ADOPTION AND CUSTOMARY LAW

The present chapter deals with the custom of adoption in the Punjab during the late 19th and early 20th centuries. It aims to locate the custom of adoption in different districts, where it was practiced, and the castes and religious groups who practiced it. The *Riwayat-i-Am* give us information about the age at which the child could be adopted, the need for adoption; people who could adopt and those who could be adopted, the prevalence of second adoption and the rights of succession of the adopted child in his natural home and that of the adoptees. The chapter has been divided into five broad sections. The first section deals with the background of the custom of adoption and its rationale, various forms of adoption, and the areas and castes where the custom of adoption was practiced. The second section deals with the age limit of the adopted person and attempts to find out whether it was uniform across the district or not. The section talks about the ceremonies necessary for the completion of the adoption. The third section talks about the eligibility criteria for adoption i.e. who could adopt as well as who could be adopted. The section will also talk about the right of woman to adopt. The fourth section would inquire into the succession rights of the adopted child in the new family which has adopted him as well as his natural family. The fifth section presents the role of the State in the case of adoption.

Adoption of children is a socio-legal concept. It primarily meant that a parent child relationship was established where none existed. Adoption served the double purpose of giving a child a home and giving parents a child. It is a social institution that is supported by every civilized society. A child is adopted to satisfy emotional and parental instincts of the adopter. “It is a process to incorporate a child permanently into a family with all the rights of a natural child in which he was not born”. “Adoption is a social construction that is shaped by cultural forces and inundated with...”

The Indian tradition has its own contradictions. When the Brahmin dies a son is indispensable for the funeral, the libation and the solemn rites. A Brahmin is born under the obligation to his forefathers for offspring. When nature did not bestow son to a parent he devised various means for meeting the natural deficiency of male offspring. And one such mean was adoption. Largely it was intrafamilial and it was carried out to fulfill religious and domestic duties.

Broadly there were two objects of adoption, one to secure spiritual and religious benefit and second to secure an heir and perpetuate the adopter’s name. In India the importance of son has been one of the main motivations for adoption right from the ancient times. A son was adopted to help the father or mother in old age, to pay the adopter’s debts and to continue his name (tail kare, khidmat kare, kar kare) and also to perform his exequial rites (kriyakarm). The son enabled the father to pay off the debt he owned to his ancestors. He helped him to gain immortality.

Our religious epics also have many examples where children were born elsewhere but brought up at some other place by non biological parents as in the case of Sita in the Ramayana and Karan and Krishna in the Mahabharata. Initially it was doubted as it was believed that there could be no valid substitute for the son as the proposed spiritual benefit was to be derived from his production and not the replacement. Finally, it was adoption that endured because of “its greater suitableness to the moral sensibilities and needs of a society gradually advancing in refinement, yet clinging always to the tradition of the past”. Manu has remarked that by acquiring a son the Hindu generally thinks that he is making the best of all possible bargains for himself in this world and the one to come. He further says “He whom his father or mother gives with water, at a time of distress, the son being of the same class and affectionately disposed, is known as son given (or a dattaka son) provided that donee has no issue”.

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1 Vinita Bhargava, Adoption in India: Policies and Experiences, 24.
2 Gopalakrishnan Seth, Codified Hindu Law 237.
3 Vinita Bhargava, Adoption in India: Policies and Experiences, 43.
4 Rameshwar Dayal, Text Book of Hindu Law, Allahabad Law agency, Allahabad, 341.
6 Customary Law Sirsa 1882, 137.
7 Billimoria, Child Adoption: A study of Indian experience, 6.
8 Bhargava, Vinita, Adoption in India: Policies and Experiences, 11.
9 Gopalakrishnan, Codified Hindu Law, 239.
10 IBID.
11 Rameshwar Dayal, Text Book of Hindu Law, Allahabad Law agency, Allahabad, 341.
The ancient smriti writers on Hindu law recognized twelve or thirteen kind of sons, of whom five were adopted sons. These were:- Dattaka is the son whom his father and mother give in adoption. Kritrima is the son whom a man himself makes his son with the adoptee’s consent only. Krita is the son sold by his father or mother or either of them. Apaviddha is the son discarded by his father and mother and is taken in adoption. Suyamadatta is the son who is deprived of his father and mother by death or abandoned by them, presents himself by saying, ‘Let me become thy son’.16

In ancient India the law of adoption was well developed. It had two main forms – Kritrima and Dattaka. During the Rigvedic time even the adoption of a daughter was recognized.17 Even Dattaka Mimasa Putra has been interpreted to include a daughter. The author Nanda Pandita has supported this by referring to ancient precedents as the adoption of Kunti, daughter of Sura by Kunti Bhoja.18 Later adoption of the daughter fell into disuse and it was not permissible under Hindu Law.19

There has always been a debate regarding the form of adoption prevalent in the Punjab. While some say that the customary appointment of an heir in Punjab resembled that of Kritrima form of adoption of Hindu Law, the one that had no connection with religious ideas and was completely non Brahmanical, but others did not agree.20 Sir Meredyth Plowden observed that neither Dattaka nor Kritrima form prevailed in Punjab and the adoptions among agriculturists were informal and customary. J.Chatterji also remarked that there were only few similarities between the kritrima and customary forms of adoption. It had some similarities, like non existence of fiction of affiliation, restrictions regarding the persons to be appointed and particular religious ceremonies were unnecessary.21 Adoption in the Riwaj-i-Am of the Punjab had little or no connection with the adoption of Hindu Law. While Hindu Law was founded on the spiritual idea that son was necessary to save man’s soul from hell or pat and represent family gatherings and offer the pind. So the essence of Hindu

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16 P V Kane, History of Dharamasastra (ancient and medieval, religious and civil law), Bhandkar Oriental Research Institute, Poone. 662: II, 31.
18 Dalip Chand Manooja, Adoption Law and Practice, 14. But this view is criticized by Nilkantha in the Varahara Mayukha.
19 Ram Piairi vs. Divnan Shiv Ram, 1934; C.L. Lahore, 659.
21 79 P.R.1901; Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab.133.
adoption was true sonship. There was a formal transfer of the patria potestas from the natural to the adoptive father. The religious ceremony was same as at the birth of a son. The only difference between the adopted and natural son was the one which could not be eliminated as the birth itself. Adoption amongst the agriculturists of the village communities in Punjab was not connected with religion.

The adopted son was called putrela among Hindus in the Shahpur district. The usual expression for adoption was patr bana. The ‘Palak’ was adopted in the sense that he had been brought in the house of adopted father, either because he had no children of his own or from other motives of kindness, affection or charity. The custom of adoption was not widespread in the whole province of the Punjab. All tribes did not practice adoption. Even the same tribes living in different parts of province did not necessarily follow it. Generally the custom of adoption was prevalent widely but some tribes did not accept it. There was no such custom in Rawalpindi and Multan division. In Rawalpindi district the meaning of adoption differed among Hindus and Muslims.

This practice was more prevalent among Hindus. Muslims usually did not recognize adoption. Under the general Muslim law an adoption could not be made. However if made it could not carry with it any right of inheritance. Still some of the tribes practiced adoption. Muslims who did not have the custom of adopting a son were mainly in the western districts of Attock, Rawalpindi, Mianwali, Jhang, Jhelum, Montgomery, Muzaffargarh and also that of Kaithal. Among the Muslims of Shahpur the so called adoption was actually a conditional gift. Adoption was practically nonexistent but was rarely observed in Kaithal and Indri Tahsils. Largely, the tribes who were opposed to adoption were that of Muslim Rajputs, Jats, Saiyyads, Awans, Arains, Lodhis, Pathans, Gujjars, Dogars, Labanas and Rains. Some Hindu tribes too did not practice it. Such instances were found from Rajput tribes of Nawanshahar, Ludhiana and Ambala and even Jhelum.

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24 C.L. Shahpur 1896, 57.
25 C.L. Rawalpindi, 8.
28 C.L. Shahpur 1896.
29 C.L. Delhi, 1892.
In the context of the caste mainly Muslim Rajputs, Awans, Arains of Phillaur tahsil in Jalandhar district, Muslim Rajputs, Lodhis, Pathans; Hindu Rajputs of Nawanshahr; Gujars, Dogars, Sayyads and Pathans of Nakodar Tahsil of Jullundur district, Labanas and Rajputs of Ludhiana tahsil; Rajputs of tahsils Ambala and Rupar, the Muslim Jats of Rupar, many Jats and Saiyads of Ambala and most of Rains in all tahsils in Ambala were opposed to adoption. Also Biloch tribes and Sayads and Jats of Dera Tahsil and Hindus of Jampur and Sangarh Tahsil of Dera Ghazi Khan. Those of Rajanpur subdivision in the same district also did not recognize adoption. Rajputs, both Hindus and Muslims and Labanas of Ludhiana Tahsil said that they had no custom of adoption. All other tribes agreed that if there was a male lineal descendant there could be no adoption but the presence of a daughter's son was never a bar to adoption. The Muslim Gujars of tahsil Gurdaspur and Moghuls and Sayads of tahsil Batala said that there was no custom of adoption among them. Muslims of Mianwali could not adopt if there was son, grandson or a great grandson. In Sirsa district only the Rains had a well defined custom of adoption among Muslims, though there was no such instance. Inspite of the general non recognition of the custom it was being introduced by the Hindus and a few instances were reported. And one such adoption was also upheld by the Civil Court. No custom of adoption was there among Mianwali Muslims but the Chief of Kalabagh said that the Chief could adopt a son if he had none. It was mentioned that adoption had taken place among Muslims but the right of the adopted son to succeed had been disputed successfully by the collaterals.

