

# **Custom, Landownership and Women: A Colonial Legislation in North India**

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## **1. Introduction**

The manner in which regional agrarian structures have been shaped by a variety of colonial interventions has received widespread scholarly attention, where studies have explored the impact of legal measures on regional agrarian structures and the processes of change that were unleashed. The colonial experiment in Awadh which began with the annexation of the province in 1856, is representative of land settlements initiated to create a landed gentry which could act as the bulwark to colonial rule but which in turn gave rise to transformative social processes that affected all classes and vastly restructured society. The Awadh, the experiment with the taluqdars has been of particular interest also for the way in which relations between taluqdars and the peasants were altered. Known for peasant resistance and the spontaneous peasant uprisings of the 1920s. Awadh's history starting from the Mutiny onwards, has been one of increasing volatility and steadily deteriorating agrarian relations. Somewhat less researched is the long-term impact of individual legislations on the target group or class for which they were intended. Focusing on gender differentiation within one class, that comprising the owners of estates, the non-cultivating taluqdars, this essay seeks to chart a relatively less known terrain. While what constitutes a class may be seen only vis-a-vis other classes in the agrarian structure, the emphasis on inter-class relations is also likely to exclude analysis of conflicting interests within classes, including gender-based ones. Indeed assumptions of gender parity in the impact of legislations have hitherto clouded understanding of agrarian change. Located within the ongoing debate on the nature of the colonial state, this paper is aimed as a step forward in our understanding of the actual workings of concrete legislations with long-term effects on social groups.

Our point of departure is the legislative impact on a localized agrarian structure within defined geographical limits and a delimited time-span. With special focus on the Awadh Taluqdari Succession Act of 1869, the paper is concerned with the sociological analysis of court and archival data drawn from the Faizabad district covering the period from 1869-1920s. In subjecting the historical and empirical evidence to closer scrutiny, we propose to highlight both the intended and unintended consequences of the legislation particularly for women. The article draws on rich empirical evidence from ruling families on matters relating to descent and clan membership, affinal links and kinship ties to explore whether or not the Act represented a complete rupture and the extent of which it was a modification of existing tendencies. To what extent was the flexibility of traditions and customs eroded and what were the strains' created in the process? In this sense the article explores the continuities and breaks with the past.

The Taluqdari Succession Act of 1869 further allows for an exploration of the distinct advantages conferred on the taluqdars as well as the corresponding disadvantages it spelt for women of taluqdari or proprietary families of Awadh. Underlying the enquiry are a broad set of the following questions does belonging to the most privileged class in the agrarian structure automatically confer economic privileges on women of the class? What is the nature of privileges that accrue to women and how do these differ from those enjoyed by men? In terms of ownership and control over resources what are the extent of advantages enjoyed by women?

What are women's sources of power within the extended family and what can be said about women's autonomy? How does lack of ownership or lack of direct control over land translate into powerlessness? Finally, how did a colonial legislation freeze the existing possibilities of ownership, control and autonomy for women existing within the system of customs and traditions ?

The sociological implications of Taluqdari Succession Act of 1869 are immense, as adherence to primogeniture in inheritance was made compulsory for all taluqdari families. As early as 1793 however, the colonial state, through the Indian Regulation IV had asserted its commitment to non-interference into the customs and usages of the people. Inheritance, marriage, rights to succession, religious endowments, adoption etc. had always been included under the Hindu or Muslim personal laws governed by the religious customs of the two communities.<sup>1</sup> In Awadh, the combination of political and administrative exigencies and colonial policy led to sacrifice of the sanctity of custom in favour of primogeniture for taluqdars of both Hindu and Muslim families. Being directly in opposition to them state's proclaimed 'hands off' policy on the vital issue of customary laws, the working of the Act affords insights into the way in which law interfaces with local custom.

Under colonial rule introduced in Awadh after annexation in 1856, taluqdars came to be defined as proprietors of landed estates, i.e. taluqas, responsible for the state's revenues from their estates. The Taluqdari Succession Act or Act 1 of 1869, passed a decade after annexation, represents one among - a series of arrangements made with regional ruling elites, to secure legitimacy for colonial rule. As the support and loyalty of this influential elite was seen as a political necessity, taluqdars were befriended and legislations passed to ensure that taluqas would remain intact in perpetuity. The fact that many Hindu and Muslim taluqdars practised partible inheritance, necessitated such enactments which would guard against the disintegration of estates.

Since "intentions in inheritance systems as in other matters eventuate in conclusions very different from those intended"<sup>2</sup> . The functioning of the Act over a period of approximately half a century, affords the possibility of apprehending the process over time. The ramifications of the Act were seen in the economy and polity as well as kinship structures and marriage practices. While women had been proprietors of estates, though only under severely restricted conditions, we explore how the ideology of primogeniture meant a step backwards for them. Hence the scope of the paper includes an analysis of the further deterioration. in the status of taluqari women, arising from continued disabilities and exclusion from ownership and control of taluqas.

## **II. Colonial Policy and Taluqdari Rights**

The Taluqdari Succession Act of 1869 was an important component of the 'Oudh Policy' which informed the entire period of British rule in Awadh.<sup>3</sup> The events of the Mutiny prompted the urgent search for loyal political allies who could be counted on to support the colonial state as well as ensure order and stability in the region. Identified as the 'natural leaders' most liable to fulfill these requirements, the taluqdars became the focus of the Oudh Policy. The alliance was marked by a process of definition and delimitation of the class of taluqdars to form an exclusive and rigidly defined group. The term taluqdar now acquired a precise legal meaning.

