

MARUMAKKATHAYAM SYSTEM

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Abstract

The maternal system of kinship as well as rights to property are traced through females and not through males. *Marumakkathayam* literally means inheritance through sister's children as opposed to sons and daughters. How and when the system of inheritance in the female line came into existence is a matter of conjecture. "*Makkal* and *MarumakkalVazhy*", a dual system of inheritance. The double system is clearly an engraftment of the patriarchal system on the matriarchal. Strictly, *Marumakkathayam* system was adopted by the Nairs and the other castes had adopted it by long contact and residence among the Nairs. The Tarawad is a *Marumakkathayam* family consisting of all the descendants in the female line of one common female ancestor. The Nair regulation, as well as the Malabar Marriage Act defines a Tarawad as a joint family with community of property, governed by the *Marumakkathayam* law of inheritance. "Karanavan means the senior male member of the Tarwad on whom the headship of the Tarwad, the right of management of the eldestmale, who is called the Karanavan". In its simplest form, a family would consist of a mother and her children living together with their maternal uncle, that is the mother's brother as *Karanavan*. He looks after the concerns of the family, and represents it to the world; but as regards substantial proprietorship in the corpus of *Tarawad* property, he has no greater interest in the joint property than any of his Seshakars. In the absence of male members, the right to management passes to the senior female who can exercise all the powers vested by law in the Karanavan. As the head of the family the *Karnavan* manages the *Tarawad* affairs, meets its expenditure and distributes its income to the various members of the family. But as the *Karnavan* is the "head and mouth piece" of the *Tarawad*, the *Karnavan* is the proper person to deal with *Tarawad* property. There are at the present day two great factors which are sapping the *Marumakkathayam* system and gradually disintegrating it. *Marumakkathayam* of the Vellalars tied them to the system of the Nairs, wherein it was considered sacrosanct. Conservative pattern of the system was found in the Nair community. The Nairs of Travancore are said to be the earliest inhabitants and one of the leading communities of the caste – Hindus. In 1901, they were about 5,20,941, constituting 17.65 percent of the total population of the State. To maintain and preserved the Nair Tarawad in fact, two or more members of the same family had only one woman as their wife, which ultimately resulted in polygamy and polyandry. The nineteenth century witnessed a social awakening of far reaching importance. The spread of western education and rational thinking, brought about radical changes in the existing social practices and pattern of life. These Nairs, who came under the spell of western education and men of higher thinking, rational thought and radical social change, clamored for abolishing a number of such evil customs that affected the Nair society. Western education helped Indians evaluate their age old traditions on moral grounds. Some of the Missionaries even attacked and criticized some of the socio – religious practices that prevailed in Travancore. The agitation in different parts of Nanchilnad for the introduction of revised

comprehensive bill led to the appointment of Raja Rajavarma committee. Popularly known as the Vellala Committee, on 4 February 1921, it prepared the ground for the dissolution of *Marumakkathayam*.

Introduction

The system of law by which succession to property is traced through females is commonly known as the *Marumakkathayam* system of inheritance. The maternal system of kinship as well as rights to property are traced through females and not through males. *Marumakkathayam* literally means inheritance through sister's children as opposed to sons and daughters. How and when the system of inheritance in the female line came into existence is a matter of conjecture. "*Makkal* and *Marumakkal Vazhy*", a dual system of inheritance. The double system is clearly an engraftment of the patriarchal system on the matriarchal. Strictly, *Marumakkathayam* system was adopted by the Nairs and the other castes had adopted it by long contact and residence among the Nairs. The Mappilahs and Christians who follow the system were converts from the people who follow the *Marumakkathayam* system.

The *Tarawad* is a *Marumakkathayam* family consisting of all the descendants in the female line of one common female ancestor. The Nair regulation, as well as the Malabar Marriage Act defines a *Tarawad* as a joint family with community of property, governed by the *Marumakkathayam* law of inheritance. K. Padbhanabha Menon in his able memorandum attached to the *Marumakkathayam* Committee's Report speaks of a *Marumakkathayam* family "as a *Tarwad* and consists of a group of persons, male and female, all tracing descent from a common ancestress, living under the control and management of the eldest male, who is called the *Karanavan*."

