Ruth Macrides

Dowry and Inheritance in the Late Period: some cases from the Patriarchal Register

The Vienna manuscript which constitutes the register of decisions and other statements issued by patriarchs and their synods in Constantinople in the years 1315 to 1402 provides the largest surviving collection of Byzantine cases involving family property¹. Whether the great activity of the church in this area is a consequence of the breakdown in central authority which began in the years before the Latin conquest of Constantinople and continued in the Palaeologan period or is yet another manifestation of the church's internal development reflected in other areas also from the eleventh century on, may still be a point of debate². However, it is clear that the register is an unparalleled source for family property law, by virtue of its size alone. There are over 80 cases concerning dowry or other family property from the years 1315 to 1402, with the greatest concentration of cases belonging to the last years, 1394 to 1401³.

Of the cases which people brought to the ecclesiastical court the largest number concerned the woman's marriage portion or dowry, its restoration after the husband's death⁴ and its protection against claims of the husband's creditors⁵, as well as authori-

¹ *Franz Miklosich and Joseph Müller, Acta et Diplomata graeca medii aevi sacra et profana*, I, II (Wien 1860, 1862), hereafter cited as *Miklosich/Müller* I or II. – A new edition of the documents for 1315–1331, with translation: *Herbert Hunger, Otto Kresten, Das Register des Patriarchats von Konstantinopel* (Wien 1981), hereafter *Hunger/Kresten*. – For summaries of the cases and dating see *Jean Darrouzès, Les Regestes des Actes du Patriarcat de Constantinople* I, fasc. v, vi (Paris 1977, 1979), hereafter *Darrouzès*. – A study of the register from the point of view of family law has been made by *N. P. Matses, Τὸ οἰκογενειακὸν δίκαιον κατὰ τὴν νομολογίαν τοῦ Πατριάρχου Κωνσταντινουπόλεως τῶν ἐτῶν 1315–1401* (Athens 1962), hereafter *Matses*.

² The former view is implicit in *Paul Lemerle, Recherches sur les institutions judiciaires à l'époque des Paléologues*, II. Le tribunal du patriarchat ou tribunal synodal, in: *Analecta Bollandiana* 68 (1950) 318–333, reprinted in: *Paul Lemerle, Le Monde de Byzance: Histoire et Institutions* (London 1978) XII, hereafter *Lemerle, Recherches*. For the latter view see *Michael Angold, Η Βυζαντινὴ Εκκλησία καὶ τὰ προβλήματα τοῦ γάμου. Η Συμβολὴ τοῦ Ἰωάννου Αποκαύκου, Μητροπολίτου Ναυπάκτου*, in: *Δωδώνη* 17 (1988), 179–194. – On internal ecclesiastical developments in the eleventh and twelfth centuries see *Ruth Macrides, Nomos and Kanon on paper and in court*, in: *Church and People in Byzantium*, ed. *Rosemary Morris* (Birmingham 1990), 61–85.

³ An explanation for the large number of cases for 1394–1401 is provided by *Lemerle, Recherches*, 320. For other reasons, see *infra* p. 90–91.

⁴ *Darrouzès*, nos. 2048, 2067, 2072, 2301, 2408, 2409, 3023, 3049, 3061, 3136, 3168, 3247.

⁵ *Darrouzès*, nos. 2109, 2111, 2115, 2967, 3084, 3104.

sation of sales of dowry or other property when the husband or wife were minors⁶. The other main group of cases concerned rights of inheritance to paternal or maternal property⁷.

Ecclesiastical officials performed the following services in connection with the cases which came before the synod: the instruction of women concerning their rights over their dowries⁸, the taking of an inventory of the property found at the time of the husband's death⁹, and the evaluation of property prior to its sale¹⁰.

The social standing of litigants, who were from Constantinople¹¹, was diverse. It ranged from those of a low status, identified by name alone, to those of some standing who had a *κῦρ* or *κυρά* before their names, to title-holders¹² and finally, at the top of the scale, people described as relatives of the emperor¹³. Women are very prominent among litigants: where a woman's own property was at stake, she almost always brought the case to court herself¹⁴.

