CHAPTER 2

PROPERTY RIGHTS OF WOMEN: THEORETICAL AND EMPIRICAL ANALYSIS

This chapter comprises two sections namely, theoretical analysis on property rights of women and review of literature on dowry and inheritance. Theoretical analysis includes historical perspectives on women’s position in society, origin of male dominance, patriarchy, monogamy, private property and their consequences on women’s rights. The analysis exposes the extent of patriarchal rule manifested in society that has subjugated the property rights of women. Further, cultural perspectives on inheritance and dowry throw light on patriarchal forces and how the significance of women’s ownership of property is crucially linked to the empowerment of women. In the second section, a review of empirical studies on dowry and inheritance, the two prominent ways of acquiring property and their implications on women are dealt with. This exercise brings out the existing studies, gaps in knowledge and the importance of the present study.

2.1. THEORETICAL PERSPECTIVES

2.1.1 Historical Perspectives on Women’s Position in Society

Engels (1948), has described three stages of history, namely savagery (Paleolithic age, barbarianism (Neolithic age) and civilisation (Class society). According to Engels, women occupied not only free but also a highly respected position among all savages and barbarians of lower and middle stages. As far as the right to property, especially land was concerned, the descent was traced through the maternal side. The primitive father did not know that the child had any biological connection with him. The child was the offspring of the female he loved. This fact established an instinctive tie between him and the child. At this stage, he also had no sense of property in the child. The child was the property of his wife and his wife’s brother (Russel 1929). The exclusive recognition of lineage through the mother and inheritance relation that arose out of it, in the course of time constituted
‘mother-right’, that is mother’s right and position as above that of the father (Bhagawat nd).

Women’s role in production, in those days were dominant as regular food supply came through gathering. According to the theory of ‘woman-the-gatherer’, gathering was said to have contributed 60-70 per cent of the entire food production. Gatherers used sticks, bones and hand axes for digging, what was naturally available. Women also discovered the art of cultivating the soil by digging with sticks, an activity which later on led to agriculture (Pandhe 1995). Women had developed the art of producing the potter’s wheel, basket weaving, and many others to support their subsistence production activities (Datar nd). According to Mies (1986), a woman experiences her whole body as being productive. She stated that, female productivity was the pre-condition of male productivity. The theory of ‘woman–the-gatherer’ claimed that women’s productivity was the precondition of all the other human production (Panthe 1995).

2.1.2 Origin of Male Dominance

Women’s significant contribution in production, however took a back seat when men’s exploitative potential, which they gained with the help of tools, took over. This marked the beginning of a process of establishing male dominance. The theory of ‘man-the-hunter’, has tried to provide some explanation regarding the origin of male supremacy through authority over tools of production. According to the theory, through the activity of hunting, men learned the technique of impregnation, and used it to establish their power over women. This exploitative power facilitated to build a patriarchal society (Bhasin 1993).

Russel (1929), has recorded that subjugation of women was brought about during the later period of the neolithic age, which was more of an agrarian type and in need of labourers. Since slave labourers were not easily available, the easiest way to have labourers was to breed them. Thus, women and children became valuable property or economic assets to man. Man became aware that the child springs from his seed and the woman who bears the child and the child become his property. In order to make sure that the woman
and children worked for the man, it was necessary that the institution of the family had to be constituted. Gradually, primogeniture extended family unity to collateral branches and enhanced the power of the head of the family. Men started to create their importance in the family, pushing women to the role of domestic care-taker. Women’s productive role was degraded into a reproductive role. According to Engles (1948), domestic slavery characterised all subsequent forms of subjugation of women.

The husband acquired the right to use the labour power of his wife. The right of the father was established through domestication, confinement and control of the sexuality of women. Control of women’s labour allowed men to control women’s access to productive resources. According to Bhagawat (nd), cattle breeding, working upon metals and weaving produced more wealth. The arrogance of wealth pushed men further towards the front, while women took second position. The patriarchal family which followed, led to the beginning of civilisation (Engels 1948).

2.1.3. Patriarchal Family and Women’s Inheritance Rights

Marx and Engels have indicated that, what had started out as a natural family, based on love, slowly grew into a patriarchal family. The literal meaning of patriarchy, is the rule of the father, or the patriarch. Patriarchy can be defined as a set of social relations among men which, has a material base, and which through hierarchy, establishes or creates independence and solidarity among men enabling them to dominate women (Monteiro 1990). Patriarchy is used to refer to the particular system of family organisation which includes patrilineal inheritance. For, both, Marx and Engels, it was within the family that social division had arisen and the accumulation of wealth and division of labour had originated, gradually transforming the simple relation of the family group into that of the patriarchal family (Coward 1983).

Monogamy, according to Engels, was the first form of family, based not on natural but economic condition, namely on the private property, over original, naturally developed common ownership (Bhagawat nd). With developing productivity in the sphere of
production, larger surpluses were generated, and men started to accumulate private property. Accumulation of wealth led men to transmit their property to their offspring. In order to ensure that the absolute control on property rested in the hands of the patriarch, it was necessary to institute patrilineal mode of transaction. This led to the overthrow of mother right (Engels 1948). Right for inheritance of property came to be radically reordered. Maternal authority gave place to paternal authority. Property no longer passed on from the woman to her clan. Father to son transfer of property became the accepted norm. According to Simone de Beauvoir (1949), the overthrow of mother-right was the greatest historical defeat of the female sex.

2.1.4. Culture and Property Rights of Women

Feminists view the whole practice of inheritance and dowry as a peculiar problem of culture in Indian society. There is a strong grip of cultural element experienced in matters relating to the property rights of women that can be acquired primarily through inheritance in our society. Kolenda (as cited in Basu 2005), had reported that among the Hindu communities in North India, women are packed off with dowry at the time of marriage, thus severing the natal connection with no further claim on share in inheritance. This practice has made these women forgo their claim on land despite being legally entitled to do so. There are instances where women do make a claim on property, and this has often been viewed as being ‘modern’ and as a gesture of greed, selfishness, lack of empathy and love for the natal family and a desire to cause family conflicts. “Woh ayee hak lene” (there she comes to claim her rights!), is the reaction of families towards those women who attempt to break cultural taboos in order to gain their rights (Basu 2005: 151). Basu has further indicated that the myth that women are waiting to seize their rights, grab the property, and destroy their natal family is often used to set up legal avenues to disinherit women. These include the use or abuse of testamentary power, pressure brought on women to write away the share of land to their brothers in the interest of good relations, offering token amount to women in lieu of substantive property, or indefinitely delay the property division.
It is not that the disinheritance of women is part of North Indian culture and that women belonging to other regions do have their rights in property through inheritance. Across the country, the patriarchal culture has been so predominant that even conventionally matrilineal communities in the South and North-East are becoming patrilineal. With no foothold in the natal home, no economic base to call their own, most women have little choice but to see that their marital homes as the only place where they must try to belong and to see their status deriving from their husbands (Kishwar 2005). Trying to make her point in this context, Kishwar states that given a choice between having a piece of land in one’s own name vs saris or furniture, few women would choose the latter. But to expect a woman to refuse the latter when the former is not on the agenda is to ask her to become a martyr for a cause invented by social reformers which will bring her no real advantage. So, according to her just boycotting dowry will not do; there is need to work to extend full inheritance rights to daughters/wives, making women co-sharers of marital property. These are critical gestures that can direct towards transforming ‘culture’ and once this becomes a reality, dowry in its present form is almost certain to disappear. For this, it is also important to engage women in interrogating and resisting the intersection of gender and class oppression (Basu 2005).

