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**Commons, Community and Customary Law**
**A Rule of Law**

**by**

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## Abstract

This is a humble attempt to search for the institutional roots of rural society in North India. Vincent Ostrom put this attempt in the context of much larger happenings in the postwar world and now. According to him "We are in the context of a strange and puzzling world where there has been a collapse of Soviet Power in Eastern Europe, collapse of the Soviet economy; where the monarchy in Nepal has been challenged by the panchayat system; where there has been transition from Authoritarian to Democratic Regimes; where the collapse of British, French, Dutch and Portuguese Empires after World War II led to the independence of countries like India." The movement in India led to the setting up of a Federal Democracy: constituted and imposed from above. A guided socialistic pattern of society became a desirable end and the State-centered pattern of governance appeared a natural vehicle to achieve it. However, the basic tension remains: Factionalism remains a powerful force in postwar Indian society. My attempt is to construct history, no, not subaltern history — but using the window of British Imperial records to set up what Vincent would describe as "an archeology of thought and ideas": a search for law ~ A Rational Gode of Law. One which will attempt to meet the challenge of modern ideas of equality to boundary rules applicable to human community: and hence to the very source of the "tragedy of the commons."

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## Introduction

> It should be a relief to us to renounce omniscience, to recognize that every generation, our own included, will, must inevitably, understand the past and anticipate the future in the light of its own restricted experience, must inevitably play on the dead whatever tricks it finds necessary for its own peace of mind. The appropriate trick for any age is not a malicious invention designed to take anyone in, but an unconscious and necessary effort on the part of 'society' to understand what it is doing in the light of what it has done and what it hopes to do. We, historians by profession, share in this necessary effort (Becker, 1935: 253).

We try to establish in this paper that we need to use the Historian's Craft to answer questions related to contemporary issues of authority and authoritative relationships in the ownership, management and use of natural resources which are communally held, are scarce and have alternate use. The call for a search however rings a warning bell which Marc Bloch's teacher, Charles Seignobos once sounded: "It is useful to ask oneself questions, but very dangerous to answer them" (Marc Bloch, 1963: 17). The danger increases because questions may be the SAME both over time and space but answers are seldom so. Then why do we seek answers from the past to questions arising in the contemporary context? First, because all contemporary situations are built from the past. "Behind the features of landscape, behind tools or machinery, behind what appear to be the most formalised written documents, and behind institutions, which seem almost detached from their founders, there are men, and it is men that history seeks to grasp" (Marc Bloch, 1963: 26). Lucien Febvre adds, "Not man, again, never MAN (my emphasis). Human societies, organised groups." Bloch gives the example of the Zwin, a deep gulf which indented the Flemish coast in the 10th century which filled up with sand. This was a geological phenomenon. However, argues Bloch, the silting of the gulf was at least assisted by the action of dike construction, changing the direction of the channel, and drainage -- "all activities of man, founded in collective needs and made possible by a certain social structure" (Bloch, 1963: 24).

The relevant questions then are: what were those collective needs?

What was the social structure?

Second: Because present rules of organisation and governance have evolved. Peasant societies the world over organise their working relationships, even today, on rules which have evolved out of experiences of both natural and political calamities in the past. Once again this is not limited to traditional societies only. As late as 1940, in the French countryside, the scattering of holdings drew the attention of Marc Bloch who observed that this was historical continuity. And such continuity in peasant societies was maintained by a strong tradition of oral history. Therefore, according to Bloch, any suggestion of change in such a situation by the Civil Code or by changes in the laws of inheritance was based on ignorance of history.

What was this oral tradition?

Did the strength of this tradition lie on an internal logic of common sense rooted in the soil and therefore less open to change by ideology?

Third: Because, there is a kind of solidarity in the ages. Hence, we are apt to misunderstand the present because of our ignorance of the past. Therefore, we may ask the wrong questions. Similarly, we cannot understand the past if we do not comprehend the present.

Therefore we may get the wrong answers.

Henri Pirenne once told Marc Bloch while they were in Stockholm that he wished to see the new city hall first. When Bloch looked surprised Pirenne answered: "If I were an antiquarian, I would have eyes only for old stuff, but I am a historian. Therefore I love life" (Marc Bloch, 1963: 43). A historian's first concern is the present.

