

State and Marriages: A Case Study

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Contents

1	Introduction	1
2	Sources	2
3	Marriage and Inheritance Structure	2
3.1	<i>Marumakkathayam</i> System	2
3.2	People under <i>Marumakkathayam</i>	3
3.3	Conflicts with the State	3
3.4	Decline of the <i>Marumakkathayam</i>	4
4	State Interventions	4
4.1	Malabar Marriage Commission	4
4.2	Indirect Interventions	5
5	Conclusions	7

1 Introduction

One might think why it is State's business to interfere with the marriage customs and it's necessity to formalize or legalize and record marriages of the people forming it. Perhaps the Marxist theory of how family and private property led to the formation is useful here. Marriage being a factor in inheritance gets private property involved, and altogether becomes State's business.

Here, we take the case of what is today Kerala during a period of British rule. The players were Malabar, Travancore and Cochin, with population predominantly Hindu - comprised of many castes and sub castes, with a minority growing population of Christians and Muslims. Forms of matrilineal marriage and inheritance systems prevalent in the area almost died out in a decade towards the end of the Colonial rule. Other practices like polyandry and polygamy didn't survive the colonial period either.

Discretizing the changes to pre and post colonial days, one perspective to look at it is how the indigenous culture with strong matrilineal sway got replaced with the patriarchal system more familiar with the west. Whether the colonial State and it's government had direct or indirect involvements in the process is a topic of interest. Among direct interventions, that of the Malabar Marriage Act stands out. Also, the colonizer's education system could also have gradually programmed the society into the paradigm shift.

The Malabar Marriage Commission, formed in 1891 in response to a bill introduced by Sir C. Shankara Nair [3, p. 1] with the objective of provide evidence on the customs and the feasibility of the changes proposed by the bill[3, p. 3]. The operations and report of the commission provides an ample area to investigate how State accommodated the existing marriage customs and how it intervened to bring reforms, which is the primary topic in this paper.

Aside from direct interventions like an act, the State indirectly brought about reforms and opened the people’s mind for new thinking by updated education policies through which the content learned by the newer generations were curated. An literacy figures with the time - the time period in which the acts containing reforms the Colonial Authorities wanted were brought into effect.

2 Sources

The major primary source is the *Report of the Malabar Marriage Commission*. Other primary sources include *Acts and Proclamations of Travancore*, the *Malabar Manual* by William Logan. Several statistics are obtained from the *Census of India* data available during the period and is referenced internally in the above primary sources.

3 Marriage and Inheritance Structure

It is important to understand the existing structure and laws of marriage and inheritance before examining how and why the State would want to intervene.

3.1 *Marumakkathayam* System

Sambhandham is the formal term used to denote marriage in the context of Kerala Society. The term *Marumakkathayam* relates to property inheritance, where the son-in-law inherits property and all people in a household, *Tarawad* tracing their lineage back to a female ancestress[3, p. 51]. The *Karanavan*, senior male in the family serves as the head of the family and manager of the family’s riches.

“ Secured by the impartibility of the estate, refreshed by the acquisition of the junior members, and under the beneficent sway of the senior male, the *Tarawad* should wax great and endure throughout all generations ” ([3, p. 51])

The practitioners according to the 1881 Census Report is a minority of 30 percent in the region, but comprising of the aristocracy[3, p. 7]. The below table depicts the detailed statistics:

Castes	Males	Females
Kshatriyas, Nayars and the allied castes	233,155	237,174
Marumakkathayam Tiyyans (North Malabar)	108,639	111,806
Marumakkathayam Mukkuvans (ditto)	2,835	2805
Total	244,529	351,785

Aside from this, there were rules that a female from one caste or class couldn’t be wed to someone of a lower strata of the society, while for the males, this rules didn’t apply.

3.2 People under *Marumakkathayam*

There are many perils to the above system. Many women of the higher classes weren't able to find a suitable groom and die in a state of celibacy [2, pp. 127-128]. Only rich households of Namboodiris were able to marry women off at a suitable age. The population stats above clearly indicate the females almost equal to the male population, but males courting women in the lower strata led to the skew.

The families huddled together under one roof creates a chaotic situation. “Not a day passes, without some fight or the other” [3, p. 55], remarks a witness. The *Karanavans* and *Anandravans* of the house are always in hatred and dissension [3, p. 55]. Property is joint, and treated by the *Karanavan* as his own property [3, p. 55]. The instability of the *Tarawad* system echoes among a lot of witnesses.

In short, there was growing discontent among those who were subject the existing uncoded marriage and inherit system, which caused an outcry from the people. There was a lack of progress from the State's point of view, due to the above problems.

3.3 Conflicts with the State

With ceremonial customs and degree of formality varying with places and communities, the above system was practised under different names closely coupled with religion and beliefs. The above were believed to have laid down by *Parasurama* [3, p. 24] and not codified uniformly. State's first problem arose here, wherein it could not settle disputes on property or marriages unless this was made into a law.

