

**GENERAL CODE OF TRIBAL CUSTOM
IN THE
HISSAR DISTRICT**

SECTION I.-Family and Tribal Connections.

Question I.-Are any persons considered to be relations (warisan) besides those who are descended from a common ancestor? Are all or any of the kindred considered to be the relations of- Nature of relationship.

(1) the husband;

(2) the husband's relatives or children

if so, state the persons who are relatives, and the names of the relationships.

Answer 1.

All tribes-

No relations of the wife are considered heirs (warisan) : only those descended from one common male ancestor through males are so considered.

The language used by the population of the district is not the same throughout. In the northern part Punjabi is generally used, while in the rest of the district Deswali and Bagri are spoken. Hence different terms are used to denote the different relationships: they are as under:-

| Name | Meaning |
|--|-----------------------------------|
| Bapu, Kaka, Baba, Peo, Chacha, Bap, Mian, Abba, Lala, or Bawa. | Father. |
| Dada or Baba | Father's father. |
| Dadi | Father's mother. |
| Dada, Pardada or Baba | Father's father's father. |
| Dadi or Bari maa | Father's father's mother. |
| Tau, Taya or Badda | Father's elder brother. |
| Chacha, Kaka or Chachcha | Father's younger brother. |
| Tai or Baddi | Wife of father's elder brother. |
| Chachi, kaki or chachchi | Wife of father's younger brother. |
| Chacha ka beta bhai, kaka ka beta bhai, Bhai or Chachera bhai | Father's younger brother's son. |
| Chacasad bhai, Taya ka beta bhai or Bhai | Father's elder brother's son. |
| Bhua or Phuphi | Father's sister. |

Phupha or Phupha

Father's sister's husband

| | |
|---|----------------------------------|
| bhua ka beta bhai, Bhua ka putter bhai, Bhai or Phuphi ka beta | Father's sister's son. |
| Maser, Domad bhai, Bhai, Maser bhai or Matreya bhai | Step brother |
| Moasi, soteli man or Maushi Bhain or Mater bhain | Step mother Step sister. |
| Man or Amman | Mother |
| Mosi, Masi or Maushi | Mother's Sister |
| Mosa Masar or Mausha | Mother's sister husband. |
| Moser, Maser bhai, Maser or Bhai | Mother's sister son. |
| Mama | Mother's brother |
| Mami | Mother's brother's wife. |
| Maman ka beta bhai or Mamansad bahi | Mother's brother's son. |
| Bhain | Mother's brother's daughter |
| Nana | Mother's father |
| Nani | Mother's mother |
| Bhai sahib or Bhai ji | Elder brother. |
| Bhai | Younger brother. |
| Bhatija | Brother's son. |
| Bhdwaj or Bhabi | Brother's wife. |
| Bhain | Sister. |
| Jija, bhai, Bhainoi, bhanuja or Bhanvaiya | Sister's husband. |
| Bhanji | Sister's daughter. |
| Bhanja | Sister's son. |
| Bugdi, Bir, Bahu or bivi | Wife |
| Susra or Sauhra | Wife's father. |
| Sasu or Sas | Wife's mother |
| Sala or Bhai | Wife's brother |
| Sali | Wife's sister |
| Sadhu or Sandhu | Wife's sister husband |
| Gharka dhani, Gharwala, Khawind | Husband. |
| Jeth or Mian | Husband's elder brother |
| Dewar | Husband's younger brother |
| Jithani | Husband's elder brother's wife |
| Dewrani or Dirani | Husband's younger brother's wife |
| Saukan, Sukheli or Bhain | Husband's other wife. |
| Nand or Ninan | Husband's sister |
| Nandvaiya, Mian, Nandia, Nindnvaiya Nandoi | Husband's sister's husband |
| Beta, chhora, Bachacha or Larha | Son. |

| Name | Meaning |
|---|--|
| Galler, Picchlag or Sadarwal | Wife's son by her first husband. |
| Bhauriya, Bahu, nuh or Beta ki bahu | Son's wife Son-in-law's or daughter in law's father |
| Samdhi, Kuram or Sagi | Son-in-law's or daughter in law's mother. |
| Pota or Potra | Son's son's wife |
| Bhauriya, Put nuh, Put bahu or Put ron nu | Son's daughter |
| Poti or Potri | Daughter. |
| Beti or Chhohri | Daughter's husband |
| Jamai, Jawai, Prohna or Damad | Daughter's son. |
| Dohta or Dohtra | Daughter's daughter |
| Dohti or Dohtri | |

Question 2.-Explain your system of reckoning generations. By how many generations are the following persons said to be related to the person whose relations are to be reckoned?-

Mode of reckoning generation

- (1) Brother. (2) Father. (3) Uncle. (4) Cousin-german, i.e., uncle's son. (5) Brother's grandson. (6) Great-grandson. (7) Great-grandfather.

Answer2.

All tribes-

All tribes, except Mahajans, Rajput musalmans and Jat Sikhs, who state that their relations are reckoned up to seven generations, reply that their generations are calculated up to four generations. Brothers and paternal uncle's sons are reckoned in one's own generation. Father and uncles are in the second, grandfather and his brothers in the third, great grandfather and his brothers in the fourth generation upwards, while brother's grandsons are in the third and brother's great grandsons in the fourth generation downwards.

Question3.-Into what classes are relations distributed? How do you specify them? Give distinctions between-

Class of relations.

- (1) (i) personal, (ii) paternal, and (iii) maternal kindred;
(2) (i) legal sharers, (ii) residuaries, (iii) near and distant kindred, (iv) lineal relations, and (v) shurkaian-i-jaddi, hissadaran i-garibi, and garabatan-i-garibi.

Answer 3.

All tribes-

Relations are distributed in five classes:-

- (1) All relations through the father.
(2) All relations through the mother.

- (3) All relations through the wife.
- (4) All relations through the daughter.
- (5) All relations through the son's wives.

All relations through the father include all the -agnates bearing the same family name: they are the only relations entitled to succeed as heirs, and are called *Juddies*. Relations through the mother include mother's. Parents, her sisters and brothers with their children; relations through the wife include her parents, sisters and brothers; those through daughters include their husbands with their parents and children; and those through son's wives, their parents. Descendants of the same grandfather are known as lineal heirs (*nasdikis*) while those descended from a more remote ancestor are known as *kurambh*, or distant kindred. Inheritance passes in the first instance to sons and their male offspring failing them, to brothers and their male offspring, and so on upwards, i.e. If there are neither brothers nor brother's male issue, the inheritance devolves on father's brothers and their male offspring, and, failing them, on father's father's brothers male descendants.

Male and female belong to their father's got, and that of the woman does not change after marriage.

Tribal
organization.

Question 4, -Does your tribe recognize the Jirga system? Has any part particular person or family the right to be deputed as representatives to the Jirga. ?

Answer 4.
All tribes-

The *jirga* system is unknown. But whenever there is a special dispute affecting some special custom prevalent among any tribe, and one of the parties wishes it to be decided by a clan meeting (*panchayat*), a meeting of that description is summoned, in which one of the thuladars of the clan concerned of each *Thula* in the village of the parties joins, In case a meeting has to be held on a large scale, a recognized representative from the tribe concerned is invited from several villages. The decision of the *panchayat* has to be accepted by the parties concerned; the party not abiding by it is excommunicated from his brotherhood. Among Bishnois the aggrieved party is also at liberty to refer his case to the *panchayat* of the whole Bishnoi clan at *muqam gurudwara* (the principal shrine of the tribe) situated in the Bikaner State. That *panchayats* decision is also looked upon as final, and the party taking exception to it is excommunicated from the brotherhood.

The *panchayats* are generally confined to residents of the tribe within this district. Exceptions are to be found in the Bishnois, who often call in Bishnois from Bikaner to advise in their *panchayats* and the Jats of the Hansi tahsil, who often consult their relation in Rohtak.

SECTION II. - Betrothal.

Question 5.-At what age can betrothal take place?

Age.

Answer 5.

There is no restriction with respect to age among Bishnois, Mahajans, Pathans, Bagri Jats, Dogars, Jat Sikhs, and Brahmans. Betrothal can take place at any age after birth; but the usual age for it' is from three to fifteen. Among the other tribes betrothal does not take place under the age of three. After that no age restriction exists. Ordinarily betrothal is arranged. between the ages of three· and fifteen.

