Chapter-I

COMMUNITY LEGISLATIONS

The impact of memorials coupled with the rising spirit of nationalism activated the process of social change in Travancore. Unlike other parts of India, in Travancore the popular assemblies initiated the needed legislations for the removal of fossilized customs and outdated practices prevailed among the Nayars, the Nambudirs, the Ezhavas, the Vellalas, the Krishnanvakakkars, the Kshatriyas and even among the Muslims. The period under study witnessed the introduction and enactment of a series of legislations leading to changing or was abolishing social institutions and practices like marumakkathayam, sambandham and the ownership of taravad.

The most dominant communities\(^1\) in Travancore were Brahmins, Kshatriyas and Nayars\(^2\). In addition there were the Nanjinad Vellalas, Krishnan Vakakkar, Ezhavas, Muslims, Christians and other backward communities, Scheduled caste and Scheduled Tribe Communities\(^3\). The Government of Travancore became instrumental in enacting seven legislations pertaining to different communities.

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1. A community is formed by the members of a particular species who share such characteristics as age, sex, density and genetic proportions, and rates of reproduction, growth and death. *The New Encyclopaedia Britannica*, Vol-3, p.498.


3. Ibid.

The Nayar Regulation-1925

The caste name Nayar (also spelt as Nair) is believed to be derived from the Sanskrit Nayaka, which means ‘a leader’ and is cognate with Naik and Nayudu or Naidu. According to the Brahmin tradition, the Nayar caste by its practice of hypergamy has had a very large infusion of Aryan blood. In origin, the Nayars were probably a race of Dravidian immigrants and they were among the first invaders of Malabar, who as victors assumed the position of the governing and land-owning class.

According to the early imperfect census the largest community in Travancore was that of the Nayars, who belonged to the class Sudras. There were many subcastes among them. It is important that all Nayars had followed the matrilineal Marumakka thayam system of inheritance, based on the matrilocal joint family

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5 *Marumakkathayam* means the system of inheritance in which descent is traced in the female line.
called the *taravad*. The management of the *taravad* was vested in the Karnavar who was the eldest male member. All members of a *taravad* were descended from a common female ancestor and the system followed was matrilineal not matriarchal. According to this system, the property and assets of the *taravad* were held in common by all members and no individual could claim his share of joint property; this was the major drawback of the system. Alleged abuse of the powers of Karnavar was really a problem as far as the members of the *taravad*. The Karnavar enjoyed the right of sale or of mortgage of the properties for any period without the consent of the other members of the *taravad*.

Marriages among the Nayars were contracted with considerable ease and this system too was to be modified. The practice was that a man negotiated with a woman's *karnavar* obtained the woman's consent and presented her with a cloth. This was called *sambandham*, and accordingly a woman could have *sambandham* with more than one man simultaneously. The men had no rights over her or her children and he was expected to provide her with small presents of luxury items like bath oil, and to pay her expenses when she had a child. Both the man and the woman could end the *sambandham* with very little formality. There also existed an

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7 Karnavar means the senior major male member of the *taravad*, the right of management of its affairs and the possession of the properties thereof are vested in him by law, and in the absence of such male member the senior major female member had the right
expensive "mock-marriage" ceremony called *talikettukalyanam* for the pre-pubescent Nayar girls.

The Nayar Regulation Amendment Bill was introduced in Travancore Legislative Council to eradicate the evils of Marumakkathayam, with a view to improving the moral, economic and industrial condition of its followers by giving each member full scope for individuality and personal endeavour, by holding him responsible for himself, and his wife and children, by compelling him to earn his bread or in the alternative to beg or to starve. The Bill aimed at removing all problems and securing for the individual a new start in life by giving him a definite share in his *taravad* property as well as in his father's property. The Bill sought to give effect to the consensus of public opinion, forcibly and persistently expressed by irresponsible persons of the Nayar community that individual partition of the *taravad* properties was the only remedy to remove the existing evils and to give free and full scope for individuality and personal endeavour. Individual partition was accepted on all hands as the goal towards which the society was moving. In the words of N. Padmanabha Pillai, "Individual partition is an excellent principle, and nothing can be clearer than that in a democratic age; land should be in many hands." The Bill explained generally that when individual partition was allowed, Makkathayam would

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8 *Ibid* p. 10


10 *Ibid* p. 825

11 *Ibid* p. 826
follow as a matter of course and that the females would be taken care of by their husbands and fathers.

Her Highness the Maharani Regent of Travancore passed the Nayar Regulation on 1st Medam 1100, (13th April 1925). The purpose of the Regulation, as explained in the preamble, was to amend the Nayar regulation I of 1088 and to make provision for partition in Nayar taravads. The Regulation was called the Travancore Nayar Regulation II of 1100, and it applied to all Nayars domiciled in Travancore and to such Nayars not so domiciled, but had marital relation with Nays domiciled in Travancore. This Regulation repealed Regulation I of 1088. The Act specified that the conjugal union of a Nayar female subject to the restrictions of consanguinity and affinity, with a Nayar male or any male other than a Nayar with whom conjugal union was permitted according to recognized social custom and usage, whether solemnised before the date on which Regulation I of 1088 came into force and subsisting on such date or subsequent to that date, had to be deemed to be a valid marriage for all legal purpose. Conjugal union so solemnised after the date on which Regulation I of 1088 came into force, in the case of a male who had not completed the age of eighteen years or of a female who had not completed sixteen years of age, was not deemed to be a valid marriage unless it took place with the consent of their legal guardian. A marriage could be dissolved only in one of two ways; by the death of either party or by mutual consent evidenced by a registered instrument or by a


13 Nayar includes Kiriyam, Illam, Swarupam, Padmamangalam and others known or recognized as such.
formal order of dissolution. The Regulation further provided that the subsequent marriage of a female during the continuance of a prior marriage, and performed after the commencement of a prior marriage and performed after the commencement of this Regulation, was valid.

The wife and minor children, except married daughters under the guardianship of their husbands, had to be maintained by the husband or father. If the wife refused to live with her husband without just cause or had changed her religion, she was not to be entitled to maintenance. Where a female had minor children by a husband, deceased or divorced, she was subject to the provisions of sub-section 9 of Section 7. to be the legal guardian in respect of their person and their property. Thus, the Regulation provided for maintenance and guardianship of wife and minor children among the community.

On the death of a Nayar male leaving behind his widow or mother or both and also children or the lineal descendants of deceased children or both, they could take the whole of the self-acquired and separate property left undisposed of by him at his death. In the absence of the mother and the widow, the children and the lineal descendants of deceased children could take the whole, and in the absence of the mother, widow and children, lineal descendants of deceased children could take the whole.\textsuperscript{14}

\textsuperscript{14} \textit{Ibid} p 649
The most revolutionary provision in the Regulation was with regard to the taravad, its management and partition of the taravad property. It was provided that no Karanavar or other managing member should sell immovable property or mortgage it with possession for a period of more than twelve years, or lease it for a period of more than twelve years, except for consideration and taravad necessity and with the written consent of all the major members of the taravad. Subject to the provisions of sections 34, 35 and 36, every adult member of a taravad was entitled to claim his or her share of the properties of the taravad. But no member of a taravad could claim or be compelled to divide from any other member or members of the thavazhee of his or her lineal ascendant in the female line during the life time of such lineal ascendant without her consent.