2.1.5. Property Rights and Empowerment of Women

Agarwal (1994), has come out strongly for property rights especially land rights qualified by effective control as crucial for women’s empowerment\(^8\) and quest for equality in gender relations. She identified three broad categories of advantages for women having independent land rights:

- (A) Welfare effects: Giving women economic resources independently is likely to reduce poverty and destitution of households. That is, women tend to spend proportionately more resources on family sustenance and hence women’s earnings will have a positive effect on household nutrition, mortality and morbidity.

\(^8\) Empowerment is an active multidimensional process which enables women to realise their full identity and powers in all spheres of life. It can be seen as a continuum of several interrelated and mutually reinforcing components such as awareness about ones situation, rights and opportunities, participation in decision making at home, community and society, access and control over resources. In other words it means being able to ‘create’ from women’s perspectives (Pillai 1995).
• (B) Efficiency effect: Giving women direct ownership can increase their access to credit and technological help, and this will ensure better returns because women tend to be better at paying back loans and at environmental preservations.

• (C) Equality and empowerment criteria: Recognising women as equal heirs has symbolic value, and this is likely to affect women’s participation in the political and social arena. Arguing along the same line of thought, feminists too have come out strongly in favour of women’s ownership of property as it has a positive effect on women’s well-being in addition to its immediate economic benefit. Property ownership i.e., ownership of productive source like land could influence areas such as nutrition, fertility, household decision making and resistance to violence (Basu 2005).

Robin Jeffrey (as cited in Basu 2005), has brought out the importance of women having property ownership. According to him women who had received even minimal land for housing during the land reforms in Kerala, enjoyed much security than those who were left with nothing. Similarly, widows who had minimal property were treated with more care and respect in their families than those without property (Chen and Gulati as cited in Basu 2005). But the reality is that, only a few women in India inherit land and fewer control it. Even those women from propertied households do not own property. The limited access to land and other productive resources due to the traditional patrilineal transmission of property have served to exclude women from institutional credits. Such exclusion or lack of access to resources has been hindering economic productivity of women.

2.2. REVIEW OF LITERATURE ON DOWRY AND INHERITANCE

Disinheritance of women is one of the patriarchal expressions which denies women’s access as well as control over productive resources such as land. Transaction of economic wealth in the form of dowry has been the principal factor for disinheriting women. A review of empirical studies was carried out in the light of objectives of this study on dowry, women’s inheritance rights and issues related with these two practices to unearth the
existing studies in these two areas and also the gaps in knowledge. The review of earlier 
studies is therefore divided into research on practice of dowry and that on inheritance 
rights of women.

2.2.1. Review of Research on the Practice of Dowry

A review of studies on the practice of dowry reveals that extensive research has been 
conducted on attitudes towards dowry, determinants of the practice of dowry and 
implications of dowry. The following section examines the studies on the above 
mentioned three issues.

2.2.1.1 Attitudes towards Dowry

Dowry has been the preferred economic transaction in marriages for many decades, and 
continues to thrive by feeding into the patriarchal interests even in the present. This trend 
has been observed across the country, in the North, North-East, West and in the South and 
cuts across caste, class and religion.

Hooja (1968) had conducted a survey on attitude towards the custom of dowry among 
the three upper castes - Brahmins, Kshtriyas, and Vaishyas and other castes like Scheduled 
and Backward castes in the city of Delhi. The study found that majority of the respondents, 
especially from Scheduled Castes were against the abolition of dowry, for the reason that 
dowry had been an age-old custom and had been an integral part of arranged marriages 
which represented a token of parental affection. A similar attitude was noticed by 
Chatterjee, Singh and Yadav (1971) in four villages in Varanasi District of Eastern Uttar 
Pradesh, Rao and Rao (1980) among college students from two urban communities in the 
State of Karnataka; and Mathew (1990) among post graduate students at Osmania 
University in Hyderabad.

Ethnographic studies of Roulet (1996) and Hesse (1996), in Benares in Utter Pradesh 
and among the wife-givers and wife-takers of the Khatris of Mandi in Himachal Pradesh,
have observed an association between dowry and *Kanyadan*, a cultural practice of bestowing gifts *khusise* (affectionately) to their daughters. A survey by the All India Democratic Women’s Association (AIDWA 2003), among different religious communities, upper castes, Scheduled Castes, Scheduled Tribes, Other Backward Classes, in both urban and rural areas, in different states of India had come out with findings which supported the fact that, dowry was practised since it has been an old custom. This was evident from Assam, Bengal, Maharashtra, Rajasthan, Karnataka, Tamil Nadu and Kerala. The study further found out that Muslims particularly were in support of dowry because Prophet Mohammed gave dowry to his daughter and that the roots of the tradition lie there. It was also noticed that the attitude towards dowry practice differed among different generations where the younger generation were more opposed to the practice than the older generation. This was true according to AIDWA (2003), where a large number of young unmarried girls in Bengal, were against the practice of dowry as compared to the older generation. In Tripura, Utter Pradesh, Uttaranchal, Delhi, Kanpur, Madhya Pradesh, Gujarat, and Andhra Pradesh, also the girls interviewed were against the practice of dowry. They strongly pressed to end the practice of dowry as they felt that because of the tradition their parents were obliged to follow the custom of dowry. Menon’s case study (1981) on the status of Muslim women in Malabar of Kerala found that 50 per cent of the sample of her study was against the practice of dowry and referred to the practice as undesirable.

It was observed that perceptions on the practice of dowry had traditional, customary, and religious bearing and also sentiments attached to *kanyadan*. The practice got deeply ingrained in the culture among different communities, castes and class in urban and rural settings making it difficult even to discard from the mind itself.

2.2.1.2. Determinants of Dowry

Dowry has been practised due to various factors down the ages. The review of studies brings to the fore many of these factors that are still operative in our society. The determinants of dowry were categorised as patriarchal and economic which are discussed in the following sections.
(1) Patriarchal Determinants
Dowry has been practised across communities, among different castes and class categories to promote patriarchal interests such as compensatory wealth for women’s inheritance, acknowledgement of the superior position of the bridegroom, an agent for social mobility through hypergamy to achieve better social standing.

(1) Dowry as Compensatory Wealth for Inheritance
Dowry for women and inheritance for men has been the cultural norm among most communities. To give the impression that women are not deprived from inheritance, dowry has often been represented as a compensatory wealth for inheritance.

Studies by Chatterjee, Singh and Yadav (1971); Naik (1984) on the practice of dowry in Greater Bombay; Kumari (1989) on dowry victims in Delhi, and Madan (1989) on marriage and kinship among Kashmiri Pandits, had observed that, dowry was seen as a sort of a compensation for a daughter’s lack of inheritance rights and for her obligation to go and live with husband and in-laws, leaving her own kith and kin in her parental home, that is, in relation with patrilocality.

Mathew (1990), had recorded similar feelings among college students who felt that both sons and daughters were entitled to inherit parental property and dowry was a compensation given with regard to this. Ethnographic studies of Roulet and Hesse (1996) had inputs which supported the fact that dowry represented property which the parents gave to daughters at the time of marriage or dowry as a pre-mortem inheritance. As per All India Democratic Women’s Association (AIDWA) (2003), a marginal percentage of the unmarried Muslim young girls in Delhi, considered dowry as their legitimate right over parental property. Most of the parents belonging to the Muslim community gave dowry as the daughters’ share in parental property. Lindberg (as cited in Kodoth 2004), had documented a steep escalation in dowry showing a clear transition among matrilineal Nairs and Muslims in Kerala from transacting land as dowry to cash or gold after the 1980s. Only among Christians, the dowry was transacted as a compensatory wealth for the daughters’ share in inheritance.
Therefore, dowry is seen as a compensation or pre-mortem inheritance for girls’ lack of share in parental property in association with the patrilocal status of the bride.

