

The Medieval Marriage Market

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In the medieval world, as in most human societies, the terms of marriage normally included conveyances of property between the bride and groom, or their respective families.¹ Assignments of property at marriage served many important functions. Gifts from the groom to the bride's family may at one time have compensated that family for the loss of a daughter, but even the earliest medieval records preserve only fleeting glimpses of a true brideprice.² These marital conveyances primarily served to cement the marriage and to help the newly formed household in its principal functions—the rearing of children and the support of its members.

Medieval commentators on marriage repeatedly stressed the symbolic importance of the marital gifts. In the ninth century, for example, Pope Nicholas I referred to the wedding ring, given by the groom to his bride and accepted by her, as a pledge of their fidelity.³ The conveyance of gifts required witnesses and usually generated written instruments, which served as proof of marriage. The medieval Church, waging constant war against concubinage and casual sexual liaisons, insisted that marriages be publicly announced; governments, too, had evident interest in promoting stable unions and in maintaining clear lines of descent and inheritance. Gifts, publicly conveyed on occasion of marriage, helped endow the new union with public recognition and approval—basic requirements for legitimate matrimony. “Nullum sine dote fiat coniugium”—“let there be no marriage without a marriage gift.”⁴ This injunction, apparently dating from the Carolingian age, implied that cohabitation of a man and woman, in which no gifts were publicly giv-

en or exchanged, was not a licit marriage at all, but concubinage. On a more substantive level, the conveyance or exchange of gifts gave to the partners a material stake in the permanence of their union. Characteristically in medieval law, the unfaithful spouse, called to justice by his or her partner, lost all claim to the property he or she had given or acquired on occasion of their marriage. Finally, these marital gifts normally involved a settlement of property upon the bride and groom by their respective families. These gifts were thus an anticipated inheritance.⁵ All societies, always balancing themselves between deaths and births, must arrange for the orderly transmission of wealth across generations. Along with formal inheritance, the matrimonial gifts were a principal means by which the old transferred wealth to the young, facilitated their marriages, and thus helped assure the survival of their community and culture. The wealth so conveyed formed, in whole or in part, the capital upon which the new family depended, in order to sustain the *onera matrimonii*, the "burdens of matrimony," in the language of Roman law. This same household capital further promised some security to the surviving partner when death took his or her spouse and the marriage was dissolved. The need of the new household for initial capital also gave to the older generation an effective means of controlling who among the young should marry, and when. Control of marriage could be used either to encourage or to repress the growth of population. Medieval societies did not reproduce themselves blindly.

What were the principal terms of marriage in the Middle Ages, affecting property? Who bore the chief burden of investment in the new household, the relatives of the bride or those of the groom? And what factors determined the costs of a medieval marriage? These are the broad questions to which we shall address ourselves in this paper. They are important questions. The terms of marriage, in affecting the transference of property across the generations, helped mold the relationships between parents and children. These terms were also intimately connected with the functions of both men and women in the medieval household and society, the advantages they enjoyed, the

burdens they bore. In discussing property and marriage we treat, to be sure, a vast topic, but we hope at least to show its implications for many other aspects of medieval social history.

We must begin our rapid survey with a brief, backward glance at one of the parent civilizations of the medieval world, the Roman empire in its classical epoch, from the time of August Caesar until the third century after Christ. In classical Roman law, the principal and for long the only recognized conveyance of property on occasion of marriage was the *dos*, the dowry in modern usage, a donation made by the bride, or on her behalf, to the groom.⁶ The *dos* became the property of the husband, but, much as a trustee, he had to administer it in the interests of his wife, and he or his heirs had to account for it when the marriage was dissolved. From the third century A.D. this Roman dotal system was transformed; a new form of marital conveyance appeared alongside the *dos* and gained greatly in relative importance during the period of the late empire. This was a gift conveyed by the groom, or on his behalf, to his bride, a kind of reverse or counter-dowry.⁷ In its earliest appearances it is called either the *donatio ante nuptias* or the *sponsalitia largitas*; then, in the Justinian code of the sixth century, it acquired what would be thereafter its standard name: the *donatio propter nuptias*.

Justinian himself, following the example of earlier emperors, stipulated that for a marriage to be legitimate, the *dos* and *donatio* had to be equal, and that all special pacts or agreements made in regard to one should apply equally to the other. Both bride and groom, in other words, or their lineages, were expected to contribute equal shares to the capital of the new household. Here Justinian was apparently legislating against a strong tendency for the reverse dowry to grow, while the bride's contribution, the traditional *dos*, was declining to negligible amounts. In 458, for example, the Emperor Majoran condemned the cupidity of brides and their families, which was allegedly devouring the substance of young men eager for marriage.⁸ Some women were apparently paying their dowries from the *donatio* received from their husbands, and thus they con-

tributed effectively nothing to the capital of the new household. These fraudulent practices, pursued at the expense of grooms and sons-in-law, apparently obstructed weddings and reduced the birth rate, which Majoran and other emperors hoped to promote.⁹

Clearly a remarkable shift was occurring in the terms of Roman marriage across the period of the late empire. The eager grooms, once favored by classical law, now were forced to pay substantially for a bride, so much so that the emperors tried to intervene, to protect the interests of the exploited young men.

The growing importance of the reverse dowry under the late empire brought Roman practice much closer to that of the barbarian peoples, the Germans and Celts, who were then threatening and soon penetrating the imperial frontiers. In his famous description of the Germans, written probably in A.D. 98, Tacitus remarked in evident surprise that among the Germans the groom brought the dowry to his bride, not the bride to the groom, as in the practice of classical Rome.¹⁰ These marital gifts among the barbarians took many complex forms, which we shall not review in detail here.¹¹ But we should observe that according to the barbarian law codes and penitentials, largely redacted between the sixth and ninth centuries, the groom commonly conveyed his gifts directly to the bride and not to her family.¹² His act closely resembles the Roman *donatio propter nuptias*. Like the Roman *donatio*, the barbarian marital gifts also show a tendency to inflate in value, and like the emperors, the barbarian rulers were concerned to place an upward limit on the amount of property conveyed from groom to bride. In Frankish custom, for example, the groom could assign to his bride no more than one-third of his possessions, and his gift therefore came to be called the *tertia*.¹³ In 717 the Lombard King Liutprand similarly limited the size of the wedding gift to one-fourth of the groom's property, whence the name *quarta*, thereafter applied to the reverse dowry in Lombard traditions.¹⁴ Although Romans and barbarians followed different systems of law and customs, the outlines of a similar evolution in mari-

tal practices seem unmistakable. Across the period of the late empire and into the early Middle Ages, the groom or his lineage was persuaded or forced to assume a principal share of the costs of marriage. So complete is this evolution, or revolution, that in the Latin West explicit references to the Roman *dos* virtually disappear from the documents.¹⁵ In the early medieval marriage, it was the groom who paid.

