The present chapter discusses the custom of succession prevalent in the province of Punjab. Four leading principles can be identified governing succession to an estate amongst the agriculturists. The first stated that male descendants succeeded, which excluded widow and other relations. The second was that when the male line of descendants had died out, it was treated as never having existed, and the last male who left descendants being regarded as *propositus*. Thirdly, a right of representation existed where by descendants in different degrees from a common ancestor succeed to the share which their immediate ancestor, if alive, would succeed to. Fourthly, the females other than the widow or mother of the deceased are usually excluded by near male collaterals, an exception being occasionally allowed in favor of daughters or their issue, chiefly amongst tribes that are strictly endogamous.\(^1\) Custom was apparently dealing with various aspects. The present chapter has been divided into five sections. The first section deals with the general rule of inheritance widespread in Punjab, whether it was equal share for all the brothers or was given according to the mothers. It would also find out whether the father had the right to nominate a particular son to receive a larger share in his property or not. The second section delves into the inheritance rights of daughters whether married, unmarried daughters or those who decided never to remarry. The section also looks at the *stridhana*, the property of women. The third section investigates the rights of the step son in his step father’s property or whether he could be maintained by the latter. The fourth section of the chapter takes up the succession rights of those people who left family life and were leading a life of an ascetic. The fifth section focuses on the role of state in dealing with the issues pertaining to succession.

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The Arabic term for inheritance is *furaiz*, plural of *fureezut*, a derivative from *furz* which means “appointment, precision, explanation” and is applied in law to anything that is established by precise and conclusive evidence.\(^2\) However the


customs regarding inheritance appeared to be perfectly independent of the Muslim law. In the Punjab two established customs for succession were well known. The two laws of inheritance which were prevalent in the province were pagwand and chundavand. The pagwand rule of division laid down that the sons, whether by the same or different wives, shared equally. In Rohtak it was called bhaibat and bhaibant in Kaithal where all the brothers inherited equally. The other rule of succession was that of chundavand, where wives were the units. It was also known as maonbat or maonbant or maonhissa or maonvand. The sons of each mother took one share and divided that share equally among themselves. Jats and Rajputs stated that the inheritance devolved upon male descendants if the man died intestate. The sons and their male lineal descendants succeeded the father and in their absence widows, unmarried daughters till marriage, collaterals up to fifth degree and married daughters succeeded in this order. In the absence of male descendants the inheritance was given to widow or widows in equal shares. If one widow had issue and other was childless the latter was sometimes given only maintenance and sometimes share equal to that of a son and sometimes according to chundavand rule. Rajputs, Chibs and Manhas followed chundavand, but some families as that of Mohammad Khan said that they were shifting towards pagwand. A few among Khokhars and one among Hindus followed chundavand rule where father made division during his lifetime.

The customary rule of succession in Punjab was pagwand where all sons inherited equally. Even in those tribes where chundavand rule prevailed at one time, it was changing as the pagwand distribution was being substituted for the former. The tribes following chundavand rule were trying to get rid of the ‘inconvenient and unjust custom’ of chundavand. Rajputs and Jat Sikhs in Kaithal showed inclination

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1. C. L. Rawalpindi 1887, 4.
2. C.L. Delhi 1911; C. L. Attock 1911, 2.
3. C.L. Sirsa 1882, 118.
5. IBID, 18.
6. C.L. Gujrat 1922.
7. IBID.42-43.
8. C.L. Kangra 1914.
towards the *chundavand* rule but it was added that gradually the *pagwand* rule was getting favour.

Nevertheless there were some exceptions. In Kangra district where the sons were by different mothers, they followed the *chundavand* rule of succession. Dhunds in Rawalpindi district universally followed *chundavand* rule. Chohan Rajputs, Khattar families showed their inclination towards the *chundavand* but the former could not give any instance and the latter accepted *pagwand* after their recourse to the Courts. Even some Pathans were following the *chundavand* but only in a few families. The Pathans of Ferozepore tahsil followed the *chundavand* system. A few cases among Khokhars were recorded where the sons shared according to the *chundavand* rule. Bhatti Rajputs of the Darp and Khaddir assessment circles of the Raya tahsil allegedly followed *chundavand* rule.

The following tribes of Amritsar which declared in favour of *chundavand* at the last settlement exhibited no case of such successions in the interval. These were Bhati Rajputs of Chak Sikandar Ajnala tahsil, Samrai Jats of village Samrai, Ajnala tahsil, Aulakh Jats of Ugar Aulakh, Bhatti Rajputs of Sidhar tahsil Amritsar, Gil Jats of Amritsar tahsil. The tribes such as Ghirths of Palampur tahsil asserted that they did not follow *chundavand* rule but judicial findings were otherwise. Some tribes in Jhelum district also said that they followed *chundavand* where the inheritance was distributed according to the number of mothers. These tribes were Gakkhars of Badagran, Bakrala, Basawa, Bhangala Bheth, Ohukiam, Domeli, Kalri, Karunta Iskandral, Khariot, Kuliam, Lahri, Mutial, Padhri, Pandori, Rasila Kahan, Rasila Khurd, Salihal, Sarula, Umral. Yet the prevalence of the custom could not be satisfactorily established. Some instances of inheritance according to the rule of *chundavand* had occurred in Baragowah, Baral, Domeli, Jhanot, Mutial, Padhri and this rule was also upheld in judicial proceedings in Domeli and Jhanot. Hindu and

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13 C.L. Rawalpindi, 6.  
14 C.L. Shahpur 1896.  
15 C.L. Moga 1890, Zira. C.L. Ferozepore 1890, 13.  
16 C.L. Shahpur 1896, 43.  
17 C.L. Sialkot 1917, 14.  
18 C.L. Kangra 1914, 53.  
19 C.L. Jhelum 1901, 34-35.
Muslim Rajputs of Gohana and Rohta, Pathans, Sheikhs and Biloches of Jhajjar said that *chundabat* was the rule and *bhaiyat* was the exception.\(^{20}\)

With time it seems that many tribes had shifted from *chundawand* to *pagwand*.\(^{21}\) In Sialkot district certain tribes followed *chundawand* rule as that of Bajwat of Sialkot tahsil, Rajputs, Brahimins, Gujjars and Arains. Rajputs and Jats inhabiting bank of Chenab and falling within Chaprar and Gondal Zails in Sialkot tahsil, proprietors of village Kampur, Palaura, Mahadipur, Rangpur Jattan, Chak Latkan and Brahimin owners of Toranwal. Khatris of Kala Khatai in Raya tahsil, Randhawa Jats in villages on right bank of Ravi in Raya Tahsil, Deo Jats of Tapiala, Bajwa Jats of Sahinewali, Zaffarwal tahsil, Ghuman Jats of Sambrial and adjoining villages had followed *chundawand* earlier but were now governed by *pagwand*.\(^{22}\) In Amritsar district some tribes which did not follow the *chundawand* custom at last settlement were Johal Jats, Ghuman Jats, Khokhar Rajputs in Amritsar Tahsil, Bhangu Jats, Sohi Jats, Man Jats, Waraich Jats, Hundal Jats, Labanas and Mughals. Among the following tribes some families followed the custom of *chundawand* and others followed *Pagwand* in Taran Taran tahsil. These were Dhillon Jats, Sindhu Jats, Atghans. In Amritsar tahsil: Boparai Jats, Dhillon Jats, Anaph Rwa Jats, Sindhu Jats, Gill Jats, Mahal Jats, Hundal Jats, Bhatti Rajputs. In Ajnala Tahsil: Aulakh Jats, Bhangu Jats, Chhinna Jats, Randhawa Jats, Sindhu Jats, Warya Jats, Bhatti Rajputs, Khokhar Rajputs, Manj Rajputs, Naru Rajputs, Sayyads.

Custom of inheritance was well entrenched and the father generally did not have any right or power to nominate a particular person to take larger share than his brothers in the ancestral property.\(^{23}\) This son was called the *laik beta* in Rohtak district. However, he might make such nomination with respect to his acquired property.\(^{24}\) Still in Nawanshahar tahsil a father had no right to give one of his sons a larger share of his property than others whether it was self acquired or ancestral.\(^{25}\) A father could distribute unequally only in case of movable property and not immovable property.\(^{26}\) Even the difference in the ages of sons did not give them unequal shares in

\(^{20}\) C.L. Rohtak 1911, 24.
\(^{21}\) C.L. Sialkot 1895.
\(^{22}\) C.L. Sialkot 1917.
\(^{23}\) C.L. Rohtak 1911, C.L. Kaithal, C.L. Amritsar 1947; C.L. Delhi 1911; C.L. Moga, Zira; C.L. Ferozepore; C.L. Jullundur, 32.
\(^{24}\) C.L. Amritsar 1947; C.L. Delhi 1911; C.L. Jullundur, 32.
\(^{25}\) C.L. Jullundur 1918, 32.
\(^{26}\) C.L. Jullundur.
It was only some times that an eldest son was allowed an extra share, as in Oudh a similar custom under the name of *haq-jetharnsi* prevailed in zamindari villages. As in Muzaffargarh district a particular son could be nominated to receive a larger share of his property than his brothers. The Jats said that it could only be in the case of self acquired property. On similar note, the tribe Sial, Junjianas of Kharanwali in tashsil Shorkot, the eldest son received some extra by way of *Dastar Bandi*. Some Hindu families observed the custom of "Sawayi Patti" by which the eldest son received a larger share. Four cases were given to support where the eldest son took one fourth share more than the younger sons. The father could nominate a larger share only in the case of self acquired property. Even the Arora Hindu families of Sahiwal and Nurpur reported that the eldest son got one fourth more (sawai) than each of the younger sons. The only time when the eldest son inherited all was in case of evolution of the office of headman. The younger sons were only entitled to maintenance.