According to the Regulation, any individual or thavazhee mentioned in Sections 34 and 37 was entitled to as much of the taravad properties as would fall to such individual or to the members of such thavazhee as a whole if a division per capita were made among all the members of the taravad at the time of partition. At the same time, the Government enjoyed power to exempt any taravad from the provisions of Chapter VII, that is, partition of taravad property. In such cases, the government would issue notification within six months from the commencement of

15 Ibid p 657
16 Ibid p 661
17 Thavazhee of a female means a group of persons consisting of that female and her issue how low so ever in the female line or such of that group as are alive.
18 Ibid p 664
the Regulation on an application by all the major members of the taravad. The Government could at any time by a like notification, on an application by the majority of the major members of the taravad, rescind such declaration.

The Nayar Regulation cut at the very root of the Marumakkathayam system. The monopoly of the Karnavar came to an end. The Regulation secured for the individual a start in life by giving him a definite share in his taravad property as well as in his fathers property. This led to the substitution of taravads by families, in the real sense of the word, united by bonds of natural love where the children looked to the parents with affectionate regard for support and guidance. The Regulation was a great contribution in the struggle for existence and in the race for progress.

The Ezhava Regulation-1925

The term Ezhava is said to denote those belonging to the Izham, which is a corruption of Sinhalam, one of the old names of Sri Lanka. The Malayala Ezhavas are sub-divided into four exogamous groups of Illams: Muttillam, Madampi or Pallichal, Mayanad, and Chozhi. Pallichal is in the Neyyattinkara Taluk and Mayanad in Quilon. They constituted about 15 per cent of the total population of Travancore, and the largest single category among the polluting castes. They were forbidden the dignity of an umbrella or a shoulder cloth and their women were prohibited from covering their breasts and from wearing certain types of jewellery.

They were even prohibited from keeping milk cows, using oilmills and metal vessels and wearing sandals and finely woven cloth\textsuperscript{20}.

The houses of the Ezhavas resembled those of the Nayars in form; in dress and ornament also, the Ezhavas closely resembled the Nayars. Among the Ezhavas of Travancore, three forms of inheritance may be said to have prevailed; Makkathayam\textsuperscript{21} in the extreme south, Marumakkathayam in all taluks to the north of Quilon, a mixture of the two between Neyyattinkara and that taluk. According to the mixed mode, one's own children were not left absolutely destitute but some portion of the property was given to them for maintenance, in no case however exceeding a half\textsuperscript{22}. In the families, which followed the Marumakkathayam Law, male and female heirs enjoyed equal rights. Partition, though possible with the consent of all the members of the family, rarely took place in practice. The eldest male member held the right to the management of the whole property of the family as was practised among the Nayars.

The need for legislation to define the law of inheritance and marriage among the Ezhavas\textsuperscript{23} of Travancore was repeatedly pressed upon the Government by the representatives of the Ezhava community in the Sree Mulam Assembly. Besides this, several leading Ezhava gentlemen submitted memorials requesting the

\textsuperscript{20} Robin Jeffrey, \textit{op. cit.}, p. 20.

\textsuperscript{21} Inheritance from father to son.

\textsuperscript{22} Edgar Thurston, \textit{op. cit.}, p. 410.

\textsuperscript{23} 'Ezhava' includes Chova, Thiyya, and others known or recognized as Ezhava.
government to enact a law of succession and marriage for the community. Some of the leading Ezhava Samajams also passed resolutions for this purpose and submitted them for Government consideration. As the result, the Government appointed a committee to enquire into the customs obtaining in the Ezhava community in regard to marriage and inheritance, to report definitely the lines on which legislation was necessary with reference to the weight of public opinion in the community and also to submit a draft bill in accordance with the study. The Select Committee received 18 representations in this regard and all those were put to detailed inquiry and study. The report of the committee was unanimous and the Government accepted the report and the bill with it.

The Ezhava Regulation was passed by Her Highness the Maharani of Travancore on 13th April 1925, (Medam 1st 1100 M.E). The purpose of the Regulation, as stated in the preamble, was to define and amend the law of marriage, succession, family management and partition among the Ezhavas. The Regulation was called the Travancore Ezhava Regulation III of 1100, which shall applied to all Ezhavas domiciled in Travancore other than those who followed Makkathayam, and to such Ezhavas, whether domiciled or not as had or would have marital relation with Ezhavas domiciled in Travancore. The Government could extend the operation of any portion of this Regulation to Ezhavas who followed Makkathayam, and to those


26 The Regulations and Proclamations of Travancore, p.773.
who, whether domiciled or not in Travancore, had marital relation with Ezhavas domiciled in Travancore. The Regulation made clear that nothing in the Regulation would confer any right on the parties to a marriage dissolved before this Regulation came into force, or affect the existing rules of Marumakkathayam law, custom or usage, except to the extent provided for therein. The Ezhava Regulation was modelled upon the Nayar Regulation though certain provisions were modified to suit the particular habits and customs of the Ezhava community.27

After settling in Travancore, the Ezhavas adopted many of the principles of the Marumakkathayam law, just as the Nanjinad Vellalas and Nambudiri Brahmans followed. Similarly, in the case of the Ezhavas, though they originally followed the Makkathayam system of inheritance, after settling in Travancore they adopted the Marumakkathayam law. The Makkathayam Ezhavas lived in Shencottah and portions of South and North Travancore adjoining other states. They wanted to show that they were originally Makkathayees and that after settling in the nearest places they did not change the system. In taluks such as Kottarakkara, Quilon and Pathanapuram, and also in taluks in Trivandrum division, the system of inheritance followed was the Mixed System. In the case of Marumakkathayam Ezhavas, the inheritance was like that of the ordinary Nayar taravads.

Some Ezhavas in Neyyattinkara28 became converts to Christianity and they followed the Marumakkathayam system of inheritance. Those Ezhava Christians requested the Select Committee for including them in the Christian Succession Regulation, but were excluded as they followed the Marumakkathayam system. Their desire was that they should be included in the Ezhava Bill. But the Ezhava Law Committee rejected their request on the following grounds: (1) that an Ezhava ceased to be an Ezhava after conversion and as such they should be included in the Ezhava Bill, and (2) that it was open to these converts to change their personal law if they so chose to do. Though Christianity does not recognize any caste yet in Travancore it was not unusual that converts from a particular community or caste did retain their original social customs and personal law even after conversion. The Select Committee did not ignore such a state of affairs. The Committee was of the opinion that it was not legally correct to say that they were at liberty to change their personal law. The Committee had no doubt that when a person became a convert it was open to him to renounce the old law by which he was bound, as he had renounced his religion. In the case of such a converted Ezhava who did not elect to do so but continued to follow the old law and vested rights, it was not open to him to change the law then. In Neyyattinkara, the Ezhavas became converts very long ago and the Committee felt that they had a legitimate grievance in the matter. The Committee was of the view that if the Government was empowered to extend any of

28 Neyyattinkara is a taluk in Trivandrum district.
the provisions of the Regulation to such persons, the Ezhava community could have any objection to such provision.29

The marriage tie of the Ezhavas continued to be as strong as before even after their settling in Travancore. The ordinary form of marriage by cloth giving, commonly called *sambandham*, was regarded as a legally valid union until it was dissolved. After marriage, the wife lived with the husband and worked with him, and children were under the guardianship of the father. This was an important circumstance with respect to the Ezhavas. Soon after the marriage the wife began to live and work with the husband. This particular aspect paved the way for a system accounting for the mixed system of inheritance. So early as the year 1867 A.D, it was observed by the Sadir court that, as the wife worked with the husband, half of the acquisitions of the husband must be supposed to be derived from the wife’s labour and this gave rise to the mixed system.30

The *Taravad* System had reached the stage of universal dislike, among the Ezhavas and Nayars. The perpetual feud which was prevalent in every big *taravad* testified by the numerous law suits that were filed from year to year. The junior members had no individual responsibility or individual credit. It is a fact that the Ezhavas were originally Makkathayees. Even then, a large portion followed that system. The Ezhava Law Committee conceded that every Makkathayam Ezhava felt

