

MATRILINY AND THE ABOLITION OF THE JOINT FAMILY IN KERALA

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INTRODUCTION

The Malabar region of Central Kerala was largely matriarchal in nature in the pre-colonial era where women owned and managed their land. They would provide property to male members on a need basis but they retained the control over the property. The economy and culture of Kerala allowed the existence of such a system that was only interrupted by the coming of colonialism. The first part of this paper analyses the nature of marriage in Nayar society, that differed from the rest of the country. The second part of the paper traces the changes in the system that came with the colonial influence to make it the matrilineal system that became the most popularly followed. The third part of this paper chalks out what matrilineal succession entailed and finally, the last part of the paper analyses the impact of the abolition of joint families through the Joint Hindu Family System Abolition Act of 1976. Being from the Nayar community, I have many first-hand examples of the devolution of property pre and post abolition that I have attempted to use in the explanation of matriliney. Though these examples, it is evident that matriliney as an institution continues, though informally, and is etched in the culture of the society.

NATURE OF MARRIAGE

Before going into the Kerala Joint Hindu Family System Abolition Act (1975) and its impact, we need to understand the nature of marriage that existed in Kerala. The meaning of marriage often varies from culture to culture and the Nayar (Nair) society was no exception to this. Most of the available data on the Nayar society comes from South Malabar and Cochin. Nayars lived

in matrilineal joint families where the mainstream idea of an exclusive marriage between a man and a woman was not prevalent. Girls essentially underwent two marriages- one before and after puberty. Before puberty, the tallikettukalyanam ritual was performed and when they underwent sexually maturity, they took ‘lovers’ in sambandham relationships.ⁱ

The tallikettukalyanam ritual was done when the girl was around twelve and the man that was chosen for this purpose was an unmarried boy of thirteen to twenty four years.ⁱⁱ The ceremony ended with the senior-most member of the girl's family cutting a cloth into two pieces symbolising the end of the relationship. The ritual depicted women as the harbingers of prosperity to her taravad through relationships with men of the same caste or of a higher caste.ⁱⁱⁱ The more fluid bonds came in to being when the house was “opened” for sambandham relationships.^{iv} The sambandham relationship was not monogamous but was characterized by the multiplicity of bonds between one woman and many men of her same caste or of a higher caste.^v

The caste consciousness in taking of sambandham partners is an explanation for the necessity of tracing descent through the mother’s side as women had children from different men and the only constant was the mother. So, the sons belonged to her taravad (ancestral house) and lived in her house with the father coming to visit. Nayar boys were often sent off to military camps from the tender age of eight (their main occupation being warfare) and therefore had no time to contribute to the economic status of the family or perform husbandly duties.^{vi} So family and succession was traced through women who managed the taravad as the owners of the property.

Nair women, thus, always had the security of the homes they were born in throughout their lives and were not dependent on their husbands. There was an abundance of sexual freedom as women took multiple husbands in a polyandrous marriage and were free to divorce if the circumstances were such.^{vii} Widowhood was not looked down upon and men and women shared autonomy over their bodies. Marriage was not a “sacred contract” but was a “purely fugitive alliance, terminable at will.”^{viii}

But during the nineteenth century, sambandham relationships became monogamous and permanent. Smaller families became the norm. However many families still continued with the

taliketakalyanam ritual and even in 1960's, a significant proportion of Nayers was still involved in sambandham unions in which husbands did not live with their wives, but only visited them.^{ix}

