



but still more often they are the result of external pressure on the village resources. In the first place, after the co-sharers had gone through a certain term of practical experience of working their separate shares, it must often have proved that two portions designed to represent perfectly equal fractional-shares are by no means equal in working value; at least, they are not equally productive in the hands of the actual holders. When this inequality is general, the co-sharers will probably not alter the holdings, but will give up the attempt to distribute the charges according to the proper (corresponding) fractions, and will agree to a *bāch* (as it is called), which will re-distribute the burdens in a more equitable manner. And then the holdings themselves rarely remain unaltered in extent: one man finds himself able to cultivate more waste land and increases his holding; another sells a part of his share to his neighbour, or becomes poor and leaves the village, in which case his holding is distributed perhaps between not more than two who are willing to undertake to pay the revenue; or it is absorbed by the headman, &c. This goes on till a great many sharers have more or less than their true fraction. But a still more fruitful cause of change is the heavy lump-assessment laid on the village by some former rapacious native governor; all the holders had then to pay what they could and to cultivate what they could to make up the total and avoid being ruined or ejected from their ancestral home. Possibly, too, they would have to call in outsiders to help; and these may have needed to be coaxed by promises of admission as co-sharers or as tenants with special privileges—such as paying nothing beyond the Government assessment on their land. Case after case occurs in our records where this has actually happened. In the Panjāb it was indeed the normal state of things under successive Sikh governments; with them it was the regular plan to take everything that could be got, from everyone—no matter whether he was owner or tenant—who held land. Shares then ceased to have much practical value; and it is not surprising that the correct scale was often forgotten or voluntarily abandoned or altered, while the village body were unwilling to give up their ancestral lands. Hence division by fractions was always a roughly and clumsily performed operation. Cf. p. 263, *ante*.



en bloc if they possibly could help it. After some years, or perhaps a generation or two, it is too late to rectify the shares, when better times come round; the larger holders will stand out for their *de facto* holding on the ground of their larger payments; the weaker ones will have to submit; and the only relief is that the existing revenue assessment can, by law, be distributed in accordance with the actual holdings, or at rates per acre, of the different kinds of soil.

I expect also that irregularity must frequently have arisen from the mode in which the land was held before formal partition.¹ Each co-sharer gets possession of a certain home-farm, or *sir* land; and this he continues to hold on the understanding that when a regular partition is demanded he will have to submit to give or take as the case may be; for the land held by each in this way may be more or may be less than the proper fractional share of the whole village, or of any section of it. When at last a partition is made, there is a struggle, in which each sharer hopes to keep what he has previously been enjoying; and it is quite possible that some irregularity is submitted to by the weaker members, and that the stronger come off the gainers. But, whatever the cause of the inequality, it is first made tolerable by dropping the fractions, as far as revenue payment is concerned, and making the charges correspond to the area actually held. In the end the villages frequently consent to remain 'as they are.' Sometimes they will allow the *de facto* holdings to be recorded, and then, of course, the change is stereotyped. Sometimes they will desire to have the proper list of shares recorded, but the possession does not, in fact, correspond; this means that there is some lingering idea that one day or other the correct shares will be restored. But it must be remembered that there is in most communities considerable pride taken in the *pattidārī* form, as being intimately connected with the maintenance of the family dignity; and I have given an instance of at least one district where the co-sharers agreed to correct the existing holdings either by surrender of excess lands, or by making up to those whose holding was deficient, by means of a special allotment out of the culturable common waste.²

¹ See *post*, p. 347.

² *Ante*, p. 323.



It is also frequently observed that, while *de facto* holding has been acquiesced in as regards the old cultivated land, the 'manorial' profits of the waste lands, or from fruits, grass, grazing fees, house-dues, and other miscellaneous sources, are still divided on ancestral shares, and that the culturable waste will be partitioned on the ancestral shares also. In such cases we have estates partly held on shares and partly on *de facto* possession. This is one of the reasons why the official classification provides a separate heading for 'imperfect *pattidārī* villages,' which means that part of the land is undivided, and possibly *also* that the divided and undivided portions are shared on different principles. It may be added that for the same reason an 'imperfect *bhaiāchārā*' may exist; part of the land may be retained in common; and there may be cases where a different principle has been introduced in the two portions. (I do not, however, know of any such, at least in the real 'customary share' class of village.)

If we tabulate the variations of the *ancestrally-shared villages*, we have :

1. Held on fairly correct shares ;
at least the principle is acknowledged throughout.¹
2. Held partly *de facto* (home farms out of proportion to the correct share); and the rest (common land, profits of a miscellaneous kind, &c.) divided on the correct ancestral shares.

{	<ol style="list-style-type: none">a. Separate (existing) possession has become unalterable by record in the Papers of Settlement.b. Separate possession has not been recorded.
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3. Ancestral shares have become completely lost or upset and disused.

{	<ol style="list-style-type: none">a. Existing possession fixed by record.b. Only a list of shareholders recorded, and cultivation arranged for each year.²
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¹ These occur where the land is partitioned, and also where the whole land is held by tenants, and managed by one man on behalf of an undivided body, who share the profits ancestrally.

² Mr. Whiteway, author of the *Mathura S.R.*, informs me that such cases do exist, but are very rare.



The effect of heavy revenue-assessments in producing tenure modifications is not confined to *pattidārī* villages; it may be observed in any class; it may break down whatever system of shares existed. It was doubtless this oppression that led to the *bhejbarār* custom, which prevailed at one time, especially in the districts of Bāndā, Allāhābād, &c.¹ Here, quite irrespective of any original or theoretical distribution of burdens, the revenue charge was in former days periodically redistributed so as to suit the actual cultivation of each member; and the liability of an insolvent member was distributed rateably among the others. This was done, not because they held the land in common, which they never did, but because they were still one clan or one 'wide-kindred,' as the case might be, and this was the most feasible mode of preserving their united existence as land-holders. Over-assessment, too, must have led to various arrangements for admitting new cultivators; and especially to the absconding or withdrawal of some of the co-sharers, who some years later would seek to be readmitted, but most probably would be allowed a smaller holding than they had once enjoyed, and perhaps an inferior position.

In the GUJRĀT district of the Panjāb, Mr. Tupper² notices how oppression under Ahmad Shāh Durānī led various sections of different tribes or families to club together and effect 'a much greater concentration of the village communities' than had existed before. We have seen how, in distant Kāchār,³ the settlers formed joint-stock communities, doubtless to enable them unitedly to meet the revenue charge, and to ward off internal interference with their affairs. And so they did under the *visābādī* system in North Madras. In some of these cases we observe the effect of a sense of strength given by voluntary combination; but in others, as in the GUJRĀT district, the elements combining were already tribal, or at least kindred groups, and the natural sense of tribal-union maintained the combination; but each group kept to itself, and formed a distinct

¹ This custom is fully described in *L. S. B. I.* ii. 143. It was certainly, while it lasted, an expression of the solidarity of the village; as all consented to a periodical readjustment of their proportionate payments, and in some cases to a correction of holdings.

² *Cust. Law*, ii. 31.

³ *Ante*, p. 140.



tarf, or section of the village. In most cases, too, the result of heavy exactions was to confuse the co-sharers with their tenants and cultivators: 'responsibilities were imposed on the founder's kin, or immigrant outsiders indifferently.' Naturally, in after times, the outsiders, who had borne the burden equally with the nominal 'owners,' claimed their just privilege, and the modern Revenue Law cut the knot by creating for them a special status of *mālik maqbūza*, or 'proprietors of the holding,' without any interest in the general management of the village or share in the common lands or miscellaneous profits of the whole.¹

There is also a curious feature connected with the *pattidārī* principle of sharing which is observed in Oudh and the North-West Provinces and possibly elsewhere. It will be found in cases where the existing proprietors are groups of families which had established their over-lordship over a number of village-areas already existing; and they have declined to accept the existing villages as the 'shell' into which the growing communities will fit. As the landlord family multiplied, it partitioned, and then the sections partitioned again. Such a partition might have given, say, a single village to each branch of the kindred, and that would be subdivided into *pattī*, &c., for the lesser branches; then we should have a number of separate and compact village-estates, each owned by the descendants of the particular head to whom the village was allotted. But very often, actuated by a desire to secure a more equitable division of the property, the heads of groups who were to receive the separate major-shares got part of their allotment in one geographical village, and part in another, or in several others; so that here the

¹ This is only one way in which such cases of limited or secondary proprietary-right to plots of land within the village estate come to exist. In other cases such persons have been recognised in view of the fact that originally they were full proprietors, but their rights had been overborne by the growth of a new general proprietary body over their heads as, *e.g.*, in the case of the *mālik maqbūza* in Central Provinces villages, or with the *'arāzidār* and *mushakhshidār* in parts of the North-West-Provinces.

It must be remembered that in the old days the village 'solidarity' was much more felt than it is now, and that there were many cases (even in the North-West Provinces) where tenants were welcomed to help cultivate, and *no one thought of taking rent from them*. The burdens were distributed rateably over the whole, and all paid alike.



estate, or *mahāl* (group of lands held under one title), has to be gathered together on paper, and cannot be a compact area on the ground. In the 'ĀZAMGARH district, for example, to which I have so often referred for illustrations from its curiously subdivided villages, 'one *pattī* may hold its land in one or two *mauzas* (geographical or survey village), another *pattī* in another *mauza* or two, and a third *pattī* in a third, while all the *pattīs* hold in the remaining *mauzas*; but generally all the *pattīs* have shares in all the *mauzas*.'¹ As the families are much attached to certain places of residence, which are also divided, it happens that many groups of land belonging to one section of a family, have no village site: the owners continue to reside at some other centre. Such areas are technically said to be *be-ṇirāghī*, or 'without a lamp.'² It is often only the larger and important villages that are finally subdivided down to the household shares; in others the lands for the whole *pattī* have long ago been defined, but the families within the *pattī* manage their holding jointly—very probably collecting and dividing the rents obtained from the tenants. This peculiarity, it will be observed, affects the land; it does not alter the ancestral shares or the constitution of the groups of families. Such groups may be subject to the loss of their correct share-system and so forth, just as if they were enjoying a compact area of land.

(4) I have made this head—for the remaining villages, sometimes colonist groups and sometimes of other origins, in which neither the tribal nor the *pattidārī* methods of division are followed. Colonist villages—known to have had that origin—have been described as a well-known feature of the South-eastern Panjāb. But when we have taken note of those *known* origins which we can classify, there are still a large number of villages found here and there with local, special, or apparently exceptional methods of sharing, of which the origin is not always known. Any small tribal or family group may locally adopt some method of sharing which is peculiar. Thus, among the Ghakar clans of the Northern Panjāb, in an *ilāqa* or tribal territory called Sohān, the allotment of lands was made with reference to military

¹ *Azamgarh S. R.* 'Government Review,' § 2.

² *Ibid.* §§ 326-8, pp. 92, 93.



rank, as horseman, or foot-soldier, or *asāmī* (ordinary person). The share for the former was one-third as much again as the latter. For family purposes the 'horseman' share was divided into four *sum* (=hoof). And so in a village in the Hazārā district I have noticed shares (called *dogī*) each subdivided into four *pair* (=feet), and each *pair* into four *kharsandī* (or toes).¹ These are some of the exceptional and local cases.

A much more widely spread mode of sharing is found in the Panjāb, and occasionally in the North-West Provinces; we are led to suppose that the villages adopting it are frequently groups of voluntary associates. It is observed when cultivation is carried on by means of irrigation-wells. The settlers have combined to sink the number necessary, and shares in the village are reckoned by shares in the wells which water, or at least partially protect, the whole arable portion. One well, with the area nominally attached to it, will be divided among three sharers, another among six, and so on. The actual watering is managed by each sharer taking possession of the well apparatus, attaching his own bullocks, and working it (letting the water run into his own channels) for so many hours in the working day, or on so many days in the week. In the JHĀNSI district, North-West Provinces, there are whole villages (called *kūābādī* villages) worked in this way; but there is a peculiarity in the management, as all the fields are not always irrigable, nor the same fields under crop; so the revenue is assessed in a lump sum *per* 'well,' covering both the land regularly watered and the outlying fields, which can only occasionally in favourable seasons get irrigated.²

In villages of uniform soil, another common mode of sharing is to divide the land into lots (of varying number of acres), called 'ploughs,' the unit being the quantity of land which it is supposed one pair of oxen can plough. If necessary, the 'plough' is subdivided into 'bullocks,' and each 'bullock' into 'legs.'³ Sometimes the division is effected by counting the cattle and allotting the area into so many portions representing each 'one bullock'—one family will hold two, another ten, and so on. Here the only 'joint' element in the village is the 'common

¹ L. S. B. I. ii. 639. ² North-West Provinces Gazetteer, ii. 281.

³ See L. S. B. I. ii. 143.



waste' allotted to the village, and recorded as their joint-property, and the common responsibility for the land revenue; the actual holdings are, and always have been, separate.

It is hardly necessary to specify separately, as cases of modification, the change of a joint-village of one form into a village of another form, by sale, or grant, or by some voluntary adoption of a new plan of holding. Yet such cases do occur. I have elsewhere given an account of a village in the Tirohān *pargana* (BĀNDA district) where a *bhaiāchārā* village became granted to three Brahman proprietors, and so technically became a *pattidārī* village. A village called Tūrā was another case in which part became held under one principle and part under another.¹ The largest class of transformation cases is where the old constitution has been lost completely, without any apparent or traceable grant, purchase, or usurpation of over-lord rights—where, indeed, no definite explanation can be given.

(5) And this will serve to remind us that after enumerating the varieties and *known* modifications of the several forms of village, it is necessary to take account of the many villages which, having made no objection to the joint liability under the North-west Land-revenue system, and having accepted the common area of waste attached to their group, are reckoned as 'joint-villages,' and yet there is no trace of any particular foundation, or of any share-system; the cultivated land is held simply on the basis of *de-facto possession*—i.e. every member of the community has come to hold a certain area of land—how, he does not know.

Each holding is enjoyed in complete severalty, but the whole village admits its joint responsibility for the revenue. Should it happen that there is a waste area to be divided, the division will take place *hasb-rasad-khewat*—according to the proportion of land held in the arable, or to the amount of revenue paid. Even if this 'possession' is believed to represent a modification of an earlier system of regular ancestral or other shares, still it is now irrevocable. But very often nothing is remembered; and the holders say that their holding was always

¹ Both the cases are given in detail in *L. S. B. I.* ii. 147, 148, and need not be further described here.

merely according to what they wanted or could manage (*kāshṭ hasb maqdūr*), or that their holding was what 'Providence gave them' (*dād illāhī*).

In some such cases, possession is now the sole measure of right in the arable land; but the existence of ancestral or other shares is acknowledged as regards the waste and the manorial profits. These cases have been already alluded to.

There is, however, one class of cases in which '*de-facto* possession' is the sole measure of right throughout, in which it is highly probable that original shares are unknown because there never were any; the villages were originally *raiyaṭwārī*, and no landlord family happened to have acquired them. Such villages merely became 'joint' by the example of the neighbouring estates and the application of the prevalent Land-revenue system.

In some districts such a change has been artificially effected. For example, in the little province of AJMER (the only British possession in Rājputāna), the villages were *raiyaṭwārī*, but were brought under the North-West Provinces Settlement, and made 'joint' by the grant in common of the adjacent waste; but the joint responsibility was so little adapted to the circumstances of the communities that at the later Settlements it has been virtually abrogated.

In the CENTRAL PROVINCES the same thing happened, only in a peculiar form; for there the whole village was not treated as the joint proprietary body, but the headman, or more frequently the Marāṭhā Revenue manager, or *māl-guzār* (as he was afterwards called), was made sole proprietor, only with large reservations of the rights of the original cultivators; so that there we have the peculiar feature of landlord-villages, only that the landlords have no power of interference with the rent-payments, or with the management of a considerable portion of their tenants.¹

Then, again, there are the districts, like Kāngrā and Kumāon, where, as we have seen, there were no villages, but the hamlets have been aggregated into circles, and certain areas of common waste and forest given to each, and so the circles have been

¹ The Ajmer and the Central Provinces systems are fully described in L. S. B. I. vol. ii.



formed into villages. The same thing happened with the isolated 'wells' in the South-western Panjāb. Here the *land* has practically come to be a bond of union, as the separate farms formed into groups have accepted the joint constitution; they have even adopted the custom of pre-emption, basing it, as might be expected, on the principle of mere contiguity or vicinage. 'Individuals,' writes Mr. Roe,¹ 'have sunk wells in the waste, receiving a grant from Government of from sixteen to fifty acres of land; and where such grants lie near together they have been formed into a village and the intervening waste thrown in as common land. I myself as Settlement Officer, have created several such villages in the Montgomery and Multān "Bār" dry tract. More were so erected under native rule, and very probably in some cases the families have come together of their own accord.' In these isolated and afterwards artificially aggregated holdings, some curious customs of right have sprung up. In the first place, in many cases, families of some pretension have gained the over-lordship over such villages, or, may be, over a considerable tract of country, and have been able to exact a kind of over-lord fee.² Sometimes the landlord also settled a cultivator under what is known as the *ādhlāpī* custom, by which the cultivator who sinks the well (without which tillage would be impossible) becomes customary owner of *half* the land, and the landlord of the other half; very frequently the well-sinker would also permanently occupy the landlord's half, paying him rent for it. Under this state of things also appears another custom, the *kasūr khwār* (=eater of fractions), where the owner of the land employs someone with capital to sink the well, and the latter receives certain dues (*kasūr-sil-ṣāh*) or portion of the produce 'for the bricks of the well.' In Sikh days, the local governors often ignored the over-lord, and assumed their own right to locate settlers on *ṣāk*, or allotments of waste. These settlers were then able to sink wells and hold on what is called a *ṣakhdārī* tenure. It might be that the grantee (*ṣakhdār*) was unable himself to sink the well, and put in a tenant who

¹ *Tribal Law in the Panjāb*, p. 8, and note.