In Bailey's Malayalam Dictionary the word *Karanavan* is interpreted as "father" "maternal uncle," "elder brother," "lord" etc, and it also seems to mean as "senior" as *Anandaravan* denotes "junior." The Nair Regulation defines *Karanavan* thus:

"*Karanavan* means the senior male member of the *Tarwad* on whom the headship of the *Tarwad*, the right of management of the eldest male, who is called the *Karanavan*". In its simplest form, a family would consist of a mother and her children living together with their maternal uncle, that is the mother's brother as *Karanavan*. *Karnavan* had the junior members of the *Tarawad* in his power, and he was not bound to provide for them if they left their *Tarawad* house. The junior members were not entitled to acquire property of their own and of possession of properties thereof, are vested in law, and in the absence of such male member the senior female member. The head and manager of the corporation is the senior male member of *Karnavan* for the time being, and in him is vested the property of the *Tarawad* not however as absolute owner; but as agent or representative of the *Tarawad*.

He looks after the concerns of the family, and represents it to the world; but as regards substantial proprietorship in the corpus of *Tarawad* property, he has no greater interest in the joint property than any of his *Seshakars*.

A learned writer in the Travancore Law Journal describes the *Karnavanas* the “keystone of the Marumakkathayam arch.” His powers are said to be essentially one of management, but he has greater powers than a Hindu manager. Neither is he an agent or principal partner, and the property is vested in the *Karnavan* of the *Tarawad* not as agent but as head and ruler of the *Tarawad*.

In the absence of male members, the right to management passes to the senior female who can exercise all the powers vested by law in the *Karnavan*. The eldest male member of the *Tarawad* is the *Karnavan*, and in him is vested actually (though in theory in the females) all the property, movable or immovable, belonging to the *Tarawad*. One of the most important rights of the *Karnavan* is the right to be in possession of the *Tarawad* property both movables and immovable to the exclusion of all the other members of the *Tarawad*. But if *Tarawad* property is in possession of a branch of *Thavazhi* under a maintenance arrangement, the *Karnavan* cannot arbitrarily evict that branch from the property without making other suitable arrangements for the support of that branch.

As the head of the family the *Karnavan* manages the *Tarawad* affairs, meets its expenditure and distributes its income to the various members of the family. His powers over the *Tarawad* income is almost absolute and he is not legally liable to render accounts to the junior members, though in a suit for removal the *Karnavan* may be called upon to prove how he spent the *Tarawad* income.

Of course, the *Karnavan* has the liberty to distribute the family income as he likes, without being questioned by the junior members, but the distribution must be for *Tarawad* purposes. Here by the *Karnavan*, and failure to obey him would be a ground for withholding maintenance. As the *Anandaravan* is much interested in *Tarawad* property as the *Karnavan*, it is his interest, as well as that of the *Tarawad* as a whole, to see that the *Tarawad* property is duly administered, and conserved for the benefit of the *Tarawad*. But as the *Karnavan* is the “head and mouth piece” of the *Tarawad*, the *Karnavan* is the proper person to deal with *Tarawad* property.

There are at the present day two great factors which are sapping the *Marumakkathayam* system and gradually disintegrating it. A rich *Tarawad* endeavours to remaining *status quo* while the poor becomes poorer still, because of the multiplying mouths it has to feed; and the community, save in a few isolated instances, lags behind where it should advance.

Marumakkathayam of the Vellalars tied them to the system of the Nairs, wherein it was considered sacrosanct. Conservative pattern of the system was found in the Nair community, whereas among the Vellalars it was a unwholesome combination of the two systems. As a working family system the *Marumakkathayam* legalized inheritance rights of daughters, and accepted the law of succession through nephews which was peculiar to Hindu law. The term *Marumakkal* (Nephew) was a combination of two words *Maru* and *Makkal*, *Maru* denotes integrated services rendered by persons who resided with the family of the owner of the property, while *Makkal* refers to the children of the family concerned. The traditional family created a hierarchy called *Tarawad*.

