Chapter 2: The Impact of Colonial Rule: Institutional and Material Conditions

One of the biggest issues among historians working on the colonial India has been whether the colonial rule has brought about fundamental change in the society, and, if so, to what extent. This study is not aimed at directly contributing to such gigantic questions. But in the society where agrarian relation had 'preponderance significance', as Washbrook says, 'it may be best to go back to basics and consider the social implications of the colonial legal system'.

The British colonial rule introduced the most substantial institutions in its capability of performance; all of which had never been implemented by previous regimes. As the time went by, the Government of the East India Company gradually was to assume characteristics of a state with its territory and subjects framed by various institutions. However, the way of enforcement of those institutions was different from that of the modern nation state. Firstly, although the colonial institutions came into force formally throughout the territory which was rigidly defined by the boundary, the state had less ability than that of modern nation state to perform it. The reason partly rests on the fact that the state lacked in physical power as apparently appeared in its both quality and quantity of police force in Bihar to maintain law and order. Besides the fact, even though the people accepted the colonial institutions, they often manipulated and used them to gain and to claim their own interests. This issue will be discussed in the later chapters.

Another point is that in many cases the colonial institutions had their own boundary

2 Henningham, Peasent Movements in Colonial India, pp. 20-27.
3 Bernard Cohn, 'Some Notes on Law and Change in North India', in An Anthropologist among the Historians and Other Essays, Delhi, 1987, pp. 554-574.
and region within which such institutions were in force. Whenever the British acquired new territory, they re-delineated the boundaries of presidency and province. For instance, the land revenue of 'Benares Province', which was acquired from the Nawab of Oudh in 1775 and constituted as a part of the Bengal Presidency, was declared to be permanently fixed in 1795 following the case of Bengal. But the province was amalgamated with other provinces where land settlement operation had been done in a different way, and altogether formed 'the North-Western Provinces' in 1836. When Oudh came finally within a unified administrative unit of 'the North-Western Provinces and Oudh', the province had roughly three different revenue systems: zamindari settlement was done in Benares; taluqdar settlement in Oudh; and regular settlement with various types of zamindars with the revision of every 30 years in other areas. In terms of provincial administration system, those regions were to be in one jurisdiction. But in terms of revenue policy, Benares, we could say, were in a separate revenue unit which, along with Bengal Presidency, constituted the permanent settlement area. Oudh also constituted another separate region owing to the existence of taluqdars who were strongly protected by special legal arrangements. This twisted and complex way in the enforcement of institutions characterised the colonial rule and produced numerous overlapping institutional regions. Following sections will bring such institutional regions into relief by focusing on various colonial agrarian institutions throughout the Bengal Proper, Bihar, the North-Western Provinces, and Oudh from the beginning of the British rule in India to the turn of 20th century. Then these institutional regions and their validity as geographical frameworks for the study of agrarian society will be discussed and questioned with reference to various agrarian classes and their relations. Crucial question which shall be taken into the consideration of this chapter is whether or not material conditions of agriculturalists living in these regions were differed in
accordance with such agrarian institutions.

2.1 Delineation of Administrative Units: The Formation of Bihar and United Provinces

Formation of both Bihar and United Provinces as the colonial jurisdiction were the result of long process of delineation after delineation of administrative boundaries in central Gangetic Plain. Bihar as a single administrative unit can be traced in history back to a period older than the formation of United Provinces. The region was annexed into the Mughal empire and thereby constituted one of the provinces since Akbar's reign. But there seems to have been number of chiefs and petty rajas who maintained quasi-independent status within it. As the empire declined and its presence shrunk, Bihar came under the rule of Bengal Nawab as a part of Bengal. The British East India Company initially succeeded the administrative unit. The company executive once planed to separate Bihar from the Bengal Presidency and create an independent province under lieutenant-governorship with a part of the Benares Province but it was not realized. Pushed by enthusiastic voice of regional patriotism, Bihar finally got a separate provincial status with Chota Nagpur and Orissa as the Province of Bihar and Orissa in 1912.

In the area just west to the Bihar, transition of administrative boundaries were more complicated. Whenever the East India Company acquired new territory, change of administrative boundary followed. In 1775, Nawab of Oudh ceded Ghazipur, Benares, Jaunpur, and a part of Mirzapur to the Company, all of which were to constitute the Benares Province. Again in 1801 the Nawab ceded his territories of Gorakhpur, Basti,

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Azamgarh, Allahabad, Fatehpur, Kanpur, Etawah, Farrukhabad, Mainpuri, Eta, Shahjahanpur, Budaon, Bareily, Pilibhit, Moradabad, Bijnor, and Tarai Parganas, which made another province called 'Ceded Province'. In the next year, as a result of British military campaign and its victory against Marathas, a treaty with the Peshwa allowed the Company to seize Agra, Mathura, Aligarh Bulandshahr, Meerut, Muzaffarnagar, Saharanpur, Delhi, Gurgaon, Rohtak, Hissar, parts of Sirsa, and Karnal, which became 'Conquered Province' and were subsequently merged with the Ceded Province to form 'Ceded and Conquered Provinces', again which was to be renamed as 'Upper Province' in 1809. 

In 1836, the Benares Province and the Upper Province together with the hill tract consisting of Dehra Dun, Kumaon and Garhwal, and a part of Bundelkhand were united to become 'North-Western Provinces' under the lieutenant-governorship. Oudh was annexed into the Company's territory as a single administrative unit under the Chief Commissioner in 1856 and continued to retain the status until 1877, when Oudh and the North-Western Provinces were united to form 'North-Western Provinces and Oudh', which was finally to obtain the name of 'United Provinces of Agra and Oudh' in 1902. But earlier, the districts situating in the west of Jumna were transferred to Punjab in 1858 and the south tracts of Sagar and Narbada were also transferred to the Central Provinces in 1861.

Thus, it was not until the beginning of 20th century that provincial boundaries of the central Gangetic Plain, which was to become basis for the post-independent state boundaries, were finally fixed. Furthermore, apart from the separation of Orissa from Bihar in 1937, more often than not some minor changes of the boundaries had occurred.

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7 Puri, op. cit., pp. 150-160; Crook, The North-Western Provinces of India, p. 123.
For example, when the East India Company acquired the Diwani of Bengal, Bihar, and a part of Orissa, Doaba Pargana which was to be included into Ballia district had been 'administered as part of Shahabad district in Bengal till 1818'. Indeed, the boundary between Bihar and United Provinces used to be determined at the whim of rivers which frequently had changed their flows. The boundary between Saran district in Bihar and Ballia district in the United Provinces was 'the deep stream of the Gogra. The channel to be adopted for each year is settled on the spot in the cold weather by two Deputy Collectors deputed from the two districts'. Of 28 villages along the boundary, 18 villages situated in the diara were excluded from the survey and settlement operation of Saran district conducted from 1915 to 1921. As to Saran-Gorakhpur border, the Little Gandak, a tributary of the Great Gandak, constituted a part of the boundary and the 'vagaries' made the settlement operation complex. The mid stream of the river Uria draw the Champaran-Nepal border and the villages along the river have been fluctuating between outside and inside the imperial territory.

2.2 Evolution of British Land Policy

Apart from boundaries drawn by the administrative units such as province and district, there existed another set of institutional regions produced by the colonial land policy. Hereafter we will summarise the manner of land settlement and the tenurial structure in the central Gangetic Plain.