² See *L. S. B. I.* ii. 661, and iii., chapter on Sindh. It was in this way that the 'zamindārī' rights in Sindh grew up over aggregates of scattered settlements which answered to villages.



did so; in such a case the tenant became irremovable, and is now recorded as 'inferior proprietor'; he is entitled to take the produce after paying the revenue, the over-lord's *ḥaq*, or fee, if there is one, and certain dues (in kind and called *kasūr*) to the *ṣakdār*.

While time and circumstances have thus produced many varieties in the holding of village lands, there has been one thing that has perhaps tended to preserve the constitution to some extent, and that is the facility with which the revenue and other burdens can be specially distributed over the holdings by a *bāḥ*, or scheme in which (without altering the extent and character of the holdings themselves) earlier methods of fractional or artificial-lot valuation are given up and the revenue is distributed over the actual holding, either by an all-round acreage-rate sufficient to cover the total sum, or by different acreage rates, which vary with the value of the soil, or by some other method. Mr. D. G. Barkley enumerates eight such methods, used in the Panjāb;¹ but this includes the methods which are normal, viz. where the payment is according to the proper or theoretical shares. Omitting these, the other methods adopted are—(1) to pay by a rate on each whole *well* (*kūhgārī*), (2) by a rate on the actual *ploughs* possessed by each co-sharer (*halsārī*), (3) by an *all-round acreage rate*, (4) by *rates* varying with reference to the land being irrigated or unirrigated—*i.e.* dependent on rain-fall, (5) by rates on the *several descriptions of soil*, (6) by a rate on the *houses* or families (*garhī sārī*) proportionate to the number and ability of each, (7) by a rate according to the *cattle* possessed (*dum sārī*—*i.e.* counting 'tails.') Whatever general method is in force, there may be different ways of applying it. It may be, for instance, that rents of the tenant lands, and rents, usually light, applied to the lands in the possession of the several co-sharers, are all levied and collected, or, at any rate, brought to account, at contract or customary rates. This sum, together with all miscellaneous and 'manorial' income added, is first applied to pay the revenue and rates and the common expenses of the village—entertainment of guests, repairs of village public buildings, and, I fear, we must add, bribes to officials, and cost

¹ See his Panjāb edition of Thomason's *Directions to Revenue Officers*, p. 44.



of supplying free rations to man and beast, as shown in the shop-books of the grocer, the grain dealer, the money-lender, or the headman, who disbursed them in the first instance, and then the surplus is distributed according to shares. Otherwise the proceeds of tenant-rents on the undivided land, and other items of general income, go to pay the revenue and expenses, and, if they do not suffice, a rate is levied on the co-sharers' holdings, according to one or other of the above methods, just sufficient to make up the total charges. There are no profits, of course, under this latter system.

It follows almost naturally, from this, to pass on to explain what is usually meant by holding a village 'in common.' I do not here speak of the mere leaving to the common use and enjoyment a certain area of waste and grazing ground. Such land is often left undivided, not because of any inherent idea of community of goods of which this is a relic, but for reasons already stated. I refer to the areas where the *whole village* is held 'in common' by the proprietors themselves. This usually happens in villages where the community are the coheirs of one founder; they are jealous of each other, and regard partition as likely to give an undue start to some one or more members, which will give him or them an advantage over the rest. More rarely it happens, when there is some peculiarity in the soil, or some other circumstances which make it desirable for the body either to cultivate the land, and, after paying the revenue and expenses, to divide the surplus on *known shares*, or else to manage the cultivation by an arrangement effected year by year; each co-sharer takes up, for the year, such a plot as is assigned to him, without calling it his own; in that case each takes the produce of what he has actually cultivated; this is the most usual plan.

In the Panjāb, for example, I may quote Mr. Roe's description; and I believe that it correctly represents what happens in other places where there are undivided villages cultivated by the proprietors. Each co-sharer actually takes as his 'home-farm'—*i.e.* some area which he holds in possession, though as yet there has been no partition—and he enjoys the whole produce of that, either paying a light rent for it to the common fund or otherwise. After observing that there is no such thing as a



common house or common table, and that each family has its own 'house with its surroundings, the privacy of which is strictly guarded,' Mr. Roe continues :

'Nor do we find . . . even in joint (*i.e.* undivided) villages, or even in joint holdings, that the produce of the cultivated lands is ever really brought to a common stock, and then distributed. What happens in practice is that each cultivating proprietor takes the whole of the produce of whatever portion of the joint land he actually cultivates, and pays the land revenue assessed on it, and perhaps a light rent in addition. This rent, and all rents paid by tenants, and all income derived from the waste, go to the common fund or *malba*¹ . . . If there is any surplus, it is not distributed in cash, but the headmen with whom the administration of the common fund rests, if they do not embezzle it themselves, apply it to payment of the land revenue, thus reducing the amount to be paid by each shareholder.'²

From these considerations we shall now be able to summarise the actual *varieties* of the different kinds of village, as we have already summarised the various *origins* from which the bodies of owners sprang. A reference to the *Appendix* will then show how the official vernacular terms come into use, and how the classification adopted in all general returns is valueless *as far as the real tenure distinction is concerned*.

- (i.) The *raiyaṭwārī* village, which has remained as such in all those provinces where no attempt has been made to establish middle-men, or to aggregate the separate holdings artificially, *i.e.* to make a general estate by including a portion of waste, which may be partitioned, and imposing a joint responsibility for a lump sum of revenue assessed on the estate as a unit.
- (ii.) The *zamindārī khālīs*, or 'sole landlord' village, where one single person concentrates in himself the right to all the land and all the rents, &c., in the village.
- (iii.) The *zamindārī mushtarka*, or jointly held, undivided village, where the body of nearly related agnates, descendants of one original landlord, own the village, and have not

¹ This term has been explained above.

² *Tribal Law in the Panjāb*, p. 9.



divided it at all—i.e. by any formal partition. In rare cases, a joint-holding, as I have remarked, may result from other causes.

- (iv.) The village partitioned and held on *ancestral* shares—the legal, or fractional shares of the law or custom of inheritance pure and simple. Rarely these shares are correct or perfect ; but if the principle is acknowledged over the whole of the land, the village is rightly put in this class. We have in this case either the result of a formal partition made recently, or at all events subsequently to a known period of previous undivided holding ; but very often a state of division has immemorially existed. In most cases, however, it does result from the antecedent holding of some founder, or a small number of such founders whose names still adhere to the *patti*, or main sections. In certain cases it may be that a sufficiently numerous family has conquered or gained an estate, and has divided it out, on settling down, in *ancestral* fractional shares throughout.
- (v.) The purely *tribal* village, usually held in shares on some plan of equal holding, such as we see in the definitely tribal cases of Bilūchi and Pathān frontier villages, and in some large tribal villages in the North Panjāb and elsewhere.
- (vi.) But we also include the ‘cultivating fraternities’ of ‘democratic’ or non-monarchical clans, exhibiting many of the same features of connected groups of hamlets, occupying a large and continuous area. The shares are usually equalised lots made up of different soils, and subject to a peculiar mode of calculating value. These villages ought to be called (and only these) *bhaiāchārā*.
- (vii.) All villages held on ‘ploughs,’ ‘well-shares,’ and other ‘fancy’ methods of allotment, always divided, which may be colonist-associations voluntarily formed out of more or less miscellaneous elements ; or they may be tribal or family groups, which have adopted this particular method for reasons which are not now discoverable.
- (viii.) We have also to add villages now retaining something of the corporate feeling, the relics of a family or a tribal union, but who have lost or never possessed any *calculated share* of the unit-estate, and have separate holdings, of which all that can be said is that possession is now the sole measure of interest.
- (ix.) Lastly, we may make a class, or rather two sub-classes,



for what are officially termed the 'imperfect' forms of partitioned village estates. If a portion of the estate is left undivided, this fact alone puts the village, for official purposes, into the 'imperfect' class, whether of *pattidārī* or other. From a tenure point of view, this partial indivision is only interesting when it involves the fact that one method of sharing is applied to the divided cultivated land, and another, *very probably the old or original scheme* of the estate, to sharing the waste, or dividing the common profits. So that really this class gives us the 'transition' village, where the loss of the ancestral or some other kind of share is not quite complete—the village is not yet wholly relegated to the eighth head, where *de-facto* possession is alone recognised. This head, then, includes the 'imperfect' *pattidārī* and the imperfect *bhaiāchārā*, or any other kind of *shared* estate.

With these nine heads of real difference and variety, it will now be easy to compare the heads of classification which were indicated in Mr. Thomason's *Directions to Revenue Officers* in the forties; these have, with singular infelicity, been adopted ever since for official purposes, the terms getting slightly, or sometimes completely, misused in different places.

The headings of the statistical tables are: ¹—

(i.) '*Zamindārī*' generally employed to mean *either* a sole landlord *or* an undivided body. I suppose because it was troublesome to write the distinguishing vernacular additions—*khālis* (sole), *mushtarka* (joint), which alone give any sense to the term.

(ii.) *Pattidārī*, divided on legal or *ancestral* shares, often, however, allowed to include other settled schemes of shares besides.

(iii.) Imperfect *pattidārī*, partly so divided, *and* including the large class where the two portions are shared in different ways.

(iv.) *Bhaiāchārā*, which in the Panjāb has been strangely appropriated ² to mean villages held *on possession only*, but which

¹ The *raiyyatwārī* village is acknowledged, but it does not appear in Mr. Thomason's list, as such villages are not recognised under the North-West system.

² See Barkley's edition of the *Directions*, p. 44.



is, in practice, used to include also any kind of 'equal-lot,' 'plough,' 'well,' or other kind of shares which are not 'legal' or 'ancestral.'¹

(v.) There is the 'imperfect' form of No. 4, either where there is merely part of the land undivided, or where part is undivided, and also enjoyed on a different principle.

If the 'imperfect' class is held to refer mainly to the fact that *two parts of a village estate are held on different principles*, then, of course, 'imperfect' *pattidārī* and imperfect *bhāiūchārā* can be, and very often are, lumped together in official returns.

In the light of our present knowledge of custom and our general interest in tenure-forms, such a classification is worse than none at all. When it was first invented, it served as a rough and ready means of distinguishing villages for office and administrative purposes. It had, and was intended to have, no other use or value.

In conclusion, it may be well to remark that there is considerable practical difference between joint-villages held by owners of a completely non-agricultural caste and those held by Jats and other agricultural communities. The distinction is not, however, formal, nor does it give rise to actual variations of tenure.

In the Panjāb, it will be remembered that by far the larger number of villages are cultivated by the co-sharing families themselves; even the women take a large share in the work. When there are tenants, it is because the co-sharers have more land than they can manage, and are able to call in 'tenants at will;' or because in the old days a tenant class was associated to help in 'the founding,' or were called in to help cultivate more land to make up the heavy demands of the State Officers. Sometimes such tenants (or, may be, 'inferior-proprietors') are reduced members of earlier, once proprietary, families, or of grantees or other families who have gained a footing in other ways. In such cases it is quite common to find 'tenants' paying no rent—they are, in fact, only cultivators, just like the proprietors, with the exception that they have no concern in the profits of the estate and no voice in its management. But the revenue and

¹ *E.g.*, the artificial villages of Ajmer and Kāngrā are so classed, and most of the Panjab tribal villages, which are really a class apart.



cesses are distributed rateably over the whole of the cultivated land—shareers and tenants alike.¹

In the North-West Provinces, again, it is much more common to find the village co-shareers non-agricultural; and then either the whole land is managed by tenants who may or may not have been located by the owners, or, which is very common indeed, a large portion of the land is held by tenants who represent the original cultivating body over whom the 'community' of proprietors grew up. In such a case the whole estate may be simply managed by one man, who collects the rents and divides them, after paying revenue and expenses. Or, more commonly, each co-sharer will have taken a certain holding, called his *sir*, or home-farm. This farm he cultivates by his own personal tenants and farm-labourers, while all the rest of the 'tenant'-land is held by cultivators regarded as the tenants of the whole body. Frequently this area is not divided, for why should it be? It is much easier to divide the rents collected by the headman or other manager; or perhaps these rents go *en bloc* to pay the revenue, and the surplus only is divided. In the Panjāb we rarely hear anyone speak of *sir* lands, because the co-shareers generally work the whole of their share themselves, and such tenants as there are naturally appear as holding land under this or that co-sharer.

In the Panjāb the co-proprietors generally look for cultivating profits only. In the North-West Provinces they expect an income from rents, besides the yield of the home-farm. At least, that is the case with the largest class of villages. I believe the true *bhaiāchārā* or cultivating fraternities are oftener cultivating bodies of agricultural caste, or of one that has taken to cultivation. Contract-rents based on competition are much commoner in the North-West Provinces than they are in the Panjāb. In the former, they are so common as to form the normal standard of the value of land for assessment purposes; in the latter, they are neither sufficiently common nor really based on competition to furnish such a standard; they can only be referred to as a supplementary means of checking rates calculated in other ways.

¹ Mr. Whiteway tells me that a few such cases may be found in parts of the North-West Provinces; and were formerly common.



APPENDIX

THE DEFECTS OF THE OFFICIAL SYSTEM OF CLASSIFYING
VILLAGES IN THE AGRICULTURAL RETURNS

It will readily be understood that the remarks made in this note are not intended to criticise the published Agricultural Tenure Returns as they are in themselves, and for the *purely official* or *administrative purposes* for which they were alone designed.¹ What I have to point out is (i.) that these returns are not only quite useless, but distinctly misleading, *for any purposes connected with the history of institutions*, and as regards the interesting question of the survival of the *different tribal and family origins* of the villages.

The British Government has done much to preserve the Archaeological treasures of British India. Old buildings and inscribed monuments have been protected, repaired, and strengthened; elaborate drawings have been made, photographs taken, and measurements and sections placed on record in the invaluable *Technical Art Series* of the Imperial Survey Department. My plea is that something of the same interest should be shown by an attempt to preserve the archaeology of Indian institutions which do not exist in stone or in material monuments, but in customs and forms of tenure. I do not think it would be an impossible task, gradually, and after such modification of detail as must necessarily be made in any plan submitted, to take a kind of *census* of the 'joint' villages of the Panjab, North-West Provinces, and Oudh, and to improve the general returns as regards the *raiyatwārī* provinces.

(1) As to these last-named provinces: in MADRAS we wish to know the number, and if possible the population, whether miscellaneous or of chiefly one or two castes or tribes, of the purely *raiyatwārī* villages; the number of villages included under Zamin-dāris or other great landlord estates; and it might be possible to give for each district the number of villages in which *mirāsī* rights are in any degree of survival, carefully noting that *mirāsī* is used only to mean relics of *old shares* in the village land, and is *not* to include the hereditary *ex-officio* remuneration of village headmen, officers, artisans or servants, and the like, which have never decayed, and are part of the natural constitution of *raiyatwārī*

¹ Though it must be admitted that the obscurity or diversity of meaning which has been allowed to attach to the vernacular terms used must have a tendency to produce error even for the purposes mentioned.



villages. The usual official record of villages held in *In'ām*—i.e. free of revenue, or liable to a fixed reduced payment consolidated by 'enfranchisement,' would conveniently be added, though they are of less interest from the tenure point of view.¹

In BOMBAY it would surely be possible² to show the *narwā* and *bhagdārī* villages, which represent local survivals of the co-shared village, and the number of villages in the *kasbātī* estates.