Topography of the region also played its role. The influence of the religion was more marked in the Muslim agriculturists of central and eastern Punjab. Muslim

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30 C.L. Ambala, 1887 and 1918.
31 C.L. Dera Ghazi Khan 1898.
32 C.L. Mianwali, 35.
33 C.L. Mianwali, 35.
34 C.L. Muzaffargarh, 32.

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agriculturists of Central Punjab retained their custom of adoption. The Hindus of
certain Muslim dominated districts as Dera Ghazi Khan also did not observe the
custom. One interesting feature was that the custom of the majority community also
influenced those of minority community. As in case of Jhelum district, the custom of
adoption did not exist and even the Hindus, who were in the minority, did not practice
it much. Similarly, the adoption or appointment of an heir was held invalid by custom
among Ghorewal Rajputs. Since it was a Muslim dominated area, the Muslims did
not recognize the custom and Hindus followed ordinary rules but the number of the
latter was also very less. So no custom of adoption was generally observed in these
regions. Dogars of Pasrur Tahsil in Sialkot district also did not have the custom of
adoption. In Muzaffargarth, the custom of adopting a son did not prevail in any tribe
and so much so all questions regarding adoption have been omitted. The custom was
slowly being introduced among Hindus and a few instances have been quoted.
Interestingly some tribes admitted that the custom existed at present but wanted to
give it up for the future. Even the Chakwal tribes of Jullundur said that there had been
some cases in the past but there should be no more in future. Hindu Rajputs of
Pathankot Tahsil said that the custom should be abolished. If it was not possible then
the consent of immediate reversionary heirs should be made essential.

Hindus recognized adoption in Jhang district except those of Hindu tribes of
tahsils Jhang and Shorkot. Hindus of Mianwali could adopt a son if childless,
mainly to succeed to his property. There was a difference between Hindus and
Muslims of Dera Ghazi Khan regarding adoption. Also one could find strong feelings
against adoption in Ambala and the Settlement Officer wanted that they should be
taken more as a viewpoint of general people than as evidence of actual custom.
One possible reason for the intolerance against the custom could be due to the fact that
reversioners were not willing to forego their right in favor of the outsider. It was
also mentioned that there was very little difference between adoption and gift. One

35 Punjab Record, 1886, 124; C.L.Ludhiana 1911, 93.
36 Labanas, Sainis, Muslim Rajputs, Gujars, Sayads, Hindu and Muslim Jats; Muslim Rajputs, Arains,
Labanas and Mallahs of Shakargarh; Sayads of Batala and Harms, Gujars, Mallahs, Hindu and
Muslim Rajputs, Pathans, Mughals, Sayyads, Lohars, Tarkhans and Kakkezais, C.L.Gurdaspur 1913
37 C.L. Gurdaspur 1913, 37 ; Hindu and Muslim Jats, Katal, Lalotra Gots of Hindus Rajputs of
Shakargarh and Arains, C.L.Gurdaspur 1913.
38 C.L. Jhang 1929 , 47
39 C.L. Mianwali, 35
40 C.L. Ambala 1887, 28
41 IBID, 28

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another reason that went against the custom of adoption was that the customs were not sharply defined and intricacies of law caused litigation.\textsuperscript{42}

II

The age of the adoptee was neither rigid nor uniform in the whole province. It varied in different tribes and regions. While in some districts the adoption could take place in infancy or at a very young age but in some other districts even a married man could be adopted. The age of the person adopted was immaterial.\textsuperscript{43} There were no restrictions on the age for adoption.\textsuperscript{44} He could be adopted after tonsure or investiture ceremony with his own family\textsuperscript{45}. In Kullu the age was not an issue but the adoptee should be younger in age than the adopter and should look like his son.\textsuperscript{46} Certain tribes followed an age limit. In Lalotra tribe of Shakargarh tahsil and Batala tahsil adoption in infancy was binding.\textsuperscript{47} Though the age limit was not specified but it was generally done in the boyhood or when he was a minor.\textsuperscript{48} Generally, the adoption took place at a tender age, say up to 12 years or so as in Hoshiarpur. Brahmans said that the adopted son must be less than 16 years of age at the time of adoption.\textsuperscript{49} In Ambala the age limit varied from 1-20 years.\textsuperscript{50} The person adopted was usually less than five or eight years of age but he could be adopted at any time before attaining the age of puberty in tahsils Gurdaspur, Pathankot and Batala.\textsuperscript{51} The Sayyads of tahsil Dipalpur fixed the age limit of 15 or 16 years whereas the Muslim Jats and Arains of tahsil Pakpattan fixed the age limit at 20 years.\textsuperscript{52} In Rawalpindi district Hindus and Bhabras said that a boy might be adopted up to the age of 20 years.

Even a married man could be adopted in Rohtak but one with his own male issue could not be adopted. Kalals said that the person adopted should not have been married. In districts of Sirsa and Shahpur a man could be adopted even after he was

\textsuperscript{42} IBD, 28
\textsuperscript{43} Charles Roe, \textit{Tribal Law in Punjab}, 131; W.H. Rattigan, \textit{A Digest of Civil Law for the Punjab}, 29.
\textsuperscript{44} C.L. Dera Ghazi Khan 1898; C.L. Kangra 1892; C.L. Ludhiana 1911; C.L. Rohtak 1911. Hindus, C.L. Mianwali.
\textsuperscript{45} C.L. Sirsa 1882; Pakpattan tahsil, Khatri, Arorars, Mahtams, Qureshis of tahsil Dipalpur, Rajput Joyas, Chishtis, Hans, Muslim Rajputs of Pakpattan tahsil, C.L. Kullu 1952, C.L. Sialkot 1917. C.L. Rawalpindi, C.L. Multan 1924.
\textsuperscript{46} C.L. Kullu, 34.
\textsuperscript{47} C.L. Gurdaspur 1893, 25.
\textsuperscript{48} C.L. Gujranwala 1914; C.L. Gujrat 1922.
\textsuperscript{49} C.L. Hoshiarpur 1914.
\textsuperscript{50} C.L. Ambala 1887.
\textsuperscript{51} Pathans and Gujars in Shakargarh Tahsil; Brahmns and Khatris in Batala tahsil and Arains and Muslim Jats, C.L. Gurdaspur 1913.
\textsuperscript{52} C.L. Montgomery 1925, 36
married and in Gurdaspur district he could do so even if he had children. Rajputs and Arains stated that the person adopted should be younger than the person who adopted him. Though the custom was not very specific regarding the age but one thing was certain that a person could not usually be adopted after attaining the age of puberty. We come across vast range of ages for adoption in Ludhiana as 18, 19, 22, 32, 29, 40 years. However the age limit varied from 4 to 10 years amongst other tribes. In Gujranwala, boy under five years of age was taken into lap and above that age was adopted, latter practice was more common. In Attock district adoption was not generally recognized but on the basis of the cases that came to light, the age of the adoptee differed. As he was a minor in most cases but we also come across certain adoptions at ages as 6, 16, 20 years also. The age of the adoptee varied with the tribes. In the hilly districts of the province as Kangra, the illustrations given in the manual showed that the age of the adopted son ranged from as low as 7 months to the highest limit of 40 years. A man of 35 years was adopted by one Gunda Singh, Man, of Amritsar Tahsil. Interestingly, in one instance the adopter was a 50 years old bachelor in Ludhiana district.

In the 1865 Riwaj-i-Am all the tribes now consulted stated that the person adopted must not be more than 15 years of age. Following that answer the majority of the persons now questioned said that the age of the adopted son must not exceed 12 years. In reality there was no limit as to age. The court observed that among the Sainis of Pathankot only a person below 7 years of age or who had not attained puberty could be appointed an heir. The age limit witnessed an increase in the Ambala district. From the range of 10-16 years the limit increased to 20 years. While tribes of Hamirpur tahsil in Kangra replied that the adoptee should not be more than 6 years old, Dehra tribes said that he should be under 20 years. Similarly other tribes as Brahmins of Kangra and Palampur fixed it below 12 and Ghirths of Palampur wanted it to be before 10. Gaddis of Kangra said that there was no fixed limit of age if the person adopted was of one’s own family, otherwise he should be of age. A boy after

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53 C.L. Gurdaspur 1913  
54 Ibid, 39.  
55 Ibid, 39.  
56 C.L. Gujranwala 1914, 47.  
57 C.L. Kangra 1914, 133.  
58 C.L. Ludhiana 1911, 93.  
59 A.I.R. 1934 Lahore 830; Paras Diwan, Customary Law, Publication Bureau, Punjab University Chandigarh 1990, 118.
tonsure or investiture with sacred cord could be adopted.60 The Brahmins of Pathankot and Shakargarh tahsils and Rajputs of Pathankot tahsil stated that a person who had undergone the ceremony of tonsure or investiture in his own family could not be adopted by another. Though other tribes denied that the ceremonies had anything to do with adoption.61

Sometimes adoption could take place for second time also. Usually almost all the tribes did not allow such adoptions. As a rule, second adoption was not allowed in the lifetime of the first child.62 However in some districts the second adoption was permissible under certain circumstances, though this custom was not well defined.63 Those Muslims of Dera Ghazi Khan district who practiced the custom of adoption could adopt second son even when the first one was alive.64 Jats and Arains of Raya Tahsil could also go for double adoption.

