Customary Law and Marriage

Marriage may be regarded as one of the fundamental social institutions which developed with the evolution of mankind. It lays down the nucleus of society. Marriage follows time honored rules and regulations which define the rights, duties and privileges of husband and wife. Otto Larsen defined marriage as a contractual agreement which formalizes and stabilizes the social relationships which comprise the family. It evolved and developed with the socio-economic progress of mankind and outgrew the basic need of satisfying physical hunger. It is an association of man and woman formed for mutual satisfaction of value demands which may be biological, psychological, social and economic. It also establishes the legal relationship of husband and wife. This social relationship has the backing of custom or law and lays down the rights and duties of the parties involved. Marriage is the legal union of a man and a woman in order to live together and often to have children. Webster dictionary defines marriage as the social institution by which a man and woman are legally united and establish a new family unit. "The social institution that provides the recognized form for entering into matrimony or setting up a family unit". No community attached greater importance to marriage than the Hindus.

The custom of marriage was most prevalent in all parts of the province of Punjab. For both men and women marriage was generally considered essential and arranged by the elders in the family. The focus of this chapter is to explore this custom in the region and find out the variations regarding age of marriage, conditions of marriage and various practices associated with marriage. The chapter has been divided into six sections. The first section talks about the universality of marriage in the province, kinds of marriage and variations. The second section delves into the aspect of the age when the person was married and it will try to find out the variations

3 IBID, 1.
7 Srikanta Mishra, Ancient Hindu Marriage Law And Practice.
when the children were married by different tribes and in different areas, the issue of consent, i.e. who was entitled to give the consent for marriage is explained. The third section deals with the prohibited degrees, implying which tribes and religions were allowed to intermarry and who were not. The fourth section deals with the custom of polygamy and polyandry and looks into the issue whether mere cohabitation made one husband and wife or if appropriate ceremonies were necessary. The other feature explored is that of muklawa, the time when the bride went to her husband’s home and started her new life. Fifth section finds out about the expenses of marriage and the custom of bride price, the custom where the girl was married only after taking some payment by the girl’s father and an overview is presented in the last section.

The universality of marriage among the lowest strata of Hindu society is exemplified by the marriage of a prostitute to a mock husband before initiation into their profession. After a certain age unmarried people were looked down upon. The concept of Hindu marriage has changed in the course of times and various traditions and customs associated with it have melted. The institution of marriage is evolved to channelize or to bring to an order the essential functions of management of sexual desires and to reproduce their own offspring in an accepted manner and thereby to attain social order and stability in the society ultimately. The Shastras regarded marriage as sacrament and marriage once duly performed could not be revoked. In a Hindu marriage, custom is sacred. A marriage ceremony is considered complete only when customary rites and rituals are completely performed. These customs however vary from place to place.

For Muslims, marriage was primarily a civil contract which required a proposal and acceptance before witnesses to establish the marital agreement. This civil ceremony was attended by relations of contracting parties accompanied by religious and customary rites and readings from the Koran. Prophet also taught that when a man married verily, he perfected half his religion. Marital ideologies, practices, and beliefs are complex and vary considerably from region to region in

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11 IBID, 24.
12 Census India 1921, 151.
13 Census India 1921, 151.
India and among various Indian communities or castes, but some general principles are present in most of Indian culture.

According to the Punjab customary law, marriage is neither eternal nor a contract. The only purpose of the marriage was the recognition of cohabitation by the biradri or brotherhood. The marriage stood automatically dissolved, under customary law, after the death of the husband or wife. In the agricultural communities of Punjab marriage was considered more as a permanent union of sexes for the purpose of children than as one of the ten samaskaras as per Hindu law. The agricultural tribes of Punjab regarded marriage as a permanent union of sexes for the purpose of progeny. Marriage according to Hindus, Sikhs, Muslims and Jains was a sacrament and not only a social function or a matter of convenience. They did not subscribe to the notion that marriage was a sacrament for the regeneration of the twice born castes only but acknowledged the significance of marriage and celebrated it with simple ceremonies.

Women were taught from childhood that life without marriage was incomplete and maternity was the object for which she had been sent into the world. It was ingrained in their minds that everyone must marry, otherwise there would be shame in this life and hell in the next. Marriage was looked upon as a necessary incident in a woman’s life. Marriage was always regarded as a sacred religious duty and special importance was attached to it. Practically, every female got married. The universality of the marriage in the province was obvious from the fact that in the age range of 40 years and above only 19 out of 10,000 females were unmarried, but 164 males out of 10000 of same age were unmarried because of the shortage of females, as explained by the administration. Out of them, some joined religious celibate orders. Over the age of 60 years only 6% of men were unmarried. Every Hindu was supposed to get married and beget at least one son to perform his funeral ceremonies.

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15 Piare Lal Sharma, 38.
16 Census Punjab 1911, 262.
17 Ibid., 38.
18 Mary Frances Billington, Women in India. Amarko Book Agency, New Delhi 1973
20 Customary Law Kaithal 1892, 11.(from here on, customary law would be referred to as C.L.)
21 C.L. Amritsar 1947, 38.
22 Census of Punjab 1911. 262.
otherwise his spirit would wander.\textsuperscript{23} Fathers made an early and suitable arrangement for his daughter’s marriage. “Even if lame, deformed, or blind they somehow get husbands”.\textsuperscript{24} Out of the total female population less than 1% of females were left unmarried above the age of 40 years and about 1.56% of male populations were unmarried.\textsuperscript{25} Hindus considered it disgraceful to have an adult unmarried daughter. It was however difficult for a man who was blind or much deformed to get a wife. Sikhs had fewer married men because of the scarcity of women among them but had almost highest proportion of married females.\textsuperscript{26} Marriage was regarded not only as a religious but also an economic necessity. In Multan a proverb described the pathetic condition of a bachelor as

\textit{Chhare karman de sare, aap pakende rotiyan,

aap bharende gharivan}

(It was difficult for a lonely man to look after the house and do all the chores and nobody was there to help him in cultivation and carry food to the fields).\textsuperscript{27} A widower was half paralysed when he loses this assistance. It was common, therefore, that a man married as soon as a suitable bride could be found.\textsuperscript{28}

There were various forms of marriages in the Punjab. Generally there were two main forms of marriages in Hindus. One was that of religious rite which was indissoluble and was the recognized legal form of marriage. Woman could solemnize it only once in a life time. The characteristic of this religious marriage was ritual and that bride should be given and not sold or exchanged. This was called the \textit{pun} form of marriage. It was important that she should not have reached puberty but this condition was not necessary in the Punjab. The other form of marriage was \textit{Karewa}. It was in those tribes that allowed remarriage of widows. It had no ceremony but only cohabitation with mutual consent. Another form predominant among Jats was called \textit{Usur, dwathi, bata} (price) where the bride was purchased. It was a degree lower than exchange betrothal (\textit{sata}). If no money was paid the marriage was called \textit{pun}. \textit{Kanyadan} or \textit{Brahm Punj} was the religious character of gift of bride and was

\textsuperscript{23} Census of India 1921, 150.
\textsuperscript{24} D.G. Hoshiarpur 1904, 56.
\textsuperscript{25} D.G. Gujrat 1921, 37; D.G. Shahpur 1897, 59.
\textsuperscript{26} Census Punjab 1931.
\textsuperscript{27} D.G. Attock 1907, 62.
\textsuperscript{28} M.L Darling, \textit{The Punjab Peasant in Prosperity and Debt}, 58.
performed more in higher classes and more at an early age. In Hoshiarpur, three kinds of marriages were recognized. 1) Pun where no price was taken for the girl. 2) Takka where girl was married only after taking bride price for her. 3) Vatta where marriage involved exchange by a reciprocal betrothal. In Gurgaon district only two forms of marriage were known. One was shadi by ah (regular) which included phere, and ceremonies at time of girl’s first marriage while the other was private marriages which were not celebrated. The other forms of marriages in the Punjab were Sagotra, Sagai. The term Sagotra marriage means marriage between persons belonging to the same gotra. It was more prevalent amongst the Vaish Aggarwals. The whole community did not approve of it but still it was not considered a dishonor and the children of such marriages were also recognized as legitimate. One more type of marriage was ‘har’ when woman was made wife by force. It was prevalent in Simla and accepted by Kanets and lower castes, but higher classes considered it illegal. Yet another form of marriage was Sagai form of marriage which was an informal ceremony of marriage but it was a sufficient and valid marriage if an agreement to marry was made before respectable persons and cohabitation followed such agreement.

By the early 20th Century the Anand form of marriage conducted according to the Sikh rules of marriage became prevalent. It was also legally recognized among the Sikhs. Anand karaj was legalized through the passage of the Anand Marriage Act 1909. When a husband had abandoned his wife she might marry in the Sagai form during the life time of her former husband. Later another important development took place in the institution of marriage in the province. The voluntary system of registration of marriage was introduced in many districts of Punjab so that surety could be given to the performance of marriage. The Special Marriage Act of 1872 which was passed mainly at the behest of Brahma Samaj because its followers did not want to undergo the Hindu religious ceremony. Passed by a slight margin it made secular marriage through registration possible. It also provided that couple could have civil marriage if man was of 18 years and woman was 14 years or older provided their

29 Census of Punjab 1901, 217.
30 D.G. Hoshiarpur 1904, 33.
32 D.G. Simla 1904, 27.
33 Kally Chum Shah v/s Dukhee Bibi, 5 Cal. 695.
parents or guardians gave their consent. But even their consent was not required if both boy and girl were of 21 years or older. But in that case they should not follow Christianity, Buddhism, Parsi, Hindu, Sikh, Jain or Muslim faith.

Some variations were found in the custom of marriage in relation to area, caste and religion. In a district like Simla, for example, the social ethics were not rigid. Marriage was not looked upon as a tie and even temporary or occasional disloyalty towards the partner was not damned by people strongly.\(^3\) Here sexual license before marriage was very frequent among Kanets and ‘less respectable’ families.\(^3\) Adultery was overlooked if the man belonged to the same tribe of that of woman.\(^3\) Traffic in brides from Rajputana and Central India into the Punjab was known to exist and was possible because of a lack of curiosity as to the origin and social status of women so produced.\(^3\) In some cases strict Muslims gave charity to Brahmans, whose presence they considered necessary at the ceremony thus denoting their conversion from Hinduism at some remote period.\(^3\) Generally no particular form of ceremony was necessary to constitute of marriage. Rather the consent of the parties was essential. No elaborate ceremonies were essential for the validity of a marriage among the tribes in the Punjab governed by custom. So much so that even Chadar Andazi was not essential.\(^4\) The binding element in the marriage among the Khatris of Punjab was the giving away of bride by her father or guardian and the acceptance of the gift by the bridegroom.\(^4\)

II

In the Punjab the rule that the girl should not have reached puberty at the time of marriage was not necessarily followed.\(^5\) Yet early marriage was arranged so that the customary age limit did not pass away. Hindus and Sikhs married girls before puberty or immediately after that.\(^5\) However with regard to the age of marriage no uniformity is visible in the customary practices. Further there were variations on the

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\(^3\) D.G. Simla, 1888-89, 36.
\(^3\) IBID, 27.
\(^3\) D.G. Simla, 190, 28.
\(^3\) Census of India 1921, 152.
\(^3\) D.G. Rawalpindi 1883-84, 53
\(^4\) 54 P.R.1900; 99 P.R.1913; 50 P.R.1900; 87 P.R.1898; 117 P.R.1913; Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab: Being an Exhaustive Critical Commentary on Punjab Custom, The University Book Agency, C.L. Lahore 1929, 268.
\(^5\) P.T Nair . (ed). Marriage and Dowry in India., As Cited in Risley, 17.
\(^5\) Census of India 1901, 217.
\(^5\) D.G. Shahpur 1897, 60.
basis of gender, religion and area. There were many districts where no age limit was specified.\textsuperscript{44} Such cases were found in some areas as Rohtak. In \textit{Pun} marriages no consideration was accepted was celebrated at an early age.\textsuperscript{45} Early marriage was the established custom in Punjab until the 1920s. There were thousands of married couples in Punjab who did not even know the meaning of marriage.\textsuperscript{46} Since marriage was regarded as a biological necessity parents started looking for the bride for their sons even before he had finished his education or was self reliant.\textsuperscript{47}

The age of marriage to a large extent depended on the circumstances of the parents.\textsuperscript{48} It depended upon the family’s ability to bear the expenses.\textsuperscript{49} and also on the standard of education of parents.\textsuperscript{50} Many factors contributed to the early marriages. Basically the custom of early marriage arose out of the restrictions imposed by the elaborate caste rules on marriage which made the parents anxious to marry their children especially daughters early.\textsuperscript{51} The other factor was the danger of loss of virginity of the girl, so it was desirable to marry her before attaining puberty. In fact infant marriage was regarded as a ‘badge of respectability.’\textsuperscript{52} An interesting fact was that where \textit{pardah} was observed more strictly, there early marriage was not necessary.\textsuperscript{53} The idea of marriage was the transference of the hitherto father’s dominion over the female person in favor of her husband. It was held that this change should take place before she reached the age of inquiring and this factor also influenced the age of marriage.\textsuperscript{54} The other factor was social ideal of monogamy and one’s social prestige was also involved in marrying the girl early as it was matter of pride and prestige that one’s child was sought after at a tender age.\textsuperscript{55} These social and psychological forces helped in the strengthening of child marriages and going away from these practices amounted to social disapproval and disgrace.\textsuperscript{56}

