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# ***Stridhanam*: Rethinking Dowry, Inheritance and Women's Resistance among the Syrian Christians of Kerala**

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**Abstract:** The property experiences of Syrian Christian women in Kerala, India, viewed in the contexts of their kinship positions (as daughters, sisters, wives, mothers and widows) and spatial arrangements in natal, conjugal and affinal households, provide a more nuanced understanding of dowry and inheritance practices than the decontextualized generalizations offered by the dominant theoretical paradigms. Depending on their kinship positions, the mutuality of kinship with men, the diverging interests of natal, affinal and conjugal households, the relative strengths of patriarchal hegemony and counter-hegemony and the accessibility to the secular legal system, women respond to property disputes by acquiescing, accommodating, bargaining or overtly resisting. These experiences, while questioning some of the paradigmatic explanations of Indian dowry, add a new dimension to the growing literature on women's resistance and help establish a much needed linkage between the study of dowry and that of women's resistance.

**Keywords:** dowry, testamentary inheritance, intestate succession, kinship mutuality, patriarchal hegemony, bargaining, resistance

**Résumé :** L'expérience de posséder quelque chose chez les femmes chrétiennes syriennes de Kerala, en Inde, vue dans le contexte de leur position dans le système de parenté (comme fille, soeur, épouse, mère et veuve) et de l'arrangement de l'espace dans les résidences conjugales et affinales, offre une compréhension plus nuancée de la dot et des pratiques d'héritage que les généralisations décontextualisées proposées par le paradigme dominant. Dépendant de leur position dans le système de parenté, la correspondance des relations de parenté avec les hommes, des intérêts différents des maisonnées affinale et conjugale, de la force relative de l'hégémonie et de la contre-hégémonie patriarcale, et de l'accès au système légal, les femmes réagissent aux disputes de propriété en acquiesçant, s'accommodant, négociant ou résistant ouvertement. Ces expériences qui remettent en question quelques unes des explications paradigmatiques de la dot en Inde, ajoutent de nouvelles dimensions à la documentation existante sur la résistance des femmes et contribue à établir un lien qui manquait entre l'étude la dot et celle de la résistance des femmes.

**Mots-clés :** Dot, héritage par testament, succession sans testament, mutualité entre membres de la parenté, hégémonie patriarcale, négociations, résistance

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On February 23, 1986, the Supreme Court of India struck down the Travancore Christian Succession Act, which stipulated that a daughter's share of her father's intestate property would be Rs. 5 000 (\$165), or a quarter of the share given to her brother, whichever was less, and that she would lose her right even to this share if she had been given or promised *stridhanam*, or dowry, by her father. The Travancore Christian Succession Act had been in force since 1916, as the operative law of intestate succession among Syrian Christians, in Kerala, South India, notwithstanding legislative changes during the British rule in India and after India's independence in 1947.

The Supreme Court ruling was the culmination of a long legal battle launched by Mary Roy, a married and separated Syrian Christian woman, against her brother who had evicted her from their father's intestate property. Mary challenged the Travancore Succession Act on the grounds that it was unconstitutional and violated Article 14 of the Indian Constitution, which enshrines gender equality as a fundamental right. In the Supreme Court appeal, Mary Roy was joined by two co-petitioners, both Syrian Christian and unmarried single women, who were also battling their brothers against eviction from the intestate properties of their fathers. The Supreme Court held with the three petitioners, repealed the Travancore Christian Succession Act (TCSA), and replaced it by the Indian Succession Act (ISA) of 1925, which stipulates gender equality in intestate succession.

In this paper, I use the Mary Roy case as the backdrop for discussing dowry and inheritance practices among urban, middle-class Syrian Christian families in Trivandrum, the capital city of the Southern Indian state of Kerala. Specifically, I focus on women's rights and responses in three areas of property devolution, viz., intestate succession (inheritance of property without the owner's will), testamentary inheritance (inheritance based on the written will) and dowry prestations. The

data used in this paper was gathered from more than 100 households involving over 500 marriages, during my field research on the marriage and dowry practices of Kerala's Christian community. My field data including interviews of women and case studies of women in property disputes are representative of the experiences of Syrian Christian women in a variety of property situations. My purpose is to use these property experiences to revisit some of the well-established generalizations about dowry and inheritance in India.

Women's contestation of unequal inheritance and dowry practices is not a new phenomenon in Kerala or elsewhere in India. However, writings on Indian dowry are devoid of any perspective on women's responses to property inequities while the literature on resistance has failed to consider these responses as examples of women's resistance to gender discrimination and underlying cultural ideologies. It is also my purpose in this paper to use the property experience of Syrian Christian women to establish linkages between the study of dowry, on the one hand, and the study of women's resistance to property discrimination, on the other. It would seem that these two areas of study have developed in relative isolation in the literature on South Asia.

The dominant dowry paradigms (i.e., structural-functional, structuralist and cost-benefit interpretations of marriage prestations) suffer from two mutually reinforcing shortcomings, *viz.*, the tendency towards decontextualized generalization (see Comaroff, 1980) and the absence of a gender perspective that arises from a failure to include women's experiences and voices in regard to dowry and inheritance issues. Discourses on dowry have generally centred around the regulatory and functional aspects of dowry in the hypergamous, stratified South Asian societies: as "gift" for perpetuating alliance and affinity (Dumont, 1966 and 1983; Yalman, 1962); its role in determining status (Caplan, 1984; Goody, 1973 and 1990; Tambiah, 1989); and its compensatory role as payment for contracting an advantageous alliances for the bride's family (Spiro, 1975). Discussions on dowry have also been framed within, as well as critical of, the inheritance aspect of dowry. Thus dowry has been differentiated either as the "inheritance" of women (Goody, 1990; Goody and Tambiah, 1973), or as their "disinheritance" (Kishwar, 1986; Sharma, 1984).

Arguments about the assumed unity or the diversity of Indian kinship systems have also been phrased in terms of the mediating role of dowry and women's property in systems of kinship and marriage (Goody, 1990). Dumont (1966), downplays north/south differences in kinship systems in favour of conceptualizing affinity as a

general principle of Indian kinship. He regards dowry and continuous gift-giving (see also Vatuk, 1975) between kin and affines in North India as the functional equivalent of repetitive alliances through classificatory cross-cousin marriages in South India. Others such as Karve (1953, cited in Goody, 1990: 234) contrast the two systems on the basis of village exogamy, the low status of women, the absence of close-kin marriage and patrilineal inheritance in North India, as opposed to bilateral kinship, the endowment of land to women, classificatory cross-kin marriage and the higher status of women in South India.

My data on the Syrian Christians and my observations of other communities in Kerala, suggest a re-analysis of these arguments at four levels: property devolution, kinship systems, women's property experiences and the legal domain. At the level of devolution, the paradigmatic explanations of dowry and inheritance are useful but partial if considered in mutually exclusive and generalized terms. Dowry and inheritance among the Syrian Christians, as indeed among most South Asian communities, may be described as relating to each other along a continuum: at one end, dowry (immediate or delayed) and pre-mortem inheritance may converge as a single mode of devolution (see also McGilvray, 1973; Yalman 1967) or, women can be the sole inheritors as direct or residual heirs; at the other end, the two may diverge into distinct forms of devolution, with sons acquiring a larger inheritance compared to the dowries of daughters. A growing trend, among households trying to cope with inflated dowry demands, is to sacrifice the inheritance of sons in favour of dowries for daughters. The myriad ways in which women respond to practices of testation, dowry prestation and intestate inheritance, discourage a simplistic and generalized reading of dowry in dichotomous terms as inheritance or disinheritance.

At the level of kinship, the Syrian Christian patrilineal kinship system is at variance with anthropological generalizations about Indian kinship and the notion of a North-South dichotomy in kinship patterns and marriage systems. In fact, the South Indian Syrian Christian kinship and marriage systems are analogous to Northern Indian patterns, especially in regard to the prohibition of cross-cousin and close-kin marriages in adjacent generations. As well, the Syrian Christian marriage and inheritance practices differ from those of other Kerala communities, namely, the classificatory cross-cousin marriage and bilateral inheritance practices of the Latin Catholics (who are governed by the more liberal Indian Succession Act of 1925), as well as

the well-known matrilineal *Marumakatayam* inheritance practices of the Hindu Nairs and the Muslim *Mapillas*. As in most patrilineal Indian communities, however, women inherit as “residual heirs” since lineal inheritance is given precedence over collateral inheritance.

