Widow Remarriage in Haryana

Law strengthens repressiveness of popular culture

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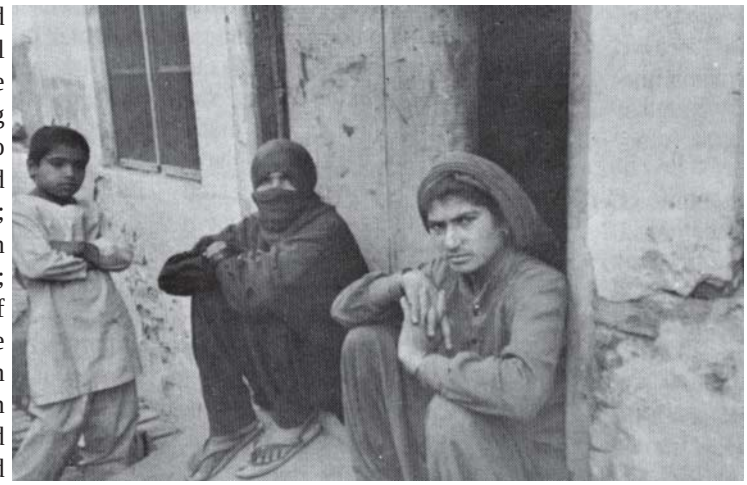
In North India, the Punjab-Haryana region has always sanctioned the custom of widow remarriage. An apparently progressive practice, widow remarriage appears most desirable from the point of view of making widows *suhagan* (auspicious). Yet from the point of view of many widows this much celebrated custom has several possible repressive aspects, including forcible remarriage into mismatched and undesirable alliances; polygamy and the harsh reality of being a co-wife; and being deprived of her own inheritance rights. The custom appears to be growing in popularity and acceptability, sanctioned through a combination of patriarchal needs and the force of popular culture, aided indirectly by current legislation, including inheritance laws and pension and award claims, as well as more directly by state administrative directives.



Remarriage of widows in Punjab-Haryana customarily has been a levirate one (called *karewa)* in which the widow is accepted as wife by one of the younger brothers of the deceased husband; failing him the husband's elder brother; failing him his agnatic first cousin.[1] Therefore, a widow's right to determine who she would remarry was not only severely restricted, it could be settled only by her late husband's family. Although the widow could not be compelled to remarry, she was not free to marry without their consent. So complete was the control over the woman and the question of her remarriage that it was freely admitted that the widow was often forced to agree to their wishes.[2] In these levirate alliances, the *dewar* (younger brother-in-law) was in many instances a lot younger than the widow. Marriages in which the *dewar* was in fact a mere child are remembered by many in the rural areas to have taken place in their own families during the colonial period. Ram Chander from village Bandh of Karnal district, for example, recalled that when his widowed grandmother, who was 18 at the time, remarried his grandfather (her deceased husand's brother), the latter was merely three years old. She literally brought him up and then raised her own family.[3] Many similar cases have been cited from people's memories, all of which reinforce the female perception expressed in this region's oral tradition which highlights the pathetic irony of the situation and the torment that a physically mature wife underwent with a child for a husband.[4] Such a situation very often led to cases of sexual exploitation of the women at the hands of the male family members.[5]

The continuation of this practice in contemporary Punjab-Haryana, where the widow may be older than her brother-in-law by anything between two and ten years, has kept this oral tradition alive. A lot of these cases concern those widows whose husbands died in India's extensive military engagements in the post-

colonial period. Lt General B .T. Pandit, who served as Corps Commander in Punjab in 1989-90, recounted how a 30-year-old widow had come to him to stop her forcible marriage to her 14-year-old brother-in-law. In this instance, Lt General Pandit recalled having put pressure upon the Panchayat to withhold this marriage by threatening action, as a minor was involved. But he commented that in most cases, village and family elders generally got their way. From his observations, he concluded that it remains a fairly wide-spread practice.