\textsuperscript{44} C.L. Moga 1890, Zira; C.L. Ferozepore 1890, 8; C.L. Hoshiarpur 1914, 27; Dipalpur, Pakpattan in C.L. Montgomery 1925, 11.
\textsuperscript{45} Punjab Census 1901, 217.
\textsuperscript{46} Sant Dharm Parcharak, Jullundur, 8 Oct 1897, 920.
\textsuperscript{48} D.G. Amritsar 1892-93, 41; D.G. Gujrat 1921, 38.
\textsuperscript{49} D.G. Gurgaon 1910, 54.
\textsuperscript{50} D.G Gujrat 1921, 38.
\textsuperscript{51} B.S Saini, \textit{The Social and Economic History of Punjab}. 1901-1939, Ess Ess Publication, Delhi, 1975, 64
\textsuperscript{52} Census of Punjab 1911, 271.
\textsuperscript{53} D.G. Hoshiarpur 1904, 33.
\textsuperscript{54} MM Krishnan Reddy, \textit{Marriage Population and Society}. 94.
\textsuperscript{55} \textit{IBID}, 94, 95.
\textsuperscript{56} \textit{IBID}, 95: Even in 19\textsuperscript{th} century we find Ramakrishna Paramhamsa married a girl of 6 years. M.G.
Another reason that encouraged early marriage was that marriage at young age would bring the girl early into the household and her services in the agriculture could be utilized soon. She could be molded by the mother-in-law in her own way in a better way than who married late as she was spoilt by mother’s love and care and last but not the least there could be better bonding between the husband and wife. The daughters were considered as a burden by the parents. If she was not married at a young age mothers would keep pressurizing her husband to marry her soon as she was a burden on their head. (Is nu cheti viyah ke sir to phara lao)

Religious sanctions also played its part in the early solemnization of marriage. The Shastras and pandits considered a girl devi if she was married between 7-9 years, kanya if married till 11 years and paapi if married after 12 years of age. So the preparations of marriage started even before the poor girl had played or was educated or had learnt any chore. As she could not learn much from her mother as she was married at a tender age she had to bear the torture of her mother in law. Consequently, the Hindus married their children a little earlier. It was more so in the case of castes of higher social status and in easier circumstances. Half of the Hindu girls were married between the age of 10 to 15 years. Likewise only 5% of the Hindu girls were unmarried between ages of 15 to 20 years. In the age group 15-40 years in different religions, total 59% of males and 85% of females were married. Regarding various religions, Sikhs had 86% females and 56% males; Hindus had 85% females and 62% males who were married. Muslims had 84% females and 59% married females. Here we notice that Sikhs had fewer married males because of the rarity of women and the same reason was applicable for the highest proportion of married females. Muslims married their children at a later stage. Among Hindu Rajputs marriage of their children was later. Muslim peasantry allowed girls to reach puberty before marriage. Only 34% of Muslim girls were married before 15 years, and 19%
of the Muslim girls were still unmarried at 20 years. Among the tribes Arains married their children at a very young age. Jats married later than Arains but Rajputs married them when they were nearly grown up and Pathans did so when they were quite grownup. Rors and Gujarats married children at 12-14 years. Rajputs of Karnal and Panipat married their children when they were 15 or 16 years old or even later. They usually did not marry widows. The age of marriage for agricultural classes was 14-20 years in Gujarat district, though it also depended on their financial position.

There was great disparity among various castes regarding age of marriage in the same district also. One such case was in Lahore where Jats married between the ages 10-15 years, Dogars 12-20 years, Rajputs 6-20 years, and Arains 6-16 years and even later. Similarly, in Rohtak district Hindus married their girls between 9-10 years and Muslims girls at 15-16 years. Early marriage was less prevalent in the Hindu population of farther east. Hence number of single females was higher here than the province as a whole. Every Hindu girl married before 20 years of age but 9% Muslim girls in the same age group were still unmarried. In a comparative analysis, it is found that 31.3% Hindu women were married in the age group of 10-15 years but only 9.7% were married among the Muslims. Likewise in the age group 15-20 years 10.3% of Hindu women and 37.8% of Muslim women were unmarried. In contrast the unmarried males among Hindus were 65.5% and that of Muslims were 80.8% in the age group 15-19 years. In the age group 20-24 years there were 37.7% unmarried males among Hindus and 49.3% unmarried males among Muslims.

In the districts of Rawalpindi (1907) and Attock (1907 & 1930) only those people followed child marriage, who followed old customs and Shastras. Child marriages took place mainly in the east parts of Punjab, and in those districts where...
Hindus were stronger.\textsuperscript{80} Early marriage of the girl was a matter of custom than religion, very significantly in the Hindu dominated districts, Muslims too practiced the child marriage as much as Hindus did and in the Muslim dominated districts, the practice of child marriage in Hindus was lower as it was among Muslims.\textsuperscript{81}

Infant marriages were common in ‘good’ Hindu families. Richer the families sooner the marriage took place.\textsuperscript{82} Infant marriages were customary in Kangra proper except for high caste girls for whom it was difficult to find the match.\textsuperscript{83} It was common for Muslims to have grown up unmarried daughter. The child marriage was rare.\textsuperscript{84} Sometimes Bishnois and Jats of Karnal and Panipat married their children at 5-7 years of age.\textsuperscript{85} In Ferozepore district, infantile marriage was not common, only 2 percent of male population and 6 percent of female population here were married before the age of 15.\textsuperscript{86}

In Lahore for boys 16 years and 12 years for girls was considered to be the age for marriage.\textsuperscript{87} The most common age for the marriage of women was 15 to 20 years and that of men was over 20 years in Ferozepore.\textsuperscript{88} In Delhi a girl was married not before five years and it was disgraceful if not married by 15 years. The minimum age for boys was same i.e 5 years but maximum age was not specified as he ‘will marry when he can.’\textsuperscript{89} In Sialkot, roughly one third of girls were married between the age of 10 and 15 years but virtually every girl had married by the time she was 20 years of age. In comparison lesser boys were married even by the age of 20 years.\textsuperscript{90} Generally boys were married between 17-20 years, the reason being that parents wanted that boy should be self reliant and earn for himself and family.\textsuperscript{p35} In Ludhiana district children married between 5-20 years but still there was no restriction and in Jalandhar district Hindus and Sikhs married between 7-12 years but Muslims as Sayads, Mogals and Pathans did not marry before 15 years of age. Hindu and Muslim Rains, Jats,

\begin{itemize}
  \item \textsuperscript{80} Census of Punjab 1891, 225.
  \item \textsuperscript{81} IBID.
  \item \textsuperscript{82} C.L. Sirsa 1883, 101.
  \item \textsuperscript{83} C.L. Kangra 1883-84, 62; Kangra D.G. 1904, 54.
  \item \textsuperscript{84} Ambala 1923-24, 48.
  \item \textsuperscript{85} D.G. Karnal D.G. 1918; Panipat Settlement Report 1872-80.
  \item \textsuperscript{86} D.G. Ferozepore D.G. 1916, 62.
  \item \textsuperscript{87} D.G. Karnal 1918; Panipat Settlement Report 1872-80, 127.
  \item \textsuperscript{88} D.G., Gurgaon 1910, 54.
  \item \textsuperscript{89} C.L. Delhi 1883-84 & 1912, 59.
  \item \textsuperscript{90} D.G. Sialkot 1920, 34.
\end{itemize}

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Awans followed Hindu norms. Tribes in Jullundur said that there was no fixed age of marriage and it generally took place between 5 and 16 years. In Rohtak district a large number of girls had borne children by the age of 15 years and almost of them by 20 years. In Hissar also females married earlier than males, half of them married by 15 years and all before 20 years but most males were married between 20-29 years. In Dera Ghazi Khan district women were married considerably younger than men. Girls were married usually at the age of 12 but boys were not married until they were able to support themselves. In Montgomery district early marriages were not the custom. Girls were married between the age of 15-20 years but not later than 25 years. The late marriage in this district could be accounted for the prevalence of the crime of running away with another man’s wife that was very common here.

On the whole the age of marriage was low in Jind, Karnal, Hoshiarpur and Kangra. The marriage age was little higher in Ambala, Patiala, Hissar, Gurgaon. There was rarity of early marriage of both the sexes, particularly men. The age of marriage was highest in western part of province or areas where Muslims were in majority. The age of marriage was higher than the average for the province for all classes, especially for Muslims. Two thirds of Muslim girls married between 15-20 years. In Attock Hindu girls were married at 12 years and boys at 18 years where as Muslims married their children at adult age. In Montgomery district marriage was not contracted until maturity. Amazingly there were 94 % unmarried males upto 20 years and unmarried females were 86%. In north and west, the marriage among Muslims took place as late as in the age group of 18-20 years but same was not the case in eastern and south eastern part of the province where Hindu influence could be witnessed and so the tradition of early marriage continued. In 1911 the number of married infants between the age of 5 and 10 years was 63 and that of 1 and 5 years was 2 per thousand. The proportion of married Hindu girl between the ages of 10 and 15 years was 392 per thousand married females in 1911. However Sikhs and Muslims

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91 D.G Jalandhar 1883-84, 16.
92 C.I. Jalandhar 1918, 18.
93 D.G. Hissar 1892, 67-68.
94 D.G. Dera Ghazi Khan 1883-84, 28.
95 D.G. Montgomery 1883-84, 48.
96 Census of India 1931, 174.
97 D.G. Shahpur 1897, 60.
98 C.I. Attock 1930, 72.
99 D.G. Montgomery 1933, 89.
100 Darling, Wisdom and Waste in Punjab, 297.
had 289 and 216 married females per thousand respectively under the age of 15 years.\textsuperscript{101} Whereas marriages of children under 10 years of age were solemnized by all grades of society and the highest and lowest castes carried it with reckoning.\textsuperscript{102} The average age of a male at marriage was about 18 years (17.98) and that of the girl was approximately 13 and half years (13.33\%).\textsuperscript{103} Early marriage of females was in vogue in eastern Punjab, mainly in Rohtak, Bilaspur and Sirmoor.\textsuperscript{104}

Hindu Rajputs did not marry beyond 19 years. Then they were in difficulty as they had trouble finding a match of `suitable blood` as they were very particular about got rules and hypergamy. Similarly, Khatris of adult age also could not find suitable match as most girls already married or betrothed. So much so that a bachelor of 30 years or more had to pay 1500-2000 Rs as bride price in superior classes to find a wife.\textsuperscript{105}

The British were eager to report that later marriages had started as a result of effect of British rule, and also because people were more careful about their choice of bride and bridegroom. The conscience of people was arousing to the grave results of early age marriage which was prevalent.\textsuperscript{106} Many social movements and legislations were carried on in the last phase of the 1930s which affected the marital status of the populace. Sarda Bill was introduced to prohibit marriage of Hindu girls and boys under the age of 12 and 15 years respectively. The Act was passed as the Child Marriage Restraint Act 1929 which imparted punishment for marriage of children below 18 years for the male and 14 years for the female and was applicable to all the communities. The Act came into force on April 1, 1930 and on 4 April 1930 a congregation of 12000 Muslims assembled at Jama Masjid Delhi to witness marriage of 13 year old boy to 9 year old girl as a mark of protest and challenge to the authorities. The District magistrate was petitioned to prosecute all concerned. Similar marriages were celebrated by Muslims in Multan. Such protest continued by orthodox Hindus and Muslims.\textsuperscript{107} Interestingly, the number of persons married below 15 years increased at a rate more than the double that of general rise in total

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  \item \textsuperscript{101} Census of Punjab 1911, 271.
  \item \textsuperscript{102} B.S Saini, \textit{The Social and Economic History of Punjab}, 65.
  \item \textsuperscript{103} Census Punjab 1931, 17.
  \item \textsuperscript{104} Census of India 1931, 174.
  \item \textsuperscript{105} Hoshiarpur 1904, 33.
  \item \textsuperscript{106} Williams Rushbrook, \textit{India in 1923-24}, Government of India Publication Branch, Calcutta, 1924 220.
  \item \textsuperscript{107} Census India 1931, 232.
\end{itemize}
population. It was mainly because of the anticipation of prohibition of marriage of males below 18 years and females 14 years. This hurry to marry children before the Act came into force could be regarded as a temporary phase. 49.9% males were married and 50.13% females were married. This Act however did not annul marriage which flouted its provisions. Yugantar reported that child marriage had not stopped inspite of Sarda Act which allowed only marriage of girl of 14 years and boy 18 years. It was of the view that one should reach venue of some marriage and warn people of consequences and stop such marriage. Even the Census of 1931 reported that people were marrying in large number at ages which were permissible by the law showed that the new legislation was widely known.

In 1860 the Penal Code said that the transportation for life should be inflicted on the husband who consummated marriage with his girl wife below 10 years. In 1891 the age of consent was raised to 12 years. This law was not well publicized. In 1928 the Age of Consent Committee recommended 15 years as the Age of Consent. It was only in September 1929 that the Child Marriage Restraint Act also known as Sarda Act was enacted which fixed the marriage age for males as 18 and females that of 14 years from April 1, 1930. Lots of changes were seen in this regard. As in 1892-93, a boy could be married when he had attained puberty and in 1947 the girl was also to be married after she attained puberty. It provided for penalties and was supported by the educated classes in social reform. Surprisingly, the Act did not find favor with a section of Muslims. They regarded it as an encroachment on their religion. Interestingly a great number of child marriages took place during the period which elapsed between the passing and coming into the force of the Act. The law was not obeyed generally, not well publicized and neither was it enforced well by the government machinery.

By the 1920’s early marriages was regarded as thing of past. The Census of 1901 reported that the girls were not necessarily married by puberty in Punjab. In Ambala district also early marriages started becoming rare. Child marriages were

\[^{108}\text{Census Punjab 1931, 173.}\]
\[^{109}\text{IBID. 173.}\]
\[^{110}\text{Census India 1931, 229.}\]
\[^{111}\text{Yugantar July 1932, 25.}\]
\[^{113}\text{IBID.}\]
\[^{114}\text{Census of India 1931, 230.}\]
becoming less frequent even among Jats and Kanaits who generally married early. Hindus had realized the duty of educating their children to enable them to earn their livelihood, and partly because of the influence of English education. In Jhelum also earlier Hindus were married in the age group 7-10 years but later they increased the age limit with the girl marrying by 12 years and the boy 16 years. In Attock also the children were married in 7-10 years but the girl married in 12 years and boy 8 years. Infant marriage was not common in Ferozepur 1915, Gujarat 1921. Census of India in 1921 reported that by the age of 20 years 91% of males and 98% of females were married. By the age of 15 years number of unmarried girls was 600 per mille and after 20 years every female was married. Generally, most men were married by 30 years of age. At the same time not much importance was attached to the difference in age between bride and groom. Very often rich widowers married girls half their age. Whereas in 1892-93, in Amritsar marriage was solemnized only if the bridegroom had attained puberty but in the same district in 1947 marriage was arranged when both of them had reached the stage of youth.