It was not in 1765, when the British East Indian Company acquired the Diwani of Bengal, Bihar, and Orissa, but in 1772 that the Company has been transformed from a trading organization to a ruler of certain region of the subcontinent. In this year it was

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8 Imperial Gazetteer of India, Vol. 6, p. 255.
9 Saran Settlement Report 1915-21, p. 16.
10 Champaran Settlement Report 1913-9 p. 70.
proclaimed that the Company would take on direct management over revenue and civil
administration of the territory after the failure of dependence on existing revenue
system. The subsequent revenue farming system of each pargana for five years and
yearly settlement, however, also soon turned out to be ineffective to collect larger
amount of revenue.\textsuperscript{11}

When a sort of dual control by the Parliament and the Court of Directors over the
company's rule in India was established in 1784, they instructed to fully inquire into
rights, privileges, and conditions of various strata of the people, and also suggested that
'the Settlement should be with landholders', namely zamindars. Initially the new
settlement was supposed to be decennial and its rules were respectively issued to Bihar
and Bengal in 1789, and Orissa in 1790. But on receiving the consent from the Court of
Directors, Charles Cornwallis, then the Governor-General, declared in 1793 the
settlement to be permanent.\textsuperscript{12}

In 1795, land revenue of the Benares Province, whose administration was still
within the Bengal Presidency at that time, was also declared to be permanent following
the Bengal Regulation and the Regulation II of 1795.\textsuperscript{13} Regarding the Ceded and
Conquered Provinces too, which were subsequently acquired by the Company, a
permanent settlement with slight modification of the Bengal Regulations had been
planned after twice three-year and once four-year settlements. But in the course of
inquiries and the periodical settlement operations which were conducted in districts of
the province, two points of question came up regarding the implantation of permanent
settlement in the province. Firstly, it was suggested that the criterion for the permanent
settlement was not clear. The central question was what proportion of cultivated land in

\textsuperscript{12} Ibid., pp. 398-401; Puri, \textit{op. cit.}, pp. 179-180.
\textsuperscript{13} C. D. Field, \textit{Landholding, and the relation of landlord and tenant in various countries}, Calcutta:
Thacker & Co., 1885, p. 636.
an estate was suitable for the permanent settlement? The second question, which will be analysed later in detail, was 'who was the proper person to be settled with?' On the first question, a special commission, which was later to constitute the Board of Commissioners to supervise the land revenue administration of the Upper Provinces, conducted an enquiry and submitted a report in 1808, where it was claimed that large portion of arable land was out of cultivation and therefore fixing the land revenue meant relinquishment of the portion which might come from the land in the future and thereby huge fiscal loss for the Company. To conduct full inquiry of individual rights on land was also recommended to collect necessary information. Subsequently 'an estate, of which 80 per cent was cultivated, was decided to be . . . in a fit state'. The following settlement operation in Kanpur district supported the claim of the commission. Baden Powell suggests that the revenue authority considered and concluded the permanent settlement to be 'unseasonable' for this province in this context.\textsuperscript{14} However, C. D. Field, a contemporary of Baden Powell, indicates a contradictory and more complicated process to the abandoning of the permanent settlement. As the settlement operations proceeded further in other districts and more information accumulated, accuracy of the Kanpur settlement was questioned. Indeed, according to him, there appears to have been no clear evidence to abandon permanent settlement. '[N]otwithstanding that the land fit for cultivation, but uncultivated, was generally less than one-fifth, the Government resolved . . . that the settlement should not be made permanent'.\textsuperscript{15} It seems, therefore, that there was no plausible reason to abandon the permanent settlement in the province. The declaration of permanent settlement in the province was extended again and again logically only because of paucity of information.

\textsuperscript{14} Baden Powell, Vol. II, pp. 11-18;
\textsuperscript{15} C. D. Field, \textit{op. cit.}, pp. 638-644.
Although both accounts on the withdrawal of permanent settlement do not mention, a crucial factor for which the decision was probably a strong support from the Utilitarianism then prevalent among English bureaucrats working in India. James Mill, an exponent of Benthamism, denied an assumption which had been applied to Zamindari and Raiyatwari settlement in Bengal and Madras that permanent limitation of state's fiscal rights on the soil could create capitalist landlord or rent-farmer class as was in England. He rather claimed that such limitation, whether Zamindari or Raiyatwali settlement, could create parasitic rent-receivers. Thus, what he instead suggested was that the state should become the sole landlord with the immediate cultivators being its tenants, whose rents should be determined on detailed assessment of every plot and by scientific rent theory which had been elaborated by Ricardo and Malthus. The rent, he also maintained, should be revised regularly to appropriate the unearned rental increment.16

Twice five-year temporary settlements were made after the order of 1811 prohibiting permanent settlement for districts of the province. Along with Mill's entry into the India House at home in 1819, Holt Mackenzie, as a leading revenue expert and powerful advocate of Mill at Calcutta, took an initiative in determining a method of settlement operation in the province. Based on the Regulation VII of 1822 and lately Regulation IX of 1833 followed by his famous minute of 1819, the first 'Regular Settlement' was finally to start for the term of thirty years, and the revised settlement was supposed to follow after the term.17 In Oudh too, which was annexed into the Company's territory in 1856, the land settlement operations based on the thirty years principle were conducted after the Mutiny along with a major policy change which will be discussed in detail later.

Exceptional were the estates of five 'loyal Taluqdars' who were considered to have contributed to the Company during the Mutiny, whose land revenue were fixed permanently.\textsuperscript{18}

\subsection*{2.3 Profiles of Landlord}

Roughly speaking, now we can see provincial boundaries of the central Gangetic Plain corresponding with difference in the method of land settlement with small discrepancy in the Benares Province, where the permanent settlement was made despite being included into the North-Western Provinces. However, the persons whom the government considered as 'proprietor' and made settlement with were diverse and ranging from a old feudal lord controlling thousands of villages to a collective proprietary body taking only a few villages under their control. Our attempt hereafter is to grasp region-wise features of who became the landlords under the colonial land policy.

In Bengal and Bihar, the permanent settlement was made with those who were called 'zamindars, talukdars, and other actual proprietors',\textsuperscript{19} though it is quite difficult to define them. As for the zamindars, Baden Powell summarised their origin into two sections of people. First to this category comes a section of people who claimed superior power as a kind of ruler like Raja or local chief over certain villages or broader tract since relatively early period. In Mughal period, they could exercise rights to collect a share of product from the soil as far as they paid a certain amount of tribute or land revenue to the emperor. The others came from revenue farmers who were appointed for certain period by the Mughal authority to collect the land revenue. By the time when

\begin{footnotesize}
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\item \textit{Ibid.}, Vol. II, p. 203.
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the British settlement operation began, Baden Powell speculated, some of these revenue farmers managed to climb up to the 'ultimate position' comparable to that of the first section of zamindars while getting land with force, sale, and mortgage.20

The first section of zamindars includes ones with large estate called 'Raj', which were mainly situated in north Bihar. Among them were Bettiah Raj in Champaran, Hathwa Raj in Saran, and Darbhanga Raj. Bettiah Raj had enjoyed its geographical advantage in the northern edge of Gangetic Plain and its distant location from the centre of Mughal rule in Delhi gave the Raj semi-independent status. The East Indian Company in Bengal also recognized its importance in the territorial periphery facing with Nepalee Gurkha during the initial stage of its rule. The Company reserved the Raj's status of strategic ally by having left 52 per cent of the whole district of Champaran to the Raj with permanent settlement.21 Hathwa Raj, in the midst of changing regional power balance, battles among competing lineages, and resistance to superior powers, emerged as a substitute collaborator of the British Raj to bypass a rebellious raja, Fateh Sahi, in revenue collection.22 The origin of Darbhanga Raj seemed to be a Maithili Brahman serving for a Rajput Raja in Tirhut, later who was appointed as a revenue official by the Mughal emperor, Akbar. The successors' unstinted service to the empire elevated the family to a Raj with sizable hereditary estate. During the period from the decline of the empire to the beginning of 19th century, the Darbhaga Raj could reign over a substantial portion of north India as a semi-independent ruler. Then the Maharaja was settled by the British government as a proprietor with the largest holding in Bengal Presidency comparable to the princely state of Cooch Behar.

20 Ibid., Vol. I, pp. 504-513
23 Stephen Henningham, A Great Estate and Its Landlord in Colonial India: Darbhanga 1860-1942,
Those who were less important in their influence and the size of estate had been called ‘taluqdars’. In the settlement operation, the British revenue authority made a distinction between ‘independent taluqdars’ and ‘dependent taluqdars’. Those taluqdars ‘who could get himself treated separately’ were included into the former category as proprietor with his revenue settled for ever. Under this category fall taluqdars who had acquired their title by sale or grant from the superior zamindar or government and managed to keep their estates outside control of the superiors. On the other hand, those who ‘were not powerful enough to prevent their being absorbed into Zamindaris’, and mere holders of ‘tenures granted on favourable terms’ by zamindars were invariably considered to be within and subordinate to zamindars' proprietary right, therefore tenure holders.24

Some other minor rights or titles such as jagir and a variety of revenue-free tenures were originally not proprietary right but grant or maintenances remunerated for military or any other services by the Mughal emperors, lately local governors, and zamindars. Most of these interests were not hereditary at the outset. But the settlement operation often regarded some of these grantees as proprietary title in case they had developed their 'position as to virtually landlord'25.