The value of dowries also varied considerably, from a few hundred hyperpyra or less, to 3000¹⁵. Givers of dowries were fathers or mothers but also godparents and adoptive mothers¹⁶. Cash, jewellery, household utensils and furnishings constituted the most usual movable property, while vineyards, orchards, houses and workshops were the most commonly mentioned immovables. A more unusual form of property was the income from an icon of the Theotokos which a sister and brother shared¹⁷.

The political events of the last ten years of the fourteenth century intrude in the cases of that period and have direct consequences for property and for the documents which supported claims to property. In some cases the connection is made explicitly; in others it can be inferred. The phrase 'the anomaly and confusion of the times' is a leit-motif in the cases of the 1390s and 1400¹⁸. It refers to the struggles between John VII and Manuel II, to the Turkish siege of Constantinople which began in 1394 and lasted for 8 years, and to the attendant famine and deprivation. Many families left

⁶ *Darrouzès*, nos. 2503, 3111, 3208.

⁷ *Darrouzès*, nos. 2066, 2072, 2076, 2116, 3109, 3123, 3128, 3129, 3133, 3135, 3142, 3143, 3146, 3161, 3182, 3195, 3201, 3237.

⁸ *Darrouzès*, nos. 2405, 3114, 3140.

⁹ *Darrouzès*, nos. 3046, 3061, 3115, 3123.

¹⁰ *Darrouzès*, nos. 3065, 3069, 3102, 3108, 3109, 3179, 3208, 3240, 3241.

¹¹ The only exceptions were a litigant from Vizye (*Darrouzès*, no. 2066), and a few cases involving people from Thessalonike: nos. 2048, 2109, 2304.

¹² *Darrouzès*, no. 2155: a *domestikos* of the western themes; no. 2195: a *protokynegos*; no. 2300: a *protoierakes*; no. 2301: a *megas ermeneutes*; no. 2405: a *pinkernes*; no. 2043: a *megale papiaina*.

¹³ *Darrouzès*, no. 2043: the *megale papiaina* and aunt of the emperor; no. 3113: aunt of the emperor.

¹⁴ These women are widows, except in two cases: *Darrouzès*, nos. 2424–2427 (one case) and no. 3136.

¹⁵ For the top of the scale, *Darrouzès*, nos. 2155, 3061, 3092, 3123.

¹⁶ *Darrouzès*, nos. 2424, 3213: adoptive mother; no. 3194: godmother; no. 3142: either adoptive mother or godmother. See also note 46 below. – For the provision of dowries by godparents and adoptive parents, see *R.J. Macrides*, Kinship by Arrangement: the Case of Adoption, in: *DOP* 44 (1990), 112, 115–116.

¹⁷ *Darrouzès*, no. 3219.

¹⁸ *Darrouzès*, nos. 2967, 3061, 3092, 3109, 3120, 3128, 3208, 3219.

Constantinople, accompanying John VII to Selymbria until his return in 1399¹⁹. The concentration of cases in the register for the year 1400 can be connected with the return of families to Constantinople and the reclamation of their property in the city. The serious economic position in which people found themselves occasioned many other cases in which mention is made of the need to sell land and other property in order to pay off debts and support oneself²⁰. Furthermore, the political instability affected the value of property. Land which lay outside the city and had not been cared for became worthless. A vineyard which had been part of a woman's dowry and had been listed as having a value of 100 hyperpyra at the time of her marriage, 'had been destroyed outside (the city) as a consequence of the confusion of affairs'²¹. It had to be discounted from her son's inheritance. Other property became devalued. Three brothers who wished to sell houses they had inherited from their parents, since 'times were difficult and they were in danger of ruin', sought the help of the ecclesiastical court. An official was sent to determine 'the fitting price for them by way of demolition, for it was not possible to alienate them in any other way'²².