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thoroughly satisfied with that rule of succession, and there was no dispute among them. The Committee was of the opinion that individual partition would serve more to eradicate the evils of joint ownership than partition by Thavazhee. Among the 801 witnesses examined by the Committee, 512 were supporters of individual partition. Even among the Nayars there was a general cry for individual partition. An industrious and progressive community like that of the Ezhavas felt sick of a system, which was not only out of date but stood in the way of their national progress. The Committee was of the opinion that Thavazhee partition would satisfy a few men of the old school against the general wish and welfare of the community at large. Therefore, the Committee unhesitatingly recommended individual partition in the place of the Thavazhee partition. 31

According to this Regulation, the conjugal union of an Ezhava more subject to the consanguinity and affinity with an Ezhava female, whether solemnized before or after the Regulation came into force, was deemed to be a valid marriage for all legal purposes. But no conjugal union solemnised after the date of the Regulation in the case of a male who had not completed eighteen years of age or of a female who had not completed sixteen years of age was deemed to be a legally valid marriage.

A marriage could be dissolved only in one of the three ways: (1) by the death of either party, or (2) by mutual consent evidenced by a registered instrument, or (3) by a formal order of dissolution as provided in the Regulation. For the purpose of

dissolution of a marriage, a husband or wife had to present a petition for dissolution of the marriage under Section 7, Clause (iii) in the court of the concerned District Munsiff. The court would determine the compensation after an enquiry into the position, means and circumstances of the parties, and it was not to exceed two thousand rupees where the petitioner was the husband and five hundred rupees if the petitioner was the wife.

The third part of the Regulation dealt with maintenance of wife and minor children. The wife and minor children except married daughters were entitled to be maintained by the husband or father. The Regulation provided that on the death of an Ezhava male leaving a widow or mother or both and also children or the lineal descendants of deceased or both, they could take the whole of the self-acquired and separate property left undisputed by him. On the death of an Ezhava female the whole of her property left undisputed at her death would devolve on her own Thavazhee. If the female died leaving no surviving members of her Thavazhee, one-half of such property would devolve on her husband and the other half on her mother’s Thavazhee. The Regulation further provided that notwithstanding anything contained in Regulation VI of 1074, an Ezhava could dispose of by will, the whole of his or her self-acquired or separate property.

The Regulation provided that no Karanavan or other managing member could sell the taravud immovable property or mortgage it with possession except for

32 Thavazhee of a female means a group of persons consisting of that female and her issue how low so ever in the female line, or such of that group as are alive.
turuvud necessity and with the written consent of all the major members of the turuvud. Accordingly, no mortgage or lease turuvud\textsuperscript{33} property for a period of twenty years or less was valid unless it was executed for consideration of turuvud necessity, and with the consent of all the members of the turuvud. It formed a significant part of the Regulation since it curtailed the unlimited powers enjoyed by the Karnavar for several centuries.

The Regulation further provided for individual partition of turuvud property. It so provided because the only satisfactory solution of the difficulties experienced in the turuvud lay in an enabling provision conferring the right to obtain partition\textsuperscript{34}. According to this Regulation, after the death of the lineal ascendant, the majority of the adult members of each collateral Thavazhee\textsuperscript{35} or the male or female children without issue of such lineal ascendant could claim an outright partition of property, which the turuvud had the power to dispose of. The Regulation further provided that each of the thavazhees mentioned in Clause 1 of Section 30 would be entitled as a whole to so much of the properties of the turuvad as would fall to the members of that thavazee if a division per capita were made amongst the members of the turuvad.

\textsuperscript{33} Turuvad means and includes all the members of a marumakkathayam family, with community of property.

\textsuperscript{34} On this view there was almost entire agreement among the witnesses examined by the committee, while 801 witnesses supported the partition only 4 were against it. 96 per cent of written answers also advocated the same kind of partition. Thus the committee came to the conclusion that the community was united in its opinion regarding the necessity for making legislative provision for partition.

\textsuperscript{35} Collateral Thavazhee are Thavazhees of females who though descended from a common ancestress do not stand in the direct line of ascent or descent from one another
The male and female children would be entitled to such individual shares as would fall to them if a division per capita were made of the properties of the taravad. Makkathayam property acquired after the date of the passing of this Regulation would be liable to be divided among the wife and each of the children in equal shares.

The Regulation put an end to the matrilineal system which existed among a group of Ezhavas and thus patrilineal system was accepted by all members of Ezhava community. It made subdivision of property among the members of the taravad possible. The attainment of social equality to both men and women is another noteworthy impact of the Regulation. The monopoly of the Karanavar ended on the one side, and individual liberty and property right established on the other.

The Nanjinad Vellala Regulation-1926

The Vellalas are great cultivators in Tamil Nadu and they are strongly represented all over Tamil Nadu. The word Vellalan has originated from Vellanmar which means cultivation village. There is an interesting story about the origin of the Vellalas. Therefore a few of the Vellalas constantly wear the sacred thread. The

36 Vellam means water and anmai means management. 

37 It is believed that thousands of years ago when the inhabitants of the world were ignorant of agriculture a severe drought fell upon the land and the people prayed to Bhudevi, the Goddess of the earth for aid. The Goddess pitied them and produced from her body a man carrying a plough. He showed the people how to till the soil and support themselves. The Vellalas are his offspring and they aspire to belong to the Vaisya Caste, since that includes Govaisyas, Bhuvaisyaas and Dhanavaisyasn (shepherds, cultivators and merchants).

Nanchinad Vellalas are found scattered all over Travancore and their chief centre was Nanchinad which was composed of the taluks of Tovala and Agastisvaram. In course of time, their manners and customs became different from those of the Tamil Vellalas. They were regarded as a separate caste indigenous to Travancore. The Nanchinad Vellalas added the title 'Pillai' to their names as the Sudras of Travancore do. Once there occurred a dispute between the Maharaja of Travancore and the Pandyan king about the territorial jurisdiction of Nanchinad. Following this, the leading Vellalas of these taluks went over in a group to Travancore and swore allegiance to the Maharaja of Travancore. These people gradually renounced even the law of inheritance which they followed in Tamil country and adopted many novel customs which they found in Kerala. The caste spread in all directions from Nanchinad and most of them were respectable men with mathematical skill and good education. They are very well be distinguished from the Tamil Makkathayam Vellalas of Kuttamperus in Tiruvalla who have also become naturalized in Travancore.

The Nanchinad Vellalas are divided into two classes, Saiva and Asaiva, both well known in Travancore. Their laws of inheritance are a curious blend of the Makkathayam and Marumakkathayam systems. According to their system, sons are entitled to a portion of the property of the father and also to a fourth of what would

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39 *Ibid*

40 The Saivas abstain from flesh and fish while the Asaivas have no such scruple. Asaivas used to take food in the houses of Saivas while the Saivas cook their own food when they go to an Asaiva house.
have descended to him in a Makkathayam family. This is called ukantutama because it is property given out of love as opposed to right.41 A divorced woman without issue is similarly entitled to maintenance during the life of her former husband and the property to which she might lay claim is known as nankutama.42 According to this system the nankutama could be claimed by the widow if she does not live with the husband at the time of his death and make herself useful to him. When a Nanchinad Vellala widow entered into sambandham alliance, the second husband executed a deed called etuppu, by which he agreed to pay her either at the time of his death or divorce a specified amount of money.