The Nairs of Travancore are said to be the earliest inhabitants and one of the leading communities of the caste – Hindus. In 1901, they were about 5,20,941, constituting 17.65 percent of the total population of the State. In the social hierarchy of the Travancore Society, they were only next to the Brahmins, especially the Namboothiris, an influential community. They turned themselves experts in *Kalaris* and organized offensive and defensive forces known as the Nair brigade which fought against the Portuguese in A.D. 1510 and later against the British. As a privileged class, they adopted a social practice i.e., matrilineal succession of inheritance which is called the *marumakkattayam*.

Added to this was the loose marriage contracts of the Nair women, which were temporary arrangements and did not bind both the parties. It was called *Sambandham*, which was nothing but a sexual association regulated by certain conventions convenient to them. In consequence, divorce was very common among them and very frequent. To maintain and preserve the Nair Tarawad in fact, two or more members of the same family had only one woman as their wife, which ultimately resulted in polygamy and polyandry.

Moreover, the Nair women had no settled form of marriage, and they performed the religious rites without any definite marriage relationship with any married man. This amounted to a kind of moral turpitude practiced under the cloak of social and economic relations, and aimed at preserving the property intact and the supremacy of the *Tarawad* and *Karnavan* and the Janmi. The nineteenth century witnessed a social awakening of far reaching importance. The spread of western education and rational thinking, brought about radical changes in the existing social practices and pattern of life. People began to question the validity of certain traditional customs and practices which were deeply rooted and sustained in their society. These Nairs, who came under the spell of western education and men of higher thinking, rational thought and radical social change, clamored for abolishing a number of such evil customs that affected the Nair society. Western education helped Indians evaluate their age old traditions on moral grounds. Some of the Missionaries even attacked and criticized some of the socio – religious practices that prevailed in Travancore. Coming under the influence of western education, they pleaded for increasing facilities for western education in Travancore.

Highly distressed by these un-social practices, men of social value and rational thinking launched a campaign to educate and mobilize public opinion in favour of undoing this evil practice of the *Marumakkattayam* *Tarawad* system and the attendant evils.

To give wide publicity to these objectives, the *Sabha* brought out in 1886 a vernacular newspaper called '*The Malayali*'. It helped the *Sabha* to become a popular organization. In the initial stages, it focused its attention on the Nair community, especially on the current politico – social problems that plagued Travancore. Then, under its own auspices, a memorial popularly known as the 'Malayali Memorial' was submitted on 11 January 1891 to the then Maharaja Sri Mulam Tirunal (1885–1924). It urged to grant the Travancorians a fair share both in the government and in the higher grade services, besides abolishing the social evils. Thus, the *Malayali Sabha* created a conducive atmosphere for social legislation and change of far reaching consequences.

One such area which it concentrated was the Travancore Will Act. In 1896 at the intervention of P.Thanu Pillai, a bill similar to the Malabar Marriage Bill⁴⁷ was introduced in the Travancore Legislative Council. Although the bill was pushed off from the agenda of the Legislative Council, a piece of legislation. The Travancore will Act of 1899 was passed on 27 May 1899.⁴⁸ It conferred on the *Marumakkattayee* the right to bequeath up to one half of their self acquired property on their wives and children. Thus, it recognized for the first time the right of the children over the property of their fathers in the *Marumakkattayam* communities. As a result of the sharing of properties, disputes between the nephews and children became imminent. In 1909 it was found that there were nearly 300 such civil cases in the various courts of Travancore.