For the present paper we seek to know and understand why in the first place did the commons become a historical category? Why has the entity of the community become a romantic ideal? And why is it that customary law appears to be a set of primitive rules arising like a mist from the marshes (Moore, 1983: 14)? It is not enough to know the answers from the past but also to understand the explanatory relationships between phenomena today. Therefore, we expect a historical search, such as this, to go behind rhetoric and circumstance, to avoid disjointed and infinite enumeration and serve instead to provide "a rational classification and progressive intelligibility" (Bloch, 1963: 10). At the same time it will be our endeavour to remember that if history has the

human spirit as its objective then it has to avoid what Bloch called the "modern poisons of routine learning and empiricism parading as common sense." Finally, I would gratefully acknowledge what Vincent Ostrom has taught me. Words are a means of communication and we them a sense of respect, for they help build bridges over both over time and space. An oral tradition of law does just that. Customary Law, till codified is an oral tradition. It maintains the link between community and community now and between generations of communities then and now.

**The Indian Context**

We in India got rid of colonial rule and with it the commons, the community and customary law. While we asserted independence, we continued to use the same tools of governance as the colonial state ~ statutory intervention. We also sought to remedy all colonially inherited viruses by the same medicine. Political, social and economic remedies were all sought by Statute. Thus it is, that while we professed belief in the Gandhian concept of the village community we acted otherwise. Take for example the Land Reforms legislation of 1949. At an all-India level it sought to remedy injustice in rural areas by removing intermediaries and feudal lords. It succeeded in giving *dejure* strength to those very elements which were sought to be removed wherever they existed and destroyed *de facto* wherever both communal control over the commons and common lands existed. Following the lead of the Central Government, States like the Punjab, Haryana and Delhi consolidated this measure by enacting The Village Common Lands Act of 1961. This was because of our ignorance of the past. We failed to realise that a uniform measure of statutory remedy was contrary to the institutional diversity of the countryside and that many of the problems connected with colonial rule stemmed from just this concept of standardised bureaucratic intervention. While even the British made gestures of "enquiry" before legislating, after independence it was assumed that a Parliament which was elected, not only necessarily but also sufficiently represented the "silent" majority. In the process it was completely overlooked that human order is a public good and peace is a commons. This was manifest in the upheaval of 1978 in rural areas like the Kanjhawla cluster known as the Bisagama in north-west Delhi. Events of this kind have occurred and recurred all over India. What led to this specific incident was the partition of the commons by the Delhi Administration in the Union Territory.

This was executed by the Administration following the letter of the legislations like the Land Reforms Act and the Delhi Panchayat Raj Act of 1954 and then the Village and Common Lands Act of 1961. Land from the village commons was distributed to a group of disadvantaged families within the villages. This was an act of "free-riding" by the State. It created an atmosphere of uncertainty. First, whereas in the past, (colonial) statutory law had recognised the malikan-deh of the villages and their communal rights to manage and control access to the commons; in the present, (national) statutory law again, has de-recognised this communal authority and created "open access" to the village common lands. Second, the institutions of customary usages of the village community had been replaced by bureaucratic records and judge-made decisions and by clauses in the statute. This was done regardless of the diverse situations of the different communities. Third, positive law broke down communications between the separate parts of the community simply because the institutions of such law could not be easily understood and needed constant interpretation and support from the Government departments which administered them. This reduced the necessity for any interaction between the different elements of the community. Thus, when law mediated uniformly in a particular pattern of land-use and the property rights structure that upheld it, then it really free-rode on the institutions of a particular order among the people and initiated the real tragedy of the commons ~ disorder. It resulted from the creation of uncertainty which generated suspicion in the minds of all those who had shared the commons ~ peace. This was not how the Government or the media saw it. The crisis was made out to be one of caste conflict. Even if we assume it was primarily one of caste tension, even then, the flare-up was initiated by a rule of law which broke down the nomos of customary norms of self-governance which kept order in the rural areas. It broke down the source of authority and authoritative relationships and replaced it by another which it was incapable of policing. Even if the new order represented a more democratic and a more humane form of structure it was brought into being by positive law which could not make allowances for institutional diversity as customary law could. The new order encouraged privatisation of the commons without realising/disregarding the role they played in fulfilling a collective need and for defining a common identity. Such mediation of law, courts and the State generated a milieu in which communications between the different segments of rural society broke down. Far from preventing "free-riding" on the commons, State intervention created a situation of "open access" and generated yet another kind of tragedy on the commons — lawlessness.