Question 6.-Who can make the betrothal contract Whose consent is necessary for it? Can a boy or a girl arrange his or her betrothal himself or herself Or is it necessary that parents or guardians should consent on behalf of the boy or the girl?

Consent.

Answer 6

All tribes-

In no case can a female herself, whether minor or adult, make a contract of betrothal but a male, if he is adult and has no parents or elder relations alive, can himself make such a contract. The contract of betrothal is made by parents if they are alive but among Mahajans the father's father, if he is alive, is in a better position than parents to make such a contract. Among all except the following tribes, if the father is dead, his brother, whether joint or separate, if he was on good terms with him, has a better right to make a contract of betrothal than has a mother :-

EXCEPTIONS.-Muhammedan Rajputs, Bishnois, and Bagri Jats.

If neither parents nor brothers are alive, then only can a father's brother make a betrothal contract and behalf of his niece. The right of the mother to do so is superior to that of the uncle, but a girl's brother if of age, has prior rights to a mother to arrange his sister s betrothal. '

Question 7. - Describe the- formalities observed upon Formalities a contract of betrothal. Are there· any formalities which. are absolutely binding?

Formalities
for betrothal

Answer 7.

Hindu Rajputs-

When betrothal takes place, the girl's father sends a rupee by Brahman or barber, who, in the presence of an assemblage of the boy's near relatives gives the boy the rupee, and makes a color mark on his

forehead (*tika*). The performance of these formalities makes the contract binding. Then the boy's father distributes some sweet among his relatives. One or two months after the performance of *this* ceremony a set of clothes or ornaments or both are sent for the girl.

Brahman-

Same as Hindu Rajputs, save that on set of clothes or ornaments except bangles, are sent for the girl.

Jats, Bagri, and Deswali-

The girl's father sends, one rupee with a cocoanut and five yards of country-made cloth by the hand of the family barber, who puts the articles in the boy's lap and makes a color mark on his forehead (*tilak*) before an assemblage of the relatives of the boy. After the ceremony sugar is distributed and the barber is given some money. (varying in amount from Rs. 2 to Rs. 10) and 24 yards of country-made cloth. This is the custom commonly in force. But under special circumstances when the girl's father, having himself signified his consent to the betrothal, gives the boy a rupee, the contract is also held binding, and the formalities above described need not be observed.

Dogars-

Shortly after the betrothal is agreed upon the boy's sister, his father's sister, and his father's brother's daughter, with some near relations, go to the girl house, and are given a dinner of cooked rice. If a female relative accompanies the party, she puts a sum of Rs. 2 in an earthen pot, and the girl's father gives her a *chhail*, that is, a sheet of coloured cloth; if no female is with the party, the boy's father offers the girl's father a sum of Rs. 2 for *kamins*, and the girl's father in return gives him a *khes* (a colored cloth used for bedding). *Mehndi* is put on the hands of both girl and boy. In some cases the boy's father offers ornaments costing about Rs. 20 for the girl. These formalities render the contract binding.

Jat Sikhs-

The girl's father, soon after he has chosen the boy, goes to the boy's house, taking with him the family Brahman and barber. On their arrival the boy's father calls together his relatives, and in their presence the boy is made to sit on a wooden stool, and a colour mark is placed on his forehead by the Brahman, the girl's father at the same time giving the boy a rupee. This ceremony renders the contract irrevocable. Ten or twelve days after the formal betrothal the boy's father lends the girl's father some ornaments and clothes for the girl. This, however, is not a universal custom.

Pathans-

A betrothal is made by formal verbal agreement, after the girl's parents have talked the matter over with those of the boy. No barber is used as an intermediary, nor is any money presented by the girl's father, nor are any ornaments for the girl offered by the boy's father the contract is rendered irrevocable by mere verbal agreement.

Musalman, Rajputs--

After the betrothal has been verbally agreed upon the, girl's father sends his barber with one rupee and four or five yards of coarse country-made cloth to the boy's house. On arrival of the barber the boy's father invites his relations, and in their presence the barber gives the rupee and cloth to the boy. The boy's father gives the barber a sum of Rs. 2, and distributes some sugar among his relatives. The performance of these formalities makes the contract binding. In the month of Sanwan following this ceremony the boy's father sends the girl *Sindara*, which consists of (i) silver hand rings, (ii) silver neck ornaments, and (iii) sweets.

Gujars-

As among Hindu Rajputs, save that some of them send clothes, &c., for the girl after the contract of betrothal, and others do not.

Pachadhas-

After the girl's father has selected the boy, he sends his family barber or bard (*bhat*) to the boy's parents to fix the date for the performance the formalities of betrothal; the date being fixed, the barber or bard returns, having been given Rs. 2 by the girl's father. On the date agreed upon, the boy's father goes to the girl's father's house with his relations, usually at night. The party on arrival is given dinner by the girl's father. Next morning the girl's father invites his relations, and in presence of both the assembled parties the boy's father gives - the girl clothes and ornaments according to his means. The ornament offered do not usually cost less than Rs.10. A brass cup (*chhanna*) is placed in front of the boy's father, who puts in it money to at least Rs. 21. The girl's father gives the boy's father and father's brothers a *khes*, (bedding cloth) each, and clothes for the boy's mother. The betrothal is revocable before these formalities are observed, but becomes irrevocable afterwards.

Musalman Jats-

The girl's father sends the family barber with a rupee and a cocoanut to the boy's house; his relatives on the barber's arrival are gathered together. The boy is made to sit on a wooden stool, and his female relations sing songs. The barber then gives the rupee and the cocoanut to the boy. Sometimes a colour mark (*tika*) is, made on the boy's forehead; sometimes this is not done. The performance of these formalities renders the contract irrevocable. During the following month of Sawan the boy's father sends ornaments and clothes according to his means for the girl. The contract is made verbally and never reduced to writing.

Bishnois--

When the betrothal is agreed upon, the girl's father sends his family barber or bard (*bhat*) to the boy's house to fix a date for the betrothal ceremony. On the date thus fixed the boy's father goes to the girl's house. The girl's father gathers his relations and respected elders of the village together. Two clothes, are spread: the girl's father

is seated on one and the boy's father on the other. The latter then offers the former a rupee and a coconut. One of the party of the girl's father states the names of the boy and girl. The boy's father then gives the barber and the bard one rupee each, and the party returns to their home. Thus the contract becomes irrevocable. One or two months after the betrothal the boy's father sends three clothes and three ornaments,- (i) Hansli, (ii) Kara, and (iii) Kari,-which usually cost about Rs. 50, for the girl.

Mahajans-

A contract of betrothal is made according to any of the three following methods :-

(1) When the boy has been approved of by the girl's father, he communicates his wishes to the boy's father by letter, and by the boy's father if he accepts the betrothal, replies to the letter in the affirmative.

(2) The girl's father, either himself or through the family Brahman or barber, makes over one rupee to the boy if his parents have agreed to the betrothal.

(3) By the form "*takka badalna*", that is, the girl's father gives four or eight "*takkas mansuri*" to the boy's father; the latter then does the same to the former.

Any of these methods renders the contract irrevocable. At any time before the marriage the girl's father sends some sweets, fruit, cash and cloth. (which is called *paika*) as a present for the boy. On receipt of these articles, and usually before the marriage the boy's father sends ornaments, clothes, toys and sweets for the girl to the girl's father.

Effects of
priority

Question 8.-Is a man, who has contracted a betrothal entitled to marry another woman before he marries her to whom he was first betrothed; or does priority in betrothal entitle the female to priority in marriage?

Answer .8

Pathans, Dogars, Jat Sikhs, Musalman Rajputs, Gujars, Pachadhas Musalman Jats, Bishnois—

A man who has contracted betrothal may marry another woman before he marries the woman to whom he was first betrothed and priority in betrothal does not entitle the female to priority in marriage. Such occurrences however very rare and no instance is forth coming in general custom being that the man marries the woman to whom he was first betrothed. Among musalman and gujjars if he does marries another woman first, the girl's relatives are liberty to cancel the betrothal.

Jats, Bagri and Deswali-

If a man, who has contracted a betrothal, has a betrothed brother, who dies before his marriage, he may marry the woman betrothed to his deceased brother first. In no other case is a man entitled to marry another woman before he marries her to whom he was first betrothed, and if he does so, the girl's relatives are at liberty to cancel the betrothal.