In 866 Pope Nicholas I explained to the Bulgarians how marriages were contracted in the West, that is, among those peoples professing Latin Christianity. "Our people," he states,

both men and women, when they make a marriage agreement, do not wear bands of gold, silver, or other metal, upon their brows. Rather, with the consent of the contracting parties and of those in whose authority they are, a betrothal is plighted, which is a promise of future marriage. As a pledge of faith, the groom betroths the bride by giving her a ring. The groom also conveys to her, by written instrument in the presence of witnesses summoned by both parties, a *dos* which both parties have agreed upon. Shortly after this, or at a suitable time, lest it appear that the act was done before the time prescribed by law, the two are brought to the marriage contracts. . . .¹⁶

Pope Nicholas, it should be noted, makes no mention whatsoever of any dowry or gift made by the bride to her husband. This important text was included in Gratian's *Decretum*, redacted about 1140, the most influential collection of canons yet to be made in the Latin Church. The long period between the decline of Roman rule and the middle twelfth century was the golden age of the reverse dowry in the Western marriage.

From approximately the twelfth century, European society experienced many fundamental, apparently accelerating changes; those changes once more touched and transformed the basic terms of marriage in the West. From the early decades of the twelfth century, the documents for the first time since antiquity make direct reference to the *dos* in its Roman sense, to the true dowry.¹⁷ Sometime about 1140, in what is probably the earliest surviving medieval tract devoted to the dowry, the jurist Martin Gosia restated Justinian's position, that in a legitimate marriage the mutual contributions of bride and groom,

or their respective families, had to be equal.¹⁸ Later decretists and decretalists—commentators on the basic law collections of the medieval Church—reiterate that a dowry, at least equal to the groom's gift, was essential for legitimate marriage.¹⁹

The acts of notaries working in the Italian port city of Genoa, dating from 1155, give us our oldest, full picture of actual marriage agreements in western Europe. The marriage agreements contained in the oldest surviving chartulary, that of Giovanni Scriba, redacted from 1155 to 1164, show that in most instances the contributions of bride and groom to the new household were in fact equal.²⁰

But equality was not long maintained. The changes in the terms of marriage are most easily discernible in Italy, a land rich in both private acts and legislative enactments. From the middle twelfth century, the governments of the Italian cities moved to limit the claims of wives upon their husbands' property. In 1143 the commune of Genoa abolished the *tertia*, the right of a wife to one-third of the household property after the death of her husband, according to the Frankish custom followed in the city. An illustration in the pages of a contemporary chronicle shows two women of Genoa weeping over their lost advantage.²¹ Genoa at the same time decreed that the reverse dowry should never exceed one-fourth the value of the true dowry, and should at all events never surpass one hundred pounds of Genoese money. Alexandria in 1179, Volterra in 1200, Florence in 1253, and other cities imposed similar limits, both relative and absolute, on the groom's contribution to the marriage, in relation to the bride's.²² The spirit behind this campaign is colorfully expressed by a phrase used several times in a Milanese customary dated 1216: the *odium quartae*, the hatred of the wife's traditional claim in Lombard law to one-quarter of her husband's property as her marriage gift.²³

In Italy, too, the individual marriage agreements, preserved by the thousands in notarial chartularies, record in detail the decline of the reverse dowry to virtual insignificance by the fourteenth century, and the corresponding shift of the costs of marriage to the side of the bride. At Genoa, already in the years

1200 to 1211, according to the marriage agreements redacted by the notary Giovanni di Guiberto, the bride usually brought more wealth into the marriage than did her husband.²⁴

The terms of marriage were completely transformed in Italy between the twelfth and the fourteenth centuries. In the early fourteenth century Dante remarked in his *Divine Comedy* that the size of dowries was exceeding all reasonable measure, and he hearkened back to those better times, in the eleventh and twelfth centuries, when the birth of a daughter did not strike terror into her father's heart.²⁵ All our records support the truth and the force of his observation.

Outside of Italy the profusion of local customs, their instability, and the limited number of surviving marriage agreements make this evolution difficult to follow, but there are many indications that the treatment of women in marriage was deteriorating from the late twelfth century. In their history of English law, Pollock and Maitland conclude that the rise of the feudal order, which closely linked tenure with military service, inevitably curtailed the rights and claims of widows and other women.²⁶ In the thirteenth century the English woman lost all capacity to own chattels or movables, which at her marriage passed completely under the ownership of her husband.²⁷ Analogous changes can be found elsewhere in Europe. In some regions the dower, the portion of the husband's property assigned to his bride at marriage, at one time gave to the widow full ownership over the portion at the death of her husband, but later was considered to confer only a right of lifetime usufruct.²⁸ In 1205, at the request of his French vassals, King John of England declared that widows could no longer claim one-half the acquisitions made by their households while their marriages endured, but were to be content with their dowers.²⁹ The goal of all these complex and admittedly often obscure changes seems to have been to limit acquisition of property by women through marriage gifts or any other means.

How are we to explain these striking shifts in the terms of Western marriage, evident at the very start of the Middle Ages and again from the late twelfth century? Here we shall direct

our attention principally to Italy, where these changes are most easily tracked in the abundant surviving sources.