This was consequent to misreading the present.

If I had followed the analysis of the fourth estate I would have asked the wrong question too, and I would not have been here today. However, I must confess that it was my ignorance which spurred me to search into the past, and then ask the questions. All this ignorance of the past and the present cannot unfortunately be blamed on the colonial era. The British can be held responsible for anything but their sense of history and historical tradition. This, even their "natural" critics the French would agree. If anything the Imperial rulers had helped in building up an image of the village community which was ancient and indestructible. In fact Henry Sumner Maine had espoused the cause of the village community as the source of property law and had compared it to the Germanic, Slavic and Teutonic communities of Europe. It is surprising Hitler did not use this Aryan institution to lay claim to the Punjab. What is even more surprising is that when we speak of the Global Commons we continue to believe that land reforms, or changes in the inheritance laws will stem the tide of degeneration of the commons. This is showing scant respect to either the self-organising or the self-governing capabilities of rural institutions not only in India but elsewhere as well. Rhetoric and action in India have paid only lip service to both Gandhi and his concept of the village republic. This is due to ignorance of history.

**The Punjab**

Let me take you to 1849 and rush through history; Punjab was annexed by the British; India then declared a formal colony by Victoria's Proclamation. Picture a vast region interspersed with rivers originating from the high Himalayas. Pastoralists roaming in the Central plains of the Punjab cultivating by broadcasting the seed and harvesting only if there was rain and feeding the rest to the cattle. Cultivators settled along rivers or else depending on the wells and managing flood cultivation. The foothills of the Himalayas inhabited by cultivators who could depend on agriculture but also on pastoral herds. The region could be broken into several doabs or inter-riverine ecosystems; each had an admixture of low rain and hot climate in the south west; with higher rain and warm temperature in the centre and high rainfall with low temperature in the hills. Each of the river systems had these three variations in climate, rainfall and gradation. Additionally the centres of these river systems were dry while the riverain were flooded in the post-summer months. These tracts were complementary and

supplementary to the needs of the cultivators and the pastoralists for resources in the different seasons. This entire region was the commons in the nineteenth century. The political climate was uncertain. There were periods of natural scarcities which developed into famines and later epidemics. Here, in the middle of the nineteenth century, settled cultivators could survive only if they could produce a surplus and save their cattle by handing them over to the nomadic cultivators. Survival required ingenuity in organisation and adaptability to both natural and man-made uncertainties. Such organisation required to be sustained by rules which perennially adjusted to change - - those of customary usage. We seek to examine these institutions of self-governance in colonial Punjab through the window provided by documents of imperial rule and in the process we look for answers which could explain a contemporary situation not only as it unfolded in a village in the Union Territory of Delhi, not only as it is in the rest of India but also in the rest of the world. We seek to emphasise that there is a degree of universality in historical categories, not only in the degree of familiarity in the movement of events but also in intellectual involvement. Exactly one hundred years before Hardin (1968) there was a Pan-European debate on communal property as a historical antecedent of private property but it (the debate) closed like a parenthesis as rapidly as it opened. And today we have come a full circle. This does not mean that historical analysis can yield "Euclidian demonstrations or immutable laws of repetition," or what Game theorists would call reiteration. But it can certainly testify "that the only true history that can advance only through mutual aid, is universal history" (Bloch, 1963: 47).

In the course of this paper I wish to establish that customary norms were institutions of self-governance which were "sets of working rules" (Ostrom, 1990) which determined who would decide any action and how they were to be executed when and where. Customs were then rules which ordered social and economic relations in a situation when (a) there was environmental uncertainty which threatened survival and (b) when State control was weak or predatory at the grass-root level. The questions that arise here are whether the unwritten codes of customary usages were efficient surrogate legal systems? Were systems of customary law better adapted to suit changing social circumstances? Could customary law unilaterally bring about reform in both the economic and social order? Can self-governance be stable forms of ordering than the rule of law imposed from above by a bureaucratic state? This brings us to the conclusion that law is bound with the statutes of the State as "the

organisationally coercive order" while custom would be its traditional counterpart risen from the opinions and practices of the people like "mists from a marsh" (Moore, **1978,** 1983: 14).