As only those opulent landholders paying Rs. 5000 or above as revenue were included in the definition of taluqdars, several holders of long-established estates found themselves reduced in status.<sup>4</sup> When the rights of these under proprietors were recognized and recorded, it was under

the dominance and dependence of the taluqdars. Hence what was once a continuum which included taluqdars of varying degrees of economic strength, now became a class with its boundaries closed for all time. Individuals of diverse backgrounds ranging from erstwhile- rajas of small principalities to more recent revenue-farmers of Mughal times, with demonstrated loyalty to the British during the Mutiny, were included in this class. Hence some taluqdars traced their origins to ruling lineages established in the 11th-12th century Rajput kingdoms which had emerged in the wake of Muslim invasions in the north, while others were of more recent origin, referred to as 'mushroom taluqdars', having risen to power and acquired taluqas as revenue functionaries and tax farmers during the Nawabi<sup>5</sup>. The diverse composition of this class in terms of origins is significant in apprehending the differential impact of the Act under consideration.

At the conclusion of the Settlement process, 80 per cent of Faizabad's entire land came under the proprietary possession of only 26 taluqdars, while in the Awadh province with its 12 districts, the number of taluqdars amounted to 276. In the Faizabad district, of the 3,601 villages, taluqas or estates included 2,414 villages or nearly two-thirds of the entire area.<sup>6</sup> Out of the 26 taluqdars, 17 were Hindus and nine Muslims. Among the Hindus, 15 were Rajputs belonging to four clans, Rajkumar, Bachgoti, Palwer and Gargbansi. Among the Muslims, three belonged to Muslim Bachgoti Rajput and four to Saiyyid. The former were genealogically related to the Bachgoti Rajputs and called Khanzadas after conversions.<sup>7</sup>

Taluqdars were responsible to the government for the payment of fixed revenue demands from their estates. This was in turn realised in the form of rents from tenants.<sup>8</sup> Rents were realised in cash, though the appropriation of agricultural surplus also took the form of rents in kind, forced labour and various kinds of taxes and cesses.<sup>9</sup>

The irreversibility of the process of definition was ensured by the issuing of sanads which spelt out the rights and duties of taluqdars. It needs to be stressed that the sanads granted full proprietary, heritable, alienable and transferable rights in their taluqas. The sanads also conveyed explicit assurances from the Governor- General and Viceroy confirming: the taluqdars in full proprietary possession of their estates and granting them the privilege of engaging direct with the government for the revenue collection from their estates.<sup>10</sup>

The system of layered rights on the same piece of land which characterized the Indian context, thus stood challenged and altered by the innovative settlement with the taluqdars. As mentioned above, it soon dawned on the policy-makers that taluqas were unlikely to remain intact unless propped up by compulsory primogeniture in inheritance. And "The unlimited power of disposing of their estates given to Taluqdars by their sunnuds must lead to the extinction of a landed aristocracy, besides generating bitter feuds and bad blood".<sup>11</sup>

Correspondence between administrators on the subject of the proposed legislation expressed concern that sub-division of holdings would lead to the extinction of a large majority of landed proprietors or "unjust and capricious alienation to families of strange blood, which would cause a disruption of the old traditions and associations that connect a landed aristocracy with the other classes of the rural population, and would rob it of most of its social and political usefulness".<sup>12</sup> Even more tragic was the possibility of the great Bais Sombumsee and Bachgoti estates being passed on to a new class of landholders which would "fail to secure the attachment of the population of their estates, the universal feeling of the country would be against them, and, instead of conducing to the good government and prosperity of the province, they would become a source of dissensions and disquiet".<sup>13</sup>

The Act of 1869 was therefore an immediate response to the situation on the ground while the issuing of sanads was motivated by the states political concerns enshrined in an overarching Oudh Policy. As we have seen, the Act represented a reversal of a policy relating to non-interference into the personal laws of the people, yet derived its justification from the purported fulfillment of immediate state needs. Furthermore, even as a response to an immediate state requirement, the Act stands in striking contrast with neighbouring Punjab where an altogether different measure was adopted, pointing to the diverse approaches directed towards achievement of similar goals.

The search for political allies in Punjab led to arrangements wherein the state forged alliances with the heads of extended clan-based kinship groups.<sup>14</sup> Here it was in the state's interest to support a system of law which would preserve the 'tribal' structure of society. The Punjab Laws Act 1872 laid down that 'all questions regarding succession, female's special property, betrothal, dower, adoption, guardianship, minority, custody, family relations, wills, legacies, gifts, partition, religious institutions and allusion and dilution are to be settled according to the custom prevailing in the first instance and where no custom exists, the personal laws of the parties must be applied'.<sup>15</sup> Thus, while in Punjab the political purpose of the state was served by a commitment to upholding custom, in Awadh the legislation in question explicitly overruled customs, usages and personal laws of the taluqdars.

### **III. Faizabad Taluqdars: Religious, Caste and Clan Origins**

Legends and genealogies which were often fictive, and legitimised the political power wielded by ruling clans, linked several of the Awadh taluqdars to the Raiput princely lineages of Rajasthan. A large number of Faizabad taluqdars traced their ancestry to a common ancestor, Barriar Singh, a Chauhan Rajput who migrated to Sultanpur in the late 13th century from Mainpuri district and the region known as the middle Doab. Genealogies connected Barriar Singh closely to Raja Prithvi Raj Chauhan of Delhi.<sup>16</sup> From Barriar Singh's four sons originated the Rajkumar, Bachgoti, Rajwar and Hasanpur Khanzada clans which occupied large tracts in Faizabad, Sultanpur and Pratapgarh during the 16th century.<sup>17</sup>

Among Rajput clans which converted to Islam, was that of the Raja of Hasanpur whose descendants came to be known as Khanzadas. He was originally a Bachgoti Rajput claiming descent from Barriar Singh, like the other Rajput Bachgoti and Rajkumar clans. Later the chieftains of Dera, Meopur and Kurwar estates also followed in his footsteps.