(ii.) But it is in the provinces of UPPER INDIA that the returns fail to preserve any information regarding the real nature of the joint-villages which are there the prevailing form.

It is necessary to explain that in the official classification used in the *local* returns³ for the North-West Provinces and in the *Imperial* returns for Oudh and the Panjāb (where the classification is added) the heads are derived from §§ 85 ff. of Thomason's *Directions to Revenue Officers*. It must be admitted that these paragraphs, affording an explanation of the system, are very obscure. In the Panjāb edition of the work (1875) the attempt was made to elucidate them by adding explanatory matter in square brackets, but the result is not satisfactory. The whole classification was only intended to be provisional, and to suggest a few 'obvious distinctions' which would assist the Settlement Officer in his attempts to understand the constitution of the villages. The degree of separation between the several properties, a matter of no interest to the *tenure* student except as already explained, is taken as a matter of distinction, which no doubt from the Collector's point of view is really important.

The heads adopted are :—

(i.) Communal—*zamindārī*, i.e. *zamindārī-mushṭarka* (where there is but one landlord it is z. *kḥālīs* (§ 87 of the *Directions*).

(ii.) *Pattīdārī*—held in complete severalty (§ 88).

(iii.) *Bhaiāchārā*—which the *Directions* does not define: the term is only mentioned afterwards in §§ 89, 93. The term is explained in the *Panjāb* edition, in an added par. (§ 104); but in this case the word is given a sense which is only partially adopted in the North-West Provinces and in direct contradiction to what is sometimes there meant. *Bhaiāchārā* thus appears to

¹ In Form I. (E 3), Madras is fairly complete; but it might be possible to add the number of villages in which *mirāsī* right is still recognised.

² In the same Form I. (E. 3).

³ In the Imperial form for the North-West Provinces, *all* details of villages-forms are omitted: and the vicious mode of recording the villages twice over under different heads increases the difficulty.



include everything that is not *pattidārī*, but especially to signify villages held 'on possession' as the only measure of right.

(iv.) Imperfect *pattidārī*—where part of the village estate is held undivided, and where very frequently the two parts are shared on different principles—only one retaining the original shares.

(v.) Imperfect *bhaiāchārā*—ditto, ditto in *bhaiāchārā* villages.

Now, considering that most of these terms are obscure, and that probably in no two District Reports are they used in exactly the same sense, it is quite intolerable that they should continue to serve as headings.

A few remarks on each term will make the difficulty more evident.

'*Zamindārī*.' This term implies simply that the land is held by a landlord or a proprietor. The owner or co-sharing owners of the village are in fact peasant proprietors of the whole, arable and waste together. The term in itself has nothing whatever to do with 'joint' or 'several,' 'communal' or 'individual.' It only acquires these meanings when another word is added. *Zamindārī khālis* means that there is one landlord, a sole surviving sharer, or a sole owner, whose family has not yet branched out into a number of co-sharers. *Zamindārī mushtarka*, again, means the 'communal,' or joint holding of a number of co-sharing proprietors whose interest is not separated by the several allotment of shares on the ground.¹ There are villages of this kind almost always held by a body of co-heirs succeeding to a previous single owner; and in this case they have their *defined shares*, though the holdings are not partitioned. Hence from a *tenure* point of view they are not distinguishable from *pattidārī* in the true sense of the word. Rarely there *may* be village estates held by a voluntary association 'in common.'

Pattidārī was *originally* employed (and so Mr. Thomason seems sometimes, but not uniformly, to have employed it) to mean any kind

¹ Whether the whole phrase in the vernacular was too long or what I do not know, but quite early they began to use *zamindārī* as if it meant 'communal.' Thus in an old law (Reg. xix. of 1814, sec. 30) *zumeendary* was used to mean 'joint-estates held in common tenancy, where all the sharers have a common right and interest in the whole estate without any separate title to distinct lands forming part of the estate.' Strictly speaking, this definition is somewhat defective, as it omits the important qualification that every 'tenant' has a *defined share*, most commonly a legal fractional share, on which the profits and burdens, though not the land itself, are in theory divided. Property is only held *in common* when there are *no fixed shares* and each takes what he needs.



of village, so long as it was divided out on the ground into distinct shares or lots.¹ But it soon came to mean, and now ought always to be restricted to, pure *pattidārī*—i.e. where *only the ancestral or fractional shares of the law of inheritance* are recognised. In this sense I have uniformly employed the term in this book; nor is it necessary that the shares should be strictly accurate, as long as the *principle is accepted throughout* the village estate.

In the Panjāb, some District Reports use the word as including *either ancestral or customary shares, which is fatal*.²

'*Bhaiāchārā*.' This term is the most unfortunate of all, since it has now lost all definite meaning; and a column so headed in the returns is a veritable statistical melting-pot in which all sorts of interesting origins and varieties are confused together. Properly, in its original sense (as used in Duncan's early Report of 1796 on the Benares co-shared villages), it means held on the custom of the brotherhood—i.e. by the association of families, usually a clan grown up out of one single family on a large available area which fortune preserved for them till they had filled it all. It implies that peculiar method of equal allotment of which the type is best illustrated by the oft-quoted Mathurā Jāt villages,² and Mr. Whiteway correctly uses the term accordingly. Holdings *made up of specimens of each kind of soil* are the characteristic. This is the true (1) sense.

But the term has also got to be used (2) for all kinds of share systems, viz. by 'wells,' 'ploughs,' &c., other than the legal or ancestral ('*pattidārī*') shares, and (3) to include also all villages in which shares have become wholly extinct or never existed, and where *de-facto possession* is now the sole measure of right. In the PANJĀB the term is officially provided to be used for the cases where the shares 'have become quite extinct, and each man's holding is or has become the sole measure of his right' (Barkley's edition of the *Directions*, § 104). But even in the Panjāb this use is not uniformly kept to; e.g. the artificial Kāngrā villages are shown as '*bhaiāchārā*,' and so are many of the tribal-frontier villages, where the shares are not

¹ It is so used, e.g., in an old Act (I. of 1841). It is evident that in § 88 Mr. Thomason so uses it, while in § 93 he clearly uses it in the restricted sense.

² In practice, the Panjāb returns have the effect of *ignoring all tenure distinctions except*—

1. Undivided or sole.

2. Divided { i. on *any kind* of shares.
ii. on no shares, but possession only.

³ *Ante*, p 282 ff.



in the least extinct, but perfectly definite, only that they are not ancestral—e.g. are *per-capita* shares. In the WEST PROVINCES the term is variously used in different districts, sometimes to mean the *de-facto* possession and extinct-share class, sometimes to mean the real old custom of the 'democratic' cultivating fraternity.

The resulting confusion is easily understood; the *Imperial* compiler of *Provincial* tables cannot know in exactly what sense the term has been used; nor can the *Provincial* compiler know exactly in what sense each *District* officer has used the word.

Under any general head of this kind, in the tables, we therefore find *thrown together indiscriminately* the following varieties:—

(i.) Real *bhaiāchārā* villages of the 'cultivating-fraternity' type (Mathurā Jāts, &c.).

(ii.) Panjāb tribal-villages where the *ancestral* scale is not followed throughout.

(iii.) *Pattidārī* villages which have acquiesced in the complete, or virtually complete, loss of the share-scale, and are held 'on possession.'

(iv.) Villages held on shares in 'wells,' on 'ploughs,' shares of 'bullocks,' &c., &c.

(v.) All kinds of villages held on *de-facto* possession of holdings.

(vi.) Artificial aggregates of individual holdings, i.e. villages converted under the revenue-system (Kāngrā, Kumāon, Jhānsi, Ajmer, &c.).

The student of village-tenures who calls to mind the distinctions I have endeavoured to explain and illustrate in this book by examples taken from 'real life' will regret the confusion of so many interesting varieties in one undistinguished heap. The 'imperfect' classes (of *pattidārī* and *bhaiāchārā*) are, as I have remarked, sometimes lumped together; in which case, since a majority of shared-villages have *some* land still in common, the result is that a large proportion of the whole number escape any distinctive classification whatever.

I think that any final list of new heads to be adopted will naturally require local consideration; and a writer at a distance cannot satisfactorily produce one offhand. But I venture to think that some principles may be suggested which may usefully be borne in mind. Vernacular terms will perhaps have to be retained because of the local compilers who do not use English. It might be possible to distinguish:—

(I.) (*zamindārī khālīs*) Villages where there is *one* landlord—

whether paying revenue or holding revenue free—will naturally be distinguished. It is for consideration whether it would be advisable to confine the term to villages of native origin, and not apply it to mere plots of granted land, or to leases under the waste-land rules. The head of 'undivided villages' (z. *mushtarka*) also calls for no alteration; except that surely we might distinguish between cases of co-heirship, and the rarer cases of a joint-holding for some local convenience or by some voluntary association.

(II.) *Pattidārī* should be uniformly and solely used for the village *divided* on the *legal or ancestral shares throughout*, and as long as the *principle* is acted on, even though the shares of land are not quite correct, and though the revenue-assessment is not paid in corresponding fractions.

(III.) 'Villages on a mixed system' should, for a tenure study, be separately recorded, meaning those in which there is a different mode of sharing recognised in different portions of the whole village—*e.g.* where in the divided lands the ancestral shares have been lost and *de-facto* possession is recognised, but where in the common or undivided land, and for miscellaneous profits, the ancestral shares are still followed.

The term *bhaiāchārā* as a heading should be abolished, or confined strictly to the old 'equal lot' or artificial (*bhaiwādi-bighā, tanzi-bighā, &c. &c.*) system. The Panjāb use should be altogether abandoned, as there is really no excuse for it, since villages held *on possession only* can much better be called *Qabzawār*. Whatever is done, however, with regard to terms, it would surely be possible to distinguish—

(IV.) Frontier tribal-villages, noting the number that are held on the *ancestral* shares throughout, and not merely as regards the principal divisions, while the interior shares are *khulāvesh*.

(V.) Villages held by clans grown up on the spot, or old 'cultivating fraternities,' having some form of *equal allotment* or artificial measures made up of specimens of each kind of soil. Some means may be adopted to indicate clusters of villages that are simply off-shoots or divisions of a single parent estate as in Rohtak, Karnāl, &c.

(VI.) Villages held on *special shares*, such as 'wells,' 'ploughs,' 'bullocks,' &c., not being either *ancestral shares* nor those under V.

(VII.) Villages now held on *de-facto* possession, which are *known to have had shares of any kind and lost them completely*.¹

¹ The rare cases where *de-facto* possession is not recorded, under the vague idea that one day the real shares will be restored, can easily be noted.



(VIII.) Villages held on *de-facto* possession as the measure of right, where either *no recollection* of any shares can be traced ; or where they *never existed*, as in artificial villages, or those converted, as in Ajmer ; and possibly some colonist villages, where each man took what land he pleased without any idea of share or allotment.

There will be no occasion (for a *tenure return*) to notice any 'imperfect' class in the sense that merely a part of the estate is held undivided : the only case where notice is called for, is when each portion is governed by a different plan (see under head III.) It would be quite possible to note under the general heads that so many villages had *waste* undivided (for the whole estate), and so many had part of the *arable* undivided.

It will be observed that heads I. and II. are really sub-heads of the same principle ; so long as the *ancestral* rule has been observed by the family, or will be so, it is immaterial whether one owner is holding, or a number of co-heirs, or whether they have actually made a partition.

So with reference to heads V. and VI., it would be of less importance if they were conjoined, provided we could know, in a column of remarks, &c., how many of the old true *bhaiāchārā*, 'democratic,' and usually clan-forming villages (always, I believe, in local groups) exist ; and in the Panjāb, how many of the purely 'colonist-associations' in the south-eastern districts.

So also it would be no great loss if it were held more convenient to club the cases VII. and VIII. together.

This is necessarily only a suggestion of a preliminary nature ; but I think it is quite clear that if all knowledge of the approximate numbers, and relative importance locally, of the different kinds of joint-village are not to be rapidly lost beyond recovery,¹ *something*

¹ It will be no doubt a question how far the *village* can be separated as a defined group. In the tribal-areas of the Panjāb, for instance, the *kheḷ* is rather a considerable area of land with scattered hamlets over the whole ; in Malabār there are no 'villages,' &c. But as in the compilation of *district* statistics (and it is these separately that will most interest the student) the compiler will add his notes and remarks, such difficulties will be got over. In some cases the Revenue Administration has already made and recorded separate villages, and these will be accepted ; in others, the artificial circle, *amisham*, *māgane*, and what not, will serve, with explanatory notes. This difficulty will not be found insuperable, and the very effort to meet it will result in the most interesting statistical facts.

that will obviate the confusion of the official *pattidāri* and *bhaiāchārā* is urgently called for.

Let me only add a reminder that our students at home rejoice in the existence of a 'Domesday Book,' or the 'Extenta' of Wales, which have furnished us with the basis for the most valuable historical research. May we not hope, before it is too late, for a table of village statistics for India that will be an historical and economic record worthy to be placed beside the other splendid records that the Government of India has produced in the more tangible and material, but not necessarily more instructive, departments of archaeological and historic art and architecture?

There is only one more point to be added. Would it not be possible to collect information as to the *origins* of villages of the joint-form wherever it is known or fairly inferred? Even a very loose classification would be useful. Villages originating directly in *tribal* occupation would probably be confined to the Panjāb frontier; but village groups formed by expansion on clan principles could be noted, colonist villages in South-eastern Panjāb and others similar; so, too, villages which are the vestiges of an earlier Rājāship or territorial rule; villages founded by individual ancestors, royal grantees, &c., and later by revenue-farmers and auction-purchasers. Even some such general classification, and if it were followed by an unfortunately large group ('origin not discoverable'), would be of great interest.



CHAPTER IX

THE TWO TYPES OF VILLAGE IN JUXTA POSITION
LOCALLY

WE have been latterly so much occupied in discussing the joint- or landlord- village, its origins, and the variety which may be found to mark its internal constitution, that the first chapter may have been forgotten, as well as the contrast in which it was attempted to delineate both the *raiyatwārī* type of village and the common features of the *joint type*. It will now serve to emphasise the distinction if we proceed to consider the cases in which we can trace these two types or forms growing up, or existing, side by side in the same locality.

I will dispose first of two cases of the early appearance of joint-villages, in Madras and in the Bombay Dakhan, for they are of historic importance, and must be kept separate from the later and *still existing* instances to be found also in parts of Bombay and in Rājputāna.

In one of the cases now alluded to—that of the Dakhan—the tenure of villages by co-sharing families can hardly be said to have had any actual existence at the time when the inquiry was first made about them; but there were certain local traces of claims to village rights, certain surviving terms in use, and a few written records preserved; and it was a matter of historic probability and of just inference to determine what these traces meant. In the other case, that of Southern India, there certainly were *some* distinctly shared villages still in existence in 1790-1814; but their *status* had been much impaired, even in the districts where they were most clearly in evidence; while in other districts it was only traces of this form of tenure that could be found.

SECTION I.—JOINT-VILLAGES IN MADRAS

I will deal first with the most important question of the ancient joint-village in Madras. This must be examined in detail, for some writers have built on the existence of these villages a theory that anciently 'a tenure in common' prevailed over the whole Presidency. Yet no complete examination of the facts has been placed on record, as far as I am aware, in any one book or report. Briefly stated, the facts were these: Among the earliest territories to be acquired in the Madras Presidency was a district near the city of Madras now known as Chingleput, but in 1765 called 'the Jaghire.'¹ It had passed under the rule of the Nawābs of Arcot; and, besides being cruelly misgoverned by them, it was ravaged by an incursion of the Mysore Sultāns. Even after its acquisition by the British Government, pursuant to an Imperial grant, it was much mismanaged owing to lack of experience in the earlier British authorities. But at the close of the last century, Mr. Lionel Place was made Collector; and he found that throughout the district, and indeed in a considerable area round it, there was in most, if not in all the villages, a class of persons who claimed to be owners of the *entire area of village-lands in shares*. As we have so often found to be the case elsewhere, they claimed this right as their *kānīādsī*, which in Tamil means 'inheritance,' and which the Muhammadan officials had rendered by the usually employed Persian term *mīrāṣī*, having the same meaning. By making his Revenue Settlements with these co-sharers as a body, Mr. Place obtained considerable success, although time and misgovernment had already done much to limit and to confuse the rights actually enjoyed. When, some years later, the Madras Government were anxiously considering what would be the best Revenue system to adopt, a general inquiry into village tenures was made; and then it appeared that the existence of co-sharing bodies claiming right over the villages was not confined to Chingleput.² In the course

¹ Properly Chengalpat. For the history of it, see *L. S. B. I.* iii. 6, 14.

