

**GENDER AND FAMILY IN COLONIAL SOUTH INDIA:
A SOCIOLOGICAL STUDY OF MAPPILA MATRILINY
IN MALABAR, KERALA C. 1914-1940**

*Dissertation submitted to the Jawaharlal Nehru University in partial
fulfilment of the requirements for the award of the Degree of*

Master of Philosophy

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21st July, 2011

CERTIFICATE

This is to certify that the dissertation titled, 'GENDER AND FAMILY IN COLONIAL SOUTH INDIA: A SOCIOLOGICAL STUDY OF MAPPILA MATRILINY IN MALABAR, KERALA C.1914-1940' by Mr. Manaf.K.K, in partial fulfillment of the requirements for the award of the degree of **Master of Philosophy** has not been previously submitted for any other Degree of this or any other University. To the best of our knowledge this is an original work.

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DECLARATION

I declare that the dissertation entitled **Gender and Family in Colonial South India: A Sociological Study of Mappila Matriliney in Malabar, Kerala C. 1914-1940** submitted by me for the award of the degree of **Master of Philosophy** is an original research work and has not been submitted so far, in part or full, for any other degree or diploma of any University / Institution.



Manaf K.K

Dedication

Offered with Love

To three generations:

To my father, Muhammed,

An ordinary man who always does extraordinary,

And inspires me with his grace;

To my mother, Subaida,

Who always instils wonder and fills warmth in me;

To my brother, Niyaf,

Who waits for my arrivals in his wonderland;

And to the memories of my mother's father, Kuttiali;

Mother's mother, Beepathu;

And father's mother, Titikkutti;

Who all kept stubborn,

But great expectations about me.

Acknowledgement

I was born to working class Muslim parents; and grew up in a village in Kerala. I received seven years of religious instruction. I would like to refer to one of the most striking personal experiences of my life; the experience related to my own name, 'Manaf'. I grew up without knowing the meaning of my name. *Ustads*, religious instructors often referred to it as a 'bad' or 'un-Islamic' name. All my friends who had a similar name of mine changed the name in their childhood. My parents never changed my name. Now, I know that 'Manaf', once a popular name in Kerala, was the name of a pre-Islamic deity in Arabia. My experience with my own name alludes to the transformations of the Mappila life in the realm of beliefs, rituals, and cultural articulations during the span of my life. This dissertation attempts to explore the re-articulation of family, gender, and religion in Colonial Malabar, Kerala during 1914-1940.

This dissertation that I would like to offer for your reading is the product of nearly two years of my research that is carried out for the purpose of MPhil award from the Centre for the Study of Social System, School of Social Sciences, Jawaharlal Nehru University, New Delhi. I have spent the time for the research in the various libraries in New Delhi, and in Calicut, Kerala. I would like to note my thanks to the Librarians and the staff of Abussabah Library, Farook College, Calicut; Library of the Department of History, University of Calicut; C H Muhammed Koya Library, University of Calicut; DSA library of CHS, JNU; DSA library of CSSS, JNU; National Archives, New Delhi; Ratan Tata Library, New Delhi; Nehru Memorial Museum and Library, New Delhi; Delnet; Regional Archives, Kozhikode; and Jawaharlal Nehru University Library, New Delhi. I also thank UGC for providing financial assistance.

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Glossary

<i>Ouliyankanmar</i>	Saints
<i>Shahids</i>	martyrs
<i>Meukham, jaram</i>	tombs
<i>Ziyarat</i>	pilgrimage
<i>Tangals</i>	spiritual leaders or Sufis
<i>Jins /Shaitans</i>	evil/ celestial powers
<i>Tali</i>	tying knot
<i>Halal</i>	allowable
<i>Haram</i>	prohibited
<i>Sharia</i>	Islamic law
<i>Tharavadu</i>	Matrilineal joint family
<i>Wakf</i>	charity
<i>Wakf-alal- aulad</i>	a property for charity that inherits through either male or female line
<i>Marumakkathayam</i>	matriliny
<i>Adat</i>	custom
<i>Ulema</i>	religious scholars
<i>Kitab</i>	Texts
<i>Janmi</i>	Landlord
<i>Kafirs</i>	infidel; non-believer
<i>Ummah</i>	Muslim brethren
<i>Makkathaym</i>	Patriliney
<i>Nerccas</i>	local religious pilgrimages centred on the Sufi
<i>cults</i>	
<i>Sambamdham</i>	Customary marriage
<i>Sthrisothu/ Henumule</i>	
<i>Tharavadus</i>	Families of exclusive female collective ownership and management of the property
<i>Tavazhi</i>	branch of <i>tharavadus</i>
<i>Karanavan</i>	the head of the matrilineal joint family (male)
<i>Beevi</i>	the head of the matrilineal joint family (female)

<i>Anandiravan</i>	the junior member of the matrilineal joint family
<i>Melchilav</i>	pocket money
<i>Zakat</i>	Compulsory charity in Islam
<i>Mamools</i>	customs
<i>Karar</i>	agreement
<i>Kariasthan</i>	clerk
<i>Pulasambandham</i>	kinship connection based on death pollution
<i>mudal sambandham</i>	kinship connection based right over <i>tharavadu</i>
<i>Attaladakkam</i> heirs	kins entitled to receive property after the death the last surviving member of a <i>tharavadu</i>
<i>Gosha</i>	secluded
<i>Puthravakasam</i>	Gift from the husband to the wife to enable her to constitute a new <i>tharavadu</i> branch
<i>Streedhanam</i>	dowry
<i>Puislan</i>	neophyte

Gender and Family in Colonial South India: A Sociological Study of Mappila Matriliney in Malabar, Kerala c. 1914-1940

Introduction

This dissertation attempts a sociological analysis of the transformations in the Mappila matrilineal practices in the first half of the 20th century. These were due to the factors ranging from legal interventions, economic transformations, and the religious and customary reforms in the region. The time period under discussion here is 1914 to 1940. Three legislations were passed on Mappila Muslim matriliney in the Madras Legislative Assembly during that period. They were Mappila Succession Act of 1918, Mappila Wills Act of 1928, and Mappila Marumakkathayam Act of 1939. These three major legislations are critical to my understanding of changing gender relations in the community. Before we go into the details of problem and scope of this study, I will introduce Mappila Muslims of Kerala, and Mappila matriliney.

Mappilas

The nomenclature ‘Mappila’ in general is used for Muslims of Malabar, Kerala¹. The ‘Mappila’ denotes the broader community of various heterogeneous populations which practice Islam. Muslims in Malabar are recognized in history with considerable social stratification. The Malabar Census Report, 1921 refers to different status groups as “Castes”.² These status communities are divided by the class position, caste before

¹ The term is also spelt as Mappilla or Moplah in early records.

² There is a tabular presentation of “population of Muslim community in Malabar Province according to each caste group...” in Malabar Census Report, 1921. (Madras: Government Press.1922). It identifies “Castes” among Mappilas as Mappilas, Labbayas, Arabs, Sheiks, Sayyids, Pathans, Moghals,

conversion to Islam, and family lineage or the place of origin claimed through ancestors³. Regional variations are another significant factor, since family organization, kinship patterns and economic prospects vary regionally, especially between North Malabar and South Malabar⁴. The organization of family, kinship systems, and customs of inheritance are different to such an extent that Mappilas of southern Malabar follow patrilineal kinship, while their counterparts in north Malabar predominantly followed matrilineal descent and inheritance or *marumakkathayam*⁵. Our focus is on the matrilineal Mappilas of Malabar.

Mappila Matriliney

Matriliney among Mappilas (henceforth Mappila matriliney) is specific in their practice of matriliney and matrilocality. Matriliney implied that relationships were traced through the mother, and inheritance is traced through women, while men of the household had rights to a share of the family property only while living in it⁶. Matrilocality implies that *Puthiyapla* (husband) would visit a Mappila woman at

and Other Muslims; to put in the descending order of numerical strength. Mappilas outnumber all other 'castes', figuring around 91.8 percent of the total population of Muslims in the province.

³ For a useful account of social stratification among Mappilas, see Victor D' Souza. "Status Groups Among the Moplahs on the west coast of India." in *Caste and Social Stratification among Muslims in India*. ed. Imtiaz Ahmed. (Delhi: Manohar. 1978) 42-56.

⁴ Ibid; also see Innes, C.A. *Madras District Gazateers, Malabar and Anjengo*. (Madras: Government Press, 1908); Logan. *Malabar Manual*.193-198; Lewis Moore. *Malabar Law and Custom*. (Madras: Higginbotham & Co. 1905) 323-331; Herbert Wigram.M.A. *A Commentary on Malabar and Custom*. (Madras: Granes, Cookson and Co. Scottish Press/Popham House. 1882) 152-153.

⁵ Ibid.

⁶ G. Arunima looks at the historical transformation of Nayar matriliney in north Malabar and the implication it had on Nayar women. She deals with the effects it might have had on issues such as sexuality, power and property rights for women in matriliney. The discussion of matrilineal household can be found in G. Arunima, *There Comes Papa: Colonialism and the Transformation of Matriliney In Kerala, Malabar c. 1850-1 940*. (Delhi: Orient Longman. 2003).

night, in similar way to the practice in Lakshadweeps⁷, or he would visit her at day time or night in her *ara* (bridal chamber) without permanently staying there.⁸

The first major study on Mappila matriliney was the ethnography of Kathleen Gough.⁹ She observes that matriliney was widely prevalent among Muslims in Malabar irrespective of class difference, though some customs varied in different class stratum¹⁰. Both Gough as well as Dube argue that matrilineal practice existed among Mappilas through stable mechanisms to incorporate Islamic laws of inheritance and other *Sharia* laws which are based on patrilineal kinship pattern, into the ambit of matriliney.¹¹ They elaborate this point with the ethnographic examples that the father and his matrilineal *tharavadu* found due recognition in the time of *nikah* and other religious rites of passage. Basically, inheritance through the father's side was practiced in the case of the succession of self acquired property of a person¹². Legal records suggest that self acquired property of women was also transferred in accordance with Islamic laws of inheritance.¹³ In the matrilineal system the property of the matrilineal household is inherited through the female line and a *tharavadu* retained its integrity so long as it had a female inheritor¹⁴.

⁷ Leela Dube, *Matriliney and Islam: Religion and Society in the Laccadives* (Delhi: National, 1969).

⁸ Gough, E.K (Kathleen). "Mappila North Kerala" in *Matrilineal Kinship*, ed. D. Schneider and E.K. Gough (Berkeley: University of California Press. 1961) 415-441.

⁹ *Ibid.*

¹⁰ Class differences are applicable in the case of matrilineal women as well. While rich women stayed at *tharavadu*, lower class women went out for work and would dismiss her husband if he offends her. Gough, "Mappila North Kerala". 431.

¹¹ Dube, *Matriliney and Islam*, 77-79. Dube observes that *Sharia* law did not cause any structural disruption. On the other hand, it reaffirms solidarity among matrilineal families.

¹² Dube, *Matriliney and Islam*, 95.

¹³ Lewis Moore writes that the practice of treating the self acquisition of man as descendible to his wife and children comes under Muhammadan law. See, Lewis Moore. *Malabar Law and Custom*. 326.

¹⁴ Moore, *Malabar Law and Custom*

Anthropological Perspectives on Matriliney

In this section, I will look at the various theories and perspectives on the structure of matrilineal practices. We will also discuss various theoretical perspectives that analyse transformations in matrilineal practices.

David Schneider in his articles entitled the *Distinctive Features of Matrilineal Descent Groups*, postulates three constants pertaining to matrilineal societies. First, women take care of children; second, adult men exercise authority over women and children; and third, exogamy is essential for the existence of a descent group.¹⁵ He further argues that matrilineal and patrilineal descent groups are precise mirror image of each other. This is based on the observation that they are identical in their structure; except the difference that patriliney obtain group relationships through father, while matriliney obtain through the mother.¹⁶ The second difference is that while men control women in patriliney, there is a relationship of dependence between the brother and the sister in matriliney-the brother 'protects' the sister; the sister perpetuates the brother's descent line and provides heirs.¹⁷ He therefore argues that the institutionalization of very strong-lasting, or intense conjugality is incompatible with the maintenance of matrilineal descent groups.¹⁸ According to Schneider, in-marrying men pose threats for sustenance of the matrilineal group¹⁹ thereby making the bond of marriage rather weak. He vindicates Audrey Richard's notion of 'the matrilineal puzzle' which implies that husband fights with matrilineal descent group over the control of the wife and children.²⁰

¹⁵ David M. Schneider, 'the Distinctive Features of Matrilineal Descent Groups', in *Matrilineal Kinship*. ed. David M. Schneider and Kathleen Gough (Berkeley: University of California press, 1962), 5.

¹⁶ *Ibid.*, 7.

¹⁷ *Ibid.*, 11.

¹⁸ *Ibid.*, 16.

¹⁹ *Ibid.*, 19.

²⁰ *Ibid.*, 22.

Leela Dube in *Matriliny and Islam* argues that in Lakshadweep there are constant negotiations between the husband and the wife; the father and the children on the one hand, and the husband's matrilineal descent group and wife's matrilineal descent group on the other.²¹

V. Vijayakumar argues that women in Lakshadweep society enjoy high status.²² First, women have economic stability thanks to the ownership over land; and they have to give consent for the alienation of the land under their possession. Second, most of the property in the island was inseparable common property which was inherited in the female line. Third, neither women nor men leave their natal home after marriage. Fourth, divorce is easily available; and *tharavadu* maintained the women in the case of divorce.²³ Fifth, monogamy was strictly followed, since the property rights of the wife have a fundamental role in enforcing monogamy.²⁴

Nancy M. Tanner and Lynn L. Thomas in an article entitled *Rethinking Matriliny: Decision Making and Sex Roles in Minangkabau* look at sex roles in Minangkabau Muslim matrilineal societies. In this article, they contest Schneider's generalizations on the sex roles in unilineal descent system.²⁵ They argue that women as mothers are central in basic cultural beliefs and in the daily decision making for the ongoing functioning of the matrikin unit.²⁶ They observe that women carry out public, economic and ceremonial roles.²⁷ Houses are named after most senior resident women; and they provide for their children's and husbands food and their children.²⁸ The authors argue that women exercise authority owing to their control over economic

²¹ Leela Dube, *Matriliny and Islam*

²² V. Vijayakumar. *Traditional Futures: Law and Custom in India's Lakshadweep Islands* (New Delhi: Oxford, 2006), 218.

²³ *Ibid.*

²⁴ *Ibid.*, 219.

²⁵ Lynn L Thomas and Nancy M Tanner, 'Rethinking Matriliny: Decision Making and Sex Roles in Minangkabau', in *Minangkabau: Local, Regional and Historical Perspectives on West Sumatra*. ed. Lynn L Thomas and Franz von Benda-Beckmann. (Athens: Ohio University, 1985), 45.

²⁶ *Ibid.*, 48.

²⁷ *Ibid.*, 48.

²⁸ *Ibid.*

production, land and in the domestic sphere of the family. They control property, take decisions on the matters pertaining to their personal life, and of the other women in the lineage. They control agricultural production, the earning from the agriculture and earnings from home industries. Apart from these, women have ceremonial roles as well.²⁹ Authors add that the centrality and authority of women invariably increases with ageing.³⁰

G. Arunima argues that Nayar women had high status in the matrilineal traditions in terms of their control over sexuality, right to property and power, with variations in terms of class and age before the disintegration of Nayar matrilineal practices in North Malabar³¹. She challenges the argument that *Karanavan*, the eldest male member of undivided matrilineal household invariably held the authority. Arunima observes that the archetype of *Karanavan* was not an ahistorical one; rather a historical product of the interplay between colonial land revenue policies and legal measures, and cultural adaptation in response to colonial modernity³². Her point is that *Karanavan* emerged as a figure of authority to cater to the British morality of having a male member to deal with the land revenues and other transactions.

Anthropological accounts on matrilineality also provide insight into the causes and dynamics behind the transformation in the matrilineal practices in the historical, political and social contexts of various societies. Ladislave Holy in her book entitled *Anthropological Perspectives on Kinship* observes that various theories explain the transformations in the matrilineal kinship with reference to the transformations in the economic sphere.³³ According to him, they argue that a change from the production for subsistence to the production for exchange leads to the emergence of the nuclear family, as the key kinship group with respect to residence, economic co-operation,

²⁹ *Ibid.*

³⁰ *Ibid.*, 49.

³¹ Arunima, *There Comes Papa*. 10. She argues that Matrilineal inheritance spell greater rights and power for women.

³² *Ibid.*, 27.

³³ Ladislave Holy. *Anthropological Perspectives on Kinship*. (London: Pluto Press, 1996).

legal responsibility, and socialization.³⁴ These theories presume that when a man accumulates private wealth he tends to transmit it through inheritance to his son rather than passing it to the matrilineal kin.³⁵ Holy observes that these theories fail to problematize the father-son bond at length.

Holy discusses the modes of the shifts in the uterine inheritance by looking at the tendency of matrilineal groups to break down to small groups composed of uterine siblings and their immediate descendents through female line.³⁶ The author also notes that the tendency to pass on the property to the man's son develops when the productive group in the household was formed by the members of nuclear family, especially in a patrilineal set up.³⁷ Thus, a change from uterine to agnatic or close-blood kin through parentage can only be generated by the emergence of previously non-existent conditions which brings the father and the son into close co-operation and to the formation of joint productive teams.³⁸

The changes in the sphere of the economy and production cannot be totally attributed to the transformations in the matrilineal practices. One way to address the interconnection between religion, culture, law and customs is to resort to the functionalist framework. Leela Dube in her study of the matrilineal Muslims in Kalpeni Island, Lakshadweep observes a symbiosis between patrilineal principles embedded in the Islamic law, and the matrilineal customs.³⁹ She argues that Islam is functional for the continuation of matriliney, rather than being a challenge to it. She observes that the dual system of inheritance in both female and male line; distribution of authority, and rights in the conducting of rituals almost equally between patrilineal, and matrilineal kin; and balance of power between wife, and husband become the

³⁴ *Ibid.*, 106.

³⁵ *Ibid.*

³⁶ *Ibid.*, 107.

³⁷ *Ibid.*, 108.

³⁸ *Ibid.*, 109.

³⁹ Leela Dube, *Matriliney and Islam*.

underlying factors which ensure the continuity of the matrilineal customs in Lakshadweeps.

The theories that concentrate on economic transformations by employing Marxist framework give the impression that matrilineal kinship is incompatible to modern economic relations. They ignore the interface of law, religion, and other historical imaginations in bringing about a change in the structure. The relationship between the structure and ideology has to be seen as dialectical. While structure determines the ideology, the ideology in return influences the human practice so as to alter the structure through their agency.⁴⁰

When we attempt contextualize the society in context of history, one has to observe that the discourses in the realm of culture, law, and religion contribute to the production of 'knowledge'.⁴¹ The knowledge sets up norms for social conduct. Ladislave Holy observes that the changes in matriliney account for the change in the descent as well. She further adds that the changes in the descent happen due to the changes in the conceptualization of the descent. According to her a general decline in the ways of tracing the descent exclusively through females happens along with the changes in the ways of the transmission of the property.⁴²

Taufik Abdullah in an article entitled as *Islam, History, and Social Change* looks at the interplay between customs, law and religion in the historical context of Minangkabau Muslim matriliney. He observes the ways in which legalistic textual interpretations of Islam contradicted *adat* (customary practices)⁴³ from 19th century onwards. Abdullah observes that, the most immediate societal response to the

⁴⁰ See, Karl Marx and Frederick Engels, 'German Ideology', in *Collected Works, Vol 5*. (Moscow: Progress Publishers, 1976), 36.

⁴¹ Michel Foucault in the *Archaeology of Knowledge* gives a more complex reading of social transformation using the concept of the discourse. Discourse implies those utterances of the experts that determine truth in the society. According to Foucault, discourse is historically produced in the context of cross cutting historical conjectures that he calls as discursive field. See, Michel Foucault, *Archaeology of Knowledge*. (London: Routledge, 2002).

⁴² *Ibid.*, 109.

⁴³ Taufik Abdullah, 'Islam, History, and Social Change' in *Minangkabau: Local, Regional and Historical Perspectives on West Sumatra*. ed. Lynn L Thomas and Franz von Benda-Beckmann (Athens: Ohio University, 1985), 141.

legalistic antagonism towards customary practices in Indonesia was the quest for re-examining the inherent greatness of *adat* law.⁴⁴ He observes that despite the threat of legal principles Islam remained a system of meaning.⁴⁵ But, the attack on matriliney lead to the ‘strengthening’ of the validity of *adat* as a system of conduct.⁴⁶ He calls this process as ‘Islamization’. Abdulla argues that one of the pertinent developments after the defense of the custom was that matrilineal inheritance of property received ‘religious’ interpretation and there was an injunction of dual mode of inheritance- in matrilineal line, as well as in patrilineal line based on *Sharia*.⁴⁷ Vindicating the argument postulated by Holy, Abdulla argues that there was a shift in the religious meaning in the historical context of Minangkabau. The shift happened in such ways that in the 19th century, religion and custom (Islam and *adat*) were one and the same,⁴⁸ but later it transformed in such a way that religion as an institution apparently originated from the texts/the *kitab*. There were alternations in the meaning of matrilineal practices.

Karla O. Poewe in the article entitled *Religion, Matriliney, and Change: Johova’s Witnesses and Sevent-Day Adventists in Luapula, Zambia* looks at the interface between the Protestant theology, economic transformations, and matriliney in Luapula.⁴⁹ The author looks at the ways in which Seventh-Day Adventists elaborate the questions of salvation and articulate the idioms of faith in such a way that these enable them to sustain matrilineal succession, and maintain loose marital ties in accordance with demand of the matrilineal customs.⁵⁰ They adhere to the simple notions of salvation. They believe that God’s grace alone can grant resurrection. They also believe that accumulation of the wealth cannot bring salvation; and also that

⁴⁴ Ibid., 142.

⁴⁵ Ibid., 142-143.

⁴⁶ Ibid., 143.

⁴⁷ Ibid., 144.

⁴⁸ Ibid., 150.

⁴⁹ Karla O poewe. ‘Religion, Matriliney, and Change: Johova’s Witnesses and Sevent-Day Adventists in Luapula, Zambia’, *Americal Ethnologist*, 5: 2 (May, 1978), 303-321.

⁵⁰ Ibid., 303.

everybody would ultimately achieve salvation.⁵¹ Poewe argues that people negotiate with the Church for the maintenance of matrilineal customs and inheritance, since the Bible does not adequately address itself to the organization of the family. The church wanted to establish the authority of the husband; and to ensure marital stability. The Seventh-Day Adventists had loose marital ties; and throughout the life each spouse identifies and re-identifies her or his property to ensure that upon death, the deceased's nuclear family may not seize everything. Poewe continues to look at the Jehova Witnesses, who use the idioms of religion to find justification for cutting their matrilineal ties; to maintain nuclear families based on the authority of the husband and strong marital bond; to avoid re-distribution of property and wealth among the members of the matrilineal family; and to achieve economic success. According to Poewe, husbands among them attempt to counter the intervention of outside authority from the wives' kin. The husband is subservient only to the God figure.⁵² Their notion of salvation was adapted for the justification of the transformations in matriliney. They believe that the earth has to be transformed to the actual theocracy of God.⁵³ In brief, Jehova's Witnesses achieve economic success by transforming familial relation from matriliney to patriliney through the use of religious ideology.⁵⁴ One can argue that, in this article Poewe looks at the use of belief as an ideology that justifies intentional action for altering structural conditions.

The understanding of religion as an ideology that can be used for the maintenance or for challenging the structure of economy, family is very inadequate. In the context of Malabar one can observe that the realm of the sacred went beyond the narrow bounds of the rituals and practices of Islam as religion. The sacred incorporated imaginations in the realm of what are commonly understood as belonging to the realm of the secular; memories and myths in culture; and the textual

⁵¹ Ibid.

⁵² Ibid., 313.

⁵³ Ibid., 313.

⁵⁴ Ibid., 314.

principles of Oriental religions. The sacred and the relationship around them set up the collective norms for the actors in society.

Meera Velayudhan in an article entitled *Reform, Law and Gendered Identity: Marriage among Ezhavas of Kerala* looks at marriage reforms among Ezhavas, in the context of the efforts for the legal measures for the transformations of laws of inheritance, succession and marriage in Travancore.⁵⁵ One of the central concerns of the social reform movement which advocated changes in Ezhava matriliney was the demand for shedding those customs that did not fit into the 20th century notions of the 'Hindu' religion in Travancore.⁵⁶ They argued that customs lacked the sanction of the Hindu law such as *smriti*. The author also observes that the legal debates resulted in actualizing the subordination of women in the community since there was more control of relations between sexes within the family.⁵⁷

Arunima deals with the disintegration of Nayar matrilineal practices from the second half of nineteenth century through the interplay of colonial land revenue policies and legal measures, and cultural adaptation in response to colonial modernity, in the context of structural changes in the production relations.⁵⁸ She looks at the debates on customary marriage among Nayars in Malabar from the late 19th century onwards. She argues that there were emerging notions which conceptualized customary marriage as antagonistic to the precepts of the 'Hindu religion', and modest way of sexual unions. She adds that these ideas were appropriated by caste reform movements which advocated for the marriage reform.⁵⁹ Subsequently, she looks at the

⁵⁵ Meera Velayudhan. "Reform, Law and Gendered Identity: Marriage among Ezhavas of Kerala". *Economic and Political Weekly*, 33 (Sep. 19-25, 1998). 2481.

⁵⁶ Ezhavas practiced customary marriage or *sambhandam* till the mid of twentieth century. The central ritual of the marriage was called *mundukoda/pudavakoda*. Social reformers introduced a new form of marriage called *vivaham*. They argued that customary marriage lacked the sanction of the Hindu law such as *smriti*. A committee called Ezhava Law Committee was formed in the year of 1919. The committee stood for the elaboration of the ideal of a patriarchal, monogamous marriage.

⁵⁷ *Ibid.*, 2482.

⁵⁸ Arunima, *There Comes Papa*. Also see Praveena Kodoth. "Courting Legitimacy or Delegitimizing Custom? Sexuality, Sambandham, and Marriage Reform in Late Nineteenth-Century Malabar", *Modern Asian Studies*, 35: 2 (May, 2001). 349-384.

⁵⁹ Arunima, *There Comes Papa*, 128.

debates on marriage, the re-distribution of matrilineal joint property; and argues that these debates were simultaneously appropriated to articulate caste boundaries⁶⁰ between the Nayars and the Nambuthiris;⁶¹ for the adoption of monogamous unions⁶²; the realization of 'individuality', and the attainment of 'social progress'.

Vijayakumar in the context of the transformations of Muslim matrilineal customs in the Lakshadweep islands, India, argues that the interplay between the implanting of mainland law, and legal institutions, land reforms, and the emergence of the new ideas on religious practices in the post-independent period along with the economic transformations, led to the changes in the customary law.⁶³

V. I. Benaseer in her dissertation titled *Tradition versus Text: A Study of the Matrilineal System of Malabar with special reference to Mappila Matriliney, 1871-1939*, looks at the transformation of Mappila matriliney in colonial Malabar. She argues that matrilineal customs were replaced by the 'correct' versions of Islamic practices.⁶⁴ This process happened when the Mappilas gained knowledge about 'true' teachings of Islam from religious texts after obtaining modern education. According to her, the transformation of matrilineal families into the frame of patriliney, and nuclear family meant empowerment for women from the shackles of tradition. Thus, the social transformations imply social mobility for the Mappila community from backwardness to the progress.

Given the discussion we have had on the anthropological perspectives on matrilineal practices, we will discuss the transformation of Mappila matriliney from the beginning of the twentieth century onwards.

⁶⁰ Ibid., 143.

⁶¹ Debates on marriage were not exclusive to Nayars, since Nayar women had hypergamous relation with Nambuthiri men. Thus, the debate among Nambuthiris to avoid union with Nayar women articulated the wish of Nambuthiris to assert themselves as upper caste community, Ibid., 150.

⁶² Ibid., 154.

⁶³ V. Vijayakumar. *Traditional Futures*, 204-205.

⁶⁴ Benaseer, V. I. *Tradition versus Text: A Study of the Matrilineal System of Malabar with special reference to Mappila Matriliney, 1871-1939*, (Unpublished M Phil Dissertation submitted to CHS/JNU, 2005).

Mappila matriliney underwent transformation from the beginning of twentieth century. It happened after the transformation of Nayar *tharavadus*. Malabar Marriage Report was passed in the year 1886. The Malabar Act of 1898 and the Madras Marumakkathayam Act of 1933 were followed. Among the Mappilas, the Mappila Succession Act of 1918 was the first legal intervention on their customs. Two of the subsequent acts- Mappila Will Act of 1928 and the Mappila Marumakkathayam Act of 1939 were passed despite the resentment of a large section of Mappilas. The Acts were passed to cope with increased number of litigations from some members of the matrilineal household; hue and cry of social reformers; and the ignorance of colonial administrators and judges to perceive the customs of the land for while they settled the legal disputes; and the subsequent implementation of codified legal measures. The moral support extended from some sections of the society in favor of legislation apparently showed the changes in the outlook of educated and political elites of the community in the context of nationalism.

Mappila matriliney was understood as “un-Islamic” and as “a legal complexity” from the beginning of the twentieth century in Malabar. Mappila matriliney being ‘legal complexity’ implied that many judges used Muhammadan law and customary law intermittently, to the ruin of customary laws. Consequently, these debates resulted in the shrinkage of Mappila matriliney into the cluster of some rich Mappilas to certain pockets (E.g., Arakkal royal family, fishing communities of Cannanore). In the contemporary context, variations of Mappila matriliney still persist in erstwhile north Malabar.

In the coming chapters, I will use the insights from the historical examples of Nayar matrilineal practices, and Minangkabau matrilineal customs, in juxtaposition with the Mappila matriliney, notwithstanding various differences between them. One similarity is that in all these communities customary practices were understood as antagonistic to ‘religiously’ sanctioned practices. Nayar matrilineal practices were understood as antagonistic to the Hindu law; and the customs like *sambandam* (customary marriage) were referred to as ‘concubinage’ which was later described as a

variant of prostitution⁶⁵. Similarly, Mappila matriliney and Minangkabau *adat* (custom) were understood as ‘un-Islamic’ from the beginning of the 20th century. This idea of the ‘un-Islamic’ nature of the matriliney had its inception in the colonial records; and these ideas were continued in the debates of social reformers on customs in Malabar.⁶⁶

A survey of existing historiography on the Mappilas will clarify the fact that there are different views when it comes to the case of Mappila matriliney. One polemical view refers to the matrilineal customs as a blind continuation of Hindu/Nayar practices, which were the remnants of customs prior to the conversion. These views ignored the fact that institutions like *muta*’ marriage existed as a social institution which enjoyed Qur’anic sanction, and was practiced by Arab traders while they enter into marital relationship with the native women. *Muta*’ marriage is a union of temporary nature in which parties agree to live together in the natal house of the woman for a stipulated period of time, and for which the man has to pay an amount of *mahr*⁶⁷. Colonial documents, native non-Mappila authors, along with Mappila historians and educated elites alike shared the myths in the realm of history. These modern myths soon provided the ideological basis which was used for extending the patriarchal control of the Mappila men and an increase in their power.⁶⁸

However, it is important to study the Mappila matriliney’s identity on its own. If Mappila Muslims practiced matriliney for a long period of time, it needs to be approached as an Islamic practice, rather than taking it as the remnant of Hindu practices. To explore this idea, one has to deal with anthropological ideas on the definition of Islamic tradition and societies. Primarily, there is a need for conceptual

⁶⁵ Ibid; Arunima, *There Comes Papa*.

⁶⁶ The story that Nair taravadus converted to Islam in the tenure of Tipu, is accepted as authentic thesis on its practice. This happened despite the fact that this origin story is logically impossible, when one take the existence of matriliney among fisher community or its wide prevalence across class in early times. See, Gough, “Mappilas: North Malabar”.

⁶⁷ Koya, along with many others talks about *muta*’ marriage as an institution; and observes that it had a major role in the origin and practice of matriliney in Malabar coasts. S.M. Koya. *Mappilas of Malabar: Studies in Social and Cultural History*. (Calicut: Sandhya. 1983).

⁶⁸ In some cases like that of Koya’s account, there is an ambiguity on the “un-Islamic” nature of origin, and practice of matriiiny especially when he discuss *muta*’ marriage. On the other hand, various others totally ignored these nuances.

clarity on this issue, so as to remove the conceptual errors in the historiography of Mappila matriliney. Leela Dube in her study of matriliney in Lakshadweep Islands makes an attempt to link Islam, and matriliney. She looks at the ways in which matriliney and Islam set up separate norms for life, though functionally co-existed in the realm of everyday life⁶⁹. Therefore, the questions of origin and the location of post-nineteenth century matrilineal practices vis-à-vis what anthropologists call 'the Islamic tradition' does come under the scope of the study.

In the first half of 20th century, the perception of matriliney as a Hindu practice was dominant. The religious and the secular discourse on Mappila matriliney which produced perceptions on matriliney, emerged from various sites; and in the later periods debates on Islamic practices were produced from various spaces provided by the advent of colonial mechanisms, including the rise of modern educational institutions and the court, emergence of print technology and the interventions of the Christian missionaries.⁷⁰ However, most stringent attacks on matriliney were expressed through the idioms of the religion, 'Islam'.

The ongoing socio-religious reform efforts rigorously critique any variation of matriliney which might have remained after the passing of family laws. They hoped to remove matrilineal practices in all aspects of domestic life- be it conjugal relation, inheritance, or family organization. They continuously re-construct the ideal of conjugality, and attempt to create an idealized and homogenized form of family organization. These religious discourses ironed out the ambiguity on matriliney, which otherwise would have given a scope for debates.

One can link the above mentioned discussions so as to solve some issues which surfaces in the discussion of contemporary Islam and women in Kerala. The

⁶⁹ Though the title of the book is 'Matriliney and Islam' she did not reconcile the question whether Matriliney is Islamic; and she also shares a notion that patrilineal practices are Islamic influence while matrilineal ones are not. See Dube, *Matriliney and Islam*.77-79.

⁷⁰ For a mapping of these trends one can follow the activities of various reform movements among Mappilas. For instance, girls were allowed to go to school and the effort for the implementation of Islamic dress code started along with it. For useful data see, Ashraf Koyilotham Kandiyil. *Reform and Revival among the Muslims of Kerala: A Study of Muslim Aikya Sangam*. (Unpublished M. Phil Dissertation submitted to CHS/JNU.1992).77

representations of contemporary Muslims consider Mappilas at par with ‘Muslims’ in the global context⁷¹. An annexure to this ideology will be the propagations of various Muslim organizations who claim greater access to ‘pure’ Islam in Kerala. In the matter of gender, this discourse can be seen as various ways in which ideal conjugality and submissive femininity might be constructed⁷². However, I do not attempt set up a dialogue between history and the present debates on Muslim women in Kerala, due to the limitations of time.