Superficially viewed, the decline and virtual disappearance of the true dowry under the late empire might be regarded as a substitution of barbarian for Roman practices, and thus considered a consequence of the barbarian conquests. But as we have already noted, properly within the tradition of Roman law, properly among the subjects of the empire, the position of the groom was deteriorating in late antiquity. So also, the revival of the true dowry from the twelfth century cannot be exclusively attributed to the renaissance of Roman legal studies, which was simultaneously occurring in the medieval schools. The new jurisprudence brought clarity and accuracy to the legal records, but the erudition of a few scholars could hardly have transformed the basic terms of marriage. The medieval jurists were the interpreters, not the architects, of the new social realities.

These transformations in the terms of the Western marriage have also been associated with changes in the basic character of the economy, specifically with the decline of commercial exchange in late antiquity and its revival from about the twelfth century.³⁰ According to this view, in a commercial or monetized economy the *paterfamilias* had to concentrate large sums of liquid capital, and he needed freedom to manage them. The system of the reverse dowry gave the wife not only a claim to a substantial portion of the husband's capital, but also a voice in its administration. The necessity of securing the wife's agreement to commercial transactions allegedly obstructed the managerial freedom of the household head and impeded commercial progress. This mattered little when the economy remained preeminently agrarian—across the early Middle Ages—but was supposedly incompatible with expanding commerce and industry from the twelfth century.

In truth, however, it is hard to see how the dotal system could have decisively favored commercial revival. The hidden assumption here is that women were incompetent to make or to participate in commercial decisions. But in our earliest large col-

lection of commercial records, those of the city of Genoa, women frequently appear as investors or participants in business ventures, with no evident damage to trade. The dotal system further forced the *paterfamilias* to commit large sums of his needed capital to the marriage of his daughters. The lure of dowries probably also turned some young men into dowry hunters, diverting their energies from more productive enterprises. There is, to be sure, a chronological correspondence between the withering of the monetized economy of antiquity and the disappearance of the Roman dowry, and between the commercial revival of the central Middle Ages and the dowry's return. But the connections between these two parallel movements are unclear, and even the existence of direct links far from certain.

The shifts in the terms of marriage have also been associated with supposed changes in the fundamental character of the Western household.³¹ The barbarian and early medieval household was supposedly an agnatic association, that is, based on male descent, which managed its patrimony collectively. The barbarian *paterfamilias*, it has been argued, was not free to alienate part of the household property for the benefit of daughters, and therefore could not grant a dowry. The Roman dotal system thus disappeared, as it could not survive when the patrimony was collectively owned and managed in the interests of the males. Supposedly the return of the dowry came with the dissolution of the collective character of the barbarian household, the triumph of individualistic principles of property ownership, and the improved treatment of women.

But this picture of the early medieval family seems to be largely mythical. Thousands of land sales and exchanges are extant from the centuries when the reverse dowry predominated, and it is rarely possible to discern the family functioning as a collective unit. If the patrimony of the household was collectively managed and indivisible for benefit of women, how could the groom promise, and his heirs subsequently deliver, one-third or one-fourth his patrimony to his wife, then widow? Under such conditions, no system of marital conveyances could have functioned. In fact no theoretical conception of the nature

of the medieval household is likely to explain these changes in the terms of marriage, as those changes essentially reflect the external relationships of families or lineages, not their internal structures.

We are left without a convincing explanation for these shifts in the basic terms of the Western marriage, and it may be that the large gaps in our sources will never allow us to find a fully satisfactory answer. But there also seems to be one other factor operative here which so far has not attracted the direct attention of scholars: the character of the medieval marriage market. What do we mean by a marriage market? If a man or woman wished to marry, he or she, or someone on his or her behalf, had to meet certain costs, the size of which was subject to negotiation. Of course, religious beliefs, values, customs, and the like played a role of major importance in marriage arrangements, as they largely defined who was eligible for marriage, who was desirable as a partner, and how courtship should be pursued. Public laws also frequently intervened, setting, for example, minimum or maximum limits to the size of the marriage gifts. But at all times both custom and law left considerable scope for a system of bidding and response, for market interactions, in sum. In the Middle Ages, to be sure, the true agents operating on this market were usually not individual men and women, but families and lineages, with sons and daughters to marry. Within the limits set by religion, custom, and law, these families wished to see their sons and daughters married under the most advantageous terms they could obtain. This simple, nearly self-evident principle is all that the concept of a marriage market fundamentally implies.

What determined the negotiating strength of a medieval family, seeking to arrange the marriage of a son or daughter? The beauty, the health, the social connections of the young man or woman are the most obvious considerations. But one other, less immediately evident factor was also operative: the relative numbers of men and of women actively seeking a mate. If, for example, more men are seeking brides than there are brides to be had, three results will follow. The desired girls will marry un-

der terms favorable to themselves or to their families; the men who marry will have to meet those terms at high cost; and some men will be priced out of the market. Such is the common pattern which systems of bidding and response usually produce.

It is of course true that at birth the numbers of male and female babies show approximate equality, but this biological fact does not guarantee that there will be equal numbers of brides seeking grooms and grooms seeking brides when the babies grow to marital age. One or the other of the sexes may endure higher mortalities during childhood, reflecting different standards of nourishment or treatment in the household. Different functional responsibilities, as, for example, military services demanded from young men, may also affect relative rates of survival and tip the balance between the sexes at age of marriage. Of particular importance is a cultural or social consideration: the willingness or reluctance to marry, or, on the part of families, to allow their offspring to marry, at a certain age. If families, for example, seek to retain at home their bachelor sons for a longer period than their daughters, this policy will flood the marriage market with supernumerary, nubile girls; weaken their negotiating position; and force many who marry to enter the marital state on unfavorable terms. Critical in this regard is the mean age of first marriage for men and for women, as it directly measures their willingness or reluctance to marry, or of their families to allow their marriages. Particularly under conditions of high mortalities, if men marry substantially later in life than do women, fewer males will ever actively seek a bride, as some will die before reaching the preferred age of first marriage. This erosion of the ranks of prospective grooms will mean that some of the younger girls will have no chance of finding a husband, and that all the younger girls will be forced to seek husbands upon an unfavorable market.