Generalizations about kinship, dowry and women’s status have also led to the homogenizing of women’s experiences, which in some ways parallel dominant, androcentric constructions and discourses about kinship systems, women’s roles and women’s nature in early anthropological studies (see Sacks, 1979). On the other hand, feminists’ attempts to offer alternative perspectives to counter and lay bare male biases in theory and practice, have often been at the expense of exploring women’s diversity and multiple experiences (Moore, 1988; Rhode, 1993). As Hawkesworth (1989: 545-546) has argued, the reliance of feminist theories (e.g., Mackinnon, 1993) on a “homogeneous women’s experience” is contradictory to feminists’ general acknowledgment of the historically, contextually and socially variable conceptualizations of knowledge. Such homogenizing and essentialist descriptions of women’s nature, personality and spatial locations by women anthropologists (e.g., Chodorow, 1974; Ortner, 1974; Rosaldo, 1974) have provoked critical responses from women of color (Abu Lughod, 1993; Davis, 1983; Moore, 1988), and from Indian feminists who have attempted to chart their own path, independent of feminist theorizing in the West (Agnew, 1997; Mohanty, 1997).

Writing on the Tamil Hindu women of South India, Kapadia (1995) describes the different ways in which Tamil Brahmin and non-Brahmin women experience the discourses and practices of kinship and marriage. Kapadia argues that while women of all castes are inferior to males in their families and operate under restrictive patriarchal ideologies, the bilateral basis of non-Brahmin kinship, the cross-kin marriage system and the emphasis on matrilineal ties, have historically contributed to the relatively higher status of women of the non-Brahmin castes compared to their Brahmin counterparts. Social and economic changes, however, are weakening traditional bonds of kinship, leading to the emergence of a “hidden” discourse among women on the negative aspects of kinship that counters in many ways the dominant male discourse that defines kinship as “isogamous.” The relevance of Kapadia’s study to my arguments is in her emphasis on the varying experiences of different groups of women and how their responses to gender inequities are shaped by their class, caste and kinship positioning. In a similar vein, Raheja

(1994: 50) describes the oral traditions of rural, North-Indian women in responding as daughters, sisters, wives and daughters-in-law to the dominant discourses and institutions of patrilineal kinship. Menon’s (1996) study of the matrilineal Nayars of Kerala questions the merits of generalizing about the high status of women in matrilineal kinship systems, in the light of women’s kinship experiences that vary across the contours of class and educational and occupational statuses. These studies are breaking new ground by eliciting the multiple voices, experiences and understandings of Indian women about kinship and marriage and their own positions within them, and challenging the dominant, male, upper caste and class constructions of kinship, marriage and women’s status and the theoretical paradigms that are predicated on these constructions.

In dealing with women’s experiences, I suggest a multiple dis-aggregation of women both in terms of their individual situations as daughters, sisters, wives and widows, and their spatial and kinship contexts of natal, conjugal and affinal families. As with critical feminist perspectives within feminist legal discourses (e.g., Kapur, 1992; Resnik, 1996; Rhode, 1993), and anthropological critiques of rule-centred paradigms on marriage payments (e.g., Comaroff 1980), I argue that the treatment and understanding of dowry and inheritance practices would be better served through an experiential analysis of women in their individual situations and property contexts, than by textual exegesis of traditional rules and sacred precepts that have been the main sources relied on by some of the advocates of the dominant dowry paradigms (e.g., Tambiah, 1989; Trautmann, 1981).

Women’s responses in property situations include a range of strategies, from accommodation, acquiescence and compromise, to bargaining with kin, “everyday forms of resistance” (Scott, 1977 and 1985), “occasional resistance” (Moore, 1993) and/or to outright litigation. The cases I describe in this paper, add to Indian and cross-cultural studies on women’s resistance that have examined the counter-culture of female resistance involving simple acts of subversion (Agarwal, 1994a; Hart, 1991; Menon, 1996), culturally legitimate expressive traditions (Abu-Lughod, 1990; Raheja, 1994), as well as the more ingenious strategies that subvert and oppose male scripts of power, dominance and women’s place (O’Hanlon, 1992; Oldenburg, 1991; Ong, 1988; Sen, 1990b). These studies have also shown that the issues of power, hegemony and consciousness are better informed by considering situations of resistance as “diagnostics of power” (Abu Lughod, 1990; Ong, 1988). As I have already

noted, resistance studies in South Asia have not included dowry and inheritance contexts as sites of women's resistance to gender discrimination and kinship patriarchy.

At the legal level, a number of laws enacted both during the British rule and after independence have created a legal climate that is favourable to women's rights. But the exercise of these rights are severely constrained by several factors. The weight of patriarchal traditions are such that the legal recognitions of women's rights do not carry a great deal of social legitimacy (Agarwal, 1994b; Papanek, 1990) and are, therefore, considerably weakened in their application. A corollary of the lack of social legitimacy is the inherent gender bias against women in the judicial system for, as Jethmalani (1995: 19), a well known Indian lawyer and feminist, has noted, "law is constrained by law itself, it has no meaning without interpretation. Law is assumed to be neutral and rational but invariably interpreted and written by men." Both Jethmalani (*ibid*) and Kumar (1993) have commented on the biases against women that are evident in the rulings of India's courts, especially in the dowry death cases that are brought before them. For these reasons, legal feminists have raised the issue of a feminist jurisprudence, because law, as a privileged, male discourse, is oblivious to the disjunction between law and the realities of women's experiences (see Griffiths, 1997; Mackinnon 1989; Rhode, 1993; Smith 1993). The rural women in the North Indian state of Rajasthan, distrustful of the legal forums that privilege males and the upper classes, seek alternative dispute solving mechanisms through the village *mullah*, the Muslim priest (Moore, 1993).

The burden of religious or customary personal laws also weighs heavily against the realization of equal rights provided by the secular laws, especially in the case of women belonging to minority religious groups. A good example of this anomaly is the case of Shahbano, a Muslim woman in the South Indian state of Andhra Pradesh, who challenged her wealthy lawyer husband for continued maintenance even after *iddat* (the three-month period stipulated by Muslim personal law, during which a divorcing husband is obligated to support his divorced wife). In April 1985, one year before the ruling in the Mary Roy case, the Indian Supreme Court ruled in favour of Shahbano, but the ruling triggered strong protests by Muslim clerics and political leaders and the Indian government went so far as to amend the constitution and pass the Muslim Women (Protection of Rights in Divorce) Act to override the Supreme Court ruling (for details of the Shahbano case, see Awn, 1994; Pathak and Sunder Rajan, 1989).

It should be noted that equal inheritance rights in law are limited to intestate inheritance and are not applicable to testamentary succession. The latter is entirely left to the discretion and good will of family members. The Dowry Prohibition Act enacted in 1961 by India's central Parliament has not reduced its practice among the Syrian Christians and other Indian communities. In a sense, the legal prohibition of dowry amounts to a refutation of the religious and customary textual validation of dowry that the dominant dowry paradigms have relied on. However, by making dowry transactions illegal, the Dowry Prohibition Act has unintentionally removed the traditional safeguards that were available to women, such as the public announcement of dowry and the custom that allowed women to reclaim their dowries from their affines in the case of divorce or widowhood. Furthermore, the prohibition of dowry without providing for gender equality in property inheritance, has left little choice for the Syrian Christian women except to rely on dowry as the only mode of property inheritance.

In developing a framework to examine women's responses to property situations, I have drawn from a number of theoretical sources. Households as sites of property devolution and dowry transactions seldom operate according to the premises of formal economic models that presuppose the operation of altruistic, voluntary and optimal transactions within households (Folbre and Hartmann, 1988). Recent household models have developed analytical concepts such as "co-operative conflicts" (Sen, 1990a), "patriarchal bargaining" (Kandyoti, 1997) and women's "fall-back position" (Agarwal, 1994b), as tools to study gender disputes over resource allocations and entitlements within households. Amartya Sen (1990a) considers household interactions as involving both co-operation and conflicts, in which household members benefit equally, or some more so than others. Women's responses in conflict situations can also be identified as "patriarchal bargaining" occurring under conditions of "classic patriarchy": women bargain with male kin by exerting "all the pressure they can muster to make men live up to their obligations in exchange for submissiveness and propriety" (Kandyoti, 1997: 472). But patriarchal bargaining, as the term suggests, is unequal bargaining, with women invariably being the weaker partners in the bargaining process, partly because women often lack independent resources or the legal and community support that would strengthen their "fall-back position" in situations of conflict. Their weakness may also be attributed to what both Sen (1990a) and Agarwal (1994a) describe as the emotional dimension of gender relations within households and the paradoxical position of women who are caught

between their endearment to kin and the pursuit of individual well-being. For their part, the Syrian Christian women speak of the tension in property situations emerging from their "moral dilemma" of having to choose between gender equality and kinship obligations, because the ideological burden of preserving the moral requisites of family unity rests heavily, if not solely, on the shoulders of women.