Anthropological understanding of Islamic Society

Debates on matriliney were explicitly articulated through the idioms of Islam from the late nineteenth century onwards. Mappila matriliney was perceived as un-Islamic. In that sense, it will helpful for us to discuss the anthropological perspectives on the meaning and nature of Islamic societies and Islamic practices.

Anthropological and historical understanding of Islam is useful for the study of gender relations among Muslims. The analytical distinctions like little and great traditions of Islam are useful for the analysis of empirical practices in Muslim

⁷¹ A survey of literature in Malayalam is useful for understanding the current tropes historical narratives and discourses on gender. For e.g., see *Mujahid State Conference Souvenir*. (ChangaramKulam. January 2008: “Souvenir”, Sunni District Conference. Calicut. April.19-20. 2008: “Muallim Conference Souvenir”. 1993

⁷² Contemporary feminist critiques of reform movements among various castes groups have provided rich insight into the consequences of male centered reform efforts in Kerala, and India. For critical overview of post reform Kerala context see Arunima, *There Comes Papa*; Devika, J. “Women’s history or history of en-gendering? Reflections on gender and history writing in Kerala”, in *Culture and Modernity: Historical Explorations*. ed. K.N.Ganesh (Calicut University Press. 2004); Devika, J. “The Aesthetic Woman: Re-forming Female Bodies and Minds in Early Twentieth-Century Keralam”. *Modern Asian Studies* 39: 2. (Cambridge University Press.2005). 461–487; Devika, J. “Housewife, Sex Worker and Reformer:Controversies over Women Writing their Lives in Kerala”. *Economic and Political Weekly*. (April 29, 2006); Devika, J. “Bodies Gone Awry: ‘The Abjection of Sexuality in Development Discourse in Contemporary Kerala’”. *Indian Journal of Gender Studies*, 16:1 (2009).

societies⁷³. Yet, it tends to create a division of labor between religious tradition and religious texts⁷⁴. Talal Asad opines that this leads anthropologist to assert that “neither form of Islam has claim to being regarded as ‘more real’ than other.”⁷⁵ For conceptual clarification of the definition of Islam, Asad propounds the idea of Islam as “a discursive tradition”. The discursive nature of Islam means that every where Islam is concerned with defining what is allowable (*halal*) and what is not (*haram*).⁷⁶

Elaborating the notion of discourse- the linguistic practices by experts, Talal Asad argues that religious symbols are constructed; and established as ‘natural and authoritative’.⁷⁷ He adds that power invariably creates religious truth.⁷⁸ He observes that in the same process

‘particular discourses and practices were systematically excluded, forbidden, and denounced- made as much as possible unthinkable; others were to be included, allowed, praised and drawn into the narrative of sacred truth’.⁷⁹

In brief, he looks at religion not a trans-cultural or trans-historical phenomenon.

The notion of discursive tradition deviates from the existing theories. Clifford Geertz, primarily attempted to understand religion as a system of symbols which act to establish powerful, pervasive and long lasting moods and motivations in people by formulating conceptions of general order of existence; and clothing these conceptions with an aura of factuality. The aura of factuality constructs moods and motivations as

⁷³ Ronald Lukens-Bull gives a critical discussion of Anthropological approaches to the study of Islam. See Ronald Lukens-Bull “Between Text and Practice: Considerations in the Anthropology of Islam” in *Defining Islam: A Reader*. Ed. Andrew Rippin (London: Equinox, 2007). 37-56.

⁷⁴ *Ibid.*, 42.

⁷⁵ *Ibid.*; Also see Asad, T. “The Idea of an Anthropology of Islam”. *Occasional papers series*. (Washington DC: Georgetown University Center for Contemporary Arab Studies. 1986), 6.

⁷⁶ Asad. “The Idea of an Anthropology of Islam”; Lukens-Bull. “Between Text and Practice”. 44.

⁷⁷ Talal Asad, *Genealogy of Religion: Discipline and Reason of Power in Christianity and Islam*. (John Hopkins : John Hopkins University, 1993), 31.

⁷⁸ *Ibid.*, 31.

⁷⁹ *Ibid.*, 35.

uniquely real.⁸⁰ Geertz however, placed those features of cultural life that distinguished between cultures and religion in the forefront. Thus, cross-cultural features of Muslim societies remained in the background. Rituals of regular worship, acts prayer or sacrifice, vernacular texts and history were left out in the analysis.⁸¹ However, anthropological understanding of Islam has to incorporate cross cultural features or great traditions as well as little traditions or local practices.

Recent debates on anthropology of Islam states that decontextualised reading of normative texts ignoring the social life that the texts take, would fail to understand Islamic societies. Thus the notion of discourse becomes very important in analysing modern Islamic processes of cultural production.⁸² He agrees with Geertz's analysis that texts explicitly contain semantic and experiential qualities of religion. However, discursive practice of religion incorporates the qualities of the specific events of speaking, commenting, and reflecting on the texts.⁸³ Thus, there can be divergent ways of talking about religion.

Asad also argues for the incorporation of indigenous discourses in understanding Islam; but his depiction of Islamic discourse focuses too much on the Qur'an and the Hadith⁸⁴. One has to take Islamic texts as poly-vocal; and consider the fact that Islam has an oral tradition as well. Given that limitations, Asad's idea of Islam as discursive tradition is a useful conceptual tool.

⁸⁰ *Ibid.*, 30.

⁸¹ John R Bowen, *Muslims through Discourse: Religion and Ritual in Gayo Society*. (Princeton: Princeton University Press, 1993), 5.

⁸² *Ibid.*, 7.

⁸³ *Ibid.*, 7.

⁸⁴ Lukens-Bull. "Between Text and Practice". 47.

Gender and Family in Colonial South India: Mappila Matriliney in Malabar, Kerala c. 1914-1940

The history of familial practices among Mappila Muslims in Kerala offer a collage of contesting symbols and meanings in the realm of intimacy, religious piety, individual rights, and social relations. Exploration of matriliney would thus set up connections between social reforms among Hindu castes; Islamic revitalization and articulation of religious customs; and the policies of the colonial state and the court in the context of 20th century Kerala. Mappila Muslims could be seen as an ‘imagined community’ by the middle of twentieth century, despite the existence of the social stratifications and regional variations. The ‘community’ became the centre of identity assertion. Familial norms, legal and political rights, sexual norms, and gender roles found articulation around the quest for the making of a community. Mappila women were the object of male-centered, community-based reforms.

I have attempted to use Emile Durkheim, Marcel Mauss, Mary Douglas, Mircea Eliade and Michel Foucault for the theoretical discussion on the themes of classification, formative principles of the sacred and cultural imagination of a new ideal of the Mappila women.

First, this dissertation will explore the possibilities by which one can use the feminist framework which is used for the study of Nayar matriliney for analyzing the Mappila matriliney. Second, this study will look at the possibility of conceptualizing matriliney as ‘an Islamic tradition’ and look at the possibilities which will emerge for locating alternative femininities in the ambit of Islam. Third, this study will attempt to locate the continuities in the social construction of gender in colonial Malabar.

Summary of the Chapters

The first chapter, *Family, Religion, and Law among the Matrilineal Mappilas in Malabar c.1914-1940*, will look at the shifts in the conceptualization of family among Mappilas as result of the interplay between religion, law, and society. It will discuss

the structure and meaning of the matrilineal joint family-*tharavadu* from the beginning of the twentieth century onwards in Malabar, so as to examine the transformation in the structure and the conceptualization of Mappila family. Subsequently, the chapter will discuss three major legislations that took place during the period of 1914 to 1940. The discussion will unfold the interface between Anglo-Muhammadan law, and matrilineal customs with reference to the issues of the land.

The second chapter entitled *Religion, Family and Gender Relations among the Mappilas in Malabar, c. 1914-1940*, will discuss the re-conceptualization of Islam, matriliney, and sex roles in the first half of the twentieth century. This chapter will discuss the alteration of matrilineal customs mainly during the period of 1914 to 1928 in accordance with some of the provisions in Anglo-Muhammadan law. The chapter will also discuss the re-construction Mappila femininity and re-articulation of gender relations from the late 19th century onwards.

The third chapter entitled *Cultural Articulations of Gender, Marriage, and Religion in Malabar*, will discuss a social novel, *Sulatanveedu*, in comparison with the illuminations from the historical documents and ethnographies on the matriliney among Mappilas in Malabar. The chapter will also juxtapose novelistic representation with the ethnographies on matrilineal Muslim societies in Lakshadweeps, and Minangkabau along with Hindu Nayar matriliney. The chapter will illustrate the cross-cutting, yet multiple idioms of purity in the locus of family, the articulation of gender, the practice of religion, and the imagination of political community; and the ways in which Mappilas negotiated with the norms in their daily life in the cultural context of Kerala.

The organization of the study is thematic. However, effort has been taken to maintain chronological order. This study is not a comparative study of gender relations in Islamic societies, but an attempt to locate Mappilas in the larger social context of a multi-religious society, Kerala and with the matrilineal societies in general. The study is based on sociological and historical method. The primary

materials used for the study includes published and unpublished Government documents, magazines, souvenirs, and newspaper reports in Malayalam, Arabi-Malayalam, and English. A novel which narrates the transformation of Mappila Matriliny will be also used as a primary source. Rest of the study is based on secondary sources, which include books, unpublished PhD thesis, and dissertations. The scope of the study is also that of sociology of kinship, intimate relationships, and customs, and social history.

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Family, Religion, and Law among the Matrilineal Mappilas in Malabar c.1914-1940

Introduction

In this chapter, we will look at the shifts in the conceptualization of family among Mappilas as result of the interplay between religion, law, and society. At the outset, we will discuss the structure and meaning of matrilineal joint family-*tharavadu* in the beginning of the twentieth century onwards in Malabar. In the course of the discussion, we will unfold the transformation in the structure and the conceptualization of Mappila family. Subsequently, the chapter will discuss three major legislations that took place during the period of 1914-1940. The three legislations under the discussion are Mappila Succession Act of 1918, the Mappila Wills Act of 1928, and the Mappila Marumakkathayam Act of 1939. The discussion will unfold the interface between Anglo-Muhammadan law, and matrilineal customs with reference to the issues of the land. The discussion of legislations will be mainly centered on the analysis of the peoples' responses collected by the colonial government on various Bills that was proposed in the Madrass Legislative Assembly prior to the enactment.

In the beginning, we will discuss the structural specificities of matriliney with reference to the matrilineal joint family, customs of inheritance, the regulation of a member's relations to the land, transformation in the matrilineal customs due to the intervention of the court, and the impacts of legislation on the matrilineal customs. We will begin our discussion with exploration of the structure of *tharavadu* or matrilineal joint family.

The *Tharavadu* in early twentieth century

Existing literature on matriliney in Kerala consider *Tharavadu* as the central entry-point to discuss the transformations of matriliney.¹ A *tharavadu* consists of individuals who claim descent from a common female ancestress. It usually consists of a female, her children, and her daughter's children. Mappila *tharavadu* is an exogamous community based on incest taboo by way of blood and fosterage or breast feeding.² Members are related through two ties: *mudhal sambhandam* and *pula sambandham* relations; there are relations of fosterage well. *Mudhal sambhandam* implies common rights over property that consists of the kindred community. *Pula sambandham* implies the observance of common rituals at the event of birth and death. In nineteenth century, Nayar *tharavadus* at least, *pula sambandham* was a representation of extra economic ties, and it forged a symbolic bond between all the members of the *tharavadu* and non-members including non-kin such as a *pulaya* slaves³. Later, after the abolition of slavery it was restricted to kin based ties.⁴ The *pulasambandam* kin or ritually bound kin are called *attaladakkam* heirs.⁵

Matrilineal women differed from their patrilineal counterparts in two important ways. Firstly, the marriage did not sever their affective and economic ties with their natal homes. Secondly, children irrespective of sex belonged to the mother's *tharavadu*. However, matrilineal *tharavadu* can neither be understood as a mirror image of patrilineal family nor as an example of avuncular form of patriarchy.⁶

¹ Arunima, *There Comes Papa*, 9. She argues that the analytical difference between household and family- the one that takes family as a natural unit does not suffice to study matriliney.

² The bond through breast feeding imposes a prohibition on marriage relations between the breast-fed children in Islam.

³ *Ibid.*, 27.

⁴ *Ibid.*, 56.

⁵ *Ibid.*

⁶ See *ibid.*, 13.

The structure of matrilineal family underwent change due to varying reasons ranging from the legal redefinition of the family by the colonial state to economic and ideological pressure in Malabar during that period.⁷ Kathleen Gough looks at the factors which contributed to the alteration of matriliney from early late nineteenth century onwards in Malabar. She calls the alterations as ‘modern disintegration of matrilineal descent groups’.⁸ She sums up existing theories on matriliney: while some scholars attributed the causality of ‘disintegration’ to the immeasurable increase of the power of the father and assertion of his “natural” control over children; some others look at Christian missionary activities, modern economic influences, and growth of modern commerce, British rule and other western influences as the causal factors.⁹

In the context of Malabar, Gough argues that long-term structural changes in the economy induced by the British were all conducive to changes in patterns of matrilineal kinship. There were changes in technology, communication and cash-cropping brought structural changes. She also observes that aristocratic Mappilas, former royalty, and wealthy commoners retained their *tharavadu* set up rather intact till 1950s. Retention of estates, success in trade and boost in export and import provided the financial viability for the maintenance of the system.¹⁰ She also observes that the great majority divided their property between individuals or between groups of uterin siblings soon after the passage of legislation in 1930’s that made the division legally permissible.¹¹

In fact, the bigger *tharavadus* consisted of many small *thavazhis*-branches of matrilineal joint family¹². The members of the branches, though knitted by the bonds of kinship, may not necessarily live in the same place or same house.¹³ Women took decisions regarding *tharavadu* matters and they had the right to property.¹⁴

⁷ Ibid., 14.

⁸ Schneider and Gough ed. *Matrilineal Kinship*, 636.

⁹ Ibid.

¹⁰ Schneider and Gough ed. *Matrilineal Kinship*, 646.

¹¹ Ibid.

¹² Arunima, “There Comes Papa”, xvi.

¹³ Schneider and Gough ed. *Matrilineal Kinship*, 15.

¹⁴ Ibid., 27. We will discuss the sex-roles in matriliney and the ways in which matriliney distributed authority, in the fourth chapter in detail.

They were central to the formation of new *tharavadus* from late eighteenth century onwards till the early nineteenth century. By the twentieth century, *tharavadu* was treated as a corporate and impartible, co-residential and property owning structure that rendered the *tharavadu* into a manageable and cohesive unit. It implies that there was a redefinition of power relations in terms of the division of gender and generation. Karanavan - the eldest among the male held most of the power thereafter.¹⁵ He became the head of the *tharavadu* in official as well as ritual matters¹⁶. Women who had possessed separate property set aside for their maintenance that women normally inherited in the female line,¹⁷ had to fight with Karanavan; both the parties went to the court. Among Nayars in Malabar, the status of mother's brother within the *tharavadu* began to acquire political significance; while mother-child unit was reduced to a purely 'domestic' or apolitical status¹⁸. In brief, women's rights were circumscribed in the new legal language and their role in the social reproduction was subordinated to sexual reproduction in the normative level by the beginning of twentieth century¹⁹.

By twentieth century, among Nayars *Tharavadu* became a corporate unit that holds the entire joint property. It implies that the branches of *tharavadu* or *tavazhi* may have exclusive property of its own.²⁰ The members of the *tavazhi* could also acquire estate by way of gifts from their fathers. It is called *puthravakasam* property. In other words a gift from father results in the establishment of a *tavazhi*. *Tharavadu* have no right over such property²¹. Among poor Mappilas who does not have joint property, *tharavadu* would mean the residence of the members or relationship between them.²² Disputes and property emerged ever since the legal redefinition of the *tharavadu* as a corporate unit.

¹⁵ Arunima, *There Comes Papa*, 52.

¹⁶ In south Canara he is called *Ejamanan*. See Ali, *Law and custom*, 53.

¹⁷ Among Nayars it could have been a gift by their own natal kin as *stridhanam* or by husband, or purchased by the women themselves.

¹⁸ Arunima, *There Comes Papa*, 53

¹⁹ *Ibid.*

²⁰ A smaller group who claim descent from a female member could become a sub-*taravad*-it is called *tavavhi*.

²¹ *Ibid.* 54

²² *Ibid.*, 53.

Among the Mappilas the alterations in the structure were slightly slow. One of the reasons that come out in our discussion is the fact there was an Islamization of customary practices. Islamization means a re-articulation of matrilineal customs in accordance with legalistic and Islamic textual perspectives on matriliney. We discuss this process in the upcoming chapter.

Land, Religion and Law: the Disputes around the Will, and Inheritance of Private Property among Mappilas

In this section, we will look at the intersection between disputes over land, the re-articulation of religious meanings, and the engagement of colonial courts in the disputes based on the dictums of Anglo-Muhammadan law. Before going on to the elaborate discussion of the disputes over land, we will discuss Anglo-Muhammadan law in brief.

Anglo-Muhammadan Law

Anglo-Muhammadan law refers to the Islamic legal system formed in the British India in the 19th century. Syed Khalid Rashid argues that Anglo-Muhammadan law was substantially different and independent legal system other than being the translation of the *Sharia*.²³ The law took its inspiration from modern English jurisprudence²⁴ The British courts in India relied upon the legal texts of the past for the purpose of the purpose of authentication; the courts in the process rejected the opinions of the contemporary legal interpretations. The author calls it anglicization of the *Sharia*. The anglicization happened in the middle of the nineteenth century. Various aspects of the *Sharia* underwent statutory replacements by codes based on English law in the process

²³ Sayed Khalid Rashid. 'Islamization of Muhammadan Law in India'. *The American Journal of Islamic Social Science*, Vol.5, No.1, 1998.

²⁴ *Ibid.*

of Anglicization. The judges interpreted the *Sharia* law with help of English law without grasping the nuances of the *Sharia* law.²⁵ They had scanty knowledge of the *Sharia*.²⁶ The process of Anglicization of the *Sharia* replaced the office of Qadi- the main functionary position in administration of justice under *Sharia* and the onus of interpretation was placed in the hands of English judges.²⁷ The Anglicisation also established the apex authority of the Privy Council as the final court of appeal.²⁸ Rashid argues that the protocol of lower court following the verdict of superior court was unknown to the *Sharia*. There was thus, a cessation of growth in the *Sharia*. The law was codified as a conservative law and rigid set of rules.²⁹

The Disputes around the Will, and Inheritance of Private Property among Mappilas

The will means the gifting of the property while a person is alive. Malabar Wills' act of 1898 enabled an individual following *marumakkathayam* or *alisanthanam*³⁰ law of inheritance to alienate his or her individual property by will.³¹ It also included those properties gifted to him for his own exclusive use and benefit by his parent or others by an act of the gift. If an individual did not clearly express the intention of a gift, the *tavazhi* or branch would acquire it with incidents of *tharavadu* property. Even though the gift through will caused a threat to the integration of family it does not cause ruin to the practice of matriliney because gift lead to the formation of new sub-branch or *tavazhi*, a matrilineal family unit of a mother her female children³². The dispute around gifts shows that Mappilas also have used the Wills Act for the purpose of gifting their

²⁵ *Ibid.*, 143-146.

²⁶ *Ibid.*, 140.

²⁷ *Ibid.*, 140.

²⁸ *Ibid.*, 142.

²⁹ *Ibid.*, 140.

³⁰ Matriliney is called *Alisanthanam* law in south Canara.

³¹ Kumari, State and social change.335

³² *Ibid.*,335.

property. The Mappila junior members used to will their property that had become a commodity by then, to their wife and children.

There were enormous numbers of disputes on property among Mappilas from the late nineteenth century onwards³³. The disputes clearly illustrated the social dynamics in matrilineal milieus and the emergence of the land as a commodity among Mappilas. The decisions over the disputes also explain the attitude of colonial government and judiciary to Mappila *marumakkathayam* customs. The property disputes are very crucial to whole analysis, since at least in North Malabar Hindu and Mappilas *tharavadus* owned immense amount of land³⁴. One of the primary sources of litigation was the dispute over the inheritance and gift transaction of private or self acquired property of individual Mappilas. Before going to the discussion, we will discuss the notion of property in the historical context of Malabar in the late nineteenth century onwards.

Properties that Came Under the Limit of the Wills Act of 1898

Now, let us discuss the notion of private property. In Malabar there is a difference between holding and owning property. Only the self-owned property could be alienated by an individual. It is because property finds collective ownership in matriliney in 19th century; individual property was taken away from the ambit of the customary law. The individual property had existed before, especially that of women's. To have clear idea about the kinds of property that comes under the limits of the gift or will it useful to understand the nature of property holdings by an individual. The letter of Chirakkal Taluk Tahsildar to Deputy Collector of Calicut enlisted the below mentioned kinds of properties as possible forms of land holdings of the Mappilas.³⁵ In the first decade of the

³³ For a detailed discussion of Judicial system in Colonial Malabar, see Vasantha Kumari.C. *State and Social Change- The Role of Judiciary: A Case Study of Malabar 1792-1940*, (Unpublished PhD Thesis, University of Calicut.2003).349.

³⁴ *Ibid.*

³⁵ Dated 23-09-1914

twentieth century a Mappila male (and female) in his life time holds the following categories of property:

1. Property acquired by him [or her] by his own earning.
2. Property gifted to by him [or her] for his own exclusive use and benefit by his [or her] parents or others.
3. Property gifted in his [or her] sole name or the joint names of himself [herself] and others not for his [or her] exclusive use and benefit but for joint use or benefit.
4. Property inherited by him [or her] from his [her] father who had followed *marumakkathayam* law.
5. Property acquired or inherited by him [or her] as member or Karanavan of his *tharavadu*.³⁶

Makkathayam or patrilineal Mappilas married from matrilineal families. It manifests a change in the rules and norms attached to marriage as well. The changes in the marriage invariably created confusion in the courts-especially in the higher courts. Among those properties mentioned above, the property inherited from one's patrilineal father emerged as a matter of dispute among Mappilas of that time. For, in matriliney the practice was such that when a Mappila male or female died intestate their property reverts to *tharavadu* and added to the existing *tharavadu* property. Still the provision was different if the late owner of the estate was governed by Muhammadan law or patrilineal inheritance. In this case, property came under the provenance of Muhammadan law even when a member who claim the right to property is a member of *Marumakkathayam tharavadu*.³⁷

If the option for will or gift that gave a Mappila to give certain kinds of property to anybody during his lifetime goes un-utilized, the property comes under the customary

³⁶ This is taken from the letter of Chirakkal Taluk Tahsildar to Dy Collector of Calicut 23-09-1914. See *Opinions and letters that deal with the proposed legislation for altering modes of inheritance in Mappila families following Marumakkathayam*, (DR/Public, B. No 152, File No.497, SL No.17, 1915), KRA.

³⁷ Muhammadan law refers to Anglo Muhammadan Law that Colonial judiciary established in Malabar.

rules of *Marumakkathayam* at their death. The entire property returns to *tharavadu*.³⁸ The disputes on property among Mappilas would manifest the nature of social dynamics among Mappilas.

According to Anglo- Muhammadan law one cannot gift for an indefinite future time, the gift must be clearly defined either at the time of the making of the gift or on delivery. Moreover, the donor must pass on the possession³⁹. However, the self acquisition of an individual merged into the *tharavadu* property in the case of men, and to *tavazhi* in the case of woman after the acquirer's death and one could not alienate separate property by sale, gift or will⁴⁰. Therefore, there was divided opinion among judges to on the capacity of an individual member to create a testamentary disposition of property. One view held that one could a testamentary will of private property⁴¹. Yet, there was a contradictory view that one could not do the act of gifting since *tharavadu* has survivorship rights over the property. The gift thus became a complex issue among Mappilas in Malabar.

The Malabar Wills Act of 1898 set up the legal base for the use of the will. The Act enabled an individual following *marumakkathayam* or *aliyasanthanam*⁴² law of inheritance to alienate his or her individual property by the will.⁴³ Mappilas also could use this provision. However, if an individual did not clearly express the intention of a gift, the *tavazhi* or branch would acquire it with incidents of *tharavadu* property. It implies that, even though the gift caused a threat to the integration of family it does not cause ruin to the practice of matriliney because gift lead to the formation of new sub branch or *tavazhi*, a matrilineal family unit of a mother her female children.⁴⁴

³⁸ *Opinions and letters that deal with the proposed legislation for altering modes of inheritance in Mappila families following Marumakkathayam*, (DR/Public, B. No 152, File No.497, SL No.17, 1915), KRA. The advocates of Mappila Succession Bill in 1914 wanted the same property to devolve according to Sharia law even after one's death without will.

³⁹ Kumari, *State and Social change*,,335.

⁴⁰ Hamid Ali. *Custom and Law in Anglo-Muslim Jurisprudence*, (Calcutta:Thacker, Spink & Co., 1933), 75.

⁴¹ Lewis Moore, *Malabar Law and Custom*, (Madras: Higginstham & Co. 1905).

⁴² Matrilineal laws were called Alisanthanam law in south Canara.

⁴³ Kumari, *State and Social change*.335.

⁴⁴ *Ibid.*,335.

The disputes on the gift tell us about the advent of the new bonds in the realm of kinship. Father gifted his property to the son. It implies that the bond between the father and the son was set up to a large extent, along with the retention of mother-daughter bond. However, it could happen that the father gifted his self-acquired property to a single daughter or daughters, rather than returning to the matrilineal joint family. In that sense, the gift did not contradict matrilineal succession totally. However, even the practice of father to daughter transfer of property through the gift explicates the shrinkage of the realm of affective bonds to the bounds of close blood relatives. In brief, the legal vindication of gift by the deed of Will invariably sabotaged the interests of the matrilineal joint family that is based on customary practices; though its effect varied depending on the person who received the gift.

Disputes on the Self-Acquired Property of the Mappila

Now, we will look at the disputes on the self-acquired property beyond the issues of disposition by the usage of the wills. Young Mappilas who earned property attempted to ensure that their self acquired property descends to their wife and children even after death without executing a will, instead of allowing devolution to the *tharavadu*. It created further confusion in the ambit of the court and the decisions of the court made inroads in the realm of matrilineal practices.

Let us discuss some examples that demonstrate the ambiguity that surfaced in the courts, and reveals the interface of Anglo-Muhammadan law with matrilineal customary norms in the late nineteenth century. In one of the cases a patrilineal Mappila made a gift to his wife. The wording of will ensured that the wife held the property in the same way as he held it. Court ruled that the property gifted would take the incidents of *tharavadu* property and not as the private property of those who received it⁴⁵. In another case, the second husband of a matrilineal woman gave some property to her and his

⁴⁵ Kumari, *State and Social change*, 337.

children by her. Husband wanted his children and wife to form a *tavazhi* (branch *tharavad*), so as to exclude children from the first husband. In the first instance the court agreed to this deed.⁴⁶ However, in a subsequent dispute court held that a gift of the property to mother and children does not enable mother and her children to form a separate *thavazhi*.⁴⁷ Moreover, the court held that she could not establish a *tavazhi* by excluding some of her children, to the inclusion of some; also that in the case of such a gift, the receivers would become only as tenants in common and each have absolute rights equal to private property. Court stated that *tavazhi* or *tharavadu* as 'corporate unit' could not constitute out of one's own will⁴⁸. In another case court held that gift by complete transfer of property would become *puthravakasam* property or the property gifted by the husband to the wife.

The *tharavadu* as a 'corporate unit' meant that it was treated as a corporate, impartible, co-residential and property owning structure that rendered the *tharavadu* into a manageable and cohesive unit. *Putravakasam* is a kind of property that a man gives a *tavazhi* (branch) consisting of wife and children held jointly according to *Marumakkathayam* law⁴⁹. In other words, husband's grant of property leads to the establishment of a branch. It is beyond doubt that there was a rule against compulsory partition of the property.

The disputes on the self-acquired property clearly show the ways in which the disposal of the private property of a male failed to reach consensus among Mappilas. They also illustrate the disturbance in the early custom by which *tharavadu* appropriated the private properties of men and women as common property. The changes in the customs thus established the authority of the father; he then had a great influence the determination of the structure of matrilineal family. The court, unsurprisingly, failed to create a concrete rule for the resolution of the disputes.

⁴⁶ This deed contradicts the principles of *marumakkathayam*. And it shows the importance of father in this context.

⁴⁷ Cited ILR 42 M 869 *Pathumma v Abdulla Haji*, *Ibid.*, 338.

⁴⁸ *Ibid.*, 339.

⁴⁹ *Ali*, Custom and Law, 91.

By early twentieth century there could be no individual property and the entire earnings belongs to *tharavadu* by custom in matrilineal law. Yet, self acquired properties other than tharavadu property were increasingly acquired by the individuals. In customary *marumakkathayam* practice, especially in north Malabar the self acquired property devolved on to the *tharavadu* in the case of male. In the case of female die intestate without making a will it goes to the *tavazhi*. It would contribute and additional income to the *tharavadu* or *tavazhi*.⁵⁰ This was the practice in a large majority of cases in the two northern taluks of Chirakkal, and Kottayam. And it was similar in places like Badagara and Quilandy, also in North Malabar. There was no uniformity in the norms of succession in the interiors of north Malabar where Mappilas were minority: while some families followed *marumakkathayam* custom the other followed Muhammadan law.⁵¹ However, in south Malabar and Lakshadweep islands there was dual system of inheritance. The private property of member of the *tharavadu* devolved according to the Sharia line of inheritance. In Lakshadweep private property is *tingazhcha swoth* or Monday property that differentiated from *tharavadu* property with the term Friday property or *Velliashcha* property.⁵² Monday property or *thinklazhcha* property is divided according to the customary Sharia law, while Friday property is impartible.⁵³

The courts had considerable ambiguity regarding the resolution of Mappila disputes. Lewis Moore, who dealt with the laws governing inheritance by the Mappilas,⁵⁴ observed that those who follow *marumakkathayam* treated the self acquisition of a man as transferred to his wife and children under the Muhammadan law. He also held that it was not unusual for a father and sons to have community of property and the property to be managed by the father, and after his death, the eldest son. It can be argued that, this perception of allowing the Muhammadan law for inheritance was a product of longstanding debate. In 1851, the custom of double inheritance went before the consideration of the Privy Council. The council judged that

⁵⁰ *Ibid.*, 93.

⁵¹ *Ibid.*, 94.

⁵² Ali, Custom and law, 94; Kumar, Traditional Futures, 129.

⁵³ Kumar, Traditional Futures, 129.

⁵⁴ Lewis Moore, Malabar Law and Custom, (Madras: Higginstham & Co. 1905), 323-351.

it was not sufficiently established.⁵⁵ In 1855 a Sudder court questioned the prevalence of two laws of inheritance prevailing in the same family and in 1861 Tellichery judge showed dissatisfaction over this law; he described it as a 'piebald system of descent'⁵⁶. Still two decisions in 1880 sanctioned the existence of both forms of laws of inheritance in one family. In a case in 1880, the issue was that a women belonging to a family governed by a *Marumakkathayam* law had married to a man belonging to family governed by Muhammadan law; and after his wife's death, the husband claimed to return the property given to his wife on the occasion of her marriage by her *tharavadu*⁵⁷. The lower court decided that the property to revert to *tharavadu* and it therefore become unnecessary to divide it; it would have come under Muhammadan law if the property had been the self acquisition of the wife⁵⁸.

Over the time, the precepts of Anglo-Muhammadan law gained momentum against the customary practices of Marumakkathaym that revert even individual property to the *tharavadu*. The attitude of the court shows that judiciary did not take pains to understand the customary laws. Each judge decided the cases according their individual perception. While lower courts recognized the customs in judgments the higher courts had an easy resort in codified Anglo-Muhammadan jurisprudence. They also had a notion of a 'correct' Islamic practice that contradicted to the customary practices. As shown here the idea that private property devolved according to Sharia line become solidified in the ambit of the court by the beginning of twentieth century, though empirically customary laws was in practice till then. The demand for a codified succession law for the Mappilas gained momentum as normative idea in this historical context; and it led to the legislation of The Mappila Succession Act in 1918.

⁵⁵ M.A.Herbert Wigram, 'A Commentary on Malabar Law and Custom'. Madrass: Scottish press and Popham house, 1882.153. Wigram disagrees with this and adds that custom does exists and it was in full force in Laccadive Islands.

⁵⁶ Moore, Malabar law and Custom, 324.

⁵⁷ Wigram, A Commentary on Malabar Law.153

⁵⁸ *Ibid.*

The Mappila Succession Act of 1918

Mappilas Succession Act was enacted in the year 1918. The central focus of the Bill was a provision for the inheritance of self acquired property by the provisions of Anglo-Muhammadan law. Muhammadan law enabled a Muslim to succeed, to gift, and to own individual property. As a prologue to the introduction of the bill, Mappilas debated the customs of Mappila *marumakkathayam* with reference to its location vis-à-vis their understanding of ‘correct’ practice Islam⁵⁹.

Talal Asad argues that the reference to the ‘correct’ practice of Islam is central to entire Islamic societies and thus to evolve a cross-cultural definition of Islamic societies even while considering local cultures. He propounds the idea of Islam as with a tem, ‘discursive tradition’. The discursive nature of Islam means that every where Islam is concerned with defining what is allowable (halal) and what is not (haram)⁶⁰ - it bases itself on text. In that sense the analytical distinctions like little and great traditions of Islam, though useful for the analysis of empirical practices in Muslim societies,⁶¹ it tends to create a division of labour between religious tradition and religious texts⁶². Talal Asad opines that it leads anthropologist to assert that ‘neither form of Islam has claim to being regarded as ‘more real’ than other’⁶³. For conceptual clarification of the definition of Islam, Asad also argues for the incorporation of indigenous discourses in understanding Islam in the discursive field of a particular space and time. However, one

⁵⁹ Talal Asad argues that the reference to the correct practice of Islam is central to entire Islamic society. Thus he argues that Islam is discursive tradition that informs a discourse on correct practice based on text. The Qur’anic myths and stories, Qur’anic versus and its various *tafseers* (interpretations), *Hadith*, along with the oral tradition of Islam can be recognized as central to the constitution of practices and the making of Islamic tradition. See Richard C. Martin, Ed. *Encyclopedia of Islam and the Muslim World*, (New York: Macmillan Reference USA, 2004).

⁶⁰ Asad. ‘The Idea of an Anthropology of Islam’; Lukens-Bull. ‘Between Text and Practice’. 44.

⁶¹ Ronald Lukens-Bull gives a critical discussion of Anthropological approaches to the study of Islam. See, Ronald Lukens-Bull ‘Between Text and Practice: Considerations in the Anthropology of Islam’ in *Defining Islam: A Reader*. Ed. Andrew Rippin (London: Equinox, 2007), 37-56.

⁶² *Ibid.*, 42.