If this analysis has merit, then the triumph of the reverse dowry in the early Middle Ages—the favorable terms, in other words, with which women entered upon marriage—implies that there was a relative shortage of nubile girls, in relation to men seeking mates, on the marriage market. We have several indi-

cations, both direct and indirect, that eligible men did indeed outnumber nubile women in early medieval society. The earliest surviving records which illuminate the balance of sexes in medieval communities are Carolingian manorial surveys, dating from the late eighth and ninth centuries. They characteristically show a preponderance of males throughout the population. The largest of these surveys describes the estates of the monastery of Saint-Germain des Prés near Paris, and indicates that there were upwards of 120 males per 100 females upon the monastic lands.³² These surveys are limited to the peasant population, and there are grounds for doubting their precision. But the consistency with which they indicate a male preponderance is telling evidence that women were in short supply in the early medieval world.

The barbarian legal codes give indirect evidence of the same phenomenon. The codes measure a person's social worth by assigning to him or her a wergild, a fine to be paid to relatives should he or she be killed or injured. Women were clearly valued in barbarian society. In the law of the Salian Franks, the free woman was protected by the same wergild, two hundred solidi, as the free man. But during her child-bearing years, which obviously included her nubile years, her wergild was tripled to six hundred solidi, the same sum assigned to the elite of society, the followers of the king or the bishops.³³ The law of the Alemanni gives double the value to free women, compared with free men, at every age.³⁴ Perhaps most remarkable is the protection the codes extend at times to female infants. In the law of the Alemanni, if a pregnant woman is so injured that she aborts the fetus, then the fine is twelve solidi. But if the fetus can be identified as female, the fine is doubled.³⁵ The law of the Salian Franks contains a similar provision, and here the wergild assigned to an aborted female fetus is apparently even more than double the sum given for an aborted male.³⁶

There is also evidence, sparse but extant, that the early medieval marriage was on occasion matrilocal, that is, the newly married couple came to live with the bride's family rather than the groom's—a practice rarely encountered in European com-

munities from the late Middle Ages. In a ninth-century survey of the serfs belonging to the monastery of Saint-Victor of Marseilles, the number of women remaining with their families of origin after marrying so-called "foreign men" is larger than the number of men in the households married to "foreign women."³⁷ One is here reminded of Charlemagne's own renowned attachment to his daughters, his refusal to let them depart from his entourage. This suggests that women were valued in the early medieval household, and that efforts were made to retain daughters even after marriage. It is worth noting—still according to our Carolingian surveys—that the richer the household, the more women it was likely to contain.³⁸ To live comfortably in the early Middle Ages apparently required that women be present in the household in significant numbers. We also have hints that the apparent shortage of nubile girls and the high reverse dowries demanded meant that some impoverished males could not marry at all.³⁹

Finally, our admittedly scanty data indicate that ages at first marriage were approximately equal for brides and for grooms, but that the brides were not especially young and were at times even older than their grooms. We would expect a pattern of delayed first marriage for women in a society in which women performed valuable services for their families of origin. The ninth-century survey of the estates of Saint-Victor of Marseilles identifies marriageable men and women in the community, who are called *baccarii* and *baccarie*. Their numbers are relatively large, constituting about a quarter of the entire population, which would indicate a considerable delay between puberty and first marriage.⁴⁰ Their numbers are also nearly equal for both sexes, suggesting equality of the ages of bride and groom when marriage was eventually contracted. However, in 731 the Lombard King Liutprand complained that "adult and already mature women" were marrying boys who had not yet reached legitimate age.⁴¹ He decreed that no woman should attempt to marry a boy until he reached age thirteen. This law is the exact reversal of enactments we encounter in the Italian cities from the thirteenth century, which sought to prevent the marriage

the days of the urban woman, but it also reduced her contribution to and limited her economic value for her family. Finally, still broader changes in the medieval cultural ethos may have benefited women. It may be that, like warfare itself, hard physical labor was coming to be regarded as inappropriate for women.

If women survived better, they also, somewhat paradoxically, married younger. The *Rotuli de dominabus* shows that many of these aristocratic ladies were in their late teens when they married.⁴⁸ The Lady Alda, for example, must have been less than fourteen when she married, as her eldest child was sixteen when she was only thirty.⁴⁹ Moreover, to judge from saints' lives, in both the Flemish and the Italian towns the age of first marriage for girls at about the year 1200 seems also to have been between thirteen and sixteen years.⁵⁰

At the same time, our sources point to a marked and growing reluctance on the part of males to take a wife, particularly within the feudal aristocracy and the bourgeoisie.⁵¹ In that bizarre twelfth-century Latin poem *The Complaint of Nature*, by Alain of Lille, marriage itself appears as an allegorical figure in tattered garments, to complain that males are avoiding its services in preference for other, less wholesome sexual outlets; nature herself observes that women (the natural anvils) are bewailing the absence of hammers (that is, men) and sadly demanding them.⁵²

From the late twelfth century, at least in the medieval aristocracies, girls were usually still in their teens at first marriage, while men often postponed marriage until their late twenties or thirties.⁵³ In the late medieval French satire, the *Fifteen Joys of Marriage*, the wife complains to her obviously older husband that her wedding dress has become too short for her, as she has continued to grow since her marriage.⁵⁴

The reluctance of males to marry in the late Middle Ages reduced their numbers on the marriage market and destroyed the advantages which women had formerly enjoyed in seeking husbands. In Dante's image, the *paterfamilias*, panicked by the dismal prospect of attracting a groom, tried to marry off his

daughter as quickly as possible, even when she was unreasonably young and the dowry remained unreasonably high.⁵⁵ The desperation to place one's daughters, as well as the declining economic value of the girl within the household, probably explain the low age at first marriage for women in the late Middle Ages.

Why did men, from approximately the late twelfth century, postpone marriage? A critical factor here seems to have been the effort to protect the family patrimony from excessive parcelization among heirs. In the early Middle Ages, when population levels were low, violence endemic, and survival rates poor, families seem not to have feared a surplus of heirs. By the late twelfth century, however, under conditions of a growing population and diminishing opportunities for the sons close to home, the family seems to have turned inward upon its patrimony, conserved it as an essential prop to its power, and prevented its disintegration through excessive partitionings.⁵⁶ In the cities, too, the need on the part of males to acquire experience and skill in the arts of trade and to nurture their capital also discouraged and delayed marriage.