The need for legislation relating to marriage, family management and inheritance had been felt43 by the Nanchinad Vellala community. Their ambition was to legalise the existing forms of marriage and regularize the vague and ill-defined rights of ukantuthudama and nankudama as they realized that altered economic and social conditions had rendered fundamental changes in the family law necessary for ensuring the progressive welfare of the society. For this purpose they made representations at the third and the sixth session of the Sri Mulam Popular Assembly and also requested for appointment of a committee of enquiry. The Government appointed a Committee in 1910 with the then Dewan Peishkar of Padmanabhapuram.

41 Edgar Thurston, op. cit., p. 244.
42 Nankutama means that property of the nanka or woman.
43 The Regulations and Proclamations of Travancore, Vol. VI, 1100-1105 ME, p 1176
as the convener and two non-officials as members to enquire into the matter and report if any legislation was necessary. The terms of reference of the committee were: 1. the circumstances under which divorce was allowed, 2. how far partition was allowed, 3. the extent of the rights called ukanthudama and nankudama, 4. The powers of a Karanavar in management of taravad properties, and 5. the nature and conditions of adoption allowed. The Committee did not recommend legislation with regard to partition and the powers of the Karanavans. The Committee also reported that dissolution of marriage should be effected not only by the death of either party or by mutual consent, but also by the orders of a competent court which should issue a formal order of dissolution. The Government accepted the recommendations of the first committee substantially.

The second committee was appointed in February 1921, and the then Dewan Perishkar of Padmanabhapuram was the president and two Nanchinad gentlemen were members of the committee. The report of the Select Committee was a detailed document divided into eight parts. It was on the basis of this report that the Nanchinad Vellala Bill was brought about. The first discussion on the report of the Select Committee was on 2 November 1925, and the question of hereditary right was discussed on the same day. The system of marriage and other aspects also

44 Ibid
45 Ibid, p 1177
came up for detailed discussion, which ended only on 20 April 1926. Her Highness the Maharani of Travancore brought forward and passed Regulation VI of 1101 on 20 June 1926 corresponding to 6 Mithunam 1101. The purpose of the Regulation as explained in the preamble was to define and amend the law relating to marriage, succession and partition among the Nanchinad Vellalas. This Regulation was called the Nanchinad Vellala Regulation of 1101 which applied to all Nanchinad Vellalas domiciled in Travancore and to such Nanchinad Vellalas not so domiciled as had or could have marital relation with Nanchinad Vellalas domiciled in Travancore.\footnote{The Regulations and Proclamations of Travancore, Vol. VI, 1100-1105 M.E., p 1180} Detailed provisions were laid down in this Act, with regard to marriage\footnote{The Nanjinad Vellalas were a homogeneous community and hence intermarriages with other communities did not take place. One can find rare instances of Makkathaya Vellala men marrying Marumakkathaya Vellala women. But instances of Marumakkathaya Vellala men marrying women belonging to the makkathaya caste are rarer because the wife and children could not inherit the husband’s property. \textit{Ibid.}, p 1182.} and its dissolution. According to this act the conjugal union of a Nanchinad Vellala male, subject to the restrictions of consanguinity and affinity according to custom, with a Nanchinad Vellala female, openly solemnized according to recognized custom and usage, whether before or after this Regulation came into force was deemed to be a valid marriage for all legal purposes. The age limit fixed for marriage for male was eighteen years and that for a female was sixteen years in the normal course.

Dissolution of marriage was permitted only in genuine cases. Death of either party, mutual consent evidenced by a registered instrument of adultery, bigamy, change of religion, incurable disease, and physical or mental or habitual cruelty to
wife\textsuperscript{50} were the reasons which could be considered for dissolution of marriage. If the petitioner was the husband and his prayer was granted, the court would award such compensation to the wife\textsuperscript{51} or such monthly allowance until her marriage as would be proper under the circumstances with regard to the position, means and circumstances of the husband. If the petitioner was the wife and her prayer was granted, the court would award such compensation to the wife\textsuperscript{52} or such monthly allowance until her marriage as would be proper under the circumstances with regard to the position, means and circumstances of the spouse.

The Act further declared that the wife and minor children except married daughters under the guardianship of their husbands, would be entitled to be maintained by the husband or father as the case may be. According to this Act, the wife was not entitled to maintenance\textsuperscript{53} if she lived in adultery or refused to live with the husband without just cause or had changed her religion. The Act also declared that the husband would be the legal guardian of his minor wife and as such married daughters under the Guardianship of their husbands. The father would be the legal guardian of his minor children in respect of their person and property and on his death the mother would be the legal guardian of the minor children. The Act also made clear that where a female had minor children by a former husband, deceased or

\textsuperscript{50} Ibid., pp 1183-84
\textsuperscript{51} Ibid., p 1185
\textsuperscript{52} Ibid
\textsuperscript{53} Ibid
divorced, she would be the legal guardian in respect of their person as also of the separate property belonging to them.

The fourth chapter of the Act dealt with intestate succession of the Nanchinad Vellalas. The Act declared that on the death of an intestate male leaving him surviving children of the lineal descendants of the deceased children or both, they would be entitled to the whole of his property subject to the right of the widow or widows of the intestate for maintenance until her or their death or remarriage. As per this Act, sons and daughters should take the property in equal shares. The Act also declares that grandchildren should take in equal shares what their father or mother would have taken, had he or she survived the intestate. Accordingly the property should go to the surviving line at descendants of the intestate where they were all in the degree of great-grandchildren to him or in a more remote degree. It was also provided that on the death of an intestate male leaving him surviving no children or the lineal descendents of deceased children but only his widow or widows and his mother, the widow or widows would enjoy the whole of his property until her or their death or remarriage without any power of alienation, provided, however, that if the income from the property was insufficient even for bare maintenance, the widow or widows could alienate such property.

The Act also declared that a Nanchinad Vellala could dispose of by will the whole of his or her separate or self-acquired property. Similarly adoption of a child

54 The Government realized that enforcing guardianship of the children by a former husband on the shoulders of the second husband through legislation was a sin.

55 *Ibid* p 1190
by mutual consent of husband and wife was allowed. A husband could adopt an unmarried male child if they had no issue, and the adopted son would have all the rights of a natural born son. It was also provided that a Vellala widow or widower could take in adoption an unmarried male child, but such adopted son could succeed only to the separate or self-acquired property of the adoptive mother or father.

Chapter VII of the Act declared the right to claim partition of taravad property. Accordingly, subject to the claims of the heirs of any deceased member of a taravad, determined as at the time of his or her death every member of a taravad would be entitled to claim his or her share of the properties of the taravad. Every member of a taravad was be entitled to this claim.

The merit of this Act is that the ever long ambition of the Nanchinad Vellala community was full-filled. This Act was calculated to ensure the social well-being of the Nanchinad Vellalas since it touched all important fields of their social life. In fact as per the provisions of this Act the Nanchinad Vellalas were given the rights and privileges enjoyed by all other people of Travancore. In this Act, one can't find any attempt on the part of the Government to treat them as outsiders or intruders. At the same time, the stride made by Travancore towards better social life can be seen in this Act.

56 ibid
57 ibid
58 ibid
The Travancore Malayala Brahmin Regulation-1931

In Travancore the Nambudiri Brahmins sat in comfort at the summit of the Savarna system. The Nambudiris and the Pottis of South Travancore were said to be slightly inferior. This community only one per cent of the population of Travancore and they enjoyed the supreme position in traditional society. While describing a Nambudiri, Nagam Aiya wrote in his Census Report in 1875 “He is the holiest of human beings. He is the representative of God on earth.” The Nambudiris were concentrated in north Travancore and the Pottis in the south. The Pottis were large landholders and they enjoyed absolute tax-free proprietorship of the soil.