Sociologist Veena Das' study similarly discloses how, after the Pakistan war of 1971, many Punjab widows were forced to stay with their parents-in-laws until their husband's brother reached a marriageable age.[7] There are also instances of widows of the 1984 post Indira Gandhi assassination riots in Delhi being forcibly remarried to their brothers-in-law, some of them aged 13 to 14 years.[8] Many such remarriages result in the married woman running away either with older men of the same family or with outsiders.[9] Most villages have such cases to relate, although in strict confidence.

Karewa Marriages

Apart from such mismatched and undesirabe alliances, the custom of levirate in many cases has been responsible in part for keeping the institution of polygamy alive. Social recognition of polygamy is not only forthcoming for levirate marriages, but also for those marriages where the first wife is either barren or has borne only daughters. For a man, polygamy means another hand to work in the fields, leading to greater production and prosperity, as well as the likelihood of more children. Women continue to be regarded as resources acquired by men, similar to land. In addition this type of marriage earns him social praise: "bichari ka kalyan kiya nahin to idhar udhar rritifi marti phirti" ("He brought salvation to the poor thing, otherwise she would have gone astray".)

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Polygamy does not seem to face legal problems, as it is never challenged in court. Rural opinion maintains that it may be a problem only for a man holding a government job, although even that possibility is hypothetical. It all depends on whether someone legally challenges the alliance. The sons of a polygamous union are inheritors of an equal share of the father's property either directly through will or by the decision of the village or caste or kunba Panchayat. The colonial rulers also did not differentiate between the rights of inheritance of the sons ofaphera (religious) and a karewa marriage.[10]

Polygamous alliance outside the levirate does not, however, receive the social acceptability of such a union within it. In 1979 in village Seeswala of district Bhiwani, a Major in the Border Security Force, already married with children, performed karewa with a widowed teacher. He left her after having fathered two children. Although the children carry his name, they have no legal or social claim on his land or property.[11] Clearly, the existence of polygamy cannot be associated with one community, such as the Muslim community, as is popularly projected and perceived by many. Although no statistical calculations can be made, yet because the popular culture of this

region sanctions its widespread acceptance, it is not unreasonable to assume that it continues to be a common practice in the rural areas. Oral tradition, passed down by women in the villages, is extremely rich in portraying its widespread existence and the intolerable and humiliating position of women under it.[12]

Apart from making nonsense of the legal requirements of monogamy established under the Hindu Marriage Act, 1955, polygamy disadvantages both the wife and the co-wife. My own queries about the reaction of women involved in a polygamous alliance were not fruitful. Despite my best attempts, I was unable to get the concerned women to speak on this subject.[13] An understanding of this may be arrived at from Lynn Bennett's work dealing with polygamy existing among the high caste women of Nepal.[14] Her study emphasises the frequency of quarrels between co-wives and between wives and the husband over matters ranging from his sexual attention to allocation of food, clothes, etcetera. Bennett also points out that polygamy minimises the manipulative power of sex that wives often try to use to gain some influence over the husband. Instead, polygamy endows the husband with the manipulative power of sex to attempt to control his wives. Being intrinsically connected with reproduction, sex (except in the case of a barren wife) is used by the husband to decide on whom to bestow his favours or whom to deprive. Ultimately this favour determines the household power hierarchy, which usually operates in spheres extending from prestige to resource entitlement.

A recent study of three villages in Delhi territory, overlapping the state of Haryana, and sharing its socio-cultural traditions, found 75 per cent of women totally against the idea of a

man having more than one wife.[15] The remainder supported it only under the exceptional circumstances of barrenness of the wife or a levirate alliance with the deceased husband's brother "to preserve family bonds." The same study also shows that, among rural women who favoured widow remarriage, only 13 percent favoured it within the family, i.e.,with the husband's brother. The remaining 87 percent opted for it in other ways. A very small number even felt that it should be left to the widows, that no force should be applied. Yet, self made alliances remain socially unacceptable; some of the women openly frowned upon this idea. This projected attitude, however, is somewhat at odds with the increasing cases of elopement.

