



a nominal quit-rent [perhaps connected with the 'fifth' (panchak) of the produce], are hereditary and transferable. If liable (rarely) to enhancement of rent, they are distinguished as 'majkúri' <sup>1</sup>.

In the Bhágálpur division I find references to a tenure called 'ghorabandí' <sup>2</sup>.

In not a few districts I find mention of a great variety of 'talúqs' and 'mirásí' (hereditary) tenures, distinguished by various names, which, however, mean nothing more than that there is some condition attached to their recognition by the landlord, or some special feature in their origin or terms.

In Tipperah, for instance, there is the 'zimma-mirás,' which means a tenure held originally by one person but made over in *charge* (*zimma*) to another; the 'az-mushakh<sup>sí</sup> mirás' or 'specific,' is a tenure recognized after measurement and assessment. There are also many tenures compounded with the now familiar term *talúq*; e.g. there is the 'tak<sup>h</sup>sí,' which means that the landlord has reserved the right to test and measure the area and reassess it at some future time. 'Tashk<sup>h</sup>sí,' again, means a *talúq* recognized *after* measurement. 'Bandobastí' *talúq*, is one granted after measurement and making out an account of expenses, allowance for 'málikána,' &c., and determining the resulting payment as rent.

All these details sound very complicated, but in reality indicate nothing that affects the nature of the tenure. To recur to the illustration already used (p. 537) of the variety of native terms for ornaments of different forms, these separately-named tenures are on the same footing. They are really no more difficult to understand, than would be the case if our language used a separate name for a lease with repairs and for a lease without repairs, or a lease terminable with notice, and a lease for a fixed period.

<sup>1</sup> *Statistical Account of Bengal*, vol. vii. p. 278.

<sup>2</sup> It is stated that this means a tenure where the rent is payable for

a definite area, whether cultivated or not; but it is not enumerated in the *Statistical Account of Bengal* (vol. xiv) as a 'tenure.'



§ 9. *Rent-free Tenures.*

Just as Government has created certain revenue-free estates, so the landlords have in turn allowed certain rent-free tenures, known as 'brahmottar,' 'shibottar,' 'debottar,' 'píruttar,' and 'hazratdargáh,' &c., i. e. lands devoted to the worship of the deities, or to that of a saint (pír). They call for no special remark. In the same way some service tenures (chákáran) may exist under the Zamíndárs. Especially these will be noticed in the Santál Pergunnah, Chutiya Nágpur, the Bardwán division, and in the Rangpur district<sup>1</sup>.

(B) *TENURES DUE TO THE DESIRE OF BEING RELIEVED OF DIRECT MANAGEMENT.*§ 10. *Origin of the Class.*

These tenures are due partly to the desire of improving the estates by handing them over to the more energetic management which a lessee would give, and partly to the effect of prosperity and the desire to be saved trouble. In either case a time came when the landlords began to create permanent subordinate-tenures; by this means they escaped not only the labour and risks attendant upon direct management, but were successful in bringing large tracts of waste land under cultivation. Many a Zamíndár, who had no taste for estate management, or had more land than he could manage, would by a well-considered *farm*, or sub-lease, greatly improve his income. Considerable portions of estates have been thus conveyed, in perpetuity, by Zamíndárs in consideration of a bonus paid down and of a fixed annual rent. This rent is calculated so as to leave to the lessee a margin of profit over and above the sum payable to the Zamíndár and the revenue payable to

<sup>1</sup> The Deputy-Collector mentions that most of the Zamíndárs remunerate village servants by small

grants of this class (see *Statistical Account*, vol. vii. p. 283).





Government—a margin which it depends on the lessee's skill and ability to make more and more considerable<sup>1</sup>.

### § 11. *The Patnî*<sup>2</sup>.

The commonest tenure of this kind is now the 'pattani,' or *patnî-taluq*, as it is usually written. At first under the Regulations,—for fear of endangering the power of paying the land-revenue,—the Zamíndárs had been prohibited from giving any lease for longer than ten years. This provision was rescinded in 1812; and gradually the practice of granting long (or perpetual) managing leases or farms, called *patnî*, became so common, that it was not only legalized by Regulation VIII of 1819, but special provisions were made regarding it. The *patnî* itself can be protected by registration (as will presently be explained) from being dissolved, should the Zamíndár fall into arrears to Government.

A *patnî-taluq* is heritable and transferable, and all the rights of the Zamíndár are transferred by the grant. It is held at a rent fixed in perpetuity. The holder is required to furnish collateral security for payment, and for his conduct generally, though he may be excused from this obligation at the Zamíndár's discretion. But even if the original holder is excused, the Zamíndár may require this security from any

<sup>1</sup> Sometimes the creation of such farms has been the greatest benefit to the estate; sometimes it is the resource of mere laziness, and of a device to procure money at almost any sacrifice. Thus, for example, Government became the purchaser (for arrears) of fractional shares in the Bardhákát estate of Tipperah district (first, the '8-anna share' was sold, and then a '2-anna-13 gandá-1 kárá-1 krántí' share). The details of the former management soon came out. The default had in fact resulted from the fact that the Zamíndár, to raise ready money, had sold so many taluqs or under-farms for 'salámi' or fees paid down (which he squandered), that he had

disabled himself from paying the revenue. Fifty-two of these taluqs are now recognized as valid.—(*Statistical Account*, vol. vi. p. 401.)

<sup>2</sup> Whence the *patnî* derives its name is uncertain. Wilson inclines to connect it with 'patta,' a lease. Had the land been usually waste, it would have been natural to suggest the Bengali word *pathan*—colonizing or founding. Harington (vol. iii. 519) says it means 'established or settled,' but gives no word in the vernacular; and Wilson remarks that the term originated in the estate of the Zamíndár of Bardwán, and soon became common in other districts. The meaning is questionable.





new holder introduced by private transfer (by *sub-infeudation* as it is called), or by purchase at a sale of the *patní* for arrears due under it. A *patní-taluq* is liable to summary sale, upon application to the Collector, if the rent is not paid; and this is allowed to be due twice in the year. The effect of sale is similar to that of a revenue-paying estate; inasmuch as all leases granted and incumbrances created by the defaulting *patnídár* are voidable by the purchaser, who is entitled to take the estate in the condition in which it was at the original creation of the *patní*. Persons whose interests might suffer in this way by a sale, are authorized to protect themselves by paying up the rent due by the defaulting *patnídár*, and on doing so can claim to be put in possession of the *patní* tenure in order to recoup themselves. If they do not take this course, and the *patní* tenure is sold, they can only claim to be compensated out of any surplus which remains from the sale-proceeds after satisfying the rent due to the Zamíndár. If they are unable to obtain compensation in this way, they may bring an action for damages<sup>1</sup>.

### § 12. *Sub-letting, or 'Subinfeudation.'*

The margin left to the *patnídár* is often so considerable—that is to say, the capability of the estates for improvement is such—that the *patnídár* can again divest himself of the management, and content himself with a fixed sum, sub-letting the actual rental to persons who are called 'darpatnídár' or 'darpatní-taluqdár.' This is, however, often done, not to save trouble, but simply because if there is much waste, the charge may be more than the original farm-holder can manage: and he at once sees the advantage of giving out waste portions, or outlying blocks, to a sub-lessee.

And another special feature in this tenure has to be noticed. It is not only the whole or some specific lands forming part

<sup>1</sup> For this account of the *patní* I am indebted to Mr. J. S. Cotton, C.S.





of the estate that are thus sub-let; often a *fractional share* of the whole estate (or of the first tenure) regarded as an undivided unit, is thus granted.

Mr. Cotton writes:—

‘These [*dar-patnis* or sub-farms] again are sometimes similarly under-let to *se-patnidárs*; and the sub-letting in some instances has continued several degrees lower. In some places there are now as many as a dozen gradations between the Zamindár at the top and the cultivator of the soil at the bottom. In these alienations, the proprietors, as a rule, have made excellent terms for themselves. It rarely happens that a *patni* is sub-let otherwise than on payment of a bonus which discounts the contingency of many years’ increased rents. The descendants of the grantor suffer by this arrangement; because it is clear that, if the bonus were not exacted, a higher rental could be permanently obtained from the land. This circumstance has not, however, had much practical weight with landholders. And if the wide diffusion of the profits from land is in itself a desirable thing in the interests of the community, the selfishness of the landholding class is not, in this instance of it, a subject for regret. In one respect, however, the cultivators of the soil undeniably are placed at a disadvantage by the practice of sub-letting; for it is a peculiarity of the system that, although these tenures and sub-tenures often comprise defined tracts of land, a common custom is to sub-let *certain aliquot shares of the whole superior tenure*, and in consequence the tenants in any particular village of an estate are often required to pay their rents to two or more than two, and often to many different landlords [tenure-holders]. The desirability of correcting this state of things, so productive of confusion and of hardship to the rent-payers, is admitted, but it is not easy to find a remedy. The extent to which sub-infeudation has been carried in some parts of the country, the minute subdivision of shares<sup>1</sup> which exists in other parts, the claims of individual shareholders on the raiyats for personal service and consideration, and, most of all, the too common feuds and jealousies of copartners, while they are the main causes of the difficulty,

<sup>1</sup> In the estate of Katalipára, in the district of Faridpur, there are no less than 500 sharers, each of

whom is in possession of an infinitesimal interest in the property.



are at the same time insurmountable obstacles to the introduction of any scheme having for its object to induce or compel joint-proprietors [tenure-holders] to act in concert.

'The enormous number of permanent holdings now existing in Bengal is due to the practice of sub-letting. The total number of perpetual leases registered in the offices of the Registration Department during the past fifteen years, is 1,221,417. More than half of this almost incredible number is furnished by the three districts of Jessore (273,892), Backergunge (192,514), and Chittagong (230,795). The gradual accession to the wealth and influence of small proprietors, almost all of whom are themselves cultivators, induced by this wide dissemination of a permanent interest in landed property, is evidenced by the comparative material prosperity of these districts.'

### § 13. *Temporary Leases.*

I do not propose to regard as *tenures* mere temporary agreements for a five years' lease or more. In the Bihār districts, where there are small landowners, there is no general creation of *patnis* or permanent sub-tenures, but a host of temporary farms, contracts, and leases, called 'ijāra,' or 'thika,' or 'mustājiri.' A farm of a farm is called 'katkina.' A 'zar-i-peshgi' ('money in advance') lease is common in parts: it is a grant of the rent-collections, either against an advance made at the time, or by way of repaying a debt already incurred<sup>1</sup>. The *analogy* of such contracts to tenures is obvious, but they are not tenures in the legal sense.

<sup>1</sup> Mr. Cotton notices a curious case of an estate (in the Kishanganj Subdivision of Parniya) which came under the management of the Court of Wards in 1874. The owners had let the whole estate out in circles, which they called taluqas, on five years' leases. Each circle or taluqa contained several villages, and the lessee was called 'mustājir' (the common Persian term for a revenue

or rent farmer). These lessees had divided their circles into sections or 'qismat,' and let them out to sub-lessees called 'mālguzār.' The *qismat* might again be subdivided into parts less than a whole village, and called 'gāch,' held by a 'gāch-dār' or abādkār. This last would usually cultivate himself or by hired labour, but even he will sometimes once more sub-let to a 'kulait.'



(C) *WASTE-CLEARING OR JANGALBŪRĪ TENURES.*

We have seen already that from the days of Manu, the Hindu custom has always respected the title of him who 'first cleared the jungle.' Instances of this will continually occur in the land-tenures of almost every province. On the one hand, the rulers were naturally inclined to encourage such work, as it enlarged their revenue, and accordingly they—even the worst—afforded protection and favourable rates of rent or revenue payment to the 'ábádkár' (settler) on the waste; on the other, the sentiment of the people conceded to him a right in the holding of a permanent character<sup>1</sup>. A number of the *taluk* or tenure rights which we have been examining may very possibly have had their origin in rights connected with village-founding and clearance, though it is not so expressed, and they may have been wrongly classified in my account: if so, it will not really make much difference. But in this section we are concerned with those tenures which are professedly created on this basis only. They are all distinguished by locally different names, and there are, as usual, separate terms which indicate differences in the rate of rent, or the conditions of holding, which, while making these tenures apparently complicated and multifarious, do not really show any fundamental or structural distinctions.

The *commonest* terms indicating this kind of tenure are 'jôt<sup>2</sup>' in East Jessore, Rangpur, Jalpaigúri W. and the Dwárs; 'gánthi' in Jessore and the 24-Pergunnahs; 'hawála' (often written and pronounced hawalá or hawlá)

<sup>1</sup> 'In all tenures based on the right of reclamation, it will be found that claims exist and are asserted, with more or less tenacity, not only for the permanent character of the holding, but also very often for fixity of rates . . . and accordingly it is a principle always claimed in these provinces, though it is not always conceded, that a taluk or sub-proprietary right is vested or transferred, or conferred, as the

case may be, on the person who reclaims jungle and causes waste land to be brought under cultivation.—(Mr. J. S. Cotton.)

<sup>2</sup> I need hardly remind the reader that when the vernacular name of the tenure is given, the holder of it (as a person) is indicated by adding 'dár' (P) = holder. Thus the holder of a 'jôt' or gánthi tenure is the jôt-dár, gánthi-dár; just as the holder of a taluk is taluk-dár.





in Jessore, Backergunge, and Noákháli. In other places we have the 'taluk' of Chittagong, and the 'chak' in the Sundarban tracts. In Midnapore we shall find that the revenue-free grant already mentioned as 'aimá,' was there applied in favour of clearers of the jungle, and the 'aimádárs' of that district are tenure-holders.

Some remarkable features are presented by the Khúlná district, which, in 1882, was separated from Jessore. It might be supposed that the customary tenures, based on jungle-clearing, would be the same both in the northern and southern halves of the old collectorate. It is not so. In the Khúlná parganas Bághirhát and Náldi, the terms 'gánthi' and 'jôt' of North Jessore are not recognised.

§ 14. *Features of the tenures in Jessore, &c.*

We may commence our study with these districts—remarking that Khúlná includes a good portion of the delta tract we have already spoken of in connection with the waste-land rules—the Sundarbans.

The following extract from Mr. Westland's <sup>1</sup> Monograph on Jessore will give a good idea of these tenures; and Mr. Cotton remarks that this also describes the state of things in the Sundarbans generally.

'*Patni* tenures and farms are almost unknown, as the Zamíndár does not ordinarily transfer all his rights to others, constituting himself a mere rent-charger; but, on the other hand, he manages his lands himself. In the south of the district (i. e. in the present Khúlná district), in fact, it is the raiyats and not the Zamíndárs who take to creating tenures. The highest tenure is called a *taluk*, the talukdár holding and paying rent for a village or half a village; sometimes cultivating himself, sometimes not. The talukdár corresponds with the gánthidár of the older tracts (where the word talukdár <sup>2</sup> has a totally different application, and refers, not to the

<sup>1</sup> Westland's *Monograph on the District of Jessore* (pp. 198, 199).