Bihar’s regional character of landlords, with whom permanent settlement was made, is suggested by Baden Powell. He refers to the existence of ‘village estates of zamindars’ belonging to ‘Babhan (Bhumihar)’ or ‘Rajput’ who held ‘most of Bihar’ since the earlier period. He also finds out an affinity among the ‘village estates’, taluqdars mentioned above, and small-scale ‘village landlord communities’ in the North-Western Provinces. Although some of those estates have fallen into inferior tenure within estates of

Delhi, 1990, pp. 11-29.
zamindars, many others such as those who separated from the family estate by subdivision could become independent zamindars. In Mongyr district, all those small zamindar estates appear to have originated from 'Turfs' or sub-divided *taluqas*, all of which were said to stem from grant of land by Mughal to two Rajput ancestors, 'Heeroram' and 'Ram Roy'. Baden Powell also says that more Jagirdars were found in Bihar than Bengal.

John Shore, in his Minute of 1789, mentioned the distinction in many aspects between zamindars of Bengal and Bihar. First of all, the size of zamindari estates in Bihar were in general 'comparatively small' in comparison with the Bengal's 'extensive' zamindars who had 'been able to maintain a degree of independence' from superior powers. In Bihar, there existed a lot of grants of land in various names, which were strong rights enough to claim interests on zamindari estates. Shore also pointed out that *amils* or revenue farmers availed 'himself of the agency of the zemindars and taluqdars ... at his own discretion'. Hence, it is speculated, many small proprietors in Bihar were in 'the very degraded state'. Although there is an analogy between taluqdars as proprietor in Bihar and taluqdars in Bengal who was 'situated within the jurisdiction of a principal zemindar', Shore claimed that they were different in their right and origin. While the former were independent or had been originally independent holders of the soil, the latter's right was subjected to that superior zamindars; they did not have the right of *malikana*, and originated from grant or purchase of a variety of tenures from superior zamindars.

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The Benares Province came under the settlement operation in 1788-90 by Jonathan Duncan and the land revenue was finally fixed forever in 1795 with following the Bengal Regulation. But there was a huge gap in the composition of proprietors between the Benares Province and the Bengal Proper. Because of an agreement with the Raja of Benares, with whom the permanent settlement would have been made as a single zamindar of the province otherwise, the revenue authority recognised as suitable proprietor 'village zamindars', which designated 'those men in lineage territories or *taluqas* who stood forward as leaders of the corporate body, or those individuals who could establish their rights to parts of villages or whole villages, either as grants from previous governments or through tradition'.

The village zamindars invariably belonged to any lineage of Rajput, Bhumihar, Brahman, and high-caste Muslim, and whose origin were 'single grantee, or separated member of a ruling family'. In many cases 'leaders' or 'representative' of such collective bodies were nominally registered as the proprietors. 'In most lineages,' *taluqa*, which was originally acquired by an ancestor of lineage, was, through generations, divided into *mahals*, within which each corporate landholding body was formed and some time each member of the body had their own share known as *patti*. Two-thirds of the province was settled with those village zamindars and one-fourth was with revenue farmers. There were also another form of holders called 'taluqdars', who had had something to do with the Raja of Benares and had been granted superior rights over some villages.

Baden Powell says that those permanent settled districts of old Benares Province in no way differed from the other districts of North-Western Provinces 'except in the one feature that the revenue ... is not liable to revision', and that 'the distinguish feature' of

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30 B. Cohn, 'Structural Change in Indian Rural Society 1596-1885', in *An Anthropologist*, pp. 355-361.
32 B. Cohn, 'Structural Change', p. 359.
the land settlement throughout the North-Western Provinces is that it was made with bodies of co-shares, jointly liable to the Government for their revenue.34 This was because of the pattern of landholding in the province, which remarkably differed from that in Bengal Proper. While in Bengal at the time of the British occupation some fifteen zamindars . . . controlled some 60 per cent of the land, such large scale landholders were obviously much less, and taluqdars, who were the major overlord class of the province, enjoyed less than 20 per cent of the land in 1801. Substantial area of the province, especially in the western part, was to be controlled by the smaller scale village zamindars later on.35

The policy of making settlement more with the village zamindars than superior or large scale right-holder had already been noticed in the early settlement prior to the Regulation VII of 1822. As Asiya Siddiqi clearly shows with evidence, 'most of the early settlements were in fact made with village occupants of one kind or other.' Henry Wellesley, the first Lieutenant Governor, have instructed to the Collectors of the Ceded Provinces soon after the annexation to make the settlement with dependent taluqdars under the principal zamidars if condition allowed. In case such zamindars or other actual proprietors were absent or declined to enter engagement for their estates, or there were no such proprietors, he further suggested, the settlement might be made with the village occupants such as Muqaddams, village headmen or any respectable raiyats.36 The official policy only followed the fait accompli slowly. Soon after the acquisition of Ceded Provinces, a section within the Company were still of opinion to adopt Bengal method by which large zamindars were supposed to be settled. However,

scarcity of large landholder and the subsequent government policy of ousting revenue farmers, who had been casually introduced immediately after the annexation due to the lack of information, consequently facilitated settling with more village zamindars.  

Enactment of the Regulation VII of 1822 confirmed this trend of land settlement as an official policy, by which abolition of intermediary proprietors was considered to be 'the best method of promoting the expansion and improvement of agriculture, and therefore the settlement operation should be done in favour of the village zamindars. This policy also received ideological support of Charles Metcalf who admired imagined Indian village communities with a romantic ardour. But it was soon turned out to be practically impossible to conduct full enquiry of every plot of land following the regulation about the existing complex tenure, productivity of soil, average production, access to means of irrigation, and so on from which amount of revenue would be calculated. As Sulekh Gupta emphasises, withdrawal of the Regulation VII of 1822 regarding method of land settlement meant, at the same time, giving up to settling simply with village zamindars. The Regulation IX of 1833, which adopted simple method of revenue calculation based on empirical knowledge, was not in favour of particular section of agrarian class. Thus, land policy of the North-Western Provinces resulted in 'the features of both the zamindari and the raiyatwari modes of revenue settlement', although the latter covered much larger area.

However it should be kept in mind that 'the universal joint character' prevalent in the form of proprietorship then existing in the North-Western Provinces were not necessarily 'archaic' but a result of British land system or of 'modern origin'. Those village zamindars, in the course of settlement operations in the districts of

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North-Western Provinces, came to be classified more systematically. In terms of number of shareholder and criterion by which product and share of land were divided, they were categorised into (a) single zamindar, (b) joint-zamindar, (c) pattidar, (d) imperfect pattidari, (e) baiachara, and (f) imperfect baiachara. All these proprietors except (a) held their land collectively and their category were determined by the way of division in land or shares, whether there existed (b) no division, or (c)-(d) 'ancestral' way, or (e)-(f) particular method other than the 'ancestral' way. In case only a part of land were held collectively by a community, they were categorised into 'imperfect' variant of each form of landholding (d) and (f). However this official classification reflected only the condition of landholdings at the time when revenue officers observed. Since differences among those categories were precarious, one could see that one estate which had been classified into one-type category was classified into the other-types in the next revised settlement. Thus the official classification of landholding concealed and did not concern about origins, social profile, and the historical transition of those estate classified.40

As regards the origin of those village zamindars, Baden Powell summarise them into three types: (1) acquisition of land and settlement by conquering and evicting former residents or adventuring new land; (2) instalment and growth of landlord over actual cultivators by grant from superior political authority, disruption of a ruling house, growth of village headman, of revenue farmer, and of auction-purchaser, and recent reconstruction of village which had been depopulated once; (3) acceptance of joint liability for revenue in the British settlement operation by a number of villages which had not had any overlords before.41

In the North-Western Provinces and Oudh, an interest on land with denomination of

41 Ibid., Vol. II, pp. 114-5.
Taluqdar or Raja seems to have been a more prevalent than Bengal and Bihar. Although the definition of 'taluqdar' was very obscure and those who had this status covered 'from one closely resembling the direct proprietorship, to that of a mere pensioner on the land', the name implied someone who stood between village proprietary body and the state. To use a simplified model by Eric Stokes, above the village zamindars as 'primary zamindar' existed 'secondary zamindar' or overlord. In this sense, the usage of the term taluqdar in the province seems different from or somewhat opposite of that in Bengal and Bihar, where, as we have already seen, the term 'talukdar' connote inferior rights or smaller scale landholder than zamindar. With the decline of central Mughal authority, these taluqdars came to seize increasingly powerful position in certain regional limits.