Another important consequence of the times was the loss of documents, in particular dowry contracts which were central to the substantiation of claims²³. To compensate for their loss or misplacement, other forms of evidence had to be used, such as the testimony of witnesses to the contract or, when this also was not available, reliance on the parties to litigation to tell the truth under penalty of excommunication.

While some of the above-mentioned aspects of the patriarchal register are specific to the historical context of the cases, the problems which the cases present to a student of *Rechtsfindung* are not. They are the familiar problems. To begin with, there is an inconsistency in the use of precise terminology. For example, the hypobolon and theoretron are sometimes named but are more often referred to by some other phrase, 'the third', 'a third of the dowry', 'the other usual things'²⁴. On the other hand, a new term, *proikanadochos*, appears in the register, unattested elsewhere²⁵. Furthermore, when laws are mentioned at all, they are indicated in a vague manner: οἱ θεῖοι νόμοι or simply, ἡ νεαρά. In the former case, the laws which are meant have to be recon-

¹⁹ On these events see *John W. Barker*, Manuel II Palaeologus (1391–1425): A Study in Late Byzantine Statesmanship (New Brunswick, New Jersey 1969); – *Elizabeth A. Zachariadou*, John VII (alias Andronicus) Palaeologus, in: *DOP* 31 (1977), 339–342.

²⁰ *Darrouzès*, nos. 3102, 3109, 3208, 3219, 3241.

²¹ *Miklosich/Müller*, II, 386 = *Darrouzès*, no. 3128.

²² *Miklosich/Müller*, II, 356 = *Darrouzès*, no. 3109. – See also, no. 3102.

²³ *Darrouzès*, nos. 3092, 3100, 3128.

²⁴ *Darrouzès*, no. 2048 = *Hunger/Kresten*, no. 22, 225–230: τὸ ὀφειλόμενον κατὰ νόμους ὑπόβολον τῆς προικὸς (226, 13–14); *Darrouzès*, no. 2066 = *Hunger/Kresten*, no. 37, 284–288: τὰ ἐκτὸς τῆς προικὸς ἀνήκοντα ταύτῃ κατὰ νόμους (286, 25–26); *Hunger/Kresten*, no. 90, 514–519 = *Darrouzès*, no. 2123 = καὶ τὸ κατὰ νόμους θεωρετροῦπόβολον (516); *Darrouzès*, no. 3100 = *Miklosich/Müller*, II, 342–343: οὐδόλως ἡδυνήθη συστήσαι ... ὡς παρθένον ἔλαβε ταύτην, ὡς ἂν τὴν τοῦ πενθίμου χρόνου τροφήν καὶ τι ἕτερον ἐκ τῶν τοῦ ἀνδρὸς αὐτῆς ἀποκερδῆσαι πραγμάτων (342); *Darrouzès*, no. 3123 = *Miklosich/Müller*, II, 377–379: καὶ τὰ τρίτα ὑπὲρ τῶν τριῶν καὶ τῶν ἄλλων συνήθων (378); *Darrouzès*, no. 3141 = *Miklosich/Müller*, II, 401–404: χάριν θεωρέτρων (403). – *Matses*, 139–156.

²⁵ See *infra* p. 95 and note 46.

structed from the case²⁶. However, ἡ νεαρά is cited 3 times²⁷, and refers in each case to novel 26 of 1304/6, issued jointly by the patriarch Athanasios and synod and the emperor Andronikos II²⁸. This novel made provision for the tripartite division of a husband or wife's property, when his or her death was followed shortly thereafter by the death of the children. One part of the property was to go to the surviving spouse, another for memorial services for the deceased, and a third to the parent or grandparent of the deceased.