<sup>2</sup> See p. 525 and note. It applied

to the holdings in the 'nawára' estate.



raiyat series, but to the landholder series of tenures). The talukdār's rent is looked upon as a fixed rent. Under him comes the hawāladār, who corresponds with the jama'-holder farther north, and whose rent is also regarded as fixed. The hawāla tenure may be created by the Zamindār if he has not already created a talukdār, and in this case a talukdār subsequently created, will take position between the hawāladār and the Zamindār. The right of a talukdār, however, includes that of creating *hawālas* within his own tenure; and the hawāladār, again, may create a subordinate tenure called 'nīm-hawāla,' and may subsequently create an 'ausat-hawāla,' intermediate between himself and the 'nīm-hawāladār.' In these subordinate tenures the holders are almost always of the pure peasant class, and engage personally in agriculture. They are always regarded as having rights of occupancy; but if they again let their lands, those who cultivate under them, who are called *charcha* raiyats, have no such rights, and regard themselves as only holding the land for the time.

'These tenures have their origin, I have no doubt, in rights founded upon original reclamation. A raiyat who gets a small piece of land to clear always regards himself as having a sort of property in it—an 'ābādkārī swatyā' or reclamation right. As reclamations extend, he begins to sub-let to other raiyats, and we have a hawāladār, with his subordinate nīm-hawāladārs in a few years.

'The talukdārs above described are those who, in the pergunna lands, come between the Zamindār and the raiyat proper, or hawāladār.

'In Sundarban grants<sup>1</sup>, the word has another meaning, for the Sundarban grants are themselves called taluks, and their possessors are talukdārs. Among these talukdārs we find several persons holding considerable estates (zamindāris) in Jessore, Backergunge, or the 24-Pergunnahs; but a great number of them appear to belong to the comfortably-circumstanced class of people residing immediately north of the Sundarbans. Many people there, who derive a competence

<sup>1</sup> The grants here referred to are those which have been made by Government under rules promulgated from time to time for the encouragement of reclamation in the Sunderbans. The lands covered

by these grants are tracts of Sunderban waste which are not included within Zamindāris under the Permanent Settlement. — (H. J. S. Cotton.)



either from a tenure in land or from commerce, have also some taluk in the Sundarbans, and they form, for the most part, successful reclaimers. They have just enough money to enable them to carry on Sundarban reclamation with success; and they are not rich enough to leave everything in the hands of agents, and, by forgetting their direct interest, relax the enterprise. Many of them also have raiyats of their own in their older-settled lands, and can use them for their newer lands. It is to the class to which these men belong that the greater part of the agricultural improvements and extension since the Permanent Settlement, is owing, and the advantage of having men of this class as Sundarban talukdars was strikingly shown in 1869. The raiyats lost very much indeed by the cyclones of that year; and the loss would have been sufficient to paralyze the whole reclamation scheme, but that these talukdars, immediately connected as they are with the grants, at once came forward to give their raiyats the necessary assistance, drawing only upon the little surplus of money they had at their homes. Larger Zamindars require to have these matters brought home to them, and even then, expect their raiyats to settle matters themselves; these smaller men at once appreciate the whole case, and step into the gap.'

While the old-established 'jôt' and 'gânthi' of Jessore are founded on the clearing right, modern gánthis are now much connected with the Zamindars' arrangements for rent-collection; still the gánthidars have much to do in the way of promoting cultivation and settling the villages. Mr. Westland says that these 'tenures are, whatever the law may say, understood by the people to be fixed.' Their right is so firmly established, that, according to Mr. Finucane, the Zamindars do not think of contesting it<sup>1</sup>.

### § 15. *The hawála.*

The 'hawála' of the Sundarban tracts of Khúlná, Bákirganj, and Noákháli is so named from the Arabic word signifying something placed 'in charge of' or 'consigned

<sup>1</sup> There is a report on the jôt and gánthi of Jessore by Mr. Finucane in the printed selections from the

*Correspondence on the Preparation of Tables of Rent-rates.*



to a person. The tenure implies the grant by a superior landlord, of a certain limited area of waste for reclamation. The hawáladár settles some cultivators on the land, advances them a little money wherewith to erect homesteads, buys ploughs and cattle, and advances seed for sowing; he then realizes rents from the cultivators and pays his own quit-rent to the superior landlord. The tenure is permanent, but the quit-rent is not absolutely fixed (unless there is a grant in set terms). Mr. Cotton says :—

‘This point has been settled by the Courts and is admitted in many cases by the hawáladárs. But it so happens that the tenure of the hawáladár has often, either intentionally or through carelessness, been perpetuated . . . and that the hawála has been sold, re-sold, and transmitted by descent. . . . In such cases the hawáladárs naturally claim permanence of terms and fixity of rate.’

In the Noákháli district there are some considerable Government estates, and consequently the exact position of the hawáladár has come up for determination. Under the Settlement law of Bengal Act VIII of 1879, they were treated as ‘occupancy raiyats.’ Their rents were settled under Sections 5 and 6 of the Act, but not on the principle of charging them with the total of all the sub-rents, less a specific percentage deduction. Agreeably to this concession, they were to pay a certain lump sum to Government as determined by the Settlement officer, and are free to make their own contract arrangements with the actual cultivators. I presume that now, under Act VIII of 1885, the hawáladár will come within the meaning of ‘tenure-holder.’

The extract from Mr. Westland’s Monograph, given in the last paragraph, forcibly reminds us how, coming *under* permanent waste-clearing tenures, smaller sub-tenures also arise: the tenure-holder finds he has more land than he can manage, and he sub-lets a portion of the surplus; his sub-lessee, for the same reason, again sub-lets. The hawáladár creates an ‘ausat-’ (corruptly áshat) hawála, also called ‘ním-’ (or half) hawála. The sub-lease of this is the





'nīm-ausat-hawāla'; and then again a 'nīm-ausat-nīm-hawāla' (fortunately shortened into 'tīm-hawāla')<sup>1</sup>.

### § 16. *Taluqdārs of Chittagong.*

Under the head of tenures I ought to mention the taluqdārs of Chittagong. On the Permanent Settlement being made with the heads of groups or tarfdārs, the individual settlers or taluqdārs became tenure-holders under them. The position also of the 'nauābād' taluqdārs or new settlers who came in after the Settlement, has also to be considered; but as it would be inconvenient to break up the account of Chittagong into parts, I have put everything relating to that district under one section which follows.

### § 17. *Jalpāigūri Jōts.*

The cultivated land of this district is held by 'jōtdārs' who are described as descendants from original settlers who appeared as mere squatters on the waste and prepared a portion of it for cultivation. As land was more plentiful than labour, a large part of the holdings still remained under jungle; and now, as usual, the jōtdār sub-leases to tenants called 'chukanidārs'; and as these cannot manage it at all, they sub-lease to others called 'dar-chukanidārs.'

In the Western Dwārs Settlement, the jōtdār has been recognized as a tenure-holder under Government as proprietor<sup>2</sup>; but as originally his right was regarded as a strong one—a sort of quasi-proprietary right—he has been allowed an unusually large margin of profit by the Settlement.

<sup>1</sup> Original hawālas are distinguished by added names indicating any little peculiarity. Thus, in Tipperah (Tipra), I find that an 'izhāri hawāla' means a tenure which is claimed by the holder but not recognized by the Zamīndār (who takes the rent all the same). 'Mirās hawāla' will be one acknowledged as having been inherited; 'qāimi hawāla' will be one with fixed rent; 'karāri hawāla' one with certain conditions attached; 'raiyaṭi hawāli' one with express

conditions for rent-enhancement. All these terms, therefore, formidable as they look, mean little or nothing from the tenure point of view.—See *Statistical Account*, vol. vi. p. 405.

<sup>2</sup> The tenure is heritable and transferable, but the power of sale is limited; the Bhutān custom was that a sale could not be made to the prejudice of any one who would succeed in the event of the death of the 'jōtdār'.—*Statistical Account of Bengal*, vol. x. p. 284.





The rights of the sub-lessees are protected by a record of their rents, and the *pattas* provide that the rents are to remain fixed during the term of Settlement, unless and until the jôtdâr can show that the payments to him have given him a less profit than 50 per cent. on the revenue he pays to Government, or the chukanidâr can show that he is left a less profit than 30 per cent. on the rent he pays to the jôtdâr.





## SECTION VII.—CHITTAGONG TENURES.

§ 1. *Origin and growth of Tenures.*

Mr. H. J. S. Cotton, some years ago, published a graphic memorandum on Chittagong Revenue-history<sup>1</sup>, and I cannot do better than substitute, for any abstract of my own, the paragraphs Mr. Cotton has himself put together in a recent printed memorandum on Tenures in Bengal.

The land-tenures, it will be observed, are—

- (1) the proprietary estates of the petty Zamíndárs or tarfdárs who were the connecting links between the State and the families who cultivated;
- (2) the subordinate tenures of those individuals and families whose rights—as usual in Bengal—are described as taluq holdings;
- (3) the tenures of cultivators who came in after the Permanent Settlement, and whose cultivation was therefore described as 'new' (*nau-ábád*), and whose holdings are nauábád-taluqs.

Chittagong is certainly an instance of a country to which the ideals of the Permanent Settlement were wholly unsuited. Obviously enough *now*, the Settlement should have been *raiyatwári* with the several taluq-settlers: not only does the 'tarfdár' proprietor bear more than usually strong marks of being a purely artificial landlord; but as the different taluqs under him are scattered one here and one there, his estate must be practically unmanageable, were it not for the strength of the individual taluqdár's position, which frees them from any direct interference.

'The origin,' writes Mr. Cotton, 'of the peculiar system of land-tenure in the Chittagong district has, in my opinion, been

<sup>1</sup> *Memorandum on the Revenue History of Chittagong*, 1880; Calcutta, Secretariat Press. By H. J. S. Cotton,

Collector and Magistrate of Chittagong.





correctly stated by the Commissioner, Mr. Lewis, in a recent report submitted to the Board<sup>1</sup>, as follows:—

“During the turbulent times preceding the final Mahomedan occupation of the district, small settlements of ‘*khúshbásh*’ cultivators appear to have been formed in different directions. As soon as the Mahomedans finally established themselves in the country, the first step was to collect rents from these men, who, to save themselves from the annoyance and trouble of visits from the revenue underlings, attached themselves to some person having influence at the Nawáb’s court, and paid their revenue through him; hence these self-elected agents came to be called *tarafdárs*, from the Urdú word *taraf*—on the part of—a partizan<sup>2</sup>. Hence it is that each *taraf* is a mere aggregate of taluks, as these ‘*khúshbásh*’ holdings came to be called, the component parts of each being scattered in different villages and different thánas. Such a thing as a compact estate is unknown in Chittagong.

“The taluqdárs must have chosen their own *tarafdár*, otherwise we would not find every estate, whether large or small, scattered piece-meal over the district. Had the *tarafdárs* obtained the land and settled taluqdárs, or had Government farmed out the collections to *tarafdárs*, it is quite clear that such a fragmentary division would have been avoided—opposed as it is to all facility for collection. Looking to the facts as they stand, it seems to me perfectly clear that the popular belief is the correct one, viz. that the taluks were the original clearances, and that for their own convenience these taluqdárs elected to pay revenue through the agency of certain individuals known as *tarafdárs*, an aggregate of such scattered holdings forming a *taraf*.”

“In this manner the large tracts of jungle existing in Chittagong were taken up in the first instance by taluqdárs or jangalbúri [jungle-clearing] settlers, while the work of subsequent reclamation went on by the agency of the same class. I agree with Mr. Lewis that it was the intention of the Govern-

<sup>1</sup> No. 72 C.T., dated 8th December, 1882, paragraph 13.

<sup>2</sup> The term ‘*khúshbásh*’ (P., being at ease) is used all over India to indicate a tenant or settler invited to take up his abode at a place under promise of protection and favourable terms. The word *taraf*,

it may be remarked, also means a section or ‘side,’ as when a village is divided into ‘*tarafs*’ or major sections in Northern India; so that ‘*tarafdár*’ may also imply the headship of a group or section, i.e. of the cultivating settlers or taluqdárs.





ment of Lord Cornwallis to fix the demand against these taluqdárs at the time of the Permanent Settlement. In the correspondence<sup>1</sup> of the time, reference is made to the "fixed jamabandi raiyats," and the necessity of seeing that the Zamindárs do not exact from them sums in excess of their engagements, is insisted on. In these allusions to fixed jamabandi raiyats there is no doubt that reference is made to the jangalbúri-taluqdárs, and it is evident that, in fixing the demand due from the Zamindárs or tarafdárs, it was intended that the amount payable by the taluqdárs should be fixed also, and that all of that class should continue to enjoy the same privileges which we find enjoyed by them at the time of the Permanent Settlement.'

### § 2. *Change in the position of the Taluqdár.*

'For some time subsequent to the Permanent Settlement, the rights and privileges of the taluqdárs appear to have been respected; but the tendency of late years has unfortunately been in an opposite direction. Even at the present day, however, though bereft of some of the privileges which used to attach to it, the taluq is still a valuable holding, and its possession carries with it something of a proprietary title. It is always considered to be permanent, and is, in consequence, called *qáimi*, although the taluqdárs are frequently persuaded into consenting to some small increase of rent, which under our laws militates against the claim of fixity of rate. A taluq is transferable and heritable, and a taluqdár can grant permanent leases without question. Roughly speaking, the entire district is divided amongst these taluqdárs, most of whom cultivate personally.'

<sup>1</sup> An extract from Mr. Collector Bird's letter, reporting on the proposals for the decennial Settlement, dated 14th January, 1788, is as follows: 'The rates and rules of assessment do not vary in any part of this province, and the raiyats are immediately redressed wherever it is found that the zemindárs exact anything beyond the established jamabandi, with their different abwábs which are specified in the accounts annexed.' The whole of this letter, with the accounts, will be found at pp. 55-61 of the *Memo-*

*randum on the Revenue History of the Chittagong District.* The statement there given shows the nature of the assessment: first, the assul-jumma, with its component parts; then the abwáb, mahtot, and other demands added to the assul, until the Government demand on a droon of land amounted to Arcot R. 15, annas 5, gundas 19, and 3 cowries. This amount is equivalent to R. 15, annas 13, gundas 16, in Sicea rupees; and for convenience of calculation has always been reckoned as R. 16 of the Company's coinage.



§ 3. *Etmámdárs.*

'Where, however, the holding is of any size, or where a person owns more than one, a portion only is reserved as "nij-jot" (home-farm), and the rest is leased to cultivators locally called etmámdár (the term is a corruption of ihtimám—a trust). An etmám is like the taluq, qáimi, and the rent is not theoretically subject to increase; but in practice, if the taluqdár is persuaded by a new auction-purchaser or otherwise to consent to some small increase, he generally manages to get some corresponding rise in the rent payable by his etmámdár. The etmámdár is also generally a cultivator, but he enjoys the same power as the taluqdár of granting permanent leases to under-raiyats. Hence the creation of "dar-etmáms" and "qáimi raiyati" leases.'

§ 4. *The Nauábád holdings (subsequent to the Permanent Settlement).*

[All land that was not held by taluqdárs paying revenue though 'tarfdárs' who became the landlords, at the Permanent Settlement, was outside the scope of the Settlement, and remained the property of the State. But as time went on, squatters occupied it informally, and then naturally questions arose about their position. They called themselves taluqdárs like the older cultivators. This large area of land, shown in a separate colour on the maps, was collectively called the mahál or estate of Government, and distinguished by the term nau-ábád—newly cultivated. The following is what Mr. Cotton writes about it.]