(ii) Dowry as an Acknowledgement of the Superior Position of the Groom
Dowry has been seen as an acknowledgement of the higher status of the groom and his family. The bridegroom’s family try to exhibit a superior status since they consider sons an asset and daughters liabilities or objects to be disposed off at any cost.

Both Naik (1984) and Madan (1989), reported about the uni-directional flow of gifts from wife-givers to wife-takers thereby acknowledging the higher status of wife-takers. The bride’s people constantly had to gauge what the groom’s family expected and then tried to live up to their expectations. Gifts from the bride’s family had to be of that nature which boosted the pride of the husband’s family, otherwise it was seen as an insult. Such research findings were also reported by Mathew (1990) and Kapadia (1993) who conducted a study among non-Brahmin castes such as Lingayats, Muthurajahs, Mudaliars, Chettiars, Christian Pariyar and Scheduled Castes in Tamil Nadu. The acknowledgement of the superior status of the bridegroom has been taken to such extremes that many women were outraged against the demand of educated men for gold as dowry, for making their parents feel inferior and humiliated, and for belittling young women. Dowry has been one such practice that led to the subordination of women through the principle of hierarchy and asymmetrical relation of flow of gifts from wife-givers to wife-takers (AIDWA 2003; Roulet 1996; and Hesse 1996).

Thus, dowry practice has become an acknowledgement of patriarchal ideology that man is superior and woman is inferior, creating a hierarchy and asymmetry between wife-givers and wife-takers, which seemed to be pervasive among different communities across the country.
(iii) Dowry as an Incentive for Social Mobility

Dowry among some castes has been used as a means for social mobility to enter into some higher community through hypergamous marriage, the practice of marrying a girl from a lower caste to a boy from a higher caste.

Oscar Lewi (as cited in Luthra 1983), had found asymmetry in marriage payments between wife-givers and wife-takers, where wife-givers making larger payments in a village in Delhi. This asymmetry was found to be consistent with hypergamy, which especially in North India, was accepted by dominant caste groups. Dowry was given to the daughter for ‘marrying up’ or marrying a superior, which was referred to as a hypergamous marriage. A certain amount of status could be ‘bought’ by a girl from an undistinguished family who got married into a better family through hypergamy by means of a large dowry. Dowry provided a qualification for women to marry ‘upwards’ into high status families. This was observed by Vatuk (1975) among the Gaur Brahmins of Uttar Pradesh; by Bradford (1985) among the Lingayat community in North Karnataka; by Ifeka (1989) among Christians and Hindus in Goa; and by Sharma (1993) in North Indian States like Punjab and Himachal Pradesh. Kapadia (1993) noted that, non-Brahmin Tamils, those who traditionally paid bride-price\(^9\) and belonged to an agrarian background, have started to pay dowry to acquire a hypergamous marriage. This would fetch them well to do and salaried grooms, who were not agriculturists for their daughters. If the parents could not afford, even the well to do brothers financed the dowry amount for their sisters, so that by doing so they hoped to achieve upward social mobility.

Upadhayay (1990), observed that in coastal Andhra Pradesh, urban girls never married ‘down’ to rural boys, but rural girls were married ‘up’, which was referred to as rural-urban hypergamy. Kapadia (1993) too had noticed that the practice of dowry was found to be prevalent among non-Brahminical castes, who emulated the upper caste’s norms and performed marriage rites in Brahminical fashion in order to gain social mobility, through the process of Sanskritisation. The blind imitation of the upper caste norms in the name of

\(^9\) A customary practice among primitive and tribal groups, where the transfer of resources took place from groom’s family to bride’s family in connection with marriage. This could be considered as a compensatory payment to the bride’s family for the production loss they suffer due to the transfer of girl’s labour from natal home to marital home (Rajaram 1983).
the family prestige was observed to be growing among Mudaliars, Chettiars as well as the Scheduled Castes, in Madras though this meant a financial burden to the girls’ parents (The research wing of the Working Women’s Forum as cited in Ranjana 1999; AIDWA 2003). Luthra’s study (1983) among the urban poor residing in the resettlement colony in Delhi has also reported hypergamous marriages, where the girls’ party pays a high amount as dowry in a bid to achieve social mobility. Scarlet Epstein (as cited in Mukund 1999), in two villages in Mandya District of Karnataka, and Khanna and Varghese (1978) in their survey of five zones - East, West, North, South and Central India, showed that, those belonging to the lower economic strata showed favourable attitude towards dowry for the sake of social mobility

The above studies have shown that dowry has penetrated not only different castes but also different classes of Indian society and acts as an agent to achieve social mobility through hypergamy among the inferior castes, a financial incentive to facilitate rural-urban hypergamy and, Sanskritisation. Practice of dowry has thus served to shield patrilineal interest through the institution of marriage.

(2) Economic Determinants

Economic development, liberalisation and globalisation leading to increased production and consumption of physical goods have promoted a dissatisfying consumer culture. Dowry has become a quick means to satisfy the material greed of the bridegroom and his family. There have been many studies that endorse the fact that consumeristic and materialistic greed have been instrumental in the substantial growth of dowry over the years.

As per Ifeka (1989), inflation of gold has been linked to the practice of dowry among Hindus and Christians in Goa, for which price of gold has increased over 100 times in the past 50 years. According to Kapadia (1993), many young Christian women in Tamil Nadu felt that the men were marrying the gold and not them. The demand for gold went to such an extent that educated men started marrying uneducated girls as long as they got the gold they demanded. Roulet (1996) reported that dowry was a representation of consumerism and modernity among some communities in Benares.
According to Gulati (1993), the sudden infl ow of money from the Middle East has influenced the material greed and consumerism in the State of Kerala. This trend has motivated the middle and lower classes belonging to the Hindu and Muslim communities in Kerala to perceive dowry as a means to meet this greed. AIDWA’s (2003) survey shows that, growing consumerism has pushed the dowry demand higher and this has spread to tribal areas in many states. Various channels have been used by the groom and his family to procure dowry, to satisfy consumer and the material greed.

So there is a linkage between the increase in dowry practice and consumeristic and materialistic culture among different strata of society.

(i) **Dowry as a Premium for a Suitable Boy**

Dowry has been considered as price for fetching a groom with a reputed job, a professional or a businessman with a high socio-economic background. The amount of dowry has been escalating over the years among different communities, classes and castes across different States in India.

The craze for a suitable boy has been so much that the educational and employment status of the girls hardly makes any difference in terms of dowry demand. This was brought out by Mehta (1970) in a study conducted among western-educated elite Hindu women residing in Bombay and the United States. A similar trend was noted by Menon (1981) and Devi (1983) among university students in Tirupati of Andhra Pradesh. Studies of Luthra (1983), Naik (1984), Ifeka (1989) and Mathew (1990) too have reported a craze for a suitable groom with a reputed job, or a Non-Resident Indian (NRI) as being the reason for increasing dowry. Caplan’s study (1993) on the practice of dowry among the Protestant Christians of Madras has revealed that, even they have a high premium on dowry.

As per Hesse (1996) and Chowdhry (1997), among the rural elite of Himachal Pradesh and Haryana, agriculture has been regarded as a low-status occupation compared to salaried employment and other professions. For this reason, a well to do farmer would like to marry his daughter to a well-educated boy who is employed or has his own business, by paying a high premium as dowry since there is much prestige attached to the groom’s education and job. Parents of the girls wanted their daughters to have a release from the hardships of
working in the field. Hence the demand for a job holding groom meant paying a high dowry (Upadhyay 1990; and AIDWA 2003). Besides, there has been an increasing male out-migration from rural areas to urban areas, which has led to shortage of males. As getting a suitable match for girls became difficult, dowry gained momentum. This was reported by Kapadia (1993) and Rao in his study (1998) on the potter’s community (Kumbhars) in rural South Karnataka villages.

