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Patterns of landholding distributions under the *Mahalwari* settlement

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Abstract

The *Mahalwari* system was the last one among the three major land revenue settlements introduced by the British colonial set-up of *East India Company* in a series of experimentation. And believed to be an improvement over both the previous existing land revenue system on the basis of its hybrid and innovative nature. It was a settlement for the estates of proprietary bodies, first introduced in the region of *North-Western Provinces** under the Regulation VII of 1822. Further, it was extended up to the region of the *Central Provinces** and the *British Punjab**. The other two major land settlements were permanent *Zamindari* in Bengal presidency and *Ryotwari* in Madras and Bombay Presidency respectively. In all *Mahalwari* areas, the land holding distributions and patterns presents the records of all existing proprietary rights or cultivating rights and rights of ownership of every Mahal (or estates) or villages. A proper pattern of land-holding distributions of a compact area helped very much to present the nature and feature of existing land revenue system. Therefore, the study of land-holding distributions and patterns in all *Mahalwari* areas holds prime importance to understand the modus-operandi of the existing land revenue system. Here, the settlement was directly made with the Mahal* or estate, which presents the holdings of whole agricultural or cultivating lands with or without some waste area, belonging to or attached to it. In this paper, my humble attempt to present the different type of land holdings running under the operation of the *Mahalwari* system of land revenue settlement, which provide a vivid picture of different land tenure of *Mahalwari* areas.

Keywords: *Mahalwari* system, east India company, north-western provinces, regulation VII of 1822, central provinces, British Punjab, zamindari, ryotwari, Mahal

Introduction

The land holding distributions simply denotes the holdings of land related to the control of a region or having possession-ship on a compact area. The land holding distribution and patterns of any locality presents a conspicuous picture of statistical records and description of all the existing holdings, i.e., the cultivating rights and possession-ship. Although in some cases, it also presents the nature of existing proprietorship and their occupancy rights on land.

In all *Mahalwari* areas, the land holding distributions and patterns presents the records of all existing proprietary rights or cultivating rights and rights of ownership of every Mahal (or estates) or villages. The land-holding distributions and patterns under *Mahalwari* system, where the settlement was directly made with the *mahal* or estses by engaging of proprietary bodies of co-sharers or village community with the consultation of *Lambardars*, depends primarily on the *Khatauni-Jamabandi*, which contains the records of all the existing cultivating rights^[1]. A proper patterns of land-holding distributions of an area helped very much to present the nature and feature of existing land revenue system.

Therefore, the study of land-holding distributions and patterns in all *Mahalwari* areas holds prime importance to understand the modus-operandi of the existing land revenue system. Here, the settlement was directly made with the *Mahal* or estate also called village which presents the holdings of whole agricultural or cultivating lands with or without some waste area, belonging to or attached to it. Most of the times, it had a central site for the dwelling-houses congregated together, but, at some occasion small homesteads and farm buildings

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¹ WH Moreland; The Revenue Administration of the United Provinces, Renaissance Publishing House, Delhi, First Published 1911 (From Allahabad), Reprinted 1984, 96

also found which separately formed the holdings ^[2]. The village or *Mahal* was treated as a fiscal unit of assessment having great importance for administrative concerns, and was hardly ignored even in the region of Bengal provinces where the revenue administration not directly influenced by the villages but controlled by the landlords ^[3]. An official holding of land assigned either by a *Lambardars* or *Muqaddams*, or *Tehsildars*, or *Taluqdars* etc. who were controlled the existing pattern of land cultivation.

Patterns of Land Holding Distribution

There were mainly two types of land-holding distributions existed in their peculiar village forms. Under the first, the villages comprised a number of individual cultivating holders who cultivate the land themselves with the aid of their families. These holdings or lots of plots have separate units as fiscal engagements. Here the cultivators do not claim to be joint-holders of the whole area, not do their holdings represent shares of what was in it a total which belongs to all of them ^[4].

The second form of village holdings might be described as similar in many respects to the first, but with one essential feature super-added and others modified in consequence. The distinct feature of this form was that there was an individual or a family which had to claim to be superior to other cultivating landholders and in fact to be the owner or landlord of the entire area within the ring-fence of the village boundary, as already existing, or as established by their own foundation ^[5].

Basically, the land-holding distributions and patterns under the *Mahalwari* system were based on the records (a) of rights, and (b) of assets ^[6]. Records of these rights were prepared through the agency of *Patwaris*, village accountants or ledger keepers. He keeps the records of rights of every villages or estates and also the records of its holders. The initiation of any new land revenue system was very much influenced by the pattern of land-holding distribution because it reflects the features of existing land tenures of the region. The distribution of land-holding dignified the status of land-holders of that particular area. The records of existing right of every *Mahal* or estate gives a detailed information of various land tenure forms of different locality, must produce before settling down any new land revenue system ^[7].

The Regulation VII of 1822 was the first law which defined the different existing land tenures of India during the English East India Company rule. This regulation prescribed the specification of all persons enjoying the possession of property in the soil and estate. The regulation declared that all future engagements of land revenue settlement was temporarily settled in all areas and should be preceded by a "records -of- rights and obligations of persons possessing an interest in the land or in the rent or produce thereof" ^[8].