Marriage was an important decision that could not be left on the persons actually getting married. It determined the ranking of a particular family, lineage and kin group in comparison with others. A marriage could also strengthen or weaken the status of the family. It was necessary therefore, to have formal consent to the marriage and marry the person in suitable home. The marriageable persons were generally not given the authorization to solemnize their own marriage. A girl could never give consent for her marriage whether she was adult or minor. Moreover, when the money was involved the consent became all the more important. Usually the same person could consent for marriage who was authorized to formalize a betrothal. Generally all the caste and tribes replied that the consent of the same party was necessary for the marriage as for betrothal.

Regarding the approval of boy or girl to be married, it depended on the age and sex of the same. If both the parties were minor, then the consent of the guardian

116 Pran Nevile, Lahore: A Sentimental Journey, Lahore, 76  
117 C.L. Amritsar 1947, 44  
118 C.L. Ambala 1893; C.L. Muzaffargarh 1925; C.L. Moga, Zira; C.L. Ferozepore, 9; C.L. Shahpur 1896; C.L. Ambala 1893, 8; Rohtak 1911; C.L. Dipalpur & Pakpattan, C.L. Montgomery 1925,12  
119 C.L. Kaithal 1892; C.L. Rohtak 1911; C.L. Muzaffargarh; C.L. Ambala 1887 & 1918; C.L. Jullundur 1918; C.L. Delhi 1911; C.L. Gujranwala 1914; C.L. Jhelum 1901; C.L. Jhang 1929  
120 C.L. C.L. Ambala 1887,1893, 8, 1918, 9-10
was necessary. The girl was sometimes asked for her consent only at the time of karewa. Muslims followed the Muslim Law wherein it was stated that unless Ijab-i-Kabul i.e. consent of bride and bridegroom minor or adult was taken at the time of Nikah ceremony the marriage could not be valid. The consent of the guardian was so essential that if she married without her guardian’s consent the marriage was considered kala (black) and the right of the guardian to obtain compensation from the husband was recognized. The marriage was not annulled. On the other hand when the adult woman arranged for her own marriage such marriage was annulled. Usually marriage was not valid unless the guardian of the girl had given consent. The Pathans had some peculiar customs regarding elopement in Mianwali district. It was known as udhala in vernacular language. If a man abducted a virgin or widow woman he was liable to give two girls called sharams in return and in case of abduction of widow he was to give four sharams in return with or without damages. If he had no girl in his family to give, he had to pay compensation in cash or kind. The Bhangikhels and other Khataks stated that if a woman was abducted the man was liable to pay Rs. 500 as damages and a dumha (sheep) or Rs. 10 to the elders assembled for the decision of the question. This custom proves that women were only looked upon as goods or chattel.

The exception to this rule was certain section of Nutkani tribe in Sangarh tahsil of district Dera Ghazi Khan. They admitted the right of an adult unmarried woman to arrange for her own marriage if she had no guardian. The women could contract her own marriage if she was a widow. The Jat and Sayad woman was allowed to contract her own marriage in Dera tahsil as per the Muslim law. The adult woman was allowed to consent for her own marriage if she was sane and free by the Muslims of Tahsil Wazirabad and Arains of Tahsil Sharakpur. She was not allowed to marry any menial. If she did marry a menial without the consent of her guardian such marriage could be canceled at the order of her father and grandfather. The custom required that the widowed woman should get the consent of her former husband’s relations if she wanted to remarry. In case she started living together with a stranger without the consent of her husband’s relations then the tribal panchayat would make

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121 C.L. Stalkot, 1895, 8-9; C.L. Amritsar 1947, 24
122 C.L. Dera Ghazi Khan 1898, 7
123 C.L. Mianwali, 4.
124 C.L. Dera Ghazi Khan 1898.
125 Gujranwala district 1914, 9.
him give her up or pay a price for her. Even the Pachadas said that if a grown up

girl flee with a man and married him the alliance was valid even though the guardians

had not consented. A male gave his own consent and he could even make his own terms, whereas

the female had to get guardian’s consent and could not contract a marriage on her

own, as she was not considered competent to contract marriage on her own. In

fact, the girl was never asked for her consent whether she was a minor or adult except for karewa. A girl was never asked even if she was an adult and she could not legally marry without the consent of guardian. In Jullundur however it was claimed that consent was always taken whether minor or adult. The grown up boy could give his consent for his marriage. He could do so only if he was grown up but had no guardian. Only the Biloch tribe was allowed to do so in the district Dera Ghazi Khan. Similarly The Hindus of Dera Ghazi Khan exempted the adult man whose father was not alive. Some tribes said that the boy if adult needed to be consulted at the time of marriage. And if he was not happy with the relation the marriage could not be proceeded with. Muslim Jats of Jullundur tahsil acted on Muslim law on the matter. The tribes of Janjuas of Pind Dadan Khan, Jalaps, Phaphras, Jats and Gujars in Jhelum district stated that though the male could give consent for his betrothal but such marriages were considered ‘highly improper.’ Janjuas stated that even such issue would be battadar or inferior. Other tribes as Janjuas and Mughals of Jhelum went ahead and said that the consent of adult males was not sufficient and even issue of such marriages would be illegitimate, though no such case had been reported. Marriage without the consent of their relations was looked upon strong disfavor. In some exceptions to this rule, Biloches and Pathans of Guriani Zail did not admit

126 C.L. Sirsa 1882 , 102.
127 C.L. Hissar 1913 , 12.
128 IBID; C.L. Sirsa, 102; C.L Ludhiana 1885 , 48; C.L Ludhiana 1911, 34; C.L Jullundur 1918, 18.
129 C.L Hoshiarpur 1914 , 29.
130 C.L Ambala 1887, 1918; C.L Jullundur 1918; Dipalpur, Pakpattan 1925; C.L Sirsa 1883; C.L Ludhiana 1885 , 48.
131 C.L Ambala 1887 1918, 9-10.
132 C.L Ambala 1893 , 8; C.L Muzaffargarh 1925; C.L Kaithal 1892; C.L Shahpur 1896; C.L Jhang 1929; C.L Rohtak 1911,14 ; Dipalpur & Pakpattan in C.L. Montegomery1925 , 12.
133 C.L Jullundur 1918, 18
134 C.L Kaithal 1892; C.L Rohtak; C.L Muzaffargarh 1925; C.L Delhi 1911; C.L Amritsar 1947.
135 D.G. Dera Ghazi Khan 1898 , 7; C.L Jhang 1929.
136 Pathans, Biloches Shekhs of Jhajjar in Rohtak
137 C.L Jullundur 1918, 18.
138 C.L Jhelum 1901,24
139 C.L helum 1901 , 24.
permission to even the boy to make any conditions. In Simla only the lower castes and Kanets gave their girls the right to speak about choice of their husband. Awans of Ludhiana district also had examples where adult girls contracted their own marriage which was also upheld by the courts.

The element of consent was vital under the Muslim Law. Muslims formally asked for the consent of both in Nikah and it was a necessary for the completion of marriage ceremony. Marriage contracted without the consent of the parties was not a marriage in the eyes of law. A Shaafi Muslim married his daughter after she attained majority against her wish. The court held that her marriage was invalid. If a Muslim minor of either sex is married by the guardian, he or she might ratify or repudiate the marriage on attaining majority. Courts recognized valid marriage with a grownup girl which was duly celebrated and consummated. Such cases were not decided on the basis of customary laws. It was also very frequent in Shahpur district where adult unmarried girl used to run away from her house with man of her choice and married him without the consent of her family. Such marriage was bitterly resented by girl’s relations and resulted in disputes and even riots. Though such marriages were valid by Muslim law but custom invalidated such marriages.

Among the Sunnis the woman who was unaware of her marriage at the time when she attained puberty retained her option of repudiation until she became aware of the marriage. She also had the right to repudiate her marriage until she became aware of the fact that she had the right to repudiate the marriage and she can exercise that right within a reasonable time thereafter. On similar lines an interesting instance in Punjab Record 51 of 1881 in Rawalpindi stated that among ‘Muslims’ of the province if the marriage was contracted by a guardian other than father or grandfather then the person had a choice to cancel or endorse the contract on reaching puberty. After the enactment of Act XV of 1856 it was stated that an adult Hindu woman could give consent for her own remarriage to make it valid. A minor could not

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140 C.I. Rohtak 1911, 14.
141 D.G. Simla 1904, 27.
142 C.I. Ludhiana 1885, 48.
143 C.I. Sirsa 1883, 102.
144 Mohiuddin v/s Khatija Bibi.
145 C.I. Ludhiana 1911, 34.
146 C.I. Shahpur 1896, 30.
148 C.I. Hoshiarpur 1914, 22.
do so. She had to take permission of her father or his relations. The custom expected her to take the consent of her husband’s relations.\textsuperscript{149}

### III

One of the significant issues related to marriage would be who was permitted to marry according to custom. Rattigan observed that there was a tendency everywhere, to narrow the inner limits with in which a man or woman must not marry and to widen the outer limit which he or she might marry. This system of got bears a strong analogy to the Roman gens.\textsuperscript{150} A marriage to be binding amongst orthodox Hindus required that both bride and bridegroom must be within prohibited degrees of consanguinity. These prohibited degrees were a matter of practice and usage.\textsuperscript{151} Various restrictions were made by religion, custom or law and were enforced by corresponding sanction. Of these prohibitions of union of relatives and preservation of the purity of blood of the community by prevention of unions with undesirable outsiders were seen essential. Basically, there were three principles regarding this—endogamy, exogamy and hypergamy. Endogamy was the system where woman must be mated into a family which was at least socially equal with and if possible was socially superior to her own. It had a great influence on social, family life and position of women. Exogamy is the custom of marrying outside the tribe, family, clan or other social unit.\textsuperscript{152} All Hindu Jats were exogamous, i.e. they require a man to marry inside his own tribes but outside his own and certain other gots.\textsuperscript{153} Endogamy is custom enjoining one to marry within one’s own group. Hypergamy is the marriage into an equal or higher caste or social group. A contact with a higher caste man and lower caste woman is called anuloma(with the grain); between a lower caste man and a higher caste woman is called pratiloma (against the grain).\textsuperscript{154} Among the members of so called superior Barns that is Brahmins, Kshatrias and Vaisyas the rules prohibited the marriage of daughter with man of lower caste was very strict. The widely prevalent custom especially among Brahmins and Rajputs allowed a man to take wife

\textsuperscript{149} C.L. Sirsa 1882, 102.
\textsuperscript{151} Sripati Roy, Customs and Customary Law in British India, Mittal Publications, Delhi 1986, 494.
\textsuperscript{152} Census India 1921, 152.
\textsuperscript{153} Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab, 267.
only from lower castes and gave daughter to higher caste. In Hindu tradition the observance of custom is supreme. And if custom prevails, marriage within the prohibited degree also permissible. A child inherits whatever purity is contained in parental blood. Line preserving liaisons occur between persons from the same caste group {jati}. So it is expected that a man must marry within one’s own caste.

The inter religious and inter caste marriages were not customary among Hindus and Muslims. As a general rule a Hindu married girl of his own caste and Muslim married a girl of one’s own religion only. If a Muslim man married a Hindu woman then she had to change her religion. Though it was lawful to marry between different tribes but still she was not given in marriage to other tribe. Khukhrani Khatri and Multani Khatri did not intermarry and so did not Uttarahdi and Dahra Aroras.

The custom of interbreeding was one such social fact where Hindus and Muslims varied the most. In Muslims “inbreeding was almost enjoined as a duty, in the former it is wholly taboo.” Hindus were required to marry within his caste, unless he professed Arya Samaj but not within his gotra or clan. Muslims on the other hand sought near relations and first cousins were preferred. Except for Bedis in Pakpattan and Dipalpur all Hindus could not marry a girl of their own got. Marriage was unlawful with the woman of same caste, aunts, sister’s daughter, daughter’s daughter, uncle’s wife, mother in law, son’s daughter, mother, sister and paternal and maternal grandmothers. The Hindus of Gurdaspur district could not marry a woman of different caste or religion. Hindus and Sikhs married among themselves but not with the Muslims and Muslims did not marry persons of different religions in Amritsar district. Dhai Ghar families of Khatri as Kapoor, Khanna, Malhotra, Seth were not banned by this rule and avoided only father’s got and near relations of

155 IBID.
156 IBID.
158 Srirapti Roy, Customs and Customary Law in British India, 494.
159 C.I. Shapur 1896.
161 C.I. Shapur 1896 , 28.
162 Census Punjab 1921 ; C.I. Delhi 1911 , 258.
164 C.I. Gurdaspur 1893 , 5.
165 C.I. Amritsar 1947 , 32.
The selection of the girl for the marriage was an intricate matter as there were various restrictions. The family priests who decided upon the legality of marriage were thus more empowered.167

Among the orthodox Hindus of Punjab following relations came within prohibited degrees: mother; sister; father’s sister; mother’s sister; Brother’s daughter; mother’s sister’s daughter; father brother’s daughter,168 A marriage between a Hindu and the daughter of his wife’s sister was held valid in Madras.169 The question of such marriages being sanctioned by the Hindu custom in Punjab was doubtful.170 Hindus generally forbade four gots while marrying. These were the got of father, mother, paternal grandmother and maternal grandmother. Due to hypergamy this rule was given up and it was not a universal rule. Some gots were excluded by certain tribes and supplemented with more gots by other tribes. As Hindu Rains of Pipli only avoided the got of mother and own but Gujars of Jagadhari and Kambohs of Jagadhari and Pipli did not consider got of maternal grandmother. Gujars, Jats and Kambohs did not marry in got of step mother (matai) also and Rajputs did not marry even in families included in thamba.171 Thamba could be defined as number of villages settled by parent village founded by ancestors of nana. Rajputs divided their village into thamba and all landowners of thamba were blood relations at least in theory. A Rajput marrying out of the tribe became a ghulam.172

Muslims were less strict in prohibition of gots for wedding. Amongst Muslims the prohibited degree included mother, step-mother, paternal or maternal grand-father how high so ever, daughter, grand-daughter, how low so ever, sister of the whole or half blood, paternal or maternal aunts, brother’s or sister’s daughter of the whole or half blood, mother in law, daughter or granddaughter of enjoyed wife, son’s or grandson’s wife, daughter’s son’s wife, foster mother or any other female related by fosterage.173 By and large they did not marry within fourteen degrees specified by Muslim law, but still there were endless variations and no general rule was

167 C.L. Ambala 1893, 6.
168 The Punjab Customary Law, 45.
170 W.H. Rattigan, A Digest of Civil Law for the Punjab, 526.
171 C.L. Ambala 1893, 6.
172 D.G. Kamal 1918, 87.
173 Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab, 267

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followed. Muslim Jats in practice were exogamous but they were bound to admit in theory the validity of any marriage allowed by Muslim Law. The Muslim converts from Hinduism retained the customs of those families to which they originally belonged. They practiced exogamy or endogamy according to the both systems.