There were some specific circumstances and conditions that allowed second adoption. When the first son was disqualified or did not serve his parents then second adoption was allowed. Rors of Kaithal could not reply satisfactorily in this regard likewise, it was stated that if the adopted son did not attend the adopter adequately, the first adoption could be cancelled and other person could be adopted.65 The disqualification of the first son could also cause second adoption.66 People could also adopt a second time if the first adopted son could not perform funeral rites of his adopted father.67 Similarly, one could adopt second time in the presence of first adopted son if the latter was disobedient.68 The second time could also be adopted, if the first one was immoral or had changed his religion.69 If first adopted son turned out bad and did not work for adoptive father, then adoption ceased to be recognized and fresh selections could be made. A widow could never make second adoption even if

60 C.L. Mianwali, 37.
61 C.L. Gurdaspur 1913, 39.
62 C.L. Sirsa 1882; C.L. Hisar 1913; Hindus, C.L. Mianwali; C.L. Lahore 1894; C.L. Gujrat 1922; C.L. Sialkot 1916; Hindus of Dera Ghazi Khan 1898; C.L. Jullundur 1918; C.L. Kaithal 1892; C.L. Jhang 1929; C.L. Kangra, Montgomery district; Mahtams, Chishtis; Rajputs, Joyas, Muslim Rajputs and Jats and Hans of Tahsil Pakpattan; Qureshis, Mahtams, Kambohs and Khatris of Dipalpur Tahsil; C.L. Delhi 1910; C.L. Gujranwaja 1914; Majority tribes of C.L. C.L. Ambala 1887 & 1918; C.L. Gurgaon 1879; C.L. Ludhiana 1911; C.L. Amritsar 1947.
63 Jats and Kambohs; Rajputs and Gujars of Jagadhari. C.L. Ambala 1887, 1918.
64 C.L. Dera Ghazi Khan 1898.
65 C.L. Kullu, C.L. Rohtak 1911. 57; Hindus and Awans, C.L. Shahpur 1896; C.L. Jhang 1929.
66 C.L. Jhang 1908, 47.
67 Tribes of Dehra and Hamipur Tahsil, C.L. Kangra 1914.
68 Sayads of Dipalpur Tahsil in C.L. Montgomery 1925.
69 Jat Sikhs, Kambojs, Khatris and Aroras, C.L. Montgomery 1925.

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her first adopted son died. She could only do so if her husband had clearly permitted
her to do so.\textsuperscript{70} We have the instance of Sundaman, a Mahajan who fell out with his
adopted son and adopted second son. In another instance, a man called Dodu of
Thakar tribe adopted second time but the first adopted one sued and latter adoption
was then set aside.\textsuperscript{71}

Adoption took place through a variety of ceremonies. The Law of Mitakshara
considered the ‘giving and receiving’ as absolutely necessary. The ceremonies and
rituals marked the practice of adoption, though they were not identical in the districts.
They varied with region, religion and caste. It was very necessary that there should be
a public act of adoption in the presence of the brotherhood.\textsuperscript{72} The essence of adoption
was that the fact of adoption be declared before the brotherhood or other residents of
the village.\textsuperscript{73} In Kangra district, formalities formed an integral part of the adoption
process so much so that failure to observe formalities vitiated adoption.\textsuperscript{74} Puja was
performed and then the boy was taken in his lap by the adopter. Mantras were read,
lagi was given his due and a feast was thrown. There were certain variations
regarding the celebrations in the district itself. In Dehra and Hamirpur Tahsil, the
presence of brotherhood and priest was required. The gram and gur was distributed
and sometimes even the deed was executed. In Kaithal, the only ceremonies practiced
were the public announcement before brotherhood and gur was distributed.\textsuperscript{75} Whereas
adopter was required to perform yagyopvid ceremony in his own house among the
Brahmins of Kangra, Palampur and Mahajans, Suds, Khatris, Jats and Sainis of
Palampur.

Gaddis, Kanets, Sewak Rathis of Palampur did not observe any ceremony but
sometimes killed a goat.\textsuperscript{76} In Jhang district generally proclamation was made before
brotherhood and no special ceremonies were observed.\textsuperscript{77} In Kaithal, the only
ceremonies practiced were the public announcement before brotherhood. Generally
the brotherhood met, worshipped Ganesha, and distributed sweets. Sometimes, the

\textsuperscript{70} C.L. Jullundur 1918, 49.
\textsuperscript{71} C.L. Kangra 1914, 131.
\textsuperscript{72} Charles Roe, \textit{Tribal Law in Punjab}, Civil and Military Gazette Press, Lahore, 1895, 131.
\textsuperscript{73} C.L. Jullundur 1918, 51.
\textsuperscript{74} C.L. Kangra 1914, 135.
\textsuperscript{75} C.L. Kaithal 1892, 16.
\textsuperscript{76} C.L. Kangra 1914, 135.
\textsuperscript{77} C.L. Jhang 1908, 47.
registered deed was executed.\textsuperscript{78} In Delhi, brotherhood was assembled, drums were beaten up and sweets were distributed. Then the adopter made declaration to adopt particular person before assembly of relations followed by feast if he could afford it. The most necessary part of the ceremony was the declaration of adoption before an assembly.\textsuperscript{79} Similarly in Dera Ghazi Khan no formality was required.\textsuperscript{80} Only some publicity was essential. Hindus of Rajanpur Tahsil assembled the brotherhood; worshipped Ganesh and then the father embraced the adopted son.\textsuperscript{81}

In Sialkot district, Muslims had a very simple ceremony where the brotherhood assembled and gur was distributed and adoption could be either announced verbally or given in written. Hindu chauk ceremony was observed where certain symbols were drawn according to scriptural law. Kindred gathered and gur was distributed. The chauk ceremony was not necessary and was often left out. Among Kambojs and Mahtams of tahsil Dipalpur and Pakpattan, the whole brotherhood was called and sweets were distributed and the other formality was that adopter took adopted son in his lap.\textsuperscript{82} In Gujrat, no special ceremony was observed. Brotherhood assembled and food was distributed. The most important thing was the declaration by the adopter of his intention to adopt. The adopted son was then kept in adopter’s house, brought up and looked after, otherwise the adoption became invalid. Similarly in Gujranwala and Ambala districts, assembly of brotherhood and distribution of sweets or feast formed the formalities. In Gurdaspur the feasting of the relatives was considered necessary by all the tribes except the Hindu Rajputs of Pathankot tahsil. In Rohtak district the drums were beaten but the most essential element was that of assembling of haradari and the distribution of gur.

In Mianwali, Hindus called the assembly of brotherhood. Ganesha was read by the Brahmin and sweets were distributed but this ceremony was not so necessary.\textsuperscript{83} In Sirsa district, among Hindus the only important ceremony was that of handing over the adopted son by his father or guardian to the adopter before the assembly of brotherhood. Some words were also said implying that the adopter and adopted were to consider each other as father and son. Feast was held and sugar was distributed. If

\textsuperscript{78} C.L. Jhang 1908, 49, C.L. Kangra 1914.
\textsuperscript{79} C.L. Delhi 1911, 42.
\textsuperscript{80} C.L. Dera Ghazi Khan 1898.
\textsuperscript{81} Ibid. 26.
\textsuperscript{82} Dipalpur and Pakpattan C.L. Motegomery 1925, 38.
\textsuperscript{83} C.L. Mianwali, 37.
the son was a small child he was placed in the lap of the adopter. Among Rains relatives were not always gathered and given feast. The best proof of adoption was that the boy lived in the house of adopter who arranged for his betrothal and marriage.

In Amritsar district the only essential thing was the fact that the adoption must be declared before the brotherhood or other residents of the village. Usually the brotherhood gathered and the adopter declared the adoption. The sweets were distributed and in some cases even tambol was collected. The usual practice in Jullundur was that the biradri gathered and adoption was declared in their presence and sweets were distributed. The important thing was that a deed of adoption was also drawn up and unless all the formalities were observed the adoption was not considered valid. Awans and Arains of Jullundur tahsil also gave feast to the poor people along with the baradri. Among Gujars, Dogars, Sayyads, Pathans, Sheikhs, miscellaneous Muslims and Mahtons of Jullundur tahsils, the execution of deed was compulsory.

It was observed in a case relating to the Khatris of Lahore city, “As to the necessity for ceremonies even, according to Hindu Law the essential and operative portion of the ceremony is the giving and accepting and in the Punjab where the strict Hindu Law ceremonies are rarely observed in their entirety, the giving and accepting of a child in adoption is all the ceremony that is essential”. Thus a customary adoption in Punjab required no religious ceremony to complete it being a purely secular institution. So these customary adoptions were not adoptions in the ordinary sense but were appointment of heirs. Thus no particular ceremony was necessary for adoption. It was treated as a semi religious ceremony among Hindus in Amritsar.

‘Registration was considered advisable’. Sayads of Hujra and tahsil Dipalpur, Mahtams, Khatris, Aroras of tahsil Dipalpur; Khatris, Aroras, Jats Sikhs, Kamboj, Mahtams, Chishtis, Arains and Hans of tahsil Pakpattan, understood the need of a written agreement. The execution of a deed of adoption was considered
essential by Awans in Shahpur and all the Muslim tribes in Gurdapur district.\textsuperscript{91} The written deed was given due importance in Montgomery district. Written deed was announced formally in Gujranwala district 1914. The Sayyads of Hujra and Tahsil Dipalpur state that their adoption should be by registered deed and should be witnessed in writing by the selected men of the brotherhood. Oral adoption was not recognised. There is no difference between adoption and appointment of an heir. Qureshis of Tahsil Dipalpur, Muhamadan Jats, Arains and Rajput Joyas of Tahsil Pakpattan laid stress on the execution of documents. Some other tribes were of the view that the written formalities for adoption should be same as it was for appointment of heir. The Mustafa Sayads of Dipalpur said that it could be oral too.\textsuperscript{92} In Ambala 1887& 1918, sometimes the deed was registered as a precaution. A change was observed in the district of Sialkot where in 1916 adoption was generally made by means of registered deed otherwise it was same as to the distribution of sweets or \textit{gur} at the time of proclamation of adoption. Khatris, Bedis, Sodis, Brahmins and Bhats of Gurdaspur tahsil and Hindu Rajputs of Pathankot tahsil did not find it necessary to have a registration deed for adoption.\textsuperscript{93} In Simla, adoption ceremony was required to be performed in a temple by breaking \textit{dingi} (piece of wood) and a formal promise had to be made before God to abide by the contract. A fee known as \textit{hishit} was also to be given to priest and kardar. Consanguinity between the adopter and adoptee was important.\textsuperscript{94} Adoption in writing was same as appointment of heir.\textsuperscript{95} In Rohtak district the Settlement Officer had cited some examples where the adoptee was dispossessed after the death of adopter on the ground that the ceremonies were not properly performed. This was inspite the fact that the former had stayed with him for many years. It has also been noted that the adoption needed to be formal and not merely a paper ceremony. It was not the mere customary appointment of heir.\textsuperscript{96} The adoption was more formal in the south east part of Punjab than other areas.