The ownership and occupancy rights of land were of yeomanry character and free from the parasitic nature of *Zamindari* rights. The land may be cultivated either under the category of *khudkasht* (residential cultivators) or under the category of *pahikasht* (non-residential cultivators). The holding of lands or *Mahals* either heritable or transferable depends upon their arbitrary rules ^[9]. Most of the *Mahals* were under the charge of a *lamberdar* who was the chief of a co-parcenary bodies or the village community.

W. C. Bennett, under whom the official gazetteer of land settlement was prepared, asserts that castes of Indian society played a very important part in the distribution pattern of land-holding during the first half of the nineteenth century. The holding patterns of land have a great impact which changed the whole structure of nineteenth century agrarian and rural society.

The land-holding distribution in *Mahalwari* areas was primarily determined on the basis of *shajra* and *khasra* records. *Shajra and Khasra* records were the two important documents of settlement operation and assessment in the North- Western Provinces. The *shajra* or the field map (usually on a scale of 16 inches or sometimes 8 inches, that is, just half) and *khasra* or the index to the map or descriptive register of fields (a parcel of land lying in one spot in the occupation one cultivator or by a jointly body of cultivators) numbered according to the series of numbers on the *shajra* ^[10]. The holding pattern of land brought drastic changes in the nature of economic and social structure of pre-colonial India or early colonial establishment ^[11]. However, there was no uniform and universal system followed under the *Mahalwari* operation but different land tenures working at different places with different names and according to their local existing conditions. It is interesting to that the land-holding distribution in these regions could be understood through the study of different existing land tenures working under different holding patterns on the basis of their regional peculiarity. The holding pattern of the areas demarcated the shares or holdings of land through its divisions or allotments to the cultivators ^[12]. Shares and holdings of land were recorded with the reference of genealogical tree. There were separate holdings of 'sir' land recorded as customary holdings; fixed and acknowledged. All the holdings of land were recorded in '*khewat*' or *khatauni* registers ^[13]. There was some 'ownerless village' where the settlement would be made directly with the farmers called '*Mustajir*' in revenue language ^[14]. '*Mustajir*' was a term given to the cultivating peasants who were recognized as the actual proprietors of land.

The land tenures give full description of the land-holding distribution, i.e., possession ship of land which open the scope to study the prevailing condition of village society in *Mahalwari* region. The arbitrary rule of land-holding distribution controls the whole structure of cultivating pattern and presents a vivid picture of landed gentry and

² B. H Baden Powell; Administration of Land Revenue and Tenure in British India, Ess Ess Publication, 1907, New Delhi, p. 66

³ Ibid., p. 67

⁴ B. H Baden Powell, A Short Account of the Land Revenue and its Administration in British India: With a Sketch of the land Tenure, Clarendon Press, London, 1894, 70

⁵ Powell, A short Account, op. cit., 71

⁶ Moreland, op. cit., 34.

⁷ Radha R. Mukherjee; History and Incidents of Occupancy Rights, Neeraj Publishing House, Delhi, First Published 1919, Reprinted 1984, p. 78.

⁸ Ibid., 78

⁹ H. R. Nevil; Imperial Gazetteer of India, Provincial Series, Uttar Pradesh, Vol -I, Government Press, 1907, 111

¹⁰ B. H Baden Powell; The Land System of British India, Clarendon Press, London, 1892;2:38-39

¹¹ Cohn, B. S., Structural Change in Indian Rural Society, 1596-1885, in Robert E. Frykenberg (ed.) Land Control and social Structure in Indian History, Manohar Publication, First Published 1969 (Madison, University of Wisconsin), Revised Indian Edition 1979, New Delhi, pp. 53-54.

¹² Powell; Land system, op. cit., p. 105

¹³ Moreland; op. cit., 86

¹⁴ Powell; Land System, op. cit., 24

aristocracy. The land tenures of *Mahalwari* region may be divided into three different groups, viz., proprietary tenures, intermediate tenures, and cultivating tenures^[15].

Proprietary tenures

In this tenorial system, the land was to be held by a single proprietor called '*Lambardar*', the representative of the village co-operative body and primarily responsible for the rent payment. It had numerous varieties of particular features and peculiarities.

Taluqdari Tenure

This type of proprietary tenures prevailed in the region of Oudh where the proprietary rights vested in one person holding many feudal privileges^[16]. Under this system, the tenures were settled or made with the whole estate or *taluka* which includes several Mahals or villages. *Raj Sattasi* (87 or Eighty- seven) of Gorakhpur division was a fine example of *Taluqdari* tenures which was one of the biggest *Taluqdari* estate comprising eighty seven (87) Mahals^[17]. These tenures basically have two types of villages or *Mahals*, viz., (a) *taluka*, and (b) *khalisa*. The revenue dues of *taluka* villages were paid directly by the petty Rajas often called *Taluqdars* or Big *Taluqdars*, whereas in the *khalisa* villages, the raja and those to whom they have alienated their rights had the status of independent *Zamindars* who paid their revenue dues directly to the British government^[18].