Khanzadas retained the customs of Rajputs and the respect of their kinsmen. The Muslim Bachgoti Raja of Hasanpur had been empowered by the 16th century ruler Sher Shah Sur to invest with the tilak all the rajas of south-eastern Awadh. This information becomes significant in the light of the fact that from the 16th century onwards, no succession to a raja's kingdom was recognized as valid without an award by the emperor or his representative. The investiture ceremony took the form of a gathering of the raja's kinsmen and leading chiefs of the neighbourhood, who by their presence testified to his legitimacy. The tilak was his royal insignia on the new raja's foreheads.<sup>18</sup>

Until as late as the 1930s, Khanzadas performed marriage ceremonies according to Rajput customs, to the extent of consulting the Nai and Brahmin. Divorce and widow remarriage began making inroads around the 1930s. Mudan (tonsure of babies) and Chathi (6th date after birth) ceremonies were observed according to Rajput customs while burial of the dead was according to Islamic rites. Women worshipped Sitla and other Hindu gods and goddesses and prohibitions

with regard to smoking and eating with low caste Muslims were observed.<sup>19</sup> These observations parallel those of Ibbetson from Punjab, noting that despite conversion to Islam, Muslim Rajputs had not eschewed their former custom-- and practices.<sup>20</sup> It appears that these conversions for strategic reasons did not greatly diminish the standing of ruling clans particularly with regard to marriage alliances.

#### **IV. The Taluqdari Succession Act of 1869**

By the Taluqdari Succession Act of 1869, the eldest son was to be the successor of a taluqdari estate, the assumption being that the landlord community could flourish in Awadh only by adhering to the laws of property which had given rise to such a gentry in Britain.<sup>21</sup> In case of intestacy, the estate was to devolve upon the eldest son, failing which it went to the senior-most living son, then to the heir by adoption and then to the nearest collateral male heir. In default of all these, the estate passed to a widow for life and on her death, to a male child that she may choose to adopt.<sup>22</sup> The exact order of preference was therefore as follows:

1. The eldest son and his male lineal descendants;
2. If the eldest son died during the taluqdar's lifetime leaving male lineal descendants, then to the eldest and every other son of such oldest son, successively, according to their respective seniorities and the respective male lineal descendants;
3. If the eldest son died without leaving male descendants, then the second and every other son of the taluqdar;
4. In default of the above, the estate devolved on the adopted children of the taluqdar;
5. In the absence of the adopted son and his lineal descendants, to the eldest and every other brother of the taluqdar.
6. In default of such brother or his male lineal descendants, to the widow of the deceased taluqdar for her lifetime only - the senior widow being preferred to the junior one.
7. On the death of such widow, to such son as the widow shall with consent (in writing) of her deceased husband have adopted.
8. In default of these, the next widow in order of seniority.
9. In default of these, the mother of the deceased taluqdar and for her lifetime only.
10. In default or on death of such mother, the nearest male agnate;
11. In default of any such agnate, to such person as would have been entitled to succeed to the estate under the ordinary law to which personal of the religion and tribe of the taluqdar are subject.<sup>23</sup>

In the following section we shall attempt a brief overview of the history of primogeniture in Awadh and the various built-in mechanisms which appear to have contained the inherent tensions arising from hereditary succession.

#### **V. Primogeniture: Traditions and History**

In order to comprehend the extent to which the Taluqdari Succession Act may have represented in a limited way, a continuity of certain customs and traditions, at least among the ancient princely families while representing a radical change from the past for other taluqdars, it is important to consider the history of primogeniture in Awadh. It is only within this context that the long-term impact of the legislation during the colonial period can be assessed. In addition, as there were subtle customary regional, family and clan variations in inheritance and succession practices which were nevertheless subsumed under the term, this discussion throws into sharper relief the changes introduced by the colonial Act.

All over north India, primogeniture appears to have been known as the 'gaddee' (throne or seat) principle and its spread was considerable at least among Rajput ruling families, including those of Awadh. In Rajasthan, central India and large areas of the NWP and Awadh, inheritance to Rajput states and to thikanas (estate) was primarily by primogeniture. However, gaddee was only one among the wide range of customary laws relating to inheritance and succession observed by Awadh rulers.

Plunkett draws attention to the internal stratification within Rajputs themselves, suggesting that observance of primogeniture distinguished the elite and noble clans of a region from the commoner Rajputs.<sup>24</sup> In Awadh, owing to the diverse origins of taluqdars, primogeniture was familiar only to those taluqdars who traced ancient Rajput origins but relatively unknown among recent 'mushroom taluqdars' of the Nawabi. Even among the ancient clans, for various historical reasons as we shall see, not all in fact observed primogeniture.

An enquiry ostensibly undertaken as preliminary groundwork for the passing of the Act, placed at the modest figure of 30, the number of families actually observing the gaddee custom at Awadh's annexation in 1856. It was these families in the entire Awadh region which were identified as practising the system whereby estates devolved on a single heir according to custom.<sup>25</sup> Moreover according to the survey, where gaddee was the rule, the strongest and most able son appears to have often inherited the estate rather than the eldest son.<sup>26</sup>

This finding appears to parallel Brara's observations with regard to Muslim royalty. She points out that among Muslims, fraternal succession as well as primogeniture were prevalent and that according to Akbar in Mughal India, "the fittest rather than the eldest son usually succeeded to his father's throne".<sup>27</sup> Based on extensive research among ruling clans of Rajasthan, Tod arrived at similar conclusions drawing attention to several instances of attempts by rulers to designate heirs who may not necessarily be eldest sons. This appears to have been conducive to disputes between collaterals on the occasion of succession, with raris invariably playing significant roles in such struggles.<sup>28</sup>