Pure ‘Muslim’ tribes were endogamous allowing marriage with any ‘Muslim’ outside the prohibited degrees but in practice they also married women of their own subdivisions or families as far as possible. Muslim of Montgomery district followed the law and they forbade marriage with sister, her daughter, mother, mother’s sister, father’s sister, daughter, sister of foster brother, son’s wife and mother in law, brother’s daughter. Marriage with mother in law or wife’s sister was allowed only after the death of the wife.

Every tribe followed the personal rule regarding the relatives with whom the marriage was unlawful. A man could marry two sisters at the same time or one after the other among Hindus. Jats and Rajputs could do so if the first wife had no child or no son as in Gujarat, Gujranwala but Mahtons of Jullundur Tahsil could not marry his wife’s sister. There were many cases where a man married two real sisters. It was quite frequent when a man married two sisters at the same time with both taking pheras together with their clothes tied to his. Such double marriages were generally arranged when one girl had some physical defect, which made difficult for her to be married separately, in this arrangement she was sort of thrown into the bargain with her sister. Many examples were reported in Hoshiarpur district, where two daughters were married to the same man. Brahmins of Hoshiarpur district had no such custom of marrying wife’s sister. Among Jats and Rajputs such marriages were conditional and could take place only if the first wife had given her consent and she had no offspring. Certain families as Rana of Manaswal were exceptions to this rule.

Under the Hanafi Muslim Law, marriage with wife’s sister during the subsistence of

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174 C.L. Ambala 1893, 6
175 The Punjab Customary Law, 44
176 Kaikhosru J Rustomji. A Treatise On Customary Law in the Punjab, 267
177 C.L. Dipalpur 1925, 9.
178 C.L. Jhang 1929; 5.
179 C.L. Delhi 1910 p.19; C.L. Sialkot 1895; Deepalpur and Pak pattan in C.L. Mont Gomery 1925; C.L. Jallandhar 1918 ;C.L. Lahore 1894; C.L Kithal 1892; C.L Jhang 1929; C.L Hoshiarpur 1914; C.L. Shahpur 1896; Muzzafargarh ; C.L. Gujarat 1922; Sirsa 1883; C.L Gujranwala. C.L Ludhiana, C.L Kangra.
180 C.L. Hissar 1913, 10; C.L. Kithal 1892.
181 C.L Muzzafargar 1925; C.L Shahpur 1896.
182 Sirsa 1883 . 100.
the previous marriage with her sister is only invalid (*fasad*) and not void *ab initio* (*batil*) and the issue of such marriage is legitimate and inherits from the father. Muslims followed *Shariat*. So they could not marry sister of the wife when the wife was alive but could do so after the wife had died. Since on the death of the wife, connection with her family was considered to be broken and a man might then marry a sister or any of her near relations. He was also allowed to marry the near relations of wife like uncle’s daughter. It was rather very common in the districts of Muzzafargarh and Shahpur to marry a sister of the dead wife. Mohammedans followed the *Shariat* whereas Hindu prohibited the marriage into mothers got and the *got* of father in Gurdaspur district. In some tribes the *got* of Nani and Dadi were also prohibited. Among Hindu Rajputs the daughter was married into higher and son into lower got. Katal and Lalotra Rajputs of Shakargarh Tehsil passed resolution to marry daughters only in those *gots* who were willing to give daughter in return.

In Delhi, while mostly Muslims followed their law but Muslim Gujars of Sonipat and Meos did not marry within their own got. Hindu Gujars and Gorwas did not marry with the girl of own, mother’s or grandmother’s *got*. Jats, Tags, Chohans, Brahmins, Kayasths, Khatris, Ahirs, Reahs, Malis did not marry in their own, mothers, grandmothers and maternal grandmother’s got. Sainis could not marry within own and mother *gots*. In Mianwali, Muslims followed their law. Hindus did not marry woman of their own *zat* i.e. one who has descended through males from common ancestor or descendant of mother’s family or of one’s daughter, father’s sister or mother’s sister. There was some exceptions as some Such Dev Khundiya and Mehdiratta Aroras of Kallur and Sultan Khel married within own *zat* but they were looked down upon and were sort of excommunicated by other Aroras. In Kangra district the different tribes married as a rule among themselves, but they could not marry persons of the same *zat* or *Al*. The lowest tribes were also strict in this.

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184 C.L Delhi 1910, 19; C.L Hissar 1913, 11; C.L Sialkot 1895; Dipalpur and Pakpattan in C.L. Mont Gomery 1925, Jullundur 1918; C.L Lahore 1894; C.L Kaithal 1892; C.L Jhang 1929; C.L Hoshiarpur 1914; C.L. Shahpur 1896; Muzzafargarh ; C.L Gujrat 1922; C.L Sirs 1883; C.L Gujranwala; C.L Ludhiana 1911; C.L Kangra 1914; C.L. Ambala 1918.
185 C.L Ludhiana 1911, 32.
186 C.L Hoshiarpur 1914 , 25.
187 C.L Gurdaspur 1913.
188 C.L Delhi 1910, 18.
189 C.L. Mianwali, 11.
190 *Zat* = sept, al meant people of same sept living in one place. The Ghiraths used this term loosely.
regard as Ramdasi Chamar must marry a chamari who was not a Ramdasi, a Nagtain Badin must marry a Badin who was not a Nagtain. A Vihan Gaddin must marry a Gaddin who was not a Vihan and so on. There was less strictness concerning Gotra but most of the tribes had forbidden to intermarry in the same gotra. Jats especially Sikhs, held very liberal view on the question of marriage. They seldom considered themselves bound by the caste iron rules laid down in the Hindu scriptures. The marriage between a Jat male and a Mazhabi, Chura, Chamar and Nai female was valid whether it was performed according to Anand rites or Vedic way.

A marriage by chuddar andazi between a Jat and a Brahmin woman was held valid by custom. Such marriages were invalid under Hindu Law. Even a marriage between a Bairagi and an agriculturist (Kanait) woman by Ganesh puja was valid. In Kangra district marriage between Rajput male and Kanait woman was valid. Even a marriage between a Jhabra Rajput and a Tarkhan woman was held valid and their offspring were legitimate. And in Hoshiarpur district Karewa or chuddar andazi marriages between Dod Rajputs and Bhat or Brahman widows were valid by custom and offspring was treated legitimate. A marriage between a Khatri and a Brahman woman was not valid under the Hindu Law.

It was very common to find a Muslim of rank marrying a Rajput woman. Such intermarriages also found in Mandal families of Karnal. Many Rajputs and Sikh Sardars contracted a form of marriage called chadar andazi with Muslim women and many Hindu Sikh Rajas also followed suit. Such marriages were not as a result of prevailing usage but such marriages were an “acts of sovereign will and pleasure which set all law and usage at defiance.” In district Hoshiarpur a Jat jagirdar could not legally marry a Brahmin woman and if such marriage took place it would exclude the woman of inheritance rights in case the man expired.

Another interesting fact that one come across was that place where there were less Muslims they married near relations less but opposite was not true for Hindus.

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191 D.G.Kangra 1904. 55.
193 50 P.R. 1900.
194 36 P.R. 1914.
195 1934 Lah, 550.
196 65 P.R. 1911.
198 Musst Chand v. Raj Kaur; Sripati Roy, Customs and Customary Law in British India, 495.
199 Sripati Roy, Customs and Customary Law in British India, 495.
They were not influenced to marry cousins or endogamy by their Muslim neighbors. Though the Hindu Law did not allow the marriage of a man with his nephew’s widow but such case came into fore of Jat agriculturists who were governed by the custom. In a case in Ambala district a Karewa marriage between a Jat and his widow daughter in law was not valid by custom and also the issue of such union was illegitimate as it was disgusting to Jats. But in another case such marriage was held valid by custom in an appeal from Hoshiarpur district.

In certain cases inter caste marriages took place. A Sunni Muslim might marry a Shia woman and a Sodi could marry a Khatri woman. A Brahmmin may marry a Rajputni. A Hindu Sikh Jat and a Muslim convert to Sikhism is valid. A Sayad woman might marry a *Panja Shahi Faqir*. A Jat might also marry a female of high caste Hindu. It was proved in a case of Sahib Ditta V/s Bela where marriage of a Jat with Brahmmin was held valid. A marriage between a Hindu Sikh Jat and a Muslim converted to Sikhism was also valid. There were instances when the intercaste marriages were not allowed. A Bujju Rajput and Diwani Rajput could not marry a Brahmmin woman. A Varaich Jat could not marry a Muslim woman. A Khatri could not marry a Khatrani widow. Marriage between Rajput and Khatrani was held to be valid.

IV

The custom of polygamy and polyandry was also found in the Punjab. Polygamy was found in two forms in Punjab. The first one was recognized by custom or law where Muslims were allowed four wives and Hindus were allowed two wives. The second form was by *karewa* where the man married widow of his elder brother, it was found more in the east areas and centre of province. The main cause for polygamy was *karewa*. The former kind was only practiced by rich Muslims. The fact

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200 Census Punjab & Delhi 1921, 260
202 1934 Lah., 288.
204 No. 99 P.R. 1913; 1921, 3 Lah. L.J, 366.
205 No. 101 P.R. 1886.
206 50 P.R. 1900.
207 72 P.R. 1908.
208 99 P.R. 1914.
209 No. 52 P.R. 1899.
210 72 P.R. 1898.
211 Census Punjab 1891, 223.
is that plural marriages were very rarely practiced in both the forms. Because number of wives to 100 husbands was only 101.2 which meant that proportion of husbands with more than one wife was under one percent. There was no noticeable rise or fall in polygamy had been witnessed since 1881.

Polygamy was not practiced in the province to any appreciable extent. The instincts of the Hindus were monogamous and he rarely took second wife unless he had no male issue to perform his funeral rites. Higher Hindu castes observed polygamy very rarely. Khatris had only 224 cases and Brahmans had 792 cases of polygamy. Among Muslims, only 11 per mille of married males were polygamous whereas polygamous Hindus and Sikhs were 6 per mille. In 1931 Muslims were still believed to be most polygamous. They had 4% more wives while Sikhs had 2.6% more wives. In 1931 there were 5,964,546 married males and 5,994777 married females. In Census itself it was stated that this excess of married females (5%) was more because of temporary emigration of males as compared to females. In an interesting instance, among Hindus in Bhawalpur, if a Brahmin predicted second marriage for a boy he was first married to an earthen pot with full ceremonies before his betrothal. In practice thus, plural marriages did not find much acceptance.