Hindu Rajputs Brahmans and Mahajans-

A man who has contracted is not entitled to marry another woman before he marries her to whom he was first betrothed, and if he does so, the girl's relations are entitled to get the betrothal cancelled.

Question 9.- Upon what grounds can a contract of betrothal be annulled? State whether impotence or immorality of either party is considered sufficient ground for annulment. Annulment

Answer 9.

Hindu Rajputs, Brahmans, Musalman, Rajputs, Jats, Bagri and Deswali, and Mahajans –

If after a contract of betrothal it comes to light that the girl or the boy is of a bad character, or is blind, leprosy, paralytic, insane, or epileptic, the contract may be cancelled; the impotency of the boy is also considered a sufficient ground for cancellation. Among Hindu Rajputs and Brahmans inferiority of caste discovered after betrothal is also a sufficient reason for cancelling a betrothal contract.

Other tribes –

Bad character is not alone a sufficient reason for cancelling a betrothal contract; but impotency and leprosy are sufficient reasons; excommunication of the boy or the girl by decision of a panchayat among Bishnois, and insanity or paralysis in either party among Dogras, Jat Sikhs and Bishnois, are also sufficient reasons for cancellation.

Question 10. If the betrothal be annulled at the request of either party, are the expenses incurred repayable to the person who discharged them? Repayment of expenses in case of annulment

Answer 10.

All tribes –

In case of a betrothal being cancelled, neither of the parties can demand return of any expenses. But among Hindu Rajputs and Mahajans, if the contract is cancelled at the request of the girl's relatives, they are bound to return the ornaments given by the boy's father. Among Pachadhas all the expenses incurred by the girl's father are paid back to him if the betrothal is cancelled at the request of the boy's father.

SECTION III.-Marriage.

Prohibited
Degrees.

Question 11.-Enumerate the relatives with whom marriage is unlawful.

Answer 11.

Musalman tribes - -

(a) Pathans are bound by the restrictions imposed by Muhammadan Law.

(b) The same applies generally to all other Musalman tribes, but some exceptions have crept in. Thus among Pachadas marriage is lawful with any save father's descendants, his or mother's sister, or father's or mother's mother; and Dogars and Musalman Rajputs marry outside the *got*, following Hindu custom. They are, however, gradually taking to the Musalman custom, *e.g.*, they do not marry one sister in the lifetime of another sister. —

Hindu tribes-

(a) All Jats, Brahmans and Gujars forbid marriage within

(i) Own *got*.

(ii) Mother's *got*.

(iii) Father's mother's *got*

(iv) Mother's mother's *got*.

Jat Sikhs in the Budhlada tract can marry a woman of the mother's mother's *got*. This is not a general custom.

(b) Hindu Rajputs forbid marriage only with their own *got*. Among them marriage with a woman who is descended from one's mother's common ancestor to the seventh generation is unlawful.

(c) Among Bishnois marriage with a woman who is descended from a common ancestor up to three generation back is unlawful.

Other
disabilities

Question 12.- What physical defects will be sufficient ground for the annulment of a marriage which has actually taken place? State whether insanity, lunacy, impotence, or mutilation are sufficient grounds. Is any distinction made if the party seeking annulment knew of the defect at the

time of the marriage, or if the defect have arisen after the marriage was consummated ?

Answer 12.

All tribes save Dogars.

A marriage once consummated cannot be annulled for any physical defects.

Dogars-

A wife can get a marriage annulled if her husband becomes, after marriage, permanently impotent, leprous or paralytic.

Question 13.- Can persons of different castes inter-marry ? If so what castes ? Can persons of different religions inter-marry? If so, of what religions ?

Limitations on inter-marriage

Answer 13.

All Hindus tribes-

A man cannot marry a woman of a different caste or different tribe. But Deswali Jats and Bagri Jats are for the purposes of the question regarded as one tribe. Brahmans only marry inside their own sub-divisions as Sarsut, Gaur &c. So do Mahajans.

Musalman tribes-

Pathans generally only marry Pathans, and Lodhi Pathans only marry Lodhis, and Lohani Pathans Lohanis. These are two sub-divisions of Pathans in this district. There are, however, found occasional exceptions to this rule, and Pathans sometime marry into other Musalman tribes. This, however, is very rare, Sheikhs and Mughals inter-marry, and can take the daughter of any Muhammadan except a Saiyad. Musalman Rajputs ordinarily marry Musalman Rajputs; and Pachadas marry any Musalman woman who is willing to marry them.

*Question 14.—*May a man be married at the same time to any two women who stand in such a degree of relation-ship to one another as that, if one of them had been a male, they could not have been married ?

Answer 14.-

All Musalman

No.

Hindu Jats and Rajputs-

It is most unusual. If done, they must be real sisters or first cousins to each other. But generally it is only done when the first wife has no children.

Question 15.- May a man marry again a woman he has divorced ?

Answer 15.

Hindus have no system of divorce, save Bishnois. A Bishnoi cannot remarry a woman he has once divorced.

The only Musalman tribes in this district which have a custom of - divorce are Dogars, Musalman Rajputs, and Pachadas.

Limitation
of wives

Among them a man can remarry a woman he has once divorced only according to the restrictions enforced by Muhammadan Law.

Question 16. -How many wives are allowed ?

Answer 16.

All Musalman tribes recognize the legal limit of four.

Hindus recognize no limit.

Polygamy is, however, very rare among all tribes in this district.

Age.

Question 17. -At what age may marriage take place ?

Answer 17.

All tribes-

No definite age is fixed: usually marriage does not take place; before the age of 8 or 9. Bishnois and some Jats, however, sometimes get their children married at an age of only two months. This is, however, rare. Musalmans get married as a rule at much later ages than Hindus.

By whose
consent.

Question 18. -Whose consent is necessary to the validity of marriages? Give the rule :-

(i) if both parties are minors ;

(ii) if both parties are of full age.

Can a woman consent to her own marriage without the consent of her guardian?

Answer 18.

All tribes-

The consent of the same persons is necessary to the validity of marriage, as to the validity of betrothal (see above), and this whether the boy or girl be major or minor. But Pachadas say that if a grownup girl elopes with a man and marries him, the alliance is valid, even though the guardians have not consented. Among other tribes a woman, whether minor or major, cannot consent to her marriage without the concurrence of her guardians.

Formalities

Question 19. - Do you observe any of the eight forms required by the strict Hindu Law? If so, what forms, and with what, if any, modifications? Describe in full the

usual ceremonies, and specify any particular ceremony which is regarded as making the tie indissoluble .

.Answer 19.

All Musalman tribes follow the nikah ceremony. In it the binding ceremony is the formal asking *of* the consent of the parties before two witnesses.

All Hindu tribes, save Jat Skhs and Bishnois -

The binding ceremony is the circumambulation *of* the sacred fire four times (four *phas*). This renders the marriage indissoluble.

Jat Sikhs-

As above, save that seven *phas* are generally gone through.

Bishnois-

The bride and bridegroom are seated each on a small couch (*pirhi*), the latter being on the bride's left hand. Their clothes are tied together. They circumambulate the sacred fire (*havan*) as do other Hindus, and their Sadhu repeats the verses prescribed for the occasion. The bride seizes the bridegroom's hands and *vice versa*. When half the verses have been repeated, They change couches (*pirhi badalana*). After the recital of the verses is completed, the Sadhu addresses them, and the sacred fire is again circumambulated. They are again seated on *pirhi*, and their hands are again clasped before the sacred fire. This renders the ceremony indissoluble.

Question 20.- Who are competent witnesses to a marriage age contract between Muhammadans? Witnesses.

Answer 20-

Two adult male witnesses as prescribed by Muhammadan Law Pathans require four : two for each party.

Question 21. - Will contracts entered into by a married woman, the subjects of such contracts being other than her peculiar property, be binding on herself or her husband? Contracts.

Is any distinction made if. the contract was requisite to her obtaining food and clothing ?

Answer 21.

All Tribes-

The husband is responsible for the payment of debts which his wife has borrowed for obtaining necessaries of life or for payment of Government revenue. She can for this purpose alienate his moveable property. She cannot, however, alienate in any way his immoveable property.

SECTION IV.-Divorce.

Grounds of
divorce

Question 22.-Upon what grounds may a wife be divorced? Is change of religion a sufficient cause? May a husband divorce his wife without assigning any cause?

Answer 22.