Late first marriage for men and early first marriage for women transformed the terms of matrimony in the late Middle Ages, in forcing the fathers of nubile girls to engage in competitive bidding to attract reluctant grooms. With such conditions prevailing on the marriage market, it is understandable that the costs of the new union should have shifted primarily to the bride and her family, the reverse dowry should have declined, and the true dowry or *dos* should have become the principal conveyance of property associated with marriage.

The young age of first marriage for women and the relatively advanced age for men had at least one other important social effect. In spite of the risks of childbirth, wives had a good chance of surviving their husbands. Still young as widows, they were in excellent position to block the transmission of the family patrimony, in whole or in part, to the younger generation. In traditional India under seemingly comparable conditions, the de-

voted widow or suttee was expected to immolate herself upon her husband's pyre—a personal sacrifice which also conveniently freed the family property for transmission to the younger generation.⁵⁷ In medieval Europe governments and families could only limit the widow's claims upon the property of her husband and restrict her capacity to acquire or to manage other possessions. In the middle twelfth century the Statutes of Pisa already complain that “mothers, in demanding [return of] the dowry and the reverse dowry from their sons, more often than not show not maternal affection but a step-mother's lack of familial feeling.”⁵⁸ “The female sex,” reads a commonplace of the legal literature, “is most avaricious and most tenacious and more eager to receive than to give.”⁵⁹ In the late sixteenth century, the commune of Correggio in Italy tried to restrict acquisitions by women “for the public good and for the conservation of families and of male lines, which are often ruined by the excessive bequests and donations which daily are made to women, without having regard to the conservation of the male line.”⁶⁰

Under the late medieval system of marriage, the wife or widow found herself in a paradoxical situation. Much younger than her husband, much closer in age than he to their children, she was in a position to serve as an intermediary between the generations of fathers and sons. But here her young age at first marriage and subsequent longevity also made her an obstacle to the transmission of property from fathers to children, and earned for her the *odium* for her claims to which the Milanese customary refers. Perhaps her long-lasting claims upon the property of her deceased husband and children can partially explain the campaign—everywhere apparent in the Europe of the late Middle Ages—to limit her rights.

These, then, are the two most visible faces of marriage which our sources allow us to see in the Middle Ages. The terms of marriage as they affected property were transformed about the year 1200. The European marriage, household, and family were thus starkly different in the late medieval centuries from what they had been before. Although this survey has been rapid, I

hope at least to have shown the broad implications of this topic for medieval social history. The lives of most medieval people were lived out within or in close association with marriage. The study of medieval social history may appropriately take marriage as a central and advantageous point of departure.

Notes

1. I would like to express my gratitude to Professor Diane Hughes of Victoria College, the University of Toronto, for allowing me to read in advance of publication her article "Marriage Settlements, Families, and Women in the Cities of Medieval Italy." The article contains a rich bibliography of studies on marital conveyances in Italy during the Middle Ages.

Useful published studies of the marital gifts in medieval laws and practices are the following: Franco Ercole, "Vicende storiche della dote romana nella pratica medievale dell'Italia superiore," *Archivio Giuridico* (henceforth, *AG*), 80 (1908), 393-490, and 81 (1908), 34-148; Francesco Brandileone, "Studi preliminari sullo svolgimento storico dei rapporti patrimoniali fra coniugi in Italia," *Scritti di storia del diritto privato italiano*, ed. G. Ermini (Bologna, 1931), I, 231-319; *idem*, "Sulla storia e la natura della donatio propter nuptias," *Scritti di storia del diritto privato italiano*, I, 119-228; André Lemaire, "La Dotatio de l'épouse de l'époque mérovingienne au XIII^e siècle," *Revue Historique de Droit Français et Etranger* (henceforth, *RHDFE*), 4th ser. 8 (1929), 569-580; *idem*, "Les Origines de la communauté de biens entre époux dans le droit coutumier français," *RHDFE*, 4th ser. 7 (1929), 584-643; Manuel Paulo Merêa, "O dote nos documentos dos seculos IX-XII," *Estudos de direito hispânico medieval*, I (Coimbra, 1952), 59-150; Gabriel Lepointe, *Droit romain et ancien droit français. Régimes matrimoniaux, libéralités, successions* (Paris, 1958); Gerda Merschberger, *Die Rechtsstellung der germanischen Frau* (Leipzig, 1937).

2. On the primitive brideprice, its character, and its relation to the marital gifts, see Heinrich Brunner, *Deutsche Rechtsgeschichte* (Leipzig, 1887), I, 95; and S. Kalifa, "Singularités matrimoniales chez les anciens Germains: Le Rapt et le droit de la femme à disposer d'elle-même," *RHDFE*, 4th ser. 48 (1970), 199-225.

3. For the text, see below, n. 16.

4. The text apparently first appears in the False Decretals. See Lemaire, "Dotatio de l'épouse," p. 569.

5. On the close relation between inheritance systems and marriage settlements, see Jack Goody and S. J. Tambiah, *Bridewealth and Dowry* (Cambridge, 1973); Jean Yver, *Egalité entre héritiers et exclusion des enfants dotés. Essai de géographie coutumière* (Paris, 1966).

6. W. W. Buckland, *A Manual of Roman Private Law* (2nd ed.; Cambridge, 1947), pp. 64-67; Max Kaser, *Das römische Privatrecht* (Handbuch der Altertumswissenschaft, X, 3, 3; Munich, 1955), I, 284-290.

7. Kaser, *Das römische Privatrecht* (Munich, 1959), II, 134-141. Legal historians generally associate the rise of the *donatio* with Eastern influences. Before Justinian's time the gift had to be conveyed before marriage (whence the name *ante nuptias*) as Roman law forbade gifts between spouses. Justinian himself excepted the *donatio* from that prohibition.