AIDWA (2003) reported that a marriage market called dulha haat was organised in Bihar, with the help of the State Government. With one round in this haat, a daughter’s marriage was fixed with a premium for a suitable boy. Along with the groom’s family, the middle-man or the agent also made good money by praising the qualities of the groom ‘on sale’ or by pushing the price up.

Many people justified the practice of dowry as a means to recover the investment in their son’s education. This was reported by Rao and Rao (1980) among unmarried college students from two urban communities in the state of Karnataka; Luthra (1983), Naik (1984), Paul (1986) on the practice of dowry in the city of Delhi; Mathew (1990), Kapadia (1993), Caplan (1993), and AIDWA (2003). The girls’ educational background and the expense incurred by their parents on their education were of little consequence.

From the above research studies, it is evident that dowry has been used as a premium to acquire suitable grooms for the girls, by different segments of society.

(ii) Dowry as a Symbol of Prestige

Dowry is considered a symbol for reputation and prestige. Despite the fact that dowry is illegal and calls for penal action, people continue to practise it as a status symbol.

Hooja (1968), Chatterjee, Singh and Yadav (1971), Devi (1983), Naik (1984), Paul (1986), Mathew (1990), Sharma (1993), Roulet (1996) and Hesse (1996) have shown that, dowry was a primary means of calculating ijjat (prestige) where one can define and represent their position as ‘big’ or small’. According to Chowdhry (1997) dowry brought by the bride was to be displayed and anyone who did not display the dowry was automatically assumed to have been married into a poor home or into a home of low caste
(kamino ke ghar). According to AIDWA (2003), dowry was seen as a status symbol to enter into the social circle of the bridegroom and his family.

Thus, it is quite explicit that dowry as a symbol of prestige has permeated across different sections of the society, cutting across different regions and religions to elevate one’s status or ijjat.

(ii) Dowry as a Financial Aid and Circulating Pool of Resource

Dowry was reported to be used as financial assistance and a circulating pool of resource by the groom and his family. By doing so, dowry could meet a lot of aspirations and unmet needs of the boys and their families.

The dowry given to the bride sometimes was used by in-laws for the marriage of their own daughter/daughters which was reported by Devi (1983), Sandhu (1988) on dowry practice among working and non-working women in various departments of the Government of Punjab, Madan (1989) and Mathew (1990). AIDWA (2003) found that among Hindus, Muslims, Christians and Scheduled Castes in Kerala, many parents reportedly said that they had to give dowry as financial support to their sons-in-law. Some looked upon dowry as financial assistance for setting up business for their sons, to start a doctor’s chamber, as ‘donations’ to obtain jobs for the grooms, to go to the Middle East or abroad in search of a job, or for house construction.

Ifeka (1989) noticed that boys had married girls who came with a substantial amount of gold jewellery for their own use as well as cash intended for the couple’s joint use. Caplan (1993) reported a similar trend among the Protestant Christians in Madras, for whom dowry was a resource for the circulation of money within their own community. Such transactions promoted endogamous mode of marriages, so that the dowry or the bridegroom price given or taken remained within the community. Parents of boys were opposed to marriages outside the community because among the other things, it entailed the loss of dowry which in turn affected the circulation of money within the community. Protestant Christians who were not keen to marry within their own community or who did not acknowledge any such affiliation, did not seem to demand dowry. These people were
motivated to insist on equal inheritance rights so that the bride was the primary recipient of the wealth and not her husband’s household.

Thus, dowry does not represent a financial security for the bride herself who is the owner, rather it is used as a source of financial aid for the bride groom and his family thus forming a societal fund.

(iv) Security for the Well-being of Girls in their Matrimonial Homes

Parents of girls are always concerned about the security of daughters in their marital homes and they try their best to keep the in-laws in good humour mainly by satisfying their material expectations either in cash or in kind.

Vatuk (1975) had maintained that, though the daughter is the primary recipient of her parental wealth in the form of dowry, gifts serve to protect and insure the daughter’s future security. Mehta (1970), Luthra (1983), Naik (1984), Kumari (1989), Madan (1989), Mathew (1990), and AIDWA 2003 have similar findings. By keeping the in-laws happy, the girls’ parents thought that it would safeguard their daughters’ position in their marital homes and that their daughters might not be subject to any ill-treatment. Similarly, Roulet (1996) and Hesse (1996) showed that gifts given to girls in the form of dowry, were meant to ‘sweeten’ the relations with the in-laws.

These studies show that the well-being of women in the marital homes again feeds the practice of dowry.

2.2.1.3. Implications of Dowry

The practice of dowry in relation to economic aspects, marriage prospects and married life has severe consequences, causes untold miseries to a large section of women in our society, and contributes to the subordination of women. A closer analysis based on studies carried out covering these aspects endorses the implications associated with dowry.
(1) Economic Implications

There is a tremendous financial burden imposed upon the parents of brides, especially among the economically weaker sections of society because of the practice of dowry.

Many parents of girls have struggled to raise money enough to meet the dowry demands. The practice has placed girls’ parents under considerable financial constraints so much so that, many families have been reduced to poverty (Mehta 1970; Rao and Rao 1980; Devi 1983; Naik 1984; Sandhu 1988 and Rao 1998).

Kumari (1989) and Gulati (1993) observed that parents of girls had to pawn gold jewellery, mortgage lands, sell family assets to raise dowry for their daughters. According to AIDW (2003), poor families lost their sources of income including land in order to give dowry and were even selling plots of land, including share cropped land solely to get their daughters married. Many borrowed money from money lenders who charged high rate of interests which led to debt liability and abject poverty and many parents committed suicide on account of their inability to repay the loan. The money lenders on the other hand thrived on the practice. Some other sources to meet the dowry demand were found to be parents’ provident fund, pension, or the compensation received on taking voluntary retirement. Sometimes local clubs and voluntary organisations came forward to bear the cost. According to Ifeka (1989) some working girls found contributed their salary to the parental cash endowment for dowry.

From the above studies it is clear that the parents of girls are subjected to heavy financial constraints because of the practice of dowry.

(2) Implications for Marriage Prospects of Girls

The economic aspect continues to create tensions regarding the marriage prospects of girls. Difficulty in securing a suitable match and delayed marriages have been reported to be worrisome for parents. Perceiving the girl child as a liability, negative attitude towards womanhood, female foeticide and prostitution were found to be other implications.
Satyabhama’s study in Bihar (as cited in Kumari 1989) indicated the prevalence of the practice of dowry among all classes in both rural and urban areas to such an extent that the girls were unable to find suitable grooms. This kind of situation has induced a kind of fear and anxiety among the girls’ parents (Devi 1983 and Naik 1984). Negative attitudes towards womanhood itself have been created where women were perceived as liability (Hooja 1968; Khanna and Vargheses 1978, and Kapadia 1993).

According to AIDWA (2003) in Bihar, where child marriages were predominant, even when the concerned fiancée was as young as five to six years, dowry was to be given. Worse than this has been the growth of prostitution and sale of girls on account of the practice of dowry. Unable to meet the demands, girls were often pushed into the sex trade by their own parents and even sold so that they were not financial liabilities. In Orissa, some girls were taken into prostitution and some were sold, one of the reasons being the prevailing dowry practice. In Karnataka, among the Bangara families, parents had started to sell girl children, since they could not afford the marriage expenditure.