There was no restriction on Hindus by their law on the number of wives they could marry. Generally they were monogamous. No legal limit was prescribed for Hindus. Only Labanas were allowed four wives. Muslims were allowed to have four wives at the same time by their law. They were generally believed to be most polygamous. The cause of more polygamy in Muslims was that their law allowed it and also ‘gentlemanly want of thrift which characterized Muslims all over the province. Polygamy was not limited to any particular caste or status, but was very common among lower castes as Chamars, Chuhras, Dagis, Nais and other menial and

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211 IBID, 223.
212 Census Punjab 1931, 177.
213 John David Rees, The Real India, Biblio Bazzar publications, 271.
214 Census Punjab 1901, 220.
215 Census 1931, 177.
216 Census Punjab 1901, 218.
217 Census Punjab 1901, 218.
218 C.L. Ludhiana 1911: D.G. Rohtak 1883-84: C.L.Gurdaspur 1893, 6 ;C.L.Jalandhar 1918.
220 C.L. Rohtak 1911; C.L.Gurdaspur 1893. 6.
221 Census Punjab 1931, 177; Census Punjab 1891, 223.
222 Census Punjab 1891, 223.
artisan classes. Lower agricultural tribes as Kanets, Ghirths, Gujars and Jats also because of widow marriage in family only.223

Muslims of Gujranwala, Jullundur, Montgomery, Hissar, Muzaffargarh, Gurgaon, Dera Ghazi Khan, Sialkot, Hoshiarpur, Sirsa, Mianwali, Amritsar, Gujrat, Jhang, Delhi, Ludhiana, Lahore practiced polygamy. Meos and Muslims ordinarily married two or three wives if they had means. Likewise, though they were allowed polygamy but Muslims married more than once only if he could afford and so polygamy was limited to only prominent Muslim families and poor zamindars could not afford another wife.224 In Multan polygamy was limited as excess of married females was nominal.225

In fact, though existing, polygamy did not find much approval. Both Hindus and Muslims of Sialkot did not indulge in polygamy freely and if he married second wife without any reason he was considered to be of loose character and this practice was looked down upon.226 In Rohtak, 3-4 wives were common.227 Some were married by regular form and some by irregular form but all wives and children were equal.228 Generally the Punjabi people were monogamous and it was unusual for a man to marry again during wife’s lifetime.229 There was not much difference between Hindus and Muslims concerning polygamy.230 They married second time only if first wife was barren.231 They remarried if they were sonless or had some infirmity or disease which made her unfit to keep the house.232 Sometimes some other reasons such as prosperity of man encouraged polygamy.233 As in Rawalpindi, polygamy was considered as a matter of expense as women did not work in fields in this district so additional wife was regarded as additional expense.234 In Kahuta area of this district, majority or by Karewa or if she was not true to her husband or if there was some disagreement between the couple or husband’s parents for any reason.235 Kanet’s

223 Census Punjab 1901, 218.
224 D.G. Attock. 1930, 73 ; D.G. Sialkot 1883-84, 34.
226 D.G. Sialkot 1920.
227 D.G. Rohtak 1883-84.
228 IBID, 50.
229 D.G. Shalpur 1897, 61.
230 IBID, 61.
231 D.G. Rohtak 1911, 13; D.G. Karnal 1918,51-52.
232 Census of India 1921, 289.
233 C.L. Ludhiana 1885 & 1911.
234 C.L. Rawalpindi 1907, 59.
235 Census of India report 1921, 289.
number of wives depended on the amount of work he could profitably assign to them.\textsuperscript{236} The people of all tribes of Kangra were polygamous but since it was difficult to get a wife so the custom was automatically checked.\textsuperscript{237} All Jats and Ahirs could have any number of wives. Even Brahmins and Rajputs could have any number of wives.\textsuperscript{238} In Ferozepore district polygamy was not common the second marriages generally took place when the first wife had no son or the man had married his widowed sister-in-law.\textsuperscript{239} In Hissar district polygamy was very rare in all tribes of the district.\textsuperscript{240}

Both Muslims and Hindus indulged in polygamy only if they could afford it. Usually they married more than once only if first marriage was not productive of male children or no children. It depended more on the means of man and his ability to procure a wife. Many a times when no child was born even then the man did not marry again. In some instances where no children were born of first or second marriage, even a third and fourth wife were taken.\textsuperscript{241} According to Census Report of 1901 in Punjab, 65.69\% of Muslims, 28.36\% Hindus and 5.9\% of Sikhs had two wives. And for those who had more than two wives Muslims again topped the list with 60.90\%, followed by Hindus with 38.70\% and Sikhs had only 0.40\% such people.\textsuperscript{242} Among the tribes who were polygamous, Jats were at the peak with 23.74\%, Pathans at 8.30\% and Rajputs at 7.50\%. Jats and Ahirs, Brahmans and Hindu Rajputs had no limit on number of wives they could have.\textsuperscript{243} Jats and Gujars were most addicted to polygamy of Hindu tribes.\textsuperscript{244}

Some factors prevented men from taking a second wife as he could not afford second wife, and to invite more additional expense and family trouble.\textsuperscript{245} In Jhang, rich Muslim zamindars married three four wives but even poor people had at least two wives. Here, Hindus were also polygamous though in lesser degree.\textsuperscript{246} In 1929, though Muslims were allowed 4 wives but they generally had only one wife and

\textsuperscript{236} D.G. Simla 1904, 27.
\textsuperscript{237} D.G. Kangra 1904, 55.
\textsuperscript{238} C.L. Rohtak 1911, 13.
\textsuperscript{239} D.G. Ferozepore 1916, 69.
\textsuperscript{240} C.L. Hissar 1913, 12.
\textsuperscript{241} D.G. Shahpur 1883-84, 34.
\textsuperscript{242} Census Report of 1901 Punjab, 260.
\textsuperscript{243} C.L. Rohtak 1911, 13.
\textsuperscript{244} D.G. Gurgaon 1910, 57.
\textsuperscript{245} D.G. Shahpur 1907, 61.
\textsuperscript{246} C.L. Jhang 1908, 52.
Hindus also usually married only one wife. In Moga, Zira, Ferozepore, Hindus had no restriction on number of marriages and Muslims followed religious law. Similarly, in Kaithal, Muslims could have four wives but Hindus had no limit. Still there were only few who could afford more than one wife. In Shahpur Muslims were allowed a limit of four wives but generally he married only once. Thus the expense of Shadi limited polygamy. It was not necessary but the permission was taken from the first wife for second marriage.

In Simla, a man might marry as many wives as he wished. If he married more than one wife then only one wife was married by full rights (hyahta) and all wives and children were equal. In Simla, Rajputs and Ranghars kept concubines. Polygamy was very rare among all tribes of Hoshiarpur, Hissar, Ludhiana, Rohtak. In Ludhiana, number of single males was double that of single females. Bahtis of Hoshiarpur did not allow their daughters to become second wives.

A variety of reasons could be attributed to the existence of polygamy. First of all, they were allowed by their law as in case of Muslims. The next important ground was if his earlier wife was infertile or if his wife did not bear him a son. And if she had crossed the child bearing age. It was not mandatory that if no child had been borne in that case man would marry second time because getting a second wife was also difficult. Third reason was the economic status of the man. If a man was well off he married more than once. It was established in the districts of Gujranwala, Rohtak, Muzaffargarh, Multan, Jhang, Delhi, Attock, and Rawalpindi. Fourth reason was karewa. Other issue was strained relations between the couple; quarrels also

247 C.L. Moga 1890; Zira; C.L. Ferozepore 1890, 8.
248 C.L. Kaithal 1892, 5.
249 C.L. Shahpur 1896, 29.
250 D.G. Gurgaon 1910, 58.
251 IBID. 58.
252 D.G. Simla 1904, 27.
253 D.G. Rohtak 1883-84, 50.
254 D.G. Ludhiana 1904, 57.
255 D.G. Hoshiarpur 1904, 35.
256 D.G. Gujranwala 1935; Hindus, Muzaffargarh, Hindus Karnal; C.L. Rohtak 1911; D.G.Gurgaon 1910; Hindu of Dera Ghazi, Sirsa 1883; Shahpur 1883-84 & 1896; Mianwali; Gujrat 1921; C.L. Ludhiana 1885 & 1911.
257 C.L. Shahpur 1896, 29.
258 D.G. Shahpur 1883-84.
sometimes enforced another marriage. Some other diverse reasons also led to the second marriage of man as the old age of wife or if there was a good harvest.

Man took to polygamy more in those areas also where women’s help was indispensable. As in case of Kanets in Kulu and Ghirths in Kangra, polygamy was regarded as form of investment as most of the fieldwork was done by women and the prosperity of man depended upon number of wives he had. One other reason was that he was tempted to enjoy the extravagance of second wife.

Geographically, certain areas observed polygamy in excess than other areas. As in year 1881, Kangra and Hoshiarpur there were 107 wives to 100 husbands. And there was no uniformity among castes regarding number of wives they could have. As Brahmans had one and Khatris had three wives which was practiced but it was not a custom. Many a times co-wives indulged in fights. In Shahpur, quarrel between two wives and their families was very common. It was one of the causes for civil and criminal litigation. Hindus if married second wife made distant or separate arrangement for first wife who lived in seclusion and got maintenance from husband. Rich men gave separate wells and houses and sometimes in separate villages so that there was no conflict between more wives. However co wives lived amicably together in Multan than anywhere else. While marrying second time, no rules of prohibiting degrees and gots were considered. Frequently, sister of wife was married. It was common for ruling chiefs to give two sisters in marriage at same time to same man. Generally, permission of first wife was taken when marrying second time but it was not necessary. Polygamy was disfavored more and its roots were also weakening. In a particular case a Muslim alleged to have six living wives. He kept two of them partially divorced by saying divorce twice and not thrice son as

259 Hindus and Muslims of 1935; Muzaffargarh. Hindus of Shahpur 1896.
260 Rohtak 1883-84 & Shahpur 1896.
261 Census Punjab 1901, 220.
262 C.L. Shahpur 1896, 29.
263 Census Punjab 1891, 223.
264 C.L. Muzaffargarh, 1925, 26.
265 C.L. Shahpur 1896, 27.
266 D.G. Gujrat 1935, 72.
267 D.G. Multan 1923-24, 83.
268 IBID, 52.
269 D.G. Rohtak 1883-84 57.
270 Census Punjab 1921, 290.
271 D.G. Gurgaon 1910.
to legalise marriage with 5th and 6th wife. He was charged with abducting or committing adultery with 6th wife of the complainant.

Polyandry may be regarded as a state transitional between promiscuity and monogamy. Custom recognized two forms of polyandry. First, the lower or Nair or matriarchal form where husbands were not brothers or related. Second, the higher or Tibetan form or fraternal where the husbands were brothers or even cousins on father’s side. The second type existed in Punjab. Polyandry was a regular institution in tribes of Himalayas Polyandry as an open and recognized institution was only found in parts of Kulu subdivision. In this part of the country the relations of the sexes in marital issues were very unusual. It was recognized in Lahaul. In Seoraj there could be one wife with three brothers or three brothers with four wives all in common or one could find only one son with three wives of his own. The number of wives was correlated to man’s means and amount of land he possessed. If he had large farm several women were required to take care of it. Other cause of polyandry was to prevent division of castes. Though it was not accepted in Spiti but one could find two brothers cohabiting with the same woman particularly among landless classes. Generally here only the elder brother married and younger ones became monks but landless classes could not afford to send their sons to monasteries. Many districts did not permit this custom and it was unknown there. Polyandry did not exist as such in Ferozepore district but among the Jats and some of the lower castes a woman was sometimes shared between several brothers, though she was recognized as the wife of only the eldest brother. It was also very usual for the wife to live with the younger brother of her husband when the husband emigrated and the elder brother took the woman back on his returned.

The polyandry was practiced in the whole of Himalayan area, but it was not admitted by Jats of the plains. In colonial Haryana, woman was shared among brothers. It was more concentrated in Spiti and Lahaul pargana of Kangra. Mainly Kanets observed it in Kangra but Brahmans also practiced it and occasionally

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272 Census of Punjab 1911, 239.
273 Census of Punjab 1901, 220; Census of Punjab 1911, 239.
274 Census of Punjab 1911.
275 D.G. Muzaffargarh 1908, 6; D.G. Attock 1907, 62.
276 Ferozepore 1915, 69.
278 Census Punjab 1901, 221.
lower castes and Rajputs also followed it.\(^{279}\) This practice was confined to Kulu subdivision and some amount of polyandry also existed in Jats of eastern districts.\(^{280}\) There is a reference to polyandry around Shimla. A woman was found making a remark that she had four husbands, others had two or three and only very poor had one husband. The lady said that men shared the cost of procuring a wife and shared her love also.\(^{281}\) Apart from the area the social standing of classes also determined polyandry. In Spiti, polyandry was only among the landless (\textit{dutal pas}) and descendants of monks of Pin monastery (\textit{buzhans}). They required no vow of celibacy from its members and had adopted custom of polyandry for prudential reasons because they were landless.\(^{282}\)

The polyandry was common among all classes in Seoraj accept the Brahmins of Nirmand. It also existed in part of Waziri Rupi.\(^{283}\) Polyandry was never practiced in Kangra but it was common for a man to sell his wife to anyone who made fair bid for her. Sometimes such agreements were executed on stamp paper and presented for registration.\(^{284}\) Polyandry also prevailed in many areas of Shimla as Kanawar beyond Bispa it was also there in parts of Bashahr where ‘Polyandry was struggling with custom of rite’ but in the rest of hills except those bordering the plans, custom of \textit{rit} prevailed.

Limited economic restraints were one of the main causes for polyandry in the hilly areas of Simla, Sirmur, Kullu and only one wife was taken by the fraternal brothers. High bride price was another cause of the custom of polyandry. Sometimes brothers married one wife to have less number of inheritors.\(^{285}\) The people had started getting ashamed of this custom and it was disappearing.\(^{286}\)

Hindu Law does not presume mere cohabitation to be marriage, but in the Punjab cohabitation could be supposed as marriage if personal law and custom gave it their nod and if a custom agreed that man and woman had been living as husband and

\(^{279}\) Census 1911, 240, 221.
\(^{280}\) Census 1891, 224.
\(^{281}\) Pran Nevile, \textit{Lahore: A Sentimental Journey}, 81.
\(^{282}\) Census Punjab 1901, 221.
\(^{283}\) D.G. Kangra 1883-84, 25.
\(^{284}\) D.G. Kangra 1904, 55.
\(^{286}\) D.G. Kangra 1883-84, 25.
Generally all tribes agreed that marriage could not be presumed only from cohabitation. It applied to both the virgin and a widow. Some ceremony had to be performed before assembly of relations. No marriage was valid unless some ceremony had been performed as *Nikah, Lawan, Kanyadan or Karewa.* Muslims regarded *nikah* ceremony as essential. Hindus also did not skip marriage ceremony. The Jats of Kangra assumed a valid connection if both of them resided together at least for two years.

Cohabitation preceding marriage was regarded as adultery by almost all the tribes and was punished by heavy fine under native rule. Children of such union were regarded as bastards and they did not have any right to property or even maintenance. As in a case in Tahsil Wazirabad of district Gujranwala, a Muslim Jat kept his wife even after divorce and had two sons from her but they were not given any share or maintenance. Similarly a Hindu Jat of same district lived with a woman but their son did not inherit the property. Such relationships between man and unmarried girls of same tribe were considered morally wrong and were very unusual and no such case occurred. A deterrent in case of Karnal was that intercourse with girl of same got and tribe would be considered incest and all landowners in one village were generally of same got. The Rathis and Thakars of Nurpur tahsil said that the union of the man with his deceased brother’s widow was sufficient to constitute even though no ceremonies had been performed. Even the Jats, Ghirths and Sainis of Dehra and Hamirpur tahsils said that even the union with the widow of his own got became legal with the lapse of time without performance of any ceremony.