Bishnois-

A wife may be divorced for change of religion or bad character, but for no other reason.

Other Hindu tribes, Pathans and Musalman Jats-

Divorce is unknown.

Dogars, Musalman, Rajputs and Pachadas-

A wife may be divorced for bad character. Among Dogars change of religion is not a sufficient reason for divorce, while among Mussalman Rajputs and Pachadas it is, and a husband may divorce his wife without assigning any reason. Among Dogars a man can not divorce his wife without reason.

Hindu generally, though they do not recognize divorce, say that man can turn his wife out for unchastity, or if she changes her religion.

Formalities

Question 23.-What are the formalities which are observed on a divorce? What is the distinction between talaq and khula?

Answer 23.

All tribes-

Among Bishnois the husband turns his wife out of his house, putting a white cloth over her before his relatives, and says to her "I part with you (main ne tum ko chhor diya)." This completes the divorce, and this is the only formality observed. Among Musalmans, other than Pathans, and Jats, who do not recognize divorce, a divorce is performed before two respectable witnesses; the husband addresses the words "I divorce you" three times to the woman, and thus the divorce becomes irrevocable. The distinction between talaq and khula is not understood.

Effects

Question 24.-Has a divorced wife any claim against her husband as regards maintenance or share of his pro-

Perty? Has she any claims even if she be divorced on the ground of adultery?

Answer 24.

All tribes-

Among Musalman Rajputs and Pachadas a divorced wife has no claim against her husband as regards maintenance or share of property, except for her dower (mehar), if it has not been paid. Ordinarily, however dower is never claimed by a divorced wife and no instance of such claim is forthcoming. See the following reply:-Among Bishnois also a divorced wife, whatever the ground for divorce may be has no claim against her husband as regards maintenance or share of property. But among Mahajans a wife of bad character, so long as she lives in her husband's house, can claim maintenance, but loses her right to this on leaving the house. This rule does not seem to apply to other Hindus.

SECTION V.-Dower

Question 25.-Explain what is meant by dower? State when it becomes payable, whether on consummation, or on the death of the husband, or on divorce? Is it payable in the case of divorce on the ground of adultery?

Dower

Answer 25-

All tribes (Hindus)-

There is no such thing as dower among Hindus.

Among Musalmans generally Rs.32 are fixed as mehar (dower) ; this is the legal dower by Muhammadan Law. Among Dogars it is Rs. 25. The payment of this amount wife can claim whenever she wishes during her lifetime. A divorced wife, strictly speaking, is entitled to ask for her dower if it is not been paid her, but ordinarily she does not do so.

NOTE-See also Section XIII

SECTION VI.-Karewa Marriages

Question 26.-Explain the custom of karewa or chadar andazi. What is the distinction between such marriages and marriages of the ordinary kind?

Karewa
marriage

Answer 26.

The custom is only found among Hindus. Muslman women can contract a second full marriage in accordance with Muhammadan Law : but it may be noted that in this district Pathan widows do not remarry.

The custom does not exist among Hindu Rajputs, Brahmans or Mahajans. Among other Hindus it does. *Karewa* is limited to the tribes to whom marriage is restricted. Usually the dead husband's younger brother marries his widow: failing him his elder brother: failing him other relations: failing him outsiders. Usually *karewa* does not take place till one year has elapsed from the death of the husband. The full ceremony consists of other women placing glass bangles (*churis*; on the woman's wrist in full assembly, a gold nosering (*nath*) in the nose, and a red sheet on her head, in one end of which a rupee is knotted. Sweets are distributed. Sometimes mere cohabitation is considered sufficient to legitimise the offspring. This is however seldom.

Among Bishnois the *chaddar* of each party is tied to that of the other, and a bangle made of lac is put on the woman's hand.

Presumption
of marriage.

Question 27.-Is marriage ever presumed from cohabitation, although the full ceremony may not have been performed?

Answer 27.

No. Only *karewa* can be so presumed among such tribes as practise it.

Note – There are no signs that the widow remarriage movement which is making its influence felt in other parts of the Punjab has yet spread to the educated Hindus of this district.

SECTION VII.-Guardianship and Minority

Appointment
of guardian.

Question 28.- Is a father at liberty to appoint by testament or otherwise whomsoever he will to be after his decease the guardian of his minor children ?

Answer 28.

All tribes, save Jats-

All fathers have such a right, but Such dispositions are generally made oral'y on a death bed and very seldom reduced to writing: generally, and especially among Muslman Rajputs and Bishnois, the guardian 'so appointed is a near relation: the two tribes just mentioned say the appointment of any body else is void as contrary to custom.

Jats say that no such right exists at all.

Guardians
without
appointment

Question 29.- State upon whom the guardianship of the person and property of a minor successively devolve if no appointment be made by the father.

Is any distinction made as to the property of the minor where the guardian is a female ?

Does the right of the guardianship of a female minor always carry with it the right of disposing of her in marriage?

Answer 29.

All tribes, save Musalman Jats and Rajputs-

If a father has not appointed any one as guardian, the guardianship on his death devolves on the minor's elder brother, if an adult. If there be no elder brother, it devolves on the mother, and in her absence on the father's brothers if they were living jointly with the deceased before his death. Even if the guardian is a female, the guardianship of both person and property of the minors devolves on her and she can dispose of as female minors in marriage. This applies to all tribes; a male guardian can of course dispose of a female minor in marriage.

Musalman Rajputs-

If the father has not appointed any one as guardian, the guardianship devolves successively on the elder brother, the father's brothers, and the mother

Musalman Jats-

If the father has not appointed a guardian the post devolves successively on the father's brothers, if they live jointly with the minors, and the mother.

Question 30. What are the different descriptions of guardians?

Answer 30.

All tribes-

There are no different descriptions of guardians. The guardian of the person of a minor is the guardian of his property also.

Question 31.- Under what conditions and for what purposes can guardians alienate the property, moveable or immoveable of their wards by sale, gift or mortgage? May a guardian lease the property of his ward? If so, for what periods.

Answer 31.

All tribes, save Pathans-

A guardian can alienate the moveable property of his ward by mortgage or sale, and the immoveable property by mortgage, for the benefit of the ward, such as the marriage of the ward or payment of necessary personal expenses or of Government land revenue, the guardian having no right under any circumstances to sell the ward's immoveable property; he may, however, lease if for a period not exceeding the minor's minority.

Classes of guardians.

Alienation

Pathans–

A guardian can let the immovable property of his ward on lease for a period not exceeding the minority, but cannot alienate it in any other way.

The following mutations are cited for reference : -

| Village | Mutation No. | Date of attestation | Kind of mutation | Details |
|--------------------------------------|-----------------|---------------------------------|------------------|---|
| Hindu Rajputs Sai (Bhiwani)... | 1020 | 26 th September 1908 | Mortgage | Jai Singh, son of Gugan, guardian of his brother Jugal's minor sons Hira and Mai Singh, mortgaged the wards share of land to Natha Rajput |
| Brahmans. Madlauda(Hissar)... | 1185 | 23 rd December 1907 | Do. | Mai chandn, son of Jai Lal, guardian of Tali Ram, son of Kanaya Lal, mortgaged the ward's land to Surja. |
| Ditto | 1194 | Ditto | Do. | Dewat Ram and Ramji Lal, sons of Mamchand and guardians of their minor brother Shiblal, mortgaged the ward's share of land to Singh Ram and shib Dial, sons of Bir singh. |
| Jats, Bagri. Harita (Hissar)... | 287 | 17 th February 1908 | Do. | Indraj, guardian of his minor brother Harbhaj, mortgaged the ward's share of land to Patram and Magni, sons of Kesho Ram. |
| Jats, Deswali Rawalwas(Hissar)... | 325 & 326 | 19 th January 1909. | Do. | Budha and Dewak Ram, guardians of their minor brother Nanak, mortgaged the ward's land to Natha and other sons of Gopal. |
| Niana (Hissar)... | 760 | 11 th March 1905. | Do. | Ramjas guardian of his minor brother Chetu, mortgaged the ward's land to Lugma and others. |

| Village | Mutation No. | Date of attestation | Kind of mutation | Details |
|--|--------------|----------------------------------|------------------|--|
| Musalman Rajputs. Sulaimgarh (Hissar)... | 418 | 29 th October 1907 | Mortgage | Abdul, guardian of his brother Muhamadan's minor, sons Barkat Ali and Nur Ali, mortgaged the ward's land to Kalu Rajput. |
| Musalman Jats. Niana (Hisar)... | 672 | 30 th March 1907. | Do. | Jiman, brother and guardian of Feroz, minor, mortgaged the ward's land to Rahm Ali. |
| Bishnois. Talwandi Badshahpur(Hissar). | 245 | 2 nd August 1908 | Do. | Mussammat Dhai, mother and guardian of Kanshi, minor, mortgaged the minor's land to Jagram. |
| Ditto | 362 | 27 th June 1909 | Do. | Mussammat Shero, mother and guardian of Udia, Lalia, Sheolal and Chuni, minors, mortgaged the wards' land to Ganga Ram. |

NOTE:- A few mutations have come to light among Hindus Rajputs, Deswali Jats and Dogars, particularly the latter, in which guardians sold their wards' land. Such cases are exceptional, and are certainly contrary to the general rule.