Zamindari Tenure

Under this system the whole land of the villages or estate was held and managed commonly. Here the rents should be kept in a common stock, and the balances of the total rents were divided among all the proprietors according to a fixed law after the deduction of *Malguzari* (government revenue) payment and other village expenses (or *Malba*)^[19].

Pattidari Tenure

In this arrangement, an accurate register of all the coparceners, not merely the head of divisions, such as *Puttees*, *Thokes* or *Behrees*, but also of every person who occupied land, disposes of its produce or receives rents, as proprietors, or as agent for one or two proprietors holding the lands and disposing of its produce or receives the rents of it in common possession^[20]. In that system a village was totally divided on the basis of ancestral shares and so that revenue liability as appears in the list of distribution was a fraction corresponding to the land fraction.

It was of two types, viz., Perfect or *Mukammal Pattidari*, and *Ghair* or *Na Mukammal* or Imperfect *Pattidari*. In *Mukammal Pattidari*, the land was divided and held or shared in severalty by the different *pattidars* or proprietors, each person managing his own land and paying his share of the government revenue. Here, the whole land of a village

area was divided between the different co-shares or group of co-sharers with a definite fraction^[21]. The profits of the areas are not the concern of common division. The rents payable by certain tenant were assigned to a particular *Patti* or division and collected by a nominated manager called *Lambardars*. The settlement of Mathura district was a perfect example of *Mukammal* tenure. Whereas, in *Gair Mukammal Pattidari*, some part or portion of land were held as *Pattidari* and divided among its co-shares. The profits of the undivided land were being shared approximately in the same way as those of the divided land^[22]. The Government revenue and village expenses were paid from the common stock of village community and on the other hand all deficiency was fulfilled by the contribution from the sharers called *bachh* or *birar*.

Muffassali Settlement

In some region of the North- Western Provinces, there were distinctly surviving traditional institutions of the village communities under the banner of big *zamindars*. This institution was one of the most important and striking feature of the existing north Indian villages. It had given protection as '*Muffassali Settlement*' in the Regulation VII of 1822^[23]. Regulation described '*Muffassal Settlement*' as a means of revenue payment by the landlord to the company government. A '*Muffassal Settlement*' was also called a 'sub-settlement' with the village occupants^[24]. This Regulation also determines the annual land revenue payment to the landlord by the body of co-sharers. At some occasion, the settlement should be settled with the chief of the village called *Muqaddam* of the 'inferior proprietary body' or '*Biswadars*', and the *talukdars* would get only a fixed percentage of cash allowance or share of the land revenue^[25]. In most cases *Lamberdar* of a village being the representative of the jointly responsible body of co-sharers^[26].

Muqaddami Tenure

This tenure was existed in paragana south *haveli* of Gorakhpur division^[27]. It also associated with *mandidari* tenure. In this system, a *muqaddam* or managing headman was appointed as intermediary between the cultivator and zamindar to collect the rent and given the permission to keep certain share with him. It was a form of *Muffassal settlement* or engagement.

Birtia Tenure

The *Birtia* was hold by deed called *Birtputta* from the superior zamindars or taluqdars; some of these deeds were considered to confer an independent right of property of soil/land^[28]. It was prevailed in eastern Awadh and Banaras division of ceded and conquered provinces where generally a big *taluka* existed. This tenorial system was also called 'Subordinate tenure' created by big *taluqadars* of

¹⁵ William Crooke, J.R Reid, G.A Greierson, A Concise Encyclopedia of North Indian Peasants Life, (ed.) by Shahid Amin, Manohar Publication, New Delhi, 2005, p. 163, (hereafter this source had been cited with its editor's name Shahid Amin)

¹⁶ Ibid., p. 163

¹⁷ Report on Raj Sattasi, Edward Currie, Deputy Collector of Gorakhpur, dated 28th March 1832, Gorakhpur Commissioner's Office, File No. 91, U. P State Archives, Allahabad

¹⁸ Asia Siddiqui; Agrarian Change in Northern Indian State, Uttar Pradesh, 1819 -33, Oxford at Clarendon Press, 1973, p. 42

¹⁹ Amin; op. cit., p. 163

²⁰ Minute of 1st July 1819, Holt Mackenzie, Para-688, in Revenue Selections, 1818-20, North Western Provinces, p.142

²¹ Nevil, Imperial Gazetteer, op. cit., Vol- I, P.111; also see Powell, Land system, op. cit., pp.103-104

²² Nevil, Imperial Gazetteer, op. cit., p. 111

²³ Minute of 1819, Mackenzie, op. cit., Para 747

²⁴ Powell; Administration of Land Revenue, op. cit., p. 174; also see Joshi; op. cit., p. 47

²⁵ Powell; Land System, op. cit., Vol. II, p. 24

²⁶ Ibid., pp. 24-25

²⁷ Amin, op. cit., p. 163

²⁸ Report of the Board of Commissioners, H.R Newnham, Kanpur, 1816, in Revenue Records of the North Western Provinces, 1818-20, p.176