\textsuperscript{91} C.L. Shahpur 1896.
\textsuperscript{92} Dipalpur and Pakpattan C.L. Motegomery1925, 3
\textsuperscript{93} C.L. Gurdaspur 1913, 42.
\textsuperscript{94} Simla D.G. 1904, 28.
\textsuperscript{95} Dipalpur & Pakpattan, 33.
\textsuperscript{96} C.L. Rohtak, 1911,42.
Adoption was customarily permitted in several situations. Normally any childless person could adopt a child. A man who had no male lineal descendant could adopt. A person could also adopt a son if his son or grand son was disqualified to perform exequial rites, though no such example was known. A change of religion on the part of son also justified the father in adopting another son. Even a single person who was either unmarried or widowed could adopt a child. Persons with certain physical disabilities could also adopt. A bachelor, blind, impotent, a lame man and widower could adopt a son. However, a minor child could not adopt.

In Rawalpindi and among Muslim Jats of Jampur and Rajanpur tahsils in Dera Ghazi Khan districts a man having a male issue could also adopt. In two cases the adopter was bachelor, in one he was blind and in other he was a widower. The adoption of the child took place with some preconditions. Generally, a man could adopt if he had no male lineal descendant. Adoption was not permitted if a son, grandson or great grandson was present. He could not adopt even if his progeny was disqualified to succeed in tahsil Gujranwala, Hafizabad and Khangah Dogran tribes. However, a man could adopt if his male issue was an outcaste or a leper, an idiot, an ascetic or was not heard of for a long time. One could also adopt if son could not perform the funeral rites of his father for any reason.

A man could not adopt if his male issue could not perform his funeral rites for any reason in Ludhiana district but little weightage was given to this concern in Sirsa and tahsil Wazirabad of Gujranwala and Arains of tahsil Sharakpur. However, Mahtons of Jullundur Tahsil; Sayyads, Qureshis, Hindu Mahtams of Tahsil Dipalpur; Chishtis of Tahsil Pakpattan; Muslims, Kambojs of Tahsil Dipalpur and Rajput Joyas of Tahsil Pakpattan did not...
give the above mentioned right to adopt.\textsuperscript{106} Muslim Jats to could not adopt if they were impotent, lame or widower.\textsuperscript{107}

There was some debate whether the person who had turned ascetic i.e if a person from the family who had renounced the world could adopt or not.\textsuperscript{108} An ascetic generally could not adopt a son. He could only adopt a chela.\textsuperscript{109} Few tribes such as Muslim Jats, Arains and Awans of Jullundur Tahsil, Arains of Tahsil Sharapkpur of Gujranwala\textsuperscript{110} and all tribes of Tahsil Wazirabad said that the ascetic could adopt. The tribes of Dera Ghazi Khan \textsuperscript{111} and Sialkot \textsuperscript{112} also allowed ascetics to adopt.\textsuperscript{113} The ascetics among Hindus of Jampur tahsil specified that his adopted son would only succeed him in his religious offices and income but not succeed him in his ordinary estate.\textsuperscript{114}

According to the Hindu tradition, Manu was of the view that the boy given in adoption should be of equal caste.\textsuperscript{115} The adopted son according to Manu’s rule must be sadrisam meaning adequate, alike.\textsuperscript{116} However, Rattigan said that there were no restrictions on the degree of a relationship of the person to be appointed.\textsuperscript{117} The person adopted must be a yak jaddi or failing yak jaddis one of the same got in Gujars (both Hindu and Muslim), the Ahirs, Sainis and Malis.\textsuperscript{118} Hindu and Muslim Jats did not have any precise rule as to number of generations which restrict the selection to yak jaddis.\textsuperscript{119} The caste and got of the adopter and adopted should be same.\textsuperscript{120} If they were not of the same got he assumed got of adoptive father, usually when he was son of sister or daughter. Generally the

\begin{thebibliography}{9}
\bibitem{106} C.L. Montgomery 1925, 34.
\bibitem{107} IBID, 3.
\bibitem{108} C.L. Ludhiana 111.
\bibitem{109} Agriculturalists of Shakargarh tahsil and Pathankot C.L. Gurdaspur district 1913.
\bibitem{110} C.L. Gujranwala 1914.
\bibitem{111} C.L. Dera Ghazi Khan 1898.
\bibitem{112} C.L. Sialkot 1895.
\bibitem{113} Mianwali, C.L. Jullundur 1918; C.L. Hissar 1913; C.L. Kangra 1892; C.L. Jhang 1929; C.L. Delhi 1910; C.L. Gujranwala 1914; C.L. Ambala 1887&1918; C.L. Ludhiana 1911; Hindus of Jampur of Dera Ghazi Khan 1898.
\bibitem{114} C.L. Dera Ghazi Khan 1898, 24.
\bibitem{115} Dalip Chand Manooja, Adoptions Law and Practice, 10.
\bibitem{116} Gopalakrishnan, Manu’s rule Chapter IX, 168, 169, 262.
\bibitem{117} IBID, 29.
\bibitem{118} Charles Roe, Tribal Law in Punjab, 131.
\bibitem{119} IBID.
\bibitem{120} IBID, 156.
\end{thebibliography}
adoption was within the same caste or tribe. For example Khatri adopted Khatri and Arora adopted Arora.

All tribes in Rohtak said that the first claimant to adoption was the brother’s son. It was also stated that the adoption of daughter and sister’s son had become rare but was very common about 5-10 years back. Still a case of adoption of sister’s son took place in year 1909. Pathans of Guriani said that anyone whom the adopter prefers could be adopted. Both Hindu and Muslims Jats were of the view that a daughter’s or sister’s son might be adopted in the absence of yak jaddis within two or three generations. Four instances of such adoptions can be identified. Even the Sheikh said that a man might adopt a daughter’s or a sister’s son if there were no yak jaddis. The Riyas also had one instance of adoption of daughter’s son but it was not to be taken as a precedent. The Gujars and all tribes except Meos said that preference should be given to brother’s son or grandson amongst yad jaddis. All tribes of Rohtak district said that the daughter of son or daughter could be adopted but such adoptions were not customary whereas Pathans of Guriani of the same district said that such adoptions were proper. In Punjab Record 50 of 1893, Plowden C.J. and Barton and Rivaz, J.J. said that when a sonless man in any landholding group which recognizes a power to adopt, asserts that he is competent to adopt a daughter’s son of other non agnate in presence of near agnates, irrespective of their assent, the presumption at the outset is against the power.

Biloches, Jats and Sayads of Sangarh had no problem with adoption of an only son, eldest son or brother. Rajputs and Jats of Indri and Rors of Kaithal, Hindu tribes and Rains of Sirsa could give only son, eldest son and brother in adoption. In Sirsa, the only son could be given only to his brother or brother’s widow or some near agnate and in that case the son succeed to the property of both and brother could not give his brother in adoption without the consent of mother and agnates. And Jats of Jampur and Rajanpur could not adopt eldest son, only son or brother in Dera Ghazi Khan 1898. But Rajputs, Gujars and Jats of Kaithal could not give the only son in

121 C.L. Gurgaon 1879.
122 Ibid, 37.
123 C.L. Rohtak 1911, 41.
124 Charles Roe, Tribal Law in Punjab, 131.
125 Ibid, 132.
126 Ibid.
127 Ibid.
128 C.L. Rohtak 1911, 41.
adoption. Jats could not give brother but they did not give such statement. In Ludhiana all tribes agreed that the only son or eldest son could be given but no example of giving brother in adoption was given. In Gujranwala instance of giving only son was rare but eldest son and brother might be given. But in tahsil Wazirabad and Arains of Sharakpur said that the brother could not be given in adoption. In Mianwali Hindus could not give only son and eldest son but brother could be given. But no such example was given and it could only be an opinion. In Sialkot all tribes agreed that a man might give his only son or eldest son or his brother in adoption, except that of Zafarwal tahsil stated that only son could not be given in adoption. Hindus of Dera tahsil said that eldest son could be adopted. No general custom in this regard in Ambala in the year 1887 and the question in this regard was considered superfluous in the year 1918. In Ludhiana district four examples have been cited where nephews were adopted. It is obvious that adoption was not very common and when it was followed several variations existed over who could adopt and who could be adopted.

Sripati Roy held that it was a most widespread practice among Hindu non agriculturists to adopt a daughter’s or sister’s son and the responsibility lay on those who denied that such particular kind of adoption could not be made. This kind of adoption was getting less frequent among in the eastern district of Punjab. Such adoption was presumed to be invalid unless such adoption was made with the consent of agnates. While the Hindu non agriculturists recognized daughters or sister’s son as a proper person to be appointed but amongst the agriculturists especially in the eastern districts of Punjab did not favor such appointments unless they were made with the consent of the agnates. The presence of daughter’s son was not a deterrent in adoption. Even Muslim Biloches, Jats and Sayads of Sangarh Tahsil did not consider a daughter’s son any bar for adoption. So did the Jats of Jampur and Rajanpur and Hindus of Dera Tahsil of the same district.