It was the general custom of all tribes in Kangra proper for the eldest son who was known as *jheta beta* to get some more shares called *jhetanda* in excess of the share which the other son inherited equally with him. It could be a field, a cow or ox, or any other valuable thing. The Gaddis of the same district said that the eldest son got one twentieth of the paternal estate as *jhetanda* but he also had to pay extra twentieth of the paternal debts, if there were any. It was however noted that the custom was dying out.

All tribes in Jhelum district said that they gave no regard to the age of sons. The Darapur family in Nara said that the *mallik* or head of the family got one fourth as *haq sardari* and the rest was divided between him and others in ordinary way. In Nara the extra share could not be alienated. All tribes of Jhelum district said that father could not nominate a particular person to take larger share than his brothers except the self acquired property. In Jhelum, the Janjuas said that he could not do even in that case. In Pind Dadan Khan, Janjuas, Gakkhars, Phaphras, Awans of Tallagang said the father could give a larger share for his favorite son and a smaller share for the disobedient son but the difference ought not to be large. One such

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27 C.L. Delhi 1911.
28 W.H. Rattigan, *A Digest of Civil Law for the Punjab, 10.*
29 Aroras. Anejas, Batras of tashsil Jhang and arora residents of Kalur in tashsil Chiniot in district Jhang.
30 C.L. Jhang, 21.
31 C.L. Shahpur, 42.
32 D.G. Kangra 1904, 55-56.
example was found in Dandot among Janjuas. Muslim tribes of Mianwali district said that if a father separated a son permanently during his life time giving him certain property it remained with him even after his death. Among Jats however a father could nominate a particular son to receive a larger share of the property if the property was self acquired. He could not make such a deposition in respect of ancestral property. Biloches could not nominate a particular son to receive larger share after his death. Among Hindus, the father could not nominate particular son to receive larger share of property whether ancestral or self acquired. In Ludhiana also a father could give a larger share of property to one of his son but such an arrangement had no effect after the death of the father and all the sons were entitled to share alike. Only Muslim Rajputs of Raya Tahsil said that father might assign larger share to eldest son in his lifetime. No regard was given to the caste of mother and there was no extra regard for any son in Gujrat. The Makhad family of Pathans was a notable exception where the eldest son succeeded his father as sirdar and took the whole inheritance and the younger ones only inherited to the provisions made by their father. Similarly among the Maliks of Pind Gheb, the eldest son received a larger share of inheritance than his brothers by virtue of the pag that he assumed as his father’s successor in the headship of the family. Eight such instances were mentioned where the eldest son received the larger share.

A whole variety of custom related to succession can be identified in the region. It is apparent that during the period of colonial rule inheritance customs were undergoing a change. From the two well laid down principles of pagwand and chundwand, the first was becoming more acceptable. It is also clear that a father could make a larger share over to a preferred son but only in the case of self acquired property. Most groups however also accepted a bigger share for the eldest son, especially in the north western parts of the province. In the central parts of the Punjab and the eastern districts pagwand was becoming the rule even where it had not been previously followed.

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33 C.L. Mianwali, 24.
34 Ibid, 301.
35 C.L. Sialkot 1895,14.
36 C.L. Gujrat 1922.
37 C.L. Attock 1911, 1.
No difference was made to the share of a man if his mother was of lower caste or of different tribe other than his father, provided the marriage of parents was valid. Sayyads, Mughals, Awans of Pind Dadan Khan and miscellaneous Muslims of Jhelum, Mianwali, Sialkot believed that the caste or got of the mother was not given any importance. In some tribes and districts if the wife belonged to different religion or tribe, then the sons did not inherit. As among Hindus in Mianwali district, almost all the Dogars of Moga, Zira and Ferozepore did not allow succession of sons from mother of different caste or religion.

The sons by wife of an inferior tribe got only maintenance among Gakkhars, Janjuas of Pind Dadan Khan, Khokhars, Jalaps, Phaphras of Jhelum. The Jalaps said that a battadar son should not get more than 10 acres and they were given less land but there was no such established custom. Janjuas of Jhelum tahsil said that the son of inferior mother would get maintenance or only one fourth of full share. Similarly the sons of a wife of the Khokhar, Janjhu or Jalap tribe got larger share than sons of a wife of an inferior tribe. Regarding the influence of caste or tribe of mother on the inheritance, there were varied opinions among tribes in Jhelum district. In Mauzah Mari, Kassars in the family Muhammad Khan, Lambardar, by order of tahsildar at mutation, the sons by an Awan wife got more than the sons of a Mirasi wife. Kassars and Kahuts however had different opinions. They denied that the highborn son took a larger share. Jats, Gujar, Mairs and Awans of Tallagang district had no definite custom. The son by an inferior wife was to get a smaller share, but no such instance was found, rather contrary instance were found among Awans. Among Hindus sons by low caste mother were unknown and if there were any they would not inherit any property. Muslims of the district Dera Ghazi Khan said that the children born of karewa marriage shared equally with other sons of their father. The sons of a lawful karao inherited equally with those of shadi. The Jats of Jhajjar said that if karao was performed with a woman of another caste her sons were bathed in Ganges water and legitimized in the community and so inherited. Hindus, though, did not allow

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38 C.L. Amritsar 1947.
39 C.L. Jhelum 1901.
40 C.L. Delhi 1911.
41 C.L. Mianwali, 24.
42 C.L. Shahpur 1896, 42.
43 C.L. Jhelum 1901, 35-36.
44 C.L. Dera Ghazi Khan 1898, 28.
45 C.L. Rohtak 1911, 24.
remarriage but in case of remarriage they shared equally with their half brothers.\(^{46}\)

The Muslims of Sangarh Tahsil did not allow children of *karewa* marriage to inherit equally with their half brothers.\(^{47}\) In certain village of Jats *chundavand* custom also prevailed of giving succession to sons of all mothers or wives.\(^{48}\)

If the son pre-deceased his father his share descended on his son and the son of such son. In some tribes the widow of a sonless son who pre-deceased his father was permitted to succeed to his share but not in others. There was thus, further limitation on inheritance in some areas based on social background of mother, though most recognized the right of all sons. At times the sons of an ‘inferior’ wife i.e. of lower caste, was given a smaller share. On the whole, the right of sons to inherit the father’s property was well established by custom.

II

If a woman died holding property in her own right, usually Muslim Law was followed.\(^{49}\) The husband took half the estate of his deceased wife and the other half was taken by her own relatives. In the other three tahsils among the Biloches the husband inherited everything. Among Hindus also the husband inherited absolutely.\(^{50}\)

*Istridhan* or *stridhan* was a gift made to a woman on her marriage by her father or relatives or any property bought out of the sale proceeds of such gifts.\(^{51}\) All tribes agreed that it was her absolute property descending to her male issue or in default of such issue to her husband’s heirs. Such gifts could not be claimed back by the woman’s parents or the givers. The custom was well established that neither the giver nor the husband had any power to interfere in the disposal of these marriage gifts. Awans said that land could never be given in *Jahez* but there were such examples.\(^{52}\) Two examples were there in the district where the woman was given land in *Jahez*. Property given by a father, brother or a near relative to a woman on her marriage (*Jahez*) was considered *istridhan*. She was the absolute owner of such

\(^{46}\) C.L. Dera Ghazi Khan 1898, 28.
\(^{47}\) *IBID*, 28.
\(^{48}\) C.L. Delhi 1911.
\(^{49}\) Jats and Sayyads of Dera Ghazi Khan district and Biloches of Sangarh tahsil.
\(^{50}\) C.L. Dera Ghazi Khan 1898, 21.
\(^{51}\) C.L. Attock 1911
\(^{52}\) *IBID*, 29.
property. On her death her male issue or her husband succeeded to it and in default of them the male kindred of her husband succeeded. 53

The term *stridhan* was not known in Delhi district and not generally understood in Gurdaspur district. No property was considered as the special property of females. Among Hindus if a woman received any property from her parents it was absorbed into the property of her husband and formed a part of his property. In Jhelum district the Hindus said that the special property of women was that was given to her by her parents or other relations at marriage or afterwards, but had special rules regarding it, whereas Muslims recognized the special property of females. All the property, whether movable or immovable which was given to woman by her parents or relatives at the time of marriage; property that she herself acquired and the dower given to her by the husband at or after marriage was her personal and special property. 54 The term *stridhan* pertained only to Hindus55. The only property in which she had special rights were immovable property inherited by her from her father, gifted to her by her father, and the ornaments given to her in her dowry. The remarks of Settlement Officer are significant. “Females do not generally earn anything by their own industry, and their earnings at any rate are not considered separate from those of their parents or husbands, as the case may be”56