Gorakhpur district before the takeover of the region under the 'Subsidiary Alliance'. There was a class of grants under which full proprietary rights were given to the holders, who were known as *birtia* very similar to *Muqaddam*. The term '*Birt*' stand for cession where tenure was made for men for money payment for the services rendered by their heir who died at last in the battlefield also called '*marwat birtia*' [29]. The *marwat birtia* was very popular in the region of North Western provinces. There were some other forms of *Birtia* tenure existed with different name like *Jiwan Birt*, *Barchhibandi Birt*, *Marawat* or *Khunbaha Birt*; *Sankalp Birt* also called *maufi* tenure and *Khush-hast Birt* etc. This tenurial system of land engagements, which have a greater influence on the agrarian relation of the region had disappeared by the last quarter of the nineteenth century [30]. Revenue documents from Gorakhpur *Zilah* Records throw ample evidence on the decline of the *Birtia* tenurial system.

Bhaichara Tenure

The term '*Bhaichara*' stands for the custom of brotherhood which simply gives the description of land-holdings on the basis of equal artificial lots. Basically, it was a developed form of *Pattidari* tenure where lands were shared on the principle of equalized artificial lots or holding rights [31]. In this tenure, the land was divided into a definite plot and not defined as a fraction of the whole. The rights and interests of each co-sharer of *Mahals* were determined not only by his ancestral shares, but also by custom or possession [32]. The land revenue was generally paid by a chief representative of the 'co-parceners' called *Lambardar*.

However, *Bhaichara* tenure was not always being similar to *Pattidari* tenures. It had difference at some extent when the land was commonly held undivided but its produce of the *Mahals* was divided according to shares based on the principles of genealogical division of descendants [33]. The true sense of '*Bhaichara*' tenure was not appeared there because it merely denotes the ancestral shares of the estates. When an estate came under the category of *Bhaichara* tenure while the commanding sharer dies, then his holding was to be divided among his sons or others heirs in the light of law and custom of inheritance. It can be notice that this system was prevailed largely in Azamgarh. On the other hand this system also, existed partially also at Agra and its adjoining region [34]. There was only one difference between the *Bhaichara* and *Pattidari* tenure and that was the occasional re- partition of the holding by the custom of the tenure and they were liable of the proportional assessment.³⁵ The *Bhaichara* tenure refers to a special method of the land allotments and rates of rent distribution that was prevalent in some of the communities in which most of the land was partitioned among individual members of the co-operative society of proprietary bodies.³⁶ Villages were owned by the

descendants of a common stock and the whole land was occupied by the proprietary brotherhood and the revenue was assessed at certain fixed rate. Remarkably it is noticed that by the 1850s this type of land-holding disappeared from the Banaras.

Bhejbarar or Bacchbarar

This type of land tenure prevailed largely in the Bundelkhand region. The shares of brotherhood were liable to periodical or occasional adjustment. It was a method which purpose was to equalize the revenue-burden [37]. *Bhejbarar* stand for proportionate share with list of revenue-payments. The balances of revenue and expenses of the villages deemed by the fraud or insolvency of a sharer were made by a ratable contribution or *bacch* from the other co-sharers [38].

Gatabandi

This was opposite of the *pahabandi* and corresponds to *khet batai* or *khetbat* which was mostly prevalent in the region of Lower Doab districts of Bareilly and Banaras [39]. In this arrangement the fields owned by individual proprietors were scattered through many villages.

Chirbatota

Characteristically it was a kind of zamindari called *Haq-i Thakuram* mainly prevalent in Jhansi districts of Bundelkhand region. Under this tenorial system, the semi-independent chiefs were allotted land by Sindhia family of Maratha confederacy in lieu of their rights (i.e., *haq*) [40]. This type of rent was payable only in the case of excess value of chiefs share called *Ubari* or *Oobari* means quit rent, may also stands for extra charge.

Dih Holding

The holding of land created either from decay or desertion of the building which had been earlier covered with houses and declared as waste land but now made available for cultivation [41]. In the past, it was a part of inhabited land.

Nankar Holding

This type of holding specially prevailed in Oudh region. The holding was assigned to the chief proprietors as an allowance for their service in collection of land revenue [42]. These proprietors were awarded with the title of *Nankar* and were given rent free land in lieu of such allowance.

Biswadari Tenures

It was tenure of independent village community with 'inferior proprietors' called *Biswadars* who were holding the land under a superior proprietor [43]. It prevailed mainly in Aligarh and Mainpuri district of North-Western provinces. It was also prevailed marginally in the region of Delhi Residency and Gorakhpur district. The local petty *Raja*'s were settled with the principle that the *Biswadars* or

²⁹ Basti Settlement Report, J. Hooper, p.34 Cf., H.R Nevil; Imperial Gazetteer, op. cit., p.110

³⁰ Amin, op. cit., p. 164.

