A wide range of anthropologists have been only too conscious of the pitfalls inherent in treating kinship like a set of definite rules determining social relationships. See for instance, B.S. Conn, 'African models and Indian histories', in *An Anthropologist among the Historians and Other Essays*, Delhi, 1977, pp. 200-23; J.F. Collier and Yanagisako, S.J. eds, *Gender and Kinship: Essays Towards a Unified Analysis*, Stanford, 1987; A. Kuper, 'Lineage theory: a critical retrospect', *Annual Review of Anthropology*, 1982, Vol. 11, p. 90.

¹⁴⁴ N. Rajendran, *Establishment British Power in Malabar, 1664 to 179V*, Allahabad, 1979, p. 35; Sreedhara Menon, *A Survey of Kerala History*, op-cit, Pp.172.

¹⁴⁵ Sreedhara Menon, *A Survey of Kerala History*, pp. 176-80.

To an extent, one witnesses the emergence of a bureaucracy and a judicial system under the Samuthiri in Calicut. The state as such was a nebulous and unstable entity. The political stability of the Samuthiri rajas depended to a large extent upon the shifting loyalties of the petty chieftains (the *vazhunnor*, *naduvazhis* and *desavazhis* discussed earlier) and upon the factional fights within their own families, who were prone to forging realignments with competing power groups in the vicinity¹⁴⁶. Similar factional realignments were taking place within Kolathunad too.

Therefore, it can be argued that the realignments of *tavazhis* or branches¹⁴⁷ or the disruption of existing families through internal disputes could both lead to the formation of new constellations of power. Control over land came not only through internecine power struggles but also through the sale and purchase of land, as well as the symbols of power and administrative authority that went with it. The gains from these operations were consolidated by entering the commercial nexus, both reverie and coastal. The *tarawads*, as an emergent political force in this period, could be seen as a site of administrative, ritual and economic power. Depending on its size and power it would have one or several branches, which may or may not have had a share in the common *tarawad* property. Nevertheless, quite unlike the colonial reinterpretation of the *tarawad* and matrilineal kinship in the nineteenth century, in the eighteenth century most of these attributes were still in a process of being consolidated, and represented greater fluidity.

¹⁴⁶ See Sreedhara Menon's discussion of the Talapilli rajas. *A Survey of Kerala History*, p. 198

¹⁴⁷ The word *tavazhi*, by the late nineteenth century had been defined variously as (a) relations by the mother's side; (b) relations by the wife's side; and (c) collateral branches of a family, *Cundert Nikhandu* (Gunderts Dictionary), Kottayam, 1962, p. 436 depending on the etymological source utilised. Interestingly, it probably referred to the variety of extant customs prevalent in Malabar. This highlights the difference between *legal* interpretations and customary usages with the former's tendency to reify one meaning over all others.

COLLAPSE OF MATRILINY

A series of government legislation, starting with the Malabar Marriage Act of 1896, led to the elimination of matriliney in Kerala. It took some six or seven decades from the close of the 19th century to bring to an end a system which had flourished in southwest India for centuries and had remained a subject of immense curiosity to sociologists and travellers from both east and west. The *coup de grace* came in 1969 with the enactment of the Kerala Land Reforms Act. This Act, which was an amendment of the earlier Land Reforms Act of 1963, for the first time, abolished absentee landlordism in Kerala. It conferred full ownership on tenants in respect of the lands in their possession and brought them into direct relationship with the State by the abolition of intermediary rights¹⁴⁸.

Overnight hundreds of thousands of landlords were deprived of their land. "Land to the tiller" was the sole objective of the move which was enacted and implemented by the popularly elected Communist government of Kerala. The Act also hit various small-time landlords who had no other means of livelihood. These people had entrusted their land to tenants as they themselves were unable to cultivate it. The Act had provided for compensation but it was slow and inadequate.

For the survival of matrilineal kinship in the *Nayar tarawads* joint ownership of ancestral land was essential. The right to partition was absent in the social custom until it was expressly sanctioned by several government legislative measures in the first half of this century.

As Dr. Balakrishnan says, "impartibility was an essential feature of the *Marumakkathayam* system. There could be no partition without the concurrence of

¹⁴⁸ Prof. Sreedhara Menon, *Cultural Heritage of Kerala*, Cochin, 1978, p 234

all the members of a *tarawad*¹⁴⁹”. While the new government measures allowed partition if a majority of the family members demanded it; partition was still slow in coming due to the opposition of the *Karanavan* who stood to lose his power and prestige. The result was extensive litigation between *Karanavans* and juniors. The Land Reforms Act, on the other hand, indirectly forced partition by putting a ceiling on the extent of land holdings, mainly agricultural land. The ceiling limit was 15 standard acres for a family of four (husband, wife and two children), with an increase by one acre for each member in excess of four. The only exemptions were rubber, tea and coffee plantations, private forests and patently non-agricultural lands and lands belonging to religious and educational institutions.

The *Karanavans* therefore, were forced to parcel out whatever land in the possession of the family to junior members. Failure to do so would have meant surrender of the land to the government for meager compensation. The ceiling law led to widespread partition of *tarawad* properties and surrender of excess land to the authorities. The act had expressly forbidden any partition of land with retrospective effect in an attempt to escape the ceiling limit. The land thus surrendered was redistributed by the government to the landless. As owners of vast tracts of land in the state the Nayars and Nambuthiris were the worst hit by the reforms.

The Act had the laudable aim of protecting the rights of tenants and landless settlers. It came when matriliney was well on its decline. Some vestiges of the old social order, however, were still remaining in various parts of Kerala, especially among the rich Nayar *tarawads*. The heads of these *tarawads* used to enjoy immense power and wealth under matrilineal system through the extensive land holdings the

¹⁴⁹ Dr. Balakrishnan, *Matrilineal System – Special Reference to Legal Aspects*, Calicut University, 1985, Pp.16-18

families owned. These *Karanavars* were the last of a group which had steadfastly resisted the increasing pressure brought on them by junior members for partition of the *tarawad* property. And they were the ones who had to finally succumb to the changing trend and accept the new social order¹⁵⁰.

The land legislation may have the dubious distinction of finally eliminating matriliney from Kerala but it was looked upon by scholars and historians of the state as a very welcome and necessary development. Professor Sreedhara Menon feels that as a result of the change "the common man of Kerala has liberated himself from the shackles of feudal serfdom and caste domination. The old institutions which stood in the way of the social and economic progress of the people have crumbled down. The *Marumakkathayam* (matriliney) and the *jenmi* systems have disappeared not only under the impact of the progressive forces that have been at work in society but also as a result of the progressive legislative measures introduced by the government¹⁵¹".

The Nayar reformers, through most of the first half of the 20th century, were not fighting for land reform. They were keen in getting rid of matriliney which to them was an anachronistic social system that prevented the socio-economic progress of their community vis-à-vis the Christians and Brahmins. As Prof. Sreedhara Menon says that the system "revealed in the course of its working several serious defects and eventually its continuance evoked strong resentment among the members of

¹⁵⁰ The new legislation automatically gave ownership to tenants and tillers over the land they cultivated. Landlords, also known as *jenmis*, who were looking after their own land, were not dispossessed but they were a small minority. The vast majority of the Nayar and Nambuthiri land-owners suffered because they were absentee landlords. The larger the holdings the richer the *Tarawad* and the more powerful and authoritarian its *Karanavan*.

¹⁵¹ Ibid, p.235-236

matrilineal families¹⁵²”. A major cause of the conflict was the inability of the *Karanavan* to look after both his wife and children as well as his sister’s children impartially. He was also often accused of being autocratic in the exercise of his powers.

The impartibility of the *tarawad* was one of the major hurdles in the change-over of the Nayers from the matrilineal system. Earlier legislation like the Cochin Nayar Regulation of 1920, the Travancore Nayar Act of 1925, the Madras (Malabar) *Marumakkathayam* Act, the Mappila *Marumakkathayam* Act of 1938, the Namhuthiri Act, and the Cochin Nayar Act of 1937-38 accepted the right to partition and allowed families to divide property if they so desired. Mere granting of the right to partition was not enough. Many of the powerful heads of families would not loose their grip on the family wealth unless compelled to do so and this is what was accomplished the Land Reforms Act of 1969. The only unsavoury aspect of the Act, especially to the junior members of the *tarawad*, was that apart from forcing the partition of the family properties it also took away their rights to excess land and holdings held by tenants and tillers.

After the Malabar Marriage Act the first legislation that had an impact on the system was the Travancore Nayar Act of 1912. It granted half the self-acquired property of the male to his wife and children and the other half to his sister's children. It was the Travancore Nayar Act of 1925 which provided for the partition of Nayar *tarawads* in that region, the share being calculated per capita and it deprived the nephews of all claims in the properties of their uncles. The result of

¹⁵² Prof.Sreedhara Menon, *Social and Cultural History of Kerala*, New Delhi, 1979, p.90

these measures was to make vast sections of the Hindus of Travancore patrilineal¹⁵³.

Earlier in 1919-20, the Cochin Nayar Regulation Act had already limited the powers of the *Karanavan* and legalised customary marriages. It made all husbands, including non-Nayars, responsible for the maintenance of their wives and children. It took nearly a decade for the reforms to spread from the two princely states to the Malabar area. The transition here to patriliney was brought about by the Malabar *Marumakkathayam* Act and the Mappilla *Marumakkathayam* Act¹⁵⁴.

Through most of the 19th century matriliney continued to flourish in Kerala as the British courts upheld its main customs: impartibility of property and the powers of the *Karanavan*. The British wanted to pacify the Nambuthiri and Nayar landlords by reinstating them to their predominant positions before Tipu Sultan (1783-92). They found it inconvenient to deal with the educated nephews who were radicals. The British had a two-fold aim: crush the opposition of the Muslims and establish a stronghold in India¹⁵⁵.

Tarawad in Malabar had begun to decline as Hyder Ali and Tipu imposed the direct revenue system. Under the system tax was collected directly from the tenant through officials. This move adversely affected the interests of the landowners¹⁵⁶. Some scholars felt that if the customs, especially the issue of partition, had been changed by the courts the matrilineal system would have cracked much earlier.

¹⁵³ Ibid, p.91

¹⁵⁴ The Nambuthiris, although patrilineal except for a small group called Thirumumpas in Payyanur, were not left out of the mainstream of reforms. Their earlier practice of allowing only the oldest male son to marry within community, leaving his brothers to fend for themselves by taking Nayar women as *sambandham* partners, was also changed. In 1933, the Malabar (Madras) Nambuthiri Act was enacted which gave the right to all Nambuthiri males to marry within their own caste. The children of all such marriages became the legal heirs of property.

¹⁵⁵ P.K.Jyothi, op-cit, p.36-37

¹⁵⁶ Prof.Sreedhara Menon, *Survey of Kerala History*, Madras, 1984, p.257

John.D noted that "Malabar *tarawads* would long since have broken up into families, each headed by male, if the courts had allowed them to do so¹⁵⁷ .

"Even in Malabar we have witnessed continued efforts on the part of the natives to cast off their own customs to deal with their property by partition, alienation and devise, as if it were governed by the ordinary Hindu law. It so happened that during the whole time of this silent revolt the Sudder Court possessed one or more judges, who were thoroughly acquainted with Malabar customs, and by whom cases from their district were invariably heard. Had the court been without such special experience, the process would probably have gone with such rapidity that by this time (1922) every Malabar *tarawad* would have been broken up. The revolt would have been a revolution¹⁵⁸ .

Faced with "endless litigation" and internecine conflicts in *tarawads* through most of early 20th century, the courts in Malabar slowly moved towards acceptance of compulsory partition as the only remedy¹⁵⁹. Thus the Madras (Malabar) *Marumakkathayam* Act was passed in 1933.

Then came the Hindu Succession Act of 1956, the first major legislation by independent India directly affecting the system of property inheritance throughout India. This Act gave men and women all over the country equal right to inherit property. It also made monogamy compulsory for all Hindus. In Kerala, the Act set the seal on the matrilineal form of inheritance through the female line. The various changes brought about by the different Acts "helped usher in a new and progressive society in Kerala following the natural laws of inheritance and marriage and the code

¹⁵⁷ John.D.Mayne, *A Treatise of Hindu Law and Marriage*, Madras, 1922, p.315

¹⁵⁸ *Ibid*, p.13

¹⁵⁹ Dr.Balakrishnan, *op-cit*, p.179

of conduct observed by progressive societies elsewhere in India and abroad," says Prof. Sreedhara Menon¹⁶⁰. He notes that the matrilineal system became the relic of a bygone age but admits that some lingering traces of the custom continued in the observance of certain customary ceremonies, and death and birth pollutions¹⁶¹.

The reform movement among the Nayars, which began towards the close of the 19th century, picked up momentum and the Nayar Service Society (NSS) was established in 1914¹⁶². The NSS was founded in central Travancore by a few prominent Nayars headed by Mannathu Padmanabhan. They campaigned for individual partition and abolition of the matrilineal system. The NSS and its activists were incensed by the failure of the first Nayar Act of 1912 to grant the right of partition to *tarawads* due to the strong opposition of the Nambuthiris and the *Karanavans*.

As a result of the continued and unabated agitation by the reformers the government was forced to enact the Travancore Nayar Act of 1925 providing for individual partition of the matrilineal joint families. The measure also gave a boost to the popularity of the NSS which steadily gained in strength. The NSS has continued to play a major role in all aspects of Nayar social life throughout Kerala ever since.

The reforms enabling the change-over from matriliney to the patrilineal system were slow and uncoordinated in the three areas, Travancore, Cochin and Malabar, till the formation of Kerala state by independent India in 1956. There were also some lacunae in the Act affecting partition in the Malabar area, the Malabar *Marumakkathayam Act* of 1933. For example, under Sections 38 to 41 of the Act, any

¹⁶⁰ Prof.A.Sreedhara Menon, *Survey of Kerala History*, op.cit, Pp.257, 265.

¹⁶¹ Ibid

¹⁶² Robin Jeffrey, *Decline of Nair Dominance*, Delhi, 1976, p.237.

tavazhi (family unit) represented by "a majority of its, members could enforce partition of the *tarawad* properties but the consent of the common ancestress, if alive, was necessary¹⁶³.

It also listed a number of *tarawad* as impartible. Such units could be divided only with the permission of the Collector of the district which is given only if two-thirds of the members of the *tarawad* demand it. Another clause allowed any unit to be listed impartible by the Collector if two-thirds of its members asked for it. All these, however, were removed from the legislation when it was amended by the Kerala Legislature in 1958, paving the way for uniform laws on partition throughout the state¹⁶⁴.

At the time of independence in 1947 it was becoming clear that the matrilineal joint family system was on its way out, first in Travancore and then in Cochin and Malabar. Ideologically and spiritually the norm was the nuclear family. In the conflict between the educated juniors and the older heads of the *tarawads* the former were emerging victors. The juniors had the majority. They also had the backing of the reformists¹⁶⁵.

This is how Fuller saw the situation in 1976: "throughout modern Kerala, to the best of *our* knowledge, the old Nayar matrilineal joint family system has disintegrated. *tarawads* have split up and modern households form smaller units. Property is no longer held jointly but is owned by individual men and women. An inheritance

¹⁶³ Dr.Balakrishnan, op-cit, p.181.

¹⁶⁴ Fuller C.J, *The Nayars Today*, Cambridge University, 1976, p.63

¹⁶⁵ There was also a tussle between the educated young and the stay-at-homes. The educated, who were marrying and moving out their places employment, resented the latter who sided with the *Karanavns* and had a free run of property.

is bilateral although certain features of matrilineal descent persist. The tali-rite is no longer celebrated nor does the less in the same way as other Hindus and their marriages are expected to be monogamous and lasting. Nambuthiri men, further, can no longer take Nayar women as lovers”¹⁶⁶.

Marital tie, a fundamental part of the matrilineal system, also began to undergo changes, perhaps a little earlier than property inheritance. The practice of village endogamy among the main clans slowly began to change and partners were being sought from nearby areas. The rule of hypergamy and other caste restrictions affected the availability of partners in the same village, while improved communications encouraged alliances outside. The old system of the male having the right to marry one's uncle's (mother's brother), daughter, was also rapidly changing. By the seventies of the 20th century the tendency was not to marry the uncle's daughter. A male may still marry his maternal uncle's daughter but this is through the mutual agreement of the partners. The word *Sambandham* had also almost disappeared from the vocabulary.

It has been replaced by words like *vivaha* as in most of India or *kalyanam* as in Tamil Nadu. *Talickettu kalyanam*, unique to Kerala, has become a forgotten ritual by the late twenties and thirties¹⁶⁷. The observance of puberty ceremony or *Thirandu Kuli* has also become rare.

While discussing the reasons for the disintegration of the matrilineal system in Kerala, most of the scholars agreed that the custom had given rise to a conflict between two loyalties: the matriarchal and the matrimonial. A Nayar woman was able

¹⁶⁶ Fuller, Op-cit, p.123

¹⁶⁷ Ibid, p.101

to receive her maintenance from the *tarawad* but she needed more things than that and the *tarawad* had no legal obligation to provide them. She, therefore, looked to her husband to get these and as comforts increased due to progress her reliance on the husband also increased. The *Karanavan*, who loved his wife and children, often became unmindful of the rightful claims of his heirs (nephews and nieces). As the Malabar Marriage Commission in its report noted, the husband, while accepting the status of head of the family, was expected "to be able to regard every member of the (joint) family with an impartial love and to prefer their interest to those of the wife of his bosom and the child of his loins¹⁶⁸."

There were other causes contributing to the collapse of matriliney, and according to Dr. Balakrishnan, lack of freedom to develop or lack of individual liberty was one of them. "There, no man or woman was born free, no one grew free. There was no scope for the all round development of an individual under *the Tarawad*¹⁶⁹". Of, course, it may not be possible to obtain any statistics on the list of members of matrilineal *Tarawad* who, whatever the limitations of their social customs, have managed to develop and earn laurels in their chosen careers. They were in no way second to the offspring of patrilineal families in achieving success in their chosen careers. On the other hand, many have found the system more congenial for a fuller development of their talents than perhaps under the patrilineal system. It cannot be denied that the mother had more freedom and authority to manage the affairs of her children, including their education.

It has been seen that the Minangkabau of West Sumatra and the Keralites have a higher degree of literacy than the other ethnic groups in their countries. Also a

¹⁶⁸ Dr. Balakrishnan, op-cit, Pp.193-194

¹⁶⁹ Ibid, p.194

proportionately higher number of Nayers and Minangkabau have managed to capture the white-collar jobs in their respective countries compared to other communities.

We could see that relationship between maternal uncle and his nephews and nieces form an important element of the matrilineal system. In the old days the uncle or the *Karanavan* administered the family property and looked after the general welfare of all members of the family. The uncle played a major role in arranging the marriages of the juniors and had the final say in all religious and social functions of the *tarawad*. This uncle-nephew tie has been one of the main casualties of the decline of the system. Except for some members of the older generations it is doubtful if this tie plays any part at all in the lives of the Keralties. As Fuller says, "Nowadays, a fair picture of the *Karanavan-ship* is hard to obtain as no modern Nayar has a good word for it." This is especially so in the nuclear families of Kerala migrants outside the state. The children here are brought up without even knowing how many maternal uncles they have. The uncles have no role in the lives of the nephews and nieces. If one wants to delve into his family tree or roots it may be only for academic reasons.