In order to tide over the financial problems related to marriage, many parents have adopted alternate methods of encouraging intercaste marriages and non-kin marriages, and even go to the extent of getting their educated daughters married to uneducated boys (Caplan 1993; and Kapadia 1993).

What is alarming is the elimination of the girl child through female foeticide and female infanticide, on account of economic constraints. Miller’s study on female mortality in rural North India (as cited in Luthra 1983), observed that, prevalence of the practice of dowry among the propertied groups of North and North-West India, has a bearing on the higher incidence of female mortality. The fear of dowry demand and the economic struggle which the parents have to go through, force the parents to eliminate the girl child.

According to AIDWA(2003), there is an increasing tendency for female foeticide among the Muslims because of the difficulty for parents to arrange for the dowry. This practice was related to the increasing difficulty for the parents to arrange for the dowry for
their daughters. The extent of dowry and its linkage to female foeticide could be seen in the fact that in a village in Madhya Pradesh, there has been no baraat (marriage party from the groom’s side) in the past 25 years as there was no girl ‘born’ in the village. In parts of Morena Disttrict, girls were killed as soon as they were born. Gujjars (a particular community) felt that having a daughter was the biggest curse possible because when they have to be married, the parents have to bow their heads before the grooms’ family. The study reports that there has been a decline in the sex ratio in Haryana for the same reason. Kerala also showed a decline in the female sex-ratio, which was in the age group of 0-6; the sex ratio was found to be 960 girls for 1000 boys, though the overall sex ratio was favourable for women. AIDWA felt that there was a connection between female foeticide and infanticide, which in turn was linked with the practice of dowry in the State.

The economic factor has a snowballing effect on the marriage prospects of girls both in rural and urban areas and has instilled considerable anxiety and fear among the girls’ families creating negative feelings towards womanhood itself.

(3)Implications for Married Life
Dowry continued to pose difficulties to girls and their families even after marriage where the demand for more wealth by the boys’ families was reported to be an unending feature. Dowry harassments, dowry deaths, desertion, separation and divorces in the name of dowry have been escalating across different sections of our society.

Vatuk (1975) and AIDWA (2003) have observed that gifts in the form of dowry did not stop with marriage, but kept flowing for every ceremony after the marriage like childbirth, birthdays and so on. In addition, gifts on a large scale were sent to the daughter’s in-laws’ place during various religious and social festivals. Some parents said that their sons–in-law placed one demand after the other to please their parents, after the marriage, though the couple had chose each other and had registered marriage. Eventually, the girls’ parents had to comply with the demands to ensure a safe future for their daughters. In many cases the husbands had humiliated and assaulted their wives, so as to pressurise them to bring more money from their parents. Dowry demands continued even
after the marriage. So parents had to take loans, mortgage lands, and sell family assets. Failure to adhere to the demands have led to dowry related harassments.

According to Ghadially and Kumar (1988) who carried out an analysis of bride burning cases among different states in India between 1979 and 1985 and Kumari (1989) maintained that in majority of the cases, parents were aware of the violence committed on their daughters. In a few cases where the girls had returned to their natal homes, the parents persuaded their daughters to return to their in-laws’ place to avoid social stigma. In very few cases, the parents accepted their daughters. Some brides, continued to suffer silently in their marital homes thinking that they would become a further liability to parents. Kapadia (1993) cited that once the dowry was paid, the parents closed the doors on their daughters. They did not have any right to their parental homes. When there was a quarrel with the in-laws or husband, the girl has nowhere to go. Some women who had no other option except to remain in their marital homes and continue to suffer at the hands of their husbands and in-laws.

Studies have brought out the socio-economic and demographic profiles of the dowry victims, depicting dowry harassments of various degrees that these women had to undergo. Ghadially and Kumar (1988); Desai and Krishnaraj and Gautam and Trivedi (as cited in Devi Prasad and Vijayalakshmi1988), and Krishnaraj (1991) who did a review of bride burning cases found that most of the victims were in the age group of 15 to 29 and belonged to the low income group were not very educated and dependent on their husbands (except for a few who were working). Victims were mostly from Hindus.

The abused women often suffered loss in resource allocation within the family as well. Family resources sometimes are transferred from the wife and her children to other members of the household. More importantly, the husband and wife are unable to construct a strong marital bond which affects the welfare of children. When the wife is harassed for dowry, it is not only the woman who suffers, but her children are also adversely affected. Insecurity in marriages among the Hindus and Muslim communities in Kerala, on account of dowry was reported by Gulati (1993). AIDWA (2003) in Uttar Pradesh observed an
increase in the incidence of marriages breaking up due to dowry demand, with many Dalit girls coming back to their parents.

It was also reported that those women who continued to stay with the husbands and in-laws, had to bear the brunt of dowry harassments in various forms ranging from rejection, desertion, divorce, verbal and mental abuse to the extent of committing the heinous crime of bride burning. Ghadially and Kumar (1988), and Tabassum (2002), who did case studies on dowry harassments among Muslims in Aligarh, Ajmer, and Delhi, leant that in more than half the cases, the daughters-in-law were thrown out of their marital homes or they returned to their natal homes on their own. Gulati (1993) found that women could be thrown into the streets and could reduced to beggary if the demand for dowry was not met by the girls’ parents. Men divorced and remarried for the sake of dowry (Kumari 1989; Rao 1998, and Umar 1998).

Suicides or abetment of suicides of brides, murder of brides for dowry were reported across many communities. This was brought out by Ahuja (1987) on dowry related harassments in four cities - Rajasthan, Jaipur, Ajmer, Kota and Udaipur; Ghadially and Kumar 1988; Kumari 1989, and Dave and Solanki 2001. In majority of the cases, the deaths were caused by burning, committing suicide by harassed brides and murder by in-laws. Administering electric shock, hanging and beating have also been reported as methods employed to torture the brides (Krishnaraj 1991). There were a number of cases filed for violation of the Dowry Prohibition Act (1986).

These studies portray the ugly and gruesome picture of practice of dowry and victimising the women in our society. To conclude, the practice of dowry is a patriarchal custom and a contributory agent for the subordination of women.

2.2.2. Review of Research on the Inheritance Rights of Women

In the previous section, the review analysis exposed dowry related issues and the ill-effects of dowry on a large section of married women in our society. The continued practice of dowry has not only undermined the status of women but has also promoted an unequal
distribution of resources especially the productive resources such as land through gender exclusive inheritance practices in most of the communities. Laws of the land privilege men and the inheritance rights of women have been curtailed through the legal framework to preserve the possession of landed property under male custody. In the light of the present study, an inquiry into the research studies in the area of inheritance was undertaken focusing on the findings relating to awareness, attitude and practice of inheritance rights in a gender perspective. The outcome of such an exercise is discussed here.

2.2.2.1. Awareness on Inheritance Rights

Awareness regarding one’s entitlement in matters relating to succession of property is very important especially for women who are marginalised from having access as well as ownership of property. Awareness of legal provision with respect to the Hindu Succession Act, (1956) was found to be very poor, which was reported by Chatterjee, Singh and Yadav (1971); Mumtaz and Noor on the status of rural women in the villages of Bangalore and Eswara Reddy among the affluent Districts of West Godavari and Krishna in Andhra Pradesh, (as cited by Indira Devi 1994). Men and women were not sure whether it was necessary for women to have legal right to property, especially among the tribals in Bihar (Sachidananda and Sinha 1984). A large portion of rural men were also not aware of legal rights, especially about inheritance rights. Basu’s study (2001) had discovered that majority of respondents in New Delhi belonging to the poorer section were not aware of their legal rights. There was lack of knowledge about parent’s property and its worth, and women’s chances of owning the property.