³¹ Azamgarh Settlement Report, 1834, Edward J. Thornton, p.63, also see Powell; Land System, op. cit., pp.140-42

³² North Western Provinces Act, J. Crosthwaite, 1873-74, Section- 44. Cf., C. J Connell; Land Revenue Policy in Northern India, p. 48

³³ Cohn; op. cit., p. 102

³⁴ William Crooke, A Glossary of North Indian Peasant Life, Oxford University Press, New York and New Delhi, 1989, p.134, also see Siddiqui; op. cit., pp.19-20

³⁵ Minute of J. Colebrooke, dated 12th July 1820, in Revenue Selection Records, NWP, 1818-20, pp.207-208

³⁶ Siddiqui; op. cit., p. 16.

³⁷ Banda settlement Report, Mr. Rose, 1864, p. 34, National Archives of India, New Delhi; also see Powell, Land system, op. cit., p. 143

³⁸ Crooke, op. cit., p.134

³⁹ Ibid., pp. 134-135

⁴⁰ Powell; Land System, op. cit., pp. 155-56

⁴¹ Crooke, op. cit., p. 135

⁴² Irfan Habib; The Agrarian System of Mughal India, 1556- 1707, Oxford University press, First Published 1963, Revised Edition, 1999, New Delhi, p. 182

⁴³ Powell; Land System, op. cit., p. 164

inferior proprietors had to pay an assessed rate which covered not only the government share, but also the *taluqdar's* (or superior proprietors) *malikanah* allowance [44].

Garhibandi

That was a tenure where the former proprietors acquired their lands at nominal rates and defied the government. It was found particularly at some places of Bundelkhand region. It is conspicuous to note there was a Ryotwari form of *Mahalwari* System in this region [45].

Intermediate Tenures

There were various arrangements made under this tenure:

Arazdari

Largely found in the Gorakhpur Division. The holder had obtained possession of a plot by purchase or gift which he holds as rent free called *maafi* or *lakhiraj* land [46]. The proprietors were paying only their share of the government tenure.

Mandidari

It was a high class of occupancy tenure prevailed in eastern districts of North Western Provinces which may be bequeathed or sold [47]. This type of tenure was found at particular pargana of 'Bhauapur' in Gorakhpur district.

Patawan or Patahuapan

Those holdings were allotted to the peasant by the government for the recovery of land revenue arrears. The allotments were considered for the repayment of a loan and interest [48]. It was mainly carried out in pargana Sidhua Jobna of Gorakhpur district.

Cultivating Tenure

Bareilly district of North Western Provinces was having the major area under this arrangement [49]. The settlements were made with the concern of intermediary like *muqaddam* or *pardhan* between the proprietor and cultivator. The intermediary had been assigned the duty to collect the rents from the proprietors on behalf of company administration and they enjoyed some privileges and immunities for their services [50]. In Bareilly, the '*raqmi*' or an intermediate cultivators class exists somewhere between the *muqaddam* and the ordinary tenants. *Muqaddams* hold it for some specific reasons at slightly lower rates than the ordinary tenants.

Chhapparaband

In this holding the cultivators were divided into resident *rayats* (*khudkasht*) who were cultivating their own village and non-resident *rayats* (*pahikasht*) who cultivating the land of villages other than his own [51]. This type of tenure specially found in Bundelkhand region. Here, a class of

cultivator called *Shikmi* or sub-tenant below the ordinary cultivator again present who carried this tenurial system [52]. There was also a tenant called *Bolahdhar* who was assigned the land of villages on the basis of verbal agreement with the proprietor or the village community that existed.

Lakhirajdari

According to the Regulation XII of 1793, there was a kind of land which was recognized as free from revenue assessment [53]. Those categories of land came under *lakhirajdari* arrangements. The proprietors of *Lakhiraj* (or empty land) were called as *Lakhirajdar*. Subsequently, their possessions were under threat and on the other hand the government pressurized them for financial assistance. Conclusively, it can be said that the land holding distribution in *Mahalwari* region was divided among the co sharers of villages according to the constitution of landlord or joint villages by three different methods [54].

The Ancestral or family based share system

The first and foremost type of land holding distribution based on the principle of ancestral fractional shares. In that system, each member of the co-sharing body was taking the fractions from the whole land, according to the genealogical table of his family [55].

Special customary system of sharing: There were number of special customary type of sharing and holding, viz., (i) sharing in equal lots made up artificially of various enclosed strips of land, (ii) sharing by plough, (iii) sharing with the reference to shares in water, (iv) sharing on the basis of shares in wells and tanks [56]. The village was taken as a complete fiscal unit but its shares were obtained by classifying the land by making up a suitable number of lots which were distributed among the families owning or occupying the village.

System of De-Facto Holding

Under this system of holding, there was no specific rule or principle of sharing although a de-facto holding was recognized [57]. It defines some peculiar and unique principle of possession-ship. Every cultivating family had been advised to cultivate the soils according to its potentiality and capability what they hold. This type of holding came into existence either by the existing custom or may be due to the loss of sharing system that once existed. All joint villages or landlord (whatever theory of their origin would be) necessarily have been formed in one of three ways [58]:

- (a) They were the bodies that succeeded jointly (according to the law and custom of inheritance) to a village at first held by someone who was a common ancestor.
- (b) They were bodies created by a certain number of families belonging either to an immigration or conquering clan which had settled and allotted the area on its own customary methods.