Yet it is difficult to say that the uncle-nephew tie and the idea of *Karanavan-ship* have all totally disappeared from the social fabric of the Nayers. After all a change-over from a custom that had existed for centuries to a totally new way of life in a matter of four or five decades cannot but leave behind some vestiges of the old order. One such is the *sthanom* or title of the *Karanavan* in some of the prominent Nayar *tarawads*. In the Kodakara Nayar *tarawad* of Ayalur-Nemmara, in former Cochin state, the eldest male member assumes *Karanavan-ship* with the special title of "Moopil Nayar". He is installed in his new function with all the rites and ceremonies akin to the installation of a *Pengulu* among the Minangkabau of Sumatra.

The practice is continuing to this day although the ceremonies are conducted in a very much less lavish fashion than before. While the ceremonies used to last previously for a week at an enormous cost, today it has become a mere formality due to the poor financial status of the *tarawad*. The "Moopil Nayar" used to enjoy his own *jeevamamsam* (land for life) a part of the general pool of ancestral land granted by the Cochin ruler. In addition he would also receive annual rent from the land owned by selected *tavazhis* or family units of the *tarawad*. This rent used to be rendered in cash or in the form of paddy, coconut, gingelly oil, etc. With the rent thus collected and with the income from his own land, the "Moopil Nayar" had certain obligations to meet, the foremost being to look after the family temple for the Goddess known as "Nellikulangara".

Final Blow

The erosion in the power and status of the Kodakara "Moopil Nayar," like in the case of other *sthanees* (title holders), began with the decline of the matrilineal custom in the state. The *tarawad* could not escape the general wave of revolt against the *Karanavans* and partition of the joint families sweeping through the state in the first half of the 20th century. The final blow came with the Kerala Land Reforms Act which enabled tenants to seize vast areas of agricultural land of the Kodakara Nayars. At the height of its power the *tarawad* had comprised less than 10 *tavazhis*. They owned 2,000 acres of prime agricultural land stretching from the foothills of Pothundi, in the Western Ghats, to Nemmara. When *Naduvazhis* were powerful the Kodakara Nayar had laid claim to the entire Pothundi Hills but these were brought under the Cochin ruler during the period 1760 to 1780¹⁷⁰.

¹⁷⁰ Bhaskaranunni, *Pathonpatham Nootandile Keralam*, (mal), Thrissur, 1988, p.618

Like the Kodakara Nayars most of the titled Nayar families in Kerala lost their land under the land reforms. Some of them were reduced to absolute penury. Although the Act had provided for "compensation to be paid by the tenants in instalments, cases of former landlords receiving even minimum compensation were rare.

The richest and most powerful among the Nayar *Naduvazhis* was Kavalappara Nayar of Malabar. His pre-eminent status was recognised by the British who entered into a contract with him similar to the ones signed with the Zamorin of Calicut, the Rajas of Palghat and Kurumbranad and the Nayars of Kongode, Mannur and Edathara¹⁷¹. Under the special powers accorded to him by the Zamorin of Calicut the Kavalappara Nayar was entitled to sit and eat with the Brahmins. The house of the Kavalappara Nayar was called a *Kovilakam* or palace like those of the rulers. On the death of Kavalappara Moopil Nayar the prominent Nambuthiri *tarawad* of Chemancheri used to observe the death pollution¹⁷².

Today the Kavalappara Nayar *tarawad*, which was far more powerful and affluent than the Kodakara Nayar's, exists only in name. The vast property has either been partitioned off to the various *tavazhis* or taken over by the tenants and the *tarawad* has been broken into so many nuclear families.

There is a belief that like all other matrilineal institutions in Kerala, the *sthanom* has also been liquidated by the modern concept of family and the legislative enactments¹⁷³. But this does not appear to be so as the case of the Kodakara "Moopil Nayar" shows. He could perhaps be an exception to the rule. What is clear is that

¹⁷¹ Bhaskaranunni, op-cit, p.112

¹⁷² Bhaskaranunni, op-cit, p.112

¹⁷³ Dr.Balakrishnan, op-cit, p.151

sthanom has become an anachronism and if it is still there in some corners of Kerala it could only be a decaying relic of their past.

Fuller notes that sociologists and anthropologists have held the view that there was a universal tendency for matriliney to give way to patriliney or for larger joint families or extended kin groups to break down into nuclear families¹⁷⁴. This tendency also affected the Nayar joint families with matrilineal rituals disappearing and kin ties shrinking to the minimum. Fuller, however, holds that kin connections in Kerala have not diminished to the extent they have in the West. He feels that to a certain extent at least this may be due to the fact that Nayars still mainly live in an agrarian society¹⁷⁵.

Although rare, there are instances where marriages are still arranged by the couple's parents. There has been a decline in the status of women vis-a-vis men, although it still remains considerably higher than that of the majority of Indian women¹⁷⁶. The passing of the matrilineal system, with its more obnoxious features, like the *Karanavan-ship* and the caste differences, have been generally welcomed by the Nayars. They are realising with a tinge of nostalgia that they were once the nobles of Kerala and the warrior race which had the role of protecting the land and its ruler. "The nobility of the Nayars was contingent on the servility of most of the rest of Kerala's people. A better life for them had to mean a relative decline for the Nayars¹⁷⁷." A decline in the status of the mother, at the same time, is looked upon as a matter of regret by them.

For centuries the disapproving comments of Europeans on the 'uncivilized' customs in the Kerala society had not really had any influence on the social

¹⁷⁴ Fuller, Op-cit, p.143

¹⁷⁵ Ibid, Pp.148-150

¹⁷⁶ Ibid, Pp.148-150

¹⁷⁷ Ibid, Pp.148-150

organization. Neither the influence of various colonial powers, nor of the missionaries had changed much in the matrilineal traditions and culture. Both Christianity and Islam in Kerala became interrelated with the Hindu culture, which was based on the original Dravidian traditions. Profound change in Kerala society only came in the twentieth century, when the organization of the family system, marriage legislation and the system of inheritance rights, as well as the access to land and the property relations were all radically reviewed.

A social debate and process of change which had already begun in the nineteenth century preceded the laws which established these changes. Criticism was leveled at traditions, rituals, marriage arrangements and collective ownership by not only outsiders or people with a low position in the caste hierarchy, but also by Nayars and Brahmans. There were “new notions on family, love, care and concern, responsibility and romantic relationship between man and woman. All these were sanctified by the legal culture which the Englishman brought to India.”¹⁷⁸

Response to the centuries of European disapproval grew in the course of the nineteenth century. The young people in particular began to see the traditions as outdated, as something belonging to a feudal past and as a burden. In 1908, the *Marumakkathayam* Committee, which was set up by the government of Travancore, compiled a stream of criticism. In their report, the different traditional ceremonies were well and truly taken to the cleaners. The *talikettukallianam*, for example, provoked the following comments; 'a mock marriage, a sham marriage, a meaningless

¹⁷⁸ Saradamani.K, 'Changing land Relations and Women', in Rekha Metha and K.Saradamani (eds) *Women and Rural Transformation*, Delhi, 1983, p.71.

ceremony, an empty form, a ridiculous farce, an incongruous custom, a waste of money, a device for becoming involved in debt'.¹⁷⁹

According to Jeffrey, the report of the *Marumakkathayam* Committee demonstrates how much the dominant position and the system of values of the Nayers, in their own eyes too, had changed during the second half of the nineteenth century. He compares the position of the Nayers halfway through the nineteenth century and at the beginning of the twentieth century. 'Ritual purity was now a poor justification for control in 1908 for a man to be acknowledged as a leader, it was more and more necessary for him to have a university degree, a law practice or a position under government. The movement towards achieved status was pronounced'¹⁸⁰.

Nayar men were no longer warriors, but worked as farmers, doctors, lawyers, teachers, politicians and civil servants in the growing bureaucracy: 'The martial spirit of the Nayers in these peeping times of peace has died out for want of exercise. The Nayar is more and more becoming a family man' (Thurston 1909 Vol. v: 288). *Marumakkathayam* no longer suited the demands of the time: young men had to be able to follow training to find a place in the modern society. The care and responsibility for the *Tarawad* and for the indivisible family property were also considered to be a burden.

However, the first laws which redefined family relations and inheritance legislation were far from totally accepted. A large group of Nayers were opposed to changing the century-old traditions. The Malabar Marriage Act of 1896 illustrates this: Nayers and Ezhavas rarely made use of the new possibility to officially register

¹⁷⁹ E.Thurston, *Caste and Tribes of Southern India*, vol.v, Madras, 1909, p.326.

¹⁸⁰ Robin Jeffrey, *Decline of Nayar Dominance, Society and Politics in Travancore, 1847-1908*, New York, 1976, p.269.

Sambandham relations¹⁸¹. 'The reason for this is, admittedly, the reluctance of the men to fetter their liberty to terminate *Sambandham* at will by such restrictions as the necessity for formal divorce, or to undertake the burdensome responsibility of a legal obligation to maintain their wife and offspring'.

In Cochin, in 1919-1920, a Nayar Regulation Act was passed, which established the legal marriage, prohibited polygamy and gave wives and children the right to be supported by the husband and father. In 1937-38, a second Nayar Act was also passed, which went just as far as the legislation in Travancore; *Tarawad* became divisible and sister's children lost all of their traditional rights.

Finally in 1933, Malabar followed suit with a law which made it possible for a son to inherit from his father. In addition, a law was introduced in the same year for the Namboodiris, which stipulated that it was no longer only the eldest son who could marry and inherit, but that all sons could do this. Polygamy was forbidden. These laws were, in the words of the later communist Chief Minister and advocate of abolition of the old system, "the first step towards a compulsory system of monogamy and for providing for individual partition if demanded."¹⁸² Private landownership, the monogamous marriage and the right of inheritance from father to son were laid down in interconnected laws. In all three of the states which later merged to become Kerala, the legal end of *Marumakkathayam* was now a fact.

¹⁸¹ The following appeared in the Gazetteer of Malabar on the subject of this Malabar Marriage Act of 1896: 'When a *sambandham* has been registered in the manner therein laid down, it shall have the incidence of a legal marriage; that is to say, the wife and children shall be entitled to maintenance by the husband or father, respectively, and to succeed to half his self-acquired property, if he dies intestate; while the parties to such a *sambandham* cannot register a second *sambandham* during its continuance, that is, until it is terminated by death or by a formal application for divorce in the Civil courts' (Thurston, op-cit, Vol. v, 1909; 338).

¹⁸² E.M.S Namboodiripad, *How I Became a Communist*, TVM, 1976 p.p.101-104

However, this does not imply that the influence which *Marumakkathayam* exercised on the society disappeared entirely. *Marumakkathayam* as form of kinship organization gave form and meaning to the Kerala culture and to the social personality. It went together with deeply rooted sentiments which involved sexuality, family life, work, honour and symbolic-religious perceptions. Such sentiments, interrelated with often unspoken, partly unconscious processes of personality formation, do not disappear in one single generation.

The *tarawad* is the focus of the emotional make-up of every Nayar even today¹⁸³. According to Puthenkalam (1977), the most important changes in the matrilineal system of Kerala lie in the field of family relations and authority relationships. The collective society form, which the *tarawad* entailed, disappeared and in its place came nuclear family or 'elementary family', consisting of man, woman and children. He refers to the Nayars' changing work ethos, the division of collective landownership which, although considered impossible, was nevertheless applied, the disappearance of the authority of the *Karanavans*, the transition from matrilocal to virilocal marriages. He refers above all to the authority which men acquired in their new role as father and husband. He stresses that this changing role of men indicates the essence of the disappearing *Marumakkathayam* system. 'The father/husband is the head and guardian. It is the father/husband who represents the family in religious and secular affairs. The enthronement of the husband as the guardian of his wife was the undoing of the very concept of *Marumakkathayam* system.'¹⁸⁴

¹⁸³ Fr. J. Puthankalam, *Marriage and Family in Kerala*, Galgery, 1977, p.172

¹⁸⁴ *Ibid*, p.170

In the process of change that led to the disappearance of *Marumakkathayam*, both economic and social factors played a role. The various authors who have examined this matter all highlight different aspects or emphasize one certain factor, depending on their scientific views and research focus. Fox writes that the disappearance of matriliney in Kerala is entirely due to British pacification, which resulted in the loss of the Nayar warriors' tradition. However, the changes involved a far more complex process than just that of pacification¹⁸⁵. Jeffrey points to factors such as more widespread schooling, the changing labour market which was associated with the transition from 'ascribed towards achieved status'¹⁸⁶. An author such as Paulini, who examines the development of capitalist relations in the agrarian economy and the process of class formation connected with' it, emphasizes the economic aspects of the process of change. The breakdown of the *tarawad* presented the possibility to commercialize land and agricultural cultivation:

'As a consequence of the break-up of joint families, which had been sanctioned by several legislative measures, the upper castes were weakened through partition of joint properties, and the economically more active Christians, Muslims and Ezhavas were able to acquire land properties from Nayars and Brahmins. With the dissolution of joint families, a main social barrier to free land-transfers disappeared¹⁸⁷.

The collective and thus indivisible landownership of the *Tarawad* blocked the possibility of trading land, and consequently hindered the development of capitalist production relations. However, the opening up of the market and the

¹⁸⁵ Robin Fox, *Verwknstschap en huwlijk*, Amsterdam, 1970, p.33

¹⁸⁶ Robin Jeffery, Op-cit.

¹⁸⁷ Paulini.T, *Agrarian movements and reforms: The case of Kerala*, Verlag, 1979, p.181

commercialization of agrarian production were not possible without the opening up of family relations. The criticism of the century-old traditions, ceremonies and family relations did not just come about, as a result of a desire to move to individual possession and profit. But it was just as much if not more so, due to the social struggle for equality, and a result of the desire to break through the traditional and unequal power relationships embedded in the caste hierarchy.

The pursuit of social equality, expressed by various ideological currents, was carried by caste organisations, farmers' and tenants' organizations, trade unions and political parties. In her study of women and changing land relations, Saradhamoni underlines that pursuit of equality, land reforms and changes in the family structure have merged. The breakdown of the collective landownership went hand in hand with changes in the system of *Marumakkathayam*, The new landowners and tenants who fought for land rights and the guarantee of their property, also wanted 'a new status as husbands and fathers who would earn, protect and maintain their wife and children'¹⁸⁸.

In the pursuit of social equality, the old marriage forms, ceremonies and rituals disappeared, which were associated with a feudal past. In Kerala, land reforms, pursuit of equality and changes in the family structure have also been connected changes in symbolic-religious perceptions and gender relations.

This brings us to a paradoxical development in Keralese history. The land reforms, the tenancy and labour laws came about as a result of the pursuit of social equality. The relationship between castes, between those who have property and those who do not, changed and thus, unintentionally, the relationships between men and

¹⁸⁸ Saradhamoni.K *Women's Status in changing Agricultural relations, Economic and Political Weekly*, Jan.30, 1982, Pp.155-163

women also changed, as did the social definition of gender, whereby women lost rights and status.

The disappearance of *Marumakkathayam* as a system of rights of inheritance succession and as a cultural tradition-had major consequences for the socially dominant views on the social roles of men and women. Men were no longer as sons of the lineage and the caste, but obtained a new social role as husband, father and breadwinner¹⁸⁹. Women lost their traditional roles

What characterizes this process of change is an increased emphasis on individuality. Collective landownership and collective responsibility for the lineage and the family property changed into individual possession and individual responsibility for one's own work and income. Polygamous marriage relations changed into nuclear family relations, there was an individualisation of both labour and sexuality. With the rise of the monogamous nuclear family, both men and women obtained a new role. The increased social emphasis on monogamy and virginity, which resulted from the new marriage system, led to greater control over female sexuality and freedom of movement. Saradamani remarks that women in Kerala do not seem to have been aware of their role and of their losses in this developmental process:

"The last fifty to sixty years which have witnessed major changes in land relations have also seen the break-down of the matrilineal system and joint family ... But women themselves seem to have been ignorant of their role, and this appears to be one reason why

¹⁸⁹ The term breadwinner refers to the person who both generates income and who is also responsible for the nuclear family. In the Kerala context of course, the term 'rice winner' could be used but has been avoided, as this type of neologism leads to confusion.

the special rights could be taken away from them without a word of protest or even their being aware of what was happening'¹⁹⁰.

By women's 'special rights' Saradmoni refers their traditional role in access to land and the respectable status which they held within the lineages. The significance which they had within the symbolic-religious perceptions also disappeared. They lost some of their freedom of movement and sexual freedom. In the process of tightening sexual control, women lost their places on the labour market. They almost totally disappeared from several professions, especially from trade and industry. This last point can be illustrated with the following table.

Kerala: number of 'workers per 1000 of total female population, 1901-1971

Category of activity	1901	1911	1921	1931	1941	1951	1961	1971	1981
Cultivators	127	45	47	27	-	31	32	7	5
Agricultural labourers	53	107	84	62	-	59	54	66	43
Manufacturing Industry	82	78	63	58	-	49	51	28	-
Trade and commerce	35	28	25	11	-	4	3	2	-
Other services	20	19	17	183	-	24	46	23	-
All Categories of workers	327	289	249	359	-	183	197	135	128

Sources: Poverty, Unemployment and Development Policy 1975: 76

This table illustrates that in the course of the twentieth century, the percentage of women who are registered as 'workers', as economically active, have dropped from 32.7% in 1901 to 12.8% in 1981. That means that the number of women who were registered as 'workers', dropped even more sharply than the number of male 'workers' that also plummeted from 57.3% in 1901 to 44.9% in 1971 (Poverty, Unemployment and Development policy 1975: 75). The percentage of women registered as a 'cultivator' dropped from 12.75% in 1901 to 0.5% in 1981; the percentage of women registered in

¹⁹⁰ K.Saradmoni, Op.cit, 1983, p.38

'manufacturing industry' between 1901 and 1971, fell from 8.4% to 2.8%; and the percentage in 'trade and commerce' fell from 3.5% to 0.2%.

A number of remarks can be made about this paradox. Social outlooks on gender are, as with those on untouchability or ritual impurity, so deeply embedded in the culture that they do not change in one or a few generations: therefore comments on the changes in the gender relations refer more to the direction in which the change is tending, than the entire process of change itself. However, what has changed are the circumstances, the economic, social and ritual organization of the lineages and the Tarawad, which carried the positive views on women femaleness¹⁹¹.

Throughout modern Kerala, the old Nayar matrilineal joint family system has disintegrated. *Tarawads* have split up and modern households form smaller units. Property is no longer held jointly but is owned by individual men and women, and inheritance is bilateral, although certain features of matrilineal descent persist. The *tali* rite is no longer celebrated, nor does the *Sambandham* institution still exist. Today, Nayars marry in more or less the same way as other Hindus, and their marriages are expected to be monogamous and lasting. Nambudiri men, further, can no longer take Nayar women as lovers.