Though the term *stridhan* was unknown in Mianwali but among Muslims all the property, movable or immovable, given to a woman by her parents or relatives at the time of marriage and the property acquired by woman herself and any portion of the dower given to her by the husband at or after the marriage was considered to be her special property. Regarding Hindus no property was considered her special property. A wife could not alienate without her husband’s permission any jewellery or property which she received from her parents. After the death of her husband permission of his representatives was necessary. 57

While the husband had absolute control over the property and person of his wife and he could alienate or sell it as he wished. Sayads and those Muslim’s families who followed Muslim Law did not have any power to alienate the special property of

53 C.L. Rawalpindi.
54 C.L. Delhi 1911, 46.
55 C.L. Gurdaspur, 1893.
56 C.L. Gurdaspur 1913, 45.
57 C.L. Mianwali, 11.
his wife without her consent.\textsuperscript{58} In Amritsar, husband could not alienate the special property of his wife.\textsuperscript{59} Some tribes stated that the husband could not exercise any power over the ornaments of his wife without her consent as Hindu and Muslim Rajputs, Brahmins, Gujars, Sayads and Hindu and Muslims Jats of Pathankot; Khatris, Brahmins, Bedis and Sodis of Gurdaspur. All other tribes said that the husband had complete control over the ornaments of his wife. The Kakkezais of Gurdaspur tahsil added that if the ornaments had been assigned to her in lieu of dower then the husband had no power over them.\textsuperscript{60} The Hindus of Jhelum said that the husband could use or dispose of the property with the permission of wife but she never refused being a dutiful wife. The women could also not alienate her property of any kind without the consent of the husband. Gujars said that her husband could dispose of the property as per his wish but the wife could not do so without his consent. Awans of Pind Dadan Khan said that the wife had full power unless the husband himself gave her the property in which case his consent to alienation was necessary. On the other hand the miscellaneous tribes of Chakwals said that the wife had full power over such property.\textsuperscript{61} Janjuas, Gakkhars, Tallagang Awans, Jats, Khokhars, Jalaps, Phophras, Mairs, Sayyads, Kassars and Kahuts, and miscellaneous tribes except of Chakwal of Jhelum said that neither husband nor wife could alienate it without the consent of the other. Jhelum Janjuas say that no wife ever had such property, or if she had, she never claimed to have separate power over it. The Mughals said the same. On the other hand in Sirsa district the property given to a woman, including property gifted by her father’s family was considered as given to her husband and was merged in his property and came under his control. Even clothes and ornaments presented to the wife were under his control.\textsuperscript{62} Only Rain tribe in this district considered \textit{stridhan} as her property.

A married Muslim wife could alienate her special property even if was a land given to her by her husband through dower. The presence or absence of sons did not make any difference. This was not applicable on Hindus as they did not have special property of females.\textsuperscript{63} She could sell it, gift it or mortgage it. All tribes in Amritsar

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\textsuperscript{58} C.L. Delhi 1911, 46.
\textsuperscript{59} C.L. Amritsar 1947, 68; Muslims of Mianwali.
\textsuperscript{60} C.L. Gurdaspur 1913, 46.
\textsuperscript{61} C.L. Jhelum 1901.
\textsuperscript{62} C.L. Kangra 1882, 145.
\textsuperscript{63} C.L. Delhi 1911, 46; C.L. Mianwali.
replied that a woman had full powers of alienation over her separate property. While the Khatris, Brahmans, Bedis and Sodis of Gurdaspur tahsil said the woman could pledge or sell her ornaments in case of emergency but the remaining tribes said that she did not have any power of alienation without the consent of her husband. The Kakkezais of Gurdaspur tahsil also gave her the complete control over her ornaments given in dower. Among Hindus of Mianwali a husband had absolute control over the property and person of his wife. In the case of a wife thus, both positions were existing – among some she had control over property while among others she did not.

A widow could alienate her special property by sale, gift or mortgage. According to Muslims a widow had full power on her ornaments. Hindu widows could alienate her special property only for necessary purpose in Jhelum. All tribes agreed that an unmarried woman had no special property. The special property of unmarried women existed in Amritsar. The Hindus of tahsil Shakargarh said that the stridhan of an unmarried woman devolved successively upon brother, father, mother, paternal kinsmen. As a general rule it devolved upon the man who was her guardian. While the Hindus of Pathankot said that stridhan of unmarried woman devolved upon her brother, mother and father. While Zamindars of tahsil Gurdaspur said that the stridhan devolved upon parents and failing them on other relations. The ornament of unmarried woman was considered the property of her father so there was no custom regarding their devolution. In Sirsa special property of unmarried woman devolved successively on her father, failing him to her mother and than to brothers among Rains. Among Hindus of Mianwali the property of unmarried woman was inherited on her death by her brother and than by father and if she was married it was given to her at that time. Widows therefore were permitted to take decisions with regard to their property, though sometimes in a restricted sense. In the case of unmarried women all power to alienate lay with her Guardian.

Hindus said that as the woman’s property belonged to her husband so it was inherited by her sons or legal heirs. Muslim following their law said that the special

64 C.L. Amritsar 1947, 68.
65 C.L. Delhi 1911, 46.
66 C.L. Gurdaspur 1913, 46.
67 C.L. Delhi 1911, 46; Hindus of Jhelum, C.L. Mianwali.
68 C.L. Amritsar 1947, 68.
69 C.L. Gurdaspur 1893, 29.
70 C.L. Gurdaspur 1913, 46.
property of females was subject to the rule inheritance by Muslim Law. After death of woman her ornaments were taken over by her husband or his heir on her death. The special property of married woman if it consisted of movables devolved successively on her husband, sons, daughters and their descendants. If she was gifted land by her father or brothers it went to her sons and failing sons to her father’s agnates. As among Rains of Sirsa, the stridhan of a married women devolved upon her husband and his heirs unless she had given it in her life lime with her husband’s consent. This rule was applicable to all stridhans however acquired. The subsequent devolution of such property was governed by ordinary rules of inheritance.

Among Biloches of Mianwali district land was seldom given as her special property, and if it was given it was inherited by the husband and did not revert to the father or father’s heirs. Among Hindus the woman’s property belonged to her husband and was inherited by sons or legal heirs. In Kangra the woman’s husband had power of control over property given to his wife as dowry.

A daughter did not have any right to inherit. The daughter did not get any share in the assets of her father in the presence of real or half brothers. The near male kindred succeeded to property in preference to daughters. As the daughter was married into another got so a very strong feeling prevailed that the land must not leave the got. She and her children did not have any right to inherit her father’s property. In Kaithal it was said that even a gotbhai succeeded in preference to a daughter. Sandhu Jats gave preference to the collaterals up to seventh degree as preferred to married daughters.

The rules concerning the inheritance by daughters was of three types. The first one was concerning the married daughter, the other concerning unmarried daughter and the third concerning the daughters who had taken vow to celibacy. In a case

71 C.L. Delhi 1911, 46.
72 C.L. Gurdaspur 1913, 46.
73 C.L. Jhelum 1901.
74 C.L. Kangra 1914.
75 C.L. Rohtak, C.L. Attock 1911; C.L. Moga. Kambojs, Khatris, Aroras, Jat Sikhs of tahsil Dipalpur said that the daughters never got a share; C.L. Montgomery, 26.
76 C.L. Jhelum, Rawalpindi, C.L. Muzaffargarh, C.L. Hissar, C.L. Shahpur, C.L. Ludhiana, C.L. Kaithal.
77 C.L. Jhelum, Rawalpindi, C.L. Hissar, C.L. Shahpur, C.L. Ludhiana, C.L.
78 C.L. Sirsa 1882, 126-127.
79 C.L. Kaithal, 11.
80 C.L. Attock 1911.
among Khatris of tahsil Gurdaspur the Chief Court decided that the property
bequeathed by a sonless proprietor to his son’s widow becomes her stridhan and
devolves upon her daughters and their issue and not upon the collaterals of her
husband. Daughters were entitled to be maintained till her marriage. Daughter’s son
never succeeded.

The general rule was that married daughters did not inherit in presence of
collaterals but some people asserted that daughters succeeded in preference to
collaterals of fifth or more remote degrees. In Ambala the daughter could succeed
only in rare cases if the collaterals were absent up to a remote degree. Hindus of
Muzaffargarh said that the daughters could inherit only if there were no collaterals
within seven generations of the deceased upwards. Bagri Jats said that if there was
any agnate even within ten generations, he would exclude the daughter. However
some Sikh Jats said that she should not be allowed to take land in any case. Even in
Sialkot the daughters could not inherit property of any kind in the presence of male
kindred. Even the Rivaj-a-Am of 1865 recorded that daughter could not inherit.
In some districts, they did, but rarely.

There was a difference between the married and unmarried daughter regarding
right of succession. Some Sayads said that an unmarried daughter could succeed like a
son, but they did not give any such instance. Many tribes in Jhelum district also said
that an unmarried daughter succeeded to the property until marriage if there were no
male lineal descendants. Her interests were temporary and had no right of full
inheritance. Unmarried daughters could take possession of their father’s property in
the absence of male lineal descendants and widows, but this possession was only till
marriage. Many instances have been cited in Shahpur district where the unmarried
daughter inherited in preference to her father’s brother or agnate nephews.
Unmarried daughters were entitled to maintenance and marriage expenses from the
heirs of their deceased father. Rain tribe in Sirsa said that if the daughter became

81 No. 437, 21st December 1908: C.L. Gurdaspur 1913, 47.
82 C.L. Sirsa 1882.
83 C.L. Sialkot 1895.
84 C.L. Moga 1890, 16.
85 C.L. Jhelum 1901, only some Sikh Jats of Sirsa.
86 C.L. Shahpur 1896, 49.
87 C.L. Sialkot 1916; C.L. Gurdaspur 1913; Rawalpindi: C.L. Shahpur 1896; C.L. Ludhiana 1911;
widow and returned to live in her father's house sometimes she was allowed to inherit with the consent of the agnatic heirs, irrespective whether she had sons or was barren.