'The taluqdárs of the Government nauábád mahál base their claims on exactly the same grounds as do the other taluqdárs,—viz. on original reclamation of the soil. When Chittagong passed into the hands of the English, the policy of encouraging the reclamation of waste land and of granting rights to the holders or taluqdárs, such as existed under the Mogul administration, was carefully adhered to. Accordingly in May, 1761,





a proclamation<sup>1</sup> was issued, inviting people to take up waste and bring it under cultivation. The reclamer was only required to record the amount of his reclamation and was to be assessed at the established rate. The immediate result of this proclamation was a considerable extension of cultivation which was claimed by one Joy Naráyan Ghosál as having been brought about by his efforts; and in the measurement of the district in 1765 the new nauábád taluqs were grouped and recorded under pattás granted by him, as "taraf-Joy Naráyan Ghosál." Subsequent measurements made from time to time recorded the increased area of land brought under cultivation. In 1796, the grant under which Joy Naráyan Ghosál claimed to be "tarafdár" of all new lands brought under cultivation, was declared to be a forgery, and his rights were confiscated by the State. But the rights and privileges of the nauábád taluqdárs were obviously unaffected by this action, and, as a matter

<sup>1</sup> An extract from the proceedings of the Chittagong Council, dated 12th May, 1761, is to the following effect: 'Taking into consideration the vast quantity of lands that have been laid waste for many years past from the dissensions between the people of this province and those of Arracan, and as an encouragement to every one who will undertake the clearing and inhabiting these lands again, agreed that a proclamation be put up and publicly declared throughout all parts of the province, that whatever persons will undertake the clearance of such lands shall for the first five years be excused all rents and taxes whatever; that at the expiration of that time their rents are to commence at the usual rate of lands in every other part of this country; and that a guard shall constantly be kept there to protect them from any insults of the Muggs or other foreigners; and to prevent hereafter disputes regarding the property of the land when cleared, every person who shall engage in the inhabiting and clearing of them shall first register his name in this office, and every month send an account of what quantity he has cleared, for which pottahs shall be immediately granted him.'

The effect of these orders is to create precisely a junglebooree taluq as defined in sec. 3, Regulation VIII of 1793, as follows: 'Taluqdárs also, whose tenure is denominated *jungalbári*, and is of the following description, are not considered entitled to separation from the proprietors of whom they hold. The *pattá* granted to these taluqdárs in consideration of the grantee clearing away the jungle and bringing the land into a productive state gave to him and his heirs in perpetuity the right of disposing of it either by sale or gift; exempting him from payment of revenue for a certain term, and at the expiration of it, subjecting him to a specific *ast-jama*, with all increases, *abwáb*, and *mahlat* imposed on the *pergunnah* generally, but this for such part of the land only as the grantee brings into a state of cultivation. And the grantee is further subject to the payment of a certain specified portion of all complimentary presents and fees which he may receive from his under-tenants exclusive of the fixed revenue. The *pattá* specifies the boundaries of the land granted, but not the quantity of it until it is brought into cultivation.'





of fact, they were clearly recognized by the Collector at the time of the confiscation.

‘It is impossible in this memorandum to describe the subsequent history of the nauábád taluqdárs. It has become the subject of an elaborate and intricate correspondence, extending over a period of ninety years, and a variety of conflicting orders have been passed from time to time by the highest authorities; the rights of the taluqdárs have again and again been emphatically asserted and they have been as emphatically denied<sup>1</sup>.’

‘The Re-settlement of nauábád lands was ordered in 1872. It was then decided that the position of a nauábád taluqdár was that of a tenure-holder in an estate the property of Government. Under orders then passed, the Settlement has been based on the rents actually paid by the cultivators: no intermediate tenures have been recognized<sup>2</sup>, the proprietary title has been held to belong solely to Government: and the taluqdár himself been treated as a sort of rent collector with little more interest in his holding than that possessed by a farmer.’ . . .

‘The Commissioner has now challenged the propriety of the conclusions at which the Government arrived, and on which it founded the orders on which the Settlement has been made.’

It has been decided (see section on Settlement, p. 492) that the holdings are liable to re-settlement, but it has been conceded that a number of these shall not be re-settled at present, which puts them on the same basis as other holdings to which a fifty years’ settlement was conceded in 1848.

### § 5. *The Island of Kutubdia.*

‘The title of the taluqdárs of the island of Kutubdia rests upon the same origin as that of the taluqdárs of the mainland. They were declared by the Settlement officer in 1834<sup>3</sup>—

<sup>1</sup> The subject is discussed by me at length, with full extracts from correspondence, in a note recorded in the Board’s office, dated 7th February, 1883. A copy of this note was submitted to Government with the Board’s letter No. 693 A, dated 18th August, 1883.

<sup>2</sup> Under orders passed by Govern-

ment, paragraph 7. No. 993, dated 13th April, 1878, it was directed that certain intermediate holdings should be recognised, but these instructions were not properly carried out.

<sup>3</sup> Mr. Plowden’s Report, No. 34, dated 29th September, 1834, paragraph 14. But of course if the





“to hold a jangalbúri tenure differing in no respect from the description of that denomination of tenure as laid down in Section 8, Resolution VIII of 1793. These dependent proprietors, under the above section, enjoy a permanent, hereditary, and transferable right of occupancy, privileges to which they have always considered themselves entitled; for whilst in some cases the original jangalbúri taluqdárs are still in possession, others have become proprietors in right of succession as heirs of the original clearers of the land, whilst a third class rest their claim on the deeds of purchase or gift executed either by the original grantees or their heirs.”

‘In the recent Settlement of the island, the title of taluqdár has been retained, but practically the taluqdárs have been treated as occupancy raiyats, and the Settlement records do not contain any entries of the holding or rental of the actual cultivators. The claim to hold at fixed rates was strenuously asserted, but it has not been admitted. In one case only a taluqdár contested the principles of the Settlement in the civil court, but unsuccessfully, and the others appear to have accepted the situation.’

clearing had not been made in 1793  
it did not follow that the settler  
would be entitled to any quasi-

proprietary or permanently settled  
estate under the Regulation.



## SECTION VIII —THE LAND-TENURES OF ORISSA.

### § 1. *Early History.*

Only a part of what is now the Midnapore district constituted the 'Orissa' comprehended in the grant of the *Díwání* in 1765. For the purposes of this section, however, I include both the old and the modern Orissa: in other words, I go beyond the Subarnrekhá river which now forms (roughly speaking) the provincial boundary, as far as the Rupnarain river further to the north-east.

First, taking the modern Orissa only, as to its general features; I have before noticed that it consists

- (1) of certain Tributary States furthest inland;
- (2) of certain Permanently Settled Estates next beyond them towards the coast;
- (3) of the flat, rice-growing country called the *Mughalbandí*, which was the chief seat of Temporary Settlement operations; and
- (4) a swampy coast-line.

The 'Tributary States' are not properly part of British territory: they are the home of various relics of primæval tribes, the *Kandhs* (sometimes written *Khonds*), *Sávars* or *Saurás*, and others; they present great attractions to the ethnologist. The *Uriyá* people or *Uráoñs* (Dravidians from the south by origin) seem, at a remote period, to have conquered the whole country.

The primæval tribes were not altogether displaced by the *Uráoñs*, but the two races apparently co-existed. The *Uráoñs* in some parts left the aborigines alone in such fastnesses as the *Bod State* (where the *Kandhs* now are), or the hills to the south, where the *Sávars* are (or in *Keunjhar*, where the curious *Bhúmiyás*, who claim to be *autochthones*, and the leaf-wearing *Jawangs* are found). In other parts they took the ruler's place, seizing, of course, the best lands for their chiefs. Sir W. W. Hunter has extracted for





us, out of the old official records of Orissa, a most interesting account of the Kandhs<sup>1</sup>. That I must pass over, merely remarking that the Kandhs exhibit the same peculiarity as other Kolarian tribes. They had no organization above that of tribal families in villages, these again being loosely grouped into circles under petty chiefs.

The Kandhs (as is the case with other tribes similarly situated) have hardly settled down from the nomadic stage, in which cultivation is practised by firing the forest and raising a crop or two by the aid of the ash-manure. Where they are more confined as to space, there the tribe has finally settled, and lays claim to the whole area occupied, while the families have their allotments which remain undivided until the death of the family-head<sup>2</sup>. It is this head of the family who is everything. There is, of course, the necessity for protection from enemies and wild beasts, which causes a number of families to group together; they arrange their residence like the people of Kánara<sup>3</sup>, where the 'village' site is in fact a single street with houses on either side, and at the end the huts of the menial caste and artisans, who supply the needs of the residents. The villages are often divided by rugged peaks and dense forests, but the only organization is that as each village is under a headman, so a group of villages—probably the 'sept' or section of a tribe—forms a 'mutthá'<sup>4</sup>; and the chief of the sept is over the mutthá. This exactly resembles the village union called *parhá*, and the chief (*mánki*) which we shall notice in Chutiya Nágpur.

The Uráóns had a much stronger government; and, indeed, like those southern (Dravidian) states about which

<sup>1</sup> Orissa, vol. ii. p. 69.

<sup>2</sup> In their native settlements they change their villages once in about fourteen years. 'Priority of occupation forms the sole origin of right. No complicated tenures exist, every man tilling his own field and acknowledging no landlord. Where the population begins to press heavily on the territory of the tribe, they parcel out the waste

for pasturage among the village hamlets.'—Orissa, ii. 77.

<sup>3</sup> Cf. p. 106, ante. In such a village a headman is a necessity, and becomes still more so when the tribe is brought into contact with a conquering Rájá or some one mightier. He is, however, elected and only partly hereditary, and has no particular emoluments or authority.

<sup>4</sup> Orissa, ii. 70.





we shall hear so much in the Madras Presidency, they had an organization which it is very hard to distinguish from the Aryan or Rájput. We find the same gradations of rank; first, a great chief over the whole nation, with his central demesne; minor chiefs on the frontiers, and a system of militia to guard the marches, and to keep the peace within.

At a remote period, however, Orissa became the scene of Rájput conquest; and the Jagannáth records, though Brahmanical, and naturally inclined to ignore everything non-Aryan, leave no doubt that the Rájput or Aryan settlement must have taken place long ago and assimilated the institutions of the villages and states of the non-Aryan tribes: so that the present state of things is due—(1) to the Dravidian organization; (2) to its modification by the Rájput system which supervened, and later by the Mughal conquest which tended to convert the Rájput fiscal, police and military officers into landlords; (3) the action of the brief and ill-established Maráthá rule, in arresting the growth of the landlords, and pushing forward the heads and managers of villages and smaller estates.

It has been suggested that the Aryans really copied and adopted the earlier system<sup>1</sup>. I must be content with merely noting the fact, adding that in Chutiya Nágpur we clearly see how the Dravidians strengthened the Kolarian village system, linking it on to their own State organization of chiefs and courtiers, by adding to the village an *accountant*, or fiscal headman—the ‘bhúin’ of Orissa, the ‘mahto’ of Chutiya Nágpur.

### § 2. *The organization of the Orissa-Rájput Kingdom.*

As to the Rájput organization of Orissa, we find that the Rájá occupied the level and fertile plain as his demesne, or, as it would be called in Rájputána, his ‘*khálsa*.’ All round were the hilly frontier tracts which were held by chiefs called ‘*khandáits*.’ This term, derived from the

<sup>1</sup> See Chapter IV, p. 119, and *Orissa*, ii. 207.





Uriya 'khandá,' a sword, was applied not only to the great frontier chiefs who kept the marches, but also to the military chiefs of all grades who were located within the king's demesne. The hill states were protected by the 'forts' at which the chiefs resided, and hence the territories came to be known collectively in Muhammadan times as 'Garhját.' The estate-owners were called 'Qila'dárs'<sup>1</sup>.

We may dismiss the Garhját chiefs from further notice; the Mughals and Maráthás never interfered with them beyond exacting a tribute and nominal allegiance: they have now become the 'Tributary States' or 'Maháls' of the Regulations, and are under political control only<sup>2</sup>.

The 'demesne' itself was also portioned out into many estates; for there was a large military force to be maintained, and estates also called 'Qila' were also formed on the margin, which estates became the 'Zamíndáris' and were admitted to a Permanent Settlement as noticed in the chapter on Settlements. The ordinary districts were divided for fiscal purposes into 'Bísí' or 'Khand'—territorial tracts under a Desmukh, Bissái, or Khand-adhipatí, aided by some military chief or 'Khandáit,' whose 'páiks' or military retainers were supported by small rent-free holdings. The district officer, who was to the district what the headman was to the village, had a district accountant (Bhúi-múl) to aid him, and a village accountant also was subordinate to him in each village. Every one of them had lands held in virtue of office (a Dravidian institution), which laid the foundation of those estates or tenures dealt with in our own Settlements at the beginning of the century.

But besides supporting the military chiefs, the king made grants within his demesne for the support of the priesthood<sup>3</sup>, for his family, and for his ministers and courtiers. Some curious survivals of these grants are

<sup>1</sup> 'Qila' means a fort in Arabic, as 'garh' does in Hindi.

<sup>2</sup> This was judicially decided. See *Indian Law Reports*, viii. 985 (Calcutta Series).

<sup>3</sup> The existence of the sacred temple at Púri ensured many lands being granted revenue-free for the worship of Jagannáth.





mentioned in the reports. They were called by fanciful names, perhaps representing the *titles* given to the holders; thus we have the grant of 'The Lion's Cub' (Chhuál Singh), that of Hari Chandan, of Sudhákár (the receptacle of nectar), Utsal Ránájit (grant of the exalted conqueror), 'Beg' (grant to some Afghán adventurer), and many others.

### § 3. *Effect of the Mughal Conquest.*

When the Mughal rule supervened, the district organization was scarcely changed, except by the substitution of Persian names: the 'khand' or district became the *par-gana*. The military and civil heads remained on their own lands, but were called 'chaudhari,' and probably with ill-defined functions; the accountant became the *kanúngo*; and the village the 'mauza,' with its head or accountant variously named according to locality and the tribal origin of the village itself.

'Two centuries,' writes Sir W. Hunter, 'of conflicting usage followed (1567-1751). During that period of confusion and chronic rebellion, the Muhammadan governors were only too glad to secure the revenue for each current year without any nice scrutiny of the machinery by which they collected it . . . What they wanted was a body of powerful native middlemen who should take the trouble of dealing with the people off their hands, and who should have both the power and local knowledge enough, to enforce the revenue demands against the individual villages<sup>1</sup>.'

The body of hereditary Hindu officials thrust into this position, soon came to act like landlords; if it had not been for the intervention of the Maráthá period, they would probably have become absolute landlords under the British system.

<sup>1</sup> *Orissa*, ii. 221.





§ 4. *Illustration of the growth of Land-officers into Landlords.*

Before noticing what relies of the 'estates' of the kanúngos, chaudharis, and others survive, I would call attention to the very instructive account which Sir W. Hunter gives of their *means of growth*; because this, though written of the Orissa districts, really explains the growth of 'Zamíndárs' and others everywhere in Bengal.