² The cause of this general inquiry should, perhaps, be briefly stated. The Indian Government at Calcutta, fresh from the completion of the



of this inquiry, Mr. Ellis, of Madras, produced a valuable Memoir full of information about the villages in the Tamil country; some, more or less, distinct evidence was also obtained from other districts; but a number of other reports left the matter very uncertain, owing to a cause I will presently notice; while others again either distinctly negated the existence of such villages or returned no answer, an omission only partially supplied from other sources.¹

The importance of the question to the historian is considerable, for the reason above stated.

It may be as well to say at once that the universal prevalence of these *mirāsi* villages² is certainly not proved. On the other hand, their existence, in certain specified localities, is proved as well as anything of such early date can be. And it is remarkable that they existed just in those districts where they would most naturally grow up, supposing them to be, as I believe they were, privileged tenures by the grants of early Princes, apparently by that time 'Hindu,' or else the result, in their most important centre, of a privileged colonising enterprise undertaken, and after several failures successfully accomplished, under the patronage of one of the *Çolā* princes.

Permanent Settlement of Bengal, and guided doubtless by the fact that in the northern part of Madras there were native chiefs in the position of 'Zamindārs,' conceived that the Bengal system might be applied to the whole of Madras, and peremptorily insisted on such a Settlement being made. The attempt, of course, proved (except in the northern *Zamindāris* and a few similar estates in other parts) a complete failure. The Madras Revenue authorities then directed their attention to the village-tenures. If it was true that a class of co-sharing hereditary proprietors could be found over the several villages in each district, such a fact, if only partly or locally true, might be an important factor in facilitating the working of a plan which the Board of Revenue then regarded with favour—namely, that of dealing with each village-group as a unit, and thus avoiding what was in those days thought the difficult task of dealing direct with each separate land-holder or *raiyat*.

¹ A selection from the evidence thus collected has been republished in the form of a reprint of the more important papers in a volume called *Papers on Mirasi Rights*, printed at Madras by Messrs. Pharoah in 1862.

² For the sake of brevity I will continue to speak of *mirāsi* villages, always meaning those which were at one time possessed by co-sharing bodies, exactly, in fact, like some varieties of the joint-village of Upper India.



One preliminary point must be mentioned as concerning the general prevalence of such a right, and as regards several of the reports which deal with the subject in an extremely vague manner. The idea of the joint-village, so readily seized by the resident of Upper India, was not at all easy of comprehension to the Madras officials of eighty years ago, accustomed as they were to the *raiyatwārī* tenure, and to the then firmly established custom that the sovereign was sole land-owner. The village owned as a whole, in shares, by a body of *mirāsi* or hereditary proprietors, was quite a strange idea. When, therefore, various other hereditary rights and privileges appeared which were commonly described by the same name—i.e. as *mirāsi* rights—there was a not unnatural confusion. Very often it will be noticed that, when the reporters asserted *mirāsi* right to exist in the villages of this or that district, they did not really mean the right to a share in the village as a whole, but some special privilege, which has nothing to do with the question at issue, such as the hereditary *māniyam*, or free-holding of village headman (which is essentially a mark of the ancient *raiyatwārī* village), or the hereditary grain fee (*swatantram*, or *merāi*)¹ of the village artisans and servants (which equally exists in *raiyatwārī* villages.²

In order, then, to do justice to the question of the former

¹ It ought hardly to be necessary to point out that the Tamil *merāi* has no connection whatever with the Perso-Arabic *mirāsi*; but I have seen the mistake made. Moreover, the term *mirāsi* became current, just as other Persian or Arabic words did, from the Moslem Revenue Administration—the only one that was in any degree systematic or had regular official terms. It was not intended by the use of the word to imply any depreciation of the right. On the contrary, *mirāsi* was always used in the Dakhan kingdoms, where it originated, to indicate the highest type of direct right in the soil.

² This confusion is often made in the early Government Minutes, e.g. Board of Revenue, 1796, § 23 (*Mirāsi Papers*, p. 35); in the report on *Dindigal* (p. 111), where the headman's privilege is spoken of, and in many other places. Cf. the North Arcot letter at p. 394 (and especially p. 396), where the confusion is very evident. And so at p. 408, where there is a hopeless mixture of the two things. The distinction is noticed by Mr. Ellis (pp. 180, 181), and clearly by the Board of Revenue Minute, §§ 67, 68, p. 373.



existence of co-sharing villages, it is necessary that we should completely exclude all evidence referring only to such ordinary hereditary holdings and privileges. We must confine our attention to the *traces of co-sharing bodies claiming the whole village as their mirāsi*. It is obvious that the claim originally included, and necessarily so, the right to the entire area of the grant, or of the land on which a village was established—*i.e.* the waste and arable together.¹ Naturally the co-sharers would claim a rent or 'landlord's share' (called *tundu-vāram*, or in Brahman villages *swāmi-bhogam* = landlord's or owner's share) from such lands as were held by tenants of whatever class, not being co-sharers. In short, there cannot be the smallest doubt that if the *mirāsi* village claims were anything at all, they were claims which, originally at any rate, constituted the holders jointly, according to their shares, the proprietors of the villages exactly as such co-sharers were in other parts of India. Lists of the shares (called *pangu-malai*) very often existed. Each village had its own *pançayat*, or managing body, and consequently, as always in such a form of village, there was only an official headman, or *manegār*, with no power nor hereditary land-holding (as headman), nor privilege (as there would have been in *rāiyat*-

¹ There was some little doubt caused on the subject of the claim to the waste which was admitted by Mr. Ellis. But this is easily understood. It was very probable that in the days of encroachment and exaction the Revenue Agents of the local Governor would begin to assert a right to put in tenants on culturable waste where the *mirāsīdār* did not or could not provide for it himself (this was the case, *e.g.*, in some places under the Sikh Governors in the Panjāb), and in this way it would come to appear doubtful whether the *mirāsīdār* had a right to the waste. But even if this is not so, it is quite possible that there may have been some internal village custom affecting the waste. For example, the waste (*tārisu*) was classified into *shekāl karambu* (culturable waste) and *anādi karambu* (permanent 'immemorial' waste). The latter included roadways, land occupied by trees wanted for the general convenience, and so forth. It is easily conceivable that village custom may have early imposed on the co-sharers themselves a prohibition against cutting down such trees, stopping such roads by making them into fields, and the like. Such acts would be resented in the co-shared villages of the Upper provinces, but no one would think that such a restriction militated against the general proprietary right over the whole village.



wārī villages).¹ It is necessary to emphasise this character of the *mirāsi* as a claim of general village-tenure, because some of the documents relating to these cases speak as if they thought the *mirāsi* right to be merely some kind of superior status as regards a particular field or holding.

Naturally enough, in the early years of the nineteenth century, the *mirāsi* claims having been continually overborne in the past, the right was not, in most cases, complete or intact. As time went on and rapacious local officers under the Nawāb began to oppress the people, these privileges would be gradually broken down; heavy assessments might cause some co-sharers to give up the attempt to hold the lands, and their co-partners might be unable to relieve them. Then holdings would begin to lie waste and the revenue to be in arrears. The Governor would accordingly assume the right to locate new cultivators and to take revenue from them direct. Such persons would naturally resent any attempt of the *mirāsdār* class to demand landlord's fees from them; and thus the co-sharing proprietors' superior right to the whole estate, and especially to those parts of it not in their direct possession, would come to look more and more doubtful, especially to observers whose previous experience had not taught them to look for anything of the kind, and to whose ideas of expediency it was opposed.

It is impossible, however, not to perceive that the institution was really unknown in some parts, and that in others it had existed but was fallen into decay. It was in a limited area that there was clear evidence of its survival, though whether, even there, it could have been restored in its integrity, as a working tenure, is problematical.

When, in the light of modern experience, we sum up the evidence, the conclusion, I venture to think, is irresistible that these villages, owned by co-sharing families or groups of families, were the growth of special circumstances, and certainly did not represent any universal custom of land-holding. Still

¹ For a clear exposition of this, see *Chingleput D. M.* p. 204. It is necessary carefully to distinguish the old headman's hereditary (and sometimes revenue-free) holding in virtue of his office, and the partial revenue-free grant allowed in the Tondai country to encourage the colonist villages generally.



less is there any evidence, or even tradition of origin, that lends any countenance to the idea that they represent survivals of a primeval communal land-tenure, which indeed nothing that we know of old Dravidian customs would lead us to expect.

Such villages in fact consisted :—

(i.) Largely of *agrahāram*, or villages held on hereditary grants (in this case free of revenue payment)¹ to Brahmans. They are especially numerous in districts which had been the demesne of the ancient kingdoms of *Coḷā* and *Pāṇḍyā*. These Brahman communities held villages sometimes *samudayam* (or undivided), sometimes (and more usually) divided (*pattidāri* as would be said in the North, or *arudi-karai* in Tamil).²

(ii.) A certain number of other villages, held by secular castemen, appear in the districts of Tanjore, Trichinopoly, and Tinnevely, and probably Madura.

(iii.) The largest and most important group is found in part of the country formerly known as *Tondai-maṇḍalam*, which, roughly speaking, embraced the country between the north and south rivers, both known by the name of Pennai.³ It does not follow that villages of this kind covered the entire country, but they were found surviving chiefly in Chingleput and the adjoining districts of Arcot.⁴

Ad (i.). The existence of the Brahman villages and their origin in a religious grant will not be disputed by anyone. As they were also revenue-free, they did not excite that administrative interest which others did, and therefore it is not so readily and at first sight apparent that they were *mirāsi* villages, with just

¹ As we shall presently see, Brahman *mirāsi* villages (*agrahāram*) were revenue-free. Others held by secular castemen (*Īḍra*) were not. In the Tondai country (Chingleput, &c.), the *mirāsi* villages were observed uniformly to claim the exemption of a *part* of their land from the revenue share, the reason of which is traditionally explained.

² *Samudayam* is Sanskrit, and so may properly be applied to Brahman villages. I doubt the correctness of its use in the Tondai country among the Vellālar. Mr. Ellis says the Brahman villages were generally divided. (*Mirāsi Papers*, p. 295.)

³ On maps shown as Penar, Pennaur, and Penner. The Southern river runs into the sea between Pondicherry and Cuddalore.

⁴ See *D. M. North Arcot*, chapter iii. p. 89.

the same sort of proprietary right as that claimed in others—and just as much held in *family shares*.

Ad (ii). When we have once ascertained that Madura was the capital of Pāṇḍyā, and that Tanjore and the adjacent districts were the demesne of the *Chōlā* king, it will not surprise us that many privileged tenures or grants should have existed.¹ In TANJORE, Colonel Blackburne's evidence is definite; he saw that such villages arose out of *grants*, though too long ago, he thought, for him to trace their beginning. But it will be recollected that no attempt appears to have been made to ask the people themselves for their traditions, or for their genealogy, or for lists of co-sharers preserved in villages, such as in the North of India can readily be obtained, and actually were obtained in Chingleput. The State spoken of had then for some time been under the foreign domination of a Marāṭhā prince, whose position was due to a recent and unqualified act of seizure and marauding. The State officials were not likely to trouble themselves about existing titles and tenures, which it was their object to tax to the utmost, at least in those cases which were not due to their own grants. But the Tanjore figures show quite sufficiently what the general type of village was. The total number of villages is reported² to be 5,783. But this must be at once reduced to 3,976, as the difference represents 1,807 so called *ekabhogam* villages—mere hamlets or parts of villages of which the *single owners* with pretensions to rank, and who had given their names to the places, got permission to have recorded as separate possessions; this has obviously nothing to do with primitive or even ancient custom. But out of the balance, as many as 2,202 are *arudi-karai* (or

¹ It is, nevertheless, remarkable that the *D. M. Trichinopoly* contains no notice whatever of the existence of *mirāsi* villages, and the allusions in the *Mirāsi Papers* are vague and general. Before 1805, Trichinopoly and Tanjore were united in one collectorate, after the lapse of Tanjore to the British Government.

² *Mirāsi Papers*, p. 95. *D. M. Tanjore*, p. 400, mentions 62,000 persons as having *mirāsi* claims; of these, 16,000 were Brahman grantees and 43,000 (I give round numbers), Qūdra. But these numbers appear evidently to include holders of *all sorts of 'inām' and hereditary rights and privileges*.



*phālā-bhogam*¹) held in severalty; and there is nothing to show that many of these were not ordinary *vaiyātwārī* villages, in which the cultivators had combined to share the revenue. That possibility, however, is not very material, as I do not think it can be doubted that, besides the Brahmans, Vellālar settlers, being energetic agricultural castemen, had been encouraged to hold villages on the superior tenure. It is worth while noticing that while in the Tondai country, as we shall see, it was necessary further to encourage such grantees by allowing a part of the villages they created to be held free of revenue, such a concession was not necessary in the rich delta land of Tanjore, where there was hardly any waste, and a *mirāsi* tenure was quite sufficient inducement of itself.² Of the remaining villages, 1,774 were *samudayam* (or in Tamil *paṣaṇ-karai*—i.e. held in some form of undivided holding); a considerable part of these would certainly be Brahman villages, where the Sanskrit term would be most naturally used. And, as the Brahmans would be non-agriculturists, it is quite likely that some families would hold jointly—i.e. dividing the income, while family quarrels and jealousies would lead others to divide the land itself.

In all these village lands we may notice first the same plan of division of the produce and payment of revenue in kind which we know to have been originally universal all over India. The lands yielding produce, as distinguished from the waste and the revenue-free lands, are generically called *vārampat*. The produce, if there is no *mirāsi* class, is simply divided into the *mel-vāram*, the State share, and the *kudī-vāram*, or occupant's share: that is to say, after the fees (*merāi*) of the village servants, watchmen, &c., &c., have been satisfied out of the grain-heaps. When there is a body of *mirāsi* proprietors, then there are *three* instead of *two* to share: *mel-vāram*, as before, is the royal share;

¹ Tanjore being ruled by Marāthās, the prevalence of Marāthā terms is explained. Such are *ekabhogam* (single owner); *phālābhogam* (in separate lots); and so *kumbhāvā* is the equivalent for *kāniādsi*, or *mirāsi*. (*D. M. Tanjore*, pp. 403, 409.) *Phālā bhogam* is sometimes said to be a half Sanskrit compound with the Tamil *pala* = 'many.' I think it much more likely that it is the Marāthī *phālā*, a share.

² This is clearly put in the *D. M. Tanjore*, § 10, p. 403.



tundu-vāram is the landlord's (*mirāsīdār's*) share; and *kudi-vāram*, the cultivating occupant's, as before.

Turning to the other royal demesne of MADURA and TINNEVELLI, the evidence is much less satisfactory; but we can hardly help believing that the kings' and chiefs' courtiers and relations, and others, would gradually acquire the *mirāsi* right in certain villages; and hence we find it reported that, at any rate in the Tinneveli 'pollams' or chief's territories, *mirāsi* villages were found. In the early report,¹ the existence of Brahman *mirāsi* villages (*agrahāram vādagai*) is noticed in the TINNEVELLI district, and it is stated that other villages held by Ćūdras were also *mirāsi* and held on shares, and that these latter are called *pandāra-vādagai*. It is noteworthy, however, that these words merely mean that the villages are on the list of those paying revenue to the treasury (which the *agrahāram* are not); or, in other words, that they are what elsewhere would be called *khālsu*, or revenue-paying, villages. Nothing appears about the origin or the nature of the tenure; the details given refer solely to the Brahman grantee villages;² still, it is certainly intended that both Brahman and Ćūdra villages were held on the same sort of superior title, and were divided into *pangu* and *karai* = major and individual shares. But further, it is added (and this is important), that, *beside* the shared villages, there were others held by non-proprietary (*payakāri*) holders, who had no system of shares.³

As to MADURA, the author of the District Manual expressly states that certain villages in which *karai-kāran*, or 'persons holding shares,' were stated to exist, there was no privileged or superior tenure, but the term merely indicated a method by which the cultivators formed a voluntary association for the

¹ *Mirāsi Papers*, pp. 77, 105, 283. The two latter Reports are long-winded disquisitions on property in general, giving no facts of any kind, and showing that the writer was confusing in his mind all sorts of rights, including the special holding of the headman, which is certainly not existent in *mirāsi* villages under any circumstances whatever.

² *Mirāsi Papers*, p. 79 (Mr. Lushington). When the writer comes to the Ćūdra villages, he only makes some unimportant remarks about the caste, and gives a deed of sale with nothing to show to what class of village it refers. He says nothing as to how the Ćūdra tenures originated.