If inheritance and succession procedures among ruling clans are observed over several generations, as Fox has done for Awadh and Brara for the Malerkotia chiefdom, a pattern seems to emerge where both partible and impartible forms may be adopted, in keeping with the ruling lineage's changing relations with the central political authority. Fox points to the flexibility with which Rajput lineages started out with partible inheritance, then adopted primogeniture and impartible inheritance at some stage in their development, reverting back again to partible forms.<sup>29</sup> According to Fox, this reality precludes the understanding of succession to the gaddee in terms of an inviolable jural or ideological principle. Perceptive Awadh administrators observed, "the stronger the pressure from outside, the more have the clan cohered to resist it: and no doubt to the instinct of self- preservation may be traced much of the vitality which distinguishes them".<sup>30</sup>

Similarly Muslim Sherwani chiefs of the Malerkotla kingdom appear to have observed fraternal succession but when the imperial power waned, Malerkotla veered towards becoming an impartible powerful riyasat state.<sup>31</sup> These insights suggest a continuum with the exclusive unitary principle characteristic of primogeniture at one end and the principle of shared partible and equal inheritance among collaterals on the other. The tension between primogeniture and fraternal succession to chiefship was thus characteristic of a political order based on hereditary rule. Lyall thus summarizes Rajput polity, "there was a constant struggle between the ordinary

rule of Hindu succession to property which divides off the land among the sons at each succession and the rule of political expediency which inclines towards primogeniture".<sup>32</sup>

Even where political compulsions necessitated impartibility of estates, the chief though eldest, was after all only the first among equals - the cause of the inherent tension built into the situation. Hence the prevailing ideology in such circumstances allowed for the sharing of other prerogatives of rulers among collaterals.<sup>33</sup> To provide military support and unstinted loyalty to the raja, younger siblings would thus appear to have had similar states in the continuance of the gaddee or chiefship. Echoes of these sentiments are revealed in evidence from Awadh when the settlement with the taluqdars at the cost of the collaterals was perceived by them as leaving out of the equation with the British the collaterals' significant role, historical contribution and noble status.

## **VI. Role of Affinity and Nature of Alliances among Ruling Clans**

Apart from descent, the role of filiation among Rajput ruling clans had insignificant implications for pre-colonial primogeniture as both political alliances as well those of a matrimonial nature were forged through appropriate marriages. tendency among ruling Rajputs to enter into multiple marriage until well in the 20th century is a significant point made by Tod in this connection. I discuss the consequences of this for the observance of strict primogeniture: the rivalries between queens and the large numbers of sons who had to be provided for.

A case which came to the notice of the Chief Commissioner of Awadh was that the Raja of Hasanpur, the head of the Bachgoti clan, who had acknowledged his son, the offspring of a courtesan. The boy was born even before the courts became acquainted with the Raja. Rajput taluqdars of eastern Awadh were reported to be incensed and sought the intervention of the Chief Commissioner.

The latter informed the Raja that the government would never recognise a pseudo-son as the heir to the estate, but would vindicate the rights of his birth to succession. Believing himself unable to do so, the taluqdar did not venture to make a gift or bequest in his favour, yet declared the courtesan's son as heir opposing the move, the Chief Commissioner was conscious that "every taluqdar in Oudh would have felt aggrieved that a dishonour had been done to his race which he would have blamed the government for having permitted".<sup>34</sup>

Plunkett points to the political advantages of alliances which were secured by the ruler contracting a first marriage for purposes of providing a suitable success and subsequent ones for furthering political gains. Whatever the number of marriages, Plunkett suggests that "formal status in the 'zenana' was reserved for the wife married first and to the mother of the first born son, regardless of the origins".<sup>35</sup>

Plunkett also refutes Dumont's thesis with reference to formal differentiation among sons of different mothers according to the mother's status, contrary evidence to which is seen in at least one case from Awadh. Husain Baksh who had several wives appointed the offspring of his 'Zauja byahta' the first or principal wife as the inheritor of the estate. In accordance with the custom of this family, the offsprings of the inferior or 'nikahi wives' were given a single village each for their maintenance.<sup>36</sup> The family Customs of the communities sometimes appear to have made provisions for a taluqdar's offspring, depending on the status of the mother. In this case, Husain Baksh gifted his entire property during his lifetime to his two sons from the senior wife in the proportion of 9/16 to the elder and 7/16 to the younger son, thereby disinheriting his wife and

two daughters from the senior wife. Not only was this contrary to Hanafi law but also overlooked family customs whereby offspring of inferior wives also had to be provided for (Under Muslim law if the entire estate was treated as a unit of 16 annas, then the first wife Munni Begam, should have succeeded to a share of two annas, the two sons to a share of four annas eight pieces each, and the two daughters to a share of two annas four pies each. The case came to court when the son of one of the daughters claimed his share of one anna  $1\frac{1}{3}$  pies out of the two annas four pies to be inherited by his mother, the taluqdar's daughter).

In contrast with the customs of Rajput and Muslim ruling clans we find that a kayastha taluqdar's family traditions contained in the *Wajib-ul-arz* of the village Khanpur, were even more explicit in terms of the way property was to be divided among sons from a number of wives. Here it was stated that if there were several wedded wives and sons in varying numbers from each of the wives, then inheritance was to be divided with reference to the number of wives according to the jurabant principle which worked as follows: (1) If a wife has only one son, he will take possession of one-half share of the deceased's inheritance. (2) Where the remaining wife has more than one son, all such sons would take possession of the remaining half of the deceased's inheritance. (3) If some wives have sons and others do not, then each wife as has no sons, shall take shares for their lifetimes and after the death of such wives, the sons of the other wives will be 'Malik' of such shares. (4) If none of the wives has sons, the wives of the deceased shall become malik over the inheritance of the deceased in equal shares.<sup>37</sup>

On one estate there was a family custom whereby the reigning Raja was expected to appoint a yuvraj who would succeed him on his death and a previously appointed burra thakur who would succeed in case the yuvraj died. In 1813, a raja's widow claimed the estate on grounds that the raja had not appointed a Yuvra. However as the raja had succeeded in appointing a burra thakur before he died, the claims of this individual were seen as stronger than those of the widow and the former succeeded to the gaddee.<sup>38</sup>

The above customs are indicative of the variety of arrangements made or collaterals, and the claims of sons that may arise from multiple wives, even where primogeniture was practised. They highlight the flexibility of customary laws which had evolved as built in mechanisms for ensuring amicable settlements so that tensions ensuing from inheritance and succession would not threaten the social fabric.

