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# THE CUSTOMARY LAW.

OF THE



## RAWALPINDI DISTRICT.

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PRICE ONE RUPEE.



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### NOTE.

Throughout this report under the head Rájputs are included the following tribes :—

Ramiál, Kaliál, Hayal, Janjil, Dulál, Gharwal, Tharjial, Khanbál, Sudan, Khutril, Bhariál, Paimál, Hafiál, Budhál, Mattial, Bhakral, Bhatti, Chuhán Tuthál, Jatál, Dhamiál, Chathá, Salhál, Nagriál, Gangal, Ratial, Sehnsrál, Manhas, Langáh, Sohan, Janjúa, Langriál, Mangial, Hún, Ghik, Malál, Bhutiál, Dhudi, Jamsrál, Sainswal, Chibh, Bijnial Khingar, Nagiál, Hatar and Túr.



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## CUSTOMARY LAW OF THE RAWALPINDI DISTRICT.

THE enquiries made into the Customary Law of the Ráwalpindi district, were guided by the instructions contained in the Financial Commissioner's No. 2195 S. of 2nd April 1879, which is here quoted in full in order that there may be no ambiguity as to the degree of authority claimed for the following records of customs found to obtain among the main tribes of the Ráwalpindi district.

Senior Secretary to Financial Commissioner's No. 2195 S., dated 2nd April 1879,  
to the Settlement Commissioner Punjab.

"I am directed to acknowledge the receipt of your No. 106, dated 14th March, in which you solicit instructions on certain points connected with the preparation of the statements of tribal custom, and with reference thereto, I am desired to communicate the following orders and remarks of the Financial Commissioner. With reference to the form in which the faired statement of tribal custom should be prepared, I am directed to state that Mr. Lyall has always been of opinion that the faired statement of tribal custom should be in the form of question and answer; this opinion he still holds, and he would prefer to see the statements so drawn up, unless any Settlement Officer has already completed them on a different form. Where the answers of several tribes to a question agree, their answers could be given collectively on the faired copy of the statement.

"Mr. Lyall fully agrees with you that the Settlement Officer should carefully examine the replies registered, but he would confine the Settlement Officer's action, with reference to those replies, which appear to him wrong or suspicious, to entering on the statement a note recording his opinion to that effect. Of course, it would be in his power, if he thought fit so to do, to call together again the men who gave the reply, and to ascertain by examining them whether they really meant to give the reply entered in the statement; but when there is no reason to doubt that the answer recorded is that which they really wish to give it should, in the Financial Commissioner's opinion, stand in the paper for what it is worth, although the Settlement Officer should, if he thinks it erroneous, record his opinion to that effect.





"In para. 3 of your letter you assume that the records of tribal custom, will, under the provisions of Section 16 of Act XXXIII of 1871, be legally presumed to be true in the same manner as the regular settlement records; Mr. Lyall does not admit the correctness of this assumption, and is very strongly opposed to their having such weight. On this point the Financial Commissioner directs me to invite your attention to the printed correspondence forwarded to you with this office No. 4684 S., of 18th August 1877. A perusal of para. 5 of Secretary to the Financial Commissioner's No. 444 S., of 26th April 1876, will show you that Mr. Egerton then supported this same view on the subject, and in Secretary to Government's No. 336½ of 29th March 1879, it was intimated that Sir Henry Davies concurred in all Mr. Egerton's proposals, and recommendations. Mr. Lyall is still of opinion that all possible care should be taken to prevent the legal presumption of truth being attributed to these records of tribal custom; and that it should be left to the Courts to give these statements their natural value, and no other. The only point as to which Mr. Lyall now desires to modify his previously expressed views, is the discretion left to Settlement Officers of incorporating, by reference, certain parts of these statements into the village administration papers, Mr. Lyall is now of opinion that none of the replies declaratory of tribal custom should be thus incorporated.

"The Financial Commissioner observes, in conclusion, that it often happens that, although the replies given by meetings of zamíndárs to questions intended to elicit their tribal customs are of little worth as proof of the customs asserted to exist, they are nevertheless valuable as negative proof; and if they serve no other purpose, they at least generally show, with more or less accuracy, the tendency of the existing popular feeling on points in respect to which custom is vague or loose and undetermined. Mr. Lyall does not, therefore, altogether agree in thinking that the answers given should be absolutely expunged, where in the Settlement Officer's opinion no definite custom is shown to exist, but, as has been remarked above, it would be very proper and desirable for the Settlement Officer to note his opinion on the point on the statement, and also in the final report."

An account of the various tribes of the district has already been given in Chapter III D of the Final Report.

Of the total rural population of the district no less than 87 per cent. are Musalmán in religion, and of the remaining 13 per cent. of Hindús, the greater portion belong to the priestly or the trading classes.





There are no Hindú tribes properly so called of any importance in the district. The greater portion of the Musalmáns are converts, at periods more or less remote, from Hindúism. The Gakhars, indeed, claim to be of Persian origin, but this claim is of very doubtful validity.

The extremely unsettled state of the Ráwalpindi district, up to the time of its annexation by the British, has tended to prevent the formation of local customs of long standing. The Sikh rule had, however, the effect of creating certain relations between the members of the proprietary body and the tenants under them, arising originally rather on the basis of contract express or implied, but which have now as the original causes of their existence been more or less forgotten or overlooked come to be regarded rather in the light of custom.

The owners of the land were often put to great straits to meet the Sikh demands, and in order to do so, they were obliged in many cases to entertain tenants almost on their own terms. The peculiar privileges, such for instance, as that of "Paimáish Khángí" by which the lands of hereditary tenants are measured up for the assessment of rent by a measure larger than the Government measure which obtains in Chach Ilaka of tahsíl Attock enjoyed by the hereditary tenants in many parts of the District are clearly traceable to this cause. The owners now, that the pressure of necessity is past, are all anxious to repudiate the existence of these customs, and attempted in more than one instance to have all mention of them expunged from the Settlement Records. All answers on these points given by the owners therefore in their own interest must be regarded with the greatest suspicion.

In almost all other cases, however, such customs as do exist are Tribal rather than local, and in more than one instance we find the members of one tribe stating the existence of a custom diametrically opposed to that of another tribe living in adjoining villages, and perhaps even mixed up with them in the same village.

The struggles for supremacy which have gone on in this district, the hordes of conquering armies which have swept over it, its unsettled condition even within recent times have all tended to prevent the formation of any uniform system of customary law. In addition to this the presence of chiefs among the various tribes, exercising great influence over the humbler members of the tribe, has tended to prevent the growth of spontaneous custom. Such chiefs often carrying matters with a high hand in the face of tribal custom





or at least tribal opinion. The influence of such chiefs on the replies given is to be seen constantly appearing, and it is often very difficult to decide whether the answers really show the existence of a custom, or merely express the views of the more prominent men of the tribe.

Custom is more clearly established as a rule among the hill tribes than elsewhere. These tribes have occupied their hills and valleys for many hundred years, and have been less affected by the changes which have occurred in the plains than other tribes, and they live together within far more circumscribed limits and are far less mixed in race.

The Moghals, shown as a tribe, undoubtedly include many who are not Moghals at all, the other tribes, with the exception of the numerous branches classed together as Rájputs are fairly well marked.

The list of questions drawn up for this district, was based on the list drawn up by Captain Montgomery for Hoshiárpur, with such additions and alterations as the peculiar circumstances of the district demanded.

It was drawn up by the Extra Assistant Settlement Officer, Maulvi Abdul Ghani and myself, and was then fully explained by us to the Superintendents who were entrusted with the duty in each tahsíl of gathering the heads of the tribes together and putting the questions and recording the answers. The whole work being most carefully supervised by the Extra Assistant Settlement Officer.

The questions were made as simple as possible, and refer as far as may be to circumstances which may recur at any moment.

They embrace the subjects of inheritance, rights of owners, and the rights of tenants in certain cases. Hardly any alluvion or deluvion takes place in this district, and there are no customs connected with it.

As regards the customs, obtaining in regard to tenants as noted above, the replies of the owners must be received with the greatest caution.

The customs existing as regards inheritance, appear to be perfectly independent of the Mahomedan law. In no single case was the reply made that the custom was in accordance with the provisions of Mahomedan law.

After all that has been said and written of late years on the subject of customary law any elaborate treatise on the subject on my





part, even if I were capable of writing such a treatise, would be entirely out of place.

I shall, therefore, now simply proceed to deal with the questions asked seriatim.

The answers were recorded from the statements of a large number of the chief men of each tribe by the Superintendents, and I have been over them all separately for each tribe and have then grouped them together, giving the answers, with examples in full, further on.

As I have been employed for five years in the Settlement Department of this district, and have had many opportunities of discussing the subject of their customs with the people, I presume that I am a person who, with words of clause 4, Section 32 of the Evidence Act I of 1872, "would have been likely aware of the existence of any public right or custom, or matter of public or general interest, if it had existed," and, therefore, I have not hesitated to give my opinion on the various points which would be admissible with the evidence of the zamíndárs themselves, but I have no desire to claim any high degree of authority for it.

I hope, however, that the work will be useful to the Courts when any of the matters dealt with within it come before their notice, in directing their attention to whatever evidence has been already collected on the point, at a time when it was not in dispute.

I will now proceed to give an abstract of the answers framed.



## GENERAL RULES OF INHERITANCE.

### SUCCESSION OF SONS.

QUESTION 1.—*If there be more sons than one by the same mother, will they take equal shares, or is any regard had to the age of the sons, so that the eldest son or the youngest son takes a greater or less share than his brethren?*

In answer to this question, there was a unanimous reply that all sons take alike, given by all tribes, with the exception of two families. One that of the Malikhs of Pindi Gheb, Jobdrás, who state that in their family, if there be two sons, only the elder takes two-thirds of the inheritance, the younger one-third only, and if there be more than two, the eldest takes one-half, the younger sons dividing the remaining half in equal shares among them. This rule of inheritance is accepted by all the members of the family now living, and has been agreed to by Government in regard to grants made to the family. The other exception is in the case of the family of Ghulám Muhammad Khán, commonly known as the Khan of Makhad, Sagri Pathán. His eldest son Fakír Muhammad states that the custom in that family is for the eldest son to take the whole inheritance, leaving to his younger brothers only such maintenance as the father may direct.

QUESTION 2.—*If there be more sons than one by two or more wives, are the shares in the inheritance distributed according to the number of mothers or according to the number of sons, "Chúndewand" or "Pagwand"?*

In the case of all tribes, except the Dhúnds, the answer to this question was that inheritance devolved equally upon all sons whether by the same mother or not. Consequently, I have not thought it necessary in most cases to quote any examples in support of that custom, which is almost universal.

In the case of the Dhúnds, however, the answer was that the inheritance is divided according to the number of mothers, not the number of sons, *i.e.*, "Chúndewand" rather than "Pagwand," the term "Chúndewand" is derived from the lock of back hair of women known as the "Chúnda." The term of "Pagwand" is derived from the first syllable of the word "Pagri."

As far as I have been able to judge, the custom of dividing the inheritance "Chúndewand" is universal among the Dhúnds. The sons of each mother taking one share and dividing that share equally among themselves; but as it is contrary to the custom obtaining in most other tribes, I have quoted examples. As regards the answer given by the Chuháns of Pindi Gheb, that it is their custom also to take "Chúndewand," I can only record their answer to that effect. No example can be given and on the face of it it seems open to doubt.



In the case of one village Ariári, Tahsíl Ráwalpindi, three cases are given in which inheritance among the Gakhars, of the Sarangal branch, went "Chúndewand" instead of "Pagwand," but these are the only instances reported, and the ordinary custom is certainly among the Gakhars of all other villages to take "Pagwand."

One instance is also recorded of inheritance being taken "Chúndewand" among the Patháns at Mauza Nikko in Attock. The Patháns of Attock are a very mixed tribe, but the general custom appears to be the other way.

As regards Hindús, in Kahuta, the custom appears to be to take "Pagwand;" in the rest of the district "Chúndewand." It is difficult to see why this should be, but the fact appears to be fairly well established and examples are given on both sides of the question.

QUESTION 3.—*Is any regard had to the caste of the mother, so that, the sons by a mother of high caste or of the same caste with the father, take larger shares than the sons by the mother of a low caste or of a different caste from the father, if so, state to what extent?*

The answers to this question showed considerable diversity of custom to exist among different tribes. The answers of the heads of the Dhúnd tribe were to the effect that the sons of "Sáhu" mothers only were entitled to share in the inheritance of their fathers. The sons of low caste mothers being only entitled to maintenance. The term "Sáhu" has been discussed at para.—of my final report. Briefly it is held to include all tribes who are admitted to be of Rájput origin, and such tribes as Saiads and Gakhars, Satis, Khetwáls Dhaniáls, Jasgams and Rájputés are "Sahus." The expression is not used much in the western tahsils.

Johdrás and Ghebás would be counted as "Sahus." The following tribes follow the same rule of inheritance on this point as the Dhúnds.

Satis and Khetwáls who have been classed together as they are kindred tribes with similar customs throughout, Gakhars, Patháns of Tahsíl Attock, Moghals, Rájputés, Jasgams. The exception to the above being the case of the family of the Gakhar Chief, Admal of Pharwála, who state that the sons of mothers of all castes share alike in the inheritance, but only the son of a high caste mother can be Chief. The Dhaniáls replied that only one case of the kind had occurred and in that the son of a low caste woman had succeeded, by a civil suit in obtaining an equal share in the inheritance with his half brother by a woman of equal rank with her husband.

The replies of the following tribes, Khattar, Gheba, Johdra Alpial, Saiad, Awán, Koreshi, Jat, Gujar, Maliár, were to the effect that the sons of women of inferior rank and different tribes to their husbands succeeded equally with those of the same or superior ranks. Instances have been quoted in proof of these answers in almost every case. Thus it will be seen that in the case of all the hill tribes, the sons of low caste women are not allowed to succeed with those of high caste mothers. The Patháns of Attock are the only tribe in the



western tahsils in which this rule obtains. The tribes classed as Rájputs being found mostly in Gujar Khán, Ráwalpindi, and Kahuta.

The possible explanation of this is that there can be little doubt that the tribes in the eastern portion of the district have been, in general, more lately converted to the Musalmán religion than those in the west, who have consequently less prejudice induced by feelings of caste than those in whom the influence of Hinduism has not yet died out. The Johdrás, a western tribe, it is true, state, that their sons by low caste women do not succeed with sons by women of high rank, but they have quoted no instances, and it is not unlikely that this reply is prompted by the opinion that such a custom shows them to be of higher rank in the social scale than their neighbours. It is very unlikely, seeing the close connection between Ghebás and Johdrás, that there should be any difference in their customs on this point. In all cases except that of the Johdrás, the custom on this point expressed in the replies are well established.

QUESTION 4.—*If there be male issue from a hand-maiden (Kanízak), to what extent will such issue inherit, in case there be legitimate descendants of the father, by a legal wife? and in case there be no such descendant in respect to other relatives. Specify the term hand-maiden (Kanízak)?*

The answer in every case is that the sons of hand-maidens have no rights of inheritance. Some tribes repudiate the custom of *Kanízak* altogether, others admit its existence, but all agree that the sons of hand-maidens have no right to any share in the inheritance. The Johdrás adding the rider that he is entitled to maintenance. As the answers all agree, it is not necessary to quote examples. A claim to maintenance would, of course, usually be entertained by the Courts rather on equitable than customary grounds. The custom of keeping hand-maidens (*Kanízak*) is rare in this district.

QUESTION 5.—*Can an adopted son inherit from the adoptive father, or can the latter assign him a part of his property during his life-time?*

The meaning of adoption with a Musalmán is of course quite different from what it is with a Hindu. The “*Pálak*” and the “*Mutabanna*” which latter will be dealt with later on, are essentially different. The “*Pálak*” is merely adopted in the sense that he has been brought up in the house of his adoptive father, either because the latter had no children of his own or from other motives of kindness, affection or charity. The custom is only admitted to exist among a few of the tribes, whose answers are to the effect that an adoptive father can alienate some portion of his property in favor of an adopted son during his life-time. The only quoted case, however, is that of an Awán, of Takhtpari, Tahsíl Ráwalpindi.

The Hindús of this district have also replied that an adoptive father can make over a portion of his property during life to his adopted son, and instances are given. The case is one which as regards the Musalmáns has probably seldom occurred, but the replies are in accordance with the spirit of their customs in these parts.



As regards the Hindús, it may be taken as well established. This question, it must be remembered, is not in regard to those regularly adopted as sons of Hindús in accordance with the tenets of their religion (*Mutabanna*), but to such as have been brought up by them as noted above, and are known as "Pálak." In the instance quoted, the adoptive father was a Brahmin, the "Pálak" an orphan Gakhar.

QUESTION 6.—*Can the son by a former marriage of a woman who contracts a second marriage, inherit from his step-father or claim any maintenance from him?*

The replies on this point were quite unanimous. The sons of a woman by her first husband have no claim to inherit anything from her second husband, if she re-marries such step-sons are called "pichhlag" in this district.

QUESTION 7.—*If there be illegitimate sons born of a woman with whom marriage is lawful, will they receive equal share with legitimate sons or less; and in case they are born of a woman of low caste, will they take a share in the estate or not?*

The answer to this is unanimous; illegitimate sons have no rights to inherit from their father in any case.

QUESTION 8.—*Is an illegitimate descendant as mentioned in previous question, entitled to a share in the property in case there are no legitimate descendants?*

Under no circumstances are illegitimate sons entitled to inherit, is the unanimous reply to this.

QUESTION 9.—*A father transfers his possession of a part of landed property, in his life time to his illegitimate son, will such a transfer be maintained after his death or not, and if not, who can eject the illegitimate son from possession?*

There is no established custom on this point as no cases are known to have occurred. The Dhúnds and others replied that if such a case did occur, the legitimate sons, or other heirs could oust the illegitimate son after his father's death. The Sagri Patháns replied that the illegitimate son's possession would be maintained; but all stated that they did not know of the occurrence of any such case.

QUESTION 10.—*If a man die during his father's life-time, will his male issue take equal share in the property with the brothers of the deceased, or how?*

The answers to this question were unanimous. The inheritance in any case is said to go "per stripes" and not "per capita." The son succeeding to the share which his father would have succeeded to had he been alive on the death of the grandfather.

#### RIGHTS OF DAUGHTERS AND THEIR ISSUE.

QUESTION 11.—*Can a daughter or her issue inherit with male issue, if so, state to what extent?*



Here again the replies are unanimous, that in the presence of male issue a daughter does not share in the inheritance. This is a thoroughly established custom in this district.

QUESTION 12.—*If there be no male issue, do the married daughters inherit or the near male kindred?*

Here again the replies are identical throughout. The near male kindred (*Sharikán-i-jaddi*) inherit in preference to the daughter. This is also well established custom. The meaning of the term "near male kindred" will be discussed further on.

QUESTION 13.—*State what male kindred of the deceased have preference in regard to succession over a married daughter or the issue of a daughter?*

On this point the replies are, as might be expected, very various. The Dhúnds, Satis, Khetwáls, Dhaniáls, Tarkheli Patháns, Moghals, Rájpúts, with the exception of Chuháns and Jasgams, all say that any male kindred who can prove their relationship in the male line, would inherit before a married daughter. This includes all the hill tribes, and most of the inhabitants of the eastern tahsils, notably excepting the Gakhars.

Of the rest the Gakhars and Saiads, Awáns, Koreshis name four degrees; Khattars, Ghebás, Alpiáls, five degrees; Johdrás, Chuháns, Gujars, Malliárs, seven degrees; Patháns of Chach, two degrees; those of Pindi Gheb ten degrees. Hindús name six degrees as the limit.

As regards the other tribes the actual degree of relationship within which male kindred are said to exclude daughters and their issue cannot be relied on. In fact, from the instances quoted, it is clear in some places that the result is arrived at by an inverse process, i.e., in a certain case a male relative within 5 degrees did not exclude a daughter; therefore, one within four degrees would do so, which of course does not follow.

On the whole, therefore, it is to be taken that in certain tribes any male kindred whose relationship is clearly proved, succeed in preference to married daughters; whereas in others, the right of the daughter to succeed is recognized to the exclusion of male heirs within a varying and not fully ascertained degree of relationship in the male line, more than this is not to be assumed as established. Practically married daughters do not succeed to their father's property in any case when there are any male kindred of the father, unless the relationship of such male kindred is very remote.

QUESTION 14.—*If a married daughter with her husband, live with the father (having no male issue) up to his decease, does the daughter or her husband inherit, or do the near male kindred?*

The answers to this question again are usually unfavorable to the claims of daughters. The hill tribes, Dhúnds, Satis, Khetwáls, Jasgams and Dhaniáls, as well as the Gheba, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Chuháns, Awáns, Koreshis, Játs, Malliárs and Gujars, all reply that the daughter and her husband in such cases







have no claim to succeed to the inheritance in preference to the male kindred, and in many cases examples are given in favor of this view.

The Gakhars say that a daughter who has married a Gakhar and lives from the time of her marriage in her father's house and defrays the expenses of his funeral is entitled to succeed to her father's inheritance if he has no male issue in preference to near male relatives. Khattars and Rājputs, except Chuháns, give the same reply, but do not cite instances, and Hindús, except in Kahuta, also make the same statement. It will be seen that custom throughout is unfavorable to the succession of females, or their issue with very few exceptions. The custom of succession among the Gakhars is well established; as regards the Khattars and Rājputs it rests only on their replies which, however, have been given with great unanimity, and may, therefore, be accepted. I feel reluctant to accept the adverse custom as well established in the case of other tribes, but the replies given and the instances quoted do not leave much room for doubt.

QUESTION 15.—*If a daughter or her issue inherit and die without any male issue, will the property return to the near male kindred of her father or of her husband?*

The answers to this question were recorded, but as might be expected from the replies to the preceding question, no clear custom has been established. Such cases are very rare, many tribes replied that they could not remember any such, and the instances given by other tribes are few.

Seeing that a married daughter only rarely inherits at all, and that even the rights of an associated daughter and her husband or "Gharjawái" are little recognized, it was to be expected that very few such instances would occur, and the replies, therefore, must be taken in this case, rather as expressing the views of the members of the tribe on the subject, than as indicating the existence of any established custom.

QUESTION 16.—*Of two daughters, if one is married and one unmarried, will they inherit in equal shares? If not, state how they will inherit?*

The replies to this all agree, that in case there were no male kindred to exclude the daughters, the unmarried daughter would take possession of the inheritance and when she also married the inheritance would be divided equally among the married daughters.

This is a clearly established custom, and an equitable one.

The only instance quoted is one given by the Awáns, but there was absolute unanimity on the point. Cases of this kind also are naturally not very common.