The popularity of widow remarriage in its levirate form among the landowning classes emanated out of the desire to retain landed property within the family.

Indeed, conflicts have arisen whenever the widow has asserted her preferences in remarriage partnership. For a widow to marry of her own choice, in many instances, still means she has to run away for her marriage. The popular rural belief continues to equate running away with a rand (widow); "rand bhaj gai" (the widow has run away) is a phrase commonly used for any absconding female. It emanates out of the widow's self assertion in marriage.

Widows Forced to Remarry

The popularity of widow remarriage in its levirate form among the landowning classes emanated, apart from other reasons (control of her sexuality, her marriage partners, her productive labour and reproductive potential), out of the desire to retain landed property within the family. The marriage arrangements within the family transferred control of the de-ceased husband's land from the widow (who succeeded to a life estate in the absence of male descendants) to his brother or to a patrilineal family member. Under customary law, as operated by the colonial rulers, a widow who remarried lost all her rights to property, even if she married her husband's brother.[16] The custom of remarriage, therefore, was used to deprive her of even her limited right to land, extending only to her lifetime, which she had come to possess after her husband's death. This fact highlights yet another repressive aspect of this wide spread custom.

In the post-colonial situation there was a sharp break with the past. The Hindu Succession Act, 1956, granting absolute right of inheritance to widows instead of the earlier limited own ership, clearly meant that a widow could no longer be deprived of her inheritance by anycounterclaims, even after remarriage.[17] The widow seems to have acquired, superficially

at least, a greater freedom to marry outside the former levirate practice. These inheritance rights also increased the value of a widow's assets in the remarriage market. That is why a widow's attractions are considered to be fatal in rural society: "Bereft of any control" (i.e. the husband's), the widows are always known to improve in "health and wealth."[18] In that case, one would assume that the 1956 Act has made a great difference to the practice of levirate, which had been used earlier to control the widow's limited rights to property in the colonial era.

Yet, in reality, the pressure on widows to enter levirate marriage has increased. Indeed, its increasing acceptance by castes which earlier frowned upon it has been the subject of comments in all district gazetteers of this region.[19] A number of factors have been responsible for the strengthening of levirate, but chief amongst these has been the widow's new right of absolute inheritance. Levirate marriages in fact continue to be an important way of bringing an otherwise independent woman of property once again under her marital family's dominance and control, without endangering the established kinship patterns. Legally the land remains hers, but it comes under the de facto possession of the karewa husband. Moreover, she still remains available .as a full working partner on the land.

It's not merely land alone, but reveral other kind of benefits accruing to the widow which have increased the popularity of the levirate form of marriage. This can be evidenced in the enormous fillip this custom received in the wake of India's post colonial military conflicts with its neighbours. The wars with China and Pakistan, the military recruitment. Widows,

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especially "war widows" whose husbands died in active service, receive a large sum as compensation. They are also entitled to numerous benefits, both from the central and state governments. Thus, such

widows are entitled not only to the ordinary family pension, but to a special family pension as well. Benefits include family pension at the rate of last pay drawn till death or disqualification, family gratuity at specified rates, Army Group Insurance benefits and financial benefits under the Army Officers Benevolent Fund, Army Wives' Welfare Association and the Army Relief Fund.[20] Widows of soldiers killed in action arealso given "liberalised Special Family Pensionary Awards apart from substantial other benefits," extending from a grant of land to annual assistance for each dependent child, and a marriage grant for daughters.[21]

These "special" benefits have become a lever to reinforce levirate marriages, because they are withdrawn if the widow remarries outside her late husband's family. Instituted at the level of the Ministry of Defence and Finance, a letter dated November 24, 1972 stated this explicitly:

"In the case of officers, as well as the JCOs (Junior Commissioned Of-ficers) and the ORs (Other Ranks), if a widow remarried her deceased husband's real brother and continues to live a communal life with and/or contributes to the support of the other living eligible heirs, she will continue to be eligible for the special pension. On remarriage with any other person, the widow will forfeit her right to the special family pension, but will be given a pension equal in amount to the ordinary family pension as though the serviceman had died in normal circumstances."[22]

It is easy to visualise the effects of such a directive both on men and women in reinforcing *karewa* in the rural areas.