8. *Leges novellae ad Theodosianum pertinentes*, ed. T. Mommsen and Paul M. Meyer (2nd ed.; Berlin, 1954), p. 166. "Sane quoniam quorundam cupiditatibus obviandum est, qui generorum exhauriunt facultates ac sibi vel filiabus suis vel subornatis . . . ab incautis iuvenibus et futuri coniugii desiderio concitatis multa facient occulta fraude conferri. . . ."

9. *Leges novellae*, p. 165: "Et quia studiose tractatur a nobis utilitas filiorum, quos et numerosius procreari pro Romani nominis optamus augmento. . . ." For further comment on what one historian calls the "forte tendenza" for women under the late empire to bring no dowry at all, or a small one, to their marriages, see Ercole, "Vicende storiche," *AG*, 80 (1908), 431.

10. "Dotem non uxor marito, sed uxori maritus offert," *Germania*, cap. 18; see H. Mattingly, *Tacitus on Britain and Germany: A Translation of the "Agricola" and the "Germania"* (Baltimore, 1967), p. 115.

11. The studies of Brandileone and Ercole, cited in n. 1 above, contain extensive discussions of the technical character of these gifts.

12. For the Irish penitentials, see Ludwig Bieler, *The Irish Penitentials* (Scriptores Latini Hiberniae, V: Dublin, 1963). The early "Synodus I S. Patricii," cap. 22 (p. 56), makes it appear that the bride's father received the *dos*. "Si quis tradiderit filiam suam viro . . . et acceperit dotem. . . ." But according to later penitentials, the groom's gift went to the bride. See the "Welsh canons," cap. 47 (p. 144), "Si quis filiam marito tradiderit, legitimam dotem accipiat. . . ." The editor construes "he" (that is, the father) to be the subject of "accipiat," but the sense of the entire passage seems to require "she" (that is, the bride). The passage goes on to state under what conditions the dowry might pass to the father, and would make no sense if the father had already received it ("Quod si hos non habuerit, patri dari iubetur. . ."). On traces of a brideprice in Lombard law, specifically in the payment known as the *meta*, see Brandileone, "Rapporti patrimoniali," p. 232. According to Brandileone, in earliest Lombard practice the *meta* was the price paid by the groom to the bride's father for the *mundium*, or jurisdiction, which he held over the girl. Subsequently, however, the *meta* was paid directly to the bride.

13. Brandileone, "Rapporti patrimoniali," p. 246.

14. *Leges langobardorum 643-866*, ed. F. Beyerle (2nd ed.; Wittenhausen, 1962), Liutprandi leges, 7.1, year 717 (p. 102). "Ipsium autem morgingap nolumus ut amplius sit, nisi quarta pars de eius substantia, qui ipsum morgingap fecit." The "morgingap" was the *Morgengabe*, or gift, originally conveyed by the groom to the bride after the consummation of their marriage. It subsequently becomes fused with the *meta* and was paid before the marriage.

15. The fate of the Roman *dos* in the barbarian West has been much discussed. German historians of law have tended to maintain that the Roman dotal system disappeared entirely, but Italian legal historians, especially Brandileone, have successfully found traces at least of the Roman reverse dowry in early medieval Italy. Brandileone ("Rapporti patrimoniali," p. 273) maintains that the *antifacium*, a common name for the reverse dowry in early medieval Italian private acts, was the Roman *donatio propter nuptias*. But all historians of early medieval law, including Brandileone ("Rapporti patrimoniali," p. 265), recognize that the true dowry paid by the bride had lost importance. Ercole, "Vicende storiche," *AG*, 80 (1908), 417, observes that even in those areas of Italy under strong Byzantine influence the reverse dowry ("assegni maritali") was the dominant conveyance between the spouses.

16. *Monumenta Germaniae Historica* (henceforth, *MGH*), *Epistolae* Tomi VI, Pars I, *Epistolae Karolini Aevi*, Tomus IV (Berlin, 1902), *Epistolae Nicolai I papae*, ed. E. Perels, no. 99 (13 Nov. 866), pp. 569-570:

Nostrates siquidem tam mares quam feminae non ligaturam auream vel argenteam, aut ex quolibet metallo compositam, quando nuptialia foedera contrahunt, in capitibus deferunt, sed post sponsalia, quae futurarum sunt nuptiarum promissa, foedera quaeque consensu eorum qui haec contrahunt, et eorum, in quorum potestate sunt, celebrantur, et postquam arrhis sponsam sibi sponsus per digitum fidei a se annulo insignitum desponderit dotemque utrique placitam sponsus ei cum scripto pactum hoc continente coram invitatis ab utraque parte tradiderit, aut mox aut apto tempore, ne videlicet ante tempus lege diffinitum tale quid fieri presumatur, ambo ad nuptialia foedera perducuntur.

See also the *Corpus iuris canonici: Editio lipsiensis secunda*, ed. Aemilius Friedberg (Leipzig, 1879), Pars prior: Decretum magistri Gratiani, Pars II, causa XXX, V, c. 3, Nikolaus ad consulta Bulgarorum.

17. Ercole, "Vicende storiche," *AG*, 81 (1908), 39, places the earliest references to the true *dos* in the first years of the twelfth century, but says that its use is not much diffused until after 1150.

18. "Martini de iure dotium tractatus," in Hermann Kantorowicz, *Studies in the Glossators of the Roman Law: Newly Discovered Writings of the Twelfth Century* (Cambridge, 1938), p. 261: "... equalitas enim dotis et propter nuptias donationis eadem esse debet et in augmentis earum omnino exigitur equalitas tam in quantitate quam in partibus, maioribus pactis ad minora deducendis, ut uterque minorem partem lucretur."

19. *Summa domini Henrici Hostiensis* (Lyons, 1542), 219^v, "Qualiter donatio propter nuptias." *Iohannis Andreae i.c. bononiensis In quartum Decretalium librum novella commentaria* (Venice, 1581), p. 68.

20. *Il cartolare di Giovanni Scriba*, ed. Mario Chiaudano and Mattia Moresco (Regesta chartarum Italiae, 19-20; Rome, 1935). According to my count, out of thirty marriage agreements, the dowry is higher than the reverse dowry in ten instances; the reverse dowry is higher in four; and the two are equal in sixteen.