The rights of unmarried daughters, as regards the inheritance are dealt with in question 19.

QUESTION 17.—*If of two married daughters one with her husband lives with the father and the other in a different village, in what man-*



*ner are the daughters' rights of inheritance affected by this circumstance ?*

Such cases are, of course, also rare, but the reply is the same throughout, that in case there were no male kindred to exclude the daughters from inheritance, the daughter who, with her husband, lived with her father, and the daughter who lived apart would share alike.

*QUESTION 18.—If a widow and a daughter are left to inherit together, how is the inheritance treated ?*

In reply to this question the Dhúnds, Dhaniáls, Johdrás, Alpiáls, Chuháns and Bhábras state that in such a case, the widow could take possession of the inheritance. The daughter being only entitled to maintenance until her marriage. The Dhaniáls and Alpiáls cite instances in favor of this view.

The Satis, Khátwáls, Gakhars, Khattars, Gheba, Patháns, Saiad, Moghals and all Rájputs, except Chuháns, Jasgams, Awáns, Koreshis, Játs, Malliárs Gujars, Hindús, all say that in such a case the widow and daughters would inherit equally, until the daughter's marriage, after which the whole inheritance would go to the widow, and numerous instances are quoted in support of this view. It is quite clearly established that when only a widow and daughter are left to succeed, the daughter's rights only last so long as she remains unmarried after which the inheritance all goes to the widow. The only point of difference is in regard to the question whether a daughter is entitled to a half share, or only to maintenance; the custom as stated by each tribe on this point is fairly well established, completely so in the case of those who state that the widow and daughter share equally.

*QUESTION 19.—Are unmarried daughters until marriage and daughters vowed to celibacy (Musalla Nashín) entitled to a share in the inheritance; if so, to what extent, and how is this right affected by the presence of male issue ?*

In reply to this question the Satis, Gakhars, Khattars, Ghebas, Moghals, Rájputs excepting Chuháns, Jasgams, Awáns, Koreshis, Játs, Gujars, Malliárs, Hindús, and Bhabra, all agree that unmarried daughters share equally with their brothers, or if there be no male issue take the whole inheritance until marriage, or in case of a daughter vowed to celibacy for life. The inheritance then reverting to the father's male kindred.

The Dhúnds state that if there be any male issue, unmarried daughters are only entitled to maintenance, and that they have no celibate women in the tribe or otherwise as above. Dhaniáls follow the same custom as Dhúnds as regards unmarried daughters, the same as Satis as regards celibates. The Johdrás and Chuhán Rájputs and Attock Patháns state that, in presence of male issue, unmarried daughters only are entitled to maintenance, if there are no male issue, they take the inheritance until marriage, or so long as they remain "Musalla Nashin." The Sagri Patháns state that a daughter is never entitled to more than maintenance. There is not,



therefore, any very great diversity of custom apparent; all agree that daughters forfeit their rights on marriage; the only difference is as to their rights in presence of male issue. These customs are well established and supported by examples.

### THE WIDOW.

QUESTION 20.—*Does a widow of the same tribe with her deceased husband inherit for life or is she merely entitled to maintenance, and if there be male issue what share will she take?*

The general custom established by the answers to the question is that in case there is no male issue, the widow takes the inheritance for life, after which it passes to the near male kindred, when there is male issue the widow shares for life equally with her sons. The Satis, Khetwals, Gakhars, Khattars, Johdrás, Moghals, Jasgams, Rajputs, Awáns, Koreshis, Játs, Gujars, Malliárs, and Hindús and Bhábrás all state this to be their thoroughly well established custom, and there is no doubt that this is so.

The Dhúnds and Dhaníals modify it only in so far that they state that in presence of male issue the widow is entitled either to a share with her sons, or to have a portion of land set apart for her maintenance. The Ghebás and Alpiáls state that in such a case she is only entitled to maintenance. The Tarkheli Patháns say that in no case is she entitled to more than maintenance, and the Ghurghashti and Malak Mala Patháns state that in case the inheritance is large, a suitable portion is set aside for the widow, the male kindred taking the rest. The Saiads have no well established custom on the point, but generally follow the same practice as the Satis or most of the tribes.

QUESTION 21.—*If there be two widows, one with issue, and the other barren, is the latter entitled to take a share in the inheritance?*

The reply of the Dhúnds, Satis, Dhaníals, Khetwáls, Moghals, Jasgams and Koreshis, is that a barren widow would take half the inheritance for life, the widow with issue and her children taking the other half on the "Chúndewand" system. The Gakhars say that each widow and each of the sons would share alike, and Alpiáls, Rájputs, Jasgams, Játs, Gujars, Malliárs, and Hindús, except in Kahuta, follow the same custom as the Gakhars. As regards tribes mentioned above the existence of the custom spoken to by them, is better established than in the case of those now to be noticed.

Khattars, Ghebás, Johdrás and Awáns state that usually barren widows only receive maintenance, but in some cases they have received shares, and instances of both are given. No settled custom is therefore established in this case. As regards the Patháns three or four replies were given, one similar to that given by the Dhúnds, one similar to that of the Gakhars, while the Sagri Patháns say that barren widows only receive maintenance. Saiads, in general, tahsíl say that barren widows are only entitled to maintenance, and instances are given on each side among the Patháns, Khattars,



Ghebás, Johdrás and Saiads. Custom on this point is in an unsettled state, and in my opinion, no custom having the force of law can be held to have been established. As the question is a doubtful one. I have cited many instances, and the information here collected will, I hope, be useful to the Courts should occasion occur.

QUESTION 22.—*If of two widows one is of the same family as her husband, and the other of lower caste, does the latter take an equal share or less ?*

The replies to this question were various. As might be expected the "Sahú" races of the eastern tahsils replied that widows of low caste could not share in the inheritance, and were entitled to maintenance. Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars Patháns, Johdrás, Moghals, Rájpúts, Jasgams and Koreshis, all gave this reply, and the custom is in these instances well established, although an instance of a Kashmiri woman sharing equally with a Gakhar in one case is quoted. The Khattars, who do not themselves rank high in the social scale, say that all widows share alike, and the Ghebás and Alpiáls, the two latter tribes found chiefly in the Fatehjang tahsíl, and the Khattars in Fatehjang, Pindi Gheb and Attock round the Kála Chitta Range, and Játs, Gujars and Malliárs themselves ranking low give the same reply as the Khattars.

Among the Awáns, widows of lower rank take a smaller share, than Awán widows, and this is sometimes the case with Saiads, among whom, however, there is no settled custom on the point. Except among the Saiads, however, the customs stated to obtain in the replies are well established.

QUESTION 23.—*What is the effect of re-marriage or unchastity of a widow, in respect of the estate of her deceased husband to which she has succeeded, and who is authorized to evict her from the possession of her deceased husband's estate ?*

There is very little difference of opinion here. The almost unanimous reply is to the effect that a widow loses her rights over her deceased husband's estate on re-marriage or unchastity. The existence of this custom is throughout established. The Dhúnds and Dhaniáls only qualify their reply by saying that no woman of their tribe has ever been dispossessed of her deceased husband's estate for misconduct. This custom is thoroughly well established.

QUESTION 24.—*Can a widow take a share of the property of her husband's near kindred who die without male issue ?*

The replies are unanimous. If a widow is in possession of her deceased husband's estate she shares, as her husband would have shared in the estate of childless near male kindred of her deceased husband. This custom is universal.

QUESTION 25.—*If a widow is left with her deceased husband's mother to take the inheritance, how it is divided between them ?*

In this case also the same reply is given throughout. When a man dies leaving a mother, and a widow, or widow only, to inherit they each take an equal share. This custom is universal.



## RIGHTS OF ANCESTORS TO SUCCESSION.

QUESTION 26.—*If a man in the lifetime of his father dies leaving no issue, male or female, and no widow, who succeeds to his property?*

In such a case the father is unanimously declared to be the heir. There is no doubt on this point, however, the property may have been acquired.

## RIGHTS OF SISTERS.

QUESTION 27.—*Can sisters or sisters' sons inherit the estate of their brothers?*

The unanimous reply is that sisters can never be heirs to their brothers' property.

## SPECIAL PROPERTY OF FEMALES.

QUESTION 28.—*How is "Istridhan" acquired? Is it considered a personal property of a woman or similar to that possessed by a widow? Who inherits such property on her death?*

The reply of the Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Rájpúts, Awans, Koreshis, Játs, Gujars, and Malliárs, Hindús, and Bhábrás is to the effect that "Istridhan" consists of gifts made to a woman on her marriage by her relatives, or bought with the profits derived from such gifts. It is her absolute property, and on her death descends to her male issue, or to her husband, or in default of them to her husband's near male kindred.

The Dhúnds, Satis, Dhaniáls, Khetwáls and Jasgams, the five hill tribes, state that the custom is unknown, the Dhúnds and Dhaniáls qualifying this by saying that a gift of land on marriage by a girl's father, would be her property for life, but on her death goes to her husband's heirs. There is no doubt as to the correctness of these replies.

QUESTION 29.—*If a woman possessing "Istridhan" has married twice, and has had issue by both husbands who will inherit her property?*

Very few instances have been known to occur and none are quoted. Some of the tribes reply that no custom exists on the point; most reply that in such a case the property would go to the heirs of that husband on the occasion of the marriage with whom the woman received the gift, and this if not supported by direct evidence is clearly the equitable view.

## ADOPTION.

QUESTION 30.—*May a man or woman adopt? What formalities are necessary to constitute an adoption valid?*

The custom of adoption does not obtain among Muhammadans.

The Hindús answer that only men can adopt, and that it is necessary to adoption for the adoptive father to accept the boy in presence of his relatives, and to bring him up in his own house in every respect as his own legitimate son. The rights of the boy will be the same as if he were the natural legitimate son of his adoptive father.



QUESTION 31.—*Must the person adopted be of less than any specific age? If so, up to what age may a person be adopted?*

The Hindús reply is that adoption may take place up to the age of twenty.

QUESTION 32.—*Is it necessary that an adopted son should be one of the ancestral line, daughter's son, sister's son, or son-in-law, or does it rest with the option of adoptive father? Can a man adopt who has male issue?*

The replies to this give the father full rights to adopt whom he pleases, whether he has sons of his own or not. I am not prepared to say that I think the power of a father to adopt when he has sons of his own is well proved, and no instances are quoted.

Among the Bhábrás the right is a little more restricted by custom, male relatives within certain degrees being preferred, but any Bhábhra may be adopted.

Hindú communities are not numerous, nor are they old and long settled enough for their custom to be very clearly established in this district.

QUESTION 33.—*Does an adopted son inherit to whole of the property of an adoptive father? If not, what share is assigned to him?*

The reply given by Hindús and Bhábrás to this is that the adoptive father can give what share he pleases to his adopted son, but this must be received with caution.

QUESTION 34.—*Is there any distinction between acquired and ancestral property in the case of its being inherited by an adopted son?*

The reply to this is that an adoptive father can do what he pleases with acquired property, but can only dispose of ancestral property with the consent of his relatives.

QUESTION 35.—*What is the effect of the birth of a son after adoption? Does the adopted son take an equal share with the natural son or less?*

The reply is that in such a case the natural and adopted sons share equally.

QUESTION 36.—*Will the rights of an adopted son be affected as regards the estate of his natural father by the fact that the latter has or has not got other sons?*

The general reply of Hindús is that the adopted son in all cases retains his rights over the estate of his natural father, but in the village of Kuri the reply was that he only does so in case his natural father has no other sons.

The Bhábrás give the same reply as the Hindús of Kuri.

## WILLS AND LEGACIES.

QUESTION 37.—*Can a proprietor make a disposition of his property to take effect after his death, and is there any rule limiting such power?*

Dhúnds, Dhaniáls, Moghals, and Jasgams repudiate all power of testamentary disposition; Satis and Saiads and Koreshis say that a man may leave a "small portion" of his estate, at his death to whom he



pleases ; Gakhars, Ghebás, Rájputs, Awáns, Gujars, Malliárs, Hindús and Bhabras say that a man can leave his property by testamentary disposition made with full possession of his faculties in presence of trustworthy witnesses. Such a disposition against the rights of near relatives of the whole estate, however, would undoubtedly be disputed.

The Khattar tribe replies that a man may leave one-third of his property outside his own family, but not within its circle. Johdrás limit the testamentary power to one-tenth of the estate. Alpiáls say that no case has ever occurred among them, but consider it lawful. Patháns say that both men and women can make a testamentary disposition of one-third of their property according to Mahomedan Law. Except the Patháns, all tribes agree that no woman has any power to make a testamentary disposition of any part of her property. Instances in support of their replies were quoted by Satis, Gakhars and Awáns only. The exact limits of the testamentary powers are not well defined, but with the exception of two or three tribes, it is a well established fact that a man has power to make a testamentary disposition of some part of his property. The only tribes in which this is not the case are the Dhúnd, Dhaniál, Moghal and Jasgam tribes.

QUESTION 38.—*Can a testamentary disposition of property be made only with the consent of the heirs, or contrary to their wishes ?*

This is a very doubtful point and I should hesitate to say that any clearly defined custom had been made out in the case of any tribe.

The Gakhars reply is that a man can make a testamentary disposition of property without the consent of his heirs ; but I am quite certain that if a case were to arise, the heirs would not agree to this view, if a large share of the property were so treated. At present each person asked the question thinks only of increasing his own powers upon his estate, and answers accordingly. The Khattars, Johdrás, Patháns, Rájputs, Awáns, Koreshis, Játs, Gujars, Malliárs, Hindús and Bhábrás give the same reply as the Gakhars. Dhúnds, Dhaniáls, Jasgams and Moghals repudiate all powers of making wills. Satis and Khetwals and Saiads say that the power to leave by will only extends to a small portion of the estate, without consent of the heirs. The Ghebas and Alpiáls reply that no case has ever occurred, but that, in their opinion, a man ought to be allowed to make a testamentary disposition of his property *with* the consent of his heirs.

#### GIFTS.

QUESTION 39.—*Can a father make a gift during life of a part of the inheritance in case he has sons, if so, is their consent essential to such gifts or not ?*

The replies to this question are various, but the one that seems most to represent actual custom, rather than mere opinion, is that given by the Satis, Saiads, Moghals, Rájputs, Jasgams, Koreshis, Gujars, Malliárs, to the effect that the owner of an estate having sons, may make a gift of a certain reasonable portion of it, without their consent ;



that is to say, that an objection by the sons to such a gift would not have the support of public opinion and should be dismissed by the courts.

The Dhúnds, Dhaniáls, Ghebas state that no gift can be made of any part of an estate without the consent of the sons, and this is, I think, the established custom among them.

The Gakhars, Awáns, Játs, Hindús and Bhábrás reply that the owner of an estate in such a case can make a gift at will without consent of his sons, but this reply is of very doubtful authority, and is in no way proved by the instances given. The reply given by the Johdrás that, in such a case, the owner may make a gift of not more than one-thirteenth is obviously a statement which must be taken as what, in their opinion, ought to be the case, rather than as showing any actual custom to exist to that effect. No instances are quoted in support of it. The reply of the Patháns of Attock in the same way does not represent actual custom. They say a gift may be made, but it must be accompanied by possession, and *registered*. The Sagri Patháns say that the consent of the sons is necessary to a gift.

QUESTION 40.—*Can a proprietor, having no male issue, make a gift or not ?*

The answers to this are similar to those to the last question. Dhúnds, Ghebas, Koreshis and the Hill Dhaniáls state that in no case has an owner the power of making a gift of any part of his estate without the consent of his heirs. Alpiáls say gifts are unknown among them ; and Khattars say that no gift can be made without the consent of the heirs. Satis, Saiad, Moghals, Gujars, except in Kahuta, say that a gift may be made of a reasonable portion of the estate. Gakhars, Patháns, Rájpúts, Jasgams, Játs, Awáns, Malliárs, Hindús and Bhábrás, and the Dhanials of the plains state that when there are no sons, the owner of an estate can make a gift of the whole or any part of it without the consent of the near male kindred, and instances are given in some cases.

Johdrás state that one-fifth of the estate may be so disposed of, but this is evidently a concocted answer, and I have much doubt if gifts are recognized at all by custom among the Johdrás ; no instances are quoted. The remarks made on the answers to the last question apply to the replies made here also. I very much doubt whether a gift of the whole estate, when there are near male relatives, would in any case be recognized without opposition, but in most cases, the exceptions are given above ; a gift of a reasonable portion would be recognized and a larger portion would be considered "a reasonable" portion when there were no sons than when there were male issue. Gifts to the husbands of daughters (*Ghar-jawái*) are the commonest forms of these gifts, and are generally recognized among Gakhars and those who have made replies similar to theirs, and among whom the powers of gift seem well established. There is a judgment of the Chief Court, No. 42 of 1879, which, however, decided that gifts could be made when there were only distant male kindred to inherit, and no direct male heirs.



QUESTION 41.—*When a gift can be made, is it essential that the gift be made to one of the near kindred, or can it be made to any person without any regard to caste or tribe?*

All the tribes, with the exception of the Awáns, state that gifts when lawful, can be made equally to members of the same or different families or tribes. The Awáns reply that they can only be made to Awáns. The reason of this is obvious, such gifts are most commonly made to the husbands of daughters, to female relatives or to the issue of female relatives who belong to the family or tribe of their father.

Awáns, however, seldom marry outside their own tribe, hence the restrictions imported into their answer.

The small close community of Bhábrás reply as might be expected that gifts can only be made within the caste or to Brahman by way of charity (*Sanklap*.)

QUESTION 42.—*Is there any distinction between ancestral and acquired property as regards the power of making gifts?*

Those tribes in which it is stated that an owner has power to make gifts without restrictions, naturally reply that there is no distinction between ancestral and acquired property in this respect; but it is a little surprising that tribes in which restrictions are put on the powers of gift should make no distinction between ancestral and acquired property. However, only the Khattars, Saiads, Awáns, Koreshis, and Bhábrás state that their custom gives full power of gift over acquired property, but not over ancestral.

All the other tribes reply that there is no distinction made between the two. That if gifts of the one may be freely made, so may gifts of the other. If there are any restrictions upon gifts of the one, the same restrictions are imposed on the other.

QUESTION 43.—*Can a donor resume the gift made by him, if so, under what circumstances?*

The general custom on this point is well established, that an unconditional gift cannot be resumed. The Johdrás qualify this by saying that if possession has not been given, the gift can be resumed, but this is, in fact, to say that a promise to give can be cancelled rather than that a gift can be resumed. They further say that if the relations between the parties in virtue of which the gift was made cease to exist, the gift may be resumed. It would, however, be necessary to proceed with caution in regard to such a statement, as it is difficult to define its extent.

Gakhars, Johdrás, Patháns, Rájpúts, Awáns, Koreshis, Gujars, Jats, Malliárs, and Hindús, all say that if a gift is given conditionally, and the conditions be not fulfilled, it can be resumed, but a conditional gift is hardly a gift at all.

The Patháns of Attock say that a gift can be resumed within a year; and the Sagri Patháns add that if the gift be made by a childless donor, who subsequently has issue, it can then be resumed. I am surprised not to find this condition in the replies of other tribes.



The replies of the Maliks of Pindi Gheb do not represent any custom whatever, but merely their own wishes, and their desire to increase their power over those under obligation to them.

QUESTION 44.—*Can a father at the time of marriage of his daughter alienate to her or her husband a part of his property ; if so, is consent of his sons or near kindred necessary ?*

The replies to this are almost unanimous, to the effect that at the time of marriage a father can alienate a portion of his estate to his daughter or her husband as he may see fit as "Jahez." The Alpiáls alone say that no such case has ever occurred and that such an alienation is unlawful. The Moghals and Jasgams say that no such case has occurred, but that it would be lawful. The general custom in favor of such alienations is well established, subject always to the restrictions that the portion alienated is in reasonable proportion to the extent of the estate, no specific share having been fixed. As the custom is thoroughly well established, I have only quoted a few out of many instances brought forward.

QUESTION 45.—*Has the husband any rights over the property given to a woman by her relatives on marriage, or is it her exclusive property ?*

All the replies agree in stating that the "Jahez" or father's gift to a woman on marriage remains exclusively her property for life. One or two tribes only replied that such gifts are never made among them.

#### DOWER.

QUESTION 46.—*Can a husband or father-in-law, without consent of his heirs alienate a part of his property to his wife or daughter-in-law respectively, in consideration of dower, (Kábin) ?*

To this question, Dhúnds, Dhaniáls, Satis, Khetwáls, Gakhars, Ghebas, Moghals, Rájputs, Jasgams, Koreshis, Gujars, Malliárs, reply that it is not the custom to give land to a wife. Jewellery, cattle, clothing, usually forming the dower. Khattars, Patháns, Saiads, Awáns, Jats, say that a husband or his father can make a gift of part of his estate to his wife as dower without the consent of his heirs, and quote instances. The custom in this case is well established. Alpiáls say that no such instances have occurred, i.e., no custom exists, but that they think such an alienation lawful. The custom of dower does not obtain with Hindús.

#### OTHER ALIENATIONS.

QUESTION 47.—*Can a man having heirs alienate a certain part of his landed or immovable property for charitable purposes ?*

The reply is unanimous, that an owner has the power to alienate a certain portion of his estate for charitable purposes. As a matter of fact the power does not extend very far, but no one liked to deny to the existence of the custom which is as regards small grants well established. All the instances quoted are of very small grants for religious or charitable purposes.



QUESTION 48.—*Can a father deprive one of his sons or near kindred of his share of the inheritance and divide it among the rest ?*

The Dhúnd, Sati Khetwal, Khattar, Gheba, Johdrá, Alpiál, Awán, Gujar, Malliár tribes state that a father has no power to disinherit one son or heir, and divide his share among the rest. The Dhaniáls, Gakhars, Moghals, Rájputs, Jasgams, Koreshis, say that no case of the kind has ever occurred, and no custom exists on the point. The Patháns of Attock say that the power does exist. The Sagri Patháns restrict this power to acquired property, and Fakir Mahomed Khán, eldest son of the Khán of Makhad, says that in his family the eldest son cannot be set aside, he himself being the eldest son. The Saiads say that a father has this power, and the Jats say the same. The Hindús say that a father has this power if his son changes his religion, and quote numerous instances in which Hindús have been disinherited for changing their religion in defiance of Act (No. 21 of 1850.) This custom of course being directly contrary to law, cannot have the power of law, but there is no doubt about its being a common practice. They also say that a father can disinherit one son as regards acquired property only for other causes.