Greed and Fear

Among the people concerned, it is not only greed but fear and apprehension which has activated the *karewa* custom. My fieldwork suggests that as a result *karewa* is often performed in an "indecent hurry"-[23] A woman of village Jhojho Chamani in district Bhiwani was widowed in 1985. Her husband had been a *sipahi* (soldier) and had owned some land in the village. The widow had also received one lakh rupees in cash from the army. These were sufficient attractions for the family to have got her/married to her *dewar* within two weeks of the essential *teravin* (thirteen days after death ceremony) of her late husband, although custom required a year's lapse before remarriage. The family's apprehension that she might "settle" herself elsewhere obviously worked towards a drastic change in accepted customary practices. The

"exploitation" suffered by war widows at the hands of their relatives and the colleagues of their husbands has been voiced and recorded by the War Widows Guild of India.[24] A quick *karewa* alliance may very well follow this harrassment, and be accepted by the widow as the lesser of two evils.

It is quite clearly not land alone which promotes *karewa,* but many other forms of inheritance, including insurance, pension and compensation claims. The instances given above are cases in point.

Continued threats and compulsions on a widow to perform levirate are common.[25] In case of refusal, her marriage elsewhere is made difficult, if not impossible. Take, for example the case of Asha, a 19-year-old girl who became a widow in village Asaudha, district Rohtak.[26] Asha's in-laws wished to perform her *karewa* with her much older *jeth* (elder brother-in-law), estimated to be around fifty years of age, who had a wife and three children. She did not accept the remarriage, nor did her father, who settled her marriage elsewhere. Her in-laws, however, refused to allow this and a caste Panchayat had to be called which sanctioned her marriage elsewhere. But at a crucial juncture, the wedding ceremony was forcibly stopped by the in-laws. Even the Panchayat decision was not honoured. Asha continues to remain a widow looking after her child. Several such cases may be cited in which the conjugal family has successfully stalled the wedding plans of widows.

In such cases, the widow has the right either to lease out her land, work it herself through hired hands, or arrive at some agreement with the male family members, who may then remit to her a settled share of the profits. Any one of these arrangements may work depending upon each individual case and family. However, the last option is said to be adopted more often than others, as in the case of Asha, who retains thirty bighas of land in her name. The existence of such land and financial arrangements emanating out of the recalcitrance of the widows to get into a karewa alliance obviously led in Punjab, in the wake of agitation, to the demand for the legalisation of Sikh personal law, which advocates remarriage of a widow with her brother-in-law.[27]

However, cases in which widows have remained (or were allowed to remain) unmarried are not common. In 1981 less than one percent of widows among rural women of Haryana were between the "remarriageable age of 16 and 44 years".[28] In fact, local opinion maintains that in cases where the widow has children, a levirate alliance is almost a certainty; but when there are no children an alliance can be made outside the husband's family, through the natal family. Almost entirely a post-colonial phenomenon, this practice is known as *punar'Vivah* which literally means remarriage. In their basic simplicity, *punar-vivah* and *karewa* resemble each other, as both of them prohibit the performance of *pheras.* The Banias alone are known to marry off a "virgin" young issueless widow, "who has not lived with her husband" with the usual ceremonies.[29] Also, male control of a widow's marriage partner, both in *karewa* and in *punar-vivah,* remains intact. Her own choice is not countenanced; if made, it has to be in a runaway match.