Partition of Tarawad

During the nineteenth century, it appears that *tarawad* property came to be divided with increased frequency in Central Kerala. It is quite probable that a similar development occurred in Travancore. The partition of property was between

¹⁹¹ The text accompanying this table in Poverty, Unemployment and Development Policy (1975) states that although the definition of worker has been subject to change in the course of our century, the trends in the table are nevertheless clear enough.

tavazhis, segments of the *tarawads*. Although the household might not have divided at exactly the same time as the partition of property was effected, it is almost certain that households split in such a way that they tended to remain congruent with property groups. *Tarawads* thus became shallower and narrower; i.e., they had a lesser generational depth and included fewer distantly-related kin. However, there was as yet no deviation from matrilineal principles. The household and property group remained a matrilineal segment, and ancestral property was not being transmitted to affines, men's children or other outsiders.

There are three basic factors, which probably contributed towards. Increase in the frequency of *tarawad* partition. The first of this is population growth. It is clear that the larger a *tarawad* became, the greater was its tendency to divide¹⁹². Even after allowance has been made for the unreliability of population estimates for Kerala at the beginning of the nineteenth century, it is certain; that the population of Malabar, Cochin and Travancore in 1901 (totalling 6.65 million) was at least three and possibly four times as great as it had been one hundred years earlier. There can be little doubt that this is a significantly higher rate of demographic growth than what was obtained previously and, given that there is no reason to believe that the growth rate of the Nayar population was lower than that of the rest of the community, it seems highly probable that numbers alone were an important factor in raising the rate of *tarawad* partition.

The second factor has to do with a probable rise in the men's ambition to become *karaaavans*. It is an inevitable feature of a matrilineal succession system in which the family head is the eldest male, that a man cannot expect to become the head

¹⁹² Kathleen Gough, Nayar: Central Kerala; Nayar: North Kerala; Tiyyar: North Kerala; Mappila; North Kerala; The modern disintegration of matrilineal descent groups. *Matrilineal kinship* (ed.D.M. Schneider and E.K. Gough), Berkeley, Univ. of California Press, 1961. pp.298-442, 631-652.

until he is old. Indeed, the Malabar Marriage Commission asserted that most *Karanavans* were actually senile by the time they succeeded to their position (G.O.M. 1891: 29). Gough plausibly suggests that the return of younger men to their homes, after the end of their soldiering careers, led to a desire on the part of many of them, given that they did not have much else to do, for an increased measure of responsibility and authority at an earlier age. Such a desire could only be met by partitioning the *tarawad*¹⁹³.

The third factor is more complicated; it is the effect on the *Tarawad* of the changing nature of the *Sambandham* union. We have already noted that the partition of the *tarawad* was one between matrilineal segments. So far a partition is a result of conflicting interests, partition of this sort stems from a conflict between the interests of members, especially senior males, belonging to different segments. The fact that no partition of *tarawad* property had any legal sanction, until reforms were enacted in the twentieth century, meant that partition was itself a bountiful source of litigation within *tarawads*¹⁹⁴. However, it is important to note that there is no immediate nor direct reason why an increasing stress on affinal and paternal ties, consequent on the type of *Sambandham* union which was emerging, should in and of itself foster conflict between matrikin. There is no clear evidence of widespread attempts by men to transfer *tarawad* ancestral property to wives and children; rather, it appears that conflicts within the *tarawad* tended to stem from a *Karanavan's* alleged favouring of his own *tavazhi*, to the detriment of others. This emerges strongly, for example, from the report of the Malabar Marriage Commission at the end of the century.

¹⁹³ Ibid.p.344

¹⁹⁴ Jeffrey, Robin, *The Decline of Nayar Dominance: Society and politics in Travancore, 1847-1908*.D.Phil, dissertation, Univ.of Sussex; publ, (same title) London, Chatto and Windus for Sussex Univ.Press, 1973, p.222

Disputes over property seem to have originated mainly in men's self-acquired property, not *tarawad* property. According to legal authorities' (e.g. Moore 1905: 174), self-acquired property was at its owners absolute disposal during his lifetime, but reverted to his own *tarawad* on his death. However, during the nineteenth century, men started to bequeath self-acquired property to their wives and children. Transfers of this sort engendered trouble. When exactly this became a serious problem is not wholly clear. Burton, who was in Calicut around 1850, states that: "Of late years some heads of families have made, a provision for their own children during lifetime, but it has been necessary to procure the assent of rightful heirs to bequests thus irregularly made". Burton refers to self-acquired property. He does not specifically mention disputes over self-acquired property, and whether or not they had become prevalent by the middle of the nineteenth century is unclear. By this period the *Sambandham* union had so strengthened that men did occasionally anyway, transfer self-acquired property to women (their, *Sambandham* partners), now effectively wives, and that transfers of this sort could have promoted disputes between men and their matrilineal relatives, who would have wished this property to revert to the *tarawad*.

In the last quarter of the nineteenth century, the state of the Nayar community and its matrilineal joint-family system, in particular, appears to have entered a crisis.

By 1875, change was definitely in the air in Cochin, and the Census Commissioner of that year, A. Sankariah, recorded his opposition to it: 'Now-a-days some unreasoning prejudice seems to be setting against it [matriliney], which is doubtless due to the influence of the adherents of the rival system; and parents too often contrive to make provision for their children at the expense of the peace and

comfort of their own Tarawad'. The last remark indicates plainly that the conflict between affinal/paternal and matrilineal ties was the crux of the problem. In Travancore too, hostility to the system had become explicit by this time, and in his Administration Report for Travancore in 1874-5, the Dewan, Mahdeva Rao, declared that the law must be altered so that individual partition of the *turmoil* would be legally possible.

Before looking at the reasons for the crisis, and the measures later taken by the governments to try to cope with it, it might be desirable to itemise the various points at issue. The generalised objections which were expressed tend to disguise the fact that there were several points of contention, not all of which were equally emphasised by or relevant to all Nayars. Firstly, there were objections to the fact that the *Sambandham* union was not recognised as a legal marriage, and that there was therefore no such thing as legal marriage among the Nayars. Secondly, and closely connected with the first issue, there was a controversy over a man's right to give property to his legally unrecognised wife and children. Thirdly, there was hostility to Nambuthiris' sexual privileges and to their refusal to bear any economic responsibility for the children they fathered by their Nayar lovers. And fourthly, there were objections to the structure of the joint family itself to the *Karanavan's* power and his tendency to favour his own *tavazhi* and indeed to the very matrilineal principles on which the family was based.

The picture for Nayars in Travancore at the close of the nineteenth century was, fairly bleak as the 1901 Census Commissioner expressed it in his measured tones: 'The present economic condition of the Nayars, is not free from anxiety'¹⁹⁵. The

¹⁹⁵ Census of India, Vol.XXVI, Travancore, Trivandrum, 1901, p.333

strength of the *tarawad* had been undermined by the 1865 Proclamation and the ensuing litigation. There is a certain amount of evidence that *Karanavans* had begun to abuse their power on a wide scale and that many *tarawads* were being managed very poorly. Legal actions against *Karanavan* seem to have grown in number markedly. These trends, combined with the Nayers' failure to profit from the wider economic development of the time, brought forth a comparison between their contemporary position and the one they enjoyed in the past Golden Age, when Nayers had passed their lives in contented and prosperous *tarawads*.

In Central Kerala, the problems besetting the Nayers differed somewhat from those faced by Nayers in Travancore. Many of the data on Cochin and South Malabar suggest that the principal problem was the rising number of men acquiring property on their own behalf, a result of Nayar success in the new, expanding employment sector, particularly in 'white-collar' jobs. This meant that more and more Nayar men were able to earn independent incomes. In Cochin, 'no class of the community is availing itself of the benefits of modern education as the Nayers, who are fast becoming conspicuous in every literate walk of life. In every department of the State and in all the learned professions, they form a respectable majority and the only people who successfully compete with them in this respect are the Tamil Brahmans. Even as late as 1941, when their preponderance had declined, Nayar males (11 % of the total male population of Cochin) represented 40% of gazetted and 24% of non-gazetted government offices, and 21 % of those classified as 'lawyers, doctors, teachers, etc. although it should also be noted that these three categories together only accounted for 6% of all independent male Nayers. With their self-acquired income, Nayar men often supported their wives and children, and this could easily become a source of conflict: "The attitude of the *tarawad* people towards an earning and

married member is at times suspicious, and it is no easy task for him to adjust the claims of the relations on both sides'¹⁹⁶. It became common for such Nayars to buy land and houses with their self-acquired income, and bequeath these to their wives and children, although this was still done in a matrilineal 'idiom', for men attempted to found new *tavazhis* headed by their wives. Normally, of course, a man would not save enough cash to buy much land until late in his life and so most of these *tavazhis* were founded by older men.

An initial impression would be that in Central Kerala the Nayars' problem stemmed from success, a result of their progress in the professions, etc., whereas in Travancore the problem was one of failure, a result of declining agricultural prosperity. But this almost certainly is a misleading picture, created by the Nayar reformists' propaganda. Firstly, Travancore Nayars were not at all unsuccessful in the professions (although their progress to the top of the government service was blocked), and indeed there may have been better employment opportunities in Travancore than in Central Kerala. But Southern Travancore Nayars probably gained more, in this field, than did Central and Northern Travancore Nayars. In the latter region, trade and industry were expanding fastest, and Syrian Christians reaped the greatest benefits; relatively, therefore, Nayars were doing badly there, and the reformist leaders tended to stress this. In southern Travancore, and also in Central Kerala, Christians were much less numerous and posed no serious threat to the Nayars. Secondly, despite Nayar successes in Central Kerala, 'it is almost certain that the majority of them gained nothing from the new employment opportunities. The Malabar Marriage Commission remarked that most *tarawads* were poor, and estimated that nine-tenths of all *Karanavans* were small farmers struggling with the

¹⁹⁶ Census of India. Vol. XX, Cochin, pt. I. Ernakulam, 1901, p. 155

high-impossibility of providing for all their *tarawads* members. But because the very people who were responsible for reformist pressure were themselves educated Nayers, with professional occupations and self-acquired wealth, the problems of successful Nayers, who had acquired their own property, gained most publicity, whereas those of the poor majority failed to attract the attention they received in Travancore. Further, partly because there had been no equivalent of the 1865 Travancore Proclamation in either Cochin or Malabar, and partly because there was no significant economic threat from a lower community like the Syrians in Central Travancore, the poverty of many landholding Nayers in Central Kerala could be attributed neither to the rise of a lower community, nor to a fall in the Nayers' relative position. So although there were objective differences between the problems confronting Nayers in the various regions of Kerala, reformist propaganda does not always accurately reflect the situation.

These qualifications apart, however, it is plain that the issue of self acquired property was significant in Central Kerala. According to the traditional law self-acquired property was meant to revert after death to the owner's *tarawad*, the ostensible justification for this was that no man would ever have had any success had he not been able to rely on his *tarawad* as a child. But in spite of the law, self-acquired property was being regularly bequeathed to wives and children. This was the nub of the controversy¹⁹⁷.

The category of property referred to by Gough is clearly self-acquired property, and the quarrels and litigation she mentions were evidently due to the

¹⁹⁷ According to Gough these circumstances greatly exacerbated the traditional tensions between conjugal and paternal ties on the one hand and matrilineal ties on the other. Litigation over property between men of the same *tarawad* and bitter quarrels between the children and matrilineal heirs of men who died intestate thus became regular features of family life in the higher matrilineal castes. See Gough, 1961, Op.cit, p.647.

growing importance of affinal ties. But acrimony of this nature provides no explanation for the apparent increase in disputes between matrikin over *Tarawad* property, and in accusations of favouritism towards their own *tavazhis* hurled at *Karanavans*. The latter, it may be plausibly suggested, was mainly caused by declining attachment to those values upholding *tarawad* solidarity. In part at least these values must have been undermined by the accrescent rate of *Tarawad* partition throughout the nineteenth century. Mtrilineal principles themselves had not vanished, for men continued to find new *tavazhis* through their wife. What had died was the old value placed on the *tarawad* as a joint property-holding and residential grouping. The passing of traditional *tarawad* life seems to have been welcomed only ambiguously.

Legal changes did not, of course, always coincide with actual partitions of joint-family property 'on the ground'. In much of Travancore, *tarawad* division was occurring on a wide scale even before the passing of the 1925 Act. Much land which was theoretically impartible and inalienable was being sold or mortgaged. Many of these partitions, however, were almost certainly between *tavazhis*, not individuals.¹⁹⁸ In South Malabar and Cochin, on the other hand, property division generally occurred later than in Travancore. Gough (1961:646) states that a great majority of *tarawad* 'divided their property between individuals or between groups of uterine siblings *tavazhi* soon after the acts were passed in the 1930's which permitted such division. In most *tarawads* which had not divided their property, moreover, "partition suits" were pending in the courts'. Some *tarawads*, though, mainly very wealthy ones, were still unpartitioned in the 1950s. Mencher says that many of the larger. *Tarawads* began to divide their property 'immediately after the 1933 Act; after Independence, further legislation, especially land reform measures, greatly encouraged partition and by

¹⁹⁸ Census of India, Vol.XXVIII, Travancore, pts. I.II, Tvm, 1931, pp 168-169

1960, all of the large *tarawads* in Malabar either had been partitioned or had cases pending in court. In the Cochin *tarawad* studied by Nakane the first division between *tavazhis* was made in 1898 and the final partition of the property by individual members was in 1944'

The explanation for the later division of *tarawads* in Central Kerala, as compared with Travancore, lies in developments during the nineteenth century, which have already been discussed. The different land policies pursued by the various governments meant that alienation of land was easier in Travancore than in Central Kerala; further, the rise of the Syrians in the northern part of Travancore meant that there were more potential-purchasers of land in this region and greater pressure on the Nayar to partition. Developments in the twentieth century were simply a continuation of those which began in the late nineteenth century. A crucial aspect of the process as a whole is that it was the poorest, rather than the richest *tarawads* which broke up soon and, overall, partition tended to damage further the economic standing of the Nayar community. A 'downward spiral' effect came into play. The poorer the joint family, the greater the strain on its corporate solidarity as each *tavazhi*, or individual, tried to obtain its share of the joint property, in order to use the capital released in this way either for some more profitable venture or to liquidate its debts, or merely to escape the control of a *Karanavan* who was favouring his own *tavazhi*, when faced with a situation of extreme stringency. For most Nayars, the only method of realising the value of a share of property was to sell or mortgage it to a more prosperous member of a lower-ranking community, who wished to acquire some land. The cumulative effect was thus another slide in the Nayar community's economic well-being. To sum up partitioning *tarawad* property was not the panacea the Nayars sought. On the contrary, it seems to have aggravated their problems.

The partition of *tarawad* property did not invariably coincide with the partition into a separate households. When *tarawad* were partitioned between *tavazhis* the division into separate residential units often occurred before partition of property. The final stage of property division, that between individuals, implies of course the disappearance of property-groups, so that the congruence of the property-holding and residential groups is necessarily eliminated as well. We must now look at what types of residential grouping then appear. Gough stresses the emergence of the nuclear family which, she says, by 1947 was rapidly becoming the effective unit of residence, economic co-operation, legal responsibility, and socialization¹⁹⁹. This bold assertion does not, however, appear to be supported by the data available and Gough herself, in a recent paper (1975), has qualified her earlier remarks by referring to the 'rather slow' transition to nuclear households in Kerala²⁰⁰.

Information on the North Malabar Nayers is sparse. Like the Nayers to the south, their property group was, as we outlined above, a matrilineal joint family (*tarawad*), headed by the eldest male member. But although the visiting husband custom did exist, women normally lived with their *Sambandham* partners on the latter's estates. Thus the residential group typically comprised a set of matrilineal kinsmen, wives and unmarried children, plus separated or widowed kinswomen. Although the North Malabar Nayers had both the *tali-rite* and the *Sambandham* institution, it is plain that their *Sambandham* relationships approximated much more

¹⁹⁹ Kathleen Gough, Op.cit, 1952 a, p.647

²⁰⁰ Gough's paper is the most detailed account and analysis of changing household types in a Kerala village that has been published. It is also the only one presenting data collected at two different times, 1949 and 1964, enabling to see clearly the direction of change. In addition to Gough's data, collected in a Cochin village only three miles from a large town of which it is now more or less a suburb, there is also some evidence gathered, by Unni in two South Malabar villages in 1954-5, and some gathered by Mencher in another South Malabar village in 1959-60. The different periods at which information was collected and, perhaps more significantly, the different ways in which it has been presented and analysed, make direct comparisons between the various villages impossible. Nonetheless, some conclusions can be drawn.

closely to the Indian norm of marriage, than did those of the Central Kerala Nayers. North Malabar *Sambandham* unions joined one man and one woman, they were expected to be permanent (although divorce and widow remarriage were possible), and both partners had a series of rights over and obligations towards each other, including some of an economic nature.

The difference between the marriage systems of North and Central Kerala means, of course, that the transformation of *Sambandham* relationships, which was so critical in the central region, was not reproduced in the north. Moore states that the nineteenth-century trend towards formalisation of the *Sambandham* began in North Malabar; if he is correct, this seems logical, given that in the north *Sambandham* was already close to 'formal marriage'.

According to Gough, all Nayar *tarawads* were landlords (*janmis*) over at least some land. Junior members of the joint family might sometimes lease land, for usufruct, from their own *tarawads* and, occasionally, could even at lease land from their *wives tarawads*, in which case any improvements made to it would become the separate property of the wife and her matrilineal descendants. Further, says Gough, some men managed to transfer part of their own *tarawads* land to their wives and children. The ability of husbands to transfer land to their wives, or to improve their wives' land, led to the establishment of *tavazhi-tarawads* that is, *tavazhis* which remained within the *tarawads* and retained shares in the joint estate, but which also derived a separate income from the transferred or improved land. This land was managed either by the *Karanavan* of the wife's *tarawad* or, more commonly, by her eldest son. Sometimes, such *tavazhi-tarawads* eventually got separated from the original *tarawad* to form a new one.

Property transfers to wives, and improvements to their land, became more frequent during the nineteenth century; indeed, *tavazhi-tarawads* were rare among commoner Nayars until the second half of the century. More and more men also began to acquire uncultivated land which they, bequeathed to their wives and children. Gough shows that the dynamic element underlying these changes was agricultural expansion, North Malabar, unlike most-of the rest of Kerala (except for the highland regions), was lightly populated and contained much uncultivated land. The expansion of cash-cropping, together with demographic growth, led to a considerable increase in the area under cultivation. The British had granted ownership rights to landlords (*janmis*) in Malabar. Therefore, as most *tarawads* had such rights,- buying uncultivated land was probably quite simple. By this method, individuals came to own marketable property²⁰¹.