The Gramscian notions of hegemony and counter-hegemony (Femia, 1975) are also instructive in understanding women's experiences of and responses to property situations, especially when, at one extreme, women play accommodating roles within the patriarchal system including their commitment to or acquiescence with gender discriminatory practices, while, at the other extreme, they are prepared to challenge the system and claim equal property rights. As Comaroff (1994) suggests, dominant ideologies may disappear into the domain of hegemony, becoming the common sense, naturalized and often invisible elements of a shared world view. Women often express and acquiesce with the hegemonic world view, which includes kinship norms and gender role expectations and operate as the agents of patriarchy in property situations and in gender socialization. Women's acquiescence with or accommodation of male privileges and restrictive gender and kinship practices cannot be dismissed as "false consciousness" (*pace* Scott, 1985). However, a mystification of consciousness (Kapadia, 1995) may operate through the "education of consent" (Woost, 1993: 503), which might explain the influence of ideology on women's acceptance of property inequities.

The hegemony of kinship and the socialization of women into traditional gender role expectations notwithstanding, women may rethink their way out of the commonsense and shared world views (Lazarus-Black and Hirsch, 1994) by transcending and challenging the established norms of kinship and gender-role expectations. Women's acquiescence with limiting social practices or their resistance to it must be read as hegemonic and counter-hegemonic processes involving "contradictory series of struggles to reshuffle the inventory of common sense, the sedimented body of knowledge and beliefs about the world and how to act in it" (Woost, 1993). Also, as Amartya Sen (1990: 126) reminds us, we must not take the absence of protests and questioning of inequality by women as evidence of equality; nor should we use them, as Agarwal (1994a) points out, as evidence of women's lack of questioning or perception of inequality. More to the point, women "strategize within a set of concrete constraints" (Kandiyoti, 1997: 86). In the social and kinship context of the Syrian Christian universe, these con-

straints emerge from restrictive kinship and gender ideologies, conflicts between customary laws and secular laws, and the tensions between kinship obligations and property demands involving natal, affinal and conjugal families.

I use the term "kinship mutuality" to describe the state of kinship between cross-sex siblings and between women and their natal and affinal families, and suggest that the state of kinship mutuality is a critical determinant of women's responses in property situations. Property mediates ties of kinship inasmuch as kinship mediates property claims, a point that also emerges from cross-cultural studies on marriage payments. Jack Goody (1990: 271) explains the brother-sister relationship in terms of property claims to land as dowry, or inheritance, and asserts that a woman's relinquishment of her rights to property opens up claims to assistance in other ways. Among the Kandyan Sinhalese in Sri Lanka, according to Yalman (1967), a sister's unclaimed inheritance/dowry gives her the right to make claims on her brothers, while in Bangladesh (Kabeer 1994: 141), even women with independent entitlements "prefer to realize them in ways that do not disrupt kin-ascribed entitlements." Parallel practices in some African communities is the cattle-linked brother-and-sister complex based on bridewealth claims. Among the Tamil, non-Brahmin castes of Southern India, the cross-sex sibling tie is expressed through continuous gift-giving and the obligations of brothers to their sisters and sisters' children and through the marriages of their children (Kapadia, 1995). Non-Brahmin Tamil women seldom make legal claims for property against the interests of their brothers unless the brothers defaulted on their obligations to provide "*sir*" (gifts) to their sisters' daughters during ritual ceremonies marking life-cycle stages. These gifts are considered to compensate for the inheritance forfeited by sisters in favour of their brothers (*ibid.*: 22-23).

While the demands of kinship mutuality among the Syrian Christians are traditionally defined both in reciprocal and normative terms as obligations between kin and by the sentimentality of cross-sex sibling ties (affection, loyalty), there are signs that these moral safeguards for women are eroding. Natal families, particularly brothers who have overextended themselves financially to provide inflated dowry payments for their sisters, are reluctant to provide further support. The individualism of modern nuclear families, and conflicting property interests among conjugal, natal and affinal families are further reasons leading to the decline in sibling support.

At a comparative level, Deniz Kandiyoti's (1997) perceptive study of African women's strategies for keeping

men in tune with their kinship obligations, facilitates an understanding of the state of kinship circumstances in which women's expectations of assistance are not honored by male kin, leading women to openly resist them by maximizing strategies that reinforce their autonomy or to make claims against defaulting men. Griffiths's (1997) study of marriage and law in Botswana focusses on the changing context of male and female marital negotiations and women's ability to overcome the normal constraints of their gendered world to challenge, negotiate with, or take legal actions against males. Her study describes how women's options are severely limited by their lack of access to resources which is often mediated by the familial and social networks to which they belong. Women's position within these networks and their status as wives, mothers and unmarried women, determine the basis for their claims over male kin and their appeal to legal forums beyond the domestic sphere. My thesis, based on the experiences of Syrian Christian women, is that women acquiesce, accommodate or bargain with kin, invoke other subtle forms of resistance, or transcend the more conventional forms of resistance through outright legal challenges depending on a number of familial and societal factors: the mutuality of kinship between women and men; their conflicting loyalties to and the diverging interests of the conjugal, natal and affinal families; their access to the secular legal system that protects gender equality; the influence of customary laws and practices that are in disjunction with the gender-neutral secular laws; and the social, material and kinship constraints faced by women in taking legal action against property injustices.

### **The Kinship Context: Sites of Power and Change**

Kerala's Christian community (about 20% of the state population of over 25 million) is broadly divided into Syrians and non-Syrians, defined primarily by the different sources and timing of proselytization. Among the Syrian Christians, the Northists trace their origin to the high caste (Brahmin and Nair) converts of the 1st century AD, while the Southists (also called the *Kananayites*) claim to be descendants of 4th-century Syrian immigrants. The two groups are largely endogamous. The non-Syrians are the descendants of Christian converts during the post-15th-century colonial period, belonging mostly to non-Brahmin and non-Nair castes. The largest among them are the *Latinkar* (Latin Catholics), who belong to diverse endogamous caste groups, and whose ancestors were converted by the Portuguese missionaries in the 15th and 16th centuries. Both the Syrian and non-Syrian groups are divided into Catholic and Protestant sects and denom-

inations. While marriages between Catholics and non-Catholics as well as between the Syrians and non-Syrians are strongly discouraged, interdenominational marriages within each of the Syrian groupings are common. Non-Syrian groups, on the other hand, are known to contract intercaste alliances but within their own sects (Catholic and Protestants).

The Syrian Christian kinship universe may be described as a "structural system of male dominance" (Omvedt, 1986: 30), that exhibits certain features of "classic patriarchy" such as patrilineal descent and inheritance, the incorporation of women into their affinal families, male control over property and patrilineal joint or extended family living (Kandyoti, 1997). While the traditional extended family arrangements, has largely disintegrated into smaller nuclear family arrangements in the context of urbanization and rural-urban migration, the extended family system of spatially separate but linked families of siblings and parents, continues to be the site where property is devolved and disputes emerge. In most cases, domestic, marital and property matters continue to function under the control of the *girih nayakan* or patriarch (Visvanathan 1989: 1344) of the larger *kudumpam* (family), who also decides on the allocation of dowries to out-marrying daughters and grand daughters and the disposal of the dowries of in-marrying daughters-in-law.

The Syrian Christian system of descent and property devolution is supported by core cultural values and ideologies that are upheld and reinforced at several levels within the Syrian Christian social universe, levels that also inform the sites of patriarchal power and kinship hegemony: family and kinship; customary, or, religious laws, and legal institutions; and the Christian church and community. Women and men are socialized into emphasizing "the sanctity and unity of the Christian family," and accepting male control over property and the mutuality of kinship, which essentially means that women forfeit property claims in return for security, support and protection by men. "A woman must not claim" is a constant refrain among Syrian Christians, and it succinctly conveys the strong convention against women making property claims. The relative contributions of sons and daughters to the families are phrased in terms of kinship and affinity: "sons carry the family name," whereas "daughters join their husbands' families"; "daughters are given a dowry," while "sons receive dowries"; and "sons contribute to family income and ensure parents' security." Ideologically, a more effective strategy is to create the notion of and appeal to women's greater moral good, their sense of fairness and justice, a socializing strategy that Papanek (1990) calls "compensatory justification."