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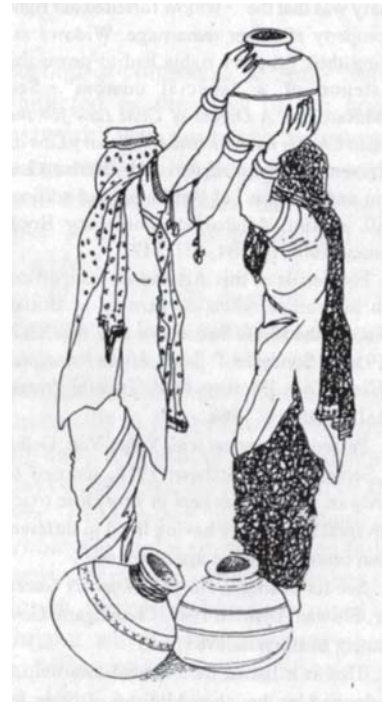
Punar-Vivah

Punar-vivah is known to have gained in popularity amongst the traditional caste conscious critics like the Rajputs and Banias. Yet, even amongst them the first choice in remarriage is *karewa* in its levirate

form. Only when, "none of the brothers accept their widowed sister-in-law as wife, *punar-vivah* is performed anywhere in their caste."[30] *Punar-vivah,* although increasingly accepted, still follows a poor second to *karewa.*

Punar-vivah also means an alliance in which the bridegrooms are invariably deficient in some way or the other. The local opinion maintains that a great deal of compromise regarding the boy's looks, economic status or marital and social standing has invariably to be made in such cases.[31] There are also certain other restrictions on settling a widow' s marriage outside the levirate. Her partner, unlike in the colonial period, is not to be a bachelor. Clearly, somewhere along the way the notions of the acceptable form of sexuality for a bachelor have undergone a change among the landowning caste groups, though not for the lower castes or classes. In the *karewa* settlement alone this notion is ignored for other vital considerations. In fact, the only bachelor she is allowed to remarry is under the levirate custom. In cases where a bachelor is involved with a widow, the opposition from his family members often takes a violent turn. Parents are known to react to such a marriage by cutting off all relations with him, disowning him and even disinheriting him.[32]

Significantly,breaches in the vastly preferred levirate custom, sanctioned in the practice of *punar-vivah,* or unsanctioned in the growing phenomenon of runaway matches, has resulted in the concerned widow being deprived of her inheritance, despite her legal rights. The widow either has to sell her land to her husband's collaterals at a token price or tojust renounce herclaims to property controlled by her former father-in-lawor brothers-in-law.[33] That is why, in the popular perception, notwithstanding the 1956 inheritance law, widow remarriage (except in its levirate form) continues to mean the same as it did under colonial jurisdiction, that is, the widow is not allowed to inherit.



Economic hardships and companying socio-cultural constraints on widow remarriage have contributed a great deal towards keeping remarriage in its levirate form. The karewa grants the widow social and cultural approval and acceptance. Given the realities of rural social conditions, levirate also continues to be considered a refuge by the widows, enabling her to withstand pressure, threats of violence and sexual abuse from her husband's male agnates. The hold she has on her inherited land is tenuous if she has no son.

A levirate marriage takes care of all these constraints. For some it perhaps remains a formalisation of an already existing relationship.[34]

In a significant way, therefore, custom, patriarchy and the state have all combined successfully to regulate marriage through the levirate alliance. Nevertheless, this success and popularity cannot hide the basically repressive ingredients and the elements of coercion inherent in a levirate system of widow remarriage. Obviously, the state contributes not only to subverting the more positive facets of widow remarriage but it also becomes an accomplice in the subversion of the potentially beneficial effects of its own legislative measures, making them ineffective and infructuous.