⁶³ *Ibid.*; Also see Talal Asad. ‘The Idea of an Anthropology of Islam’. *Occasional papers series*, Washington, DC: Georgetown University Center for Contemporary Arab Studies. 1986: 6.

could pose a criticism that his depiction of Islamic discourse focus too much on Qur'an and Hadith⁶⁴. One has to take Islamic texts as polyvocal; and consider the fact that Islam has an oral tradition as well.⁶⁵

The debates on the Mappila Succession Bill were started by the year of 1914. The debates on the Bill unfold the interface between the matrilineal customary laws of inheritance, and succession; the Anglo-Muhammdan Law; the imagination of the 'correct Islam'; and the notions of the social progress in the colonial historical context of the early twentieth century.

Debates on the Mappila Succession Bill

The Mappilas Succession Act was enacted in the year 1918. The Mappilas debated matriliney in juxtaposition to 'Islam' at considerable length from the beginning of the twentieth century onwards. The Succession Act of 1918 wanted to bring those properties of which a Mappila who follow *Marumakkathayam* or *aliyasantanam* law, and has not made any testamentary disposition to devolve upon his heirs in the order and according to the rules of Muhammadan Law even if he dies intestate. Thus the properties that came under Malabar wills act could be passed on according to Muhammadan law. The law would be applicable to the *tharavadu* property only if a person is exclusively entitled to it being the last surviving member of the *tharavadu*⁶⁶.

As mentioned above, the historical background of the Bill was the Malabar Wills Act of 1898. The Act had already enabled an individual who follow *marumakkathayam* to gift or will his or her property to any one in their life time. This Act applied to the entire *marumakkathayam* communities in Malabar. Many Mappilas used the provisions of the Malabar Wills Act to transfer certain classes of property to the *Sharia* heirs. For the discussion of the debates on the Mappila Succession Bill, we would use the official reports collected around the demand, and discussion and the passage of the Bill.

⁶⁴ Lukens-Bull. 'Between Text and Practice'.47.

⁶⁵ Ibid.

⁶⁶ See The Mappila Succession Act of 1918 in the Appendix.

In one of the first incidents among the demand for the Bill, Mappila residents of Cannanore and its suburbs submitted a memorial to the collector. The letter explicitly marked the quarrels on matrilineal inheritance in juxtaposition to the legal perspective. The litigators had a problem with the fact that Mappilas transferred their property to the children of their sisters and to not to their own children as enjoined by the Holy Quran⁶⁷ and expounded by the Sharia⁶⁸. They also cited the example of Mappilas of south Malabar to argue that customs in North Malabar was an aberration from the normal: the Mappilas of south Malabar did not follow *Marumakkathayam* customary law. Mappilas of south Malabar were the brethren who 'strictly follow[ed] Muhammadan law inheritance'⁶⁹.

The demand for the changes in the rules of inheritance of the matrilineal property surfaced in front of the authorities sooner. An individual called Thambi Marakkayar asked for the introduction of Muhammadan law. In response to the question, the secretary to the government judicial department gave an agreement for considering a passage of legislation in this direction. In a letter dated 18th December 1914, the collector of Malabar sought opinions from the Mappilas of the district of Malabar⁷⁰. The responses to the various provisions of the Mappila Succession Bill, according to official record found a general acceptance, especially in North Malabar and South Canara. The report of the Tahasildar of Chirakkal states that in meetings that held at thirteen places had local Kazi as president. In Cannanore the number of people present in the meeting was as high as three thousand⁷¹. One of the statements that concludes outcome of the meetings, can be quoted here:

'at some meetings, the Kazis and the learned *maulavis*⁷² who addressed the meetings went so far as declaring that if any one were to say that he does not want that his self

⁶⁷ See the memorial titled 'memorial of the Moplah (Muhammadan) residents of Cannanore and its suburbs' in DR/Public, B.No 152, File No.497, SL No.17, 1915, KRA .9.

⁶⁸ See letter by P Kunhayan, Dy Collector, Calicut, dated 23-9-1914, *ibid.*,10.

⁶⁹ See 'the memorial'.*ibid.*,9

⁷⁰ *Ibid.*

⁷¹ *Ibid.*,p.41

⁷² Religious priests

acquired property should devolve according to the Muhammadan Law, he would turn a *kafir* (infidel).⁷³

This statement however contradicts some sections and facts within the report. For, the statement exaggerates the acceptance of the Bill and under-represents the reaction against the Bill. For instance Tahsildar of Kurumbranad reported that in many places in the *taluk*, the idea of legislation found opposition from the common people. They had the view that the provisions in the Succession Act were ‘in the least interest of the Mappilatharavadu and that it could cut the very root of existing system of Marumakkathayam’.⁷⁴ More interestingly, even those who agreed with the legislation did not want the abolition *marumakkathayam* customs. While many of the Mappilas were apprehensive about the repercussions of the Bill, they were ambivalent about the ‘Islamic character’ of the customs.

People’s Apprehension on the Impacts of the Mappila Succession Bill

The Bill had a huge impact on the customary practices of inheritance and it did create a lot of reactions from the society. The Bill opened a Pandora’s Box since ‘the right to succeed the indisposed properties of a deceased Karanavan [to the common pool of the tharavadu] would invariably be contested by his sons’, and it would become a perennial source of litigation.⁷⁵ Many even argued that the Act was unnecessary since a Mappila already had adequate time to gift their individual properties during their lifetime. In fact, the reality till that period was such that Mappilas did not take much advantage of provisions of Malabar Bill to pass ownership of the property to the Muhammadan heirs.⁷⁶

⁷³ Letter of Ammoo, the Tahsildar of Chirakkal to the Sub Collector of Tellicherry, dated 29-Jan-1915. Ibid. Ammoo himself was a Marumakkathayee Mappila official who argued for the legislation. See, letter by C A Innes, *ibid.*, 18.

⁷⁴ Report by Tahsildar of Kurumbranad to sub collector of Tellicherry, dated 13th Feb 1915. 70-73.

⁷⁵ Ibid.

⁷⁶ Report of C. A. Innes, the Collector of Malabar, *ibid.*, 15-18.

In the opinions collected from the selected people, some of them apprehended that the Act posed a threat to the very foundations of the matrilineal system. Thus, they opposed the legislation of the Act. Some sections of the educated males could only officially express it. Nobody could even imagine practically abolishing the *Marumakkathayam*, though many *anadiravans* or the junior members of the *tharavadu* wished so.

The act left out those properties that are jointly held; the acquisition by the *Karanavar*; and the property gifted by *Marumakkathayam* father, and they still devolve to the *tharavadu*. One could add those property affected by the Succession to *tharavadu* by using the provision in Malabar Wills Act by which one could will his property away to anybody during his life time by an act of gift. And many Mappilas used these provisions to contribute the *tharavadu* even after the passage of the Succession Act.

Another major fear was on the repercussions of the legislation on the land holding by *tharavadus* and on the economic viability of the system. The bill posed to shake the very bases of the customary practices. One of the logical conjectures to the provision of the Bill was that the law leads to the destruction of the *tharavadu* because *tharavadu* would receive no addition of property by way of availing self acquired property of the male members of the *tharavadu*; while *tharavadu* had to maintain an increasing number of members⁷⁷.

One can observe that by the year of nineteen thirty nine, Mappila *tharavadus* found itself in the situation that with only ancestral properties descended according to *Marumakkathayam* law'. Apart from that, it also set up causes for the ruin of trust or the embeddedness⁷⁸ provided by ties of affective relations. The embedded nature of the economy of *tharavadu* ensured the economic stability in the realm of Mappila families: a member following the *Marumakkathayam* law could hereafter leave all his self

⁷⁷ From the letter by Kottayam Tahasildar, Tellichery to the Sub Collector of Tellicherry dated 3-2-1915, *ibid.*, 69-70.

⁷⁸ I use the notion of emdeddedness as a central theme of economic relations as given by M. Granovetter. 'Economic Action and Social Structure: the Problem of Embeddedness.' In *American Journal of Sociology*, 91 (1985), 481-93. The implication is that though land disputes were central to transformation in matriliney it reflected a break of trust economy that in turn caused tensions in the realm of economic relations within the family.

acquired properties to his children to the prejudice of his nephews who exclusively entitled to it.⁷⁹

The Succession Act in essence asserted that father-son bond, and wife-husband bond as 'natural'. It was a new idea for the sensibility of Mappilas. This idea established that spouse and children becomes the normative heirs to the self acquired property of a Mappila. These dynamics hence spread the idea that 'to give away everything that [Mappilas] posses to their children during their life time' has 'become the almost universal practice'. The era thus, witnessed the emergence of individuality over and above the control of *tharavadu*. The construction of individuality however was highly gendered. Male individual mappila was more individual than female; male Mappilas acquired private property; attempted to pass it by the use of Muhammadan law, and looked forward for claiming citizenship.

As shown in the response to the Mappila Succession Bill of 1918 the individual invariably envisioned to transgress the sphere of the private. However, one fact which clearly emerges out in the context of the discussion of the individuality is that the abstract idea of individuality could have been rootless without the structural support of matrilineal family. Family gave economic, social and cultural resources to imagine being an individual.

As a solution to resolve the incompatibility of matriliney with the Muhammadan law, many religiously learned people suggested bringing the former in agreement with the later by finding out some provision in the Islamic jurisprudence which allowed succession in the female line.⁸⁰ This process of alteration was a necessity to carry 'outdated' customary relations in the realm of family, into the ambit of the secular. Alteration occurred as a process by that matrilineal customs were brought in accordance with of Anglo-Muhammdan law of inheritance, and legal/textual interpretations of Islamic tradition. The result of the alteration of the Mappila matriliney in the second decade of twentieth century was that it averted the danger posed by the newly emerged

⁷⁹ Tahasildar of Kurumbranad to The Sub Collector of Tellichery, dated 13th Dec 1915, *ibid.*, 70-73.

⁸⁰ *Ibid.*

discourse on law to the very existence of Mappila matriliney. We will discuss the ways in which matriliney altered in the second decades of twentieth century in the next chapter.

The Mappila Wills Act was legislated a decade later following the Succession Act. The legislation happened without evoking much discussion.

The Mappila Wills Act of 1928

The Mappila Wills Act followed the Succession Act of 1918. It was passed in the year 1928. The Act of 1928 applied specially to the testamentary dispositions by the Mappilas governed by *Marumakkathayam* or Aliyasanthanam law of inheritance with respect to those property that comes under the discretion of Muhammadan law as per the provision of Mappilas Succession Act of 1918⁸¹. However, there was provision in the Act of 1928 that that a Mappila could seldom dispose his entire separate or own property by will because Muhammadan law only permits one third of the property left after defraying funeral expenses and debts to be gifted by will.⁸²This provision was in accordance with the prescription of the Anglo-Muhammadan law.

Malabar Wills Act of 1898 had already enabled the matriliney following individuals to gift their own property to anybody they wishes by an act of will. Mappilas also came under the effect of the law. Many sources show that the Mappilas did not use the provision of the Malabar Wills Act to will away their property to the denial of the rights of matrilineal inheritors by custom. On the contrary, many the Mappilas used the Malabar Wills Act to will away their property in the female line to circumvent the incidents of the Mappila Succession Act after 1918.

The passage of the Wills Act did not evoke so much of debate. However, the passage of the Act means that the Mappilas willed away at least one third of their self-acquired property to their daughters by a deed of the Will. It also implies that the Act

⁸¹ See The Mappila Wills Act of 1928 in the appendix.

⁸² Vasantha Kumari, *Judiciary and Social Change* .386

was instrumental in reducing the scope of the application of the Malabar Wills Act of 1889 to transfer the Mappilas property to the daughters to circumvent the incidents of the Mappila Succession Act.

In a similar context in the Lakshadweep islands, Vijayakumar observes the existence of what he calls 'customary Shariat'.⁸³ The customary Sharia pertained to the deed of gift. It implies that the Mappilas of the Lakshadweep circumvented the rule of the Islamic law for the retention of the customary law. He elaborates this point by saying that Islamic law enabled the execution of the gift only during a person's life time; while he/she being in the full command of his/her senses. He could thereby gift away the whole of his/ her property to anybody.⁸⁴ However, the provisions are different in the case of a bequest or Will for the benefit to those persons who are legally entitled to receive the property. Thus, one could only bequest one third of his/her property.

The Mappila Marumakkathayam Act of 1939

Madras legislative assembly passed the final reading of Mappila Marumakkathayam bill on 7th December 1938, to come to force as an Act of 1939. The central motto behind legislation was to bring Mappila customary practices under the ambit of the Anglo-Muhammadan law.

Mappila Marumakkathayam Act bound *Karanavan* legally to maintain a true and correct inventory of all the moveable and immovable properties belonging to the *tharavadu*⁸⁵. According to the Act, the *Karanavan* also had to keep the account of the income and expenditure of the *tharavadu*. *Anandiravan* could avail these accounts for yearly inspection. Another provision enabled any member of a *tharavadu* to have right

⁸³ Vijayakumar, V. *Traditional Futures: Law and Custom in India's Lakshadweep Islands* (New Delhi: Oxford, 2006), 160.

⁸⁴ *Ibid.*, 161.

⁸⁵ See Mappila Marumakkathayam Act in the appendix.

to avail maintenance which is consistent with income and circumstances of the *tharavadu*.

The legislation of Mappila Marumakkathayam Act claimed to sanction an individual Mappila's right to claim his or her own share from *tharavadu* property and pass it on to his Sharia heirs. The Act also enabled a Mappila to dispose one's share of the properties of the *tharavadu* over which *tharavadu* has a power of disposal and separate from the *tharavadu* house. Moreover, if the *tharavadu* was in a state of neglect and not in use for the purpose of residence the land may be divided among members of the *tharavadu*. In that case, the division would be per capita division. Per capita division implies that every member including minors would receive a share⁸⁶. The mother and in her absence guardian under Islamic law represented the claim of minor children.

The Act postulated that there can be a partition of *tharavadu* house including the site or sites of any building apartment thereto and such other land which forms a part of *tharavadu* house, if two-thirds of the members wished so. If they wish on the contrary these property would be kept undivided for the common use of all the members of the *tharavadu*. There was also a provision which enabled two or more members belonging to the same *tavazhi*-branch of *tharavadu*, to take their share of the properties of the *tharavadu* over which the *tharavadu* has a power of disposal, separate from the *tharavadu*; and enjoy it jointly with all the incidents of *tharavadu* property. Once after the occurrence of partition, the property obtained by individual member would pass in accordance with Islamic law of inheritance.⁸⁷ One can observe that the Mappila Marumakkathayam Act mainly aimed at the questions of land and it represented the right of individual male members to claim partition by acquiring a majority of opinion from the other members. The Act claimed to take away the legal base which was necessary for the continuation of the system.⁸⁸ However the provisions for right to partition recognized a lot of checks in the final modification of the Bill. For, a sudden transition was not feasible due to various reasons.

⁸⁶ See Mappila Marumakkathayam Act in the appendix.

⁸⁷ See *ibid*.

⁸⁸ S.M.Muhammed Koya, Mappilas and Social Change, Phd Thesis, University of Calicut, 1996.

The debates around the Mappila Marumakkathayam Bill of 1939 were published as a government document with the title of ‘Opinions received by the select committee on the Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib’, published in the year of 1938. The Bill was legislated into an Act in the Madras legislative assembly in the year of 1939. To throw light into the discussion we would take up in this section, one could quote the following opinion received from a Mappila from North Malabar:

‘If legislation is forced upon Mappilas then I think it should not be a half measure enabling only tavazhi partition (partition into sub- tharavadu s) but a thorough measure enabling individual partition. Partition into tavazhis will only prolong the agency of litigation and consequent measures. It is far better to kill with one stroke than to kill by dismembering all limbs one after the other. No partition at all. If partition, only individual partition’⁸⁹

The opinion quoted above clearly marks the sentiments of a Mappila who opposed the Bill. The Bill claimed to bring the Muhammadan law among Mappilas in Malabar. And there was provision in this law to allow any demand of partition of *tharavadu* (joint family) property by any individual member of the *tharavadu* . Similarly, any two people could demand partition to constitute a new *tavazhi* or sub *tharavadu*.⁹⁰ Now, we will look at the debates around the provisions of the Bill that enabled the partition of the tharavadu.

On the Partition of the *Tharavadu*

The central motto behind legislation was to bring Mappila customary practices under the ambit of ‘Muhammadan law’. Thus ‘un-islamic’ character of matriliney spread as theme which imputed a religious purificatory connotation to the demand for the legislation. We can quote one the opinions on the intentions of the Bill:

⁸⁹ Opinion given by A.K. Kunchi Mayan Haji, Palaparamba, Kuthuparambu, in *Opinions received by the select committee on the Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib*. (Government Press: Madras. 1938),54-55. Arakkal Records,KRA

⁹⁰ See Mappila Marumakkathayam Act of 1939 in the appendix.

‘(Islam) provides for distribution of property in specific shares by way of inheritance and not succession by incident to the compact whole; in other words, the policy of Muslim property is in favour of separation and individualism’.⁹¹

However, One can argue that the reasons behind legislation were more complex than the surface level projections that the Bill stood for the alteration of matriliney from the status of an un-Islamic custom to the position of an Islamic family. Mappilas had already attempted to bring in the matrilineal customs in accordance with the provisions of Muhammadan law by the third decade of the twentieth century by the way of alteration of the laws of the succession regarding the self-acquired property in the patrilineal line and the registration of the *tharavadus* as *wakf* property. However, the Act of 1939 wanted to establish the succession of tharavadu property also in the Sharia line and therefore to abolish matriliney among Mappilas.

The Mappila Marumakkathayam Act of 1939 failed to abolish Mappila marumakkathayam from Malabar. The provision for individual demand for partition of *tharavadu* property found its limits in the social relations of Mappilas. There was strong discontent from Mappilas against the provisions for the partition included in the Bill. A survey of opinions received on the Bill explicates that the popular cry that majority wished for the passage of the law⁹² was far from reality. Though the supporters of the legislation claimed to bring in a radical change in the ambit of Mappila family and social relations, they were ambivalent about the total abolition of the system. Explicitly, as one Mappila commented, they could not ‘kill’ the matrilineal system with ‘one stroke’. Therefore those who wanted changes attempted to bring in moderate changes in the practices.

⁹¹ T M Abdulla, BA.BL. 210, second line, beach Madras. In ‘Opions Received’.

⁹² On the event of the final passing of the bill, Mathrubhumi, a Malayalam daily published from Kozhikode reported that the bill received the consent of the majority of Mappilas. See *Mathrubhumi* 1938, Dec 9, .3.

The demand for the partition of the *tharavadu* was hardly implemented into the practice, since many considered that demand to be ‘too revolutionary’⁹³ to constitute into an Act in that historical context. One of the respondents on the Bill argued that Mappilas could hardly undergo a sudden change in the social affairs and domestic relations which had been sustained over centuries.⁹⁴ There were also apprehensions that individual partition would lead to the ‘lamentable effect of the fragmentation of substantial estates and the dissipation of the fragments by the younger generation’.⁹⁵

Sub Collector of Tellicherry argued that *tharavadu* with few members hardly gave a considerable share to individuals. On the other hand, individuals lose their bargaining power as members of a big *tharavadu*.⁹⁶ This observation alluded to the social value of the membership of the *tharavadu* as an outward sign of trust and availability of jointly held capital.

Madras legislative assembly passed the final reading of Mappila Marumakkathayam bill on 7th December 1938, to come to force as an Act of 1939. However, the efforts for the bill began as early as 1936⁹⁷. Subsequently, on date of final passage Mahamud Schamand introducing debate on the bill stated that it is ‘only an enabling measure, in that it does not it compulsory that every *tharavadu* should take this share and separate from the *tharavadu*’.⁹⁸ He also added that a member could hardly possess

‘any right to sell, mortgage or in other way alienate his share, not anybody else any right to attach or bring to sale the share of any member before such a share is actually partitioned and separated from the *tharavadu*.’

⁹³ See opinion by R. Sivaramakrishnan, Esq, MA, ICS, District Judge of North Malabar, Tellicherry. In ‘Opinions Received’ .33

⁹⁴ See opinion by K. Kutty Hassan Kutty, Ponnani. In . *ibid.*,24.

⁹⁵ Collector of Malabar.. *ibid.*,3.

⁹⁶ The sub Collector of Tellicherry.*ibid.*,2.

⁹⁷ Legislative assembly debated this bill named The Mappila Marumakkathayam Bill (LA Bill no.8,1937). See Madras Legislative assembly debates, Official report, Wednesday, 7th December 1938, Volume VII-No.6, Government Press: Madras.1939.516.

⁹⁸ *Ibid.*

He found that this provision is necessary to prevent the precipitation of *tharavadus*⁹⁹. According to him the Bill gave a member of Mappila *tharavadu* 'a restricted right'.¹⁰⁰ This is the final comments of a legislation which began with a radical vision to 'abolish' Mappila Marumakkathayam and to grating of individual right to partition. Clearly there were departures in the Bill from its original intention.

Many aristocratic families attempted to defend their familial practices and customs from the ambit of the legislation. One of the effective appeals was raised by Arakkal family, the family of Ali Raja of Cannanore, North Malabar for exemption from the Marumakkathayam Law. Arakkal Adi Raja Hussain argued that The Arakkal *swaroopam*¹⁰¹, as an ancient ruling family desire for a total exemption from the entire Bill, since the family had 'certain customs which are not found in any other Marumakkathayam family' expressed.¹⁰² As result, the *Swaroopam* was exempted from the clauses which deal with partition of *tharavadu*, while they accepted rest of the provisions of the Bill. It means that the family could not escape from the larger changes in that era. Chowakkaran Puthay Purayil Mamali Keyi in his letter made an argument that Keyi *tharavadus*-namely, Puthiyapurayil, Keloth, Orkatteri and Valiyapurayil who have 'separate marriage customs and traditions' were also eligible for an exemption from the Bill. His plea was however unsuccessful.¹⁰³

The Mappila marumakkathaym Act of 1939 stood for taking away the legal base which was necessary for the continuation of the system.¹⁰⁴ However, it is worth adding that many Mappila families continued to observe Marumakkathayam in different prospects. In 1953, a single judge of the high court viewed that in the case of Mappila *tharavadu* member die intestate his or her property would pass to Sharia heirs.¹⁰⁵ However, a division bench of the same high court held that the Sharia Act, including the amendment of 1949 extending its application to agricultural land did not abolish the

⁹⁹ *Ibid.*,521.

¹⁰⁰ *Ibid.*,523.

¹⁰¹ The term Swaroopam is used as a title for prestigious families in Kerala.

¹⁰² Arakkal Adi Raja Hussain Alias Imbichi Koyamma Thangal, 'Noor Mahal', Cannanore and five other major members of the Arakkal family, in Opinions received 26-27.

¹⁰³ Chowakkaran Puthyapurayil Mammali Keyi, Tellicherry, in *ibid.*, 17-18.

¹⁰⁴ S.M.Muhammed Koya, Mappilas and Social Change, Phd Thesis, University of Calicut, 1996.

¹⁰⁵ *Ibid.*316.

interest of Mappila Marumakkathayam *tharavadu* ¹⁰⁶. Thus it can be seen that customs of Marumakkathayam is still in vogue among Mappilas of Malabar though it underwent transformations in meaning and practices.

The changes in the sphere of economy had increased opportunities for a Mappila individual to acquire private property. The devolution of this property in accordance with the Anglo-Muhammadan law posed a threat to the customary Marumakkathayam principles since the passage of Mappila Succession Act of 1918. The subsequent process of alteration in the matrilineal customs averted the danger that Muhammadan law posed to the customary practices. Looking at the debates in favour and against the change, one can observe that it is not the growth of private property per se, but the changes in the principle of devolution of such property which created the eruption of litigations. These developments gave rise to the demands for further changes, in more obvious ways after second decade of twentieth century. The courts that interpreted Muhammadan law with modern principles of individualism made transformation of matriliney into the fold of Anglo-Muhammadan law as a desirable destination. The debates influenced the attitude of educated elite among Mappila youth to pose a challenge and to carry out reform in the ambit of family.

The debates in the realm of the secular also altered the religious meaning system, social structure; and simultaneously these debates were in turn influenced by the changes in the social structure. Issues around land and economic relations were the central to exploration of debates. Two major issues of the debate were regarding the right of an individual to demand for partition and the constant denial of individual rights by the exercise of authority by the *Karanavan*. In the entire debates it was widely heard that *Karanavan*, the eldest male member of the family mismanaged the economic resources of *tharavadu*. Thus, *Anandiravans*, the junior members of the *tharavadu* wanted to remove *Karanavan* from the control of authority and power.

The debates on the legislation of Mappila Marumakkathayam Bill unfold complex interplay between religious beliefs and its expression, familial ties, gender

¹⁰⁶ Ibid.384.

relations, and economy of Mappilas in the history. It can be seen that the young educated elites among Mappilas demanded for the Bill for various socio-cultural and historical reasons. The most explicit expression of the demand for family reforms occurred with reference to religion. They wanted to implement Muhammadan law and to abolish matriliney. Yet, it was seldom a matter of law and matriliney, but the outcome of the whole gamut of discourses on religion and family.

While we discuss the debates and issues around matriliney till the passage of Mappila Marumakkathayam Act of 1939 one can link it with discursive and non-discursive factors happened during the period of 1910 to 1939 that could explain the historicity of these dynamics. There were rise of nationalist sentiments, dissemination of colonial governance and power and the rise of the abstract idea of individual consciousness. Yet, the most out-standing and overt discourse on Mappila matriliney happened with reference to religion: from the beginning of twentieth century there was a sensibility that matriliney was 'un-Islamic' by nature. All the other factors contributed to the discourse on family from the various sites. Matrilineal *tharavadu* was a site of power, negotiations and aberrations. The relationship between matriliney and Islam lingered in the limbo of ambiguity in the world of young Mappilas. They wanted to locate the system with reference to what they understood as 'correct' practices of Islam. These efforts have its spatial base in the social dynamics of Malabar. The temporal base lies in the complex historical context of early twentieth century. Thus, one of the central ideological motivation behind the legislation was to abolish marumakkathayam and bring in the 'correct Islamic practices'. The demand also enhanced effort towards community formation among Mappilas in Malabar.

One can observe that the fourth decade of the twentieth century witnessed a great churning in the history of *marumakkathayam* in general. There was simultaneous change in the normative concept of family in the ambit of the court, and in the minds of educated elites who were at the helm of social reform efforts. A shared norm established as the 'correct' and the 'true' practice. The norm solidified to become normative. The norm influenced the empirical practices and led to structural changes. They set up dogmas on family.

The collective ideas and norms leads to formation of law and customs in society. And in turn law influences the constructions of collective ideals.¹⁰⁷ The interplay between law and society can lead us to the exploration of the collective imaginations that set up world views. Durkheim argues that religion provides the worldview for people. In this section, I would examine conceptualizations of religion with reference Durkheim, and Mauss.

The Sacred imaginations and the Matrilineal practices in Malabar

When we discuss the interface between matrilineal practices and the Anglo-Muhammadan law in Malabar one has to take religion as one of the central themes to understand the transformations in the family. Hence, an attempt to understand the transformations in the realm of family through the category of religion is worthy of attempting. Emile Durkheim understands religion as eminently social.¹⁰⁸ He argues that religion finds expression through modes of collective representations that expresses collective realities.¹⁰⁹ Durkheim's argument that religion is specific kind of actions and belief centered on totem; and the idea leads him to argue that the totem in a primitive society is simplistic representation of the clan. He postulates that it is not the totemic object per se but the fact that it represents the complex reality of the clan, makes totem an object of veneration or the sacred object.¹¹⁰

According to Durkheim religion constitute various relationships to the sacred. For Durkheim, sacred things are those necessarily set apart and forbidden, defined in opposition to the domain of the profane. However, I take the sacred to be a representation of the complex reality such as the totem representing the clan. In the book *Primitive Classification* Durkheim and Marcel Mauss postulates that religion is a

¹⁰⁷ Emile Durkheim, *The Elementary Forms of the Religious Life*. (London: George Allen & Unwin Ltd, reprint 1964)

¹⁰⁸ *Ibid.*, 10.

¹⁰⁹ *Ibid.*

¹¹⁰ Durkheim is not consistent throughout the book. He sometimes confuses the symbolic aspect of totem and the innate quality of totem object. I however, concentrate more on the symbolic aspects of religion which he talks about- religion as a system of representation of the complex reality of society.

system of classification by way of that men picture themselves in the world. Religion classifies the world by ordering the dimensions of space, time, and number and so on.¹¹¹

According to Durkheim, we can translate common ideas of religion into a common practice called church.¹¹² Church is a moral community which embodies a common classificatory mechanism.¹¹³

The notion of the sacred and the idea of religion as a mode of classification are of utmost importance for our discussion of the family in twentieth century Malabar. In the historical context of Malabar, one can observe that the sacred permeates to what is commonly understood to be the realm of the secular. In other words, the boundary between the secular and the religious blur in the social milieu.

In the elaboration of the idea of the sacred as the basic entry point to the study of the primitive religion, Durkheim observes that the sacred exists something above the real- it raises above the real world where profane relationships exist. The sacred thus, claims a dignified realm of ideal world.¹¹⁴ It is according to Durkheim, expressed through beliefs and articulated through rites which are modes of action.¹¹⁵

Let us briefly discuss the notion of the sacred, with reference to the idea of the constitution of the sacred as mode of classification or what we can call meaning system. Mircea Eliade elaborates the notion of the sacred to various dimensions of human experience.¹¹⁶ Eliade argues that religion imagines the time and space in the realm of the sacred: the sacred time is radically different from modern clock time. Eliade calls it 'primordial time' or notion of 'eternity' to implicate the fact that in religious imagination there is a fantasy of 'pure' time. This pure time is a primary concern in the

¹¹¹ Ibid., 9-13. He argues that in a simple society all the actors share common understanding of the space, time and other modes of classification. Periodic rituals for instance, reaffirm the religious notions of temporality.

¹¹² Ibid., 24.

¹¹³ Ibid., 45. I disagree with Durkheim on the point that sacred things are necessarily set apart and forbidden. I take the sacred as simply a representation of a complex reality such as the clan.

¹¹⁴ Ibid., 422.

¹¹⁵ Ibid., 36.

¹¹⁶ Mircea Eliade, *The Sacred and the Profane: the Nature of Religion*. (Florida: Houghton Mifflin Harcourt, 1987).

everydayness of religious actors, both at individual and collective level¹¹⁷. Sacred time is reversible and recoverable. Eliade argues that rituals invoke eternal mythical present. Thus, religious imagination refuses historical present and simultaneously strives to regain a sacred time which is homological to eternity.¹¹⁸ He further argues that religious person experiences intervals of time that are sacred which have no account of the temporal duration which that proceeds and follows them. There no break or mystery. Sacred time is always the same; it is a succession of eternities: there is ‘an eternal return in *illo tempore*, to a past that is mythical, completely unhistorical’¹¹⁹. Similarly, he held that the spatial dimension of a believer is radically different from geographical space. Eliade also looks at the notion of the space with reference to the sacred. The geographical space transgresses its boundaries to the formulation of a sacred space.

One can observe that Eliade’s observations on the sacred time and space go in tune with Durkheim’s notion of religious life. While observing that religious imagination is ‘unhistorical’, he does not elaborate into the exploration of the ways in which historical construction of the expressions of religion. The notion of the sacred is a useful analytical concept to the understanding of religion and society in the historical context of twentieth century Malabar. We can also go back to Durkheim’s note that gods do die when societies die out. Similarly, we can argue that even the complex form of the collective meanings systems undergo transformations in terms of its articulations and representational tropes along with historical changes. Secondly, one can expand the domain of cultural meaning system to the domain of the secular as well.

When we attempt to understand the relation between family and society in the early decades of south India, we encounter some basic questions regarding the set up of patrilineal family as an ideal. In that sense, early twentieth century witnessed the birth of new imagination of the sacred. It was produced from the sites of colonial modernity, and from the responses it received from colonial subjects. The religious imagination possessed a new notion of family, and placed in eternity. It negated ‘historical realities’,

¹¹⁷ Mircea Eliade, *The Sacred and the Profane: the Nature of Religion*. (Florida: Houghton Mifflin Harcourt, 1987).
70-92.

¹¹⁸ *Ibid.*, 70.

¹¹⁹ *Ibid.*, 90.

as Eliade would say. There was an imagination of a dark past of Mappilas in Malabar. Before the dark past, there was mythical and pure past. Present attempted to bring in the succession of eternities.

The imagination of sacred did not limit into the realm of the practice of rituals and into the interiors of believers' mind. It permeated into the ambit of the secular-the state and the judiciary. Islamic family now found its ideal in patrilineal system of inheritance and patrilocality in the early twentieth century Malabar. The discourse on law and family placed these notions in the realm of eternity. There was thus conflicting notions of family system among Mappilas: matriliney that was termed as 'un-Islamic' and patriliney that is in tandem with Anglo-Muhammadan law and scriptural Islam. Here, the sacred dogmas of family had the sanction of the script-both legal as well as religious scripts.

By the third decade of twentieth century, Mappilas had to reconcile with an oppressive past. Imagination of the progress was idioms to imagine collectivity against the past. The present articulations of family was according to the 'the spirit and teaching of Islam' or Islam in its 'pure form'. The past in which *Marumakkathayam* was widely practiced was analogous to *Jahiliyya* period or pre-Islamic period.¹²⁰ Pre-Islamic period invariably represented evil in the religious imagination of Muslims. The customary practices constituted the sacred which is diabolic and negative in the cultural articulations and public opinions.

The act of legislation can be seen as a secular ritual performed in the legislative council to place the new sacred Islamic family- the patrilineal family that repeated in the printed religious and legal texts, into the ideal. The understanding of the dogma of family as 'the sacred' with reference to the study of Mappila matriliney leads us to ask the following questions: How did the sacred as a dogma; a representation of more complex society world evolve? Why one type of classification supersedes other modes of classification? Durkheim left out this task to us!¹²¹

¹²⁰ See, Razak, *Colonialism, and Community Formation*.

¹²¹ *Ibid.*, 423.

The idea of 'discourse' propounded by Michel Foucault in *the Archaeology of the Knowledge*¹²² can be used for the analysis of the religion in colonial South India. Religion is produced in by the blend of discursive and non discursive factors. The historical expressions of the religion can be understood as a discursive formation.¹²³ According to Foucault, the history of knowledge can be written only on the basis of the understanding of the conditions and a priori's established in time (that he calls as the historical a priori, a discursive formation, archive, or episteme). He uses the term discursive formation to refer to a higher unity within which a series of statements- the shortest form of discourse, are grouped. The basis of the unity can be located in the 'rules of formation' - a set of rules for making statements in a particular domain during a specified time at a particular place.¹²⁴ These rules of formation have "surfaces of emergence" like family in the case of matriliney, 'authorities of delimitation', like the judges of the colonial court, and 'grids of specification' that can be called as mode of classification of knowledge in Durkheim's and Mauss's use of the term 'classification'.

