Chapter IV

The Representational Effect: Legislative Initiatives

In the previous chapter we looked at the constructions of the *nair* community and its practices through the writings of travellers, colonial administrators and legal documents. This chapter tries to trace the effects these constructions had in the efforts to reform the community through the various measures introduced and passed by the colonial legislature. These, constructions by themselves, do not constitute the reasons for effecting changes as there were many other factors which made the *nair*-s realise that their system had outlived its utility in the colonial period.

As said before, schools, colleges and universities were sites of subjectification. Through these institutions the colonial government was able to create a class of native elite who would become the dominant group in the colonial society. This class, though Indian in origin, were uprooted from the local moorings, and developed tastes, culture and thought like their colonial masters. This dominant class was able to exert a hegemonic influence over the rest of the illiterate masses who were looked down by the elites. Thus, educational institutions were a major agency through which the colonial power emphasised certain images that were created and transmitted while certain other existing meanings and practices were neglected. Through these institutions certain social training was also imparted to institutions like the family, which led to the making of a new culture that became dominant in the society. Thus educational institutions became the agent of the state reflecting the ideology of the state along with other branches of government like legislature, executive, judiciary, police and other law enforcing agencies.
The sending of younger members of the taravad for western education in places like Madras to secure a foothold in the government services had many effects on the taravad other than the inculcation of a new world-view among them. The taravad's started seeing tussles among its junior members for English education. As educating a person, was an expensive process, not every member of every taravad could afford to it. It was left to the karanavan to decide who was to be sent. Once a job was secured, it entailed such junior members to leave the taravad set out for far away places. Soon they wanted to take their immediate kin or wives with them to their place of residence. Once this happened, a new familial form started emerging that consisted of the breadwinner male, his homemaking spouse and their children. These members soon began to stake a claim for their share in the revenues of the taravad and exerted pressure to the corpus of taravad property to partition.

A perusal of the various attempts to legislate and legislations enacted during the colonial period by the Madras legislature helps us understand the changes that the taravad underwent and the process of the emergence of an alternate family form and property relations. These legislations and the attempts towards it, in the form of the various bills, have to be seen in the light of the constructs that were studied in the previous chapter.

**Taravad Under Pressure**

The establishment of colonial rule in Malabar saw changes in political, social, economic and cultural spheres. These changes soon started exerting pressure on the

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1 Karanavan being the head of the taravad had the control over the finances of the taravad. In S A 2007 of 1897, the junior member of the taravad filed a suit against the karanavan for maintenance and school fees for studying English, for which he had gone to Palaghat without the consent of the karanavan. The court
age-old institutions of Malabar to change. The prominent taravad-s as shown in the
second chapter had become centre of collection and redistribution of surplus along with
the temples and ilom-s and were placed in a position of overlord-ship over the other
sudra castes of the area. Thus placed in this nexus, similar to the feudal set up, the nair-s
were the first to try to adjust to the changing scenario. The dominant class of
nambutiri-s, placed above the nair-s, ignored these changes and did not try to adapt to
the changing needs of the time. This was also advantageous to the nair-s in their
emergence as a class to reckon with.

But the institution of the taravad started facing increasing pressure for changing
to the needs of the time and society. The major factor that was responsible for the
increasing pressure on the taravad was economic in nature- the growing pressure of an
increasingly monetised society and economy, non-compatible system of property or land
holding, the growth of a free individual who was highly mobile as against that of the
traditional society and the emergence of the new salaried class among the nair-s. The
new world view introduced as a result of the introduction of the western education,
increased conflicts within taravad as a result of the emergence of new interests,
increased urbanisation, changing landlord-tenant relations, all of which can be linked to
the above mentioned causes.

1 Various studies have grouped these factors differently, according P K Jyothi external causes for
disintegration were industrialization, Urbanization, salaried occupation, modern education, population
pressure, migration from villages to towns, economic depression, conflict between the land lord and
tenants, and introduction of cash economy. Internal factors identified were mismanagement by karanavan,
continuous strife between the karanavan and anantaravan, inherent defects in the marumakkattayam
system. P K Jyothi, Op. cit, p. xiv-xv But it has to be realized that they are all interrelated and that the
internal factors identified though were the causes, it was caused as a result of the new world view that was
internalised by the nair-s. Hilde Ramkers talks of three categories of factors that could stimulate or
disintegrate the matrilineal system. General factors like natural or biological events; structural factors that
influence the functioning of the group and external factors like war. Of these in the case of nair-s, the
structural strains within the taravad was a result of external factors identified as the economic changes
leading to the development of a market system and a money economy. According to her land reforms was
the beginning of this process of change. But it would be more correct to say that it was the changed

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5 rejected his claim. Krishnan Vs Govinda Menon cited in Lewis Moore, Malabar Law and Customs, Madras,
1905, p. 135.
As said before, nair-s adapted quickly to the changing conditions of the time. With the disbanding of the military forces of the native rulers and chieftains, one of the traditional avenues of occupation and livelihood was closed to them. Initially, they concentrated their attention on the landed holdings they had, but soon they were able to gain a foothold in the colonial administrative and other occupations that the new legal set up offered. Their traditional position too proved advantageous for them in this change.

As said before, education was a major tool that wielded by the colonisers in colonising the natives ideologically. Through the schools, the British were able to project western ideas on to the people of Malabar. For the people the knowledge of English became a must for securing a post in the colonial administration. As traditional sources of livelihood were getting exhausted, people started looking at the alternate sources provided by the colonial administration as doctors, lawyers, teachers, government servants, clerks and in lower paid jobs as drivers, office boys and mill-hands.

"Among the Indians employed by the British immediately after the annexation of Malabar, the nair-s had a fairly good share. In 1799 the Indian component of the company's administration consisted of 107 from outside Malabar, mainly Maratha Brahmins, and 89 from Malabar of which 44 were nair-s. The reluctance of the Madras government to appoint village mukhyaasthan-s, "men of respectability and wealth" as parbtti-s due to their alleged participation in rebel activities, opened up opportunities for nair of inferior economic status. Most of the village officials, adhikari-s and Menon-s, appointed after the reorganization of village administration in 1822 were also nair-s."

interadiction of tenancy relations in the Malabar that was the beginning of this change. Another factor she identifies is educational opportunities for women that led to her being provided with the means to leave the taravad by virtue of which she came into contact with new ideas leading to the acceptance of a marriage law. But this is true of the 20th century than of the 19th century because in the earlier century it was the men who got educated and left the taravad-s that were pushing for reforms in the marriage law. The feelings of women in this period are not known to us as is recorded by the MMCR and dealt with in detail later on in the chapter. Of course Hilde's point is that even in this case, it is more of an economic cause rather than a result of female oriented policy. For Heimath its educational opportunities that was the cause, while Puthenkulam looks at it as a result of economic factor and land reforms. Fuller cites the role of population growth, land reforms and the influence of the Europeans leading to varied changes in Malabar. Hilde Ramkers, "Changes and Continuity in Matrilineal System", Journal of Kerala Studies, vol. xi, Mar-Dec 1984, part 4, pp. 101-18.

4 K N Panikkar, "Land control, Ideology and Reform: A study of the changes in family organization and marriage system in Kerala", Op. cit., p. 38. Panikkar in his article has pointed out the effect of the
Thus education now became a deciding factor in determining social status. Earlier on one's position and status was decided by one's birth into a particular caste in society, but now one's status depended more on the position in the colonial administrative hierarchy. Education was a major factor that decided your post and consequently the salary one earned.\(^5\) The salary was fixed according to qualifications.\(^6\) Job also meant changes in the taravad family system. Most of these jobs were in places far away from the taravad entailing the person to move out of the taravad, live in towns or in cities like Madras where they worked. This meant that taravad in a sense was broken with the person living away from it. This physical displacement soon lead to increased loosening of the kinship ties. They were also not subject to the control and authority of the karanavan. Having money meant that they were independent to a large extent and their savings and earnings instead of going to the taravad corpus, could be spent as they wished. The change in the family structure came about when these men started taking their wives to live with them.\(^7\) Once this happened, they not only became reluctant to pool money into the taravad but also started demanding their share of the taravad properties. Thus these people soon started viewing the taravad structure and its impartibility of property as an impediment to their progress.\(^8\) As a result of the expenses involved in giving English education it was not possible to send all the junior members to

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<th>Class</th>
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<td>1(^{st}) Class</td>
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<td>2(^{nd}) Class</td>
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<td>3(^{rd}) Class</td>
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<td>4(^{th}) Class</td>
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<td>5(^{th}) Class</td>
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\(^7\) In the MMCR we have eg. of ladies who refused to go with their husbands due to restrictions of crossing the Korapuzha but in 20\(^{th}\) century these hesitations vanished the ladies increasingly went to live with their husbands. An indication of this is reflected in the maintenance suits filed that is discussed in the next chapter.

took over this responsibility, leading to loosening of loyalties towards the taravad. Through education a whole new world-view also came into being altering the cultural moorings. This point has already been discussed in the earlier sections. By the 20th century we see changes in the village system as a result of changed socio-political and economic factors. Instead of the old system based on tarakuttam-s, tara rights and caste hierarchies, new taluks and districts sprang up with its headquarters at centres like Calicut, Thalassery, Palghat etc. Traditional jurisdictions vanished. The cause of this to a certain extent was the disruption of this was the result of Malabar being brought into the world system. This linking, increasingly monetised the economy, leading to the establishment of a money market. The colonial coinage, the rupee system, was thoroughly established with salaries being paid, rent being received and revenue being collected in cash.

It is not as if the money market was established in Malabar with the establishment of the colonial rule. The monetisation of the economy of Malabar started in the 13th century itself. The increasing mortgages like panayam andotti that are evident in the land transactions are evidences to the increasing cash needs of the people down to the lower strata of the society. This can be inferred from the different names of money we come across in the documents after the 12th century like Achchu, Panam, Shalak etc. The fact that money was used for small transactions is attested by the fact that smaller denominations of these money like Ara Archchu, Kalpanam etc.

9 "I have taken my father's name because he protected and educated me." Korot Kannan Witness No. 4, ATI, MMCR, p. 4.
10 Here used in the sense of Immanuel Wallerstein who visualised the whole world being linked into one system with the establishment of colonialism in Asia, Africa and rest of the world. The colonial economies were visualized as peripheries functioning and existed to serve the interest of the metropolis like London, Paris etc.
were used. Between the 13th and 15th centuries we also get increasing evidence of the usage of money in the market from the literature of the period. New types of coins like Kambi, Kash, Taro, Taraman, Pakam etc. that came into circulation are mentioned. The low content of iron in these coins indicate the downward percolation of the coins to the lower rungs of the society. It has to be kept in mind that the produce of the garden lands, the parambu-s and the puraidam-s like pepper, ginger, cinnamon, cardamom etc. were being exported. With the coming of the Europeans, more cash crops were introduced. The difference was that earlier Arabs merely bought what was produced in the country while the Portuguese and the other European traders who came after them introduced new types of cash crops, better seeds and created markets for new products. According to K M Panikkar, the direct export of the Malabar spices created greater demand for it in Europe. Coconut and coir became a major product of export only after the Portuguese came. They introduced seed nut of a better and bigger type of coconut called ‘Kappalthenga’ Thus the new European trade brought more money and luxury into the country and also strengthened the system of cash payments. The introduction of new articles and luxury products into Malabar changed the tastes and habits of the people. Thus the volume and nature of trade changed substantially during this period than ever before. Need for money saw increasing instances of mortgages. The rampant use of money slowly must have eroded the ties of protection and dependence that had sustained the feudal like set up of Malabar in the pre-colonial period. From the landlords down to the agristic labourers, money was now needed for even their small needs. By 1846 government built permanent roads connecting many

12 Idem.
13 Ibid., p. 43.
14 K M Panikkar, Malabar and the Portuguese, New Delhi, 1997 Reprint, p. 207.
15 Ibid., p. 206.
16 Ibid., pp. 207-8.
towns and villages. By 1861 railways also come to Malabar. This development has to be seen along and linked up with the freeing of slaves by 1850 and the opening up of European tea and coffee estates in the hill slopes of Malabar, attracting coolie labourers. By this time population had increased by half, thereby increasing pressure on land for the cultivation of cash crops. Hereditary occupation and caste specialisation gave way for individual labour based on cash wages. With the coming of the outsiders, the ‘tara’ rights were disrupted, leading to weakening of the ritual and caste ties in the ‘tara’.