The social reproduction of kinship and community is achieved through arranged marriages within the endogenous boundaries of caste, class, status and the Christian sects. Individual marital choices, which Christians refer to as “love marriages,” are strongly disapproved of, and marriages are arranged through parental mediation with dowries given and demanded according to the wealth and status of families, and the individual merits (education, employment, income, and, in the case of women, physical appearance) of prospective partners. In the absence of close-kin marriages, as found among other South Indian communities, Syrian Christians seldom use the institution of marriage to consolidate property within kinship units, although preserving ancestral property within the family is the most common reason given for excluding daughters from inheriting family lands/houses. However, as in most south Asian communities, marriage and cash dowries are strategically used for establishing alliances within the Syrian middle class and for seeking marital connections within or between status groups and marriage circles.

The devolution of property among Syrian Christians, parallels the dual aspects of kinship and marriage, with inheritance passing along the male descent line and dowry in the form of cash, jewelry and household items passing at marriage to the female. The male line provides the conduit for transmitting land, the *vedu peyer* (house or lineage name), descent and denominational affiliation. The practice of ultimogeniture places the family home and the care of parents in the hands of the youngest son, but there are no fixed rules for dividing property among the sons, which might be based on factors such as available property, sons' financial needs, their fulfilment of family obligations, the father's goodwill and the dowries brought in by their wives. This system of patrilineal inheritance co-exists with a system that recognizes, in the absence of male heirs, women as “residual heirs,” leading to what Goody (1990) and Tambiah (1989) have described as “bilateral tendencies” within patrilineal systems. The alternative to recognizing a daughter as a residual heir is to adopt her husband as the son. They Syrian Christians call the “adopted son” (-in-law) *dattuputran*, and this practice has also been observed among other patrilineal South Asian communities (e.g. see Yalman, 1967, on the Kandyan Sinhalese in Sri Lanka). In the joint-family household arrangements of the past, dowries were merged with the inheritance of their husbands, paralleling women's incorporation into husbands' households. The merging of dowry and inheritance and its control by male affines continues today in spite of nuclear family residential arrangements. The incorporation of women is

symbolically expressed through the wife's appropriation of the family name, denomination and lineage identity of the husband, but incorporation does not imply the severance of the daughter's ties to her natal family. On the contrary, the expectation among Syrian Christians is that a married woman can continue to rely on her natal family for material and emotional support.

The dowry given is “never intended as a gift in any absolute sense” (see Goody, 1990: 169, pace Dumont, 1983 and Trautmann, 1981), but must be returned by the affinal kin to the conjugal home in the form of inheritance given to the son. For the most part, the control of dowry is in male hands, in the hands of the patriarch in an affinal household, and under the husband in the conjugal household. However, as Visvanathan (1989: 1341) has observed, the “staking of conjugal rights and privileges” among the Syrian Christians, is a function of inheritance and dowry prestation. Inheritance not claimed by women from their natal families, or the retention of dowry by their affinal kin, provides women with the right to claim maintenance, respect and emotional and material support from their natal and affinal families. The rights and protection that women enjoy are closely tied to the norms of kinship mutuality, with dowry being an instrument that guarantees the rights associated with such norms. While they have traditionally been informal and unwritten, customary norms have been as effective as legal ones, because they were backed by the community and upheld through informal sanctions.

As in other parts of India, the Dowry Prohibition Act has not been effective in curbing dowry giving among the Syrian Christians. The Syrian Christians use a loophole in the law that allows the transfer of family wealth to daughters as “gifts” or “inheritance,” to continue with the practice of dowry, calling the transaction, the daughter's “share” instead of the customary term, “*stridhanam*.” A traditional safeguard under a patrilineal and patrilocal system of kinship, was the wife's right to the return of the *stridhanam* (dowry) at divorce or the death of her spouse. If the wife died, her dowry would devolve on her children and her husband would be the “vehicle” for the transmission of her dowry to their children. There were also formal rituals such as the *orappa* (announcing and witnessing of the dowry) ceremony and the recording of dowry in the church register, both of which operated as testimony to the transactions that took place. The Christian churches also encouraged dowry giving as they were entitled to a percentage of the dowry. After the Dowry Prohibition Act, dowry is no longer recorded in the church register, and the *orappa* ceremony has become a mere formality for the announcement of marriages. The

exchange of dowry now takes place in private and in violation of the law. This has made women, particularly widows and divorcees, vulnerable to exploitation and abuse by male affines who can now use and dispose of the dowry at their whim. Women are thrown into a legal dead end as they cannot legally claim what is transmitted on their behalf illegally.

In the past, a son's inheritance was measured against the dowry of his wife, while the dowry negotiated for a daughter was predicated on the potential suitor's wealth. Both were part of the process of "status matching," and strict conventions regulated the fixing of dowry amounts among status equals who formed specific marriage circles. These marriage circles are formed by families belonging to named *veedus*, or houses, which operate as status bearing patrilineages. Individual *kudumpams*, or families, are identified by their *veedu peyer*, or "house names" and are classified as "good family" (*nalla kudumpam*), "old family" (*pazhaya kudumpam*), "well-known family," "new rich family" (*puthupanakkara kudumpam*) and so on. "Status matching" has acquired new dimensions in the modern marriage and labour markets, as education, occupation, income and connections to individuals/families in high status positions have come to define the accomplishments of individuals and the collective achievements of nuclear families within the broader extended family grouping. The matching of the bride's dowry and groom's inheritance has given way to the matching of the dowry to the professional/occupational status of a potential groom. This has tended to shift the burden of wealth as a requirement of marriage shared by both families in the past, to primarily the bride's family who now has to provide a substantial dowry regardless of the employment status and earning capacity of the bride.

Compared to many other parts of India, Kerala's women have a high rate of literacy (averaging over 70% for females compared to 80% for males) and high educational and employment achievements. But women's education, employment and contributions to family income are seldom given consideration in dowry assessments. Professionally qualified Syrian Christian women end up paying high dowries to acquire grooms having similar or higher qualifications, a situation that calls into question the compensatory function of dowry as payment for an "economically burdensome woman" (e.g., Boserup, 1970; Divale and Harris, 1976). The dowry as compensation argument is essentially flawed as it obfuscates the actual contributions of women as opposed to "perceived contributions," i.e., social perceptions about women's contributions (Papanek, 1990). The competition for educated spouses has also created what Billig (1972) has called the

"marriage squeeze," to describe the shortage of potential spouses with matching qualifications in the compatible age groups of men and women (see also Gaulin and Boster, 1990). This adds to the already disadvantaged position of educated Syrian Christian women, who find it more difficult to consider marrying less educated men with or without dowry. In contrast, women without higher education but having property to be given as dowry can and do find men with higher education and professional employment.

Kerala sends the largest proportion of Indians to work in the oil-rich Middle East, and the earnings of Middle East migrants have contributed to the raising of dowry levels in the state. For the *puthupanakkarakar* (the new rich and so called on account of their Middle East earnings) among the Christians, dowry is the instrument through which they convert their new found wealth into socially desirable connections or intercaste marriages. Although cross-caste marriages within the Syrian Christian middle class are not common, when they do occur they usually involve the transaction of large amounts of dowry. Additionally, for many young professionals, receiving large dowries is important because dowry provides them the means to acquire the goods and services befitting the lifestyle of established professional families.

Dowry demands are often met from natal family wealth, including the earnings of male members of the natal household and the dowries received by sons/brothers. The demand for scarce urban land as dowry has resulted in the premium pricing of urban land. Families meet these demands by converting patrimonial, non-urban properties into cash and/or urban property. The competitive market for grooms and dowries creates a vicious circle with families demanding dowries for sons and using them as dowries for daughters. The use of dowry in this way operates in ways reminiscent of bridewealth in African societies, as a "circulating pool of resources" between households (Goody, 1973). Additionally, the control and use of dowry by affines transforms the dowry into a marriage payment, a situation that has led to controversial views (Billig, 1992; Caplan, 1984) on the actual direction and destination of dowry as well as the correct term (i.e., groom-price, groom-wealth) to be used to describe the transformed role of the dowry.

These developments have undermined the inheritance of sons in many cases, making some men to be more self-centred and protective of their conjugal interests at the expense of their kinship obligations and continued generosity to their married sisters (see Kapadia, 1995 for similar situations in Tamil Nadu). While Goody (1990: 225) explains the close bonds between cross-sex siblings in



India as replacing the shrinking of wider lineage ties in situations of urbanization and migration, the same circumstances also undermine cross-sex sibling ties. While urbanization is not a new phenomenon in Kerala, urbanization and the scarcity of urban land combine with such factors as the individualization of property interests and the diverging interests of natal, affinal and conjugal households, to weaken the mutuality of kinship between cross-sex siblings and the continued support of married sisters/daughters by their male kin in the natal family. Kinship mutuality and post-marital support have been the traditional compensatory mechanisms justifying women's exclusion from equal family inheritance.