When we take the concept of discourse into our analysis one can say that idea of Islam as a discursive tradition is a valid entry point. Elaborating the concept of discursive tradition, we will look at the relation between religion and society through the prismatic changes in the matrilineal customs. The negotiations between state law and indigenous customs have to be understood in the context of empirical practice. We have to understand legal prescriptions as an imposition which works in such a way that they impose the internalization of a moral norm; they can be responsive to the fear of legal sanction. Thus, legal procedures create discursive effect; it is constituted by theoretical insights derived from western and indigenous sources; and procedural effect by which court created the law of the land¹²⁵ . Among Mappilas the new legal options were provided by the Anglo-Muhammadan law. One can observe that there were various notions of the sacred in the early decades of twentieth century Malabar.

¹²² Michel Foucault, *Archaeology of Knowledge*. Reprinted (London: Routledge, 2002).

¹²³ *Ibid.*, 49-50.

¹²⁴ *Ibid.*

¹²⁵ Arunima, *There Comes Papa*, 14.

Shifts in the Meaning System and the Discourse on Mappila Matriliney

In this section, we will explain the shifts in the conceptualization of the descent and subsequent changes in the meaning of matriliney in colonial Malabar. Colonial domination, religious discourses, legal procedures, and dissemination of the printed led to the transformation in the meaning of matriliney. They formed dogmas on family. These dogmas were the sacred in the twentieth century Malabar. The interesting sociological question to pursue here is look at the formative experience of the sacred in Malabar. An exploration of the formative principles of the sacred dogma can be elaborated by looking at the shifts in the customary practices, religion as a meaning system. We will use the notion of classification and order in order to look at the social dynamics in the early decades of twentieth century Malabar.

The dissemination of the printed materials in vernacular as well as in English inaugurated a new ways of looking at things in Malabar.¹²⁶ Texts like Quran were translated and interpreted. There was a fundamental place that went to 'the written' or prints. There were intersections of the ideas emanated from the state, the court, religious institutions to constitute an abstract idea of a 'correct' familial practice and sex roles. The oral and performative possibilities of Quran gave way to literal and most straight forward interpretations-Quranic words found meaning only in relation to other words-in the bounds of language. Quranic verses shed all its magical and symbolic powers. Even when magical aspects continued in Malabar it received a new logic of internal belief and the logic of the written word. Side by side, late nineteenth century witnessed an attack on old superstitions or magical beliefs and the entry of rationalism and scientific order.¹²⁷ There was coherent and coercive nature to the dissemination of order in Malabar owing to the power relations emanated from colonial domination.

¹²⁶ Razak, *Colonialism and Community Formation in Malabar*.

¹²⁷ See Razak, *Colonialism and Community Formation in Malabar*.

Printed materials also imagined a new being for men and women during early decades of twentieth century. The femininity and masculinity were re-defined. There was a re-configuration of familial authorities; there was an emergence of legal citizenship and individuality. The empirical experience is that of the derivation of new order- new forms of ordering kinship relations, determining ownership rights over land, arranging conjugal relationships, and articulating religious practices in Malabar. There was an imagination of an ideal feminine subject. The articulation of Mappila Woman was in its most idealized form. They represented the collective aspirations to emerge out of the complex familial experience of Mappilas.

The ideal constructs of women informed the existence of living subjects; influenced the day to day activities of ordinary men and women. The collective imaginations articulated the ambitions of the state and educated male individuals to represent themselves in the public sphere. The articulations of collectivity instigated action to transform familial customs, and instigated the invention of new customs. The invented customs and familial practices were attributed eternal existence. In real life however, there were ambiguities and contestations of the ideal. The ideal representation of woman did not contain any complexities. It was a simplified representation. The articulations of collectivity worked in the logic of Durkheim's principle of totemic object- primarily as a simplified representation of more complex society, and secondly as an object that guides people's life.¹²⁸

Mappila matrilineal customs were called 'un-Islamic' and 'anomalous'. The Karanavan who exercised control, the women who did not confirm to the ideal-type of legal subject, and the very space of rituals and social relations were zones from which 'danger' and 'impurity' proliferated. These things were impure because it made no sense in the new classification which formed the cosmology. Its existence offended order.¹²⁹

¹²⁸ Clifford Geertz also uses similar ideas in his understanding of religion as practices around symbols. See Clifford Geertz, *The Interpretation of Cultures*. (New York: Basic Books, 1973).

¹²⁹ For an elaboration the relevance of classification to discuss the ideas of purity and dirt, see Mary Douglas, *Purity and danger: An Analysis of The Concept of Pollution and Taboo* (London: Ark paperbacks, 1998), 2.

The new discourses that determined the notion of rights in relation to land, organized kinship relations, determined marital obligations in the beginning of the twentieth century were instances of ordering of things and formulating new meaning systems. The establishment of an ideal woman was not an easy affair. There were varying meanings and structures of land and family.

The legislation of Mappila succession act of 1918 aimed at establishing order. It aimed to avert the sense of disorder that bothered the colonial state and educated young males of the Mappila community. It was an attempt to avert un-cleanliness of customary matrilineal practices through the logic of establishing order.¹³⁰ Thus, it was a symbolic act par excellence performed in the ambit of the secular-Madras Legislative Assembly.

Legislation altered empirical practices. The debates around Mappila Succession Act of 1918 started as early as 1914. They evidently transformed the ways in which matriliney was understood and practiced among Mappilas in Malabar. Symbolically, the alteration in the Mappila matriliney marked the territorial passage of Mappilas as a local community into the realm of an Islamic community that existed in the imagined space of an Islamic brotherhood.¹³¹ It implies that legislation was a rite of passage¹³² that enabled Mappilas to enter into the club of legal citizens and claim inclusion into the public sphere along with Nayars and Izhavas in Kerala. The rite of passage was historically 'binding' on young Mappilas. Even those who Mappilas did not want the legislation had to support it- the process of transformation centered around the Bill was a necessary one for men since there were 'marginal beings' by the standards that new legal rights and moral demands required of them as husband and father.

Meera Velayudhan in the case of matrilineal Ezhavas in Travancore observes the reason behind Ezhavas giving up the custom and adopted patriliney in the Twentieth

¹³⁰ *Ibid.*, 36.

¹³¹ I will elaborate this argument in the coming Chapter.

¹³² Arnold Van Gennep uses the term rites of passage to explain those rituals that accompany a passage from one situation to the other. According to Gennep, a single ritual can have elements of rituals of separation, transition or incorporation for different individuals in the society. Secondly, we could extend the meaning of rite of passage to the realm of secular enactments like legislation.

Century. Ezhavas had followed three forms of inheritance-patrilineal, matrilineal, and mixed system of inheritance or *Mishrya dayam* according to the difference in the regions.¹³³ In the mixed system of inheritance the self acquired property of a man dying intestate was shared between his children and his *tharavadu*. Velayudhan observes that the common law inheritance helped Ezhavas to forge community identity.¹³⁴ Social reform movements among Ezhavas stressed the need for shedding matrilineal customs. For them customs appeared to be imitations of the upper caste norms, their observance as an impediment to the progress of the community and their maintenance as expensive. According to the author, Ezhavas shed the matrilineal custom to protect the dignity of community from the state of degeneration.¹³⁵

Religion, Property and Changes in Matrilineality

Ladyslav Holy in *Anthropological Perspectives on Kinship* observes that various theories explain the transformations in the matrilineal kinship with reference to the transformations in the economic sphere.¹³⁶ They argue that a change from the production for subsistence to the production for exchange leads to the emergence of the nuclear family as the key kinship group with respect to residence, economic co-operation, legal responsibility, and socialization.¹³⁷ These theories presume that when a man accumulates private wealth he tends to transmit it through inheritance to his son rather than passing it to the matrilineal kin.¹³⁸ Holy observes that these theories fail to problematize the father-son bond.

¹³³ Meera Velayudhan. Reform, Law and Gendered Identity: Marriage among Ezhavas of Kerala. EPW, Vol, 33 (Sep. 19-25, 1998) pp. 2481.

¹³⁴ *Ibid.*

¹³⁵ *Ibid.*, 2481.

¹³⁶ Ladyslav Holy. *Anthropological Perspectives on Kinship*. (London: Pluto Press, 1996).

¹³⁷ *Ibid.*, 106.

¹³⁸ *Ibid.*

To follow up the reason behind the shifts often happens from the uterine inheritance she discusses the tendency for matrilineal groups to break down to small groups composed of uterine siblings and their immediate descendents through female line.¹³⁹ Holy notes that the tendency to pass on the property to the man's son develops when the productive group is the house-hold formed by the members of nuclear family, especially in a patrilineal set up.¹⁴⁰ Elaborating this idea, the author argues that a change from uterine to agnatic or close-blood kin through parentage can only be generated by the emergence of previously non-existent conditions which brings the father and the son into close co-operation and to the formation of joint productive teams.¹⁴¹ She further postulates that the changes in matriliney account for the change in the descent due to the changes in the conceptualization of the descent. A general decline in the ways of tracing the descent exclusively through females happens along with the changes in the ways of the transmission of the property.¹⁴²

We can say that those theories that concentrate on economic transformations by employing Marxian framework give the impression that matrilineal kinship is incompatible to modern economic relations. They ignore the interface of law, religion, and other historical imaginations in bringing about a change in the structure. The relationship between the structure and ideology has to be seen as dialectical. While structure determines the ideology, the ideology in return influences the human practice so as to alter the structure through their agency.¹⁴³ Michel Foucault in the *Archaeology of Knowledge* gives a more complex reading of social transformation using the concept of the discourse. Discourse implies those utterances of the experts that determine truth in the society.¹⁴⁴

The sacred was constituted as a dogma - legal, normative and prescriptive articulations of the ideal of the family. There are sacred dogmas and rituals which

¹³⁹ *Ibid.*, 107.

¹⁴⁰ *Ibid.*, 108.

¹⁴¹ *Ibid.*, 109.

¹⁴² *Ibid.*, 109.

¹⁴³ See, Karl Marx and Frederick Engels, 'German Ideology, in *Collected Works, Vol 5.* (Moscow: Progress Publishers, 1976), 36.

¹⁴⁴ Michel Foucault, *Archaeology of Knowledge*. Reprinted (London: Routledge, 2002).

represent the complex interplay between idioms of culture, debates in religion, and activities of caste reformers, educational policies, judicial interventions, and exercise of the authority of the colonial state.

Having said this, we expand our discussion to the shifts occurred in the realm of practices and meanings. We can ask the following questions: can we use classification as a central theme to discuss the notion of the sacred? In the context of Malabar, one can see that the print, the courts, economic changes, changes in the articulation of religion, and transformation in the organization of kinship and marriage. There was rupture in the discourse on Mappila family, and Islam in the beginning of twentieth century. Thus, these discourse brought changes in the meaning or classificatory system in Malabar. It implies there was birth of a new sacred in the realm of the family.

Conclusion

This chapter primarily looked at the structure the Mappila matrilineal joint family with reference to the land. It helped to us proceed to conceptualize the changes in matriliney. We argued that the period of our discussion, the period between 1914 to 1928 was a transitional period. We looked the ways in which the first legislation on Mappila matriliney, the Mappila Succession Act of 1918 inaugurated the birth of a new conceptualization of matriliney.

Matrilineal Mappilas engaged in the disputes over the inheritance of the self-acquired property of the individuals from the late nineteenth century onwards. The early disputes were on the provisions and the usage of the gifting of the property through the provision of the Will. The Will received legal sanction from the Malabar Wills Act of 1889. In response to the disputes on the gifting of the self acquired property of the Mappilas the demand was made for the passage of the Mappila Succession Act of 1918. The Act enabled the inheritance of the self-acquired property of an individual to pass to the heirs prescribed by Anglo-Muhammadan law. This provision ruined the

economic base of the Mappila matrilineal joint family since the Act meant that the *tharavadu* did not receive any additional property through the succession of the self-acquired property of the members of the tharavadu, in contrast to the customary practices prior to the Act.

After the codification of the succession of the individual property, the collectively owned property of the family that inherits in the female line came under the preview of discussion. By the end of the third decades there were demands for the partition of the collectively owned property. The chapter has shown that the demands for the passage of legislations were articulated through the idioms of religion. In the next chapter, we will see that the ways in which the legality of collective property of the *tharavadu* were re-articulated to according to some selective overcome the disintegration of the Mappila tharavadus, immediately after the passage of the Mappila Succession Act of 1918.

Religion, Family and Gender Relations among the Mappilas in Malabar, c. 1914-1940

Introduction

This chapter will discuss the re-conceptualization of Islam, matriliney, and sex roles in the first half of the twentieth century. First, we will begin with the re-articulation of 'Islam'. It implies that there were shifts in Islam as a meaning system. Mappilas re-articulated Islam in response to the advent of Anglo-Muhammadan law, oriental scholarship on Islam as well as debates on Islam in the vernacular print medium. Second, this chapter will discuss the alteration of matrilineal customs mainly during the period of 1914 to 1928. Alteration implies that matrilineal inheritance and the collectively owned joint family property inherited through female line were altered in accordance with some of the provisions in the Anglo-Muhammadan law. Third, we will discuss the re-construction mappila femininity and re-articulation of gender relations from the late nineteenth century onwards. The last sections in this chapter will look at the contestations in the power and authority of the Karanavan and the Mappila women and the emergence of the father and husband as the power and authoritative figures.

Re-articulation of religion in Malabar: The Imagination of the 'Correct' Islamic Practices

An idea of true Islam emerged in Malabar by the twentieth century. The idea was coupled with the mechanisms for the implementation of Muhammdan law. One of the early instances of the expression of the idea of 'true' Islamic practice can be found in

the Colonial reports and narratives. C.A. Innes, the author of *Madras District Gazetteers* observed that Mappilas engage in heretic and corrupt practices through they were 'strong' observers of the religion. He wrote:

“The religion of the Koran is a pure monotheism, but the Mappila worships many saints (*Ouliyankanmar*) and martyrs (*sayids or shahids*); and this betrays not a few traces of primitive animism and ancestor worship. Celebrated Tangals such as Tangals of Mamburam and men of holy and austere type are freely canonized, and their tombs (*Meukham, jaram*) become holy shrines and popular places of pilgrimage (*ziyarat*)”.¹

He also reaches to this conclusion by observing that Mappilas engage in witchcraft despite 'Quranic condemnation' and they 'canonize' Tangals (spiritual leaders or Sufis) and make shrines on their tombs (Meukham, Jaram). Barring the reference to Catholic beliefs like 'canonization', the author attributes the causality of adulteration to the acceptance of Hindu customs. He observes that the Mappila notion of *jins* and *shaitans* (evil powers) correspond to the Hindu demons and were propitiated in the same way; they use wooden figures in magic; and also believe in the evil eye and its bad effects;² and the principal social ceremonies have similarities with Hindu rituals. According to him Mappilas, mainly those of lower castes perform tying of *tali* (symbol of marriage), use music, beat tomtoms, and exchange betals in ceremonies. He also adds that 'Orthodox section' refrains from all these things.³

This perspective or view has to be seen as a product orientalist scholarship on Islam.⁴ In other words, there was a protestantization and therefore a greater significance given to the text after the emergence of translation and religious writings in the print and a subsequent assimilation of these dialogues for the articulation of the faith.⁵ Truth

¹ C.A. Innes, ICS. *Madras District Gazetteers: Malabar and Anjengo* (Madras: Government Press, 1908), 196.

² Ibid 196.

³ Ibid.

⁴ Vander Veer, "*Religious nationalism*", 51. In the eyes of Orientalism the civilization of the East were great in the past but are decadent in the present thus in need of western domination. The decadence leads to the practices that pollute the pure, transcendental essence of religious truth and now beliefs.

⁵ Vander Veer, *Religious Nationalism*, 220.

lied in the text; believers have to study this text to lead a proper moral and spiritual life.⁶ The revitalization of the present practices in accordance with the textual principles helps to reclaim the primeval truth, the sacred, in their religion from 'later, irrational alterations' that derive from the influence of the religion of outsiders⁷.

Anthropological and historical understanding of Islam is useful for the analysis of the interface between Islam, matriliney and gender relations among the Mappilas in Malabar. Talal Asad propounds the idea of Islam as "a discursive tradition". The discursive nature of Islam means that every where Islam is concerned with defining what is allowable (*halal*) and what is not (*haram*)⁸. Discursive practice of religion incorporates the qualities of in the specific events of speaking, commenting, and reflecting on the texts.⁹ Thus there can be divergent ways of talking about religion. Given that, Asad's idea of Islam as discursive tradition is a useful conceptual tool. In the context of Malabar one has to look at the interplay between law, oriental texts, vernacular print, public debates, socio-religious and caste reforms, public speeches, songs, and social structure to look at the articulation of Islam.¹⁰

A new reading of the Islamic texts in the light of colonial modernity set up new norms for the authentication of religious belief Mappilas in Malabar. In this section, we will discuss the re-articulation of the Mappila matrilineal customs with reference to the Anglo-Muhammadan law and abstract idea of 'correct Islam'.

Religion, Law and family: Alteration of the Mappila Matriliney in Malabar, c. 1914-1928

In this section, we will discuss about the alteration of matrilineal customary laws in accordance with the legal provisions in the Anglo-Muhammadan law in the second

⁶ Ibid., 215.

⁷ Ibid.

⁸ Asad, "The Idea of an Anthropology of Islam", Lukens-Bull, "Between Text and Practice", 44.

⁹ Ibid., 7.

¹⁰ See, a discussion of Talal Asad's idea of Islam as 'discursive tradition' in the introduction.

and third decades of early twentieth century Malabar. One can see that the primary step towards the alteration of Mappila matriliney happened with the debates on the Mappila Succession Bill that started by the year of 1914.

The process of alteration was explicitly in response to the newly emerged demand for the changes in the customary rules regarding the inheritance of land according to the provisions of the Anglo-Muhammdan law. Anglo-Muhammadan law recognized individual property; the Mappila Succession Bill stood for allowing the same property to devolve according to Sharia line of inheritance. The remaining portion of the land was collectively owned *tharavadu* property that did not come under the ambit of 'Islamic' notion of property as per the provisions of the Muhammadan law. The Mappila Succession Act was passed in the year of 1918. The Act marked a shift in the conceptualization of inheritance of the property of matrilineal Mappilas. The inheritance was conceptualized in the idioms of Anglo-Muhammadan law. The second process of alteration in the conceptualization happened with reference to the collective property during the period of 1914 to 1918.

The second process in the alteration Mappila matrilineal customs of inheritance was with respect to the conceptualization of the succession of the collectively owned property by *tharavadu*. According to Muhammadan law, there is no joint family; thus it was held that there was no provision for the existence of a Joint family property¹¹. As a result, there was a worry about the mismatch between the 'Islamic' notion of the inheritance of property and the existence of *tharavadu* property. Young educated Mappilas wanted bringing matrilineal inheritance in 'accordance with the spirit and teaching of Islam' to resolve this mismatch.

The alteration in the law of inheritance of collective *tharavadu* property did not receive support from the society. Mappilas, especially orthodox sections of the Mappilas, could not afford re-distribution of *tharavadu* property to individuals. As a solution to resolve the incompatibility of matriliney with the Muhammadan law, it was

¹¹ Opinion by R. Sivaramakrishnan, Esq. MA, ICS, District Judge of North Malabar, Tellicherry, in "Opinions Received" by the select committee on the Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib, (Madras: Government Press, 1938)35. Arakkal Records, Kozhikode Regional Archives (henceforth KRA)

suggested that one can bring in the customary practice of inheritance of collective property in the female line in agreement with the Muhammadan law; for that purpose one had to find out some provisions in the Islamic jurisprudence which allowed succession in the female line.¹² As result of this pursuit, it was agreed that the tharavadu property could partake ‘the nature of properties known as “*wakf*”’¹³.

The alteration in the logic was set in motion in the records on land sales.¹⁴ had the following merit: ‘the *tharavadu* property will become impartible and inalienable and the whole system would be brought in accord with (...) religion.’¹⁵ To put it clearly, one can observe that most of the *tharavadu* property was registered as ‘*wakf-alal- aulad*’ (charity in succession either in male of female line) by the third decade of twentieth century. This provision was in accordance with the provision of Islamic law, especially Shafi School of law that allowed a person to endow one’s properties to children or relatives to enjoy in perpetuity in a particular line of descent¹⁶. *Wakf-alal-Aulad* which is known as private *wakf* also had the provision that it would potentially devolve to an institution of charity like mosque in the absence of the last female member of a *tharavadu* to inherit the *tharavadu* house or *tharavadu* property. One can observe that the process of alteration blocked the chance that male members have vested interest in demanding partition of *tharavadu* property for their personal gain¹⁷. Thus, alteration in the meaning of female succession contributed to the prolonging existence tharavadu house and its common property intact among Mappilas Muslims of Malabar.

One can argue that the alteration neutralized the conceptual tension that existed between Anglo Muhammadan law and other Sharia texts and customary

¹² Ibid.

¹³ Ibid.

¹⁴ Conversation with Prof. Shiyali Koya at Calicut, on 15-12-10.

¹⁵ Ibid.

¹⁶ Opinion by K. Uppi Sahib Bahadur, Ex MLC and ex- MLA in “*Opinions Received*” by the select committee on the *Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib*, (Madras: Government Press, 1938) 48. Arakkal Records, KRA; also see opinions by P. Mammu Sahid Edathurithy, *ibid.*,9; Villiagat Mahamed, Beliapatam, North Malabar, *ibid.*,47; A K Kunhi Mayan Haji, Palaparamba, Kuthuparamba.*ibid.*,54-55.

¹⁷ See D. Shankaran ,-*Muhammadeeya Niyamam* (the Muhammadan Law) (Trivandrum: Self published, 1932).

Marumakkathayam practices; the process helped them to bring the system ‘into full harmony with Muhammadan law’. Many educated Mappilas viewed it as practical compromise. In the discussion of the the proposed Bill one of the respondents said:

‘[I support legislation to bring in matrilineal inheritance in full harmony with the legilsation] though it [matriliny] is an anomalous system, and would continue to be so even after the proposed legislation’.¹⁸

1930’s was the period in which communal identities like Hindu and Muslim acquired its concreteness in Malabar. The community formation was simultaneous to the growth of nationalism in Malabar. One of the manifestations of the formation of conflicting communities was Thiya - Mappila riot in 1915 on the issue of playing music when Thiya made processions went past a mosque in Tellicherry, North Malabar.¹⁹ However, these conflicts did not endure since many elite Mappilas engaged in symbiotic relations of profit with the landowning Hindu families.²⁰

Taufik Abdullah, in the historical context of Minangkabau Muslim matriliney observes that there was a conflict between legalistic textual interpretations of Islam and *adat* (customary practices).²¹ Most explicit attack on *adat* acquired strength from 19th the century onwards. A Minangkabau ulema who was also a jurist, stated that the whole foundation of Minangabau matriliney was blasphemous.

Abdullah observes that the most immediate societal response to the legalistic antagonism towards customary practices in Indonesia was the quest for re-researching the inherent greatness of *adat* law.²² Sufi traditions of Minangkabau, especially *Najshabandiah* powerfully defended *adat*. Thus, despite the threat of legal principles Islam remained as a system of meaning.²³ However, Najshabandiah defence paid great emphasis in ‘strengthening’ the validity of *adat* as a system of conduct, so that it would

¹⁸ *Ibid.*, 71-72.

¹⁹ See, Dilip Menon, *Becoming ‘Hindu’ and ‘Muslim’ identity and conflict in Malabar. 1900-1936*, CDS Working paper, (255, 1994). 12-13.

²⁰ *Ibid.*

²¹ Taufik, Abdullah. “Islam, History, and Social Change” in *Minangkabau: Local, Regional and Historical Perspectives on West Sumatra*, ed. Lynn L Thomas and Franz von Benda-Beckmann (Athens: Ohio University. 1985) 141.

²² *Ibid.*, 142.

²³ *Ibid.*, 142-143.

not 'confront' religion. ²⁴ Subsequently, there was an injunction of dual mode of inheritance-in matrilineal line as well as in patrilineal line based on *Sharia*.²⁵ Abdulla argues that one of the pertinent developments after the defence of custom was that matrilineal inheritance of property received 'religious' interpretation: The property that is matrilineally inherited was considered as a *Waqaf* (a communal property held for the sake of well being of the members of the community).²⁶ He argues that there was a shift in the religious meaning in the historical context of Minangkabau. Before nineteenth century religion and custom (Islam and *adat*) were one and the same.²⁷ Later it transformed in such a way that religion as an institution apparently originated from the texts/ *kitab*. It implies that the texts solely authenticated 'religious wisdom'. It was called Islamisation. It did not condemn the existing order, but altered its meaning.

Socio-religious Reforms and the Formation of the Mappila Community

By the third decade of the twentieth century there were various efforts towards the reform of socio-religious customs among Mappilas. Reform in the historical context of colonial South India implies the re-articulation of existing customs and religious practices in accordance with the ideas that developed in the colonial period. Young Mappilas organized meetings and public talks at various towns in Malabar. They debated political, religious, and social issues in these gatherings.

The socio-religious movements had great social appeal since Mappilas in Malabar experienced exploitation in the immediate past. From the beginning of the late nineteenth century there were recurrent riots between by the cultivators against the landlords at various places throughout Malabar. Most of the Mappilas were cultivators except the fact that there were some landlords in north Malabar. They organized various

²⁴ *Ibid.*, 143

²⁵ *Ibid.*, 144.

²⁶ *Ibid.*

²⁷ *Ibid.*, 150.

revolts. William Logan in *the Malabar Manual* summarizes the colonial account of these outrages. According to Logan, they were unorganized events though not isolated from one another. The land policies of the British colonizers and position of the Hindu and Mappila in their relations of landlord and tenant; mortgager and mortgagee²⁸ had been considered as the central cause of these revolts even by early colonial reports. The author notes that the realization did not result in any state action. Yet, reports overemphasized the religious nature of these revolts. They are seen communal riots between Hindus and Muslims and as irrational deeds by “fanatic Mappilas” to become martyrs (*shahid*) for the attainment of salvation. Quotes from the letters and reports of colonial officers which argue that religious ballads, Sufi cults and living spiritual leaders like Tangals gave spiritual support and doctrinarian for this “religious” act, Logan emphasizes the economic exploitation of the cultivators by the landlords and the state²⁹. The outbreaks largely concentrated in the region of Eranad and Walluvanadu taluks of Malabar, but north Malabar also witnessed various incidents of similar nature in the last decades of the nineteenth century.³⁰

K N Panikkar in his book *Against the Lord and the State: Religion and Peasant uprisings in Malabar, 1836–1921*, argues that exploitation experienced by the cultivators in the agrarian system, issues around the ownership of the land, and disputes regarding the eviction of cultivators from the land by the landlords were the structural reason for the outbreak of riots.³¹ Logan also agreed to this position. Panikkar further argues that religion was the idiom through which Mappilas articulated their protests; religious leaders and *sufi* cults helped Mappilas organize themselves.³²

²⁸ Logan, “*Malabar*”, 571.

²⁹ *Ibid.*, 571-573.

³⁰ Logan uses the narration in the various reports and he gives accounts of violence’s in North Malabar as well. see, *ibid.*, 561- 579; Also see, Dilip Menon, “Religion and Colonial Modernity: Rethinking Belief and Identity”, *Economic and Political Weekly*. Vol 137. No 17 April 27-May 3. (2002).

³¹ Panikkar, K. N. *Against the Lord and the State: Religion and Peasant Uprisings in Malabar, 1836–1921* (Delhi: Oxford University Press, 1989).

³² *Ibid.*

Subsequently, the reverberations of Khilafat movement in 1920's brought the interface of Mappilas with Muslims of north India and other parts of the world.³³ The movement engendered Mappilas to the fold of 'universal brotherhood' which was an underlying principle of Pan-Islamism. Pan-Islamism stressed the idea that 'believers are brethren'. The movement emerged as an international solidarity movement with the demand to restore Turkish Khilafat. It was anti British in its political orientation.³⁴ Thus, to enter into the realm of universal Islam Mappilas had to present themselves as an 'Islamic community'. Razak argues that the interplay between colonial governmentality, improved means of communication like print technology, colonial education measures, revitalization movements, increased tension between Hindus and Muslims in the post 1921 rebellion phase and the spread of national movement resulted in the imagination of community identity among Mappilas.³⁵ As a result Mappilas in Malabar was in the due process of the making of an 'imagined community'.

The imagination of a community of equals had territorial base in Malabar and temporal base in the period which began from the late nineteenth century. The imagination of Mappila community underscored the reference to a 'correct Islamic practice' and aspired to transgress the boundaries of space and time-to claim the entry into an '*Ummah*' or Muslim. In the context of the discourse on family and inheritance, Makkathayam (patriliny) following Mappilas also became a reference for comparison with matriliney; Mappilas of south Malabar were referred as Mappilas who were closer to 'Islam'. Aikya Kerala Movement- a well documented movement that had the origin among the rich patrilineal Muslims of Kodungallur illuminates our argument.³⁶

³³ Razak, *Colonialism and Community Formation*.

³⁴ Muslim Mithram, (feb-March, Vol.1, Ed.,11-12, 1928)

³⁵ Razak, *Colonialism and Community formation*, 13.

³⁶ P.K.Muhammad Kunhi. *Muslingalum Kerala samskaravum* [Muslims and the culture of Kerala] (Thrissur:.....1982).265.

The Aikya Kerala Movement

Aikya Kerala Movement exemplifies the emergence of associations of educated elites which interfered in the day to day activities of the community and attempted to alter the ritual, and religious articulations of Mappilas by appropriating the logic of modernity in colonial Kerala. The early form of Kerala Muslim Aikya Sangham was founded in 1922. In the formative period the movement was called Nikhsapksha Sangham. The main aim was to settle the disputes between rich Muslims of Kodungallur, a town in the erstwhile Cochin state.³⁷ Educated middle class, the rich and religious experts formed the social base of the association. The association witnessed disputes in its progress since many orthodox religious experts had turned antagonistic to the activities of Sangham. Beginning from the inception of the association they interfered in the realm of the religious and attempted to revitalize Mappila culture in juxtaposition with the reading of Quran and Hadith in its most literal ways.³⁸ The Sangham is a well documented association among hundreds of such associations formed among Mappilas in different parts of Kerala during that period.³⁹ There were even such associations among Mappila diaspora communities such as Sri Lanka.⁴⁰ These associations grew influential in the initiation of debates on 'correct' Islamic practice and re-articulation of gender.

The social reform groups attacked superstitions and customs and thus become interlocutors with oriental scholars, Colonial judges, missionaries via print media and public meetings in the production of knowledge. For instance, in the fourth annual conference which was held at Talassery - a stronghold of Marumakkathayam *tharavadus*, on 15 and 16th of May, 1926, they had a 'well known Arabic Scholar and a

³⁷ Ashraf Koyilothan Kandiyil, Reform and revival among the Muslims of Kerala-A study of Kerala Muslim Aikya Sangham, 1920-34, (unpublished Dissertation: Jawaharlal Nehru University, 1998),61.

³⁸ Ibid., 71

³⁹ For reports from Kozhikode see, Mathrubhumi, Nov 28 ; Dec 18, 1923

⁴⁰ Mathrubhumi, 1924, March, 29.

British', Maulana Mohammed Marmaduke Pickthal as the chair. He criticized the leading local *ulemas* for supporting evil customs related to marriage and inheritance.⁴¹

P.P. Abdul Razak in *Colonialism and Community Formation in Malabar: a Study of Muslims of Malabar* argues that, by the first half of the twentieth century Muslims in Kerala formed a consciousness of a well knit community in their articulation of political and cultural identity despite the existence of social and economic inequalities, and regional differences among them.⁴² The author argues that, the rise of nationalism and the selective acceptance of modernity did not evaporate the identity of a community. On the contrary, those dynamics helped to further the idea of community boundaries through the the religious plus secular idioms that had been developing since early 20th century.⁴³

The imagination of a community of Mappilas stood against variations in family, customs, vernacular and popular articulations of faith along with class fractures and status group differences.⁴⁴ Yet, they could not ignore these differences. As far as family is concerned, matrilineal customs did not vanish. Similarly, the practices of vernacular and sufi traditions did not vanished from the religious outlook of Mappilas. The reformers invariably had to contradict their own beliefs; elite Mappilas could not have imagined a community of equals without their family support base and the support and blessings of a large section of rich Marumakkathayam Mappilas, and the popular support of the Mappilas mass. Clearly, they could not have imagined a 'well-knit community' without recognizing the strategic location of collective rituals like *nerccas* (local religious pilgrimages centered on the Sufi cults). A report in local newspaper on *nercca* in the year of 1927 says:

⁴¹ Ibid., 71.

⁴² Razak, *Colonialism and community formation in Malabar*, 331.

⁴³ I sum up the argument of Razak on community formation here. See, *ibid.*

⁴⁴ The fifth annual conference of Aikya Sangham advised the community to treat *puyyislamingal* (new converts from fisher folk and other castes) to be treated in equal terms with other Mappilas. See, Kandiyil, "Reform and revival", 78.

The true Muslims who read religious texts argue that Islam prohibits conducting of *nerccas*. Still, here the things are not like that and it is conducted in various places.⁴⁵

However, there was new injunction of logic and reason in the articulation of these festivals. These practices acquired a new meaning; there was a revitalization of culture, customs and beliefs. It nurtured the growth of a new cosmos in which popular practices were reinterpreted in terms of textual principles.

We have looked at the re-articulation of religious practices and ritual in the late nineteenth century to the third decade of the twentieth century. In the context of this discussion, we will discuss the interplay between religion and gender. The discussion will attempt to explore the re-construction of gender relations and the construction of family during this era.

Makthp Tangal and His Engagement with Islam, Gender and Matriliny: A Biographical Example

The biographical account of Makhti Tangal (1847-1912), a Muslim evangelist from Veliyankode, south Malabar, will help us understand better the intersection between the discourse on gender, Islam, and colonial modernity in the latter half of the nineteenth century onwards. For the purpose of the discussion, we depend upon an omnibus constitutive of his writings, titled as *Makthi Tangalude Sampoorna Krithikal* and his biography authored by K K Muhammed Abdul Kareem. Makthi is considered as one of the central figures who catapulted social reform in Kerala in nineteenth century and thus called as a pioneer of Mappila renaissance⁴⁶.

Makthi Thangal as an individual locates himself in the discursive field of nineteenth century. His writings, especially on gender and family need a critical approach. He interpreted Quran and Hadith in the language of male dominance and

⁴⁵ A report from Malappuram. See, Mathrubhumi, Sep 8, 1927.