MATRIARCHY AND THE COLONIAL ERA

While many taravads did not break up until the 1950's, this was well before the Joint Hindu Family System Abolition Act came into being and this can be credited to colonialism and the era of Victorian morality that relegated the practises of Nayers to a realm of uncivilization and immorality.^x The colonial rulers didn't understand the diversity within the community in Kerala and drew upon the Brahmanical Namboodiri practises to create a law for all of Kerala.^{xi} The family disputes of the period revealed a tilt towards adopting a more patriarchal custom. The English judges, using Brahmanical law and ideas of equality came up with their own concoctions as solutions that were quite different from the prevalent practise.^{xii} The most evident of these changes was the importance given to the karnavan. He was now not just the manager but could give property to women in the family that would still be family property.^{xiii} This essentially created a life interest in her name and not absolute interest. This was also the time when Nair men had started attending English colleges and schools and were exposed to the Victorian ideals of monogamy and decency.^{xiv} Thus 'promiscuous' practises that were not looked down upon in their culture were now considered backward and outdated. Sambandham bonds were equated to concubinage and the legitimacy of children from these relationships was constantly questioned.^{xv}

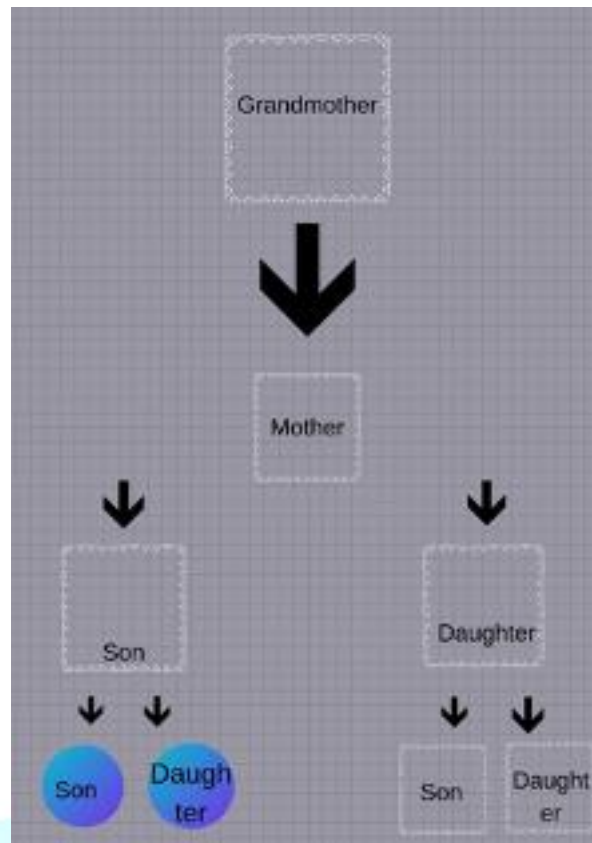
In 1912, the Travancore state allowed men to write off their separate property in the name of their wife or kids instead of the taravad.^{xvi} This allowed women a right to maintenance as well as ownership over her own Taravad. By this time, Taravads had grown to unmanageable sizes and domestic quarrels were widely prevalent.^{xvii} The karnavan was often seen favouring his own descendants of the welfare of the other members. Plotting the murder of fellow family members was not uncommon and many thought that the Taravad provided a false sense of safety that affected productivity.^{xviii} Some Nairs, in 1920, proposed that Taravads be reduced in size but the legislature thought differently.^{xix} So in 1925 the Legislative Council passed a bill ending matriarchy, allowed partitioning of property and brought sambandham relationships into the legal realm.^{xx} Thus patriarchy pervaded a completely matriarchal system.

MATRILINEAL SUCCESSION

Matrilineal succession, called Marumakkatayam, followed succession through a common female ancestor. While the owner of the common property was female, the eldest male member served as the karnavar (karyastan) and managed all the property. Even names followed the mother's lineage. For the sons, the initials attached to their names represented the names of their maternal uncles and not father and the initial of daughters' names indicated the mothers' name. For instance, my grandmother was named V.P Saraswatamma wherein the V indicated the maternal family house and P indicated her mother's name (Parvati). But my grandmother's brother has the initials of V.S, V indicating the maternal family home and S indicating the mother's brother's name (Sankaran).