Question 32.—As regards the moveable property of a minor, state to what extent the contracts of the guardians are considering Binding.

Contracts.

Are they binding whether or no they be beneficial to the minor, or whether or no they be made under manifest necessity?

Answer32.

All tribes, save Hindu Rajputs, Brahmans, Pathans and Dogars-

Only those contracts are valid which are either for the ward's benefit, or have been made under manifest necessity.

Hindu Rajputs, Brahmans, Pathans and Dogars-

All contracts affecting moveable property entered into by a guardian are valid, whether they be to the minor's benefit or not.

Custody.

Question 33.- Who is entitled to the custody of a married female infant, whose father and husband are alive ?

Answer 33.

All tribes-

Among all tribes, except Dogars, the husband, and in case he is a minor, his father or his guardian, is entitled to demand the custody of his wife if mukhlawa has taken place. Till it takes place the father is the guardian. Among Dogars the father of a married girl is entitled to her custody till she attains the age of 12 years.

Cessation.

Question-34.- If a widow, being the guardian of a minor child remarry, will the widow's right of guardianship cease? On her again becoming a widow, will it revive?

Answer 34.

Among Musalman tribes and Hindu tribes practising karewa a widow loses her right if she has married outside the got of her first husband. If, however, she has married inside the got of her first husband, apparently her right to be guardian of her children by him does not lapse.

The right once lost cannot be revived by subsequent widowhood.

Acquisition.

Question 35.- May a minor acquire property independently of parents or guardians?

Answer 35

All tribes—

A minor may acquire property independently of his parents or guardians.

Contracts.

Question 36—To what extent are the contracts of minors made independently of parents or guardians binding?

Answer 36.

All tribes—

A minor cannot enter into a contract, nor is any contract made by him binding on him. His guardian alone can make a contract for him.

Debts of father.

Question 37.—Is a minor whose father is dead, and who has inherited the father's estates, liable for his father's

debts? If such debts are not payable till the minor come of age, can the property inherited be alienated in the interval?

Answer 37.

All tribes—

A minor is liable for his father's debts in the proportion that he has inherited his father's estate. Among Bishnois a guardian can alienate his ward's moveable property only to pay off inherited debts: but if the guardian is the minor's mother, she can alienate the ward's immoveable property also by mortgage for the purpose. Among Dogars a guardian can only lease immoveable property for this purpose: While among other tribes a guardian can, if it be necessary, arrange for the payments of such debts by alienating his ward's moveable property by mortgage or sale, and his immoveable property by mortgage or by lease.

Question 38. — Are females, whether minor or adult, always under guardianship? Upon whom does the guardianship of (i) an unmarried, (ii) a married, female devolve? Does that of the latter devolve on her husband or his agnates?

Guardianship
of women.

Answer 38.

All tribes—

Females, whether minor or adult, are always, under the guardianship of some one; if unmarried, their fathers are their guardians, and if married and Mukhlawa has taken place, then husbands are their guardians. After her husband's death a woman is under the guardianship of her relatives till she remarries.

Question 39.—Who have the preferential claims to the guardianship of illegitimate children- the mother and her heirs, or the father and his heirs?

Guardianship
of bastards.

Answer 39.

All tribes-

Illegitimate children are under the guardianship of the mother. Only on her death do they pass to the guardianship of the father.

Cessation of minority. Question 40.—As regards capacity to act in marriage, dower, divorce, and adoption, up to what age does the minority of male and female children continue?

Answer 40.

All tribes—

Save Dogars, say that the minority of a boy ceases at the age of 18 years, and that of

a girl at 15 years. Musalman Rajputs, it is true, put the girl's age slightly earlier, at 14 years. Among Dogars boys attain majority at 15 years and girls at 12 years of age.

SECTION VIII. --- General Rules of inheritance

Succession of sons.

Question 41.—If a man die leaving a widow or widows, a son or sons, a daughter or daughter, brother or other relatives, upon whom will the inheritance devolve?

Answer 41.

All tribes—

If there be a son or sons, or their male lineal descendants through males, they inherit on the death of the father. If a man dies without male issue, inheritance devolves on his widow or his widows; in their absence on his agnates. A daughter, whether married or unmarried, never inherits her father's estate. But heirs are responsible for the maintenance of the unmarried daughter, if any, of the deceased, until she is married or dies; and also for her marriage expenses. This rule of inheritance is proved by numberless mutations among every tribes. But in some very rare cases where a man has more wives than one, and some of the wives have male issue, while others have not, the estate of the deceased is inherited by his widow according to the *chundavand* rule, that is according to the number of widows. See the following mutations:-

| Name of village | Mutation No. | Date of attestation. |
|-----------------------|--------------|---------------------------------|
| Hindu Rajputs— | | |
| Bawani Khera (Hansi) | 1343 | 18 th May 1905. |
| Riwari (Bhiwani) | 737 | 14 th December 1906. |
| Jats, Bagri— | | |
| Jakhod (Hissar) | 319 | 10 th June 1902 |
| Dabra (Hissar) | 113&114 | 7 th May 1903 |
| Mananwali (Fatahabad) | 141 | 15 th December 1903 |
| Mehunwala (Fatahabad) | 179 | 26 th December 1903 |
| Jhanwri (Bhiwani) | 92 | 24 th March 1909 |
| Jats, Deswali— | | |
| Dhanana (Hansi) | 791 | 17 th January 1901. |
| Kailrawan (Hissar) | 286 | 12 th May 1906. |
| Kinar (Hansi) | 266 | 21 st March 1908. |

Jat, Sikhs—

In the Palsar village of the Fatehabad tahsil Itar singh left three widows, one with male issue and the other two sonless. The two sonless widows instituted a civil suit claiming inheritance. Lala Thandi Ram, Extra Assistant Commissioner, dismissed the widows' claims on 5th July 1881, and held that they were entitled to get maintenance only. An appeal was filed in the Hissar Divisional Court against the judgment, and was dismissed on 9th November 1881. This judgment supports the custom the tribe; but contrary to this, in Talwari village of the Fatahabad tahsil, one-half of an estate was inherited by the sonless widow and the other half by the male issue of the other widow of the deceases,— vide mutation No. 383, attested on 3rd December 1908.

| Name of village | Mutation No. | Date of attestaion. |
|---------------------------|--------------|---------------------------------|
| Musalman Rajputs— | | |
| Mallapur (Hissar) | 198 & 199 | 24 th August 1899. |
| Chang (bhiwani) | 1250 & 1253 | 31 st December 1899. |
| Hindwan (Hissar) | 142 | 15 th June 1908. |
| Pachadas— | | |
| Bighar (Fatahabad) | 1956 | 15 th February 1909 |
| Hijraon Khurd (Fatahabad) | 1524 | 22 nd October 1907. |
| Bishnois— | | |
| Dhansu (Hissar) | 209 | 13 th August 1903. |

Question 42.—If there be more sons than one, will they take equal shares? If the sons do not take equal shares, state upon what principles the shares are regulated?—

Share of sons

- (i) Is any regard had to uterine descent : are the shares in the inheritance distributed according to the number of the mother?
- (ii) Is may regard had to the caste or tribe of the mother, so that the sons by a wife of a high caste or of the same caste or tribe with the father take, a larger share than the sons by the wife of a low caste, or of a different caste or tribe?

- (iii) Is any regard had to the age of the sons, so that (1) the eldest son, (2) the youngest son, would take a greater or less share than his brethren?

Answer 42.