The style of life of Malayali Brahmins was calculated to prevent the subdivision of their family estates. They followed the patrilineal system of inheritance and practised primogyniture. According to their custom only the eldest son could marry formally from their own caste. The Nayar families welcomed the Brahmin males as evening visitors-arriving after supper and leaving before breakfast to have liaisons with Nayar women. Some Nayar families even took pride in giving their women in marriage to Malayali Brahmins only. The relationship between the Brahmins and Nayars can be explained through the legend of Parasurama. Accordingly, the Sudras were brought to Kerala to serve the Brahmins. The Nayar

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59 Robin Jeffrey, *op. cit.*, p.11.

60 It is believed that the Pottis had come to Kerala after the Nambudiris.

61 Robin Jeffrey, *op. cit.*, 12.
women were expected to bare their breasts as a mark of respect before the Brahmins. Their greatest pleasure should be giving pleasure to the Brahmins. It was true to a greater extent\textsuperscript{62} But as a result of this Brahmin custom, only a few of their women could get married. The chastity of the rest of the Brahmin women was jealously guarded and they were expected to live as spinsters.

The Government of Travancore decided to make provision for the better management of the taravads of the Nambudiris, to define and limit the powers of the Karanavar, to improve the rights of the junior members, and to lay down the rules of intestate succession in respect of the self-acquisitions of the Nambudiris.\textsuperscript{63} For this purpose, the Nambudiri Bill was prepared and a Select Committee was appointed for submitting necessary report. The Committee found that there was strong opposition to the Bill\textsuperscript{64} It was stated that no necessity had arisen for a Bill, and the Bill that was then under consideration was against the interests of the Brahmins. There was no uncertainty in the law applicable to them and there was no impediment to their social progress which had to be removed by compulsory legislation. The Brahmins held that partition was undesirable, and that the Bill, if introduced, would reduce the community to a state of helplessness\textsuperscript{65}.

\textsuperscript{62} \textit{Ibid.} p 12

\textsuperscript{63} \textit{The Regulations and Proclamations of Travancore}, Vol. VII, 1105-1104 M.E

\textsuperscript{64} Report of the Select Committee on the Nambutiri Bill, \textit{The Travancore Government Gazette} dt: 1-10-1929.

\textsuperscript{65} \textit{Ibid.}
The Committee was not in a position to consider the necessity or otherwise for the Bill as the principle of the Bill was already recognized by the Council. The Committee was of the opinion that it was desirable to use the more comprehensive expression ‘Malayala Brahmins’ instead of ‘Nambudiris’.

Discussion of the Bill in the Legislative Council started on 23 January 1930 and there was serious debate over it. Narayanan Nambudirippad and Jatavedan Nambudirippad requested that the Bill might be sent to another Select Committee. Jatavedan Nambudirippad strongly argued for abolition of Clause 2 of the Bill. He severely criticized the different clauses in the Bill. He also argued for the protection of the rights enjoyed by the Karanavar. The discussion lasted for several days and Jatavedan Nambudirippad argued also for different amendments, and finally the Bill was passed.

The Maharani Regent of Travancore passed The Travancore Malayala Brahmin Regulation on 8 Kumbham 1106 corresponding to 20 February 1931. The Regulation was declared applicable to all Malayala Brahmins domiciled in Travancore.

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66 Ibid


68 Ibid, p.731


70 “Malayala Brahmin” included Nambutiris, Pottis and others known or recognized as Malayala Brahmins but did not include those who according to the law governing them were entitled to individual partition before the passing of this Regulation.
This regulation declared that the Karanavar had the right to be in possession and management of the properties of the *illam* and of the Devaswoms and other institutions over which the *illam* had right. The Karanavar or the Manager of the *illam* should keep a true and correct account of the expenditure of the *illam*. The account of each year was to be made available for inspection in the *illam* house by the major *anandaravans* after the close of the year. It was also provided that copies of annual accounts should be given to any member of the *illam* at his cost, on demand.

The most significant provision of this regulation is that no Karanavar or other managing member should sell the *illam* immovable property except for consideration and *illam* necessity and with the written consent of all the major members of the *illam*. At the same time the Karanavar of a family was granted the liberty to give up the right of management by a unilateral surrender evidenced by a registered instrument. Similarly, no Karanavar should appoint any agent for managing the *illam* properties except by a duly registered instrument and the Karanavar should not delegate his *karanavasthanam* in favour of any person. If a Karanavar neglected to give a girl of the *illam* in marriage after eighteen years of

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71 Here the Karanavar means the senior major male member of the *illam* in whom the headship of the *illam*, the right of management of its affairs and the possession of the properties thereof are vested in law and in the absence of such member, the senior major male member

72 *Illam* means and includes all the members of the Malayala Brahmin joint family with community property

73 *Ibid.*, p 54
age, her father or in his absence any other member of the *illam* had the right to perform the marriage, and he was entitled to realize from the *illam* the amount reasonably required for that purpose. Another provision was that every member of an *illam* should be maintained by the *illam* whether such member lived in the *illam* house or not. A noteworthy provision was that any member of an *illam* was entitled to get a separate allotment of properties of the *illam* for his or her maintenance, as the case might be, provided there was just and sufficient cause for such allotment.

The *taravuds* of the Nambudiris had shown a decided tendency to decline\(^4\) on account of the Karanavar's undefined powers of management in respect of the *taravud* properties. There was no confidence or co-operation among the members of the family. The intention of the provision was to remedy those defects of management. It is interesting to note that provision was also made to give separate maintenance to those members who wanted to live separately.

The third chapter of the Regulation declared guardianship of minors; and accordingly the father, mother, paternal grandfather, full brothers in the order of seniority, consanguine brothers and paternal uncles in the order of seniority were be the legal guardians\(^5\) of minors in respect of their person and of their property. It should be noted that the guardianship of the Karanavar with respect to the *taravud* properties was left untouched.

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\(^4\) *Ibid.*, p.84

\(^5\) *Ibid.*, p.103
In the fourth chapter of the Regulation we can find provisions regarding inheritance and intestate succession. The question of succession to the self-acquired properties of a member of the *taravād* had been the subject of conflict in judicial decisions⁷⁶ and hence these provisions. It was provided that on the death of a Malayala Brahmin male leaving him surviving caste widows and sons and daughters by caste wives, they could take the whole of the self-acquired and separate properties left undisposed of by him at his death in equal shares subject to the provisions of section 21 of the Nayar Regulation II of 1100. There was also provision that on the death of a Malayala Brahmin female leaving her surviving sons and daughters, they could take the whole of the self-acquired and separate properties left undisposed of by her at her death, in equal shares.

The fifth chapter of the Regulation dealt with the right of widows in the *illam*. It was provided that if the surviving members of an *illam* were all widows, they would be entitled to divide the *illam* properties among themselves equally. According to this Regulation, the *stridhanam* received by a Malayala Brahmin would be treated as the joint property of the husband and wife. It should be noted that this Regulation did not apply to the Edappally Swaroopam.

The Regulation defined and determined the rights of the members of the *taravād*. It also gave more freedom of enjoyment of *taravād* properties by junior members and removed the impediments to the growth of family life experienced by

⁷⁶ *Ibid.*, p 54
the younger members of the taravad. The uncertainties with regard to the law of succession were removed. The changing conditions of the time and the progress of the community required those changes. The best interests of the community required the changes then brought about. The community was eagerly looking forward to the introduction of such a regulation.