In order to analyse marumakkatayam succession further, I studied the devolution of property in my family. In an undivided family, the living head of the family would generally be the uncle from the maternal side and on his demise, it would be the sister's son. In Sasthamcota, my grandfather's mother's house was given to her younger sister as she had renounced it. Their brother only got a small piece of land that was given out of goodwill by the sister. My maternal grandmother's property devolved completely upon her as she was the only female amongst the six children in the family. In my maternal grandfather's sister in law's house, the property was given to all the sisters who ultimately settled that one of them would own the property and the others would be duly compensated.

Marumakkatayam also worked in another way. If there was a family wherein the property devolved from the mother upon the daughters and the daughter went on to have sons and daughters, the property would further devolve upon the daughter's male and female progeny but not upon the son's progeny.

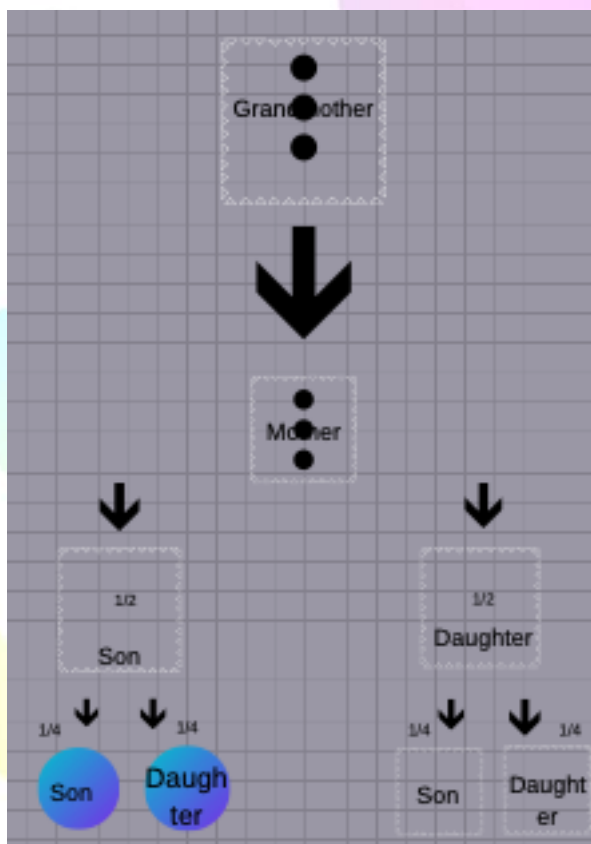


Upon partition, the main house (the family house) would go to the daughter and other properties will be shared by adding the children of the woman successor to her. A woman with 2 children will be treated as 3 members & the properties would be divided by getting 3 shares for her.^{xxi} The ultimate aim was the woman should not be a sufferer.

Matriliny was also followed by the royal family of Travancore.^{xxii} The Maharaja ascended from the maternal side. If the king had no sister, a girl would be adopted as a sister to continue the hierarchy. The last king was the son of such woman adopted as sister by the then Maharaja the last King was the son of a woman adopted from Mavelikara Palace. Her elder sister Lakshmibhai did not have any child. Therefore, her sister's son (who was adopted) was titled as the next king but till he became major the elder sister, Lakshmibhai, was treated as a Regent for the boy. This system ensured that descendants were always young. But all this was already in a state of flux during the colonial era and was to change even further with the Joint Hindu Family System Abolition Act.

ABOLITION OF THE JOINT FAMILY SYSTEM AND ITS IMPACT ON SOCIETY

The Joint Hindu Family System Abolition Act abolished the Joint Family system in 1976 and property devolved upon every member as a “co-tenant in a common tenancy.”^{xxiii} This means (following the example from above) where there was a family wherein the property devolved from the mother upon the daughters and the daughter went on to have sons and daughters, the property would now devolve upon the daughter’s and son’s progeny after their death’s as they were members of the family.