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129 C.L. Kaithal 1892, 16.  
130 C.L. Ludhiana 1911, 95.  
131 C.L. Gujranwala 1914, 55.  
132 C.L. Mianwali, 37.  
133 C.L. Sialkot 1917.  
134 79 P.R. 1901.  
135 Sripati Roy, *Customs and Customary Law in British India*, 482; Jains, Brahmins in South India; Bohra Brahmin in North West province also had a similar custom.  
137 C.L. Kangra, C.L. Ludhiana 1911; C.L. Gurdaspur 1913.  
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The instances of the adoption of daughter’s son showed that the principle of Hindu Law that the person adopted must be the son of a woman whom the adopter could have married was disregarded by the agriculturist of the Punjab and the custom favored such adoption. Even among tribes of Ambala, *dohta* or the daughter’s son was not a bar but still confusion was there in the minds of people as sonless proprietors wished to adopt *dohta* only. Among Kapur Khatris of Amritsar, Noor Mahal; Kahlivan Jats of Gurdaspur, Ambala; Aroras of Lahore, Bagdi Jats Ludhiana, Randhawa Jats of Jullundur. Southern India Custom permits Brahmins to adopt sons of daughters or sisters and a similar custom was found in.

A daughter’s son or sister’s son could be also adopted in Mianwali and Gurdaspur district 1893. A maternal grandfather could adopt his daughter’s son only if he was from collaterals. There were many variations in this regard in the district. While some tribes said that they could adopt daughter’s son if no collateral was present up to 5th degree as among Bhuttars and Bhindars of Tehsil Gujranwala, but others could adopt daughter’s son if they were of same got, according to Guraya, Sekhu and Man Jats, Labana and Rajputs of tahsil Gujranwala and those of tahsil Wazirabad. For example Khatri Sardar of Wazirbad adopted his daughter’s son who inherited his property. Similarly a case each is found among Wiraks and Waraichs of Tehsil Gujranwala where they had adopted daughter’s son.

However, there was a change in the opinion in the year 1913 in Gurdaspur district. The only tribes that recognized the adoption of daughter’s son were the Sayads of Shakargarh tahsil and the Arains of Gurdaspur tahsil. The Brahmins of Batala tahsil were of the view that only non agriculturists would accept such custom. Even the Muslim Jats of Gurdaspur tahsil did not agree on this point. Other remaining tribes also recognized the adoption of near collaterals only. Khatris Brahmins Bedis, Jats of Kaithal and Sodis of Gurdaspur tahsil stated that the nearest collaterals could not adopt daughter or sister’s son but tribes of Indri could adopt. Hindus of Rajanpur tahsil said that a daughter’s son was bar to adoption. In Sialkot district apart from daughter’s son or sister’s son even a sister’s grandson might be adopted though near agnates had a preferential claim. Many Jats and Rajputs denied the right of adoption.

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138 C.L. Ambala 1887.
139 Bohra Brahmins in Northern Districts of North Western Provinces and Jains.
140 C.L. Gujranwala 1914, 51.
141 IBID.
being given to daughter or sister if collaterals were there. In contrast Arains, Awans, Kakkezais allowed their daughter’s son to succeed even if brother’s son was present. In Punjab Record, 1904 it was found that by custom among Ghuman Jats of the Sialkot district adoption of a sister’s son was invalid in the presence of a cousin.

A man might adopt his sister’s or daughter’s son with the consent of his agnates and even the widow might adopt her husband’s sister’s son or daughter’s son with the consent of her husband’s agnates. It was only amongst Khatris that a daughter’s son could be adopted and to him the limitations of got and tribe did not apply. Even Rains of Sirsa did not prohibit sister or daughter’s son to be adopted. Rather Rains being endogamous allowed the adoption of sister or daughter’s son more readily but the Hindus tribes had a strong feeling against allowing land to pass into another got and the agnates seldom allowed the adoption of sister or daughter’s son who belonged to another got. They had the right to forbid the adoption of non agnate. There was no rule prohibiting adoption of wife’s nephew also if there was no near agnate among Rains.

All tribes were of the view that both the adopter and the adoptee should be of same tribe or got. They must be near collaterals. Rajputs, Gujars, Jats and Rors of Kaithal district strongly said that adoption could be made only from near male collaterals. Qureshis and Sayyads of tahsil Dipalpur and all tribes of Pakpattan tahsil said that it was necessary that the adopted son should be one of those who had descended from a common ancestor, i.e., yakjaddis. If there was no such person then any one from the same got could be selected. The nearer relations were preferred to remote ones. The adopted son should usually be a relative in the male line or the male issue of a female relative but an outsider could not be adopted. Among Muslims of Dera Ghazi Khan district there was no restriction on their relationship except that they should be of the same tribe. There were a few exceptions where a daughter’s son could be adopted as in Tahsil Wazirabad and Arains of Sharakpur. In Gurdaspur

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143 C.L. Sialkot 1916, 40.
144 All Hindu tribes of Sirsa.
145 C.L. Montgomery 1925.
146 C.L. Sirsa 1882 36.
147 C.L. Kaithal, 16.
148 C.L. Rawalpindi.
district the person adopted was always of near relation and of the same caste as the person adopting. The preference was given to the nearest relations as brother’s son, son of brother’s son as was the custom prevalent since 1865. The zamindars of tahsil Pathankot and Shakargarh said that both the adopted son and adoptive father must be of same got.\textsuperscript{149} Even Hindus of Dera tahsil in Dera Ghazi Khan District said that they adopted only in their got. The person adopted had to be of the same family as the adoptee in Sirsa as well. The brother’s son had the first claim, and given preference. Failing him the near agnates were chosen.\textsuperscript{150} The adopted person was to be of a lower generation than the adopter. The adopted person must be of the same tribe and of the same got as the adopter or the adopting widow’s husband. (Except in the case of adoption of daughter or sister’s son) Banias of same district said that when there were no near agnates a person of another got was sometimes adopted. Rains said that the person adopted must be Rain by tribe and relative of the adopter. If there was a fit brother’s son he was preferred. Among Kambojs, only a real brother’s son could be adopted. Aroras and Khatris – permitted any person belonging to the same tribe to be adopted, e.g., an Arora can adopt any other Arora. A Bedi Khatri could only adopt a Bedi Khatri. Mahtams, Aroras, Kamboj of tahsil Dipalpur – could adopt any one from his got or tribe, i.e., Zat. Muslim Mahtams can only adopt from amongst his near relatives.\textsuperscript{151}

In certain exceptional cases it was said that the degree of relationship of the person to be adopted was not a bar to a valid adoption. A stranger could also be adopted.\textsuperscript{152} An only son, or the son of a daughter or that of a sister could also be adopted.\textsuperscript{153} The zamindars of tahsil Shakargarh said that neither only son nor eldest son or brother could be adopted but those of other tahsils said that they could be adopted. In a case among Bedis of Pathankot the adoption of wife’s brothers was upheld.\textsuperscript{154} A wide variation thus existed in the persons who could be adopted.

\textsuperscript{149} C.L. Gurdaspur 1893, 25.
\textsuperscript{150} C.L. Gujranwala 1914, 55; C.L. Sirsa.
\textsuperscript{151} C.L. Montgomery, 36.
\textsuperscript{152} 111 P.R. 1868, 54 ; 102 P.R. 1884.
\textsuperscript{153} Sripati Roy, \textit{Customs and Customary Law in British India}, 481.
\textsuperscript{154} Punjab Record, No. 22 of 1891; C.L. Gurdaspur 1893, 25.
A woman had practically no right of adoption. Many tribes in Sialkot too denied her right of adoption in any circumstance. On his death, too, she was dispossessed of this right. If permitted at certain places and by some tribes, it was accompanied by some conditions. Like she had to have the prior nod of her deceased husband, many a times in written or of his collaterals and there were restrictions on which she could adopt. Sometimes she could not adopt even with the permission of her husband. Muslim Rajputs said that consent of collaterals was necessary.

Amongst Rors in Indri of Kaithal district there is an example where widow adopted her husband’s brother’s son. There are two examples from village Katri where in one case adopted son was sister’s son of dead husband. Kambojs, Khatris, Mahtams and Qureshis of Tahsil Dipalpur and Arains, Hans, Muhamadan Jats and Joyas of Tahsil Pakpattan in Montgomery district; Pathans, Jat Sikhs, Dogars, Pachadas of Hissar district and Rajputs, Gujars, Rors of Kaithal; Ambala were some such tribes. Some tribes deprived widow of right of adoption outrightly whereas those of Indri Tahsil allowed widow to adopt only if she was permitted by husband before brotherhood and collaterals. In Kaithal tahsil she could only adopt husband’s near agnates with consent of male collaterals who were interested in succession. At the same time certain cases where Ror widow adopted son of husband’s brother and a Muslim Rajput widow adopted son of husband’s sister are also seen. Thus, they were being given the right.

Widows of all tribes enjoyed greater authority regarding adoption in Bhiwani tahsil of Hissar district. In Ambala the widow could adopt the son of her husband’s brother among Arains.