A case of 1348 which came before the patriarch Isidoros and mentions this novel illustrates the difficulties created by less than perfect knowledge of the law²⁹. The wife of the protokynegos Alyates died and her death was quickly followed by that of her children. Her brothers demanded her dowry property and received $\frac{1}{3}$. But then they died and their children, the deceased woman's nephews, brought the case to the synod. They had with them a statement of the patriarch Athanasios which gave their parents the right to $\frac{2}{3}$ of the dowry. The nephews now claimed that they had a right to this because their parents had died before receiving the $\frac{2}{3}$. The party of the dead woman's husband, however, came to court armed with a synodal decision of Kalekas which stated that *neither* according to the letter of the holy law, *nor* according to the novel (that is, novel 26 of Athanasios and Andronikos II) did the nephews' parents have a right to the dowry of their sister. We can only conclude from this case that if the patriarch Athanasios' statement was not a forgery – and it is nowhere stated that this was suspected – he had given a decision which contradicted his own law³⁰.

This case also presents an example of a decision which is not based on any known law but represents a compromise solution of the judge. Isidoros, not surprisingly, found the previous patriarchal pronouncements to be totally contradictory, and so he chose a middle road (μέσσην ἢ μετριότης ἡμῶν χωρήσασα)³¹, allowing the deceased woman's nephews to keep the third of the dowry which they had been wrongly awarded. In another case where the son-in-law brought a case against his father-in-law for the rest of the dowry promised to him, the patriarch's decision states, 'it would be lacking in feeling (ἀσυμπάθεις)' to take away the house in which the father-in-law's other children live in order to satisfy the son-in-law³². The word *oikonomia* is rarely used to describe these solutions³³. This sometimes makes it difficult to distinguish

²⁶ However, in three cases (*Darrouzès*, nos. 2109, 2111, 2115) from the patriarchate of Isaiah (1323–1332), the 'holy laws' always refers to the Synopsis Basilicorum II, 29. 20 (*Zepos*, *Ius Graecoromanum* (Aalen 1962) V, 478).

²⁷ *Darrouzès*, nos. 2048, 2123, 2195. – For the date of the novel see *Vitalien Laurent*, *Les Registres des Actes du Patriarcat de Constantinople I*, fasc. v (Paris 1971) no. 1607, 389–395.

²⁸ *Zepos*, *Ius Graecoromanum*, I, 533–536.

²⁹ *Darrouzès*, nos. 2195, 2296.

³⁰ It is of course possible that Athanasios (1303–1309) made the decision on the right to the dowry before novel 26 was issued.

³¹ *Miklosich/Müller*, I, 273.

³² *Miklosich/Müller*, II, 339.

³³ On *oikonomia* in the patriarchal register see *Carolina Cupane*, *Appunti per uno studio dell' oikonomia ecclesiastica a Bisanzio*, in: *JÖB* 38 (1988), 53–73.

special rulings of particular judges from decisions which represent a more widely-spread interpretation of the law.

In addition to the problems which the cases present for the student of Byzantine legal practice, the body of evidence has limitations for anyone seeking to draw conclusions about the nature of family property in the fourteenth century. The information given in each case is partial and related to the particular case so that, for example, the disputed property is mentioned as having been given in dowry, 'among other things'; the full content of a dowry is rarely divulged. Thus it is not possible to determine patterns of dowry and inheritance within a given family. Questions such as the relative value of dowries given to children of a family, the way in which paternal and maternal property devolved, or whether there was preferential treatment of sons or daughters cannot be answered. A handful of cases might give some information on any of the above but no general picture can be drawn.

Given the above-mentioned problems and limitations, it would be difficult and dangerous to generalise about the evidence presented by the patriarchal register. What follows, therefore, is a presentation of certain aspects of the dowry, both the man's and the woman's, and inheritance.

It is a generally held opinion, even if it is not always explicitly stated, that the flow of property in marriage was in favour of the husband. Certainly, the patriarchal register gives examples of the favourable position of the man in the arrangement of the dowry. The most striking one is contained in a document of 1317 which is a response to the metropolitan of Antalya concerning some problems he raised with the synod. The metropolitan had brought to the synod's attention a custom of the people in the area of his jurisdiction. He claimed that grooms were demanding that some of the dowry be given to them as gifts while the rest be registered in the dowry contract. This meant that if the wife died, only the property registered in the contract would be returned. The rest would remain with the husband. The metropolitan claimed that families were greatly hurt by this practice but were forced into it by men who would not otherwise marry their daughters³⁴.