The married daughters were not given any right. She was sometimes given the right if there were no agnates within the sixth degree. While Mughals said that daughters excluded agnates of even fourth degree, Arains stated that a widowed daughter should be maintained out of her father's estate if her husband had left no property. And her residence in strange village. They got their share only till marriage but after their marriage their share went to reversioners. The Rors of Pipli and Kambohs of Jagadhari and Pipli held that the interest of daughter was only for life. She could not alienate to the prejudice of her sons or husband.

By 1918 in the same district the tribes said that though the inheritance of daughter was rare but she had an absolute right of disposal. The Sayads of Dipalpur town said that the daughters were only entitled to maintenance out of ancestral property but they were entitled to inherit the acquired property equally with the sons. Even if there were no sons the daughters did not get a share. If there were no sons and there were no reversioners up to 7th generation up, then the daughters got share. Among Khatri, Aroras, Jat Sikhs, Kambojs and Pathans of Tahsil Pakpattan the daughters got the share only if there were no sons and male reversioners up to 3 generations high.

Mainly the opinion was that daughters did not have a share in inheritance, irrespective of the fact that whether she was Musalla Nashin (vowed to celibacy) or not. Hindu Jats never acknowledged such right of the daughter. However the musalla nashin daughter was given special consideration in Muzaffargarh district. Out of eleven cases cited musalla nashin daughters inherited in all but one cases.

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88 C.L. Shahpur 1896.
89 C.L. Sialkot 1916, 18.
90 Among Mahtams, Rajput Wattus, other Rajput Muslims, Rajput Joyas of Tahsil Pakpattan; Jat Muslims, Rajput Muslims, Sayyads, Arains, Mahtams, Rajput Wattus, Mogals, Pathans and Qureshis of Tahsil Dipalpur. Among Mahtams, Rajput Wattus, other Rajput Muslims, Rajput Joyas.
91 C.L. Ambala 1887.
92 C.L. Ambala 1918, 23.
93 C.L. Montgomery 1925, 26.
94 Chishtis, Jat Muslims, Hans, Arains of Tahsil Pakpattan.
95 C.L. Ludhiana 1911.
96 C.L. Attock 1931, 68.
However, Pathans outside Guriani Zail and Sheikhs of Jhajjar said that the daughter could inherit in the absence of widows, son or his descendants. They inherited in preference to brothers and agnatic cousins. Pathans of Gohana stated that daughters used to inherit earlier but the custom became extinct since 1848.\(^97\) There was no distinction between movable and immovable property. The father or brother could give the daughter or sister as much of moveable property as much they desired.\(^98\) All the tribes said that unmarried daughters were entitled to maintenance from the father’s estate until they were married.\(^99\)

Among Sayyads of Jhelum district the daughter could be turned out if she was of bad character but no such instances were given. Among Awans of Tallagang and all Chakwal Muslim tribes of Jhelum district said that the daughter succeeded until marriage in the absence of male descendants of deceased but she succeeded absolutely if there were no agnates within four degrees whether she was married or not. Among Hindus of the same district a daughter could hold the property only until death or remarriage. All tribes of the district were of the view that a daughter was entitled to maintenance from her father’s estate until marriage if she was not inheriting it. She could be given maintenance if she came home after marriage on quarrelling with her husband or on his death. Her residence in the strange village did not apparently affect her right to maintenance provided she remained of good character.\(^100\) And among Janjuas of Jhelum, tribes in Hissar in families of good position the daughter would take only maintenance.

If two daughters inherited, only the unmarried daughter would take the inheritance and upon her marriage it would be divided equally among married daughters. The unmarried daughter shared equally with her brothers until her marriage or in case of daughter vowed to celibacy for life. Then the inheritance reverted back to father’s male kindred among the Satis, Gakhars, Khattars, Ghebas, Moglials and Rajputs but not among Chahans, Jagsams, Awana, Koreshis, Jats, Gujars, Malhars, Hindus and Bhabra of Rawalpindi. Khatris and Brahmans of Nakodar tahsil said that the daughter succeeded in preference to all other collaterals if the holding of the deceased was separate and not joint with collaterals. If the widow was alive she

\(^{97}\) Civil appeal no. 325 of 1904, 31.
\(^{98}\) C.L. Rohtak 1911. 32.
\(^{99}\) C.L. Kaithal 1892.
\(^{100}\) C.L. Jhelum 1901; C.L. Hissar 1913.

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inherited and on her death her daughter did so.\textsuperscript{101} Even if the daughter lived with her husband in the father’s house, she did not acquire any right to inherit land. There was some doubt regarding moveable’s which she could easily appropriate.\textsuperscript{102}

Many examples among Muslims where unmarried daughter superseded to whole of fathers property in preference to brother or agnate nephews are recorded. All unmarried daughters took equal shares and as each was married off, remaining unmarried daughters shares estate equally. This custom was universal in the whole district.\textsuperscript{103} Married daughter had no claim upon her father’s estate in any case, even if she lived with her husband in father’s house. Hindus and Muslims entitled their unmarried daughters to maintenance until marriage. Muslim and Aroras said that a daughter’s son could never inherit, Some Khatris of Bhera said that where married daughter inherited, daughters son succeeded after daughter’s death and took share of their mothers.\textsuperscript{104} A married daughter never inherited father’s estate. Unmarried daughter succeeded only if there were no agnate descendants or her own mother was absent (Muslims) Some families of Tiwanas and Sayads said that daughters never inherited, they were only maintained. Hindus – Daughters could succeed only if the deceased lived separately from his agnates. They could only be maintained.\textsuperscript{105} Unmarried daughter was entitled to maintenance if male lineal descendant and widow were present. Muslim Rajputs said that a daughter who had taken vow to remain single took sons share.\textsuperscript{106} Daughters inherited only if they were no male lineal descendants, widow or collateral of 5th degree. However they could exclude collaterals in case of acquired property. If the daughter’s husband was a khana damad she was entitled to inherit, they inherited like sons. The unmarried daughter was entitled to maintenance if she was blind, insane or unfit to marry. She was also maintained if she did not marry and remained chaste, however she lost her right of maintenance on marriage.\textsuperscript{107} Daughter’s sons usually succeeded.\textsuperscript{108}

There are numerous instances in this district where the daughters inherited by excluding collaterals varying from fifth to eighth degree. The Dogars in Hissar district

\textsuperscript{101} C.L. Jullundur 1918, 39. 
\textsuperscript{102} C.L. Kaithal 1892, 11 .
\textsuperscript{103} IBID, 49. 
\textsuperscript{104} IBID
\textsuperscript{105} IBID 
\textsuperscript{106} C.L. Shahpur 1896. 
\textsuperscript{107} IBID 
\textsuperscript{108} C.L. Gujrat 1922, 27. 
\textsuperscript{107} C.L. Gujrat 1922, 28.
said that their daughter could inherit and have full proprietary rights provided there was no agnate of the father. Muslim Jogis of the city of Lahore did not exclude daughters by sons.\textsuperscript{109} The Awans of Shahpur recognized the right of succession in favor of unmarried daughters which was liable to be divested on marriage.\textsuperscript{110} In an interesting instance amongst Meos the daughters succeeded in preference to male collaterals provided they remain associated with the father and not when being married they lived with their husbands and away from the father. The reason for this was that Meo women usually carried on the trade of midwives and daughters lived with their mothers to learn the trade and share their earnings with their mothers.\textsuperscript{111} Rains of Sirsa also were allowed to succeed to her father’s estate but only for life. Her inherited estate did not go to her husband but to her sons.\textsuperscript{112} The Rain tribes were more liberal in their customs as regards women mainly because they were strictly endogamous. Whatever went to the daughter and her son or her husband was only given to the distant agnate.

In Dera Ismail Khan District the general rule of agnatic succession said that a daughter could never inherit. She could never be one of the \textit{warisan yak juddi} or group of agnates amongst whom the estate of a son less man was divided on his death. This was the general principle laid down in all the \textit{Riwaj-i-Am}. And the Settlement Officer of Ambala and Bannu said that even if there were no agnates at all the estate would not pass to or through females, but would pass to the tribe or village community.\textsuperscript{113} according to some tribes in Peshawar; the Sayads, Makwal, Malan, Vandata, and three other Jat tribes in the Dera Ghazi Khan tahsil of the Dera Ghazi Khan district. As regards Multan although in some tribes and families custom was in favor of allowing gifts to daughters, but not a single family was found in which daughter took their legal share under Muslim Law in the presence of sons. In Peshawar and Dera Ghazi Khan all cases reported were that of voluntary gifts by brothers. A large number of tribes admitted that custom with general principle of agnatic succession and not Muslim Law was the rule.\textsuperscript{114} She could alienate by sale.