### **The Legal Universe: Intestate Succession and Women's Resistance**

Mary Roy's natal family is generally known in the community as a wealthy and well-established family of Northist Christians with a turbulent marital history. Mary is the eldest in her family of three, followed by a brother and a sister. Her parents were known to have separated after many years of marriage. Mary's "love marriage," without parental mediation and dowry, to a Bengali Hindu Brahmin, also ended in separation after two children. Mary's brother, a Rhodes scholar in Oxford, and later a pickle manufacturer, married a woman working in his factory after his first marriage to a European woman had ended in divorce. In later years, amidst the court battles between Mary and her brother, it was also public knowledge that the marriages of Mary's two children were in difficulties. Those among my informants who took the established line regarding family, kinship and property among Syrian Christians, viewed Mary's property dispute with her brother as inevitable given the family history of unconventional and unstable marriages.

After her separation, Mary took to teaching and moved with her children to Ooty, a pleasant holiday town in the Ghats mountains of the neighboring Tamil Nadu state. She chose Ooty so that she could live in the cottage that her father owned there. When the father died intestate, Mary's brother moved to evict her from the property. Her brother's lack of empathy soured their relationship and forced her to take legal action against her brother in the courts in Tamil Nadu, where the property was located and where she could claim redress under the Indian Succession Act of 1925 that stipulated equal sharing in intestate succession. The Tamil Nadu Courts thought otherwise and held that as a Syrian Christian she should seek redress in Kerala. Mary returned to Kerala and eventually became the Principal of a Girls' school in Kottayam, in central Kerala. She continued her legal bat-

tle with her brother in Kerala, but the Kerala Courts went along with the prevailing case law (following the 1957 ruling in *Kurian Augusty vs Devassy Alley*, cited in Gangrade, 1978) that the Indian Succession Act should not interfere with the customary laws of Syrian Christians. Mary appealed to the Supreme Court of India, and she was joined by two unmarried Syrian Christian women, Aleykutty and Mariakutty, as co-petitioners.

At the time of the appeal, Aleykutty was 60 years old, unmarried, and a retired nurse. The oldest of five sisters and one brother, she had been the main supporter of the family, including her widowed mother. Two of the five sisters had joined the convent, the youngest was a victim of polio, and their only married sister and her child had been deserted by her husband. The dispute began when Papachan, Aleykutty's only brother, assumed control of the 15 acres of the family land left intestate by their father. Even under the Travancore Christian Succession Act (1916), Papachan's mother, Aley Chako, and his unmarried sisters were entitled to limited rights in the estate as widowed and unmarried dependents. The mother was also entitled to an additional portion of the land which she had brought as dowry at her marriage. Another portion of the land had been promised, as dowry, to Mariamma, the only married sister. But regardless of their customary rights and his obligations to them as a son and brother, Papachan evicted his widowed mother and his unmarried sisters from their ancestral property.

The second co-petitioner, Mariakutty was 65, also unmarried, and a retired teacher. Her father had died intestate in 1956 and her mother passed away in 1973. Until 1982, she had lived in the extended family home with her brothers, contributing to the family income from her earnings as a teacher. In 1982, her youngest brother, after his marriage, attempted to "buy her off" by offering her the Rs. 5 000 that she was entitled to as an unmarried woman under the Travancore Act. Mariakutty rejected the offer and left home. Using her savings and a bank loan, she bought land, built a house and lived by cultivating the land.

Two matters were argued before the Supreme Court on behalf of the three petitioners: (1) whether the Travancore Christian Succession Act (TCSA) of 1916, or the Indian Succession Act (ISA) of 1925, was the governing law for intestate succession among Kerala's Syrian Christians; and (2) if the gender-discriminatory provisions under the TCSA should be declared unconstitutional and void as they violated the constitutional guarantee of equal rights for the sexes. On February 23, 1986, the Supreme Court ruled in favour of the petitioners, and declared the 1925 ISA Act to be the governing law of succession among

Syrian Christians with retrospective effect from 1951, the year when the Indian Parliament enacted legislation to enable the replacement of a family of local laws, such as the TCSA, by corresponding national laws (All India Reporter, 1986). The Supreme Court also bypassed the gender issue, arguing that it was “unnecessary to consider” the unconstitutionality of the gender provisions in the TCSA as the law stood to be repealed.

After the Supreme Court ruling, an elated Mary Roy called the judgment “a vital step forward for women,” claiming that she would no longer wear that “shameful price-tag of Rs. 5 000 (which) I had worn in my mind for 25 years” (Arawamudan, 1986: 4). Mary also insisted that she “had not fought for the money...but because she could not stomach the injustice...” (Pillai, 1986: 78). For Mary Roy, it had been a lone battle against her brother, who had the support of their mother and sister and even Mary’s own son. One year after the Supreme Court ruling, Mary publicly vented her feelings in an interview with one of India’s popular women’s magazines in English, *Manushi* (1987: 45-46):

My son has been wooed by them with a rented house, a telephone, a car and a well-paid job in their factory. My son? He has much to gain. He feels rather cheated in not being treated like other males in the community. Therefore, he was quite happy to receive the largesse offered by my brother. I have celebrated one year since I have spoken to any of them. This is the price I have to pay for defying social customs. The family is backed by the bishops and the community. I would have been hounded out of this town except for the fact that I run an excellent school.

Mary’s brother, George, dismissed the argument that Syrian women were denied equal rights by their families and Mary’s own claim for a share of ancestral property. He argued that the Supreme Court ruling was based on the principle of gender equality but had no relation to the specifics of Mary’s individual case. When Mary’s personal case was heard in the District Court of Kerala after the Supreme Court ruling, George proceeded to inform the Court of the generous share Mary had received from the family’s ancestral property. The District Court rejected Mary’s argument that this property was a gift and not an inheritance (Menon, 1997).

The other women in this case faced similar reactions from their families. When Aleykutty filed action against her brother, he threatened Aleykutty, her mother and her sisters with physical violence and the women had to seek police protection. He also produced a will after the Supreme Court ruling which left him and his children the

sole owners of the property. Aleykutty contested the will on the grounds that it was false as their father was paralyzed at the time of its alleged writing. Aley Chako, Aleykutty’s mother, wrote to her son after his betrayal of the women of his family and her sorrowful letter was later published in *Manushi* (1987: 46), and I quote from it:

We did not live happily after your father’s death. For you, my son, my only son, seized his entire property and turned us out of the ancestral home. You decreed that neither I nor your sisters could live there no longer. My shame knew no boundaries. For want of any other remedy, my five daughters and I petitioned the Supreme Court. Now we are all heirs, my five daughters and I, and you, Papachan, are rightful heir only to 2/18th of the share of your father’s property. For, according to the Indian Succession Act, I your mother will inherit one-third of the property and the remainder will be divided equally among sons and daughters.

In the case of Mariakutty, her brothers hurriedly attempted to divide the land among themselves and one of the brothers forged a will which was later rejected by the Court (Agarwal, 1994b: 225, footnote 62). Mariakutty obtained a Lower Court stay order, and after the Supreme Court ruling she went to the Trivandrum Legal Aid Council to help her obtain her share of the property. At the request of the Council, Mariakutty met with her brothers in the presence of a retired judge to resolve their dispute through mediation. After discussing with the parties, the judge advised Mariakutty (*Femina*, 1987: 89):

You have become a heroine among the women of Travancore and Cochin, and you must be prepared to make a tyagam (sacrifice). For instance, you must forget (a) the cost of trees which are valued at Rs. 700 000, and have now been cut down and sold; (b) the cost of the ancestral house which has been demolished; and (c) the cost of immovables which are traditionally the share of the ladies but which no longer exist.

When Mariakutty refused to accept the proposed settlement (Rs. 150 000 for her and Rs. 600 000 worth of property for the brothers), the judge observed “some women are tougher than men.” Rather than persuading the brothers to follow the Supreme Court ruling, the mediating judge was delivering a patronizing lecture to the victim to play the “compensatory” role of the heroine and demonstrate the “compulsory” emotion of *tyagam* (sacrifice), thus appealing to what Goody (1990) describes as “moral considerations” or the greater moral burden of women. Failing to reach an agreement with her brothers,

Mariakutty defiantly proceeded to cordon off a section of the intestate rubber estate, constructed a shelter and began tapping rubber. By so doing she secured protection against eviction under the occupancy laws of Kerala (see Agarwal, 1994b).