## Common Property Resources and Customary Law

The most important and almost unanimous description of contemporaneous nineteenth-century observers (Fortescue, Martin, Lawrence, Thomason, Metcalfe, Steinbach) had been the cohesive nature of the corporate units functioning as fiscal agents and custodians of customary usages and rules which regulated the civil conditions of the lives of those who resided within the cosmology of a "tribe" or fairly wide group. Even nomadic pastoralists had unwritten codes which regulated their rights and obligations. For the most part the codes "engraven on the minds of the people" (Boulnois, 1872: 3) were a set of rights and obligations for not only related groups of families or members of a clan, but also for those who performed services in return for the privileges of residence. These were ways in which order was maintained at least on a day to day basis. Joint decisions were challenged whenever anyone flouted rules but these were dealt by the juridical authority of a council of elders whether at the village, clan or at the tribal level. These councils at different levels functioned not only in matters of religious import but also in those concerning secular affairs. It must not be imagined that issues were always dealt in a peaceful manner or equitably. There was a definite bias in favour of those who wielded economic power or were a dominant family or group within a larger setup. There was certainly a gender bias. However, so far as resources were concerned, there was a built-in element of protection for rights of ownership, management and use of the group which paid the revenue collectively. Theoretically the individual was "free" (Boulnois and Rattigan, 1876: 66) but his existence was rule-ordered by concentric circles of authority, first of the family, then of the immediate community of the proprietary body and last of the community at large — the clan and the tribe. He could not, for example, act unilaterally in matters related to his share in the village assets either in the land which his family actually held and much less in the communally held resources. The history of the Punjab enables us to examine this very important aspect of Indian society ~ the organisation of corporate management of both the social and economic orders of two major streams of people ~ namely the agriculturist and the pastoralist. The landowning revenue-paying residents were tied by intricate mechanisms of control exercised by a larger network of

relationships operating in an entire region. These relationships were ordered by institutions of "reciprocal rights and duties" and enforced by rules of monitoring and sanctioning conceptualised by self-governing collectivities in the Punjab. Henry Sumner Maine pointed out that the Indian Village Communities unlike their European counterpart were "the source of a land law which, in bulk at all events, may not be unfairly compared with the real property law of England" (Maine, 1881: 18).

We support that: * "In reality the Indian civilisation is built on blendings between patrilineal, matrilineal and bilateral customs" (Derrett, 1977: 272). * That property was originally joint and only became individual by degrees (Maine, 1861: 271). Corporate bodies in North India were the source of customs which were guided by secular usages conceptualised and institutionalised as complementary to a system of property rights in land and other resources.

We argue that: * Customary Law even more than Hindu Law gives emphasis to the superiority of the male-line. Henry Sumner Maine, attributed this to Indian religion and law. Indeed as Derrett opines this is a survival of Aryan theory "which was in practice constantly modified by contact with non-patrilineal people" (Derrett, 1977: 272). The Punjab is an example of how Aryan theory was both exaggerated and modified. The emphasis on male inheritance can be explained by the shortage of labour and the martial needs in a region which faced all the invasions into India (except the British). This goes against the opinions of both Marx and Maine that rural communities were necessary complements of Oriental despotism, (Marx, 1970: 35, 40) or that "the Indian village communities always submitted without resistance to oppression by monarchs surrounded by mercenary armies. Thus the causes which gave importance to young men in primitive societies was lacking" (Maine, 1881: 24). These village collectivities were foundations of a representative form of government capable of holding out against both environmental and political uncertainties. They countered uncertainty and a high mortality rate, by inheritance laws which preserved the hold of the family and the community on the land; for example male inheritance and the property passing on to the brotherhood in case of an heirless deceased proprietor particularly in land. The customs of PAGVAND and CHUNDAVAND provided for all sons in the family. When a man had one wife all sons inherited equally (pagvand=pag was the headgear of the man); when a man had two wives then the estate was divided into two and the sons in each division inherited equally (chundavand=chunda is the

headwear of the woman). These reservations to males, were a sort of plebeian adjustment to the law of primogeniture. Sons were rooted to the soil. Females never inherited land; and custom in the main, vetoed adoption.

Customary Law in communal organisations provided the 'glue' to keep collective decision making possible by reducing conflicts between reality and ideology of a group or groups. When disputes actually occurred the resolution involved deliberation and consultation to recapitulate the circumstances in which the custom was designed rather than to provide an unilateral judgement. Flexibility was a built-in quality of traditional systems of law and law enforcement.