For many decades, majority opinion among sociologists and anthropologists, historians and economists, held that there existed a universal tendency for matriliney to give way to patriliney or bilaterality, and for large joint families or extended kin groups to break down into nuclear families. In the nineteenth and early twentieth centuries, this view was embedded in an overall theory of evolution and progress. Later, consonant with the rise of the functionalist paradigm, it was asserted that there existed a rise functional 'fit' between, for example, nuclear families and modern, industrial, capitalist society on the one hand, and joint or extended families and traditional, agricultural, pre-capitalist society on the other. Recently, however there, has been a shift of opinion among scholars working in this area, although it is probably true that the older view is still current amongst non-specialists. There are several reasons for this change of opinion, but two are especially important. The first has to do with

²⁰¹ Kathleen Gough, 1961, Op.cit, pp.390-93

conceptual and definitional muddles which have beset so much writing on the subject. It has now been realised that terms like family', ' household', ' kin group', etc, have often if not usually, been inadequately defined. For instance, analytically distinct aspects of the 'family' as a kinship group, as a residential group, as a property-owning group, as a consumption group, etc. have not been separated. Needless to say, failures of this kind have vitiated much discussion of the subject. The second reason has to do with recent empirical research. Anthropologists and historians have demonstrated that nuclear families, and bilateral kinship systems, are and were common enough in pre-industrial and pre-capitalist societies, disproving the notion that they are confined to the modern West. Further, work in such disparate areas as Japan, India and West Africa has revealed that non-nuclear families and 'traditional' kinship systems do not inevitably die as a result of modern economic development. Altogether, then, serious doubt has emerged about the older theories, which linked family and kin organisation to social structure, although it would be exaggerating to say that these theories have actually been refused.

At the close of the eighteenth century and throughout the nineteenth, a series of fundamental economic changes .occurred: the granting of ownership rights to various categories of landholders, the rise of cash-cropping and a capitalist agriculture, the expansion of employment opportunities, etc. Related to these developments, too, was increased demographic growth. An explanation of how these changes were linked to the disintegration of the matrilineal joint-family system has already been presented, and repetition is hardly desirable. Discussion of the wider implications can profitably start with a consideration of Gough's argument in 'The modern disintegration of matrilineal descent groups'. As one would expect, she pays special attention to the case of the Nayers. Gough contends that the 'root cause' of modern change in

matrilineal kinship systems, including the Nayars', is incorporation of the respective societies into a unitary, capitalist market economy. Especially critical is the entry of land into the market, and this affects both matrilineal and patrilineal descent groups, for both of them 'lose their economic basis when land is constantly being bought and sold, individuals work chiefly for wages, production becomes vested in such groups as the factory or the plantation, and ownership is by individuals or by joint-stock companies'²⁰².

This argument is, however, too simple. In both Central Kerala and Travancore, land entered the market. But it did so in significantly different ways and at different times. The British, as the reader will recall, conferred ownership rights on the Malabar landlords (*janmis*) in 1793, shortly after annexing the country. Although Cochin did not actually copy British policy, the situation there resembled Malabar more closely than Travancore. In the latter state, ownership rights were conferred on the state's tenants (*kanamdars*) in 1865. These divergent land policies were, immensely significant to the different ways in which northern and southern Kerala developed. But what is particularly pertinent to the present discussion is that ownership rights were conferred on a relatively, small number of large landholders in Malabar (and effectively in Cochin), whereas they were granted to a relatively large number of smaller landholders in Travancore. Now it is clear enough, from all the evidence,²⁰³ that poorer joint families tended to break up faster than wealthier joint families. Giving joint families the opportunity to sell previously impartible, inalienable land clearly promotes such disintegration and, to that extent, we agree with Gough. But in

²⁰² K.Gough 1975, where this argument emerges again in a more carefully qualified, but not radically different, form. For details see K.Gough 1961 op-cit 640. For details see K.Gough, 1961, Op.cit, p.640

²⁰³ Ibid, Pp.645-46

this context, it obviously implies that Travancore land policy tended to lead to faster disintegration of more Nayar *Tarawad*, than. did' Malabar arid Cochin policy.

As we know, this was the case. But by themselves, differences in land policy are insufficient to explain the pattern of change. Land policies may have promoted *tarawad* break-up, in the sense that they allowed it to occur when previously it could not, but they alone did not *cause* it. What is critical here is the presence in Travancore, or more accurately in Central and northern Travancore, of significant numbers of people belonging to a lower-ranking community - the Syrian Christians - who were growing more prosperous and wished to buy land. In Central Kerala, this situation did not exist. Further, there was in the latter region a significant proportion of Nayers-even though they may not have numbered many in total - acquiring property of their own.

Close attention to regional differences, and to the particularities of the process of change, insofar as this is feasible given the data available, leads to the conclusion that no single determinant, such as increasingly complete incorporation into the capitalist economy, can be regarded as the cause of the process. On the one hand, unique factors like disbandment of the armies played a crucial role; on the other, economic development was not identical in all regions and, in any case, by itself it did not invariably bring about alterations in the family and kinship system. Any attempt to explain historical events, in terms of causes and effects, must necessarily place these events in the correct temporal order. It seems that this most obvious of truisms has, nevertheless, been frequently forgotten by anthropologists, who have all too often agglomerated all the various symptoms of change, under the apparent impression that

they could be understood synchronically. Gough's analysis of Kerala matrilineal systems suffers from this failing.

The Nayar data also point to the need to distinguish between the property owning group and the residential group for changes in the two did not always coincide. In any case, the property group no longer exists, as property is owned by individuals. One of the commonest arguments, concerning the nuclear family's alleged functional adaptation to modern society, appeals to geographical mobility. It is proposed that the modern economy, capitalist or industrial, requires the free movement of those involved directly in the production process, mainly of course men. Nuclear families are potentially mobile units, whereas extended families, in which individual members may each hold different jobs and responsibilities are not. Cough endorses this argument as applicable to previously poor joint families, which have now broken up, whose members have become labourers and thus need to move around to find employment. In fact, the mobility argument seems questionable even for Western capitalist economies. Although mobility may be demanded of the professional middle-class family, this is much less the case, at least nowadays, for the working-class family. The argument certainly does not appear to be generally applicable in India, where it is common throughout the entire country for individual men to migrate in search of employment, leaving their families behind in the villages. This pattern, was frequently found among Nayars with professional occupations in the towns, even in the 1950s. This suggests, therefore, it is not a necessary condition, for a mobile labour force, that residential groups be nuclear families²⁰⁴.

²⁰⁴ Unni.K.Raman, *Visiting Husbands in Malabar*. J.of the M.S. Univ.of Baroda, 1956, pp.37-56

CONCLUSION

The system of inheritance prevalent in Medieval Kerala and most probably earlier to it is known as matriliney or *Marumakkathayam*. Compared to the system in the other regions of India, it is unique in the sense that inheritance in this context is traced through the female line. In Kerala, the matrilineal system or the female matrix continued much later and had received the notice of foreign travellers.

Though it is fundamentally associated with the Nayar communities of Kerala, even the Nambuthiris, Pothuvals, Mappilas etc followed this system. Copious evidences of the associated family structure can be easily traced. Later studies on these sources point to different reasons for its origin. A student of history is often puzzled by the heterogeneity of these opinions. To trace its origin, it is necessary to analyze the literary and epigraphic sources relevant to the times and the subject.

Our exploration becomes more relevant in the present context of the feminist school of thought gaining prominence. Hence the approach of the study to some extent is feminine centric.

The present study is confined to two land-owning communities of Kerala namely Nayars and Mappilas of Malabar who were the followers of this system. How these two communities were influenced by the socio-economic developments in Kerala is traced. The impact of colonial interventions in Kerala introduced changes and these changes are analysed in the light of available sources. Special importance is given to the life of women. An attempt is made to trace the living conditions and status enjoyed by women of these two communities.

The methodology adopted is the thematic system analysis of the available inscriptional and literary sources including foreign accounts and folksongs. The Cera inscriptions from 9th century A.D are utilised for writing this treatise. The literary sources such as *Musaka Vamsa Kavya*, *Manipravala* works, foreign literary works such as Arab, Chinese and European accounts are made use of. The archival materials kept in the Tamil Nadu Archives and Regional Archives Kozhikode are also utilised.

The present study deals with the importance of Matriliney which is a unique system of descent and inheritance. All the earlier works done on this subject are examined and the view of scholars are discussed here. Scholars from William Logan to Arunima studied this system and their view are incorporated. Besides these, certain sociologists and anthropologists also studied the subject from various angles. Fawcett, Gopal Panikkar, Fuller, Jeffrey, Imtiaz Ahmad are noteworthy among them.

A survey of sources is also made in detail in the earlier part of this study. The primary sources and secondary sources are analysed in this part. *Musakavamsa kavya* written by Atula mentions the matrilineal succession of Kings in the last three chapters dealing with the history of the period from the 9th century to the 11th century. Atula's *Musakavamsa* records the shift from a patrilineal system of inheritance to that of a matrilineal system.

The matrilineal kinship and family system in traditional Kerala society, assimilated most of its features from the social and economic relations of production that existed during the post-11th century in the region. Like in other parts of the world, they must have had their origins in the primitive social structures. In most parts of peninsular India, the process of agriculturisation and expansion of trade had ushered in the emergence of the state with all its ritualistic and functional performances. The

society had started evolving as distinct patriarchal entities. But in the case of Kerala, we notice the continuation of the matrilineal structure late into the medieval times. The present study deals with the chronological framework of the origin of the matrilineal families, the geo-political and socio-economic specificities and the circumstances that enabled its entrenchment during the existence of a pan-Kerala political structure and even after its disintegration. The search takes us occasionally to the domains of land-based system of production and distribution which acted as the feeder channels of the entire setup.

A distinctive feature of the social organisation of Kerala till recent times was the prevalence of *Marumakkathayam* or the matrilineal system among certain castes and communities. It involved inheritance and succession through the sister's children in the female line. The antiquity of the system has been a theme of controversy among scholars. The traditional view propagated by the Brahmin aristocracy and expounded by the authors of the *Keralolpathi* is that *Marumakkathayam* is of hoary antiquity and that *Makkathayam* or the patrilineal system of inheritance was unknown to ancient Kerala. As opposed to this is the view that *Makkathayam* was the system of inheritance prevalent in ancient Kerala and that *Marumakkathayam* came into vogue at a later period of Kerala history under the impact of some compelling forces. The fact that succession to the throne among the early Cheras and the Kulasekharas of Mahodayapuram was from father to son is cited as evidence in support of this view.

The advocates of various theories seek to explain the origin of *Marumakkathayam* in their own ways. Those who subscribe to the Brahmanical theory attribute to the system a divine origin by arguing that Parasurama, the legendary founder of Kerala, ordered Sudra women "to put off chastity and the

clothes that covered their breasts" and do their best to satisfy the desires of the Brahmins. This argument served the interests of the Brahmin aristocracy admirably well because among the Namboothiris only the eldest male members could marry from within the caste and all the junior members who were condemned to lifelong bachelorhood had to consort with women of Nair families in the vicinity of their *illams*. A loose union known as *Sambandham* which was in the nature of concubinage came into existence and the Namboothiris could enjoy all the pleasures of matrimony with none of its obligations. The fear of divine wrath prevented the senior male members of Nair families from questioning the right of the Namboothiris to cohabit with their women and the *Sambandham* form of marriage consequently came to have general acceptance. The Brahmanical theory, like the Parasurama legend relating to the origin of Kerala, is more fanciful than convincing as an explanation of the origin of *Marumakkathayam*. Hence the origin of the system has to be sought elsewhere.

None of the arguments advanced above is convincing enough to explain such a major socio-economic phenomenon as the transition from patriliney to matriliney. Certainly there must have been really compelling circumstances. Prof. Elamkulam Kunjan Pillai regards the *Marumakkathayam* system, like the *Janmi* and the *Kalari* systems, as the product of the compelling socio-economic forces let loose by the Cola-Cera war of the eleventh century A.D. He has pointed out that the political and religious dominance of the Namboothiris, their rise to economic ascendancy as the *janmis* of Kerala and the introduction of compulsory military training leading to the formation of the suicide squads or *chavers* during the Cola-Cera war were the compelling circumstances which led to the switch-over from the patrilineal to the matrilineal system in Kerala. Dr M.G.S. Narayanan, however, considers this view as rather exaggerated, if not distorted. He has tried to show that the rulers of

Mahodayapuram were matrilineal at least from the ninth century and that some of the other Kerala powers like the Mushakas accepted matriliney under their influence. It has been pointed out by him on the evidence of *Mushakavamsa* (eleventh century A.D.) that the matrilineal order of succession was established among the Mushakas by the early part of the tenth century. Even if it can be established that the matrilineal system of succession came into vogue in Kerala in the ninth or tenth century A.D. among the rulers of Mahodayapuram (eleventh century A.D) and other royal dynasties who were Kshatriyas, considering the crucial importance of the period of the Chola-Chera war, that is, the eleventh century A.D., as a watershed in Kerala history, it may safely be assumed that the pace of the change-over from patriliney to matriliney among the rank and file of other non-Brahmin castes like the Nayars must have been accelerated by the events of this period. The present study further discusses details of the joint family system, *Marumakkathayam*, the matrilineal Brahmins of Payyanur and matrilineal system among the Mappilas of Malabar.

Among the social institutions of Kerala, the *Marumakkathayam* or matrilineal system of inheritance deserves special mention. This custom that prevailed in Kerala as to marriage and succession to property attracted the attention of travellers from an early time and is well-described in many works, both European and Indian. The most important feature of matriliney is the *tarawad* system or joint family.

By the 11th century the matrilineal families started functioning in a full-fledged way as indicated by the inscriptional sources. The matrilineal set-up represented the nucleus of the social relations of production and also rendered stability to the contemporary society, especially during the discordant times of the polarization of the 'pan-Kerala' state from the 13th to the 15th centuries. The

matrilineal families were different from their matriarchal prototypes in the sense that there was no matriarch here as the head of the unit. But the lineage was through the females and it was under the aegis of the eldest matriarchal uncle that the familial solidarity revolved. The eldest matriarchal uncle was called the *karanavar*. In him was vested the collective economic and social identity of the family. Under him were the other members of the family, consisting of the females and their progenies who were called the *Marumakkal*. These members had well-defined roles to play both at the ceremonial and functional levels.

What is unique is perhaps the pivotal role that the females discharged, at the functional and ritualistic levels, in the hierarchy of the family organization. The system of marriage in patriarchal matrixes caused the displacement of the females from their primary households. This is not the case with the matriarchal system. Here the female members remain and draw their sustenance as well as their functional identities from their own maternal houses. In form and spirit it is more akin to the tribal mode. The rights of the 'woman' did not get eroded but got enabled within the benevolent milieu of the primary households. Along with the males, the females also had definite and significant roles to play. The benevolence of the uncle, the reciprocal loyalties of the *Marumakkal* to the uncle and the close bonds between the brother and sister, the concepts celebrated in the contemporary folk literature provided the ideological base.

A *tarawad* is a *Marumakkathayam* family consisting of all the descendants in the female line of one common female ancestor. The *Tarawad* derived its name from the word *tara* which was a quasi political *Nayar* organization. The term *wad* is a corrupt form of *pad* which meant power, rank or authority. The memorandum to the

Marumakkathayam committee defined the *Marumakkathayam* family “as a *tarawad* and consists of a group of persons, male and female all tracing descent from a common ancestor living under the control of the management of the eldest male, who is called *Karanavan*”. In its simplest form family would consist of a mother and her children living together with their maternal uncle i.e. the mother’s brother as *Karanavan*. In its complex form it would consist of a mother and her children, both sons and daughters, the children of such daughters and their descendents in the female line however distant, all living together under the control of the common *Karanavan* who would be the senior in age to all the males in the family.

Tarawad, the matrilineal joint family in Malabar, was the epitome and synthesis of all that family and marriage stood for among Nayars. The Nayar *tarawad* was a unique institution and had developed characteristics of its own. The domestic system presented by a *tarawad*, consisting of all the descendants in the female line of one common ancestress was the most perfect form of joint family then existed. John.D.Mayne presents a perfect picture of the *tarawad*.

A Malabar *tarawad* was like a corporation with perpetual succession. The head and the manager was the *Karanavan*, and the entire property was vested in his hands. He was not the absolute owner of the property but an agent or representative of the *Tarawad*. The *Karanavan* and the other junior members, commonly known as *anantharavans* were in same sense co-parteners. Due to the impartibility of the *tarawad*, the members had no individual right to the property but only maintenance.

A *Karanavan* in Malabar is the senior male member of a group of persons, all of them tracing their descent in the female line from a common female ancestor, owning joint property under the absolute control and management of the senior. This

group forms a *Marumakkathayam tarawad* i.e. the line of a single mother. While the senior male member is the *Karanavan* of all the members in the *tarawad* is called the *Karanavar of tarawad*.

In addition to ceremonies related to marriage like, thirandu kallianam, pulikudi, etc; there are great national festivals like Onam, Vishu and Thiruvathira. This important Malabar Festival is in commemoration of the reign of Mahabali which is believed to have been one uninterrupted period of peace, plenty and prosperity and in fact the golden age of our Kerala history.

The national calm that prevailed was not disturbed by any acts of cruelty or oppression. The sanctity of contracts was fully realized. Honesty of purpose and probity of character were the dominant guides to every man's actions. In short, men in those days lived in what has been called "a state of nature." This reign of nature was brought to a close by Vamana, the fifth incarnation of Vishnu, one of the members of our Divine Trinity. Mahabali was an Asura king against whom and whose prosperous reign the Devas entertained the deepest class-hatred and jealousy. With the object of putting an end to Mahabali's reign, the Devas repaired to Vishnu's presence and importuned him to adopt some means to cripple the increasing prosperity of Mahabali. Vishnu readily acceded to the request and appeared as Vamana unto the king in all "the glory and freshness of his youth". The king was so madly enamoured of this "gilded youth" that he resolved to welcome him at any cost. He asked the youth what he wanted to which the boy replied that he wanted nothing more than three feet of earth. The demand was at once conceded when the boy immediately assumed a gigantic figure and with his huge feet began to measure the earth. It was then found that the whole of the land measured three feet and for the rest of the

proffered earth Vamana trod upon Mahabali's head and pushed him down to the infernal regions'. But the popular outcry consequent upon Mahabali's deposition was so great that the ex-ruler was eventually allowed to return to the earth once a year. The period of his visit was fixed for the Malayalam month of Chingam corresponding to about August or September; and his stay in the country, short though it is, has ever since been celebrated as a grand national occasion which is now identified with the Onam Festivals. It is said that during the reign of Mahabali the whole year round was marked by pomp and revelry such was prevalent during the short period of the Onam. And the Onam festival forms the period during which Mahabali is supposed to re-visit the earth to see how the country prospers in his absence.