The changing land relations had a very important part to play in this. Though there was an increase in the money flow in the economy, some of the taravad-s did not have enough money to spend, apart from what was needed for their basic sustenance. For everything money was needed, be it the expenses for meeting rituals or ceremonies like talikettu-kalyanam, thirandukuli etc. The taravad-s started now mortgaging and alienating their holdings to moneylenders. The need for money is seen in the increasing incidents of the debts incurred not only by the karanavan but also by the anantaravan-s and other members of the taravad. This was another major reason for the dissolution of the taravad. The increased trade and the development of infrastructure like roads and railways increased mobility and also availability of wide range and variety of goods including luxury articles. This led a change in the lifestyle of the people. The colonial society also introduced various avenues of entertainment and socialisation of the people like clubs, reading rooms etc. Needs of the junior members in the taravad also grew, as a result which they too started borrowing money. Meanwhile the karanavan-s too needed money not only for various purposes of the taravad but also to provide for his wife and children since (as said before) loyalties to wife and children became a factor. Karanavan-s tried to mortgage or pledge taravad property both movable and immovable for the needs of their wife and children at the cost of the other members of the taravad.
As the debts got piled up and soon civil suits were instituted for the recovery of the money lend by the creditor. The initial interpretation of the court allowing partition (judgment of the Court of Western Division in 1814) might have been an encouragement for debtors and creditors to pledge land as security. The wide powers given by the court to the karanavan-s was another factor responsible for more mortgages and pledge. These debts were a major factor that increased pressure on the existing property relations that was not compatible with individual subsistence.

Moneylenders in such a transitional society was growing rapidly. Tamil moneylenders figure in the court cases. Kerala had always attracted people from outside the state for trade purpose. In Cochin and Calicut we do know of the existence of a sizeable Gujarathi merchants. From Tamiinadu, Brahmins and from Karnataka the poiti-s came in and settled here as a result of jobs in the colonial administration. English educated professionals like lawyers and advocates were another set of professionals that came to live in Kerala during the colonial period. Unencumbered by caste and social structure, they migrated to Kerala, where they found employment initially even under the nambutiri Brahmins and later on under local rulers or functionaries. They capitalized on avenues opened up by the administration. In the 2nd half of the 19th century most of the moneylenders were mostly nair-s, nambidi-s, bhatadiry or mopalah-s. Most of the cases arouse because the junior members of the taravad contended that the taravad properties were alienated, leased or mortgaged by the karanavan for debts incurred for personal needs and not for the benefit of the taravad as a whole. By the 20th century however we see that many Tamilian-s figure among the creditors. Thus people

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17 1914MNN198, 27 MLJ 535F.B, AIR 1930 ML 30, AIR 1925 M 849 32MJ L 97, 39 MLJ, 590, 5LW 158, AIR 1937 M 438, AIR 1938, M 488, AIR 1922 M 519, AIR 1925 M 624 to name few cases. In the autobiography of Annie Thayil, we see that her family was in debt to a Tamil Patter who seems to have been a big money lender of that area and had vast tracts of lands under him. Annie Thayil, Edangazhiyele Kurishu On Ahakatha, D C Books, Kottayam, 1990, pp. 19-20.
from outside the state like Tamilnadu, Karnataka etc, who had come into the state for various administrative and judicial posts, soon settled down here and started lending money and acquiring lands through these transactions. Thus the need for money as a result of the growth of money market saw increasing pressures on the taravad and its resources.

**Legislative Initiatives**

By the second half of the nineteenth century, there was a vociferous minority demanding changes in the existing system. In 1869, the first memorandum was sent to the government stressing the need for changes in the existing system of marumakkattayam. People also then took up the issue through letters and articles in the vernacular newspapers. In 1878, a society called the Malayala Sudrachara Parisodhana Sabha was formed at Calicut to bring about a marriage law among the marumakkattayee Hindus. In 1879, the English educated nair-s, who found the marumakkattayam system of marriage inconsistent with their economic and social position, founded the Malabar Marriage Association. They sent a petition to the government to bring to its notice the need for reforming their marriage system and followed it up with a sustained propaganda in the newspapers like Kerala Mitram, Kerala Patrika, and Kerala Sanchan etc.

The first official recommendation for reform came from William Logan, who was appointed to study the land tenure system, its contribution towards the mopalah

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18 A sample of cases in the lower courts of Malabar between 1850-1900 showed that 25 judges were Tamil-Brahmins, 14 nair-s and 9 other castes. There were 15 Tamil-Brahmins who were advocates as against 96 nair-s advocates, 3 Christians, 2 Muslim advocates. These figures show that as majority of the judges were Tamil Brahmins, while in the case of advocates it was nair-s.
outrages in Malabar and to adopt possible remedial measures. In his report he came up with a proposal to regulate the marumakkattayam system of inheritance. According to him, though the subject appeared to lie outside the scope of his enquiry, it kept cropping in during his discussions with the people. A man’s self-acquired income of property descending to his taravad was detrimental to “individual industry and thrift and if the law is not soon changed the consequences to the ruling caste will be disastrous.” According to him, the taravad system with its common pool of property was not conducive for capital investment in the land or for increasing the production as the reward for a person’s incentive went into the common stock of the taravad. The nair-s could not leave their self-acquired or self-earned income to their wife or children through a will. They had to gift it to them during their lifetime, thereby stripping themselves of the right to enjoy it. The consequence of this was to anger the legal heirs (i.e. the nephews and nieces). He pictured the nair males as caught between their wives and children to whom their ‘natural affection’ tended and the customary heirs towards whom they had ‘little sympathy’. He recommends, the conferring

“on all adults, males or females, the power to regulate by will the succession of their self-acquired property ... (and) ... a man’s children should get one-third of his separate estate if he dies intestate.”

He wanted the government to pass legislative measures to ensure this. He felt that the people would not only hail these measures as a great boon but also lead to their prosperity and advancement. He also claimed that the most influential and intelligent class of nair-s in Malabar would support this move.

22 Ibid., p. CVIII.
23 Idem.
The government then appointed a Special Commission under the presidency of Raja Sir T Madhav Rao in Jan 1884 to consider the whole question and advice the lines in which the legislation should proceed. The members of this commission were William Logan, Herbert Wigram, Sir C Sankaran Nair and P Karunakara Menon. The commission framed the Malabar Tenancy Bill, the Malabar Marriage Bill and the Places of Public Worship Bill. When referred to the High Court, it welcomed the Malabar Marriage Bill. It held that "self acquisitions of an individual member of a Malabar joint family were at his absolute disposal during his lifetime but at his demise they passed to the family of which he was a member and was liable for the debts of the deceased."

The commission proposed that if the husband or wife died intestate, their separate or self-acquired property would devolve on the survivor and children in equal shares and they could in their lifetime dispose of such property by will. Another change proposed was that the husband would be the guardian of the wife and children. In case of the husband’s death, the wife was to be the guardian of the children. Only a religious apostasy would lead to the forfeiture of this right. However, the commission did not propose a change for the membership of their taravad from the wife’s side to the husband’s side though they had a right of maintenance from the husband. Thus the commission’s proposals would have radically altered the marumakkattayam system. The High Court gave its assent as it felt that the measure would “give a higher form of marriage to its inhabitants.”

25 Ibid., p. 73.
26 According to the marumakkattayam law, the karanavan of the wife’s taravad was the guardian of the wife and children.
27 K K N Kurup, Op. cit., p. 75. This bill does not seem to have progressed further.
Sankaran Nair's Bill (1890)

In 1890, Sir C Sankaran Nair introduced a bill in the Madras legislature that addressed the issue of the lack of legal sanctity in marumakkattayam marriage as it was seen as a major issue that needed reform by the western educated section of nair-s. The bill aimed to legalise marriage among the nair-s, to make bigamy an offence, to provide for the legal dissolution of marriage and to allow for the restitution of conjugal rights in Malabar. The bill wanted to make father the legal guardian instead of the karanavan, provide the wife and children with maintenance from the husband or father and the devolution of intestate self acquired and self earned income or property to the wife and children. The age for marriage for the boys was fixed at 18 years and for the girls it was fourteen. In the case of a marriage of minors, the karanavan-s consent was needed. The father was to be the legal guardian of the children and after his death; it would be the mother unless there was a change in the religion whereby the karanavan would become the guardian. The wife and children were to have a right to maintenance from the husband that did not affect her right to be maintained by the karanavan in her taravad house. In case the husband or the wife died intestate, the self-acquired property devolved on the other and the children. Only in the absence of both parties would it revert to the taravad of the person. But this first attempt at legislation for Malabar was far ahead of its time for the majority of nair-s. When the contents of the bill were published in the Malayala Manorama on Mar 29, 1890 people responded both for and against the bill. Those who were not in favour of the bill, was of the view that sambandham was celebrated among the nair-s with the consent of the karanavan after deliberations and was conducted in the presence of invitees in the same way as marriages of other communities. They were also of the opinion that tailikettu-kalyanam was not marriage but

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28 According to an article that appeared in Kerala Patrika, Jan 21, 1893 the government felt that the clause regarding marriage between members of different caste among the nair-s should be omitted from the bill.
As regards self-acquired income, it is only when the husbands gave more to the wife and children ignoring the *taravād* that the problem arose. According to the writer, who wrote under the pen name 'Nithithalparan' this was the case with a small minority of the people. The picture painted of the community is one, which does not need the reforms that the bill introduces. They tend to view the bill as just as a fad of the educated minority. For the conservative section, the provision which provided for the whole of the self-acquired property being given to the wife and children by excluding the *taravād* and the *tavazhi* relations as going against the customary law of inheritance and much beyond the then practice of gifts *intervivos*. The objectors found going to the registrar obnoxious and the elaborate provisions relating to judicial divorce as ill adapted.

But even among the educated and official class there were difference of opinion regarding the extent of the reforms. Some wanted only the creation of a testamentary power with regard to self-acquired and separate property. They did not want any change in the existing system. When changes were proposed, many people of this class feared that it would lead to the deterioration and extinction of the *taravād* with the self-earned property not reaching the *taravād*. Another feature was the creation of a double system of inheritance, which they feared would lead to quarrels and litigation. Only a minority wanted any change in the form of marriage. Some people felt that legalising the existing form of marriage was enough not a new form of civil marriage. Neither did they want the freedom of divorce to be taken away. The principal objections of certain western educated section of the society to Sir Sankaran Nair's bill was that it ignored customary

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29 Malayala Manorama, May 17, 1890.
30 Idem.
31 Memorandum of the President, Enclosure A, MMCR, p. 10.
and caste restrictions on marriages and that it sanctioned what according to social usage was incestuous marriage. Thus even among the educated class there was difference of opinion, a result of varying degrees of subjectification. The government too did not approve the bill.32

Malabar Marriage Commission (1891)

The government then appointed the Malabar Marriage Commission with T Muthuswami Aiyar as its president. Other members of the committee being Rama Varma Thamburan of Parappanad, Mundappa Bangera, District Munsif of Mangalore, Sir C Sankaran Nair, H M Winterbotham and O Chandu Menon. The aim of this committee as defined by the government of India was to provide evidence about the customs connected with the Hindu marriages in Malabar, if the proposed changes were desired by a majority of the people following the Marumakkattayam system or if it was essential for the protection of the minority and whether legislation was expedient, if so, what form it was to take. The committee was asked to look into the effect of such measures taken on the religion, religious rites, and usage of the marumakkattayam classes; its effect on the people of the native states of Cochin and Travancore and the effect on the people governed by the aiyasanthana law in Canara.33

The commission framed a questionnaire under Mr. Winterbotham with the help of officials, the representatives of the educated class, representatives from influential taravad-s, kovilakam-s, members of the bar in the district and nambutiri-s as they were considered as authority in matters of caste. Information was also to be elicited from the

33 G O No. 13, Legislative, 7.4 1891.
Diwans of Travancore and Cochin. Out of the 474 persons to whom the questionnaires were sent 332 replied. The commission also held sittings in the various taluks of the district to supplement information and to see how far the local opinions were in favour of the proposed or any other form of legislation regarding marriage.34

The Commission came to the conclusion that the marumakkattayam system had become un-workable as said before. The Commission wanted changes in the marriage system even though the bulk of the intermediary nair-s and the landlords had no desire for any change.35 In South Malabar, people favoured legislation with considerable modification in the bill. In North Malabar people felt it “would disturb the harmony that exists at present among females in taravad-s and break up the taravad system.”36 However it recommended legislation as it felt that changes were needed.