Among Jats, cohabitation for a long period as husband and wife was sufficient to furnish, prima-facie, evidence of marriage. Thus the presumption was in favour of marriage when a man and a woman had cohabited continuously for a number of

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288 C.L. Jhelum 1901, 28; C.L.Dera Ghazi Khan 1898, 9; C.L.Sialkot 1895, 11; C.L.Gujranwala 1914; C.L. Shahpur 1896, 34; C.L. Hoshiarpur, 40; Jullundur 1918; Dipalpur and Pakpattan Tahsil in Montgomery 1925; Tahsils of Moga, Zira and Ferozepore 1890; C.L. Amritsar 1947; C.L. Jhang 1929; C.L. Lahore; D.G. Ludhiana 1904; Mianwali, C.L.Delhi 1911, C.L. Amritsar 1947, Kaithal, Jhelum, Muzaffargarh, most of the tribes of Kangra.
289 C.L. Ambala 1918, 13; C.L. Shahpur 1896, 34.
290 C.L. Kangra 1914, 37.
291 D.G.Ludhiana 1904, 51.
292 Gujranwala 1914, 12; Sialkot 1895, 11.
293 C.L. Gujranwala 1914, 12.
294 C.L. Kaithal 1892, 6.
295 C.L. Karnal 1892, 7.
296 C.L. Kangra 1914, 37.
Even though Muslim Law opposed concubinage but it raised presumption in favour of marriage where man and woman had cohabited continuously for a number of years. Jats of Ambala were less strict in this regard in 1887 and were ready to recognize it as marriage if both of them were Jats and woman was from different village and they could be married. Kambohs of Jagadhari replied the same but pheras and consent of the brotherhood after the cohabitation was vital for legitimization of the union. Bagri Jats of Sirsa district sometimes accepted marriage from cohabitation of Jat with Jatni without any ceremony. Other castes in the same district as Sikh Jats, Baniyas, Rors, Brahmins and other Hindus considered it compulsory that some ceremony before the brotherhood was necessary, if so then issues of such marriages were not considered illegitimate. A man could establish relation with wife of his brother or near relation’s widow with whom he had claimed to marry by karewa which constituted marriage even without ceremony. Earlier a similar custom was there in Amritsar but died out because of the complexities that arose over succession.

Certain exceptions found to the practice in certain sections of the society. Jats of Ambala district were less strict and recognized such union as marriage if both men and woman were Jats and could be lawfully married, the only requirement being that the woman must be from different village. Kambohs of Jagadhari agreed with them but cohabitation should be followed by pheras and consent of the brotherhood was also vital for union to be legitimized. Hindu Jats of Dasuya and Garhshankar Tahsil considered union of man with the widow of brother or near relation whom he could marry by karewa sufficient to constitute marriage even without a ceremony.

From long co-habitation the presumption of marriage can be raised. Continual co-habitation may suffice to infer the existence of a marriage, where it can be presumed there was an intention of a permanent union but co-habitation, though

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297 C.J. Roe in Lachu v/s Dal Singh 33 P.R. 1896.
298 C.L. Ambala 1887, 12.
299 C.L. Ambala 1883, 107.
300 C.L. Ambala 1918, 13.
301 C.L. Hoshiarpur 1914: 40; Hindu Jats, Sainis, Mahons and other Hindus of Nawanshahr Tahsil in Jullundur 1918; Jats and Gujars of Pipli in Ambala 1887.
302 C.L. Amritsar 1947, 32.
303 C.L. Ambala 1887, 12.
304 C.L. Hoshiarpur 1914, 40.
305 1936 Lah. 261.
good evidence of a marriage is not marriage itself.\textsuperscript{306} Where connection of a permanent nature had been long established between a Jat male and a Brahman widow, and the woman treated as a wife by the man and recognized by the baradri, the issue was entitled to be treated as legitimate even if no formal marriage ceremony by chadar andazi was gone through.\textsuperscript{307}

The presumption of marriage arising from long co-habitation can be rebutted by showing that marriage between the parties would have been unlawful.\textsuperscript{308} There is a presumption in favor of marriage rather than of concubinage. When a man and woman are proved to have lived together as man and wife the law will presume, unless the contrary be clearly proved, that they were living together in consequence of a valid marriage, and not in a state of concubinage.\textsuperscript{309} Certain exceptions were noticed in the district Kangra. In an instance a Rathi man lived with the woman for seventeen years and bore him three sons. The court held that the offspring of such a condition could not be deprived.\textsuperscript{310} In the same district in tahsil Palampur a Brahmin had a quasi wife and she succeeded to his property as wife.\textsuperscript{311}

Even the Chief Court remarked, “Among the lower classes of agriculturists of Kangra cohabitation with a widow even without a marriage ceremony appears to be generally recognized as constituting a valid marriage”.\textsuperscript{312} The Chief Court in Civil appeal No. 157 of 1907 held that man had lived with the woman for a number of years and was recognized so by his relations.\textsuperscript{313} In another important judgment the Chief Court held that when a woman had been living with her alleged husband for about forty years till his death, marriage might be presumed without specific evidence of the actual karewa. The view was supposed to the general custom of the district which insisted on the performance of the Balu ceremony to validate a connection.\textsuperscript{314} In two judicial decisions quoted in Gurdaspur district, one held that when one Kajlon Jat brought the widow of his deceased husband home without any ceremony the children

\textsuperscript{306} 29 P.R.1883. \\
\textsuperscript{307} 50 P.R. 1900. \\
\textsuperscript{308} 134 I.C. 785. \\
\textsuperscript{309} 54 Mad. L.J. 388 (P.C.) ; 1929, 10 Lah. 725, 733. \\
\textsuperscript{310} Divisional Judge, No. 7 of 1896, Rijhu versus Kharku . 40. \\
\textsuperscript{311} C.L. Kangra 1914, 40. \\
\textsuperscript{312} IBID, 37. \\
\textsuperscript{313} IBID, 41. \\
\textsuperscript{314} IBID, 39.
of such connection were treated legitimate by the custom. In another case the Divisional Court held that a woman could not be said to be lawfully married unless ceremony of chadar andazi was performed. Chadar Andazi was also permissible only with a Rajput woman. In an interesting illustration, a Sikh Jat lived for some years with a married Muslim woman and later persuaded her husband to divorce her and he married her by Chadar Andazi after converting her into Sikhism. They cohabited till his death. It was held by the court that such a long cohabitation raised the presumption of a valid marriage.

When a woman, Jhewari by caste had been married by Chadar Andazi to a Jat of Amritsar district and they had lived as man and wife for some years and also had a son, it was held that by custom, “when a permanent connection like that of husband and wife is form by a Jat with a woman of a different cast like Nai, Jhewar, Kalal and the similar castes, the children of such connections are treated as legitimate, whether or not a formal chuddar andazi has taken place between the parents. Chhangs, Sainis, Labanas, Hindu Jats said that if a man lived with a woman treating her as his wife and there was issue the union would be considered a lawful marriage, though no ceremony had been performed.

VI

Even in the event of child marriages, actual cohabitation took place after the muklawa. Muklawa meant the ceremony by which the bride went to her husband’s house permanently after the marriage. It took place usually when the bride had reached puberty and was ready to consummate the marriage. Generally, the rule was that that where the marriage took place late, husband and wife started living together immediately after marriage, but if the marriage was performed early as per custom then marriage was considered as no better than unbreakable betrothal between boy and girl. Only after some years the bride went to her husband’s house, which was known as Muklawa or challa. After this the bride returned to her parent’s house for short time which represented consummation. Muklawa ceremony was combined

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315 Punjab Record No. 54 of 1900, 15.
316 Divisional Court decision No. 406 of 15 March 1906, 15.
318 73 P.R. 1897.
319 But in 1913 Settlement Chhangs refused to recognize lawfulness of such marriages.
320 D.G. Karnal 1918, 58.
321 Census of India, 1891, 221.
with the marriage if the age of both boy and the girl was near maturity.\textsuperscript{322} In Lahore, boy could ask for the girl to come to him on reaching puberty.\textsuperscript{323} Rajputs generally married late so there used to be no Muklawa ceremony among them. They only performed the ritual of Patra Pherna which meant changing of the stools. The girl was gifted clothes, jewellery by her father and dower was also given. After that she went to her husband’s place and both of them lived as man and wife.\textsuperscript{324}

The shariat didn’t allow the consummation of marriage before puberty.\textsuperscript{325} The consummation of marriage or Muklawa generally was carried out in third, fifth, seventh, ninth or eleventh year after “biah or shaddi”. These numbers were considered auspicious.\textsuperscript{326} Various tribes had different rules regarding the age when muklawa could be carried on between boy and a girl. Only after some years bride went to her husband’s house, which was known as muklawa. After this the bride returned to her parent’s house for short time which represented consummation.\textsuperscript{327}

The respectable and wealthy persons performed muklawa ceremony after three to four years of marriage.\textsuperscript{328} The Jats detained their girls for as long as eight to ten years after marriage as her services were valuable for her family. Many a times she remained with her parents till she attained eighteen to twenty years of age.\textsuperscript{329} At places where the girl was older she was sent to her husband’s place immediately after marriage. Such cases were reported of Muslims in many districts where she was sent to her husband immediately after the marriage because she was married late in around 15-16 years of age.\textsuperscript{330} Muslim Rajputs or Ranghars had no separate ceremony of muklawa in Hissar. The girl stayed in her husband’s family immediately after marriage. She visited her parents after six months or a year of marriage when she was given presents by her family and this ceremony was known as muklawa.\textsuperscript{331}

Muklawa took place among Hindus only when the girl was adult.\textsuperscript{332} In Ludhiana 1885-1911 if the girl had not obtained puberty at the time of marriage she

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\textsuperscript{322} D.G. Gujrat 1921, 38.  \\
\textsuperscript{323} C.L. Lahore, 5.  \\
\textsuperscript{324} Karnal settlement report 1872, 134.  \\
\textsuperscript{325} Census of India, 1931, 250.  \\
\textsuperscript{326} D.G.Rohtak 1910, 91.  \\
\textsuperscript{327} Census Punjab 1891, 221; D.G.Karnal 1918, 58.  \\
\textsuperscript{328} D.G.Rohtak 1883-83, 50-51.  \\
\textsuperscript{329} IBID, 50-51.  \\
\textsuperscript{330} IBID; D.G. Attock 1930, 72.  \\
\textsuperscript{331} D.G. Hissar 1892, 104.  \\
\textsuperscript{332} D.G.Amritsar 1947, 41.
\end{flushleft}
remained in her father’s house after the marriage till she attained puberty and then she could go to her husband’s house. On the other hand if she was of matured age at marriage then muklawa took place immediately after marriage. In case of child marriage there was only shadi and consummation did not take place immediately. In Ferozepore district usually among Hindu tribes the bride used to be below age of puberty at the time of marriage and did not start living with her husband immediately and returned to her father’s house after a short visit. When later she was formally taken home by her husband after reaching puberty, it was known as muklawa. Among Sidhu Jats of Fazilka Tahsil in district Ferozepore, if a man died before muklawa was performed then his brother would take muklawa and it was regarded same as Karewa marriage. Hence muklawa or the consummation of marriage took place usually at a mature age. Even if marriage took place at a young age yet custom ensured that bride was not sent immediately to live with the husband. The marriage was completed at a later stage when both of them could take the responsibilities of marriage.

V

Marriage is almost universally an occasion for material transactions. In the colonial Punjab too, marriage involved lots of expenses. Whether a man could afford marriage expenses or not he had to get his children married so that he did not lose his self respect or that of society and would even prefer death to this humility. A man would mortgage half his holdings but did not allow marriageable age to pass for his son. Those who married had to mortgage large piece of land for lavish marriage. Reckless expenditure on marriage was so huge that sometimes half of whole year’s income was spent on it. Jats and Rajputs particularly incurred large expenses on marriage and it was also a cause of their debt. Hindu Rajputs and Sikh Jats spent lavishly on their marriages. Enforced by the ‘izzat’ or honour, they were compelled to entertain all guests in a royal way. They called dancing girls and had fireworks

133 D.G. Jhelum 1904, 85.
134 D.G. Rohtak 1910, 87.
135 D.G. Ferozepore 1916, 68.
137 Patricia Uberoi (ed) Family, Kinship And Marriage In India, Oxford University Press, Delhi 1993.
138 YS Parmar, Polyandry in Himalayas, 45.
139 C.L. Amritsar 1892-93, 41 & 447, 38
140 M.L. Darling.., The Punjab Peasant in prosperity and debt, 34.
141 C.L. Amritsar 1892-93, 41; M.L. Darling,.., The Punjab Peasant in prosperity and debt, 53.
The very rich spent large amount on sumptuous weddings. A large marriage party was taken and all of them were entertained at the bride’s house. Ordinarily, Rs 100-150 were spent on girl’s marriage whereas Rs 70-100 were spent on a boy. The average expenditure spent was Rs 170-250.

In Gujrat, though expenses were according to the position of family but it was always more than one could afford. In Attock, families on both sides spent heavily on the marriage. Hindus spent more on their marriages than Muslims as their marriage parties stayed longer for four days and were fed by the girl’s family and similar was the case of Rawalpindi. The expensiveness of marriage was one of the commonest causes of the ruin of families in the Hoshiarpur district. It affected all classes and led to the loss of landed property as it was sold or mortgaged to pay the debt incurred to pay the expenses of daughter’s marriage. In Shahpur district the marriages were generally very extravagant and led the father of the bride groom into huge debt out of which he seldom recovered.

Very few expenses were incurred on marriages in the Montgomery district. Few gatherings was there and cheap food was served to the marriage party and cost of bringing the guests was also nil. With time expenses on the marriage grew higher and elaborate arrangements started to be made for entertainment of the guests as reported in Gazette of 1933. Colonists from other districts and agricultural affluence resulted in more spending on ceremonies. People of Multan were economical in their marriage celebrations inspite of being rich. They spent very less on the marriages and were not inclined towards extravagance. Ordinary zamindar spent upto Rs 100 only. They used cheap eatables. Fireworks worth only 5% of the expense were used. No dancing girls were called and only small dowries were given.