Vishu, like the Onam and the Thiruvathira Festivals, is a remarkable event amongst us. Its duration is limited to one day. The 1st of Medom (some day in April) is the unchangeable day on which it falls. Its origin is almost hopelessly obscured by time. It is practically the Astronomical New Year's Day and has many aspects in common with what is known as the *Holi*. This was one of the periods when in olden days the subjects of ruling princes or authorities in Malabar under whom their lots were cast, were expected to bring their New Year's offerings to such princes. Failure to comply with the said customary and time-consecrated demands was visited with royal displeasure resulting in manifold varieties of oppression. The British Government finding this as a great burden pressing rather heavily upon the people, obtained as far back as 1790, a binding promise from those Native Princes that such exactions of presents from the people should be discontinued thereafter. Consequently it was then shorn of much of its ancient sanctity and splendour. But suggestive survivals of the same are still to be found in the presents which tenants and dependants bring to leading families on the day previous to the Vishu, and in some

places on the morning of the Vishu day. But such presents were no longer compulsory in nature, but only permissive with no unforceable penalty attaching to them.

Thiruvathira is one of the three great national occasions of Malabar. It generally comes off in the Malayalam month of Dhanu (December or January) on the day called the Thiruvathira day. It is essentially a festival in which females are almost exclusively concerned and lasts for but a single day. It has got behind it a traditional antiquity stretching back to times almost out of mind. The popular conception of it is that it is in commemoration of the death of Kamadevan, the Cupid of our national mythology. As recorded in the old Puranas, Kamadevan was destroyed in the burning fire of the third eye of Siva, one of the chief members of our Divine Trinity. Hence he is now supposed as having only an ideal or rather spiritual existence, and thus he exerts a powerful influence upon the lower passions of human nature. The memory of this unhappy tragedy is still kept alive particularly amongst the female section, by means of the annual celebration of this important festival.

There can be no doubt that there is a growing sense in the community that the form of marriage known as *Sambandham*, now recognised as valid by the society, should also receive legal recognition.

The economic agrarian and commercial relations, which strengthened the matrilineal family structures evolved out of the basic production units of the earlier tribal setting. The ownership was held jointly by all the members of the family and the progenies of all females had membership in the family called the *tarawad*. These *tarawads* were the basic land-owning units in the society and with the progress of times started gathering many complexities in their functional content.

An attempt is made here to trace the evolution of the land rights in Kerala through the ages. Such an attempt is made with a view to look at the emergence of the class of intermediary functionaries who later on are identified as forming the nayar caste. An attempt is made to place the *tarawad* in a historical context to understand what the *tarawad* meant to the people of the locality and how the *tarawad* exerted its influence on the people through the various institutions attached to it.

In the socio-economic hierarchy, the *uralars* were at the top. They had the proprietary right over the *Ur* (the *Uranmai*). Below them came the leaseholders or the *karalars* who held the *karanmai* or the right of cultivation. Then came the right of artisan-cum-craftsmen groups called the *kutimai*. At the bottom came the primary producers or the actual cultivators with the *antimai* right. These were the pulayas and the agrarian labourers of the society.

Thus two aspects of the relations between Nambuthiris and Nayars can be seen which later becomes deeply embedded in the Kerala society. Thus, according to authors, the secret of “successful development of settlements in Kerala lay partly in the good relations they established with the tenant class and the close contact through *Sambandham*”. The confidence generated among the non-Brahmin population of tenants, coupled with the support of political authority, ensured peace and material prosperity for the Brahmin settlers. In due course the association of the Nayars which began in agriculture as leaseholders and in conjugal relations through *Sambandham* enhanced the socio-economic status of the former.

The statutory abolition of the matrilineal *tarawad* provided a vent for many resentments against perceived inequities. But the right to exercise an individual claim to erstwhile joint property was only the tip of the iceberg. Legal changes masked

beneath its transparent surface a new legal and social morality that was welcomed and soon became normative among the matrilineal populations. The rhetoric of modernization that had been adopted by the Nayar reformers of the late nineteenth and early twentieth centuries had found its hypothesis in the political idioms of nationalism and communism. In 1976, the Kerala Legislature abolished matriliney. In the process of their incorporation into mainstream politics and in a bid to integrate themselves with the rest of India, the Nayars of Kerala dismantled the last vestiges of barbarism. Hindu laws and patrilineal descent had become almost actual parts of Nayar life and for many among them an impossible dream had been realized.

From the beginning of 16th century the matrilineal families witnessed the processes of decline. The causes for this are multifarious. The advent of organized trade and the advance of colonialism paved the way for the breakdown of the agrarian base of the relations of production and distribution, the very feeder force of the institution. The intervention of the British political structures and the onslaughts of the Mysore armies acted as catalysts. The challenges that these factors unleashed could not be met with the processes of adaptations and accommodations. The historical progression had to take deviations and usher in significant changes. The waves of transformation swept away many of the medieval institutions. One of the most important among them was the matrilineal system.

Another interesting facet of the process of *tarawad* formation in the eighteenth century was that many families built their fortunes by entering into the nexuses of commerce on the Malabar coast. Both titles to property and authority were bought and sold in this period, and many *tarawads* invested the fortunes they made through trade in land. The coexistence of a vibrant, commercial economy with a growing

privatization of rights, especially on land, indicated the emerging power of the Nayar *tarawads* in the interior.

An examination of the changing economic relations in medieval Malabar provides an important context for the study of the emergence of the matrilineal *tarawad*. The brisk commercial activity on the Malabar Coast provided an opportunity for a variety of property rights to coexist. Interestingly, not just rights to property but also rights to offices and statuses were commercialized in the eighteenth century. The power of the emergent *tarawad* to withstand the inroads of political superiors was largely a result of the immunity provided by such economic autonomy.

By the eighteenth century, alongside the ordinary sale and purchase of arable lands, there seems to have been an established trend for the sale of lands along with the authority that went with them. Taking the two in conjunction, one can see that there emerged two different, yet coexisting, notions of private property in Malabar. One was the freehold right over the property (*nirattiper*), acquired through the process of a legal sale. The other was, through the same process, the right to own and exercise political authority over the territories acquired. This meant that while the local rulers acquired both lands and authority through sales, there also existed a rung of landowners who could possess freehold rights over pieces of arable property within the former's territory without needing to pay any tax.

By the eighteenth century, it were the women who established most new households of the 'royal' and Nayar castes. Logan specifically mentions that the Kottayam royal family was exceptional in that they did not follow the ordinary custom of recognizing the oldest female as the head of the household. As descent and succession within the kin-group, in the case of established Samanthar and Nayar

families, were organized on the matrilineal principles, it was important for these households to trace their lineage from an ancestress. In the case of the Nileswaram royal family, a princess from the Samuthiri's family eloped with a prince from Kolathanad to establish her own dynasty.

Among the Nayars, the nuclear family has emerged as one of the principal types of residential group-cum-economic unit, and is found widely, if not ubiquitously, throughout Kerala. This has occurred as a consequence of the steadily growing strength of the *Sambandham* tie, in the end equivalent to a marital tie, and of the concomitant disintegration of the joint families. No special congruity between the nuclear family and the modern Kerala economy can be inferred from this historical evidence. In any case, many discussions on the supposed adaptation of nuclear families to modern societies tend to be vitiated by a failure to recognise that, in spite of their apparent similarities, nuclear families do not everywhere reveal the same structure and form, nor are they always linked identically to other kin groupings. Some writers, for example Goody, have pointed out that, overall, the historical trend has not been the breakdown of extended kin groupings into nuclear families, but rather, as he puts it 'the disappearance of many functions of the wider ties of kinship, especially those centring on the kin groups such as clans, lineages and kindreds these ties may continue but the functions radically alter with the proliferation of other institutional structures that take over many of their jobs.' The range of kinship ties contracts, no doubt with some exceptions, to the families of birth and marriage.

The above analysis of "Matriliney and Women in Medieval Kerala" has enabled us to understand the importance of the law of succession through women prevalent in Kerala from an early period. The system existed in almost all primitive

societies, but the peculiarity is, it continued in Kerala even after the emergence of a state or strong administration. It was the socio-economic features of Kerala which permitted its continuation here. The Brahmin settlers allowed the continuation for their benefits and the rulers of Kerala followed this system as attested by the inscriptional and literary sources. We see the law of succession prevalent here from 9th to 16th century in fact and later big joint families enjoyed political as well economic supremacy in their locality. Both political and social scenario allowed the women to enjoy some high positions in the society. During this period we see the spread of this law of succession to other communities who were the close associates of Nayars.

In the joint families which were known as big *tarawads* women were secure since the right to property was traced through her. The women under this system were strong managers of their property under the *Karanavar*. Owing to the matrilineal residence of all, children live in close contact with their mother's brothers, who has legal obligations to and right over them. There is a distribution of authority, loyalty and responsibility to several individuals. Children in the matrilineal family learn to respect two important male elders (maternal uncle and father) apart from mother as an important authority. Physiologically weaker members of the family (daughters, sisters, wives and mothers) are not only protected legally but enjoy certain preferential rights of inheritance of property and the transmission of family name and tradition. The daughter in a matrilineal family has not only a secure economic and social position, but she is at the same time the vehicle of perpetuating the family name and tradition. It is the only family which always welcomed the birth of a baby girl who was called as the *Sandhathi* who retains the joint family.

In the economic scenario, these joint families who owned vast landed property enjoyed high status in the locality. When political changes took place in Kerala after the coming of Europeans the economic conditions also changed in income from other than landed property resulted in the disintegration of matriliney. Trade, especially organized trade, enabled the younger members to earn income for their wives and children. The following factors in 18th and 19th century gradually caused the disintegration of *Marumakkathayam*:

1. The absence of strong political power enabled military class to earn income.
2. Traders were in need of services of militia and this gave money to the Nayars.
3. Tipus attack shattered the agriculture
4. Introduction of English education resulted in taking government jobs and people were away from their *tarawad* to do their jobs.
5. The practices like *Sambandham* were legalized through Victorian morality.

All these resulted in the disintegration and legal abolition of matriliney.

Though it is legally abolished even today we can see some of its imprints in our society. Whenever there is an important occasion in a matrilineal *tarawad* the uncle had to play a main role.

ILLUSTRATION



GLOSSARY

Adhikari	:	revenue functionary
Adhyan	:	higher sub-castes among Nambuthiri Brahmins
<i>Adimai</i>	:	<i>(tamil)</i> slaves
Adiyan	:	slave (<i>pi. adima</i>)
Aivedanam	:	Practice of having a number of wives
Aliyasantanam	:	System of inheritance through the female line – term used in Kannada speaking areas
Ambalam	:	A Hindu religious institution or temple
Ammayi	:	The wife of the Karanavan or uncle
Ammathamburan	:	The eldest female member of the royal family in Cochin
Amsom	:	A political subdivision of a Taluk which, in turn, is a subdivision of a District; and is presided over by a functionary called an adhigari in Malabar
Anandiravan	:	junior member of a Malabar Tarawad
Anantharavar	:	younger generation
Aphan	:	Younger Nambudiri of an Illom
Aripravu	:	. Brown pigeon
Ashtamangaliam		
Vekkal	:	A ceremony preliminary to or which, opens a Nair Kettukallianam.
Ashtamangalyan	:	The ceremony in which the day and hour of Talikettu was formally settled
Athazhom	:	Literally the food taken at nights; but in a special sense, the feasting which takes place on the night previous to the main feasting day.
Attiper	:	Absolute transfer
Avani Unu	:	The feast given to the Manalan or bridegroom on the Talikettu day Between North and South Malabar
Balaima	:	Ritual Pollution on birth of a child in a Tarawad

Bharani	:	A particular day of the month; but in a special sense, A ceremony which is celebrated on that day in of the goddess Kali and has special reference to festival at Oranganore.
Brahmin	:	The priestly class among Hindus
Brahmadeya	:	land grants to Brahmins
Brahmaswam	:	Brahmin's property
Brishtu	:	Ostracism
Calicut	:	The chief town in Malabar Known in thevernacular as Kozhikode wherein the Zamorins ruled
Cannanore	:	The town of Kolathiris
Chakkiar	:	A particular class of people who play at festivals in temples.
Chanthu	:	A preparation of soot, oil and some other substances, largely used by females in Malabar.
Chathtirti	:	A particular day in the month which comes round twice therein; in a special sense it means the moon that becomes visible on the particular day in the month of Chingam.
Cheraman Perumnal :		The last of the Perumals who ruled Malabar as Viceroy of the Pandian Kings, after the close of the Brahmin theocratic period of its history.
Chera	:	One of the three ancient kingdofflts in South India
Cherikallu	:	government land exempt from assessment
Chirakkal	:	The headquarters of one of the branches of the Kolathiris North Malabar
Chunkam	:	customs duty
Chola	:	One of the three ancient kingdoms in South India
Civil Code	:	The body of laws in India governing civil matters
Clan.	:	A number of collateral families amongst the Nairs bound together by community of pollution but with no property interests except' as remote reversioners.
Cochin	:	The kingdom lying in the central part of Kerala

Collector	:	The chief official of a district (Malabar) who was in charge of Revenue administration
Cranganore.	:	Kodungallur, in the cochin state: a sea port town
Dasapushpam	:	Literally means ten flowers
Dasi	:	maid servant
Desadhipatyam	:	Supreme authority over a desam, a feudalistic authority
Desavazhi	:	Ruler of a desam, a traditional authority
Devaswom	:	God's property
Deshavazhi	:	The vazhi or ruler of a Desham
Desadhipatyam	:	authority over the desam
Desom	:	A sub-division of an Amsom
Devadasi	:	A girl dedicated to the service of deity
Devaswam	:	temple; religious institution
District Court	:	The highest judicial body in the District
Edaprabhu	:	A chieftain
Ejaman	:	The Canarese equivalent of Karanavan
Ekadasi.	:	A fast for Malayalees on the day called Ekadasi which comes round twice a month.
Elayath	:	The inferior class of Brahmins who officiated as priests for Sudras
Enanger.	:	Member of a clan who have no blood ties with another but in respect of the latter these Enangers have to participate in certain social ceremonies.
Ezhuthani.	:	Stile
Ganapathy	:	The Hindu god who is the remover of obstacles half man and half elephant.
Grahastasramam	:	The status of a house-holder
Grandha.	:	Cadjan book of old times
Guruvayur.	:	A famous temple in the suburbs of Chowghant Intermarriage are strictly prohibited between the members thus blended, there being a traditional blood relationship.

Jajmani	:	a system existing -in other parts of India in the nineteenth century in which a relationship of mutual reciprocity and dependence existed between the dominant household and the service castes, which was expressed materially in terms of either a land grant or a fixed share of the produce
Janmabhogam	:	share of the janmi
Janmam	:	used here to mean a hereditary right to the land and its produce, redefined over time under colonial rule to mean a private and hereditary ownership of land.
Janmi	:	one possessing hereditary rights over land; landlord
Jeshta.	:	The unclean diety
High Court	:	The highest judicial body in the province or State
Illom	:	The house of Nambuthiris
Iluvan	:	Another name for Thiya Caste
Inam	:	tax-free land given as a gift
Inangan	:	Brother-in-law
Kachams	:	Codes
Kalari	:	A gymnasium
Kalyanam	:	Marriage
Kama deva	:	God of romance
Karanavappad	:	status of being the head of a Tarawadu
Kambli	:	A woollen cloth
Kana-Janma		
Mariyadha	:	Customs and traditions which determined the agrarian relations in Malabar
Kanakkaran	:	One who holds the kanam
Kanam	:	depending on its usage in north or south Malabar, it could mean a lease, a mortgage or a usufructuary mortgage.
Kanishta	:	Younger Nambudiri in an illam
Kanji.	:	A drink consisting of boiled rice together with the water in which it is boiled.
Kanom	:	A land tenure system in Malabar

Karanavathi	:	Eldest female member and the manager of the Tarawad
Karar	:	Contract
Karayma	:	the rights that an owner acquired on purchase of land, which included policing functions and certain other rights over tenants.
Kariastan.	:	Agent
Karin kannidal.	:	Casting evil eye
Karnavan	:	Eldest male member and the manager of the Tarawad
Kartha	:	The eldest male member and manager in a Hindu Joint family.
Karthigopally	:	A kingdom in Travancore
Kavu	:	Small shrine
Kayastha	:	a north Indian middle caste
Keikottal	:	Clapping of hands – a ritual related to the ceremony of a dead relative
Keralamahatmyam	:	A work of unknown origin on the history of Kerala written in indifferent Sanskrit
Keralolpathi	:	A work in Malayalam on the history of Kerala, the authorship of which is unknown.
Kidakora	:	A form of Nayar marriage in Palghat
Kizhakkiniakam	:	the east room (of a house)
Kolathnad	:	The country ruled by the Kolathiris
Kolatiri	:	The ancient kingdom of Kolathnad in North Malabar
Konakam	:	loincloth
Konna	:	Cassia fistula
Korapuzha	:	A river flowing into the sea seven miles north of Calicut and forming the traditional boundary between north and south malabar
Kottubali	:	Last rites done for a dead relative
Kovilakam	:	Palace of royal families in Malabar
Kshethra Parampariam:		Descent through the mother
Kshatriyas	:	The ruling princely class in Malabar
Kudiveppu	:	Function relating to the entry of the bride to husband's illam

Kudiyān	:	generic term that encompassed three sets of meanings inhabitant, subject and tenant; roughly translated to mean slaves
Kuzhikanam	:	improvement lease
Laccadives	:	A number of small islands of the Malabar coast
Lanka.	:	Identified with modern Ceylon. The country governed by the giant ravana of Ramaya of Ramayana fame.
Malik	:	overlord
Mana	:	household of the Nambuthiris of <i>Marumakkathayam</i> matriliney
Mahe	:	The French settlement in Malabar
Makkathayam	:	The system of inheritance through sons
Malayali	:	Inhabitant of Malabar
Malikhana	:	Annual allowance paid to deposed Chieftains
Manavalan	:	The bridegroom in Talikettukalyanam
Mangalam	:	Thiya Marriage in north Malabar
Mangil.	:	A native conveyance
Manikkakallu.	:	Precious stones of resplendent hue produced by serpents from inside the earth.
Mannathi	:	Washer Women
Manola or managala.	:	Red ansenic for painting the face with.
Manthravadi	:	The new cloth presented by the father of the girl to
Mantram.	:	Magic
Mappilas	:	The Muhammadans of North Malabar
Marrupattam	:	The counter-part of a lease or deed executed by a tenant
<i>Marumakkathayam</i>	:	The law of inheritance through nephews and nieces
Maryada	:	Custom
Mathruparampariam	:	Descent through mother
Mattu	:	Change of cloth for cleaning and to end pollution
Meenam	:	A month of the Malayalam Calender
Melcharthu	:	overlease granted to a new tenant in order to oust the old
Menon	:	village accountant
Minnu	:	A small golden ornament

Mitakshara	:	A school of Hindu Law
Moksham.	:	Being united with god
Muhurtham	:	Auspicious hour
Muktiar	:	The holder of a power of attorney
Muktiarnama	:	A power of attorney promising certain rent
Mukhyastan	:	village head
Munsif	:	judge
Muthal	:	shared rights over produce Sambandham
Nadu	:	territory
Naduvazhi	:	Ruler of a nad or country
Nambiar	:	In a special sense, the particular man who beats the Drum during the performances of chakkiyars
Nambudiri	:	The Malabar Brahman
Nalukettu	:	An architectural style in Kerala with a courtyard in the centre
Nanja	:	wet paddy cultivation
Nangiar.	:	The female of ckakkiar
Narayam.	:	A kind of iron stile
Navarathri.	:	Dusserah.
Nirattiper	:	freehold right over property
Onam	:	Harvest festival of Kerala
Otti	:	when used instead of 'kanam' on the lease deed implied a usufructury mortgage.
Palanquins.	:	Another native conveyance
Pulikudi.	:	Drinking the tamarind juice; a ceremony
Palni.	:	The temple on the palni hills
Panar.	:	A law caste people
Panchagavyam.	:	A sacred mixture made of the five products of the cow viz.
Panam	:	coin, mainly silver, whose value was one-third of a rupee in the 1860s.
Panchayat	:	Village tribunal
Panikkar	:	An astrologer class in Malabar
Para	:	Measure (of paddy, etc.)