## Law and Customary Law

There are in the world two spheres of law distinguished by their origin. One which has "grown" from antiquity and another which has been "created" in the recent past. In the first category could be included systems like that of Common Law as in England and Customary Law as it was discovered in the nineteenth century in Punjab, Kashmir, Kerala and elsewhere in India and in other parts of the world. Any legal system established by statute or imitation would fall in the second category. Roman Law, for example, has been the basis of legal systems in large parts of Europe and an attempt had been considered to introduce it in India as early as the seventeenth century. It is a matter of historical coincidence that Rome and England shared a common experience of imperialist domination of the legal systems of a large part of the world. Pax Romana could be said to have influenced even British effort to induct the customary usages of rural communities into a system of customary law in the Punjab. The British Government's attitude to custom was described by Michael O'Dwyer's concluding lines of his speech in 1915, at the Conference on Customary Law in Simla: "The problem before us in the Punjab is unique. Other Provinces in India, have as a rule, the Dharma Shastras and the various commentaries on them for the Hindus and the Shariyat and the Hadis for the Muhamaddans . . . Here we have elected to be governed by custom. We have no body of feeling that condemns our tribal customs as a whole as antiquated or unsuitable. No desire for uniformity, no sense of injustice involved in the maintenance of the existing system. Our function is therefore to uphold, not to destroy." Consequently, the process of assimilation of custom into the legal framework

of rural society in Punjab was done at various stages but the final shape was given by the enactment of the Punjab Laws Act IV 1872. Therefore, even though the root of Punjab custom was tradition and was in several ways "coincident with popular feelings and necessities" nevertheless they (Punjab customs) became the law of the province by a single statute. The documents recording these two classes of customs — private law and agrarian usage ~ were the Riwaj-i-am for the district and the wajib-ul-arz for the village. The customs which regulated succession were important for the village for it settled the manner in which the distribution of property in land took place. Common lands were specifically regulated. The tribal component of the village proprietors or malikan-deh were thereby governed by the declared customs of the tribe of the entire district. However, the agrarian usages and customs defining "the rights of the proprietors over the village site or abadi-deh, those relating to the mulba or village expenses, to the sayer income, to the dues of the village officers and village servants, to the cesses paid by the non-proprietors or cultivators," all related to the village itself. The recognition of this class of customs depended on the constitution of the village settled at the time of the revenue arrangements made by the settlement officers at the time of the first regular settlement of the districts. Hence, wherever the village communities did not exist or there were scattered settlements with no cohesion, the imposition of the joint revenue responsibility on "created" villages or village settlements led to the creation of these customs. This was aptly put by Tupper "Sweep the villages away and right of this class would be annihilated; create the village afresh and these rights would revive." Thus, were villages created. Thereby, the Revenue Settlements which demarcated villages had a very big hand in creating the framework for the development of the customs of the village. In districts like Kangra where the tenures did not resemble the tenure on the plains the creation of hamlets and tikas by Barnes and Lyall between 1849 and 1872 led to the emergence of customs related to usages which are of concern in this study ~ namely those relating to the use and partition of common lands. Thus, were customs created. Similarly, in the districts which were sparsely populated with scarcely any village communities, like Multan and Sirsa for example, the village common lands were "for the most part a creation of our (British) rule and compared with the districts of Central Punjab, Multan presents(ed) comparatively few cases of village shamilat." Thus, not only were the villages created but so also were the common lands. The usages regulating these created village common lands resembled those prevalent in the more settled tracts. It was but natural that in