“We therefore do not dispute the view that the proposed legislation is not at present desired by a majority, but we also believe that the uninstructed majority will follow the lead of the enlightened classes, and that there need be no apprehension that if the law be framed it will remain a dead letter.”37

They believed that the proposed legislation was essential and expedient in the interest of the growing minority as ‘the right to contract a legal marriage was personal to every one of Her Majesty’s subjects’. It was felt that if this demand for a marriage law, which was an important aid to national progress and good morals were not conceded, the demand would be repeated every year. After all being a permissive law it did not force a legal marriage to those who were unwilling to contract it.38 They recommended legislation thinking that it

34 MMCR, p. 2.
35 Ibid., para. 59, p. 34.
36 Ibid., p. 9. Similar view was also expressed in the Malayala Manorama dated Jun 13, 1891.
37 Ibid., para. 59, p. 34.
38 Ibid., para. 60, pp. 35 –36.
"would gradually nationalise the institution of marriage in the course of a few years and aid social progress."

In his memorandum, the president of the Malabar Marriage Commission was of the view that the new legislation

"should legalise the existing forms of social marriage and not to provide for a new form of civil marriage ... (or a) ... statutory form of marriage ... either in addition to or in supercession of the existing customary form."

As regards the people following the aliyanthana law the commission felt that they welcomed change. One point on which all the marumakkattayam people agreed was the desirability of conferring upon the marumakkattayam people the power to dispose the self-acquired property by will.

The Malabar Marriage Act (1896)

After the committee's report was submitted, Sir C Sankaran Nair withdrew his original bill and submitted a new one modifying the clause of the devolution of self-acquired income and provisions regarding marriage and divorce. This act was passed as the Madras Act IV of 1896 or the Malabar Marriage Act. When compared to his first bill this permissive law was a milder version. In the statement of objects and reasons of the bill, it was stated that the bill was passed so that the followers of the marumakkattayam law of inheritance will have a marriage legally recognised by the courts of law for people who are willing to contract one according to the provisions of this act. This law was seen as an important aid to national progress and good morals. Another aim was to provide for the issues of such a marriage. It was applicable to all Hindus following the

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39 ibid., p. 11.
40 idem.
41 ibid., p. 48.
marumakkattayam or aiyasanthana law of inheritance domiciled in the Madras Presidency.

The act-defined sambandham as

"an alliance between a man and a woman by reason of which they, in accordance with the custom of the community to which they belong or either of them belongs, cohabit or intend to cohabit as husband and wife".

With this act a new category has been introduced that of ‘marriage’ as against ‘sambandham’ or ‘talikettu-kalyanam’. The marriage conditions that had to be fulfilled were a mixture of traditional and modern provisions as seen from section 3 of the act. The provisions mentioned stipulated that neither of the two parties should be married nor the personal law debar them from making a valid contract of marriage with the other nor should have a spouse living or a sambandham with another, which had not been rendered null and void. This provision wanted to ensure monogamous marriage among the nair-s. Such a relationship it was specified should not be between persons, whom customs forbid such a relationship. In the case of sambandham of minors the consent of the legal guardian was needed. The act enabled the wife and children to claim maintenance from the husband or father. The husband became the guardian of the children and minor wife after she was 14 years. Thus marriage has been constructed as a contract with legal rights, duties and obligations on the part of both the parties. The act envisaged the father as the legal guardian of the wife and children except in matters of the property relating to the wife’s taravad. This must have been done in order to minimise opposition and make change seem as near as possible to the existing norms.

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It is to be noted that the word used is not married but cohabit. The Civil Court Manual (Madras Acts), Brought up to end of 1931, 3rd edition, Madras Law Journal Office, Mylapore, 1931, p. 949.
Customarily, it was the *karanavan* who was regarded as the legal guardian. The children still belong to the wife's *taravad*.

*Sambandham*-s, those were to be registered as marriages had to give notice of the same in the 'Form A' prescribed in the act. The registrar would then serve notice to the guardians and to the managing members of the *taravad*-s of the man and woman (Section 7 Clause 1). Such served notices could be objected to by any member of the *taravad* of either party or any person having an expectancy of succession to the property, if any, within one from the date of such service of the notice (Section 8 Clause 1). In case of any objection, four months time period was allowed for action. In case of a notice of a civil suit filed was given to the registrar, the *sambandham* could be registered only on the withdrawal of objections against the party or the decision of the case was pronounced. In case there were no objections, the *sambandham* was registered after a month of the service of the notice. Objections could be made only because the customary law forbid such a marriage or because of an already existing legal *sambandham* or marriage of either of the parties.

The self-acquired income, which was the main issue that prodded the legislation of this act, was to be distributed equally between the wife and children (one party) and the *taravad* (second party) in case of intestacy. If there were no other members in the husband's *taravad*, the whole property would devolve on the wife and children. In case of divorce either of the party could present a petition for the same in the court of the District Munsif. Six months after the service of notice, to the other party, the registrar could declare the marriage as dissolved. The wife could claim maintenance even if the

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43 Thus the introduction of a new form of marriage that would change the structure of the family, the beneficiaries of the property in the earlier system should not object to. The clause may have been introduced for this.
marriage was dissolved without her consent as long as she remains a Hindu, chaste and did not contract another sambandham or marriage. Neither should she be guilty of adultery. Thus the chastity entered into the picture legally among the nair-s in response to the image of promiscuity of the nair women.

Working of the Act of 1896

Though this bill was passed with great expectations, we see that over the years very few people registered their sambandham as marriage under this act. In fact their number decreased after the initial sprout of registrations. The table (1) shows the details of sambandham-s registered by caste and table (2) shows the profession of the person. In 1907-08, five sambandham-s were registered and all of them from South Malabar. In 1908-09, it was 1 and in 1909-10, it was 2 and 1910-11, it was 4, out of which 3 were from South Malabar and 1 was from Madras. This information shows that the majority of the sambandham registrations were always from South Malabar. This could be because of the fact that in South Malabar nair-s was matrilocal while in the north they were patrilocal. A look at the statistics reveals that more than 2/3 of the number of sambandham-s registered were immediately after the introduction of the bill. Government Servants and Vakil-s registered most of these 53% and 19% respectively. In the caste-wise break up, we can see that the majority came from the nair-s (74%).

Initially the reasons cited by the Registrar General was that

"the mass of the people continue to regard the Marumakkattayam Law with aversion and suspicion and even the educated members of the community who are in favour of the measure, shrink from taking

The new Victorian morality that influenced the western educated men led to the stipulation of this condition. This could also be seen as an effort towards the redemption and redressal of the image of the 'unchaste' nair women and also to equate with the emphasis on chastity of the pan-Indian Hindu women.

45 G O No 607, Public Dept., dt. 9.6.1911.
advantage of it from the fear of offending the elder members of their taravād and the all powerful nambudiri and greater land lords.  

Table No. (1)

<table>
<thead>
<tr>
<th>Years</th>
<th>Number of Sambandham Registered</th>
<th>Caste</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Nair</td>
<td>Tiyya-s</td>
<td>Veluthu</td>
<td>Edan</td>
<td>Washe</td>
</tr>
<tr>
<td>1896-97</td>
<td>10</td>
<td>6</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1897-98</td>
<td>41</td>
<td>37</td>
<td>3</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1898-99</td>
<td>13</td>
<td>10</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>-</td>
</tr>
<tr>
<td>1899-1900</td>
<td>9</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>6</td>
<td>1</td>
</tr>
<tr>
<td>1900</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1900-01</td>
<td>10</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td>1901-02</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1902-03</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1903-04</td>
<td>4</td>
<td>4</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1904-05</td>
<td>2</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1905-06</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1906-07</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>90</td>
<td>67</td>
<td>9</td>
<td>1</td>
<td>1</td>
<td>10</td>
</tr>
</tbody>
</table>

Source: G O No 495, Public Dept., 21 June 1907, Report on the working of the act of 1896 by the Registrar General of Birth, Death and Marriages, Page 2

G O No 750, Public Dept., dt. 7.7.1899, p. 3.
Table No. (2)

<table>
<thead>
<tr>
<th>Years</th>
<th>Number of Sambandham Registered</th>
<th>Govt. Servants</th>
<th>Vakils</th>
<th>Ryot-s and Landlords</th>
<th>Merchants</th>
<th>Private Gentlemen</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>1896-97</td>
<td>10</td>
<td>3</td>
<td>5</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>1897-98</td>
<td>41</td>
<td>24</td>
<td>6</td>
<td>4</td>
<td>1</td>
<td>-</td>
<td>6</td>
</tr>
<tr>
<td>1898-99</td>
<td>13</td>
<td>7</td>
<td>1</td>
<td>2</td>
<td>-</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>1899-00</td>
<td>9</td>
<td>6</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>1900</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1900-01</td>
<td>10</td>
<td>5</td>
<td>1</td>
<td>3</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>1901-02</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1902-03</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1903-04</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1904-05</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>1905-06</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>1906-07</td>
<td></td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>90</td>
<td>48</td>
<td>17</td>
<td>11</td>
<td>1</td>
<td>1</td>
<td>12</td>
</tr>
</tbody>
</table>

Source: G O No 495, Public Dept., 21 June 1907, Report on the working of the act of 1896 by the Registrar General of Birth, Death and Marriages, p. 2

Another reason for this was that the **sambandham** had to be registered with registrars who had the local jurisdiction of the place where either of the party resided and people were reluctant to go to these registrars (who may be from other castes) for registrations.\[^{g7}\] This point was raised in the legislature during the discussion of the

\[^{g7}\] G O No 1082, Public Dept., dt.18.8.1897, para. 3.
provisions of the bill. Many people had found this clause objectionable. They could not
visualise the ladies going out of the homes to the office of the registrar to celebrate the
marriage. When the bill was introduced, it was suggested that, in course of time if the
need arouse, Adhikari-s or representatives of respectable taravad could be appointed as
Additional Registrars under Section 4 of the act to meet the demands of registrations.

But the major reason for the decline in the number of registrations was the passage of
the new testamentary act of 1898. It provided the people the right to make provisions for
their wife and children without having to register their sambandham-s thereby reducing
their liberty of action and risking the chances of a divorce proceedings.

Other reasons for the decline in the number of marriage registrations might be
the fact that

"the mass of population on the west-coast views it as an innovation which
would eventually undermine their peculiar social fabric which existed for
centuries under the marumakkattayam Law. They accordingly look upon
the measure with considerable aversion and even suspicion .... The very
women who ought to welcome the change were the greatest
opponents." 51

"The greater number even among the educated view the introduction of
the act as interfering with their peculiar social customs, which being time
honoured have in their eyes the binding force of law. The members of the
same taravad-s have begun to quarrel with each other on account of
registration of sambandham". 52

The practise of registering wills was prevalent in Malabar, but when compared to the
other districts of the Madras presidency it is considerably less. But the number of gifts
registered was the highest in Tellicherry district. The Inspector General of Registration in
his Administrative Report for 1889-90 said,

"The large number of gifts registered in Tellicherry district is due to the
operation of the marumakkathayam law." 53

The Registrar of Tellicherry reported,

"as regards the class of the community to which the donors belong and
the relationship which exists between the donors and the donees, I find
that out of 67 deeds registered, 28 were executed by Tiyar-s, 15 by
Mopla-s, and 24 by Nair-s and other castes who follow nepotism; and
husbands and brothers, sisters and uncles of the donees who had to be
provided for." 54

<table>
<thead>
<tr>
<th>Districts</th>
<th>No. of wills registered in</th>
<th>No. of gifts registered in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>1887-88</td>
<td>88-89</td>
</tr>
<tr>
<td>Tanjore</td>
<td>265</td>
<td>298</td>
</tr>
<tr>
<td>Tinnevelly</td>
<td>97</td>
<td>126</td>
</tr>
<tr>
<td>Madura</td>
<td>122</td>
<td>94</td>
</tr>
<tr>
<td>Tellicherry</td>
<td>14</td>
<td>30</td>
</tr>
<tr>
<td>Calicut</td>
<td>27</td>
<td>48</td>
</tr>
</tbody>
</table>

Source: ATI of Othena Menon, Appendix IV, MMCR

He further says, in an analysis conducted, it was found that this trend continued
thus in all transactions registered in the sub offices under his jurisdiction where the same
law (i.e. marumakkattayam) was in force. However in Calicut district the number of gifts
registered was less than 1/3rd when compared to Tellicherry (172 as against 598). The
reasons given for this was, that the Tiyar-s and Mopla-s of Calicut follow the Hindu and
Mohammedan law and not the marumakkattayam law. In the case of Nair-s of North
Malabar they followed a matrilocal system unlike those of South Malabar and also the

53 Cited in ATI of Othena Menon, Sub-Registrar, Payyoli, Appendix IV, MMCR, p. 3, which he took it from the
published reports of the Registration Department.
54 Ibid., pp. 3-4.


taravad property was divided as a matter of right with the common consent of all the members unlike in the South leading to a sense of obligation to provide for the children. The gifts according to him, mostly property, were by Hindu donors to their daughters or sisters or charitable institutions.55

But after the act was passed, the increase in the number of gifts and wills registered were phenomenal. This can be seen in the following table (4), which shows increasing number of gifts and wills registered after the act was passed. By 1908, the act of 1896 had become a 'dead letter'.