But the unification process took away the security that the women initially had. Section 4(1) of the Kerala Act says “all the members of a Mitakshara coparcenary will hold the property as tenants-in-common on the day the Act comes into force as if a partition had taken place and each holding his or her share separately.”^{xxiv} However, it failed to protect the daughter if property was sold off or if she was written out of the will.^{xxv} Secondly, prior to the abolition, widowhood or divorce didn’t affect her economic status as she continued to remain in control of her property. The abolition thus disadvantaged women, inserting stigma of divorce and

widowhood in a culture where none existed. Additionally, matriliney had allowed freedom for women and most women were educated in art, music and literature.^{xxvi} While women did attend schools post the abolition, a lot of the older Nair women were now left under the control of the karnavan who now owned and managed the land. They were, thus, stripped of their autonomy and freedom. A sudden vacuum in women's ability to own property exclusively left them at a disadvantage out of which the Kerala communist movement was born.^{xxvii} The subsequent developmental models created, keeping women at the centre of these policies, is the prime reason that the impact of the disempowerment of women was reversed to a large extent.

Nevertheless, marumakkathayam was given its due in Hindu Succession Act of 1956. Section 15 says that the heirs of the property of a Hindu woman dying intestate are the sons, daughters and husband.^{xxviii} But section 17 says that for women who used to be governed by matrilineal law, the heirs will be sons, daughters and mother. Further, cases also went on to show the recognition of matrilineal laws of descent. In the case of *C Kamalamma v Narayana Pillai (1993)*, the court was posed with the question of whether the act that abolished the Joint Family system in Kerala overrode section 17 of the Hindu Succession Act.^{xxix} The Court held that "matrilineal recognition of section 17 of the Hindu Succession Act prevailed for as long as there were people alive who would have been governed by aspects of matrilineal law." As recent as 2002, in the case of *N Sreedharan v State of Kerala and Ors.*, the dispute at hand was about control of nine-tenths of an acre of land in Thiruvananthapuram.^{xxx} The Court ruled that matriliney was to be followed because the land was not individual property. The Joint Family Abolition Act was not with regards to tenurial property (as the land was held in exchange for the service of maintenance of a temple) and thus the matrilineal law applied.^{xxxi}

In Nair families today, property is still divided through the matrilineal line informally. As taravads broke up and nuclear families became the norm, the father managed and took decisions on behalf of the estate. However, at the time of partition, property still devolved through the mother's line. Even in the taking of initials changes had taken place. Sons took on the names of their fathers but daughters still took their mothers' names. What is evident is the remnants of the matrilineal system that is etched in the minds of the Nayars.

While matriliney was never an ideal set up and is criticised for differentiating ownership and management between women and men thus taking away a substantial amount of power from

women to make decisions, it survives in the culture indirectly today too. Even after tremendous changes in the nature of marriage, the colonial influence of Victorian morality and the abolition of the Joint Family system altogether, we see the land still predominantly owned by women, while men go to the Gulf for long durations of time to work.^{xxxii} The developmental models of the state focus on the freedom and autonomy of women.^{xxxiii} Matriliney is still informally followed if partition is called for. All these are legacies of matriliney that won't be erased any time soon.

CONCLUSION

This paper has attempted to trace the impact that the Joint Hindu Family System Abolition Act has had on the Nayar society of Kerala. In order to understand the social effects, we need to understand the way that marriage has evolved in Nayar society. Added to that it is important to place women in the scheme of ownership of property and look at the impact from the lens of changing relations between men and women and property and women. The paper has analysed the nature of marriage, colonial influences on Nayar society, matrilineal succession and the Joint Hindu Family System abolition Act and the impact it created. Lastly, this paper has analysed the legacies of matriliney that exist to this day and won't be forgotten in the near future.