⁴⁴ Aligarh Settlement Report, 1834, E J. Thornton, p. 63, NAI, New Delhi, Cf., Powell; Land System, op. cit., p. 159

⁴⁵ Amin, op. cit., p. 165

⁴⁶ Crooke, op. cit., p. 136

⁴⁷ Ibid., p. 136

⁴⁸ Amin, op. cit., p. 166

⁴⁹ Amin, op. cit., p. 166

⁵⁰ Crooke, op. cit., p. 137

⁵¹ Minute of 1819, Mackenzie, op. cit., para.159, p. 67; also see Powell; Land System, op. cit., p. 181

⁵² Amin, op. cit., pp. 166-67

⁵³ Regulation VIII of 1800, Section-4, in Revenue Law Report, NWP, 1867, Govt. Press, p. 367a

⁵⁴ Powell; Administration of Land Revenue, op. cit., p. 76

⁵⁵ Powell; Land System, op. cit., p. 124

⁵⁶ Powell; Administration of Land Revenue, op. cit., pp. 76-77

⁵⁷ Ibid., p. 77

⁵⁸ Powell; A Short Account, op. cit., p. 77

- (c) They may be a merely co-operative colonizing group, formed under the circumstances which led them to establish cultivation on the joint stock principle.

In the first law, the principle of inheritance should have directed the shares, while in other tribal custom or sentiments about equality, or peculiarity of soil and climate should have determined the holding allotments.

The system of de-facto holdings may not be the same in all *Mahalwari* areas or villages but varied according to its peculiar local existing conditions^[59]. More often, it was of two types *viz.*; first, there were some villages where the village body of co-shares had come to regard itself as united landlord and yet not tracing the system of sharing. This may have adopted as a rule because land was fairly equal in value with abundance, and so each family hold what they had to cultivate. This system of land holding was known as '*Kasht hasb -i- Muqaddar*' which means cultivation according to peasant's capability and potentiality^[60]. Here, a man acquired holdings as *dad-i illahi* or the divine gift means he could not be held accountable for the extent of his holding or its origin^[61].

(ii) In second case, the holdings of land may be come out due to the collapse of an earlier prevailing system of sharing. Often, such principles had come out gradually due to non-existence of definite sharing system in the past.

There were some specific varieties of land holdings in North Western Provinces which came out accidentally due to collective ownership^[62]. This type of holding was a proof of the existence of the institution of village community. The main forms of them were the following:

Holdings on Tribal Basis

There were some villages, held directly on a tribal concern basically a type of joint holdings formed with the sense of clan unity^[63]. The basis of holdings was 'equal exchange system' to establish equality in the villages. The village wise system of British Punjab was the best example of it.

Some villages held by 'cultivating fraternities' where had been no territorial rule and no aristocratic title in the family or clan or group, but began as small household group settled on a wide area which gradually turned into a large clan community^[64]. Some villages formed like a number of buds shooting out from one parent stem, and then separating into so many full blown new villages or Mahals. In some case, certain primary, secondary, and tertiary divisions of the whole estate area have been established with few family members developed into descendants by the time of its maturity.

There were some high class holders in villages with clan feeling against the 'cultivating fraternities', where one individual or two together founded the village estate; and here a fully developed 'joint family' with its consequent law of joint-inheritance produced a joint community^[65]. The shares of the holders would be divided according to the ancestral base and background indicated in the 'genealogical tree'. This form of holding based on three things, *viz.*; the sole owner, undivided holding, and finally of complete or

partial severance of the holdings^[66]. The ancestral share system of this form of holding proved to be a cause of dissatisfaction among the sharers as time goes on. Further, its holding form was modified by external agency.

There was a kind of village or holding having certain features of 'joint holdings', e.g., the common responsibility for the land revenue payment; described negatively on the basis of its peculiar local existing condition^[67]. This type of holding was the result of local based voluntary association of cultivators who combined themselves for the sake of protection into a 'joint body'.

There were some 'separate villages,' of which we do not know originality where the co-shares have been given right to hold a certain separate area and their possession was based only on the known measure of right^[68]. The official classification had a special head for these villages of de-facto holding.

There were some ancestral villages of single ownership existed in *Mahalwari* areas by 1840s. The growth of village community from a single ancestor or founder may best be illustrated by taking up the simplest possible case of an imaginary village, and tracing it for a course of development^[69].

The utilitarian philosophy of land-holding was to be vested with *rayats* and actual *Zamindars* that were tolerated only on sufferance. Only 1/10th of 'rents' was to be allowed for private appropriation in either case^[70]. James Mill asserts that the *Mahalwari* pattern of land holding distribution was based on the concept of cross checking of utilitarian rent theory and *rayatwari* form of land holding^[71].

The holding rights of some specific area have been under the control of joint body of a co-sharing descendant. They were all jealous of equal right and dignity as descendants in common of the same land and for a long time they would not divided the estate. They appointed a manager who was probably a head of committee or household to control the common affairs^[72]. Each family would have certain area of village as its own special holdings (or *sir*) for which he pays nothing.