For Syrian Christian women and men, the Mary Roy case was a litmus test that divided them for and against the principal petitioner. Mary Roy did not have the sympathy or overwhelming support among the Syrian Christian women and even those who spoke out in favour of equal inheritance rights were strongly critical of her methods—that of drawing her family to courts and flouting existing social norms against women making property claims against their families. Others reiterated the ideals of family unity and stable kinship, and women's role in preserving both. As property claims by women would tantamount to “getting out of the family,” in the words of one informant, social convention dictated that “a woman must not claim” against the interests of male siblings. One of my key female informants, a distant relative of Mary Roy, disagreed with the court ruling, and was critical of Mary's litigation against her brother. She was unapologetic in her views and explained her position thus:

Since sons carry the family name they must be given more, and daughters lose their right to additional “share” of the family property once they have been dowered. We Christians have certain traditions which have to be maintained, since they keep families together. When you go against these traditions, there will be problems. For instance, Mary's parents were separated. When there is such trouble in the family, the children will tend to go their separate ways. Mary is considered to be a strong woman, but very efficient. Her school is supposed to be the best girls' school in Kerala. Yet she is instilling the same qualities of independence in her students. Many of the students are the children of divorced or separated parents. Mary has sympathy for them.

Like my informant, Mary Roy's other detractors also traced the reason for the dispute to the family's chronic history of breaking with community traditions, its unconventional and broken marriages, and Mary's own “love marriage” and separation. Mary's court action was considered yet another example of her reckless disregard for social conventions. Mary's critics took her brother to task as well, for reneging on his responsibility as brother to be sympathetic to the needs of his sister. While many conceded that Mary's brother too had destroyed the tradition of kinship mutuality, not all of them would countenance Mary's overt resistance, insisting instead on the

importance of upholding male privileges in property and the gender-role expectations of women.

Several other Christian women openly supported Mary Roy and welcomed the changes in the law of succession while being frankly critical of the devolutionary practices of their own natal and affinal families. They saw equal inheritance for women as a solution to the vexed issue of the dowry system since affinal families negotiate the maximum dowry knowing full well that women would not be entitled to further shares of the family property. Women's counter-hegemonic responses against the hegemony of kinship and property norms and practices are also influenced by the general climate of gender awareness raised by such issues as dowry deaths and gender violence that continue to be the battle grounds of the Indian and Kerala women's movements. At the same time, even women who are dissatisfied with the form and content of their dowries, or with the inheritance practices of their own natal families, spoke of being caught in what they described as the “moral dilemma” of having to choose between equal property rights and their obligations and loyalty to their families.

When Mary was appealing to the Supreme Court, she wrote to other women to join her in her litigation, but as she later recalled: “the response was tremendous...(but) almost everyone backed out because of pressure from the male members of their family” (Pillai, 1986: 78). Despite the relative prosperity of many Syrian Christian families, women often lack the independent resources necessary to take legal action against their kin. Mary too spoke of material constraints and the lack of kin support as two reasons that prevent women from pursuing their claims in court. A year after the Supreme Court ruling and in marked contrast to her initial jubilant reaction to the ruling, Mary had no illusions about the community's general sentiments, which she described to me in these words:

On the whole, the community was against me, including women. They dismissed my battles for equality as the work of a crazy lady who married a Bengali Hindu. The Supreme Court ruling is a victory for women in a limited sense. It has made men wiser about writing wills, as the court ruling relates to intestate succession only. Not all women will take up the challenge. A woman must have the financial capacity, personality and the support of her husband. I know of only ten cases relating to intestate succession that have come up after the Supreme Court ruling. The idea that thousands of cases exist is exaggerated. The Christian church has done nothing for women but merely subjugated them with the idea of marriage being a sacrament and so on.

The Syrian churches have been the institutional bulwark of the Syrian marriage customs and the system of property transmission. Until the Supreme Court ruling in the Mary Roy case, the Christian Succession Acts of Travancore and Cochin were considered to be religious laws supervening the secular Indian Succession Act of 1925. However, in the wake of the Court ruling, the church leaders took conflicting positions in public. The Syrian Catholic Archbishop of Trivandrum, took a positive view and proclaimed: "The time and conditions when the law was made have changed. I am happy that women have been given equal rights, and the church will not stand in the way" (Pillai, 1986: 78).

In contrast, the Synod of the Christian churches led a pulpit campaign against the ruling and arranged legal counsel to help families draft wills to disinherit female heirs. The Synod was responding to the general concern among Syrian Christians that, with the Indian Succession Act becoming operative retrospectively from 1951, increasing litigation by women, including Christian nuns claiming shares in their ancestral property, would tear families apart (see also Agarwal 1994b). But such fears proved to be unfounded for although the Mary Roy case had inspired some women in similar situations to take legal action and increased awareness among many more of the inequities in the practices of devolution, women generally did not proceed to make actual claims against their families.

Mary Roy's case found its most powerful resonance among four Syrian Catholic sisters who, encouraged by Mary's Roy's example, challenged their three brothers for an equal share of the intestate property. The strong similarity between the disputes is the total breakdown in kinship mutuality between the male and female siblings. The three older sisters were married with dowries and were living neolocally. The youngest sister eloped and married on her own, to escape the restrictions her brothers placed on her individual freedom. The court battle among the siblings was the culmination of a long history of conflict within the family that began while their father was still alive. The father was a wealthy Syrian Christian who owned 300 acres of rubber, coconut and spices. Despite his wealth, he gave his older three daughters "poor dowries" which were not in keeping with the family wealth or status. The sisters were of the view that their father had not "sent them with proper respect" and had failed in his obligation to provide "generous dowries" for them. In addition, he had broken his promise of gifting a piece of land to his oldest daughter which her husband later purchased from his father-in-law. One of them summed up their feelings in the following words:

Our father could have given us much more. He was a strict man who wanted to control everything. He did not send us off properly, in a manner befitting his wealth and status in the community. He was a tyrant and even our brothers had to ask for every cent. Often, our mother wrangled something for them. He wanted to control all the money but because he could not take his wealth with him when he died, he had to leave it behind. Now our brothers have taken over the property and they do not want to share it with us.

The father's will dealt 80 acres of his land to the three sons as their inheritance (*purushadan*) and five acres each to the three married daughters (in addition to the dowries he had already given them). The will left out the youngest daughter who was unmarried at the time of the father's death, as well as about 200 acres which became intestate. The women requested that the intestate property be divided equally among the children. Not only did the brothers refuse but they also tried to appropriate the five acres of land that the father had written to each of the three daughters. The brothers rejected the sisters' claims to their shares of the intestate property because the three older sisters had already been dowered. The brothers also denied dowry to the youngest sister who married a young man of her choice belonging to a different Christian denomination. The three brothers tried to force her into an arranged marriage and went to the extent of restricting her to the house despite their mother's protests.

When the property dispute could not be settled amicably within the family, the sisters took the matter to court. The three older sisters were emphatic that they would not have challenged their brothers if the family had remained united, as "family unity was more important than material gains." What provoked the women to litigation was the intransigence of the brothers, the lack of respect shown to their husbands, the treatment of their mother and the harassment of the youngest sister. When threatened with the loss of their traditional inheritance privileges, the brothers reacted violently, by threatening to assault them, damaging their properties, and maligning them in the community. They even tried to suppress the father's will. The result was a total breakdown in kinship mutuality and the four sisters felt free to openly challenge their brothers.

The sisters were encouraged by the fact that they had nothing to lose since their ties with their brothers were severed and all the sordid details of their quarrel had become public knowledge. Freed from the constraints of kinship norms and obligations of "female sacrifice," "loyalty to kin" and the "subordination of self-interest for the

greater good of the family," the four sisters were able to stake their claims to a share of inheritance, separate from and in addition to the dowry they had already received. The sisters had no emotional attachment to the intestate property that had brought nothing but "trouble" to the family and were prepared to sell off their share of the intestate property after the case was over.

As in the Mary Roy case, the counter-hegemonic efforts of these women were dismissed by many Syrian Christians on the grounds that dowered daughters have no right to family inheritance. However, in responding to community criticism, the sisters were quick to defend their actions, as one of them noted: "They [the community] are saying you have been given *stridhanam* [dowry] and five acres, so why are you asking more; but we as women get *stridhanam* and our brothers get *purushadam* (son's share), so the remaining property must be shared equally."