QUESTION 49.—*Has a widow any right of alienation, if so, under what circumstances ? If alienation is permitted, is there any distinction in respect of ancestral, acquired, or her own special acquired property (Istridhan) State the nature of alienations she can make ?*

Alpiáls reply that a widow can alienate her Istridhan as she pleases, but cannot, even under pressure of necessity, alienate any other property. Hindús say that a widow can alienate for charitable purposes, as the building of a well or *Dharmasala*, a statement which should be received with great caution.

Bhábrás say she can only alienate movable property in charity, and all other tribes, including Bhábrás, say that a widow can only alienate to the extent of mortgaging immovable property under pressure of actual necessity, and that in this respect there is no distinction between ancestral or acquired property or Istridhan.

QUESTION 50.—*Can a guardian alienate the property of his ward by sale or mortgage.*

The replies to this question are similar in all cases, except that of the Alpiáls. A guardian can only sell or mortgage the lands of a minor for the expenses of the minor's marriage, or for the expenses of marrying the minor's sister, or for funeral expenses or for necessities for the minor or his family such as the payment of revenue, for food or for plough cattle. The Alpiáls, reply only differs in being more general to the effect that a guardian can only alienate a minor's property under absolute necessity when the alienation is clearly for the minor's benefit. Custom on this point is uniform and well established.

QUESTION 51.—*Can a son or adopted son in the life-time of his father alienate a part of his property by sale or mortgage ?*

A son in this district has no power whatever in respect of the ancestral or acquired lands held by his father, so long as his father



lives and retains possession of them. There is no question about this, the replies are absolutely unanimous.

**QUESTION 52.**—*To what extent can a father alienate his or his son's property in "Ram" (compensation paid to wife's father by her husband or father-in-law) and under what circumstances can such a property be reclaimed? Can it be reclaimed if the betrothed woman dies before marriage or if after marriage she dies without having had issue?*

The Dhúnds, Satis, and Khetwáls, Dhaniáls, that is to say, the hill tribes of Murree reply to this question that immovable, as well as movable property, may be alienated in favor of the father of the donor's wife, or of his son's wife, as a condition of betrothal, and that this gift cannot be reclaimed under any circumstances.

All the other tribes reply that it is not the custom with them to make any payment to the bride's father, as a condition of obtaining her. This, as far as my experience goes, is correct. In the hills money is scarce and land is given instead. This looks something very like the purchase of a bride, but the custom bears a distant relation to the customs obtaining among hill tribes round Simla and elsewhere.

In none of the other tribes does the practice of giving land in this way obtain. Among the Patháns and some other tribes money is certainly sometimes given with jewels, clothes, &c., but it is not the established custom, and is looked upon generally as disgraceful.

**QUESTION 53.**—*If a widow succeeds to such property, can she alienate it, or will it be dealt with in the same manner as her deceased husband's property?*

Dhúnds, Satis, Khetwáls and Dhaniáls reply that there is no distinction between this "Ram" and any other kind of property as regards the succession of widows, and all the other tribes reply that the custom of "Ram" does not obtain among them.

## PARTITION.

**QUESTION 54.**—*Is a father who distributes his property during his own lifetime among his sons, bound to divide it in equal shares or not?*

The general tenor of the replies to this question is to give to a father who divides his property among his sons during his life time a considerable discretionary power as to the equality or inequality of the shares. The Dhúnd, Sati, Khetwál, Dhaniál, Gakhar, Gheba, Rájput tribes reply that a father has in such a case full power to divide his property among his sons in such shares as he pleases, and numerous instances are quoted, and the custom appears well established. Alpiál, Saiad, Awan, Koreshi, Jat tribes and the Hindús, except those of Kahuta, state that the custom is to divide equally, but that a father would have power to divide his inheritance unequally in such a case. Only Khattars, Johdrás, Patháns, Moghals, Jasgams, Gujars and Malliárs and the Hindús, of Kahuta reply that a father in such a case is bound to divide his property equally among his sons. The Malíks of Pindi Gheb say that such partition can only be made according to family custom; and Fakír Mahomed Khán, the eldest son of Khán of Makhad, who now rules the family says that the



eldest son must always take every thing. Should Fakir Mahomed even in the future quarrel with his own eldest son, which is by no means impossible, he will probably regret these replies, and see cause to revise them.

QUESTION 55.—*Can a man having male issue assign a part of his property to his daughter, son-in-law, sister, near kindred, or adopted son?*

The replies of all except the Alpiáls and the Hindús are that on partition of property during life-time by a father, the whole must be divided between the sons, or the sons and himself. The Alpiáls reply that, with the consent of the sons, they think a portion could be given to others, which is really begging the question. It may be taken, therefore, that among all the Musalmán tribes of the district, when a man has sons he cannot at partition during his life-time alienate any portion of his inheritance from them. The Hindús reply that a father in such a case can give a portion of the estate to his daughter, son-in-law, adopted son, a near male kindred, while the Bhábrás reply that no such case has occurred and there is no custom established on the point.

QUESTION 56.—*Can a father retain a part of his property at distribution for himself?*

Naturally from the replies given above it follows that the answer to this throughout is that a father can in such a case retain a portion of the estate for himself and divide the rest. There is no question on this point, so I have not thought it necessary to quote examples of which hundreds could be given and were given in the replies. The examples given in answer to Question 57 also cover this. Fakir Mahomed Khán, son of the Khán of Makhad, however, again comes to the front with the statement that in his family the father must either keep all to himself or make it all over to his eldest son! It is hardly necessary to add that in his particular case he has taken care that it should be all made over to the eldest son!

QUESTION 57.—*When a father retains a portion of the estate for himself, on his death, is this portion divided equally among the sons, or does it go to whichever of them the father chooses to give it?*

There is a distinct divergence of custom on this point among the different tribes. The Dhúnds reply is that when a father on partition of his lands during his life, retains a share for himself, at his death he can make it over to whichever son he chooses. Otherwise it will be divided among them according to the custom of succession obtaining in the tribe. If, however, one of them undertakes to defray the funeral expenses alone, he is entitled to take this share. Dhaniáls, Gakhars, Khattars, Saiads, Rájpúts, Koreshis, and Hindús give the same reply, and the custom is well established among these tribes. Satis, Ghebas, Johdrás, Alpiáls, Patháns, Moghals, Jasgams, Awáns, Gujars, Malliar, Játs, all reply that in such a case the sons would all share equally, and the father has no power to ordain otherwise. The Satis, Patháns, and Játs say that if the father made over the share in writing the gift would stand, but that no such case had occurred, which obviously



does not constitute a custom. The Malik of Pindi Gheb say that the share would be divided according to the custom of the family on the prescribed shares.

QUESTION 58.—*When a father retains a portion of his property after partition made during his life-time and lives associated with one of his sons, is this son only entitled to succeed to this portion on his decease or do all the sons take in equal shares ?*

The answers of all the Musalmán tribes, supported by numerous instances, is to the effect that a son who lives associated with his father, in the absence of any special circumstances are noted in the replies to Question 57, has no right to succeed to the portion retained by the father on his death to the exclusion of other sons and that all sons succeed to such portion alike according to tribal custom, and this is well established as the custom. The Hindús as might be expected say that the associated son would succeed to the father's portion in such a case.

QUESTION 59.—*When a man lives associated with one of his brothers after partition and dies without male issue, do all brothers succeed alike to his share or that brother only with whom he lived associated ?*

In this case, too, the replies of the Musalmán tribes are unanimous. The associated brother has no claim to succeed to his associated brother's share in such a case ; all the brothers are entitled to succeed. Cases in which the associated brother has, however, contrary to custom, been allowed to succeed are said to have occurred among the Johdrás in Mauzas Khair and Naushera. The Bhábrás reply that in such a case the associated brother only would succeed.

QUESTION 60.—*What is the effect of the birth of a son after partition, by a father during his lifetime or after the death of the father ? Does such a birth enable the father or after the father's death, the posthumous son to cancel the partition ?*

All the tribes are unanimous that in such a case the father, or after his death his posthumous son can claim to have the original partition set aside and to have a re-division made in which the son born after partition shall share.

QUESTION 61.—*When a son has during the life-time of his father increased the common estate by acquiring property, is he entitled to an additional share on partition or not ?*

The replies to this are alike throughout. A son who improves or increases the common undivided estate, is not on that account entitled to a larger share than his brothers. Any injustice there might be in this arrangement is in practice corrected by the fact that whenever one son has opportunities of making large profit, he immediately separates himself off from the others, if he has not already done so. The profits made by all holding in common, go into the common fund, and are divided without reference to the members of the community by whom this may have been acquired.

Only Dhúnds and Rájputs, except Chuhans, say that no such case has ever occurred and that they have no custom on this point. The rest all reply as above, and several examples are given. The custom is well established.



**QUESTION 62.**—*Is a shareholder who has improved or increased the joint landed property entitled on partition to a larger share than the remaining sharers ?*

The replies to this question are similar to the replies to the last ; i.e., as long as the property remains common, a sharer does not become entitled to a larger share by increasing or improving the common estate. All agree in this, but Satis, Khetwáls, Khattars, Saiads, Moghals, Jasgams, Awáns, Koreshis, Gujars, Malliárs, say that if a sharer improves the common holding by cultivating waste land or building a house and so on, when partition takes place he should be allowed to retain such improvements in his possession as part of his share. This is in accordance with the common custom of the country side that on partition possession shall as far as may be respected in allotting the shares, and the custom is thoroughly well established.

**QUESTION 63.**—*When two brothers jointly inherit their father's property of whom one has acquired additional property and maintained his brother, can this brother keep the acquired property (apart from the common property) on partition ?*

The replies to this question are various, Dhúnds, Khattars, Ghebas, Johdras, Patháns, except those of Pindi Gheb, and Alpíals reply that in such a case the brother who had acquired separate property could keep it apart on partition. All the rest reply that in such cases acquired property cannot be kept apart on partition. The Dhaniáls reply that no such case has ever occurred, and that no custom exists on the subject on this point. I think the replies require to be treated with some caution. From all I can learn, so long as the estate is held in common all additions made to it, by any of the sharers would undoubtedly go to the common stock whether made by one or more of the sharers, certainly so, if the increase was the result of the employment, made of the profits of the common holding. The only cases in which a sharer would be entitled to keep certain property apart from partition would be cases in which he had acquired property quite apart from the common holding by the employment of his own earnings obtained by labor or in service or in some such manner. I have, however, recorded the replies as given and the instances as quoted, and they will, I trust, be of some use to the courts when cases of this kind arise. It must never be forgotten that in this district cases of this kind depend very much upon, whether or not the brother so acquiring property is of a masterful spirit or not. For instance, the example given by the Dhúnds is one in which Dádan Khán, Lambardár and Rais, is concerned. In addition to this it must be remembered that in the hills where the waste lands are not in the ordinary sense "common property" whenever any sharer either in the village community or any smaller division of it, breaks up waste, he is looked upon as the sole owner of the plot so broken up. Answers to this question which refer to the breaking up of waste must be received with great caution as proofs of specific custom.

**QUESTION 64.**—*If a father divides his property keeping no share for his own maintenance, and afterwards in association with one of his*



*sons, acquires more property. Is the associated son entitled to succeed to this acquired property alone, or is it shared by all the heirs ?*

All agree that in this case the associated son would succeed to the whole of his father's acquired property. The Saiads adding the rider that he would have to bear his father's funeral expenses. There is no difference of opinion on this point and the custom is well established. Many instances were given, of which I have not thought it necessary to quote more than two or three.

*QUESTION 65.—When a man living jointly with his brothers during his father's life receives a donation (Jahez) or gift of certain property from his father-in-law or maternal relatives, has he the exclusive right to that property or is it shared by his brothers after his father's death?*

In such a case, after his father's death, the son to whom the property had been given or "Jahez" on his marriage or by his maternal relatives would take it as his separate property and his brother would not share it, this is the reply of all the tribes; and the custom is established beyond doubt. Out of a great many examples mentioned I have quoted one or two only.

*QUESTION 66.—If a man die without issue leaving a brother of the full blood separated and a brother by a different mother associated, how will these two inherit?*

The Dhúnds, Satis, Khetwáls, Dhaniáls, Ghebas, Johdras, except the Maliks, Patháns except the Sagris, Awáns and Hindús, reply that the brothers of the full blood in such a case would succeed to the whole of the property of his deceased brother of the full blood, the brother of the half blood taking nothing.

*QUESTION 67.—Is a son who incurs all funeral and other expenses upon his father's death entitled to a larger share of the inheritance than other brothers?*

The answers to this agree throughout, and are to the effect that the father's estate should bear the expenses of the funeral. If one son pays them all before partition or at partition, he is entitled to claim an extra share to cover them, unless the other sharers then pay up their share of the expenses incurred in which case all share equally. The Patháns only say that in such a case the son defraying the expenses can only insist on his brothers paying their shares, but cannot claim a larger share of the inheritance on that account.

Fakir Mahomed, eldest son of the Khán of Makhad, again gives an answer maintaining the rights of the eldest son to the whole inheritance, he being responsible for funeral expenses.

For special case of the kind see Question 57.

*QUESTION 68.—If a man dies leaving two sons, one married and one unmarried, is the unmarried son entitled to a larger share in consideration of marriage expenses on partition?*

The replies in this case are practically unanimous as in the Question 67. A son is entitled to have his marriage expenses defrayed out of the estate left by his father; and his married brothers are bound on partition either to undertake to defray those expenses, or to



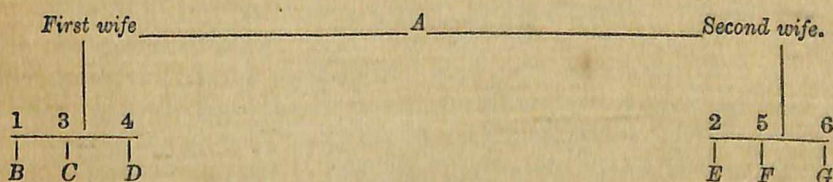
give him a larger share of the inheritance to cover them. The Moghals and Jasgams replied that on partition the unmarried son was entitled to receive his marriage expenses, or a larger share of the inheritance instead in partition, or if for any reason he remained unmarried, if his father had left any debts, the unmarried son was not to be called on to pay any part of them.

QUESTION 69.—*Can a widow claim partition in case of joint ownership with her deceased husband's relatives? Can a sharer without issue claim partition?*

The replies are unanimous, with the single exception of the Alpiáls, to the effect that a widow can claim partition, and numerous instances are cited.

The Alpiáls say that a widow cannot claim partition, but cite no cases in support of the statement which should be received with caution. As regards all other tribes the custom is established by which a widow can claim partition. There is no question that a sharer without issue has power to effect partition from his co-sharers.

QUESTION 70.—*If there be more sons than one by two mothers of the same caste with the father and the eldest son by the first wife, being a Lambardár, die without male issue, does his brother of the half blood who when next in age to the deceased succeed or his own full brother, as*



*B, a Lambardár has died without male issue, is C or E to succeed him? State the custom in each case (1) if inheritance is divided Pagwand, or (2), if it is divided Chúndewand?*

All tribes, save the Johdrás and Patháns reply to this that the brother of the full blood would in such a case be heir to his brother's Lambardárship. This is a case which has arisen more than once, and is likely to arise again, hence this question was inserted and the replies are clear. The Johdras and Patháns only reply that in such a case the brother next in age whether of the full or half blood would succeed.

#### FAKIRS.

QUESTION 71.—*If a man abjures worldly affairs and turns fakir, what effect has such a proceeding on—(1) His claim to his share of the estate; (2) His claim to succeed to property, to which he would otherwise have a right of succession; (3) If he abandons his worldly goods who will succeed to his property?*

There is little real diversity in the replies to this question; all say that when the owner of property turns fakir he can retain his rights over the property if he pleases, and also his rights of succession, but that if he abandons the affairs of this world altogether succession to his estate will be regulated by the same rules as if he



had died. Dhúnds, Satis, Khetwáls, Dhaniáls, Saiads, Moghals, Jasgams, say that he can, if he pleases, make over his property to his spiritual chief; a statement to be received with great caution, and which is omitted by all other tribes. Ghebas, Johdras, Alpiáls, Patháns, Hindús say that when a man turns *fakír* and abandons all thought of this world his rights in property and of succession cease which comes to mean the same as the replies of the other tribes. If a *fakír* chooses to abandon his rights he can do so, but clearly the mere fact of his turning *fakír* does not abrogate his rights, and no statement of custom could give such a state of affairs the force of law. If he abandons his estate and ceases to manage or attend to it in any way, this infers surrender of his rights and then it passes to his heir, but he can retain it if he pleases. This is the clearly established custom.

### AGRICULTURE.

As might be expected, customs relating to agriculture do not differ from tribe to tribe, and accordingly the answers to questions on this subject by all the tribes are given together. The questions on agriculture are 72—81. There is nothing in them calling for very special remark. Those of most interest are those referring to the sinking of wells by Mokarridárs Nos. 79 and 80. At first, I was inclined to doubt these replies very much and ordered further enquiry and had village administration papers examined. The replies are, of course, chiefly those of the owners. The state of affairs in this district, as I found out very clearly, when making enquiries for the purpose of recording an opinion on the new Tenancy Bill, is that the owners claim every kind of privilege, and would reduce the status of the tenants to its lowest possible point, and the tenants on the other hand contest every claim of the owners. For this reason these replies must be received with caution.

The questions 72 to 81 in full with the replies given will be found in the second portion, as I need not discuss them more fully here.

The customs to which the other questions relate are, I think, well established; as to those to which Nos. 79 and 80 relate, I am so fully convinced myself that they are quite clearly established, but the replies are unanimous; and as regards question 79, there is little doubt about the correctness of the replies. As regards those to the question 80, I am, by no means, so sure.



## APPENDIX.

### SUCCESSION OF SONS.

QUESTION 1.—*If there be more sons than one by the same mother will they take equal shares, or is any regard had to the age of the sons, so that the eldest son or the youngest son takes a greater or less share than his brethren?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Malliárs, Gújars, Hindús, Bhábras. "All sons of the same mother share equally."

The Malikis of Pindigheb, now represented by Malik Aulia Khán and Malik Nawáb Khán, his brother, state that their family custom of inheritance is as follows :—

If there be two sons only, the eldest son takes two-thirds of the inheritance, the younger son one-third. If there be more than two sons the eldest takes half and the remaining sons divide the other half among them in equal shares.

The custom obtaining in the family of the Ghulám Muhammad Khán, of Makhad, is stated by Fakír Muhammad, the eldest son to be that the eldest son takes the whole inheritance, subject only to such provision as his father may make for the maintenance of younger sons.

QUESTION 2.—*If there be more sons than one by two or more wives, are the shares in the inheritance distributed according to the number of mothers or according to the number of sons, "Chúndewand" or "Pagwand"?*

#### REPLY.

By the Dhúnds and the Hindús (except in Kahuta).  
"The inheritance is divided into shares according to the number of mothers. The sons of each mother then divide their shares equally among themselves, i.e., "Chúndewand."

#### EXAMPLES.

Dhúnds, in Mauza Ptha, Tahsíl Murree, Shahwali had four sons, one Muhammad Bakhsh by one wife, and three others by another wife. On Shahwali's death, the question was tried in the Civil Courts, and half of the inheritance went to Muhammad Bakhsh, and half to his three brothers.

In Mauza Ptha, Shams Khán, son of one mother took one half of his father's inheritance, and his two brothers, Hatam Ali and Nadar Ali, divided the other half without dispute.



In Mauza Phulgraon, Tahsíl Ráwalpindi, one Mulk Khán had four sons, Amír Khán, Dáli Khán and Akbar Khán by one wife, and Zabtu Khán by another wife. On Mulk Khán's death, Zabtu Khán took one half, and the other three sons divided the other half without dispute.

In Mauza Ghariot, Tahsíl Ráwalpindi, one Díal Singh had two wives, one Hakmí and one Achlo. Mussammát Hakmí had four sons, Nihál Singh, Piára Singh, Khazan Singh and Sher Singh; Mussammát Achlo had only one son, Jawála Singh. On Díal Singh's death the case was tried in a Civil Court, and one half of the inheritance given to Jawála Singh and one half divided among the other four brothers.

By the Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs and Hindús of Kahuta.

“All sons whether by the same or different mothers take equally, i.e., ‘Pagwand.’”

#### EXAMPLES.

In Mauza Káka, Tahsíl Kahuta, Desráj, Brahman, had two wives, one Mussammát Rájan had three sons, Harbháj, Bodhráj, Arjan. The other, Mussammát Nihálo, had one son only. The inheritance was divided without dispute among the four sons in equal shares.

In Mauza Sai, Tahsíl Kahuta, one Jang Ráj had two wives, one son by one, and two sons, Parem and Lachman, by the other. All three sons divided the inheritance in equal shares.

In Mauza Nála Brahmanán, one Dhera had two wives, one had one son Johda, the other had two sons Atma Rám and Bishen Dás, the three divided the inheritance equally.

#### EXCEPTIONS.

*Gakhars.*—Contrary to the usual custom a case occurred in Mauza Rihára in which one Jamíl Khán had two wives, one son, Phali Khán by one wife, and two sons, Mohsú Khán, and Jáfar Khán, by the other. Half the inheritance went to Phali, half was divided by the other two sons.

Two other cases, one in respect of the inheritance of one Shah-nawáz and the other in the case of the inheritance of one Bahádur Khán, have occurred in which the inheritance was taken “Chúndewand,” both these occurring in the same village of Ariári.

*Patháns.*—One case is recorded to have occurred in which contrary to the usual custom inheritance was taken “Chúndewand.”

In Mauza Niko, Tahsíl Attock, one Ahmad Khán had two wives, one had two sons, the other four sons. The two sons of the one took one half, the four sons of the other, the other half.

In the case of the Chúhán Rájpúts in Pindigheb Tahsíl, inheritance is “Chúndewand” as with the Dhúnds.

The Bhábrás only have one wife.



**QUESTION 3.**—*Is any regard had to the caste of the mother, so that the sons by a mother of high caste or of the same caste with the father, take larger shares than the sons by the mother of a low caste or of a different caste from the father; if so, state to what extent?*

**REPLY.**

By Dhúnds, Satis, Khetwáls, Gakhars, Patháns (with the exception of Sagri Phatháns) Moghals, Rájpúts, and Jasgams.

"The sons of a mother who is not of the same "Sahu" class as her husband take no part of the inheritance and are only entitled to maintenance.

**EXAMPLES.**

*Dhúnds.*—In Mauza Ausia, Jalál Khán married three wives, two of "Sahu" status, one a low caste Khoji woman. Núr Muhamad, the son of the Khoji woman, only received maintenance, the sons of the other two dividing the inheritance.