The Travancore Kshatriya Regulation-1932

The Malayala Kshatriyas were a learned class and both men and women were mainly accomplished Sanskrit scholars. Kerala Varma Valiya Koil Thampuran, the famous poet and patron of letters, and Ravi Varma, the talented artist, were Koil Thampurans. The houses of Koil Thampurans and Rajas were known as kottarams or kovilakams, that is, palaces; those of the Thampurans and Tirumulpads were known as kovilakams and mathams. The Malayali Kshatriyas resembled the Brahmins in food and drink. They held their rank next to the Brahmins and above the Ilayatus. They were permitted to take their meal in the same row with the Brahmins, directly receive prasadam from the temple priests, and stand at the right side of the inner gate.

While the progress of social ideas in other Marumakkathayam Communities like the Nayar, the Vellala and the Ezhava had been recognized through regulations, such enactment was not effected in the case of Kshatriyas and other communities. As a result, their natural development was retarded. Hence it was obvious that unless necessary legislation was brought about, the future of those communities would continue to be far from progressive. The state of affairs existing in those days was
unsatisfactory, and some enactment to define and amend the law of marriage, succession, maintenance and *taravad* management was long overdue. Marriage relation among the Nayars attained a clear legal and social recognition through the Nayar Regulation of 1925. The Nambudiris had then a bill before the legislature to consolidate their personal law. But if a Kshatriya female was married to a Nambudiri in the ordinary socially recognized manner that marriage was not then legally recognized in any statute while his similar marriage with a Nayar female, and his marriage with a caste wife, were considered legal unions.

The Kshatriya Bill was prepared with a view to amending the law of marriage, succession, maintenance and *taravad* management among the Kshatriyas. A Select Committee was appointed to study the Bill and to make necessary recommendations. The Committee made some changes in the provisions of the Bill. Even among the Kshatriya families, the Karanavars of some of the families such as Mariappally, Pallam, Lakshmipuram and Elanji Mantrakoikal had expressed themselves completely in favour of partition. To meet the wishes of the community, the Committee provided for individual partition on demand by any single member. The report of the Select Committee was a detailed and well-written document divided into nine chapters. The Bill was discussed in the legislature on 16 April 1931, and unlike in the case of the Nambudiri Bill the discussion was calm.

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78 *Report of the Select Committee on Kshatriya Bill*, p. 497.

and quiet. The Maharaja of Travancore passed the Travancore Kshatriya Regulation on 17 Dhanu 1108 corresponding to 31 December 1932 under Section 14 of Regulation II of 1097. The purpose of this Regulation, as stated in the preamble, was to define and amend the law relating to marriage succession, partition, taravad management and maintenance of the Malayala Kshatriyas. The Regulation was called The Travancore Kshatriya Regulation of 1108, and it applied to all Malayala Kshatriyas (excluding the members of the royal family of Travancore) domiciled in Travancore and to such Kshatriyas not so domiciled, and non-Kshatriyas whether so domiciled or not, had or could have marital relations with Kshatriyas domiciled in Travancore and also to Malayala Kshatriyas wherever domiciled, in respect of their properties in Travancore.

The second chapter of the Regulation dealt with marriage and its dissolutions. According to the provisions of the Regulation, the conjugal union of a Kshatriya male as the case might be, subject to such restrictions of consanguinity and affinity as were approved by the community or communities to which they belonged or a Kshatriya male or female with a known Kshatriya female or male, as the case might be, where such union was permissible according to recognized usage, was deemed to be a valid marriage for the purpose of this Regulation. It was provided that marriages of Kshatriya males with Nayar females were valid. The Regulation


81 'Kshatriya' includes the members of all communities commonly known or recognized as Malayala Kshatriyas.

also provided that marriages where both parties were Kshatriyas should not be deemed to be invalid by reason of consanguinity or affinity also, if they were removed from the common ancestress by more than four degrees, except in cases where both the parties were members of the same undivided family. It is noteworthy that all marriages in force on the date of commencement of this Regulation were deemed valid irrespective of registration.\(^83\)

Every Kshatriya marriage had to be registered under Section 3 on application by the parties to the union with substantiating documents as prescribed by the Government. The Regulation also declared that the subsequent marriage of any Kshatriya male or female having a wife or husband or any non-Kshatriya male or female having a Kshatriya wife or husband or any known Kshatriya male or female having a non-Kshatriya wife or husband with a Kshatriya female or male would be void.

Dissolution of marriage was permitted only in one of the following ways:

1. by the death of either party,
2. by mutual consent evidenced by an instrument registered under the law in force relating to registration of documents,
3. by a formal order of dissolution.\(^84\)

The Regulation gave a clear-cut definition to Kshatriya marriage and also revealed what valid marriages were and what invalid. Dissolution of marriage was permitted only on genuine grounds. Though the Kshatriyas enjoyed monopoly in the

\(^{83}\) Ibid., p 497
\(^{84}\) Ibid., p 498
society of Travancore, one cannot find any attempt in this Regulation with regard to their marriage and its dissolution.

The third chapter of the Regulation defined the guardianship of minor wife and children and accordingly, the husband had to be the legal guardian of minor wife in respect of her person and separate property. The act also provided that the marriage of daughters should be under the guardianship of their husbands. In the case of the minor children, in respect of their person and separate property, the mother, the father, the uterine brothers, the uterine sisters, the mothers, brothers and the major male members of the grandmothers of the thavazhi were to be the legal guardians. The Regulation also provided that a Kshatriya might dispose of by Will the whole of his or her self-acquired and separate property.

The fifth chapter of the Regulation dealt with intestate succession and accordingly, on the death of a Kshatriya male leaving him surviving a widow or widows or mother or both and children or all, they could take, after deducting all reasonable expenses for his funeral, the whole or of his self-acquired and separate property left undisposed of by him at his death. It was also provided that in the

85 Ibid. p 500
86 Thavazhi of a female means a group of persons consisting of that female, her children and their issue now low so ever in the female line of such of that groups are alive. thavazhi of a male means the thavazhi of his mother.
88 Ibid., p 500
absence of the mother and the widow, the children and the lineal descendants of deceased children could take the whole. The Act also made clear that in the absence of the mother, the widow, children and the lineal descendants could take the whole. This Regulation dealt with intestate succession in great detail with regard to each and every member of family and relation. It is to be pointed out that all the provisions relating to intestate succession were deemed instrumental notwithstanding the provisions of Section 21 of the Nayar Regulation \(^{89}\) or any other law for the time being in force governing the parties.

The Kshatriyas were generally wealthy and hence intestate succession was an important problem of the time. The Regulation put an end to the quarrels and conflicts that followed the death of an intestate Kshatriya.

The Act further declared that the Karanavar had the right to be in possession and management of all the properties belonging to the taravad and also of the Devaswoms and other portions of which the taravad had uraima or such other right \(^{90}\). The Karanavar was not to delegate his powers to anyone, but he might appoint managers under registered powers of attorney for management and other acts. At the same time, the Karanavar had the right to give up the management by a unilateral surrender evidenced by a registered instrument. According to this Regulation, the Karanavar or the Manager of the taravad had to maintain a true and

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89 *Ibid*

90 *Ibid, p 50*
correct inventory of all valuable movables of the taravad and also keep correct accounts of all transaction of the taravad. Similarly, the inventory and accounts were to be available for inspection by the adult anantharavans in the taravad house on reasonable notice. The Regulation also provided that copies of the inventory or accounts should be given to any member of the taravad on demand at his or her cost.