Jats Bagri, Dogars, Jat Sikhs, Pathans, Gujars, Musalman Jats, Bishnois and Mahajans—

On the death of a father, his sons inherit equally without any regard to their age. The *pagwand* rule is universal, and *chundawand* is most exceptional. The sons by the wife of a man's own tribe alone inherit: marriage with a woman out of the circle of a man's own tribe being illegal, her sons cannot inherit anything. Many mutations have been sanctioned accordingly.

In support of a *pagwand* rule among Jats, Bagri and Degars, the following cases are cited :---

| Village | No. of case | Date of Judgment | Court, | Brief purport of case and judgment. |
|------------------------------------|-------------|------------------------------|------------------------------|---|
| Jaunpal Bhiwani, (Bhiwani tahsil), | 4 | 23 rd April 1887 | Lala Jugal Kishore, subjudge | <p>Chattr Bhuj, Jat had two wives. He had one son by one of them, and three by the other. Their genealogical tree is given below:--</p> <p>First—Chattar Bhuj- Second wife.</p> <pre> wife ----- ----- Puran. Nanak Nathu Jathu </pre> <p>Puran sued for half of the property of his deceased father pleading the Chudawand rule. The case was dismissed, and it was held that the custom of <i>pagwand</i> ruled among the tribe. The plaintiff's appeal against this order was rejected by the District Judge on 19th December 1889.</p> |
| Sardarewala, (Fatahabad) | 1091 | 30 th April 1903. | Lala SheoNarain, Munsif, | <p>Jiman. Dogar, married two wives, and had one son named Nura by one wife and four sons named Yara, Sardara, Salwan and Kesar by the other, on his death his land was mutated in favour of his sons according to the <i>Chundawand</i> rule. But Yara and his brothers brought a civil suit and got a decree according to the <i>pagwand</i> rule.</p> |

| Village | No. of case | Date of Judgment | Court, | Brief purport of case and judgment. |
|---------------------------|-------------|-----------------------------------|--|---|
| Baliyala, (Fatahabad). | 560 | 16 th July 1901. | B. Umrao Singh, Munsif, Ist class | <p>Aziman, Dogar, had two wives, and male children by them as under:-</p> <p>First wife—Aziman- Second wife.</p> <pre> graph TD A[Aziman] --- B[Firoz] A --- C[Saru] C --- D[Hassan Muhammad.] A --- E[Isa] A --- F[Jalla] A --- G[Yusaf] </pre> <p>Mutation of the property of the deceased was sanctioned according to the pagwand rule. Firoz and Hassan Muhammad brought a civil suit pleading the <i>chundawand</i> system, and got a decree accordingly. This order was upheld by the divisional court on 9th May 1905. A further appeal being made to the Chief Court, the orders of the lower courts were quashed, and it was held by that court on 23rd May 1906 that Dogars follow the <i>pagwand</i> custom.</p> |

Among the following tribes I find, however, a few mutations sanctioned contrary to the pagwand rule; I quote them below. The general rule among them is, however, undoubtedly pagwand :--

| Village | Mutation No. | Date of attestaion. |
|-----------------------------|--------------|---------------------------------|
| Jats, Bagri— | | |
| Hasan (Bhiwani) | 132 | 15 th January 1906. |
| Patwan (Bhiwani) | 86 | 10 th March 1899. |
| Morka (Hissar) | 7 | 10 th November 1893. |
| Harita (Hissar) | 130 | 6 th December 1900. |
| Bandheri (Hissar) | 17 | 19 th December 1901. |
| Gujars— | | |
| Sanchla (Fatahabad) | 124 | 29 th December 1904. |
| Bishnois— | | |
| Mehulsara Mothsara (Hissar) | 45 | 29 th November 1904. |
| Talwandi Bادهابpur (Hissar) | 95 | 15 th June 1898. |
| Mahajans— | | |
| Balliyali (Hansi) | 2539 | 7 th June 1905. |
| Kalod (Bhiwani) | 145&146 | 16 th July 1902. |
| Kairu (Bhiwani) | 554 | 4 th February 1904. |

Jats, Deswali and Pachadas—

No regard is paid to uterine descent, and all the sons inherit equally. The allegation is supported by very many mutations. But in a few cases, where a man had more wives than one and all of them have had male issue, the property was inherited not in equal shares, but according to the *chudawand* system. The following mutations of this kind are forthcoming :-

| Village | Mutation No. | Date of attestation. |
|----------------------|--------------|---------------------------------|
| Jats, Deswali— | | |
| Rohnat (Hansi) | 376 | 29 th January 1900. |
| Saman Puthi (Hansi) | 90 | 25 th November 1893. |
| KhandaKheri (Hansi) | 294 | 7 th November 1902. |
| Jeora (Hissar) | 662 | 5 th June 1905. |
| Jugan (Hissar) | 258 | 18 th May 1905. |
| Balak (Hissar) | 408 & 409 | 31 st December 1906. |
| Petwar (Hansi) | 691 | 28 th November 1908. |
| Pachadas— | | |
| Akanwali (Fatahabad) | 582 | 9 th December 1908. |

Still among these people also *pagwand* is the general rule.

Musalman Rajputs—

The universal rule is *pagwand* among the Rajputs of Khera Rangharan, Bas Khurd, Bijan, Lamba, Nangthala, Sohu, Talwandi Rana, Nangal, Akanwali, Prabhuwala and Khai ; but a few families in some scattered villages follow the

chundawand rule, in which all the sons by one mother, however numerous, take the same amount as all the sons by another mother, however few.

No civil case has been traced, but the following mutations are cited:-

| Name of village | Mutation No. | Date of attestation. | Result |
|-------------------------|--------------|--------------------------------|--------------------|
| Baliyali(Hansi) | 882 | 15 th April 1896 | <i>Chundawand.</i> |
| Bas Khurd Bijan (Hansi) | 514 | 6th June 1905 | <i>Pagwand.</i> |
| Chang(Bhiwani) | 2733 | 10 th April 1907 | <i>Chundawand.</i> |
| Siwani (Bhiwani) | 274 & 277 | 14 th February 1897 | <i>Ditto.</i> |
| Chang (Bhiwani) | 2434 | 10 th May 1907 | <i>Ditto.</i> |

Hindu Rajputs—

As Jats Bagri, except that Rajputs of got Jatu, follow the chundawand rule: while among all other got of Rajputs the sons inherit in equal shares, from whatever mother they were born.

Brahamans—

As Jats Bagri, etc., except that Brahamans of the Hansi tahsil and of some villages in the Hissar tahsil follow the *pagwand* rule. In the rest of the tract the *chundawand* rule prevails.

See the following mutations—

| Village | Mutation No. | Date of attestation. | Brief purport of order. |
|------------------------|--------------|-----------------------------|---|
| Mandholi (Bhiwani).... | 156 | 30 th April 1906 | The sons of the deceased shared according to chundawand rule. |
| Sarsaud (Hisar) | 491 | 22 nd March 1906 | Ditto. |

Question 43.- Can a father in his life time nominate a particular son as a fit person to take a larger share than his brethren after the father's decease ?

Answer 43.

Among all tribes, except Mahajans, a father cannot nominate a particular son to take a larger share than his brothers: among Mahajans a father can divide his self-acquired property among his sons as he likes ; but he cannot do so in regard to his ancestral property.

Question 44.—When an estate has been held jointly by a father and his sons, and is distributed amongst them upon his decease, are acquisitions made by the sons exempt from distribution? or will all the sons share in all the joint estate, moveable or immoveable, ancestral or acquired, whether any part of such estate has been acquired by one of the sons , or has dev eloped upon any one or more of them by gift or by inheritance from a maternal grandfather or father-in-law or other relative through a female ?

Answer 44.

All tribes—

In such cases property acquired by on of the sons is set apart and goes to him along. The estate of the father, whether moveable or immoveable, ancestral or acquired, is shared by all the sons

Nomination of one particular son.

Acquisitions by sons.

Amongst
male lineal
descendants.

Question 45.—Where a man on his death leaves behind him one or more sons and grandsons and grandsons from other sons who have predeceased him, are his sons only entitled to succeed, or will his grandsons also ?

Answer 45.

All tribes—

The surviving sons alone will not succeed, but the grandsons, as heirs of their father who has predeceased their grandfather, will share in the succession, as representatives of their father.