In keeping with the north Indian injunctions on caste endogamy and clan exogamy, Rajput clans practised hypergamy whereby daughters were invariably married into clans higher than one's own, while brides for sons could be accepted from clans of inferior social status. Thus wife-givers were always distinguished from wife-takers. Through this system of marriage alliances, Rajput clans of Faizabad were affinally linked to ruling clans as far away as Rajputana, Mainpuri and Rewa in the west and Gorakhpur in the east and such affines were regarded as political allies.

For instance, the Bachgotis gave their daughters to the following clans: Surajbansis, Sombansis, Sirnet, Kalhans, Kanhpuriya, Tilokchandi Bais and Bandhalgoti clans and received wives from the Gargbansis, Raghubansis, Kath Bais, Bhale Sultans, Surwar, Raikwar, Palwer, Nikumbh, Dirgbansis, Chaupat Khambh, Tesahiya and Bilkhariya.<sup>39</sup> The Chauhans of Awadh gave daughters to Bisen, Bandaighoti, Bhale Sultan, Bais, Raikwar, Gauh, Surajbans, Kalhans and Barheiliya. They received wives from Kath Bais, Ahban, Palwer and Rathor clans.<sup>40</sup> The Palwars gave daughters to Rajkumar, Rajwar, Bachgoti, Gargbansi, Kanhpuriya, Bhale Sultan, Surajbansi, Sombansi and Raghubansi and took wives from Nikumbh, Donwar, Barwar,

Chandel, Raghubansi and Bais.<sup>41</sup> Thus the distinction between wife-givers and wife-takers was maintained and was a significant indicator of the clan's position within the Rajput clan status hierarchy.

Brara's comments regarding affinal and maternal relatives outside the jagir buttressing the chief's position vis-a-vis collaterals in Malerkotia point to an interesting line of enquiry. She suggests that 'on having married a daughter to the chief at Malerkotla, marriages of other daughters of the wife-giving lineage to the chief's collaterals and descendants sometimes followed'.<sup>42</sup> Indeed the generational links established between Rajput clans point to this possibility. Certainly there is evidence from Faizabad, of marriage festivities involving more than one pair of brides and grooms from the wife-giving and wife-taking groups.<sup>43</sup>

Variations in primogeniture appear to have been known to a range of ruling families in European history.<sup>44</sup> There is also sufficient evidence to refute the commonly held view that primogeniture invariably excluded females. Cooper cites evidence to show that it was possible for widows to inherit, though males of remoter degree took precedence over females.<sup>45</sup> Plunkett and Tod cite evidence that despite seclusion, Rajput wives often controlled property: that land grants provided for their maintenance, and that wives exercised considerable influence on affairs of state. Ranis also used their resources and connections to wield power and in cases of intestacy, were consulted on choices of collaterals as successors. Usually the collateral was then adopted by the senior rani. Further, as regents for minor sons until they came of age, ranis appear to have played important roles.<sup>46</sup>

Recent history of the Dera estate boasted of the accomplishments of the Thakurain Dariao Kunwer, the widow of Raja Madho Pratap Singh. Recognized as a woman of extraordinary ability who not only held her own for 25 years but also added to her estates and possessions, she was succeeded by her husband's nephew Rustarn Sah, who gave the British considerable assistance during the Mutiny and was rewarded with the title of raja.<sup>47</sup> Thus family histories of several taluqas reveal that in spite of seclusion and the institution, of purdah, taluqdarins and ranis not only efficiently managed estates in the absence of male heirs, but also augmented their holdings by thrifty management and efficiency. Far from being perceived as aberrations, these facts trace a continuity with the mythical and historical traditions of gaddee families wherein valour and heroism of Rajput women were legendary.

## **VII. Taluqdars' Response to the Taluqdari Succession Act of 1869**

The above discussion on the spread, logic, traditions and practice of primogeniture reveal the extent to which the institution differed from the colonial legislation. While preserving the outward form of the traditional system, its content had been considerably transformed. Though this was a measure calculated to woo the taluqdari body, it was not uniformly hailed by all taluqdars. In fact it was met with much less approval than the British expected, especially among Muslim taluqdars like Saiiyids and Sheikhs who were enjoined by tradition to give proprietary rights to collaterals in villages, according to Islamic traditions. Protesting against this measure, the taluqdars of Pirpur, the brothers Syed Ghazzfer Husain and Syed Baqar Husain petitioned for equal proprietary rights to be assigned to all collaterals. They insisted that the same rights enjoyed by male relatives be given to adopted male members as well.<sup>48</sup>

Where the deceased taluqdar had no direct male relatives, succession to the estate posed a major problem and a will was necessary in such circumstances. Wills which were unknown in Awadh until colonial times began to be used to occasionally disinherit legitimate heirs. In the case of

Brijraj Koer vs. Mahadco Baksh, a will was used by a childless taluqdar to block succession by all the taluqdars' collaterals whom he deemed as totally unworthy; women whom he regarded as incompetent and reversioners who, for one reason or another, were considered wholly unsatisfactory.<sup>49</sup> In his will, the taluqdar expressed his misgivings about his reversioners, pointing to the dearth of relatives in whom sufficient confidence could be reposed as heirs. He identified two collaterals, who would however have no more than a life interest in the estate, a clause which led to considerable litigation subsequently.