A widow could adopt only if she had a written or verbal permission of her late husband or had the consent of the collaterals of her husband. However this was
allowed very rarely in Ambala. Rajputs, Hindus and Muslims, Brahmins, Gujars of Hissar were of the view that the consent of husband’s collaterals were required only if she adopted from outside the collaterals. However if the adoption was within the collaterals the permission of husband was sufficient. In Hindus of Dera Tahsil of Dera Ghazi Khan it was required for women to have consent of person who would be displaced by the adopted son and Muslim Biloches, Sayads, Jats of Sangarh Tahsil in the same district allowed the widow to adopt with the consent of her husband’s relations. Similarly she could adopt if she had written consent of her husband or his next inheritor and also the consent of collaterals was necessary in case of Sayyads, Aroras of Dipalpur Tahsil; Kambojs, Muhamadan Rajputs, Chishtis and all Hindu tribes of Pakpattan.\(^{163}\) In case of Lahore Jats allowed the widows to adopt provided the name of the boy to be adopted had been mentioned in writing in the written consent of her husband.\(^{164}\) In Sirsa district among Rains a widow could adopt a son even without the written or verbal permission of her husband but with the consent of her husband’s agnates who would succeed to her deceased husband’s estate. In the same district among all Hindu tribes except Bania, Roras and Brahmins, she could adopt any one she wanted of her husband’s near agnates but only with the consent of the agnates. She could adopt either with the permission of husband or consent of his agnates among Banias, Rorasand, Brahmins.

Certain exceptions were there as in tahsil Palampur, widow adopted without anybody’s consent and in tahsil Kangra also widow not only adopted a son but also transferred some land to him. The suit of reversioners also failed against him.\(^{165}\) Among Muslim Khokhars of Lahore it was found that widows had free power to adopt with or without consent of their husbands.\(^{166}\) In another case a Jat widow adopted her daughter’s son with the consent of her husband’s brother and the son was entitled to succeed to the estate held by widow at the date of adoption.\(^{167}\) The authorization by the husband need not be in writing, nor need it specify the name of the heir to be appointed. When a particular person is specified in the authorization, the
widow is ordinarily bound to appoint him and no other, on his death, in the absence of any restriction by the husband to the contrary, she may appoint another. A widow could not be compelled to exercise her power of appointment, nor does she forfeit her life-interest by not exercising it. Jats of Rajanpur and Jampur tahsils authorized their women to adopt of her own without asking anyone because she was the considered to be the absolute owner of her share as per Muslim law. Contrarily, Hindu Rajputs of Jhajjar said that if the authority of the husband was verbal, it was operative only on the thirteenth day ceremony after the death and not later. In the same district Pathans of Gurtani zail and Biloches said that the authority given by the husband in his lifetime was not a valid sanction for the widow to adopt.

A widow could adopt even with verbal consent amongst Jat Hindus, Muslim Rajputs, Kambohs and mix Muslims of Nakodar tahsil. The custom varied in Punjab. In Gurgaon a widow could adopt without any consent but only if she selected a son from her husband’s agnates and consent of such agnates was also essential. In Rohtak and several other districts husband’s consent was necessary. A widow could adopt with the written permission of her husband or with consent of collaterals in Gujranwala. But tribes of Tahsil Wazirabad and Arains of Sharakpur could adopt even with the verbal consent of husband if it was attested. In an instance in Sialkot district a Muslim widow adopted son of the brother of her deceased husband without any authority from her husband. The adopted son was shown as owner of her husband’s land in the presence of the brothers of adopted son. Later the adopted boy handed over a part of his adoptive father’s land to his brothers by a compromise. In another instance in the same district a Rajput woman adopted but the adoption did not take effect. Generally she adopted son of husband’s brother only. Even if widow adopted she was supposed to be adopting husband’s son and only relationship of deceased with the son was given importance. He was known as son of the deceased and succeeded to his property.

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169 C.L. Dera Ghazi Khan 1898, 25.
170 C.L. Rohtak 1911, 39.
171 C.L. Jullundur 1918, 48.
172 C.L. Gujranwala 1914, 53.
173 C.L. Sialkot 1916, 38.
174 *IBID*, 156.
175 C.L. Gurgaon 1879, 156.
In some instances in Ludhiana the adoptions made by the woman were held good but only where the reversioners gave their consent or did not raise any objection. In the 14 instances found in the customary law manual of Ludhiana district regarding adoption by the widow, the adoption in 10 cases was that of her daughter’s son. The adoption made by the widow was cancelled in 7 cases while a compromise was reached in 2 cases and no objection was raised in 3 cases. In any case she was not permitted to make second adoption even if her first adopted son died. She could do so in very rare case if her husband had given her very clear permission. Similarly she was not allowed to do so in Kangra except for some tribes as Rajputs, Mahajans, Ghirths, Khatris of Nurpur Tahsil; tribes of Dehra, Hamirpur Tahsil. The tribes in Gujranwala who gave her permission to adopt second time as well but only with the consent of collaterals. Correspondingly, all tribes in Hissar, Hindus of Mianwali also permitted second adoption by a widow only with the previous permission of her late husband or of his collaterals. However tribes in Delhi could adopt other person if the first adopted son died, but no such case was found in Ludhiana. In Sirsa if the adopted son of the widow died she could adopt another son with the consent of her husband’s agnates among Rains, Bania, Roras, and Brahmins. Some other tribes permitted her to adopt without permission of her husband if the son first adopted had died.

Regarding the second adoption by a widow in case the first adopted child died there were different opinions among different tribe in Montgomery. As in case of tahsil Dipalpur Sayyads of Hujra denied the widow to adopt again while other Sayyads said that she could do so if it was a general sanction but not if the previously obtained sanction was for a particular person. And other Sayyads said that she could do so with the consent of collaterals. The same views were expressed by Aroras of tahsil Dipalpur and Jat Sikhs, Kambojs, Khatris, Chishtis, Rajput Muslims of tahsil Pakpattan. Even Khatris and Aroras of Pakpattan tahsil stated that she could do so only if she had the authority in writing for the first adoption. Kambojs, Mahtams, Khatris, Qureshis of tahsil Dipalpur said that she could not adopt for the second time.

Customary law in Punjab had no religious sanction and was a purely secular institution. As per the notion prevalent among agriculturists adoption was not
The right to succession of the adopted son also varied with custom. The adopted son did not have any right to inherit from his natural father. An adopted son took family name and inheritance from the person who adopted him and ceased to have family name and estate of his natural father. The adopted son had the same rights as a male lineal issue and also performed all religious ceremonies like a natural son. In Ambala, there was no definite custom. In Sialkot, if the boy was only son then he succeeded to both natural as well as adoptive father and also to the property of collaterals as if he had not been given in adoption. Nevertheless if he had other brothers in that case he could not succeed to his natural father and only his brothers did. Some exceptions however existed. Certain tribes permitted adopted son to succeed to natural father if he died without male lineal descendant. As all tribes of Montgomery said that the adopted son could inherit property of his real father only if none of his real brothers were alive and he was the only surviving son of his natural father. Hindus of Dera Ghazi Khan allowed adopted son to succeed his adoptive father even if he had a male issue. In Dera Ghazi Khan District among Muslim tribes he had the right to succeed to his natural father even if the latter had other male issues.

180 W.H. Rattigan, A Digest of Civil Law for the Punjab, 27.
181 Sripati Roy, Customs and Customary Law in British India, 479.
183 Dalip Chand Manooja, Adoption Law and Practice, 29.
185 Dalip Chand Manooja, Adoption Law and Practice, 10.
186 C.L. Jhang 1929, 47.
187 C.L. Sialkot, 1865 & 1895.
188 Gosains, C.L. Kangra 1914; Gaddis and Kanets of Palampur Tahsil; C.L.Kangra 1914; C.L. Jhang 1908; C.L. Gujranwala 1914.57; Sayyads of Shakargarh Tahsil; Hindu and Muslim Jats and Rajputs of Batala; C.L.Gurdaspur 1913, 43; Rains and all Hindu tribes except Khatis of Sirsa, C.L. Rohtak 1911.
Otherwise also he could share property with his natural brothers if the latter did not have any objection. Several situations thus were followed in the region.

Amongst Khatris in the Ambala district an adopted son succeeded in preference to the nephews of the adopter. If adoptive father was one of reversioners of his natural father then adopted son took a share along with them as reversioners. In a single mutation it was found that the adopted son inherited from his natural father as he left no sons. Likewise it was held among Arains in tahsil Batala that adopted son could inherit from his natural father. Similarly Qureshis and Rajput Joyas of tahsil Pakpattan said that an adopted son always got share of his natural father’s property. Nevertheless an adopted son had same rights of inheritance as natural legitimate son. Amongst Khatris in the Ambala district an adopted son succeeded in preference to the nephews of the adopter. Adopted son inherited from his adoptive father. However, in the following tribes adoption did not confer right of inheritance. These tribes were the Daudzai Pathans of Kaithal, Jats of the Baraitch got in Gujrat, Kashmiri Shaikhs of Sialkot, Muslim Rajputs of Ambala District, Muslim Gujars of Garshankar and Muslim Gorawaha Rajputs of Ludhiana.

The birth of real son to the adoptive father after adoption had different effects on different tribes. In some tribes he would share equally as per pagwand system with legitimate sons and would also succeeded to the property of collaterals of his adoptive father like a legitimate son. The adopted son did not inherit anything if a son was born after adoption or if the father had no other natural son. In other tribes the adoption was cancelled on the birth of a real son to the adoptive father. In an example in Rohtak, the boy was returned to his original parents by the adopter when his own son was born and in other instance he did not inherit from his adoptive father.