The principle divisions of land and its holdings were known as *Pattis* and their sub divisions were known as *thokes* and *thokes* were further divided into *behris*^[73]. Therefore, different names were given to village owners such as *pattidars*, *thokedars*, and *behriwars* on the basis of their shares. The divisions of land-holding have closely been linked with the principle of household or family division. Each *Patti*, *thoke* or *behri* which was initial basis assessment demarcated and indicated amongst different families according to the fractional shares in land held by each^[74]. But the state demand was assessed and fixed according to their cultivated holdings not by their fractional shares. It may be explained with two circumstances, *viz.*; firstly, as the number of descendants varied, and, secondly, the lands have been divided as between sub-divisions on the basis of its

⁶⁶ Ibid. p. 92

⁶⁷ Powell, Administration of Land Revenue, op. cit., p. 94

⁶⁸ Minute of Mackenzie, op. cit., paras- 579-80, in Revenue Selection, 1818-20, pp. 124-125

⁶⁹ Powell, Administration of Land Revenue, op. cit., p. 78

⁷⁰ Intiaz Hussain, Land Revenue Policy in North India: The Ceded and Conquered provinces, 1801- 1833, Calcutta, 1967, p. 238

⁷¹ Ibid., pp. 237-39

⁷² Powell, Administration of Land Revenue, op. cit., 79

⁷³ Minute of H. Newnham; dated 6th June 1816, in Revenue Selection, 1818-20, North- Western Provinces, p. 224

⁷⁴ Ibid., p. 224

⁵⁹ Powell; Administration of Land Revenue, op. cit., p. 86

⁶⁰ Ibid., p. 87

⁶¹ Powell; Land System, op. cit., p. 109

⁶² Powell, A Short Account, op. cit., pp. 91-92

⁶³ Powell; Administration of Land Revenue, op. cit., p. 92

⁶⁴ Powell; Administration of Land Revenue, op. cit., pp. 92-93

⁶⁵ Powell, A Short Account, pp. 92-93

quality not merely on areas. In the case of inferior lands, a larger share in terms of areas have been allocated or allotted.

The extent of land-holding among different families within a sub-division might not be equal always^[75]. The quality of land holding often jolted and got disturbed due to inequality in the process of division among the number of descendants. In the pre-British village society, a natural adjustment was very common due to the nature of property rights existed in land. The availability of waste lands among the families contributed very much to inequality in the process of land-holding distribution. Wastelands were the common property of the village community which may sometimes partitioned between sub-division and sometimes left for the utilization of joint-body of the households^[76]. The first form of tenure was termed as *Pattidari* and the second was called *Bhaichara*.

The holding of a particular region marked a significant set-up in the process of land revenue fixation for the state^[77]. The inequalities of actual holdings were corrected through the periodical redistribution of landholding among the different households. The land-holding of individual sharer tended to become unequal or unable to bear its share of the government revenue and the sharer was entitled to claim repartition of the lands so that landholdings might correspond to the revenue assessed on each family^[78]. The company government always intervened in the process of land-holding distribution because it has a direct link with the security of their own revenue which was threatened in the absence of such re-distribution.

It is noticed that there were some less known small holdings of land prevailed in *Mahalwari* region. At some places, the holdings were determined on the basis of plough called *jotai*. Here, division was assumed, where a certain area of pargana was allotted to local cultivators on the basis plough's strength and capacity what they possessed and his extent of 'plough units' corresponding to the number of ploughs owned^[79]. This type of holdings prevailed very often in the villages where an associated or co-operative body exists^[80].

There were some major defects in the process of land-holding distribution in the *Mahalwari* operated region. No uniform and proper pattern of land-holding distribution exists in this region before the Act of 1859. Peasants were lived in fear of rack-renting and confiscation. There were number of malpractices involved in the process of land-holding distribution. At most occasions, occupancy rights were heritable not transferable^[81]. Sub-letting was allowed in transferable occupancy with certain restrictions. While in heritable occupancy, tenants have certain rights to hold the land and were not liable or permit to evict except for default in paying rent.

The uniform law or rule of occupancy rights have been framed only after the passing of Occupancy Act i.e., the Act X of 1859. Till this Act the settlement officer had assigned the duty to record whether any particular tenant had occupancy rights or not according to the custom of the

region^[82]. The passing of Act X of 1859, gave a legal recognition to the conception of a right of occupancy in province for the first time. The Act have provision that all the cultivators who had held their present land continuously for twelve years should be deemed to have a right of occupancy and that cultivators admitted in future and allowed to held for twelve years should acquire the same right on the conclusion of that period^[83].