There are also other examples from the register which seem to underline the advantageous position of men. Three brothers brought a case against their deceased sister's husband. When she married her first husband, their father gave her in dowry half a vineyard and the houses he had in Constantinople. Her first husband died and she regained possession of her dowry. Then Kalomiseidos wanted to marry her but delayed, finally taking her as wife but demanding more dowry. So her brothers, 'moved by brotherly affection for her', gave to her a part of their inheritance from their parents: land, a vineyard, and a house³⁵.

Another case which gives information about the value of two successive dowries a daughter received, shows how the price went up each time. Kouroulakes married his daughter to Magatenos, giving a dowry worth 16 pounds. When Magatenos died, Kouroulakes remarried his daughter, this time to Patrikios, giving him another 4 pounds

³⁴ *Hunger/Kresten*, no. 53, 348 = *Darrouzès*, no. 2083.

³⁵ *Miklosich/Müller*, I, 276–279 = *Darrouzès*, no. 2300.

in addition to the 16. Kouroulakes' daughter then died and Patrikios remarried, receiving a dowry of 27 pounds from his new father-in-law³⁶.

A further indication that it was a man's market has been seen by some in the reduction of the value of the hypobolon which the man contributed to the marriage, from a position of equal value with the woman's dowry in Justinian's time to $\frac{1}{2}$ and then $\frac{1}{3}$ of the value of the dowry by the thirteenth and fourteenth centuries³⁷.

However, against this evidence for the man's advantage, one needs to take into consideration the nature and size of the property which the man brought to the marriage. In the patriarchal register, as in other sources from the tenth century at least, the word *προίξ* is used to refer also to the man's marriage portion³⁸. Unfortunately, the cases in the register do not usually give indications of the value of this property in relation to the woman's dowry. There is, however, one exception in a case of 1400 which supports the idea that the man's dowry had to be at least equal in value to the woman's. Eirene Palaiologina had given her son Alexios a dowry worth more than 1000 hyperpyra. It consisted of a vineyard, houses and a courtyard, a church and a bakery. She had also registered a garden in the dowry contract but made an agreement with her son that she would receive 20 hyperpyra as an income each year from the garden. This agreement was to be kept a secret from Alexios' wife. However, his father-in-law learned of it and brought a case to the ecclesiastical court. He pointed out that the dowry of his daughter, worth 1000 hyperpyra, had been partly expended and had depreciated also in value. This was likely to continue to be the case 'because of the anomaly of the times and want'. He therefore asked that his son-in-law make over to his wife property from his dowry to compensate her in her dowry and that she then have this property as her own dowry. The patriarch decided in the woman's favour: 'from this day these are to be dowry goods and are to be reckoned as such and are to satisfy the 1000 hyperpyra of the dowry of Palaiologos' wife'³⁹. This case then shows that the man's dowry could be the same value and more than his wife's but also that it had to be sufficient in size to restore his wife's.

There are many other examples also of the way in which the woman's dowry was defended against her husband's creditors and in sales transactions. Certainly one generalisation is possible: the protection of the woman's dowry is the most common outcome of the patriarchal decisions throughout the register⁴⁰. This, too, can be seen to balance what appears in other ways to be the husband's advantage. To mention only one of the many cases: Michael Palaiologos, one of the emperor's *archontopouloi*, borrowed 75 hyperpyra from Michael Pothos and gave his vineyard in pawn. He agreed that if he was not able to pay back the loan he would sell the vineyard and pay back the money in this manner. But he sought the patriarch's permission for the transaction

³⁶ *Darrouzès*, no. 2048.