Raja of Benares was one of the biggest and the most powerful of this kind. Mansa Ram, father of the first Raja, was born in a family who controlled a few hundred bighas in a village of Jaunpur. He jumped up his position from a local tax official to the superintendent of revenue collection for the later districts of Jaunpur, Benares, and part of Mirzapur. By a sanad given by then Oudh Nawab, Safdar Jang, a son of Mansa Ram, Balwant Singh became raja or zamindar of the region. The Bhumihar raja, Balwant Singh and his successors conducted extensive military campaign against competing rajas and corporate landholding bodies belong to Rajput and other lineages of Bhumihar while obtaining extended official charge of collecting revenue to the districts of Ballia and Ghazipur from authorities of Lucknow and Delhi. Mursan Raj of Jat in Aligarh, Chauhan Raj in Mainpuri, Rajas with 'birt' or 'jewan-birt' right in Gorakhpur, and Lal Bikramjit in Allahabad also showed their head in a political situation of 'a

balancing of relative weakness' among declining imperial authority, Nawab of Oudh, 
taluqdars, and village proprietary bodies.44

As we have already seen, the establishment of Regulation IX of 1833 also meant 
pulling out of consistent settlement engagement with village zamindars. But in the 
actual settlement operation of North-Western Provinces, it was left to the Settlement 
Officer and the controlling authorities to determine, whether the settlement should be 
made with the overlords or village zamindars.45 Many taluqdars were set aside in the 
course of settlement operation. Major taluqdars or Rajas of superior right-holders were 
invariably confiscated parts of their estate and settled as smaller scale proprietors or, in 
some cases, reduced to only pensioners with annual allowance.46 Thus, the Mursan Raj 
has lost two-thirds of his estate which were to be settled with village zamindars. In 
Gorakhpur, along with Raja of Sattasi who has lost substantial portion of his estate 
originated from birt land, other rajas were also allowed to retain only his sir or nankar 
with compensation, malikana, for their confiscated lands.47

Although Oudh had been a single subah or province under the control of the Nawab 
in later Mughal period, the name came to indicate a smaller region which was finally 
annexed into the British territory in 1856. 'The Settlement system, though the same in 
principle' as that of the North-Western Provinces, was 'in detail a separate one'. The 
difference was created by the most striking feature of landholding in Oudh, existence of 
much larger number of taluqdars.

These taluqdars mainly came from, by Metcalf's term, old landed families including 
various lineages of Rajputs and Muslims. Those families were evicted, pushed, and sent

44 Ibid., p. 40; Cohn, 'Structural Change in India', pp. 349-355 and 'Political System', pp. 486-492; 
to vast tract of the Gangetic Plain by the advent and rise of Muslim powers from the north-west in later 12th century. They, with competition, negotiation, and cooperation with one another, and in several waves, adventured, conquered, and settled in eastern parts of the tract. Some among them could extend their control over vast area to be called raja, whose authority and legitimacy was affirmed when the superior Muslim government gave them responsibility and right to collect revenue or duty to conquer rebellious tracts. Although Mughal’s imperial power in its heyday preferred direct rule and in fact could directly collect the land revenue even in the east of Doab, Muslim governments in Delhi generally had to depend on large scale local magnates in Oudh. Balrampur Raj in Gonda and Sombansi rajas of Pratapgarh, for example, laid their foundations in 17th century, and steadily expanded their estates.48

The expansion of those rajas was temporarily slackened by the rise of Nawab in Lucknow and even their estates were reduced to a great extent during the later half of 18th and the beginning of 19th century. Under the vigorous Nawabs in Lucknow, the downsized and divided rajas’ holdings came to constitute and to be called taluqa, whose holder now became taluqdars. Although there was a continuity between old rajas and taluqdars, taluqdar’s style of landholding was ‘based more upon the amassing of revenue collecting rights over individual villages and less upon the corporate ties of kin and clan’.49

After the powerful reign of Saadat Ali Khan, these taluqdars rapidly expanded their estates at the expense of weaker neighbours. At the same time, there were new emerging taluqdars, who belonged to ‘the ranks of the lowly’ and were initially administrative officials such as nazarim and chakladar appointed by the Lucknow


government, revenue contractors, and bankers. By the time of the annexation of Oudh, two-third of the villages were to be controlled by taluqdaras.\(^\text{50}\)

When Oudh was annexed to the British territory in 1856, the British government decided to make a three-year preliminary settlement. Within the same year, after just one-month survey, the authority came to believe that in Oudh 'tenures in land, the distinctive characteristics of proprietary village communities and the usages of the agricultural classes' were 'identical' with those in the North-Western Provinces, therefore, and that the settlement should be made with those village zamindars by setting aside taluqdaras.\(^\text{51}\) Taluqdaras whose origin was recent and who had expanded their estate by force and fraud were ousted and even their claim to *malikana* for compensation, which was as usual allowed to taluqdaras or other superior proprietors in case of settlement with village zamindars, were rigorously screened. Many taluqdaras, in addition, have lost their lands because they refused to pay revenues to the new government to negotiate the amount as they had done once earlier against the Nawab in Lucknow.\(^\text{52}\)

As a result of the preliminary settlement, taluqdaras lost nearly 9,900 villages out of the 23,543 villages they had held under the Nawab.\(^\text{53}\) At the same time, the government ordered taluqdaras to surrender their arms and forts. However, this settlement operation and the overall British land policy in Oudh were to be disrupted before its completion when the Mutiny broke out.

The Mutiny made British officers realize that 'if it be desired to establish a firm and lasting government, that could not be done by the power of the sword alone, but by the

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50 Ibid., pp. 24-31.
52 Ibid., pp. 168-170.
courtesy and consideration with which the aristocracy of the country are treated', and that village zamindars, who followed taluqtdars and joined their rebellion during the Mutiny, were mere subordinates to the taluqtdars and not in the position to be settled with.\textsuperscript{54} The government withdrew the policy of making settlement with village zamindars and determined to restore the position of taluqtdars. So long as their allegiance to the alien government was tendered, even those rajas who actively participated in the rebellion were assured to be given back their old holdings. Lands of only those rajas who remained hostile to the British, or tried to retain their physical power which they had under the Nawab government by concealing arms, were confiscated.

The most of taluqtdars could restore their old holdings which they had held before the annexation. But in terms of military and political capability, they lost what they had exercised before. Now they existed just as landlords. This new policy was to create a strictly defined qualification for taluqdar and made a clear-cut boundary between taluqdar and others. Those who were the 'sole proprietor' without any co-sharer over their land and paying the land revenue exceeding Rs. 5,000 were awarded \textit{sanad} as a proof of being taluqdar by the Viceroy Lord Canning in his \textit{durbar}. With a few exception, those landlords who did not meet these criteria were not given the title of taluqdar. The legal status of taluqdar finally got consolidated when the Oudh Estate Act of 1869 was put in force with a list of 276 taluqtdars. Henceforth any removal from or entry into this list was not allowed even if one estate lost its substantial portion of land and became actually minor landlord. Thus, the British government had transformed the definition of taluqdar and now it denoted 'those of the defeated rebels of Oudh whom the British for reasons of imperial policy had pardoned and admitted as an act of administrative

\textsuperscript{54} Raj Kumar Sarvadhikari, \textit{The Taluqdar Settlement in Oudh}, Delhi, 1882 [1986], pp. 15-17.
favour to the privileges of a special position on the land.  