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189 C.L. Hissar 1913; Muhamadan Jats of Jaunpur and Rajanpur; Hindus of Dera and Rajanpur Tahsil; C.L. Gujrat 1922; C.L. Kangra 1914; C.L. Jhang 1929; Hindus of Mianwali.
190 Sripati Roy, Customs and Customary Law in British India, 484.
191 C.L. Gujranwala, 57-58.
192 No.176 of Pathankot Tahsil.
193 C.L. Gurdaspur 1913, 43.
194 C.L. Montgomery 1925, 38.
195 Sripati Roy, Customs and Customary Law in British India, 484.
196 C.L. Hissar 1913; C.L. Sirsa; Hindus of Dera Ghazi Khan.
197 C.L. Sialkot 1916, 49.
198 C.L. Dera Ghazi Khan 1898, 26; Hindu and Muslim Rajputs of Gohana, C.L. Rohtak 1911; Pathans of Gohana.
199 C.L. Montgomery 1925; Awans of C.L. Shahpur 1896.
but to the property of his natural father. The re-enquiry on the question of succession of adopted child was held in Rohtak district where it was asked that how on the birth of a natural son, the adopted son could revert to his position in his real father’s family, if that father had died meanwhile and the property had been divided. The general feeling was that in such cases he should remain in his adoptive father’s family and inherit pari passu i.e equally. A case has also been cited where in such a case the adopted son accepted a much lesser share of the property compared to the natural son.

A khanadamad was a man who married the daughter of a sonless proprietor and, instead of taking the girl away to his own house, lived on with her in her father’s house, performing services for him, helping to manage his property, and generally taking up the position of a son. At times a resident son-in-law, khanadamad claimed right to succession. Khanadamadi was an institution whereby a sonless man associated with him in his life-time his son-in-law, who resided with him, cultivated for him, and eventually succeeded to him for a life-interest, acting as a means of transmitting the estate to the original proprietor’s daughter’s son. A khanadamad was a man who married the daughter of a sonless proprietor and, instead of taking the girl away to his own house, lived on with her in her father’s house, performing services for him, helping to manage his property, and generally taking up the position of a son. Rattigan observed, “A resident son-in-law or khanadamad was under some of the older decisions, recognized as an heir to the father-in-law’s estate in default of male issue. According to more recent decisions it was his wife, as a daughter, and her issue, as grand-children, who by reason of her continued residence with the father after her marriage, were alone intended to be benefited by custom”. Hence the onus lay on the khanadamad to prove that he was entitled to exclude the ordinary heirs in his own right.

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201 C.L. Rohtak 1911, 43.  
202 IBID, 43.  
204 2 P.R.1910; 162 P.R.1882; 56 P.R.1878.  
205 Ellis, Notes on Punjab Custom, 1921, 90; Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab, 98.  
206 Kaikhosru J Rustomji, A Treatise On Customary Law in the Punjab, 98.  
207 IBID.
Sir Charles Roe had observed in Tribal Law in the Punjab that the Riwaj-i-Am did not support the above mentioned idea. Firstly, the practice of taking a son in law and his wife into the house was not very common and was unknown in many districts and where the practice existed the benefit to be derived from it was to the daughter’s son and not their father as per the custom. Only by residing in the father’s house did not confer any right on the daughter, her husband or her children by custom. Only in some districts or tribes were such of gift or adoption found. In all Riwaj-i-Am without a distinct gift, or adoption or free proclamation of appointment as heir, no right of succession was conferred by residence.²⁰⁸ There seemed to be no recognized custom of khanadamadi in Punjab. The essential feature of the custom of khanadamadi appeared to be that in default of male issue a proprietor might take his daughter and her husband to live with him in order to supply the want of male issue.²⁰⁹ Hindu feeling was not in favor of the institution of the ghar jawai as the following proverb depicts “Sohre ke ghar jawai kutta. Bahin ke ghar bhai kutta.”²¹⁰

Ghar Jawai was unknown in the district of Dera Ghazi Khan both among Hindus and Muslims. The institution was more of Muslim origin. The custom had deeper roots in Muslim dominated districts. Probably it started among the Gujjar Muslims.²¹¹ It was more prevalent in Muslim dominated Western Punjab and less in Eastern Punjab. The custom of khanadamadi was mainly found in the district of Gujrat. It was held that the reason for the non existence of the custom in certain districts was that the gifts directed to daughters were freely allowed in other districts and so it seemed unnecessary to create artificial position occupied by khanadamad which was considered only a device by which gifts to daughters and their descendants might be made.²¹² And from Muslims tribes the custom was adopted by non Muslim tribes.²¹³ If a son in law was living with his father in law he neither lost nor acquired right to inherit from father and father in law respectively.²¹⁴ The Muslim tribes of tahsil Tarn-Taran admitted the existence of this custom without any restriction. The Settlement Officer reported that in sympathy with the Hindu feeling on the subject the

²⁰⁸ IBID 98-99.
²⁰⁹ IBID.
²¹⁰ Rose’s C.L. 198.
²¹² 85 P.R.1904.
²¹³ Paras Diwan, Customary Law, 125.
²¹⁴ C.L. Mianwali, 38; C.L. Sialkot 1916, 50.
Muslims did not universally recognize the custom. Lohars of Sirsa said that if the ghar jawai was also an agnate nephew he was sometimes allowed to succeed. A son in law of a khanadamad even himself appointed khanadamad by his father in law was not allowed to succeed.

All the tribes of tahsil Wazirabad except Chatthas and Arains in Sharakpur inherited from father in law if he had no male lineal descendant. Awans of Jullundur tahsil said that the father in law could give some of his property to his son in law and the latter was also entitled inherit his full share from his natural father. The miscellaneous Muslims of the same district said that the father in law could not give anything to the son in law if he had sons but could do so if he had no son and he will also get his share from his natural father. Arains followed the same custom but they could give only with the consent of the collaterals of five generations. Many tribes as Rajputs of Pipli admitted the right to succeed to movable property of father in law. He never succeeded to the immovable property of father in law without the consent of collaterals.

A khanadamad certainly did not rank as an adopted son. If so he would succeed to the whole estate and his son by any wife would succeed after his death, no matter whether their mother was daughter of their father’s adoptive father or not. If a khanadamad had no son by that wife who was daughter of the man who made him khanadamad he could not pass on the estate to his son by another wife. To assume that because a khanadamad does not rank as an adopted son he can take nothing except what is expressly gifted to him is wrong.

There were some special features regarding the institution of khanadamadi. They included that the appointer must be sonless. Secondly, only a daughter’s husband could be appointed khanadamad usually. He could not be generally appointed before marriage. If it was held that where a daughter did not marry till after her father’s death and it was proved that the father intended to make the husband

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215 C.L. Amritsar 1947, 5.
216 C.L. Gujranwala 1914, 59; C.L. Ambala 1887 & 1918, 32.
217 14 P.R.1907, Gujjars of Gujrat District.
218 C.L. Gujranwala 1914, 59.
219 C.L. Jullundur 1918.
220 C.L. Ambala 1887 & 1918, 32.
The usage of *khanadamad* was recognized, the purpose is to benefit the daughter and her male issue.226 The daughter and her husband benefiting only incidentally.228 In Sirsa district attempts were often made where there was no son to give something to a *ghar-jamai* but he had no right to inherit as he was of another got and agnates opposed such attempts. Sometimes he was given a field to cultivate but never a share of the estate. The general reply was that a *ghar-jamai* might remain in the house so long as the parents lived and they might give him some movables but not land, but he did not succeed even to movables by right of inheritance.229

It seemed to be generally allowed that a *ghar-jawai* or son in law taken in the house became entitled to succeed as a kind of adopted son without proof of gift. The Ghirths of Kangra district had a custom according to which if the wife of a resident son in law died during the life time of her father and left no sons her husband on her father’s death did not succeed to the latter’s immovable ancestral property either absolutely or for life.230 A *damad* was only an appendage to the resident daughter and any gift made to her or him was made for the ultimate benefit of their issue. In case

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222 134 P.R.1883.
224 134 P.R.1894, 505.
226 106 P.R. 1901.
227 20 P.R.1904; 85 P.R.1940.
228 19 P.R. 1897; 15 P.R.1884, 19 P.R.1887; 134 P.R.1894; 40 P.R.1896
229 C.L. Sirsa, 1882, 141.
230 54 P.R.1897.
there was no issue than the property given reverted back to the kinsmen of the donor. Amongst Awans of the Jand got of Sialkot tahsil the resident son in law kept the property for his life time. Some tribes in Sialkot in 1865 expressed an opinion that a khunadamad would succeed in default of son if he renounced all clams to his own father’s estate. In Hoshiarpur the Jats of Garhshankar said that a khunadamad succeeded in default of sons. In a case among Hindu Atwal Jats a gift to son in law was not valid without the consent of the brother-hood. In some cases a father in law might make a gift to his son in law in Jhelum. Though an attempt was made by a sonless man or a widow to give property to son in law. It had more to do with the gift and residence of the son in law did not make any difference. Rights to succession by adopted son thus varied over the Punjab region accepting several different parties, some granting full right to adoptee others limited. In most cases the adoptee was treated as legal heir. At times he also inherited the property of the natural father as well. Some instances of equating or khana damad with adoptive son is also seen.

What is clear however is that there is no clear cut pattern related to area, religion or caste.

VI

The colonial state too accepted the custom of adoption. In fact upheld adoption as the norm disregarding the contrary custom that existed in some areas and in certain castes. The Court held that the adoption was absolute and irrevocable and an adopted son could not give up his status. He could not be disinherited for misconduct or disobedience or neglect to support his adopted father, and the adopted father could also not revoke or disclaim the adoption that was once lawfully made. In Kanhaya Lal V/s Nand Kishore it was held that there was no valid custom under which a Kayasths of Rohtak could set aside adoption that was once made.