Succession to the Samarpaha taluqa was a unique example of a situation in which the estate actually passed out of the hands of the childless taluqdar's own Bais clan, into the hands of the Amethiyas, the natal clan of the taluqdarin.<sup>50</sup> When sanads were being granted, the taluqdar had already died without heirs and the taluqa was in the hands of the 19 year old taluqdarin. By the proclamation which declared that all those who were in possession at annexation would be confirmed in their holdings, the taluqdarin Dariao Kaur was conferred the sanad in 1861 which gave her full alienable proprietary rights.

Dariao Kaur died intestate in 1893. After her husband's death she did attempt to ensure that the taluqa would devolve on her husband's heirs by bringing up Sher Bahadur, a 12 year old near collateral of her husband with whom she fell apart by the time he was 20 years old. Thus while the taluqdarin had earlier executed a will declaring Sher Bahadur as her successor, this was later revoked and cancelled on the provocation that Sher Bahadur claimed that the widow was wasting the property by giving it to her own relatives and that the property would pass away from the family to which it belonged. This in fact did happen as the taluqa on the death of Dariao Kaur passed on to Raja Rameshar Baksh Singh, a member of the Amethiya clan and grandson of the taluqdarin's brother. The court decided in favour of the latter on grounds that with the granting of the sanad, full proprietary, alienable rights had been conferred on the widow and not a widow's estate for her lifetime in safekeeping for her husband's collateral heirs.

Interestingly, the court's argument against the collateral and in favour of Rameshar Baksh hinged on the interpretation of primogeniture by which the estate was to descend in the event of the grantee or any of her successors dying intestate. The courts ruled that the operation of the rule of primogeniture can be prevented by the exercise of the full power of alienation which has been conferred on the grantee.<sup>51</sup> This included full powers to alienate the estate, either in whole or part by sale, mortgage, gift, bequest or adoption to whomever the proprietor might please.

### **VIII. Implications of Act 1 of 1869 for Taluqdari Women**

At any given time during the British period it was possible to find at least four or five female proprietors in each of the 12 Awadh districts, holding life estates in the absence of immediate male heirs. While by virtue of customary laws, it may have been possible for portions of taluqas to be inherited by women, the compulsory adherence to primogeniture froze the relatively fluid situation regarding inheritance. Through the Act I of 1869, widows of taluqdars had only a life-interest in the estates, and after their death, the property reverted to the nearest collateral male heir. While male taluqdars continued to enjoy the privilege of granting gifts of land during their lifetimes, taluqdarins appear to have been prevented from this. After 1869, court cases concerning gifts of land by deed, executed by widows show their being invalidated on grounds that widows had life-interest only.<sup>52</sup>

For all practical purposes, the widow acted as a trustee of the property during her lifetime. Attempts by taluqdarins to mortgage portions of their estates to raise a sum for some pressing

need, or to make gifts of land could be prevented by the ever-vigilant male reversionary heirs who treated such actions as, an offence to their title in their estate. The courts invariably supported the wife heirs in such cases.

Taluqdarins, often harassed by deceased husbands' male relative were even grudging life ownership. In an extreme case, an agnatic nephew was able to obtain ownership rights in one village which remained with his aunt, the ex-taluqdar's widow. Upon receiving the taluqa he immediately also claimed rent on her land, thus attempting to convert her into a mere tenant.<sup>53</sup>

An example of this tendency is provided by a case, *Hasan Raza Saiiyid vs Nawab Basti Begam*, where a Muslim widow was sought to be evicted from her house by the reversionary heirs, the taluqdar's nephews, on grounds that a Shia childless widow is not entitled to the immovable property left by her husband and that it should revert to the husband's heirs. The court argued that as the widow had obtained possession of the property on the death of her husband, peacefully, quietly and without fraud in lieu of her unsatisfied dower debt, therefore the nephews were not entitled to oust her until the dower debt was satisfied. Since it was not proved that the amount of the widow's dower debt exceeded the value of the property, the court decreed that either Rs. 25,000 be paid to the widow or the house should remain as her property.<sup>54</sup>

Such patterns were found to be replicated in the revenue-free villages in taluqas where grantees had died heirless, owing to which the holdings or village may have come under the proprietary possession of women. In such cases, women may have found themselves fending off enemies on two fronts, the claims of successors of the original grantors as well as the reversionary heirs of the husband. In *Wazir Mohammed vs Har Pershad*, it was the taluqdar grantor's son and heir, who attempted to wrest a village from a woman on grounds that the original grantee having died sonless, the village was practically abandoned, not cultivated and in the incapable hands of the grantee's daughter. It was revealed that the grantee had in fact ensured, while still alive, that mutation of the village was made in his daughter Sardei's name. The grant deed allowed the grantee full heritable, though not transferable and alienable rights. The courts ruled that the deed was valid, that Sardei was indeed the heir and that the village would pass to her descendants. It was found that court proceedings had been initiated on the death of Sardei, emboldened by the lack of nude heirs. Sardei's husband was found to be managing the village for their two daughters, the heirs.<sup>55</sup>

As wives and mothers were considered as heirs only in default of all male lineal descendants or adopted sons or other agnatic heirs, such women as did get life ownership of taluqas, were keen to expand such estates during their lifetimes. There are several instances of taluqdarins attempting to make gifts to their natal family and to daughters, from thrifty management and excess earnings. Baba Ramchandra's contention that taluqdarins were even more oppressive and exacting in their dealings with tenants may therefore be traced to the taluqdarins' sense of urgency in amassing savings during their lifetimes. Moreover an excessive reliance on the exacting tactics adopted by estate bureaucracy, the zilledars, sipahis and other estate functionaries contributed to the savings.<sup>56</sup>