First of all, these officers were all *appointed*; but as soon as the Government became weak and relied upon the local knowledge and power of those who were its instruments, it followed almost necessarily, that the son, or other competent near relative of the last man, stepped into his shoes; and the right of *appointment* practically became softened into the right of *confirming* or issuing a 'sanad' to the new man, and perhaps taking a fee or present by the governor. In the end the 'sanad' was discontinued, and there was then nothing but a *tacit recognition* of the succession.

The opportunities<sup>1</sup>, then, of these fiscal officers were, first, that they were practically hereditary; they were responsible for the revenue, and therefore had large powers in realizing it; they also had the right to retain a nominal percentage and various charges or heads of expense in collecting: really they kept whatever they could collect over and above the fixed sum they had to pay in to the treasury. They had their official holdings of revenue-free land; they had the profits of bringing new waste and abandoned lands under cultivation,—all the newly-settled cultivators of course looking to them as their direct head or 'landlord.' They had various dues and cesses, rights over fisheries, pasture lands, thatching-grass, bamboos, jungles, forests, transit dues, and the like. What wonder, then, that in time such officers should become landlords? And be it observed, all this process of growth is the more

<sup>1</sup> See Orissa, ii. 230.





possible because, in the *individual villages*, there is no strong proprietary right. The actual cultivators who are residents (tháni) are practically proprietors of their holdings, just as much as the Kandh families were of their lands; but the long-continued effect of the Rájá's rule, and the encroachments of the grantees and others who took the royal share within the grant, reduced the *resident* cultivator to being nothing more than a *permanent occupant with a hereditary right*: it was no one's interest, as long as government was settled, to reduce them lower than that. In North India we have seen that as the *grantee's* family multiplies and divides, it produces a number of individuals or families holding each perhaps a single village as the share of the estate; and then, in time, they appear as the actual proprietary body owning the village (which then becomes a 'zamíndáří' or a 'pattidáří' village of the text-books).

§ 5. *Circumstances limit the growth.*

In Orissa the process was arrested by the fact that there were certain greater fiscal chiefs who kept the Bissais (kanúngos) *subordinate* to themselves; but furthermore it was arrested by the fact that when the Maráthás came, they checked the growth of these incipient landlords. Wherever we come across a tolerably settled form of Maráthá government, we shall again and again notice that the Maráthá at once did two things: he imposed a quit-rent on revenue-free holdings—thus avoiding the odium of wholly resuming them; and he ignored the middleman system, went straight to the villages, and made use of the *headman* as the distributor of rents, holding him primarily responsible for their collection. It was only in the outlying tracts where the Maráthá rule was uncertain, that the governors granted large farms and took all they could grasp before the day of destruction. So it was in Orissá; the village heads were resorted to, with the result of greatly increasing their power: as usual, in many cases





inefficient headmen were turned out and replaced by 'sarbarákárs' or managers; exactly as in the Central Provinces, a 'pátel' who did not give satisfaction was replaced by a 'málguzá' or revenue-paying manager.

§ 6. *First British policy.—Absence of great Zamíndárs.*

When our rule began in 1803, no attempt was made to introduce the Permanent Settlement or its laws. I have described the chief features of the Orissa *Settlement* before<sup>1</sup>. I have here only to speak of the *tenure of land*. It is unfortunate that our reports so often speak of 'Zamíndárs,' as if Orissa had been permanently settled, and as if such an institution had existed generally. There are in fact hardly any 'Zamíndárs' in the Bengal sense<sup>2</sup>. There were a few of the 'Qila's' or chiefs' estates lying on the edge of the royal demesne (which it will be remembered was the scene of our detailed Settlement), and a few of the greater fiscal officers, who had retained such a hold over the whole of the pargana, that our first administrators thought fit to acknowledge them as proprietors, and give them the benefit of a permanent revenue. Then there were a certain number of kanúngos' estates, and those of other chiefs and grantees (of which I have spoken). Of these some were regarded as subordinate to the greater estates, and others were allowed to be independent and were treated as proprietary.

The larger number recognized as 'landlords' were the headmen, 'muqaddams' or 'sarbarákárs' of *villages* (in some places the local names, 'pradhán,' &c., survived.)

As regards the class of large 'landlord estates,' the latest return I have shows only 174 such estates (permanently assessed), viz. 23 in Katák, 3 in Púri, and 148 in Balásor<sup>3</sup>,

<sup>1</sup> See p. 473.

<sup>2</sup> The proclamation of 1803 issued on annexation, spoke of zamíndárs, meaning 'landholders' generally. See *Orissa*, ii. 257.

<sup>3</sup> The larger estates are called

Zamindari in Regulation XII of 1805, and the sanads were so worded. I find, for instance, one of the Khandait chiefs (Sakinda estate) giving his 'qabúliyat' or engagement setting forth that he



while the smaller village and other estates, temporarily settled, exceed six thousand.

### § 7. *Smaller Landlord Estates.*

Putting aside the few great estates called 'Zamíndarí,' the bulk of estates which came under Settlement were smaller properties,—holdings of kánúngos, chaudharis, courtiers, grantees, and revenue-free holders. They are described as 'talúq,' and are called after their origin 'talúq chaudharí,' the estate held by the chaudharí, and so forth. These estates should not be described as 'tenures,' as the term has a special or technical sense in Bengal. I may repeat that when we speak of 'holders of tenures' in Bengal we now mean interests of the second class existing *under* a recognized landlord. But in Orissa the larger number of the landholders we are speaking of became Settlement-holders direct with Government.

One of the results of the former rule had been a system of *selling* estates and villages, nominally, but not always actually, waste; and a number of those who had purchased such estates became 'proprietors' and their estates were called 'kharídadári,' 'patná,' and 'khárija' (i.e. lands outside any other recognized estate).

### § 8. *Revenue-free Holdings.*

There were also many revenue-free estates<sup>1</sup>. Some of these, of course, were petty rent-free holdings under other

had been 'appointed to the service of Zamindár' in his Qila' by the Government, and that he would pay the revenue and keep the raiyats prosperous, &c. (see *Statistical Account of Bengal*, vol. xviii. p. 123). In Katak the old records showed that of 1779 proprietary or quasi-proprietary estates, 16 only were called 'Zamindarí' and the rest 'talúq.'

<sup>1</sup> Mr. Stack mentions that the

claims to *lákhiráj* decided by Deputy Collectors amounted to 277,925 (*Memorandum on Temporary Settlements*, 1880, p. 580). The Maráthás imposed a 'tankhí' or quit-rent on many such tenures, consisting of 1 tankhá or rupee of the time per 'báti' of 20 'mán.' The Orissa 'mán' is closely equal to the English acre. A number of these tenures were settled at half rates under the British Settlement.





proprietors. The rule was that such holdings, when admitted as valid, were treated as proprietary estates if they exceeded 75 acres, and as subordinate (tenure) interests if smaller.

Among the smaller rent-free holdings figure many belonging to the 'páiks' or old militia; and some were called 'jágírs' or 'dográ' (literally 'stick-holder')<sup>1</sup>.

### § 9. *Village Heads become Proprietors.*

In many cases the village heads, especially those who had *purchased* the villages, and others whose actual position demanded the step, were settled with.

### § 10. *But artificial Landlord rights rarely created.*

The Orissa officers, as is amply testified by the valuable notes they have left on the land-tenures, and which Sir W. Hunter has turned to such good purpose in his *Orissa*, were under no necessity for *creating* landlords: and, as Sir W. Hunter remarks, 'putting aside very quietly the theories of distant bureaucrats, the local officers proceeded laboriously to construct a system in accordance with the *actual facts*.' Hence the variety of estates actually recognized. But while a number of larger or smaller proprietary estates were recognized, and the owners held the Settlement, the mistake was not made of leaving undefined the power of the estate-holder, or letting the question of the rent-payments of subordinate holders be doubtful. The estate-holders' interest was strictly limited by the procedure at Settlement. The officers went direct to the villages and fixed the rents of the *thání raiyats* (who really were the original individual proprietors—only, as I have explained, they ceased to claim so high a position). This done, there was a fixed total rental, of

<sup>1</sup> The *Statistical Account* notes that, in 1875, sixty-five of these existed in Katák district, covering 8339 acres.





which part went to Government and the rest to the 'proprietor.'

§ 11. *Grades of interest—how provided for.*

But though the proprietor was one, he had often to share the profits with other persons interested—as, e.g. *first* the *sarbarākār* of the village, *second* a dependent taluqdār.

In our Settlements, whether there was a proprietor over the village or not, the headman, muqaddam, sarbarākār, parsethi, pradhān, or whatever his local title, was allowed to collect the rents and manage the village and receive a percentage for his trouble; and so with the 'kharīdadārs,'—headmen by purchase of reclaimed or new villages<sup>1</sup>.

Practically, therefore, the difference between the nominal landlord and the inferior interests is represented by the larger or smaller share of the rental fixed at Settlement.

§ 12. *Protection of Tenants.—The Thānī Raiyat.*

The cultivators are, as I said, protected by rents fixed for the term of Settlement, if they are 'thānī' or resident; and the Rent Law of 1859, still in force<sup>2</sup>, protects the *pahī* tenants who have fulfilled its terms.

The 'thānī' cultivator is in fact a 'sub-proprietor' in everything but the name. 'Rooted to the soil,' wrote Mr. Sterling in 1821, 'he has a local habitation and a name, a character known to his neighbours, and a certain

<sup>1</sup> In the *Statistical Account* (vol. xviii. p. 307) will be found a discussion as to the origin of the 'sarbarākār' as distinct from the muqaddam or headman (the Muhammadan equivalent of barūā, pradhān, or other local names). As to the 'parsethi,' the explanation of his being a *town* headman (p. 134) is very unlikely: most probably he is the headman of a later colony, i.e. a village of modern foundation (see p. 310). The sarbarākār's right was the subject of judicial decision in 1859. The per-

centage he gets under the Settlement represents no right in the soil, but is a collection allowance only. But, as a matter of fact, the village total payment to the proprietor being fixed, the sarbarākār gets the benefit of an increase in the rental when alluvial land is formed and let out, or when waste in the village is occupied. The tenure may be (if so proved by custom) heritable and transferable, but the holder is liable to be removed for misconduct.

<sup>2</sup> See p. 432.





degree of credit thence resulting, which enables him to borrow from the maháján (money-lender) and secures him a settled market for the disposal of his produce.' He is exempt from demand of 'chándniyá' (a payment—chándina—made by outsiders for the use of a site in the village); he is allowed a bit of rent-free 'khánabári' or garden-ground near his house<sup>1</sup>, also a rent-free patch in his holding called 'talmundá,' or a nursery-ground for his rice-plants.

'A preference,' adds Mr. Sterling, 'is given to him in cultivating the lands of village láchirájdárs (revenue-free, —the aimá, debottar, &c., lands, so often spoken of) when the holders do not themselves handle the plough; and his sons and brethren, and even he himself, may cultivate untenanted land as "pahí" raiyats in their own or any other villages.'

### § 13. Midnapore.

I include the district of Midnapore in this notice, though the greater portion of the district, being the old Orissa of 1765 (all in fact but the Patáspur pargana), came under the Permanent Settlement. The tenures now found in the district are those which are usually found described in Persian terms of the Mughal system and that of the Regulations, and again and again repeated in the *Statistical Account*. There is the usual array of Zamíndáris, the resumed 'láchiráj' estates, and the 'baháli' [i.e. those not resumed, but that remained in (ba) their own state (hál)]. Under them are the usual 'talúqs' or *tenures*,—'patnís,' 'ijárás,' and the like. Of these no special mention is here required. A certain number of special jungle-clearing tenures (but sometimes granted out of favour) exist under the name of kámdurá. They are heritable and trans-

<sup>1</sup> The reader will also note the same custom in Assam. There is an exceedingly good account of the village (exactly resembling the villages all over Bombay and Madras) in *Orissa*, vol. ii. p. 241, and there

the differences of *Brahman* villages are noted. As the Brahman could not plough, the whole cultivation was done by the aid of tenants, which resulted in some peculiarities.





ferable. I also notice favourable tenures called 'panchaki,' seemingly identical with the 'upanchaki' of Rangpur<sup>1</sup>. It is also worthy of notice that the revenue-free tenure or 'aimá' seems to have been here created, not for the support of religious persons, but as a favourable tenure for cultivating the waste. As it is not entirely free, it is called 'málguzári aimá.' No rent is paid for some years, and then the rent progresses to the rate usually paid in the pargana for similar lands. Some of these tenures in pargana Balrámpur are said to date back before the Permanent Settlement; others, under the same name, are more recent.

To this class also belong what are known as 'mandali jôt' tenures in Midnapore, which are nothing more than the holdings of certain men who were set to reclaim the waste (ábádkár), undertaking that a lump sum of rent should be forthcoming. From time to time the terms of the bargain were readjusted. Naturally the ábádkárs became the *mandal* or headmen of the new villages. They had a higher status than ordinary resident raiyats; and they were entitled to make their own terms with their cultivators, thus getting a considerable profit out of the difference between the lump rent they paid and the total of the collections from cultivators. Their tenure became transferable by custom.

<sup>1</sup> See pp. 540 and 586.





## SECTION IX.—CHUTIYÁ NÁGPUR TENURES.

§ 1. *Interest attaching to the Tenures.*

The tenures of these districts have a peculiar interest for us, because here (and in Santália) we have one of the centres in which we can trace pretty clearly one of the earliest native methods of landholding in relation to the State, which are so interesting. Just as Oudh and Rájputána, and to some extent Orissa, give us the best information regarding the Rájput or Aryan organization which has so profoundly affected the constitution of village communities, so Chutiyá Nágpur is a centre which enables us to reconstruct the organization of Kóls and Dravidians, the latter being great colonizers and conquerors, like the Rájputs; and this organization is probably identical with what once existed in Gondwána (now the Central Provinces and Berar) as well as in Southern India<sup>1</sup>.

§ 2. *General Description of the Country.*

The Chutiyá Nágpur country covers an area of about 46,000 square miles. It consists of a series of table-lands rising in succession from 800 to 3500 feet above the sea-level.

On each terrace are well-cultivated plains, and the borders of each are scarped and forest-clad hills. The plains themselves are dotted over with wooded hills. In the east of the division are the tribes known as Mundas, Hos, and Santáls (Kolarian); in the west are Korwás (Kolarian

<sup>1</sup> The materials for this sketch are Mr. J. F. Hewitt's paper on Village Communities in *Journal, Society of Arts*, vol. xxxv. p. 613 (May 1887); 'Chota Nágpur, its People and Resources,' by the same author (*Asiatic Quarterly Review*, April

1887, vol. iii.); an interesting 'Official Paper' in the *Calcutta Gazette*, 17th December, 1880, on the Lohárdagga District; and the volumes of the *Statistical Account of Bengal*, relating to the Division.





also). The independent States along the frontier of the Central Provinces are Gond (Dravidian). There are Bhúyá tribesmen in the States of Gangpur and Bonai, and in the (British) Singbhúm and Mánbhúm districts. In some parts there are also Uráóns. These are all Dravidians.