*Per capita or
per stirpes.*

Question 46.—If in such a case grandsons also succeed, how is the state to be divided ? Is it to be divided equally among sons and grandsons: or is it to be divided in such a number of shares as may correspond with the number of the sons of the deceased, whether some predeceased him or not?

Answer 46.

All tribes—

This question is sufficiently answered by the preceding reply.

Question 47.—Where there is no son, but where the male lineal descendants are all grandsons, or all great-grandsons, will the estate be divided equally amongst all such grandsons or great grandsons ; or will the number of shares correspond with the number of the sons?

Answer 47.

All tribes—

Regard being always had to the chundwand and pagwant rule, the estate will be divided amongst all such descendants into shares corresponding with the number of sons of the deceased. That is, the inheritance is per stripes and not per capita. Among Brahmins mutation No. 1504 of Jaunpal, Bhiwani village, attested on 2nd June 1907, and among jats, Deswali, mutation No. 811 of Pabra village, attested on 22nd January 1908, corroborate this.

Amongst
heirs in
general.

Question 48.—Do the principles stated in the replies to question 45 and 46 apply to every case of the distribution of an inheritance, or is there any distinction when collaterals inherit : that is to say, does a son or grandson always take the share his father or grandfather would have taken if such

father or grandfather had survived the deceased, whether or no the share descend lineally or through a collateral relative.

Answer 48.

All tribes reply that the principles stated in the reply to question 45 apply in all such cases.

Question 49.—Does the inheritance successively devolve upon all male lineal descendants how low so ever, or is there any degree fixed in the descending line, within which if there be no lineal descendant, the inheritance will devolve on other relatives?

Cessation in direct line.

Answer 49.

All tribes—

There is no degree fixed beyond which inheritance does not go in the descending line. If there be male lineal descendants, how low soever, they must inherit.

Question 50.—If a man dies leaving a widow or widows, and either a daughter or daughters, or brothers or their descendants, or uncles or their descendants, or great-uncles or their descendants, but no male lineal descendants, upon whom will the inheritance devolve?

Right of widow.

Answer 50.

All tribes—

In such a case the inheritance devolves on the widow, or widows (each widow taking an equal share) for her or their lifetime. *Karewa*, or re-marriage, forfeits the widow's right to the property. See also answer 55 post. In the presence of the widow, uncles, brother, etc., have no claim. Daughters, whether unmarried or married, or their descendants, cannot ever inherit.

Question 51.—If the estate devolve upon the widow, what are her rights to alienate it by sale, gift, mortgage or bequest?—

Nature of widow's interest.

- (1) Can she alienate it under any special circumstances, or on account of any special expenses?
- (2) Is there any distinction in respect of moveable or immoveable, ancestral or acquired property, or in respect of alienation to the kindred of the deceased husband?

(3) If alienation is permissible, then whose consent is necessary to make it valid?

Answer 51.

Hindu Rajputs, Brahmans, Jats Bagri and Deswali, Musalman Rajputs, Gujars, Pachadas, Bishnois and Mahajans—

If the estate devolves upon the widow, she has no right to alienate it by gift, bequest, or sale : her interest is only a life interest, or until she marries again. She may, however, let such property on lease or mortgage it to raise money to pay the Government land revenue, necessary family expenses, her dead husband's debts, or the marriage expenses of her daughter : the consent of the reversioners is not required to this alienation. Over moveable property a widow has full control: she can dispose of it as she pleases. Mahajans say that a widow is also allowed to sell immoveable property for intense necessity, as to pay her husband's debts.

Notes—This reply gives the widow fuller power over moveable property than, I think, is really the case.

Dogars, Jat Sikhs, Pathans and Musalman Jats—

As above, save that the widow cannot alienate land by mortgage without the consent of her husband's agnates, and only then when money is required for the payment of Government land revenue or for her daughter's marriage expenses.

ILLUSTRATIONS.—Hindu Rajputs—

- (1) Mussammat Chandan sold her husband's estate to Save Hira, her husband's reversioner, sued for the cancellation of the sale. The court held the sale had been made unnecessarily and cancelled it. See case No. 205 of Sugarpur (Bhiwani), dated 15th January 1892, decided by Sardar Charat Singh, Extra Assistant Commissioner.
- (2) Mussammat Prem Kaur, widow of Bhuru of Sai (Bhiwani), sold her estate to Ranpat Singh and others. Man Singh and others, her husband's agnates, sued for the sale to be cancelled. The parties, however, came to terms and the land was given to the agnate heirs, See case No.761 decided on 21st June 1909 by the Munsif, Hissar.
- (3) Mussammat Shabarli alienated some of her estate by gift to Gugan Singh, and the rest by mortgage to Maman. The reversioner sued for cancellation of both transactions. The case was compromised: the gift was held illegal and the mortgage legal. See case No. 63 of Lohar, Bhiwani, decided on 21st March 1898 by the Munsif, Hissar.

NOTE—Though the sale of immoveable property by a widow is illegal, yet in the following cases the agnates withdrew their claims on the ground that the alienation had been made of necessity:--

| village | Case No. | Court. | Date of decision |
|-----------------------|----------|----------------|---------------------------------|
| Palhuwas (Bhiwani) | 50 | Munsif, Hissar | 16 th October 1890. |
| Tigrana (Bhiwani) | 178/10 | Ditto | 11 th February 1898. |

ILLUSTRATIONS—Brahamans –

- (1) Mussammat Ram Bai, of Mandhana, tahsil Hansi, alienated her husband's estate by gift to her daughter's son. Mukhram, reversioner, sued and got a decree cancelling the gift. The court held that a widow cannot make such alienations. See case No. 18 decided on 26th January 1881 by the District Judge of Hissar.
- (2) Mussammat Sariyan of Toshan (Bhiwani) alienated her estate by gift to her son-in-law, who sold it to another person. The reversioner sued for the cancellation of both transactions. The case was, however, compromised; the land was given to the plaintiff and he paid the purchase money back to the vendee. See case No.12 decided on 25th March 1907 by the Munsif, Hissar.

ILLUSTRATION—Jats, Bagri—

- (1) Mussammat Chando, widow of Didar Sigh, of Mudhalian (Fatahabad), sold her husband's estate to one Raja Ram. The reversioners sued to get the sale cancelled. The widow admitted the sale was illegal, and it was cancelled. See case no. 726 decided on 29th November 1883 by Sardar Alamgir, Extra Assistant Commissioner.
- (2) Mussammat Begi, widow of Tirkha, of Khabra Kalan (Fatahabad), alienated her husband's estate by gift. The reversioners sued to get the alienation cancelled. The court held the gift illegal and cancelled it. See case No.269 decided on 13th October 1886 by the Tahsildar, Fatahabad.
- (3) Mussammat Mankor, widow of Jisukh, of Makhua (Bhiwani), alienated her husband's estate to her son-in-law by gift. The reversioners sued to get the gift cancelled. The court held the contract illegal and cancelled it. See case No.55 decided on 23rd February 1899 by Sheikh Asghar Ali, Assistant Commissioner.

ILLUSTRATION—Jats, Deswali—

- (1) Mussammat Rajo of Rajpura, Hansi, sold her estate to Hardawari. Tota and others, her husband's agnates, sued for cancellation of the sale. The court, holding the sale illegal, ordered that after the death of the widow the alienation would cease to operate. This order was appealed against, but was upheld by the Divisional Judge—See case No. 76 decided on 23rd December 1903 by Bhai Umrao Singh, Extra Assistant Commissioner.
- (2) Mussammat Rajan of Bhatol Jatan(Hansi) sold her husband's estate to Rulia. Hura and other reversionary sued to have the sale cancelled. The parties having compromised the case the court cancelled the sale deed and the widow returned the purchase money to the vendee. See case No.78 decided on 13th April 1887 by Sardar Alamgir, Extra Assistant Commissioner.
- (3) Mussammat Samakaur of Dhanana (Hansi) mortgaged her husband's estate with a clause of conditional sale, under which the mortgagee got possession. Har Bhagat, reversioner, sued to have the

deed cancelled. The court held it illegal and ordered that after the death of Samakaur the sale would have no effect. See case No. 63 decided on 5th April 1889 by M. Ausaf Ali, Extra Assistant Commissioner.