<table>
<thead>
<tr>
<th>Year</th>
<th>Gift</th>
<th>Wills</th>
</tr>
</thead>
<tbody>
<tr>
<td>1898-99</td>
<td>1094</td>
<td>134</td>
</tr>
<tr>
<td>1899-1900</td>
<td>1273</td>
<td>177</td>
</tr>
<tr>
<td>1900-01</td>
<td>1149</td>
<td>233</td>
</tr>
<tr>
<td>1901-02</td>
<td>1256</td>
<td>291</td>
</tr>
<tr>
<td>1902*</td>
<td>1218</td>
<td>289</td>
</tr>
<tr>
<td>1903</td>
<td>1258</td>
<td>399</td>
</tr>
<tr>
<td>1904</td>
<td>1277</td>
<td>402</td>
</tr>
<tr>
<td>1905</td>
<td>1318</td>
<td>422</td>
</tr>
<tr>
<td>1906</td>
<td>1404</td>
<td>536</td>
</tr>
<tr>
<td>Total</td>
<td>11247</td>
<td>2883</td>
</tr>
</tbody>
</table>

Source: G O No 495, Public Dept., 21 June 1907, p. 3

(*From 1902, statistics available for the calendar year.)

Thus the law of 1896, which was introduced for the community, had become redundant by the beginning of the 20th century. But this act inaugurated the series of acts, which attempted to modify and regulate the marumakkattayam system. From being different or

55 Idem.
even outside the pale of the Hindu law, this act saw the Hindu law being applied to the marumakkattayees in case of maintenance and guardianship.

**Madras Wills Act (1898)**

The aim of the Madras Wills Act or the Madras Act V of 1898 passed by the Madras Legislature, was declared as “to provide rules for the execution, attestation, revocation and revival of the wills of such persons” and to remove doubts that had arisen regarding the testamentary powers of the persons governed by the marumakkattayam and aliyanthana law for the people domiciled in the Madras presidency. The act defined a will as “any legal declaration of the intentions of the testator with respect to property which he desires to be carried into effect after his death.”

The codicil was defined as

> “an instrument made in relation to a will and explaining, altering or adding to its dispositions. It is considered as forming an additional part of the will”.56

The act vested the capability of making a will with every person who is not a minor and of sound mind. A person could dispose of property, which he could legally alienate by gift intervivos. It has to be noted that it was only the self-earned or self-acquired property and not the family property of a person that could be alienated. This was also applicable to immovable property outside the presidency of the people residing in the presidency. This meant the legal acceptance and reassertion of the notion of a personal / exclusive property of a person over which a person had full control as against the family / taravad property which he had only the right to enjoy and then pass on to the next generation.

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57 Ibid., p. 377.
58 Ibid.
59 Minor in the act was defined as a person below 18 years.
The table (5) shows the wills executed by the people of marumakkattayee castes and others. Most of the wills were registered in favour of one's wife and children in preference to the other relations.

Table No. (5)
Statistics of the working of the Malabar Wills Act

<table>
<thead>
<tr>
<th>Year</th>
<th>Wills executed by Marumakkattayee-s</th>
<th>Wills executed by Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>1898-99</td>
<td>61</td>
<td>73</td>
</tr>
<tr>
<td>1899-1900</td>
<td>120</td>
<td>57</td>
</tr>
<tr>
<td>1900-01</td>
<td>152</td>
<td>81</td>
</tr>
<tr>
<td>1901-02</td>
<td>204</td>
<td>87</td>
</tr>
<tr>
<td>1902-03</td>
<td>221</td>
<td>68</td>
</tr>
<tr>
<td>1903-04</td>
<td>301</td>
<td>98</td>
</tr>
<tr>
<td>1904-05</td>
<td>315</td>
<td>87</td>
</tr>
<tr>
<td>1905-06</td>
<td>311</td>
<td>111</td>
</tr>
<tr>
<td>1906-07</td>
<td>407</td>
<td>129</td>
</tr>
<tr>
<td>1907-08</td>
<td>718</td>
<td>140</td>
</tr>
<tr>
<td>1908-09</td>
<td>761</td>
<td>143</td>
</tr>
<tr>
<td>1909-10</td>
<td>467</td>
<td>123</td>
</tr>
<tr>
<td>Total</td>
<td>4038</td>
<td>1197</td>
</tr>
</tbody>
</table>

Source: G O No. 589 legislative, 13<sup>th</sup> Oct 1910, p. 5
Legislations in Travancore

In the native state of Travancore too we see that educated people wanted to reform the system. With the passing of the Malabar Marriage Act of 1896, in Travancore too such a bill was introduced by P Thanu Pillai in 1896. According to Thanu Pillai, the error in the Malabar Act was that it did not recognise the sambandham ceremony as the legal marriage. Thanu Pillai's bill provided legal recognition for all marriages solemnised by the presentation of cloth or some other recognised ceremony. The main aim was to "end the ridicule directed at the laxity of nayar morals". The man could provide his wife and children from his self-acquired property during his lifetime but on his death, the taravad and his nephews inherited it. Therefore, there was no change proposed in the inheritance system. But this bill was pushed off from the Legislative Council's agenda and never became a law. The debates of reform is found to be reflected in the art and literature of the period. The passing of the Travancore Wills Act, 1899 saw the confirmation on the marumakkattayee-s the right to bequeath up to half of their self-acquired property to the wife and children. In the 20th century the laws that were passed in Travancore was ahead of that in Malabar. The Travancore Marumakkattayam Committee was formed in 1908 under the presidency of Justice

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61 (emphasis added) Ibid., 187.
62 In 1893 Raja Ravi Varma's painted 'There Comes Pappa' in the period of debate regarding reforms there. Art historian Vijay Kumara Menon in his analysis of the painting divides the painting into two the visual space, that of the painting and that of its title that completes the meaning of the visual depiction. The painting depicts an aristocratic nair lady carrying a baby in her arms pointing to a distance. At the feet of the lady lies the dog, which too is looking at the direction pointed. This scene is an admixture of both feudal and modern elements. The dress and hair do is traditional. What is striking according to G. Arunima, about the women in his paintings are their "passive, almost vapid beauty and their unerotic sensuality" and the image of domesticity he envisaged as patri-virolocal. G. Arunima, 'Matriliney and its Discontents', Op. Cit., p. 162. The pet dog is something that shows colonial influence. The second cultural social space is the heading of the painting. It talks of a father who is not there in the visual space but to whom the allusion is and who has to be visualised by the viewer. He calls the title a 'socially coded metaphor' that literally proclaims "Here Comes Pattrillay". The father who till now was a shadowy third person of the nair taravad is now being transformed into the first person. In fact it is the title that makes it possible for a frame/ medium slippage. Vijayakumara Menon, "Marumakkattayam Makkattayam -Oru RaviVarma Chitram Nalkunna Samuhya Chinthakai", Mathrubhumi, Feb 1, 1998, pp. 26-7.
Govinda Pillai on February 1, 1908. The committee interviewed the people on major issues like sambandham, divorce, self-earned income and partition. The committee recommended the recognition of sambandham as legal marriage, wife and children to get half of the self-earned income, father to be the guardian of the children under certain conditions, right to dispose the self acquired property through will and tavazhi partition.

The Diwan Rajagopalachari drafted a bill that was passed as the Travancore Nayar Regulation of 1912. On the passage of the act the Diwan said, “the government is of the opinion that this regulation satisfies an important need ... and hopes it will go far in improving the progress of the nair community.” (which was then amended by Regulation II of 1925)

But the regulation brought only the issues of marriage and succession rules under its purview ignoring the issue of partition. It made sambandham legal marriage with husband and wife having mutual marital rights, polyandry was declared illegal, procedures for divorce were established and the principle of compensation was established (in case of adultery it was not given) wife and children were entitled to half the self-acquired property or self-earned income.

Malabar Inheritance Bill (1910)

The first half of the 20th century saw bills being introduced in the Madras Legislature dealing with inheritance, succession, and partition and taravad management. Not all these were progressive in nature, some conceded reforms to a certain extent, showing that though people had accepted certain ideas of modernity they were not

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63 This was as a result of the set of demands that was made by Mr K Krishnan Pandala the Kollam representative of the Sri Mulam Praja Sabha on legalizing sambandham, better management of taravad affairs by the karanaavan, sale of taravad properties with the consent of all the members of the taravad and freedom to dispose the self earned income by will and the devolution of intestate self earned income to wife and children. Malayala Manorama, February 12, 1908.
64 Malayala Manorama, December 26, 1908.
65 Ibid., December 28, 1910.
66 Ibid., February 19, 1913.
prepared to sever links totally with tradition. While in Travancore the Nair Regulation was being discussed heatedly, in Malabar too these discussions had an effect. The Malabar Inheritance Bill introduced by the Raja Vasudevaraja Avargal, Valia Nambidi of Kollengode in 1910 as a result of the decision of the courts ruling that, the self-acquired or separate property on the death of the acquirer would revert to the taravad and become part of the joint property ignoring the tavazhi of the acquirer. Moreover the decisions of the various courts were at variance with each other. In a case in South Canara, the judge ruled that the self-acquired property would go to the immediate representatives of the acquirer and not to the taravad. But when it was referred to the High Court's Full Bench, majority of the members were against this change as they felt that it would disturb the previous rulings. The bench was of the opinion that such a change should be introduced through legislation. The bench did not discuss the issue of self-acquired property of the female members of the taravad. Judges Sir C Sankaran Nair and Miller later on decided that the self-acquisition of the females would descend only to her own children. The aim of this bill according to Raja was to rectify these anomalies, as there was  

"no authoritative treatise laying down a definition or exhaustive line of heirs with respect to such property although imperfect slants are found in Strange's Manual of Hindu Law (399) and in Kera Vakasakraman of Kerala Varman Thirumulpad of Travancore, the list of heirs provided in the bill is in accordance with the practice of the people and the principals of marummakkattayam Law" 

On introducing the bill, the Raja of Kollengode in his speech to the council said that the people got only 'small instalment of reform' through the existing act and that the legislation of 1898 "does not sufficiently meet the necessities of the case. Hindus in general and not less so the people of Malabar are averse on sentimental grounds.

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67 ILR, 7 M 575, cited in G O No. 69, Legislative, dt.16.4.1910, p. 7. 
68 G O No. 69, Ibid., p. 7. 
69 Ibid., p. 7.
to the making of the will if they can help it, and even where they do so they put it off to the last possible minute... Many a person is unwilling to make any will at all and runs the risk of his immediate heirs coming into conflict with the taravad with regard to his property... making testamentary disposition which are often likely to result in harassing attempts by the taravad or karanavan to invalidate them on the ground that they were made when the testators had not what the lawyers call a disposing state of mind or that they were under the undue influence on the part of those most nearly related to the testators.  

But this bill was not to affect the right of an individual to dispose off his self-acquired property during his lifetime or by will. A tavazhi was defined as a branch that was formed when a female member of the taravad would separate herself or her children from the taravad, but were connected with the taravad by the community of pollution and rights in the taravad property.  