\textsuperscript{109} No. 56 P.R.1879.
\textsuperscript{110} No. 81 P.R.1879.
\textsuperscript{111} No.31 P.R.1881.
\textsuperscript{112} C.L. Sirsa 1882, 129.
\textsuperscript{113} Charles Roe, \textit{Tribal Law in Punjab}, Civil and Military Gazette Press, Lahore, 1895, 62.
\textsuperscript{114} Charles Roe, \textit{Tribal Law in the Punjab}, 62-63.
mortgage, gift or bequest. Four cases have been cited to support it where the women had gifted the estate inherited from her father to her sons.\textsuperscript{115}

Daughters did not inherit any share in the presence of sons or their male descendants through males or a widow or widows in Mianwali district. Collaterals up to 6 generations among Pathans and Awans, 4 generations among Jats and Biloches, 5 among Sayyads and Hindus excluded daughters. Only if the collaterals were absent within the above mentioned degrees the daughter and their descendant inherited the property absolutely. There was no distinction made between the immovable and movable, ancestral and acquired property of the father. If she inherited she took the whole property. The unmarried daughter was entitled to maintenance until her marriage and to the reasonable expenses of her marriage.\textsuperscript{116}

Amongst the Jat tribe some daughters had received an equal share with the male kindred and in other instances they had excluded the male kindred. In Pathans, Biloches and Sayyads of tehsil Sinawan and Muzaffargarh, the daughters inherited before the male kindred but on the condition of good conduct.\textsuperscript{117} The daughters could sometimes succeed in the presence of collaterals but they succeeded only with their consent.\textsuperscript{118} Some cases were quoted where mussalla nashin (vowed to celibacy) daughters shared equally with their brothers in the inheritance. In a case recorded in Attock it was found that a man died leaving two daughters one married and other mussalla nashin. The latter took the inheritance. Many such cases were reported. There were only a handful of tribes who asserted that daughters took their legal share by Muslim Law even in the presence of sons, for example some families in Multan, and a few Sayyads in Ferozepore. Awans of Shahpur district recognized daughter’s right to live in paternal house for life time while the land passed to male collaterals.\textsuperscript{119}

If widow and daughter were left to inherit together, in some tribes as Jodhras and Alpihas of Attock the widows would succeed alone in preference to her unmarried daughters. In other tribes both had an equal right of succession.\textsuperscript{120} Many tribes were of the view that widow alone had a right to succession and unmarried daughter was

\textsuperscript{115} Hissar in years 1907-1910.
\textsuperscript{116} C.L. Mianwali, 30.
\textsuperscript{117} C.L. Muzaffargarh 1925, 34.
\textsuperscript{118} C.L. Attock 1911.
\textsuperscript{119} No. 72 P.R.1880.
\textsuperscript{120} Khattars, Ghebas, Pathans, Saiads, Rajputs, Awans of Attock.
entitled to maintenance. Custom was uniformly opposed to the rights of daughters. The land belonged to the family and not to the individuals and since daughter had to leave her family and become member of another family, she could not be given the land. However, it seems that more women were able to take a share in property over time as the claim with degree of relationship of collaterals also decreased with time from upto 10th degree to amend 5th degree in many cases.

A widow could succeed if there were no sons or their male lineal descendants, but she had only life interest in the estate. She could only alienate by mortgage or sale any movable or immovable property for necessities. Payment of government revenue and cess, agricultural improvements, provision of the necessaries of life, marriage of her daughters or the payment of her husband’s debts. She had to give notice to the agnates of her deceased husband regarding this, if they failed to make proper arrangements for her necessary expenses. In case a widow remarried she forfeited all rights to her husband’s property and the property went to the collaterals. The widows lost their interest in the estate if they remarried, even if they stayed in their deceased husband’s house. Some tribes said that she lost her deceased husband’s estate even if she remarried his brother and it reverted back to agnatic heirs of the husband. The custom in Attock, Muzaffargh and Shahpur district was clear that the widow would lose all land on proof of unchastity or remarriage. Such case was recorded among Rajputs in Attock and tribes of Shahpur and she lost her right even if she married her late husband’s brother. In Sirsia it was said that in case of her marriage outside the family she had to leave everything and take away with her only the garments necessary for decent covering. The general feeling was against allowing the land to go to a woman (biswa timin de magar na jawe). She also lost all rights on her being said to be unchaste.

All tribes of Ambala and Ludhiana, Kaithal, Moga said that the remarriage and unchastity of the widow had damaged her rights. For that matter the secret immorality

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121 C.L. Attock.
122 C.L. Amritsar 1947; C.L. Shahpur 1882; C.L. Kaithal 1892; C.L. Moga 1890; Zira. C.L. Ferozepore 1890.
123 C.L. Muzaffargarh , 33, C.L. Shahpur 1882, C.L. Ludhiana.
124 C.L. Shahpur 1882, Ludhiana 1885, C.L. Moga, Zira, Ferozepore 1890; C.L. Delhi 1911; C.L. Sialkot 1916; C.L. Shahpur 1896; C.L. Muzaffargarh 1925.
125 C.L. Rohtak 1911; C.L. Ludhiana 1911.
126 Sikh Jats, Kumhar, Khatti, Lohar, Bodla, Chishti, Wattu of Sirsa. 124.
127 C.L. Shahpur 1896, 34.
128 IBID. 124.
was not penalized, but if she became the mother of an illegitimate child she lost all rights. The unchastity of the widow did not rob her interest as long as she continued to live in her first husband’s house, if she lived in another man’s house it was an open scandal and she lost all the rights if her unchastity was proved among Brahmins and Rajputs. Biloches and Guriyani and Pathans said that she lost the right to dower also in the case of unchastity. However Thakars, Rathis, Jats, and Ghiraths of Noorpur Tahsil asserted that remarriage involved loss of her estate but if she had an illegitimate child she could not be thrown out of her husband’s estate of which she retained possession provided she lived in his house. Many cases support this fact. In a case in Tehsil Noorpur a widow gave birth to a Chakandu but possessed her husband’s land.

The unchaste widow was supposed to be deprived of all her rights to her deceased husband’s property according to Jats and Gujars. No instances were however recorded. In two cases where widows of Jat families continued to possess the property of her husband though they were found to be unchaste. Among Brahmins, Tagas, Khatris and Kayasths remarriage of widows was not lawful but if she was proved unchaste she lost all her claim to the property. Hindus of the district had a strong feeling that an unchaste widow should lose her rights as a widow. In some districts the custom itself varied regarding the unchastity of widows. As in Sialkot district 1916 while some said that she was liable to be thrown out from her husband’s property and was only to be given maintenance but others said that she could not be dispossessed but on the same hand they wished that the custom was changed. We have three cases in Sialkot tahsil where she was deprived of the property of her husband on account of unchastity. Evidence of unchastity was always difficult to obtain.

If widow and daughter were left to inherit together, in some tribes as Jodhras and Alpials of Attock the widows would succeed alone in preference to her unmarried daughters. In case there were sons of a widowed mother, she got no share of the estate but it was maintained by her sons. If they divided the joint estate among themselves they set apart a portion for their mother’s maintenance during her life time. If there

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129 Ahirs and Jats of Rohtak.
130 C.L. Rohtak 1911, 30.
131 C.L. Kangra 1914, 84.
132 C.L. Delhi 1911.
were no sons or son’s sons the whole estate devolved on the widow, two or more
sonless widows taking equal shares. The widow held the whole estate till her death or
remarriage and had powered to make all ordinary arrangements for its management
and to enjoy the whole of its produce.133

In some tribes the widow only received maintenance, particularly in the joint
family and did not get a share in the property as among Sayads, Quereshis, and some
Biloches of Muzaffargarh. All widows took an equal share and no distinction was
made between them. In case a widow died her share passed to the other surviving
widow or widows.

The sister could never inherit their brother’s estate. They had no right to
succession in the presence of collaterals.134 We have three cases one each representing
Khattar, Awan where sisters inherited the property. 135 The Hindus of Muzaffargarh
said that the sisters and their descendants inherited only if there were no male
collaterals within 7th generation of deceased upwards. Other tribes like Jats, Pathans,
Belochis, Sayeds, Querishis gave the right to inherit to the sister. Though the sisters
did not inherit in the presence of sons, the unmarried sisters could succeed in the
absence of male lineal descendants, widows, daughters, mothers of deceased till
marriage. The sisters could succeed in the absence of collaterals.136 The sisters were
only given moveable property as gifts.

III

The position of the step-son with regard to succession was somewhat different
and varied from district to district; being recognized in some areas while disregarded
in others. At one extreme was the custom of the Gaddis, and in most cases a son born
in the household of a man, even from a previous marriage or second wife, was given a
share in inheritance. Among the Gaddis a child born to a widow within four years of
husband’s death succeeded to property provided that she still lived in the house of her
husband. The custom was known as *chaukhandu* which meant four walls.137 On the
other hand, *pichlags* were the sons begotten by first husband or by former marriage

133 C.L. Jhelum 1901, 6-7.
134 C.L. Shahpur; C.L. Attock 1931; C.L. Rawalpindi; C.L. Rohtak 1911; C.L. Gujranwala 1914; C.L.
Kaithal 1892; C.L. Moga 1890; Zira, C.L. Ferozepore 1890.
135 C.L. Attock 1911, 28-29.
136 C.L. Jhang 1908, 44 .
137 Punjab Notes and Queries. 1884. art 668 Cf. Also Indian Antiquary. 1902. 359, and 1904. 32.
who accompanied their mother to her second husband’s house or were born there. A posthumous son was called *rondo* in Kullu who was born to widow in the house of second husband and he was known as *gadhelra* in Jagadhri and Karnal district. He was called *parkhatt*. Step sons were called *gailar* in Delhi, Sirsa and *Gelar* in Rohtak, Hissar, and *pichlag* in Sirsa, Hissar.