³⁷ On the hypobolon see *Joëlle Beaucamp*, Προικουπόβολον – ὑπόβολον – ὑποβάλλω, in: Ἀφιέρωμα στὸν Νίκο Σβορώνο I (Rethymno 1986) 153–161, and the contributions by *Ludwig Burgmann* and *Andreas Schminck* in this volume.

³⁸ *Actes de Lavra*, ed. *Paul Lemerle*, *André Guillou*, *Nicolas Svoronos*, *Denise Papachryssanthou*, I (Paris 1970) no. 4 (a. 952) 102. – *Peira* 25.10. – *Matses*, 126–129.

³⁹ *Miklosich/Müller*, II, 368–369, 375–377 = *Darrouzès*, nos. 3115 and 3122.

⁴⁰ *Matses*, 89–138; – *Lemerle*, *Recherches*, 321–322.

because both he and his wife were minors (ἀφῆλιξ) and his vineyard was liable to his wife's dowry (σιωπηρῶς ὑποτεθειμένου). The patriarch's decision ensured the wife a compensation from her husband's property for the part of her dowry which had been spent and also for what might be spent in the future⁴¹.

In connection with the dowry and its restitution to the wife or her family, the word *proikanadochos* which appears in two cases of 1400 should be mentioned. A certain Zarachounes left his wife and child in Selymbria and went to Constantinople where he married the daughter of a priest who brought a dowry of 600 hyperpyra to the marriage. After a time Zarachounes' Selymbrian wife came looking for him. The father-in-law in Constantinople, the priest, 'became frightened for his position but also for his daughter and the dowry property'. The patriarch decided in this case of bigamy that Zarachounes must separate from the priest's daughter, return to his wife and child in Selymbria and give back the woman's dowry, in addition to an extra 300 hyperpyra for the *hybris* he had committed. The priest did not have any trouble reclaiming the dowry for, we are told, Zarachounes' aunt who was *proikanadochos*, gave it all back to him⁴². In another case, Maria Ligataraia proved through good witnesses to Tzymides, her *sympentheros*, that she was not the *proikanadochos* of the dowry Tzymides had given his daughter⁴³. In both these cases the *proikanadochos* appears to be (or is thought to be) a relative on the groom's side.

A case of 1330 strengthens this impression. The groom's father, Theodore Padyates, 'received' (ἀναδέχεται) the bride's dowry property which had a value of 36 pounds. He spent it all and then died, leaving a protracted case to be fought by his sons⁴⁴. The use here of ἀναδέχεται would seem to indicate that Padyates was the *proikanadochos*, that is, that he 'took the dowry in surety'. Such an arrangement might be necessary only when the husband was under 25. Although there is no mention of the minority of the husband in any of these cases, it cannot be excluded as a possibility⁴⁵. It is unlikely, however, that the *proikanadochos* describes a new practice; rather a 'new' word is being used to denote something which had been taking place for centuries: the management of the woman's dowry by someone on the husband's side, until the husband came of age to take over this function⁴⁶.

The patriarchal register also contains a few cases which are of interest for the rela-

⁴¹ Miklosich/Müller, II, 382–384 = Darrouzès, no. 3126.

⁴² Miklosich/Müller, II, 401–404 = Darrouzès, no. 3141.

⁴³ Miklosich/Müller, II, 374 = Darrouzès, no. 3119.

⁴⁴ Hunger/Kresten, no. 101, 568–578 = Darrouzès, no. 2155.

⁴⁵ Matses, 89, and Darrouzès, no. 3119, suggest that the *proikanadochos* was in control of the dowry for the period between the betrothal and the marriage. However, in the case of Zarachounes (Darrouzès, no. 3141), at least, the couple was married and the priest's daughter was expecting a child when the bigamy was discovered (Miklosich/Müller, II, 402).