³ See this clearly stated by Mr. Ellis (*Mirāsi Papers*) p. 386.



purpose of meeting the revenue demand. Mr. Ellis, on the other hand, evidently thought that joint-villages once existed in Madura; and it must be admitted that in the demesne territory of an ancient kingdom it is likely enough. No great importance, however, attaches to the question; but it is evident that throughout these districts there is no single incident or feature in the evidence which does not coincide with the supposition, in itself so very probable when judged by the experience of other 'Hindu' kingdoms—viz. that the co-sharing or proprietary villages were the superior or privileged tenures resulting from royal grants to Brahmans, or to other (secular) grantees for various purposes, including, very possibly, the direct revenue management or the extension of cultivation to new lands. As such they may date back several hundred years; and they may have been held by the descendants of the original grantees acting on the usual custom of joint-succession.

Ad (iii.). When we come to the CHINGLEPUT district, which is the centre of the larger group of Tamil *mirāsi* villages, we find the evidence much more complete, and the whole subject studied with great care and with an amount of detail that is quite remarkable for the period. The evidence mainly consists of surviving share-lists in many cases, and other evidences of proprietary possession, while the origin of the villages is explained by a detailed and ancient tradition, the substantial truth of which was accepted by every one of the officers who had local experience, from Mr. Place in 1796 to Mr. Ellis (1816) and Mr. Smalley (1822), Mr. Graeme in North Arcot, and a learned native gentleman (B. Sankarayā) in Madras.¹ We are not bound to accept the entire details of the tradition; but there can hardly be a reasonable doubt that its main idea was a true one, and that the villages were established in a fertile but originally almost wholly forest-clad country, at the time held, and partly at least inhabited, by *Kurumbar*—a pastoral tribe who were then ruled by *Pallava* chiefs, who had established twenty-

¹ The principal reports are in *Mirāsi Papers*, Place (1796), p. 36, ff. For his final Report in 1799, of some 750 paragraphs, and full of long-winded disquisitions of no interest, but containing also many valuable facts, see pp. 38-70. Ellis (1816), pp. 172-217; B. Sankarayā, p. 218; Graeme, p. 393; Smalley (1822), p. 424.

four *kuttam*, or territorial divisions, each protected or commanded by a fort. The days came when a *Colā* prince advanced into the country and conceived the idea of colonising part of it.¹ The settlement of the first families of Vellālar castemen was not a success, but ultimately Vellālar from the north-west country of Tuluva were induced to settle; and then the colony was established. Some remains of the earlier families of the Vellālar are stated by Mr. Ellis to have still held lands, but the principal proprietors were the Tuluva Vellālar.²

The general evidence as to the past history of the villages is given by Mr. Ellis in some detail. He quotes the verses that have become traditional or are found in early Tamil literature bearing on the subject, as well as lists locally preserved showing how the Vellālar divided the territory into *nādu* under chiefs (called *Nāttān*), and how these new divisions were related to the twenty-four *kuttam* which their predecessors had organised. The records include some lists of the *nādus*, and some calculations of the number of villages which each contained.³

It appears to me that attempts to identify the *entire country* included in the traditional and literary limits of *Tondai-maṇḍalam* are very doubtful. Equally so the attempts to calculate, from certain temple records, the number of families of Vellālar. The fact seems quite clear that so large an area could never have

¹ The name generally accepted by Mr. Ellis and others is that of a (Hinduised) prince, *Athondē*, or *Adaṇḍa-Chakravartī* (the last member being a Sanskrit title meaning 'suzerain'). The full detail is given in the *Chingleput D. M.*; but as Wilks's description of a purely *raiyatwārī* village is quoted, and this is mixed up with the account of the village held in shares, some mistakes are the natural result. The dates seem also somewhat confused. The author suggests that the Vellālar colonisation began before the time of Manu (p. 207): on what this rests I have no idea. Afterwards it is suggested that the Vellālar from the *Tuluva country* came during the first centuries of the Christian era. (See p. 208, and compare p. 25.) The supposition that jointly-held villages existed before Manu, and before Sanskrit was known in the South, is entirely unsupported by any kind of evidence. The traditions all point to their having been privileged under *Adaṇḍa*, who reigned at a time when the Hindu religion had long been introduced. He may have extended the privilege to the remains of earlier settlers of superior race, as indeed would be natural under the circumstances.

² *Mirāsi Papers*, p. 230.

³ *Ibid.* pp. 236-240, 242.



been occupied from end to end by colonists, even if it was really conquered and annexed by the *Çolā* dynasty; and that the special location and grant of privileges to the Tuluva Vellālar villages must more reasonably be confined to that part of the country where they are proved to have been established by the fact that a considerable group of them was in some degree of preservation at the time when British rule began. It is quite a gratuitous supposition that such villages at one time existed *all over* the whole area vaguely included in 'Tondai-maṇḍalam,' but that over the greater part they had been rooted out—the villages entirely, the people almost—by subsequent Moslem and Marāṭhā conquests.¹ It is true that we have more reason to believe the villages were held on a *mirāsi* tenure in some other districts (Tanjore, &c.), and it may be that these are included in the general limits of Tondai-maṇḍalan described by Mr. Ellis.² But the districts of Chingleput and Arcot were also equally harassed by wars, and afterwards by the harsh rule of the Nawābs of the Carnatic, as Mr. Ellis's own papers show; and yet *there* the *mirāsi* villages were, though much injured, not at all destroyed, nor was the Vellālan population rooted out. It is surely sufficient to establish—and of this there is no doubt—that in Chingleput, in the Madras Collectorate, and in the neighbourhood, there were unquestionably *mirāsi* villages, and that in many of them the *pangu-malai* or records of shares were preserved, a fact which demonstrates that the institution in question was certainly 'the joint or co-shared village.'

It is not at all easy to fix a date for these Chingleput colonies. Mr. Ellis thinks that the country was early brought into a fairly flourishing state, since there are names of places which can plausibly be identified with those mentioned in Ptolemy's geographical account (about the middle of the second century). Hence Mr. Ellis thinks the colonisation must have begun before the Christian era.³ But such recognition of

¹ See *Mirāsi Papers*, p. 246. Races speaking Telugu and Canarese cover the whole of the so-called Upper Tondai west of the 'Coromandel' ghat.

² He proposed to prepare a map, which was never completed; and the coloured portions were to show whence the Vellālar possessions had now disappeared, and the uncoloured the parts where they survived.

³ *Mirāsi Papers*, p. 230. See *D. M. Chingleput*, p. 25.

names, if it is a fact, does not show that Adanḍa's colonising enterprise was so early; for (as the *Chingleput D. M.* points out), up to the eighth century, the Pallava, Pandu, and Kurumbar tribes were in possession,¹ and furnished the origin of the still existing 'Pallar,' a low caste of farm labourers. It was only about the eighth or ninth century that the *Cola* dynasty extended its influence northward to the jungle-clad Tondai country, and overthrew the Pallava chiefs. After this it began to lose ground, and finally fell about the eleventh or twelfth century. I think that, on the whole, we may more probably attribute the special foundation of privileged villages to some period not far removed from the eighth or ninth century. This does not conflict with the possibility of some still earlier and partial Vellālar settlements.

Coming, however, to the actual survivals at the time of the British rule, Mr. Place in 1799 enumerated 2,241 *mirāsi* villages in Chingleput.² Of these, a considerable number had passed into the hands of Brahmans, but the bulk were still Vellālar. In his time as many as 15,994 *mirāsi* shares were held by 8,387 sharers, but a number had been abandoned owing to the heavy revenue demands which, here as elsewhere, deprived landed property of its value.³ Mr. Place, indeed, adopted the extreme measure of granting the *mirāsi* right in vacant lands. Mr. Place explains that the 8,387 sharers represent only the heads of kindred; and that there were many more minor shares—apparently subdivisions of $\frac{1}{4}$, $\frac{1}{8}$, $\frac{1}{16}$, $\frac{1}{32}$, &c.—the fractions known to the Tamil arithmetic.⁴

It has been remarked that the Vellālan village-owners were not of common descent; but this, I think, is very natural. For colonists would be volunteers gathered from a number of different families and centres. From the accounts we possess, it is probable that the colonists kept together in village groups, and that the head of each separate family-group would represent a major share in the village; there is no reason why these major

¹ The *D. M., North Arcot*, p. 20, states that it was a Pallava chief who formed the twenty-four *kuttam* above alluded to.

² *Mirāsi Papers*, p. 251.

³ See *ibid.* pp. 382, 383.

⁴ Mr. Place's long report of 1799 is also printed in the *Fifth Report*, ii. 299-314.



shares should not have often been held by separate families, who, associated as clearers of the forest, had no lien of blood beyond the common ties of caste or tribe. But within these major shares (*patti* or *turf* as they would be in North India), the minor holders would all at first be 'kindred'—i.e. descendants of the same ancestor. This, I think, is the only reasonable inference to be drawn from the facts as stated by Mr. Place.

The villages of the Vellālan special colonisation were, as I have said, privileged by being allowed a portion of the land free of revenue, and by certain other dues; privileges which it is noticed particularly do not occur in any other *mirāsi* villages elsewhere.¹ The larger shares alluded to seem to have been called *pangu*, and the minor shares were *karai* (whence the generic term *karāi-karan*, or 'co-sharers').

As to the form of joint tenure prevalent, the villages were chiefly what are called *pasan-karai*, a term which has led to some rather extravagant notions about ancient community of property. But, as a matter of fact, all the evidence points to this having been a voluntary and perfectly natural arrangement of association made when new cultivation was to be established, and when a well-cemented union of effort, both in clearing forest and in creating the means of irrigation by digging tanks, was necessary. Under this system, moreover, two varieties were observed. The absolute *pasan-karai* meant that the village body worked without any separate or permanent allotment of lands; the 'council' determined each year what portion of land each group should undertake. Whether each took the produce of what they actually cultivated, or whether all was collected and divided according to the known fractional shares, does not clearly appear.² But for this mode another was sometimes substituted, viz. the *karaiyidu*, which meant that

¹ See *Mirāsi Papers*, p. 375, § 85. I make no apology for repeating this, for it is important as showing that there must have been something special about their villages, and so far confirming the tradition of their origin.

² Mr. Place speaks of such joint bodies working together so that 'the labours of all yield the rent = the Government revenue (?), and they enjoy the profit proportionate to their original interest' (*Fifth Report*, ii. 314). This may refer only to the general idea of the association.

the holdings were separately allotted for a time and then exchanged.

Mr. Place gives several examples of the shares in these villages.¹ The major-shares, as I have said, were those of the heads of each branch or group, taking part in the establishment of the cultivation; and there were sub-shares. Mr. Place instances a village in which there were actually thirty sharers, but they remembered the four major-shares of the foundation, and adhered to that division. Another village had 160 *original* shares; this probably includes both the major and minor shares. 'It was deemed essential,' says Mr. Place, 'that the shares should be equal.' As might be expected, there were many slaves and serfs, doubtless the original inhabitants who were reduced to this condition; and many followers who held lands on an inferior tenure.² In one of the *Mirāsī Papers* mention is made of the formal grant by the *mirāsdārs* of a cultivating, but not co-sharing, right in perpetuity. And it was this, and possibly the occasional existence of previously established cultivators, that led to the distinction between the *ālkudi*, or hereditary tenant, and the *parakudi*, or tenant-at-will, especially in Brahman or other villages in which the co-sharers were non-agriculturist and would rely on tenants for farming their lands.

When, in the course of time, the shares, for any reason, were allotted and *permanently* divided, the village was said to be *arudi-karai*. This division was foreign to the original plan of co-operative colonisation, and was, as Mr. Place notes, against the caste feeling. It appears either as a later change in the Vellālar villages, or as a more frequent family division in the Brahman villages, and perhaps in those of other (*Qūdra*) grantees.

¹ *Fifth Report*, ii. pp. 299, 300, &c. This exchange, Mr. Place says (p. 385), was 'to obviate, I imagine, the inequality to which a fixed distribution would be liable.'

² In the *D. M. Chingleput*, there is a curious account of the *serfs* and their being rather proud of being *adscripti glebæ*, because they had a certainty of land to cultivate and a fixed livelihood; and they had a kind of annual ceremonial strike—for such it was, for the details of which the original must be consulted (pp. 211-214).



I think that a variety of circumstances taken together are strongly in favour of the view that the joint-holding, or *pasan-karai*, in the Tondai country was essentially a device for holding together and equalising the *colonist associates*, each in his own group or major-share division. It will be recollected that we start with the uniform tradition that the *Vellalar* were established with the grant of a superior right, which was to attach them to the land and encourage them to persevere in their difficult task.¹ Then we find that this permanent right was still so much valued in 1799, that Mr. Place declared² that 'it was indispensable to assign *mirās-dūrs* to the unappropriated lands; without it,' he says, 'I found that they could not be rented—i.e. the revenue-settlement accepted; but the idea of permanent property was such an inducement that I was not only able to fill up the vacant shares, but to convert the most stubborn soil and the thickest jungle into fertile villages. "Give us the *mirāsi*, and we will both rent the lands, and employ all our labour to make them productive" was the common observation . . .'

Then, again, it is noted that the *mirās-dūrs* would 'assemble and execute a joint-deed divesting the defaulter of his share in the "*mirāsi*," transferring it to the others, which looks very much like a strong association, the basis of which was that all must pull together to meet the assessment.'³ For in village bodies dependent on common descent from a single ancestor nothing of the kind is ever recorded. And, again, it is noted in Madura, as I have already observed, that the *pasan-karai* was actually adopted in existing villages as a means of meeting the

¹ 'There is a distinct tradition of some of these (*Vellalar*) having deserted the undertaking. The manner in which the difficulty was at last overcome, and the son of the Chola king able to report to his father the completion of the enterprise, is set forth in the following story, which has always been current in the country. Kullatanga (Rājā) asked his son how he had been able to settle the country so well? The latter replied that he had forged a chain for the inhabitants of such strength that they would never be able to free themselves. By this he meant that the affections of the people were so riveted to the land of their new country by *kāniādsi*, or property in the soil, that they would not desert it. This story is no doubt very ancient. . . .' *D.M. Chingleput*, p. 217.

² See *Fifth Report*, ii. 303.

³ See *Mirāsi Papers*, p. 223, and cf. p. 369, *post*.

THE INDIAN VILLAGE COMMUNITY

revenue charge by combined action. And so in North Arcot it is expressly said that when it became 'necessary to add . . . new cultivators to the original proprietors to assist in repairs of tanks, in the distribution and settlement of the different lands, and to regulate the irrigation,' *pasam-karai* was adopted by voluntary association, and the new-comers were 'partners in the profit and loss of the cultivation of all the lands,' though they had no share in the original privilege by which the co-sharers had a certain portion of the land free of revenue, and received certain special grain-fees (*kuppatam*), &c.¹

I also note with regard to the method involving *exchange* of lands (*karaiyidu*) that it is stated in the Report on South Arcot that newly cleared 'wet' lands under new water are to this day frequently exchanged in order that each might get the good as well as the bad lands in his turn.²

I do not think, then, on the whole, that there can be any reasonable doubt that the relics of *mirāsi* right indicated the establishment of a superior co-sharing village tenure, which existed locally, and contemporaneously with the *raiyyatwāri* tenure; such superior tenure being connected either with *grants* to Brahmans or to other (secular) castemen—very likely cadets of families and other persons gaining privilege from connection with the ruler, or with a direct privilege granted to encourage and confirm a colonising settlement.

That such should be the real history is exactly in analogy with the evidence we have everywhere that, given a 'Hindu' State and Rājās, we are sure to find joint-villages growing up, either by grants of land or by colonising enterprises under the patronage of the Rājā.

I would only add that, in another connection,³ I have shown how in the old Oudh kingdoms the villages were naturally *raiyyatwāri*, and how by the king's grant leading families obtained the lordship of the village, and how waste land grants would result in the establishment of villages on the superior tenure (co-shared village). I believe that the Madras history is

¹ See *Mirāsi Papers*, p. 395, § 106.

² *Ibid.* p. 412.