*Satis.*—In Mauza Jantra, one Karm married one wife, Mussammát Taru, a "Sahu" and had a son Shahnawáz. He also married another woman, Mussammát Nawábo, a Julaa, and had a son by her, Ghasita, who only received maintenance, Shahnawáz taking the inheritance.

*Gakhars.*—A man named Nathu Khán, of Shakarparian, Tahsíl Ráwalpindi, married a Gakhar woman and a Mochan woman, each had two sons, the sons of the Gakhar woman took the inheritance between them, the other two only receiving maintenance.

*Patháns of Attock.*—In Mauza Malikmála, one Khowidád Khán married two wives, a Pathán and a low caste woman. Husain Khán, the son of the Pathán woman, took the inheritance, Sháhádád, the son of the low caste woman, receiving maintenance only.

In Mauza Niko, Muhammed Khán had three sons, one Abdulla Khán by a Pathán wife, and two, Habibulla and Zaradulla, by a low caste woman. Abdulla Khán took the inheritance, the other two getting maintenance only. A similar case occurred with the sons of one Amirulla in Mauza Shahdher, Tahsíl Attock.

*Moghals.*—One Ladhu Khán of Khalol, had two sons, one by a "Sahu" woman, one by a low caste woman. Fatehjang Khán, the son of the "Sahu" woman took the inheritance. Ghulam Khán by the low caste woman got 5 acres for maintenance.

In Mauza Kahuta, Shakar Kuli Khán had two wives, a "Sahu" and a Kamin, Shakar Kuli Khán gave 18 acres to the son of the Kamin woman, Rája Khán, during his life-time. After his death, the grandson and Rája Khán sued for a share in the inheritance against the descendents of the Sahu woman, and their suit was dismissed.



### EXCEPTIONS.

The Admál family of Gakhars of Pharwála, however, state that if any of their family marries a low caste woman, her sons succeed "Pagwand" with the sons of "Sahu" woman, but cannot succeed to the chiefship of the tribe "dastár."

One son, Khairulla, by a Pathán woman, received three-fourths share and Sherdil, by a low caste woman, received one-fourth share. This case went up to the Chief Court. In Mauza Kámilpur, Mohamed Shah had two wives, one a Pathán woman who had two sons, one a Julaa, who had also two sons. The sons of the Pathán woman got two-thirds, the sons of the Jolaa woman one-third of the inheritance.

In Mauza Narara, one Yarú of Dhok Torangmela, in Tahsíl Pindigheb, had two wives, a Pathán and a Lohár woman. The sons of each took equally. Three other similar cases occurred in the same village in the cases of Samendar of Dhok Chent, Daraz of Dhok Dakner, and Maazulla of Dhok Malangi.

By Khattars, Ghebas, Johdras, Alpiáls, Saiads, Patháns (Sagri) Awáns, Koreshis, Játs, Gújars, and Maliárs.

"There is no distinction as regards inheritance between the sons of the mothers of different caste."

### EXAMPLES.

In Mauza Dhok Por, Tahsíl Ráwalpindi, one Atar Khán had two wives, one Khattar the other a Nai. The sons of each took alike.

In Mauza Kutbal, Tahsíl Fatehjang, one Akbar Khán had two wives, one a Khattar one a Nai, the sons of each took equally.

In Mauza Mallu, Tahsíl Fatehjang, one Hidáyat Khán married a Khattar woman and a Malliár woman; the sons of each succeeded alike to their father's inheritance.

In Mauza Dhurnál, Tahsíl Fatehjang, one Budu Khán married two wives, a Gheba and a Dhoban. The sons of each shared alike.

In Mauza Khaur, Tahsíl Fatehjang, one Mawáz Khán married two wives, a Gheba and a Nai. The sons of each shared alike.

*Johdrás.*—In Mauza Ganda Kas, Nazar married two women, a Johdra and a Malliár. The Johdra woman had two sons, the Malliári one son, the three sons took an equal share.

A man having property in Kamaliál, Ganda Kas, Maluwála, Bawre, Suhál, named Fateh Sher married two wives, a Johdra and a different caste woman, and had two sons by the Johdra woman and one by the other, each son took an equal share.

In Mauza Parihal, one Ján Mahomed had two wives, an Alpiál and a Murási. The sons of each took alike.



In Mauza Kalar of Tahsíl Kahuta, one Mahomed Ahsan Shah had two wives, a Saiad and a Sati woman. The sons of each took alike.

In Pir Grata of Tahsíl Kahuta, one Diwán Shah, had sons by a Saiad and by a Kashmíri woman. The sons of each took alike.

In Mauza Guhal Pahal, Tahsíl Pindigheb, Shákur Awán had two wives, one an Awán the other a Nai. The sons of each shared alike.

In Mauza Mari, Karm Awán had two wives, an Awán and a Lohár. The sons of each shared alike.

In Mauza Thallián, Tahsíl Ráwalpindi, one Gadhu Gújar had two wives, one a Gújar, one a Mochon. The sons of each took alike.

In Mauza Palákhar, Tahsíl Kahuta, Jáfar Ali, Gújar, had two wives, a Gújar and a Malliár. The sons of each shared alike.

The custom in the family of Ghulám Máhoméd Khán, of Makhad, is stated to be that only the eldest son succeeds to his father's inheritance, and that the son of a woman of high caste is preferred before the sons of a woman of low caste, who can only succeed to the chiefship or inheritance, if there be no sons of a mother of high caste.

#### EXCEPTIONS.

One case, however, is recorded in which one Hidáyat of Mauza Mallu, married a Khattar woman, by whom he had two sons, and also a Malliár woman, by whom he had three sons. The two sons of the Khattar woman took one half, the three sons of the Malliár woman the other half of the inheritance, instead of all five in equal shares, i.e., "Pagwand."

The case never occurs with Hindús and Bhábrás.

QUESTION 4.—*If there be male issue from a hand-maiden (Kanizak), to what extent will such issue inherit, in case there be legitimate descendants of the father, by a legal wife? and in case there be no such descendant in respect to other relatives. Specify the term hand-maiden (Kanizak)?*

#### REPLY.

By Dhúnds, Dhaniáls, Gakhars, Khattars, Ghebas, Moghals, Ráj-púts, Jasgams and Bhábras.

"The sons of hand-maidens have no rights of inheritance. The custom of "Kanizak" does not obtain among us."

By Satis, Khetwáls, Alpiáls, Patháns, Saiads, Awáns, Koreshis, Játs, Gújars, Malliárs and Hindús.

"The sons of hand-maidens have no rights of inheritance."

By Johdras.—"The sons of hand-maidens are not entitled to any share in the inheritance but are entitled to maintenance."

QUESTION 5.—*Can an adopted son inherit to his adoptive father, or can the latter assign him a part of his property during his life-time?*



REPLY.

By Dhúnds, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Patháns, Saiads, Moghals, Rájpúts, Jasgams.

"The custom of adoption is not known."

By Satis, Khetwáls, Alpiáls, Awáns, Kureshís, Játs, Gújars, Malliárs, Hindús and Bhábras.

"It is not the custom to adopt, but if a case did occur, his adoptive father could give him a share in his life-time.

EXAMPLES.

In Mauza Takhtpari, one Nawáb, Awán, adopted Ghulám Hosain, and made over a half of his property to him during his life, and gave the other half to his own sons.

In Mauza Kaká, Tahsíl Kahuta, Diálu, Brahman, had two sons, Mulráj and Desráj, he brought up an orphan Wáris son of Hebat, Gakhar, both of whose parents were dead, and gave him a third share of his property with his own sons, a division upheld by the Chief Court.

QUESTION 6.—*Can the son by a former marriage of a woman who contracts a second marriage, inherit from his step-father or claim any maintenance from him?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs and Hindús.

"The son of a woman by her first husband has no claim to succeed to any part of the inheritance of her second husband when she marries a second time."

Bhábra widows do not remarry.

QUESTION 7.—*If there be illegitimate sons born of a woman with whom marriage is lawful, will they receive equal shares with legitimate sons or less? And in case they are born of a woman of low caste, will they take a share in the estate or not?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

"No illegitimate son is entitled to any share in the inheritance of his father."

QUESTION 8.—*Is an illegitimate descendant, as mentioned in drevious question, entitled to a share in the property in case there are no legitimate descendants?*



REPLY.

As in preceding question.

QUESTION 9.—*A father transfers his possession of a part of his landed property, in his life-time to his illegitimate son, will such a transfer be maintained after his death or not, and if not, who can eject the illegitimate son from possession ?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“If a father in his life-time makes over a portion of his property to an illegitimate son, his sons or other heirs could oust him, but no such case is known to have occurred.”

By Patháns of Pindigheb.—“In such a case the possession would be maintained after the father’s death.”

QUESTION 10.—*If a man die during his father’s life-time, will his male issue take an equal share collectively in the property with the brothers of the deceased, or how ?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“In such a case the grandson would succeed to the father’s share in his grandfather’s property.”

RIGHTS OF DAUGHTERS AND THEIR ISSUE.

QUESTION 11.—*Can a daughter or her issue inherit with male issue ; if so, state to what extent ?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“A daughter is not entitled to share in the inheritance when there is any male issue.”

QUESTION 12.—*If there be no male issue, do the married daughters inherit or the near male kindred ?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khottars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“If there be no male issue, the near male kindred inherit in preference to daughters.”

QUESTION 13.—*State what male kindred of the deceased have preference in regard to succession over a married daughter or the issue of a daughter ?*



REPLY.

By Dhúnds, Satis, *Khetwáls*, Dhaniáls, Tarkheli Patháns, Moghals, Rájpúts (except Chohans), and Jasgams.

“Any male kindred who can prove their relationship in the male line to the deceased are entitled to inherit in preference to the daughters of the deceased, however distant the relationship may be.”

EXAMPLES.

*Satis and Khetwals.*—In Mauza Bhangal, Tahsíl Kahuta, one Sher Khán died, leaving four daughters, but his inheritance was taken by male kindred six degrees removed from him.

In Mauza Kahuta, Najib Khán, Duláll, (Janjua), died leaving a daughter, named Mussammát Sahib Kuli, but the inheritance went to male kindred six degrees removed from deceased.

In Mauza Maira, Tahsíl Kahuta, one Sultán Khán, Garwál, (Janjua), died, leaving two daughters, but the inheritance went to Alif Khán and others removed five degrees from deceased.

*By Gakhars, Saiads, Awáns, Kureshis, Játs.*—“The male kindred within four degrees of relationship will succeed before the daughter.”

EXAMPLES.

*Gakhars.*—In Mauza Sambal Kurak, Tahsíl Ráwalpindi, one Shahwali died, leaving a daughter and no male kindred within four degrees. Mussammát Nekán, his daughter, accordingly took the inheritance. The claims of the male kindred being dismissed in a civil suit.

*By Khattars, Ghebas, Alpiáls.* “The male kindred within five degrees of relationship will succeed before the daughter.”

EXAMPLES.

*Khattars.*—In Mauza Fatehjang, one Jiwan Khán died, leaving four daughters and a widow. The widow took for life; after her death the inheritance went to Mauladád Khán and others, removed five degrees from deceased, and the daughter's claim was dismissed by a Civil Court.

In Mauza Kheri, one Nawáb Khán died, leaving no son and male kindred within five degrees, his inheritance went to his daughter Mussammát Rájan. The male kindred brought a suit which was dismissed.

*By Jodhras, Chuháns, Gujars, and Malliárs.*—“A male kindred within seven degrees will succeed in preference to a daughter.”

EXAMPLES.

In Mauza Batála, Tahsíl Kahuta, Mahdu, Malliár, died, leaving a daughter and no male kindred within seven degrees. His daughter took the inheritance.

*By Chach Patháns.*—“Male kindred up to second degree of relationship inherit before daughters.”

The *Sagri Patháns* say that male kindred within ten degrees of relationship inherit before daughters.



EXAMPLES.

*By Hindús, and Bhábrás.*—"Male kindred within six degrees exclude daughters."

EXAMPLES.

In Mauza Luni, Tahsíl Kahuta, two brothers, Mohr Singh and Moka, died without male issue, their inheritance went to the Makha, Brahman, of Nala Brahmanán, removed five or six degrees off in relationship instead of to their daughters.

In Mauza Maniand Nihála, Brahman, died without male issue ; Rám Singh and Narain Dás, his male kindred in the third or fourth degree succeeded in preference to his daughters.

QUESTION 14. —*If a married daughter with her husband, live with the father (having no male issue) up to his decease, does the daughter or her husband inherit, or do the near male kindred ?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Chuháns (Rájpúts), Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs.

"Neither a married daughter nor the issue of a married daughter, living with her husband in her father's house, succeeds to his inheritance in preference to near male kindred. Near male kindred under all circumstances inherit in preference to a daughter or her issue.

EXAMPLES.

In Mauza Ausia, Mehdu took his daughter and her husband, Bahadur, into his house. Mehdu died without issue and his inheritance went to Roshu, Atár, and others, his male kindred.

In Mauza Dewál, one Ali Mard, took Mada, his daughter's husband into his house and died without male issue, but his near male kindred (Kharatián) took the inheritance.

*Khetwál.*—In Sau, Dakhili Charihán, one Bahádur Khán, Khetwál, without male issue, took his daughter, Mussammát Bago, with her husband, Kalu, into his house, but on his death, his near male kindred took the inheritance, after the death of his widow Mussammát Gera. The widow gave the property to her daughter, but the kindred obtained it in a civil suit.

In Mauza Kamkot Haidar, Tahsíl Kahuta, Nasru took Bahádur Ali, his daughter's husband into his house, but on Nasru's death without male issue, his male kindred obtained the inheritance.

*Dhaniáls.*—In Mauza Maira, Tahsíl Kahuta, one Bhola Khán, without male issue, took Jáfar Khán, his daughter's husband into his house, but on Bhola Khán's death his near male kindred succeeded him.

*Alpiáls.*—In Mauza Khilri, Tahsíl Fatehjang, Zulfkár Khán took Fatta, his daughter's husband into his house, but on his death Bágga and others, his male kindred, took his inheritance.



*Saiads.*—In Mauza Kalar, Tahsíl Kahuta, Nur Saiad Yasin took his daughter, Niáz Fatima, and her husband, Akbar Shah, into his house as “Ghar Jawai;” on Nur Saiad Yasin’s death, his near male kindred took the inheritance.

In Mauza Choa Khálsa, Tahsíl Kahuta, Lál Shah took his daughter, Fazlī Bibi, and her husband into his house as “Ghar Jawai;” on his death his property went to his near male kindred.

In Mauza Sháh Alladitta, Tahsíl Ráwalpiudi, Ghulám Hosain Sháh took his daughter’s husband, Nur Hosain, into his house as “Ghar Jawai;” but on Ghulám Hosain Sháh’s death without male issue, his property went to Cheragh Ali Sháh and Mahommed Ali Sháh, his near male kindred, and this arrangement was confirmed in appeal to the Chief Court.

*Jasgams.*—In Mauza Salitha, Tahsíl Kahuta, Nasru Khán took in Háshim, as “Ghar Jawai,” his daughter’s husband; but on Nasru’s death his property went to his near male kindred and not his daughter or son-in-law.

*Gújars.*—In Mauza Padhána, Tahsíl Gújar Khán, Mahomed Bakhsh, Gujar, took his daughter and her husband into his house as “Ghar Jawai;” but on his death his near male kindred took the inheritance.

In Mauza Satwáni, Tahsíl Kahuta, Karm, Gújar, took in his daughter’s husband as “Ghar Jawai;” but on his death the inheritance went to his near male kindred.

In Mauza Cháhat Kahuta, Gharib, Malliár, took in his daughter, Bano, and her husband, Waris; on his death the inheritance went to his near male kindred.

*By Gakhars, Khattars and Rajputs except Chuháns.*—“If a daughter, whose husband is a Gakhar, lives in his father’s house with her husband from the time of her marriage, she and her issue will succeed to the inheritance in preference to near male kindred, provided she also defrays the funeral expenses of her father.”

#### EXAMPLES.

In Mauza Rupa, Tahsíl Ráwalpindi, Nawázish Ali took Amír Khán, his daughter’s husband, into his house as “Ghar Jawai,” and on the death of Nawázish Ali, Amír Khán succeeded to his property.

In Mauza Jabbi Gakharán, Tahsíl Ráwalpindi, Zakaria Khán died without male issue, and his inheritance went to one Niáz Khán, his daughter’s husband, who lived with him.

In Mauza Narála, Tahsíl Kahuta, Niáz Ali, Gakhar, took his daughter’s husband, who was also a relative, into his house as “Ghar Jawai” and made over his inheritance to him in his life-time. The claim brought subsequently by the male kindred was dismissed.



*By Hindús and Bhábrás.*—"The daughter or her issue in such a case would succeed to the inheritance."

EXAMPLE.

Sohba Sháh, of Ráwalpindi, took in Jiva Sháh, his daughter's husband, as "Ghar Jawai," and on his death Jiva Sháh succeeded to the inheritance.

EXCEPTION.

Some Brahmans of Kahuta say that the daughter in such a case would not succeed.

In Mauza Nara, Tahsíl Kahuta, Jassa, Brahman, took his daughter, Amiri, and her husband, Narain Dás, into his house as "Ghar Jawai," but on his death his inheritance went to his near male kindred.

QUESTION 15.—*If a daughter or her issue inherit and die without any male issue, will the property return to the near male kindred of her father or of her husband?*

REPLY.

By Dhúnds, Jōhdras, Saiads, Rájpúts, Awáns, Koreshis, Malliárs, Hindus (except of Kahuta) and Bhábras.

"If a daughter has by any means inherited any property and dies without issue, the property goes to the male kindred of her husband, not to those of her father."

EXAMPLE.

In Mauza Thoa Khálsá, Mardána gave some property to his daughter Fazl Nissa, she died without issue, and her husband's relatives took the inheritance. Her father's relatives brought a suit to obtain it, but this was dismissed.

*By Gakkars, Khattars, Ghebas, Patháns (except Sagri Patháns) Jats, and Gújars.*—"In such a case the property would go to the husband's male kindred, if he also were a Gakhar, otherwise to her father's male kindred."

EXAMPLES.

In Mauza Dhrek, Tahsíl Fatehjang, a daughter had received some land from her father, her husband being a Khattar, she died without issue, and her husband's male kindred inherited the property.  
*Gújars.*—In Mauza Nala Gújran, Tahsíl Gújar Khán, Mána gave some land to his daughter when she died without issue; Mana's sons took the land.

*By Dhamiáls, Alpiáls, Moghals, and Jasgams.*—"No such case has ever occurred.

*By Sagri Patháns and Hindus of Kahuta.*—"The father's male kindred would succeed."



EXAMPLES.

In Mauza Balhar, Tahsíl Kahuta, Bira, Brahman, gave some land to Shibu, his daughter, when she died, the land went back to her father's nephews.

QUESTION 16.—*Of two daughters, if one is married and one unmarried, will they inherit in equal shares? If not, state how they will inherit?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gákharas, Khattars, Ghebas, Johdras, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindus and Bhábras.

"The unmarried daughter in case there were no male kindred to inherit would take possession of the inheritance and retain it so long as she remained unmarried in preference to married sisters. When she, too, married, the inheritance would be equally divided among the married daughters.

EXAMPLES.

In Mauza Johd, Tahsíl Ráwalpindi, Ghulám Khán, Awán Golra, died, leaving no male heirs or near male kindred, but two daughters, one Fazla, married, and one Roshani, unmarried, Roshani took possession of the whole inheritance on her father's death.

In Mauza Batála, Tahsíl Kahuta, Barkatulla, Malliár, died, leaving three daughters, two married, one Karm Nur, unmarried, on Barkatulla's death, Karm Nur took possession of the property.

QUESTION 17.—*If of two married daughters one with her husband lives with the father and the other in a different village, in what manner are the daughters' rights of inheritance affected by this circumstance?*

REPLY.

By all tribes throughout is that in such a case both daughters would inherit alike; there being no male kindred of the father to exclude them from the inheritance.

QUESTION 18.—*If a widow and a daughter are left to inherit together, how is the inheritance treated?*

REPLY.

By Dhunds, Dhaniáls, Johdras, Alpiáls, Chuháns (Rájpút), and Bhábras.

"In such a case if the daughter is married she inherits nothing, if unmarried she is entitled to maintenance only. The widow taking every thing."

EXAMPLES.

In Mauza Kirpa, Madu Khán died, leaving a widow Mussammát Mosú and two daughters. The widow took possession of the whole inheritance.



In Mauza Kalari, Nur Ahmad, Alpiál, left a widow, Musammát Gara and a daughter. The widow took possession of the inheritance, maintaining the daughter until her marriage.

By Satis, Khetwals, Gakhars, Khattars, Ghebas, Patháns, Saiads, Moghals, Rájpúts (except Chuhán), Jasgams, Awáns, Koreshis, Játs, Gújars, Malliars and Hindús.

“In case the daughter is married she has no rights. If unmarried she is entitled to share equally with the widow until her marriage.

#### EXAMPLES.

In Mauza Charihán, one Aidal, Khetwál, died without male issue, leaving a widow Kalu and a daughter, Nur Jahán, unmarried. Each took an equal share. The widow has re-married and Nur Jahán, the daughter, is now in sole possession.

In Mauza Kotle, Daulat, Sati, died with no male issue, leaving a widow Sardár Begam, and a daughter, Mahomed Nisa. They each took equal shares, the daughter Mahomed Nisa has since married and the widow is now in sole possession.

In Mauza Kamilpur Musa, Tahsíl Attock, Zaman died, leaving a widow, Musammát Basandu, and a daughter, Maji. Each took an equal share of the inheritance.

In Mauza Choa Khálsa, Tahsíl Kahuta, Roshan Shah died, leaving a widow and a daughter, who took the inheritance in equal shares. The daughter has since been married, and the widow has taken sole possession.

In Mauza Bali Mahabbat, Tahsíl Kahuta, Mahdu Sháh left a widow, Karm Nisa, and a daughter, Hayát Bibi. They took the inheritance in equal shares, afterwards the daughter married and the widow took sole possession.

In Mauza Beor, Tahsíl Kahuta, Hásham Khán died, leaving a daughter and a widow. They took equal shares until the daughter's marriage, when the widow took the whole.

In Mauza Golra, Tahsíl Ráwalpindi, Rahim Dad, Awán, died and his widow and Musammát Garu, his daughter, took in equal shares until the daughter's marriage, when the inheritance went to the widow.

In Mauza Satwáni, Tahsíl Kahuta, Kálu, Gújar, left a widow, Musammát Giri and three unmarried daughters. The widow and each of the daughters shared equally.

In Mauza Kanoa, Tahsíl Kahuta, Baháwal, Gújar, left a widow, Musammát Mobarak Bibi, and a daughter, the widow and the daughter succeeded in equal shares.