Chandy (1995) had carried out a study on Christian women’s struggle to equal inheritance rights in Kerala, especially regarding the identity and rights of Syrian Christians among two Districts of Kerala, both of which were a stronghold of the Syrian Christian community. She had reported that the 1986 Supreme Court verdict on implementation of Indian Succession Act (1925) in Kerala State, enabling equal inheritance rights to both sexes, was not known to many Christians. Very few respondents were aware that dowry was an illegal practice. Again on queries regarding whether women should inherit property,
a sizeable section of the respondents, largely women, felt that they should inherit the property.

From these empirical findings, it is clear that there is a lack of awareness regarding the inheritance rights of women across different regions and religions in India.

2.2.2.2. Attitudes towards Inheritance Rights

Attitude towards inheritance is one of the major objectives of this study and empirical investigation of previous research done to bring out the perceptions reported in different studies. Our society being patriarchal in nature, gender inclusive practice of property succession is not welcome. The review of existing studies confirms this cultural outlook. What has emerged from earlier research is that there is a negative attitude towards women inheriting parental property and instead dowry was preferred which was regarded as a woman’s wealth and share which has been prevalent among all the communities.

According to Hooja (1968), having equal inheritance for both sexes was not favoured among different castes in Delhi. This was also found to be true by Chatterjee, Singh and Yadav (1971), (Mumtaz and Noor 1982 as cited in Indira Devi 1994) and AIDWA 2003. Many respondents of their studies in Uttar Pradesh and rural Bangalore and various states in India felt that girls could get their share in the husband’s property and very often the dowry given to the daughters exceeded the value of the daughters’ share. Rao and Rao (1980) and Mathew (1990) observed that, in urban communities majority of respondents were not in a position to favour the idea of women getting an equal share in parental property, since dowry had been considered as women’s share. The general contention was that the girls received a share of patrimony at the time of marriage in the form of dowry and hence women were not entitled to have a share in the parental property. It was unconceivable for a daughter to be given land as dowry. But the findings of Iype (1988) among the Syrian Christian women in an urban setting like Bombay was found to be contrary to this. The study observed a favourable attitude for women possessing an equal
share in parental property, which was more so among the older women than among the younger women.

Women especially the rural, tribal and those belonging to the lower socio economic sections of the society were found to be in a non-assertive position regarding their inheritance rights, due to lack of legal awareness, and also on account of the patriarchal conditioning which showed that women were not yet ready to assert their rights (Eswara Reddy 1984 as cited in Indira Devi 1994); Sachidananda and Sinha 1984). Women felt dowry, which was given at the time of marriage was their share in parental property. Moreover, they could get property from their husbands’ families. Some women were inhibited to express their views, since there was not enough property to divide (Chowdhry 1997 and Basu 2001). An exception was found by Chandy (1995) who reported a positive attitude towards women inheriting parental property among the Syrian Christians of Kerala. However, a few were able to say whether it should be over and above dowry. Attitude towards inheritance varied as per other material needs. Many urban women wanted to get property as a safe-guard against the financial instability of their husbands, as an insurance for getting care in old age, and as a symbol of strength and respect. A large number of women supported the idea of equal division of property (Basu 2001).

AIDWA (2003) observed that many parents were against the idea of giving a share of their property to girls with the exception of a few. Girls themselves did not want a share and only a marginal percentage of unmarried girls supported the idea of having a share in parental property as a necessary step to outdo the dowry practice. A few parents were against the idea of giving property to their daughters, as they felt that women get their share in the matrimonial home. Moreover, they felt that giving a share to women might create enmity between the siblings since such a custom did not exist in their culture. A similar feeling was observed by Basu (2005), where many women in her study feared a rift with brothers and sisters-in-law if they tried to put in a claim for their right in inheritance. Leaving a woman’s share as part of the natal family’s assets maintained a harmonious family relations. Basu also noted that marriage placed women in a different mode of
entitlement that women got dowry and other gifts as marital and affinal resources rather than as natal resources.

Rich peasants did not like to part with their land for the benefit of their daughters, but liked to give large sums of dowry at the time of their weddings. Even among the Adivasis and Muslims where the daughters had the right to property earlier, were denied the same in the name of dowry. Only those Adivasis who had only daughters were in favour of giving them a share in the property. In general, parents thought the property should go to the sons, who would be taking care of the parents in the old age (AIDWA 2003). Basu (2005) also found similar attitudes where the women felt that property was a reward for elder care. But at the same time, an equal share without gender discrimination was recommended thereby supporting the ideology of experiences of ‘motherhood’ and images of ‘womb’ as symbols of equal entitlement.

Lack of legal awareness among the women of backward classes, caste category coupled with patriarchal conditioning as well as patriarchal ideology have influenced women’s perceptions and asserting one’s right in inheritance.

2.2.2.3. Practice of Inheritance Rights

The review of research on the practice of inheritance rights was taken up mainly to identify whether there were any gender inclusive inheritance practices among any communities. The analysis of research works has exposed the hard core prevalence of the patrilineal mode of succession barring a few communities which practised matriliney mainly in the North-East and in South India. There was found to be a cultural resistance towards women getting a share in the parental property. Women belonging to the rural, tribal and economically backward classes were found to be more at a disadvantage. This section reviews the studies which discuss the practice of inheritance rights with reference to the matrilineal and patrilineal modes of succession.
(1) Matrilineal Inheritance

Matriliney or inheritance through the mother’s side has existed though the exact date is a matter of speculation. According to scholars, it was prevalent in west Sumatra in Indonesia, in Malaysia, and also among ethnic groups of Indo-Chinese Penninsula (Unny 1994). In Cambodia, the system was supposed to have been imported from India. Other places where matriliny was prevalent were Persia, Africa, East Indies, and Ceylon (Ehrenfels 1941). In India, matriliny was traced among the Arattas in Punjab, and among the Rajputs. Among the Bunts in South Kanara, lineage through female side was called *aliya santana* system of inheritance (Hebbar 2009). In the island of Lakshadweep, matriliny is still prevalent among the Muslim population (Liddle and Joshi 1986). Ehrenfels’ study (1971) has illustrated the matrilineal culture among the Khasis of Assam where the mother’s role was very prominent. Even those Khasis who got converted to Christianity had not abandoned matrilineal succession and inheritance.

Agarwal (1994) maintained that the matrilineal inheritance among Garos of North-East India, and matrilineal descent and inheritance had not changed substantially until 1970. However, Agarwal’s own case study on Garos, later on found that by the end of 1980s, though the youngest daughter of Garos inherited the ancestral house, there was a tendency to gift land to sons. In Kerala, the matrilineal system was practised by some Hindu castes and a few other communities.

Matriliny in Kerala

Though patriliny was the custom among most of the communities in Kerala, *marumakkathayam* (matrilineal descent) was observed among the Nairs, Kshatriyas, Ambalvasis Brahmins of Payyannur called Thirumumpas, Thiyas and a section of Muslims in the North Malabar called Mappilas. The practice was also observed among the Mukkuvans or fisher folk along the coastal sides of Malabar, hill tribes of Travancore, and aboriginal tribes of Wayand (Mencher 1965; Gough 1973; and Fuller 1976).

A typical matrilineal joint family was called *tarawad*, which was composed of *karanvathi* (the oldest woman in the matrilineal lineage) and the owner of *tarawad*, her
children, her daughters’ and granddaughters’ children, her brother, descendants through her sisters and her relations through her dead female ancestors. The study observed that though the women in the matrilineal Nair community inherited the tarawad, the system also had its patriarchal share. The women owned tarawad in their names as a matter of succession rights in matrilineal system, yet, they never had the absolute control over it in terms of administration or management. It was the eldest brother of the woman, the karanavan, (oldest male in the matrilineal lineage) who enjoyed the power to take major decisions regarding the administration of tarawad (Gough 1973).