According to the witnesses examined by the Malabar Marriage Commission, the chastity of a woman under *Marumakkathayam* system was not a big deal, they were allowed to consort more than one man [3, p. 24]. Both parties are free to announce divorce and end the union whilst succession being through the female line which leads to the *Karanavan*'s affection for his sister's children being more than that for his own progeny [4, p. 262], which British found quite unnatural.

The next problem State found with the system was it's lack of accountability when it comes to subsistence. Consider the following family tree.

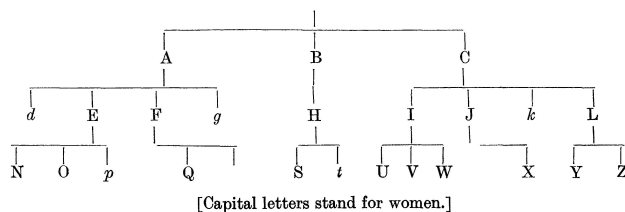


Figure 1: Taken from [4, p. 261]

The property was being evenly distributed among the female members of the family while the breeding was uncontrolled, the *Karanavan* had no say.

rendering uneven division of estate few rich, and a large portion being poor and unable to subsist which creates a problem since it is the State's duty to bring about progress and maintenance of laws which enable progress. "With a large increase in their numbers and comparative poverty for the large body of them, the race is fast degenerating", writes William Logan [2, p. 138].

The commission set to investigate *Marumakkathayam* system concludes that it "offends against every principle of political economy and healthy family life", "sanctions reckless propagation of the species", "forces population to a point where it must be kept down by actual want of the means of subsistence".

The lack of laws enable a Nayar husband to "savagely avenge" [3, p. 63] neglect of the marriage tie, where upon the offender is punished immediately even by death. This questions the State's monopoly over violence, which could not have been tolerated.

3.4 Decline of the *Marumakkathayam*

1870s saw a raise in voices against the system, and the outcry led to the The Malabar Marriage Act. This was however a failed attempt, but was brought to the colonial State and the people's attention. The Namboothiris collectively decided to stop following the system sometime near 1920, and was formalized through the 1933 Madras Namboothiri Act. A Madras Marumakkathayam Act was passed the same year which changed property inheritance laws drastically, which gave way to the decline of the *Marumakkathayam* system.

Remnants of the system today exist in practices. In few communities, the children still take the surname of their mother, even though inheritance and authority is passed on through the father. The early practitioners have completely shifted from a matrilineal to patrilineal system. Polyandry has been completely eliminated, with the newer generations completely unaware that it existed.

4 State Interventions

In the previous section, we set the premises by describing *Marumakkathayam* system and areas where the State found itself in conflict with the existing practices. In this section, we take a look at how the State, under British rule went about to resolve the conflicts and bring the order it desired.

4.1 Malabar Marriage Commission

The Malabar Marriage Bill, which was later passed accepting suggestion of from the Commission is an example of State directly intervening in the marriage affairs of the state.

The challenges faced by Commission is evident at several places in its report [3]. One major concern is to make sure the law passed covers all communities and enables High Courts of the judicial polity of State to take decision in case of disputes. Another challenge is getting the new law to be accepted by the masses which it rules, and how quickly the acceptance can happen.

Commission's recommendation included two proposals:

- One proposal (favoured by our President) is to frame a marriage-law such as the whole body of *Marumakkathayam* people may

at once be able to welcome and adopt, and thus to engraft the institution of marriage upon *Marumakkathayam* in such a form that the two may flourish together. Such a law amongst other things must prohibit marriages offending against existing rules of caste, must provide a ready means of divorce without resort to Court, and must recognize the Marumakkathayam Law of Succession as meriting countenance and perpetuation.

- The other alternative is to recommend a marriage-law, such as we are sure that an English Government can and will grant, not widely diverging in principle from those (denominational and undenominational) already on the Statute Book, all of which are based on the view that marriage is the union of one man with one woman for life, and that the wife cannot be divorced except for adultery.

([3, p. 65])

The State's motive to necessitate progress is evident in the Commission's report [3, p. 61]. Other factors visible include the State's interest to prevent polygamy. Although it is noted that polygamy is little or less, the commission stresses on building it into the law to prevent it in the future. The prediction however came true later on, the census of 1931 statistic given below backing it up.

<i>Number of wives per 1,000 husbands</i>		
Religion	1931	1921
All religions	1.034	994
Hindu	1.047	1.001
Christian	1.007	979
Muslim	1.049	995
Tribal	1.002	993

Throughout the report an attempt to institutionalize marriage, with the State being the body which recognizes the institution is evident. Although the State was willing to accommodate the existing customs, it's also willing to overthrow the existing system of marriage altogether so that governance becomes easy for the auxiliary bodies maintaining the State.

In a span of 20 years post its introduction, the Malabar Marriage Act got only 6 marriage registered under it, all of whom were Sir. C Shankaran Nair's relatives [4]. But the effects in the long term indicate something totally different.

4.2 Indirect Interventions

Another domain where the State brought about large reforms was Education. The Colonial State had discarded all indigenous knowledge and incorporated Western knowledge into the curriculum and textbooks.