It was also held that an adopted son could not inherit from his natural parents. In an instance among the Jats of Panipat the adopted son was not entitled to succeed to his natural father and take a share in his estate if there was another natural

231 126 P.R.1894.
233 C.L. Amritsar 1947, 5.
234 C.L. Shahpur 1896, 61.
235 Narayan Das V/s Munshi Shaman P.L.R. 1906, 484.
236 15 P.R. 1877; 17 P.R. 1878; 98 P.R. 1882; 9 P.R. 1893; 143 P.R. 1894.
237 Sripathi Roy, Customs and Customary Law in British India, 485.
238 Bhugger Singh V/s Boodhoo 51 P.R. 1867; Sripathi Roy, 484.
son and the adopted son had taken the entire estate of his adoptive father by inheritance. This decision sounded that adopted son might succeed in his natural family under certain circumstances. The adopted son retained right in the family of his birth only if his natural father died childless or if there was no male lineal descendant or if there was no widow. Another reason could be if adoptive father was one of the reversioners of natural father then he took share with reversioners. Same was for Khatris of Sirsa where if natural father died without other sons the adopted son did not succeed to his property except as the son of his adopted father. An adopted son inherited from his adopted father the same way as a natural son.

In a case relating to the Jats of the Rohtak District it was held that their adoption was of formal nature and not the mere customary appointment of an heir such as is usually met with in the Punjab proper and the adopted son merged in his new family. In Rohtak district among the agricultural tribes the adoption of a son was of a formal character and the institution of customary appointment of an heir with its legal consequences as in central Punjab did not ordinarily exist. The son so adopted was relocated from his natural father’s family to the family of adopter and had all the rights of a Dattaka son under Mitakshara law. It was also true that all the formalities lay down and the conditions imposed by this law were not followed. The appointment of a person of a different got or a gair kaum except that of daughters or sister’s son was generally opposed to custom of adoption.

In a case relating to the Jats of the Rohtak district it was held that their adoption was of formal nature and not the mere customary appointment of an heir such as is usually met with in the Punjab proper and the adopted son merged in his new family. The Privy Council expressed their satisfaction that Dhusar tribe of Gurgaon, though not agriculturists, were governed by their customary law that allowed them to adopt orphans. The stand taken by the state on the issue of

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239 Mukh Ram V/s Not Ram 100 P.R. 1906.
240 Sripati Roy, *Customs and Customary Law in British India*, 484.
241 C.L. Gujranwala 1914, 57.
242 C.L. Sialkot 1916, 49.
244 W.H. Rattigan A Digest of Civil Law for the Punjab, 124.
adoption was also significant. The state adopted different stands on the ceremonies on the occasion of adoption. In a case the Court held the adoption valid though there was no ceremony at the time of adoption. The plea was that the adoptee had served and lived with the adopter for many years and treated as son by his adopter and also performed last rites of the latter. He was separated from his brothers and had also not taken any share in the property of his natural father. In another decision the Divisional Judge held that the adoption was invalid by custom unless all the necessary ceremonies were performed. It also held that the performance of the ceremonies was more necessary in the case where adopted son had been married into the same got as the adopting father. It also said that a sister’s son could not be adopted. The only tribe which allowed the adoption of ghair got other than a daughter’s or sister’s son was that of the Kalals and they also said that the person adopted must be of the same kaum. In Ambala district it is stated that since there was a conflict among the people and actual past decisions on the issue, so it would be of little help to the Court. It is also mentioned that the tendency of the court was to allow adoption very easily. The Chief Court upheld the adoption of Hindu Rajput widow of her brother’s son inspite of the objection by husband’s reversioners. There were other examples where widows adopted sometimes in relation with husband and sometimes otherwise. It was also held by the Full Bench of the Lahore High Court that amongst the agricultural tribes of the Punjab, adoption is in no sense connected with religion and is a purely secular arrangement resorted to by a sonless owner of land in order to nominate a person to succeed him as his heir. The object of such an adoption was to obtain a practical and temporal benefit.

It was held that among Ghorewaha Rajputs of the Garshankar tahsil, district Hoshiarpur, the adoption of a daughter’s son by a deceased sonless proprietor was valid by custom, inspite of the last Riwaj-i-Am entry to the contrary. A Rajput Bhatti of tahsil Hafizabad adopted his sister’s son but the adoption was cancelled by Extra Assistant Commissioner. Jats adopted distant relative of neighbouring village but such adoption was not valid. Among some tribes as the Kapur Khatris of

248 Lehna Singh v. Cheina Singh 111 P.R. 1868.
249 Sripati Roy, Customs and Customary Law in British India, 480.
250 Charles Roe, Tribal Law in Punjab, 138.
251 C.L. Hissar 1913, 50.
252 A.I.R. 1945 Lah. 17.
254 110 P. R. 1919.
Amritsar, Brahmins of Panjzati class in Amritsar, Khatris of Nurmahal, Kahilwan Jats of Gurdaspur, Jats of Ambala, Badhal Jats of Ludhiana, Rujar Jats of Battala, Aroras of Lahore, Gorayah Jats of Gurdaspur, Bhattiyas of Sujabad, in Multan District, Chopra Khatris of Ferozepur, Sindhu Jats of Ludhiana, Gorcha Jats of Ludhiana, Raihala Jats of Rupar, Radhawa Jats of Jalandhar, Bagri Jats of Ludhiana the onus was held to be discharged and the adoption of a daughter’s son was held to be invalid.255

The Court was not uniform in its decisions. It was held that no special custom could render the adoption of daughter’s son as invalid amongst Kahilwan Jats of Gurdaspur district.256 Similarly the ruling was given in the favor of adoption of sister’s son amongst Guraya Jats of Shakargarh tahsil.257 Similar ruling was given for the Riar Jats of Batala district.258 Under the Punjab customary law there were many cases where sister’s or daughter’s son was favored and in others it was not. The Privy Council observed that the Punjab Customary Law did not follow the Hindu law which said that daughter’s son could not be adopted.259 While the Chief Court decided in the case of Rajput Bhattis of tahsil Batala that the adoption of sister’s son was not valid without the consent of reversionary heirs,260 but the same Chief Court decided in the favor of adoption of more distant collateral in the presence of nearer one in Shakargarh tahsil.261 The Chief Court held adoption of brother’s daughter’s son as invalid by custom.262 In many cases such adoptions were validated by custom. There were various instances to support this.263 The Chief Court held that adoption of brother’s grandson by a childless land owner was not opposed to custom.264 In some cases it was held that even the adoption of wife’s brother was possible.265 Even grand nephew (Kharak Singh V/s Rupa Singh 96 P.R. 1883), brother’s daughter’s son

256 Punjab Record, No. 167 of 1883.
257 IBID.
258 Punjab Record, No. 154 of 1886.
261 No. 675 of 1909.
262 No. 800 of 1906.
263 Paras Divan, Customary Law, 117; Atma Singh V/s Jatta Singh 64 P.R. 1883 (Kapoor Khatris of Amritsar); Taba V/s Shaib Charan 162 P.R. 1883 Khatris of Nurmahal; Sohnun V/s Ram Dayal 79 P.R. 1901 (Acharjya Brahamana of Dehra); Roshan Lal V/s Samar Nath A.I.R 1937 Lah 626; Tansukh Rai V/s Som Datt A.I.R 1930 Lah 391 (Agriculturalish Bunjahi Brahamans); Pahar Singh V/s Jang Bijat Bahadur (1931) 133 I.C. 785 (Jains).
264 No. 714 of 1903.
(Ratha Singh V/s Gurdit Singh 27 P.R. 1884), brother’s grandson (A.I.R. 1935 Lah. 935) were allowed to be adopted. It was found that the adoption of a daughter’s son by a sonless Gil Jat of the Amritsar district was valid by custom. The state had upheld customs on variety of situations and remained arbitrary and contrary to custom in many instances. Punjab Courts set aside adoptions by widow for want of her husband’s permission in Lahore and Delhi. In Rohtak too, the Chief Court held that widow could not adopt unauthorized by her husband and his heirs. Though the Batala tribes required the distribution of sweets in the village, in a decision the Divisional Judge held that if a man was very poor to give a feast he could affect adoption by executing a deed in the presence of baradari or fraternity.

Thus we can conclude that the custom of adoption in the Riwaj-i-Am had little or no connection with the adoption of Hindu Law. Hindu Law is founded on the spiritual idea that son was necessary to save man’s soul from hell or pat and represent family gatherings and offer the pind. So the essence of Hindu adoption was true sonship. There was a formal transfer of the patria potestas from the natural to the adoptive father. The religious ceremony was same as at the birth of a son. The only difference between the adopted and natural son was the one which could not be eliminated as the birth itself. Muslim tribes generally did not recognize adoption but was recognized by tribes that of Hindu origin whether they had remained Hindus or become Muslim or Sikh. We cannot see similarity in the pattern of adoption. More distinctive patterns could be witnessed in that of eastern and western districts. The age of the adoptive child was also determined according to the suitability and availability of the person. As Mayne had put it that the simple object of the tribes was to make an heir. There is no exclusion of an only son, or of the son of a daughter, or of a sister, nor is there any limit of age. A girl was seldom adopted and the woman’s right to adopt was also restricted. She had to seek the permission of her husband or his relations if she wanted to adopt. Usually people adopted the child of relatives only. He succeeded his adoptive parents as a natural heir and by and large lost all rights of inheritance in his natural home. We can sum up as, “The foundation of the customary

266 Dial Singh v. Dewa Singh No. 5 of 1885.
267 Mayne, Treatise on Hindu Law and Usage, 138.
268 Punjab Record 80 of 1880.
269 C.L. Gurdaspur 1913, 42.
270 Charles Roe, Tribal Law in Punjab, 71.
271 J D Mayne Treatise on Hindu Law and Usage, Higgin Bothams publications, Madras, 1953, 133.
adoption is not any idea of the spiritual benefits of sonship, but the practical benefit that will accrue to a sonless man from having someone to live with him and keep him company and help him to manage his land. In return for this benefit he offers the right of succession to his land.\textsuperscript{272}

\textsuperscript{272} Charles Roe, \textit{Tribal Law in Punjab}, 70-71.