When partition took place, the family property was divided equally among all the matrilineal descendants, that is, between the woman’s children and her daughters’ children. Agarwal (1994) indicated some limitations placed on the succession rights of the Nair women, although women’s inheritance rights were recognised in the Nair community, they usually inherited the ancestral house, but were less likely to get agricultural land. The study also noted that, by the 1980s, most of the traditional Nair tarawads were being partitioned and both sons and daughters started to inherit the property. Dowry had also made its way into the matrilineal Nair community. The socio-legal reforms in the state of Kerala in the 1970s had an adverse effect on the matrilineal practices.

Thus it has been empirically evident that the matrilineal form of inheritance did exist among some communities in different parts of the world, India and in Kerala in the midst of a dominant patrilineal culture. However, even in the matrilineal system, patriarchal control was much embedded.

(2). Patrilineal Inheritance

Patrilineal inheritance or inheritance traced through the fathers’ side is the norm in our society, where the male enjoys the privilege of inheriting parental property, while women are deprived of the same inheritance right in the name of dowry. This kind of patrilineal culture established a stronghold in the North in comparison with other regions in India. Women were unable to express themselves with regard to their inheritance rights. On the other hand when they tried to assert their rights it only cost them the good-will of their
brothers and relatives, which even led to the extent of severing family ties. Assertion of inheritance rights have in many occasions been marred by ostracisation and even bloodshed. Even in instances where women were forced to resort to legal action and had won the case, the custody of the property was still a distant dream. If the women declined their rights, it invited ill-feeling of the husbands and their families. Daughters inheriting the parental property as heirs in the absence of sons only called for the wrath of the relatives.

Martha A. Chen’s study among landless and landed poor women (as cited in Indira Devi 1994), and Mies (1986) among three villages in Andhra Pradesh had observed that, with very few exceptions, women did not own land which is the primary means of production. Even when women owned land, the control often rested with men. This was particularly true in areas where tradition ruled and in an environment of social and economic backwardness. Women seldom controlled or had ownership of means of production such as tools, animals, capital, transport, market and other resources necessary for the production and distribution of agricultural tools. Basu (2001) noted that the poor women in the North were the most disadvantaged in terms of access to productive assets, while middle-class urban women were in a better position. Wives and daughters were sidelined from the formal ownership of land resources, while the husbands got rural land through inheritance and hence were wealthier in terms of disposable assets. For women, other than informal ownership of *jhaggirs* (land) they hardly owned any other property. Majority of women from all income groups, did not formally own property of their own and rarely inherited from the natal or affilial families. Often women declined from asserting their inheritance rights, due to the fear of losing family ties, or acquiring the social stigma of being grasping and greedy and for the fear of losing the love of the natal family.

The relative deprivation of women from having access to productive resources, ownership and control of land even among landed groups, despite legal provisions was traced to three important reasons. The primary reason seemed to be the prevalence of age old attitudes and values towards women’s position which not only deprived women of equal access to ownership and control but also discouraged and disapproved of procuring
redress from courts of law for equal rights to property. The second rationale offered for not giving an equal share in land or property to the females, was on account of the marriage expenditure, dowry, and post-marital obligations borne by the girls’ families. Finally, despite equal rights to property ownership, either for want of awareness or lack of resources, or due to consideration of modesty, women refrain from asserting their rights to ownership of property (Basu 2001).

Eswara Reddy (as cited in Indira Devi 1994) has reported that a few, who were forced to seek legal redress for their share, showed that, even when they won the case they were not in a position to get the property under their occupancy. Studies also showed that women who had asserted their rights were subjected to hostile treatment by their brothers. Visvanathan (1989) has recorded the cases of two women in Kerala, who were legally evicted from their ancestral homes by their own brothers, and were not given their due share. The cases of these two women namely Marykutty Thomman, and Alekkutty, K. C. gained much publicity. These women, were among the first few, who took recourse of the Court of law, in 1986 claiming their rights as per the Indian Succession Act 1925, soon after the Supreme Court’s verdict on Mary Roy vs State of Kerala. Basu (2001) has exposed the case of a community worker, who had been divorced and was living with her parents. She was the only daughter who insisted in claiming her inheritance share in her parental property, as she had no material property to rely on. She tried to balance this claim by undertaking the responsibility such as contributing regularly to the family’s expenses including weddings of siblings. However, the brothers were furious with her for her direct and open intention of claiming property. Being aware of her intention of adopting a child, they suggested that she adopted one of their children, and draw up a legal document showing transfer of inherited property in that child’s name. The study also came across a case where the brothers plotted against unsuspecting sisters, by coaxing the father to write a will, which stated the division of property among them excluding the sisters.

To assess the extent to which women were able to assert their rights to ownership of property, an effort was made to list all the appeals involving Section 14 of the Hindu Succession Act of 1956, which deals with property of a female Hindu to be her absolute
property. For this purpose, appeals decided by the Supreme Court as well as High Courts of different states as reported in the AIR manual during the years 1956 to 1982 and the All India Reporter from 1983-1987 were noted down by Indira Devi. The states of Punjab and Haryana together accounted for the highest number of cases. This was followed by Tamil Nadu, Bihar, Uttar Pradesh, and Andhra Pradesh. The lowest number of cases was noticeable in Gujarat and Rajasthan. This was perhaps due to the relative orthodoxy in these States which discouraged women to seek legal redress. Kerala’s record of low number of appeals was presumed to be possibly due to the prevalence of earlier values of matrilineal society which ensured a fair share to women.

To ascertain who were the women going to the courts claiming ownership rights of property, an analysis of all the cases heard by the Supreme Court and all the appeals filed in the Andhra Pradesh High Court were examined by Indira Devi (1994). It was observed that in more than two-thirds of the cases, joint family property was involved. Most of the cases filed were against the in-laws’ family, though in a few cases sons were involved. More than 50 per cent of the cases filed were to assert equal rights to property. The majority of women seeking legal redress to property were widows. Most of the women filing cases hailed from rural areas and from agricultural families. In more than 60 per cent of the cases, women had won the cases. Judgments were unfavourable to women in cases involving suits for partition of ancestral property, joint family property or partition of a dwelling house of joint family. It was noteworthy that there was hardly a case of a daughter claiming for an equal share in all the cases.

Chowdhry’s study (1997) showed that, in rural Haryana inheritance to daughters was possible only in the absence of sons. In certain cases, where sons-in-law shifted residence to take over land in the absence of brothers-in-law as heirs, were much against the will of the male collaterals. In a few cases, the staking of claim by sons-in-law on behalf of their wives led to the ostracism of the couple by the villagers. There was violence and bloodshed in cases where the inheritance rights were sought to be claimed by the jamai (son-in-law). Many lawyers in Haryana had testified to the stream of males with potential female inheritors in tow in the immediate aftermath of the Hindu Succession Act of 1956 to get
women to write off their land in favour of their brothers. Several gift deeds and sale deeds were registered in favour of males at this time. This pattern has been generally followed since then. In some cases the land may be registered in the girl’s name but remains in the possession of the brother.

In cases where the sister signs away her right, she is invariably taunted after marriage by her husband and in-laws. To avoid this, the girl’s family seeks the prior permission of the husband to be and his family not to lay any claim on inheritance due to her. In many cases, as the study showed, this trend was forthcoming, perhaps because the wife-takers too had daughters and were afraid of establishing a precedent which may recoil on them or they were unwilling to withstand the social taunts. Tactics to side-step female inheritance rights also prevail among the Muslims of Haryana, known as Meos. Among the Meos, property is inherited strictly in the male line and Meo women have no claim to their father’s property, even if there are no male heirs. The only way a woman can inherit her father’s property is through her father’s will. However, a woman who tries to press a claim to her father’s property even on the basis of the will invites the hostility of her male siblings and relatives.

