

## Customary Law and Property Inheritance System among Lahaul Tribes of Himachal Pradesh

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**Abstract:** Tribal population is an integral part of the India's social fabric and has the largest concentration in our country. Lahaul tribes of Western Himalayan region have evolved their unique way of life which is reflected in their different cultural practices regarding different aspects of their lives. During winter this whole area receives adequate snowfall by which the whole tribal belt becomes an isolated land with no links with outside world. This isolation from the outside world seems to have encouraged them to develop their own unique customs. The present study is an attempt to the customs, and customary laws of Lahaul tribal community related to inheritance of the property. The study is primarily based on the Rawaj -i-Am (District wise statement on custom) and Wajib-ul-arz (village –wise statements of custom).

**Keywords :** Customary Law, Property Inheritance System, Lahaul Tribes

### Introduction

The social life of Lahaul tribe mostly depends upon the customs and traditions prevailing in this region. The people of this area are very simple, innocent and nature loving. They are closely linked with their ancient culture and customs. The tribe has their own way of life as a result of which they develop certain customs and laws to settle their dispute. Among the Lahaul tribes affairs of the community were carried out on the common consent and the village and family deities were guiding hand. Disputes of all types including marriage, adoption, inheritance and divorce among the families were settled by the village panchayats. The harsh climate conditions and isolation from outer world are the main reasons for preservice and development of these customs, so also the tradition to settle them at local level. The customs like – marriage, divorce, adoption and Gharjowai practice continues even today among the inhabitants of this region particularly for the settlement of their disputes of social nature including inheritance, marriage and divorce as described in Rawaj-i-Am. Broadly speaking most of the customs look similar yet minute change and differences can be noted in the statement of these customs. For the present study owing to stress of short time, I have taken into consideration Lahaul tribes residing in village of Udiypur, Sishu, Jalama in Lahaul & Spiti district.

### Property Right under Joint Family and Polyandry System:

The joint family system is very strong in Lahaul as the system of polyandry persists and holds the family together. In Udiypur, the Hindu

element prevails in population and where the landholdings are somewhat larger and productive, the trends toward monogamous marriage is noticeable. A very few have married each separately in Gahar and Sissu Rangoli also. However, joint family system, still prevails but not very strongly as twenty and thirty year before. However, by and some oldest person, polyandry still prevails and the brothers who seldom divide, live on with wife land, house and cattle in common. In the Thakur families, the custom of primogeniture prevails on the death of the father, the elder son succeeds and the other brothers are given some land in subsistence. There is no bar if the younger brothers acquiring property of their own and own live apart (Mamgain, 1975).

### Succession by Chundawand or Pagwand:

According Rawaj-i-Am (Lahaul & Spiti) among the commoners, the succession is open to all male lined descendants. In case of deceased person having male issue from more than one wife, the sons succeed in equal shares and the succession is governed by the rule "chundawand". In case a person dies issueless, his wife inherits his property for her life time. The property of a man dying without leaving a widow of male issue devolves to the daughters. If the daughter marries and settles in her law's house, she is disinherited and the property goes the male collectors of the deceased. But if she takes the husband to her Late father's house, she remains the owner of the property. If such a couple dies issueless, the collateral of the father of the deceased girl succeed. The Chundawand, if admitted after the customary

ceremonies, does not inherit his ancestral property (Rewaj-i-Am, 1954).

The Hindu Succession Act, 1956, does not apply to the Scheduled Tribes (Lahaul) and Scheduled Castes of this area and inheritance is regulated by customary laws. People do go to Legal Court of they feel dissatisfied with the provision or decisions under the customary laws related to the inheritance. More educated people are more inclined towards legal courts, while older generation still follows the customary laws (Mamgain, 1972).

### **Gharjowai Custom in Lahaul Tribe**

The custom of appointing a *Gharjowai* exists in Lahaul tribes. *Gharjowai* is generally appointed when the appointee has no son. He should live with his father-in-law and serve him as his son. The daughter should also live in her father's house. A generally feast is given to the brotherhood and other prominent men of the village, when the announcement of the appointment of *Gharjowai* is made. A written agreement is also executed in this effect by *Gharjowai*. In Lahaul and Spiti, the daughter goes to *Gharjowai* and brings him in marriage. As regards the right of *Gharjowai* in Lahaul to inherit from his father, he does not have such right. He also inherits from his father-in-law in the absence of his widow and children, the wife having died before his father-in-law. The same custom is followed in Lahaul & Spiti. A *gharjowai* succeed collectively in the family of his father-in-law. On the death of a proprietor, the property goes to the daughter and then on her son with the *Gharjowai* and their absence on the *Gharjowai*. On the death of a daughter (wife of a *Gharjowai*), and on the death of *Gharjowai* the property goes to the children of wife and *Gharjowai*.