³ See p. 300, *ante*.



just the same thing in another form. That it affords any example of a general primeval tenure of 'land in common,' quite contrary to all we know of Dravidian custom, I see not the remotest reason to believe.¹

¹ In concluding the whole subject I take occasion to observe that no attempt has been made to account for the unquestioned survival of the joint-villages, with their *pangu-malai*, or share lists, and, in the Tondai territory, their special privileges, on any other basis. The chief if not only dissentient voice is that of Sir T. Munro in his Minute of December 1824 (*Mirāsi Papers*, p. 480). But this illustrates what I have elsewhere had occasion to observe, that the Minutes of our great Administrators are not always to be appealed to for points of history and details of tenure. Sir T. Munro's main object was to argue for the practical adoption of a *rāiyatwārī* Settlement and for a great reduction of revenue; that would make the country flourish and save it from middlemen. This important principle, to the adoption of which Madras owes all its subsequent prosperity, seems obvious enough now; but in those days it needed all the advocacy of a powerful personality to obtain consideration for it. But with this one object in view, Sir T. Munro had no concern with tenure details. He frankly says he does not care to inquire about the alleged *mirāsi* villages. Had he stopped there, and pointed out that in their then existing condition the surviving right, such as it was, could easily be provided for under his system, and that its past history had no practical bearing on his proposals, it would have been well. Unfortunately, the distinguished writer endeavoured to add a brief criticism, which, it must be admitted, was without sufficient foundation. He says that the existence of the joint-village is 'without the least proof' and is only Mr. Ellis's opinion. This certainly is not the case. He then briefly adds that if such colonists settled (to the number of fifty or sixty thousand) it would have depopulated the country whence they came; and that they would have perished before the task of clearing the jungle was accomplished. But Mr. Ellis expressly shows that the Tuluvā country was well able to support sending out a colony (see *Mirāsi Papers*, p. 249), of which of course the numbers may have been exaggerated. And, as to the likelihood of their perishing in the attempt, since the country certainly was somehow colonised, and that, unquestionably, at no recent period, the objection has no weight: colonisation was just as possible in, say, the eighth century as it was at any subsequent but still ancient date. In fact, the whole argument—as far as it appears in the Minute—would not need to be seriously noticed at all if it were not for the great name it bears.

SECTION II.—TRACES OF OVER-LORD RIGHT IN THE DAKHAN VILLAGES

When we turn to the Dakhan districts of the Bombay Presidency, the traces of co-sharing right, also called *mirāsi*,¹ are more doubtful; or rather, I should say, it is more doubtful what interpretation we should put on the evidence. That a distinct class of superior holders once locally existed there can be little doubt; that share-lists, showing how the families allotted the lands, were actually obtained by Colonel Sykes is also clear; but to what extent this superior tenure of whole villages prevailed, or whether in some cases the traditional evidence does not rather relate to shares in the headman's privileged special landholding (or *watan*), there is some room for question.² On the whole I think it is more probable that these villages were subject to a local but really widespread over-lordship, which is by no means impossible to account for. It will be observed that in no case is there any suggestion of any common-holding of village lands. The families whose shares (*thal*) are spoken of may, or may not, be descended from common ancestors. Colonel Sykes notes particularly that the major shares were called by the names of the founders—men of 'ancient Marāthā families.' We have no sufficient evidence as to who they were. Very probably they may be traced to the earlier Aryan or semi-Aryan clans, long before the name 'Marāthā' was in use—though at a date when

¹ It will be remarked that the term *mirāsi* was derived from the early Moslem revenue systems which originated in the Muhammadan kingdoms of the Dakhan and thence become generally current. Malik 'Ambar, the famous minister who made the Revenue Settlement of these parts, was always anxious to resuscitate, if he could, the *mirāsi* families and make village Settlements with them. See *Berar Gazetteer*, p. 90, and G. W. Forrest's Minutes of M. Elphinstone (Captain Brigg's Report), p. 385.

² There is in the Reports something of the same confusion already noted in Madras; for the terms *watan*, *watandar*, which apply to the headman's and village-officers' privileged holdings, are sometimes applied to the *proprietary* shares in the village; at any rate, it is not certain which is meant. Hereditary holdings of headmen and officers are common in, and even characteristic of, *raiyatwāri* villages; so that their existence is no proof at all of any joint-tenure of the whole village as a unit estate.



the Hindu co-sharing family institutions were already developed. Buddhism, we know, from architectural remains, had obtained a hold in the country, but was afterwards supplanted by the later Brahmanic institutions. The early 'Marāthās' disappear from history and only emerge with the revival under Sivājī in the seventeenth century.¹

Whenever the process of destruction of these early village over-lordships began, and whether it was chiefly due to Moslem victories or was before that period, these ruling families were defeated and deprived of their estates, except in so far as some of the descendants may have clung to villages here and there or to shares in such villages. Under the rule of a new conqueror, a change naturally begins: the lands still belonging to certain branches of the landlord families cannot bear up against the heavy assessment that is imposed; the families, already weakened and dispersed by defeats, having lost prestige and also had many members slain in battle, gradually disappear. The local governor, without much care for anything but immediate profit, puts in some *upari*—i.e. non-proprietary cultivators—to till the vacant lands, and they in time become permanent holders with prescriptive rights. In any case, as time goes on, the few remaining *mirās-dār*, or co-sharers, and the cultivating *uparis*, become reduced to the same level, and both appear as mere *rai-yats* occupying lands the superior ownership of which has become claimed by the ruler.

I think this view will be generally confirmed by the evidence which is derived partly from the inquiries directed by the Hon. Mountstuart Elphinstone previous to his well-known Report of

¹ The Dakhan districts, covered with hills, afford the greatest facility for building forts and strongholds from which the early chieftains and noble families would dominate the villages in the 'tal,' or level country below. The old over-lord families were sure to have been non-agriculturists, and when their forts fell before their enemies they would lose their hold on the village lands to a great extent. In this respect they would be unlike the village bodies of Upper India, who, holding strong posts in the centre of their village lands, and being in close managing connection with the land and themselves agriculturists, were able to defend them and to secure their possession. I may refer to p. 111, *ante*, where some account is given of early Aryan contact with the west of India.

1819 on the 'Territories acquired from the Peshwā.'¹ These inquiries were made at a time when real historical investigations into tenures were not understood, and they naturally leave much to be desired. A further inquiry was made by Colonel Sykes; and his papers on 'Dakhan Tenures' are to be found in vols. ii. and iii. of the *Journal* of the Royal Asiatic Society. The then well-remembered distinction between *mirāsi* holders and *upari* holders, which is held to mark the existence of co-sharing families over the villages, did not extend to Khāndesh, nor to the South Marāthā country; but it was found in the Dakhan Collectorates of Ahmadnagar, Pūnā, and Dhārvār. Here, too, it was noticed that many lands not in possession of *mirāsdārs* were popularly known as *gat-kul*, which implied that the landlord family (*kulā*) was 'gone' or destroyed (*gatā*). Colonel Sykes found that in many villages lists of shares still existed. And there is some reason to suppose that the larger share was called *thal*, while the minor or individual share was *tikā*.² Colonel Sykes's papers are well worth reading, but it has to be remembered that the author was not familiar with the joint-village, as found elsewhere; there is nothing strange, for example, in the lands of one family branch or *thal* lying scattered about, as the result of some family partition. And our author sometimes confuses the *haq* and the *watan* holdings of headmen and village officers with the shares in the hereditary

¹ This is printed in Mr. G. W. Forrest's *Official Writings of Mount-stuart Elphinstone* (London: R. Bentley, 1884). Unfortunately, the whole of the Reports of Chaplin, Robertson, Thackeray, and others are not reproduced, but only those portions which Elphinstone attached to his official Minute.

² These words are, nevertheless, rather puzzling, perhaps, owing to faulty record of the real word. *Thal* means the 'ground,' 'soil,' and 'place' in general; *tal* means 'level.' The correct word I cannot ascertain. *Talkari* may mean a person holding land in the level plain as opposed to *gaḍhkari*, a person employed in the forts, or *gaḍh*, which crowned the hills in the high land of the Dakhan and were doubtless the head-quarters of the chiefs of the clans which dominated the villages. *Tikā* (or *thikā*?) again suggests either a spot, a blotch, or patch, or, if the second form is correct, a lease or farm; but the latter is less likely, for farming the revenue of villages could not have been in use in early days. Captain Robertson thought *thal* was used in the sense of a 'field.' (Forrest's *Elphinstone's Minutes*, p. 379.)



estate of village proprietors. Lastly, he is much too ready to infer the general existence in the Dakhan districts of the *thal* system, where no trace of it was actually found. It can justly be inferred to have existed only where it *also* appears that there is at least the memory of *mirāsi* holdings in the village.

Each *thal*, it is interesting to observe, just like the *patti* of Northern India of which it is the counterpart, bears, as I have said, the name of the head of the branch to which it belonged. As the early volumes of the Royal Asiatic Society's *Journal* are not readily accessible, I will make one or two characteristic quotations:—

At Nimbi, in the Nagar (Ahmadnagar) Collectorate (writes Colonel Sykes), there were twenty-three *thal*, of which eighteen were *gatkul*; at Kothal, nine *thal* and five *gatkul*. In the first case eighteen families out of twenty-three are extinct, and in the second, five out of nine. . . . At the village of Belwandi (*pargana* Kardē, Ahmadnagar district), there was not a single representative of an ancient family remaining in A.D. 1827, the whole of the lands were *gatkul*. There were nevertheless some half dozen *mirāsdārs* who had purchased their lands from the Pātel six or seven and twenty years back.¹ The Kulkarni even denied the existence of *thals*; but, one of the *mirāsdārs* having told me that he had his land on the *thal* of an extinct family, I urged their existence so strenuously that a *thaljārā*, or list of the estates into which the village lands are divided, was at last reluctantly produced, an old worn paper dated Saka 1698=A.D. 1777. In this list I find the *thals* minutely detailed, together with their possessors, the number of names of *mirāsdārs* who had purchased *mirās* rights from the village authorities on the *thals* that had become *gatkul*, and, finally, the names of the different *uparis* (tenants-at-will) renting land on the *thals*. In 1827 there was not a single person alive a descendant from the possessors of *thals* or *mirās* rights in 1777; it would appear that in Holkār's inroad into the Dakhan in 1802, war, famine, pestilence, or flight had depopulated the village; that the few people that returned died subse-

¹ *Journal R. A. S.* ii. (1835), 209 ff. It will be remembered that in later Marāthā times the Pātels were made responsible for the revenue of their village; and it was their duty to provide for the cultivation of abandoned holdings; and they would assume to sell the *mirāsi* right occasionally, either for their own profit or as an inducement to cultivators to take lands and to remain permanently.



quently, and that in consequence there was not an ancient 'heritor' remaining. The lands of Bāghroza (one of the constituent villages of Ahmadnagar) are divided into *thals*, each having a family name with descendants of the original proprietors in possession of many of them. It might have been supposed that the Mussulmāns would have dispossessed the Hindus;¹ but with the exception of one *thal* which from time immemorial² had been in the possession of the descendants of Husain Khān, whose name it bears, there is not a Mussulmān name to any of the *thals*.

An instance is afterwards given of a 'town' Wamori (or Wambori, in the Ahmadnagar district) in which *thals* do not exist by that name, but there is a list found called *Jamīn-jārā-jathāwār* = list of lands according to families (*jathā* means 'company,' hence family), and there were thirty-four families. The individual holders were members of these families, holding the land divided into *tikā*; the family lots were apparently not contiguous. In this instance, however, we have a case of the superior ownership being recently assumed by a family of some pretensions; for it was known that Wamori had been devastated by Bhils, and that the inhabitants fled and the lands lay waste till some of the hereditary village officers returned and took possession of what lands they pleased. The Patārā family holding the *pātelship* (there were then five *pātels*) had annexed no less than thirty thousand acres between them; and the family of the *kulkarnī* (accountant) had also taken possession of a large number of *tikā*.

Colonel Sykes thinks that the *thal* system could be traced in three-fourths of the villages in the Ahmadnagar and Pūnā

¹ This, however, would not be likely; the Nizām Shāhi kings (in this part) took the rule only and could not have furnished foreigners sufficient to dispossess any considerable number of land-holders. Moreover, it appears to have been their policy to preserve the old land-holders and superior families, regarding them as the best guarantee for a permanent revenue.

² This is an exaggeration, for the dates of the conquest, and of any possible Mussulmān proprietor, are perfectly well known. Probably the share was acquired between the fourteenth and sixteenth centuries; but here we have the original process repeated; a Mussulmān locally replaces as *over-lord* an earlier Hindu whose ancestor may have been lord of the whole village or more, and who probably gained his position by similar conquest in the first instance.



districts. It is curious that, though the superior tenures were, as so often observed, originally free or at least privileged holdings, they afterwards (in Moslem and Marāthā times) were made to pay at a rate which was higher than that of ordinary occupants, and was distinguished by the term *swastidhārā*.¹ And, characteristically, the Marāthās, not liking to openly surcharge this, levied once in three years an *extra cess*, which they called *mirās-patti*, a special tax on the privilege of superior tenure! Under such circumstances it is no wonder that in the course of time the distinction between *swastī* land and other, or between the representative *mirāsi* occupant and the *upari* or tenant, soon became a matter of memories and names only. It owed such partial preservation as it actually had to the feeling of attachment to hereditary lands and to pride of superior origin. The *mirāsdār* as such would be able to marry his daughters, and secure social advantages that would be denied to the *upari*, however wealthy. Nor is it surprising that the Moslem and Marāthā Governments respected at least the title to *mirāsi* lands; this was partly because they had a natural fellow-feeling with the higher families, partly that they themselves felt that customary respect for hereditary land which was never altogether extinct,² partly also because such lands could be made to pay more than the others. Ordinary tenants not attached by hereditary sentiment to any particular village will not be induced to cultivate unless tempted by terms that on the whole are advantageous.³

¹ Corruptly, *sosthi* or *susthi*; the word means 'well-being'—i.e. a rate (*dhārā*) proper for land held on privileged or superior tenure.

² The *private* lands of the governing classes themselves would necessarily be held on an analogous if not identical tenure; this also might make them have some respect for the *mirāsi* holding in general.

³ This opportunity may be taken to mention that, besides these traces of the tenure of co-sharing landlord families over villages, there were, in a few villages, locally surviving divisions of an older nature, as indicated by the purely Dravidian terms used. The lands were divided into larger areas called *muṇḍ*, and smaller ones called *kās*. The writer of the *Ahmadnagar Gazetteer* (*Bombay Gazetteer*, xvii. referring to xiii. p. 550), justly points out that the division had nothing to do with co-sharing families in superior possession; for where these existed they were of Aryan origin and had the Sanskrit names of *thal*, *tikā*, &c. Nor do



SECTION III.—MODERN (OR EXISTING) CASES OF THE JUNTAPOSITION OF THE TWO TYPES OF VILLAGE

(1) *The Gujarāt Districts of Bombay*

We have just seen that in the Dakhan districts, whatever groups of landlord families holding villages in shares once existed, they have died out. In one or two of the GUJARĀT districts we find a number of 'shared' (i.e. jointly held) villages still surviving, but having a different and much later origin; and they are found side by side with the ordinary *raiyyatwāri* village. We shall find them, in fact, held by families of Bohrā (or Voharā), and by families of the enterprising agricultural caste called Kunbī. In both cases the co-sharing tenure is due to the families having originally taken the management, as revenue-farmers, or in some analogous capacity; and now their descendants have sub-divided the villages into many shares, and have long held the whole as virtual owners. That many more villages had formerly come under the same kind of 'ownership' there can be no doubt, but they did not survive the Marāthā rule. In fact, it is largely due to the fact that the Nawābs of Bharoch encouraged such villages that they survive as much as they do.

Before describing these tenures it will be well very rapidly to review the position of the GUJARĀT country as a whole; for it

they indicate any Marāthā method of revenue-management; though doubtless the revenue officers, finding these old divisions of fields still remembered, made use of them to impose lump sums of revenue on the whole, making the cultivators distribute the amount among themselves. Thus the idea arose—which is quite without any foundation—that those few villages where the *muṇḍ* areas were known had some resemblance to the North Indian *zamindāri* or *pattidāri* villages. The terms *muṇḍ* (cf. *muḍā*, *muṛka*, &c.), and *kās* indicate larger or smaller areas or lots as measured by the quantity of seed required to sow them. This was a very ancient mode of estimating area, still traceable in Kānara and other Dravidian districts. The word is also found in Berār (*Berār Gazetteer*, p. 98), where it is used (*muṇḍkarī*) to mean an old original cultivator of a holding. It is quite possible that these terms may connect the present with the old form of Dravidian village, and indicate the establishment of different lots or holdings for the headman, the *māhato*, the priest, &c. (Cf. p. 179, *ante*.)



illustrates well how these joint or shared ownerships of villages (where we have nothing to do with clan movements and the foundation of villages in a new territory) always originate in some dismembered territorial over-lordship, or in some position of vantage gained by a revenue-farm, or grant of the revenue-management of a village.