A landholder who parts with his proprietary rights obtain occupancy rights in his home farm at a privileged rate of rent (i.e., 25%) below the rate generally payable for similar land in the neighbour-hood by non-occupancy tenants^[84]. This was called ex-proprietary right. In this system, a cultivator required the prospects of holding the land for a reasonable term of year so that he was able to raise the importance and worth of the area on its peculiarity. The ordinary cultivating peasants treated their land as a source of future income as well as for the present and so they were eager for its gradual improvement. A fair prospect of continuity of land tenure was the first and prime essentialities for the maintenance of the productive brigade of the country. The land will be fairly treated either under infinite system such as the right of occupancy or under leasehold or *pattah* system ensuring continuity for fixed term of reasonable length^[85]. The holding right could be passed from a bad cultivator or an ordinary Brahman to a *Jat* or *kurmi* who were the natural cultivators. The holding rights of land were often given to perspective bidders who offered highest amount of terms but preference would be given to local inhabitants.

Transferability and partition of joint holdings were facilitated under the accelerated settlements of the later 1830s^[86]. Now, proprietary titles to individual shares could be used as mortgage security. In the districts like Aligarh where village *maliks* exposed their proprietary title to public sale for revenue default, even though they found no purchasers^[87]. After the settlement of 1840, the definition of separate interests gave a new certainty to proprietary titles making then a desirable form of investment by outsiders. The provisions of Act X of 1859 were re-enacted in 1873, and again in 1883 with amendments in detail intended mainly to check evasions of the law^[88]. The British Government tried to prevent the fresh occupancy rights by the introduction of regular system of ejectment being made of every cultivator in the 11th year of his tenure. In some cases, cultivators were actually compelled to leave their land and were provided with other land in exchange^[89]. Ejectment notices were served and not contested and in most cases there were practical continuity of holdings because cultivators trusted their landholder. The evils of ejectment were not practically great as the statistics of their operation suggested, but existed at some extent.

The holding rights of land have been altered completely by the Tenancy Act II of 1901. In this Act, an interesting provision was made regarding the leasehold system as an

⁷⁵ S. C Gupta; Agrarian Structure in Uttar Pradesh in the Late 18th and 19th Century, in T. Chaudhari (ed.), Contribution to Indian Economic History, Vol. I, Firma Publication, Calcutta, 1960, p. 27

⁷⁶ Gupta; Agrarian Structure in Uttar Pradesh, op. cit., p. 27

⁷⁷ Ibid., pp. 27-28

⁷⁸ Ibid., p. 28

⁷⁹ Powell, Administration of Land Revenue, op. cit., p. 85

⁸⁰ Ibid., p. 85

⁸¹ Nevil, Imperial Gazetteer, Vol-I, op. cit., p. 111

⁸² Ibid., pp. 111-12

⁸³ Moreland, op. cit., p. 56.

⁸⁴ Powell, Land System, op. cit., p. 53.

⁸⁵ Dharma Kumar (ed.), The Cambridge Economic History of India, Vol -II, Cambridge University Press, 1982, pp. 47-48

⁸⁶ T. R Metcalf, Land, Landlords, and the British Raj: Northern India in the Nineteenth Century, Oxford University Press, Delhi, 1979, p. 58

⁸⁷ Ibid., p. 58

⁸⁸ Moreland, op. cit., p. 59

⁸⁹ Ibid., p. 60

alternative to the right of occupancy ^[90]. There were lot of changes were made in the procedure of ejection which made it simpler under the new Act. Earlier, the procedures of ejection were more difficult and more expensive.

The pattern of landholding distribution in Gangetic Doab region, i.e., the area of *Mahalwari* operation was totally different from the Bengal holding pattern of land distribution ^[91]. It is observed that big landholding were prevalent in bulk throughout the region, while in Doab region large landholding were few in number and confined to some particular regions only. The structure of the village communities, and the lack of sufficient resources to sustain a renter class over the substantial areas of the provinces especially towards the west, effectively barred such a consolidation of holdings ^[92]. *Khudkasht* or resident *rayats* were usually settled in their holdings and assigned their fields for cultivation which they were not allowed selling or transferring by the zamindari overlord-ship.

Note

- North Western Provinces have been created in 1836 when ceded and conquered provinces (1801 and 1803 respectively) got merged with the Western Provinces. Oudh came under the administration of the North Western Provinces on the recommendation of T.C Robertson in 1843-44 and from that time it has been named as North Western Provinces and Oudh. This fertile tract called as heartland of Northern India which was full of gardens and beautiful scenery. Its name had been changed to United Provinces in 1901 -2. It includes the whole portion of present Uttar Pradesh with some portion of Madhya Pradesh, Haryana, and also includes the whole area of Uttarakhand and Delhi.
- The whole areas of present Madhya Pradesh including Chhattisgarh with some portion of present Gujarat, Vidarbha and Nagpur division of Present Maharashtra.
- Undivided Punjab of India and Pakistan. This province had been divided into two parts when Pakistan separated from India on 14th August, 1947. One portion of the province goes to dominion of Pakistan, and other remained with India
- *Mahal* stands for a fiscal unit

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4. Settlement Report, Basti District, J Hooper, Cf., H.R Nevil; Imperial Gazetteer, op. cit., 34, 110
5. Settlement Report, Chaklah Azamgarh, 1834, Edward J Thornton, p.63, also see Powell; Land System, op. cit., 140-42.
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⁹⁰ Moreland., op. cit., p. 60

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