Here the attempt was to give the intestate property not to the taravad but to the tavazhi. This would have in fact led to the reversion of what was established by the act of 1896 as wife and children were ignored. But here again the stress was to give it to closer to kin rather than far relatives. The bill laid down that the self-acquired or separate property of the person dying intestate would devolve, if it were a male, on his mother, her issues and the issues how low-so-ever of the daughters. In default of the above it would devolve on his maternal grandmother, her issues and issue how low so ever of the daughters. Next in line were his other female ancestors, her issues and issues how low so ever. In the case of females, then it would devolve on her sons and daughters and the issues how low so ever. In default of the above it would then devolve on her mother, her sons and daughters and issues how low so ever of and then to the other female ancestors and their issues. It also laid down detailed division of the property according to per stripes and per capita and the succession of the property inherited under the marumakkattayam law. It was however laid down that the

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70 G O No. 8, Legislative, dt. 20.7.1910. para. 5, pp. 7-8.
71 Ibid., p. 2.
72 G O No.69, Op. cit., Section 2 (a), (i), (ii), (iii).
73 Ibid., Section 2 (b), (I).
act would not affect the right of any persons to claim maintenance out of the property of any taravad to which such a person belongs.74

The opinion of the people was varied. According to the G O No.8, legislative, 24th January 1912, out of the 60 opinions called forth from the people, 52 supported the bill.75 But we see that Mr. H. M. Hammock was of the opinion that the bill went against the principle of Malabar Marriage Act as the succession goes to the tavazhi not to the direct heirs.76 Hammock also felt that karanaovan-s of influential families and more conservative members of the community might not be in favour of such a measure, as it would mean loss of “these wind-falls might in course of time prove a serious matter to the ‘corpus’ of the taravad property.”77 The reformers would prefer to see the wives and children inherit the intestate property, though some of this class, who are susceptible to traditional influence, liked to see a portion of the property –1/2 to 1/3 going to the taravad. On the whole it was “felt that people had not yet made up their minds as to what they want”.78 According to Carr whose opinion was sought in Travancore, public opinion on this issue seems to be in a fluid condition. The nair members of the Travancore Legislative Council was opposed to any change but the community was being ruined by litigation on the one hand and on the other there was a fear of loss of prestige and importance if partition was allowed. But much evidence was in favour of change.79 Due to this it was felt that there was

“hardly sufficient material before the government upon which a decision could be taken on the attitude to be adopted by the government to these bills.”80

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74 Section 4 of the Bill.
76 Note to the G.O. No. 91, Legislative, 20.7.1910.
77 G O No. 91, Legislative, dt. 20.7.1910, para. 6, p. 7.
78 Ibid., p. 7.
79 Ibid., para. 11-12.
80 Ibid., para. 13, L M Wynch, note attached to G O No. 69.
At this point the taravad was seen as a larger unit from where the tavazhi could separate and the self acquired property of the members of the tavazhi or which the members inherited would be exclusively the property of the tavazhi and would not be taken as property of the taravad as a whole.

The Malabar Partition Bill (1910)

Along with this bill another bill that was being introduced in the legislature was the Malabar Partition Bill of 1910 by Mr. Krishnan Nair. This bill too borrowed many provisions from the draft bill of Travancore Marumakkattayam committee. This bill too like the Travancore Nayar Regulation tried to make provisions for tavazhi partition. While the previous bill restricted itself to intestate succession of self-acquired or separate property, Krishnan Nair's bill also tried to provide for partition. Later on after modifications this bill was called the Malabar Succession and Partition Bill 1910. As in the previous bill intestate self-acquired property that did not descent under the provisions of the Malabar Marriage Act (section 1), was to devolve on the tavazhi, it went a step further and allowed partition of tavazhi. It was now for the first time that partition was being thought of by the legislature for Malabar.

"necessity to enforce partition of their joint family or common properties is long felt. A large number of suits in law courts of Malabar for removing karanavan-s from their posts of management, setting aside encumbrances, created on taravad property by the taravad manager, obtaining maintenance for junior members from karanavan and getting redress for other wrongs done or supposed to be done by the karanavan. Many taravad-s in Malabar is ruined by this intercine war ... The right to enforce partition and the opportunity to get possession and management of properties separately, will create in junior members of taravad a sense of responsibility and habits of thrift and industry which are often now wanting. The right of compulsory partition will also put an end to the

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domestic quarrels and law suits referred to the above and restore happiness of many taravad'.

According to Krishnan Nair radical or violent changes were not introduced by this partition, as it is not the individual members who get the right to claim partition but the tavazhi. But from the G O No. 2654 dt. 30th October 1922 (notes attached para. 2) we see that though the government opposed the bill, sanction was given for introducing the bill in the legislature. The individual members of the tavazhi could not ask for partition. But as sub tavazhi 's develop, power is given to them to divide from one another. The sub-tavazhi could not divide as long as the ancestress from whom the sub tavazhi-s was formed or her male children were alive. This clause prevented the fragmentation of the joint family into smaller nuclear units. Partition was also allowed in the case of big families where there were large number of members and among whom the bonds of mutual affection decreased and members felt inconvenience arising out of joint residence and messing. Thus excessive disruption of the taravad due to individual partition was being prevented. in case of partition each tavazhi was entitled

"as a whole to so much of the common property as would fail to the shares of all the members there of if a division per capita were made of all the property among all the living members of all the tavazhi".

The tavazhi of a women was defined as a

"group of persons consisting of that women and her descendants or of such of that group are alive".

The tavazhi of a man was defined as the tavazhi of his mother.

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83 Ibid., para. 4. pp. 7-8.
84 Ibid., Sec. 9 of the bill p 4. A child in womb was also regarded as a living member at the time of partition.
85 Ibid., Sec. 2 (1).
was fixed arbitrarily. A potentially controversial clause was section 6, which was to presume

"in the absence of proof to the contrary, property standing in the name of a junior member of a taravad or tavazhi shall be presumed to be his or her separate or self accrued property".

For the manager or karanavan this meant that it would be easy to have properties that would fall under this category easily. The bill was opposed by the aristocratic section of the Nair community, who felt that the division of property

"might effect the agricultural industries of the taravad... In the place of palatial family mansions there could be full of Veritable huts".  

While another view is that was reflected in the editorial of the Malayala Manorama was that this bill is mainly for the rich nair taravad, as the aristocratic nair ladies can’t live with their husbands.  

But the bill according to the writer instead of solving problems created new ones.  

“earlier there was only one karanavan’s evil dead to deal with, but Krishnan Nair’s bill creates many karanavan-s. So it increases the evil existing and the families will face ruin... For the evils of the systems we need to only prune the trees branches while the Krishnan Nair’s bill is a big axe begging to cut down the tree”.

Conservative section tended to view the effort to introduce partition of property as a result of their contact with western ideas making them feel that their state was pitiable.

This was a correct picture of the process of subjectification that the educated class underwent. They even tried to counter the argument of these educated sections about the taravad as breeding ground of nepotism. As regards the question of laziness of the junior members it was felt that it was because people tend to take up employment that was perceived to be to their status. They don’t accept small jobs or trade due to false
notions of status and caste. Partition would lead only to the decline of the Malayalee-s, as lazy people would destroy their share on getting while, had it remained in the taravad he would not be able to do so. The bill after discussion was not passed, and Krishnan Nair resigned his seat in the Legislative Council, as he became the Chief Justice of the Travancore High Court. The bill thus dropped out of consideration.

The Malabar Marriage and Inheritance Bill and The Malabar Partition and Succession Bill (1913)

In 1913 Mr. K P Raman Menon introduced the Malabar Marriage and the Inheritance Bill and the Malabar Partition and Succession Bill applicable to both marumakkattayam and aliyasanthana people of Madras presidency. The first bill laid down conditions by which sambandham would be treated as legal wedding (section 2 of the bill) Petition for divorce had to be filed in the lower Civil Court and a copy of which would be send by the petitioner to the other party at his cost. Court was to then give a decree to the effect. Maintenance could be claimed for a sum not exceeding Rs. 2,000/- if the petition stated a reason for divorce. In the case of such a marriage wife and children will be equally entitled to the self-earned or accessorial property if the husband died intestate. Such properties were to be governed by the Indian Succession Act (Sec. 3 of the bill). The husband was to be the legal guardian of the children and wife who was above 14 years. The aim of the Malabar Partition and Succession Bill was to regulate and amend the law of partition and to provide better management of the taravad properties. The taravad was given the option of partition. In case the members of the

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90 Malayala Manorama, November 23, 1910. This was an argument that countered the reformers position that marumakkattayam system of joint family led to the junior members being idle as they were entitled to be maintained out of the family income as a result of which the junior members who do not work but occupy themselves in self-destructive quarrels. Malayala Manorama, April 13, 1910.

91 G O No. 1, Legislative, ct. 31.1.1912, para. 8.
taravad did not want their taravad to be partitioned, they had to give it in writing to the collector. This decision was to be taken by two third of the members who attained majority in the taravad. The collector would then permit the taravad to be registered as impartible. This had to be done within 6 months of the act coming into being. It could be revoked if the members felt so by following the same procedure (Sec. 3 clauses 3 to 10).

In the case of impartible taravads the karanavan or the manager was to be in charge. He had to maintain an account of the income and expenditure of the taravad, which was accessible to all the junior members of the taravad, who could ask the karanavan an explanation through the court. The karanavan could appropriate for himself a part of the taravad income, which was then treated as his self-earned income. Karanavan could not sell or mortgage property more than 6 years without the consent of the majority of the adult members of the taravad. All members had the right to get maintenance for the taravad property irrespective of the fact that they lived in the taravad. A member could renounce his right to the taravad, if a member of an impartible taravad died then half of his self-acquired property would devolve on his wife and children and the other half to his taravad. The karanavan was the guardian in the case members of the undivided taravad. Individual partition was allowed according to the existing civil code. The property thus acquired will be treated as self-acquired property and was disposable. The bill thus visualised a major change in the inheritance of the marumakkattayee-s but it was not passed into an act and was removed from the agenda of the legislature in 1915.

92 Sec.3, Clause 11 to 22
93 Sec. 6, Clause 30.
94 Sec. 4, Clauses 23 to 26.
The reason could be that the majority nair-s at this stage were still traditional in their outlook was thinking in terms of regulating the taravad so that they could regain their lost glory. The demand for individual partition was still that of a small minority of English educated progressive section of nair-s. The ideal family that the majority of the nair-s visualized can be seen in an article of the Malayala Manorama dated September 12, 1914. This show how even after the entry of modernity, there was not a total break with tradition. This was the reason why even earlier when Sir Sankaran Nair's bill was introduced even the progressive elements in the society felt that it had gone too far. This was again reiterated in the Report of the Malabar Marriage Commission. The writer records that he saw an ideal marumakkattayam taravad consisting of 85 members who lived in separate tavazhi houses. The family was ruled by the karanavan with the help of the anantaravan-s who were given the management of different departments according to their taste. The karanavan and his tavazhi lived in the main house where the wife and children of the karanavan too lived. The account was kept of the income and expenses. The properties that were for situated far away were under another anantaravan. The expenses of the male members and their wives and children were met by the taravad. The employed members of the family were government employees, vakil, gumastan, as karyasthan-s of Nambutiri family, teachers and also traders (for whom the initial capital was invested by the taravad and the interest was paid back to the taravad) who had their own income and savings. While the other members of the family managed agriculture carried on in the family properties. The picture painted is that of a taravad which was unified and prosperous. This could be the reason why most of the bills that were introduced during this period wanted to regulate the income of the taravad so that the taravad could once again regain their old glory.
The Mappilla Succession Act (1918)

The Mappilla-s of Malabar too followed the marumakkattayam system. But unlike the nair-s there were some who followed the makkattayam system among them. This led to the following of a mixed system of inheritance among them. Like the nair-s they too were facing the same problems faced by the nair-s during this period leading to a plethora of cases dealing with inheritance and succession issues and those against the karanavan by the anantaravan-s. The acts of 1896 and 1898 and the precedents set by the courts were applied to the Mappilla cases that came before the courts. They were increasingly feeling a need for a law. This led to the introduction the bill to amend the Malabar Wills Act in 1916 by Khan Bahadur Ahmed Tambi Marakkayar. It was withdrawn in 1917 and a revised Mappilla Succession Bill was introduced. This was passed as the Madras Act 1 of 1918. The aim of the bills was to amend and define the law of intestate succession among the Mappillas governed by the marumakkattayam or aliyasanthana law of inheritance domiciled in the Presidency of Madras. It was also applicable to the immovable property situated within the Presidency of the mappilla-s domiciled outside the presidency. So the property here included the taravad property only if the person dying intestate was exclusively entitled to it. According to this Act the property of such a person would devolve upon his heirs in the order and according to the rule of the Mohammedan Law. Among the Mappillas too, cases were on the increase and the Act saw the beginning of the introduction of an Islamic law, which was patrilineal as against the marumakkattayam Law.