*Pichlags* were not entitled to a share. 138 The Gaddis and Kanets appeared to hold that if a man took a widow as his wife who was at that time enceinte, the child born would be reckoned as his own child and not a *pichlag*. 139 This was the general rule applied in whole of Kangra district whether the child accompanied the mother to her second husband’s house or was born therein. Similarly in Ambala district the step son born after remarriage would be recognized by the step father as his own, the main motive being to save the family honour. 140 In Ludhiana, the son born after the second marriage was actually considered the son of second husband. In another example, it was recorded that if the price of the woman was paid to the first husband the child belonged to the purchaser and if not then it belonged to the first husband. 141 In Delhi if a son was born after the second marriage of the widow, he was not considered the step son of second husband but was presumed to be his lawful son. The husband might prove the contrary by evidence as to fact. Regarding the son born shortly after the marriage of the mother with the step father it raised the doubt on his paternity. In such cases no definite custom existed. Many Hindu Jats allowed such sons a full share if he was acknowledged by the mother’s second husband as a son. In case of Muslims the religion required that the remarriage should not take place until the period of *iddat* had expired and did not acknowledge a son born within seven months after remarriage. 142 However, in other districts as Moga, Shahpur it made no difference even if the step son was born after the second marriage. 143 A step son was thus recognized as a valid heir.

138 C.L. Muzaffagrh 1925, C.L. Rohtak 1911, C.L. Hissar 1913; C.L. Attock 1911; C.L. Montgomery 1925, C.L. Ludhiana 1911, C.L. Sirsa 1882, C.L. Jhang 1908, C.L. Rawalpindi, C.L. Moga Zira, Ferozepore 1890; C.L. Amritsar 1893; C.L. Shahpur 1896.

139 D.G. Kangra 1883-84, 65 :D.G. Kangra 1904, 57.

140 C.L. Ambala 1887.

141 Appendix B Monograph No II, Question 7 cited in Kangra D.G. 1904, 57.

142 C.L. Amritsar 1893.

143 C.L. Shahpur 1896, 18.
The step son was entitled to be maintained by his stepfather up to the age of maturity. While the former did it on the condition of service but the latter did it unconditionally. In Delhi district, Mianwali, Muzaffargarh and Hissar he could be maintained by his stepfather till his adulthood if he lived with his mother but he could not claim any share in his stepfather’s property. In the same district Sayyads said that they were not bound to maintain a stepson. Biloch tribes of Dera tahsil maintained the *pichlag* only up to twelve years of age. In Hissar district, a step-son might remain with his mother in his step-father’s house and be maintained by him until he grew up. Mahtons of Jullundur tahsil were entitled to be maintained by their step father till the age of 15 and similarly in Nakodar tahsil he was entitled to maintenance until his majority. In Ambala and Rohtak all tribes agreed that a step son living with his step father was entitled to maintenance till he became major that is from 15 to 20 years.

Step sons were not entitled to be maintained by his stepfather having no right as such. They were only brought up and fed in their step father’s house. If ever they were maintained it was only out of consideration for the mother. In Ludhiana district, if a step son lived and worked with his step father he was entitled to maintenance till he grew up. Generally, he also received a dole of land in absolute ownership but he was not entitled to it as of right. While some clans provided for his maintenance till he was minor but many clans denied it in Amritsar. In Jhelum district a step father might maintain him if he wanted but he was not bound to do so. In Sialkot the custom varied while some said that stepsons were entitled to be maintained by their step fathers till they became adults but others denied it. The general custom was that he got no maintenance from his step father. The Khatries of tahsil Dipalpur said that a stepson was entitled to be maintained by his stepfather till he attained the age of 20 years.

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144 C.L. Sirsa; C.L. Gurdaspur 1893 &1913, 35; and the Biloch tribes of Jampur tahsil and Jat tribes of Rajanpur tahsil in Dera Ghazi Khan district; Gujranwala 1914; C.L. Sialkot 1916; C.L. Rohtak 1911; C.L. Kaithal 1892; C.L. Moga 1890; Zira; C.L. Ferozepore 1890; C.L. Shahpur.
145 C.L. Dera Ghazi Khan 1898, 22.
146 C.L. Jullundur 1918.
147 C.L. Ambala 1887 or 1918.
148 C.L. Jhang 1908, 46; C.L. Amritsar 1947. 56; C.L. Jullundur 1918; C.L. Montgomery 1925; C.L. Moga 1890.
149 C.L. Attick 1911, 11.
150 C.L. Jhang 1908, 46; C.L. Attick 1911.
151 C.L. Ludhiana 1911, 91.
152 C.L. Amritsar 1947, 4.
153 C.L. Dera Ghazi Khan 1898.
In Dipalpur and Pakpattan tahsils the stepson shared the property with the son born of his mother’s second marriage only if the property came from the mother. The property of the stepfather was not given to him. He inherited the property of his own father. Muslim tribes were of the view that a step son could not be born after the second marriage of his mother as a pregnant woman could not marry. Thus he succeeded only if acknowledged by his stepfather. No case was known in Jhelum where a step son was born after the second marriage. Some tribes considered this possibility and Jats of Jampur tahsil and tribes of Gujranwala and tribes of Amritsar 1947 said that still he had no right to succeed whereas those of Rajanpur tahsil said that he would succeed along with other sons. In Sialkot he had no right to inherit even if he was born after the second marriage of his mother or even if his stepfather had no male issue the stepfather might assign him one twentieth part of his property by a deed of gift. Though the people of Raya tahsil denied any such gift, Labanas of Shakargarh tahsil of Gurdaspur said that stepson born after the second marriage of his mother had same right as the sons of his stepfather. He only had right to inherit from his own father. Stepson had no right to inherit from his stepfather. If the stepfather gave any share to the stepson, the real sons could sue to cancel the gift deed but the self acquired property could be assigned to the gailar.

There were some exceptions. The Jhiwar tribe of Gurdaspur tahsil said that a step son born after the second marriage of his mother was entitled to obtain a share equal to that of a son of his stepfather. Pathans and Sayyads of tahsil Shakargarh said that such a marriage was not lawful among them. In the same district it was said that if step father gave a part of his property to the step son with the consent of his near kindred, then he could retain that portion. The step father could assign him a share during his life time by deed or otherwise but the Biloches said that the share should not be so large to injure the right of sons. In Hissar also the tribes said that the father could assign his moveable property to such a son. In an instance cited in

154 C.L. Montgomery 1925, 31.
155 C.L. Dera Ghazi Khan 1898, 22; C.L. Delhi 1911; C.L. Ludhiana 1911.
156 C.L. Dera Gazi Khan 1898, 22.
157 C.L. Sialkot 1916; C.L. Gurdaspur 1913.
158 C.L. Gurdaspur 1913, 35.
159 C.L. Gurdaspur 1893 & 1913; C.L. Amritsar 1947; C.L. Shahpur 1882.
160 C.L. Rohtak 1911, 37.
161 C.L. Gurdaspur 1893, 2.
162 C.L. Muzaffargarh 1925, 38.
Attock district the step father made over one quarter of his property to his step son.\textsuperscript{163} In an interesting instance, a Muslim Jat of tahsil Wazirabad had two step sons and he maintained both of them till they became adults inspite of the fact that their mother had expired.\textsuperscript{164}

Generally, Muslim tribes were of the view that the stepson might keep the gift that he received during the life time of his step father.\textsuperscript{165} The Biloches of Sangarh and Rajanpur said that the step father might give the \textit{pichlag} up to one third of natural son’s share. While Jats of Jampur said that stepson might inherit under a will. There were no such instances in Delhi. Although Hindus refused to admit that there could be a stepson but those of Sangarh and Rajanpur said that if so was the case he would be allowed to keep the share conferred upon him by his stepfather.\textsuperscript{166} The tribes of Gujranwala district were of the view that the step son could not inherit from his step father even if the latter did not have any male lineal descendant or had assigned him by deed of gift a share of property.\textsuperscript{167} In Mianwali, Muslims said that though stepson was born after second marriage of his mother was not entitled to inherit from his stepfather but he could assign him a share in his lifetime by gift. Sayyads said that no such gift could be assigned to him.\textsuperscript{168} The step son succeeded his natural father only.\textsuperscript{169} The Jat tribe of Jampur tahsil said that if his mother received her share of her second husband’s estate as fixed by the Muslim Law he would inherit if there were no sons by such husband, in case other sons existed he would get one fourth and will divide with his half brothers if they existed which would be one eighth. At times stepsons and their half brothers all shared equally.\textsuperscript{170}

Some instances were recorded where \textit{gailar} sons or step sons had succeeded to their step father’s property but of course with the express consent of the male collaterals of the deceased and not as a ‘matter of right’.\textsuperscript{171} If the step son was born after the second marriage of his mother, he would not inherit his mother’s second