Growth and consolidation of taluqdars under the Nawab and British rule sometime compelled other forms of proprietorship to get subjugated within taluqdari estates as inferior tenure holders. While around 60 percent of all villages in Oudh came under taluqdari estates, other holdings which managed to be independent of taluqdars consisted of, as in the North-Western Provinces, zamindari, pattidari, bhaiachara, and their imperfect forms.

2.4 Under-proprietary Rights

As was represented by the case of taluqdars in Bengal and Bihar, while some tenure holders were recognised as independent proprietors and the permanent settlement was made with them, there were also many tenure-holders who were not recognised as independent but as under-proprietors. The legal status of such dependent tenure holders in the Bengal Presidency had been uncertain despite the recognition by the revenue authority since the early years. In fact they did not exist in any legal category and had been dealt with in a same category as raiyat until 1885 when the Bengal Tenancy Act for the first time defined them as 'tenure-holders' separately from raiyats. Since it was practically impossible to discover any principle of distinction between the tenure-holders and raiyats, the Act made a distinction in the original purpose of land acquisition. Therefore, those who had acquired land originally for the purpose of their own cultivation became raiyats, and those who had originally acquired land for collecting rent or bringing their lands into cultivation by bringing tenants on those lands became tenure-holder even if both of them had changed their purposes

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subsequently. The Act further made the distinction clearer by stating that those who had any non-proprietary holding exceeding 100 bighas were tenure-holders.\textsuperscript{57}

The Bengal Tenancy Act provided these under-proprietors with better protections, by which enhancement of rent by the superior right holders was not allowed except on proof that local custom or the terms of tenure warrant the enhancement, or that tenure holder who had ever received rent reduction has subjected himself to the increase of rent, or that lands were capable of affording the increase. The limit of enhancement was provided to be customary rate at which neighbouring tenure-holders were paying or 'fair and equitable rate' the Court thought. Once the rent was enhanced it could not be raised again at least for fifteen years.\textsuperscript{58}

Baden Powell classifies the under-proprietary tenures in the Bengal Presidency into three. The first section of under-proprietary tenures were ones which were hereditable and transferable with or without fixity of rent. The dependent taluqdars and fixed-rent tenures such as istimrari, muqarrari, maurusi come to this category. The second category includes tenures which were created by zamindars from the desire to improve his estate or to avoid direct management. Patni or pattani falls in this category. If patnidars' skill and ability of management was excellent to leave considerable margin, they often resorted to sub-letting some parts of their holdings. Because sub-letting was so common as Baden Powell cited Cotton's example, it was not surprising to see a place where there was sometime 'as many as a dozen gradations between zamindar at the top and the cultivator of the soil at the bottom'. In Bihar, more common were temporary lease agreements for five years or more such as ijara, thika, and mustajiri, which did not fall in this legal category. The third category was originated from the rights

\textsuperscript{57} The Bengal Tenancy Act: being Act VIII of 1885 (As amended by Act VIII of 1886), by R. F. Rampini and M. Finucane, second edition, Calcutta, 1889, pp. 22-36; Radharomon Mookerjee, History and Incidents of Occupancy Right, Delhi, 1984 [1919], pp. 107-111.

connected with village-founding and jungle-clearing. This kind of tenures such as *jot*, *ganthi*, and *hawala* were observed and recognized mostly in the Bengal proper and the east.59

In the North Western Provinces, as we have already discussed, the government policy was once shaped on the line to make settlement with 'village zamindars', who otherwise could have been tenure-holders as in Bengal, but in 1833 the policy was virtually abandoned and adopted a policy to make use of existing proprietary structure in the land settlement. Therefore where settlement was made with large zamindar or taluqdar, sub-settlement was to be made with such subordinate village zamindars or under-proprietary tenure-holders within the estate to protect their hereditary and transferable rights.60 The Bengal Tenancy Act of 1885 was not applied to this province. Rights of under-proprietary tenure in this province finally got separate legal status from raiyat by the establishment of North Western Province Tenancy Act or the Act II of 1901.

In Oudh, since the large portion of land were to come under the control of taluqdars after the Mutiny, the recognition and sub-settlement of under-proprietary tenure invited intense confrontation not only between taluqdars and village zamindars who were the claimants for the right but also among the British officials. The Oudh Sub-Settlement Act of 1866 gave hereditary and transferable *pukhutadari* right to only those who could prove that they had had any managing right over the whole of his claim at any time during the twelve years preceding annexation. In addition, it also regulated that profit of the claimant for sub-settlement must be equal to 25 per cent on the gross rental. Those under-proprietary tenures whose profit was equal or not more than 10 per

cent of the gross rental of the estate were recognized and recorded, but with which
sub-settlement was not made. However, this legislation did not end the confrontation.
On the contrary fierce opposition and sometimes violent protests continued to mark the
history of rural Oudh until 20th century.61

2.5 Regions in Tenancy Right

What we have discussed about so far is only a tiny section, proprietors, under whose
overlordship majority of the vast agrarian society engaged in agricultural production.
But they had never constituted socially and economically a single category. They
belonged to a variety of groups, each of which existed in regional multi-layered
structure in socio-economic terms.

Raiyat meant direct owner of the soil though the most of them were legally tenant.
Despite its obvious internal differences, raiyat had been a category or denomination
which was widely used and existed in the mind of colonial officer and in the Company’s
agrarian policy. After the acquisition of Diwani of Bengal, Bihar, and Orissa by the East
India Company, the position and the rights of this raiyat, their rent rate, and their legal
protection had been studied and being discussed along with those of proprietors. But the
Company at the beginning did not have enough skill and experience to fully investigate
and ascertain the existing condition of raiyat. Regarding the restriction of rack-renting,
the Government tried to find out existing reference rate to set a reasonable rent rate.
Even if they found out a few examples of ‘pargana-rate’ which were considered to be
reliable rent rate determined before the British period, however, it was another matter
whether the rent should be fixed permanently.62

When it comes to the definition and protection of raiyats' right and position, the Company showed less willingness to do so than to consolidate the position of zamindars. While by fixing land revenue permanently the government allowed zamindars to reap future profit which were supposed to be brought about by the growth of agricultural production, they were reluctant to fix the rent rate paid by raiyats. Baden Powell suggested two reasons why the fixation of rent rate had never been intended by any one (as it certainly was never declared by any Regulation): firstly it was pointed out that raiyats with a few exceptions had never been exempted from periodical revision of rent; secondly it was also considered that change in the value of money and produce, growth of population, commutation of rent from in kind to in cash, and reclamation of wasteland could bring about change, most possibly rise, in rent. Though such logic could be also applicable to zamindars, it was not in reality. Thus, the Regulation VIII of 1793, the law of Permanent Settlement, was to state legal position of agrarian classes in favour of zamindars.

The Company admitted that two broad types of cultivator had existed before the British rule. *Khudkasht* was considered to be right of resident cultivator who cultivated his own holding inside the village he lived. Though explanations regarding the origin of *khudkasht* differ among colonial officers and scholars, they are identical in the respect that *khudkasht* denoted an occupancy and hereditary right over a certain holding. *Paikasht* raiyats, on the other hand, was regarded as cultivators coming from outside or temporary resident cultivators who had limited term contract with their overlords. The Regulation VIII of 1793 had a provision for this *khudkasht*, which assured that '[t]heir existing terms of holding could not be interfered with (except on proof of fraud in

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the title), and the right to raise these rents was limited to cases in which any modification and equalization of rent was necessary with reference to the pargana-rate.  

The other raiyats, paikasht raiyats, were also supposed to be protected under the prescribed restrictions of the Regulation VIII. The first of such restrictions prescribed in the Regulation was injunction on zamindars to give the tenants pattas specifying the area of the holding, the conditions of the tenancy, and the rent which never exceeded the pargana-rate. In return for the pattas, raiyats had to give zamindars kabuliyas as their approval of tenancy contract. Secondly it was regulated to deposit the standard of measurement in the Collectorate, whereby the area of holdings could be guaranteed. Thirdly, it also prescribed the maintenance of accounts regarding payment of rent and condition of tenancy by village patwari.