Khakwanis and Pathans also spent little. They did not even have custom of jisot, to throw coins over groom’s head. Even a proverb was very famous which said

542 M.J. Darling,, *The Punjab Peasant in prosperity and debt*, 345; D.G. Ludhiana 1904, 50.
543 D.G. Rohtak 1883-84, 51.
544 D.G. Gujrat 1921, 38.
545 D.G. Attock 1907, 56.
546 IBID, 61.
547 D.G. Rawalpindi 1907, 58.
548 D.G. Shahpur 1897, 75.
549 D.G. Montgomery 1898-99, 72.
550 D.G. Montgomery 1883-84, 56.
551 D.G. Multan 1921, 52.
that *khakwans* did not spend more than priest’s fee on marriage. Hindus were also economical even if they were rich. Even the richest family did not spend more than Rs 600-800/- per side. Only Sayads and Qureshis spent lavishly on their marriages. Interestingly for agricultural classes in Shahpur district the expenses on a daughter’s wedding were naught except that a little amount was spent on food. All her ornaments and clothes were provided by the boy’s family. Only high rank families spent more. The fact was that more was spent on son’s wedding and Hindus shelled out more money on weddings than the Muslims.

A very interesting custom of *tambol* or *neota* was prevalent in all classes. It meant community contribution to expenses of marriage and could also extend outside the community. Each house contributed according to their resources to girl’s or boy’s people in the house of the latter. Similar custom was also common in Hoshiarpur and was more among the chuhras. The friends and relations brought money and gifts for bride’s parents and it was repaid on like occasions in their families. The amount of *tambol* was not fixed and it varied. Careful record of the *tambol* amount was kept whether it was received or given. *Tambol* was helpful in reducing the burden of expenditure of the marriage. The daughter was given cash which usually ranged from Rs 11, 21, 31, 51 and 101. Daughters in rich families were given cash, jewellery etc which was given sign of social rank. As accepting money for her was considered low, so the signs of the emergence of dowry custom was on rise. By the early twentieth century, dowry seemed to have become more prevalent and seems to be related to the education and livelihood of the groom, as to increased materialism.

The dowry given to the daughter went to the husband after her death. So there were a few instances where some young men made large fortunes by successive deaths of 3 or 4 brides in a row. In fact death of the wife of some educated teenage boy led to the competition to marry one’s daughter to him and dowry offered was

rising as if one was bidding for an auction. In cities, the government employees, collegiate, school boys were given more dowry because it was assumed that educated treated their young wives much better than an uneducated one. In Shahpur district, among the agriculture classes of the district the marriage of the daughter was inexpensive. The father of the girl spends only on little food. A ornaments and even her clothes were provided by her husband and his family. Only among high status family considerable expense were incurred on her marriage.

The Deputy Commissioners tried to reduce the stay of barat to two nights in place of four so that expenses on marriage could be decreased. Arya Samaj also initiated a movement to reduce expenditure on marriage at every stage and efforts were also made to abolish unpleasant ceremonies especially among Jats. The people also wanted to reduce the expenses but none dared to begin the reform. Awareness was also coming among the people in favor of saving. Agriculture tenants and rich people were satisfied with only nikah and favored no expense. It was only a start and lot more had to be accomplished in this regard. Another conscious effort was made to reduce expense on marriage. Certain villages took the decision together to send fewer persons in barat and curtail expenditure on jewellery. Changes in custom were sought to be reversed, though with little impact.

A large assembly of local chieftains, landlords, merchants and ruling families was called on the initiation of British officers. In this assembly eradication of female infanticide, limiting cost of dowries and marriage expenses was stressed. Later many more meetings followed in the other parts of the province and pamphlets and tracts were also published on female infanticide, sati, and need to limit the dowry. In Shahpur also effort was made to reduce the expenditure on marriage ceremonies. The representatives of all classes bound themselves to keep within certain limits in the expenditure they would incur on marriage. The customs they agreed to discourage

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361 D.G. Lahore 1916, 40.
362 Ibid, 22.
363 D.G. Shahpur 1883-84, 34.
364 D.G. Attock 1907, 61; D.G. Rawalpindi 1907, 58.
365 D.G. Rohtak 1911, 91.
366 D.G. Rohtak 1883-84, 51.
367 D.G. Gujrat 1921, 38.
368 M. I. Darling, The Punjab Peasant in prosperity and debt, 163.
369 Kenneth W Jones, Changing Gender relationships among Hindus in Early British India in Five Punjabi Centuries, Manohar Publications, Delhi, 1988, 510.
was that of feasting all and sundry, employing mirasins to sing and prostitutes to dance, having fireworks, throwing money broadcast over the brides palanquin (Sot) and distributing largesse to the poor known as *Vara*.\textsuperscript{570}

The Amritsar Dharm Sabha was founded in 1872 with the aim ‘to remove all evil practices opposed to *shastras* and intelligence’.\textsuperscript{371} Its initial attack was on the practice of dowry and sale of girls asserting it to be against the teachings of *dharm shastras*. Sabha decided to ban all the acceptance of money at the time of marriage and even threatened to excommunicate those who defied the ban.\textsuperscript{372} The universal opinion of the people was that the mercenary nature of marriage had developed only after the coming of English rule. It could be explained by the fact that the previous rulers cared for their subjects that they did not misuse money by appropriating it for their own use.\textsuperscript{373}

Another kind of expense on marriage was bride price also known as bride wealth is an amount of money or property or wealth paid by the groom or his family to the parents of a woman upon the marriage of their daughter to the groom. In anthropological literature bride price is explained in market terms as payment made in exchange for the bride’s family loss of her labour and fertility within her kin group.

Bride price is not the payment for woman but rather seen as a way of valuing the labour of woman. the effort involved by the bride’s family in raising the female and the labour value of a woman’s offspring. The Vedas too have recognized the payment for the bride.\textsuperscript{374} In India this practice became a social evil because of implications of selling a woman. In early 20\textsuperscript{th} century social and political movement was launched to end this practice and was largely successful. Bride price had become a universal custom.\textsuperscript{375} In rural areas, all were familiar with the bride price and it was quite high.\textsuperscript{376} Earlier it was shameful even to refer about it but later it was talked about openly.\textsuperscript{377} The price was termed as *dhori* in Shimla.\textsuperscript{378}

\textsuperscript{370} D.G. Shahpur . 1897. 76.
\textsuperscript{371} IBID, 512.
\textsuperscript{372} Kenneth W. Jones. *Changing Gender relationships among Hindus in Early British India in Five Punjab Centuries*, 513.
\textsuperscript{373} D.G. Montgomery 1883-84, 56.
\textsuperscript{374} P.T Nair (ed). *Marriage and Dowry in India*, 9.
\textsuperscript{375} M.L. Darling. *The Punjab Peasant in prosperity and debt*, 49.
\textsuperscript{376} IBID, 48.
\textsuperscript{377} D.G. Sialkot 1920. 34.
\textsuperscript{378} D.G. Simla. 1904.
Initially it was considered a disgrace for the father to accept money for his daughter, but gradually the custom increased.\textsuperscript{379} The whole of central Punjab accepted purchase of brides except the area situated to north of Jhelum.\textsuperscript{380} She was regarded a little better than chattel.\textsuperscript{381} Women in Nurpur were nearly always sold and there was a great demand for them.\textsuperscript{382} Among the high castes people of Kangra district it was customary for a regular traffic to be carried on in girls. Among the high caste people it was considered wrong to take any payment for the daughter.\textsuperscript{383} The practice of bride price supposedly worked as a check on female infanticide. Jats considered the birth of daughter as lucky in anticipation of receiving money for her.\textsuperscript{384} Also the parents cared more for their daughters as they expected money for them.\textsuperscript{385} Parents of young girls demanded huge price for their daughters.\textsuperscript{386} So much so that a man with a marriageable daughter would not part with her until he had received something in exchange for her.\textsuperscript{387}

Earlier, bride price was a restraint on male marriages.\textsuperscript{388} As the parents of the girl demanded high price for their daughter, many young men were forced to remain unmarried.\textsuperscript{389} With an increase in the wealth and development, this limit was defeated and the custom increased.\textsuperscript{390} Only a man of good family or ‘lucky one’ could get wife for nothing.\textsuperscript{391} In Kangra district \textit{Batta-Satta} or exchange betrothal was very common and some thing was always given as a consideration for the bride. In a very interesting case a Manahas Rajput who had three daughters could not find a match for his daughters according to his own liking. The girls got old and at last he found an old bride groom of 90 years who married two of the three for a consideration but died on the return journey home. The two brides came back to their father and shortly the third daughter ran away with the postman.\textsuperscript{392} Many women were abducted from the

\begin{thebibliography}{99}
\bibitem{Rohtak} D.G. Rohtak 1883-84, 51.
\bibitem{IBID} \textit{IBID}, 48.
\bibitem{Darling} M.L Darling, \textit{The Punjab Peasant in prosperity and debt}, 49; D.G. Hissar 1892, 68.
\bibitem{Kangra1914} C.L. Kangra 1914, 7.
\bibitem{Kangra1904} D.G.Kangra 1904, 55.
\bibitem{Ludhiana} D.G.Ludhiana 1888-89, 57.
\bibitem{Kangra1883} D.G.Kangra 1883-84, 65;1904, 55.
\bibitem{Kangra1883} D.G.Kangra 1883-84, 63.
\bibitem{Gujrat} D.G. Gujrat 1921, 38.
\bibitem{Hissar} D.G. Hissar 1892 , 65; D.G.Kangra 1904.
\bibitem{Kangra1892} D.G.Kangra 1883-84, 63; D.G. Hissar 1892.
\bibitem{Hissar} D.G.Hissar 1892 , 67.
\bibitem{Lyall} M.L Darling, \textit{The Punjab Peasant in prosperity and debt}, 49.
\bibitem{Kangra} Lyall’s Kangra report, xi.
\end{thebibliography}
hills and were purchased and married by Jats. Women were bought from Jammu, Marwar, Amritsar, Leh, Jullundur, Gurdaspur either by own relations or the people of bad character and were brought to Muzafargarh. There was a custom in the hills of buying a wife. There is a reference of an annual Sipi fair held near Sanjoli where young women were sold freely to prospective buyers. Men came from distant places to buy her. Many a times Babus would buy a woman together and shared her and also the cost of her upkeep.

Frontier tribes and Kanets and lower castes of Himalayas had a custom where wives were sold like chattels. Even the sale of wife was very regular among Pathans of Narra Ilaqa in Pindi Ghev Tahsil. In Hissar only poor and low classes observed this custom but gradually it spread into higher tribes and castes in society. There were various reasons responsible for this practice of purchase of brides. The key cause was the scarcity of females. The number of females was lower than males. The shortage of females could be credited to smaller number of female births and larger number of female deaths. The lesser number of female births were because of female infanticide. The demand for women was more than their supply. Since males exceeded females in number so the purchase of females was unavoidable. Since there was a huge shortage of women, so price rose so much that one had to go to moneylender to buy a wife. Further due to some natural calamities as famines and the spread of epidemic as plague, demand for woman was on rise. It was responsible for the increase in the practice. In Sialkot, plague killed many marriageable girls so much so that in comparison to 37000 bachelors of 20 years present only 800 unmarried women were available of the same age. Due to the loss of female life from plague, the demand for women became keener and parents generally among the Jats took money from the would be bride grooms for their daughters.

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94 C.L. Muzafargarh 1925, 61.
95 Pran Nevile, Lahore: A Sentimental Journey, 81.
96 Census. Punjab 1901, 220 ‘Marriageable female is thus now a marketable commodity.’
97 D.G. Hissar 1892, 67.
98 D.G. Hissar 1892, 65.
99 D.G. Gujrat 1931, 36.
100 M.L. Darling, The Punjab Peasant in prosperity and debt, 49.
101 IBID.
103 D.G.Sialkot 1920, 34.
104 D.G.Ferozepore 1916, 62.

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Hence price of the bride shot up and this practice became a rule. Thirdly, woman was a source of profit to family and she was also important part of social and religious duties but number of males exceeded females and with increase in wealth of the people they were ready to pay for females who were taken in for marriage. This practice was on rise with coming of famines. There were serious consequences arising out of this custom, one was that a large number of bachelors were found everywhere. In a village near Kasur it was found that no boy had been married there since last 15 years for the simple reason that they were poor and could not afford to pay the money for bride. Manjha Jats were also unable to marry because of financial constraints and so they stayed in the company of menials. Among Rajputs of Shakargarh 17 out of 23 men were unmarried. In Kangra also a number of eligible bachelors were obliged to go without wives because of exorbitant demands made by parents of girls. Also, a substantial interchange of minor girls was carried on. Many civil and criminal suits arose in Shahpur on the question whether the girl could be mated by brother or uncle for profit. The districts which indulged in the custom of bride price were Muzaffargarh, Ferozepore, Rohtak, Hoshiarpur, Montgomery Ludhiana, Shahpur, Amritsar, Gujrat, Hissar, Ambala, Attock, Rawalpindi, Kangra, Simla, Sialkot.

There were certain variations in the observance of these customs. It was very common in Rohtak district and it was a rule in Montgomery and Sialkot to buy a wife. In Ludhiana also it was universal custom but it was done secretly. It was a common practice in Amritsar also but this practice was reprobated and was not admitted. In Hissar this practice was spreading. In Attock only some tribes practiced this custom and in Rawalpindi this practice was prevalent only in hilly regions. In Muzaffargarh, the custom of accepting consideration for the girl prevailed to a large extent. Khatriis had a general rule either to take money or to take a girl into the family in return for a girl given into another family. Cases where no money was taken was confined only to the prosperous classes. Muslims of only poor classes practiced it.