In Mauza Luni, Tahsíl Kahuta, Charan Dás, Brahman, died leaving a widow, Mussammát Punno, and a daughter, Jiwáni. They



divided the inheritance until the daughter married, when the widow took it all.

In Mauza Hanesar, Dhamu, Brahman, died, leaving a widow, Musammát Gulábo, and Mussammát Bishno, a daughter. They divided the inheritance until the daughter married, when the widow took it all.

QUESTION 19.—*Are unmarried daughters until marriage and daughters vowed to celibacy ("Musalla Nashín") entitled to a share in the inheritance; if so, to what extent, and how is this right affected by the presence of male issue. "Musalla Nashíns" are not known among Hindús.*

#### REPLY.

By Dhúnds.—“If there be any male issue, unmarried daughters and daughters vowed to celibacy, have no rights of inheritance, but only to maintenance. If there be no male issue, unmarried daughters take possession of the whole inheritance; on marriage they lose all rights over it and it goes to the near male kindred. Women vowed to celibacy are not known in the tribe.”

#### EXAMPLES.

In Mauza Dewal, Guláb Banu, unmarried daughter of one Mendu, took possession of his inheritance.

In Mauza Mahula, Mír Khán left two daughters only, Karm Núr and Alaf Núr; these took possession of his inheritance until their marriage.

In Mauza Jewra, Shera had a daughter, Musammát Mendu who took possession of his property until his marriage, when it went to Sharaf and others, Shera's near male kindred.

By Satis, Khetwáls, Gakhars, Khattars, Gheba, Saiads, Moghals, Rajputs (except Chuháns), Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús, Bhábras.

“Unmarried daughters take share equally with their brothers, and if there be no male issue, they take the whole inheritance. Such rights, however, only last so long as they remain unmarried. On marriage the inheritance passes to the near kindred. In the case of a woman who maintains a vow to celibacy the rights last for life.”

#### EXAMPLES.

In Mauza Charihán, Bakhsh Khán, Khetwál, left a daughter unmarried, Núr Jehán, who took possession of the inheritance.

In Mauza Charihán, Háshim Ali Khán left two daughters, Guláb-ul-nissa and Fateh Ján, who took possession of the inheritance—Guláb-ul-nissa has since married, and Fateh Jan is in sole possession.

In Mauza Gael, Miru Khán, Khetwal, left two daughters, Sáhíb Núr and Nissa, who took possession of their father's inheritance until their marriage, when it went to Mirza and others, Miru Khán's near male kindred.



*Gakhars.*—In Mauza Haraka, Tahsíl Ráwalpindi, Jiwan Khán left two sons and a daughter vowed to celibacy ; the three took equal shares.

In Mauza Sambal Kurak, Musammát Mani, “Musalla nashín,” holds an equal share with her brother Wali Khán.

In Mauza Shakarparián, Musammát Mír-ul-nissá, took possession of her father's inheritance with her three brothers, Akbar, Sultán, and Shera, in equal shares.

In Mauza Pharwála, Faiz Talab's daughter Mirza Fazl, “Musalla nashín,” holds possession of the inheritance, but as she is “Parda-nashín,” it has not been entered in her name.

*Khattars.*—In Mauza Bahtar, Sarfaráz Khán died, leaving a daughter Núr Khanam, vowed to celibacy, she held the property until her death, when it went to the male kindred of Sarfaráz Khán.

*Ghebas.*—In Mauza Tajábara, Tahsil Fatehjang, Jabán Khán left a daughter Roshanai, “Mussalla nashín,” who took possession of her father's inheritance.

*Rájpúts.*—In Kahuta, Sarfaráz Khán left a daughter, now 40 years of age, unmarried, who took an equal share with her two brothers, Falla and Tika.

*Gújars.*—In Mauza Palákhari, Hosain Ali, Gújar, left a daughter who took an equal share with her two brothers, Bahával Din, and Alif Din, being unmarried.

In Mauza Batála, Barkatulla, Malliár, left an unmarried daughter, Karm Núr who took possession of the inheritance.

In Mauza Ancha, Tahsíl Kahuta, Bhagwán Dás, Brahman, left an unmarried daughter who took possession of the inheritance.

*By Johdrás, Patháns and Chuháns.*—“If there are male issue, unmarried daughter is entitled to maintenance, if there are no male issue, she takes the inheritance until her marriage, or if a “Musalla nashín,” for life.

*Sagri Patháns*, however, state that an unmarried daughter is never entitled to more than maintenance.

#### EXAMPLES.

In Mauza Kamílpur, Alam, Turebáz, left daughters unmarried who took possession of his inheritance.

In Mauza Abubakar, Mahomed Ali Khán's daughters got maintenance from their brothers.

In Mauza Waisa, Amír Khán's daughter, Musammát Hosaini, took possession of her father's property.

In Mauza Yásin, Musammát Sáhíb Khánam, unmarried, took possession of her father's property.



By Dhaniáls, and Alpiáls.—“ If there be any male issue, unmarried daughters have no rights of inheritance, but only to maintenance. If there be no male issue unmarried daughters take possession of the whole inheritance, on marriage they lose all rights over it and it goes to the near male kindred. In the case of a woman who maintains vow to celibacy the rights last for life.

#### EXAMPLES.

In Mauza Kirpa, Sher Khán died, leaving a daughter, Musammát Khánam, unmarried, and she took possession of the inheritance.

In Mauza Sihali, Nawázash Ali Khán left a daughter, Khera, who took possession of his inheritance.

In Mauza Kirpa, Sharaf Khán left a daughter Sardár Begam, who retained possession of his property until her marriage.

In Mauza Kirpa, Sultán Mahomed had two sons, Kála Khán, Juma Khán, and one daughter Waháb Kuli, “ Musalla nashín.” The two sons and the daughter took equal shares.

QUESTION 20.—*Does a widow of the same tribe with her deceased husband inherit for life or is she merely entitled to maintenance, and if there be male issue what share will she take?*

#### REPLY.

By Dhúnds and Dhaniáls.—“ Widows are entitled to hold possession of their deceased husband's property for life, or until they marry again if there be no male issue. If there be male issue a separate portion suitable to her maintenance is set apart for the widow, or else she gets an equal share with her sons.

#### EXAMPLES.

In Mauza Dewal, Sardár left two sons and a widow, the sons gave the widow a separate portion of their land, their names were Nawáb and Sher Ali.

In Mauza Potha, Tahsíl Murree, Núr Ahmed and Mahomed Said set aside a portion of manured land for their mother, Musammát Tála.

By Satis, Khetwáls, Gakhars, Khattars, Johdrás, Pathán, Moghals, Rájpúts, Jasgams, Awáns, Kureshis, Játs, Gújars, Malliárs, Hindús, Bhábras.

“ The same as with Dhúnds, except that in case of male issue the widow and each of the sons takes an equal share.

#### EXAMPLES.

In Mauza Charihán, Mír Khán, Khetwál, died, leaving a widow, Musammát Jána, who took an equal share with her three sons.

In Sang Dakheli Charihán, Nasru, Khetwal, left a widow Musammát Kharki, who took equal share with her husband's sons, Mutawali, Hazar Ali, Fateh Khán.



*Gakhars.*—In Mauza Ajri Bakhshi, Tahsíl Ráwalpindi, Hayát Khán left six sons and a widow, the widow took an equal share with the sons.

In Mauza Sambal Kurak, Sharaf Khán left a widow and three sons, each took one-fourth share.

*Khattars.*—In Mauza Khuram Gújar, Tahsíl Ráwalpindi, Sher Khán left a widow and two sons, Karm Khán, and Jahán Dád Khán, the widow took an equal share with the sons.

*Rájpúts.*—In Mauza Kahuta, Táj Mahomed left a widow Musamát Fateh Kuli, who took an equal share with her sons, Diwán Khán and Surkhru.

In Mauza Bagla, Tahsíl Kahuta, Ráma Khán, Garwál, left a widow, Musammát Fateh Kuli, who took one-fifth share with the four sons.

In Mauza Golra, Sultán Ali Khán, Awán, left a widow and a son, each took half the inheritance.

In Mauza Bhon, Tahsíl Kahuta, Karm Dád, Awán, left two sons and a widow Bibi Ráni, who took an equal share with her son.

In Mauza Palakhar, Tahsíl Kahuta, Háshim, Gújar, left two widows and one son, each took an equal share.

In Mauza Kanoa, Tahsíl Kahuta, Aidal, Gújar, left two widows and two sons, each took an equal share.

By Ghebas and Alpiáls.—If there be no male issue, the widow takes the whole inheritance for life, if there be male issue, she is only entitled to maintenance.

#### EXAMPLES.

In Mauza Turnál, Fateh Khán died, leaving a widow and a son, Khán Alam. The widow claimed a share, but was given two ploughs of land for her support.

*Ghebás.*—In Mauza Lund, Budha Khán left a son, Karm Khán, who took the inheritance and gave his mother her maintenance only.

In Mauza Pind, Malhu Khán, Malak, died and left a widow and four sons. The sons took the inheritance and gave maintenance to their mother.

In Mauza Kalri, Bakhtáwar died, leaving a widow and two sons and a grandson. The sons and grandson divided the inheritance, setting aside a portion for the widow's maintenance.

The Tarkheli Patháns state that in all cases the widow is only entitled to maintenance. The Patháns of Malakmála and Ghurghashti state that, in case the inheritance is large, a suitable portion is set aside for the widow, the male kindred taking the rest; otherwise the widow takes the inheritance for life.



EXAMPLES.

In Mauza Kolíán, Tahsíl Attock, Sherdil, Tarkheli Pathán, left a widow, Musammát Zeb-un-nissa, who received maintenance her son, Muhammad Khán, taking the inheritance.

By Saiads the same as with Satis, but in some cases even where there is no male issue, the widow only gets maintenance.

EXAMPLES.

In Mauza Majáwa, Tahsíl Ráwálpindi, Karm Shah died, leaving a widow in whose name the land was entered, a suit was brought and two acres was given for her maintenance. The balance, ten acres, going to Mohkam Shah, Karm Shah's brother.

QUESTION 21.—*If there be two widows, one with issue, and the other barren, is the latter entitled to share in the inheritance?*

REPLY.

By Dhúnds Dhaniáls, Moghals, Jasgams and Kureshis.—“In such circumstances the barren widow is entitled to share with the issue of the other widow, the sons of the one widow with their mother taking half, the barren widow half, *i.e.*, Chúndewand.”

EXAMPLES.

In Mauza Birgráon, Tahsíl Murree, Roshan had two wives, one, Musammát Gora Begam, with issue, and Attar Nisa, barren; Attar Nisa took half the inheritance until she married again.

In Mauza Sandián, Amir Khan left two widows, one had issue, the other had none. The barren widow took one half.

*Dhaniáls.*—In Mauza Kirpa, Nura Khán left two widows, one, Musammát Khwaju, with four sons, and one Musammát Bibi Núr barren. Musammát Bibi Núr took a half share.

In Mauza Kalhabasánd, Tahsíl Murree, Musammát Naksh Ján, barren, took an equal share with the sons of the other wife.

*Jasgams.*—In Mauza Rájrot, Tahsíl Kahuta, Bakhsh Khán, left two widows, one with issue, the other barren, the barren widow and the sons of the other widow shared alike.

By Satis and Khetwáls.—“As with the Dhúnds, but if the barren widow cannot manage half the land and arrange for the payment of revenue on so much land, she takes less.

EXAMPLES.

In Mauza Charihán, Hosain Shah, Khetwál, left two widows, Karm Nisa barren, and Ashar Begam with issue, Diláwar Khán. Karm Nisa took one half, Ashar Begam and Diláwar Khán the other half.

In Mauza Charihán, Shamsher Khán, Khetwál, had two wives, Musammát Zin Kuli barren, and Musammát Gora with issue, Sardár Khan. Zin Kuli, the inheritance being very large, at her own wish took a quarter only.





By Gakhars, Alpiáls, Rájpúts, Játs, Gújars, Malliárs and Hindús.—“Widows barren and with issue take an equal share with each of the sons, that is each widow gets the same as each of the sons, but Kahuta Hindús say that the widows divide equally.

## EXAMPLES.

In Mauza Shakarparián, Tahsíl Ráwalpindi, Jaffu Khán had two wives, one pre-deceased him, leaving a son, Fattu Khán, the other was left a barren widow and took half the inheritance.

In Mauza Pharwála, Rája Hyátulla had two wives, one had a son, Rája Karmdád Khán, the other was barren, but succeeded for her life-time to half the inheritance.

*Rájpúts.*—In Mator, Tahsíl Kahuta, Murád Bakhsh, Garwál, had two wives, one had issue, Karm Khán and Hashmat Ali Khán; the other Musammát Begam was barren; on his death Musammát Begam took an equal share with Karm and Hashmat.

*Brahmans.*—In the Kalar, Tahsíl Kahuta, Hira Nand, Brahman, had two wives, Musammát Mudu had issue, Karm Chand, the other was barren. Musammát Mudu and Karm Chand took half, and the barren widow half.

By Khattars, Ghebas, Johdras and Awáns.—“Barren widows usually receive only maintenance, in some cases they get a share.”

## EXAMPLES.

In Mauza Pind, Tahsíl Fatehjang, Fazl Khán's father had two wives, one had issue, Fazl Khán, the other was barren, both are alive.

Fazl Khán gives maintenance to both of them.

In Mauza Fatehjang, Ghulám Mahomed Khan had two wives, one had issue, Fateh Khán, the other was barren; Fateh Khán only gave maintenance to each.

In Mauza Akhori, Tahsíl Attock, Umr Khán left two widows, one Gohr Banu was barren, the other Hakikatu had issue Khudadad, each took one-third share.

In Mauza Akhori, Tahsíl Attock, Ali Khán left two widows and one son Namat Khán; they each took one-third share.

*Ghebas.*—In Mauza Sukhwál, Tahsíl Fatehjang, Agar Khan, Lambardár, had two wives, one had issue, Mir Zamán Khán and Sultán Ahmed Khán, the other was barren. The sons gave the barren widow, the step-mother, maintenance.

*Awáns.*—In Mauza Golra, Tahsíl Ráwalpindi, Dádan Khán, Awán, left a son by one wife, and a barren widow. The son and the widow took equal shares.

In Mauza Golra, Mardána Khán left two widows, one had issue one son, the other was barren. Each widow and the son took one-third share.



In Mauza Bhon, Tahsíl Kahuta, Nadu, Awán, had two widows, one Mussammát Shamas Kuli had issue Jatal, the other Sahibji was barren; Sahibji brought a suit, but only obtained a decree for two acres as maintenance.

In Mauza Hotla, Tahsíl Kahuta, Jamál Khán, Awán, left two widows, one Musammát Núr Nisa Bibi had two sons, Nanne and Amir Ali, and the other Musammát Sahibji had no issue. The barren widow only received  $4\frac{3}{4}$  kanáls for her maintenance.

In Mauza Chakrali Badhal, Tahsíl Gújar Khán, Guláb Khán, Awán, had two wives, one Sultán Kuli had issue, Fateh Ali, the other was barren. Fateh Ali and the barren widow Musammát Bagu took each half share.

By Patháns.—“Barren widows in some cases take as with the Dhúnds, in others as with Gakhars; sometimes as with Khattars.”

The Sagri Patháns' reply is, “that barren widows only receive maintenance.”

#### EXAMPLES.

In Mauza Alu, Tahsíl Attock, Bahadar Khán had two wives, one had issue, Azim, the other Musammát Núr-ul-nissa was barren, Azim and Núr-ul-nissa are each in possession of half.

In Mauza Jalália, Tahsíl Attock, Rasúl Khán had two wives, one had issue, Tál Khán and Shádi Khán, the other, Musammát Atu, was barren. Tál Khán, Shádi Khán took one half and Musammát Atu the other half.

In Mauza Ghurshin, Tahsíl Attock, Mawáz Khán had two wives, one had issue, Mir Alam Khán and four others, the other Musammát Niáz Begam had no issue. Musammát Niáz Begam had one-sixth share, each of the others one-sixth share.

By Saiads—“As with Gakhars.” The Ráwalpindi Saiads say “that barren widows only get maintenance.”

#### EXAMPLES.

In Mauza Mohra, Shahwáli, Sháh Gholám Hosain Sháh had two wives, one left a barren widow, only obtained a maintenance in a civil suit. In the same village Sábib Jalál left Musammát Juman, a barren widow, and she receives 11 maunds of gram at each harvest, and in a suit failed to obtain a decree for a share.

In Mauza Kharang Kalán, Tahsíl Kahuta, Hayát Sháh had two wives, one had issue, Bhola Sháh, the other Musammát Sharaf Nisa was barren. Sharaf Nisa and Bhola Shah took equal shares.

Bhábras do not marry two wives,



QUESTION 22.—*If of two widows one is of the same family as her husband, and the other of lower caste, does the latter take an equal share or less ?*

REPLY.

By Dhúnds and Dhaniáls.—“It is not usual for Dhúnds to marry women of lower caste ; but should they do so, the widow of low caste would not be entitled to succeed to a share in the inheritance.”

By Satis, Khetwáls, Gakhars, Johdrás, Patháns, Moghals, Rájpúts, Jasgams, and Koreshis.—“When two widows are left, one a “Sáhu” and the other of low caste, the “Sáhu” widow takes the inheritance, the other is entitled to maintenance only.”

EXAMPLES.

In Mauza Sambal Korak, one Aku Khán died, leaving two widows, one a Gakhar, the other a zemíndár woman. The zemíndár woman only received maintenance, but in Mauza Shakarparián a case is noted in which one Jaffu Khán died, leaving two widows, a Gakhar and a Kashmíri woman, each took an equal share.

In Mauza Mator, tahsíl Kahuta, Hashmat Ali and Medhi Khán, Garwál, had each two wives, one a “Sáhu” woman in each case. The other in one case a Khattar, the other a Kashmíri, in each case the Sáhu woman took the inheritance, the other getting four kanáls for her support.

By Khattars, Ghebas, Alpiáls, Sagri Patháns, Játs, Gújars, and Malliárs.—“All widows, of whatever class, share alike,” except in the case of the family of the Khán of Makhad, (Sagri Pathán.)

By Saiads.—“Widows of lower rank get a smaller share than Saiad widows as a rule, but sometimes they get equal shares.”

EXAMPLES.

In Mauza Dheri Shahán, Murád Sháh left two widows, both Saiad, but one of the same branch as the husband, the other of a different branch, one took three-fifths, the other two-fifths.

In Mauza Darkali Mamúri, one Melu Sháh married four wives, one a Saiad, the other of low castes, all four took equal shares.

By Awáns.—“Widows who are not Awáns get a smaller share than Awán widows.”

EXAMPLE.

In Mauza Golra, Faju, Awán, of Golra, left two widows, one a Golra Awán, the other of lower caste, the Awán widow took three-fifths, the other two-fifths.

Hindús do not marry with lower caste women.

Bhábras do not marry more than one wife.



QUESTION 23.—*What is the effect of re-marriage or unchastity of a widow, in respect of the estate of her deceased husband to which she has succeeded, and who is authorized to evict her from the possession of her deceased husband's estate?*

REPLY.

By Dhúnds and Dhaniáls.—“A widow loses her rights in her first husband's estate on re-marriage, and his male kindred can evict her. No widow has been dispossessed of her husband's estate for misconduct.

By Satis, Khetwáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—“A widow loses her rights over the late husband's estate by re-marriage or misconduct, and her husband's male kindred can evict her.”

QUESTION 24.—*Can a widow take a share of the property of her husband's near kindred who die without male issue?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“A widow in possession of her late husband's estate does share in the inheritance of her husband's near male kindred who die without heirs.

QUESTION 25.—*If a widow is left with her deceased husband's mother to take the inheritance, how is it divided between them?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“If a man dies, leaving a mother and a widow to inherit, they take in equal shares.

#### RIGHTS OF ANCESTORS TO SUCCESSION.

QUESTION 26.—*If a man in the life-time of his father dies, leaving no issue, male or female, and no widow, who succeeds to his property?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“If a man dies without male or female issue, and leaves no widow, his property goes to his father.”





## RIGHTS OF SISTERS.

QUESTION 27.—*Can sisters or sisters' sons inherit the estate of their brothers?*

## REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájputs, Jasgams, Awáns, Koreshis, Játs, Gujars, Malliárs, Hindús and Bhábras.

“Sisters can never be heirs to their brothers, nor can their issue.”

## SPECIAL PROPERTY OF FEMALES.

QUESTION 28.—*How is “Istridhan” acquired? Is it considered a personal property of a woman or similar to that possessed by a widow? Who inherits such property on her death?*

## REPLY.

By Dhúnds and Dhaniáls.

“*Istridhan*” is not known amongst the Dhúnds and Dhaniáls. If a father makes a gift to his daughter on her marriage (*Jahez*) she receives possession of it for life after which it goes to her husband's heirs.

By Satis, Khetwals, Moghals, Jasgams.—“*Istridhan*” is not known.

By Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Rájputs, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.

“Property given by a father, brother or near relative to a woman on her marriage (*Jahez*) is considered “*Istridhan*” also any property she may buy with the profits of property so made over to her. She is absolute owner of such property, to which on her death her male issue or her husband succeed to it, or in default of them the male kindred of her husband.”

QUESTION 29.—*If a woman possessing “Istridhan” has married twice, and has had issue by both husbands who will inherit her property?*

## REPLY.

By Dhúnds and Dhaniáls.—“Such a case has never occurred, but in such a case the property would go to the heirs of the husband at her marriage with whom she received the property.”

By Satis, Khetwáls, Moghals, and Jasgams.—“There is no custom on this point.”

By Gakhars, Khattars, Ghebss, Johdrás, Alpiáls, Patháns, Saiads, Rájputs, Awáns, Koreshis, Játs, Gújars, Malliárs and Hindús.



"The property would go to the heirs of the husband at the marriage with whom the property was given."

By Bhábras.—Such a case could not occur.

### ADOPTION.

QUESTION 30.—*May a man or woman adopt? What formalities are necessary to constitute an adoption valid?*

### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars and Malliárs.

"The custom of adoption does not obtain amongst us.

By Hindús and Bhábras.—"Only men can adopt, women cannot do so."

(1) The adoptive father in presence of the brotherhood takes the boy as his adopted son, and takes him into his house when very young and treats him in every way as his own son and the rights of the adopted son are the same as those of a natural one.

QUESTION 31.—*Must the person adopted be of less than any specific age? If so, up to what age may a person be adopted?*

### REPLY.

By Hindús and Bhábras.—"A boy may be adopted up to the age of twenty."