The case of the twin taluqas of Sihipur and Khapradih illustrates how the Act worked against the interest of widows. The widow Thakurain Raghunath Koonwer received the sanad for the taluqa of Sihipur. In 1877, she executed a gift in favour of her brother's son Thakur Bisheshwar Baksh Singh who was a Bais Rajput. At this she was sued by her younger co-widow Thakurain Ramanand Koonwer and also a male collateral Ram Swarup Singh, the owner of the Khapradih taluqa. Eventually the deed of gift was cancelled by a decree, of the privy council on the grounds

that widows have only a life-interest. The legal heir was declared to be Ram Swarup Singh, the nearest collateral and also the taluqdar of Khapradih. In 1886, the taluqa of Sihipur was heavily indebted and in 1891, the widow Raghunath Koonwer died. In 1896 by a civil court decree, the taluqdar of Khapradih was declared proprietor of Sihipur as well. The property was thus into a single taluqa-Khapradih-Sihipur, Sihipur was comprised 36 villages and 33 portions of villages and Khapradih had 197 villages and 117 portions.<sup>57</sup>

The Act of 1869 had therefore not only a built in bias against women but the institution of primogeniture also threatened the very existence of smaller estates which were deprived of male heirs over a long period.

## **IX. Social And Political Impact of Act I of 1869 on Taluqdari Women**

The Act deprived taluqdari women of some of the advantages they may have enjoyed under the personal and customary laws without compensating them in the economic sphere, as in the case of taluqdars. Its long-term effects on women were therefore debilitating, leading to an acceptance and reinforcement of existing patriarchies. The lowered status of taluqdari women leads to the questioning of assumptions about gender parity within a class. Despite belonging to a class which was the highest in the agrarian hierarchy, taluqdarins remained subordinated.

In the case of Muslim, the Shariah and ordained that daughters received as inheritance, half the amount received by the sons of deceased father. This advantage along with the possibility of instituting waqfs (endowments) was now lost to Muslim taluqdari women and restricted their ability to inherit lands and estates according to Quranic injunctions. Koszowski cites an incident in the 1920s, when women from Muslim taluqdari families expressed their distress over the discrimination they had experienced during the 30 year period that the Act had been in operation.<sup>58</sup> Instead of the empowering image contained in the folk accounts of ranies and taluqdarins where gaddee was well known, the political reality for taluqdarins was now characterized by an altogether unseemly dependence on estate managers. In a case narrated to me, the dowager maharani of the Ayodhya estate was known to, cook her own meals daily for fear of being poisoned by the estate manager. On the Meopur-Dahla estate, the estate manager contrived to get his young niece married to the 80 year - old taluqdar in hopes of usurping the estate after their marriage.<sup>59</sup> On the other hand, there is evidence which points to successful and efficient management of estates during the life- tenures of taluqdarins of the Dera, Khapradih-Sihipur, Meopur-Dhaurwa and Kurwar estates.

Ill-equipped by training and experience in the management of finances and accounts and limited to the confines of purdah, taluqdarins appear to have been exposed to manipulation and exploitation by unscrupulous estate managers. This vulnerability was inevitably utilised by the state to interfere in the internal affairs of such women-headed taluqas under the guise of the Courts of Wards. Where meeting the exorbitant revenue demands became the sole reason for the existence of estates, the powerlessness and political inadequacies of taluqdarins became the lever with which state control of taluqas could be enforced.

It was the state's primary concern that revenue demands from taluqas would be met promptly and in full. This was in fact the purpose for which the settlement with taluqdars had been made. Hence shortfalls in revenue were regularly attributed to inefficient management or to the extravagance and necessary expenditure indulged in by taluqdars. Administrators were alarmed to note for instance, that in 1864, at the wedding of the niece of Raja Rustam Sah of Dera, the wedding party consisting of 35,000 was fed for six days. Realising that such expenditure would

lead to chronic default in the state's share of revenue long-term indebtedness and possibly to the break-up of estates, the state intervened to dissuade taluqdars from undertaking such expenditures. As the government frowned upon the customary celebration of lavish weddings, the matter was taken up by the British India Association (BIA).

At the occasion of the Dera wedding, the Chief Commissioner wrote, "It is astonishing that taluqdars should consider the fame and dignity of their houses promoted by a prodigality that must bring ruin on them. Another such celebration of marriage as has just taken place at Dera will be the ruin of that noble and loyal family, an event that would cause the government deep regret... The example set by taluqdars is imitated by their humbler Kurmies, small proprietors driven to mortgage and sell their properties to provide funds for a marriage, and it is truly said that a Rajput will throw away an inheritance to celebrate a marriage".<sup>60</sup> At the insistence of the government, the taluqdars' association known as the British Indian Association was encouraged by the government to adopt the following resolution in 1864 (1) that no Kshatriya would borrow superfluous paraphernalia such as camels, elephants, horses for the marriage ceremony; (2) that the bridegroom's father should take no more money from the bride's father than would simply suffice to entertain wedding guests; (3) that kshatriyas would marry their daughters to none but men of equal rank; (4) that marriage expenses on festivities should not exceed half of the individual's annual income.<sup>61</sup>

Couched in the language of social reform, the resolutions attempted to alter the very logic of Rajput kinship and questioned the basis of alliances which informed Rajput polity. In the totality of social relations which were characterised by hierarchy and subordination even among ruling groups, hypergamy meshed easily with the political power and status hierarchies. At a superficial level, wedding expenditure including dowries, were indicators of a ruling family's status. As we have seen in an earlier section, these were closely tied with the hypergamous marriages alliances, lower status brides being married to higher status grooms. In this context, while the lavish weddings afforded the opportunity for the bride's family to attempt to bridge the status disparity, they also served the more significant function of forging new political alliances and cementing old ones. Resolution three seemed to question the very roots of these age-old hypergamous arrangements. The resolutions struck at customs and traditions which, from the colonial perspective, appeared inconvenient for a progressive landholding group like the taluqdars.