Paramba		The compound around a house
Pathayapura	:	Granary
Pattayam	:	Title deed to land conferring jenmam ownership
Pattakar	:	leaseholding tenants
Pattam	:	share of produce belonging to landholding households
Pudamuri	:	Marriage in North Malabar by pre-senting of cloth by the bridegroom to the bride.
Pula pedi <i>or</i> para pedi	:	an institutionalised form of caste offence that involved kidnapping higher-caste women
Pula Sambandham		Ties of pollution
Pumsavanam	:	Function during the pregnancy of an antarjanam
Punam		dry paddy cultivation
Purayidham	:	House and compound
Purapad		right to rent
Pulluvar.	:	A low caste people
Punnathur.	:	A feudatory of the zamorins in olden times in Chowghaut The dung, urine, milk, curds and ghee; used for purifying purposes.
Puthappu	:	Long cloth used to cover the body
Puthravakasam	:	The right for the property of a son to his father's property
Rajah	:	A king
Ryot	:	cultivator
Ryotwari	:	cultivating right
Sadr Court	:	an apex court within a Presidency. The Sadr Court
Samanthar	:	royal caste
Sambandham	:	term denoting customary marriage
Sambhandom	:	Sexual relation by marriage amongst Nairs.
Samuthiri	:	kings who ruled in and around Calicut
Sangham	:	'A collection of Tamil poets ia art, times
Sankaracharva	:	One of the greatest of India's phillosaphers who lived in the eighth century A, D. and who was

Sanketam	:	a quasi-autonomous territory constitutive of Several villages organised around a temple
Sanskrit	:	The language of the Aryans in India
Tahsildar	:	native collector of revenue
Taluks	:	districts
Tali	:	Neck ornament of a tiny plate of gold emblematic of the married state
Thara	:	Nayar village community
Talikettukalyanam	:	A mock marriage ceremony gone through by Nayar girls in childhood before attaining puberty
Taluq	:	A political subdivision of in district.
Tamburatti	:	The senior lady in a Kovilagam
Tarawad	:	A joint undivided <i>Marumakkathayam</i> family
Tattudukkuka	:	Peculiar Style of dressing by Nambudiri
Tavazhi	:	A branch of the family being descendants of the same mother the bridegroom at the Talikettu ceremony
Thirandukalyanam	:	The ceremony at pubescence of girls
Thiruvathira	:	Festival for women
Thrikkakareapan.	:	Popularly the clayey images that are set up on the day previous to the Thiru Onam day in proclamation of the approach of the onam festival.
Tippu Sultan	:	The Mohammedan ruler of Mysore who invaded and annexed Malabar prior to the British
Tirandukuli	:	Ceremonial bath after first menstruation
Tiyan	:	The toddy-drawing caste of the Malabar coast
Tribe.	:	A unit larger than clan and composed of clans. No Property interests exist between the various clans constituting a tribe, Intermarriage allowed between the members of one clan, with those of another; but not between members of the same clan.
Vakil	:	lawyer
Vamana.	:	Youth; the fifth incarnation of Vishnu.
Vannathi	:	Washer woman
Vali or Vazhi.	:	When added to Nad or Deshmn, means Ruler.

Vellalar	:	agriculturists
Verumpattakkar	:	cultivators with certain hereditary and Defined rights over produce—by the mid- nineteenth century, the term was used to mean 'simple tenant'.
Verumpattam	:	Cultivating lease
Veshti	:	the long cloth that Malayali women drape on their upper torso
Vishnu	:	One of the Hindu Trinity
Vivaham	:	Marriage
Vyavaharamala	:	A Sanskrit book on Malabar Law
Zamindar	:	landlord

APPENDIX - I
MEMORANDUM BY
O.CHANDU MENON,
MEMBER, MALABAR MARRIAGE COMMISSION

I, wish to make a few observations separately about the proposed legislation in respect of marriages of the *Marumakkathayam* Malayalees.

Myself a Malayalee of this class and as such deeply interested in the question, I need hardly say that I have given my best consideration to the arguments advanced for or against the measure and that the opinion, I am about to express, is the result of a long careful and anxious consideration of the questions in all its bearing and aspects. I have tried my best to ascertain the opinion of the people in general and have discussed the matter with many intelligent and enlightened men in Malabar. Here it is necessary for me to note that I do not attach much value to the evidence taken before the commission as a true reflection of the native public opinion in Malabar on the subject of the proposed changes in the marriage system. It appears to me that most of the witnesses that appeared before us, and many that answered interrogations, had made up their mind before-hand, either to support or oppose the Bill and did not care to represent public feelings on the subject.

As stated already I have spoken to many respectable Hindus of North and South Malabar on the subject and I have no hesitation what ever in saying, from my personal knowledge, that the great body of the people or rather a very large majority, including, I may say, the whole of the aristocracy of Malabar, do not desire any change. I am fortified in this view by the unanimous opinion of the President and the other Commissioners/who have passed a resolution to the effect that in; their opinion, a large majority of the people do not desire any change. The large majority not only do not desire a change, but are in my opinion, extremely averse to any change, or more correctly speaking, indignantly condemn the proposed measures. Here I must state my firm belief that the measure would not have met with such universal and so vehement an opposition from the public, had it not been for some of the provisions in the Bill which the people rightly think, have the effect of changing their nationality, their 'individuality' as *Marumakkathayam* Hindus. There is hardly one Nayar in one

hundred, among the body of the public of Malabar, who does not view with horror the provision of marriage and the provision in the Bill as to the nonrecognition or rather the abolition of caste for purposes of marriage and the provision that changes the fundamental principles of the law of succession of the *Marumakkathayam* Hindus. The provision regarding the registration of marriages and the removal of the hitherto rules of consanguinity and affinity are also equally disgusting to the public in general. In my humble opinion,- nothing could have been more unfortunate for those few, who ask for marriage law, than to have published this obnoxious Bill as the basis upon which legislation on the subject was to proceed.

Of course, I admit that there is a very small minority, a very infinitesimal fraction of the population, consisting of some of the English-educated men and a few others, who desire a change in our present system of marriage. They would have done better if they had consulted the public opinion thoroughly and carefully before bringing out such a Bill. The violent changes in the Bill, naturally had the effect of making the orthodox Malayalees (and they are the large majority) had the measure as one designed for abolishing caste and Marumakkathaym system of succession, on the pretext of legalising marriages. In this connection it becomes necessary to say a few words about the Bill itself, in order to show the ideas of the people generally about the matters therein dealt with.

The Bill opens with the following Preamble:

"Whereas it is expedient to provide a permissive form of marriage for 'Hindus following the Marumakkthaym law of succession' and to provide for the maintenance of the wives and children after the performance of such marriages; it is hereby enacted as follows".

The Bill says that the law is intended for Hindus following "*Marumakkathayam* law succession. The people rightly ask, where we will find such Hindus 15 or 20 years after the Bill becomes law. It is idle to say that the Bill does not interfere with the Tarawad of Malabar. It destroys the Tarawad system altogether. The Tarawad property means the accumulations of wealth, acquired by the individual members of such Tarawad, and if the law holds, as the Bill shows, that the individual acquisition should hereafter go to the wife and children of the person acquiring it and at the same

time that the property, already accumulated, under Tarawad system, should be distributed and enjoyed according to the *Marumakkathayam* law, it is perfectly plain that the Tarawad cannot exist for any length of time. Therefore, in plain words, the Bill aims at abolishing the Tarawad system altogether.

The public are struck with the provision which disposes of, in a summary manner, the caste system in Malabar. Whatever may be the prevailing opinion of the portion of the English educated Malayalee doubts on the subject, there cannot be any doubt as to the fact, that all eminent English and native thinkers .or the present generation, who are intimately acquainted with Indian Institutions and characters have always thought that it would be highly impolite, for the Government, to interfere with the caste system in this country. On this point, a distinguished Law member of the Viceregal Council, an Englishman who had very carefully studied the question, in the course of his speech on the Brahma Marriage Bill, in 1872, said as follows;

That the law of succession of the *Marumakkathayam* Hindus, as the law of all other Hindus, who follow *Marumakkathayam* or nay other law of succession, is chiefly based upon religious rites, cannot be honestly denied by anyone who knows the customs of Malayalees. The general principal of the Hindu law which guided succession is that "he who is the spiritual benefactor of a deceased person shall succeed to the property of such person." That, according to the Malabar Law and customs, to a Marumakkathaym Nair, his Anandaravers are his Pindakartha or the spiritual benefactors, no one can deny. That, has been so ordained and it has been going on in accordance with such ordinance for thousand of years past. Even the most enthusiastic supporters of the Bill, in their depositions before us, affirmed that a family of Anandaravers who omit to offer funeral cakes or observe pollution on the death of their Karanavan, forfeited their caste and society. Such is the religious constitution of the relation between Karanavan and Anadaravers in Malabar, and it was in accordance with this relation that our law of succession was formed. If we also ask the British Government to alter the law of succession, could we also ask the British Government to after religious law, enacted according to the notions of Hindu sages and law-givers for the spiritual benefit of the *Marumakkathayam* Hindus? Could we ask the Government to legislative that the son shall be Pindakartha or the spiritual benefactor of a *Marumakkathayam* Nair in the place of his Anandaraven? I

am sure the British Government would indignantly refuse to legislate on the point even if we venture to ask them, as the British Government' would not interfere with our religious law, so they could not, according to their policy, interfere with our civil rights based upon such law, unless the people wish to change it or unless the exercise of such rights involves a crime or is passed to public policy.

Having stated as above my opinion that the people are quite averse to changes on the proposed lines in the Bill, I have now to state my opinion whether the Marumakkathaym Hindus in Malabar have any system of marriage and of they have so system, whether they should have one, if least for the protection of small minority who ask for it.

I think the Malayalam word "Sambandham" in its peculiar sense, as used throughout Malabar proper, Cochin and parts of Travancore, conveys, the same idea as the word

Marriage etymologically conveys in the English language, 'viz'. "The union of man and woman as husband and wife". Sambandham is the principal Malayalm word for marriage as Vivaham is in Sanskrit., whatever may be the basis of Sambandham of the *Marumakkathayam* Nairs, there can be no doubt that the idea which the word conveys to the Malayalee is the same as the Word 'Vivaham'. this generic name Sambandham which in South Malabar between Calicut and in Ponnani, cochin and parts of Travancore, is the only word to denote marriage, includes,

1. Guna Dosham as used in south and North Malabar
2. The Podamuri or its Sanskrit synonym Vastradaranam used in North Malabar.
3. Uvamporuka and Veedaram Kyruka of North Malabar
4. The Kidakora Kalyanam of Palghat and parts of Nedumangad.

The Podamuri., Vastradaranam, Uvamporuka, Veedaram

Kyruka & care local expressions hardly understood beyond the localities in which they are used, but there would be hardly a Malayalee who would not readily

understood what is: meant by Sambandham Todunguka The meaning of this phrase which means "to marry" is understood throughout Keralam in the same way and there can be no ambiguity or mistake about it,

It is thus found that Sambandham is the principal word denoting marriage among *Marumakkathayam* Nairs. It will also be found, on a close and careful examination of facts, that the principal feature of this Sambandham ceremony all over the Keralam, are in the main, the same. As there are local names denoting marriage, so there may be found local variations in the performance of the ceremony. But the general features are more or less the same. For instance, the examination, prior to the betrothal, of the horoscope of the bride and the bridegroom to ascertain whether their stars agree astrologically, the appointment of an auspicious day for the celebration of the ceremony, the usual hours at which the ceremony take place, presentation of the 'Danon' to the Brahmanas, the sumptuous banquet the meeting of the bride and the bridegroom in the central room of the house, the sprinkling of the rice on the heads of the bride and the bridegroom, are features which are invariably found in well conducted 'Sambandham' in all parts of Keralam alike, but here I would beg to state that I should not be understood as saying that each and every one of the formalities above referred to, are gone through at every Sambandham. I would only say that most of the same generally gone through at all "Sambandhams" among respectable Nairs and I would further say that they ought to be gone through at every Sambandham differ from it. Of all the forms of Sambandham I consider the 'Podamuri' from the most solemn and the most fashionable in North Malabar. of course my description will be borne out by the evidence that is before us.

The freedom to a *Marumakkathayam* Nair, to dispose of his self acquisition by will, is what all the people of Malabar wish that they should possess. Wills or declarations of a deceased persons, regarding the distribution of his self-acquired property have always been respected by Nairs and a legal recognition of it by courts will enable us to make sufficient provision for our wives and children.

Calicut

1st July, 1891

O.Chandu Menon

Source: Malabar Marriage Commission Report – 1891 Legislative Department, NAI.

APPENDIX-II

LIST OF CASTES GOVERNED BY MARUMMAKKATHYAYAM

(According to the Malabar Gazetteers)

1. Nambuthiris of Payyannur Village
2. Chakkiyar Nambiar
3. Purapoduval
4. Pisharodis
5. Variar
6. Teyyambodi kurups and Karopanokar
7. Kshatriyas
8. Samantas
9. Nayars
10. Taragans
11. Revaries
12. Tiyaans in North Malabar
13. Kusavans (Potters)
14. Ottatu Nayars of Tilers
15. Vanians
16. Kulangara Nayars
17. Edeachteru Nayars
18. Vellutedans
19. Vilakkataravans in the North
20. Yogi Gurukkals
21. Wyanad Chetties
22. Paravans (in most Parts)
23. Velans (Physicians) and Kuruthians in the North
24. Mukkuvans (in the South)
25. Vannans (in the North)
26. Moplas in North Malabar
27. Some aboriginal tribes
 - (1) Kurichiyans
 - (2) Malakkars
 - (3) Kasambalans
 - (4) Vettuvans

APPENDIX-III
LIST OF IMPARTIBLE TARAWAD

1. The Zamorin's family consisting of :
 - (a) Puthia Kovilakom situated in Tiruvanoor, Calicut Taluk
 - (b) Patinhare Kovilakom situate in Mankav, Calicut Taluk and
 - (c) Kizhake Kovilakom situate at Kottakkal, Ernad Taluk.
2. The Chirakkal Kovilakom near Cannanore
3. The Nilambur Kovilakom in Nilambur amsom, Ernad Taluk.
4. The Kizhake Kovilakam of the Kottoyam Rajan's family, Kottayam Taluk
5. The Patinhara Kovilakom of Kottayam Raja's family in Kottayam Taluk
6. The patinhara Kovilakom of Kottayam Raja's family in Kottayam Taluk.
7. Ayancheri Kovilakom in Purameri Amsom, Kurumbranad Taluk.
8. The Edavalath Kovilakom in Purameri Amsom, Kurubranad Taluk.
9. The Ayiranazi Kovilakom of the Walluvanand Raja's family in the Walluvanad Taluk.
10. The Kadannamanna Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk
11. The Mankada Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk.
12. The Aripura Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk.
13. The tarawad from which the Kuthiravattath Nair attains stanom. situate in pulapatta Amsom, Walluvanad Taluk.
14. The Tarawad from which the punnathur Raja attains stanom in Kottapadi Amsom, Ponnani Taluk.
15. The Venganad Kovilakom of the Venganad or of Kollengode Valia Nambidi
16. The Mayapadi Raja's family of Kasargod Taluk
17. The Neleswar Raja's family of Kasaragod Taluk.

APPENDIX-1V
THE MADRAS *MARUMAKKATHAYAM* ACT, 1933
ACT NO.XXII OF 1933

(Received the assent of of the Governor on the 21st March, 1933 and of the Governor-General on the 12th April, 1933)

An Act to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the *Marumakkathayam* law of inheritance.

Whereas it is expedient to define and amend in certain respects the law relating to marriage, guardianship, intestate succession, family management and partition applicable to persons governed by the *Marumakkathayam* law of inheritance;

And whereas the previous sanction of the Governor General has been obtained to the passing of this Act;

It is hereby enacted as follows:-

Chapter I

Preliminary

Short title and application:

- I. (1) This act may be called The Madras *Marumakkathayam* Act, 1932.
- (2) It shall apply
- a. to all Hindus in the Presidency of Madras who are governed by the *Marumakkathayam* law of inheritance.
 - b. to all Hindus outside the said Presidency governed by the said law, in respect of properties within it; and
 - c. to all Hindu males, whether governed by the said law or not, who have contracted or may contract marital alliances with Hindu females governed by the said law.

Repeal of Madras Act IV of 1896:

2. The Malabar Marriage Act, 1896, in so far as it is applicable to Hindus following the *Marumakkathayam* law of inheritance is hereby repealed.

Definitions:

3. In this Act, unless there is anything repugnant in the subject of context:-
- (a) 'Anandravan' means any member of a Tarawad other than the Karanavan;
 - (b) 'Collector' means the Collector of Malabar or South Kanara, as the case may be, and includes any Revenue Divisional Officer who is authorised by the Collector to perform his functions under this Act;
 - (c) 'Karnavan' means the oldest male member of a Tarawad or Tavazhi, as the case may be, in whom the right to management of its properties vests or, in the absence of a male member, the oldest female member of where by custom or family usage the right to such management vests in the oldest female member, such female member, such female member;
 - (d) 'Major' means a person who has attained eighteen years of age;
 - (e) '*Marumakkathayam*' means the system of inheritance in which descent is traced in the female line but does not include the system of inheritance known as the Aliyasantana;
 - (f) 'Marumakkathayi' means a person governed by the *Marumakkathayam* law of inheritance;
 - (g) 'Minor' means a person who has not attained eighteen years of age;
 - (h) 'Prescribed' means prescribed by rules made under this Act;
 - (i) 'Tarawad' means the group of persons forming a joint family with community of property governed by the *Marumakkathayam* law of inheritance;
 - (j) (i) 'Tavazhi' used in relation to a female means the group of persons consisting of that female, her children and all her descendants in the female line; and
(ii) 'Tavazhi' used in relation to a male means the tavazhi of the mother of that male.