C.K. Krishna Pillai founded '*The Travancore Nair Samajam*' out of the old *Malayali Sabha*. This movement was well received with popular support from the prominent Nair leaders like V. Ramakrishna Pillai, Mannath Padmanabha Pillai and Changanachery K. Paramesvaran Pillai. But in 1905 it was renamed as *Keraleeya Nair Samajam* with the object of reforming the *Marumakkattayam* system, to prevent the mixing of sub-caste and the elimination of unwanted and worthless customs that were prevalent among the Nairs. On 2nd February 1908 to make a detailed study and to report the problems that had emanated from the *Marumakkattayam* system of inheritance. The committee members toured the different parts of the state extensively, made elaborate enquiries by holding discussions and conferences and submitted a detailed report along with a draft bill on 23 December 1910. However, after a lapse of more than twenty – one months, the bill was passed in the Council on 17 October 1912 and became a law since then.⁵³ It defined and clarified the law of marriage, succession and family management of the Nairs, and recognized a public *Sambandham* as a legal marriage.

The Regulation of 1912 served as a catalytic agent and stimulated the Nair community seeking for a reformed regulation. The Nairs of Travancore continued their agitation in a more organized and identified form, focusing their entire attention on the question of individual partition of the *Tarawad*. In October 1914, Mannath Padmanabha Pillai founded the Nair Service Society. Under its umbrella, the agitation for the partition of the *Tarawad* continued within the Council and outside. Sensing the popular acclaim and popularity of the move, the Government granted permission to C. Raman Thampi, a non official member of the Legislative Council to amend the Regulation of 1913 on 7 April 1920. The bill was introduced with the object of revising the Regulation of 1912 in the light of experience gained so far and to meet the growing demand for substantial reforms in the customs and usages prevailing among the Nairs regarding marriage, inheritance and succession; maintenance and guardianship; *Tarawad* management and to make provision for the partition of *Tarawad*.

Accordingly, the bill was introduced in the Council meetings held from 7 to 12 June 1924, and after a series of debates and discussions, it was passed on 11 February 1925 and published in the Gazette dated 21 April 1925 which became the Nair Regulation.

The Nair Regulation of 1925 had a number of outstanding features. For the first time, it granted the right of inheritance to the Non-Nairs marrying Nair women. Till this regulation, the Non-Nair marriages with Nair women were viewed as morganatic marriages. The children could not inherit properties on the Non – Nair

fathers. But this regulation put an end to all these tendencies and customs. By this regulation monogamy was enforced while polygamy was made unlawful. Accordingly, the Act prescribed eighteen years of age for males and sixteen for females for a valid marriage. It prohibited intercaste marriage by the Nair male members. The Regulation of 1925 abolished the matrilineal joint family system and established an individualistic matrilineal system called *makkattayam*.

The new regulation suddenly dismembered many *Tarawads* and thousands of Nairs took the assets of the *Tarawad* and left the joint family. The regulation also witnessed the litigation for the partition of *Tarawad* properties. Many Nairs felt that the right to individual partition of the matrilineal joint family was the only ultimate solution to their problems. It made the younger generation more responsible who in turn became either industrialists or agriculturists. The regulation not only had its impact on Travancore but on the neighbouring states too. It encouraged the Ezhavas and the Vellalas of Travancore and the Nairs of the Cochin State to demand similar legislations. The significant features of the consequence of this legislation is the social change and transformation it brought about in the caste and class structure of Kerala and the demolition of Janmi ownership of landed properties and the ushering in of the patrilineal succession. It gave a fillip to the suppressed communities to forge ahead and recapture their past glories.

With the triumph of *Kothavarma* 1102 -1125 A.D. the founder of the Venad Royal House over Nanchilnad in 1116 A.D. the Nanchilnad Vellalas became the objects of the Royal House of Travancore and began to adopt the *Marumakkathayam* customs. In order to substantiate his supremacy over the place, the Venad ruler persuaded the Vellalas to swear a false declaration at Sriminashi temple in Madurai that they were *Marumakkathayees* like him. The Nanchilnad Vellalas at one stroke of allegiance renounced both the citizenship of Pandya kingdom, and the *Marumakkathayam* law of inheritance. Yet they were related to the right to *Ukantuduma*, *Nankudama*, *Yappiankauntadama* and some other social customs of their ancestors of *Makkathayees*.