\textsuperscript{163} C.L. Attock 1911, 12.  
\textsuperscript{164} C.L. Gujranwala 1914, 46. 
\textsuperscript{165} C.L. Dera Ghazi Khan 1898, C.L. Delhi 1911. 
\textsuperscript{166} C.L. Dera Ghazi Khan 1898, 22. 
\textsuperscript{167} C.L. Gujranwala 1914, 44. 
\textsuperscript{168} C.L. Mianwali, 34. 
\textsuperscript{169} C.L. Sirsa 1882; C.L. Gurdaspur 1893; Dera Ghazi Khan 1898, 22; C.L. Delhi 1911; C.L. Gujranwala 1914; C.L. Amritsar 1947; C.L. Jhelum 1901; C.L. Hissar 1913; C.L. Ludhiana 1885; C.L. Kaithal 1892. 
\textsuperscript{170} C.L. Dera Ghazi Khan 1898, 23. 
\textsuperscript{171} C.L. Delhi 1911, 38; C.L. Hissar 1913.
husband nor could step father alienate in his favor by gift. Among Hindu Jats, Kambohs, Pathans and Hindu Tarkhans of the Nakodar tahsil, if a son was born after the second marriage he got his share from his mother’s second husband if the latter admitted him to be his own son. If he did not admit so, he was not entitled to alienate from his ancestral property in his favor by gift, but he could alienate from his self acquired property. All tribes in Kaithal said that it was immaterial whether the stepson was born before or after the marriage of his mother with his step father. He did not succeed.

Jats in Jhelum district said that the step father could make a gift to his step son but he had never done so. Others said that there was no custom of giving a gift to step son. And in Mianwali district among Hindus a stepson born after the second marriage of his mother was entitled to inherit from his stepfather and was considered his son. A Pichlag son many times was not entitled to succeed to the estate of his step father and for the purpose of inheritance he would be described as a stranger to the family of the step father and consequently a gift to pichlag would be a gift to a stranger whatever may be the motive for such a gift. It was assumed that a gift of ancestral property to pichlag would revert to donor’s collaterals on extinction of donee’s line. In Ludhiana district if the father of pichlag had no property the pichlag had succeeded in getting something from his step father. He also received gifts and in rare cases pichlags had been adopted as sons after the step father obtained consent of the reversioners. Sometimes the influence of the widow was strong enough to prevail upon her son to recognize their step brother as one of them and give him a son’s share in the inheritance. Still he had no right to succession to his step father’s property.

Step sons or pichlags were not entitled to succeed to the estate of their step father, in the presence of male collaterals even they have long lived with and been brought up by their step father. At times he was permitted to be made an heir by appointment as in case of Badhal Jats of Ludhiana, Sindhu Jats of Chunian. Similarly in a case among Dhariwal Jats of Ferozapore, a stepson’s son who was remote

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172 C.L. Jullundur 1918.
173 C.L. Jhelum 1901.
174 C.L. Kaithal 1892, 13.
175 C.L. Jhelum 1901.
176 C.L. Mianwali, 34.
177 Jai Lal, J.(4) in Rajmal V/s Hamam Singh (5).
178 W.H. Rattigan, A Digest of Civil Law for the Punjab, 12.

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collateral was held to have been validly appointed heir by a childless proprietor.\textsuperscript{179} The son of a former marriage of woman who had contracted second marriage was entitled to inherit from his natural father but not from his stepfather.\textsuperscript{180}

However many instances have been cited in Ludhiana district customary law manual where son was born shortly after the marriage but he succeeded with his step brothers.\textsuperscript{181} Jats and Rains of Kaithal stated that the stepson could get a share only with the consent of stepfather’s own sons. Illegitimate sons were not entitled to succeed to the property of the father.\textsuperscript{182}

IV

Custom was also clear on position of those persons who renounced family life and joined a religious order or became an ascetic. There were two views on such situations – either the person returned to ‘normal’ life within a specified period or he was considered as ‘dead’ and his property was inherited by his heirs. If a man retired from the world on his own or joined some religious order he did not always lose the right to his property.\textsuperscript{183} In Gujranwala district he retained his right to property as long as he continued to have the possession and he also continued to acquire the property of his relatives as he would have inherited had he not retired from the world. However, if he abandoned his possession over the property or died, then the inheritance devolved on his collaterals and not on his disciples. The property acquired during his retirement went to the ascetic with whom he was associated. For example Gul Muhammad, a Jat, became a faqir but he was shown as a proprietor and he inherited his estate, his share from the estate of Hasso who died childless.\textsuperscript{184} Among the Phaphras of Jhelum there was an instance where a faqir returned to the world and resumed his estate.

Some tribes were of the view that such a person should not have any right to alienate his property by sale or mortgage.\textsuperscript{185} Most of Hindu tribes of Gurdaspur and

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\textsuperscript{179} \textit{IBID},12
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\textsuperscript{180} C.L. Mianwali, 33.
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\textsuperscript{181} Lobanas and Hindu jats of Samrala.
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\textsuperscript{182} C.L. Attok 1911, 12.
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\textsuperscript{183} C.L. Sialkot 1916; C.L. Gurdaspur 1913; C.L. Gujranwala 1914; Muslim tribes - C.L. Dera Ghazi Khan 1898; C.L. Jhelum 1901; C.L. Muzaffargarh 1925 C.L. Hissar 1913; Hindus , C.L. Kaithal 1892;most of Muslim tribes, C.L. Jhelum 1901.
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\textsuperscript{184} C.L. Sialkot 1916.
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\textsuperscript{185} Pathans, Sayads, Muslim Jats, Gujars, Arais; Muslim Jats and Rajputs of Batala; Muslim Rajputs of Gurdaspur; Hindu Jats and Labanas of Shakargarh. Brahmins and Khatris of Batala; Sainis
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most of the Hindus tribes were of the view that the man was considered dead after he
joined some religious order both regarding his own property and the property that he
would have inherited.\textsuperscript{186} Similarly, Hindus of Jhelum said that he lost all rights to his
property and his heirs took what he would have inherited, but the Khatris of Chakwal
said that he could claim his property if he again returned to the world. Even Gujars of
the same district said that an ascetic lost all rights but no such case had occurred.
Some other tribes as Kalals and Labanas of Gurdaspur tahsil, Hindus of Sangarh tahsil
said that the joining of a religious order had no effect upon his right and his land
would be given back to him when he return to worldly life.\textsuperscript{187} A Muslim of Sangarh
tahsil said that if a man became ascetic his property was taken by his collateral
relatives and also his right to succeed to other property.\textsuperscript{188} In Delhi also the man lost
all his rights to retain or acquire property after becoming member of religious order.
His property went to the person to whom it would have gone had he been dead.\textsuperscript{189}

All the tribes in Montgomery district said that the person who retired from the
world remained owner of his property till life, provided he continued his possession of
the property. He lost all rights to inherit other property and those people would inherit
who would have inherited if the man had died. Kambojs, Khatris of tahsil Dipalpur
stated that he even lost his own property which he had abandoned. Jat Sikhs of tahsil
Pakpattan said that he did not lose his rights till his death but if he became the
follower (\textit{chela}) of a religious leader he lost his rights.\textsuperscript{190} Most of the tribes in Rohtak
district stated that an absent ascetic was presumed dead after absence of 7 years but if
he returned between this time and the 12\textsuperscript{th} year his land would be restored. No claim
was recognized after 12 years. The Hindus added that a man who became a
\textit{kanpharajogi}, he was considered dead. Many tribes stated that the man lost all his
rights to retain or acquire property by inheritance if he voluntarily retired from the
world and became a member of some religious order.\textsuperscript{191} The effect would be same as
if he had died.\textsuperscript{192} Brahmins, Jats, Muslims and Bishnois, Bagri and Sikh Jats of Sirsa ,
Hindus of Ambala, Shahpur were of the view, the property went to the person, it

\begin{itemize}
  \item Lehars and Tarkhans of Gurdaspur.
  \begin{itemize}
    \item C.L. Dera Ghazi Khan 1898.
    \item C.L. Gurdaspur 1913, 36; Dera Ghazi Khan 1898, 23.
    \item C.L. Dera Ghazi Khan 1898, 23.
    \item C.L. Delhi 1911, 39.
    \item C.L. Montgomery, 32.
    \item Hindus, C.L. Muzaffargarh 1925; Hindus, C.L. Moga 1890, Zira, C.L. Ferozapore1890; Brahmins,
    Jats, Muslims and Bishnois, C.L. Hissar 1913; C.L. Shahpur 1896.
    \item C.L. Hissar 1913, 47.
  \end{itemize}
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would have gone if he had been dead.\textsuperscript{193} Even his wife was considered a widow and might marry again.\textsuperscript{194} He could however decide to come back and claim his share of family property.