Chapter II

Marriage and its Dissolution

Marriages valid under the Act:

4. (i) Save as provided in Section 5, the conjugal union of a marumakkathayi female with-
- (ii) a male, not belonging to such community and whether a marumakkathayi or not,

Shall be deemed for all purposes to be a legal marriage if-

- (a) The parties to the union are not related to each other in such degree of consanguinity or affinity that conjugal union between them is prohibited by any custom or usage of the community to which they belong or either of them belongs; and
 - (b) the union-
- (i) was openly solemnized in accordance with the customary ceremonies, if any, prevailing in the community to which the parties belong or either of them belongs, before the date on which this Act comes into force and is subsisting on such date; or
 - (ii) is so solemnized in accordance with such ceremonies on or after the date on which this Act comes into force and, where either or both the parties are minors, with the consent of the guardian or guardians of such minor or minors; or
 - (iii) was registered as a marriage under the Malabar Marriage Act, 1896, before the date on which this Act comes into force and is subsisting on such date.
- (2) A conjugal union between minors or between minors or between a minor and a major which would otherwise be a valid marriage under sub section (I) shall not be deemed to be invalid merely on the ground that the consent of the guardians or guardian of such minors or minor was not obtained to the union.

- (3) Notice of every marriage contracted on or after the date on which this Act comes into force shall be given by such person to such authority, in such form and within such time as may be prescribed. Failure to give such notice shall be punishable with fine which may extend to fifty rupees but such failure shall not invalidate the marriage or affect the legal rights of the parties to, or the issue of, such marriage.

Marriage during continuance of prior marriage void:

- (1) During the continuance of a prior marriage which is valid under section 4, any marriage contracted by either of the parties thereto on or after the date on which this Act comes into force shall be void.
- (2) On or after the said date, any marriage contracted by a male with a marumakkattayi female, during the continuance of a prior marriage of such male, shall be void, notwithstanding that his personal law permit of polygamy.

Dissolution of marriage:

6. A marriage valid under section 4 may be dissolved-
 - (a) by a registered instrument of dissolution executed by the parties thereto, or
 - (b) by an order of dissolution as hereinafter provided:

Provided that if either or both the parties is or are minors the marriage shall not be dissolved until after the party has become a major, or both the parties have become majors, as the case may be,

Petition for dissolution:

7. (1) A husband or wife may present a petition for dissolution of marriage-
 - (i) If the place where the marriage was contracted or the respondent has a permanent dwelling or actually and voluntarily resides or carries on business or personally works for gain, at the time the petition is presented, is situated within the local limits of the jurisdiction of the Court of a District Munsif, in such Court;
 - (ii) If such place is not situated within the local limits of the jurisdiction of the Court of any District Munsif, in the Court of the Subordinate Judge or if

there is no such Court, in the Court of the District Judge, within the local limits of whose jurisdiction such place is situated; and

- (iii) If such place is situated within the local limits for the time being of the ordinary original civil jurisdiction of the High Court of Madras in the Madras City Civil Court.
- (2) The petition shall specify the place where and the date on which the marriage was contracted and if the respondent was a minor at the time of the marriage, the name and address of the guardian, if any, with whose consent the marriage was contracted.

Service of copy of petition on respondent:

- 8 A copy of such petition shall be served at the expense of the petitioner on the respondent.

Order of dissolution:

- 9. On the motion of the petitioner made not earlier than six months after the service of the copy as aforesaid, if the petition is not withdrawn in the meantime, the Court shall, on being satisfied after such inquiry as it thinks fit that a marriage which is valid under section 4 was contracted between the parties, by order in writing declare the marriage dissolved. The dissolution shall take effect from the date of such order.
- 10. The provisions in the Code of Civil Procedure, 1908, shall so far as may be, apply to petitions under this Chapter.

Bar of suit for restitution of conjugal rights:

- 11. No Court shall entertain a suit for restitution of conjugal rights between the parties to a marriage valid under Section 4.

Chapter not to apply to marriages of Nambudiri women:

- 12. Nothing contained in this Chapter shall apply to the marriage of any Nambudiri woman following the *Marumakkathayam* law of inheritance.

Chapter III

Maintenance and Guardianship

Maintenance of wife and minor children:

- 13. (1) The wife and minor children other than married minor daughters under the guardianship of their husbands, shall be entitled to be maintained by the husband or the father, as the case may be.

(2) Nothing contained in sub-section (1) shall affect the right of any person to maintenance from his or her Tarawad or tavazhi properties.

(3) In awarding maintenance under sub-section (1) the Court shall have due regard to the means and circumstances of the person against and by whom maintenance is claimed and to the reasonable wants of the person claiming maintenance.

14. The husband shall be the guardian of his minor wife in respect of her person and property and, subject to the provisions of section 15, the father shall be the guardian of his minor children other than married minor daughters under the guardianship of their husbands, in respect of their person and property.

Provided that such guardianship shall not extend to the right and interest of the wife or children in respect of their Tarawad or tavazhi properties.

Provided further that nothing contained in this section shall apply to a female member of any of the Tarawad included in the schedule or her children, where such female member resides in her own Tarawad house and not with her husband.

Guardianship of minor children by husband deceased or divorced:

15. The mother shall be the guardian of the person and property of her minor children if their father is dead or the marriage of their parents is dissolved.

Saving of the operation of the Guardians and Wards Act, 1890.

16. Nothing contained in section 14 and 15 shall be deemed to affect the operation of the Guardians and Wards Act, 1890.

Chapter IV

Intestate Succession

Property as to which a person is considered to have died intestate:

17. A person is deemed to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

Illustrations

(i) A has left no will. He has died intestate in respect of the whole of his property.

- (ii) A has left a will whereby he has appointed B his executor but the will contains no other provisions. A has died intestate in respect of the distribution of his property.
- (iii) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.
- (iv) A bequeathed Rs.1,000/- to B and Rs.1,000/- to the eldest son of C and made no other bequest and died leaving Rs.2,000/- C died before A without ever having had son. A has died intestate in respect of the distribution of Rs.1,000/-.

Devolution of Property left by marumakkattayi male intestate:

18. On the death intestate of marumakkattayi male, his property, which is self-acquired or separate, shall devolve in the order and according to the rules contained in sections 19, 20, 21, 22, 23 and 24.

Where intestate has left mother, widow, children and lineal descendants:

19. Where the intestate has left surviving him a child or children, or a lineal descendant or descendants in the female line through a deceased daughter or daughters, or both, and also his mother or a widow or widows or both his mother and a widow or widows, the whole of the property shall belong to them. In the absence of the mother and widow, the whole of the property shall belong to the child or children and such lineal descendant or descendants; and in the absence of the mother widow or child, the whole of the property shall belong to such lineal descendant or descendants.

Rules of distribution in cases falling under Section 19:

20. The distribution of the property among the heirs referred to in section 19 shall be made in accordance with the following rules:-
- (i) The widow or, if there is more than one widow, each of the widows, shall be entitled to a share equal to that of a child.
 - (ii) The mother shall be entitled to a share equal to that of a child.
 - (iii) Every child (son or daughter) shall be entitled to an equal share:

Provided that if a daughter has pre-deceased the intestate, the lineal descendants of such daughter in the female line, shall be entitled to the share which such daughter would have taken had she survived the intestate.

- (iv) Grand children by a deceased daughter, shall be entitled in equal shares to what their mother would have taken had she survived the intestate:
- (v) In like manner the property shall go to the surviving lineal descendants of the intestate in the female line where such descendants are in the degree of great-grand children or in a more remote degree.

Explanation. I – The descendants of a daughter, daughter's daughter or other female descendant in the female line, shall not be entitled to any share in such property if such daughter, daughter's daughter or other descendant is alive at the time of the death of the intestate.

Explanation .II – The descendants of a son who has pre-deceased the intestate shall not be entitled to any share in such property.

Illustrations

- (i) Z dies intestate leaving two widows A and B, his mother C, a son D, a daughter E, a granddaughter F by such daughter, the lineal descendants of a daughter G and the lineal descendants of a deceased son H. A, B, C and E each gets one sixth and the lineal descendants of G get one-sixth of the property. The granddaughter F and the lineal descendants of H do not get any share.
- (2) Z dies intestate leaving to widow or mother, but leaving A a son, B a daughter, E and F a grandson and a granddaughter by a deceased daughter C, and a grand daughter G by a deceased daughter D and two great granddaughters H and J by a deceased daughter of D, A and B will each be entitled to one-fourth of Z's property, E and F will each be entitled to one-eighth, G will be entitled to one-eighth and H and J each to one-sixteenth.
- (3) Z dies intestate leaving no mother, widow or child, but leaving three grand children A, B and C by a daughter X who has pre-deceased him and two grandchildren D and E by a daughter Y who has also pre-deceased him. A, B and C will each be entitled to one-sixth, and D and E will each be entitled to one-fourth of Z's property.

Rules of distribution where intestate has left no child or lineal descendant but only mother or widow or both.

- 21. Where the intestate has not left surviving him any child or lineal descendant in the female line through a deceased daughter but has left his mother and a widow or widows, one-half of the property shall devolve on his mother and the other half

on his widow or widows in equal shares. In the absence of a widow, the whole of the property shall belong to the mother.

Rules of distribution where intestate has left only widow or mother's tavazhi or both.

22. Where the intestate has not left surviving him his mother or any child or lineal descendant in the female line through a deceased daughter but has left a widow or widows and is mother's tavazhi one-half of the property shall devolve on his widow or widows and the other half on his mother's tavazhi. In the absence of the mother's tavazhi, the whole of the property shall belong to the widow or widows and in the absence of a widow, the whole of the property shall belong to the mother's tavazhi.

Rules of distribution where intestate has left only father and maternal grandmother's tavazhi.

23. Where the intestate has not left surviving him any of the heirs mentioned in sections 19, 21 and 22 but has left his father and his maternal grandmother's tavazhi, one half of the property shall devolve on his father and the other half on his maternal grandmother's tavazhi. In the absence of the maternal grandmother's tavazhi, the whole of the property shall belong to the father and in the absence of the father, the whole of the property shall belong to the maternal grandmother's tavazhi.

Rules of distribution where intestate has not left any of the heirs mentioned in sections 19, 21, 22 and 23.

24. Where the intestate has not left surviving him any of the heirs mentioned in sections 19, 21, 22 and 23 the property shall devolve on the tavazhi of his mother's maternal grandmother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding more remote.

Devolution of property left by marumakkattayi female intestate.

25. On the death intestate of a marumakkattayi female, the property which is self-acquired or separate shall devolve in the order and according to the rules contained in sections 26, 27, 28 and 29.

Rules of distribution where intestate has left children and lineal descendants.

26. Where the intestate has left surviving her, children or lineal descendants in the female line through deceased daughters or both, the whole of the property shall belong to them.

The provisions of clauses (iii), (iv) and (v) of section 20, and of explanations I and II to that section shall apply to the distribution of the property among the children and lineal descendants of the intestate.

Rules of distribution where intestate has not left any child or lineal descendant.

27. Where the intestate has not left surviving her any child or lineal descendant in the female line through a deceased daughter, the whole of the property shall devolve on her mother's tavazhi.

Rules of distribution where intestate has not left any of the heirs mentioned in sections 26 and 27, but has left husband and maternal grandmother's tavazhi.

28. Where the intestate has not left surviving her any of the heirs mentioned in sections 26 and 27 but has left her husband and her maternal grandmother's tavazhi, one-half property shall devolve on her husband and the other half on her maternal grandmother's tavazhi. In the absence of the maternal grandmother's tavazhi, the whole of the property shall belong to the husband, and in the absence of the husband, the whole of the property shall belong to the maternal grandmother's tavazi.

Rules of distribution where intestate has not left any of the heirs mentioned in sections, 26, 27 and 28.

29. Where the intestate has not left surviving her any of the heirs mentioned in sections 26, 27 and 28, the property shall devolve on the tavazhi of her mother's maternal grandmother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote.

Devolution of property left by non-marumakkattayi male intestate.

30. (i) On the death intestate of a male not being a marumakkattayi.

(i) who-

(a) has, before the date on which this Act comes into force, contracted a marriage with a marumakkattayi female which is valid under section 4; or

- (c) has contracted on or after such date a marriage with a marumakkattayi female which is valid under that section, and
- (ii) who has left surviving him by such marriage or marriages one or more of the following relations, namely :-
 - (a) a widow or widows,
 - (b) children
 - (c) lineal descendants in the female line through deceased daughters.

Such relation or relations shall be entitled, if the intestate has also left relations who are heirs according to the personal law by which he is governed, to one-half of his property which is separate or self-acquired and if the intestate has left no such heirs, to the whole of such property:

Provided that the reasonable funeral expenses of the intestate shall first be deducted from such separate or self-acquired property.

(2) The property devolving on the relations referred to in sub-clauses (a), (b) and (c) of clause (ii) of sub-section (I) shall be distributed among them in accordance with the rules contained in clauses (i), (iii), (iv) of Section 20 and Explanations I and II to that section.

Possession and management of property until division.

31. (I) The senior major male member among the children and other lineal descendants through deceased daughters of the intestate or in the absence of any such male member the widow, or if there is more than one widow, the senior among such widows, shall be entitled to possession and management of the property referred to in sections 19, 21, 22 and 26 until division is effected.

(2) In the case of the property referred to in Sec.30, if the intestate has left relations who are heirs according to the personal law by which he is governed, such heirs shall be entitled to possession and management of the property until division is effected.

(3) The Karanavan of the tavazhi mentioned in Sections 23, 24, 27, 28 and 29 shall be entitled to possession and management of the property referred to therein until division is effected.

Chapter V

Tarawad and its Management

Duty of Karanavan to keep accounts

32. The Karanavan shall keep true and correct accounts of the income and expenditure of the Tarawad. The accounts of each year shall be available for inspection at the Tarawad house by the major anandaravans once in a year throughout the month of Kanni following such year and any such anandaravan may take copies of or extracts from such accounts.

Alienation of immovable property by Karanavan

33. (1) Except for consideration and for Tarawad necessity or benefit and with the written consent of the majority of the major members of the Tarawad, no Karanavan shall sell immovable property of the Tarawad or mortgage with possession or lease such property for a period exceeding twelve years.

(2) No mortgage with possession or lease with premium returnable wholly or in part, of any such property executed by a Karanavan for a period not exceeding twelve years, shall be valid unless such mortgage or lease for consideration and for Tarawad necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the Karanavan to grant, in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part, or the renewal of an existing kanom.

Debt contracted by Karanavan when binding on Tarawad.

34. No debt contracted or mortgage without possession executed by a Karanavan shall bind the Tarawad unless the debt is contracted or the mortgage is executed, for Tarawad necessity.

Maintenance of members of Tarawad.

35. Every member of a Tarawad, whether living in the Tarawad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the Tarawad.

Relinquishment of Karanavan-ship

36. Any Karanavan may by a registered document give up his rights as Karanavan.

Application of chapter to tavazhis.

37. The provisions of this Chapter shall apply to every tavazhi possessing separate properties as if it were a tarawad.

Chapter VI

Partition

Rights of tavazhi to claim partition

38. (I) Any tavazhi represented by the majority of its major members may claim to take its share of all the properties of the Tarawad over which it has power of disposal and separate from the Tarawad:

Provided that no tavazhi shall claim to be divided from the Tarawad during the lifetime of an ancestress common to such tavazhi and to any other tavazhis of the tarawad, except with the consent of such ancestress, if she is a member of the Tarawad.

(2) The share obtained by the tavazhi shall be taken by it with the incidents of Tarawad property.

Explanation:- For the purposes of this Chapter, a male member of a Tarawad or a female member thereof without any living child or descendant in the female line, shall be deemed to be a tavazhi if he or she has no living female ascendant who is a member of the Tarawad.

Partition on change of religion.

39. Notwithstanding anything contained in Section 38, any member of a Tarawad who has changed his or her religion may claim or be compelled by any other member of the Tarawad, to take his or her share of all the Tarawad properties over which it has power of disposal and separate from the Tarawad.

40. (I) In the case referred to in section 38, the tavazhi shall be entitled to such share of the Tarawad properties as would fall to the tavazhi if a division per capita were made among all the members of the Tarawad then living.

(2) In the case referred to in section 39, the member who claims or is compelled to divide from the Tarawad, shall be entitled to such share of the Tarawad properties as would fall to such members if a division per capita were made among all the members of the Tarawad then living.

Application of Chapter to tavazhis

41. The provisions of this chapter shall apply to every tavazhi possessing separate properties as if it were a Tarawad.

Chapter VII

Impartible Tarawad

Certain Tarawad impartible unless registered as partible.

42. (I) Every Tarawad included in the schedule shall be an impartible Tarawad and the provisions of Chapter VI shall not apply to such Tarawad unless and until it is registered as partible Tarawad.

(2) Not less than two-thirds of the major members of a Tarawad referred to in sub-section (I), may at any time present a petition to the Collector for the registration of the Tarawad as partible, he shall register the Tarawad as partible.

3. Such petition shall be in such form and contain such particulars as may be prescribed.

4. If after giving notice to all the major members of the Tarawad and making such inquiry as he deems fit, the collector is satisfied that not less than two thirds of the major members of the tarawad has signed the petition with their free consent and desire the registration of the tarawad as partible, he shall register the tarawad as partible.

(5) On such registration, the provisions of Chapter VI shall apply to such Tarawad.

Registration of Tarawad as impartible

43. (I) Not less than two-thirds of the major members of a Tarawad may at any time, present a petition to the Collector for the registration of the Tarawad as impartible.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the Tarawad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the Tarawad have signed the petition with their free consent and desire the registration of the Tarawad as impartible, he shall register the Tarawad as impartible.

(4) On such registration, the provisions of Chapter VI shall not apply to such Tarawad unless and until the registration cancelled under Section 44.

Cancellation of such registration.

44. (I) Not less than two-thirds of the major members of a Tarawad registered as impartible under Section 43 may at any time present a petition to the Collector for the cancellation of such registration.

(2) Such petition shall be in such form and contain such particulars as may be prescribed.

(3) If, after giving notice to all the major members of the Tarawad and making such inquiry as he deems fit, the Collector is satisfied that not less than two-thirds of the major members of the Tarawad have signed the petition with their free consent and desire the registration of Tarawad as impartible, he shall register the tarawad as impartible.

4. On such registration, the provisions of chapter VI shall not apply to such Tharwad unless and until the registration cancelled under section 44.

Powers of Collector to take evidence on oath, etc.

45. The Collector shall, for the purposes of this Chapter, have the same powers as are vested in a court under the code of Civil procedure, 1908, when trying a suit, in respect of the following matters, namely:-

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents; and

(c) issuing commissions for the examination of witnesses, and any proceeding before the Collector under this Chapter shall be deemed to be a judicial proceeding.

Collector's order to be final

46. The order of the Collector registering a Tarawad as partible under section 42 or registering a Tarawad as impartible under section 43 or canceling such registration under section 44, shall be final and shall not be questioned in any civil court.

47. The Collector shall keep a register of all petitions presented to him under sections 42, 43 and 44 and of all order, passed by him on such petitions and shall, at all reasonable times allow search to be made in such register and shall, on payment of the prescribed free, give a copy, certified under his hand, of any entry therein.

Chapter VIII

Miscellaneous

Construction of bequeaths, gifts etc. to wife or wife and children.