References

1. The custom of widow remarriage, known variously as *karewa, karoo or cliaddar andazi,* is athrowback to the old Rig-vedic niyog which was prevalent in the geographical region of Haryana-Punjab. It was associated with the early Vedic Aryan settlements. *Niyog* was a practice of levirate marriage which during the Mahabharata period came to signify cohabita-tion by the wife with men other than her husband under certain specific conditions like impotency of her husband. In these circumstances it was a woman's 'moral* and 'religious' duty to beget sons to continue her husband's agnatic family line, such as in the case of Kunti. Eventually, *niyog* was given up as being inconsistent with increasingly Brahmanised standards for marital chastity and devotion. There is an increasing tendency in the late *Dharmasiilras* to proscribe such practices. For details see Gail Hinich Sutherland, "Bija (seed) and Ksetra (field): Male Surrogacy or niyoga in the Mahabharata", *Contributions to Indian Sociology* (NS), vol.24, no. 1, January-June 1990,pp.77-103.

2. E. Joseph, *Customary Law of the Rohtak District,* 1910, Lahore, Govt. Printing, 1911, p. 45.

3. Personal interview with Ram Chander, village Bandh, district Kamal, 20-21 August 1988; bom 1940, he and his two brothers jointly own 33 *bighas* of land in the village.

4. Several folk songs, tales, local sayings and proverbs underline this repress!veness. For details see PremChowdhry, "An Alternative to the Sati Model: *Perceptions of a Social Reality in Folklore", Asian Folklore Studies,* Nagoya, Vol.XLIX-2,1990, pp. 259-74.

5. British officials meticulously noted down several such cases. See for example, Joseph, *Customary Law Rohtak,p.* 19.RamMeherHooda also confirmed the widespread sexual exploitation of women,

especially when the husband was underage. He, however, put the onus on the "inability of the young immature husband to satisfy his fully physically mature wife." Personal interview with Ram Meher Hooda, Rohtak, 17 June 1986; bom in 1933 in village Makrauli-Kalan, district Rohtak; practices law at the dis-trict level. He and his brother jointly own 25 *bighas* of land in their ancestral village.

6. Personal interview with Lt General B.T. Pandit, Adjutant General, Adjutant General's Branch, Army headquarters, New Delhi, 1 April 1991.

7. Veena Das, "Marriage Among the Hindus," in Devaki Jain (ed.), *Indian Women,* New Delhi, Ministry of Information and Broadcasting, Gov-ernment of India, 1975, pp. 76-86.

8. Personal communication from Uma Chakravarti based on unpublished interviews with women activists dealing with the post-1984 riots. Also see Veena Das, "Our Work to Cry: Your Work to Listen", in her edited work, *Mirrors of Violence: Riots and Survivors in South Asia,* New Delhi, Oxford University Press, 1990, pp. 345-98.

9. Several such cases were brought to my notice, especially by Chhotu Devi. Personal interviews with Chhotu Devi, village Dujjana, district Rohtak, 6 June 1986; bom 1921, her late husband was a big landowner in Dujjana.

10. J.M.*Douie,Riwaj-i-Am ofTehsilKaitlialof Pargana Indri in the Karnal District,* Lahore, Civil and Military Gazette, 1892, p. 10.

11. Narrated by Mohran Devi of village Jhojho Chamani of district Bhiwani. The name of the concerned man is being withheld on request. He is a colonel now. Personal interview with Mohran Devi, 7 January 1990; wife of Mange Ram, an ex-army man. They have 60 bighas of land in the dry belt of Haryana.

12. To quote just one popular and oft-quoted proverb: *saukan chun ki bhi buri* (even a harm-less co-wife is intolerable).

13. Men who remember having "two mothers" remark on their father's "misfortune" rather than their mother's misfortune. Hardwari Lal, for example, recalled the "utter misery" of his father, who had to deal with his two "constantly quarrelling wives" who frequently "beat each other up" and "drew blood". Here it is obvious that the man's identification and sympathy lies with his father, whose 'misery' is perceived, in a way, as obliterating the women's misery.

This perception also shows how the repro-duction of the same ideology and socialisation process is effected in the next generation. Po-lygamy is disposed of as a problem between two women. On the otherhand, the reaction of women to this repressive structure is clearly visible in their violence towards each other, that is, in the one direction their anger could, perhaps, be expressed. Personal interviews with Hardwari Lal, Delhi, 19 March; bom 1912, he is a well-known educationist and politician of Haryana.