Among Khatri, Aroras and Bhatias of tahsil Wazirabad and Labanas in tahsil Sharakpur in Gujranwala district said that his right to retained undivided property was lost and he could not acquire property by inheritance as it devolved on his brothers. The same happened if he converted to Islam or Christianity. For instance, five persons have been quoted to have become Muslims and they did not inherit their father’s property. In Ludhiana district this question was a vexed one. Some tribes and gots recorded that a man lost all claim to retain his property while others said that he retained all rights. For a man to be a true ascetic, it was necessary that he should have abandoned the world, and, as long as he retained property of his own, he could not be said to have done this. It would be the best evidence against anyone being an ascetic that he was still an owner of land. A man could not, then, be deprived of his property on the grounds of asceticism, nor could he be excluded from inheritance if he still retained and managed his own property. Even where he has actually given up his land on assuming the character of an ascetic, it is still apparently open to him to come back, and most tribes say that he may do so within the period of limitation. Under certain circumstances it would be a fair inference that there had been a complete abandonment of the world, e.g., when a man had succeeded to the gaddi and became the head of a religious institution eg. dharamsala. All the tribes were very careful to state that a man who had turned ascetic could not alienate the land in favor of the institution he had joined. Man’s natural heirs were entitled to succeed his land and not his spiritual associates.\textsuperscript{195}

The variation was observed in the district Muzaffargarh regarding the property rights of the ascetics. While Hindus did not give them any right in inheritance, the Muslims did not take back their right. The property remained entered in his name and he could claim it if he returned back. Three such instances were also there to support the custom. In Hissar district the variation was found in various tribes regarding the succession rights of the people who had renounced the world. The tribes were divided on the issue whether to take back succession rights or not. The Rain tribes were more

\textsuperscript{193} C.L. Muzaffargarh 1925, 39. C.L. Shahpur 1896.
\textsuperscript{194} C.L. Shahpur 1896, 135.
\textsuperscript{195} C.L. Ludhiana 1911, 91.
liberal in their customs as regards women mainly because they were strictly 
endogamous. Whatever went to the daughter and her son or her husband was only 
given to the distant agnate.\textsuperscript{196}

Hindus were very much against giving any property right to the man who 
turned ascetic or \textit{faqir}. The answers were very clear in Ludhiana district, but all tribes 
were very unanimous in saying that the man who had turned ascetic could not alienate 
his land in favor of the institution that he had joined. Only his natural heirs had the 
right to succeed to his land and not his spiritual disciples.\textsuperscript{197} The greater strictness of 
the Hindus towards \textit{faqirs} was because among them \textit{faqir} gave up his caste and 
belonged only to the property of his spiritual father or brothers.\textsuperscript{198}

V

The state dealt with numerous disputes over succession and referred to the recorded 
customs of that district and caste in order to settle issues of inheritance. Dispute arose 
over the method of division i.e. \textit{pagwand} or \textit{chundavand}, inheritance by only 
daughter or married daughter with no brothers and claims of widows. Every case of 
disputed succession was decided in the favor of collaterals in accordance with custom. 
The Settlement Officer showed his surprise that cases were carried as far as Chief 
Court, but it was frequently done so. Often there was a dispute regarding whether 
\textit{chundavand} was followed or \textit{pagwand}. In a Chief Court decision it was found that the 
customary rule of succession among Ghumman Jats of the Asman Mahal of Mauza 
Sambrial in the Daska tahsil was that of \textit{chundavand}.\textsuperscript{199} The Chief Court decided that 
Katoch Rajputs of Palampur Tahsil followed \textit{chundawand}.\textsuperscript{200} Almost all tribes said 
that a particular son could be given a larger share in father’s property, except that of 
Kangra and Palampur Tahsil. Certain tribes gave elder son an extra share of movable 
property as \textit{Jatunda} or \textit{Sardari} and it was upheld by the court.

Cases were also cited by Jats where the step son inherited the property when 
the step father was childless and in another case he inherited even if he had other 
sons.\textsuperscript{201} Civil judgment number 95, Punjab Record of 1891 ruled that a step son could
not inherit from his step father and that a valid gift could only be made by the consent of collaterals. The parties were Jats of Bamnauki. In one of the cases in the Punjab a *pichlag* had been adopted. Numerous instances have been cited where the claims of *pichlag* were refused by the courts. In tahsil Attock, a man died sonless leaving an only daughter who succeeded him. The collaterals sued but failed then the case was taken to the Chief Court. There was also a case where the Divisional Court and later the Chief Court upheld the decision of giving land to a married daughter whose father had died sonless.

A Brahmin woman and her illegitimate son brought a civil suit vide Appeal No. 52, dated 25 January 1910 alleging that the collaterals of her late husband had forcibly dispossessed her of his land. The case went up to the Chief Court where the woman was proved unchaste and her suit of possession failed. In another case the unchaste widow was not even entitled to receive maintenance from her son. In two cases she was only given maintenance for life. In other two cases she was allowed to retain possession of her husband’s land against his collaterals who had become Muslims. In Zafarwal tahsil, a self admitted unchaste widow was allowed to retain possession and the Judge remarked, “The woman is unchaste, but she is not liable to ejectment on this point. The general Hindu law and the custom of the province are in her favor.” The *Wajib-ul-arz* of 1855 is also in her favor. The two *Riwaj-i-Am* are against her, but they cannot carry much legal weight.” By the turn of century thus, it appears that the British administration were not paying much attention to the customary ‘ chastity’ and overlooked it in keeping with legality over customs. In a case it was decided that a married sister could inherit her sonless brother’s property, however the Divisional Court decided that sisters and their issue were not entitled to inherit the land of a sonless brother. Thus the state remained ambivalent in its attitude towards custom.

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202 C.L. Rohtak 1911, 37.
203 Punjab Record of 1893, 111
204 C.L. Attock 1911, 13.
206 Ibid 29.
207 vide Appeal No. 3, dated 20 July 1900.
208 P.R.76 of 1901.
209 4 June, 1906.
210 30 Aug. 1911.
There was no general custom in Punjab where Hindu widow had to forfeit her estate as a result of her unchastity. It was proved in a suit by Ahir tribes of Delhi that no special custom was approved. In a decision of Chief Court held that no regard was to be paid to caste or tribe of mother during succession. In a case in Attock district a woman was given some land by her father. She entered it in her husband’s name, but he wanted to get it entered in his brother’s name. On this, the woman sued and it was decided that the husband could not do this. In another case the man gave land to his daughter on her marriage but she gave it to her sons. Change was therefore taking place in the customs regarding inheritance as a consequence of the decisions of the courts. The British sought information and so paid less attention to the customs of tribes, looking instead for general rules of the majority.

It was held that *chadarandazi* marriage between a Minhas Rajput and a Mahajan woman of Gujarat district was valid and son of such marriages were entitled to succeed to estate of his deceased father. Chief Court held that among Rajputs a widow on ceasing to retain her character as a chaste widow lost all rights to family property. In another case a widow who had inherited the estate of her deceased husband was not liable to forfeit that estate by reason of her unchastity after the death of her husband. In another case a Hindu widow was liable to forfeit her life interest in the estate of her deceased husband on account of unchastity. In another case widow lost her husband’s land on account of her remarriage. There were several other cases that supported this fact. In a case a Rathi widow lost her right when she remarried to her husband’s brother. However there were few exceptions. In a case of Ghirth widow of Hamirpur Tahsil, she gave birth to three sons and allegedly lived with another man as his wife, the collaterals sued, the divisional Judge held on appeal that there had been no marriage and mere unchastity didn’t divest her of her first husband’s estate. The Chief Court agreed and rejected the appeal.

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211 P.R. NO.105 of 1885.
212 P.R No. 73 of 1897.
213 C.L. Attock 1931, 92.
214 *IBID*. 95.
215 P.R. No 57 of 1909.
216 Civil appeal number 1250 of 1895.
217 Punjab Record 107 of 1888.
218 Punjab record 85 of 1866.
219 District Judge, No. 305, decided on 10th July 1917.
220 Civil appeal number 197 of 1892.
In another significant decision the Divisional Judge had held that mere isolated lapses from virtue did not bar a woman’s right to inheritance. The Divisional Judge allowed maintenance to a widow who had given birth to illegitimate children, dated 7 Oct, 1911. The District Judge held on 28th July, 1909, that a Rathi widow could only be deprived of her life estate if she combined unchastity with desertion of her husband’s house. Similarly Divisional Judge held that unchastity with near collateral of husband did not forfeit widows’ rights if she lived in her husband’s house. Daughters did not succeed in the presence of sons and widows. The daughters succeeded till their marriage. The Chief Court held that gift of landed property made by way of dowry to a female on her marriage was mainly for the benefit of the donee and her child. A father was at liberty to give a daughter anything he liked out of his movable property.

The State thus, in the matter of inheritance followed a characteristic ‘duality’ of colonialism. On the one hand it upheld custom with regard to succession and at the same time it intervened to change the customary position. For instance, inheritance to step sons was largely overruled, the chundavand system gave way to pagwand, while extra share to one specific son was upheld by the state. However, the state in its rulings went against the custom in permitting succession to daughters, accepted inter-caste marriages and rights of children from them, and overlooked issues of chastity while granting widows succession to late husband’s estate, much against existing custom. The State went by western logic and was more concerned with general rules rather than the customs of minor groups in different areas and ignored most of customs. Consequently, several customs of small groups disappeared while those that were common for a larger majority were recognized as the customs for all.

221 Appeal number 262 of 1911.
222 Suit number 2 of 1909.
223 Divisional Judge, 309 of 1903: Divisional Judge, 87 of 1902, 91.
224 P R No. 54 of 1909.
225 C.L. Kangra 1882, 151.