However, as far as both khudkasht and paikasht raiyats were concerned, the Regulation VIII of 1793 was not in force. Investigations conducted before the Permanent Settlement looking for any reference regarding rent rate could not find out 'any rule of adjustment' except a few examples of the pargana-rate on which the Regulation was wholly dependent as to the rent rate of raiyats. In addition, 'the customary rates of land in Lower Bengal were in excess of the economic rent' and 'the acceptance of the patta meant the perpetuation of the rather fictitious "pargana" rates'. The patta-kabuliyat system itself also had some problems. The Regulation allowed zamindars to collect lump sum consisting of rent of customary rate and other additional cesses, abwab. Raiyats were afraid that all demands, whether they were justifiable or not, of zamindars could be consolidated into patta as legal rent, and then the

consolidation could give zamindars chances to add fresh abwab.\textsuperscript{67} Raiyats of ex-proprietor were reluctant to accept pattas because they thought the acceptance meant an admission of their becoming the lower status. Many other raiyats also refused to take patta from the fear that 'they would be bound to pay for the whole land specified, even if crops failed, or cattle died'.\textsuperscript{68}

Thus patta-kabuliyyat system did not function properly to make the term and condition of tenancy contract clear and thereby to make annual and sure collection of rent possible. The Government took further the step to facilitate the collection of rent and thereby to increase the amount of land revenue coming into the treasury. The Regulation VII of 1799, popularly known as haptam, gave landlords right to confiscate practically all the property of raiyats including plough, plough cattle, and seed for arrear of rent without any notice to the court. Then landlords could easily sell those distrained property through local officials and thereby recover the arrear immediately. The Regulation V of 1812 known as pancham, which admit almost non-existence of the pargana-rate and suggested to refer to neighbouring rate in that case, and exempted agricultural tools from the distraint, gave raiyats some relief. But the following legislations which were also bought out of intention to define and protect the rights of raiyat were turned out to be not effective. The Regulation VII of 1822, whose main purpose was to provide general rule for temporary settlement as mentioned before, provided that it was necessary to study rights of various agrarian classes over land and prepare a 'record of rights' in every village and estate before the regular land revenue settlement. But the provision was applied only to the temporarily settled estates, which accounted for only about 7 per cent of total amount of land revenue demand in the

\textsuperscript{67} R. Mookerjee, \textit{op. cit.}, p. 60.
Bengal Presidency. The Regulation XI of 1822, which amended sale law regarding estate of defaulting proprietors, exempted only contracts of land for dwelling, garden, pond, and so on from being cancelled in case that right of proprietorship above them was sold and transferred to others. The Regulation gave full protection from the enhancement of rent and eviction to *khudkasht raiyat* and *khudkasht kudimi raiyat*, who got the hereditary and occupancy right after holding certain land for 12 years. But some of the sections was interpreted that *kudimi raiyat* who got the status subsequent to the Permanent Settlement could be evicted or liable to enhancement of rent when the estate in which raiyat cultivated was sold.\(^69\) Thus, as a result that the Government was concerned primarily with the collection of land revenue, zamindars were to have one-sided strong power to oppress raiyats at their discretion.

The Act X of 1859, generally known as Bengal Rent Act, was, as Baden Powell called it 'modern', a first law intended to comprehensively define and protect rights of the raiyat. The act, abolishing existing categories of *khudkasht* and *paikasht*, newly categorised raiyats into three: (a) those who had held the same land at the rate which had not been changed since the Permanent Settlement or for more than 20 years by a presumption of law were entitled to hold the rate for ever; (b) those raiyats who had held the same land except landlords' private land for 12 years got occupancy rights; (c) others whose rent was determined by agreements and exchange of *patta* and *kabuliyyat* between them and landlords.\(^70\)

The Act also stated Government's intervention between zamindars and raiyats. Enhancement of rent and ejectment for non-payment of rent, it was provided, must be made through the Court. But there was a confusion regarding rates of rent for


\(^{70}\) R. Mookerjee, *op. cit.*, p. 79.
occupancy raiyats and other raiyats. Although occupancy raiyats who got occupancy right as a result of continuous holding for 12 years were to have right to claim 'fair and equitable' rent-rate, it was very ambiguous what the term 'equitable and fair' meant. The Act introduced new determinants of price of products and productivity of land along with existing determinants to consider enhancement of rent of occupancy raiyats. But these determinants were finally judged as practically impossible to calculate and defied by the Calcutta High Court in the Great Rent Case of 1865. Therefore rent rate of occupancy raiyats remained to be liable to customary and pargana-rate.71 On the other hand, other raiyats who did not have occupancy right was deprived of any protection from enhancement. 'The Act furnished the zemindars with a new weapon for the enhancement' against those raiyats.72

In course of time some 'defects' of the Act appeared. For example, both raiyats and zamindars faced rigid accountability of the Court. It was difficult for raiyats to prove that they had held particular land in villages for past 12 years, considering that there were few villages which held trustworthy village records. Therefore, landlords' common practice was to evict raiyats just before the completion of twelve years and made them cultivate other plots to prevent them from getting occupancy right. On the other hand zamindars also had difficulty to prove properly that his demand for enhancement of rent was plausible in terms of long-term price movement of agricultural products in the locality. But the Act gave zamindars another chance to deal with raiyats at their discretion. To make fraudulent patta in which zamindar contracted with himself was also common. In addition, since it did not prescribe the duration for that enhanced rent was valid, zamindars could revise and enhance the rent every year.73 Consequently,

72 R. Mookerjee, op. cit., p. 87.
73 Ibid., pp. 95-96.
landlord-raiyat relation increasingly became tense and series of peasant disturbances in 1859-62 and 1873 in eastern Bengal, followed by famine in 1874, encouraged the government to amend the tenancy law and to remove the defects.

The Act VIII of 1885 known as Bengal Tenancy Act could, to some extent, be regarded as a return from ‘modern’ rule based on economic criteria and rigid legal definition to customary rule by which landlords and raiyats could enjoy their customary rights which were considered to have had existed before the British rule. The Act at first made clear the definition of each agrarian class. Despite they differed in their respective incident of right, the Act X of 1859 had no distinction between tenure holder and raiyat. The situation had caused big difficulty in Courts in defining their respective status. As we have already discussed, the new law distinguished them in terms of quantity of holding and original purpose of land acquisition. Raiyat was classified into three categories. First, raiyats who paid their rent at fixed rate and whose right was hereditary and transferable. Second, among the raiyat classes were occupancy raiyats who had had the right of occupancy by any provision of existing law or customs. While the right was defined as hereditary as far as heirs existed, the Act was silent about whether this right was transferable or not and just regulated the matter as was regulated by custom. Any tenant who has held for twelve years continuously any land within the village also could acquire the right under this Act. Raiyats who did not come under above two categories, non-occupancy raiyats, also got some legal protection from ejectment and enhancement of rent for which landlord had to take steps along prescribed legal procedures through the Court. Once rent was enhanced, according to the Act, further enhancement was not allowed for five years.74 For the first time, this Act regulated the status of under- raiyats and thereby imposed a limit on their rent of 50

per cent above the rent in case where any registered agreement existed, or of 25 per cent in case of no agreement. The limit of duration of the contract was up to 9 years and they could be ejected on the expiry.\footnote{Report of the Land Revenue Commission Bengal, Vol. I, pp. 29-30.}

In the North Western Provinces, and the Oudh, both of which were to form a unified province later, legal arrangements were made according to phases of the provincial formation. When the Benares Province came under the Regulation of the permanent settlement, all the tenants were also to be dealt with by the Regulation as the raiyats in Bengal. The Regulation was also extended to the Ceded and Conquered Provinces which the British acquired in 1803 and 1805. The Bengal Tenancy Act of 1859 was also applied to later-formed the North-Western Provinces, where existence of *khudkasht* raiyats, called ‘tenants at fixed rate’, were recognized and treated as in Bengal. ‘Tenants at revenue rate’ were found in the temporary settled area, whose right differed from the tenants at fixed rate in respect of their rent being liable to enhancement only in case that revenue was revised. The accrual of occupancy rights for other raiyats was dependent on the continuous cultivation of same land for 12 years.\footnote{Baden Powell, Vol. II, pp. 169-170; P. D. Shrimali, Agrarian Structure, Movement and Peasant Organisations in India, Uttar Pradesh Vol. III, 2004, pp. 74-76.}