QUESTION 32.—*Is it necessary that an adopted son should be one of the ancestral line, daughter's son, sister's son, or son-in-law, or does it rest with the option of adoptive father? Can a man adopt who has male issue?*

### REPLY.

By Hindús.—"The adopted son should usually be a relative in the male line or the male issue of a female relative, but an outsider can be adopted and a man having male issue can adopt.

### EXAMPLE.

Hardiál Singh, Arora, of Kuri, Tahsíl Kahuta, adopted the son of his wife's brother, of a different branch.

By Bhábras.—"The adopted son should be a relative within four degrees, or a descendant of a daughter, a sister, or a son-in-law may be adopted. Any Bhábura, however, may be adopted."

QUESTION 33.—*Does an adopted son inherit to whole of the property of an adoptive father? If not, what share is assigned to him?*

### REPLY.

By Hindús and Bhábras.—"The adoptive father can give what share he please to his adopted son."



QUESTION 34.—*Is there any distinction between acquired and ancestral property in the case of its being inherited by an adopted son?*

REPLY.

By Hindús and Bhábras.—“The adoptive father can do what he please with property acquired by himself, but cannot dispose of his ancestral property in favor of an adopted son without the consent of his relatives.”

EXAMPLES.

In Mauza Sai, Tahsíl Kahuta, one Kishen Singh, son of Dasa, Brahman, adopted his brother's son, Hargi. He had ancestral property in Mauzas Sai, Bura-Hayal and Kaka, and in Mauza Thoa Khalsa, he had acquired land. Hargi succeeded to all the lands.

QUESTION 35.—*What is the effect of the birth of a son after adoption? Does the adopted son take an equal share with the natural son or less?*

REPLY.

By Hindús and Bhábras.—“If a natural legitimate son be born after a son has been adopted, the adopted and natural sons take equal shares.”

QUESTION 36.—*Will the rights of an adopted son be affected as regards the estate of his natural father in case the latter has or has not other sons?*

REPLY.

By Hindús.—“An adopted son retains his rights over the property of his natural father, whether the natural father has more sons or not. The Hindús of Kuri, however, say that an adopted son loses his claims over the property of his natural father if that father has any other sons.” The Bhábras give the same reply as the Hindús of Kuri.

EXAMPLES.

In Mauza Gagrot, Sadu Singh was adopted by Rám Singh of Tarlai. He took a share of Rám Singh's estates and also of his father's estate, although his father had other sons. In Mauza Ráwal, Sher Singh adopted Hari Singh, who succeeded to Sher Sihgh's estate and to his own natural father's also.

In Mauza Kuri, Mal Singh adopted Jodh Singh, son of Bishen Singh, his brother. Jodh Singh received no share of Bishen Singh's estate.

## WILLS AND LEGACIES.

QUESTION 37.—*Can a proprietor make a disposition of his property to take effect after his death, and is there any rule limiting such power?*

REPLY.

By Dhúnds, Dhaniáls, Moghals, and Jasgams.—“There is no power of testamentary disposition of property recognized.”

By Satis and Khetwáls, Saiads and Koreshis.—“A man may make a testamentary disposition of a portion of his property which will be valid, but he cannot so dispose of all his estate.”

A woman cannot make a testamentary disposition.



EXAMPLES.

In Mauza Chajāna, Tahsíl Murree, Fateh Núr, Sati, son of Dín Dár, left at his death by testamentary disposition, five kanáls of Hotar to Bangesh Khán, son of Roh-ulla, Sati, who was allowed to take possession.

By Gakhars, Ghebas, Rájpúts, Awáns, Gújars, Malliárs, Hindús and Bhábras.—“A man can make a testamentary disposition of his property. If this is done in full possession of his faculties in presence of his heirs it is valid.”

“A woman cannot dispose of her property.”

EXAMPLES.

*Gakhars.*—In Mauza Pharwála, Rája Hayátulla Khán on his death left Rs. 80 per annum out of his possession to Mussammát Hayát Begam, his sister, and Rs. 60 per annum to Mirza Hayát Begam, Sáni, his brother's widow; and Rája Karm Dád Khán, his son, carried out these desires.

In Mauza Bhon, Tahsíl Kahuta, one Nawáb, Awán, left the whole of his share on his death to Karm, Sháhbáz, his two sons-in-law, and they took possession.

In Mauza Shamašhabád, Tahsíl Attock, Malik Feroze Dín left one-half of his property to Malik Roshan Dín, and the other half among his seven other sons.

In Mauza Golra, Khuda Bakhsh Khán left five acres of land and a house on his death to his daughter by verbal testament, and she took possession.

By Khattars.—“A man may make a testamentary disposition of one-third of his property outside his own family, but not within it.”

“A woman cannot do this.”

By Johdrás.—“A man can so dispose of one-tenth of his property, and this will be valid if the person making the disposition is in power of his faculties.”

“A woman cannot make such a disposition.”

By Alpiáls.—“No case of testamentary disposition had occurred, nor is it customary.”

By Patháns.—“Men and women can make a testamentary disposition of their property to the extent of one-third.”

QUESTION 38.—*Can a testamentary disposition of property be made only with the consent of the heirs, or contrary to their wishes?*

REPLY.

By Dhúnds, Dhaniáls, Moghals, and Jasgams.—“There is no power of testamentary disposition of property authorized.”

By Satis, Khetwals and Saiads.—“A man can make a testamentary disposition of part of his estate, but not of all of it without the heirs' consent.”

By Gakhárs, Khattars, Johdrás, Patháns, Rájpúts, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—



"A testamentary disposition of property may be made without the consent of the heirs."

By Ghebas and Alpiáls.—"No such a case has ever occurred, but in future a man can make a testamentary disposition of one-third of his estate with the consent of his heirs."

By Khán of Makhad (Sagri Patháns).—"The Khán states that he has power to leave one-third of his estate to whom he pleases."

#### GIFTS.

QUESTION 39.—*Can a father make a gift during life of part of the inheritance in case he has sons, if so, is their consent essential to such gifts or not?*

#### REPLY.

By Dhúnds, Dhaniáls, Khattars and Ghebas.—"The owner of an estate can make a gift out of it, when he has sons, with their consent."

#### EXAMPLES.

In Mauza Potha, Mahomed Khán, son of Budha, gave away 10 kanáls to Tota, son, of Sher Khán, his hand maiden and had it entered in her name. He had seven sons, who agreed to the gift.

In Mauza Potha, Kramat Khán, Fakír Khán and others who have sons gave Mahomed Kabír, son of Gúl Mahomed, 10 kanáls of land with the consent of their sons.

In Mauza Potha, Mahomed Hosain, son of Mahomed Hasham, gave five kanáls to Mian Mahomed Wali.

In Mauza Pind Begwal, one Fakír Khán having sons gave 12 kanáls of land to Agar and Saida, by consent of the sons.

By Satis, Khetwáls, Saiads, Moghals, Rájputs, Jasgams, Koreshis, Gújars and Malliárs.

"The owner of an estate who has sons can make a gift of a reasonable proportion of the estate with or without their consent. No owner of an estate can give away the whole of his estate."

#### EXAMPLES.

In Mauza Charihán, Báz Khán, son of Nazr Ali Khán, Khetwál, gave 10  $\frac{1}{2}$  kanáls to Núr Ali and Bahádar Ali, Fakírs of Panathi, having sons without asking their consent.

In Sanj Dákhli Charihán, Feroz Khán and Lál Khán, sons of Dheru Khán, having sons gave to Bakar Khán, Sati, their sister's husband, 17 kanáls of land.

In Mauza Majawa, Said Jalál gave to Faju Majawa his share of the inheritance, having sons. Hayát Shah of Dheri Shahán, gave a portion of his estate to the Majawar of a shrine, having sons who sued to set aside, but whose suit was dismissed.

In Mauza Kharang Kalán, Mehí Shah, having three sons, made a gift to his daughter, Musammát Alaf Nissa, of about five acres.

In Mauza Chak, Mirza Fateh Mahomed, Gújar, having eight sons, made a gift of nine acres to Feroz, the son of his sister.



By Gakhars, Awáns, Játs, Hindús and Malliárs.—“The owner of an estate can make a gift with or without the consent of his sons.

EXAMPLES.

In Mauza Luna, Bakhsh, son of Jalál Khán, Gakhar Keswál, having sons, gave three acres of land to Jawahar Singh, Khatri Mazulla, son of Draz, Awán of Ochri, Tahsíl Pindigheb, made a gift of five kanáls of land to Pír Chanan, Saiad.

By Johdrás.—“The male owner of an estate can make a gift up to one-thirteenth part of his estate without the consent of his sons.” Women cannot make gifts.

By Alpiáls.—“It is not the custom with Alpiáls to make gifts.

By Patháns.—“The owner of an estate can make a gift without the consent of his sons, but possession must be given and a registered deed executed.”

The Sagri Patháns, excepting the Khán of Makhad, state that a man cannot give away the whole of his estate without the consent of his sons.

QUESTION 40.—*Can a proprietor, having no male issue, make a gift or not?*

REPLY.

By Dhúnds, Ghebas and Koreshis.—“In such a case the owner of an estate has no power to make a gift of his estate.”

By Satis, Khetwáls, Saiads, Moghals and Gújars.—“When there are no sons the owner of an estate can make a gift of a portion of his estate, but not of the whole of it without the consent of the heirs.” Kahuta Gújars reply “that gift cannot be made.”

EXAMPLES.

In Mauza Thun, Amír Ali, son of Juma, Sati, having no son gave four kanáls to Mussammát Hayát Bibi, and it was entered in the name of her sons, no one objecting.

In Mauza Marinian, Tahsíl Attock, Alam Beg, Gújar, made a gift of six kanáls to Bostan, his brother's son.

In Mauza Palakhar, Chowdri Hashim, Gújar, who had no male issue, made a gift to Sardár Jodh Singh; then he made a gift to his daughter, but as his male kindred did not consent they had to be set aside. The first gift was set aside in a civil suit.

By Dhaniáls.—“If he has no sons, the owner of an estate can make a gift of the whole or any part of it.” This is not the custom in the hills.

EXAMPLES.

In Mauza Cherah, Mahdi Khán, son of Hayát Ali Khán, who had no male issue, against the wish of his male kindred, made over his estate to one Madat Khán who was no relation of his.

By Gakhars Pathán, Rájputs, Jasgams, Awáns, Játs, Malliárs, Hindús, and Bhábras.—“In such a case an owner has power to make a gift.”



EXAMPLES.

In Mauza Renni, Tahsíl Attock, Sadulla, Awán, made a gift to his daughter's son, of his entire estate.

In Mauza Batála, Sadulla, Malliár, made a gift of four acres of land to his daughter, Mussammát Mehr Bibi.

In Mauza Mulla Mansúr, Tahsíl Attock, Sadulla, Malliár, made a gift of land to his daughter.

In Mauza Basanta, in Arazi, Tahsíl Kahuta, Ganda, son of Har Sukh, Brahman, made a gift to Desráj, his brother's son, of his entire estate.

In Mauza Hanesar, Hukma, Brahman, made a gift of three acres to Nihála, his daughter's husband.

In Mauza Nála, Brahmanan Gunga Singh, Brahman, made a gift of his estate to Karm Chand.

In Ráwalpindi, Nihálu Shah made a gift of his entire estate to his sister.

In Ráwalpindi, Nihála, having no son, gave all his estate to his sister's sons.

By Khattars.—“In such a case the owner cannot make a gift out of his estate without consent of his heirs, i.e., near male kindred.”

EXAMPLES.

In Mauza Kariála Kaln, Tahsíl Kahuta, Khairdin Khán made over his whole estate to Ahmad Khán, a male relative and also his son in-law, but Sher Khán and other male kindred brought a suit and set the gift aside.

In Mauza Kutbal, Mahomed Ali Khán gave all his estate to his daughter. After his death Dost Mahomed his nephew brought a suit and had the deed set aside. Mahomed Ali's widow is now in possession.

By Jodhrás.—“In such a case the owner of an estate can make a gift up to one-fifth of his estate without the consent of his heirs. A woman cannot make a gift.”

By Alpiáls.—“It is not the custom with Alpiáls—to make a gift.”

QUESTION 41.—*When a gift can be made, is it essential that the gift be made to one of the near kindred, or can it be made to any person without any regard to caste or tribe?*

REPLY.

By Dhúnds.—“As in question 40. Gifts cannot be made to any one, but there is no distinction between relatives and others.”

By Satis, Khetwáls, Dhaniáls, Gakhars Khattars Ghebas, Johdrás, Alpáils, Patháns, Saiads, Moghals, Rájpúts, Jasgams Koreshis, Játs, Gújars, Malliárs and Hindús.

“There is no distinction between relatives and others in such case.”



EXAMPLES.

In Mauza Sadiot, Game Khan and Kádar Bakhsh made over the village of Mohra Faizulla, Tahsíl Kahuta, to Amir and Faizulla, Sikligar, whose heirs are now in possession.

In Mauza Ghur Ghashti, Ghazan Khán, son of Hakim, made a gift of his property to Ahmad Ali Khán who was his son-in-law.

In Mauza Wardak, Khawas Khán made a gift to his daughter's husband, Mahomed Azim, son of Ibrahim.

In Mauza Patargarh, Jaffar Khán, Pathán Alizai, made a gift to Purdil Khán which was maintained in face of a civil suit.

In Mauza Pind Nasrála, Tahsíl Attock, Niáz Mahomed, Gujar, gave some land to his daughter's son.

In Mauza Palakhar, Chowdhri Ghulám Ali, Gújar, gave one-third of his estate to Kázi Bagh Ali of Kazian.

In Mauza Mulla Mansúr, Saadulla, Malliár, made a gift to his daughter.

By Awáns.—“ Gifts cannot be given to any but members of the same tribe.

EXAMPLES.

In Mauza Shin Bagh, Burkhurdár, Awán, made a gift of his estate to Núr Khán, Karam Khán and Házir Khán, his son-in-laws, Awáns, although he had nephews.

In Mauza Urtak, Chandan, Awán, gave 23 kanáls to Mussammát Sardár, his daughter.

By Bhábras.—“ Gifts can only be made to Bhábras or to Brahmans by way of charity ”

QUESTION 42.—*Is there any distinction between ancestral and acquired property as regards the power of making gifts?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Ghebas, Johdrás, Alpiáls, Patháns, Moghals, Rájpúts, Jasgams, Játs, Gújars, Malliárs and Hindús.

“ There is no difference between ancestral and acquired property as regards the power of making gifts.

By Khattars, Saiads, Awáns, Koreshis and Bhábras.—“ Gifts can be made without restriction of acquired property but not of ancestral property without the consent of the heirs.

QUESTION 43.—*Can a donor resume the gift made by him, if so under what circumstances?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Ghebas, Saiads, Moghals, Jasgams.—“ A gift cannot be resumed. Such an attempt has never been made.”



By Gakhars, Khattars, Rájputs, Awáns, Koreshis, Jats, Gújars, Malliárs, Hindús, and Bhábras.

"A gift cannot be resumed unless it was conditional, and the condition has not been fulfilled. A gift can be resumed if not made by the donor in full possession of faculties."

By Johdrás.—"A gift can be resumed if possession has not been given or if the relation between donor and donee has altered, or if the gift was given in return to some service and that service is not performed. If the donee dies and his heirs succeed a gift cannot be resumed.

The Maliks of Pindigheb say that they can in all circumstances resume a gift if the service for which it was given is not performed.

By Alpiáls.—"Gifts are not known."

By Patháns.—"If the donee has held possession for a year the gift cannot be resumed, conditional gifts can be resumed if the condition be not fulfilled."

The Sagri Patháns state that if the donor had no issue and subsequently had issue, he can resume the gift or if possession has not been given it can be resumed.

QUESTION 44.—*Can a father at the time of marriage of his daughter alienate to her or her husband a part of his property ; if so, is consent of his sons or near kindred necessary ?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Rájputs, Awáns, Koreshis, Játs, Gújars Malliárs, Hindús and Bhábras.—

"A father can at the time of his daughter's marriage give to her or her husband such portion of his estate as he pleases as her marriage portion."

#### EXAMPLES.

In Mauza Kotli, Gulsher, Sati, gave 8 kanáls to his daughter, Mussammát Kalo, on her marriage as "jahez" having sons, and without their consent. In Sang Dakhli Charihán, Mehdu, son of Hassan Khán, Sati, gave 12 kanáls to his daughter, Mussammát Alu on her marriage, and entered it in the name of her husband, Satár. In the same place, Roshan Ali, son of Kálu, Khetwál, without the consent of his sons, gave 10 kanáls to his daughter, Mussammát Sábu, and it was entered in the name of her husband. In Mauza Dhamnuta, Tahsíl Kahuta, Sher Sati gave 6 kanáls to his sister, Mussammát Guláb, on her marriage. It now stands in the name of her husband, Firoz.

*Dhaniáls.*—In Mauza Cherah, Pahár Khán gave to Mussammát, Talia Nissa, his daughter, two kanáls on her marriage.

*Khattars.*—In Mauza Sadiot, Nek Mahomed, son of Murid, gave four kanáls to Gohr Begam, his daughter, on her marriage.

*Gakhars.*—In Mauza Bangu, Habib Khán, Khattar, gave a well in Mauza Kasana and 22 acres in Mauza Kaniat to his daughter on her marriage.



**Ghebas.**—In Mauza Naushera, Alayar gave some land to Musammát Bakht Bhari, his daughter. In Mauza Pindigheb, Malik Aulia Khán on the marriage of his daughter gave her some land.

**Patháns.**—In Mauza Barazai, Aman Beg gave Nurdád, his son-in-law, some land on marriage.

**Rájpút.**—In Mauza Jangal, Tahsíl Fatehjang, Rája Jalál Khán, Rájpút, gave a plough of land to his daughter on her marriage.

**Awán.**—In Mauza Bhalarjogi, Malik Abdul Satár, Awán, gave to his son-in-law, Mohsan Dín, some land on his marriage.

**Hindús.**—In Mauza Chak Shahdád, Rám Singh, Khatri, gave to Sukha Singh his daughter's husband, two acres on her marriage.

By Alpiáls.—“It is not the custom in our tribe for fathers to give marriage portion to their daughter, and in future they cannot do so without consent of his heirs.”

By Moghals, and Jasgams.—“No such case has occurred.”

**QUESTION 45.**—*Has the husband any rights over the property given to a woman by her relatives on marriage, or is it her exclusive property?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Rájpúts, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—

“If any property be given to a woman on her marriage, she remains owner of it for life, after that it belongs to her husband or her issue.

By Moghals and Jasgams.—“Such cases never occur.”

#### DOWER.

**QUESTION 46.**—*Can a husband or father-in-law, without consent of his heirs, alienate a part of his property to his wife or daughter-in-law, respectively, in consideration of dower, (Kábin)?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhárs, Ghebas, Johdrás, Moghals, Rájpúts, Jasgams, Koreshis, Gújars, and Malliárs.—

“It is not customary to give land as “Mehr” or dower, such dower consists of presents of jewellery, clothes, cattle, &c.

#### EXAMPLES.

In Mauza Jhajana, Musammát Bibi Ján, brought a claim for dower and obtained Rs. 17 of jewels.”

By Khattars, Patháns, Saiadds, Awáns, and Játs.—“A husband or husband's father can alienate a portion of his estate to his wife or daughter-in-law without the consent of his heirs.”

#### EXAMPLES.

In Mauza Bahlol, Fakír Khán, Khattar, gave 12 acres of land in which he had occupancy rights to his two wives in equal shares.



In Mauza Gakhar, Karm Khán, Lambardár, gave 100 acres of his estate to his wife as dower.

*Patháns.*—In Mauza Abdal, Bandia gave two acres of land to his wife as dower.

*Saiads.*—Ahmad Ali Shah of Dheri Sháhan, gave his daughter-in-law a house value Rs. 100 as dower.

*Awáns.*—In Mauza Jehanabád, Mussammát Alahi Núr, widow of Karm Khán, Awán, who had made a second marriage, obtained a decree for dower against her step sons, of half her husband's estate.

By Alpiáls.—“No such cases have yet occurred, but in future such alienations may be made.”

By Hindús and Bhábras.—“The custom of “Mehr” does not obtain with us.”

### OTHER ALIENATIONS.

QUESTION 47.—*Can a man having heirs alienate a certain part of his landed or immovable property for charitable purposes?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábrás :—

“Any owner can give a portion of his estate in charity without the consent of his heirs.”

#### EXAMPLES.

Báz Khán, son of Názir Ali Khán, Sarfaráz Khán, son of Shamas Khán, and other owners of Charihán made a gift to Ghazan Shah and Sher Shah, Saiads, of 5 acres of land.

*Satis.*—In Mauza Cherah, Farmán Ali, Dhaniál, son of Sube Khán, gave one acre to Mahomed Kásim Moula, having sons.

*Dhaniál.*—In Fatehjang, Ata Mahomed Khán, Khattar, Lambardár, gave 17 kanáls of land to Bhai Gián Singh, Fakír.

*Khattárs.*—In Pindigheb, Sarfaráz Khán, Johdrá, gave two acres to Pír Mahomed Shah.

In Mauza Beor, Hafizulla Khán, Moghal, gave one acre to Sharaf Shah, Saiad.

Chowdhri Musa, Rájpút, in Mauza Panjgráin, gave five acres to the Mián of Masjid, without consent of his heirs.

Fateh Khán, Awán Golra, gave 10 kanáls to Háfiz Kádar Baksh.

In Mauza Hanesar, Ráj Kour and Jamiat Rai, Brahmans, gave some land to Pirabdial.

By Alpiáls.—“No such case has ever occurred.”

QUESTION 48.—*Can a father deprive one of his sons or near kindred of his share of the inheritance and divide it among the rest?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Khattars, Ghebas, Johdrás, Alpiáls, Awáns, Gújars and Malliars.—“A father has no power to deprive one son of his share and dispose of it in favor of his other sons.”



EXAMPLES.

In Mauza Masot, one Fattah, son of Dhula Khán, Dhúnd, made over all his property to one relative, Bahádar Khán, but on his death the near male kindred brought a suit and divided the inheritance on shares.

In Mauza Mahal, Sardár Budha Khán, Gheba, set aside Alayár Khán, his eldest son, and made over all his inheritance to Fateh Khán but after his death Alayár Khán and his other brothers brought a suit against Fateh Khán and the inheritance was divided among the sons on equal shares.

By Dhaniáls, Gakhars, Moghals, Rájpúts, Jasgams and Koreshis.—“No such case has ever occurred.”

By Patháns.—“A father has the power to deprive one son of his share and divide it among the other sons.”

The Sagri Patháns say that this favor only applies to acquired property. Fakír Mahomed, the eldest son of the Khán of Makhad, replies that a father in his family cannot set aside his eldest son.