⁴⁶ KK Muhammed Abdul Kareem, Makthi Thangalude Jeeva Charithram [Life Story of Makthi Thangal] (Calicut: Yuvatha Book House, 1997), 9.

patriarchal authority. He was an excise officer who gave up his employment for teaching Islam. He internalized colonial subjugation in his psyche and attempted to overcome the inferiority that he deeply felt by projecting a male centered Islam as a superior faith. He countered the Christian evangelists by interpreting Islam in an evangelical and rational tone⁴⁷. He used highly inflammatory language in this process represented the converts to Christianity as feminine as he felt they were fickle minded⁴⁸. Makthi found gratification in establishing that Islam ingrained the scope for the most possible articulation of male authority by way of controlling. Makthi established his patriarchal interpretations citing the seclusion of women from the public prayers in Islam. He distanced Islam from the Catholics who according to him, allowed their faith to be tempted by the presence of women in the church. He argued that polygyny is a natural practice. He even showed that even Bible argued in similar ways.⁴⁹

In an essay called *Nari Narabhichari* (women as subservient to men), Makthi quoted from Quranic myth to argue that Havva is born out of the rib of Adam, and she is responsible for the original sin. He used myths from all the Semitic religions to show that women are 'naturally' inferior to man.⁵⁰

Additionally, Makthi Tangal attacked matriliney. He cited examples from the religious history of prophet Muhammed. He compared *Marumakkathayam* society to the pre-Islamic society of Muhammed's times, which had been converted by the prophet. He called matriliney a remnant of the Hinduism. According to him Hindus maintained the custom in order to retain their wealth. Makthi observed that the authority of wife and her brother over husband in conjugal matters and authority of mother over father in parenting are embarrassing and emasculating practices⁵¹. In a

⁴⁷ Makthi Tangal, *Makthi Tangalude Sampoorana Krithikal, Complete works of Makthi Tangal* (Calicut: Vachanam Books, reprint 2006.180). This is written in the year of 1901 from Kochi, Kerala Mithram Branch Press.

⁴⁸ He opined that the Christian converts were analogical to the men fell for pretty women due to temptation and ignorance. Ibid, 33.

⁴⁹ See Makthi Tangal, *Makthi Tangalude Sampoorana Krithikal, Complete works of Makthi Tangal* (Calicut: Vachanam Books, reprint 2006), 35.

⁵⁰ Ibid, 648-649.

⁵¹ Makthi Tangal, "Makthi Tangalude Sampoorana Krithikal", 167-168.

speech he made in Kannur he stated that *Marumakkathayam* contradicts 'textual principles'.⁵² He argued that

'all the religions distinguish between matters of spirituality and earthly affairs. Those who fail in earthly affairs are analogical to the half blind, though they entirely adhere to spiritual principles. They cannot be counted as Christians or Muslims.'

He quotes the replay of local Kazis to this particular argument of his in these words:

Kazi said that rather than being un-Islamic, the observance of the custom is a sin, similar to drinking and adultery and hence the mere practice would not make one an infidel. Makthi however, stuck to his position and attacked the local Mappilas who sanction the system which was 'the remnant of the pre-conversion period'.⁵³

He thus, represented a period in which the state, religion and authorities favored patrilineal principles as sacred familial practice. The following words illustrate that fact:

'Religious experts who base themselves on texts, rulers who makes law and elders who are god fearing alike oppose the custom of *Marumakkathayam*. Yet, the Karanavan ignores it and other family members support him'.⁵⁴

Unsurprisingly, when he spoke against the customs the residents of Kannur, North Malabar, they pelted stones and beat him up.⁵⁵ Eventually, the court had to issue a notice bring the situations under control.

Makti's perception of religion was based on the literal interpretations of the text and employment of reason.⁵⁶ He knew many languages including foreign languages like English, Persian, Arabic, and vernacular like Malayalam, and Arabi-Malayam.⁵⁷ He

⁵² A pamphlet dated 1902 Nov 18 in Swalah, Vol 4, Edition 9, quoted in *ibid.* 514.

⁵³ Pamphlet dated 1903, Jan 1, Vol 4, Edition 10, Swalah, adapted in *ibid.* 515.

⁵⁴ *Ibid.*

⁵⁵ Kareem, Makhdi Thangalude Jeeva Charithram.

⁵⁶ *Ibid.*, 34

⁵⁷ Malayalam, transliterated in Arabic.

always referred to orientalist writings in English and wrote pamphlets in highly sanskritized Malayalam. It helped him to find an entry into the public sphere to discuss theological issues- he is one of the well represented Mappilas who participated in the public sphere and engaged in debates. Makhthi favored colonial modernity. Makthi advised Mappilas to give up the fight against the state since they fought with belief that they would get heaven⁵⁸ - he was more against Christianity than against the state. Even while opposing Christianity he believed in the need for accepting colonial modernity.

Makhthi had strongly internalized brahmanical and colonial values and increasingly used similar tropes to masculinise Mappilas who according to him were a community of illiterates 'who spoke the language of forest dwellers' and engaged in heresy and superstitions. An analysis of his writings helps us enter into the social psyche of Mappila elites in early twentieth century who were victimized by the colonial modernity and thus, in response to that attempted to counter the domination through the logic of a patriarchal interpretation of Islam.

In the writings of Makhthi there was an underlying construction of femininity that was in accordance with the vision of a masculine Mappila subjectivity. Makhthi wrote that Mappila women were 'illiterate' and 'fanatic'. Makthi wanted them to educate themselves so that they would not become the object of criticism from Christian missionaries and would not stand in the way of Mappila males' individual progress. In fact, Makthi's representation of men and women goes in tandem with the representation of Mappilas in the colonial narratives⁵⁹.

Makthi Tangal's ideas could be located in the discursive field of twentieth century that encompasses the sites of the caste reforms, spread of colonial education, severing of ties of pilgrimage, spread of missionary activities, the use of orientalist texts and indigenous articulations of the ideas in the print in vernacular.⁶⁰ There were continuous

⁵⁸ See introduction by M. Gangadaran to the new edition in Makthi Tangal, *Makthi Tangalude Sampoorna Krithikal*, 503-510.

⁵⁹ To know more on the representation of Mappilas in colonial historiography, see Ansari, *Refiguring the Fanatic*.

⁶⁰ Stuart Blackburn, *Print, Folklore, and Nationalism in Colonial South India* (Delhi: Permanent Black, 2003).

uprisings by Mappilas against the colonial state and landlords and it finally culminated in mass suppression 1921. Elites in south Malabar attempted to make new strategies to encounter colonialism. There was reinvention of Mappila tradition⁶¹ and revitalization of faith in the whole community. It was also the creation of Mappila masculinity.

Makthi is a well documented biographical example of the Mappila elite who sought to revitalize Islamic rituals and practices from late nineteenth century onwards. He attempted to cut the roots of shared customs and traditions among Hindus and Muslims in Malabar.⁶² He could be located as a religious expert who represented the formative period of the scriptural imagination of religion. He attacked the hitherto existing customs like *Marumakkathayam* that blocked his vision of 'pure Islam' and 'ideal femininity'.

Makthi's writings and speeches represent the construction of femininity in the realm of religious imagination with a radical twist from the near past. In his writings, the gendered construction of authority, rights, and spaces was placed as a-historical, pure and eternal. His arguments potentially challenged alternative constructions of gender in the realm of matriliney that informed everyday Mappila life. The women in matriliney represented 'nature', but a dangerous one, which demands the mediation of 'culture' or the intervention of puritan Islamic practice. Thus, Islamic tradition was constructed through the power relations in history- in the discursive realm of the construction of gender relations in colonial modernity. The sensibility that matriliney equals to drinking and adultery as a sin is indeed shows the intersection of the discourse of caste reforms, debates on conjugal practices in Malabar like sambandam marriage, and attack on Mappila matrilineal customs in general⁶³.

The Mappila community debated matriliney within this discursive field of Malabar. However, all the Mappila social reformers were not as radical as Makthi. Hamadani Tangal who argued for education of Mappila women in schools was more liberal in the outlook and they did not break away from the existing meaning system of

⁶¹ See K. N. Panikkar, *Against Lord and State*.

⁶² See P.P. Abdul Razak, *Colonialism and community formation in Malabar: A study of Muslims of Malabar*. (Unpublished PhD thesis, University of Calicut, 2007), 224-225.

⁶³ Makthi referred to Izhavas as community who attempted to control their women.

Islam all of a sudden.⁶⁴ Yet, all the differences shared the discursive unity. The unity found 'the woman' as an object that requires the mediation of reform.

The advent of print in twentieth century transformed the nature of production of religious knowledge. Print emerged as a medium that attacked superstitions, heretical practices and customary practices that marked a realm of shared beliefs and customs across communities. The writings on women in general and Muslim women in general went into the print. These writings shared tropes that are visible in the writings of Makthi- that women were ignorant; they had to be 'taught' to imagine an Ummah of Muslims; to socialize children according to the principles of Islam. Printed vernacular scripts attempted to defend the criticism of western scholars on Islam that women had a pathetic status in the religion.⁶⁵ Mappila social reformers posited that customary practices are the root cause of the low status of Mappila women and held that women had high status in the legal and textual norms of Islam.⁶⁶ As a rejoinder one can say that legal practice appear to have been influenced purity and femininity into the legal practice. There were always conflicts between customary practices and Anglo Muhammadan law.

Gender and Early Judicial Intervention on Mappila *Marumakkathayam*

By the early twentieth century there was a redefinition of *tharavadu* authority in terms of gender and generation⁶⁷. *Tharavadu* became a corporate and impartible structure. Women's importance in the social reproduction of the *tharavadu* was replaced with their role of sexual reproduction⁶⁸. The issues regarding property became the preserve of the Karanavan.⁶⁹ When *tharawadu* became a corporate unit with impartible property by early twentieth century, it discredited the individual properties of women. In

⁶⁴ See Razak, *Colonialism and Community Formation*.

⁶⁵ See K M Maulavi, *Islam and Women (mal)* (Aleppy: Ishaath Committee, 1936), 1.

⁶⁶ *Ibid.*

⁶⁷ Arunima, *There Comes Papa*, 56.

⁶⁸ *Ibid.*, 53.

⁶⁹ *Ibid.*, 72.

the case of the Nayars, individual properties of the women were mainly the land set aside by lovers or husband for their maintenance and normally passed in the female line.⁷⁰

Overwhelmingly, the intervention of the judiciary had a strong impact on marummakkathayam practices, especially to those properties owned separately or exclusively by women. In that sense, the category of 'gifted property' in legal disputes consisted of various kinds of properties. The best example is of *Sthrisothu tharavadus* or families of exclusive female collective ownership and management of the property.

Some Mappila *tharavadus* were *strisothu tharavadus*. The *strisothu* tawarwad have the eldest female member as the Karanavathi (head) of the *tharavadu*. The female members exclusively own and manage the property. Male members however had only the right to avail expenses for maintenance. In other words, though both male and female members have equal rights over property, the later have exclusive rights of management over the *tharavadu* property.⁷¹

Now, let us discuss the intervention of the colonial court with reference to the disputes on female exclusive family properties. In a dispute over the *strisothu* nature of property, court held that a deed granted to the female descendents alone could not find acceptance. In this instance, a matrilineal man executed a deed of gift in favor of his wife and three daughters under which they and their female descendents could enjoy the properties hereditarily, to the exclusion of males. Subsequently, the last surviving daughter made a gift of the properties to her own female descendants; and the gift was objected to by the other female members of the line through a suit since she excluded male members. The court held that the exclusion of males was invalid. The observation was that the property does not vest with wife and daughters as joint tenants. The court added that the property have the incidents of *tharavadu* property, since males have the

⁷⁰ *Ibid.*, 73.

⁷¹ Ali, *Custom and Law*, 92.

right of survivorship over *tharavadu* property they cannot be excluded from enjoying it.⁷²

In 1910, the court validated the above mentioned practices of customs and held that the descendants of the property to the female line, excluding males and prohibiting partition, belongs to the class of gifts known as *strisothu* or *henumule* and the intention of such a gift is to pass the property to a class of females jointly belongs to a *tavazhi*⁷³. However, in a later dispute of the same nature court held that the institution of *strisothu* tharwad is unknown to *Marumakkathayam* custom⁷⁴.

Strisothu became a non-existent institution by the third decade of the twentieth century. Even in the above mentioned variety of the matrilineal families, the males and females got equal rights in erstwhile *strisothu tharavadus*. There was however an exception that only the eldest female member had the right to manage the *tharavadu*, as *karanavastri*⁷⁵. In many of the *strisothu* Mappila *tharavadus* in Malabar, such a right is reserved to females by a family *karar* signed by all the adult members of the *tharavadu*⁷⁶. Hamid Ali argues that the shifts in *strisothu* explain the harmful intervention of judiciary to the customary practices of Mappilas. *Strisothu* did not contradict customary law of Malabar. Yet, court intervened in the practices and invented new customs. According to this institution the eldest female had greatest authority and rights while male had only right to maintenance⁷⁷.

The court was a site from which knowledge about a correct practice emerged. The Court, a secular institution, shared the similar notion of ideal family and inheritance along with religious interlocutors. The court could not accept the fact that Mappila women could exclusively hold property. For the court as well for educated Mappilas the customs posed a threat. Matriliney existed in the zone of 'danger'. As shown in the case of *strisothu taravadus*, the judiciary adhered to an abstract idea of what constituted

⁷² Kumari, *State and Social Change*, 335-336.

⁷³ *Ibid*; Ali, *Custom and Law*, 93.

⁷⁴ *ibid*

⁷⁵ Ali. *Custom and Law*.92.

⁷⁶ Thoppil tarawad at Calicut and Naha tarawad at parappanangadi in south Malabar are examples. See *ibid*.

⁷⁷ *Ibid*.

Indigenous response to these discourses was overwhelming. Two seminal sites where these discourses interfered were women's body and the sphere of family. It is beyond doubt that when we look the discourse on gender and sexuality in Malabar in early twentieth century, it becomes an exploration of the ways in which an ideal woman was made and re-made in history. In turn, the 'ideal' femininity imposed a 'reality' on the empirical practice of family, work and conjugality during this era. To put more clearly, ideal notions of femininity became a simplified abstract idea—a representation of the complex reality of Mappila family and construction of gender. They induced practical action of men to create such an ideal woman and family; deployment of power; and construction of new norms. On the other hand, discourse on customs and laws constructed matrilineal women as those who were 'out of place'. They invoked as sense of 'danger' and 'impurity'.⁸⁴

Social reform which concentrated on women and family incorporated an attempt to avert the 'danger' that matrilineal posed to the social order. Thus, the woman in Malabar was an object of reform. The mediation of reform constructed the meaning of the female body in the language of subordination and discipline⁸⁵. The history of relationship between twentieth century Islam and matriliney in Malabar also unfolds the ruptures in the gender relations among Mappilas.

Sex Roles among Matrilineal Mappilas c.1928-1939

In this section we will discuss the ways in which roles of *Karanavan* and Mappila woman underwent transformations. The chapter explores the ways in which they found

Panikkar uses the term 'revitalization'. Dilip Menon calls this as Islamicisation. See, Dilip Menon, *Becoming 'Hindu' and 'Muslim' identity and conflict in Malabar. 1900-1936, CDS Working paper*, (255, 1994).

⁸⁴ Mary Douglas, *Purity and Danger: an analysis of the concept of pollution and taboo* (London: Ark paperbacks, 1988), 35.

⁸⁵ I use the idea propounded by Simon de Beauvoir that body is always interpreted by cultural meanings and thus it is not a passive medium. See Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, (New York: Routledge, 1990).48

their existence in the marginal spaces in the new modes of articulation of authority and affection. *Karanavan's* power⁸⁶ and authority⁸⁷ was a historical product. *Karanavan* became powerful owing to the contract between the family and the state.⁸⁸ Similarly, Mappila women were deprived of the power that they possessed in the past before the process of the alteration of matriliney by the 1930's and related legislation of the Mappila Succession Act of 1918 and Mappila Wills Act of 1928. In the discursive field of early twentieth century Malabar, matriliney was articulated in the logic of individuality of junior members, according to the principles of Anglo-Muhammadan Law, and through the idioms of social progress that was peculiar to early twentieth century social reform movements.

By the fourth decade of the twentieth century, *Karanavan* and women became marginal figures. However, Mappila women did not exist in the margins of familial organization for a long time. They were quickly incorporated into the logic of new patriarchal discourse. This chapter will develop the argument that these developments were logically a result of the re-articulation of matriliney during 1914-1928. In the coming section, we will discuss the debates which surfaced around Mappila Marumakkathayam Bill. This discussion will proceed to the discussion of changes in the authority and meaning of the *Karanavan* and the Mappila woman.

Emergence the *Karanavan's* Authority

The authority of the *Karanavan* in its most ideal form, as an absolute controller of *tharavadu* property was a historical product came into being in the beginning of the twentieth century in more concrete form among the Mappilas. The interventions of the court encouraged the authority of the *Karanavan* in the *tharavadu* for maintaining colonial interest of economic transactions intact. By the 1870s, the court had recognized

⁸⁶ By the word power I imply the ability to influence other's action despite their resistance.

⁸⁷ By the word authority I mean the role or position in which power consolidate.

⁸⁸ See, Kodoth, Courting Legitimacy.

that the *Karanavan* had a 'natural' right to headship. These developments created the dependence of younger members and a highly gendered allocation of authority in the realm of the *tharavadu*.⁸⁹

By the early twentieth century, *Karanavan* by authority possessed all movable and immovable *tharavadu* property. He had the right to manage them. The right to management included the right to receive the *tharavadu* income and distribute the income according to the needs of the *tharavadu*, and the right to represent *tharavadu* in the suits. He was also the guardian of all minor members of the *tharavadu*. In early twentieth century the individuals with separate ownership and possession had no place in the Marumakkathayam system.⁹⁰ The eldest male member of the *tharavadu* succeeded to the title of the *Karanavan* in twentieth century Malabar, though females were the 'co-owners' of the *tharavadu* property. In the absence of eligible male members competent to succeed, the eldest females succeeded to the position. In fact, she succeeded to the office in 'her own right'.⁹¹ Her succession was seen as temporary; she vacated the office once a male member becomes competent to hold the office. There were exceptions in the aristocratic families like Arakkal family-the family of Ali Raja of Cannanore. The family had the eldest member, irrespective of sex holding the title of *Karanavan*. If the head was female she was called *Beevi*. The custom was also the similar in *strisothu tharavadu* us where female exclusive owned rights over property.⁹²

Karanavans represented the *tharavadu* in the suits. He even had right to compromise on the disputes without taking into the court. They could also alienate the *tharavadu* property for the interest of the *tharavadu*. He leased *tharavadu* property for a reasonable period, and granted simple mortgages like *Kanoms* and *Ottis* by which a tenant would make small advance to the landlord. The lease contributed to the earning of the *tharavadu*⁹³. However, the *Karanavan* could not alienate a property permanently without the consent of the junior members of the family. In the case of the alienation or sale of the property, they generally had to take consent from senior *anandiravan*, or the

⁸⁹ Arunima, *There Comes Papa*, 93.

⁹⁰ Ali, *Custom and Law*, 57.

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ali, *Custom and Law*, 59-61.

older nephews, who represented all the junior members of the family since he potentially would become the next *Karanavan*. Equally, the *Karanavan*, in the case of renouncement of his office would transfer his role in favor of the senior most *anandiravan*.⁹⁴

By early twentieth century it was established that male and female members were co-owners of the *Tharavadu* property. All the members had equal rights. Anandiravans, any junior male member of the *tharavadu* such as the younger brother of *Karanavan*, or the sister's son co-owned family property with female members; both male and female members had equal right on *tharavadu* property⁹⁵. Junior members had right over maintenance from the *tharavadu* property during their lifetime. The right did not lapse even if he was a misbehaving member of the family or rich enough to maintain themselves. Maintenance consisted of enjoyment of boarding, lodging, clothing, medical expenses, education and even a claim for support in case of unfounded criminal prosecution. In rich *tharavadus*, the maintenance also consisted of *melchilav* (pocket money).⁹⁶ Many disputes arose when junior members increasingly demanded funds for their education.

Male members however, did not inherit *tharavadu* property. They got an increased amount of maintenance when they had wives and children.⁹⁷ For, male members are the visiting husbands of their wife's *tharavadu*; they contributed to the expenses of wife and children and their food in the wives homes. *Karanavan* was also a visiting husband like *Anandiravans*, and he brought his wife and children to his matrilineal *tharavadu*⁹⁸. Similar instance of maintenance continued even when the *anandiravan* built a house of his own. Hamid Ali argues that the custom of granting

⁹⁴ See Arunima, *There Comes Papa*, 52.

⁹⁵ Ali, *Custom and Law*, 65.

⁹⁶ *Ibid.*

⁹⁷ *Ibid.*,

⁹⁸ *Ibid.*

maintenance even in the case of separate dwelling contradicted ancient customs of Marumakkathayam. Yet, the practice was in vogue in the early twentieth century⁹⁹.

The *Karanavan*'s authority also found expression in his ritual authority in the events of the rites of passages of the members of the *tharavadu*, like marriage, piercing of ears, and circumcision; he also made the necessary arrangements for *zakat* (compulsory charity for Muslims). He also dealt with other mamools (customs). He maintained the local mosque, celebrated the birth day of prophet Muhammed and spent for charity.

Out of the left out income he ought to purchase immovable property for the *tharavadu* or otherwise invest to the best advantage of *tharavadu*. Debt incurred by the *Karanavan* did not bind on the *tharavadu* -he has to prove that it was spent on *tharavadu* necessity to make it the debt of *tharavadu*. The legislation also allowed the *anandiravan* to sue for the removal of *Karanavan* for any anomalies, and breach of trust or neglect of the wishes of *tharavadu*.¹⁰⁰

Contestation of *Karanavan*'s Authority and the Emergence of the figure of the Husband and the Father

By the fourth decade of twentieth century the ritual roles of the *Karanavan* underwent a sudden change. This was the result of widespread efforts for the reforms in the customs, and religious rituals. Unsurprisingly enough, there was no provision in the Mappila Marumakkathayam Bill for monetary discharges of religious obligations, customary relations to religious bodies and individuals, (and) contribution to charitable

⁹⁹ Govindan Nair V Kunju Nair 42 Mad 338 at pp. 687-689(1919), Marudevi v Pamamakka 36 Mad 203 at 212 (1911) cited in *ibid*.

¹⁰⁰ See Mappila Marumakkathayam Bill in the appendix

institutions' in related to the *tharavadu*¹⁰¹. When we take into consideration that women had an agential role in the customs and rituals held at the private sphere of *tharavadu* the disappearance of customs implies erosion of the avenues in which women exercised their authority. The attack on customs implied the shift in the modes of religious articulations. More emphasis lay in internal faith than in the outward expressions of faith through rituals. There were sorts of protestantization of religion.¹⁰²

Karanavan received great respect from junior members of the *tharavadu*. The dispute over the power of *Karanavan* can seldom be reduced to the issues around land and the demand for maintenance. It signifies the ruin of the economy of trust which built in the embeddedness of affective and ritual relations.¹⁰³

For the resolution of disputes between the *Karanavan* and the *anandiravans*, Mappilas invariably negotiated with the changes happening in the sphere of customary norms. At times, *Karanavan* and junior members entered into family agreement for the sake of convenience, by which the family property has divided among a group of *tavazhis* (branch of *tharavadus*) as an allotment for the maintenance. This was done to avert the chances of disputes on the management of *tharavadu* properties. The *tavazhi Karanavans* manage their respective portion.¹⁰⁴ This practice is well observed among Keyis of Tellicherry who owned a considerable portion of land in North Malabar. A Mappila from Tellicherry observes the concept of *karar* or agreement like this:

¹⁰¹ Chowakkaran Orkkatteri Savon Kutty Keyi, *Karanavan* and manager of Orkkatteri Tarawad, Tellicherry; Chowakkaran Cheriya Orkkatteri puthiya purayil Kunchi Pakki Keyi *Karanavan* by Cheriya Orkkatteri Tarawad. In "Opinions Received". 68-69.

¹⁰² See, Peter Vander Veer, *Religious Nationalism*. He uses this term to refer to reformism. He meant that "there is a kind of protestant reformation in Indian religion that entails a "laicization" of organization in Indian religion and leadership". This process is coupled with what he calls as "ethicization" of conduct by citing the example of marginalization of Sufi saints (xiii).

¹⁰³ See M Granovetter. 'Economic Action and Social Structure: the Problem of *Embeddedness*.' in *American Journal of Sociology*, 91 (1985), 481-93.

¹⁰⁴ *Ibid* 67

‘[the agreement between *tharavadus* and *thavazhis* helps for] a better distribution of the income among the members and implied by restricting the powers of the *Karanavan* of the main *tharavadu*. Several *tavazhis* and *upathavazhis* have been in this way, constituted under main *tharavadu* with property set apart to each, and limitation have been imposed in respect of the management of such properties either by the head of the respective group, or sometimes, co-opting a senior female along with senior male in each *tavazhi* as joint manager’.¹⁰⁵

As mentioned here, this *karar* (formal agreement) mean that *Karanavan* of the main *tharavadu* had restricted rights. He could not easily carry out alienation of property for redeeming debts. The *karar* also ensured that income of the *tharavadu* from properties could be availed by all the member of the *tharavadu*.¹⁰⁶ *Karanavan* who entered into the agreement as well as the succeeding *Karanavan* could not ordinarily revoke such family *karars* arbitrarily, provided the agreement was bona fide and were prudent arrangements at the time they are made.¹⁰⁷ However, *Karanavan* revoked arrangements to make a resettlement for maintenance, and he could revoke the agreement so as to resume control of the property allotted for the purpose for the exigencies of the *tharavadu*. *Karanavan* made an arrangement for the maintenance of the branch or *tavazhi* in the case of the revocation. Here, the principle is that, the common interest of all the members in the *tharavadu* takes priority over *tavazhi* interest¹⁰⁸.

There were other provisions also to prevent the mismanagement of the *tharavadu* property by the arbitrary action of the *Karanavan*. Among various provisions, *anandiravan* could challenge when *Karanavan* execute improper alienation. Hamid Ali observes that even a single junior member could challenge in the court. Ali adds that if

¹⁰⁵ Opinion by COT Moideen, Thaifat house, Tellicherry, in , in “*Opinions Received*” by the select committee on the *Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib*, (Madras:Government Press, 1938)35.Arakal Records, KRA

¹⁰⁶ *Ibid.*

¹⁰⁷ Ali, *Custom and Law*,67

¹⁰⁸ *Ibid.*,68

the transaction was a mortgage or sale, he or she could recover the possession of the property without even suing and hand it over to the *Karanavan* again for the continuation of the unity of the *tharavadu*. *Anandiravan* however, could not alienate property by any case¹⁰⁹. These factors allude to the equal right of *anadiravans* on par with *Karanavan*, though *Karanavan* managed the property. *Karanavan* grants mortgages like *kanam* or *otti* or lease out family even without family necessity.

The third provision for enabling the check on the *tharavadu* expenditure in the early decades of twentieth century was the fact that *Anandiravan* could also bar adoption of a successor. Adoption happens when *tharavadu* consisted of only two members, the senior among them adopted for the continuation of the existence of female heir. The right to ban adoption derives from the principle that all the members in the a *tharavadu* were co-owners and have equal right over the *tharavadu* property. Thus, *Karanavan* could not newly introduce a new member to family without the consent of the *Anandiravans*.

Despite the existence of various measures for the mutual consultation of the *tharavadu* expenses, it can be seen that many issues arose on the matter of the granting of maintenance. *Karanavan* was accused acting as though the whole property were at his disposal. Subsequently, the supporters of the bill raised the mismanagement of the *tharavadu* by the *Karanavan* as one of the central reason for the introduction of the bill and the procedures for the legislation of the Bill started by 1936.

Despite the efforts for the participation of all the members in the maintenance of the *tharavadu*, by the 1930's *Karanavan* stood at the receiving end of criticism. The provisions in the Mappilas Succession Act of 1918 enabled the succession of private property to the wife and the children. The provision for inheriting private property in the *Sharia* line resulted in the spread of the assumption that there is a role conflict in the interest of the *Karanavan* as the father who would acquire private property for the wife and the children, and the role of the *Karanavan* of the *tharavadu* who would act in the best interest of the *tharavadu*. Thus, the sensibility that 'mismanagement by *Karanavan*

¹⁰⁹ Ibid.

and suits for their removal (became) the order of the day among Mappilas' emerged historically¹¹⁰. The allegations were logically contingent on the provision of the Mappila Succession Act of 1918, and the Mappila Wills Act of 1928, that sanctioned the right of an individual to acquire private property.

The Mappila Marumakkathayam Act of 1939 made 'the position of *Karanavan* nothing more than a badly paid *Kariasthan* (clerk) who is liable to criticism and check from any member of the the *tharavadu*. *Karanavanship* became a matter of terror than of clamor'¹¹¹. The embedded nature of kin relation within the *tharavadu* was made possible by the existence of *tharavadu* community of ritual, economic ties. The embedded nature of relation within the *tharavadu* gave way to the formation of the affective ties outside the ambit of the *tharavadu*. One of the Mappilas observed that

'*Karanavan* and *anandiravan* have no blood relations and hence, the *anadiravans* are not treated with sympathy. The *anandiravan* being under the dilution of becoming a despotic *Karanavan* in the new future [does not question him as well].'¹¹²

Another respondent the Bill made remark that the Mappilas those *anandiravan* who obeyed the *Karanavan* were

'mere tools in the hands of *Karanavans* and they are forbidden to participate in the emancipation of social and political distress of the land which invariably contradict the interest of the *karanavar*'¹¹³

¹¹⁰ This was stated in the objectives of the bill. See, "Opinions Received" by the select committee on the Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib, (Madras: Government Press, 1938)35.Arakkal Records, KRA.his was stated in the objectives of the bill. See, "Opinions Received" by the select committee on the Mappila Marumakkathayam Bill of Khan Bahadur Mahamad Schamnad Sahib, (Madras:Government Press, 1938)35.Arakkal Records, KRA.

¹¹¹ Tellichery sub Collector in 'Opinions Received'. 7.

¹¹² See "Opinions Received".30.

¹¹³ Opinion by C.O.T. Moidoo, Thayath House, Tellicherry, in 'Opinions Received'. 30.

In response to the demand for legislation, Collector of South Canara made a similar observation. He observed that the demand 'is more due to not unnatural desire for personal independence than to any wife spread mismanagement'.¹¹⁴ His response also represented the attitude of colonial administration towards *tharavadu* as a tax paying legal entity. The colonial administration had interest in the retention of the *tharavadu*.

Many respondents criticized the provisions in the Bill that bound a *Karanavan* to keep complicated accounts of income and expenditure. They argued that it would harass *Karanavan*. Ironically, many *Karanavan* who responded to the legislators agreed to this particular provision.¹¹⁵ It means that the allegations against *Karanavan* show the breach of trust which hitherto sustained the economic relations of the *tharavadu*, rather than misuse of the *tharavadu* income by the *Karanavan*.

The representation of the *Karanavan* closely resembles the figure of the sorcerer in anthropological literature.¹¹⁶ Young educated anandiravans viewed *Karanavan* as the potential source of danger. Mary Douglas discusses the ways in which 'danger' as idea arises from the world view that brings in the order in the society and the disposition of authority within it. Those who are marginal to the authority system are bound to locate in themselves in abnormal situations.¹¹⁷ Douglas argues there situation where the social system requires people to hold dangerously ambiguous roles; where persons are credited with uncontrolled, unconscious, dangerous, and disapproved powers such as witchcraft and evil eye.¹¹⁸ These situations are basically liminal in character. In contrast, those who hold positions of authority are endowed with spiritual and approved power. Hence, according to Mary Douglas, the sorcerer and the charismatic ruler reflect opposite poles with reference to authority in the social structure in a primitive society. By the term social structure Douglas refers to

¹¹⁴ Response of Collector of Malabar, in 'Opinions Received', 3.

¹¹⁵ See Muhammed, Badagara. In Opinions received. 23.

¹¹⁶ For a discussion of the idea of sorcerer see, Douglas, *Purity and Danger*.

¹¹⁷ *ibid*, 97.

¹¹⁸ *ibid*, 99.

‘the main outlines, lineages and the hierarchy of descent groups or chiefdoms (...), relation between royalty and commoners’ which make sense with reference to authority system.¹¹⁹

There are two interesting ideas in her argument. Firstly, that individuals become ‘dangerous’ with reference to the classificatory system which imputes order and meaning in a society. Secondly, there is an implication that the establishment of classification has a take on re-configuring authority structure.

Karanavan by the fourth decade of twentieth century existed in the marginal space in relation to formal authority structures. He was attributed whatever which was diabolic and anomalous. As result, *Karanavan* required the mediation of new authority system to move from the liminal space in which he is ‘dangerous’. He had to fit himself to the roles which new order presented to him: He could no longer control family, nor manage *tharavadu* property. But, he could become a good husband and father; he could become an efficient clerk who kept the account of *tharavadu* transactions.

The demand for the partition of the *tharavadu* explains the bargaining between *Karanavan* and the junior members over authority and rights over land.

Demand for individual Partition and Related Debates

The provisions for partition were one amongst the most debated issues in the discussion of Mappila Marumakkathayam Bill. According to the Bill, *Anandiravan* have the right to claim an equal share when the *tharavadu* property divides by the unanimous assent of all the adult members in the family¹²⁰. As in Lakshadweep there are two laws for the division of *tharavadu* property in Malabar-one is per capita

¹¹⁹ *Ibid.*, 100.

¹²⁰ *Ibid.*, 69.

partition in which every male and female member receives equal share. Minors also count as a member; the other is per stripe partition in which *tharavadu* divides into branches or *tavazhi* of female line. Per stripes partition is the older principle of Marumakkathayam law¹²¹. Per capita partition on the contrary recognizes the principle that all the members are the co-owners and has equal rights- they have equal rights to maintenance, equal rights to conserve property, equal rights to ban adoption, and equal rights to succeed to the office of the *Karanavan* in their turn.

There are two community principles which bind Nayar matrilineal *tharavadu* - one community connects through *pula sambandham* (connection of death pollution) and the other is *mudal sambandham* (connection of right over *tharavadu* property)¹²². Only community of property inherited the property. Community of pollution usually forms different family. They are called *attaladakkam* heirs. By the mid 19th century, *tharavadus* were redefined as a corporate unit with impartible land.¹²³ It implied that *attaladakkam* heirs who did not reside under the roof of a *tharavadu* could not succeed to property so long as a single member of the property community is alive. On the division of the *tharavadu*, the *Karanavan* would no longer represent any branch except that to which he himself belongs. Branch *Karanavans* represented their respective branches.¹²⁴ All the members living in the *tharavadu* house were entitled to a share on partition. If some heir did not live in the *tharavadu* house, they have to prove that they are within three degrees from the same female ancestors of the female line in order to claim property. However, if a person lives in the *tharavadu*, even the remotest members are acknowledged as a part of the family, if he or she lived under the subordination to the *tharavadu* *karanavan* and took part in their religious observations¹²⁵. These principles show the bizarre ways in which the court interpreted matrilineal customs and it in turn solidified these interpretations as 'customary practices'.

¹²¹ *Ibid.*

¹²² *Ibid.*,69

¹²³ Arunima, *There Comes Papa*.

¹²⁴ *Ibid.*

¹²⁵ *Ibid.*,71.

The debates around the practice of Islam were central to the debates on matriliney. The demand for partition and young Mappila men's quests for the abolition of the authority of the Karanavan were expressed through the idioms of religious piety.