The Act XVIII of 1873, from which onward legislation was to be made separately from Bengal, removed some defects in the Bengal Tenancy Act on legal procedures and created a right of ‘ex-proprietary tenant’, who have lost their proprietary right otherwise than gift or exchange. They were allowed to retain as occupancy tenants cultivating possession of the portion of the estate which he/she had once held as ‘sir’. Regarding the status of non-occupancy tenant, it had been allowed landlords to eject them by the execution of decree from the Court. This Act and the subsequent Act of XII of 1881 also retain the power of landlords for eviction of non-occupancy tenants except
some minor changes.\textsuperscript{77}

Tenancy legislation comparable to the Bengal Tenancy Act of 1885 came later to the province. The North Western Province Tenancy Act had a classification of tenant classes into five: (a) permanent tenure holders; (b) tenants at fixed rate; (c) exproprietary tenants; (d) occupancy tenants; (e) non-occupancy tenants. The Act made the accrual of occupancy right easier and provided that a tenant who had held 'any land owned by the same landlord' continuously for twelve years got the status of occupancy tenant. It also brought a change on the ejectment of non-occupancy tenants. In case that landlord wanted to enhance rent or eject his tenant, the tenant would be given the option by the Court of accepting a 'fair' rent with the Court's arbitration or vacating the holding.\textsuperscript{78}

Oudh was lagging far behind in the Gangetic Plain as to the protection of and the legislation for tenants' rights. This stems from the re-creation of powerful taluqdar class and conciliation of them after the Mutiny. Existence of rights of cultivators was presumed and much discussed. As Jagdish Raj's careful study of letters from district officers of Oudh revealed, most of the officers admitted the existence of rights or customs enjoyed by cultivators regarding rent rate and occupancy of holding since the pre-British period. But some administrators of Oudh as represented by Charles Wingfield, then Chief Commissioner of Oudh, ignored that information and contended that relation between landlords and tenants should be regarded as pure contract 'between buyer and seller of merchandize'. Those administrators suggested with strong pressure from taluqdars that any right of occupancy should not be granted to cultivators of Oudh so that taluqdars' interest would not be undermined.\textsuperscript{79} They only stressed the

\textsuperscript{77} P. D. Shrimali, \textit{op. cit.}, pp. 76-77; S. N. A. Jafri, \textit{The History and Status of Landlords and Tenants in the United Provinces}, Delhi, 1985 [1931], p. 145.
\textsuperscript{78} P. D. Shrimali, \textit{op. cit.}, pp. 77-78.
exchange of *patta* specifying the term and condition of contracts between landlords and tenants. As we have seen in Bengal and Bihar, however, both of landlords and tenants in Oudh too did not want to get their rent officially recorded for fear that disclosure of actual rent would lead to enhancement of revenue and rent. Even if they accepted this system, this seems to have encouraged landlords to enhance rent on the contrary to his intention.\(^80\)

After the arrival of John Lawrence as the Governor General, who was one of the advocates of cultivators, the issue whether custom or right of tenants had been existed and, if so, should be legally protected invited fierce controversy in the Government of India. Lawrence ordered an enquiry into the nature of cultivators of Oudh in 1864. The enquiry suggested that though few had right comparable to occupancy right most cultivators had customary protection against arbitrary enhancement of rent, and that so long as they paid their rents, low population pressure on land allowed them to retain their holdings.\(^81\)

As soon as John Strachey succeeded Wingfield, the controversy came to end with 'the Oudh Compromise', where opposing groups in the Government and taluqads agreed that under-proprietary right and ex-proprietary right would be recognized. The Act XIX of 1868, the Oudh Rent Act, gave inheritable but not transferable occupancy rights to every tenant who by himself, or some persons from whom he has inherited, had possessed a proprietary right within 30 years before the annexation of Oudh. Another ex-proprietary right was to be protected for those who held a *mahal*, which was attached, transferred, or sold, by the Oudh Law Act XVIII of 1876. Regarding the status of other tenants, the Oudh Rent Act provided a protection to all tenants through compensation.

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\(^{81}\) J. Raj, *op. cit.*, pp. 108-146.
for unexhausted improvements, by which tenants could demand compensation for improvement if his rent was raised. The Act XXII of 1886 gave all the tenants further protection by creating a status of statutory tenant who could enjoy the right of occupation for seven years without enhancement of rent. The act also had a provision that landlord had to pay compensation of one year rent to the tenant in case of ejectment before the expiry of seven years. Under the consistent 'Oudh Policy' conciliating taluqdars, any further improvement in the legal status of tenants in Oudh was not to be implemented until 1921.

We have examined the general feature of proprietors and raiyats from the beginning of British rule to the turn of 20th century with special reference to regional land policies and resultant legal conditions. As far as the land policies on which land settlement operations were conducted in various regions were concerned, the Bengal Proper, Bihar, and Benares were to come under same land policy where the Permanent Settlement was made. But we could see a difference of general tendency between Bihar and Bengal Proper in those whom the revenue authority has given proprietary rights. In Bihar where settlement officers could find out few zamindars comparable to ones in the Proper Bengal in its size, many landlords who got the right were generally smaller. They, rather, should be considered to be in similar position of agrarian society to that of 'village zamindars' in North-Western Provinces. Proprietors of the Benares Province also were to include substantial number of 'village zamindars' belonging to any lineage of Rajput, Bhumihar, Brahman, and high-caste Muslim as Raja of Benares agreed not to be a huge and sole landlord of the Province. Thus, results of land settlement in Bihar, Benares, and the North Western Provinces, whether in permanent settled area or in temporary settled area, suggested similar composition of proprietors, where 'village

zamindars' indicate numerical significance. On the other hand, Oudh and the Proper Bengal had a common character of being dominated by large scale landlords, beneath which 'village zamindars' existed as under-proprietors or privileged tenants.

As far as upper strata of agrarian hierarchical and multi-layered structure were concerned, it is not likely that British land policy caused any significant and drastic change among proprietary classes.

2.6 Landlord-Tenant Relations

Now we shall focus on landlord-tenant relation as developed in legal setting discussed above, paying attention to other factors such as economic and demographic situations. Throughout the Gangetic Plain, Bengal, Bihar, Oudh, and North-Western Provinces, initial impact of the colonial land policy was marginal at least up to the first half of 19th century. In terms of land price, despite the government decision to fix land revenue permanently, land was not considered to be profitable commodity to invest. Because other commercial sectors such as trading and banking were still attractive, capital did not flow to land market, and therefore the price of land had been kept in low level. In Bengal and Bihar, though high revenue rate caused private sales immediately after the first settlement operation, the sales diminished afterward.83 As Cohn revealed in the cases of Kausik Rajputs of Gazipur and Barwar Rajputs of Ballia, even if those corporate bodies of proprietors have lost their legal status against 'outsiders', they could hold social and economic status in the local social systems while controlling subordinate people. Revenue collection sometimes faced difficulty due to existence of those legally ousted ex-zamindars.84

84 Cohn, 'Structural Change', pp. 384-397.
Rent collection also had difficulty. Although rent rate was excessively high even in the time of Permanent Settlement and gross rental demand continued to increase, the amount of actual rent collected from raiyats was much less.\(^8\) Despite they secured strong legal position under the British rule, zamindars had to struggle to meet the revenue demand. In this case, the reason lay in the demographic condition of the Bengal Presidency as elsewhere in India. At the time of the Permanent Settlement, land was abundant and pressure of population on land was much lower. \(\text{['B']arly 30 to 35 per cent of the available land was cultivated'].}\(^8\) ‘The competition was not for land, but for tenants to cultivate it’.\(^8\) Therefore the only, but effective way in which raiyats could resort to was to refuse the payment of oppressive rent, to desert their holdings, and then to settled in other villages or wastelands for reclamation.\(^8\)

Since the mid-19th century, land price showed steady improvement. The price movement in Bihar was in ‘consistently higher level than Bengal proper. This rising land prices were firstly due to improvement in prices of agricultural product caused by the Mutiny and introduction of cash crop such as jute and sugarcane. Secondly population growth increased pressure on land and the resultant increase in rental income of landlords. The Act of XI of 1859 also added attraction to landholding as investment by strengthening the security of the creditors and increasing mortgage value of lands. Thus these factors contributed to the rising of land prices.\(^8\)