It seems that the Kolarian tribes are the earliest inhabitants, and the Uráóns and Bhúyás are invaders; in fact, part of that great wave of conquest made by the Nágá (snake-worshipping) people, who advanced far up to the Ganges valley. The Santáls are Kóls; they moved from Orissa to Hazáribágh to escape the Maráthás, and then, in the middle of the last century, settled in the hills which are now known as the 'Santál Pergunnabs.'

### § 3. *Kól and Dravidian Organization of Land.*

Of these tribes some appear to have had but little organization, but to have lived by shifting or temporary 'júm' clearings in the forests<sup>1</sup>. But in the plains they formed settled villages with a headman over each (mundá). The Nágá races in their advance, where they did not drive out the weaker tribes, admitted them, as it were, into their confederacy, and the system became one—that is to say, the Kól village system was strengthened by the Dravidian military organization, which was very like that of the Aryans.

There were senior chiefs or Rájás of territories, who had a central domain, while all around, estates were allotted to the lesser chiefs and to the servants of the kingdom,—some, as usual, on the frontier, being charged with keeping the passes. The villages, as usual with all earlier colonizing systems in India, show no sign of a joint claim to a defined area of soil. Such a right appears, rather, to arise at a later stage, when some petty chief gets a hold over the village by grant or otherwise, and then claims to be, in that little circle, what the Rájá was in his larger domain. His claim is distinctly *territorial* and is focussed on a

<sup>1</sup> See p. 116, *ante*.





small area, so that it is distinctly felt in a way that the Rájá's general claim over a large area cannot be. When, in course of a generation or two, this chief's descendants form a considerable body, these *jointly* claim the entire area as a body of 'landlords'; or, dividing it up into ancestral shares according to their descent, constitute what the books call 'pattidári' communities.

We have now to see how the Kolarian village system was modified by being taken into the Dravidian system.

The Kól tribes had no central government. The tribal groups, distinguished by a flag<sup>1</sup>, were called 'parhá,' and over which was a chief called 'Mánki' or 'Mánjhí.' These were independent; they might meet for counsel and combine for defence, but often they were at war with each other. The parhá territory was divided into villages, each under its 'mundá' or headman, who was hereditary. There was a 'páhan,' or priest; but he was tribal, not local.

The Dravidians did not alter this organization, but their chiefs and Rájás took the rule over the *mánkis*, who, having no special estates, dropped into a secondary or inferior official position. What distinguished the Dravidian plan, was that in every village the Rájá or the chief took a *certain area of land*, the whole produce of which went to his State granary. It was easy to carry out this plan, because the whole village was divided into lots, according to certain principles. The lots were called (originally) 'khúnt'—a term said to mean stock (Latin *stirps*), and imply the allotment for a family group of the same order. The term 'khúnt-káti,' or the clearer of the holding, is still a term used to mark the right which, in the public estimation, attaches to the clearer of the primeval jungle. The 'khúnts' consisted of plots of different qualities of land, and in some places were periodically re-distributed, so as to give the person who enjoyed each a certain equality of advantage<sup>2</sup>.

<sup>1</sup> These are still displayed at ceremonial or festive gatherings.

<sup>2</sup> In the Chutiyá Nágpur villages we find an institution which is common in Southern and Western

India: where the level land was cultivated with rice, some uplands, called 'tanr,' to supply grass and stuff to burn for manure, were allotted with each holding.





When the Dravidians conquered, and desired to find a 'lot' in the village for the Rájá (or chief in an estate not held by the Rájá himself), it was easy to do so by a slight re-adjustment of the 'khunt' system.

#### § 4. *Official Allotments.—Royal Lands.*

Originally it seems that a lot was reserved for the old tribal mánjhí—and this became the Rájá's royal farm, and was called majh-has. The 'bhúínhár,' or original families (founders<sup>1</sup>) of the village, had their allotments. One of these was for the headman, mundá, whose family was of course 'bhúínhár.' Another was for the priest (láyá), which was subdivided into a lot for the *village* god (grám deotá bhút-khetá), and the district god (desaulí bhút-khetá); the Dravidians added a third, the earth-god, or deity of the whole nation (whose secret symbol was the snake)—this was called 'dálíkátarí<sup>2</sup>.' It is hardly necessary to add that petty allotments were made for the support of the village menials—watchmen, &c., and the artisans, not forgetting the 'ojhá,' or witch-finder.

#### § 5. *Changes effected by the Rájás.*

In the course of time, but very early in the history, the Rájás became dissatisfied with merely the produce of the 'majh-has,' and began to levy a grain-share from the land generally, but always excepting the official and religious allotments. In this stage all the land that paid the share was called 'Ráj-has' land. Possibly this was in imitation of the Kols. This people paid no regular revenue, but used to give informal offerings of grain to their tribal chiefs, which may have suggested to the Dravidian Rájá to make a regular or formal levy of grain. Then it was that the Rájá grafted on to the old village staff, a steward or

<sup>1</sup> Called also Khunt-káti (clearers of the lot).

<sup>2</sup> These were again subdivided, as e.g. into 'páni-bhará' for sup-

port of the priests' assistants who carried water: 'murghi-pakowá' for those who cooked fowls on festival and ceremonial occasions.





headman, in the royal interest, and called 'Mahto.' This official was provided with an *ex officio* land-holding (called 'mahtoái), like the earlier village authorities. In order better to provide for the tillage of the majh-has lands, the king also established allotments (called bet-kheta) for labourers who cultivated the royal farm; these allotments were held revenue-free.

When these changes were accomplished, the lands in each village became distinguished as (1) majh-has, (2) the bhúínhári and other privileged lands, (3) the other lands paying a royal share and called ráj-has accordingly.

### § 6. *Later condition of the Village Lands.*

When the Rájá's dominion passed away, the 'majh-has' land became the special holding of the person, whoever he might be, that retained or acquired the superior or quasi-landlord right over the village. Meanwhile the idea of *lots* for cultivation was carried further than is above indicated; for, after these original allotments were provided for, there remained all the rest of the available waste and other land. At the present day we find it held by a variety of what we may call tenants, as distinct from the 'búín-hárs.'

In some villages, a lot of the land is called sájwat or khundwat, meaning that it was held by tenants who had cleared the jungle: these were not the original village founders, but people called in at a later period to extend the cultivation and, as 'first clearers,' were to some extent privileged. Then there would be a large area of 'jiban,' held by people who got the right to cultivate a certain area (defined by local measures, with reference to amount of seed required), and here the holdings were not fixed, but were distributed from year to year by exchange. Then another part of the available area would be held by ordinary tenant-labourers, called 'útkár.' This distribution of area varied according to locality and circumstances. In some places, settlers of other tribes admitted,





were called 'khorkár,' holding rent-free for three years, and then paying half rates. I find also tenancies called 'báibalá,' 'áriát,' and many others. One called 'jalsázan,' or water-providing, meant a permanent tenure, where the holder got the angle of a ravine, dammed it up, and so formed a small tank; then he carefully terraced some rice-fields below, which he watered from the tank.

§ 7. *Later history of the Rájás.*

The Muhammadan conquest brought no real change to the local chiefships; the holders were accepted as Zamíndárs, and some of them got *sanads* on submitting to pay a 'peshkash' or tribute.

But among themselves, the usual course of events overtook both chiefs and Rájás: quarrels, feuds, and the usurpations of the more energetic members of families who threw off their allegiance, occurred. Some families rose, others fell. At first the seat of the chief authority was at Patkúm (Mánbhúm district); but, in time, 'the chiefs, who had previously governed outlying provinces under the control of the descendants of their first leader, proceeded, like the Maráthá chiefs who separated themselves from the authority of the Government at Satára, to set up independent kingdoms for themselves; while the Patkúm chiefs sank from being lords paramount to being merely subordinate barons.' These changes appear to have come about gradually, and without such violent disturbance as would have left traces in the traditions of the country<sup>1</sup>.

The next change was one that also happened in Assam. Brahmans and others began to penetrate the country, and in time the chiefs were 'Hinduized.' As usual, they became 'Nágbañsi' Rájputs, and adopted caste. The result was that the outsiders began to get lands and influence, and to override the rights of the original inhabitants, causing much discontent.

<sup>1</sup> *Asiatic Quarterly Review*, vol. iii. p. 410.





When British rule began, some of the surviving Rájás chiefs, and grantees, were recognized as 'Zamíndárs,' with a Permanent Settlement; and then, as landlords, they began to grant 'talúqs' and 'ijáras<sup>1</sup>,' or farms of their villages, to eject tenants and enhance rents, on the (ráj-has or) revenue-paying lands. A few peculiar land-tenures are the result of the chiefs becoming Zamíndárs. They made grants for their brothers, called 'Háki-máli,' 'Kunwarkár,' &c. (according to locality), for relations called 'Khor-o-posh.' A number of these obtained recognition separately, and became Permanently-Settled estates. When the old Rájás (or their successors) became 'Zamíndár' landlords, the *majh-has* lands became their home-farm or special property, unless rights had arisen in them, owing to grants, family divisions, &c. as might be the case. The 'ráj-has' became the ordinary 'tenant-lands.' The landlords did their best to reduce to a minimum the rights of the 'bhúínhárs,' in their free allotments; and this led to so much discontent as to cause rebellion in 1831-32, and again in 1858. The districts were then (by Regulation XIII of 1833) separated from the Regulation Districts and placed under the 'South-West Frontier Agency,' the political control being guided by simple administrative rules. At the present time the districts are 'Scheduled Districts' under Act XIV of 1874. The Revenue-sale law has never been enforced.

### § 8. *Modern attempts to adjust rights.*

In 1869 it was determined to put an end to the uncertainty and discontent which arose from the encroachments of the landlords, who had ignored the old tenures, and infringed the bhúínhári rights. Bengal Act II of 1869 provided for the appointment of a Special Commissioner, whose duty was to define and record all classes of rights.

<sup>1</sup> Thus, for instance, in Mánbhúm, the Zamíndár of the Barábhúm estate had granted the entire par-

gana on an ijára or managing lease for 21 years to an English firm of indigo planters.





It is stated (but on this matter I am not competent to form an opinion) that the Act does not correctly represent the real state of affairs. I understand that it does not apply to the 'rāj-has' or ordinary proprietary lands, in which the tenants of all classes have their holdings. Tenants there have the protection already afforded them by the Rent law, presently to be mentioned. The Act certainly makes no mention of the 'rāj-has' lands and their tenants, but directs that a record of rights shall be made, giving an accurate list of the lands that belong to the majh-has class<sup>1</sup>, and those which were 'bhúinhári'—i.e. set apart for the hereditary headman, mahto, priest, and privileged families. It was to be ascertained what were the services required from, and the rights enjoyed by, the holders.

Anciently the theory was that no 'bhúinhár' (of an original founders' family) could ever lose his lands; so that after years of absence he might return and claim it from the present holder. This was so far recognized by the Act, that a bhúinhár who had been dispossessed, could claim to be restored if his loss occurred within the twenty years preceding 1869. No tenure originating within twenty years was to be recognized as really bhúinhári, unless it was a proved case, not of originating, but of re-gaining, a former bhúinhári *status*<sup>2</sup>. The bhúinhárs had been so long made to pay *some* rent to the 'Zamíndár,' that this could not now be reversed; but the holder could claim to commute any service he had to render, for a money payment.

<sup>1</sup> Including the bet-kheta holdings of the special tenants who work the majh-has land.

<sup>2</sup> I have mentioned that rice-land holdings were accompanied by a certain appendage of hilly upland, which supplied grass, wood, and stuff to yield ash-manure, &c., for the rice. No doubt originally the allotment of such areas among the

villages and tribes was well understood; but in time the Rájás and others encroached, and so the bhúinhárs, though always allowed certain rights of user in the waste near the village, were not given an actual right over the waste (tanr) unless they could prove a definite occupation and possession.



§ 9. *The Chutiyá-Nágpur Tenancy Act.*

The value of the record made under this Act is to a great extent secured by the existence of another special Act—(B.) I of 1879—which regulates the relations of landlord and tenant in Chutiyá Nágpur.

This Act makes no attempt to draw any theoretical distinction between tenants and tenure-holders, but speaks of taluq-holders and persons having a permanent and transferable interest in land, as well as of raiyats. A twelve years' holding gives a right of occupancy to a raiyat in all lands *except* in the majh-has lands, or in waste reclaimed by the landlord (the khámár of the Permanent Settlement), or in his 'nij-jot' or home-farm, or in lands called 'mán' lands (held in virtue of office<sup>1</sup>), or as 'saiká,' i.e. lands held by contract from year to year, or under a contract containing express stipulations.

The usual rule was made about holdings which have paid the same rent since the Permanent Settlement; they are unenhanceable. Moreover, no tenant who is a 'bhúín-hár' or a 'khúnt-káti' (the reader will now understand this term) can be enhanced, except on proof of custom or a written agreement; and a number of tenancies specified in Section 20 are similarly exempt. All occupancy tenants, as such, are liable to enhancement *only* on certain terms stated in Sections 22, 23, 24.

§ 10. *Ghátwálí Tenures of Mánbhúm.*

A special notice of these tenures, which exist not only in Chutiyá Nágpur, but in Monghyr (Munger), the Santál Pergunnahs, Bánkura, and other districts, will throw some

<sup>1</sup> The reader will note how the landlord claim had grown. The old Rájá was content with his majh-has and his grain-share; but the Zamín-dár took, besides waste which he reclaimed, private lands of his purchase or original possession; and had land (mán) held—no doubt free

of revenue—in virtue of his office, a privilege one would have supposed to be already provided for in the *majh-has*. The exemption of the special holdings of the landlord from the growth of tenant-right is on the usual principle observed in modern Indian Tenant Acts.





light on the Permanent Settlement and its effects, as well as on the influence of revenue-free grants, in originating tenures. (See Book I. Chap. IV. Sec. iii. § 9.)

The outlying districts of a conquered country were, as I have before stated, usually occupied by chiefs who were bound to maintain a force to keep the passes. In the end it often happened that these very forces proved a source of trouble; instead of defending, they attacked; and the 'Polygar wars' of Southern India originated in this manner.

When the Permanent Settlement arrangements were made, there were a number of local chiefs all round the frontiers of Chutiya Nágpur, in Rámgarh (Hazáribágh), Singhbhúm, Mánbhúm, &c. Their territories adjoined the more settled districts, and formed what were called 'the jungle maháls' in early days. Our administrators accepted these chiefs as 'Zamíndárs,' imposed a small and fixed revenue, and left them very much to themselves. In Mánbhúm this was the case. In the days before 1793, and even at the Permanent Settlement, we hear nothing about ghátwáls, under that name at least. In 1793, indeed, there is some mention of 'paikán' lands; but they were virtually looked upon as lands for the support of rural police or páiks, which did not demand any special notice.