The force of ideological reality of a woman’s dependence on both her brother and husband prevented her from becoming an independent property holder. In relation to her brother, she signs away her right and in relation to her husband she claims her right. In both cases, she is just an instrument and the land remains de-facto a male possession. The women questioned showed a distinct preference for their brothers. In this connection, a woman’s realisation is that her husband will get the land through her and she will end up losing both, that is the good will of her brothers and the land.

Shibani Roy’s study of certain Muslim groups of Uttar Pradesh (as cited in Chowdhry 1997) showed how consanguineous marriages have been most effective in keeping the landed property within the khandan (family). Since the women were not allowed to marry outside the khandan, there was no dispersal of the landed property. It meant that the question of female claiming the inheritance rights granted under the Quranic law did not arise. Moreover, exchange of women between two khandans also nullified the fear of a
daughter claiming her inheritance as a counter-claim can always be initiated by the other family.

Chawdhry’s study (1997) noted that some women were found to be assertive. “We have been given so little in marriage and on other social occasions. Now that we can inherit property we shall claim it’’ (p.315) In a few cases where the women had moved lower courts to claim inheritance, almost immediately an out-of-court settlement was reached with the lawyers concerned and ultimately the cases were withdrawn. The study had observed that, it was the money, that is, the dowry that was exchanging hands and not the land.

There were empirical evidences showing women inheriting landed property. Upadhayay (1990) found that in rural Andhra Pradesh, among poor families, the dowry usually consisted of agricultural land, (except among the landless), though this practice meant that the owners of small holdings had to alienate a portion of their land. This was essential to attract good matches and also to enhance the social status. Among some castes, the practice of giving a share to the daughters was also a means for achieving social mobility. This land which was given as dowry remained in the name of the woman and also the revenue received from this land was meant to be spent only for the woman and not for the members of the household into which she was married. It was customary to divide the property among the sons, wife and the daughters, although the shares were not equal. The female property was passed on in the female line through dowry. The mother’s property was inherited by daughters after the death of the mother. This means that a daughter inherits twice, first through dowry and later through her mother’s share.

Eshwara Reddy (as cited in Indira Devi 1994) witnessed women’s right to property on the prosperous, irrigated villages of Narsapur and Gudivada taluks of Godavari and Krishna districts of Andhra. The overall situation seemed to be that, many women either owned the land exclusively, or jointly. About 49 percentage of women in Godavari district and 40 percentage of the women in Krishna district had property in their name. This was largely due to the practice of giving a piece of land as dowry, a customary practice among land
owning agricultural communities in coastal Andhra Pradesh. This was against the general practice in Andhra Pradesh, where women had limited control over the property, especially over the land (as cited in Indira Devi 1994). In the study conducted by AIDWA (2003), seven districts in Uttaranchal with 1050 families, revealed that, among the tribe Juansari, when the man died, his property was divided equally among all the members of the family.

That the North took a lead in patrilineal culture does not mean that women got a fair deal in terms of inheritance rights in the other regions. Women seeking legal action for their inheritance rights in the Southern States could testify this. However, Kerala did not have much representation in this context assuming that the reason was matrilineal tradition. Eventually, women were the losers, either in terms of their share or in terms of their relationships. An exception was noticed in rural Andhra Pradesh, where dowry was agricultural land and the woman had full right and control over the piece of land she got as dowry and was entitled to own the income generated from it.

2.3. Rationale for the Study

Both theoretical aspects and the empirical findings on women’s right to property have revealed the extent of patriarchal control in society from ancient ages to the present century. The patriarchal monopoly over the property, specifically the landed property, has denied women’s access to as well as ownership of property through inheritance. Laws relating to inheritance among different religions were designed in order to privilege patrilineal inheritance. Besides, the religious personal laws, State laws, too were framed to cater to the tune of patriarchal interests. A glaring testimony to this phenomenon was evident in the Christian community in Kerala which restricted Christian women’s wealth to streedhan. The reigning patrilineal mode of inheritance among Christians in Kerala was brought down to its knees in 1986, through the application of the Indian Succession Act (1925) by the Apex court of India on the basis of Mary Roy vs State of Kerala case. Application of the Indian Succession Act (1925), for native Christians in Kerala entitling equal inheritance rights among sons and daughters in the intestate property of parents was an epoch making event. This created a big splash across various sections in the Christian community.
In 1995, the researcher had an opportunity to meet Ms. Mary Roy, the woman who was instrumental in bringing about a change in the legal system and taking the inheritance status of Christian women to a new height. According to her, Syrian Christian women were shunning the inheritance right they had gained. The so-called higher status of these women just remained only in letter and not in reality. The highly educated Syrian Christian women did not want to challenge the patriarchal force even if they were entitled to claim their share. They choose to remain in passive. She was sounding very disappointed as there were not many women who were coming forward to take up the issue of inheritance right in the light of the Act and to exercise their rights when injustice was meted. After the implementation of the Act, only very few women wanted to resort to legal remedy to claim their share.

So, it became a research concern to know the perceptions of Syrian Christian women regarding inheritance rights in the light of the Act, what the new law meant to them, and what could be the reasons that prevailed upon them not to contest their rights. Whether there were any Syrian Christian women who dared challenge the patriarchal forces and invoke the law to get their share in the intestate property. What were their perceptions on dowry in the light of the changed legal scenario? Such research interests have prompted the researcher to take up a study involving Syrian Christian women to bring out their responses on the issue of equal inheritance right.

Besides, the review of empirical studies has also exposed a gap in the existing knowledge of studies relating to the inheritance rights of Syrian Christian women. The attitudes towards dowry and inheritance especially the land rights of women, in the State were found to be gendered once again reaffirming the role of `culture’, patriarchal ideology perpetuating gender inequality. Research findings on awareness and knowledge on legal aspects of inheritance were not very encouraging, indicative of the legal backwardness and gender bias. Research inputs from Kerala state which boasts of high literacy and demographic supremacy of women, were not different from those of other States regarding access to productive resources such as land, control and ownership. A few studies in the State regarding dowry and inheritance (Chandy 1995; AIDWA 2003), even after the change of law relating to succession among the Christians have not been indicative of
progressive thinking. The review has also revealed insufficient data regarding inheritance practice and prevalence of dowry among the Syrian Christians in Kerala. So researcher thought, a study to understand the awareness, knowledge and attitudes of Syrian Christian women on inheritance rights after the implementation of the Indian Succession Act (1925) in Kerala, could fill the existing gap in knowledge relating to inheritance rights among the Syrian Christian women to some extent.

The dissemination of findings of the study could aid the legal awareness programme, and empower women to address gender discrimination in inheritance rights, namely the practice of dowry in the State. The findings could delineate some effective measures to make inheritance rights more practical and could suggest legal steps to be incorporated at the policy making level.

In addition, documenting personal experiences of those women who had availed themselves of the legal remedy to claim their inheritance right through the case study approach could represent the utilisation part of the Act which could help in understanding what it entailed to take recourse to legal remedy against ones siblings i.e., the brothers in order to gain their rights in the parental property. This kind of exposition might also encourage other Syrian Christian women to take legal steps to ensure their inheritance rights if they are in similar situations. The researcher hopes that this study covering the four process- awareness, knowledge and attitude by employment of quantitative approach and utilisation of inheritance law, using the qualitative approach, would not only add to the existing body of knowledge but also be methodologically innovative.