### **Polyandry (Plurality of Husbands)**

In some regions, Sissu and Jalama, the custom of polyandry is followed in Lahaul tribes. In some region like Udiyapur, it is not necessary that if a woman has more than one husband, but they should be at least cousins. If there is issue of percentage in case of issues of polyandrous marriage it is the eldest son considered to be the son of the eldest brother and so on. If three brothers have a common wife, one dies without leaving any issue, his property goes to the brothers and not to the wife. She usually gets the property of last husband who dies. If a woman has more than one husband and she get one son, then the son succeeds to the property of the husband, who is entered as father in the Chowkidara. If a woman is the common wife of three brothers and one of them dies leaving a daughter, then the daughter will succeed to the property of her deceased father. In preference to mother, this custom prevails in Lahaul tribe.

### **Special Property of Women under the Customary Law (Stridhan)**

The special property of a woman (*Stridhan*) is that which is given by her parents in the form of dowry on the occasion of her marriage. It can be movable property like ornaments and jewels or immovable property such as house and land. The property either landed or movable which the parents or the boy give to the girl in return for marriage is also called (*stridhan*). As regard to husband's power over *stridhan*, the husband cannot alienate or otherwise put to use such property without the consent of his wife. In case the wife leaves the husband, later can claim back the '*stridhan*' which he had given to her, in return for marriage. Married women has power of alienating '*stridhan*'. A widow can alienate '*stridhan*' by sale gift or mortgage. When the women dies, her sons succeed to the '*stridhan*' and if there are no sons, then daughters succeed. In the absence of such heirs, the property goes to her husband. In Lahaul, however, ornament and clothes are the right of a daughter and the land that of the son. In the absence of daughter the entire property devolves on the son. In the absence of both, the land goes to the husband and other immovable property is given in alms to a '*Ganp*'. In the absence of all of them, the moveable property is given in alms to a *Gonpa* and the land reverts to the father of the women of his collaterals. If a woman acquires other property with the income of '*stridhan*', it would be regarded as her special property. It cannot form part of the property of her husband.

### **Alienation Custom**

A widow, mother, step-mother, daughter, grand-daughter or a sister who succeeds in immovable property and can mortgage, exchange or create occupancy right in such property but each one has a limited interest and in case the revisionary exist they cannot alienate the property except for very genuine needs such as marriage, education or children etc. In Spiti each one has got an absolute right. The above mentioned females cannot make a gift or will of such property, except when there are no reversioners. In Spiti they have absolute right. A female cannot alienate property for religious or charitable purpose. She can only do so if no reversioners are present. In *Waziri* Spiti a female has got full powers being the absolute owner. A female if she has no reversioners can alienate her property to a stranger. The male proprietor can sell, mortgage, exchange and create occupancy right in ancestral property for genuine pressing necessity in the presence of male descendants and in the presence of collaterals. However, he has full right over the self-acquired property. A male proprietor cannot make a gift or will of his on ancestral property to daughter or daughter's son, sister or sister's son out of natural love and affection in the presence of male lineal descendent, but he can do so in their absence. A male proprietor can make a gift or will of ancestral property in lieu of services to, daughter or daughter's son, sister or sister's son, one of his collateral of equal degree, one of his

collateral of remote degree and strangers. A male proprietor can make a gift or will for religious or charitable purpose. He makes a gift or will by way of dowry to his daughter (only in small quantity compatible with the holding). The extent depends upon the status of the donor.

### Conclusion

It is evident from the above discussion that Lahaula tribes have deep beliefs in their customs and customary laws. There are many customs regarding property inheritance among the local people like Chundawand or Pagwand, Gharjowai and Stridhan. The Study also reveals that the Lahaula tribal

society is male dominating in terms of property inheritance.

Lahaula tribes in terms of inheritance regarding customary rights women are excluded from any kind of ownership of inherited landed property. The customary law's inheritances in Lahaula tribes are patriarchal in nature. Male heirs are allowed to inherit the landed property. In both the tribes their customary laws allowed them to adopt Gharjowai if parents are having only daughter and no son. Gharjowai does not personally inherit the property but can use it till his death. Only the male child of the Gharjowai can inherit the landed property according to the customary laws.

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