But the existence of ghátwáli lands was a matter of real importance, for it is to be remembered that in these tenures not only is the chief (*the Ghátwál par excellence*) entitled to his privileges, but every head of a troop in his own grade and rank, and every militia man, had his lesser share in the privilege—a certain area of land revenue-free, which he either worked himself, or, if his caste and rank demanded it, let out to his own tenants. When, therefore, the chief of the locality became 'Zamíndár,' and the collections from the raiyats became his rents, it followed that every acre or bighá that could be claimed as held by a subordinate in ghátwáli tenure, was so much cut out of his profits: he got nothing but (at most) a small quit-rent from it. The sort of militia men who held the land, were taken over, so to speak, by Government, who tried to organize them into





rural police and make them render service; and there were, from time to time, Regulations passed with this object. Such subordinate tenures represented a very large area of land, and they were held by a series of holders in a graded order.

In 1877-78 the inefficiency of the local police called attention to the system, with the result that, under the Bengal Survey Act V of 1875, it was determined to have a survey and record of all the ghátwálí lands, and of the rights of the Zamíndár and minor ghátwáls respectively, so that disputes might be at an end and proper service demanded in return for the holdings allowed. Mr. Risley, C.S., was in charge of the ghátwál survey of Mánbhúm, and submitted to Government an elaborate report. The report is somewhat difficult for the uninitiated to understand, but it is full of curious information.

It appears that ghátwálí lands were found in 25 out of the 38 parganas of the Mánbhúm district; there were 591 holdings, covering an area of 785,192 standard bighás, or 408 square miles<sup>1</sup>. These were distributed among 1974 persons, who formed the organized body,—organized, that is, according to their own custom.

The chief grantee has become the 'Zamíndár,' and under him the various grades are as follows:—

At the head of a group of villages, now called a taraf, is the 'sardár-ghátwál,' or leader, of whom there are twelve in all, and they, of course, have the largest holdings. There is also a body of 'digwárs,' and náib- (or deputy-digwárs, whose functions formerly were to 'show the way,' i.e. guide or protect travellers and caravans in transit. They are now subordinate heads of small companies of 'tába-dárs.' In the ghátwál villages there were headmen called 'village sardárs,' and persons called 'sadiál,' about whose origin there was some doubt. It was first supposed that they were 'sarbarákár,' or managing collectors of rents<sup>2</sup>; but their true position seems to be

<sup>1</sup> Report (No. 6, dated 20th Dec., 1883) to Board of Revenue, § 7. These tenures represent the shares of various grades,—sardár-ghátwál,

digwár, náib-digwár, sadiál, village-sardár, and tába'dar, as will appear presently.

<sup>2</sup> In the special note on the





that of chiefs of the 'parhá' (the old Kolarian union or group of villages); being thus a relic of earlier times they were respected, but in subordination to the 'taraf-sardár.' The rank and file are the 'tába'dár,' who have their petty holdings. The local name for ghátwál is 'chhuár'¹.

It must be remembered that this is the country of the Bhúmij Kols. There seems reason to believe that the militia-organization was created *over* and amalgamated with, the *village* organization on the Kol system. The village lands being divided into lots or 'khúnts' held by the office-bearers and original settlers, the tába'dárs represent the body of ordinary village landholders: the village sardár represents the mundá, and the sardár-ghátwál and sadiál take the place of the 'mánkí,' or chief of the 'parhá' or union of villages.

It did not follow, of course, that the whole of the chief's (now become Zamindár's) lands were held by his subordinates on ghátwáli tenure: some were so held, others as ordinary tenancies: and, as there was no real knowledge of land-measures in old days, it became a burning question at the survey what lands should be demarcated as ghátwáli, i.e. held on that favourable tenure, and what as 'mál,' i.e. land liable to pay full or tenant-rent to the 'Zamindár.'

The ghátwáli lands were described in various ways, e.g. as 'land sowed with one maund of seed' (which may be taken as about eight bighás), or as so many 'rekhs'—a rekh meaning a sixteenth of the total cultivated area, whatever that might be. The consequence was, as might be expected, that the minor ghátwáls got to claim, and hold, a good deal more than they were really entitled to; and that any attempt to define would, under the large licence of

Barábhúm pargana, Mr. Risley discusses the 'sadiál' at length, and thinks he was a real part of the system—a senior chief.

¹ The ghátwáls are not good cultivators, and the lands are poorly managed. Notwithstanding their poverty, 'the sardár-ghátwáls keep up the pretence of being Zamindárs. They have seals, execute 'sanads,'

and grant muqarrari rights in complete disregard of the nature of their own title. They even keep so-called 'diwáns,' disreputable Hindus, who do whatever writing is necessary and absorb whatever profits are to be made out of the lands. Even the sadiáls and village-sardárs copy this system on a small scale.' (*Report*, § 43.)





dispute given by the Survey Act, result in the ghátwáls claiming more on one side, and the Zamíndár striving to reduce the allotments on the other. In one case it happened that the original estate-holder—the old Bhúmij chief, who had first been transformed into a Hindu 'Rájá,' and then into a Permanent-Settlement Zamíndár—had granted an ijára or managing lease of the whole pargana to an English firm. These gentlemen were, of course, anxious to watch every demarcation; it was the Zamíndár's interest to see that no more was allowed as 'ghátwálí' land than could be helped. In Mánbhúm there was fortunately a kind of list of the ghátwáls, with their rights stated in *rekhs*, &c., drawn up in 1833, and spoken of as the 'Ism-navisi' (or 'nominal roll' of ghátwáls). Mr. Risley gives reasons at length for relying on this; and in the pargana we are speaking of, it was made the basis of a compromise by which certain lands were demarcated as 'ghátwálí,' the rest becoming 'mál' or liable to rent to the Zamíndár. In consideration, however, of the fact that many of the rent-payers were probably the original clearers of the land, even though not entitled to it on ghátwálí terms, they were to be allowed a rent-Settlement at fixed rates, something in this way: the holders were to pay fixed rates per bighá; the Zamíndár took 50 per cent. from the headmen of tarafs (sardár-ghátwáls and sadiáls); the 50 per cent. that remained was then shared according to fixed percentages between the grades of ghátwál; 25 per cent. to the village sardár, and so on.

The ghátwálí tenure does not carry with it any *title* to a share in the village upland waste or 'tanr,' but certain rights of user are allowed.

The ghátwálí land is not held entirely free. It pays the landlord a 'panchak' or quit-rent<sup>1</sup>. But extra land pays rent and the 'márgan' or cesses.

<sup>1</sup> The use of this term throws light on the 'panchaki' and 'upanchaki' tenures; (p. 573). Calculating on the old fashion of sharing the grain,

'one-fifth' would be a light share, as a full rent was often the half or very commonly the 'panch-do' or two-fifths.



§ 11. *Similar Jágir Tenures.*

Somewhat analogous to the frontier police tenures were the jágir grants found in Palámau and Lohárdaggá, and called báráik, cheru, and bhogtá. They were grants of land held on condition of the holder being ready to turn out armed at any moment to defend his Rájá's lands and make reprisals<sup>1</sup>.

§ 12. *Law relating to Ghátwáls.*

I shall not go further into detail regarding the law of ghátwáli tenures, as this can be found at p. 256 of Finucane and Rampini's *Tenant Act* (2nd ed.) There are ghátwál grants created under the Mughal rule (as in Bírghúm, and now in the Santál Pergunnahs) which have become proprietary tenures, alienable and governed by Regulation XXIX of 1814, and Bengal Act V of 1859. Others (as those of Kharakpur in Munger) are on a different footing; they are not alienable (without consent of the superior), and the ghátwál may be dismissed by the Government, or the Zamíndár, as the case may be, for misconduct.

Police ghátwáls, like those of Mánbhúm, are on a different footing; if the ghátwál is dismissed for misconduct, he forfeits the holding<sup>2</sup>.

<sup>1</sup> For further details, see *Statistical Account*, vol. xvi. p. 371, &c.

<sup>2</sup> See *Indian Law Reports*, vol. v, Calcutta Series, p. 740.



SECTION X.—THE TENURES OF THE SANTÁL PERGUNNAHS<sup>1</sup>.§ 1. *General Account.*

The district was made up (1) by the withdrawal from Murshidábád of some of the Zamindari tracts; (2) from Bírghúm of certain parganas belonging to the Nagu Rájá's estate; (3) from the Bhágálpur district, of certain Zamindari tracts, as well as the hilly territory known as the Rájmahál Hills, and formerly called 'Jungle Terry' (jangal tarái). The chief feature of the district, indeed, is this hilly tract, forming a broad strip beginning at the Ganges and extending downwards to the south-east corner, which is indicated on the map by a separate colour showing it to be a 'Government estate.' It is locally known as the Dáman-i-Koh, and here no formal recognition of any proprietary right has been made, though, of course, the occupants have all their interests practically respected and recorded.

The Santáls colonized this district about the middle of the last century. In consequence, the population is a mixed one, although it is evident that the Kol village system was generally prevalent.

§ 2. *The Permanently-settled portion.*

I. In that part of the district taken from the older collectorates on the east, west, and north-west, all the earlier settled tracts are under the Permanent Settlement, and their tenures exhibit no peculiarity, except that they have all been surveyed and rights recorded under Regulation III of 1872. Here (as elsewhere under the Regulation) the

<sup>1</sup> For this section I am mainly indebted to a *Report on the Settlement*, by Mr. C. W. Bolton, and to a *Note*

*on the Tenures*, by Mr. W. Oldham, kindly prepared expressly for my work.





village headman is employed to collect the rents from his villagers, unless there is any special reason for allowing the Zamindár directly to interfere in the management. The village headman will be a 'mánjhi' in a Santál village, a 'pradhán' in other tribal villages, and a 'mustájir' or a 'mandal' in the Bengálí villages. The office and its appurtenances cannot be transferred by sale. For every raiyat actually cultivating at the time of Settlement, and whose name was entered in the Settlement proceedings, after due inquiry, as the occupant, it has been recorded that he cannot be ejected without an order of Court. This refers to tenants who have not already a right of occupancy, so that *all tenants have virtually rights of occupancy*. A further effect has been that the tenures so recorded, no matter of how short standing, are bought and sold and sub-let: whether such transfers will hold good against the Zamindár (or his rent-farmers—patnidárs, muqarraridárs, &c.) has yet to be decided. But a portion of this Zamindári and Permanently-Settled tract may be distinguished by the fact that the great mass of the cultivators are Santál immigrants. This consists of the portion nearer the hills, and where there is much forest to clear. Here especially, the rules about the headmen as managers, and the occupancy rights above stated, are applicable.

### § 3. *The Dáman-i-Koh.*

II. The Dáman-i-Koh itself is entirely distinct. It was originally occupied by Pahária or 'hill' tribes under local chiefs who got spoken of (though that, of course, is only a Persian office nomenclature) as 'sardárs' and 'naíbs.' As early as 1780 this tract was placed on a special footing; no revenue was demanded from the Pahárias, who roamed the tops and sides of the hills, living by shifting cultivation in the forest (júm<sup>1</sup>). Government made a cash allowance monthly to support the 'sardárs' and 'naíbs'; and then left the land and all its products to the

<sup>1</sup> Locally called 'Kurowabári.'





people, contenting itself with declaring, but never otherwise practically asserting, its own title. The valleys lay uncultivated till the Santáls immigrated and established villages under their mánjhís or headmen: these have now been settled and their rights recorded under the Regulation. They are thus tenants on a Government estate. The mánjhí pays direct to Government, receiving 8 per cent. on the collections as his commission.

This immigration has confined the Pahárias to the hill-sides. 'In the hills,' says Mr. Oldham, 'left to themselves, tenures innumerable have grown up among them. Every hill is claimed as private property and the hills are bought and sold.' . . . 'None of their claims have been acknowledged by Government, and are all at variance with its declaration that the Dáman-i-Koh is its own and the inhabitants its direct raiyats.'

#### § 4. *Law of the District.*

The whole district called the 'Sonthal (Santál) Pergunahs' was removed formally from the Regulation law within the limits stated in Act XXVII of 1855 (amended by Act X of 1857). But the managers of the several Zamíndári estates, and especially some of the contract-farmers, had been in the habit of oppressing the people, by raising their rents, and that even in the case of those who had cleared the jungle and therefore ought to have been respected. In 1871 the ill-feeling culminated in a very general agitation. In Mr. Bolton's report will be found in detail the various complaints which the local inquiry elicited<sup>1</sup>.

It is to the credit of one of the Zamíndárs, the Mahárāja Gopál Singh of Maheshpur, that some of the main sugges-

<sup>1</sup> As a specimen it may be noted that a European contractor from a Rájá had (in 1267, Bengalerá) taken a seven years' contract for R. 30,052, the jamabandi or rent-roll being R. 41,566. At the close of the lease he had run the rents up to R. 81,637. He then got a lease for another seven years at R. 50,000 (thus making

a profit of over R. 31,000). Four years later the rental was run up to R. 1,12,296. Granted that some of this was due to extended cultivation or legitimate increase, a rental rise of 270 per cent. in twelve years, could not have been effected without grievous oppression.





tions on which the Regulations of 1872 are based, came from him. They were, that the whole body of the 'Regulation' laws should not be enforced<sup>1</sup>; that the cultivator of a first clearing should not be ousted, but that the rent should be adjusted by a public officer; and that no cesses beyond the rent so fixed should be levied.

Regulation III of 1872 declares what laws are in force, and limits the interest that may be levied on debts to 24 per cent. as a maximum, any agreement to the contrary being disallowed, and compound interest in no case being permitted. The interest is also never to exceed the principal debt, and if the interest is for not more than a year, it is not to exceed one-fourth of the principal.

The rest of the Regulation is taken up with the Settlement and record of rights. The decisions of the Settlement Courts are to have the force of decrees. Mr. Bolton thus describes the chief provisions of the special Regulation:—

'The Settlement Officers were to inquire into, decide and record the rights of Zamindárs and other proprietors, the rights of tenants or ryots, the rights of manjhees and other headmen as against both proprietors and tenants, and also any other landed rights to which, by the law or custom of the country or of any tribe, any person may have legal or equitable claims. The claimants must, however, have had possession personally, or through others, since the 1st January, 1859, a limitation of twelve years being thus fixed. (Section 12.)

'The record of rights must show the nature and incidents of the rights and interests of each class of occupiers or owners, or, if need be, of individuals. Notice must be given to the people on the Settlement Officer proceeding to a village to record the rights. (Sections 13 and 14.)

'The boundaries of each village must be demarcated, areas of waste or forest beyond the reasonable requirements of the village being excluded, unless one-third of the total area of the village is already cultivated or is fallow in due course of agricultural rotation, and such waste or forest has been hitherto enjoyed by the village. (Section 15.)

<sup>1</sup> It would seem that, in spite of Act XXVII of 1855, and partly owing to an erroneous legal opinion,

later Acts, and notably Act X of 1859, which worked great mischief, were practically put in force.





‘The Settlement Officers were empowered to review and modify any previous decision of the ordinary officers of the district, regarding the rights of manjhees and other village headmen, which was found erroneous. (Section 16.)

‘With regard to the manjhees and other headmen, it was laid down that any manjhee or headman who had lost his village since the 31st December, 1858, was entitled to restoration if he had a fair and equitable claim; and that he should not be excluded because he had been described as a mustajir or farmer. The Settlement Officers might abate the existing rents of manjhees or headmen if they were inequitable, or enhance them if they were low, the rates being determined according to the prevailing rates of the neighbourhood, the number of ploughs in the village, and other relevant matters. If necessary the lands might be measured. (Section 17.)