The Regulation also declared that no Karanavar or other managing member should sell immovable properties or valuable movables belonging to the taravad or execute kanum deeds for immovable properties or mortgage the same with possession, or lease them, for a period of more than twelve years except for consideration and taravad necessity and except with the written consent of all the major members of the taravad. It was further provided that the provisions of this section would not apply to the right of registree of unregistered lands in the Kilimanoor and Pazhaya Kunnummel villages, or to the disposal of timber standing or felled in the forest therein. According to this Regulation, no debt contracted by the Karanavar or managing member would bind the taravad unless it was for taravad necessity.

The Karanavars of the Kshatriya family enjoyed unlimited powers prior to the enactment of this Regulation. Consequently, the taravads of the Kshatriyas had shown a decided tendency to decline. This Regulation was a deliberate attempt on the part of the Government to limit the powers enjoyed by the Karanavar and

91 Ibid.
towards the protection of the individual rights of both male and female members of
the Kshatriya family. It is also noteworthy that provision was also made to give
separate maintenance to those members who wanted to live separately.

The seventh chapter dealt with maintenance of the taravat and accordingly
every member of a taravat was to be maintained by the taravat whether such
member lived in the taravat house or not. It was also provided that every Kshatriya
male would be bound to maintain his non-kshatriya wife and non-kshatriya minor
children, except married daughters under the guardianship of their husbands and
unmarried major daughters and sons incapacitated through mental or physical
infirmity living with him. Another provision declared that every Kshatriya who was
unable to maintain himself or herself had the right to be maintained by his or her
children if possessed of sufficient independent means.

As per this Regulation, every member of a taravat had the right to divide
himself or herself from the taravat by making a demand for the purpose. In such
cases, the member was entitled to such share in the taravat properties as would fall
to such member, if a division per capita were made among all the members of the
taravat on the date of such demand. It was further provided that such member
should present a plaint in a suit for partition or a written statement or other pleading,
claiming share in a suit for partition or by an unequivocal declaration in writing
registered in accordance with the law of the time being in force for the registration of

92 Ibid., p 507
documents. Female members were entitled to claim the shares of their minor children also. The Act also declared that nothing in the Regulation could be deemed to affect any rule of Marumakkathayam law, custom or usage, except to the extent expressly provided for in the Regulation.

The Regulation fulfilled the long-cherished ambition of the Kshatriya community to have a refined code of law relating to marriage, succession, partition, taravad management and maintenance of the Malayala Kshatriyas. The unlimited power of the Karanavar came to an end and individual liberty was established. Equal protection was given to the rights of women. A permanent solution was provided for the major problem of intestate succession among the Kshatriyas. The members of the Travancore royal family were excluded from this Regulation, because that could not have been avoided.

The Travancore Muslim Succession Regulation-1932

In Travancore, the Muslims were a minority group. They enjoyed respectable status in society like the Syrian Catholics. The number of literate Muslims was very small, and that was the main reason for the backwardness of the community. The Muslims were primarily interested in commercial matters and questions of land and government did not necessarily involve them.

93 Ibid., p. 511

94 Robin Jeffery op. cit., p. 19.

According to the religion of Islam, a Muslim was not allowed to follow any other law except the Islamic Law. The Islamic jurists were of the opinion that a Muslim who followed a non-Islamic code for inheritance was outside the sphere of Islam. Therefore, it was obligatory for all Muslims to be governed by the Islamic Law of inheritance. The Islamic code of inheritance was accepted by all authorities of jurisprudence as the best code on the subject.

It is a great principle accepted by all reasonable people that individuality is the keynote of progress. Unhealthy competition between the Manager of the taravad and the other members was pursued even in families with huge Tarwad properties. Hence, all the civilized communities considered that it was unnatural to leave one's children without inheriting his properties.

Some Muslims in Travancore had followed the Marumakkathayam Law against the clear instruction of the Holy Koran. They had not only been living as traitors to the religion but had become the object of ridicule by other Muslims. A large majority of the Muslims had repeatedly raised their voice to change this system.

The ambition of the Muslim community as a whole was to remove the Marumakkathayam system of inheritance among them and bring them into the fold of the Mohammedan Law of inheritance. The Travancore Muslim Succession Bill

was only an attempt to give legislative recognition to this wish. The report of the
Select Committee on the Bill was a very small document and the Committee only
accepted the bill97. The Bill was discussed in the Legislative Council first on 24
April 1932 and there was no detailed discussion on it98. It once again came up for
discussion on 19 December 1932 and this time also the members kept silence and it
was the final discussion99.

The Maharaja of Travancore passed The Travancore Muslim Succession
Regulation on 17 Dhanu 1108, corresponding to 31 December 1932. The purpose of
the Regulation was to amend and define the rules of law applicable to intestate
succession among the Muslims governed by the Marumakkathayam Law of
inheritance100. The Regulation was called The Travancore Muslim Succession
Regulation of 1108, which extended to the whole of Travancore. It was applicable to
Muslims domiciled in Travancore who were governed by the Marumakkathayam
Law of inheritance and also in respect of the immovable property situated within
Travancore, and to Muslims domiciled outside Travancore who were governed by
such law of inheritance. The Regulation provided that if a person died intestate in
respect of all property of which he had not made a testamentary disposition capable

100 The Regulations and Proclamations of Travancore, Vol. VII, 1105-1109ME.
p.585
of taking effect, such property would, notwithstanding any customs to the contrary, devolve upon his heirs in the order laid down by the rules of Mohammedan Law. It was also explained that ‘property’ in this Section did not include the taravad property unless the person died intestate was exclusively entitled to it.

The Regulation separated the Muslims completely from the Marumakkathayam system of inheritance and brought them into the fold of the Mohammedan Law of inheritance. This was the fulfilment of the ambition of the Muslims.

The Travancore Krishnan Vaka Marumakkathayee Act – 1939

The caste name ‘Krishnanvakakkar’ literally means ‘belonging to Krishna’, but probably means nothing more than ‘belonging to the pastoral class’, as the titular suffixes, Ayyan and Acchi, to the names of males and females respectively, which are found in the early settlement accounts of the State. In Travancore, they were practically confined to the southern taluks of Eraniel and Kalkulam. In modern times, the people belonging to this community have adopted the title ‘Pillai’.

There is a tradition that in ancient times a large section of these people migrated from Ambadi, the place of Krishna’s nativity and early childhood, to

101 Lord Krishna is an incarnation of Vishnu. Brahma, Vishnu and Siva constituted the trimurthies (three Gods) as per Hindu mythology. Krishna is being worshipped all over India by the Hindus.

Conjeevaram in the vicinity of which place there is still a village called Ayarappti. There they resided for some time and then seventy-two families proceeded to Kerala and they had presented an image of Krishna to Udaya Marthanda Varma,\(^{103}\) the Maharaja of Travancore. According to another account, the recipient of the image of Krishna was one Pallivana Perumal of an earlier date, and the Maharaja called them Krishnan Vaka and ordered them to serve in the temple of Krishna\(^{104}\). It is believed that this migration occurred in the first year of the Malabar era. They were entrusted with the management of the temple and directed to live at Vanchiyoor in Thiruvananthapuram. During the pollution consequent on a birth or death in any of the seventy-two families, the image of Krishna which they had brought was believed to share the pollution for three days as a distant relation, with the result that the daily ceremonies at the temple were constantly interrupted. Therefore, they were told to remove to a distant place separated from Thiruvananthapuram by at least three rivers and thus they settled in the Eraniel and Kalkulam taluks.\(^{105}\) The title of their chief Pallava Rayan indicates the country from which they originally came. They probably proceeded from Conjeevaram, the capital of the Pallavas, to the State of

\(^{103}\) There is an interesting story connected with Krishna and Marthanda Varma. Once Marthanda Varma was closely followed by enemies at Neyyattinkara (At present a taluk headquarters in Trivandrum district, 20 km away from the capital) and he was on the verge of assassination. Immediately a boy appeared near Marthanda Varma and told him to take shelter inside the gap of a huge jack tree. Marthanda Varma did accordingly and thus escaped from the enemies. Later, Marthanda Varma got enlightenment that the boy was Lord Krishna himself and constructed a Krishna temple at Neyyattinkara. The Krishna temple at Neyyattinkara is being attended by thousands of worshippers today. The remnant of the grand old jack tree is still preserved there.