21. *Annali genovesi di Caffaro e de' suoi continuatori dal MXCIX al MCCXCIII*, ed. Luigi Belgrano (Fonti per la storia d'Italia, 11-14 bis; Genoa, 1890-1929), I, 31: "in isto consulatu tercie ablute fuerunt mulieribus." This edition also reproduces the sketch of the two weeping women.

22. Brandileone, "Rapporti patrimoniali," p. 273. Ercole, "Vicende storiche," *AG*, 81 (1908), 92-115. *Statuti di Volterra*, ed. Enrico Fiumi, I (Florence, 1951), 5, enactment dated May, 1200, requiring that the *donatio* should be no more than "quartam partem dotis." *Statuti della Repubblica fiorentina*, ed. Romolo Caggese, II: *Statuto del Podestà dell' anno 1325* (Florence, 1921), p. 98, "... ut donatio non excedat libras quinquaginta vel quartam bonorum viri," enacted 1253.

23. *Le due edizioni milanese e torinese delle Consuetudini di Milano dell'anno 1216, cenni ed appunti*, ed. Francesco Berlan (Venice, 1872), cap. 17, p. 245, "quarta tamen, propter eius odium, de illis non debetur"; p. 246, "... similiter, odio quartae, de nostra consuetudine, quarta non dabitur."

24. *Notai liguri del sec. XII*, 5: *Giovanni di Guiberto (1200-1211)*, ed. M. W. Hall-Cole, H. G. Krueger, R. G. Reinert, and R. L. Reynolds (Documenti e studi per la storia del commercio e del diritto commerciale italiano, 17-18; Turin, 1939-40). According to my count, out of forty-one marriage agreements, the dowry is larger than the reverse dowry in twenty-five instances; the reverse dowry is higher in one; and the two are equal in fifteen. See above, n. 20, for the distribution some forty years earlier.

25. "Non faceva, nascendo, ancor paura / la figlia al padre; ch'è tempo e la dote / non fuggien quinci e quindi la misura," *Paradiso*, xv, 103-105. Dante is comparing the simple but virtuous Florentines of former times with the corrupt men of his own day.

26. Sir Frederick Pollock and F. W. Maitland, *The History of English Law before the Time of Edward I* (2nd ed.; Cambridge, 1952), II, 419, "[Feudalism] destroys the equality between husband and wife."

27. Sir William Holdsworth, *A History of English Law* (4th ed.; London, 1935), III, 524.

28. Cf. Lemaire, "Communauté de biens," *RHDFE*, 4th ser. 7 (1929), 627, who concludes that widely in France the dower or *dotalicium* was assigned in full property to the end of the tenth century, but in the twelfth century the dower tended to be limited to a "droit de jouissance viagère."

29. Cited in *ibid.*, p. 602. The text reads: "quod mulier . . . non capiat ibidem medietatem de acquisitionibus viri sui . . . sed suo matrimonio sit contenta."

30. Brandileone, "Rapporti patrimoniali," p. 308, stresses the influence exerted by growing commercial fortunes in the towns. For additional discussion, see Manlio Bellomo, *Profili della famiglia italiana nell'età dei comuni* (Catania, 1966), p. 140.

31. Ercole, "Vicende storiche," *AG*, 81 (1908), 71 and 72, lays great stress on the "costituzione famigliare" as a "società economica," maintaining also that "la proprietà famigliare era . . . collettiva."

32. *Polyptyque de l'abbaye de Saint-Germain des Prés*, ed. A. Longnon (2 vols.; Paris, 1895). Among the various estates, the sex ratios for adults ranged from 110.3 to 252.9 men per 100 women. See Emily R. Coleman, "Medieval Marriage Characteristics: A Neglected Factor in the History of Medieval Serfdom," *The Family in History: Interdisciplinary Essays*, ed. Theodore K. Rabb and Robert I. Rotberg (New York, 1973), pp. 1-15.

33. *Lex Salica: 100 Titel-Text*, ed. Karl Eckhardt (Weimar, 1953), cap. 31-33, p. 146. This text assigns a fine of three hundred solidi to the life of a free woman, six hundred solidi if she is in child-bearing years, and two hundred after she is "post media etate." But according to the "septem causas," the "puella ingenua" bore a wergild of two hundred solidi. *Pactus legis Salicae: Kapitularien und 70 Titel Text*, ed. Karl Eckhardt (Berlin and Frankfurt, 1956), pp. 460-461.

34. *Leges Alamannorum*, ed. K. Lehmann (*MGH, Legum Sectio I. Tomi V*, Pars I; Hanover, 1966), cap. 60.2, p. 130: "Feminas autem eorum semper in duplum componatur."

35. *Ibid.*, cap. 91.1, p. 150.

36. *Pactus legis Salicae*, ed. Eckhardt, *Capitulaire III*, cap. CIV.8, p. 422, "Si vero infans puella est, qui excutetur, MMCCCC solidos componat." If the dead fetus was male, apparently the fine was only six hundred solidi, and nine hundred if the woman also died. The text is not clear, but it may be that the woman and her female fetus who bore the extraordinary wergild of 2,400 solidi were under the special protection of the king.

37. The foreign spouses are called "extranei" or "extranee." *Cartulaire de l'abbaye de Saint-Victor de Marseille*, ed. Benjamin Guérard (Paris, 1857), II, 633-656. For further comment see Stephen Weinberger, "Peasant Households in Provence: ca. 800-1100," *Speculum*, 48 (1973), 247-257; and my own article, "Life Expectancies for Women in Medieval Society," in *The Role of Women in the Middle Ages*, ed. Rosemarie Thoe Morewedge (Albany, 1975), pp. 1-22.