14. Lynn Bennett, *Dangerous Wives and Sa-cred Sisters: Social and Symbolic Roles of High Caste Women in Nepal,* New York, Columbia University Press, 1983, pp. 187-200.

15. Bhagat, R., and Mathur, P.N., *Mass Media and Farm Women,* New Delhi, Intellectual Pub-lishing House, 1989, pp. 80-81.

16. The general assumption of the colonial ju-diciary was that the widow forfeited her right to property after her remarriage. Widows as-serting their property rights had to prove the existence, of a "special custom". See W.M.Rattigan, *A Digest of Civil Law for the Punjab Chiefly based on the Customary Law as at Present Ascertained,* revised by Harbans Lal Sarin and Kundan Lal Pandit, second edition, 1880, reprint, Allahabad, University Book Agency, 1960, pp.204,427,747.

17. For details of this Act and its comparison with the earlier situation existing in British India, see the Hindu Succession Act, No. XXX of 1956, inSunderlalT. Desai, *Mulla Principles of Hindu Law,* Bombay, N.M. Tripathi Private Ltd.,13th edition, 1966.

18. Personal interview with Vidya Vati, Delhi, 27 September 1988; bom 1918, married to Hardwari Lal, she has kept in very close touch with rural life despite having lived in different urban centres from the age of sixteen.

19. See for example, *Haryana District Gazet-teer,* Bhiwani District, 1982. Chandigarh, Gov-ernment of Haryana.1983, p.67.

20. That is a list of the "special awards", as catalogued by the then Minister of State for Defence, Raja Ram ana and put before the Rajya Sabhaon 14th March \990.*SeeHinduslanTimes,* New Delhi, 15 March 1990, p. 9. _____

21. The details of special assistance provided by different states are available with the *Kendriya Sainik Board,* New Delhi.

22. Seeletterno.200847/Pen-C/71,datedNew Delhi, 24 November 1972. I am grateful to CommanderK.P. Kakkar and Shri Chancier Bhan *of Kendriya Sainik Board,* New Delhi, for mak-ing this information available to me.

23. Interview with Mohran Devi, village Jhojho Chamani, 7 January 1990.

24. *Tribune,* Chandigarh, 16 June 1989, p. 8.

25. Cases of unwilling widows with several children forced to cohabit with married brothers-in-law are not unknown even in Rajasthan. Observation recorded by Bina Agarwal, "Who Sows? Who Reaps?: Women and Land Rights in India", *Journal of Peasant Studies,* July 1988, vol. 15, no. 4, pp. 531-81.

26. Personal interview with Dheer Singh, vil-lage Asaudha Todran, district Rohtak, 8-10 August 1990; bom 1938, he owns 10 bighas of land in the village.

27. Amrita Chhachhi, "The State, Religious Fundamentalism and Women: Trends in South *t\.Aa",Economic andPoliticalWeekly,* 18 March 1989, vol. XXIX, no. 11, pp. 567-68.

28. *Census of Haryana,* 1981, series 6, part IV-A, Social and Cultural Tables, p. 46.

29. *Bhiwani District Gazetteer,* 1982, p. 67.

30. *Ibid.*

31. Interview with Ram Chander,village Bandh, 21-22 August 1988.

32. Ram Chander's nephew Gyanendra Singh married a young widow with two small children in 1986. The family continues todisown him and so far he remains disinherited. *Ibid.*

33. This reality was common knowledge among all men and women who were interviewed or had gathered for a conversational session with me.

34. This fact was firmly asserted by all women who were interviewed; a few cases were also cited. Personal interviews with Phoolo Devi, village Singhpura, 6-7 May 1988; Daya Kaur, Sonepat. 12 October 1988; Chhotu Devi.village Dujjana, 6 June 1986.