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405  C.L. Hissar 1892, 68.
406  D.G.Rohtak 1883-84, 51.
407  D.G.Kangra 1883–84, 63.
408  D.G.Karnal, 1918, 142.
409  D.G. Shahpur 1917; M.L. Darling, The Punjab Peasant in prosperity and debt, 49.
410  C.L. Ludhiana, 25.
411  D.G. Muzaffargarh, 1908, 53.
While Jats of Ferozepore followed it but only very poor Jats of Rohtak did so and Jats and Sainis of Hoshiarpur were more involved in this custom. In Sialkot district in most of the cases bridegroom had to buy the bride but was seldom permitted to see her before marriage. In Shimla practice of selling daughters prevailed among Kanets and lower castes and was also gaining ground among a Rajputs and Brahmans. In Kangra district lower castes carried on regular traffic of girls but high caster people considered it wrong to take payment for the daughter. It was seen as contrary to morality. In Karnal in most castes a price could be got for a bride. It was regarded disgraceful to involve money in marriage if the persons were closely related, but not so if the families were of different clans, or sub-divisions of the same clan.

Some castes as Jaikari Rajputs and Nagarkothia Brahmans of Kangra did not marry by accepting bride price. In Shahpur district the marriage of daughter didn’t cost anything to the parents while that of son was expensive. Only very poor or the disreputable of any class took pecuniary consideration for giving a daughter in marriage. Exchange was common and the giving or promising a girl was used as means of obtaining wife of some male relation of the bride from some relation or connection of the bride groom. Hindu Kirars either took money or a girl in return for the girl, Muslims rarely accepted cash but in poor classes counter betrothal was arranged or direct benefit was provided. The price of the bride varied from district to district. The price of bride also varied with tribe and religion. In some cases it varied from Rs 50 to Rs 500.

Another factor that determined the price was the availability of girl and the capacity of person to pay. While Mohammedans had more choice of girls and they were not so rich they paid the amount from Rs 4 to 500 for a girl, whereas Sikh Jats were wealthier and faced shortage of girls, so they had to pay hefty amount for the bride which could range from Rs 1000-2000/-. In Tahsil Pindi Ghev bride was

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412 D.G.Sialkot 1883-84. 34.
413 D.G.Shimla 1904. 27.
414 D.G.Kangra 1883-84. 63.
415 D.G.Montgomery 1883-84. 56.
416 D.G.Shahpur 1883-84. 34.
417 D.G. Muzhafargarh 1908.
418 D.G.Montgomery 1898-99. 72.
419 M.I. Darling, The Punjab Peasant in prosperity and debt. 55.

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The physical disability of a man also raised her price and made her more in demand. As a man from Ferozepur paid Rs 3000 for the girl because his front teeth were coming out and bride was only 16 years of age. Time was another factor that decided the price to be paid for the bride. While in 1850s the price of the bride was Rs 50/- which rose to Rs 300-400 in 1940’s. Certain calamities as onslaught of epidemics and influenza raised the market price of the bride considerably but draught of 1919-21 slashed the price from Rs 2000 to Rs 500 in Hissar. Bride price of Kanet girl was Rs 60 and that of Kohli girl Rs 40/-. The cost of bride was on rise. Prices of the bride rose with the general rise in prices. A Gujjar remarked in 1922 that price of the bride had increased 3-4 times in last 8-10 years and this rise was more that the increase in the price of clothes.

The disability of a person and superstitions also affected the price for which the bride was purchased. In 1940 Rs 4000 was taken from a 43 year old man as he was old and also had 3 wives in Gurdaspur. Likewise the old crippled and one eyed men had to shell out more money. Similarly a man from Dasuya had to pay more amount for his bride because he was born during the eclipse and was said to be under the influence of “Mangal” planet. The parents had also started demanding more money for their daughters, as a man remarked that one eye of his daughter was worth Rs 4000/-. The payment made for the girl was not always in cash but many a times to save the self respect it was decided that the amount would be spent on ornaments and cattle for the bride and on entertainment of the guests. In hills and in southwest the girls were exchanged.

The abducted woman whether married or unmarried was not allowed to return to the territory of Pathans unless her abductor agreed to pay Rs. 420 as vani or compensation to husband and parents. After the payment woman became the wife of abductor and this form of marriage was called Rogha. Of this Rs. 40 were given to the parents of girl if she was married, otherwise whole sum went to them. If the abducted...

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420 Census Punjab 1901, 220.
421 M.L Darling, The Punjab Peasant in prosperity and debt, 50.
422 IBID, 50.
423 D.G. Simla 1904, 27.
425 IBID, 50.
426 IBID, 50.
427 IBID, 49.
girl was of menial caste only half the amount was payable. A similar custom was
there in Shimla hills.\textsuperscript{428} Though considered disgraceful but very poor zamidars
practiced this custom commonly.\textsuperscript{429} As the practice was prevalent only among poor
and lower classes earlier but later it spread into high tribes and castes in society.\textsuperscript{430}
Pathans of Makhad \textit{Ilaka} and Attak, Dhunds, Sattis, kathwals, Dhanyals and Jaskawa
in Rawalpindi also practiced it.

Jats considered it disgraceful to accept money for his daughter from the
parents of boys so ‘good class’ Jats didn’t take money for their girls but only few
good families abstained from taking money.\textsuperscript{431} It was not common to take money for
the girl because of public reprobation and economic depression.\textsuperscript{432} Almost all the
tribes of Attock condemned this custom. Dhunds of lower Murree hills denied this
custom in Rawalpindi, 1907 and higher classes of Kangra also considered it wrong to
accept payment for their daughters. Some other classes tried to justify their
acceptance of money for their daughter. The poor Muslims classes of Muzzafargarh
thought that by making a gift of a girl they were putting the other side under a “deep
obligation and generally expected some sort of recognition thereof either in form of a
counter betrothal (exchange) or direct benefit in some other way.”\textsuperscript{433}

Among the princely states in Sirmur state it was customary to sell daughter in
Trans-Giri and to some extent in Cis-Giri. Only except Rajputs other castes as
Brahmins, Banias, Kolis and other artisan and trading castes had no objection to it.
Pun marriages were confined only to upper classes. Most of the Kanets and Bhattas
considered them self entitled to some compensation for bringing up a daughter.\textsuperscript{434} 
\textit{Asura} or marriage by purchase was one peculiarly distinctive of indigenous people in
Sirmur.\textsuperscript{435} With the time certain changes took place. Kanets and lower caste sold their
daughter in Simla, 1904. Rajputs and Brahmins had also begun to adopt this custom.
The lower castes of Kangra customarily carried regular trafficking among girls.\textsuperscript{436} Jats
admitted the purchase of brides with an amount of apology and obvious sense of

\textsuperscript{428} Census Punjab 1901. 220.
\textsuperscript{429} C.L. Rohtak 1911.
\textsuperscript{430} D.G. Hissar 1892. 67.
\textsuperscript{431} C.L. Ludhiana 1885.
\textsuperscript{432} C.L. Ludhiana 1885.
\textsuperscript{433} C.L. Amritsar 1947. 38.
\textsuperscript{434} D.G. Muzzafargarh 1908. 53.
\textsuperscript{435} D.G. Sirmur 1934. 57.
\textsuperscript{436} \textit{IBID}. 58.
\textsuperscript{437} C.L. Kangra 1883-84.
shame but its practice was on increase. A similar obnoxious social custom called Reet was prevalent in hilly districts of Shimla, Kullu, and Kangra. This was a form of marriage which was contracted by paying a price but no ceremony was held. The sum ranged from rupees 100 to 500. After the payment first marriage was null and void and concubinage with second man became marriage. There was no limit to number of woman that one might get under Reet. Marriage could be easily contracted or dissolved. This custom was not found in high castes Brahmans and Rajputs. Jats and Sainis could buy wives from any class whether Labanas, Jhiwars, Chamars and then marry by Chadar Andazi. Such union was known as Dhrel and child was legitimate. A proverb goes “Dhrel Rani Khari Buri, Dane Mukehe Uth Turi” (She goes off whether good or bad when the grain bin is empty). It was more disgraceful to make marriage a money matter if the families were connected but not if families were of different clans or subdivisions. The Deputy Commissioner of Hisar remarked that men were often unable to marry because the girls were so expensive. The Rajputs thought it shameful to sell their daughters.

Another curious custom prevalent in Kangra where man sold his wife to anyone who made fair bid for her. Sometimes such agreements were executed on stamped paper and presented it for registration. An odd custom prevailed in Simla where a man sold his wife and he debarred her from marrying in that family. Still if she married there then the second husband had to pay a fine of Rs 6 to first husband. With the change of time and rising consciousness and awareness people started rejecting the custom. The contemporary literature of the time also disdained this custom. Lala Diwan Chand Jargar in his Navan Kissa Kartut Kurri Vechan Di or The New Story Of The Daughter Sellers was set in a reformist tone.

_Vekho yaaron aaya zamana ban pae naven vapari jag de bhari, Kurrian vechan mape lag pae daya dharma sab hari kahi mat mari papi vekh buddhe lar lavan zar de lobhi bhari kurri vechar._

(It meant that new types of traders i.e. parents had emerged who sold their daughters as if they have lost their senses kindness and values and the helpless girl

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437 D.G. Rohtak 1911, 85.
438 D.G. Hoshiarpur 1904, 33.
439 D.G. Montgomery 1898-99, 1933.
440 Census of India 1881, xxxix.
441 D.G. Kangra 1904, 55.
442 D.G. Simla 1904, 28.
was married to old man for greed of money). Similarly in Kavi Kehar Singh’s *Buddhe di Naar* (Old Man’s Woman), the girl to be married asks her father to marry her meritoriously and not to sell her as there was no greater sin.

*Pun dhi da Karin hathi vechda kyon mul ve*

*Hor aida paap nahi vich granthan likhya.*

In another Kissa on similar theme the writer requests his country man to remove this bad custom from the country.

*Kad deyo des vichan bherri chaal nun*

*Ainwen na gavao tusi dhan maal nun.*

In these *jhagrras* parents accepting money for their daughters were called as *Kanjars*. Kartars Singh Pracharak called them *Chuhrras* or outcastes.

*Gehna kaprra paya, mul aakh sunaya, Akhin surma lagaya,*

*muhon das hazaar*

*Dhin nun vech jehrre rotian khande, dharma te jarmon doven gavande*

*Phir oh kis tarah Hindu sadande, chuhrra phir sadvain.*

Hence the custom of bride price was prevalent in almost all the regions of Punjab. More or less all the tribes and religions practiced this custom. Though we notice a little contempt for the custom in middle part of the twentieth century and even social reformers and literary pieces scorned the detestable custom, yet it reflected very clearly on the position of women.

As in a case it was held that when a man or a woman were living together, the valid marriage was endorsed. Certain exceptions were noticed in the district Kangra. In an instance a Rathi man lived with the woman for seventeen years and bore him three sons. The court held that the offspring of such a condition could not be deprived. In the same district in tahsil Palampur a Brahmin had a quasi wife and

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444 *IBID*, 310.

445 *IBID*, 311.

446 *IBID*, 312.

she succeeded to his property as wife. Even the Chief Court remarked. “Among the lower classes of agriculturists of Kangra cohabitation with a widow even without a marriage ceremony appears to be generally recognized as constituting a valid marriage”. The Chief Court in Civil appeal No. 157 of 1907 held that man had lived with the woman for a number of years and was recognized so by his relations. In another important judgment the Chief Court held that when a woman had been living with her alleged husband for about forty years till his death, marriage might be presumed without specific evidence of the actual karewa. The view was supposed to the general custom of the district which insisted on the performance of the Balu ceremony to validate a connection. In two judicial decisions quoted in Gurdaspur district, one held that when one Kajlon Jat brought the widow of his deceased husband home without any ceremony the children of such connection were treated legitimate by the custom. In another case the Divisional Court held that a woman could not be said to be lawfully married unless ceremony of chadar andazi was performed. Chadar Andazi was also permissible with a Rajput woman.

In an interesting illustration, a Sikh Jat lived for some years with a married Muslim woman and later persuaded her husband to divorce her and he married her by Chadar Andazi after converting her into Sikhism. They cohabited till his death. It was held by the court that such a long cohabitation raised the presumption of a valid marriage. When a woman, Jhewari by caste had been married by Chadar Andazi to a Jat of Amritsar district and they had lived as man and wife for some years and also had a son, it was held that by custom, “when a permanent connection like that of husband and wife is form by a Jat with a woman of a different cast like Nai, Jhewar, Kalal and the similar castes, the children of such connections are treated as legitimate, whether or not a formal chadar andazi has taken place between the parents.” The Jats of Rohtak district did not entitle a minor husband to have the custody of a minor

448 C.L. Kangra 1914, 40.  
449 IBID 37.  
450 IBID 41.  
451 IBID 39.  
452 Punjab Record No. 54 of 1900, 15.  
453 Divisional Court decision No. 406 of 15 March 1906, 15.  
455 73 P.R. 1897.
wife before she attained puberty.\textsuperscript{457} And in another case where parties were Muslim Gujar and the plaintiff was a minor of 8 or 10 years it was refused by the court.\textsuperscript{458}

Thus the custom of marriage was well established in Punjab. Mostly all got married inspite of having any physical deformity or even if they had to pay to get married. Generally they married young except for a few castes as Rajputs. Hindus married their children earlier than Muslims. If the marriage was celebrated at a very young age, the consummation or \textit{muklawa} ceremony was celebrated after puberty. Usually guardians consented for the marriage of their children and the girls never had any say in their marriage. Panjabi people were mostly monogamous and polyandry was found exceptionally only. The custom of bride price was widespread in the province where men had to pay some money to the bride’s parents in lieu of her hand. Marriages were celebrated with great pomp and show and people spent lavishly even if they could not afford, but sometimes only long cohabitation resulted in presumption of marriage. The marriage and the related aspects were also a cause of litigation. The state was very inconsistent in its approach.

\textsuperscript{457} No. 64 P.R. 1891. 
\textsuperscript{458} No. 128 P.R. 1892.