⁴⁶ Matses, 86–89, includes in his discussion of the *proikanadochos* a case (Darrouzès, no. 2409) in which a man is described as ὁ καταστάτης ἀνάδοχος ἀρχήθεν καὶ προικοδότης (Miklosich/Müller, I, 382). He argues (p. 87) that the *proikodotes* is not here the 'giver of the dowry' because the man is also called an *anadochos* which, according to Matses, must mean a (*proik*)*anadochos*. On the contrary, I would argue that the man in question was a godfather who gave the dowry to his godchild. See note 16 above.

tionship of dowry and inheritance and the question of the right of an already dowered son or daughter to inherit further parental property. The decisions show that there was the possibility of further inheritance, even if the larger portion was settled on the child at marriage. However, some siblings clearly regarded their already dowered brothers and sisters as having no further claim on parental property. George Mamalis, one of five children, brought a case against one of his brothers over an orchard which adjoined their deceased parents' home. He claimed that $\frac{3}{5}$ of it belonged to him but that it lay dry and barren because of strife with his brother Doukas over it. Doukas, for his part, insisted that none of his brothers or sisters who had already married and been given dowries by their parents had a share in the orchard. Only he and his younger brother Nicholas were heirs to the parental property, a house and the orchard, because all the others were ἐξώπρικοι⁴⁷, that is, they had been given dowries, while he and Nicholas were still living at home as dependents (ὕπεξοῦστοι) at the time of their mother's death. Doukas was so certain that his dowered siblings were excluded that he was eager to have his mother's will brought forward for inspection. The will however gave an equal share in the orchard to each of the five children⁴⁸.

In another case, the brother, although not wishing to exclude his sister altogether from paternal inheritance, felt he had priority. George Prinkips' father had given his daughter a dowry, not once but three times. To his son he had promised 300 hyperpyra in his marriage contract and some household items. The son lived with his father for a year after he married but did not take the 300 hyperpyra he had been promised, partly because he felt gratitude toward his father for providing a home for him and his bride and also because his father lacked resources. The father then died intestate, leaving only a vineyard. George's sister – who had been given three dowries – now asked for her portion of the vineyard. George came to court to request that he be satisfied first in his dowry, the 300 hyperpyra, before his sister receive anything. The patriarch's decision shows that there was no hindrance to already dowered children inheriting parental property, for the patriarch even suggested that brother and sister collate their dowries and share equally, in addition to this, the paternal inheritance⁴⁹.

From these cases it appears that a marriage settlement was not incompatible with a son or daughter receiving a further portion as inheritance at their parents' death, whether by testamentary or intestate succession. The economic circumstances of the family and the wishes of the parents were the variables. Although, however, a further inheritance was possible, the evidence does not contradict the idea that the dowry settled on a child at marriage did represent the main inheritance of a boy or girl. A case mentioned above shows that an already dowered daughter did not inherit anything upon her father's death⁵⁰. Her three brothers, however, did give her property from their paternal inheritance, 'moved by brotherly affection'. Moreover, evidence from surviving wills of the fourteenth century shows that the testators felt their obligation

⁴⁷ On this term see *Matses*, 181 and note.

⁴⁸ *Miklosich/Müller*, II, 543–546 = *Darrouzès*, no. 3237.

⁴⁹ *Miklosich/Müller*, II, 221–223 = *Darrouzès*, no. 2967.

⁵⁰ See above p. 93 and note 35.

to their children to have ended with the marriage settlement⁵¹. Although a further gift might be made, the bulk of the property had already been given to the children and what remained could be distributed to the church, servants and other relations.

Some of the cases described above underline another aspect of dowry and inheritance – namely that the marriage settlements on older children could limit the dowries and inheritance of other children in the family, especially younger sons. The need to provide the sister of George Prinkips with a dowry three times had reduced his father's means so that George could not even collect his promised 300 hyperpyra. Another father was in danger of losing the home he and his children lived in when his son-in-law demanded the rest of the dowry promised to him⁵².