Debates on Mappila Matriliney and 'Islamic Practices' in the Third Decade of the Twentieth Century

The Mappila Succession Act of 1918 and the Mappila Wills Act of 1928 had enabled the inheritance of self-acquired property of individual Mappila in the *Sharia* line. Remaining property was collective property of the *tharavadu*. The collective property was registered as *wakf* or the property for charity so as to bring them according to the precepts of Muhammadan Law. We called this process as alteration in matriliney. Even after the alteration, many educated Mappilas felt that the precepts of religion and customary practices conflicted with each other. Court also shared this opinion and they observed that Muhammadan law hardly knows joint property holdings. The way out for educated Mappilas who wanted to bring *tharavadu* property in accordance with Muhammadan law was to ideally allowing individual right to partition.

It can be seen that the introduction of Anglo-Muhammadan jurisprudence by the colonial courts in Malabar had long term repercussions. The conspicuous absence of a codified law or even any reliable authoritative written record blocked the way of the English judges to make sense of and to interpret customary Marumakkathayam laws. Judiciary applied Muhammadan law as far as possible. Yet, there was a dilemma because local heritage also required reconstruction¹²⁶. It hence resulted in the existence of the combination of Muhammadan law and marumakkathaym to govern the devolution of property, transfer gifts, issues of maintenance of the members of the *tharavadu*, running mosques, matters of partition, exchange of *stridhanam*, and the

¹²⁶ Kumari, *State and Social Change*,. 383-384.

resolution of *strisothu* succession.¹²⁷ Finally, the personal law of the Muslims throughout India on a uniform status brought the passage of Sharia Act of 1937¹²⁸. The Cutchi Memon Act and application of Muslim Personal Law exemplify the change among Muslim communities whole over India. Mappilas grew increasingly aware of developments among their 'co-religionists'¹²⁹.

Unlike in the case of the demand of the legislation of Mappila Succession Act of 1918, the supporters of the Mappila Marumakkathayam Act wanted to 'abolish' the system as a whole. A demand of similar kind could have been possible only in nineteen thirties. For, Madras Marumakkathaym Act was passed in the year 1933 to bring forth provision for partition and to regulate the powers of the *Karanavan*. Mappila Marumakkathayam bill merely adopted many of the provisions of the Act of 1933. There was discussion of correct practices of family and appropriate gender roles preceding the legislation of the Marumakkathayam Act, which mainly pertained to Nayers. Nayar women were the object of reform in the debates in Nayar community-reconciliation of their sexual rights and economic rights were central topics of the reform movements. The demand for the disintegration of Nayar matriliney claimed to set up new imagination of the ideal family and construction of gender. The legislation on Marumakkathayam was a rite of passage for Nayers to enter into the realm of national modern, and to embrace individuality.¹³⁰ Mappilas shared same sentiments and in fact, imitated the developments among the Nayers. Like the Nayers, Mappilas were 'fired with the desire to free themselves from the shackles of certain principles of Marumakkathayam law' which according to them had to considered as 'archaic and unsuitable for progressive times'. The endless dissenting *Anandiravans* were 'the novices' who entered into the realm of individuality granted by the legislation. The transition was even found to suit the 'ideals of socialism'¹³¹.

¹²⁷ *Ibid.*, 145.

¹²⁸ However this act did not apply to cultivated property unless it is presented by state legislature. It was clause in government of India Act. And Madras Assembly passed a Sharia Act amendment bill by Seethi Sahib, a leader of Muslim league. It became an act in 1949. See *Seethi Sahibinte lakhanangal*.

¹²⁹ COT Moidoo, Thaifat house, Tellicherry. In Opions received 30.

¹³⁰ See, Arunima, *There Comes Papa*.

¹³¹ Oliyath Amanath. In "Opinions Received". 47.

The transformation induced by the economic interest of the anandiravans, ruin of the trust among the matrilineal kins, interests of colonialism, and the local reception of colonial modernity were always expressed through the demands for a correct imagination of Islam. In that sense, what happened in twentieth century was not sole tussle between local customs and scriptural Islam.¹³² There was an interface of Mappila matriliney with the discourses which emerged from the multitude of sites- from the realms of caste reforms, debate on the abolition of customary sambamdhama marriage among Nayars to bring women to be sexually pure, the debates on the implementation of hygienic practices, and fighting of superstitions through reason. Mappilas imagined an Islamic *ummah*. Yet they were closer to their 'sister communities'-Nayars in Malabar in their demand for legislation¹³³. It was argued that Mappilas who are Muslims do not have justification to cling to a system which is 'extraneous' and 'anomalous'¹³⁴. Mappilas could not have aspired to become 'pure Muslims' unless they had started to follow suit of male centered social reforms among Nayars. Thus they formed a community of equals which satisfied their quest for asserting their identity. Mappila community as whole wanted to emerge from dark past which is corrupted by the influence of Hinduism¹³⁵. It was also a community of individuals who situated the faith in the remotest corner of their mind, to deny the spill out of it into the realm of collective outward expressions. The collectivity did not produce effervescence. It was sum of individuals. There was a dualism between outward ritual expression and inward faith. The 'correctness' of outward expressions was necessary for the 'correctness' of internal belief. Alteration of matriliney was symptomatic of that shift in the meaning system.

¹³² For a study that argues that matrilineal customs were replaced by the 'correct' versions of Islamic practices when the Mappilas gained knowledge about 'true' teachings of Islam from religious texts through education. See Benaseer, V I. *Tradition versus Text: A Study of the Matrilineal System of Malabar with special reference to Mappila Matriliney, 1871-1939*, (JNU: Unpublished M Phil Dissertation submitted in CHS, 2005).

¹³³ See opinion by Mir Amruddin, Esq, District and Sessions judge, South Canara. In Opinions received. 36-37.

¹³⁴ See opinion by K M Seethi, BA, BL. Advocate, Tellicherry. in *ibid*.

¹³⁵ Theories of origin of Marumakkathayam among Mappilas become relevant as an ideology in this historical context.

Karla O Poewe in the article titled *Religion, Matriliney, and Change: Jehova's Witnesses and Seventh-Day Adventists in Luapula, Zambia* looks at the interface between Protestant theology; economic transformations, and matriliney in Luapula.¹³⁶ The author looks at the ways in which Seventh-Day Adventists elaborate the questions of salvation and articulate the idioms of faith in a way that enables them to sustain matrilineal succession, and to maintain loose marital ties in accordance with demand of the matrilineal customs.¹³⁷ They adhere to the simple notions of salvation. They believe that God's grace alone can grant resurrection and 'translation'. They also believe that accumulation of the wealth cannot bring salvation and also that everybody would ultimately achieve salvation.¹³⁸ Seventh-Day Adventists in Luapula consist of business families. They maintain their matrilineal kin relations. For the attainment of economic success they resort to economic reforms rather to social transformation.¹³⁹

Poewe argues that people negotiate with the Church for the maintenance of matrilineal customs and inheritance since the Bible does not adequately address itself to the organization of the family. The church wanted to establish the authority of the husband; and to ensure marital stability. The Seventh-Day Adeventist had loose marital ties; and throughout the life each spouse identifies and re-identifies her or his property to ensure that upon death, the deceased's nuclear family may not seize everything. The author observes that the couples were often torn apart over issues of childcare, remittance and property rights.¹⁴⁰ However, author observes that, there are class differences in the practices: The wealthy maintain strong nuclear family ties while maintaining matrilineal rules for inheritance; and the poor prefer to keep their matrilineal kin ties rather strong.¹⁴¹

In contrast to the Seventh-Day Adventists, Jehova Witnesses use the idioms of religion to cut their matrilineal ties; to maintain Nuclear families based on the authority

¹³⁶ Karla O Poewe. 'Religion, Matriliney, and Change: Johova's Witnesses and Sevent-Day Adventists in Luapula, Zambia', *American Ethnologist*, Vol 5, No. 2 (May, 1978), 303-321.

¹³⁷ *Ibid.*, 303.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*, 318.

¹⁴⁰ *Ibid.*, 317.

¹⁴¹ *Ibid.*, 313.

of the husband and strong marital bond; and to achieve economic success. According to Poewe, husbands among them attempt to counter the intervention of outside authority from the wives' kin. Husband is subservient only to the God figure.¹⁴² Regarding the attainment of the salvation they believe that the earth has to transform to the actual theocracy of God.¹⁴³ Jehova's Witnesses achieve economic success by transforming familial relation from matriliney to patriliney through the use of the religious ideology.¹⁴⁴

The understanding of religion as an ideology as separable from and useful for the maintenance or for challenging the structure of economy, family is very inadequate. In the context of Malabar one can observe that the realm of the sacred went beyond the narrow bounds of the rituals and practices of Islam as religion. The sacred incorporated imaginations in the realm of the secular, culture and the textual principles of oriental religions. The sacred and the relationship around them provided the meaning system for the actors in the society.

Along with the re-articulation of religion, the challenge of the authority of the Karanavan, and the inauguration of the control of the father and the husband over family, and the Mappila women found themselves in the subordination of men in the familial realm. In the coming section we would discuss the representation of Mappila women in the debates on the Mappila Marumakkathayam Act of 1939.

On Being 'Gosha Lady': Debates on the Partition of the *Tharavadu* and the Mappila Women

Mappila woman, were 'objects' of in the discussion of reforms in religion and family. The issues of women did not surface in the discussion of Mappila Succession Act of 1918 and the Mappila Wills Act of 1928. It was the period when most of the

¹⁴² *ibid.*, 313.

¹⁴³ *ibid.*, 313.

¹⁴⁴ *ibid.*, 314.

transformations in the structure and meaning of family took place. The alteration in the matrilineal customs and loss of affective relations contributed to the subjugation of women. They suddenly found representation as 'gosha lady', as somebody who limits themselves to the private realm of the household, by the fourth decade of the century. This term was used in such a manner that it rendered Mappila women homogenous.

The Mappila Marumakkathayam Act of 1939 emphasized the right of individual male members to claim partition by acquiring a majority of opinion from the other members. Clearly, the Act posed a threat to the very survival of female members who stayed in the *tharavadu*. From the perspective of Mappila women, it can be held that the insecurity posed by the Act due to damage caused by the Mappila Succession Act of 1918 and the Mappila Wills Act of 1928. Both the Acts had already ruined the structural autonomy of women. Before the legislation and implementation of the Acts we mentioned, the right for the succession of land, and the right to inherit private property of males in the *tharavadu* after their death provided security to the women in the ambit of the *tharavadu*, especially in North Malabar. However, the protests of the women over the loss of their privileges were totally unheard. Ironically, only after the resumption of the debate on the partition of the *tharavadu*, the issue of women surfaced in the discussion. Even then, they were the objects of the debates in the public sphere. They did not get any representation.

Mappila women, like Marumakkathayam customs were , an object of discussion. In the case of the debates on women, they fall short of being a dialogue, though many Mappila men raised their voice in the public on behalf of women. They represented the voice of women and clarified that they are against the proposed legislation. They asserted that the need of the hour was to recognize that

'[F]emale section are [sic] by right entitled to be heard in arriving a final decision in this vital issue [of allowing individual partition]'.¹⁴⁵

However, those who defended women also shared the notion that they were illiterate and backward though they knew that women were capable enough of

¹⁴⁵ P. Mammu Sahib. Edathurithy. *Opinions Received*, 9.

defending their rights if opportunities were granted to them. Anyhow, Mappila women could not represent their opinions on the matter of legislation. Many Mappilas took the onus of representing women since they correctly perceived that women were at a disadvantage because of the partition of the *tharavadu*. One of them observed like this:

‘[T]hough [Mappila women] will get their due share [after the partition of the collectively owned property]....[it] will soon snatched away from them by mischievous [male] relatives.’¹⁴⁶

Many other opinions made behalf of women merely spoke of the ‘protection’ of women. They thought of women as mere victims of the legislation, and felt that ‘innocent women who till then lived in houses which they could call theirs, [were] forced to go out’. The vindication of the victimhood of Mappila women well suited the tropes of the twentieth century imagination of Muslim women. A Keyi Karavan from Tellicherry observed like this:

‘a tragic consequence of the Bill is that all Mappila ladies in north Malabar observing the gosha system will be deprived of protection now enjoyed by them [in the matrilineal *tharavadus*].’¹⁴⁷

Mappila Marumakkathayam was not a standardized set of customs in early 20th century. The right of woman to the succession of property, matrilocality, and the ritual and economic authority of eldest female member in the realm of the *tharavadu* house are the central features of Marumakkathayam Mappilas. They inherited ancestral property, received the *puthravakasam* gift from the husband so as to enable them to constitute a new *tharavadu* branch or *tavazhi*; and they were granted *streedhanam*. *Streedhanam* is an allotment of a movable or immovable property at the time of marriage.

There was the growth of the idea that the husband had to maintain and control of wife in the matriliney by twentieth century. But, the empirical manifestations were

¹⁴⁶ Vydyarakath Moideen Haji, Tikkotti.in “Opinions Received”.22.

¹⁴⁷ Chowakkaran Orkkatteri Savan Kutty Keyi, Karanavan and manager of Orkkatteri tarawad; Chowakkaran Cheriya Orkkatteri Puthiya purayil Kunhi Pakki Keyi, Karanavan and manager of Cheriya Orkkatteri tarawad.69. C.K Suppikutti Keyi, Edakkad also gave a similar opinion. *Ibid.*,69.

different since Mappila women stayed at their *tharavadu* and held right over property; and they were self independent to maintain themselves in principle. The eldest female member, *karanathi*¹⁴⁸ also had authority and control. The *tharavadu* was a site of various rites of passages like marriage and ear-piercing, and the exchange of cooked food items between families. These customs were the avenues for an expression of a female homo-social sphere. Thus, the representation of Mappila women as ‘*gosha lady*’ oversimplified the complexities of the sex roles in the ambit of *tharavadu*.

The usage of the term ‘*gosha lady*’ tells us about the occurrences of shifts in the meaning of being Mappila women. In a matrilineal *tharavadu* the eldest Mappila women controlled *tharavadus*, exclusively owned the inheritance of property, and enjoyed the control over the homo-social space of women within the sphere of the joint family in which the eldest members exerted authority and control. One can say that gendering of Mappila women in accordance with new principles of modesty and piety has to be located in the social dynamics and structural changes in the family from the beginning of the twentieth century. This effected a relationship between religion, family and gender.

The representation of Mappila women as ‘*gosha ladies*’ could not have been possible before mid of 20th century.¹⁴⁹ As mentioned earlier, the representation of Mappila women as vulnerable can be located in the historical context of twentieth Century Kerala. The representation illustrates the motives of socio-religious reform. The reform movements denied the agency of women.¹⁵⁰ The visibility of the agency of Mappila women in the realm of the family decision making, resolving disputes, pooling and the re-distribution of common Income, and ritual roles shielded by reformers.¹⁵¹

¹⁴⁸ Even though *Karanavan* holds the manager, the eldest member is known as *karanavathi* who had control over the management of household.

¹⁴⁹ See J. Devika, *The Aesthetic Woman: Re-forming Female Bodies and Minds in Early Twentieth-Century Kerala*, *Modern Asian Studies*, 39, 2 (2005).461–487; J. Devika, *Housewife, Sex Worker and Reformer: Controversies over Women Writing Their Lives in Kerala*, *Economic and Political Weekly*, (April 29, 2006); J. Devika, *Bodies Gone Awry: The Abjection of Sexuality in Development Discourse in Contemporary Kerala*. *Indian Journal of Gender Studies*, 16:1. (2009).

¹⁵⁰ Kodoth, “*Courting legitimacy*”,383.

¹⁵¹ *Ibid.*

While they imagined a modern individuality for men as well for women, they constructed women who were disciplined, domestic, and aesthetically motivated to appear as modest; and as the one who would suit to certain ideals of 'romantic love' and conjugal practices. For women socio-religious reforms were far from being a boon that ensured their liberation.¹⁵²

In brief, the gender dynamics underwent a considerable change among matrilineal Mappilas during the period of 1914-1940. This period was a liminal period during which three legislations came to happen and it marked the transition in the meaning of being a woman. In that sense, legislation is not merely a ritual. It was rites of passage. Legislation changed the meaning of familial relationships and the internal perception of actors. An idea of a correct family emerged into the realm of practice in way moving existing customary practices to the realm of the immoral. These imaginations were produced out of that discursive field. The realm of secular and religion shared the dogma alike.

The erstwhile customs that altered its meaning and Mappila woman who lost their power existed in the realm of liminality during the period of 1914-1939. Both customs and the women were rendered 'dangerous' and 'impure' in the in the discourse. Impurity implies that the existence in the realm which was out of place in the present order. Educated male social reformers, colonial judges and administrators, elected representatives, journalists of print media and teachers at educational institutions were the interlocutors in this discourse which determined the order. In the coming section we will look at the socio-cultural implications of the dogmatic construction of femininity in Malabar.

¹⁵² Devika, "Bodies gone awry"; G. Arunima, "Friends and Lovers: Towards a Social History of Emotions in 19th and 20th Century Kerala" in *Women of India: Colonial and Post Colonial Periods*, ed. Bharati Ray (New Delhi: Sage, 2005).

Locating the Sacred Representation of Women

In 1930s, there was structural relocation of Mappila women. There were processes of disempowerment of women. Woman lost the right to inherit their brother's self acquired property by 1918; lost the right to inherit the tarawad property through female descend; deprived off the avenues in which she exercised authority and control in the women's homo-social sphere in the ambit of joint household.

Similarly, *Karanavan*, the officially sanctioned head and the manager of the matrilineal joint family had existed in marginal spaces with reference to the authority structure. He became a sorcerer figure. However, woman did not prevail in the realm of ambiguity for a longer time. Such an existence would have been a source of 'danger' for the Mappila community as a whole. Thus, she was incorporated into the order of new patriarchal imaginations of masculinity and femininity. The Mappila Marumakkathayam Act of 1939 was a rite of incorporation. Legislation was a rite of passage with marked the social death of matrilineal Mappila woman who had hitherto exercised control. Mappila woman were given a social re-birth as a 'woman who is subservient to man' as imagined by Makthi Thangal. The skeleton of matrilineal *tharavadus* and customs of matriliney continued to exist. However, matrilineal customs altered in such a way that it suited to the patriarchal norms.

By the fourth decade of twentieth century woman became an individual. But, she was less an 'individual' than male Mappilas in Malabar. The male reformers who stood for ensuring 'better status' for 'Muslim women in India' on par with nationwide discussions firstly had to create a 'subservient' and 'powerless' woman to articulate their political vision. That allowed them to 'fight for' woman's 'legal rights' and 'educational advancement' in Malabar. The official and indigenious discourse on matriliney did not take the volition of Mappila women to practice matriliney into the consideration.

Partha Chatterjee in his article *The Nationalist Resolution of the Women's Question* looks at the ways in which women were represented in nationalist struggle.¹⁵³ He observes that women carried the burden of representing tradition. Women represented the realm of the 'ghar' which implies the private sphere, which contrasts to 'bahir'- the public sphere. Women represented the realm of the 'spiritual' while men represented the realm of the 'material'.¹⁵⁴ The home was the principle site for expressing the spiritual quality of national culture. Thus, women became emblematic of 'tradition'. The 'tradition' implies those traditions which were invented in that particular period.¹⁵⁵

In a seminal essay, *Contentious Traditions: the Debates on Sati in Colonial India*, Lata Mani observes that the official and indigenous discourse on sati did not grant any agency to women. Tradition was located in the brahmanical scripts.¹⁵⁶ Scriptures overrode custom in the official discourse and in the response of indigenous people. She argues that women and scripture became interlocking ground for the re-articulation of tradition. This tradition was 'colonial' in its formation.¹⁵⁷ Re-articulation of tradition was not a process by which pre-existing traditions were challenged by emergent modern consciousness. Modernity and tradition are contemporaneously produced.¹⁵⁸ Women are emblematic of the re-articulation of tradition.¹⁵⁹

Among Mappilas in Malabar there was reference to the Islamic texts. The official representation of Mappilas from late nineteenth century onwards presented Mappila women as the practitioners of 'impure Islam' which was corrupted by the influence of Hindu practices. Matriliney was one of most cited example of such 'corruption'. For the colonial representations matriliney was purely a custom of Hindu castes like Nayars and Tiyyas. The official discourse always referred to Anglo-Muhammadan law and oriental

¹⁵³ Partha Chatterjee, 'The nationalist resolution of the women's question' in Kumkum Sangari and Sadish Vaid ed *Recasting women: essays in colonial history*, (New Delhi: Kali for women, 1999).

¹⁵⁴ *Ibid.*, 238-239.

¹⁵⁵ *Ibid.*, 247

¹⁵⁶ Lata Mani, 'Contentious Traditions: the Debate on Sati in Colonial India' in Kumkum Sangari and Sadish Vaid ed *Recasting Women: Essays in Colonial History*, (New Delhi: Kali for women, 1999), 104.

¹⁵⁷ *Ibid.*, 90

¹⁵⁸ *Ibid.*, 115.

¹⁵⁹ *Ibid.*, 118

texts on Islam. Indigenous demand for the ‘abolition’ of matriliney also shared the same discourses. However, unlike elsewhere, an imagination of ‘Islamic tradition’ did not refer to any immediate historical past of Malabar, but to a mythical past, eternal time in the Islamic imagination which refers back to Quranic myths and Hadith stories. Mappila women were emblematic of the imagination of a ‘pure religion’. They also represented the political aspirations of Mappila community. They had to confirm with the Hindu caste reformer’s imaginations of a respectful lady and the abstract idea of womanhood offered by the court in twentieth century Kerala.

The cultural idioms through which the ideal feminine find articulation and thereby help the nurturing of sentiments of collectivity will be elaborated in the next chapter with discussion of a novel. Gender relations would unfold as a set of rules and regulations established around ideal femininity.

Conclusion

In this chapter we discussed the re-articulation of Islam as a meaning system. From the late nineteenth century onwards there developed an abstract notion of ‘correct Islamic’ practices. Colonial reports and missionary writings introduced this idea to show the difference of the rituals, and beliefs of Mappilas in juxtaposition to ‘correct Islam’. The chapter discussed the implication of the re-articulation of religion in legal practice. Legal discourse sets up the basis for the enforcement of the normative notions of ‘Islamic practices’, especially regarding inheritance and succession. In this chapter, we also discussed the ways in which Mappilas altered their matrilineal customs during the period from 1914 to 1918. The alteration meant that the inheritance of the self-acquired property of the Mappila passed on to the heirs prescribed by the Muhammadan law. Secondly, the collectively owned tharavadu property was conceptualized as *wakf-ul-aulad* (a property of charity that was inherited in either male or female line) according to a provision available in the Anglo-Muhammadan law.

Following the discussion of religious reform, we subsequently looked at the ways in which *Anandiravans*- the junior members of the *tharavadu* entered the realm of individuality during the latter half of twentieth century in Malabar. The Mappila males aspiring to become powerful husbands and fathers acquired new notions of masculinity. In the backdrop of these dynamics, there were two authority figures-the *Karanavan* and the Mappila woman who lost their authority. *Karanavan* was reduced to the status of an ordinary father and husband in his own nuclear family; matrilineal women became 'gosha lady'. The term alludes to the assumption that matrilineal women needed to be protected by men due, to as they were secluded, and in the bounds of the *tharavadu*.

In brief, in the chapter we have seen that, the Imagination of ideal femininity emerged from multiples sites like the court, the state, and print culture. They set up the 'correct knowledge' on the practices of gender, Islam, and family and they were imbued with power. Yet, they could not radically transform the structure of the family, conjugal life, and sex roles in the daily life of Mappilas.

Cultural Articulations of Gender, Marriage, and Religion in Malabar

Introduction

In this Chapter, I will discuss the cultural modes of articulation of gender, marriage, kinship and religion in the context of a novel. The discussion uses the illuminations from historical documents and ethnographies on the re-articulation of matriliney among Mappilas in Malabar. The ethnographies on matrilineal Muslim societies in Laccadives, and Minangkabau along with Hindu Nayar matriliney will be used for the discussion. In this chapter, we will illustrate the cross-cutting, yet multiple idioms of purity in the locus of family, the articulation of gender, the practice of religion, and the imagination of political community.

Cultural Articulation of Patriliney and Gender in Malabar

In this section, we will attempt to juxtapose a novel with historical and ethnographic data on matriliney among Mappilas in Malabar. This discussion of cultural articulation of the themes of gender and family in community will be centered on a novel, '*Sulathanveedu*' which translates as Sultan's resident. It is written in Malayalam with overt tone of a social novel. It came out in the year 1991. However, the novel is set in the period of the third decade of twentieth century.

Sulathanveedu covers the period from the nineteen twenty seven to middle of the nineteen thirties. This period was crucial to the Mappila matrilineal practices since Malabar had witnessed a cultural re-drawing of mores, cultural roles, and familial

custom in a radically different way from the nearest past from the beginning of the twentieth century onwards as we have discussed in the preceding chapters. Based on the illuminations from history, we will posit that the novel basically has a historical time and mythical time elaborated through cultural memories. Towards the end, we will see the ways in which historical time overpowers mythical time. Moreover, it will come out that the novel creates new myths in the ambit of history.

This novel is written in the late twentieth century, with early twentieth century events as the background will present us a past which is almost often an anachronism with reference to the then present. Novel very much speaks of the cultural imaginations that were formed in late twentieth century rather than real events that happened in early twentieth century. Thus, we have to be extremely cautious when we use novel; we have to be cautious to capture the imposition of the present in the past; we have to be alert not fall into the trap of polemical representations, and neat categorizations which invariably surface in a cultural artefact like novel.

The author the novel is P.A. Muhammad Koya who hails from a matrilineal *tharavadu* of Koyas of Calicut. The plot of *Sultanveedu* is actually set in a famous Mappila *tharavadu* known as *Ponmanchintakam*¹. In his conversation to the publisher of his novel, the Muhammed Koya had claimed the novel to be ‘a historical narrative’. It means that he seldom differentiated between fictitious characters and living people in the novel.² In our analysis however, we take novel as a cultural imagination which distances from empirical reality in various respects. We have to notice that certain issues and debates are sidelined; silenced; while certain issues were exaggerated in the narration of the novel.

The issues of property disputes, the practices of discrimination towards lower caste converted Muslims, location of *tharavadu* (matrilineal joint family) as a structure that provide the social and cultural capital for young members for setting up economic relations and start business ventures; the formation of community consciousness among

¹ It literally means the home of an ancestress called Ponmanchi. However, the fictitious name in the novel traces in the name to a Sultan- a male figure (courtesy: a personal interview with Professor Shiyali Koya)

² P A Muhammed Koya, *Sulathanveedu*, (Kottayam: DC Books, 2004).7

Mappilas and everyday struggle of people in a *tharavadu* are missing from novel. At the same time, issues of nationalism; the notion of *tharavadu* as a degenerate site of in which people quarrelled, the struggles of the protagonist, the events and customs which shows 'extravagance' and 'degeneration' were exaggerated. Thus, the novel presents a collage of ambiguities, binaries and certainties that will find clear illustration only in the cultural articulation like novels.

The modes of cultural representation obviously contradict many aspects of to the picture of the society we avail from the analysis of the legal debates and religious discourses on gender, and family. Culture, as explained by Edward Said, would imply those practices of description, communication and representation that have relative autonomy from the economic, social and political relations and invokes aesthetics and pleasure.³ He however, adds that culture also implicates as the reservoir of thought and knowledge which informs society.⁴ *Sulatanveedu* through its narration of the events in the early twentieth century Malabar, and provide a panorama of educated male elites' fantasy of social transformation.

Ummerkoya, a self educated *anandiravan* or junior member of a matrilineal family which is under the threat of 'disintegration', is the protagonist. The novel describes his story of social mobility. It is also the story of men and women who live in the matrilineal *tharavadu* which is on the verge of transformation.

The novel starts with a peculiar event: A small child of one of the women in the matrilineal joint family loses his golden waist chain. The child's father had gifted him the ornament. Subsequently, a soothsayer who predicts with the help of celestial creatures (*Jjin koodiya muslyar*) alludes that somebody who wanders without learning and work within the *tharavadu*, has stolen it. Ummerkoya who was an orphan, comes under the shadow of suspicion. Ummerkoya gets into such a predicament that his entire life becomes litmus for proving his innocence.

³ Edward Said, *Culture and imperialism* (New York: Vintage Book, 1993), xii.

⁴ *Ibid.* xiii.

Before we go into the details of the representation of gender in *Sultanveedu*, we will look at the existing debates on gender in matriliney.

Sex Roles in Matriliney

David Schneider offered theories on sex roles in matriliney in his articles titled 'the Distinctive Features of Matrilineal Descent Groups', in the year of 1961. He postulates three constants pertaining to matrilineal societies. First, women take care of children; second, adult men exercise authority over women and children; and third, exogamy is essential for the existence of a descent group.⁵ He further argues that matrilineal and patrilineal descent groups are precise mirror image of each other: they are identical in their structure; except the difference that patriliney obtain group relationships through father while matriliney obtain through mother.⁶ The second difference: while men control women in patriliney, there is a dependence of brother and sister- the brother 'protects' the sister; sister perpetuate brother's descent line and provide heir.⁷ Therefore, institutionalisation of very strong, lasting, or intense conjugality is incompatible with the maintenance of matrilineal descent group.⁸ Thus, in-marrying men pose a threat for sustenance of the matrilineal group⁹ and the bond of marriage is weak. Then he goes on to vindicate Audrey Richard's notion of 'the matrilineal puzzle'. It implies that husband fights with matrilineal descent group over the control of the wife and children.¹⁰

Leela Dube argues that in Laccadives there are constant negotiation between the husband and the wife, the father and the children on the one hand, and the husband's matrilineal descent group and wife's matrilineal descent group on the other.¹¹ According

⁵ David M. Schneider, 'the Distinctive Features of Matrilineal Descent Groups', in David M. Schneider and Kathleen Gough ed., *Matrilineal Kinship* (Berkeley: University of California press, 1962), 5.

⁶ *Ibid.*, 7.

⁷ *Ibid.*, 11.

⁸ *Ibid.*, 16.

⁹ *Ibid.*, 19.

¹⁰ *Ibid.*, 22.

¹¹ Leela Dube, *Matriliney and Islam: Religion and Society in Laccadives* (Delhi: National, 1969)

to her, Islamic law facilitates these negotiations and thus is functional in the maintenance of the system.

In the context of Minangkabau Muslim matriliney Nancy M Tanner and Lynn L Thomas looks at the sex roles. They contest Schneider's generalisations on sex roles in unilineal descent system.¹² They argue that women as mothers are central in basic cultural beliefs and in the day to day decision making for the ongoing functioning of the matrikin unit.¹³ Women carry out public, economic and ceremonial roles.¹⁴ Houses are named after most senior resident women; and they provide for their children's and husbands food and their children.¹⁵

In Minangkabau, women exercise authority owing to their control over economic production, land and in the domestic sphere of the family. They controlled property; took decisions on the matters pertaining to their personal life, and of the other women in the lineage. They controlled agricultural production; the earning from the agriculture, earning from home industries. The centrality and authority of women invariably increases with age.¹⁶ Apart from these facts women have ceremonial roles.¹⁷

Representation of Gender Roles in the *Tharavadu*

Now, let me attempt to juxtapose the narrative of characters in the novel with the anthropological accounts on gender relations and social structure in matrilineal societies. The discussion of Karavanavan-the male head of the matrilineal joint family, *anandiravan*- a junior member, and Mappila woman in the previous chapter would help us to identify the extent of fantasy which novel employs. It is noticeable that the novel

¹² Lyann L Thomas and Nancy M Tanner, Rethinking Matriliney: Decision making and sex roles in Minangkabau, in Lynn L Thomas and Franz von Benda-Beckmann ed. *Minangkabau: Local, Regional and Historical Perspectives on West Sumatra* (Athens: Ohio University, 1985), 45.

¹³ *Ibid.*, 48.

¹⁴ *Ibid.*, 48.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, 49.

¹⁷ *Ibid.*

is set up in the background of nineteen thirty. But, it was published nearly after fifty years.

The incidents in the novel consist mostly of internal fights and subsequent loss of trust among the members of the *tharavadu*. Going by the historical relevance of roles of Karanavathi (the female head of the *tharavadu*), *Karanavan* (the male head of the *tharavadu*) and any ordinary female member of the *tharavadu*, we can say that they could well have been the leading characters. Hypothetically, from the perspective of Kaujeitata, the eldest female member or *karanavathi* of the *tharavadu*, or Titibee, the sister of Ummerkoya, the novel could have told tale of the loss of power and denial of individual rights respectively.

We can say that the character of Kaujeitata, the eldest female member stands in the threshold which separate two eras- the era of female authority, and the era of female submission to patriarchal authority. Kaujeitata, the eldest female member of the *tharavadu* provides access to the cultural memories of her grandmother who was powerful. For Kaujeitata, her grandmother's memories are comforting and diabolic at the same time. She is a prisoner of memories throughout the novel. She in vain attempts to reproduce the myth, or hallucinates that she impersonates her grandmother-Hajjibitata; this of course, produces an air of farce around her picturisation. In a way, she becomes allegorical of *tharavadu*. Her ageing and death represent the 'decline' of an empire in which women had substantial authority and control, and 'separation' of affective relations within the *tharavadu*.

Despite the changes in economic structure and legal discourse, Kaujeitata exists as a powerful woman- in a similar way in which *tharavadu* continued to exist after 1920s. *Karanathi* existed until there are female members in the *tharavadu* and *tharavadu* existed till the last female member survives.¹⁸ The authority of Karanavathi within the sphere of the *tharavadu* is well backed by her authority over land, age and knowledge of the social norms and customs.

¹⁸ Koya, *Sultanveedu*, 30.

Kaujeitata possess an ample amount of land. She inherited it from her husband since they did not have any male children.¹⁹ This is typical among matrilineal *tharavadus* in Calicut: the self acquired property of the husband is inherited by the wife and children according to *sharia* laws. This is unlike the practice in the matrilineal regions like Cannanore and Tellichery where the self-acquired property of a member of the *tharavadu* was inherited by the person's matrilineal *tharavadu*, especially prior to the passage of the Mappila Succession Act of 1918. The following description suffices to portray her power. She interferes in a quarrel within the *tharavadu*:

'Kaujeitata appeared in the scene suddenly.

Keys which hang on her silver belt jingle violently. Her lips are red with *pan*²⁰; face is red in fury.

Everybody stood apart.

She re-arranged her hair which had spread out of her black scarf. She violently fastened her lower clothes. She shivered with anger and looked around.

Everybody was shocked.²¹

It proves that her historical existence is that of as a powerful *karanathi* (female head of the *tharavadu*). However, in Ummerkoya's narration she emerges as a powerless woman who does not have any control over the happenings in the *tharavadu* and fail to exercise authority over the members of the *tharavadu*. Throughout the novel, she carries the phantom of her grandmother, Hajjibitata in her memory.