‘The following principles were to apply in the case of ryots :—

- ‘(a) Twelve years’ possession conferred occupancy rights.
- ‘(b) Ryots who had acquired occupancy rights before the 31st December, 1858, to be restored to possession, if justly entitled.
- ‘(c) Ryots to be held to have acquired rights of occupancy in fields taken in exchange for other fields in the same village in the same manner as if no exchange had taken place.
- ‘(d) Any custom regulating the mode of paying rents to the manjhee or headman to be recorded.
- ‘(e) The Settlement Officer to record the rents of the ryots, if they are fair and equitable. If they are not, he should inquire into and re-settle the rents according to the number of ploughs owned by each ryot, or the area of cultivated land held by him, or in any other manner which might be customary and equitable. (Section 18.)

‘After adjustment and record, the rents of both headmen and ryots shall remain unchanged for seven years, and thereafter until a fresh Settlement or agreement is made. (Section 19.)

‘In adjusting rents, the Settlement Officer might take into consideration the agricultural skill and habits of life of the rent-payers, or the fact that the headmen or ryots, or those





through whom they claim, had reclaimed the land from forest or waste. (Sections 20 and 21.)

The instalments of rent and dates of payment by ryots and manjhees or headmen respectively<sup>1</sup> were to be fixed by the Settlement Officer, who was empowered to alter existing instalments and dates if they pressed hardly on the people of any village. The amount and dates of the instalments are to remain unaltered until otherwise ordered by the Lieutenant-Governor. (Section 22.)

A record of local customs on the following matters was to be drawn up for every village :—

- (a) The existence of the office of manjhee or other village headship, and the duties and emoluments of each headman, and the customs of succession to the headship by inheritance, election, or otherwise.
- (b) The removal or suspension of a headman for misconduct, and the appointment or election to a vacant headship.
- (c) The devolution of the lands held by proprietors or under-proprietors or headmen, or cultivated by ryots, any custom contrary to the ordinary Hindu or Mahomedan law being noted.
- (d) The tenure of houses in the village, and the payment of ground-rents and dues by non-cultivating residents.
- (e) The duties and dues of village watchmen and other village servants, and their succession to, and removal from office.
- (f) The management and usufruct of the waste land, and other matters relating to the internal arrangement of villages.

The record of rights must be published by being posted conspicuously in the village or otherwise, and persons interested may bring forward objections in the original or appellate Settlement Courts. (Section 24.)

After one year from the date of publication the record of rights becomes conclusive proof of the rights and customs therein recorded, except in regard to those still under objec-

<sup>1</sup> It will be remembered that the headmen are constituted the sole rent-collectors of their villages, thus

saving the raiyats from having to deal with the landlord's officials.





tion before the Settlement Court. Such record having become final, shall not be reopened or modified without the sanction of the Lieutenant-Governor, save as provided by the customs of the village; but the Lieutenant-Governor may order the revision of any material error.' (Section 25.)

### § 5. *Special Land Tenures.*

The special tenures that deserve notice are the results of the Kol organization. As before stated, in the permanently-settled portions of the district, we have Zamíndárs with patnidárs and other tenure-holders leasing their estates in the usual way. These need no remark.

A considerable area of land is held by ghátwáls who employ farmers, 'mustájirs,' to collect their rents. The ghátwáls (as far as they differ from those described in Mánbhúm) will be described presently.





called 'mán'; thus, 'mánjhimán' is the headman's holding<sup>1</sup>.

In the Dáman-i-Koh, I may notice, only levelled and prepared rice-land is called 'zamín' (or in the dialectic form 'jami'). This is one of the many indications how little the *soil*, as such, is regarded as the subject of property; it is the cleared, prepared, utilizable surface, or, in other words, the use and productivity of land, that is regarded as the object of ownership. The Pahária, wandering about and getting a crop from the ashes of the burnt forest, is not regarded as owning any 'land.'

### § 6. Ghátwálí.

I have already described the tenures of this class in Mánbhúm: but the ghátwáls of Deogarh and other parts are, in some respects, peculiar, so that I may reproduce *in extenso* the account kindly sent me by Mr. Oldham:—

'It was the practice throughout the district, and in the portions transferred from Bírbbhúm, Bhágálpur, or Múrshidábád, for the great Zamíndárs to assign grants of land, generally at the edges of their estates, in selected passes (gháts) or other spots suited for forts, to check the incursions of the forest tribes, as the remuneration of the person or family entrusted with the guardianship of the pass, and of the specified number of armed retainers whom he was bound to maintain.

'This was the general character of the ghátwálí tenure. The grants were rent-free. The grantees held while they performed the conditions of their grant. The establishments of retainers varied much in size, according to the purpose for which they were wanted; and the extent of the lands assigned varied in proportion. Some of the holders were wardens of extensive marches, and their successors at this day occupy the position of considerable Zamíndárs. Other grants were merely for the purpose of checking the ravages of wild beasts; one in particular was given for the destruction of elephants.

<sup>1</sup> Note that here we have the same idea as involved in the *watan* of Central India.





'In the Bhágalpur district the grants were considered "police lands," and when the need for the grantee's services passed away, they were resumed by Government and held for some time as Government estates. One proprietor, however, appealed against this mode of dealing with them, and the Privy Council decreed that he, and not the Government, had the right of resumption; and most of those resumed have been restored and absorbed in the Zamíndáris, of which they formed a part.

'In the part of the district which once belonged to Bír bhúm, no resumption or restoration has taken place. The grants, with an exception to be noticed, are of small extent, and are still held as rent-free lands, and a nominal service rendered for them. Many of them have changed hands by sale and by encroachment, though such alienations are not recognized or permitted when known by Government.

'An exception to the ghátwáli, as thus generally described, is the subdivision of Deogarh, which consists entirely of ghátwáli tenures of a distinct kind. This country, which consisted of a forest tract, amid which rise precipitous, isolated hills, was held by a number of Bhúiya chieftains of an aboriginal or semi-aboriginal race, and was conquered by the Muhammadan sovereign of Bír bhúm about A.D. 1600. The conquerors, however, were never able to bring the tract into complete subjection, and at last effected a compromise with the Bhúiya chiefs, under which the latter were to hold half of their respective tenures rent-free, on condition of their maintaining retainers and performing the services of warden of the marches as above described. Engagements on both sides were never properly fulfilled, and in A.D. 1813 the Government finally intervened and concluded an arrangement with the ghátwáls by which their quota of rent was paid directly to itself, and they were still bound to render what the Government of the day styled their police duties.

'Their system of sub-tenures coincides with that existing in the precisely similar tenures in the Chutiya Nágpur division, on which Deogarh abuts. They held watch and ward, and maintained militia and police, and farmed out each village to a person called mustájir, on whom fell fiscal responsibilities only. These farmerships became hereditary, and consequently at Settlement, the holders were unwilling to accept the lower status and more onerous duties, as well as the restrictions as to sale and transfer, fixed for the village headman. They made





an application to the Government, which conceded in return the right of sale to mustājirs of certain specified villages.<sup>1</sup>

<sup>1</sup> The British Government made certain Ghātwalī grants to pensioned or invalided soldiers on the banks of the Ganges; these are known as 'Inglis (English) Grants.' In parts

of the district the (Persian) term mustājir has been naturalized and turned into mustāgir (with the hard *g* instead of *j*).





## CHAPTER IV.

### THE RELATION OF LANDLORD AND TENANT.

#### SECTION I.—THE LOCAL VARIETIES OF TENANTS' HOLDINGS.

THE preceding chapter has dealt with landlord estates or those involving proprietary right, and also with 'tenures,' technically so called, which form a sort of secondary class, intermediate between the first grade of interest and the lowest which is that of the *raiya*. Properly speaking, no fresh start is necessary before proceeding to describe *raiya* rights; an account of the varieties of these, as they are found in different districts, is as much a part of our study of Bengal land-tenures, as is the description of the Zamindár or the hawáladár. It is only the magnitude of the subject and the necessity for subdivision into sections, that makes me begin a new 'chapter' for tenants and their rights. In reality, a large number of the persons who have become legally tenants, but are still called by the old name of *raiya*, were the original soil-owners of, at any rate, their individual holdings. Their present position is due partly to their own decay, partly to the gradual overlaying of their rights by the growth of the 'Zamindárs'; it is therefore necessary to bear in mind that in Bengal, as in other parts of India, we must not be surprised to find 'tenants' many of whom owe their position to no kind of *contract* with any landlord whatsoever. That is a main point to be borne in mind. We may now proceed





to notice some of the local forms of *raiyyat* tenure, and then proceed to the history of the relations of landlord and tenant, and to the provisions of law actually in force. And first of certain very common terms describing tenants generally.

### § 1. *Main Classes of Tenants.*

In the ordinary revenue language, but hardly in the common speech of the people, tenants in the Permanently Settled districts were spoken of in two classes—‘*khudkásht*’ and ‘*pahi-kásht*.’ *Khudkásht* properly means a man who cultivates his *own* land; and, in reality, it points back to a time before the Zamíndárs’ time, when the village cultivator was either a member of a body which had cleared the waste and established the village, or had become, by conquest or grant at some remote date, the virtual owner of it. Where such persons were of a cultivating caste and worked their own holdings personally or with the aid of their servants, they were said to be ‘*khudkásht*,’ or cultivating their own. But there were always others in the village who, though not on the same footing, were nevertheless *resident* and privileged cultivators, just as we see in Panjáb villages at the present day. When the proprietary right of the village cultivators became lost or obscured by the turmoils of the times and the influence of overlords, both the original village owners and their resident help-mates became practically undistinguished, and were called *raiyyats* under the Zamíndár; but as both were by custom privileged, and were not liable to eviction, both came to be equally called ‘*khudkásht*’—with a slight change of meaning, for the word now implied tenants ‘cultivating in their own village.’ The ‘*tháni*’ (or *stháni*) cultivator is only a Hindí name for exactly the same thing; and ‘*chapparband*,’ the man who has his ‘roof’ or house ‘fixed’ in the village, is also the same. *Pahi-* or *pái-kásht* meant a man who came from abroad and took up land to cultivate without belonging to the village permanently. He retained





the appellation of origin, even though he in fact continued to till the land year after year.

As the modern tenant-law has given privileges, after a lapse of years, to the 'pahi' cultivators as well as to the *khudkásht*, the distinction found in the Regulations and in the older reports has ceased to be of practical import, and has given place to the legal distinction of 'occupancy' and 'non-occupancy' raiyat.

### § 2. *Local Names for Tenants.*

The common local names for tenants are various. 'Jot' is a term commonly used for any tenancy<sup>1</sup>, especially in the Bihár districts, where it has not the special meaning explained (in Chap. III. Sec. VI. § C, p. 546). 'Prajá' is a common word for tenant, and also 'karshá' (*Sansk. krishán*).

As regards the term 'jot,' Mr. Cotton remarks that it is used with the most elastic application. It has already been stated that in Jessore it means a class of persons who are in fact substantial *tenure-holders* with an acknowledged right to hold at fixed rates; and so it is explained in the district of Rangpur. In general the raiyat who holds direct from the landlord is called 'jotdár,' and his holding is a 'jot,' whatever its size, and which may, and does, vary from one paying a rent of one rupee to one of which the rent is half a lakh<sup>2</sup>. It will then be remembered that 'jot' may be either a 'tenure' or a raiyatí (tenant) holding according to locality.

### § 3. *Hál-hásila.*

In the Bhágalspur division a form of tenancy is spoken of as 'hál-hásila' (which means 'what has been realized for

<sup>1</sup> *R. and F. Ten. Act*, p. 33.

<sup>2</sup> The term 'jot-jama' merely implies that a lump rent is fixed on the whole holding, say, of five to ten bighás, including the site of

house and garden and paddy-fields. The rent is 'be-miyádi,' without a fixed term, or 'miyádi,' for a term, or 'sarásar,' fixed from time to time, and so on.





the time being, or actually'). This almost explains that the tenant is *only bound to pay according to the crop which actually comes to maturity*. The tenant cultivates such lands in the holding as he judges best, so that the fields occupied and the rent, vary from year to year; but it is understood that the tenure is a continuing one. Certain rates for each crop, called 'bera,' are known; and at the close of the year, the account is made out by taking the area of crops of different kinds matured, and working out the rent by aid of the 'bera' or rates<sup>1</sup>.

So much of the holding as is left fallow is either not paid for at all or according to a 'fallow' rate, as may be agreed on; but it will be observed that, whether fallow or not, the *entire area* is at the disposal of the tenant. The landlord has no power to hand over to some other person such fields as the tenant has not elected to plough up. It is said that these tenures are held by the higher castes, and that, in some cases, they are regarded as transferable, having been sold in executing decrees.

A modern form of this, only on a *yearly* agreement, is found on the banks of the Ganges and Kúsi rivers, by non-resident cultivators, locally called 'dotwár'<sup>2</sup>.

#### § 4. *Otbandi* or *Útbandi*<sup>3</sup>.

This is a new form of temporary contract tenancy, and only resembles 'the hál-hásila,' which is a permanent tenancy, in this one particular, that the rent depends on the *area* cultivated, and on the actual crop raised; nothing is paid for the fallow, if, as in some cases, the *útbandi*

<sup>1</sup> There is a more extended account in the *Statistical Account* (Purneah), vol. xv. p. 324, and Malda (vol. vii. p. 81). The questions there raised about an occupancy-right accruing, are all set at rest by Act VIII of 1885, under which it is not needed that the very same plots should have been continuously held.

<sup>2</sup> Unless the name is (as I suspect) a misprint for *actwár* or *ótwár* (as

in the following note).

<sup>3</sup> Commonly written 'utbandi.' Wilson gives it as a Maráthi word *Áút*, a plough, from Sanscrit *ayúdh*, a weapon. But Platt, with much more probability, spells it 'ot,' which means a 'scotch' (to fix a thing down); and hence a fixed rate for the use of a plough and pair of bullocks.





raiayat holds for two or three years; for it is a local feature that the land (owing to its infertility) must be given rest. This form of tenancy is commonest in Nadiya, but is found in Jessore, Murshidábád, and in Pabna under the name of 'Uthitpatít' or 'charcha jot.' It is said that 'jama'i' raiyats—i.e. tenants paying a lump rental for their holding—pay at rates about half as high as those which are paid by útbandi raiyats on their actual cultivation.

### § 5. *Grain-tenants.*

Before closing the notice of varieties of tenant, I must mention the 'bháoli' or grain-paying system of Bihár. The process of division is much the same as it is in the Panjáb, or any other place where it survives, or had survived till of late years. As usual, the grain division is effected either by weighing out the grain at the threshing-floor (agor-bátái), or by appraising the standing crop (dáná-bandi), in which case the tenant makes over as many maunds of the grain as it was estimated would be the share in the field as it stood. It is surprising how accurate an appraisement of this sort can be when made by persons accustomed to the work.