\(^{104}\) *Ibid.* p 75

\(^{105}\) *Ibid.*
Travancore. and being worshippers of Vishnu, they were entrusted with the discharge of certain duties at the shrine of Krishna in Thiruvananthapuram.

The system of inheritance followed by the KrishnanVaka community was *Marumakkathayam* and hence they came to be known as KrishnanVaka *Marumakkathayees*. The KrishnanVaka community mostly resided in south Travancore and their customs, habits and family systems had close similarity to those of the Nayar community. When legislation brought about tremendous changes in the matter of inheritance, succession, marriage and dissolution in the law relating to the Nayars, this sister community felt anxious to effect similar changes in the system of law governing them. Many prominent leaders of the KrishnanVaka community were unanimously of the opinion that a regulation on the lines of the Nayar Regulation should be enacted for their social well-being. The members of the community also made several representations for this purpose. Accordingly, the KrishnanVaka Marumakkathayee Bill was prepared and it was given to the Select Committee. The Committee considered the Bill and some of its members proposed that a sub-committee should be appointed to record the evidence given by the members of the community and to report to the Committee their conclusions. After the discussion of the main principles in the Bill, the Committee came to the conclusion that such procedure was not necessary and recommended the Bill. While the Bill was introduced in the Council, the member pointed out that on account of the tightening of the marriage tie in the KrishnanVaka community, natural affection had

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turned towards one's own issues from those of one's sisters.\textsuperscript{107} It was this idea which prevailed upon the legislature when it enacted the Nayar Regulation, the Ezhava Regulation, the Nanchinad Vellala Regulation and the other Regulations. The member made it clear to the Council that the KrishnanVaka community should be given the benefit of provisions similar to those of the Nayar Regulation, and that they alone should not be put to the hardship of following the antiquated and unnatural system of Marumakkathayam under which even in every rich families, the Karanavan monopolized the whole property, leaving very little to be enjoyed by other members of the family. Indeed, this had been responsible for the Marumakkathayam law being substituted by enactments like the Nayar Regulations.

The KrishnanVaka Marumakkathayee Act\textsuperscript{108} was brought forward and passed by the Maharaja of Travancore on 21 September 1939, corresponding to the 5 Kanni, 1115 M.E. The purpose of the Act as stated in the preamble was to define and amend the law relating to marriage, succession, taravad management and partition amongst the KrishnanVaka Marumakkathayees. The Act applied to all KrishnanVaka Marumakkathayees domiciled in Travancore and to such KrishnanVaka Marumakkathayees, not so domiciled, and non-Krishnan Vaka Marumakkathayees whether so domiciled or not, as have or could had marital relation with KrishnanVaka Marumakkathayees domiciled in Travancore.

\textsuperscript{107} The Travancore Sri Chitra State Council Proceedings, Vol. XII, p.585.

The first chapter of the Act dealt with definitions and second chapter with marriage and its dissolution. Accordingly, the conjugal union of a KrishnanVaka Marumakkathayee female, subject to the restrictions of consanguinity and affinity, with a KrishnanVaka Marumakkathayee male or any male other than a KrishnanVaka Marumakkathayee with whom conjugal union was permitted according to recognized social custom and usage, openly solemnised by the presentations of cloth to the female by the male, was deemed to be a valid marriage for all legal purposes. It was further provided that in a conjugal union so solemnised after the date on which this Act came into force in the case of a male who had not completed eighteen years of age or of a female who had not completed sixteen years of age, such conjugal union would not be deemed to be a valid marriage unless it took place with the consent of their legal guardian.

For the purpose of dissolution of the marriage, a husband or wife had to present a petition in the court of the District Mansiff, within the local limits of whose jurisdiction the respondent resided on any of the grounds namely, insanity, incurable disease, impotency, incompatibility of temperament, habitual cruelty, adultery or change of religion. According to this Regulation, if the petition was not opposed with respect to any of the grounds mentioned in Section 5 or if the

109 Ibid. p.490
110 Ibid. p.491
111 Ibid. p.492
112 “Habitual cruelty” included willful desertion for a period of two years or more and also persistent neglect on the part of the husband to maintain the wife.
respondent agreed to the dissolution, the court would declare in writing, the marriage dissolved. The court was to enquire into the allegations in the petition if the respondent did not agree to the proposed dissolution and denied the allegations in the petition. If the ground of the petition was proved, the court would order the dissolution of the marriage and shall dismiss the petition if the grounds were not made out. If the dissolution of marriage is granted, the court would, except where the respondent lived in adultery or had changed her religion award to the wife a compensation not exceeding Rs. 5,000/- or such monthly allowance till her re-marriage as would be proper under the circumstances, having regard to the position, means and circumstances of the parties.

The third chapter dealt with the maintenance and guardianship of the family. Accordingly the wife, minor children, except married daughters under the guardianship of their husbands, were entitled to be maintained by the husband or the father. It was also provided that the wife would not be entitled to maintenance if she refused to live with the husband without just cause or had changed her religion.

The fourth chapter of the Act dealt with intestate succession. According to this Act, on the death of a KrishnanVaka Marumakkathayee male leaving him. The fourth chapter of the Act dealt with intestate succession. According to this Act, on the death of a KrishnanVaka Marumakkathayee male leaving him surviving a widow or mother or both and also children or the lineal descendants of deceased children or both, they could take the whole of the self-acquired and separate property left indisposed of by him at his death. It was further provided that in the absence of the
mother and the widow, the children and the lineal descendants of deceased children could take the whole property and in the absence of the mother, widow and children, the lineal descendants of deceased children could take the whole property.

According to this Act, any Hindu could dispose of by Will the whole of his or her self-acquired or separate property. This provision of testamentary succession was laid down in chapter V.

The Act further ordered that except for consideration and taravad necessity and with the written consent of all the major members of the taravad no Karanavan or other managing member should sell or mortgage immovable property with possession for a period of more than twelve years or lease it for a period of more than twelve years. The Act also entitled every adult member of a taravad to claim his or her share of the properties of the taravad subject to provisions of Sections 34, 35 and 36.

Through this Act the KrishnanVaka Community attained the complete social benefits as it was enjoyed by the Nayar community and the Ezhava community from the year 1925 and later the Nanjinad Vellala from 1932.

Transformation of matrilini was the most important development of the time. In Travancore, matriliny was practised by a large number of people, large and small in population, upper and lower castes among the Hindus, tribes as well as small
number of Christians and Muslims.\textsuperscript{113} The old joint family system was disintegrated and monopoly of the Karanavar ended forever. Taravads have split up and modern house holds formed 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.\textsuperscript{114} Communal legislations offer fine instances of the policy of government of Travancore. The government followed one and the same policy towards all subjects irrespective of forward or backward, Hindu or Muslim and even towards migrants - the Nanchinad Vellals and Krishnan Vakakars. When the muslims preferred to bring them into the fold of the Mohammedan Law of inheritance, the government legalised it. The demand for change had come from within the respective communities and only a minority group of Malayala Brahmins had opposed it.

\textsuperscript{113} B. Saradamom, \textit{op. cit.}, p.59.

\textsuperscript{114} C.J. Fuller, \textit{op. cit.}, p 123