By Saiads and Játs.—“A father has the power to deprive one son of his share or one near heir and divide it among the others.”

EXAMPLE.

Mahomed Shah of Mauza Dheri Shahan, Saiad, gave his estate in Mauza Majawa to one son, Ahmed Shah, to the exclusion of his other sons.

By Hindús.—“A father has such a power, but it is not the custom unless the son changes his religion, but as regards acquired property a father may disinherit one son in favor of the other, but not as regards ancestral property.”

EXAMPLES.

In Mauza Kuri, Rámdíál Brahman's son, Lálu, turned Musalmán and no share of his father's property was given to him.

In Mauza Ratnál, the son of Jai Singh, Arora, named Utam Singh, turned Musalmán, and was disinherited.

Bhai Suján Singh, Khatri of Kuri, made over all his estate to his son Hari Singh and disinherited Mal Singh.

By Bhábrás.—“A father has such a power, but no cases have occurred.”

QUESTION 49.—*Has a widow any right of alienation, if so, under what circumstances? If alienation is permitted, is there any distinction in respect of ancestral, acquired, or her own special acquired property (“Istridhan”). State the nature of alienations she can make?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábrás.—“A widow cannot alienate any kind of property except that for purposes of paying revenue or for necessary expenses. She may mortgage part of



the estate. No distinction is made between ancestral, acquired or special property in this case."

By Hindús.—"A widow can alienate property for the purposes of building a well or a Dharmśāla."

Bhábras.—"A widow can give immoveable property in charity."

EXAMPLES.

In Mauza Karala, Khair-ud-dín Khán died without issue, Mussammát Shahnúr Begam took possession and paid off her husband's debt and expenses by mortgaging some of the lands.

In Mauza Thatta Saiadán, Karm Nisán, widow of Sayed Ali Shah, mortgaged some of her husband's land to Baka and Zāman Ali of Mauza Koliál for proper purposes.

In Mauza Mator, Mussammát Begam, widow of Hayát Khán, Garwál, mortgaged some land to pay land revenue and feed her children, some three acres to Mohamed Bakhsh Khán and Nawázish Ali.

In Mauza Maira, Mussammát Fateh Kuli, widow of Mast Khán, mortgaged some land for necessities to Natha Khán.

In Mauza Kanoa, Mussammát Mubárik Bibi, widow of Baháwal, Gújar, sold the whole of her husband's estate to Gáma, son of Muríd, but the sale was set aside at the instance of the male kindred.

In Mauza Nala Brahmanán, Mussammát Anna, widow of Ráju, Brahman, mortgaged nine acres for Rs. 12 to pay revenue.

By Alpiáls.—"A widow cannot alienate property. In case of necessity she can do with the consent of the next heirs. She can alienate her *Istridhan*."

EXAMPLES.

In Mauza Duliál, Mussammát Bakht Banu, widow of Faja Khán, Alpiál, mortgaged some of her land to her son-in-law, but her husband's brother cancelled the mortgage and after her death the land goes to her husband's relatives.

QUESTION 50.—*Can a guardian alienate the property of his ward by sale or mortgage.*

REPLY.

By Dhúnds, Satis, Khetwáls, Gakhars, Ghebas, Johdrás, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—"The guardian of a minor cannot sell or mortgage or alienate land except under the following circumstances:—

- (1) If the minor's marriage takes place he can sell or mortgage for marriage expenses.
- (2) If the guardian is a near male relation of the minor holding land in common with him, he can sell or mortgage for the personal expenses of the minor's father or for necessities as can the minor's widowed mother.
- (3) For the expenses of the minor's sister's marriage a guardian may buy or sell land.



EXAMPLES.

In Mauza Aucha, Ghulam Mahomed, uncle and guardian to minors, Khuda Bakhsh, and Mula Bakhsh, Dhúnds, mortgaged 14 marlas of land for Rs. 30, with the minors' share to defray funeral expenses of their mothers. This was proper.

In Mauza Sang Dakhili Charihán, Feroz Khán, guardian to Lál and Fazl Dád Khetwál, sold nine kanáls of the land to Hayát.

In Mauza Kotli, Ghiasuddin's guardian, Núr Ali, his nephew, mortgaged 3 kanals out of their common land for Rs. 20.

In Mauza Kotli, Mussammát Kuli, wife of Mendu Khán, guardian to her son Mahomed Abbás, mortgaged the land for Rs. 9 to Pír Bakhsh, Sati, on account of his father's funeral expenses.

In Mauza Cherah, Fateh, son of Sáhí Khán, guardian to Mahmed Sharíf, minor, mortgaged three kanáls of the minor's land for Rs. 20 to buy plough bullocks.

In Mauza Tháthi Saiadán, Sardár Shah, guardian to his sister's sons, Bodla Shah and Faja Shah, son of Gharib Shah, mortgaged two acres from their estate to Mahomed Bakhsh, Faiz Bakhsh and Pír Bakhsh, sons of Gulu.

By Alpiáls.—“A guardian has no power to sell or mortgage except under pressure of absolute necessity when he may alienate for the minor's benefit.”

In Mauza Baghun, Tahsíl Kahuta, Farmán Ali, Garwál, mortgaged the share of his brother to pay land revenue and for other necessary expenses to Chanda Singh of Nara.

In Mauza Palakhar, Háshim Bibi and Ahmed Bibi were guardians to Karm and other minors, sons of Jáffer Ali, Gújar, and mortgaged 20 kanáls of land to Jowind Singh of Thoa to pay their father's debt.

In Mauza Nala Brahmanán, Mussammát Guláb Devi, guardian to Rupa, mortgaged five kanáls.

QUESTION 51.—*Can a son or adopted son in the life-time of his father alienate a part of his property by sale or mortgage?*

REPLY.

By Dhúnds, Sattis, Khetwáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—“During the life of the father a son has no power to alienate any part of the ancestral property.”

QUESTION 52.—*To what extent can a father alienate his or his sons property in “Ram” (compensation paid to wife's father by her husband or father-in-law) and under what circumstances can such a property be reclaimed? Can it be reclaimed if the betrothed woman dies before marriage or if after marriage she dies without having had issue?*



# REPLY.

By Dhúnds, Satis, Khetwáls and Dhaniáls.—“A man may alienate his property in favor of the father of his own wife or his son's wife whether movable or immovable, and under no circumstances can this property be reclaimed.”

## EXAMPLES.

In Mauza Sehanna, Saida, Dhúnd, took two acres of land as a condition of his daughter's marriage with Ghulám Haidar's son of Mír Wali of Thuthal, although the wedding never took place.

In Mauza Aliot, Bahádar Khán married his son to the daughter of one Hassan Khán, and gave him two acres of Lipára land.

In Mauza Nara, Mussammát Akku, on her son's marriage with the daughter of Kálu, son of Hassu, gave Kálu four acres of land.

In Mauza Parháanna, Dákhili Charihán, Jang, son of Mast Khán, Khetwál, on account of his son's marriage gave three kanáls to Mukesar, son of Sherjang, whose daughter his son married.

In Mauza Jhajana, Samandar, son of Roshu, Sati, on account of his own marriage with the daughter of Akbar Ali, son of Núra, Sati, gave four kanáls of land to Akbar Ali.

In Mauza Jhajana, Madu, son of Jaffer Khán, Sati, on account of his own marriage with the daughter of Akbar Ali, son of Núra, gave three kanáls of Hotar land.

In Mauza Mori Dákhili Ariári, one Neka gave four kanáls of land to Haji Khán on account of his marriage with Haji Khán's daughter.

In Mauza Ariári, Amir Ali, son of Bágh, on account of his son's marriage with the daughter of Fatta, son of Jaba, gave eight kanáls to the said Fatta.

By Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs Hindús and Bhábras.—“It is not the practice among us to pay “Rám” or compensation to the father of the bride on marriage.

QUESTION 53.—*If a widow succeeds to such property, can she alienate it, or will it be dealt with in the same manner as her deceased husband's property?*

## REPLY.

By Dhúnds, Satis, Khetwáls and Dhaniáls.—“If a man receives property in compensation for the marriage of his daughter, his widow succeeds to this property in precisely the same manner as to other property and no further.

By Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—The custom of “Rám” is not known.

## PARTITION.

QUESTION 54.—*Is a father who distributes his property during his own life-time among his sons, bound to divide it in equal shares or not?*



# REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Ghebas and Rájputs :—" If a father during his life-time divides his property among his sons the usual custom is to divide it ' Chundewand ' that is, the sons of each mother take equal shares jointly, but in such a case a father has the power to give each son an equal share or to divide the estate unequally. If the father divides off his property into shares, the eldest son has the right first to choose which share he will take."

## EXAMPLES.

In Mauza Dewal, Faiz Ali Khán, had five sons, Shahwáli Khán, Dádun Khán, Mohand, by one wife, three-fourths of the inheritance was given to these three sons in equal shares, while two sons, Mahána and Bála, divided the one-fourth share remaining equally between them.

In Mauza Sahr Hadut, Mulla Khán had five sons. During his life he gave to Abdul Karim, his eldest son, one-fourth share and divided the remaining three-fourths between himself and his other four sons.

In Mauza Ghoi, Núr Khán had three sons, Aladád Khán, Safu Khán, Fatteh Mahomed Khán, on dividing his property, he gave to Fatteh Mahomed Khán, his youngest, nearly one-half of the inheritance and divided the other half between Aladád and Safu.

In Mauza Charihan, Ahmed Khán, son of Shams Khán, Khetwál, had two sons by two different wives ; on partition he gave three-fourths to Shamas Khán and one-four to Kasim and this arrangement was continued to their issue.

In Kauza Wagal, Zahur Khán, son of Burhan Khán, Sati, divided his property in his life-time, he gave the house and two acres to Madda, his eldest son over and above his share and divided the rest equally among his three sons.

In Mauza Cherah, Sadulla Khán, Dhaniál, divided his property, giving one son, Kálu Khán, more than his share.

In Mauza Dokhain, Tahsíl Murree, Wáris Khán gave his son, Gharib Khán, more than his share.

In Mauza Sohála, Dádu, Sangiál, who had five sons, divided his property into six shares, of which he gave two to Haidar and one to each of the other sons.

By Khattars, Johdrás, Patháns, Moghals, Jasgams, Gújars Malliárs, and Hindús of Kahuta :—

*Khattars*—" A father cannot divide his property unequally among his sons during his life-time, he must give each an equal share.

*Johdrás*.—" The Malikhs of Pindigheb state that the partitions can only be made in accordance with the shares laid down by family custom."

*Patháns*.—" The eldest son of the Khán of Makhad says that the inheritance must go to the eldest son.

*Hindús of Kahuta* say " that a father has no power to divide his property unequally among his sons."



By Alpiáls, Saiads, Awáns, Koreshis, Játs, Hindús, except Kahuta, and Bhábras.

*Alpiáls.*—The usual custom is to divide in such a case in equal shares, but a father would have power to divide his inheritance unequally in such a case.

QUESTION 55.—*Can a man having male issue assign a part of his property to his daughter, son-in-law, sister, near kindred, or adopted son?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars and Malliárs.—“A man having sons cannot at partition made during his life-time give any portion of his inheritance to his daughters, son-in-law, near kindred or adopted son. It must all be divided among the sons and himself.”

*By Alpiáls.*—No such case has yet occurred but unless the sons agreed no father could in such a case give a portion of his estate to his daughters, son-in-law or adopted son or male kindred.

*By Hindús.*—“A father dividing his property during his life-time could give a portion of it to his daughter, son-in-law, adopted son, or near male kindred.

*Bhábras.*—“No cases have occurred.”

QUESTION 56.—*Can a father retain a part of his property at distribution for himself?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Saiads, Moghals, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—“A father can at partition during his life-time retain a portion of the estate for himself.

*By Patháns.*—“The eldest son of the Khán of Makhad replies that in his family the father must either make all or some over to the eldest son.”

QUESTION 57.—*When a father retains a portion of the estate for himself, on his death, is this portion divided equally among the sons, or does it go to whichever of them the father chooses to give it?*

#### REPLY.

By Dhúnds, Dhaniáls, Gakhars, Khattars, Saiads, Rájpúts, Koreshis, Hindús and Bhábras.—“When a father on dividing his estate during life retains a portion for himself, on his death, he may give this portion to whichever son he chooses, but if he does not give it to any of them in particular, it is divided among the sons according to the custom of the tribe, i.e., “Chundewand” or “Pagwand,” as the case may be, or if one son undertakes all the funeral expenses of his father, he gets this portion of the estate in return.”

#### EXAMPLES.

In Mauza Birgráon, one Khuda Bakhsh, son of Sherdast, died, his son Ahmed Ali undertook the funeral expenses and took Khuda Bakhsh's share.



In Mauza Birgráon, Mohtam Khán, Dhúnd, kept one-third share for himself and divided two-thirds among his sons. The four sons divided expenses and divided their father's share equally.

In Mauza Cherah, Fateh Khán retained one-sixth share for himself, on his death, his widow took it, after her death, the sons divided it equally.

*Dhaniáls.*—In Mauza Dhakhain, Mola Khán retained a share, and on his death his sons divided it equally.

*Saiads.*—In Mohra Shahwáli Shah, Morád Shah kept one-fifth share on partition to himself. At his death all his sons shared expenses and divided it equally.

In Mauza Dheri Shahán, Bágh Ali Shah has three sons, he divided his property into four, and gave each one-fourth retaining one-fourth during his life, he gave this one-fourth to his eldest son, who on his death undertook funeral expenses and retained the share.

*Rájpúts.*—In Mauza Ajnala, Nawázish Ali Khán, Sangral, gave his own share to Zámán Ali, one of his sons who bore his funeral expenses.

By Satis, Khetwáls, Patháns and Játs.—“When a father dies in such a case the portion which he retained for himself is divided equally among the sons, he cannot give it to any one to the exclusion of the rest.

“If a man made over the portion to one son in writing the son could take it, but no such case has ever occurred.”

#### EXAMPLES.

In Charihán, Jaffer Khán, Sati, retained a share for himself, on his death gave his share to Haidar Khán; Nádar Ali, Moghal, Nasru, Buta, Páinda, and others, their half brothers, objected and the share was divided among all the sons.

By Ghebas, Johdrás, Alpiáls, Moghals, Jasgams, Awáns, Gújars, and Malliárs.—“All sons share in such portions equally.” The Maliks of Pindigheb follow family custom.

In Mauza Satwáni, Dín Mahomed, Gújar, retained a share for himself, which his three sons divided equally on his death.

In Mauza Chak Satwáni, Núr Bakhsh, Gújar, kept a share for himself, which his three sons divided equally on his death.

In Mauza Sihanna, Manga, Gújar, retained a share for himself, Mehr, his son lived with him. When he died all his sons divided his share equally.

In Mauza Batála, Dula, Malliár, retained a share for himself, he lived with one son Núr, but when he died all four sons divided his share equally.

*By Hindús.*—“The son to whom the father gave possession in such a case would take his portions as with Dhúnds.

*Hindús.*—In Mauza Hanesar, Manghu retained a one-third share for himself, which he made over to one son Gurmúkh.



**QUESTION 58.**—*When a father retains a portion of his property after partition made during his life-time and lives associated with one of his sons, is this son only entitled to succeed to this portion on his decease or do all the sons take in equal shares?*

**REPLY.**

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Jobdrás, Ghebas, Alpiáls, Patháns, Saiáds, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, and Hindús of Kahuta.

“The mere fact of living associated with his father does not give the son who does so, any special claim to the portion of his estate retained by the father after partition, all sons would succeed according to tribal custom to a share in such portions.”

The Hindús of Kahuta say that in such a case all sons would succeed alike.

**EXAMPLES.**

In Debh Dakhili in Charihán, Nasru, son of Subá Satti, retained one-third share for himself, Nawázish Ali, his son, lived associated with him. On Nasru's death Nawazish Ali and his brother divided the share equally.

In Mauza Cherah, Fateh Khan had five sons, Nádar Khán one of them lived associated with his father as he did with his mother after his father's death. On the death of the widow the share retained by Fateh Khan was divided equally among the sons.

In Mauza Naralla, Haidar Khán retained a portion and lived associated with his younger son, Lál Khán. On Haidar Khan's death his two sons divided the share equally.

In Mauza Sarai Kharbuza, Mehdu Khán retained a portion for himself on partition, and his son, Sher Khán, lived associated with him. On his death Mehdu's share was divided among all his sons.

In Mauza Jaffer, Mahmud Khán had five sons, he retained one-sixth share for himself, and lived associated with a younger son, Sher Zamán. On Mahmud Khán's death his share was divided among all his sons.

In Mauza Sihál, Walli Khán had four sons. He retained one-fifth share for himself, and associated with his son Mahomed Núr. When Walli Khán died his share was divided among the sons.

In Mauza Palah, Ját Khán, Moghal, retained one-third share for himself, and lived associated with a younger son. On his death his share was divided equally among his sons.

In Mauza Duberán, Pír Bakhsh, Jasgam, had two sons. He gave each a share and retained one-third being associated with one son, Núr-ud-dín Khán. On his death his sons divided his one-third share equally between them.



In Mauza Hothla, Shams, Awán, retained one-fifth share and lived associated with his son, Nádir. On his death his four sons divided his share equally.

By Hindús, except that of Kahuta, and Bhábras.—“The son who lives associated with his father would succeed to the share retained by his father.”

#### EXAMPLES.

In Mauza Chak Shahdád, Mukha Singh, Khatri Molothra, had four sons. He lived associated with one Utama, on his death Utama took his share.

In Mauza Kuri, Bakhshi Gián Singh had four sons, one Meghráj lived associated with him, on his death Meghráj took his share.

QUESTION 59.—*When a man lives associated with one of his brothers after partition and dies without male issue, do all brothers succeed alike to his share or that brother only with whom he lived associated?*

#### REPLY.

By Dhúnds, Sattis, Khetwáls, Gakhars, Khattars, Ghebas, Dhaniáls, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs and Hindús.—“In such a case all brothers would succeed equally to the share of the deceased brother.”

#### EXAMPLES.

*Dhúnds.*—In Riwát, of three brothers, Nádar, Dádan, Haidar, sons of Bahádar, two Dádan and Haidar lived associated together, Nádar separate. Dádan died without issue and Nádar and Haidar divided equally.

In Mauza Chárihan, Dheru Khán, Nádar, Zamán Ali, were sons of Makhan Khán Dheru Khan lived separate, the other two associated. Zamán Ali died without issue and his two brothers divided his share equally.

*Sattis.*—In Mauza Cherah, Fullai Khán, Gamu Khán and Báz Khán and Aku Khán were sons of Nuru Khán. After partition Gamu Khán and Aku Khán lived associated. When Gamu Khan died his son, Yár Mahomed, remained associated with Aku Khán. When Yár Mahomed died and his uncles divided the inheritance among them.

*Dhaniáls.*—In Mauza Pandori, Faiza Khán, Haidar Khán brothers, lived associated, Bahádar Khán and Nádar Khán separated. Faiza Khán died without issue, and the three brothers divided his share.

*Gakhars.*—In Mauza Tapiáli, Kahuta, of four Mal Khán, Shahamad Khán, Baháwal Khán, Faiz Bakhsh, son of Tali Moyuddin Khán, Dulal, Mal Khán and Shahamad Khán lived separate, the other two associated. Faiz Bakhsh died without issue and his three brothers divided his share equally.

In Mauza Salitha, Daurán Khán and Jaffer Khán lived associated, Mehdu Khán and Mahomed Sher Khán associated, all





four being brothers, sons of Másab Khán. When Jaffer Khán died, his three brothers divided his share and when Mohamed Sher Khán died, his two remaining brothers divided his share.

In Mauza Hun, Baza had four sons, Pír Bakhsh and Fateh Mahomed separate, Mahomed Bakhsh and Alam Sher associated, Alam Sher died without issue and his brothers divided his share.

In Mauza Arazi Khas, Jawála Sahai and four brothers lived, of these Amír Chand and Wazír Chand lived associated, Wazír Chand died and his brothers divided his share.

*By Johdrás.*—"No special rights accrue in such a case to the associated brother, but cases in which the associated brothers have succeeded to the exclusion of the other have occurred in Mauza Khaur and Naushera."

*By Bhábras.*—"In such a case the associated brothers would succeed to the share and exclude the others."

#### EXAMPLES.

In Ráwalpindi, Bihári, Himat, Jawár, and Gānda were sons of Dana Shah, Bihári and Himat were associated. Bihári died without issue and Himat took his share.

QUESTION 60.—*What is the effect of the birth of a son after partition by a father during his lifetime or after the death of the father. Does such a birth enable the father or after the father's death, the posthumous to cancel the partition?*

#### REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals, Rájpúts, Jasgams Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhabras.—"If after partition by a father during his life-time, another son be born to him, he can cancel the partition and a posthumous son can do so after his death."

#### EXAMPLES.

In Mauza Namb Rimal, Alu Khán divided his whole estate "Chundewand" among his sons, Gulsher and Hayát by one wife, one half; Zima and Sherdil by another wife one-half. During Alu Khán's life by the mother of Zima and Sherdil, Alu Khan had another son, Ali Mohamed and a third share of the half share taken by Zima and Sherdil was given to him.

In Mauza Shehr, Rai Saadulla Ahmed Khán died, his estate came to his son Ghulam Mahomed, after Ahmed Khán's death, a son was born to him and this son received half his estate from Ghulam Mahomed.

Fazl, son of Baland, Johdrá of Khaur, divided his whole estate to his sons, Sher Zāman, Núr Khán and Subha Khan; after partition another son, Abdulla, was born to him and the former partition was cancelled and a new one in four shares made.

Murád Shah of Dheri Shahan, Saiad, divided his estate as follows— one-fourth share to himself, one-fourth to each of them. After partition he married again and had two sons by his last wife. After



Murad Shah's death, Hayát Shah and Lál Shah's sons born after partition, brought a suit and had it cancelled, and re-divided in three shares.

In Mauza Mator, Fazl Khán Garwál, had three sons and divided his estate to them in three shares, afterwards a fourth son, Kála Khán, was borne and Fazl Khán then re-divided his inheritance in four shares.

In Mauza Golra, Kásim Ali Khán, Awán, partitioned his estate among three sons; later another son, Ahmad was born and the father cancelled the partition and redivided his estate into four.

QUESTION 61.—*When a son has during the life-time of his father increased the common estate by acquiring property, is he entitled to an additional share on partition or not?*

#### REPLY.

By Dhúnds and Rájpúts.—“There is no custom among us on this point, no case being known.”