these circumstances the hold of customary authority over the manner in which the common lands were used was less close. Here also would change more likely to come about quickly than in the older areas where the communal control over the common lands had a long history. The differences between the customary authority of the malikan-deh in the village of the old established areas of Punjab, such as Delhi and Karnal, and those in the new areas of "created" villages in the waste, like the canal colonies and in the districts of South West were apparent by a look at the history of the Sirsa and Ferozepur districts. Sirsa offers perhaps the most extraordinary instance of the development of customs in adaptation to changed conditions, particularly the customs related to the rights in land. The district had been at the time of the first settlement in 1837, mostly inhabited by nomadic pastoralists who used the almost "desert prairie," as long fallow within a system of shifting cultivation with no demarcated wastes as village common lands. The tribes hardly had any notions of succession in terms of transferring land from father to son, "they had only the vague right, or rather custom, of pasturing their herds over large tracts of country." The regular settlement of the district demarcated the boundaries and internalised the waste for the village as common lands. This put an end to their rights on the larger waste and therefore they more or less submitted to the rules and conditions laid down in the wajib-ul-arz. The rights to the individually held land and the common waste were defined. So also were defined the relations of the different groups who comprised the village. "All Mussalman tribes who fifty years ago were living a wholly pastoral life have now settled down to agriculture and their new custom now attaches quite as much importance to these rights in land, new to the tribe, as does the custom of the Sikh Jats and Rains who are agriculturists from time immemorial." Thus, it was that the process of inducting customary law into the legal system was done in three stages -- one, at the time of revenue settlements and of recording rights; two, by legal enactment; and three, in the course of disputes brought to court. In the end, Punjab customs were formally incorporated into a system of laws. The intention was to preserve the status of customs and the source from which they emanated. But the attempt set in motion a process of attrition of customs and attenuation of customary powers of indigenous institutions like the panchayat, which fell into desuetude. This was, first, because the British revenue system which set up the village as the unit of both the rural and social economy had cut across tribal and clan ties; hence the recording of landed rights pertained to the village proprietary body as distinct from the tribe or clan. The recording of these rights led to the transformation

of the unwritten codes of the tribes to the recorded ones in the wajib-ul-arz and in the Riwaj-i-am. This led to the replacement of the tribal heads as source of customs by the records which became the legal reference points. Second, the influence of tribal institutions on clans and splinter groups differed from one area to another. Tribes on the western frontier were untouched by modernisation even by the end of the nineteenth century; fire arms were the only modern thing that touched their life. In the south-west plains there were tribes which had sedentarised and also those who still remained nomadic pastoralists in the middle of the nineteenth century. In the Eastern Plains of the Punjab "the tribes though clearly marked" had been largely subdivided into gots or clans, and these again were formed into separate communities, therefore even on its own a fragmented settlement became the unit of society. Landed rights even here were a matter of those affecting groups of agnates — the warisan yak jaddi. Hence, the source of customs became a group of families or even a family rather than a clan or tribe. Further, individuals could make claims in court rather than the panchayat or the brotherhood. Therefore, the court became the source of authority and not the PANCHAYAT. Third, customs were adopted as a part of the system of law by legislation; and therefore legislation shaped and modified rights to land. Several customs like those regulating preemption, land alienation and those related to occupancy tenants were all modified by specific legislation. Therefore, Statute became the source of rules and not USAGE or CUSTOM. The Chief Court became a major influence in directing the use of customs in disputes. The evidence brought to Court was obtained from recorded customs. Customs once arbitrated or adjudicated became precedents; hence a source of custom itself. In time the precedent replaced custom, wherever customs were either nonexistent or not recorded. The records and the judiciary became the source of custom and not the COMMUNITY. At the same time the action of the Chief Court in recognising the "will of the majority" in case of shamilat disputes reduced the authority of the malikan-deh which acted on the presumption of consensus. Thus Boulnois, one of the first judges of the Chief Court had pointed out that the "will of the majority" was recognised "often rather, apparently, on general principles than on accordance with usage, which seems to proceed on the assumption that the community will work together." On the other hand, the Chief Court refused to allow the voice of the majority to prevail over that of the minority where injury to the latter's interest in the joint land may have been involved. However, the most important change came about whenever it became impossible to use and manage common lands on the basis of

consensus or became "practically inconsistent with the general wish of the co-sharers" by reason of dispute. The Chief Court increasingly settled these disputes by giving the opportunity to the individual to opt out of the system of joint control over common property resources by allowing partition of the common lands. History thus tells us that the process of decline in communal control over common lands took place despite official effort to induct customary law into the legal system of Punjab. Several hundred shamilat-deh suits fought in the Chief Court of nineteenth century Punjab stand witness. The narrative does not end there. A sequel to this was provided by the Government of India opting to have a judicially determined system of law; and a bureaucratically administered democracy. The path to the community was lost somewhere. All is not lost however; a new chapter to the story can be added, if the recent movement of the Government of India to revive the community in the forest commons takes off. Or the Government submits to a scheme of rational code of equity jurisprudence rather than the present civil code of administrative jurisprudence.

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**Endnotes**