However, the best example of the problem for younger sons is presented by a long and involved case from the year 1400 concerning Anna Palaiologina, the aunt of the emperor, and her sons⁵³. Her dowry had originally had a value of nearly 3000 hyperpyra but the anomalous and difficult times had reduced this. From her dowry were left only the houses in which the family lived, and a vineyard. These were given in dowry by her husband Branas, when their daughter married Astras. Branas kept some of his own property: vineyards and some houses he had bought. The family was forced to leave Constantinople and went with the emperor, leaving the houses and vineyards in safe-keeping with their son-in-law Astras. While they were away Branas died intestate, leaving Palaiologina with an unmarried daughter and three sons. When this daughter came of age to be married, her mother gave her to Philip Tzykandeles. The girl's dowry was provided mainly by the mother of the emperor John VII and the emperor himself. Anna Palaiologina had nothing to give to her daughter apart from the above-mentioned properties – the vineyards and houses which had been given to Astras in safe-keeping. When peace was made between the emperors John VII and Manuel II and the *archontes* returned to Constantinople and reclaimed their property, she also asked for the property, to give it to her daughter in dowry. But her sons resisted her in this and made trouble for her, saying 'they know one thing only, that these properties are paternal and they want to have what belongs to them from these, as legitimate sons of their father'. Their mother therefore asked the court that her dowry be restored first from this property and that they then take whatever was left over. Since her dowry contract had been lost in the moves and it could not be proved that Palaiologina had received instruction concerning her rights over her dowry when her husband gave it to their daughter, the patriarch decided that she should receive the equivalent of her dowry from the property of her husband. For even if she had agreed to her husband's giving it away in dowry, she had not been instructed in the law which helps her and so her husband owed her what he had given away.

⁵¹ The will of Theodore Karavas (1314) is explicit on this point: *Actes de Chilandar*, ed. *Louis Petit*, supplement to *Vizantijskij Vremennik* 17 (1911), no. 27, p. 61, line 75. – See also *Paul Magdalino*, *The Byzantine Aristocratic Oikos*, in: *The Byzantine Aristocracy, IX to XIII Centuries*, ed. *Michael Angold*, *British Archaeological Reports* 221 (1984) 99–102.

⁵² *Miklosich/Müller*, II, 339 = *Darrouzès*, no. 3096.

⁵³ *Miklosich/Müller*, II, 329–333 = *Darrouzès*, no. 3092.

In this case, as in others without exception, the importance of the restoration of the mother's dowry is upheld by the synod, above all other claims. Yet, at the same time it is clear that the younger brothers who had nothing either from their mother or father were sent away empty-handed, while the two sisters received dowries from maternal and paternal property. For Palaiologina makes it clear that with her restored dowry she intended to fulfil her dowry agreement with Tzykandeles and the patriarchal decision shows that no provision was to be made for the sons⁵⁴.

But the story does not end here. Palaiologina came again in the same year to the synod and reversed her story completely, taking her sons' side⁵⁵. Now she claimed that she and not her husband had given her dowry property to her daughter when she was married to Astras. She had given up any claim to it; therefore the vineyards were the paternal inheritance of her children. She insisted that she would break her agreement with her son-in-law Tzykandeles and give this property to her sons. Because, however, Palaiologina had absolutely no proof for what she now claimed, her case was not upheld. The victorious party, therefore, in this case was the son-in-law Tzykandeles who received the dowry consisting of the much fought-over vineyards.

The motives for Palaiologina's behaviour can never be reconstructed. We can never know why she did not wish to see her sons receive their share of their father's intestate inheritance in the first place. Many unstated factors could have played a part. The knowledge that the younger sons would be able to make their way in society, by obtaining an office and income, in a way their sisters could not, may have been a consideration. Then, too, Palaiologina may have had an agreement with her son-in-law to provide and care for her in old age. Dowry and inheritance must have been used to exercise control over offspring and as a bargaining tool in marriage alliances in a way which is not fully recoverable from our sources.

⁵⁴ *Miklosich/Müller*, II, 332.

⁵⁵ *Miklosich/Müller*, II, 422–423 = *Darrouzès*, no. 3155.