38. Emily R. Coleman notes the tendency for women to be found in the richer households upon the estates of Saint-Germain-des-Prés, and takes this to mean that infanticide of girls was practiced among the poor. See her study, "L'Infanticide dans le haut Moyen Age," *Annales: Economies, Sociétés, Civilisations*, 29 (1974), 315-335. It is hard, however, to reconcile the high wergilds placed upon women, even upon female fetuses, in the laws of the Alemanni and the Salian Franks, with the conscious infanticide of girls. The high wergilds rather imply that women, even female fetuses, were valued in this society.

39. Cf. *Summa domini Henrici Hostiensis*, 219^v, who argues that the groom ought not to lose more than he gained in the exchange of marriage gifts, "alias sequeretur quod pauperes non possunt uxores ducere aliqua dote data." But in fact, as the letter of Pope Nicholas I makes clear, usually in the early Middle Ages the bride gave no gift at all to the groom.

40. For further comment, see my two studies, "Life Expectancies for Women in Medieval Society" (above, n. 37) and "The Generation in Medieval History," *Viator*, 5 (1974), 347-364. It is worth noting that Tacitus in his description of

marriage among the Germans (*Germania*, cap. 18 and ff.) states that the barbarian women were mature at first marriage.

41. *Leges langobardorum*, ed. Beyerle, Liutprandi leges, 129.XIII, p. 161, "Interuenientem uanissimam et superstitiosa uel cupida soasionem et peruersionem apparuit modo in his temporibus, quia inlecita nobis uel cunctis nostris iudicibus coniunctio esse paruit, quoniam adulte et iam mature aetate femine copolabant sibe puerolus paruolus et intra etatem legetimam. . . ."

42. Cf. *Statutum potestatis communis Pistorii anni MCCLXXXVI*, ed. L. Zdekauer (Milan, 1888), Liber III, cap. 59, p. 120, "De puellis non nubendis . . . ante duodecimum annum sue etatis expletum."

43. *Corpus iuris canonici*, ed. Friedberg. Pars secunda: Decretales Gregorii IX, Lib. IV, Tit. 11, cap. 11, pp. 676-677.

44. *Cartolare di Giovanni Scriba*, no. 101, 25 July 1156. Guglielmo Arduino and his wife Guilia sell land, and "ego preterea W. Arduinus iuro . . . quod si vos . . . petieritis mihi . . . in eo tempore quo vobis videbitur me esse perfecte etatis, faciam de supradicta venditione vobis talem cartulam qualem vester iudex laudaverit." *Ibid.*, no. 16, suggests that age twenty-five was the normal "etas legitima" or "perfecta," as it was in Roman law.

45. *Germania*, cap. 25 (*Tacitus on Britain and Germany*, p. 121).

46. *Rotuli de dominabus et pueris et puellis de XII comitatibus* (1185), ed. John Horace Round (Publications of the Pipe Roll Society, 35; London, 1913). In counting the offspring, orphaned boys and girls without mothers are not included.

47. *Alberti Magni ordinis fratrum praedicatorum Opera Omnia* (Monasterii Westfalonum, 1955), XII, 264: "Per accidens tamen longioris vitae est femina, tum quia minus laborant, propter quod non tantum consumuntur. . . ." For further comment, see my address, *Women in Medieval Society* (Houston, Texas: University of St. Thomas, 1971), p. 6.

48. See above, n. 46.

49. *Loc. cit.*, pp. 30-31. Alda was the wife of Willelmus Marbanc, and had four children. Emma, the widow of Hugo, aged forty, had a daughter of eighteen who was already "desponsata."

50. For evidence on age of first marriage for women, drawn from saints' lives, see my study, "The Generation in Medieval History," *Viator*, 5 (1974), 356-358.

51. In the imaginative literature, both Mark of Cornwall and Aymeri of Narbonne refused to take a wife until their vassals demanded it, even threatening to make war upon them. For these and other examples of the male reluctance to marry, see my study, "The Generation in Medieval History," n. 50, above.

52. Alain de Lille, *The Complaint of Nature*, trans. Douglas M. Moffat (Yale Studies in English, 36; New York, 1908), p. 77: "On [marriage's garments] ideal pictures told of the events of marriage, though the soot of time had almost made the images to fade." *Ibid.*, p. 55, "Moreover, the natural anvils bewail the absence of their hammers, and are seen sadly to demand them."

53. At Florence in 1427, for example, brides show at first marriage an average age of less than eighteen years, while the grooms are nearly thirty.

54. Cited in Geneviève Larivière, "Le Mariage à Toulouse au XIVE et XVE siècles," *Annales du Midi*, 79 (1967), 350. At Toulouse in the late Middle Ages, according to this study, the usual age at first marriage for women was between twelve and sixteen.

55. See n. 10 above.

56. The tendency of the aristocratic family, at least in northern France, to acquire a vertical orientation in the twelfth century with close attachment to its patrimonial lands has been noted by Georges Duby, "Structures de parenté et

noblesse dans la France du Nord aux XIe et XIIe siècles," *Hommes et structures du Moyen Age* (Paris, 1973), pp. 267-285.

57. See the observations of Henry Maine, "The Early History of the Settled Property of Married Women," *Lectures on the Early History of Institutions* (New York, 1888), pp. 306-341, especially p. 335. Concerning the Indian practice, Maine states: "There is no question that . . . the widow was made to sacrifice herself in order that her tenancy for life might be got out of the way."

58. *Constitutum legis Pisane civitatis*, "Statuti inediti della città di Pisa del XII al XIV secolo," ed. F. Bonaini (Florence, 1870), II, 753: "Quia cognovimus per effectum, matres circa filios in exactione dotis et antefacti non maternum affectum sed impietatem habere sepius novercalem. . . ."

59. ". . . hoc fit perraro quippe genus mulierum avarissimum atque tenacissimum promptius est ad accipiendum quam ad dandum." For the history of the phrase, see Ercole, "Vicende storiche," *AG*, 81 (1908), 93.

60. In 1579 the commune of Correggio limited bequests and donations to wives "fatte per ben pubblico e per conservazione delle famiglie et agnitioni, quali bene spesso vengono ruinate per gli eccessive legati et donazioni, che giornalmente vengono fatte alle donne, senza aver riguardo alla conservazione dell'agnatione." Cited in Brandileone, "Rapporti patrimoniali," p. 318.