The actual increase in gross rental was partly a result of increase in cultivation. In most of districts of north Bihar except Purnea and Champaran, and western and central Bengal, land available for new cultivation became limited or largely non-existent by the

\(^8\) Ibid., p. 136.
end of 19th century. Then the expansion of cultivation gradually came to emphasize the frequency of cropping, and improvement of land: the introduction of canal irrigation made such intensive cultivation possible.\textsuperscript{90} Other source of the increase came from increasing exploitation of mining resources and 'redistribution of the existing income in favour of the superior zamindars' such as setting aside some intermediary tenure holder as rent-free tenure holder. In addition, 'gross rental' had never meant the amount of rent which actually paid by tenants and collected by landlords. Especially when crop was failed, passive and active resistance of tenants made the collection of rent difficult.\textsuperscript{91} However, all these factors are still not enough to fully explain the increase of gross rental. The remaining, Chaudhury says, should be explained by the rent rate, which, in north Bihar, increased invariably by more than 100 per cent. This increase of rent rate was mainly caused by growth of population which along with the diminishing of available land for cultivation increased demand for land. Hence zamindars strengthened their control over land and cultivators.\textsuperscript{92}

Another possible reason of rising rent is, as Bindeshwar Ram indicates, existence of intermediary classes who were situated between landlords and vast majority of tenants, and gradually consolidated their positions in the 19th century. Because of difficulty in rent collection and the rigid British system which demanded regular revenue collection, many zamindars came to depend on the help of local intermediary group such as \textit{thikadars}, tenure holders and sub-tenure holders. Although Darbhanga Raj was equipped with bureaucratic estate management system comparable to the British one, those officials such as circle managers, assistant managers, \textit{jeth raiyats}, \textit{patwari}, \textit{barahils}, \textit{gomashtas}, and \textit{lathials} were in fact hereditary and held rent-free lands.

\textsuperscript{90} B. B. Chaudhury, 'Movement of Rent in Eastern India, 1793-1930', \textit{Indian Historical Review}, 3:2 (1977), pp. 353-4.
\textsuperscript{91} Ibid., pp. 350-3
\textsuperscript{92} Ibid., pp. 356-362.
thereby constituted intermediary classes.\textsuperscript{93} In particular, estates which consisted of number of scattered plots of land needed such intermediaries. About 80 per cent of estates, Bindeshwar Ram speculates, 'were managed by creating sub-tenures or by transferring the zamindari rights in various forms'.\textsuperscript{94} Along with money-lending and trading classes who also began to invest their profit in lands by the later half of the 19th century, these intermediary classes were to gain power at local and regional level.

As we have already seen, legal condition of raiyats in Bihar has improved through the Act X of 1859 and the Act VIII of 1885. But these measures were made fundamentally not to provide vast majority of cultivators with legal protections but to 'increase the number of more prosperous rent-receivers' The section of raiyat who originally had occupancy rights and belonged to high-caste could hold or sometime expand their economic position as rich peasants. This was so especially in the case of Rajput Raiyats in Shahabad district, those raiyats that were physically and socially strong enough to resist new zamindar's attempt to enhance rent.\textsuperscript{95} Furthermore, tendency of physical absence of zamindars from the vicinity of their estates encouraged the rich peasants and intermediary classes to be transformed into almost de-facto zamindars. They, with true zamindars, seemed to absorb the interests of other raiyats.\textsuperscript{96}

Bindeshwar Ram's argument, though very complicated and ambiguous, should not be regarded as north Bihar version of the one put forward by Musgrave which contends that landlords of Oudh and the North-Western Provinces had to depend at the bottom of their estate management on rural interests such as substantial Kurmi tenants for rent collection.\textsuperscript{97} The argument of Bindeshwar Ram should be understood in the overall

\textsuperscript{94} \textit{Ibid.}, p. 68.
\textsuperscript{95} Progs. No. 214-34, May 1863, Judicial, Government of Bengal, West Bengal State Archives (WBSA).
\textsuperscript{96} Bindeshwar Ram, \textit{op. cit.}, pp. 104-111.
\textsuperscript{97} P. J. Musgrave, 'Landlords and Lords of the Land: Estate Management and Social Control in Uttar
framework presented by Anand Yang, who accepts neither 'the classic "Oudh school" notion of landlords in north India enjoying undisputed dominance in their zamindari', nor the Musgrave's exceptional depiction of landlords. By stressing the unchanging relation between 'village-level controller' and other peasantry throughout colonial period and even until present day, he insists that the result of British revenue administration, whether permanent settlement or raiyatwari Settlement or village settlement based on the combination of two, was 'reinvigoration of the controlling groups on the land' like small landholder, petty malik, and substantial raiyats as 'village-level controller'. 98

The rise of intermediary classes and a section of occupancy raiyats, therefore, should not be understood as positional change among agrarian classes. 'Position of the zamindars and their followers remained little changed'. 99 What has happened by the end of 19th century is steady consolidation of rent-receiving landed interests with being supported by the British land policy whose primary concern was about regular income from land revenue. Though there were minor changes in the composition of legal landlord as in eastern UP, social control by old landed elite classes continued to subjugate actual cultivators without structural change. Even S. Jassal, whose study focuses on the Fayzabad district of Oudh where variety of under-proprietary classes made the land relations more complex, observes that 'the major contradiction' existed 'between the landowning and non-cultivating class of Taluqtdars and the cultivating non-owning peasants'. 100 This picture strongly contrasts with that of western UP suggested by K. K. Trivedi, where many lineages of Rajputs have lost their land

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99 Bindeshwar Ram, *op. cit.*, p. 102
considerably and in turn money lending Banias, Bramins, and Jats and other cultivating castes gained to some extent.\(^\text{101}\)

Even in the later half of 19th century Bihar, desertion seems to have been still among effective options which tenants could choose when faced with zamindars' oppression such as arbitrary enhanced rent and variety of cesses.\(^\text{102}\) According to Anand Yang, wholesale desertion of 1879 in Hathwa Raj of Saran was caused by 'culmination of a spiralling rise in rent' which 'exceeded the bounds of demands considered legitimate in the "moral economy" of peasant society'.\(^\text{103}\) But as Yang described that these peasants had 'no choice but to resort to "avoidance protest"', situation in the later half of 19th century reduced options which tenants could choose. In Oudh too, tenants endeavoured to oppose zamindars' attempts of enhancing rent by filing relinquishment notice. But the fact that the number of notices were much less than ejectment notice filed by zamindars shows relatively weak bargaining power of tenants. Indeed, in most of the cases tenants had to accept the enhanced rate to keep their land or to choose to be evicted.\(^\text{104}\)

Thus, as we have seen in this chapter, the British colonial rule in India introduced variety of institutions from administrative boundaries to legal occupancy right. In northern India too, introduction of these institutions brought out a major change. Among them were series of land laws because the process of legislation was nothing more than interpreting a society of 'the other'. In this process, the British recognized indigenous rights, defined them and endowed particular individual or collective body rights with legal rights. This modern process removed vague elements and drew


\(^{102}\) Bindeshwar Ram, *op. cit.*, p. 99

\(^{103}\) Anand Yang, *The Limited Raj*, p. 189.

clear-cut boundaries between rights holders and others, thereby excluded existing title holders who had enjoyed and shared multi-layered rights with other title holders on a same plot or object. Although subsequent legislations whose purpose was to protect the right of those who had occupied lower position of the multi-layer somewhat improved their condition, the grand policy on land remained intact through the colonial period. The policy simplified proprietary and tenurial title, and strengthened and consolidated landed classes as the collaborator of the Raj. According to region wise land policy and legislations, there existed regional differences in the legal condition of agrarian classes. While tenants of Bihar were in worse legal condition than tenants of the Bengal Proper, for example, they still enjoyed decent legal protection in comparison with the worst condition of tenants in Oudh. But those differences were made invisible by a stronger factor of demographic change. As the population pressure became acute and consequently the competition among tenants for land, the bargaining power of tenants against landlords became weaker.