Apart from the breakdown in kinship mutuality, the specific reactions of the women in the intestate cases can also be explained by applying Bina Agarwal's (1994b: 54) concept of "fall-back position" which she defines as "the outside options which determine how well off he or she would be if co-operation ceased." The women in this case had the support of their affinal families and the resources necessary to fight their brothers. The displacement of the customary laws by gender-neutral secular laws have strengthened women's "fall-back position," and created a counter-hegemonic space that is of special relevance for the resolution of property issues. Mary Roy's case has proved to be a watershed in the development of a counter-hegemonic process among Syrian Christians. The case of the four sisters against their male siblings is another instance of that process that has begun to unfold, however unevenly and tentatively within the Syrian Christian community.

### **The Kinship Universe: Testamentary Succession and Dowry Prestations**

In contrast to the experiences of Mary Roy, her co-petitioners and the four sisters, there are copious examples of married daughters and "incorporated" wives, as well as widowed women, receiving material assistance from their natal families in keeping with the norms and sentiments of kinship mutuality. In these instances, the customary laws are ignored and married daughters are given property under testation or through intestate inheritance, even when they are not "residual heirs." Despite the established view that a dowered and incorporated daughter has no further claims on the property of her natal family, much of what goes on by way of property transmission

depends on the goodwill and discretion of male kin, the quality of kinship, family wealth and the demands of the marriage and dowry markets. Property is transmitted to married daughters as inheritance after their marriage in addition to the dowry they had received at the time of their marriages, while widowed women receive assistance in the form of cash, land, or dowry contributions to their daughters. Unmarried women are accommodated as part of the joint or extended families, or supported by their male siblings. Such assistance and supports cannot be read as "claims" over family property (Agarwal, 1994b: 251), since there is no legal basis in secular or customary laws; but they are significant mechanisms for "opening the door for women to share in the family wealth" (Goody, 1990: 287). In any case, women are not mere "vehicles for the transfer of property to [their] sons" (Agarwal 1994b: 251), although this is true in families without sons who may choose to endow a grandson or a son-in-law. As residual or direct heirs, women receive property in their own right as "daughters" and as "sisters," either as pre-mortem inheritance (Goody and Tambiah, 1993), or as separate dowry and inheritance prestations. Land and houses are deeded to the daughter as an heiress and her dowry may be dispensed with in anticipation of her future inheritance or given as delayed dowry. In cases where women are entitled to family inheritance, hardly any demands are made on dowry although there is little doubt that the entitlements of these women are reason enough for prospective affines not to insist on dowry as a condition of marriage. For instance, when the second of two daughters of Cheria and Rose insisted on marrying without a dowry, her parents had no difficulty arranging a marriage for her within their community because it was known that she stood to inherit the family home and a share of cash. On the other hand, a similar insistence by Theresa, a Syrian Christian welfare officer and without a family property to inherit, resulted in her cross-caste marriage to a Latin Catholic because a marriage within the caste community could not be arranged.

Beena, a young widow, did not receive a dowry at the time of her marriage as her father could not provide a cash dowry by selling off the family land. Three years after her marriage, one of her three brothers gave her a delayed cash dowry from his own earnings. When her father died intestate her brothers gave her an equal share of the family land. Beena wrote her share over to her brothers as she did not want the property to "leave the family." For Beena, the dowry she had received from her brother was compensation enough for the land she had forfeited. She informed me that her brothers' show of support after her husband's death was very reassuring

and she had no doubts in her mind of their continuing support of herself and her two young children in the future. The experiences of women, such as Beena, explain why some women are willing to forfeit their inheritance and their claim on family property. Dowered daughters are also sensitive to the demands that dowry places on their parents and male siblings and are not in favour of making more demands against the interests of their families who may have already overextended themselves in providing dowries for their marriages.

Leelamma, a Syrian Christian Catholic in her 40s, received a dowry of Rs. 40 000 at her marriage and a share of the family property from her father two years later. Her three brothers asked her to transfer her share of the land to them to consolidate all the parcels for development. Leelamma initially refused as she was unwilling to part with the property her father had given her. Besides, she has children of her own and their only income came from a restaurant that her husband and she owned. This led to several disagreements between her brothers and herself. Such conflicts are common, particularly when married sisters must consider the future property needs of their own children. Many months and several arguments later, Leelamma agreed to sign her land over to her brothers believing that it would be in her long-term interest to co-operate with her brothers. She reasoned that "conflicts over property passed from one generation to the next and they are not worth the time, effort and breakdown in family relations which would follow." However, by relinquishing her share, Leelamma was establishing "claims" on her brothers and ensuring her future security by appealing to sentiments of kinship mutuality. Yet even here, moral considerations such as family loyalty and unity took precedence over the anticipated material or emotional benefits that would accrue from the forfeiture of her inheritance. The moral prerogatives of kinship norms (i.e., women must not claim, family unity and female sacrifice) are as important for defining the outcomes of household bargaining involving the genders as the emotional dimension of gender relationships emphasized by Sen (1990a). The outcomes of "co-operative conflicts" may skew the outcomes in favour of men, since women are expected to carry the greater moral burdens of maintaining kinship.

Women who benefit by household devolutionary practices may often act as agents of patriarchy in transmitting their inheritance to male successors. Bina Agarwal's (1994a: 93) question as to why women are sex selective in promoting their son's needs at the expense of daughters and her questioning of "sex-selective altruism" (i.e., a mother's love for her son) have a bearing on women's

"socialization for inequality" (Papanek, 1990). However, as the following example shows, such preferential treatment may not always be directed at sons, but discriminately directed at a daughter who can best guarantee the well-being of a mother. As others (Agarwal, 1994a; Kandyoti, 1997; Papanek, 1990) have noted in different contexts, women as "mothers" may use strategies of devolution in self-interested ways, even if it is at the expense of their daughters.

Kunjamma is a twice married woman of considerable wealth. She inherited the wealth of her first husband George, who died young. As a young widow and mother of two daughters and two sons, she married Mathew, a wealthy widower with a daughter and two sons. Kunjamma is an astute businesswoman with investments in a newspaper business and landed property. She is also a woman of exceptional power and influence in the domestic sphere, with almost total control over her inheritance from her first marriage and gifts of property from her second. Yet, in devolving the property gained from her two marriages, she was more favourable to her sons than to her daughters. Between her two daughters, Kunjamma was selectively favour able to her younger daughter who is married to her step son, the youngest son of her present husband. Her step son/son-in-law would also be assigned the role of supporter of his parents, a role for which he would receive the family home as part of his inheritance, according to the rule of ultimogeniture. Kunjamma gave her second daughter a larger dowry and continued favours in the form of produce from her farm lands. In contrast, Kunjamma arranged her elder daughter Nina's marriage to a Syrian Christian man of lower status for a smaller dowry.

During my conversations with Nina, she accused her mother of favouring her sister over her and attributed the indignities she suffered at the hands of her husband and her affines to the poor dowry she had received. Nina, also interpreted her mother's preferential treatment of her sister as part of her mother's efforts to secure her future security and position in her old age, when she would be constrained to live with her stepson and daughter. Kunjamma explained to me that Nina's small dowry was in Nina's own interest, as anything more would have been appropriated by Nina's in-laws. Such delayed payments are often used to prevent the misuse of dowries, but I have observed this to be a strategy among wealthy families, or families with more status advantage over the groom's family and who are in a better bargaining position, to delay dowry payments or to pay lower dowries to their daughters. In the end, Nina chose to by-pass her mother and complain to her step-father with whom she

had a close relationship. Nina's protests were rewarded, and she was given land to build her conjugal home and promised a "delayed dowry payment" in the form of cash as inheritance for her three sons.

Male-biased inheritance practices frequently generate property conflicts between in-marrying daughters-in-law and out-marrying daughters. Preetha, a young and wealthy widow, is a fortuitous beneficiary and willing executor of the patrilineal rules of inheritance. She had married the only son of a wealthy family. When her husband died young, Preetha inherited her husband's family property from her widowed mother-in-law, who was in turn, the trustee of her husband's property. Preetha's four sisters-in-law had all been given substantial cash dowries but were excluded from the even more substantial family land. Preetha herself has three daughters and no sons, and she transferred the family property to her three daughters as dowries. She gave the largest share and the family home as dowry to her youngest daughter whose husband became Preetha's *dattuputran*, or adopted son (-in-law), who would eventually be the heir to the family property. The adopted son (-in-law), assumed the name and lineage identity of his father-in-law (Preetha's husband). The passage of the family home and land to "affinal outsiders," caused tensions and eventual enmity between Preetha and her sisters-in-law which resulted in Preetha's estrangement from her in-laws.

Out-marrying daughters with similar experiences generally complain about a system that excludes them from their family estate while giving in-marrying women rights of enjoyment and even control over the same property. In the case of out-marrying daughters, the fear of such property being alienated to affinal outsiders i.e., sons-in-law, or being sold, is also given as reasons for excluding women from landed property. Such exclusions are also justified on the grounds that what a daughter loses by way of inheritance, she can gain by her marriage to a propertied man.