48. Where a person bequeaths or makes a gift of any property to, or purchases any property in the name of, his wife alone or his wife and one or more of his children by such wife together such property shall, unless a contrary intention appears from the will or deed of gift or purchase or from the conduct of the parties, be taken as *tavazhi* property by the wife, her sons, and daughters by such person and the lineal descendants of such daughters in the female line;

Provided that in the event of partition of the property taking place under Chapter VI, the property shall be divided on the stirpital principle, the wife being entitled to a share to that of a son or daughter.

Rules:

49. (I) The Local Government may make rules consistent with this Act to carry into effect the purposes thereof.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) all matters expressly required or allowed by this Act to be prescribed; and

(b) the procedure to be followed in respect of applications under Chapter VII.

(3) All rules made under this section shall be published in the Fort St. George Gazette and on such publication shall have effect as if enacted in this Act.

50. Nothing contained in this Act shall-

Savings : (a) be deemed to confer any rights on the parties to or the issue of any marriage which is dissolved before this Act comes into force, or

(b) be deemed to affect any rule of *Marumakkathayam* law, custom or usage, except to the extent expressly laid down in this Act.

The Schedule

(See the second proviso to section 14 and Sub-section (I) of Section 42)

List of Impartible Tarawad

1. The Zamorin's family consisting of:-

(a) Puthia Kovilakom situate in Thiruvanoor, Calicut Taluk.

(b) Patinhare Kovilakom situate in Mankav, Calicut Taluk and

(c) Kizhakke Kovilakom situate at Kottakkal, Ernad Taluk.

2. The Chirakkal Kovilakom near Cannanore.
3. The Nilambur Kovilakom in Nilambur amsom, Ernad Taluk
4. The Kizhakke Kovilakom of the Kottayam Raja's family, Kottayam Taluk.
5. The Thekke Kovilakam of the Kottayam Raja's family, Kottayam Taluk.
6. The Patinhare Kovilakom of Kottayam Raja's family in Kottayam Taluk.
7. Ayancheri Kovilakom in Purameri Amsom, Kurumbaranad Taluk.
8. The Edavalath Kovilakom in Purameri Amsom, Kurumbranad Taluk.
9. The Ayiranazhi Kovilakam of the Walluvanad Raja's family in the Walluvanad Taluk.
10. The Kadannamanna Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk.
11. The Mankada Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk.
12. The Aripura Kovilakom of the Walluvanad Raja's family in the Walluvanad Taluk.
13. The tarawad from which the Kuthiravattath Nair attains stanom, situate in Pulapatta Amsom, Walluvanad Taluk.
14. The Tarawad from which the Punnathur Raja attains stanom in Kottappadi Amsom, Ponnani Taluk.
15. The Venganad Kovilakom of the Venganad or of Kollengode Valia Nambidi.
16. The Mayapadi Raja's family of Kasargod Taluk.
17. The Neleswar Raja's family of Kasargode Taluk.

APPENDIX V
THE MAPPILA *MARUMAKKATHAYAM* ACT
(XVII of 1939)

29th June, 1939.

Whereas it is expedient to define and amend in certain respect the law relating to family management, partition and succession among the Mappilas following the *Marumakkathayam* Law; It is hereby enacted as follows:-

Chapter I

Preliminary

Short title 1. (a) This Act may be called The Mappila *Marumakkathayam* Act, 1938.

Extent (b) It shall apply to all Mappilas following the *Marumakkathayam* Law, who either domiciled in the Province of Madras or have property situate within the Province of Madras.

Definitions 2. In this Act, unless there is anything repugnant in the subject or context,-

- (a) “Anandravan” means any member of a tarawad or tavazhi, as the case may be, other than the Karanavan.
- (b) “Karanavan” means the oldest major male member of a tarawad or tavazhi, as the case may be, in whom the right to management of its properties vests or in the absence of such a male member, the oldest major female member; or where by custom or family usage, the right to such management vests in the oldest major female member, such female member.
- (c) ‘Major’ means a person who has attained eighteen years of age.
- (d) “*Marumakkathayam*” means the system of inheritance in which descent is traced in the female line.
- (e) ‘Minor’ means a person who has not attained eighteen years of age.

- (f) “Tarawad” means a joint family which includes all its members with community of property governed by the *Marumakkathayam* Law.
- (g) “Tavazhi” means a branch of a tarawad consisting of a female, her children and all her descendants in the female line.

Chapter II

Tarawad and its Management

Duty of the Karanavan to

maintain an inventory

3. The Karanavan shall maintain a true and correct inventory of all the movable and immovable properties belonging to the tarawad.

Duty of the Karanavan

to keep accounts

4. The Karanavan shall keep true and correct accounts of the income and expenditure of the tarawad.

Right of anandaravans to

inspect inventory and

accounts

5. (I) The inventory and the accounts of each year of the Malabar Era, shall be available for inspection at the Tarawad house by the major anandravans throughout the month of Vrischikam following such year, and any such anandravan may take copies of or extracts from the same.

- (2) If the inventory or accounts are not made available for inspection as provided for in sub-section (1) the Court of a District Munsiff having jurisdiction over the place where the tarawad house is situated may, on application by any major anandravan and after notice to the Karanavan, pass an order

causing the inventory or accounts to be produced in Court and allowing the anandravans to inspect or to take copies of or extracts from, such inventory or accounts.

Right of every member for
Maintenance

6. Every member of a tarawad whether living in the tarawad house or not, shall be entitled to maintenance consistent with the income and the circumstances of the tarawad.

Investment of surplus
Income

7. Any surplus left out of the income of a tarawad after providing for the customary or legitimate expenses of the tarawad including charges pertaining to the education, marriage, or death of the members of the tarawad, and the charges necessary for zakat and the proper maintenance or upkeep of the tarawad properties, shall be applied by the Karanavan in the purchase of immovable property for the tarawad or otherwise invested to the best advantage of the tarawad.

Alienation of immovable property
by Karnavan.

8. (1) Except for consideration and for tarawad necessity or benefit and with the written consent of the majority of the major members of the tarawad, no Karanavan shall sell immovable property of the tarawad or mortgage with possession or lease such property for a period exceeding twelve years.

(2) No mortgage with possession or lease with premium returnable wholly or in part of any such property executed by a Karanavan for a period not exceeding twelve years, shall be

valid, unless such mortgage or lease is for consideration and for tarawad necessity or benefit.

(3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part or the renewal of an existing kanom.

Debt contracted by Karnavan

When binding on tarawad

9. No debt contracted or mortgage without possession executed by a karnavan shall bind the tarawad unless the debt is contracted or the mortgage is executed for tarawad necessity.

Immovable property

When liable for attachment

or sale for maintenance

10. No immovable property of the tarawad shall be liable to attachment or sale in execution of any decree obtained by an anandravan for maintenance, until after the decree holder has exhausted his remedies, if any, against the personal property of the karnavan or the income of the tarawad property.

Right to remove karnavan

by suit

11. An Anandravan may institute a suit in a Civil Court for the removal of karnavan (i) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the tarawad;

(ii) for misappropriation or improper dealing with income or the properties of the tarawad;

(iii) for unsoundness of mind or any physical or mental infirmity which unfits him for discharging the functions of a karnavan;

- (iv) for persistent default in the maintenance of the inventory referred to in section 3 or the accounts referred to in section 4 or in making them available for inspection by the anandravans under section 5; or
- (v) for any other sufficient cause which, in the opinion of the Court, makes his continuance as karnavan injurious to the interests of the tarawad.

Relinquishment of

Right of management

By karnavan

12. Any karnavan may, by a registered document, give up his right of management.

Chapter III

Partition

Right of individual

Members to claim partition

13. Any individual member of a tarawad may claim to take his or her share of the properties of the tarawad over which the tarawad has power of disposal and separate from the tarawad.

Right of tavazhi claim

Partition

14. Two or more members belonging to the same tavazhi, may claim to take their share of the properties of the tarawad over which the tarawad has power of disposal, separate from the tarawad, and enjoy the same jointly, with all the incidents of tarawad property.

Representation of minor

in claim to partition

15. For purpose of sections 13 and 14, a minor member of a tarawad shall be represented by his or her mother and in the absence of the mother, by his or her guardian under the Islamic Law.

Partition of tarawad house

16. In a partition of tarawad properties, unless two-thirds of the members of the tarawad desire to the contrary, the tarawad house including the site or sites of any building appurtenant thereto and such other land as is necessary for the

convenient enjoyment of the tarawad house shall be kept undivided for the common use of all the members of the tarawad, in which case, the charges of upkeep and maintenance of the tarawad house shall be borne by the member or members that live in the house.

Provided that where such house is no longer used or required for purposes of residence or is continually neglected, such house, site or sites, and land may be divided among the members of the tarawad entitled thereto.

Ascertainment of share

At partition

17. In case of a division under section 13 or 14, the individual member, or the members of the tavazhi as the case may be, shall be entitled to such share or shares of the tarawad properties as would fall to such individual member or to such members, if a division *per capita* were made among all the members of the tarawad then existing.

Subsequence devolution of
the property

18. Succession to the property obtained by an individual member on partition shall be governed by the Islamic Law of Inheritance.

Exemption of Arakkal
family from partition

19. The provisions of this chapter shall not apply to the Arakkal family or to the stanom properties of the Ali Rajas of Cannanore.

Chapter IV

Registration of Tarawad

Registratioin as

impartible tarawad

20. (1) If within a year from the passing of this Act not less than two-thirds of the major members of the Tarawad present a petition to the Collector of the District in such form and with

such particulars as may be prescribed he shall, after satisfying himself that not less than two-thirds of the major members of the tarawad consent and desire the registration of the tarawad as impartible, register the tarawad as impartible.

(2) On such registration the provisions of Chapter III shall not apply to such tarawad unless and until the registration is cancelled under section 21.

(3) During the pendency of a petition under sub-section (1) of this section, all proceedings in Court if any under Chapter III shall be stayed.

Cancellation of

Registration 21. (1) If at any time after the registration of a tarawad as impartible, not less than two-thirds of the major members of the tarawad present a petition to the collector in such a form and with such particulars as may be prescribed for the cancellation of such registration the collector shall, after satisfying him himself that no less than two thirds of the major members of tarawad consent and desire the cancellation of the registration, cancel such registration.

(2) On such cancellation the provisions of Chapter III shall apply to such tarawad.

Collectors Powers 22. The Collector shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely,:-

- (a) enforcing of attendance of any person and examining him on oath or affirmation;
- (b) compelling the production of documents; and
- (c) Issuing commissions for the examination of witnesses; and any proceeding before the Collector under this chapter shall be deemed to be a judicial proceeding.

Collector's order to be final 23. The order of the Collector registering a tarawad as impartible under section 20 or cancelling such

registration under section 21, shall be final and shall not be questioned in any Civil Court.

Collector to maintain

a register

24. The Collector shall keep a register of all petitions presented to him under sections 20 and 21 and of all orders passed by him on such petitions and shall, on payment of the prescribed fee, give a copy, certified under his hand, of any entry therein.

Chapter V

General

Chapters II and III

To apply Thavashi

25. The provisions of Chapters II and III shall to apply to every tavazhi possessing separate properties as if it were a tarawad.

Provincial Government

to make rules

26. The provincial Government may make rules consistent with this Act to carry out the provisions thereof and these rules shall have effect as if enacted in this Act from the date of publication of the same in the Fort. St. George Gazettee.

Savings

27. Nothing contained in this Act shall be deemed to affect the provisions of the Mappila Succession Act, 1918, or of the Mappila Wills Act, 1928, or of any law or custom or usage except to the extent expressly laid down in this Act.

APPENDIX VI
THE HINDU SUCCESSION ACT
1956

The following is a summary of the Hindu Succession Act of 1956, which brought about fundamental changes in the law of inheritance and which is destined to affect the nature and constitution of the Hindu family in particular and of Hindu society in general:

The Act applies to any person in India (excepting the State of Jammu and Kashmir), who is a Hindu by religion in any of its forms or developments; who is a Buddhist, Jain or Sikh by religion; or who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with therein if the Act had not been passed.

The Act shall not apply to any property succession to which is regulated by the Indian Succession Act, 1925, by reason of the provisions contained in Section 21 of the Special Marriage Act, 1954.

When a male Hindu dies after the commencement of the Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with the Act, provided that, if the deceased had left him surviving a female relative specified in Class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under the Act and not by survivorship. Nothing contained in the proviso shall be construed as enabling a person who has separated himself from the coparcenary before the death of the deceased or any of his heirs to claim on intestacy a share in the interest referred to therein.

The property of a male Hindu dying intestate shall devolve (a) firstly, upon the heirs specified in Class I of the Schedule. They shall take simultaneously. If there

are more widows than one they together shall take one share. The heirs in the branch - of each, pre-deceased son or daughter shall take between them one share. (&) In the absence of any heir of Class I, upon the heirs specified in Class 11 of the Schedule. The property shall be divided between the heirs specified in any one entry in Class II of the Schedule so that they share equally, (c) In the absence of heirs in Class II, upon the agnates of the deceased, one having fewer or no degree of ascent being preferred to the other. Where the number of degrees of ascent is the same or none, the one with fewer or no degrees of descent is preferred to the other. In the absence of preference on either of these grounds the agnates take simultaneously, (d) In the absence of any agnate, upon the cognates of the deceased, the preference being governed by the same rules as are applicable to the agnates,

Any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner thereof. Property includes both movable and immovable property acquired by inheritance of devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, whether a relative or not, before, at or after her marriage, or by her own skill or exertion, or by purchase or by prescription, or in any other manner whatsoever, and also any such property held by her as *stridhana* immediately before the commencement of the Act. Full ownership is not conferred in the case of any property acquired by way of gift or under a will or any other instrument or under a decree or order of a civil court or under an award where the terms of the gift, will or other instrument or the decree, order or award prescribe a restricted estate in such property.

Where a Hindu intestate has left a dwelling house wholly occupied by members of his or her family, the right of any female heir in Class I of the Schedule to claim partition of the house shall not arise until the male heirs choose to divide their respective shares therein ; but the female heir shall be entitled to a right of residence therein: a daughter however is entitled to a right of residence only if she is unmarried, or has separated from her husband, or

(ii) Where an interest in any immovable property of an interest, or in any business carried on by him or her, whether singly or in conjunction with others, devolves upon two or more heirs in Class I, and any one of them proposes to transfer his or her

interest, the other heirs shall have a preferential right to acquire it for consideration determined by the court on application if no agreement is reached by the parties.

The property of a female Hindu dying intestate shall devolve (a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband. The children of the pre-deceased son or daughter take between them the share of their father or mother, (b) Secondly, upon the heirs of the husband. (However, the property inherited by a female from her father or mother shall devolve upon the heirs of the father. It is the property inherited from her husband or from her father-in-law which, shall devolve upon the heirs of the husband.) (c) Thirdly, upon the mother, (d) Fourthly, upon the heirs of the father, (e) Lastly upon the heirs of the mother. Heirs in each category simultaneously. The devolution of the property upon heirs in categories (b), (d) and (e), shall be in the same order and according to the same rules as given in paragraph 4 here.

A child born posthumously is entitled to his or her share in the property of the deceased

No person shall be disqualified from succeeding to property on the ground of any disease, defect or deformity, save as provided in the Act, on any other ground whatsoever.

The children born to a person after he or she ceased or ceases to be a Hindu by conversion to another religion and their descendants are excluded from inheritance any of their Hindu relatives, unless they are Hindus at the time when the succession opens.

If two or more heirs succeed together to the property of an intestate they take the property as tenants-in-common and not as joint-tenants.

Nothing contained in the Act shall affect the provisions of any law for the time being in force providing for the prevention of fragmentation of agricultural holdings or for the fixation of ceilings or for the devolution of tenancy rights in respect of such holdings.

When a Hindu governed by the Marumakkathayam Nambudiri law dies, his or her interest in the property of *tarawad*, *tavazhi* or *Hlom* shall devolve by

testamentary intestate succession under the Act. Interest implies the share in the property that would have fallen to the person if a partition of that property *per capita* had been made immediately before his or her death among all the members of the *tarawad, tavazhi* or *illom*, then living, whether he or she was entitled or not to claim such partition under the Marumakkatiyam or Nambudiri law. The share is inherited by a person absolutely.

The devolution of property in this case is governed by the same rules as given in paragraph 4 above, with the change that in the absence of the heirs of Class I and Class II it develops upon his relatives whether agnates or cognates.

If the deceased is a female the property devolves (*d*) firstly, upon the sons - and daughters (including the children of any pre-deceased son or daughter) and the mother. (&) Secondly upon the father and the husband, (c) Thirdly, upon the half of the mother, (*d*) Fourthly, upon the heirs of the father. (e) Lastly, upon the heirs of the husband. Any property inherited by the deceased from her husband or from her father in law shall devolve in the absence of any son or daughter the deceased upon the heirs of her husband.

Persons previously governed by the Aliyasantanam law are now governed by the 1956 Act under the same rules and regulations that govern persons following the Marumakkattayam or Nambudiri laws (see paragraph 13).

Any Hindu may dispose of by will or testamentary disposition any property including the interest of a member Mitakshara coparcenary property or in the property of a *tarawad, tavazhi, illom, kutumba* or *kavaru*) which is capable of being so disposed of by him, in accordance with the provisions of the Indian Succession Act of 1925 or any other law for the time being in force and applicable to Hinduism, *Hindu Succession Act, 1956* shall not, however, affect the right to maintenance of any heir specified in the Schedule by reason only of the fact that under a will or other testamentary disposition made by the deceased the heir has been deprived of a share in the property to which he or she is otherwise entitled under the Act if the deceased has died intestate.

The Hindu Law of Inheritance Amendment Act of 1929, and the Hindu Women's Right to Property Act of 1937 are repealed by the Hindu Succession Act at 1956.

The Schedule

Heirs in Class I:

Son, daughter, widow, mother, son of a pre-deceased son, daughter of a pre-deceased son, son of a pre-deceased daughter, daughter of a pre-deceased daughter, widow of a pre-deceased son, son of a pre-deceased son of a pre-deceased son, daughter of a pre-deceased son of a pre-deceased son, widow of a predeceased son of a pre-deceased son.

Heirs in Class II:

(a) father ; (b) son's daughter's son, son's daughter's daughter, brother, sister; (c) daughter's son's son, daughter's son's daughter, daughter's daughter's son, daughter's daughter's daughter; (d) brother's son, sister's son, brother's daughter, sister's daughter ; (e) father's father, father's mother ; (f) father's widow, brother's widow ; (g) father's brother, father's sister; (h) mother's father, mother's mother , (i) mother's brother, mother's sister.

Reference to a brother or sister does not include a uterine brother or sister.

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Bharatha Kesari

Karnataka Prakasika

Kerala Mithram

Kerala Patrika

Kerala Sobhini

Nasrani Deepika
Paschima Tharaka
Sathya Deepika
Swadeshabhimani
West Coast Reformer
West Coast Spectator
Malayala Manorama
Yogakshema
Bhasha Poshini
Deshabhimani
Kala Kaumudi
Mahila
Mahila Ratnam
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Mangalodayam
Mathrubhumi
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