At a political level, adherence to the state's suggestion that kshatriyas marry their daughters only to men of equal rank would have achieved the wider objective of neutralising the political strength of ruling clans. Traditionally, affinal and maternal relations also buttressed the position of Rajas vis-a-vis disgruntled collaterals. Such alliances could also act as a check on the potentially threatening rivalry between powerful clans. As marriage alliances were the traditional avenues for mobilising political support for conquests and territorial control, in the altered political environment, these strictures would have ensured that ruling houses remained fragmented and politically weak. This reality from Awadh substantiates the rich anthropological and historical literature from a range of pre-colonial societies which have recognised the political purpose, functions and significance of appropriate matrimonial alliances among powerful ruling clans.<sup>62</sup> In befriending the taluqdars, the policy attempted to ensure that any threat to the colonial state emerging from the politico-marital alliances of taluqdars could be thus eliminated.

It is no wonder that taluqdars of Awadh were seldom able to abide by any of the BIA's resolutions, especially since as we have seen, Awadh taluqdars had affinal links in the North-

West Provinces and Rajputana where the BIA writ did not run. The Bias clan for instance, would not give daughters to any Rajputs of Awadh as they were all considered socially inferior to those of the west. For the Rajkumars and Bachgotis, it was an ambition to marry their daughters to the Gorakhpur Bissens and Surrats. Thus the cooperation of the chiefs of Rajputana, Manipuri and Rewa was indispensable in these matters.<sup>63</sup>

The higher the status of the taluqdari clan, the more difficult- was it for brides to find suitable grooms within the Awadh districts. Both custom and preference dictated that high caste women moved farthest away from their natal villages. Thus in keeping with the north Indian post-marital residence norms observed by several scholars, higher status brides were married into prestigious clans at increasingly greater distances away from their natal villages.<sup>64</sup> If such post- marital residence patterns are seen in the light of the historical references to gifts of land made to brides by their natal ruling clans, significant questions arise about the nature of the control exercised by the brides themselves and the nature of access to the produce of the land. Evidence from Rajasthan relates to Rajput, women Bhomias receiving proprietary rights in villages through dowry.<sup>65</sup> It needs to be explored whether in fact, high expenditures at weddings including the dowries given, were not in a way also a compensation for the uprootedness caused by post-marital residential arrangements accompanied by the brides' loss of meaningful rights in their natal taluqas.

## X. Conclusion

In exploring the legal, political, economic and social ramifications of a crucial agrarian legislation, our attempt has been to assess the extent to which women within one class, the taluqdars were affected by the working of the legislation over a period of time.

The class of taluqdars had been in existence long before the coming of the British but with colonial intervention, its complexion was altered and the term came to have different connotations from those in the past. As taluqdars were visualized by the state as revenue paying intermediaries and as mere landlords rather than rulers of men, the taluqdars' legitimacy to rule was eroded both in their own eyes as well as in those of their collaterals and subjects. The colonial state worked off the assumption that the taluqdar's common economic background and states, their common goals of safe-guarding their own interests as well as loyalty to the British; their distinct lifestyle would instill among them a consciousness of their class. In the long run such a consciousness was expected to generate a sense of unity within the body which would be beneficial in safeguarding the interest of the state and also in achieving the support of the masses for British rule as a whole. By the turn of the century the British were realising that the result of their policy was not as intended; that assumptions about taluqdars as natural leaders were erroneous and misplaced. Deprived of traditional sources of power and legitimacy and isolated from the people they had once governed, the taluqdars were unable to play the role cut out for them. The legislation enacted to safeguard the estates from the effects of partition, played up the already existing cleavages between taluqdars and their kin groups.

Nor was the position of taluqdari women strengthened as a consequence of time economic privileges conferred on the male members of the class. Losing the flexibility of customs, women experienced greater restrictions and even discrimination vis-a-vis male members of their class. The strengthening of patriarchal control was manifested in a range of situations: the limited estate of widows; vulnerability at the hands of estate bureaucracy; the intervention of Courts of Wards in women-headed taluqas; subjection to protracted litigation at the behest of collaterals and women's unpreparedness in terms of education and skills to interact with officialdom, courts

and the public domain. Stricter conformity with the patriarchal norms and traditions of purdah were enforced as the very logic of primogeniture dictated women's subordinated role as mere providers of heirs to the gaddee. Women's passive role as pawns in a complex system of hypergamous marriage arrangements was necessary to ensure that alliances of a political nature could be furthered, thereby strengthening the women's patrilineages. The threat to this well-articulated system which was posed by the BIA resolutions could not succeed owing to its roots in the ancient customary traditions as well as its geographical spread, beyond the confines of the Awadh province.

Despite belonging to the most privileged class in the agrarian structure, therefore, women continued to remain subordinated. The archival sources and nature of the court cases over a 50 year period, point to the contentious issues with regard to landownership which contributed to the increasing alienation of taluqdars from their kin groups. Customary traditions and practices among ruling Rajput clans of Awadh reflected a range of variations with primogeniture as it was introduced by the Act I of 1869. These variations also point to the flexibility of local customs and their resilience in the face of conflicts which threatened to tear apart the social fabric. The field of kinship studies and the sociological analysis of empirical evidence descent, kin and official ties of ruling clans offers immense possibilities for locating women within caste, clan and property structures. Our evidence has highlighted the dialectical relationship between the macro-level political and economic processes and relations of gender, clan and kinship.

The enquiry also foregrounds the centrality of historical perspectives in the analysis of kinship and gender relations. As women are located within networks of marriage, family and kinship, these areas become focal pointers for the analysis of impact of economic, legal and political processes on women. Assumptions about supportive roles played by kin and clan and family ties, may then be questioned with reference to women's experiences.

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