By Satis, Khetwáls, Dhaniáls, Gújars, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Saiads, Moghals (Chohan) Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras :—

“In such a case on partition the son who had increased the family estate would share alike with his brothers.

“In the family of the Khan of Makhad only the eldest son succeeds.”

#### EXAMPLES.

In Sang Dakhili Charihán, Firoz Khán, son of Dheru Khán, Khetwál, increased the family estate during his father's life-time, on partition Firoz Khan received an equal share with his brothers.

In Mauza Charihan, Bangush Khán, son of Hassu Khán, increased the family property during his father's life. On partition after the father's death, he received the same share as his brothers.

In Mauza Kirpa, Zulfkár Khán increased his father's estate by five acres bought for Rs. 100 saved from his pay. On partition the whole estate was divided in equal shares among the brotherhood.

In Mauza Hothla, one Shams Khán, Awán, during his father's life-time increased the estate, but on partition all sons shared alike.

In Chak Satwáni, Umr Baksh, Fazl Khán and Ahmed were sons of Niázi, Gújar. Umr Baksh increased the estate in land and goods, but on partition all sons shared alike.

In Mauza Batála, Fazl, son of Hayát, Malliár, increased the estate by one acre, but on partition this also was shared by all the brothers.

QUESTION 62.—*Is a sharer who has improved or increased the joint landed property entitled on partition to a larger share than the remaining sharers?*



REPLY.

By Dhúnds, Dhaniáls, Gakhars, Ghebas, Johdrás, Alpiáls, Patháns, Jasgams, Játs, Hindús and Bhábras.—“ In such a case the sharer who has increased the common estate would not receive a larger share than the other sharers on partition.”

EXAMPLES.

In Mauza Ariári, Boláki and Shadan and Núr Khán held in common; Núr Khán increased the estate but on partition received an equal share with his brothers.

In Mauza Cherah, Nádar Khán, son of Budha Khán, held in common with Jang Khán and others. He brought two acres of waste under cultivation and built a house on it. Partition was made on equal shares, but Nádar Khán's possession was not disturbed.

By Satis, Khetwáls, Khattars, Saiads Moghals, Jasgams, Awáns, Koreshis, Gújars and Malliárs.—“ If a sharer in a common estate increase the estate or breaks up new cultivation or builds a house he is not entitled to a larger share on partition on that account; but such land should form part of his share on partition.”

EXAMPLE.

In Mauza Charihán, Kalu, Báz Khán and Sikandar, sons of Sher Mahomed, held six acres in common; Báz Khán cultivated some waste land, when partition took place it was on equal shares, but Báz Khán's possession was not disturbed.

QUESTION 63.—*When two brothers jointly inherit their father's property of whom one has acquired additional property and maintained his brother, can this brother keep the acquired property (apart from the common property) on partition?*

REPLY.

By Dhúnds, Khattars, Ghebas, Johdrás, Alpiáls, and Patháns :—“ In such a case the brothers would keep his acquired property separate on partition.”

Sagri Patháns say that “ property so acquired cannot be kept separate.”

In the Makhad family Fakír Mahomed says every thing will go to the eldest son.

EXAMPLES.

In Mouza Dewal, Dádun Khán acquired some land called Mokarwáli, which he himself brought under cultivation while holding in common with his brothers; on partition he retained possession of this over or above his share of the inheritance.

In Mauza Aucha, Haidar Khán, Dhúnd, holding in common with his brothers acquired a piece of land known as “ Takia ” which he brought under cultivation; on partition he retained it over and above his share of the inheritance.

In Mauza Garhi Hassú, Hassú Khán, had three brothers holding in common in two villages.



In Mauza Hatar, Hassú Khán acquired about seven acres himself, on partition he kept this to himself over and above his share of the inheritance.

In Mauza Manjia, Ghulám Khán and Khán Beg acquired property over and above their ancestral property. On partition they retained this in addition to their own shares in face of a suit brought against them by their brothers.

In Mauza Pind Malhu, Hashim Sher had three sons, on his death they held in common. Karm bought land with money he had made on partition, this portion was kept separate and Karm took his full share of ancestral property.

By Satis, Khetwáls, Gakhars, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras :—

“In such a case the brothers who had acquired property could not keep it apart from the common property on partition.”

#### EXAMPLES.

In Mauza Thoa Khálsa, Fazl Shah and Karm Shah brothers their held in common Fazl Shah acquired new property and on partition the whole estate was equally divided.

In Mauza Kharang Kalan Maddat Shah and Núr Hassan Shah and Alif Shah, sons of Nabi Shah, held in common, Maddat Shah acquired new property and all enjoyed it; on partition each brother received an equal share of the entire estate.

In Mauza Bhoun, Faiza Awán, had three sons, Budha Khán, Háfiz and Hashim (Hafiz, blind). Budha Khán and Hashim brought new land under cultivation; on partition all these took an equal share.

In Mauza Balakhar, Hosain Ali and Jáffer Ali, sons of Hayát Bakhsh, held in common. Hosain Ali acquired property, but on partition the whole estate was equally divided.

In Mauza Arazi Khás, Ganga Rám, Nathu Rám and Rám Chand, sons of Múl Ráj, held in common, Ganga Rám acquired new land and built a “band” which improved the land. On partition the whole was equally divided.

By Dhaniáls.—“No such case has occurred and there is no custom on the point.

QUESTION 64.—*If a father divides his property keeping no share for his own maintenance, and afterwards in association with one of his sons, acquires more property. Is the associated son entitled to succeed to this acquired property alone, or is it shared by all the heirs?*

#### REPLY.

By Dhúnds, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Patháns, Satis, Khetwáls, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Milliárs, Hindús and Bhábras.—“In such a case the associated son would succeed to the whole.”



EXAMPLES.

In Mauza Kerána Kalán, Gula, son of Bura Khán, Sati, divided his entire estate to Pír Bakhsh and Mana Khán, his sons keeping no share for himself and lived with Pír Bakhsh. Afterwards he acquired property by his own exertions to which Pír Bakhsh succeeded, Mana Khán getting no share of it.

*Dhaniáls.*—In Mauza Kirpa, Safu Khán, son of Mohsu Khán, divided his estate keeping no share for himself among his eight sons, four sons lived together with their father who afterwards built several houses; on his death the houses went to the four sons who had lived associated with him.

*By Saiads.*—“In such a case the associated son would succeed to the whole and would be bound to incur his father's funeral expenses.”

QUESTION 65.—*When a man living jointly with his brothers during his father's life receives a donation (Jahez) or gift of certain property from his father-in-law or maternal relatives, has he the exclusive right to that property or is it shared by his brothers after his father's death?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Alpiáls, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—“In such a case on partition after the father's death the son to whom the property had been given on his marriage as a “Jahez” or by his maternal relatives would retain it as his exclusive property and his brothers would not share in it.”

EXAMPLES.

In Mauza Charihán, during the life of Jaffer Khán, when the estate was held in common, Haidar Khán received 13 kanáls as a gift from Roshan Ali and others, during the life of their father. This was held with the rest in common on Jaffer Khán's death, when partition took place. Haidar Khán received his land as his exclusive property.

In Mauza Sarot, Akbar Ali, Dulál, received two kanáls of land as a gift from his father-in-law, his father being alive. The estate was held in common till the father's death after which Akbar Ali received this two kanáls as his separate property in addition to his share.

QUESTION 66.—*If a man die without issue leaving a brother of the full blood separated and a brother by a different mother associated, how will these two inherit?*

REPLY.

By Dhúnds, Satis, Khetwals, Dhaniáls, Ghebas, Johdrás, Patháns, Awáns, and Hindús.—“In such a case the brother of the full blood only will succeed.”

The Maliks of Pindigheb state that in such a case the inheritance would go on the shares laid down at the custom of the family. There is no distinction between brothers of the full or half blood, and no extra rights are created by associations.

Sagri Patháns say “all would share alike.”



"In such a case, says Fakír Mahomed of Makhad, the eldest son would take every thing."

EXAMPLES.

In Mauza Kirpa, Fazl Khán, Dhaniál, had four sons one Píra by one wife and Hayát Mahomed and Sharaf by another. Sharaf lived associated with Píra, his half brother, holding in common. Sharaf died without issue, and his share went to Mahomed and Hayát.

By Gakhars, Khattars, Saiads, Moghals, Rájpúts, Jasgams Koreshis, Játs, Gújars, and Malliárs.—"Both the brother of the full blood and the brother of the half blood will inherit equally."

By Alpiáls.—"All brothers would share alike but no case has occurred."

By Bhábras.—Double marriages are not known.

QUESTION 67.—*Is a son who incurs all funeral and other expenses upon his father's death entitled to a larger share of the inheritance than other sons?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakars, Khattars, Ghebas, Johdrás, Alpiáls, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—"In such a case if the other sons do not at time of partition pay up their share of the funeral expenses to the one who incurred them, that one is entitled to receive an extra share, corresponding to the amount of the expenses incurred by him."

EXAMPLES.

*Dhúnds.*—In Mauza Kahia, Tahsíl Murree, Jewan Khán, Dhúnd, left three sons, Bang Khán, Fattu Khán, Pír Bakhsh. Pír Bakhsh and Bang Khán defrayed the funeral expenses, Fathu Khán, paid no share. On partition Fattu Khán got two acres less than his share on this account.

In Dhok Bagla of Charihán, Ali Khán, son of Murád Beg, Khetwál, at his death left two sons, Núr Bakhsh and Shamas. Shamas bore all the expenses of the funeral, on partition four kanáls of land were given to Shamas above his share, the rest was divided equally.

In Mauza Pind Begwál, Bahádur Khán left two sons, Banda Khán and Mahomed Khán, Banda Khán defrayed the funeral expenses, and on partition Mahomed Khán got one-third, Banda Khán two-thirds of the inheritance.

In Shakerparián, Ali Khán, Gakhar, died, Sultán Khán, one son, defrayed all funeral expenses. On partition Sultán Khán took two-thirds Gama Khán his brother half. A suit was brought, Gama paid up his share of the expenses and the inheritance was then divided equally.

In Mauza Dheri Shahán, Karm Shah defrayed his father's funeral expenses. Satar Shah did not share. On partition Karm Shah received more than his share of irrigated land.



*By Patháns.*—"The son who incurs the funeral expenses is not entitled to a larger share of the inheritance on that account, but can insist on his brothers paying up their share."

Fakir Mahomed, son of the Khán of Makhad, replies that the eldest son who succeeds to every thing is responsible for the funeral expenses.

**QUESTION 68.**—*If a man dies leaving two sons, one married and one unmarried, is the unmarried son entitled to a larger share in consideration of marriage expenses on partition?*

**REPLY.**

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Rájpúts, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—"In such a case the unmarried son is entitled to a larger share of the estate than his married brothers to cover his marriage expenses unless the married brothers undertake these expenses, on which case they will share equally on partition."

**EXAMPLES.**

In Mauza Riwat, Tahsíl Murree, Kes Khán left four sons, Wáris and Háshim Ali had been married in their father's life-time, Matwálli and Akbar Sher were not married; on partition the unmarried brothers received eight kanáls extra on this account.

In Mauza Sadiot, Khudayar Khán, Gakhar, had three sons, Ali Mardán and Sadulla had been married in his life-time, but Bakhsh was a bachelor; on his marriage the expenses were paid from the common fund, and the estate divided equally at partition.

In Mauza Bhoun, Tahsíl Kahuta, Budha, Awán, had three sons, two were married in his life-time, one Sharaf was not, on his death, the two married brothers bore the expenses of Sharaf's wedding.

*By Alpiáls.*—"In such a case at partition the unmarried brother is entitled to receive his marriage expenses from his married brothers."

**EXAMPLES.**

In Mauza Pind Malhu, Khán Mulak, Lambardár, Alpiál, had four sons, three were married in his life-time, one Ghulám Mahomed was unmarried; when partition took place Ghulám Mahomed received the expenses of his marriage from his three brothers.

*By Moghals.*—"In such a case the married brothers are responsible for the marriage expenses of their unmarried brothers or they must give him some land instead. Or in case his unmarried son does not marry and the father left any debts, the unmarried son is not responsible for them."

**QUESTION 69.**—*Can a widow claim partition in case of joint ownership with her deceased husband's relatives? Can a sharer without issue claim partition?*

**REPLY.**

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Johdrás, Patháns, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis



Játs, Gújars, Malliárs, Hindús and Bhábras.—“A widow holding her husband's share for life can claim partition. So can any sharer without issue.”

EXAMPLES.

In Mauza Potha, Aladád died leaving a widow, holding in common with his brothers, the widow effected partition of the common holding.

In Mauza Charihán, Mussammát Hashim Bibi widow of Sharaf, Khetwál, effected partition of a holding held jointly with her husband's brother.

In Serai Kharbuza, Tahsíl Ráwalpindi, Mirza Núr, widow of Fateh Khán, effected partition of a holding held in common with her husband's brother.

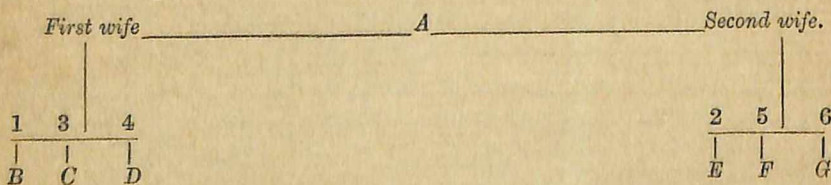
In Mauza Jalália, Mussammát Begam, widow of Najibulla, effected partition of a holding held jointly with her husband's brother.

In Mauza Jaba, Gohar, Awán, left a widow who effected partition of a holding held jointly with her husband's brothers.

In Mauza Sai, Tahsíl Kahuta, Mussammát Lachmin, widow of Jawála Sahai, Brahman, effected partition by means of consent, of a holding held jointly with her husband's brother.

*By Alpiáls.*—“A widow cannot claim partition of an ancestral estate.”

QUESTION 70.—*If there be more sons than one by two mothers of the same caste with the father and the eldest son by the first wife, being a Lambardár, die without male issue, does his brother of the half blood who when next in age to the deceased succeed or his own full brother, as*



*B, a Lambardár has died without male issue, is C or E to succeed him? State the custom in each case (1) if inheritance is divided “Pagwand,” or (2), if it is divided “Chúndewand”?*

REPLY.

By Dhúnds, Satis, Khetwáls, Dhaniáls, Gakhars, Khattars, Ghebas, Alpiáls, Saiads, Moghals, Rájpúts, Jasgams, Awáns, Koreshis, Játs, Gújars, Malliárs, Hindús and Bhábras.—“In such a case the deceased would be succeeded as lambardár by his brother of the full blood in all cases.

EXAMPLES.

See judgment in lambardári case of Namb Bheramal, Tahsíl Murree, decided by Settlement Officer on 29th March 1884, and upheld by Financial Commissioner on appeal.



In Mauza Khalol, Tahsíl Kahuta, Sulimán Kuli Khán had three sons by two wives, by one Ali Mahomed Khán and Murád Khán, by the other Núr Mahomed Khán ; Ali Mahomed Khán was the eldest, Núr Mahomed next, Murád Khán youngest. On Ali Mahomed Khán's death without issue, Murád Khán succeeded him as lambardár.

*By Johdrás and Alpiáls.*—"In such a case the brother next in age would succeed."

In the case of the Khán of Makhad the head of the family will be lambardár.

### FAKIRS.

QUESTION 71.—*If a man abjures worldly affairs and turns fakir, what effect has such a proceeding on—(1) His claim to his share of the estate ; (2) His claim to succeed to property, to which he would otherwise have a right of succession ; (3) If he abandons his worldly goods who will succeed to his property ?*

### REPLY.

By Dhúnds, Satis Khetwáls, Saiads, Moghals and Jasgams.  
"If any man turns fakir and abandons the affairs of the world—

"(1) He can keep possession of his own property if he likes ;

"(2) He can claim his share in any inheritance if he chooses ;

"(3) If when becoming a fakir he abandons his property, succession to it will be regulated as if he had died or if he wishes he can make it over to his spiritual adviser."

By Dhaniáls, Gakhars, Patháns, Rájpúts, Awáns, Koreshis, Játs, Gújars and Mulliárs.—"As with Dhúnds with the exception of the proviso about making over the property to his spiritual adviser which is not recognized by custom."

### EXAMPLES.

Hayát Khán, Khattar, of Usmán, became fakír of the "Baradri Gulám Khán. He retained possession of his estate throughout his life-time.

Nádar Khán also of Usmán Khattar, abandoned his affairs and went and sat at the Masjid in Shah-allah Ditta but retained possession of his estate until his death when his sons succeeded.

Sain Bakhsh of Dhaniál became a fakir and went and sat at Ojri, but retained his property throughout his life ; on his death his sons succeeded him.

In Mauza Kahuta Sher Khán, Dulal, turned Fakír. When his father Karm Khán, died he succeeded to his share of the estate with his brothers.

In Mauza Katána, Budha Khán, son of Gházi Khán, Awán of Golra, was a fakir for 25 years retaining possession of his estate all the time.



By Ghebas, Johdrás, Alpiáls, Hindús, and Bhábras.—“If a fakír absolutely abandons the affairs of this world he loses all rights in property, and his estate is treated as if he had died.”

EXAMPLES.

Mana, Bhábra of Ráwalpindi turned fakír and his brother took possession of his property.

Ratna, Bhábra, became a fakír and his estate went to his brothers.

AGRICULTURE.

QUESTION 72.—*On what conditions can an owner take a water-cutting through the land of another person to irrigate his land from a well or canal.*

REPLY.

For purposes of irrigation from wells, one owner has a right to make a channel across the lands of another, on payment of compensation either in the shape of a portion of land equal to that taken up by the channel of similar quality, or in cash.

Cuttings from streams are usually permanent. When one falls into disrepair and cannot be rendered fit for use again, a new one can only be made across the lands of another owner by special arrangements.

QUESTION 73.—*By what method can a tenant-at-will, according to custom become a tenant with a right of occupancy?*

REPLY.

A tenant-at-will cannot create a right of occupancy in this district by any means according to custom, but in tahsils Pindigheb and Attock mokarridári rights can be obtained by sinking a well in the land of another, with the consent of the owner; rent rates being previously settled.

QUESTION 74.—*Can a tenant-at-will, who fails to cultivate or is ejected, continue to live in the house of the owner on the land?*

REPLY.

If the tenant is living in the village site, in the same way as other inhabitants, he can remain; if he is in a house specially the property of the owner he cannot so remain.

EXAMPLES.

In Mauza Malpur, Tahsil Ráwalpindi, one Jang, tenant, was evicted by Gohar Khán, an owner, and had to give up his dwelling-house also.

QUESTION 75.—*Can a tenant paying rent in kind cut the green crops, if so state to what extent?*

REPLY.

Tenants paying in kind cannot cut green crops for fodder. If they do, the owner may deduct the amount cut from the tenant's share at the division of the crop. If the crop has withered up the tenant can then take it for fodder.



EXAMPLES.

In Mauza Palakhar, Tahsíl Kahuta, Fazl, tenant, with right of occupancy, sowed one kanál of jowár to feed his cattle. Fazl Iláhi and Dhera, owners, took from him 26 seers (*ek pai*) of bájra, in exchange for the fodder.

QUESTION 76.—*If any cattle die belonging to a cultivator or non-cultivator who is not an owner in the village, have the owners any right to its hide?*

REPLY.

In such a case the owners of the village have no claim to the hide.

QUESTION 77.—*From what harvest can a tenant-at-will be ejected and has such a tenant any right by custom to the cotton plants left after picking on ejectment?*

REPLY.

Tenants-at-will can only be ejected after the spring crop has been harvested, before the sowing of the kharíf crop. After ejectment a tenant-at-will has no right to the plants of a coppicing crop of cotton.

QUESTION 78.—*Can a tenant who has ploughed the land for sowing claim any compensation on ejectment?*

REPLY.

A tenant-at-will has no claim to compensation on ejectment for ploughing the land for sowing.

QUESTION 79.—*Can a mokarridár sink another well in case the existing well has become unfit for irrigation purposes. If so can there be any change made in the rent?*

REPLY.

In case the well of a mokarridár has become unfit for use, he may sink another in any land of which he is mokarridár, but he may not sink a well in any land of the owner in respect of which he has no mokarridári rights.

EXAMPLES.

In Mauza Pind Malhu, Tahsíl Fatehjang, Abdul Hádi and other occupancy tenants had a well which fell in, they then sank a well in another part of the land of which they were mokarridár and continued to pay the same rent.

In Mauza Dulial, the well of Núr Ahmed, Mochi, and others fell in, they built another well in their mokarridári lands and continued to pay the same rent.

QUESTION 80.—*On what conditions can an owner sink a well in an occupancy tenant's land, if both tenant and owner desire to sink such a well who has the prior right to do so?*

REPLY.

To this the owner's reply that an owner has right to sink a well in the land of an occupancy tenant giving to the tenant similar land elsewhere. If the tenant refuses to take similar land elsewhere, he



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must pay irrigated rates similar to those paid by tenants-at-will on irrigated land.

If the owner declines to give other similar land to the tenant, then the rent cannot be increased.

### EXAMPLES.

In Mauza Kolian, Tahsíl Fatehjang, Mián Abdulla, occupancy tenant, built a well by permission of Jahán Khán and other owners at his own expense, and no change was made in the rent.

In Mauza Nakodar, Tahsíl Fatehjang, Jahán Khán, owner, sank a well at his own expense in the land of Shahamad occupancy tenant. The owner gave other land similar to the land in which the well was sunk and gave the irrigated land to some one else to cultivate.

In Mauza Pind Malu, Tahsíl Fatehjang, Bahádur Khán, owner, sank a “jhalár” in the lands of an occupancy tenant whose rent was raised therefore from two-fifths produce to half produce.

In Mauza Pindigheb, Malik Aulia Khán built a well in the lands of mokarridári tenants, Shahzada and others. The case was fought out up to the Financial Commissioner's Court, and the owner's right to sink the well was upheld.

QUESTION 81.—*In places set apart for the convenience and comfort of the village who have the right to cut trees and take dry wood. In the case of fruit trees growing in such land, who is entitled to the fruit ?*

### REPLY.

Green trees cannot be cut in such places, unless required for repairs to buildings in such spots set aside for public convenience.

Dry wood and the fruit of trees is taken by those who look after such places.

In case a tank has been made by any person for public use, trees growing round it can be cut by the person who made it.

### EXAMPLES.

In Dhok Barin, Mauza Charihán, there is a Kháneh, with a lot of fruit trees, the keepers of the Kháneh take the produce.

In Latori Saiadán, Tahsíl Kahuta, the keepers of the Kháneh, Pír Murad Shah, Kaim and Jiwan take the wood when necessary to repair their houses.

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