Yet the Nanchilnad Vellalas sought to practice the system without according any legal sanction thereof. A widow who had already been married by *Thalikettu* and had since become a widow was remarried by *Sambandam*. The husband arranged *Istadhandam* land (land given as gift) to this son which came to be known as *Puthravakesan* (sons right). The *Marumakkathayam* of inheritance, a mill stone around the neck of the Nanchilnad Vellala community gradually proved to be a disruptive force as it led to fraternal disputes and economic deterioration. Consequently the impact to education and industry became lacking and litigation which arose out of these inconveniences and discomforts told heavily on the material position and the harmonious working of the community. The first signs of disintegration of joint property rights were evident when self acquired property was recognized and later on declared to develop the *Thavazhi*, instead of going to augment the common property of the joint family.⁸¹ The management of the house hold was with the wives, but they showed no interest as they had no right to the property, and consequently, the management of property suffered materially. Kavimoni. S. Desigavinayagam Pillai first discerned the ruinous *Tarawad* system, made irresponsibility, female domination in the house management and all such attendant social evils connected with the *Marumakkattayam*.

Karnavan, testamentary and intestate succession. The agitation in different parts of Nanchilnad for the introduction of revised comprehensive bill led to the appointment of Raja Rajavarma committee. Popularly known as the Vellala Committee, on 4 February 1921, it prepared the ground for the dissolution of *Marumakkathayam*. Towards enacting a comprehensive law the committee was entrusted to formulate definite proposals based on enquiry into the customs relating to divorce, partition, power of *Karnavan* and testamentary and intestate succession among the Nanchilnad Vellalas.

Unfortunately the process the *Marumakkathayam* met with a conspicuous silence of the community. In an abortive attempt, ten *Marumakkathayees* of Vellala community members issued a notice to the Dewan and the Maharaja of the legislative body to change the personal law of the community without their concurrence.

Conclusion

The minute of P.K.Narayana Pillai, suggesting a via – media policy i.e., division of one half of the property on per strips and the rest on per capita was un-acceptable to the committee. Finally the Select Committee accepted the per- capita partition and on 8 December 1924 forwarded its report to the Secretary of the Legislative Council for discussion and passage. In the mean time P.S. Subramaniya Pillai the President of Nanchilnad Vellalas Conference held a meeting at Padmanabhapuram and presented a memorial to the Government on 31st October 1925 for the withdrawal of the Bill in order to enable a non –official to introduce a Bill according to the wishes of the people. On the other hand people of Putheri questioned the authority of the three Nanchilnad Vellala members of the same family, M. Subramoniya Pillai, S. Maruthananyam Pillai and M. Sivathanu Pillai to decide communal customs and demanded per-capita division. However after careful consideration at the last meeting of the council in April 1926, the Nanchilnad Vellala Bill was placed in the council with the underlying principle of granting the right to individual partition, the introduction of *Makkathayam* system and the enforcement of monogamy with a strict regulation of marriage. The Bill was passed by the council and was forwarded to Maharani Sethu Lakshmi the Regent on 14 June 1926, for her assent which she gave on 20 June 1926. One half of the properties was divided through the application of per capita principle among the male children then living of the common ancestress and their sisters.

Reference

1. McLennan's, *Studies in Ancient History*, Madras, 1938.
2. Westmark's, *History of Human Marriage*, Madras, 1943.
3. *Travancore Law Report*.
4. *Travancore Law Journal*.
5. C. Rama Chandra Iyer, *Book on Malabor Law*.
6. Madras Law Journal.
7. *Proceedings of the Travancore Legislative Council, Vol.XIX, Report of NanchilnadVellala Committee*.
8. *Report of the Marumakathayam Committee*.
9. A. SreedharnaMenon, *Cultural Heritage of Kerala, An Introduction*, Cochin, 1978.
10. P.K. Parameswaran Nair, *Nair Service Society, Chairman*, (Malayalam) part I, Chaganachery, 1972.
11. A SreedharaMenon, *Social and Cultural History of Kerala*, New Delhi, 1979.
12. V. NagamAiya, *The Travancore State Manual, Vol-II*, Trivandrum 1906.