95 Sec. 1, of the act.
96 Sec. 2, explanation.
The Taravad Management Bill (1924)

In Cochin and Travancore in the meanwhile Cochin Nair Regulation and Travancore Nayar Act was passed. The Cochin Nair Regulation was passed in 1920 and came into effect from June 12, 1920. But the Palliam Tarawad Regulation exempted the Palliam taravad from the provisions of the Cochin Nayar Regulation. A five member Committee was to manage the affairs of the family estates. In Travancore, Raman Tampi introduced a bill to revise the existing law, which was withdrawn and a new one was introduced drawing on the Cochin Nayar Regulation and the Travancore Nayar Act. Through this act the partition of the taravad was allowed. The taravad-s had the option to declare themselves as undivided taravad. The act also had provisions that lay down the management of property of the taravad by the karanavan. The provisions of this act were incorporated into the bills introduced in Malabar.

In 1924 K Prabharan Thampan introduced The Taravad Management Bill in the Madras Legislature. The bill was drafted on similar lines of K P Raman Menon’s bill. These two bills can be seen as a response to the to the demand of the anantaravan-s of the taravad-s to curb the powers of the karanavan-s. The Nair Regulations that were passed in Cochin and Travancore seemed progressive to the nair-s of Malabar and these bills incorporated many of the provisions embodied in these legislations. As the demand among the educated class was for the partition of taravad these bills tried to introduce either total or partial partition, but their attempts were not fruitful, as the great majority of the people did not want revolutionary changes as they felt that partition would do away with the taravad-s altogether.

The bill was to
"define, regulate and limit the powers of the karanavan and to make proper provision for the maintenance and better management of taravad". 97

While introducing the bill, Thampan cited the causes for the decline of the taravad-s built on the basis of mutual love and co-operation amongst their members as a result of

"... advance in education and change of outlook brought about by contact with the outer world on one hand and the prolific growth of members in the taravad on the other, the malayalee has begun to care solely for his own personal comforts and gains and to acquire property for the benefit of his wife and children. This conflict between the new ideal and the old has resulted in misunderstanding and hostilities where love and cooperation once prevailed and the utter ruin of many a taravad". 98

The picture painted is the non-viability of an old system, which was based on mutual love and co-operation each contributing his share to enlarge the family corpus. The natal home and the members of his taravad now became the 'other' while self is identified with wife and children thus signifying the completion of the process of subjectification. This newly shifted affection is seen as natural and thereby legitimised. Another rift in this fabric according to Thampan was the

"... absolute and autocratic powers of the karanavan recognised and enforced by the courts ... which were being grossly misused to his own self aggrandisement ... (while the) anandiravan-s find themselves powerless, pitted against the entire resources of the Taravad, to prevent the malversation of the family properties. It is very difficult and costly, nay impossible to bring the karanavan to account or to see to remove him through the help of the courts. Hundreds of taravad that were once in affluent circumstances, have consequently only a shredded existence now". 99

The anantaravan-s was pictured as helpless on the onslaught of the powerful karanavan-s 100 who misused their property for the benefit of their wife and children.

98 Ibid., para 2, p. 8. Thus the growth of a different outlook and the emergence of the individual who looks at his gains and not at the taravad in its entirety, a result of the new ideals that had come up in the colonial society is being held responsible for the unworkability of the marumakkattayam system.
99 Ibid.,
100 Thus the image of the powerful, autocratic karanavan whose primary concern is for his wife and children rather than the inmates of the taravad is reinforced in the writings of the period. The Memorandum
While looking after the interest of wife and children has been put as perfectly natural but when the karana~van~ does it, it is at the expense of the anantaravan-s, and has to be set right. Therefore bills like these seek to codify certain customs that have already the force of law, aims only at introducing such new provisions that are necessary to purge the taravad of its evils.

Bill defines marumakkattayam as the system of inheritance in which descent is traced in the female line, while the taravad " means and includes all members of a joint family with community of property governed by the marumakkathayam law of inheritance. The reference points for defining the taravad are the community of property, the joint family and marumakkattayam law. This bill seeks to regulate the management of the community of property that the members of the joint family share.

In the case of the karana~van-ship of the taravad the courts ruled that the females of the taravad could not be karana~van-s ordinarily except in the case of the kovilakam-s. To become the karana~van of the taravad it had to be proved that it was the custom of the family that the female members of that family could become its karana~van. The bill seeks to follow this precedent established by the court. Karana~van was defined as the senior major male member of the taravad. It was only in the absence of such a male member that the female member becomes the karana~van. Only if there was an established family usage could the females become `karana~van-s'. This precedent was followed in the case of the `Tavazhi karana~van' as well. Maintenance included food and clothing, oil, expenses and medical treatment and other expense that came under the

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submitted by the members of the Kalliath taravad cited in P K Joythi, Op. cit., p.120-1 highlights the misdeeds of the karana~van. Also see Malabar Tharavattile Karana~vanmar, T Sankunni, Calicut, 1924.

101 G.O. No. 371-72, Law Legislative, dt. 19.9.1924, Chapter 12(a), p. 3.
102 ibid. Chapter I, 2(b), p. 3.
103 Even the term used in karana~van not `karana~vati’ showing how male oriented the whole legal process had become.
category of menchilavu. Majority of items included were those that a sambandakaran took care of traditionally. It did not include the expense for education, which was one of the major aspirations of the anantaravan. Theoretically, it still had to be met by the taravad karanavan and not by the father.

The bill vested in the karanavan, the right of management and possession on behalf of the taravad all the properties belonging to it and the guardianship of the minors, while in each member of the taravad was vested the proprietary interest in its movable and immovable properties and the enjoyment of its benefit. It laid down guidelines on what all the income of the taravad had to be devoted to. A limit of 75% of the net taravad income was set as the minimum to be devoted for the purpose of maintenance of the taravad and the surplus was to be invested by the karanavan on the behalf of the taravad in the purchase of land, property, stock, debentures or shares or in kuries. The karanavan was to get 5% of the net income besides his maintenance as emoluments every year, which would be considered as his self-earned income. Sale, mortgage, debt, pledge or alienation of taravad property had to be for the taravad necessity and with the written consent of all members who attained majority in the taravad. If a decree was to be binding on the taravad it had to be obtained against the karanavan and all the members of the taravad. While a karar or family arrangement had to have 75% of the major member of all tavazhi and the karanavan to be binding unless it would be shown, that it is prejudicial to the interest of the taravad.

104 It included changes on account of government revenue michavaram rent, another demand to any superior land holder in respect of the properties of the taravad, interest or mortgage and debts binding on the taravad, charges necessary for the management, supervision and maintenance of the properties, building, live stocks and there movable property of the taravad. It also included expenses on court cases necessary to protect interest of the taravad in the civil courts.

105 By now division through family karan-s into tavazhi-s had become common.
Thus the bill visualized the role of a manager for the karanavan who had to maintain an inventory of all movable and immovable properties in the taravad, to keep an account of the income and expenditure of the taravad, which would be available for the major anantaravan-s once a year for inspection. The accounts were to be made available on or before 30th of every Chingam. Karanavan was also recognized as the guardian of the minor members. In case of sale or mortgage for a period exceeding 12 years for kanom land and 1 year for verumpattom lands, written consent of all the major members of the taravad was needed. Karanavan was to be held responsible for any lose or damages occasioned to the taravad due to his negligence or wilful default. The karanavan could delegate his powers to anyone with the consent of the majority of the members of the taravad.

The rights of anantaravan were also defined. They had the right to maintenance irrespective of the fact they lived inside or outside the taravad, as long as it was not for any improper purpose. What all was included in 'proper purpose' was left to the interpretation of the courts. This is dealt with in detail in the next chapter. A debt contracted by an anantaravan was not binding on the taravad or its properties, nor maintenance due to him or her from the taravad could be attached or sold in execution of a decree obtained against the anantaravan. Their right to succeed to the karanavan-ship of the taravad was acknowledged. They could move the court to give direction to karanavan-s on particular issues, seek the removal of karanavan if he was physically or mentally incapable of managing or mismanaged the taravad affairs. Both karanavan and anantaravan could give up their karanavan-ship and their right and interest in the taravad by a registered deed of renunciation.

The opinion of the government was that though the
"Bill is an attempt at codifying a customary law of Malabar as regards the position status and powers of the karana van in his dealing with the taravad property. But in doing so the bill goes very much further than the customary law... in making the karana van really a trustee for the taravad. The bill if enacted will really petrify the system, which according to enlightened opinion in Malabar has out-grown its usefulness except for the intervention of the British courts. The natural development of the taravad system could have been to give power to anandaravan to enforce the division of the family property at least into tavazhi especially if a large number of adult male and adult female of the tavazhi desired such as division."\(^{106}\)

The government felt that it was a question for the people of Malabar to settle among themselves and one that they couldn't object being introduced in the legislative council. It was decided not to invite the opinion of the High Court or of any such body in the beginning. But on collecting the opinion of both officials and non-officials on the bill it was seen that the majority of them including the high court were against the principles of the bill. Government decided that its attitude to the bill would be defined more specifically at the time of the 2\(^{nd}\) reading of the bill.\(^{107}\) Subsequently however the bill was not passed.

The Mappilla Marumakkattayam Act (1928)

On 1927 October 20\(^{th}\) a bill to amend the Malabar Wills Act was introduced by in the legislative council by Muhammad Schamnad Sahib Bahadur and was seconded by Mr. K R Karant.\(^{108}\) While introducing the bill, Sahib Bhadur said that the bill affects a small section of Mappillas in North Malabar and a portion in the Kasargod taluk in South Canara who follow the marumakkattayam law. The Mappilla-s took advantage of the provisions of the Malabar Will Act passed which was applicable to the

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\(^{106}\) G O No. 2654, Law General, dt. 30.10.1922.

\(^{107}\) G O No. 2650, Law General, dt. 20.9.1924.

marumakkattayee-s domiciled in Madras Presidency to will their self-earned income. Later the Malabar Mappila Succession Act of 1918 was passed by which Mohammedan Law of inheritance was made applicable to the in-testate self-acquired properties of mapplila-s following marumakkattayam law. But according to Mohammedan Law, Only 1/3rd of the estate could be disposed by will after funeral expenses and debts were defrayed. Anything in excess of 1/3rd was to be invalid unless other heirs consent to it. The amendment, which Mahmud Sahib Bahadur proposed to introduce, was that the testamentary dispositions were to be governed by Mohammedan Law of the Mappila succession Act of 1918 and not by the Malabar Wills Act of 1898. The Bill was referred to a select Committee consisting of the Honorable Law Member, the Advocate General, Diwan Bahadur M Krishnan Nayar, K Madhavan Nayar, J A Saldanha, K R Karant, Uppi Sahib, T M Moidvi Sahib and M S S Bahadur. Later on K Madhavan Nayar was excluded from the committee. The Select Committee after making the necessary changes reported that the bill was in accordance with the wishes of the people of the community and recommended its passage. The Report of the Select Committee was presented to the Legislative Council on 27th March and the Council passed the bill on the same day. It received the assent the Governor General on 30th May 1928. These two acts enabled the mapplila-s of Malabar who were following the Marumakkattayam Law of inheritance to change to the patrilineal Mohammedan law thereby bringing their practices in conformity with Muslims elsewhere.

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109 G O No. 180, Law Legislative, dt. 16-3-1928, p. 2.
112 G O No. 190, Law Legislative, dt. 2-4-1928.
The *Marumakkattayam* and *Aliyasanthana* Branch Partition Bill

In 1929 K R Karant introduced the *Marumakkattayam* and *Aliyasanthana* Branch Partition bill in the legislative council on September 27th and Madhavan Nair seconded it. In the statement of reasons and objects of the bill Karant says the *nair taravad* system was one suited to the military requirements of medieval times. But they have outlived their purpose. With the progress of modern civilization and modern ideas, the joint family system even under the *mitakshara* has largely broken up and it is but natural that the systems in question have to modify themselves to suit modern needs and requirements.

The dissensions among the members of the *taravad* whose membership at times went up to 200 members called for "immediate solution at the hands of the legislature". According to Karant,

"relief has no doubt been given by the courts, by granting decrees for maintenance. Even this relief is precarious and dependent on conditions, which vary with the vagaries of case law. Decrees for maintenance obtained after great difficulty and expense are seldom realized. The manager misappropriates the large income and dies, and leaves a legacy of such decrees to his successor. The current income is attached in execution of such decrees and the new manager is severely handicapped... The only circumstances under which property can be alienated are for family necessity. But there is constant dread of litigation at the instance of the junior members."  

The bill therefore intended to improve the state of affairs "with minimum alteration of the existing law" by introducing branch partition as was introduced in Cochin and Travancore in such a way: "that the share to which a branch shall be entitled shall be so much out of the properties of the *taravad* as would fall to the shares of the members of that branch if a division per capita were made among all the living members of the *taravad*."