REFERENCES

- Moore M, 'Symbol and Meaning in Nayar Marriage Ritual' (1988) Vol. 15 *American Ethnologist* <<https://www.jstor.org/stable/644756>> accessed 5 April 2019
- Arunima G, 'Matriliney And Its Discontents' (1995) Vol. 22 *India International Centre Quarterly* <<https://www.jstor.org/stable/23003943>> accessed 5 April 2019
- C.J F, 'The Internal Structure of The Nayar Caste' (1975) Vol. 31 *Journal of Anthropological Research* <<https://www.jstor.org/stable/3629883>> accessed 6 April 2019
- G A, *Changing Concepts of Rights and Justice In South Asia* (Oxford University Press 1998)
- Jeffrey R, 'Legacies of Matriliney: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019

- Kodoth PM Eapen, 'Looking Beyond Gender Parity: Gender Inequities of Some Dimensions of Well-Being in Kerala' (2005) Vol. 40 Economic and Political Weekly <<https://www.jstor.org/stable/4416933>> accessed 7 April 2019
- Pillai M, 'What Led to The End of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019

ENDNOTES

ⁱ Fuller C.J, 'The Internal Structure of The Nayar Caste' (1975) Vol. 31 Journal of Anthropological Research <<https://www.jstor.org/stable/3629883>> accessed 6 April 2019.

ⁱⁱ Melinda A. Moore, 'Symbol and Meaning in Nayar Marriage Ritual' (1988) Vol. 15 American Ethnologist <<https://www.jstor.org/stable/644756>> accessed 5 April 2019.

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^{iv} Melinda A. Moore, 'Symbol and Meaning in Nayar Marriage Ritual' (1988) Vol. 15 American Ethnologist <<https://www.jstor.org/stable/644756>> accessed 5 April 2019.

^v Melinda A. Moore, 'Symbol and Meaning in Nayar Marriage Ritual' (1988) Vol. 15 American Ethnologist <<https://www.jstor.org/stable/644756>> accessed 5 April 2019.

^{vi} Manu Pillai, 'What Led to The End of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{vii} Manu Pillai, 'What Led to The End of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{viii} Manu Pillai, 'What Led to The End of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{ix} Melinda A. Moore, 'Symbol and Meaning in Nayar Marriage Ritual' (1988) Vol. 15 American Ethnologist <<https://www.jstor.org/stable/644756>> accessed 5 April 2019.

^x G Arunima, 'Matriliny And Its Discontents' (1995) Vol. 22 India International Centre Quarterly <<https://www.jstor.org/stable/23003943>> accessed 5 April 2019.

^{xi} Arunima G, *Changing Concepts of Rights and Justice in South Asia* (Oxford University Press 1998).

^{xii} Arunima G, *Changing Concepts of Rights and Justice in South Asia* (Oxford University Press 1998).

^{xiii} Arunima G, *Changing Concepts of Rights and Justice In South Asia* (Oxford University Press 1998).

^{xiv} G Arunima, 'Matriliny And Its Discontents' (1995) Vol. 22 *India International Centre Quarterly* <<https://www.jstor.org/stable/23003943>> accessed 5 April 2019.

^{xv} G Arunima, 'Matriliny And Its Discontents' (1995) Vol. 22 *India International Centre Quarterly* <<https://www.jstor.org/stable/23003943>> accessed 5 April 2019.

^{xvi} Manu Pillai, 'What Led to The End of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{xvii} Manu Pillai, 'What Led to The End Of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{xviii} Manu Pillai, 'What Led to The End Of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{xix} Manu Pillai, 'What Led To The End Of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{xx} Manu Pillai, 'What Led To The End Of Kerala's Matrilineal Society?' (*Caravanmagazine.in*, 2019) <<https://caravanmagazine.in/vantage/what-end-kerala-matrilineal-society>> accessed 6 April 2019.

^{xxi} This information was obtained by conversing with my grandfather, KrishnanUnnithan Rajendran.

^{xxii} The following information was obtained from my grandfather, KrishnanUnnithan Rajendran whose family was known to the royal family of Travancore.

^{xxiii} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxiv} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxv} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxvi} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxvii} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxviii} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

^{xxix} Robin Jeffrey, 'Legacies Of Matriliny: The Place Of Women And The "Kerala Model"' (2004) Vol. 77 *Pacific Affairs* <<https://www.jstor.org/stable/40023536>> accessed 5 April 2019.

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