In Gáyá, it is said, four-fifths of the land is held on grain-paying tenures. I have found a report on these tenures written by Babu Bhúb-Sen Singh, of Gáyá, which graphically describes them<sup>1</sup>:—

'It is the distinctive feature of the grain-rents that the payment consists not in any fixed quantity but in a fixed proportion of the actual out-turn of the crops grown. The rent paid or payable accordingly varies from year to year. The land is tilled and the seed sown is supplied by the raiyat or at

<sup>1</sup> *Report on the Rent Bill in 1884.* The account is also curious as it is written from a strongly landlord point of view. When it is recollected that a large proportion of the bháoli tenants are what was once, in bygone days, the village proprietary body, and that the 'gorait'

whom the 'Zamindár maintains,' is one of the regular servants of the village community, and that the Zamindár was always bound to keep the embankments, the author certainly does not underrate the landlord's equitable interest in the cultivation.





his cost—the cost of hoeing and transplanting, of weeding and clearing, being also borne by him. But the water is supplied by the landlord at his own cost. The cost of gilandāzi (throwing up of earth), division of lands into plots, by *al* and *ail* (ridges) according to their levels, for the storage of the necessary quantity of water, and of erecting embankments on the banks of rivers for the protection of the villages from being overflooded, are exclusively paid by him. In dry years, when water cannot be supplied from rivers and village reservoirs and artificial water-courses, he pays the raiyat the cost of sinking wells. It is not only that the landlord supplies water for irrigation, but as the rise or fall in his income depends upon the increase or decrease in the produce of the lands, he naturally shows as much anxiety and takes as much care in the proper and timely ploughing thereof, as he would have done had he been a cultivator himself; and his servants are always found to be busy in superintending the tilling of the soil, the sowing of the seed, the transplanting of the rice, and so forth, according as the case may be.

‘If the raiyat’s bullock happens to die in the ploughing season, and the raiyat is unable to procure one in its stead, the Zamindār would come forward and help him with one, even at the risk of running into debt, if he is poor. Seed is also supplied by him in the same way. For similar reasons, the landlord is interested in seeing that the best crops are grown upon the land it is capable of producing. No raiyat has the right to sow any crop inferior to what the land is capable of producing, nor can he be allowed, without the express consent of his landlord, to grow crops for which, by the custom of the country, a cash rent is paid, or which are incapable of being appraised or stored in the threshing-floor or barn for division. From the time the crops are sown to the time they are appraised and stored, the landlord watches the crops with keen interest and protects them from being wasted or otherwise injured by men or cattle. For this purpose he has to maintain an establishment of Barahils and Goraitis, the former of whom receive their salary from the Zamindār, . . . while the latter are remunerated by the Zamindār with rent-free land’ [and some grain-payment which is exacted from the tenants]. ‘This kind of tenure, it may be remarked *en passant*, is a peculiar one and has not its like anywhere else either in





Asia or Europe : and it would be a mistake to compare it with the European metayer system and to condemn it as *having all the evils of that system without any of its advantages*<sup>1</sup>. . . .

'The "bhāoli" crops are by custom and the circumstances under which they are grown, regarded by the parties concerned as their joint property.' [!] . . . 'The whole of the straw and the chaff, which are not without value, goes to the raiyats. It is only out of the grain-produce that the Zamindār gets a share which, though everywhere more than half, is different in different parganas, and almost in different villages, and which again varies with the different classes of raiyats, whether Rai'yān or Shurfā<sup>2</sup>, the former delivering a higher and the latter a lower share : and we shall be very near the true figure when we state that the Zamindār's share, with the customary abwābs or cesses, is  $\frac{9}{13}$  of the grain-produce. But, if the value of the straw and the chaff, which are, in these days, as much valuable commodities as grain, be taken into consideration, the highest share which the Zamindār gets in lieu of rent, would be much less than even half of the total gross produce. The value of the straw and chaff may fairly be assumed to be one-third of the grain-produce.'

'As soon as the crops are ripe for harvesting, the Zamindār deputes an *amin* (assessor) and a *sālis* (arbitrator) to make an estimate of the grain-produce. In the presence of these officers, the raiyats, the village *gomāsta*, the patwārī, and the *jeth* (headman of raiyats), who generally knows how to read and write, representing and watching the interests of the raiyats ; the village chainman, called *kathādār* (holder of the rod or bamboo), measures the field with the village bamboo, which in this district is nowhere less than 8 feet 3 inches or more than 9 feet in length. The *sālis* then goes round the field, and from his experience guesses out the probable quantity of the grain in the fields, holds a consultation with the *amin* and the village officers, and when the quantity is unanimously agreed upon, it is made known to the raiyat. If he accepts the estimate so arrived at, the quantity is entered by the patwārī

<sup>1</sup> I should have thought that the author's own description fully justified the condemnation in italics, which, if I recollect rightly, is Dr. Field's !

<sup>2</sup> Rai'yān are ordinary 'subjects.' Shurfā are the higher castes (from sharif=noble), very often ex-proprietors.





in the *khasra* or field-book. If he objects, other raiyats are called in to act as mediators, and if they fail to convince either party, a *partal* or test takes place. On behalf of the landlord, a portion of the best part of the crops is reaped, and an equal portion of the worst part is reaped on behalf of the raiyat. The two portions so reaped are threshed and the grain weighed. On the quantity thus ascertained, the whole produce of the field is calculated and entered in the *khasra*. From the time the estimate is made, the Zamindár withdraws his supervision from the crops, which are then left in the exclusive charge and possession of the tenant.' . . . 'After the appraisement of the field, the raiyat is allowed the full liberty of reaping the crops and taking them home at any time that may suit his convenience. Out of the estimated quantity, a deduction at the rate of two *seers* per *maund* is allowed to the raiyat, which is called *chhuthi* (let off). I have not been able to ascertain the exact reason for which this allowance is made. But, as in the *agorbatái*, the reapers who also thresh out the grain are paid from the joint crop, I presume this is allowed to the raiyat to meet the cost of reaping, gathering, and threshing. The landlord's share is then calculated on the quantity left after the *chhuthi* has been deducted.'

The writer, however, goes on to describe how the landlord exacts several cesses (here called '*hubúb*'), which include the *dah-haq*, which is an extra '*tenth*' (4 *seers* in the *maund*), besides *pau-sera* ( $\frac{1}{4}$  *seer*), '*nocha*,' and others. With these he says 'the Zamindár's total share would come to, in some cases, a little less, and in others a little more, than  $\frac{1}{16}$ .'

### § 6. *Sub-tenants.*

When the tenant's holding is of considerable size and importance, it is not surprising that sub-letting should be usual. The commonest name for a tenant's tenant, or under-raiyat, is, perhaps, '*kúrpha*' (often written '*koorfa*,' &c.)<sup>1</sup>. A sub-tenant paying grain is called *bargáit* or

<sup>1</sup> As the term is supposed to be of Hindi or Bengali origin, of course the letter 'f,' which does not occur

in these languages, must be wrong; but I believe it is not settled what the real derivation of the term is.





ādhiyadār. The term 'shikmī' is used for under-tenants, but not in Gāyā, where it means a kind of money-paying tenant who is permanent, and probably refers to the class of tenant who was not on equal terms with the descendants of original village settlers, though privileged as long resident and settled.

### § 7. *Local terms for Tenants.*

Where there are special terms for 'tenures,' or for raiyatī holdings, there are also special terms for tenants or sub-tenants; as, for instance, the chukānidār under the jotdār in Rangpur and other districts, and the kol-karshādār in Bākīrganj. For a variety of terms which I do not think it would be interesting to reproduce, as merely indicating kinds of contract, it will be sufficient to refer to the note at p. 35 of Finucane and Rampini's *Tenancy Act*.

### § 8. *Tenancies in Waste-land clearings.*

Chittagong presents to us certain peculiarities in the system of tenancy which deserve to be noticed, because they throw light on the difficulties of a tenant law, and how provisions which may be effective in one place, and under one set of circumstances, fail to apply in another. The account that has been given both of land-tenures and of the method of land-revenue Settlement adopted in this district, will have made the subject so far familiar that what follows will be intelligible. We have, in fact, a country where land is extremely abundant in proportion to tenants, and where there is indeed never likely to be much pressure, because the neighbouring district of Arakan is still a virgin wilderness to a great extent, and, like so much of Burma generally, only awaits the overflow of population to turn it into a source of wealth to the agriculturist. Not only is land abundant, but it is held in small patches which are still distinguished by the names of origin. The taluq is the individual holding, whether





old-settled revenue-free, assessed (i. e. resumed) revenue-free, or nauábád. The result is (1) that every one ekes out his subsistence by taking, as a tenant, some patch of land belonging to another; (2) that every one desires to have some land of which he is owner, or at least permanent tenure-holder (qáimi), because that gives him the *power of letting it out*. A mere occupancy-right is not valued; for it does not enable a man to get land on any better terms than circumstances always secure for him as a casual tenant; while of itself it is not a right which enables him to let the plot and get money by it.

A considerable portion of the cultivation is in the hands of tenants-at-will, called (as usual) 'jotdár' or 'chásá,' or sometimes 'karshai-raiyat' (karsha=plough). And of course a man may be a 'chásá' tenant on one plot, while he is owner (or taluqdár) of another.

'Settlements with the cultivators' (writes Mr. Lewis, the Commissioner<sup>1</sup>) 'are made in March or April, when each jotdár settles what rent is to be paid for the land he proposes to cultivate, the rate being governed by the state of the rice market and the demand for the land. . . . Sometimes written engagements are taken, but as often as not the arrangement is verbal. It is not absolutely necessary that a fresh engagement should be entered into every year. When a chásá has held the same land for several years, he is allowed to hold on at the old rate without attending at the cutcherry to settle afresh. . . . It is always assumed, however, by both parties that, on the occasion of a marked rise or fall in the price of rice, there shall be a corresponding change in the rent, after mutual discussion.'

#### A trusted chásá—

'will be allowed to hold on for some years without a fresh agreement, while a new man will be required to attend at the beginning of each season to settle his rent.'

In many cases rents are settled only for one year, and at the end of it either party is at liberty to dissolve the con-

<sup>1</sup> Commissioner of Chittagong to Board of Revenue, No. 72 C.T., dated 8th December, 1882.





nection. Such a system, Mr. Lowis remarks, would, on a large estate, result in rack-renting; but it does not here, as the tenant is independent, owing to the small size of the holdings; and if he cannot get one bit on terms that suits him, it is no question of breaking up his home and going to a distant village—he is sure to find another, or half a dozen other plots, within a stone's throw, the owners of which are only too anxious to secure him. A man is not absolutely bound to get land or starve; he is pretty sure to have some of his own, by which he can live; and if he does not get extra land on a tenancy as it pleases him, he can afford to let it alone.

The taluqdárs have thus the complete control of the land, but subject to conditions which compel moderation; the tenants prefer to be free also. 'The taluqdárs,' says the Collector regarding the Kutabdiya estates,—

'argued that no terms whatever could pay them if the control of the land were taken out of their hands and the cultivators under them were recorded with fixed rights. The reason of this is, that the cultivators under them cannot be relied on for a fixed rent year by year. They prefer to pay heavily on a good crop and lightly in a year when they have reaped less or got lower prices, or have left a larger area uncultivated. Moreover, each taluq has its own small embankments, and the taluqdárs must be entitled to demand the labour of the cultivators to ensure these being kept up. In short, the cultivators do not want fixity of tenure, and it would be ruinous to the taluqdárs if it were given to them.'

### § 9. *Alluvial Tenancies in Noakháli district.*

Noakháli is another district where land is abundant, owing to the constant formation of more or less rich silt islands or 'chars' out of the river-branches that intersect the district.

These 'chars,' of course, vary in their durability: some last but a short time; some remain for many years, or permanently. Most of the recent chars, and even much land





on the older ones, is cultivated by 'jotdárs' on a purely annual tenancy. Tenants of this class will come at the proper time to the office of the *hawáladár* or other tenure-holder, and offer to take a certain plot, at a rate which varies, and depends on the quality of the land and its advantages. The agreement being completed, the tenant passes a plough-furrow across the land, as the sign of his taking possession.

The Commissioner writes as follows<sup>1</sup> :—

'For the first ten or even twenty years of its existence, a char is thus cultivated by jotdárs pure and simple,—non-resident, nomadic, and unsettled. Gradually, however, some of them settle near their cultivation, and come to be looked on as settled-raiyats, who hold at some sort of fixed rate of rent. There is a rate for settled-raiyats, and this is not usually altered ; but even a settled-raiyat often sits loose to his holding, and so a custom has become recognized that he should be allowed some remission in a bad season, and should not be expected to pay for land not cultivated.

'This rule is not invariable, but I am led to believe that in a bad season, after some haggling, a settled-raiyat does generally get some remission, while in a good season he has to pay something extra in one shape or another ; in either case the rate is not altered, but the arrangements made are the result of mutual compromise.

'There is very little actual difference between a settled-raiyat and a jotdár. They neither of them hold under leases ; the usual rate for both is about the same : only the jotdári rent is admittedly variable ; that of the settled-raiyat is not variable, but—which comes to much the same thing—he can generally get some remission when things are bad.

'There has always been more land to be cultivated on the islands than cultivators ; and land once cultivated so soon gets covered with rank vegetation—all the ranker for the earth having once been opened up—that cultivators are in demand, and have always been able pretty well to dictate their own terms ; while the facilities for obtaining fresh land rent-free, or at low rates, have induced unsettled and nomadic habits, so

<sup>1</sup> To Board of Revenue, No. 116 similar state of things is described C.T., dated 11th February, 1882. A in Tipperah (Tipra).





that even where cultivators have been for a considerable period apparently settled, the hawáladár knows that they sit very loose to the holding, and, if discontented, are apt to abandon them in order to acquire land elsewhere.'

§ 10. *Comparison of this class of Tenancy with the state of Tenancies generally at the Permanent Settlement.*

Mr. J. S. Cotton compares the present state of things in the alluvial districts to the condition of the 'páhi-kásht,' or casual or non-resident tenants generally, at the time of the Permanent Settlement; and the existence of such conditions no doubt largely contributed to the old belief that the relations of landlord and tenant (generally) would *settle themselves*—a belief which resulted in the silence of the Regulations as to any definite terms of protection.

'The country was then three parts waste, still slowly recovering from the effects of famine. The demand was on all sides for *raiýats* to bring the land under cultivation; the rates of rent were uniformly low, since, as soon as the demand was raised above what the *raiýat* chose to pay, he would migrate to the lands of a neighbouring landlord.'

But as time passed, this state of things gradually ceased, and in the end Government was obliged to devise protective measures, which it did in 1859, and again in 1885.

'But in Chittagong, and throughout the new alluvial formations of Noakháli and Tipperah, population is still sparse, land still plentiful, and the demand is still for *raiýats* to bring land under cultivation.' . . .

'There is no rack-renting in Chittagong, for there is always the probability that if the rent is fixed too high the land may not be taken up; and if not engaged for, the loss would, of course, fall on the taluqdár or hawáladár, as the case may be.

'The Chittagong *raiýats* are, in short, entirely independent.

<sup>1</sup> And this to the 'páhi-kásht' was not what a removal would be to an old resident of a village. There was no breaking up of an ancestral home—even though a humble one—and severing lifelong ties and associations; the casual tenant soon

packed up his *lotá* (drinking-pot) and his bedding and few moveables; and as to his hut, a frame of mud and bamboos and a thatch roof is easily renewed in one place as well as another.