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113 This bill seems to have been drafted by 1927 but was not introduced then. *Legislative Council Proceedings Debate*. 4th Session of the 3rd Legislative Council, vol. I, Nos. 1-5 p. 368.
114 G O No. 3683, Law General, dt. 22-11-1927, p. 6.
115 ibid., p. 7.
116 ibid., Chapter 3, Clause 4 of the bill, p. 3.
Meanwhile Diwan M Krishan Nayar passed a resolution for the appointment of a committee to make enquires and report about the expediency of passing such an act. Copies of the bill were sent out to collect the opinions of the people. The bill was sent to 45 people in the district of Malabar and 9 in Canara district, out of the 13 replies received, 9 in the Malabar favoured compulsory partition that Karant's bill proposed to bring about. In the case of South Canara, it was seen that the sentiments of the majority of the people were against the bill. At about the same time Mr. K Madhavan Nair too introduced a Marumakkattayam bill. When the government collected opinions from the people of Malabar and Canara, out of replies received 26 from Malabar and 3 from Canara favoured Madhavan Nair’s bill. Out of this 6 felt that if the Marumakkatayam Bill of Madhavan Nair were passed, Karant’s bill would be superfluous. Provision was made to declare certain taravad-s as impartible if 2/3rd of the members agreed to the same and also cancellation of impartibility if 2/3rd of the members later desired so. The features of Madhavan Nair’s bill were that though it allowed tavazhi partition, it did not allow partition among the siblings. Neither was

117 Ibid, vol LIII No. 1-5, appendix, pp 177-180. The Collector of Malabar H R Pate was against the bill. According to K C Sreeveerarayan, the Third Raja of Calicut, the bill does not take into account the widely different social customs and usages of the people following marumakkattayam. This bill is primarily intended for the nair-s while the varier-s, nedungadie-s and other samanta-s cannot be brought under this bill. Neither could the ruling families be brought under this bill as the women of these families had sambandham relations with the nambuthiri men. He also fears that this would adversely affect the landed aristocracy and not the middle class as they were getting divided without the provisions of this act. His view is that the need of the hour is legislative provision that will ensure honest and efficient management of the taravad. G O No. 271, Law General, dt. 24-1-1933.

118 Proceedings of a meeting of Bunt-s, Billavar-s, Mugaveere-s etc held at Mangalore on Sept. 17,1929 unanimously opposed, “principles underlying the bill, condemns the action of Mr. Karant in seeking to introduce a bill for partition among aliyanasanthana families regarding which he has not obtained the opinion of the affected communities in the district ... as it appears that he is trying to force his bill on unwilling people, the Madras Legislative Council be requested not to take the bill into consideration at all”. G O No. 271, Law General, dt. 24-1-1933, p.11. Meetings held at Udipi on May11, 1923 at Puttur on 19th Sept 1929 also saw similar opinions being recorded. Ibid., p.12. Though the majority of the members of the Bar Association Mangalore were in favour of the bill, the members governed by the aliyanasanthana law were against it. According to C G Herbert, the collector of South Canara, this could also be due to the fact that the mover does not belong to any one of these communities but is a Brahmin whose personal law is mitakshara.” They also felt that the advantages of the bill out weighed the disadvantages as partition might result in insufficient shares for the maintenance of the people concerned. While the people who opposed the bill in Malabar opined that Karant being a resident of Mangalore did not know the customs of Malabar. G O No. 271, Law General, dt. 24-1-1933.

partition to be affected after each generation. If the ancestress were alive then their consent was necessary for partition (Chapter 7 section 39-49). The property thus partitioned was to be managed by the eldest male member and in the absence of such members it would devolve on eldest female member of the taravad. The criticism of this was that it would lead to the creation of many karanavan-s in the place of one. The management of the taravad was regulated with the karanavan maintaining accounts (Chapter 6 section 23-38). In the case of inheritance to intestate property (Chapter 4, section 15-20) it was to be divided between the wife and children and the tavazhi. Even the non-nair husbands of the nair women were brought under the purview of this act. In case of the intestacy of the women the self-acquired property would devolve to her tavazhi through her children. In absence of the children it would devolve equally on the husband and the tavazhi (Chapter 4, section 15-20). In the case of property that was willed under the Malabar Wills Act the benefactor refused to accept it or was not alive, then the properties were to devolve on the widow or the eldest son of the person (Section 21-22). Here we see that, the female issues being ignored and the tendency to follow the patrilineal Hindu law depriving the women of her right.

Thus the bill according to the Malayala Manorama editorial was an amalgamation of the Travancore Regulation I of 1088 and the bill introduced by C Raman Tampi in 1095 but falls short of when compared to the bills of Cochin and Travancore. It was felt that the need of the hour was individual partition, but it was felt that it would lead to the creation of more karanavan-s and thereby would help increase the number of court cases. However neither of the two bills was proceeded with.

\[120\] Malayala Manorama, October 28, 1929.
The Mappilla Marumakkattayam Act (1930)

The Mappilla Marumakkattayam Act or Madras Act No. XVII of 1930 was the last major act that was passed among the mappilla-s who followed marumakkattayam in the colonial period. It was passed on the similar lines as the previous act. The karanavan was to maintain a true and correct inventory of all the movable and immovable properties of the taravad and the account of the taravad, which could be inspected by the major anantaravan-s throughout the month of Vrischikam. If inventory or accounts were not made available for inspection, the anantaravan could apply to the court of the District Munsif to produce the same before the court and persistent default could lead to the karanavan being removed from the post. The surplus of the taravad income was to be used by the karanavan for the purchase of immovable property for the taravad. In case of sale or mortgage or lease of taravad property for more than 12 years the written consent of the majority of the major anantaravan were needed. And for transaction less than 12 years to be valid, it had to be for the necessity and benefit of the taravad. The anantaravan could institute a civil suit against the karanavan for his removal for malfeasance, breach of trust, neglect of duties and physical or mental infirmity. The clauses dealing with tavazhi partition were similar to the 1933 act. The partition was to be per-capita and not per-stripes. There was also provision for the registration of taravad-s. In case of a minor, he was to be represented by the mother in whose absence, it was the guardian under the Islamic law. But in case of the partition, where the taravad houses or other site or sites were necessary for the member of the taravad, then these would be kept undivided. The Arakkal family and the Sthanam properties of Ali Raja were excluded from the purview of the law. The mappilla community in their transition to patriliny faced much lesser extent of resistance because they had the Islamic law to fall back on.
The Madras Marumakkattayam Act (1933)

Meanwhile two other bills were introduced into the council in 1931. They were the Marumakkattayam Bill (Bill No. 13 of 1931) of V P Narayanan Nambyar and the Malabar Marriage Bill (Bill No. 20 of 1931) of R M Palat. The aim of the Bill No. 20 was to enable the marumakkattayee community to claim for partition as in the case of Travancore and Cochin. Both these bills were similar in contents except that Palat’s bill was more moderate / conservative than the other. The bill was applicable to all non-Brahmin Hindus of the Madras presidency except people who had come to Malabar to stay, Sthani-s and their taravad and the Mallikannna holders. It also did not include in its purview the non-nair husbands of the nair women. Moving the bill in the council on 2nd Nov. 1931 R M Palat defined the marumakkattayam system as a

"... system of law by which right to property are governed by and solely by relationship traced through females. The essence of inheritance in the system is descent from a female as distinct from descent from the males." 121

The marumakkattayam family he felt no longer existed in the original way as the family more often consists of a father or husband, wife and children, living separately from the taravad. The karanavan too lived with his wife and children away from the taravad. The anantaravan brought in their wife and children to the taravad. Moreover the taravad that brought together members who were related distantly was a site of litigations and quarrels and reforms were long due in this system. He made provision for tavazhi partition because Mr. T L Strange in his book Hindu Law believes that tavazhi partition was the original basis of partition. He concedes the fact that the demand in Malabar was for individual partition but he feels that in following the precedent set by the laws of the native states of Cochin and Travancore it would be easy to get such a provision which

would placate opinion among the elders and proceed along the line of least resistance than a bill for individual partition. He exempted the Malikkana-holders and Sthani-s as he felt that these ladies still followed the practice of being married to nambutiri-s and higher caste who were visiting husbands and

- that they have not yet begun to live with or visit their husbands home. Therefore, since the idea of the paternal family is still undeveloped among them, there is neither so much discontent nor demand for reform among them as among the general body of the followers of marumakkattayam law”.

In case of properties the karanavan could alienate lands for taravad needs only with the consent of the majority of the members of the taravad, should keep account of income and expenditure which could be examined by the once a year the failure of which could become a reason for his removal could renounced his right to karanavan-ship. The anantaravan-s were to get their share of the taravad as maintenance irrespective of the fact that they lived inside or outside the taravad (Chapter 3) Tavazhi partition was allowed after the death of the common ancestress in case she was alive her consent was needed except in the case of an apostasy. A taravad could declare itself as impartible if the majority of its member so desired by giving it in writing to the collector within 6 months of the law being passed. To revoke the same 2/3rd majority was needed. But if a woman of an impartible taravad was to get married to another marumakkattayee man, she was given the right to demand and get share of her property from the taravad.

The bill was circulated among classes affected by the bill and out of 185 people to whom the bill was sent, 114 responded of whom according to R M Palat only 17 opposed the bill. Ten of these people were from South Canara and of the remaining 7,
two were Tamil Brahmins who were not affected by the bill, one a mopalah following marumakkattayam and the other was the collector of Malabar, who was an Englishman. Of the 3 Malayali-s who followed marumakkattayam whose opinions the officials classified as objection against the bill, R M Palat reduces it to one. The bill was then referred to a Select Committee consisting of the following member, Diwan Bahadur Sir, M Krishnan Nayar, Diwan Bahadur B Muniswami Nayadu, Bahadur Sir Alladi Krishana Swami Aiyar, T Sundara Rao Nayadu, K P Raman Menon, M A Muthaiah Chettiyar, P Subbarayan, A B Shetty, V C Subrahmaniya Bhatt, Ranganatha Mudaliyar, Madhusoodhana Thangal, C Krishnan, M S Sreshta, V P Narayanan Nambiyar, P Appu Nayar, Khan Bahadur, T M Moidu Sahib Bahadur and R M Palat. In the opinions that came, we see that the majority of the people criticized the exclusion of Sthani-s as the junior members of that taravad-s too were clamouring of the same reforms that were being demanded by the other nair junior members. But Palat's defence was that if the law would be made applicable to them the women would be left helpless as their husbands who were nambutiri-s do not consider the marriage as valid marriage and their brothers too would leave them for their wives and children.

According to him the bill allows the women

"to use their money with greater freedom which they cannot do so as long as the karanaavar is handling it. My bill confers greater rights on the women. It doesn't deprive them of any of the existing rights on the other hand. It gives them further right to handle their money. In the bill provision if women has no mother or ascendant living, she has got a right to take her property with her and come out of the family, which she cannot do at present."

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124 Ibid., pp. 189-200.
125 Ibid., pp. 215-16.
But from the opinion collected, it was seen that majority of them favoured bill No. 13 of M P Narayana Menon. Though both these bills were similar, M P Narayana Menon’s bill did not exclude any section from the purview of the bill. But in the act a schedule of 17 Kovilakam-s was drawn up, who were to be excluded from the bill. It aimed at granting legal right to sambandham, divorce and establishing compulsory monogamy and partition of the marumakkattayam taravad into tavazhi-s. Though the initial proposal was to include in its scope the aiyasanthana people, when the opinions were called forth, they said though they wanted reforms many of them proposed the introduction of a separate bill. The act of 1933 thus excluded them from its purview. The aim of the act was stated as.

"to define and amend in certain respects the law relating to marriage, guardianship, in-testate succession, family management and partition applicable to persons governed by the marumakkattayam law of inheritance."

Taravad was defined as "the group of persons forming a joint family with community of property governed by the Marumakkattayam law of inheritance" and the tavazhi of the female as the group of persons consisting of that female, her children and all her descendants in the female line while the tavazhi of a male meant the tavazhi of his mother.

It legalized marriage openly solemnized in accordance with the customary ceremonies between persons whom according to the degree of consanguinity, the union was not prohibited. In case of minors, guardian’s consent was need but the marriage

126 This could be an indication of the fact that by now most wanted a change for people following the custom of marumakkattayam irrespective of caste differences. Moreover the sambandham relationship that the women of the royal family had with the nambuttin-s did not find favour with the reform minded educated section of the society. They wanted sambandham-s to take place within the community.