The dowries of in-marrying daughters-in-law can be a potential source of acrimony between sons, when the relative inheritance of a son is based on the dowry brought in by his wife. A son who contributes to a sister's dowry, or whose wife's dowry is used for the same purpose, might inherit a greater share of the available family wealth. Thus the early division of family property may be demanded by a son to prevent the dowry of his wife being used for the dowry of a sister, or for paying outstanding family debts. A married brother might also neglect the needs of his married sisters in the interest of his own conjugal family. Such behaviour creates tensions and ill feelings within families and sometimes results in the exclu-

sion of the recalcitrant son from the family patrimony. The dowries of in-marrying women also cause tensions between "co-sisters" (*nathoonmar*—brothers' wives), who compare their dowries and stake claims for preferential treatment in the affinal family.

Despite normative statements linking dowry (of wives) and inheritance (of husbands) and their convergence on the conjugal household, there are many instances where such norms are honoured mainly in the breach. Traditionally, the dispersal of dowries followed the development cycle of domestic groups (Goody, 1990) as the dowry of an in-marrying wife and the inheritance of a son converged as one payment and devolved on the couple when the conjugal house was set up. The times of bestowal often coincided with the building of a separate house, the birth of the first child, or the marriage of a granddaughter. While dowry still devolves in these ways, there are also instances where the dowry remains in the hands of male affines. The customary practice of the family patriarch controlling the dowry was linked to the very young age at which couples married in the past and their residence in extended family households where resources were often pooled and distributed. The more mature age of marrying and neolocal residential practices that are now becoming common, do not appear to have greatly changed the old practices, and even married professionals (male and female) have their dowries controlled or appropriated by the father or the father-in-law. In short, the nuclearization of households has not eliminated the power of family patriarchs who continue to control the properties of married sons and the dowries of their daughters-in-law. The dowry of Elizabeth, a 28-year-old teacher married to an engineer, was used by her father-in-law to settle his outstanding debts. Elizabeth was reluctant to ask her husband about her dowry and will certainly not broach the subject with her father-in-law, since such questions are considered "improper and out of taste." Elizabeth and her husband live in a small, rented apartment on the ground floor of a house. They saved money to buy a piece of land to build their house, and took a bank loan for its construction. There are women like Elizabeth who speak of the difficulties they experience in not being able to use their dowries for the well-being of their conjugal families. Even when dowry is transferred to the conjugal household, it is not the woman but her husband who is usually in control of the disbursement of the dowry. But women seldom complain of this as gender disparity (husband/wife) in domestic property control takes second place to collective conjugal interests. The control of property by affinal relatives is a different matter, however, even though women do not overtly make the control of

dowry and the husband's inheritance an issue in dealing with their affines. The appropriation of the dowries of married women by their affinal families, regardless of their inheritance or disinheritance as "daughters" by their natal families, challenges the view of dowry as female property with the attendant assumption that the dowered women are in control of the use of dowry.

Although women in wealthy middle-class families with male heirs often receive substantial dowries, their dowries are usually less than the shares received as inheritance by their brothers. Susan, a Syrian Christian widow of 42, received a dowry of Rs. 10 000 at her marriage, which she described to me as "a low amount" compared to her only brother's inheritance of a small rubber plantation, which is a lucrative source of revenue in Kerala. As a widow she cares for her three young children, a daughter and two sons. Since Susan was employed as a teacher at the time of her marriage, her father's reasoning was that the dowry should not be too high for an employed woman. Susan disagrees and believes that a woman's employment should not reduce the amount of dowry, as a woman earns "respect in her husband's house" in proportion to the dowry she brings into the marriage. Susan explained that her "poor dowry" had been the subject of ridicule by her "co-sisters," who had brought bigger dowries. Her persistent complaints to her father about her "poor dowry" resulted in her father transferring Rs. 20 000 and a parcel of land to be used as dowry for Susan's only daughter. Her father's "repentance" as she put it, was partly influenced by the loss of her husband. Susan's situation as a widow has been exacerbated by her isolation from both her natal and affinal families. After Susan's father's death, Susan found herself becoming increasingly alienated from both her natal and affinal families. Her widowed mother lives with her brother's family and they have hardly any contact with Susan and her children. Susan and her husband had set up their conjugal household soon after marriage, but her dowry was not released to the couple. It was incorporated into the affinal household, and Susan has no knowledge of how it was used. However, like many other women, she too articulated her rights in customary terms by emphasizing the links between a husband's inheritance and a wife's dowry, and a woman's right to continued affinal support based on the dowry she brings as an in-marriage wife. These expectations have not been met as Susan's affines are neither materially nor emotionally supportive of her even in matters relating to her children's upbringing. As she put it, "widows without kin support should be pitied."

## Discussion

The generalized view of dowry as pre-mortem inheritance and women's insurance in affinal households obfuscates the real issues of women's unequal inheritance, be it pre-mortem, intestate, or testamentary inheritance, and their relative (or varying) powerlessness in property control or property decisions in most households. Further complicating women's position has been the legal prohibition of dowry, which, while hopelessly failing to curtail its practice, has made it impossible for women to reclaim their dowries from defaulting in-laws. Traditionally, widowed and divorced women were able to reclaim their dowry, a practice that operated to ensure women's economic security. Unlike women who can now legally demand equal shares in intestate inheritance, Syrian Christian women whose dowries are expropriated by their affines cannot use the law to reclaim them because dowry is illegal. The prohibition of dowry without corresponding legal changes to give equal inheritance rights to women, has left women with no option but to rely on dowry as their only means of securing their rightful share of parental property. For this reason, many women in Kerala and elsewhere in India, are supportive of the dowry practice even though it is prohibited by law on their behalf.

It is equally misleading to summarily dismiss dowry as women's disinheritance. Syrian Christian women, like women in other Indian communities, receive inheritance as residual heirs, which might be given entirely as dowry at the time of marriage or given as testamentary inheritance after marriage. While Syrian Christian women receiving dowry were not eligible for further inheritance under the now defunct Travancore and Cochin Succession Acts, as a result of the Mary Roy case Syrian women can now demand equal shares of the intestate family property after discounting the daughters' *stridhanam* and the sons' *purushadan*. Furthermore, the giving of dowry does not signal a woman's material severance from her natal family, as married women do expect and receive continued material and emotional support from their natal families.

The myriad of property situations and women's varying responses among the Syrian Christians and other Indian communities, suggest that dowry and inheritance practices are along a continuum from equal, pre-mortem and/or delayed inheritance, to unequal inheritance as well as separate and discriminatory dowry payments. The nature and the outcome of post-marital property experiences and women's responses—whether they involve acquiescence, accommodation and compromises or resistance in the form of patriarchal bargains, complaints and



outright litigation—depend on how men and women, as spouses, identify themselves with the interests of their conjugal families as opposed to their extended families, and on the state of kinship mutuality between men and women as consanguines. However, women's claims against their cross-sex siblings and their natal families in furtherance of their conjugal family interests should not be taken to mean that women are assuming equal control over property matters, or are having an equal say in property decisions in their conjugal homes. While inter-family conflicts certainly presuppose conjugal co-operation and mutuality, they do not necessarily mean conjugal equality.

The Supreme Court decisions in the Mary Roy and Shahbano cases are important legal milestones in the Indian women's march to gender equality. However, the successful political protests against the Shahbano ruling underscored the absence of social and political legitimacy associated with the Muslim women's claim to gender equality in law. Although there was no political or religious opposition by Syrian Christians to the ruling in the Mary Roy case, there was ample evidence of gender bias in the judicial system both before and after the Supreme Court ruling, as well as in regard to the case involving the four sisters. A number of Syrian Christian women, besides the litigants referred to in this paper, have indicated to me that the gender bias in the judicial system is a major reason for women's distrust of the legal process and their reluctance to take the legal route to claiming equal shares with men in intestate succession. Needless to say, Syrian Christian as well as other Indian women are always under kinship and social pressures to forego such claims in the name of family unity and values and women's special role in preserving them.

The "moral dilemma" of Syrian Christian women in choosing between their legal rights and their kinship obligations is a manifestation of the tension between the hegemony of traditional cultural norms and religious laws, on the one hand, and the counter-hegemony generated by secular laws, awareness of legal rights and the discourse around gender equality, on the other. If the former has contributed to women's consent to and their commonsense acceptance of the patriarchal system of property devolution, the latter facilitates the education of women's dissent and their empowerment in their quest towards equality.

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