In relation to the mythical past- the past which recounts the rule of her grandmother-Hajjibita, Kaujeitata becomes powerless. The novel says that Hajjibitata always moved around with forty female servants. When somebody disobeys her she punished them cruelly. The novel narrates one of the instances in which she stripped a servant and sat her in colossal vessel that contained chilly smashed water covering

¹⁹ *Ibid.*,39.

²⁰ Mouth freshener.

²¹ *Ibid.*, 31.

above her waist.²² Otherwise, she burnt servants' skin with heated knife or applied smashed green chilly into their eyes.²³

In the narration of the novel we can see that they remind every member about norms for their daily life. However, it can be seen that the figure of Hajjibitata is highly demonised and eroticised. In the novel she is depicted as a person who invokes erotic pleasure in the female homo-social sphere of the *tharavadu* by way of stripping her servants and punishing them cruelly. She exercises complete authority over other members.

The commemoration of the mythical past brings meaning to matrilineal Mappilas. However, Hajjibitata's story is part of the cultural memory of the past which invokes the diabolic in the narration of the present. The cultural memories connect the members of the *tharavadu* together as an affective unit formed under a roof. But, the memories of Hajjibitata are negative memories since she exists in the realm of the sacred which is diabolic and negative. According to Emile Durkheim the diabolic sacred or negative cult is functional for the articulation of the sacred which represents the normative ideals in opposition to the notion of the devil.²⁴ The memories of a cruel ancestor create a collective sentiment in the minds of the members of the *tharavadu* against the existence of female figure who is powerful. In the economy of memory, the memory of Hajjibitata as a cruel ancestor stands in the margins. Her power invokes 'danger' since the memories pertaining to her does not fit in the normative order of the temporal present depicted in the novel.²⁵

The normative ideal in the context of the narration of the novel is the ideal of the nuclear family in which the husband and the father exercise ultimate control freeing from the control of the women's matrilineal kin. The commemoration of the evil sacred

²² Ibid., 41.

²³ Ibid., 228.

²⁴ Emile Durkheim, *The Elementary Forms of the Religious Life*. (London: George Allen & Unwin Ltd, reprint 1964). 299-317.

²⁵ See Mary Douglas. *Purity and danger: An Analysis of the Concept of Pollution and Taboo*. London: Ark paperbacks, 1998.

helps the creation of positive sacred in the ideal construction femininity in the novel. Hence, the gender relations in the novel plays out as set of rules and regulations centred around new ideal- the dogmatic ideal of modern women. Hence, mythical ideal, the sacred of the matrilineal past does not become profane, instead continued to exist in new avatar- as the sacred evil. Commemoration of the matrilineal past sets up the site for imagining collective sentiments in the temporal present of the novel.

Kaujeitata, the head of the family stands in the threshold. Her memories spot her between the liminal periods of two contrasting imaginations. The ancestral past constantly reminds her of her powerlessness in the present. I quote the some lines that represent the character of Kaujeitata:

'Kaujeitata sits on the colossal wooden storage box,²⁶ gazes as far as she can; listens as much she can; and ignores so many things. For, even if she notices she can't settle so many matters right. This is not the time in which her grandmother²⁷ had ruled *tharavadu*. Not even that of her mother. Untimely interferences would only invite embarrassment.'²⁸

Her existence is under threat due to the explicit division of the *tharavadu* into various *thavazhis* (branches) with separate hearth. She places herself in the margins.

Despite being a powerful individual; the head of the matrilineal joint family exercises ritual authority in ceremonies, who ensured the position of her family in relation to other families through a steady exchange of gifts and other presentation of food and other articles, and making decisions on daily affairs of the *tharavadu*, she stands as a weak character in the novel. This articulation symbolises alteration in the matrilineal practices that weakened certain affective ties; ritual; and conjugal ties.

Throughout the novel it comes out that a mythical past which gather through memories, ancient articles and precious objects, haunts the momentum of the present; present of the matrilineal *tharavadu* and authorities present themselves as outdated.

²⁶ *Pathayam*.

²⁷ Reference to Hajjibitata, the grandmother.

²⁸ *Ibid.* 71.

Changes in the Rules of Marital Exchange and the Advent of Individual Power

Now, let us discuss marriage as a locus to draw the nature of conflict between patrilineal principles and matrilineal customs. When we take marriage as an exchange of individual who represent groups, we can see that a change in marriage norms brings out transformations in the role and status of men and women who are positioned in it; a churning in the distribution of authority to initiate and control exchange; and a shift in the articulation of intimate ties.

Our discussion of the marriage is centered on the character of Titibee-Ummerkoya's Sister. She potentially would inherit the *tharavadu* property and right over her bridal chamber in the *tharavadu*. Ummerkoya, on the contrary, have only the right to enjoy *tharavadu* property. However, Titibee was denied of her rights. Her deprivation to the right over property results from the shrinkage of *tharavadu* property, and death of her mother. Karanavan, who ought to arrange marriage for her did not arrange one for her. Thus, Ummerkoya wishes to take over the position of the Karanavan; takes her out of the *tharavadu* by the creating a nuclear household for his sister and her patriliney following husband.

Titibee's representation denies her of agency. She is totally alienated from the *tharavadu*. Her alienation from the matrilineal *tharavadu* was exaggerated by descriptions of the changes in economic structure, poverty, and fights between women. Ummerkoya renders that Titibee is very smart; however she is recounted as 'dangerous'. She is bright; but bright enough for learning Quran and rituals which enable her to be good wife.²⁹ Ummerkoya perceives her sexuality as very dangerous that is allegorical to 'ammunition'. Ummerkoya wishes to guard the ammunition store.³⁰ Her attainment of puberty brings awe to Ummerkoya's mind. I quote the narration of the

²⁹ Ibid., 49.

³⁰ Ibid., 346.

event of Titibee's attainment of puberty, a conversation between ummerkoya and Patummatata, *elamma*³¹.

'Patummatata lifted her finger over lips and uttered in a soft tone in the gesture of a great secret:

Titibee has matured!

Titibee had attained puberty.

Ummerkoya was taken aback. He dropped his head; looked at the floor; and repeated: 'Titibee has matured'.

He felt his weight mounting on his shoulders.'³²

The sense of fear attached to the attainment of a girl's puberty is an aberration from in context of *Sulatanveedu* which celebrated the birth of a female child.

Matrilinial women were deprived of their agency in their representation in the novel. As discussed in the previous chapters, there was an imagination of the ideal feminine subject from the late nineteenth century onwards in the realm of discourses. In their actual life women becomes a commodity- a valuable commodity. ideal imagination of Mappila women in the idioms of patriarchal ideals paralleled with a new mode of exchanging woman in through marriage ties.

Now, let us discuss the implication of the articulations of gender relations in terms with the advent of patriarchy in the context of twentieth century Malabar. The central focus will on the ideal which regulates and order gender relations from third decades onwards in Malabar. The ideal sets up a sentiment which sets certain imaginations and activities of collective nature in motion. Apart from that, we will also discuss the ways in which notion of 'purity' becomes central idiom to explore the articulations of the sacred and rules and regulations around those sacred ideas.

Let us discuss the proposition that representation women could be understood as a sacred dogma in mid of twentieth century Malabar. According to Emile Durkheim

³¹ Mother's sister

³² *Ibid.*, 257.

religion implies a set of beliefs and practices relative to sacred things. Beliefs and practices create a moral community of people who adhere to church. Church is the institutionalized form of religion. In other words, religion is a system of collective representations that expresses collective realities.³³ The totem is a representation of the collective. In primitive societies it is the simplistic representation of the complex system of clan. Closely reading Durkheim's notion of totem, we can argue that it is not the totemic object per se but the complex reality of the clan it represents makes totem an object of veneration or 'the sacred'.³⁴

One of the interesting aspects of Durkheim's concept of totem is his reference to the dual nature of symbols. He argues that the sacred symbolized in the totem represents the world; at the same time it induces action in the real world.³⁵ Symbols such as totems are taken as absolute reality. It thus creates reality. There is a dual relationship between the ideal and the real: 'totem serves to create the sentiment (of collectively in society). It is one of the constituent elements of (the society indeed.)'³⁶

Now, let us come back to the abstract idea of being a woman in Malabar. In the discursive field of Malabar is this abstract idea emerged through print. It was dispersed through oral and the print alike. In the novel however, women surfaces as characters devoid of agency. Whoever possessed agency were attributed to the mythical past. Novelist attempts to deal with problem of women's lack of agency in the historical time of the novel, taking her as an object. They are however, a special object-one with moral, religious, spiritual significance. They are similar to the Maussian idea of gift.

³³ Ibid.

³⁴ Durkheim is not consistent throughout *the Elementary Forms of Religious Life*. He sometimes confuses the symbolic aspect of totem and the innate quality of totem object per se. I however, concentrate more on the symbolic aspects of religion which he talks about- religion as a system of representation of the complex reality of society.

³⁵ Ibid., 220. Durkheim gives the example of the flag as a sign. Flag represents a nation and it induces a soldier to act towards the protection of the nation. Soldier takes flag as more than a sign. It brings to the mind the reality it represents and in turn, it is treated as if it were reality itself.

³⁶ Ibid., 236.

Marcel Mauss in his seminal work, *The Gift* clearly observes that gift has magical, ritual, and religious significance.³⁷ The gift has highly symbolic significance in the prestige economy. The exchange of the gifts has social significance for the assertion of friendly feeling between persons concerned in the exchange. It serves a moral purpose. The exchange of goods establishes collective sentiments deeply. Mauss discusses that the exchange of the gifts become avenues of contestations and sanctions of power and prestige. The gift exchange establishes hierarchy between individuals, or between groups.³⁸

Based on her ethnographic data in nineteen fifties Kathleen Gough observes the nature of marriage among Mappilas.³⁹ Hamid Ali observes that Mappila marriage consummated through Nikah. Karanavan takes the first steps towards the marriage of a girl and it includes the settlement on the dower and the dowry⁴⁰. A man arranges marriage by himself only in the case of subsequent marriages. A day is fixed for the marriage after the settlement of dowry. The nikah ceremony takes place in the bride's house in the evening. In Lakshadweep, bride hands over to husband a sum of money, *Kaipanam*. *Kaipanam* varies according to circumstances of the *tharavadu*. And after this bride groom and the bride meet up in a room and groom hands over *kaikattupanam* (mahr). In lakshadweep bride also present a number of clothes. After marriage the bride continues to live at her natal *tharavadu* where the husband visits her. This is the usage in north Malabar, in the town of Calicut, and practically in all along the coast from Ponnani upwards, and among *Marumakkathayam* Mappilas of Travancore⁴¹. Boys are married at the age of 14 and 18 and the girls between 8 and twelve.⁴²

Tharavadu is an exogamous community. It implies that a man can not marry his maternal parallel cousin though Islam allows it, since them both descend from the same

³⁷ Marcel Mauss, *The Gift: Form and Function of Exchange in Archaic Societies*. (England: Routledge & Kegan Paul, 1969), 10; 22.

³⁸ *Ibid.*, 72.

³⁹ Kathleen Gough, 'Mappilas', in David M. Schneider and Kathleen Gough ed., *Matrilineal Kinship* (Berkeley: University of California press, 1962), 11.

⁴⁰ Ali, Custom and law, 79

⁴¹ *Ibid.*, in south Malabar Mappilas follow patrilocality.

⁴² *Ibid.*

female ancestor⁴³. Hamid Ali notes that the rule of *tharavadu* exogamy was violated after the third decade of early twentieth century. He cites the occurrence of marriage between maternal cross cousins in South Canara in the third decade of the twentieth century.⁴⁴ The Muhammdan law permits the marriage between a man and his maternal aunt's daughter. Ali notes that was "socially looked upon by others". One can take this particular example as shift in the nature of affective relations; it symbolizes a shift in the conceptualization which not only organizes kinship but the entire worldview.

Kathleen Gough observes that Mappilas also practiced sororatic marriage by that an in-married man would marry his wife's sister in the case of her death.⁴⁵ The institution of widow inheritance also therefore existed along with this practice.⁴⁶ In brief, it can be observed that matrilineal descent group takes an active interest in the marriage of its female members via the leadership of *Karanavan*, the head of joint family at least in the early decades of twentieth century. Marriage can be seen as an arrangement between families; and there is preference for marriage into a person's father's matrilineal descent group.⁴⁷ The *Karanavan* initiated the marriage as a given generalisation. It is clear from the discussion in the last chapter that the authority of the *Karanavan* was solidified and then deteriorated in the early decades of twentieth century onwards in Malabar.

Stridhanam and Kaipanam

It is very interesting to see the ways in which Mappilas overcome changes in the customary laws which governed the division of authority within *tharavadu* and right

⁴³ Ibid 81.

⁴⁴ Ali, *Custom and Law*, 81.

⁴⁵ Gough, *Mappilas*, 614. She observes that Husband gave voluntary gifts of personal property to his wife and children. It implies that in the next generation it will become *tharavadu* property since female children would inherit after mother. Though Islamic law permits the succession of man's property by his brother matrilineal Mappilas do not follow it. It is because the relation of man to his wife and children is personal to the extent that his own matrilineal descent group would not interfere in it.

⁴⁶ Ibid., 627.

⁴⁷ Ibid.

over land. As stated above, before early twentieth century women had distinct right to hold private property along with the inheritance of the *tharavadu* property. By the twentieth century the right was replaced when *tharavadu* defined as a unit with impartial property under the authority of the Karanavan to manage it. There was an emergence of male authority as husband or Karanavan. One of the instances in which Mappilas invented customs to suit these changes can be seen in the customs of *stridhanam* and *Kaipanam*. Both of these customs arose in the twentieth century⁴⁸.

The grant of *stridhanam* is essentially a provision for separate maintenance. And it posed a threat to the unity of the main *tharavadu*.⁴⁹ *Stridhanam* among Mappilas implies a marriage settlement of landed property to a female member of a *tharavadu* for maintenance. It is a moveable or immovable form of property given as a gift to the bride as her marriage portion. A contract makes a provision to allot some land to the *tharavadu* in favour of bride. It is a deed of particular nature giving property for maintenance. Husband acts as a manager or agent of the property on behalf of the wife.⁵⁰ Karanavan inform his tenants to occupy the *stridhanam* land husband makes an acknowledgment in writing that he is in occupation of lands. This arrangement prevails until there is dissolution of marriage. And in some case karavan holds the property and makes a periodic distribution of rice to the wife and husband. *Stridhanam* land enables the husband to maintain the wife and children out of her *tharavadu* income. Karanavan is a donor and husband becomes a trustee. Karanavan does not have to maintain too much matters of his junior female member's children's affair⁵¹. The custom of *stridhanam* has variations. Sometimes the girl who originally receives it passes it over to her daughter as a marriage portion, and sometimes a division of share does not happen-but her Karanavan makes a fresh allotment of *tharavadu* lands on

⁴⁸ *Ibid.*,85.

⁴⁹ This custom is absent in Lakshadweep and Arakkal family. One theory about its origin was that Mappilas being traders, the institution of *Kaipanam* provided them some capital while *stridhanam* relieves him from the burden of the expenses of this wife and children. But this functional understanding is far from satisfactory. The emergence of the individual male as potential earner of private property through the avenues which new economic changes opened up which synchronized with the lessening prospects of women to become an unproductive member are the two poles of the gendered roles actualized in the Mappila social milieu by the middle of twentieth century.

⁵⁰ *Ibid.*,83.

⁵¹ *Ibid.*

every marriage occasion of to allow the original recipient to retain her *stridhanam* intact.

When death or divorce happens, usually the *stridhanam* property reverts back to the *tharavadu*; it is because *stridhanam* is a temporary grant, purely for the maintenance out of the *tharavadu*⁵². Yet, this does not happen very often/ if woman have daughters they have claim as beneficiaries of the *stridhanam* land, Even the divorce or death of a husband would not deprive the right of children to have maintenance out of it. However, the grant is not a complete discharge that takes of the right of a female member to maintenance. She receives a higher portion of land when she remarries with a person of higher status than her previous husband. And in the case of her daughters marries they would get an additional *stridhanam*.

Similar to *stridhanam*, *Kaipananam* is an amount of money that the *karanavan* gives to the bride groom for the bride. In Lakshadweep islands this usage does not exist. The practice however found father contributing to bride and her *karanavan* to the amount of *Kaipanam* by the third decade of twentieth century. Father and *Karanavan* go in shares-half each by both of them. If the bride have rich *tharavadu* background and if she has a good relationship with the *Karanavan* he would promote the whole amount. It is the practice in the family of Ali raja of Cannanore. However, if the father is rich he could bear all the expenses of marriage ceremony.

Kaipanam is a loan to the bride groom by the bride's *tharavadu*. A husband has merely the usufruct right over it; he has to return it on the dissolution of the marriage by death or divorce.⁵³ However, the *tharavadu* of husband seldom has any liability to return the amount unless he derived any benefit from it. If husband dies insolvent, the wife or *Karanavan* cannot realize the debt. And if he is rich, his self acquired property went to his wife and children under the Act governing Mappila succession after 1918.

⁵² *Ibid.*,84.

⁵³ *Ibid.*, 82. Respected tarawadus waive this amount as practiced by Arakkal family.

The advent of new customs implies that matrilineal practices always received new ways of conceptualization and practices. Matriliney was transformed itself in accordance with larger discourses which ordered men and women; and linked beliefs and practice.

Having said this, let us come back to the discussion of articulation of marriage in the novel. I will like to discuss two instances of marriage arrangement. First, I will discuss the fixing of Ummerkoya's sister's marriage with a patriliney following man. Second, I will discuss Ummerkoya's own marriage with his paternal cross cousin.

Ummerkoya fights with Karanavan for fixing the marriage of his sister with a man of his choice. The quarrel is a symbolic fight for the authority between Karanavan and Ummerkoya, the *anandiravan* over the most valuable 'commodity' which is women.

On the day when Ummerkoya decides to arrange his sister's marriage, Karanavan encounters him openly:

'Valiyakaranavan⁵⁴ arrived in the courtyard. Ummerkoya approached him with a gesture showing respect.

Eh? Valiyakaranavan asked with fury.

Ummerkoya looked down.

Then said: Uncle, please forgive me my mistakes. You are all my kin after all...

What? Valiyakaranavar laughed loudly; he laughed again, louder; and said:

So, you are aware that we are kin?

Then he burst into violent laughter which presented him like the devil incarnate.'⁵⁵

Eventually, Ummerkoya overpowers the Karanavan's authority. His triumph is unsurprising, for Karanavan failure is predictable. In that last chapter we had see that economic and extra economic role gradually escaped from Karanavan's discretion. He became marginal. According to the author's narration, he had to gather coconuts; look after *tharavadu* property which are minimal; appear himself in the annual recital of

⁵⁴ The prefix '*valiya*' shows respect.

⁵⁵ *Ibid.*, 389

Mauleed-prophet Muhammed's hagiography; and do some miscellaneous duties. In the case of the marriage of *tharavadu* members, he gave some money to the local *Khasi*,⁵⁶ the priest who initiated the ritual; if it was a male member's marriage he would go to bride's house to accept *chiritanam*, customary payment to the bridegroom.⁵⁷

Eventually, Ummerkoya fixes patriliney following bridegroom for his sister. He challenges the rules of marriage which set up the base of the matrilineal kinship in twentieth century. The rules prescribed that a matrilineal women had to marry from her father's matrilineal descent group. Ummerkoya arranges a patriliney following man for his sister. The bridegroom was the sister's son of Moitheenmaster, his mentor. Moitheenmaster was patriliney following Mappila who migrated from South Malabar after the Malabar revolt of 1921.⁵⁸ First, Moitheenmaster becomes his fictive kin as his mentor. Later, Ummerkoya makes him his sister's affinal kin.

Ummerkoya places himself in the top of the prestige economy when he gains a woman, Haleema.⁵⁹ Haleema, his wife, hails from his father's matrilineal descent group; she is a preferential bride for a man of matrilineal descent group.⁶⁰ Receiving her into his own matrilineal *tharavadu* asserts the ways in which Ummerkoya adhere to the ideals of patrilocality and control; and marrying a preferential bride adds on to his prestige in the matrilineal society for the gain of an appropriate women. In both aspects, Haleema represented an ideal or Ummerkoya compels her to confirm to an ideal. Ummerkoya implants new 'soul' into her body. Durkheim understood the 'soul' as the societal norms impersonate.⁶¹ She impersonated new normativity of educated young Mappilas. One can quote the conversation between Haleema and Ummerkoya, to make the argument very clear. On the day of first interface, this conversation happened between Ummerkoya and Haleema:

⁵⁶ Religious priest.

⁵⁷ I have discussed the emergence of *Chiritanam* or *sthreedhanam* custom in twentieth century Malabar among matrilineal Mappilas, in the previous chapter.

⁵⁸ Koya, *Sultanveedu*, 350.

⁵⁹ See Marcel Mauss, *The Gift: Form and Function of Exchange in Archaic Societies*. (England: Routledge & Kegan Paul. 1969)

⁶⁰ David M. Schneider and Kathleen Gough ed., *Matrilineal Kinship* (Berkeley: University of California press, 1962)

⁶¹ Emile Durkheim, *The Elementary Forms of the Religious Life*. (London: George Allen & Unwin Ltd, reprint 1964).

Haleema, Will you obey me, if I ask to you to do something?

Oh, yes.

Haleema, you should shed your long sleeved jumper and old fashioned clothes.

You mean that I wear no clothes?

Oh, God! Don't be so stupid! I mean that you should wear sari...

Sari..??!!

*Chela*⁶².

Won't people make fun of me?

It is okay, they will adjust to it after sometime. In fact, you will look like *hurullin*⁶³ in the sari.

[Conversation continued]

Haleema, for God's sake remove those various golden rings you penetrated all over your ears...

Every woman wears them. So do I. It is our religious custom, right?

Religious, is it? Who says so? And where? Women seldom pierce their ears in Muslim societies⁶⁴. Out here, the custom differentiates lower caste converts from others. Islam, of course does not teach it. Why don't you cut them? Wear simple stud instead...⁶⁵

Here, we can observe the ways in which young Mappila men re-casted their women in the frame of the new imaginations of gender. For men women were object of reform. Reform was carried out to refine them; they had to appear as presentable and modest; so the men could enter into the public sphere of Malabar. As Haleema sarcastically points out the women could seldom be reformed in a revolutionary manner so that they shed their clothes. Her remark poses the protest of the Mappila women; she

⁶² Simply means robe.

⁶³ The Quranic concept which refers to the heavenly beauties.

⁶⁴ Mainly reference goes to Arabian countries.

⁶⁵ *Ibid.*, 441-442

raises the voices in the private sphere. Mappila women could not come to the public sphere.

In the novel, young women appears as the objects of reform. They are exchanged in marriages for men; they objectify prestige; they have to refine themselves to enable their men to enter into the public sphere; and they have to confirm to the aesthetic and religious sense of men.⁶⁶ They were presented as a gift in Mauss's sense. Mauss observes that the exchange of the gift encompass legal, economic, religious, aesthetic, and morphological phenomena. They diffuse religious morality.⁶⁷ If we take the notion of religion in Durkheim's terms the concept of religion broadens to anything which enhances collectivity.⁶⁸

Keeping this in mind, we will look at the transformations in the custom of marriage in matrilineal Mappilas, in comparison to the Nayars in Kerala. The discussion of the transformations in Mappila matriliney helps us to complicate the relationship between Islam, matriliney and marriage.

Islam, Marriage and Matriliney

Leela Dube in her study of Matrilineal Muslims in Kalpeni Island, Lakshadweep observes a symbiosis between patrilineal principles embedded in the Islamic law and the matrilineal customs. She argues that Islam is functional for the continuation of matriliney, rather than being a challenge to it.

'Islam has helped to soften the conflict of emotions involved in having to assert paternal sentiment against matrilineal claims'⁶⁹

⁶⁶ For similar argument in the context of nationalism in Bengal, see, Partha Chatterjee, *The nationalist resolution of the women's question* in Kumkum Sangari and Sadish Vaid ed *Recasting women: essays in colonial history*, (New Delhi: Kali for women, 1999).

⁶⁷ *Ibid.*, 76.

⁶⁸ *Ibid.*

⁶⁹ Leela Dube, *Matriliney and Islam: Religion and Society in Laccadives* (Delhi: National, 1969)

She observes that the dual system of inheritance in both female and male line; distribution of authority and rights in the conducting of rituals almost equally between patrilineal and matrilineal kin; and balance of power between wife and husband become the underlying factors which ensure the continuity of the matrilineal customs in Laccadives.

Talking about marriage in Laccadives, Dube observes that marriage involves limited rights and responsibilities. Marriage gives man an exclusive right of sexual access to his wife; but he does not have control over her productive labour or domestic services.⁷⁰ Dube observes that women identify them with matrilineal group; lives with them; work with them; and obey the authority of Karanavan.⁷¹ In the matter of divorce, men enjoy some authority over wife since the divorce law in Islam places men as the initiator of divorce by pronouncing the formula of *Talak*. *Talak*, or repudiation is the pronouncement of divorce by uttering thrice in succession. In Kalpeni, according to Dube, women also had the right to initiate divorce, customarily. Women themselves or through the mediation of kin ask her husband to refrain from visiting her. This is called *valakkevidal* (sending away on quarrel).⁷² Even according to the law, women could sever the marital bond through the pronouncement of the dissolution of marriage by the Kazi. It is known as *Fasak*. However, *fasak* is unnecessary in Laccadives since women could send their husbands away by convention.⁷³ Dube argues that the high frequency of divorce is a manifestation of more equal relationship between spouses. Islam, according to Dube, therefore facilitates easy divorce by way helping to reconcile with the tasks of the show of proof, duration time, re-funding of expenses, and the completion of the legal formalities.⁷⁴

Certainly, an attempt to directly adoption of Laccadeev example for the establishment of an easy marriage between matriliney and Islam in peculiar spatial context of Malabar ignores the facts of history.

⁷⁰ Ibid., 67.

⁷¹ Ibid.

⁷² Ibid.71.

⁷³ 72.

⁷⁴ Ibid., 80.

Let us now try to situate the transformations in gender, matriliney and Islam in early twentieth century Malabar, in the locus of the socio-cultural background of the transformations in the family. For this purpose, I will refer to the debates on customary *Sambandam* marriages among Nayars in Kerala, began by the late nineteenth century.

Debates on Nayar Customary Marriage

The debates on *Sambandam* were one of the central debates on sexuality and conjugality in Kerala. Sexuality means the ways of articulating sexual desire and sexual relations. The debates happened on the wake of the demand for the passage of the Malabar Marriage Act of 1896. The Act was brought out by the active agency of the young professional Nayar men who demanded for marriage reform.⁷⁵ There was demand for the registration of all matrilineal marriages.⁷⁶ There were also demands for stringent code for divorce so as to regulate divorce and to sustain 'the idyllic, monogamous unions premised on love, morality and shared property'.⁷⁷ Father's authority was sanctioned by way of consulting him in the events of education and marriage.⁷⁸

The supporters of these legislations were called 'reformers'. They underlined the appeal of retaining the 'chastity' and 'virtue' of women, for the purpose of the alteration of matrilineal customs. They found opposition from 'conservatives' who were the members of the aristocracy or the older members of the landed families who defended the customary marriages. The opposition also carried the apprehension of upper caste values that presaged *Sambandam* alliances between Nayar women and Nambuthiri men.⁷⁹ Others who responded were 'intermediaries' who desired the establishment of

⁷⁵ Arunima, *There Comes Papa*, 128.

⁷⁶ *Ibid.*, 129.

⁷⁷ *Ibid.*, 135.

⁷⁸ *Ibid.*, 140.

⁷⁹ *Ibid.*, 137.

conjugal unions without invoking the wrath of majority of the community. It was because; they feared the loss of their property rights.⁸⁰

G. Arunima observes that the debates on customary marriage was exploited by caste associations mainly among two upper caste matrilineal Hindus-Samanthars and Nayars, along with lower caste Thiyas.⁸¹ She also illustrates that in the Nayar caste there was a sense of belonging. It grew from the debate on marriage, *tharavadu*, and property to the broader imagination of a caste identity. Caste identity thus shed hitherto *tharavadu* centered connotation.⁸² Debates on marriage were not exclusive to Nayars, since Nayar women had hypergamous relation with Nambuthiri men. Thus, the debate among Nambuthiris to avoid union with Nayar women articulated the wish of Nambuthiris to assert themselves as upper caste community.⁸³

Arunima argues that the demand for giving up *Sambandam* initialized a new sexual morality. Young educated men established their independent status upon the base of the newly imagined monogamous unions. For women however, the options were limited for claiming individuality. They depended on household income for their upkeep.⁸⁴ The changes in the customs of marriage also reflect the changing historical dominance of caste groups.

Meera Velayudhan studied the marriage reforms among Ezhavas, in the context of the efforts for the legal measures for the transformations of laws of inheritance, succession and marriage.⁸⁵ Ezhavas practiced customary marriage or *sambhandam* till the mid of twentieth century. The central ritual of the marriage was called *mundukoda/pudavakoda*. Social reformers introduced a new form of marriage called *vivaham*.⁸⁶ They argued that customary marriage lacked the sanction of the Hindu law

⁸⁰ Ibid., 132.

⁸¹ Ibid., 142.

⁸² Ibid., 143.

⁸³ Ibid., 150.

⁸⁴ Ibid., 154.

⁸⁵ Meera Velayudhan. Reform, Law and Gendered Identity: Marriage among Ezhavas of Kerala. EPW, Vol, 33 (Sep. 19-25, 1998) pp. 2481.

⁸⁶ Ibid.

such as *smriti*.⁸⁷ A committee called Ezhava Law Committee was formed in the year of 1919. The committee stood for the elaboration of the ideal of a patriarchal, monogamous marriage.⁸⁸ The author argues that the legal debates around inheritance, succession, and marriage brought out the subordination of women in the community since there were more control of relations between sexes within the family.⁸⁹

Here, we encounter the notion of purity as a subjective belief, or ideology, in the articulation of sexuality, affective relations, and family practices.⁹⁰ The subsequent process was a new imagination of individuality, ideal conjugality, and love; and the backdrop of these imaginations is the urge to enter into the realm of national modern citizenship.⁹¹ Colonial modernity probably ensured the spread of patrilineal family as sole evolutionary ideal and put this as a pure form of practicing family life.

In retrospect, one can argue that, the novel narrates various actions of purification. Purification implies the act of performing and articulating various cross cutting notions of 'purity'. Purity, thus, can be a useful analytical theme of the discussion of *Sultanveedu*. Purity explains the notions of time and space in both sacred and profane realm of religion, everyday ritual practices and social institutions in the context of the novelistic imagination.⁹² "Purification" is an act of attributing the quality of purity. In this particular analysis we undertake, the connotations of the word "purification" transgress the boundaries of religious life; it resurfaces in the discussion on secular and state practices, history, sexuality and gender.⁹³ One can extend the concept of purity to observe the undertone of religion in the novel.

⁸⁷ Ibid.

⁸⁸ Ibid., 2481-82.

⁸⁹ Ibid., 2482.

⁹⁰ For a useful analysis of ideology, and caste and gender and argument based on the notion of "brahamanical patriarchy" see, Uma Chakraborty, *Gendering caste through a feminist lens*. Calcutta: Popular Prakashan, 2003

⁹¹ Arunima, "There comes papa".

⁹² For a discussion of the sacred and profane and for an idea on the relevance of primordial time and sacred space in the cosmology of religious person Eliade's "The sacred and Profane" is classic reading: Mircea Eliade, *The sacred and the profane: the nature of religion*. Florida: Houghton Mifflin Harcourt. 1987.

⁹³ For instance, one can locate the themes like ethnic purification, memory and notion of pure past, hygienic practices, governmentality...etc.

Alteration in the Meaning and the Articulation of Religious Rituals

In Islam, purity as a notion encompasses the matters of *Iman* (faith) and *Islam* (practice). When one understand Islam as “discursive tradition”, the Qur’anic myths and stories, Qur’anic versus and its various *tafseers* (interpretations), *Hadith*, along with the oral tradition of Islam, the religion of Islam can be recognized as central to the constitution of practices and the making of Islamic tradition.⁹⁴ The historical context of the interpretations or discourses of Islamic texts lies in the purview of the anthropologist. When we take the studies on Islamic revivalism or reformism, the adherence to a “pure” interpretation of what are identified as basic texts of Islam is a primary concern, while it negatively defines and despises “*puhanasayam*” (corrupt practices or *bid’a*).^{95 96}

Purity can transgress its simple ritualistic and theological meaning so as to include the realm of the secular, perception of the constitution of the self and society. Louis Dumont in his study of caste system in India discussed purity as an ideology to locate the underlying structure of caste practices⁹⁷. Purity is also linked with larger cosmology

⁹⁴ Martin, Richard C. Ed. *Encyclopedia of Islam and the Muslim World*. New York: Macmillan Reference USA, 2004.

⁹⁵ The terms like political Islam, pan Islam or universal Islam are useful but problematic terms often used in a similar meaning to revivalism.

⁹⁶ *Bid’a* conceptually implies an innovation in theology, ritual, or the customs of daily life, that did not exist in early Islam, but came into existence in the course of history. *Bid’a* is classified into good (*hasan*) and error (*dalala*). But, the religious hatred of innovation is has to discussed in other terms. One is that of criticism of any thing that despises primordial time (Eliade 1987), while other is that of “invention of tradition” paradigm given by Hobsbawm (1983). Saba Mahamood in “Politics of piety” critiques the second notion and argues that debates over tradition has to be viewed in the context of the fact that “Islam is discursive tradition”. But, she uncritically upholds Asad’s (1986) idea (for critical appraisal, see, Ronald Lukens-Bull “Between Text and Practice: Considerations in the Anthropology of Islam” in *Defining Islam: A Reader*. Ed. Andrew Rippin : 37-56. London: Equinox). For a useful reading on this debate and for the perception of subjective notions of Islamic piety, practice, and questions of agency, see, Saba Mahmood, *Politics of piety: the Islamic revival and the feminist subject*. Princeton: Princeton University Press. 2004. Some parts are used from reprint. 2005;

⁹⁷ He uses the binaries of purity and pollution as underlying structure of caste system in India. see, Louis Dumont. *Homo hierarchicus: the caste system and its implications*. University of Chicago Press. 1980

in which rite-de-passage, life, death, and afterlife are connected. Thus, purity is one of the central idioms to look the articulation of the sacred in a society.

A late nineteenth century imagination of Islam always informed to the legal and secular debates on matriliney. *Sultanveedu* also articulate the themes of religious puritanism among Mappilas in Malabar. Purity as an abstract idea extended to the religious piety in Islam, simultaneous with the discourse on hygienic practices, sexual purity of women, and modern education. Scientific temperament based on textual principles wed these debates with the notion of 'truth'. From the novel one can quote lines that expresses the notion of caste prior to conversion, referred to as 'impurity' which disable a lower caste convert to become a 'true Muslim':

Suddenly somebody wets his [Ummerkoya] hair.

He felt his head.

A *puislan* had spread his fish net. He also sprinkled drops of water into his head.

He searched for a kerchief in vain.