127 The Marumakkattayam Bills, Opinions received on the bills, Govt. of Madras, 1932, pp. 276-85.


129 Ibid., p. 367 Here again the definition of taravad as a joint family governed by marumakkattayam system is cemented.
could not be deemed invalid due to this lack. Polygamous marriage, even if sanctioned by personal law was deemed to be void. Divorce could be obtained through a registered instrument of dissolution. A petition was to be presented at the Court of the District Munsif and the copy of the petition was to be served at the expenses of the petitioner on the respondent. No court would entertain a suit for restitution of conjugal right between the parties to a valid marriage. The husband or the father was to maintain the wife and children except where the wife refused to live with him without a just cause. He was to be their guardian but this did not extend to the right and interest of the wife or children in respect of their taravad or tavazhi property. In the case of the father's death or divorce the mother was to be the guardian of the minor children. In the case of intestate property, the wife, the children and mother each of them were entitled to an equal share. In the case of the children of a pre-deceased son, they were not liable to any share in the property. The next in line of inheritance after the wife, children and mother in case of a male intestacy was the father, the tavazhi of his maternal grandmother, the tavazhi of his maternal grand mother or on the tavazhi of a more remote female ascendant in the female line, the nearer excluding the more remote. In the case of a female, it would first devolve on her children or lineal descendants in the female line through deceased daughters and then to her husband or the tavazhi of her maternal grandmother. Rest of the devolution was on the same lines as of the males. In the case of non-nair husbands who contracted marriage with marumakkattayee females' which was valid before or after the act came into force the half of the intestate self-acquired property of the person would devolve on the wife and children and the other half to the heirs according to their personal law. In the absence of one party, the property would devolve wholly to the other party after deducting reasonable funeral expenses.
The management of the taravad vested with the karanavan who had to keep true and correct accounts of the income and expenditure of the taravad. These accounts could be inspected by the major anantaravan-s yearly in the month of Kanni. In case of immovable properties the karanavan except for the taravad necessity and with the written consent of the majority members in the taravad could not sell or mortgage or lease the family property for a period exceeding 12 years. In case the period was for less than 12 years it had be for the benefit and necessity of the taravad. The debt contracted was binding on the taravad only if it was incurred for the taravad necessity. The anantaravan-s could claim maintenance consistent with income and the circumstance of the taravad whether living in the taravad house or not. The karanavan could by a registered document give up his rights as karanavan.

Tavazhi partition was allowed provided that the majority of its members who attained majority represented tavazhi. For the purpose of this chapter the tavazhi could also be as small as consisting of a male member of a taravad or a female member here of without any living child or descendant in the female line, if the common ancestress of the taravad was alive, then her consent was needed for partition [Chapter VI sections 38 (I) and (2)]. In case a member changes his religion he could claim or be compelled by other members of the taravad to separate from the taravad with his share of the property. The division in this case was to be per-capita. The option of registering the taravad as impartible was also open to the taravads if the majority of the major members so desired. This could be revoked any time by presenting a petition to the collector signed by 2/3rd majority of the members.

130 Thus the chief anantaravan lost his elevated status by this act. This loss was a gain to the other members of the taravad. Thus all the anantaravan-s now had equal status as far as the taravad transactions were concerned. The next chapter deals in detail with this.
This act thus paved way for the dissolution of the nair taravad by not only regulating its marriage customs and inheritance practice but also by allowing tavazhi partition. In the case of marriage, it legalised monogamous sambandham-s that were held according to customary practices. Father was recognised as the guardian and was entrusted the responsibility of maintaining the wife and children. Another long-standing demand of the community regarding intestate property was legislated by bringing the non-nair husbands of the nair women under the purview of the act. Karanavan's power was regulated, as he was now held accountable to the family members. This act took the first step towards the eventual dissolution of the taravad by allowing tavazhi partition.

On the formation of Kerala after the re-organisation of states, the Travancore Nayar Regulation was extended to the whole state by the Kerala Nayar Act of 1958, which allowed individual partition.

Women and the Process of Reform

In the concluding section of this chapter let us now look into the role of women in this process of reform. The fact that we hardly hear her voice shows that the women were marginalised. It is the nair males that articulate for the women. The agenda as well as action on their behalf was done by the men right through.131 The MMCR talks of the invisibility of the nair women. The commission records its inability to ascertain the views of women as in North Malabar.

"where the nair women are notably conservative and lived in privacy in their homes, - a privacy akin to close seclusion which is observed by namboothiri ladies. Though women in South Malabar are allowed greater

131 Saraladevi Choudhrani the founder of Bharat Stree Maharnandal talked of this 1910, "They are the so-called social reformers. They advertise themselves as champions of the weaker sex; equal opportunities for women, female education and female emancipation are some of their pet subjects .... But woe to women if they venture to act for themselves." Cited in Geraldin Forbes, "Women’s Movements in India: Traditional Symbols and New Roles", in (ed.) M S A Rao, Social Movements in Indian Studies in Peasants, Tribals and Women’s Movements. Manohar, New Delhi, 2000, p. 364.
freedom, and their intercourse with men of respectability is not unduly restricted, yet I understand that it was not in their power to express their opinions otherwise than through their karana­van­s and husbands and it was difficult to ascertain the genuine feeling.\(^{132}\)

The commission concluded that the "ladies follow more or less the lead of their male relatives."\(^{133}\)

The Travancore Marumakkattayam Committee too made an attempt to interview the women but the Tahsildar of Trivandrum reported that out of 52 women selected only 11 were willing to be interviewed and that too at their homes. As this was not possible, the committee observed that,

"the fact is that Nair ladies are generally under the control of their male relations and the evidence of the males may be taken as intended to protect the best interests of the females also."\(^{134}\) (emphasis added)

Chandu Nambyiar, a reformer in Malabar wrote thus in 1932 on the role played by the nair women

"they have never come in the way of attempts to build a prosperous society. Far from it, it is a matter of pride that they have been a source of support... help in the achievement of every kind of reform desired by us."\(^{135}\)

Chandu Nambyiar further wrote

"a role that they should play in relation to men (ie.) as a source of support and as a aid in carrying out the responsibilities of life, it is a shame that we have not been able to achieve for them their rightful place."\(^{136}\)

\(^{132}\) MMCR, p. 2.

\(^{133}\) Ibid., p. 3. This could be because of the fact that the nair women may not have been visible outside the taravad. This is cemented by the fact that the commission towards the end got 4 petitions signed by 245 ladies in favour of the legislation and 387 against it. This could be taken as a reflection of the state of women in the taravad-s where they were under the hegemony of the male members. The commission also received a representation from the Travancore Malayali Association. According to G Arumina this gendered difference between the male and female within the taravad was a result of the re-defining of the taravad by the colonial law courts. G Arumina, ‘Multiple meanings: Changing conceptions of matrilineal kinship in 19th and 20th century Malabar”, Op. cit., p. 298.


\(^{136}\) Ibid., p. 182.
The task at hand for the men seems to be along with bringing the nair women out of the taravad into the confines of the nuclear family to create a 'modern women' who could be a partner for the new 'modern man' in attire, habits and thoughts. Thus we see discussions on the changes that should be effected in the dress code of Malayali ladies. A correspondence in the Madras Mail described the importance of the exchange of visits by European and the native ladies. The newspapers reported that before anything like this could be desired, changes should be affected in the dress of the Malayali ladies and unnecessary religious observances should be abandoned. This could be attributed to the desire of men, especially those in the government services, wanting their women or wives to be able to mingle with the European ladies in the circle they move about.

Geraldine Forbes feels that this could be due to the fact that reform minded Indian men wanted to develop a progressive society so that Indian society would not be characterised as decadent and backward. The agenda was to effect changes in the attire of women so that they could be brought out from the seclusion of their homes. In the case of the nair women, the upper part had to be covered for them to be dressed in the correct way. The second question of 'unnecessary scruples' included the question of pollution. The emphasis here was to tailor make the role of woman according to the needs of the emerging self of the man. The roles of a good wife and mother were thus emphasised. For this education was essential and it led to the exhortation to the

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137 One of the reasons stated by Chandu Menon for writing 'Indulekha' was to, "Illustrate to my malayalee brethren the position, power and influence that our nair women who are noted for their natural intelligence and beauty could attain in society, if they are given a good education." This again can be taken to be a pointer towards how men are the ones who uphold the mirror for the women to see their picture. The burden of reform was thus a man's to shoulder.

138 Native Newspaper Reports (NNR), Kerala Mitram, Apr 1887, Kerala Patrika, Jul 1887, Aug 1887, Sep 1887.

Malayali-s to send their girls to public schools. Thus the period saw an attempt to define the public space for men and the private or domestic space for the women.

By the 20th century, the newspapers and magazines we see that the ideal of the nuclear family was internalised and the effort was to make the women shoulder the responsibility of managing the house. The picture of a responsible male who would take care of his wife and children and a close knit nuclear family where the affections of the father or the husband was but ‘naturally’ to the wife and children, was the ideal alternative of the taravad where the distant kin lived not very harmoniously. In this situation, the women had to take care of the household affairs. In the joint family taravad the attendants mostly did the work but with the dismemberment of the taravad the scene was different. Article from the women’s weekly ‘Lakshmibhai’ was an example of this. The writer P M Kamalammal acknowledges the fact that discussions on the topic will go on till the ‘goal’ is reached. The goal here was the final emergence of the nuclear family. But once that goal is achieved, it becomes imperative that the women take care the household and this is portrayed as ‘streedharmam’ in the article.

"In all races women are responsible for running the household... But for this a women should be educated and knowledgeable in certain fields like cooking, taking care of the husband, children and tending to the sick." The article vests in the women the entire responsibility of the house. It talks about the pitfalls of employing the servants who would be careless thereby ‘squandering away the hard earned income of the husband’. This is shown as a ‘great sin’. It has to be

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140 It highlighted the advantage of female education. Malayala Manorama. The no. of girls educated in Malabar in the year 1872-73 was 1,495. The next year it was 1,969. Madras Journal of Education, May 1875, para 25, p 224. By 1928-29 it became 105,077 out of a total of 313,636 students. In elementary school level there were 4,978 girls and at secondary school it was 17,18. The number of women working as teachers was 1,144 out of a total of 12,973 teachers. Report of the Malabar Education Council for the year 1928-29. cited in Malayala Manorama, March 4, 1930.


142 Once the ideal of the nuclear family was accepted and the path of reform almost set into a groove we start seeing women writings on this. In this case we can see that the author has internalised the reform ideology of the nuclear family.

remembered that the family had to live within the salary that was earned out of the jobs of the husband so the women had to practise thrift. It was when the earnings from the job became insufficient that the members often demanded a share from the taravad.

The need for reform was argued out as a moral issue where the woman needs the law for being guided into the path of virtue. The fact that the nair family structure did not fall into the generally accepted norms of family life elsewhere and their customs being the butt of ridicule is what they couldn’t stomach. Thus the question of “bequeathing of self-acquired property to wife and children was expressed as a concern for the morality of the nair woman”. Thus morality came to dominate an issue, which was materialistic in nature.

Summary

The images constructed through discursive practices that were internalised by the educated nair-s coupled with the changes in the socio-economic conditions and the pressures of the money market and commercialisation were the reasons for the need felt for reforms in the customs and practices of the community. As seen in the chapter, the legislative attempts tried to change the perceived images that were internalised by the nair-s. Partition was seen as the remedy for removing the laziness of the members of the taravad. It was felt that once the security blanket of the taravad was removed they would realise the need for hard work, thereby improving the situation of the community as a whole. The devolution of the intestate property to the wife and children and not to the taravad was seen as an incentive for the men. Most important of all, was the acceptance of sambandham as legal marriage for the nair-s. The discussions and debates among

the community that was reflected through the newspapers, debates and opinions of the community collected by the legislative assembly show the changes that the nair-s aspired for during this period. From being one of the foremost communities in Kerala during the beginning of the colonial period, we see that, by end of this period they had to jostle for government jobs and face stiff competition from the other castes. Thus the colonial period saw the nair-s trying to change their family form and system of inheritance to one they felt would be more suited to the changed socio-economic conditions. However, this researcher wishes to put forth that the disintegration of the taravad was causally linked more to the economic than to the social reasons. It was the rise of money, market and non-local deployment of labour under colonial economy that played a prime role for this.

In defining the taravad the British administrators were influenced by contemporary judicial interpretation. Both the legislative and the judicial streams acted in tandem but it is for the sake of convenience and clarity that the legislative developments and judicial interpretations have been dealt with separately. The judicial aspects covered in the next chapter will serve to explain certain points of this chapter further.