An education code in 1909-10[1] laid down instructions which made the government own the responsibility of education of all castes and classes of the people it governed, and a spike in education institutions set up by missionaries. One cannot but notice the time frame in which the proposed reforms based on western culture arose - within a decade of bringing about the educational reforms in the area. An increase in the literate population was noted by the Census of India, with Travancore following up with Cochin and then Malabar. The below table indicates the figures for Travancore and Cochin.

TABLE 2
RATIO OF STUDENTS IN GOVERNMENT-RECOGNIZED SCHOOLS TO TOTAL POPULATION:
TRAVANCORE AND COCHIN, 1870-1 TO 1940-1

Year	Travancore			Cochin		
	Popu- lation (thou- sands)	Students	Students to Pop- ulation	Popu- lation (thou- sands)	Students	Students to Pop- ulation
1870-1	2,300*	3,100	1:742	600*	200	1:3000
1875-6	2,300	20,900	1:110	600	750	1:800
1880-1	2,500	33,100	1:76	600	860	1:698
1890-1	2,600	84,500	1:31	700	2,400	1:287
1900-01	3,000	184,600	1:16	800	17,200	1:47
1910-11	3,400	159,700	1:21	900	39,500	1:23
1920-1	3,900	392,900	1:10	1,000	84,900	1:12
1930-1	5,100	575,500	1:9	1,200	146,000	1:8
1940-1	6,100	747,300	1:8	1,400	177,000	1:8

Sources: *Administration Reports* of Travancore and Cochin for the appropriate years; *Census of India*, Travancore and Cochin volumes for the appropriate years; *Statistics of Travancore* (Trivandrum: Government Press), annually from 1920.

Note: * At 1875 census.

Figure 2: Taken from [1]

Commenting on whether the legislation is expedient or not, the Commission believed that the educated officers who were British employed will embrace the new legal institution of marriage, and with them being a newly created aristocracy after the existent Nayers and Namboodiris, the population would follow. It is also noted that [3, p. 74] the educated Malayali will keep begging for legalization of marriage. The inevitability of the system being unworkable with advance of education is also noted [3, p. 61].

An educated witness, Mr. Rosario interviewed by the Malabar Marriage Commission had asked around population of North Malabar to ascertain “there is a growing tendency among the educated to get the *Marumakkathayam* law changed in its entirety” [3, p. 59]. Commission also argues that “though the minority that desires legislation is small, it is a growing and an educated minority, and every year will add to its strength and influence” [3, p. 60].

Additionally, increased conversions from the lower castes to Christianity and increased the cultural mixing and led to a cultural homogenisation in certain practices. The one-man one-woman concept from Christianity was adopted by most of the people in the area, following the legislations, while the Christians to date follow *thaalikettu* as a practice, which is a Nayar custom[3, p. 14] wherein the bridegroom ties a string on the bride’s neck sealing the contract of marriage.

5 Conclusions

Over the course of this paper, we see instances of how the State compromised to accommodate the customs and practices of the governed and how it enforced its will on the people through direct and indirect means. It is of no doubt that due to the strong link to property succession and stability, marriage and inheritance laws are of concern to the State.

The State reveals itself as a social organism, which sustains itself through its administrative bodies. British who governed the State shouldn't have been necessarily concerned with bringing about the reforms, but the fact that they did, and spend resources and time on something like this highlights how the State would function to sustain itself.

The people who were affected by the system had turned towards the State for help. This is quite indicative of the power State had over religious customs prevalent in the area - when justice was denied at the religious institutions, people immediately believed that the State could bring about justice. And the State responded positively, had it not - it would've lost its monopoly over the legitimized use of force in the territory. Unwritten, unrecognised laws would've been governing the people using which the State cannot deliver justice. Fear of a backlash is what set the State to instate a commission which would take a proper statistical sample to determine the sentiment of the masses. While dissecting the commissions operations, we observe how accommodation and compromises were happening at both sides, the ones who were ruling and the ruled.

Further, we take a look at how the State, through indirect means like education and spread of information prepares the people to change into a proven stable system. The Commission had foreseen the inevitability of the death of the *Marumakkathayam* system, which is exactly what unrolled in the years following. It can be concluded that education with content primarily from the West led to a sense of shame or disgust for the next generations and in one or two generations even awareness of existence of polyandry or disregard for chastity of the *Marumakkathayam* has ceased to exist.

Angst among the colonial authorities to *Marumakkathayam* had surfaced several times [3]. The colonial sentiment towards the systems, which were negative have largely influenced the path taken by the reforms. This is an effect of formalizing the succession and marriages incorporating it in the law and the slow brainwashing to view polyandry as evil and chastity as a virtue. The State couldn't have pulled it off had the people been content with the existing system, so one can argue that the State used the bad influences in the social structure to bring about the changes it desired.

References

- [1] Robin Jeffrey. "Governments and culture: How women made Kerala literate". In: *Pacific Affairs* (1987), pp. 447–472.
- [2] William Logan. *Malabar Manual, Volumes I and II*. 1887.
- [3] KR Krishna Menon. *Report of the Malabar Marriage Commission*. 1894.

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