Eventually, he wiped it off with his hands. His hands smelt of fish.

Is it *najees*?⁹⁸

I have to proceed for the prayer. My body has to be clean.⁹⁹

Puilsan along with his net and his product fish invokes the doubt if these are ritually unclean. It is posed as a question by the author. One can say that, *Puilsan* and fish are not intrinsically dirt, or *Najis*. It becomes something as dirt when we locate him vis-à-vis the new prescription for the 'correct' practices of Islam. *Puilsans* are *Mukkuvans* or fisher-folk converted to Islam. *Puilsan* means neophyte.¹⁰⁰

However, Ummerkoya simultaneously imagine a personal identity which transcend his pre-conversion caste background, class characteristics and religious

⁹⁸ Ritually unclean

⁹⁹ *Ibid.*, 30.

¹⁰⁰ Abdurahiman K P, *Mappila Heritage: A study in their social and cultural life* (University of Calicut: Unpublished PhD thesis, 2004), 253.

identity. He ridicules the apprehension of his fellow Koyas: They feared that there would be a continuation of servitude when '*Pattar, Chettis, Nairs and Nambuthiris*' take over power from the British.¹⁰¹ The aspiration for the attainment of national citizenship gives him gratification in dreaming an independent India. I quote some lines from the novel which expresses the intersection of the imagination of motherhood, sisterhood, individual pride and Indian nationhood in Ummerkoya's thought:

'Ummerkoya was immersed in thought:

He has a grown up sister.

He has to protest his foster mother.

He has to clean himself from all the embarrassment he suffered within the *tharavadu*.

He has to free his motherland which suffers pain that the White inflict with their boots.

He has to be responsible, dutiful and strong.'¹⁰²

Contrastingly, it is evident from the incidents of the novel that Ummerkoya could not have become a successful individual if he had not been privileged by his familial and upper caste Muslim background.

Ummerkoya takes the job in the shop of a *tiyya* washer man, Velu. However he leaves the job after three years to take a job in timber trade. Timber trade had been traditionally dominated by Koyas. Ummerkoya did 'unclean' work ironing dirty clothes for duration of three years. This period was liminal period from the perspective of his character. The contact with 'dirt' in that period helps him to emerge as a 'clean' person. He cleanses himself from the allegations of the theft. He also cleanses the burden of economic difficulties. His contact with a man of erstwhile untouchable caste, *tiyyas* along with him touching dirty clothes are acceptable for Ummerkoya so far it is a liminal activity. Arnold van Gennep¹⁰³ narrates the ways in which primitive men involved in all the dirty activities in the liminal period; they did so when before they

¹⁰¹ Koya, *Sultanveedu*, 255.

¹⁰² Koya, *Sultanveedu*, 289.

¹⁰³ See, Mary Douglas, *Purity and danger*, 96.

enter to the adulthood from the adolescence. Ummerkoya was a like a novice who involved in the 'dirty' work to in the liminal period only to emerge as an adult. The colonial legal discourse, the changes in economy and religious revitalization discourses sanctioned his transformation. Judges, religious reformers, nationalist leaders and rich business men constituted the public that viewed the rite of passage and sanctioned transition of the individual from the status of an *anandiravan* to the status of an individual.

We can see that the novel expresses the ways in which the notion of personal hygiene, caste purity, and religious revitalization intersects in the discursive field of Malabar. Hence the idiom of purity becomes a central for contextualising cultural articulations. Twentieth century Malabar witnessed varying articulations of purification. One of the most rigorous discourse happened in the sphere of theology. Evidently, folk theology and text based theology contested each other. In the narratives of the novel textual theology overpower folk theology and textual principles.

Ummerkoya's journey to success is simultaneous to his performances and articulations of purity. It is evident from the conversation that he has with a folk theologian, *Muslyar*:

'Ummerkoya asked Muslyar:

Can Muslims consult palmists and soothsayers?

Muslyar received a shock, but managed to reply back:

We can't go to the palmist, but soothsayers and healers are fine...

Anyway, I will check it out in the *Kitab*.¹⁰⁴

(Silence)

But, you will have to consult the *kitab* for sure, right?

¹⁰⁴ Arabic term for book, see Rohi Baalbaki, *Al-mawrid* (Beirut: Dar el-ilm lilmalayin, 1997). Here, *kitab* implies holy texts and interpretations.

He asked again.

Of course, they explain everything of this and the other world.’

As it is clear from the conversion, both the persons agree with the authenticity of the *Kitab* as a source of knowledge over any other form of theological knowledge like oral teachings and songs. Truth restricts itself to the written words. The advent and spread of print in south India alludes to the mass dissemination of textual principles. *Sultanveedu* in its narration continuously favours the textual principles over customs.¹⁰⁵ It can be in contrast to the historical documents which speak of sustenance by way of mere alteration or Islamisation of matriliney. I quote the narration of an event of public religious preaching:

‘*Muslyar* sat on the stage. He had a round shaped beard; head gear; and white shawl spread on his shoulders. The devotees stood with reverence. There were *Kitabs* piled up on a table in front of him. One *kitab* lay open on a stand.’¹⁰⁶

The constant reference to the text; and internalization of faith instead of externally manifesting it is what Peter van der Veer calls protestantization of faith. In this context, this concept becomes important. Even while defending Sufi practices the *Muslyar*-local clergy takes up the argument in the logic of internal faith and rational thinking. *Muslyar* speaks the following things to counter the argument that popular Islamic practices like ‘saint veneration’ and spiritual healing at shrines of sufis are *shirk*-sin of idolatry:

‘Some ignorant people ridicule *tavassul Istiasa*.¹⁰⁷ They allege us of committing idolatry. We do seek the help of prophets, martyrs, and saints, and Sufis to reach our prayers to the

¹⁰⁵ For similar argument even in the historical context of Malabar, see, Benaseer V I. Tradition versus Text: A Study of the Matrilineal System of Malabar with special reference to Mappila Matriliney, 1871-1939, Unpublished M Phil Dissertation submitted to CHS/JNU. 2005. We however, argue that the historical evidences contest the cultural representations which portray any simple way in which ‘text’ overpowers ‘tradition’.

¹⁰⁶ Koya, *Sultanveedu*, 169.

¹⁰⁷ It means ‘requesting help’ in Arabic, see, Rohi Baalbaki, *Al-mawrid* (Beirut: Dar el-ilm lilmalayin, 1997)

Almighty. What is wrong with that? Suppose we have to argue in a court. Won't we appoint an advocate?'¹⁰⁸

In the novel there is a fantasy of textual Islam overpowering folk Islam. Folk Islam operates through oral myths and ballads. For instance, there is a popular ballad *Muhyaddin mala* which Mappilas recite as a ritual during period. Novel quotes two lines from the ballad which is based on the myth that Muhyaddin Sheik, a Sufi saint had revived a cooked rooster:

'Ellare kosiyum kookiyadangume,

Muhyaddin kosi¹⁰⁹ kiyamatolam kookum¹¹⁰

It translates like this:

'Every rooster cries aloud; every rooster dies,

Muhyaddin's rooster also cries; But, he cries until the Doom's Day.'

Ummerkoya evidently does not share that cosmology in which the Sufi saint, Muhyaddin's myth makes sense. He uses the allegory of Muhyaddin's rooster to refer to the authority of the Karanavan which is mythically presented as eternal. Ummerkoya establishes that history will overpower myths.¹¹¹ Karanavan is a historical example of a sorcerer, while Muhyaddin sheik is commemorated as a mythical sorcerer. Our discussion of empirical records and newspaper evidently say that both Sufi practices and the institution of Karanavans continued to exist. However, they received the new logic of scriptural Islam and Anglo-Muhammadan Law respectively.

¹⁰⁸ Koya, *Sultanveedu*, 170.

¹⁰⁹ *Kozhi (Mal)* meaning Rooster.

¹¹⁰ Koya, *Sultanveedu*, 284.

¹¹¹ See introduction to *Sultaanveedu* by Ajay P Mangat, in Koya, *Sultanveedu*, 10.

Conclusion

In this chapter we have attempted to look at the articulation of gender relations in the context of the novel, *Sultanveedu*, in juxtaposition with the social history of early twentieth century Malabar. We have seen that the historical accounts on Mappila matriliney challenge the representations in the novel: there was not a sudden and easy transformation from matriliney to patriliney or to the ideal of nuclear family. The history of Malabar in the 1930s unfolds contesting notions of gender. There were powerful mothers; wilful sisters; and negotiating wives. There existed kin ties based on affection, conjugality set up on the basis of the negotiation between the husband and the wife, and decentralisation of authority and rights beyond gender difference, though this could have varied according to age.

The chapter discussed marriage as a site for understanding cultural changes in the notions of gender and family. According to matrilineal customs, marriage alliances were set up between persons belonging to two exogamous *tharavadus*. In contrast, Islamic law pre-supposed the existence of a nuclear family based on the authority of the father and the husband, and inheritance in the patrilineal line. These two contrasting notions of marriage sought social sanction in the 1930s in Malabar. As result, customs of marriage underwent shifts; the figures that held authority in matrilineal customs began to perform new roles; and the matrilineal customs were re-articulated with a new meaning.

Thirdly, the chapter discussed the ways in which the idiom of purity and performance of purifications help us to understand the cross cutting cultural articulation and re-articulation of marriage, religious ritual and belief, sex roles, community sentiments, and nationalism. The discussion of 'Islam' incorporated various cultural notions of purity and piety. These notions emerged from the debates undertaken by caste reform movements, modern educational institutions, and the emergent print culture in Kerala. However, Mappila religious life existed with practices that contested any abstract notions of piety, like matrilocality, local pilgrimages and matrilineal inheritance.

Conclusion

A study of the transformations in the Mappila matrilineal practices presents us with a collage of the socio-historical context of twentieth century Kerala, with changes in the arena of family among the Nayars, the Thiyas/Ezhavas, and the Mappilas. Existing scholarship on the transformation of the family in these communities argues that the attack on matriliney and the intervention of socio-religious movements in the realm of the family involved political, economic and personal interests. The attack on matriliney fuelled the transition towards the monogamous nuclear family based on the authority of the husband and the father. These changes were instrumental in imagining 'communities' based on caste and religion, like the Nayars and the Mappilas respectively.

This study looked at the ways in which the Mappilas negotiated colonial legal principles, and Islamic laws; and attempted to retain their matrilineal familial customs. First, the legislations, and directions of the courts, failed to impose transformation in the familial practices. Second, the textual and legal notion of Islam could not dictate the articulation of Mappila rituals, beliefs and customs in their daily life. It does not however, mean that the customary matrilineal practices and gender relations seldom underwent transformations. There were constant processes of re-articulations of the family; re-construction of the women; and re-conceptualization of religion. The court, religious experts, and common Mappilas always encountered one another in the site of family.

In the first chapter, *Family, Religion, and Law among the Matrilineal Mappilas in Malabar c. 1914-1940*, we dealt with the transformation in the law of inheritance of property. We identified that there were two major forms of land holding. First, there were the self-acquired individual property; and the second, the *tharavadu* property. There were variations of practices regarding the inheritance of the self-acquired property. The most widely practiced rule was to gain such property to the *tharavadu* after the death of the individual holder. This then became the part of its collective property. The first legal intervention on the self-acquired property was the Malabar Wills Act of 1898 that enabled matrilineal people to will away their property to whoever they wished. This general law was applicable to the Mappilas as well, along with the

Nayars and other matrilineal Hindu castes. Many sources showed that the Mappilas did not use the provision of the Act to will away their property since that denied the rights of matrilineal inheritors by custom. However, it has to be understood that the Wills Act inspired some of the Mappilas to demand a law that dealt with the succession of private property according to the directives of Anglo-Muhammedan law. The demand raised by young, educated Mappilas resulted in the passage of the Mappila Succession Act of 1918. The demands for the legislation on inheritance were articulated with reference to 'the correct form of Islam'. Those who demanded the legislation argued that matrilineal custom of the inheritance by matrilineal joint family was 'un-Islamic' by nature.

Mappilas debated the mode of inheritance during the 1920s, prior to the legislation of the Succession Act. Soon, the practice in Malabar became such that the self-acquired property of the Mappilas devolved according to the Anglo-Muhammadan law in almost all the matrilineal regions.

The Succession Act was followed by the passage of the Mappila Wills Act, a decade later in 1928. This supplemented the former. The passage of the Wills Act did not evoke much of a debate. However, the passage of the Act suggests that Mappilas willed away at least one third of their self-acquired property to their daughters, often by a will. It also implies that the Act was instrumental in reducing the scope of the application of the Malabar Wills Act of 1898. Mappilas used the Act of 1898 to circumvent the incidents of the Mappila Succession Act, and thereby gifting their entire property to their daughters.

The Mappila Succession Act of 1918 left the collective property of the matrilineal joint family untouched. According to Islamic law there were no provisions of the collective property to pass in the female line to the *tharavadu*. Yet, the Mappilas wanted to retain the *tharavadu* house and the collective property. As a solution, they registered the collective properties as *wakf-ul-aulad* that succeeded in the female line using one of the provisions in the Anglo-Muhammadan law. We call this process as 'alteration' of the Mappila matriliney. This process mainly happened during the period of 1914-1928.

The third Act governing Mappila matriliney was the Mappila Marumakkathayam Act of 1939. The Act permitted individual partition of the collective *tharavadu* property. However, the registration of the *tharavadu as wakf* (charity) property by 1928 meant that the provisions in the Mappila Marumakkathayam Act to demand partition of

the collective property was rather unworthy. It was due to the fact individual could hardly obtain any personal gain by way of demanding partition.

This chapter tells us that the economic interests of the junior members of the *tharavadu* were articulated through the new perception of 'correct Islamic' practices. Yet, Mappila matriliney did not undergo easy transformation. One could see that, the abstract idea of 'pure Islam' that emerged through court decisions and print encountered contesting articulations of rituals, practices and faith in the realm of daily life of the Mappilas.

In the second chapter, *Religion, Family and Gender Relations among the Mappilas in Malabar, c. 1914-1940*, we discussed the interplay between religion, gender and the law. From the end of the nineteenth century onwards there was re-reading of Islam in Malabar. This was in the intellectual context of the oriental scholarship on Islam, and in the political context of the antagonism between Christian missionaries and Muslims in the colonies. Islam in Kerala was re-articulated as a patriarchal religion so as to place it on the same pedestal of the patriarchal notions of the colonial state and the law. Subsequently, Malabar witnessed a re-articulation of the meaning of gender, where Mappila women were increasingly understood as subservient to husbands and fathers.

In the same period, *karanavan* emerged as the authority figure in the household. He became the head of the *tharavadu* and the manager of the collective family property. The legal provision of Anglo-Muhammadan law, and new precepts of 'Islam' led to the shrinkage of the role and the authority of the *karanavan*; and it contrasted with the daily practices and running of the *tharavadu* where *karanavan* still had the power to execute economic, and extra economic roles and authority to make decision in consultation with the female head and other members of the *tharavadu*. Eventually, the Mappila Marumakkathayam Act 1939 brought checks on the power and authority of the *Karanavan*. Junior members could interfere in economic matters regarding the *tharavadu*. Many *tharavadus* were divided into separate branches that came under the headship of the branch *Karanavan*, due to the steady growth of disputes. The examples of the *karanavan* in particular and the Mappila women in general unfold the interplay between the laws, gender, and socio-religious reforms leading to the loss of status for customary authority and women.

Untill, the 1840, it could be said that Matrilineal Mappila women enjoyed high status. They inherited the tharavadu property; became the head of the family of the *strisothu tharavadus*; they stayed in their natal home after marriage along with their children; exercised authority in the daily decision making of the *tharavadu*; and managed the expenses of the *tharavadu*. Aged women, especially, as heads of the *tharavadu* controlled the conducts of the other tharavadu members, and also performed ritual roles in the time of the rites of passage of the members of the tharavadu.

However, the colonial court had pre-conceived notion regarding the sex roles in the realm of the family. The decision of the court often informed the abstract idea on what constitute being women. This was formulated in the historical context of early twentieth century Malabar. The court saw women as mute beneficiaries within the realm of the family; instead of attributing them with the power of decision making, and recognizing their economic autonomy. They were re-conceptualised as '*gosha*' ladies who were under seclusion and required male protection.

Imagination of ideal femininity emerged from multiples sites, like the court, the state and the print. They set up the 'correct knowledge' on the practices of gender, Islam, and family and they were imbued with power. Yet, they could not radically transform the structure of the family, conjugal life, and sex roles in the daily life of Mappilas. However, due to these factors, by the 1940s women witnessed a decline in their property; loss of ritual roles; and limitation in the decision making power in the daily economic matters of the tharavadu.

The third chapter, *Cultural Articulations of Gender, Marriage, and Religion in Malabar*, attempted to look at the articulation of gender relations in the context of the novel, *Sultanveedu*, in juxtaposition with the social history of early twentieth century Malabar. Novelistic representations of the Mappila women depicted them as powerless mothers, helpless sisters; and obedient wives. On the other hand, the history of Malabar in the 1930s unfolds contesting notions of gender. There were powerful mothers; wilful sisters; and negotiating wives. There existed kin ties based on affection; conjugality that were set up on the basis of the negotiation between the husband and the wife, and decentralisation of authority, and rights beyond gender difference, though this could have varied according to age.

The third chapter discussed marriage as a site for understanding cultural changes in the notions of gender and family. According to matrilineal customs, marriage alliances were set up between persons belonging to two exogamous *tharavadus*. The marriage involved various exchanges of gifts. The *karanavan* initiated marriages of the members of the family, and he acted as the guardian in time of marriage contract. In contrast, Islamic law pre-supposed the existence of a nuclear family based on the authority of the father and the husband, and inheritance in the patrilineal line.

These two contrasting notions of marriage sought social sanction in the 1930s in Malabar. As a result, customs of marriage underwent shifts; the figures that held authority in matrilineal customs began to perform new roles; and the matrilineal customs were re-articulated with a new meaning.

In this chapter, we have also discussed the novelistic imagination of the ‘correct’ ways of practicing Islam. The novel explicitly mentions the issues of faith, attainment of the ‘correctness’ of daily religious practices, and modes of maintaining religious piety and purity. Simultaneously, the discussions of Islam are informed by various cultural notions of purity and piety. These notions emerged from the debates undertaken by caste reform movements, modern educational institutions, and the emergent print culture in Kerala. The notion of touch as impure, the discussion of hygiene, the norms of dress and appearance were used with reference to the imagination of ‘Islamic’ piety and purity. However, Mappila religious life existed with practices that contested any abstract notions of Islam, like matrilocality, local pilgrimages and matrilineal inheritance.

The study of the transformation of Mappila matriliney from 1910s to 1940s unfolds the ways in which economic interests of the junior members of *tharavadu*; advent of the values regarding individuality; and shifts in gender relations with an increasing control of the husband and the father over women were articulated through the idioms of ‘correct’ Islam. The history also tells us about the changes in Mappila daily life in the context of colonial modernity; as indeed, the ways in which Mappilas negotiated with threats on their customary practices by way of incorporation, alteration, and negation. Thus, Mappila matriliney escaped radical transformations unlike Nayar matriliney in Kerala. Mappilas re-created their customs by locating those practices within the fabric of ‘correct’ Islamic practices.

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Madras Act No 1 of 1918**The Mappila Succession Act**

An act to amend and define the law of intestate succession among Mappilas governed by the Marumakkathayam law or the Alisanthanam law of inheritance

Preamble

Whereas it is expedient to amend and define the rules of law applicable to intestate succession among Mappilas governed by the Marumakkathayam or Aliyasanthanam law of inheritance; it is enacted as follows:-

Short title

- I. (1) This Act may be called THE MAPPILA SUCCESSION ACT, 1918

Local extend

- (2) It is extended to the whole of the Presidency of Madras.

- (3) It applies to Mappilas domiciled in the presidency of Madras who are governed by the Marumakkathayam or Aliyasanthanam Law of inheritance and also in respect of immovable property situated within the Madras presidency to Mappilas domiciled out the said presidency who are so governed.

2. A person is considered to die interstate in respect of all property of which he has not made a testamentary disposition capable of taking effect,

Explanation: "property" in this section does not include tarward property unless the person dying interstate was exclusively entitled to it.

3. Such property shall, notwithstanding any custom to the contrary, devolve upon his heirs in the order and according to the rules of Muhammadan law

Passed by the Governor of Fort St George in Council (in Act passed the Governor of Fort St George Council in the year 1915-1916.

Madras Act no. Vii of 1928

THE MAPPILA WILLS ACT¹

RECEIVED THE ASSENT OF THE GOVERNOR ON THE 9TH MAY AND OF THE GOVERNOR GENERAL IN COUNCIL ON 30TH MAY 1928

An Act to define the law relating to wills by Mappilas

Preamble: Whereas it is expedient to define the law relating to testamentary disposition by Mappilas governed by the *marumakkathayam* or the *aliyasanthanam* law of inheritance.

And whereas the previous sanction of the governor general has been obtained to the passing of this Act; it is hereby enacted as follows:-

Shot title

1. This Act may be called THE MAPPILA WILLS ACT , 1928

Commencement

- 2.

I) it shall come into force on the first day of January 1929

II) It extends to the whole of the presidency of Madras.

Persons to whom and properties to which this act is applicable:

III) It applies to testamentary dispositions by the Mappilas governed by the *marumakkathayam* or the *aliyasanthanam* law of inheritance in respect of property which, but for such testamentary disposition, would devolve in accordance with the provision of the Mappilas Succession Act. 1918.

Testamentary dispositions to which this act appeals, shall be governed by the Muhammadan law relating to Wills, and not the Malabar Wills Act, 1898

¹ Benaseer, V I. Tradition versus Text: A Study of the Matrilineal System of Malabar with special reference to Mappila Matriliney, 1871-1939, Unpublished M Phil Dissertation submitted to CHS/JNU, 2005. 124-125.

APPENDIX C

THE MAPPILLA MARUMÄKKATHAYAM ACT (XVII OF 1939)

29th June, 1939.

WHEREAS it is expedient to define and amend in certain respects the law relating to family management, partition and succession among the Mappilas following the Marumäkkathayam Law; It is hereby enacted as follows:

CHAPTER

I Preliminary

Short title:

1. (a) This Act may be called The Mappilla Marumakkathayam Act, 1938.
- (b) It shall apply to all Mappillas following the Marumäkkathayam Law, who are either domiciled in the Province of Madras or have property situate within the Province of Madras.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,
 - (a) "Anandravan" means any member of a *tarwad* or *tavazhi*, as the case may be, other than the *karanavan*.
 - (b) "Karanavan" means the oldest major male member of a *tarwad* or *tavazhi*, as the case may be, in whom the right to management of its properties vests or in the absence of such a male member, the oldest major female member; or where by custom or family usage, the right to such management vests in the oldest major female member, such female member.
 - (c) 'Major' means a person who has attained eighteen years of age.

Extent.

The Mappilla Marumakkattayam Act (XVII of 1939)

- (d) 'Marumäkkathayam' means the system of inheritance in which descent is traced in the female line.
- (e) 'Minor' means a person who has not attained eighteen years of age.
- (f) '*Tarwad*' means a joint family which includes all its members with community of property governed by the Marumäkkathayam Law.
- (g) "Tavazhi" Cleans a branch of a *tarwad* consisting of a female, her children and all her descendants in the female line.

CHAPTER II

Tarwad and its Management

Duty of the Karanavan to maintain an inventory

Duty of the Karanavan to keep accounts.

- 3. The Karanavan shall maintain a true and correct inventory of all the movable and immovable proper-- ties belonging to the *tarwad*.
- 4. The Karanavan shall keep true and correct accounts of the income and expenditure of the *tárwad*.

Right of anandravans to inspect inventory and accounts.

- 5. (i) The inventory and the accounts of each year of Malabar Era, shall be available for inspection at the *tarwad* house by the major anandravans throughout the month of *Vrischikam* following such year, and any such anandravan may take copies of or

extracts from the same.

- (2) If the inventory or accunts are not made available for inspection as provided for in snb-section (1) the Court of a District Munsiff having jurisdiction over the place where the *tarwad* house is situated may, on application by any major anandravan and after notice to the karanavan, pass an order causing the inventory or accounts to be produced in Court and allowing the anandravan to inspect or to take copies of or extracts from, such inventory or accounts.

Right of every member for maintenance

6. Every member of a *tarwad* whether living in the *tarwad* house Or not, shall be entitled to maintenance consistent with the income and the circumstances of the *tarwad*.
7. Investment of Any surplus left out of the income of a *tarwad* surplus income after providing for the customary or legitimate expenses of the *tarwad* including charges pertaining to the education, marriage, or death of the members of. the *tarwad*, and the charges necessary for *zakat* and the proper maintenance or upkeep of the *tarwad* properties, shall be applied by the karanavan in the purchase of immovable property for the *tarwad* or otherwise invested to the best advantage of the *tarwad*.

Alienation of

8. (i) Except for consideration and for *tarwad* necessity or benefit and with the written consent of the majority of the major members of the *tarwad*, no karnavan shall sell immovable property of the *tarwad* or mortgage with possession, or lease such property for a period exceeding twelve years.

- (2) No mortgage with possession or lease with premium returnable wholly or in part of any such property executed by a karanavan for a period not exceeding

twelve years, shall be valid, unless such mortgage or lease is for consideration and for *tarwad* necessity or benefit.

- (3) Nothing contained in this section shall be deemed to restrict the power of the karnavan to grant in the usual course of management, for a period not exceeding twelve years, any lease without premium returnable wholly or in part or the renewal of an existing kanom.

Debt contracted by Karanavan

9. No debt contracted or mortgage without possession executed by a karnavan shall bind the *tarwad* binding on *tarwad* unless the debt is contracted or the mortgage is executed for *tarwad* necessity.

Immovable property when liable for attachment or sale for maintenance.

10. No immovable property of the *tarwad* shall be liable to attachment or sale in execution of any decree obtained by an anandravan for maintenance, until after the decreeholder has exhausted his remedies, if any, against the personal property of the karnavan or the income of the *tarwad* property.

The Mappilla Marumakkattayam Act (XVII of 1939)

Right to remove karnavan by suit

11. An Anandravan may institute a suit in a Civil Court for the removal of karnavan (i) for any malfeasance, misfeasance, breach of trust or neglect of duty in respect of the *tarwad*;
- (ii) for misappropriation or improper dealing with income or the properties of the *tarwad*;

- (iii) for unsoundness of mind or any physical or mental infirmity which unfits him for discharging the functions of a karnavan;
- (iv) for persistent default in the maintenance of the inventory referred to in section 3 or the accounts referred to in section 4 or in making them available for inspection by the anandravans under section 5 ; or
- (v) for any other sufficient cause which, in the opinion of the Court, makes his continuance as karnavan injurious to the interests of the *tarwad*.

Relinquishment of right of management by karnavan

- 12. Any karnavan may, by a registered document, give up the right of management of the tharavadu

CHAPTER III Partition

Right of individual member to claim partition.

- 13. Any individual member of a *tarwad* may claim partition the properties of the *tarwad* over which the *tarwad* has power of disposal and separate from the *tarwad*.

Right to tavazhi claim partition

- 14. Two or more members belonging to the same tavazhi, may claim to take their share of the properties of the *tarwad* over which the *tarwad* has power of disposal, separate from the *tarwad*, and enjoy the same jointly, with all the incidents of *tarwad* property.

Representation of minor in claim to partition.

- 15. For purposes of sections 13 and 14, a minor member of a *tarwad* shall be represented by his or her mother and in the absence of the mother, by his or her

guardian under the Islamic Law.

Matrilineal System in Malabar

Partition of *tarwad*

16. In a partition of *tarwad* properties, unless two-thirds of the members of the *tarwad* desire to the contrary, the *tarwad* house including the site or sites of any building appurtenant thereto and such other land as is necessary for the convenient enjoyment of the *tarwad* house shall be kept undivided for the common use of all the members of the *tarwad*, in which case the charges of upkeep and maintenance of the *tarwad* house shall be borne by the member or members that live in the house.

Provided that where such house is no longer used or required for purposes of residence or is continually neglected, such house, site or sites, and land may be divided among the members of the *tarwad* entitled thereto.

Ascertainment of share at partition.

17. In case of a division under section 13 or 14, the individual member, or the members of the *tavazhi* as the case may be, shall be entitled to such share or shares of the *tarwad* properties as would fall to such individual member or to such members, if a division *per capita* were made among all the members of the *tarwad* then existing.

Subsequent devolution of property

18. Succession to the property obtained by an Individual member on partition shall be governed by the Islamic Law of Inheritance.

Exemption of Arakkal family from partition.

19. The provisions of this chapter shall not apply to the Arakkal family or to the stanom

properties of the Ali Rajas of Cannanore.

CHAPTER IV

Registration of *Tarwads*

Registration as impartible *tarwad*

20. (1) If within a year from the passing of this Act not less than two-thirds of the major members of the *tarwad* present a petition to the Collector of the district in such form and with such particulars as may be prescribed he shall, after satisfying himself that not less than two-thirds of the major members of the *tarwad* consent and desire the registration of the *tarwad* as impartible, register the *tarwad* as impartible.
- (2) On such registration the provisions of Chapter III shall not apply to such *tarwad* unless and until the registration is cancelled under section 21.
- (3) During, the pendency of a petition under subsection (1) of this section, all proceedings in Court if any under Chapter III shall be stayed.

Cancellation of registration

21. (i) If at any time after the registration of a registration, *tarwad* as impartible, not less than two-thirds of the members of the *tarwad* present a petition to the Collector in such form and with such particulars as may be prescribed for the cancellation of such registration the Collector shall, after satisfying himself that not less than two-thirds of the major members of the *tarwad* consent and desire the cancellation of the registration, cancel such registration.
- (2) On such cancellation the provisions of Chapter III shall apply to such *tarwad*.

Collector's powers

22. The Collector shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely:
- (a) Enforcing of attendance of any person and examining him on oath or affirmation;
 - (b) Compelling the production of documents; and
 - (c) Issuing commissions for the examination of witnesses; and any proceeding before the Collector under this chapter shall be deemed to be a judicial proceeding.

Collector's order to be final

23. The order of the Collector registering a tarwad as impartible under section 20 or cancelling such registration under section 21, shall be final and shall not be questioned in any Civil Court.

Collector to maintain a register.

24. The Collector shall keep a register of all petitions presented to him under sections 20 and 21 and of all orders passed by him on such petitions and shall, on payment of the prescribed fee, give a copy, certified under his hand, of any entry therein.

CHAPTER V

General

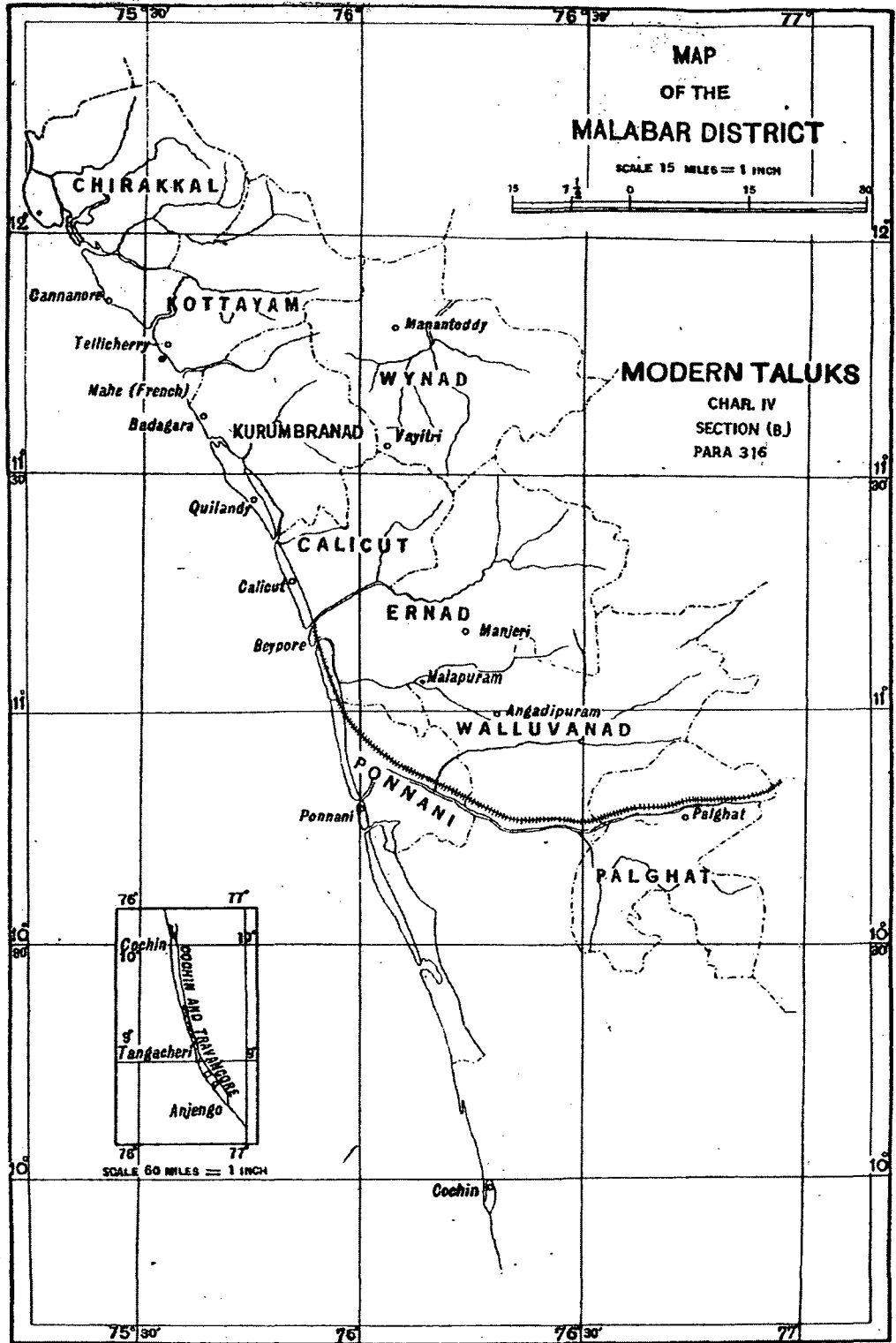
Chapters II and III 25. The provisions of Chapters II and III shall to apply to tavazhi apply to every tavazhi possessing separate properties as if it were a tarwad.

Provincial Government to make rules consistent with Act t to carry out the provisions

26. The provincial Government may make rules thereof and these rules shall have effect as if enacted in this Act from the date of publication of the same in the Fort. St. George Gazette.

Savings.

27. Nothing contained in this Act shall be deemed to affect the provisos of the Mappilla Succession Act, 1918, or of the Mappilla Wills Act, 1928, or of any law or custom or usage except to the extent expressly laid down in this Act.



Reg. No. 773 51 - 533

Photo-Zinco Press, C. S. O., Madras.

Source: Logan, William. *A Collection of Treaties, Engagements and Other Papers of Importance Relating to Malabar*, Vol. 2. Madras: Government Press, 1951.

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