In the Dakhan districts, the early and probably only half-Aryan chiefs who once dominated the country disappeared, as I have stated. In the richer GUJARĀT districts, a much larger and longer continued series of local chiefships attract our attention. For the earlier centuries we have no detailed knowledge; but there is every reason to believe that besides early Aryans coming from the Indus Valley, and probably other Northern leaders also, Greek Princes (connected with the name of Menander) had the rule; and at one time Asokā, the Buddhist Emperor of Magadhā, extended at least his suzerainty thus far. But at some date long subsequent to the establishment of the Aryan clans in the Ganges plain, and when the Rājput chiefs had spread into Rājputāna and Mālwa, we begin to have historic glimpses of powerful Rājput dynasties, still strictly localised. They were of the later Aryan type, either Buddhist, Jain, or Brahmanic, being of the *Agnikulā*, or 'Fire-born' houses, the *Chāwārā* (locally *Chāvaḍa*) of Anhilwārā, the *Solankhai*, and later *Bāghelā* princes. In the fourteenth century the 'Hindu' rule came to an end, and there succeeded a series of Moslem Sultāns, the results of the early conquests subsequent to Mahmūd of Ghazni. Their rule lasted some 165 years, till Akbar conquered the country in A.D. 1572. A number of local 'estates' or lordships, the remnants of the old chiefs' dominions, were the natural result.¹ With these we are not now concerned. But it is hardly wonderful that under such a varied series of rulers, all desirous of making the best revenue possible, and rewarding their followers, there should be occasional examples of petty lordships over villages: such were the tenures enjoyed by persons called *nāik*, *gāmeti*, *mālik*, *kasbāti*, &c.

The class of village under Bohrā or Kunbi families, which is

¹ There is a particularly good account of Gujarāt in the *Asiatic Quarterly Review* by the late Mr. W. G. Pedder. I think it was in 1889. I have a copy of the article, but, unfortunately, not the reference.



what we have immediately under our consideration, arose out of revenue-farming arrangements. When the time came at which the old fashion of collecting the revenue in grain proved too troublesome, the natural resource was to fix a lump sum in demand from the whole village, whether at a full estimate or at some moderated sum (*udhad-jama*). This was especially the Marāthā system; and the local officials looked about for some village manager to be responsible for the total sum; he in his turn being entitled to take grain or cash (or both) from the villagers, as he best could, to recoup himself. When there was any local chief or *gamēti*, or *kasbāti*, of course he was the person who managed the village. When it was an ordinary *raiyyatwāri* village, either the *pātel* (indigenous) headman might be employed, or some outsider put in. It was merely a question of opportunity and circumstances whether such a revenue-manager grew into being virtual owner of the village, in which case the family would divide the property into shares. In the cases before us—chiefly in the districts of Broach (Bharoch) and Kairā (Khedā)—the revenue-managers had contrived to retain their villages, and had handed them on to their descendants as their own property.

In principle, these estates are joint-villages like those of Upper India. As late as 1827 such villages were more numerous than they are now.¹ Two kinds are now in survival: one is called *bhāgdārī*, or 'held on shares'; and the shares are (in origin at any rate) the ancestral fractions of the law of inheritance, and, in fact, correspond to the *pattidārī* tenure of Upper India. In the Kairā district the prevalent form is the *narwādārī*, which has a somewhat different constitution, and in Upper India would be called a form of *bhaiāchārā* tenure—i.e. fractional shares resulting from the law of inheritance were not observed, but a scheme distri-

¹ The example of a *raiyyatwāri* Settlement all round, and the fact that the revenue officers assessed (in general, for there was some difference in detail) every field and holding, would give a great impulse to the co-sharers already holding in severalty to adopt the survey-rate on their holding, instead of their own fractional shares or other customary modes of levy; and if they consented to give up any waste numbers not in cultivation, they would become practically *raiyyatwāri*. The only drawback was a certain loss of dignity by giving up the 'shared' tenure.



buting the charges for revenue and expenses was made out according to the value and advantages of the several holdings. The word *narwā* itself means a schedule or scheme of rateable or proportionate payments assigned to each sharer. And the shares or holdings were valued by reference to the *urd-bhāgwāri*, which I understand to be certain artificial land-measures adopted for the valuation of the different shares relatively, like the *bhaiāchārā-bighā* of Northern India.

In Bharoch the co-sharing holders (*bhāgdār*) have, I understand, become much mixed as to family and caste. But the prevailing caste of proprietors seems still to be the peasant or agricultural section of the Muhammadan Bohrā or Voharā.¹ These families appear to have acquired a hold over a number of villages at a date which is uncertain, but cannot be many generations ago. They got their footing as revenue farmers, or by the familiar process of lending money, or becoming sureties for village revenue payments; this naturally ends by transferring the land to the surety. In 1818 as many as eighty-four villages were found to be held by Bohrā families, who had undertaken the joint responsibility for the revenue, and accordingly had divided both the land and the responsibility into family shares.

The Kairā villages, again, are mostly held by Kunbi communities; the precise origin has not, as far as I know, been traced; but it seems likely that these enterprising agricultural castemen undertook, on the acknowledgment of a permanent lease or other superior tenure, to be responsible for the revenue, possibly restoring the villages after some calamity had for a time thrown them out of cultivation. They have kept together better than the Bohrā communities, probably because the *narwā* system tended better to prevent the disruption of the community, and secured mutual co-operation and support in meeting the revenue demand.²

¹ I cannot find proof of the correct spelling. In the local dialect the *w* is usually pronounced as *v*: hence *narvā*, *vāntā*, &c. (*narwā*, *wāntā*, &c.), and so with *b* and *v*.

² It is to be wished that we had a more definite detail about the *classes* or castes actually holding shares, and about the people's own traditions of origin and history. There is a valuable Report on these tenures, by the late Mr. W. Pedder, C.S.I., in the *Bombay Revenue*



The difference between the *narwā* and *bhāgdāri* villages is usually treated, by the Bombay writers, as a question of the form of assessment; in the *narwā* village, it is said, the revenue was, at first at any rate, assessed in the lump for the whole village, according to former custom, and the people prepared the distribution list according to which the co-sharers arranged to pay the total amount.¹ In the *Bhāg* villages, on the other hand, every share-land or family holding, being separate, was separately assessed; and the fields held by tenants were valued at the usual survey-rates. The revenue on the tenant lands was paid accordingly; but the rest was added up together, and the total distributed among the co-sharers, according to their own fractional shares. I cannot believe that this is the real tenure distinction; the different mode of assessing must surely have been the consequence, not the cause, of a difference which already existed, and which I have attempted to describe. It will be well to examine a little more in detail the features of each class of village, as it may show that here, in fact, we have the same varieties as naturally occur in joint villages elsewhere. In both cases the origin was, as I have stated, in an arrangement made by individuals of sufficient influence who undertook the responsibility for the revenue-assessment of the whole

Selections, one of those monographs which ought to be reprinted, with notes and explanations added, by some intelligent inquirer of the present time. Some good remarks are to be found in Mr. A. Rogers's Paper on Bombay Tenures in the *Journal of the East India Association*, and in the *Bombay Gazetteer*, iii. 88 (Kairā); for the Broach (Bharoch) district, ii. 377, 483; and for some remains (in Daskrōi) of Ahmadābād shared villages, see iv. 156.

¹ None of the reports give any detail as to how a *narwādāri* holding is actually made up; I have no doubt it is of various proportions of each kind of soil; and that the customary valuation is effected by some artificial standard-lot (which is the system called *bhaiāchārā* in North India), and it was worked also with the annual or periodic readjustment of burdens known in the North as *bhejbarār*; both features are certainly implied by Mr. Pedder's Report. It seems to me probable that our first Settlement officers, finding this apparently complicated method, thought it better not to try and assess the *holdings* separately, and so assessed the whole of the *narwā* lands *en bloc*. I can only offer that as my suggestion. It is a fact that the *narwā* lands were assessed in the lump, and the *bhāgdāri* field by field.



village. Thus, as regards the Kairā villages, we are told:¹ 'Under this, the *narwā* system, the headman's responsibility was divided among the members of his family. In such cases, the different branches of the family were traced back to their common ancestor, and the village divided into as many *bhāg*, or primary divisions, as that ancestor had sons. Each share was made over to the representatives of one son, and they divided it into as many lots as there were men (heads of households) in their branch. The head of each branch was called *bhāgdār*, or *pātel*. He acted for the other shareholders, but interfered in no way with the management of their shares.' The families—and sometimes there was only one to a whole branch, would either till their own lands or let out the fields to tenants. Shares were sometimes sold,² and outsiders thus brought in. The peculiar *narwā* feature was this: 'Every year the Government demand (*ānkdo*) was divided equally among all the branches, and in every branch each shareholder had a lot, called *phālā*, assigned to him. If he failed to pay, he forfeited his right to the land, and the other sharers might force him to give it up.'³ But this was not always insisted on, for the others also might fail to pay, or the *parela*, or lapsed shares, might have to be managed direct by the State officer.

The shares were expressed in *ānus* (fractions of a rupee) on an artificial scale. Thus, in a village called Sandesar, in Pitlād, there were seven branches, and the revenue demand was Rs. 7,854. The whole village was treated as = 84 *ānus*, of which 12 were assigned to each of the seven *bhāg*. There were 403½ *bighās* held undivided, and the income of this, Rs. 294, was first devoted to the revenue payment, leaving Rs. 7,560 to be met by the remaining lots held in severalty and covering

¹ *Bombay Gazetteer* (Kairā), p. 88 ff.

² The complicated and readjustable *narwā* share would be less easy to sell than the fixed, demarcated, fractional share of the *bhāgdārī* village; perhaps this was the reason why the latter villages have become more miscellaneously held (p. 389, *ante*).

³ This is noteworthy, as confirming what I said about the Madras Vellalar (p. 377, *ante*). Such a power does not exist in the *pattidārī* communities descended from an 'aristocratic' ancestor in Upper India. It shows a voluntary association for colonising or revenue managing.



1,505 *bīghās*. Each *āna* thus corresponded to a holding of 17 *bīghās* and a fraction ($17.9 \times 84 = 1,504$ nearly).¹ As there remained Rs. 7,560 to be paid on 1,505 *bīghās*, that gave Rs. 90 for each *āna* share ($90 \times 84 = 7,560$). The *majmūn*, or common land, was managed for the community by the headmen. On the whole, the *narwā* village evidently much resembles the democratic *bhaiāchārā* community of Northern India.

In the *bhāgdārī* village the method is somewhat different, and approximates to the ancestral fractional-share system, or *pattidārī*, of the North-West Provinces. In the example selected by the writer of the notice in the *Bombay Gazetteer*, the village has a total area of 2,500 acres, of which 1,800 are held divided and 700 held jointly. Now in Bharoch there might be three 'ancestors,' or representatives of three major shares of four *ānas* each, leaving the undivided land as a kind of fourth share to represent the remaining four *ānas* of the unit rupee. This, it is true, would not be the case with an 'imperfect *pattidārī*' village of Upper India, held on fractional shares in descent from an original founder. In such a village, if there were only three *pattī*, each could represent one-third of the whole ($5\frac{1}{3}$ *āna*), and each would be liable for the same fraction of the revenue, and would take the same fraction of the undivided land when it came to be partitioned, and meanwhile each would have one-third of the rents and profits.²

But in the Bharoch example, each of the three sharers holds 600 acres as a four-*āna* share, and 700 acres are in common ($3 \times 600 + 700 = 2,500$). The total revenue is assumed to be Rs. 10,000, of which Rs. 4,000 come from the manorial dues and income of the common land, leaving Rs. 6,000 to be met by the three sharers. Each of the three *bhāgs* would thus have to find Rs. 2,000, which would again be distributed in regular fractions among the sub-sharers; thus, two '*pātīdārs*' (secondary sharers) of the first *bhāg*, would pay Rs. 1,000 each; or, if they were further subdivided, say into eight minor shares, each of

¹ See p. 389, as to the different soils in each holding; and the note at p. 385, *ante*.

² In practice, the rents and profits of the common would probably be first taken to meet the revenue demand, and it would be the balance that would be met (one-third by each) by the main shares.



these would find Rs. 125 and so on.¹ In prosperous times the common land would be held by tenants, and so managed as perhaps to cover the whole or a large part of the revenue demand; but under the Marāthās an assessment would be laid on every separate portion, and the village total would be raised accordingly; and I expect that the arrangement noted above, of treating the tenant land or 'common' as a sort of separate share, arose out of this necessity.

The villages all keep their list of the shares and sub-shares, which is called *phalārni*. The major share is here locally called *motābhāg*, and the minor share *petābhāg*. Each family share is *pāti*, and the holder of it *pātidār*. This is the usual division of the estate according to the degrees of the original family—sons, grandsons, and great-grandsons of the founder.

The people, Mr. Pedder notices, are unwilling to give up the status of co-sharer, because they would lose 'abru,' or dignity; they can marry their daughters much better with this claim to superiority. On the other hand, the convenience of the *raiyaṭwāri* method, surrendering the ownership of unused waste to Government, and having to pay just the fixed assessment on the particular field, must in time tempt them to abandon the original form.² It is curious how few villages, comparatively, became definitely constituted like the *narwādāri* and *bhāgdāri*. In North India, under similar revenue-farming arrangements, and under the forced sales and similar transfers which they occasion, revenue farmers and purchasers at auction have become the proprietors of a respectable percentage of the total number of village-communities in the North-West Provinces. But the Marāthā administration was never favourable to these growths. Though there were farmers in abundance, they were too strictly looked after, and not allowed to continue long enough, to become

¹ It would often happen that one of the *bhāg* would have part of its land undivided among its own members (*majmūn-bhāg*), then they would meet their 2,000 rupee share just in the same way, as above stated for the whole village; they would first apply the proceeds of the common land to the payment, and then provide the balance according to their shares.

² The people call the *raiyaṭwāri* villages *sanjā* (in Gujarāt *sejā*), which means 'joint,' or not shared; not because there is or ever has been any joint-holding, but because there are no *bhāg*, *pāti*, &c., but all are on the same footing of equality.

proprieters; and the same is true of the village officers, who in later times presumed greatly on their powers, and in some cases acquired very large holdings,¹ by forced sales and mortgages in their village.

(2) *The Bikaner State.*

We have another instance yet to notice, in conclusion, of a Native State in which both kinds of village exist side by side. I do not doubt that many other cases could be found; but it is only under favourable conditions that they come to notice and get recorded. If the general land system of a province happens to be based on the prevalence of one form or the other, the tendency must be for any other forms that may exist naturally, to assimilate to the one contemplated by the system. In the provinces of Northern India where *raiyaṭwāri* villages existed of old, as no doubt they did, before the landlord villages grew up and Jat and other invaders established themselves, it is quite likely that some at least would remain without falling under any landlord class; and yet in the present day no distinction would possibly survive after our surveys and records, which are prepared to suit the joint form.² So in Madras, the general system being *raiyaṭwāri*, the tendency for the local, and already decaying, *mirāsi* or joint-villages to become merged in the prevalent form proved irresistible.

The circumstances of the State of Bikaner have made it possible for both kinds of village to survive together. Bikaner is situate in the northern corner of Rājputāna, in a sandy plain which stretches north and north-west of the Arāvālī mountains. It is possessed of a generally poor soil and is thinly populated,

¹ For example, in the case of the Wamori Pātel above alluded to. See also a curious account in *Bombay Gazetteer*, iv. 485 (referring to Forbes's *Oriental Memoirs*, ii. 419). The District Accountant (*majmūdār*, or *despāndyā* of other parts), named Lallubhai, attained to such pretensions in the Bharoch district as to go about 'with mace-bearers running before him proclaiming idle titles.' This was in 1776. Had this happened under more favourable circumstances, or in Bengal, he would have ended by becoming a great 'Zamindār.' Unfortunately, under the Marāṭhās, an end was put to his career by a revenue-farm which he was tempted to bid up for against a rival. He got it, but on terms that proved his ruin.

² *Ante*, p. 344.



so that the villages are more easy to observe and to classify. About the latter half of the fifteenth century, a clan of Rājputs (of the Rāhtor stock) established a dominion and divided the territory into a *khālsa* demesne for the Rājā and into chiefships held (on the usual *pattā* or quasi-feudal tenure) by the Thākur or 'barons.'¹ In the *khālsa* area we find two kinds of village—those established in independence, before the Rāhtor dominion, by Jāts,² and villages established since the dominion and mostly within the last century or so. It is probable, says Mr. Fagan, that originally neither the Rāhtor Rājā nor his fiefholders claimed any definite ownership in the soil; but they held the over-lordship as rulers, each realising the grain-share in his own territory. Mr. Fagan goes on to remark that, though primogeniture has to some extent secured the chief's 'estates' from partition, still the issue of grants of villages and maintenance provision for members of the family (which assign the chief's grain-share and the right of cultivating the waste), have virtually created a number of petty estates, in which there is a distinct tendency for the grantee to draw closer to the land and to become the direct owner or village landlord.

In the Rājā's demesne, the chief's connection with the land could not, in the nature of things, be as close as that of a resident landlord; and, consequently, the Rājā collects his revenue and exercises his right of disposing of the waste, without directly influencing the tenure of the land in general.

The Jāt villages, in the absence of any other dominion at the time, established an independent position, and are held in joint ownership by co-sharing bodies—representatives of the original 'founders.' In the Thākur's estates above mentioned, this position has now been overborne by the Thākur's assertion of the superior landlordship; but the original right is still so far recognised as to give a claim to hold permanently and on an hereditary title. It is chiefly in the Rājā's demesne that the joint-village is more distinctly in evidence; but side by side with

¹ *Report on the Settlement of the Khalsa Villages of the Bikaner State*, 1898, by P. J. Fagan, C.S. (Panjab Government).

² *S. E.* iii. § 19. Here the name is Jāt. It will be observed that the Rājputs furnished only the ruling house and its army. Had they been more numerous, they might have formed co-sharing villages, as elsewhere.

the Jāt villages, all the other villages are groups of independent cultivating holders who have settled together under a headman (or *caudhrī*), who was their spokesman in applying for leave to establish cultivation. Here, as in the South-eastern Panjāb, the people commenced the village by driving in a stake or pole on the site of the *ābādī*.¹ Sometimes permission was not formally asked, but as soon as the new village became known the Rājā's officer would go to the spot and settle terms. In the village itself (land being in this case abundant and irrigation from the *johar* or tank being well-nigh indispensable) there was no formal allotment of holdings; each settler took what he could manage. 'There was no partition,' says Mr. Fagan, 'of the whole or part of a definite area by virtue of a joint-landlord claim over it.' Where population is scanty and the area wide, no objection is made to anyone extending his fields into the adjacent waste, or even to new-comers doing the like. But in the more thickly populated parts of the Eastern Tahsils, only the original settlers can so extend their holdings; new-comers (called here, as often elsewhere, *sukhbāsi*) must get the headman's permission to cultivate. The *caudhrī* acts in this respect, not as landlord, but as representative of the State. Mr. Fagan particularly notes that the *caudhrī* has no superior position as claiming general ownership over the village. Nor were the oldest settlers or 'first clearers' owners of the whole area jointly; their position is only marked by exemption from certain local fees, or taxes on marriages, or on weighing of grain, and by their having greater freedom in taking up additional waste to extend their holdings. The actual boundaries of each village, and the jurisdiction of the *caudhrī*, became settled in time by practice, and by the definition which results from contact with the areas of neighbouring villages.

It does not appear whether the Jāt joint-villages are in the *pattidārī* form, or whether (as is more likely) they are in the form of the clan-villages settled on some form of *bhāiāchārā* tenure. It is true that the *raiṇyatwāri* villages are not of ancient origin; but many joint communities in other parts are

¹ In the Panjāb, it will be observed, owing to the system, such villages are classed as 'joint-villages' and are so treated; in Bikaner they appear in their natural *raiṇyatwāri* form.



no older, and there must surely be a real difference in the custom and constitution of the Jāt clans who preceded them. The co-sharing among the latter was due to their sense of superior position, either as descendants from individual founders, or as members of a clan obtaining a new home as a matter of conquest or adventure, and bringing with them this characteristic of clan feeling. The other settlers have no such pretensions; they assert merely a right to their own holdings in virtue of the first clearing and establishment of tillage which they have accomplished. This is not a decay of the former feeling, but one characteristically different.



CHAPTER X

GENERAL SUMMARY AND CONCLUSION

SECTION I.—IDEAS OF PROPERTY, COLLECTIVE AND INDIVIDUAL

THE numerous instances of village formation which have been collected from the Settlement Reports and similar authorities can hardly have failed to suggest the impossibility of disposing of 'the Indian Village Community' by referring the whole of the phenomena to some one theory or generalised view of the subject. But such a conviction does not preclude us from drawing certain general conclusions which appear to arise naturally from a comparative view of the various forms and kinds of village presented to our observation.

One of the first questions which the facts naturally suggest, is: seeing that the village is a group of *persons* as well as an aggregate of *land*-holdings, what kind of right or title was really acknowledged? or, in other words, what kind of connection is there between the *persons* and the *land* of a village? And this question involves the two subordinate inquiries—(1) how has any idea of ownership or right in land in India grown up? and (2) how have these rights been recognised—as residing in the individual, or father of the household, or in a body of wider kindred, or in a still larger body, such as a whole clan?

(1) *Early Ideas of Right in Land*

The sense of ownership in land, if we judge solely on the basis of what has occurred in India, seems to have arisen and progressed in a manner which is purely natural, and which does not, at any rate, need for its explanation an *a priori* assumption of 'collective ownership,' or holding 'in common.' If any evidence



exists of actual collective ownership, at any stage of the development of tenures, that is another matter ; but, in so far as it may be regarded in the light of a necessary postulate, it may be not out of place to remark that 'collective ownership,' as a very early phenomenon, is a hazardous thing to assume the existence of; the very name or term is one which it is difficult to employ without bringing in a number of ideas of a kind which, instinctively as they arise in our own minds, can hardly have existed in the minds of primitive or early tribal settlers. We have become so accustomed to a mental analysis of 'ownership,' and to say, at least in general terms, what it involves or in what it consists, that it is not easy to think of any right in land apart from such conceptions. When, for example, we think of the periodical exchange of holdings which is found among certain clan-settlers, and assert that this indicates 'common ownership' because (to use M. de Laveleye's words¹) 'le fonds continue à rester la propriété collective du clan, à qui il fait retour de temps en temps, afin qu'on puisse procéder à un nouveau partage,' this seems to imply that a precedent conception of what 'collective property' is existed in the minds of the clan, and that in consequence of such a conception the surrender of the holdings became required by custom. But it is impossible to suppose that any distinction of the kind was even vaguely understood: exchange was the custom because it gave every one an equal chance; not because the tribe realised the idea of a joint-property, which, in the juristic nature of things, was capable of being recalled and redistributed. Every tribesman knew that he had joined in conquering or seizing a territory, and that he would fight to keep his hold on it. He acknowledged that his chief's word was his law, and that the share allotted to him and his fellows must be observed. His sense of right to his own allotment would make him equally ready to fight for it; and if asked why? he would in all probability reply, because his clan had conquered it, his chief had allotted him 'his inheritance,' and he had cleared and ploughed up the land.

Putting aside the temptation to read modern juristic notions between the lines, it would seem that the right to land grows

¹ *Propriété Primitive*, &c. p. 5.



out of two ideas; one being that a special claim arises, to any object, or to a plot of land, by virtue of the labour and skill expended on making it useful or profitable; the other, that a claim arises from conquest or superior might. In a very early stage, a body of primitive settlers comes to a 'boundless' area of wooded or jungle-clad but fertile plain. As each household group laboriously clears and renders fit for cultivation a certain area, the father, or the united family, as the case may be, regards the plot as now connected with himself or themselves specially, in virtue of the labour expended on it. This claim is recognised by all, because every other member of the clan has the same feeling as regards the field he has cleared. The feeling of right is further developed when each holding is the result not merely of a random choice, but of some regular procedure of allotment by the clan chief.¹

If there are no other human beings to contest the ownership, although the clan occupies a more or less compact general territory, the sense of any wider or more general clan-right is not as keen as it afterwards becomes when other, very likely unfriendly, clans lie all round, and each has to maintain its own limits against aggression. The idea of clan-right to the territory as a whole—both the cleared holdings and the waste which is grazed over and from which wood is cut, must soon, in the natural course of events, become definite. Not only is there sure to be some clan collected together at the time of first settling,² but the families, naturally and by choice grouped together, must help each other a great deal in clearing the jungle, building the cottages, digging the tanks or wells, and in many similar works. Hence, even if there were no general sense of kindred, which long residence together has fostered, there would still be a certain sense of union. The right to the holding selected and cleared by the family is, however, naturally superior to the clan-territorial claim, being more definite: it is, in fact, dependent on the sentiment which originates the notion of

¹ The sentence of the Patriarch and the result of casting lots, are both of them in early times, vested with a semi-divine cogency or significance.

² I refer to the first general (Dravidian) movement, probably unopposed, to a permanent agricultural settlement.



'property' in general—that which a man has 'made' or rendered useful and profitable he has a special title to enjoy.

Professor Kovalevsky, in his interesting lectures on the development of the family,¹ has quoted the curious reflection of Rousseau: 'Le premier qui ayant enclos un terrain, s'avisait à dire "Ceci est à moi," et trouva des gens assez simples pour le croire, fut le vrai fondateur de la société civile. Que de crimes . . . n'eût point épargné au genre humain celui qui arrachant les pieux ou comblant le fossé eût crié à ses semblables: "Gardez-vous d'écouter cet imposteur; vous êtes perdus si vous oubliez que les fruits sont à tous, et que la terre n'est à personne."' The natural sense of the community unfortunately was that the person who did tear up the stakes of the fence or did fill up the ditch would be an enemy and a wrongdoer; everyone consented that the clearer of the waste had a real claim to the field he had made. The sentiment is observed among all tribes when they have made a permanent agricultural settlement; it was, in fact, Nature herself who prevented the early existence of the philosopher who should cry 'Beware of such a supposition,' though it arises instinctively.

The naturalness of such a feeling of appropriation is the more obvious because in early times there is nothing to prevent its action; there is no prior claim nor obstacle to the customary allotment by the clan chiefs: the wide expanse of virgin jungle is as free as the air or water. The modern Socialist asks as against the present possessor of a farm or a park, 'Although you have spent money in draining, planting, and, in fact, in creating the utility and value of the plot, what right had you to deal at all—for any permanent purpose—with that particular section of the surface of the national land?' He considers it an economic wrong that the growth of custom and law should have allowed a permanent individual appropriation. But, in truth, it is only the operation of an instinctive feeling of human nature. The early tribesman, under sanction of custom, appropriated his field, or his share of the tribal land, as he would appropriate a tree to make a canoe or a plough.

But very soon another factor comes into the question: when

¹ *Tableau des Origines et de l'Evolution de la Famille*, &c. (Stockholm, 1890), pp. 50, 51.

tribes multiply, and, moving east or west, come into conflict, and one is superior in energy and in power of combination to another; the possession of land no longer remains a matter of first appropriation in the absence of all other claims. Might becomes right; and conquest gives a new title. The title by 'first clearing' is overborne by the title by conquest, notwithstanding that the claim by first clearing will probably be acknowledged by the conquerors as among themselves. This claim by conquest and superiority the next generation will euphemise as the claim by 'inheritance.' It is curious to observe that a people so advanced as the Romans, and so apt to make that legal analysis of things which has influenced all subsequent views regarding ownership, not only conceived the idea of *res nullius*—i.e. crude material or potential property as yet unappropriated—but they boldly held that when war broke out the lands and property of an enemy reverted to a state of nature and once more became *res nullius*. The conquerors began over again the process of customary appropriation.

Out of this new growth—the right by conquest or 'inheritance'—some further factors in the making of land-tenures are sure to spring. In India, among early tribes like the Mongoloid and Kolarian (as far as we can trace their habits), the cohesion was extremely loose, and the idea of centralised rule quite wanting. This appears to have been gradually improved upon by the Dravidian races; but it is later conquering tribes like the Aryan, the Indo-Scythian, the Jat and the north-west frontier tribes, that had the best developed powers of combination and organisation. Hence we find ideas of the right of a whole clan to a certain territory, in which every member has his share or his equal interest; and we find families expanding into clans, and still keeping up something of this same notion.¹

But it is also a further phase of clan development, under the necessity for military discipline, and organised movement, that the patriarchal rule of chiefs gives way to a system of king

¹ In such a case the sense of individual appropriation exists side by side with the sense of the collective appropriation; and while each gets his separate share, the custom of periodical exchange of holdings is the expression of the *equal right* which results from the unity of the whole body.



and barons, or subordinate chiefs. And no sooner are these dignities acknowledged than there arise various kinds of territorial lordship, which may take the form of a kingdom, or local chiefship, or a sort of manorial holding of smaller portions of land. This right of lordship over an estate has nothing to do with the question of labour or expense incurred in clearing and cultivating the soil, but is an over-lordship, based on caste or family superiority, attained by conquest or otherwise; and it expresses itself by taking a share in the produce raised by tenants, dependents, or a pre-existing body of agricultural settlers. It is made tolerable to the now subordinated original settlers by the degree of protection which the over-lord, even in his own interest, affords to the villages from which he derives his revenue or income.

So far, then, we have the two natural and often concurrently active factors, the sense of right by 'occupation' and 'first clearing,' and the right by 'inheritance'—a term which we shall now understand without further comment, and which has already met us in so many forms as *mirāṣī*, *wirāṣat*, *wāriṣī*, &c.

It is hardly possible to avoid the suggestion that the main distinction between the *raiyatwāri* and the joint or landlord village (these terms being only provisional, and adopted for want of better) is in some way the outcome of these two principles. The former originated with early unopposed tribes, who, like the Dravidian had strong agricultural instincts and had passed out of the nomadic and pastoral stage: their struggle was more with the forces of Nature than with any human enemies, and their idea of right was that they were *bhūmihār*, the original soil-clearers and settlers. The latter originated with 'inheritors,' who acquired the lordship of existing villages, or founded new ones in the same sense of superiority. If, as in the case of the Jats, the clans were not only superior in conquest and adventure, but also addicted to agriculture, they would combine both feelings of right to their settlements.

Granted, however, such a natural foundation for 'ideas of ownership' in the abstract, it is a further question whether either kind of right is understood to attach itself to the individual, or to the family, or to the whole clan settled in one compact territory.



We can attempt to judge of this by the aid of the actual cases of clan-settlement, family-village, and separate-holding village which we have had before us.

(2) *Collective and Individual Ownership of Village Lands*

This last remark reminds us that some preliminary explanation is necessary to connect the question of the form of ownership with the existence of land-holdings in *village groups*. We remember, in the first place, that the village group does not in any case represent a fixed circle of kindred extending to any particular degree. We talk freely of a 'village community' as owning the land 'in common,' but it will at once strike us on reflection, that the formation of village groups of families is not necessarily connected with any idea of soil-ownership at all. In the case of some clan-settlements, we have seen that there may be a degree of unity maintained over the whole area, or at least over its major divisions, and that villages are quite a secondary, almost accidental, result of the fission of the area. In India, south of the Vindhyas, again, we see an almost universal *village* formation, but there is no claim, either joint or individual, to the ownership of the whole village;¹ there the village is a group formed of several families who settled, or are now resident, together, but whose contiguous holdings within the village boundary are independent, and always have been so, as far as any evidence goes. And where, in Northern India, the *village* as an area of land is also the essential feature, not a casual result of the fission of a clan-area), and where such a village is jointly owned, it is really that the 'village' is the limit of the original acquisition by a single person, and continues as the sphere of ownership of a possibly numerous but still singly descended close-kindred which has succeeded by joint inheritance to the right of the founder or originator.

In the first instance, no doubt, the aggregation of holdings in a 'village' of limited dimensions, and the establishment of a central (perhaps rudely fortified) place of residence, is, under the circumstances of most Indian provinces, a purely natural

¹ The cases in which such an ownership had probably at one time existed or still exists are so far exceptional as not to invalidate the statement in the text for present purposes.



condition under which permanent cultivation can best be established and maintained. There are districts where the nature of the ground or other conditions render any considerable aggregation either of fields or of residences impossible; but in the plains, let us say, in a moist and densely-wooded region, the erection of a group of dwellings on a fairly elevated spot, the united clearing of an area to give breathing room, and the united defence of the cleared fields against the depredations of wild animals—all these things imply the aggregation of families in a village; and the aggregate must be limited in size, or the machinery for its self-government and the supply of its needs would fail to act. Or again, in a dry climate, a similar combination would very likely be necessary with reference to providing or utilising the means of irrigation. But in the second place, the fact that kindred, especially in a tribal stage of society, naturally keep together, and that as the groups expand they must necessarily separate and form a new series of similar aggregates, these facts, and others like them, also furnish the conditions of village formation.

But there is nothing in the causes of such formation to suggest any new form of ownership as resulting from their operation; and as a matter of fact, and looking to the largest number of instances we can recall, we shall find that the sort of ownership which is actually found in villages corresponds to one or other of the following three heads:—

(1) The family or individual holdings are all separate within the village.

(2) The village is an accidental aggregate of kindred families; and the joint ownership or collectivity, such as it is, is in the whole clan; where any further (real) joint ownership appears, it is between members of the 'family' or close kindred.

(3) The village is really the limit of the acquisition, by whatever means, of one founder or originator;¹ and the joint-

¹ It may happen that one geographical village may contain two originally separate groups, but in that case all the phenomena of joint-ownership will exist only within the groups. Where a village has come to be miscellaneously owned, by the intrusion of various strangers there is no joint-ownership at all. Should outsiders have been formally admitted to shares, then there is the fiction of family membership.