(4) Mussammat Bhagtai of Kheri Gangan (Hansi) gifted her husband's estate to her son-in-law. Kanwar Singh, the reversioner, sued for cancellation of the gift. The court held that a widow could not alienate her estate by gift. Hence the transaction was cancelled. See case No. 78 decided on 19th January 1874 by the Extra Assistant Commissioner, Hissar.

ILLUSTRATIONS.—Musalman Rajputs—

- (1) Mussammat Mato of Raza-abad (Fatahabad) sold her husband's estate to Shadi Ram and others Shamera, reversioner, sued to have the sale cancelled. The court decided in his favour. And an appeal against this order was rejected by the Divisional Court on 20th April 1906. See case No.5—264 decided on 17th October 1905 by Lala Kashmiri Lal, Munsif.
- (2) Mussammat Mato of Bhirrana (Fatahabad) sold her husband's estate to Dhaunkal Lakha, reversioner, sued to have the sale cancelled. The court cancelled the sale. See case No. 103—740 decided on 31st January 1905 by Honorary Munsif, Hissar.
- (3) Mussammat Gamun, widow of Salam, of Bhirrana, sold her husband's estate to Durjan Singh. On the reversioner's objecting the court's decision was as in illustration No.(2) above. See case No 11 decided on 11th June 1908 by Lala Chuni Lal, Extra Assistant Commissioner.
- (4) Mussammat Mehran of Khai (Fatahabad) made a gift of her husband's estate to her son-in-law. The court held the gift illegal. See case No. 108 decided on 1st April 1881 by Rai Thandi Ram, Extra Assistant Commissioner.
- (5) Mussammat Dhana, widow of Haq Ali, of Chand (Bhiwani), gifted her husband's estate to Allah Bakhsh. Nawab Ali and others, reversioners, sued to have the gift cancelled. The court held it illegal. See case NO.57 decided by Pandit Shankar Das, Extra Assistant Commissioner on 24th August 1895.

ILLUSTRATIONS.—Pachadas—

- (1) Mussamamt Jabindo of Akanwali (Fatahabad) sold her husband's estate to Azim. Suleman and other reversioners sued to have the sale cancelled. The court decided it to be invalid. See case No.186 decided by M. Muhammad Hussain, Extra Assistant Commissioner, on 6th August 1887.
- (2) Mussammat Kundo of Hinjraon Khurd (Fatahabad) sold her husband's estate to Razada and others. On a suit being brought by Qasim Din and other reversioners to have the sale cancelled, the court ordered that the sale would be inoperative after the widow's death. An appeal against the order was rejected by the Divisional judge on 13th

June 1901. See case No. 74 decided by Lala Sansar Chand, Extra Assistant Commissioner, on 14th November 1898.

(1) The widow of Pira of Raza-abad (Fatahabad) sold her husband's estate to Jesha Jat, Wazira and other reversioners sued to have the sale cancelled. The court held the contract valid, but only because it was made with the consent of the plaintiffs. An appeal against the order was rejected by the Divisional Court on 9th December 1893. See case No.268 decided by Sardar Chharat Singh, Extra Assistant Commissioner, on 15th July 1893.

ILLUSTRATIONS.—*Mahajans*—

No civil case worth citing is forthcoming, but in the following mutations mortgages, sales and gifts by widows were sanctioned:-

| village | Mutation No. | Date of attestation | Kind of mutation | REMARKS. |
|---------------------------|--------------|----------------------------------|------------------|---|
| Daha (Hissar) | 347 | Ist December 1908. | Gift | No agnate heir. |
| Salemgarh (Hissar) | 411 | 17 th May 1908 | Do. | Ditto. |
| Jaunpal Bhiwani (Bhiwani. | 1500 | 15 th September 1907. | Sale | The tribe has admitted sales by widow as legal under certain circumstances. |
| Siswal (Hisar) | 879 | 23 rd September 1909. | Mortgage | |
| Ditto | 880 | 9 th June 1908 | Ditto. | |
| Kuleri (Fatahabad) | 230 | 26 th June 1907. | Ditto. | |

ILLUSTRATIONS.—*Dogars*—

| village. | Case No. | Date of decision | Court. | Brief account of the case and of the court's decision. |
|-------------------|----------|-------------------------------|---|--|
| Ghailpur (Hissar) | 157 | 11 th August 1890. | M. Ausuaf Ali, Extra Assistant commissiner. | Mussammat Aisha gifted her husband's estate to her daughter. Mirza and other reversioners sued to have the gift cancelled. The court ordered the gift should be of no effect after the death of the widow. |

| village. | Case No. | Date of decision | Court. | Brief account of the case and of the court's decision. |
|----------|----------|------------------|--------|--|
|----------|----------|------------------|--------|--|

| | | | | |
|--------------------------|-----|--------------------------------|---|--|
| Ghailpur (Hissar) | 31 | 29 th January 1901. | Lala Kidar Nath, Extra Assistant commissiner. | Mussammat Aisha gifted her husband's estate to her daughter. The court ordered, on a suit being brought by Sharf-ud-din, reversioner, that on the death of the widow the gift would become of no effect. |
| Ditto | 92 | 2 nd January 1895. | Pandit Shankar Das, Extra Assistant Commissioner. | Mussammat Raji Mortgaged her husbands's estate to Namdar. The court ordered the mortgage to be cancelled |
| Baliyala (Fatahabad). | 112 | 21 st April 1877. | Rai Nand Ram, Extra Assistant Commissioner. | Mussammat Biran mortgaged her husband's estate to her son-in-law. The mortgage was set aside on a suit being brought by Saiyan and other reversioner. |

See also note at end of this answer.

ILLUSTRATIONS:---*Jat Sikhs*---

(1) Mussammat Rupan of Sahnal, tahsil Fatahabad, sold her husband's estate to Hargulal and others. On the institution of a suit by Asa Ram, reversioner, the court set aside the sale, holding it to have been entered into unnecessarily. An appeal against this order was rejected by the Chief court on 22nd December 1888. See case No. 45 decided by Rai Jugal Kishore, Sub-Judge, on 13th December 1886.

(2) Mussammat Rupan of Sahnal, tahsil Fatahabad, conferred on some persons the occupancy rights in her husband's estate. On the institution of a suit by Asa Ram, reversioner, the Chief Court decided that the rights granted would be of no effect on the widow's death. See case No. 33 decided by Mr. Harris, District Judge, on 10th February 1890.

(3) Mussammat Daya Kaur of Kulana, tahsil Fatahabad, sold her husband's estate. Ilarnam Singh, reversioner, sued to set aside the sale. The court held it to be invalid. See case No. 83 decided by Sardar Ali Hussain, District Judge, on 20th December 1909.

NOTE—Among Dogars, Jats, Sikhs and Pathans it seems that a distinction should be made between the rights of a widow over land her husband had himself acquired, and her rights over lands he has inherited. The latter admittedly she cannot permanently

alienate: but as regards Gujars the Chief Court held on November 15th 1892, in an appeal in case No. 152 from Ghaiblpur village (Hissar tahsil). Originally decided on August 11th, 1890, that she could, that she could alienate the former, and lower Courts have subsequently followed that ruling so far as Dogars are concerned. As regards Jat Sikhs a similar decision was given by an Extra Assistant Commissioner on April 10th, 1902, in case No. 61 from Pilchian village, tahsil Fatahabad. And for a similar ruling as regards Pathans, see case No. 63 decided by an Extra Assistant Commissioner on January 23rd, 1903, from Rohi village, tahsil Fatahabad.

“Legal share.”

Question 52.—As regards the right of a Muhammadan widow to alienate, is any distinction taken in respect of her legal share?

Answer 52.

All Musalman tribes---

The legal share of Mahammadan Law is unknown.

Question 53.— If there be several widows do they taken in equal shares ? Is any distinction made in respect of widows who are not of the same family with their deceases husband.

Shares of widow.

Answer 53.

All widows take in equal shares, whether married by *shadi* or by *Karewa*.

There is no practice of marrying into a different caste, so the contingency mentioned in the latter part of the question does not arise.

Question 54. Is there any distinction in the rights of widows based upon the circumstance whether the husband was living jointly with his brothers or not?

Exclusion of widow.

Answer 54.

All tribes—

No distinction is made.

Question 55.—What is the effect of unchastity upon the right of a widow in respect of the estate of her

Unchastity of widows and marriage.

deceased husband? What is the effect of her remarriage?

Answer 55.

All tribes—

Except among Hindu Rajputs, Brahamans and Mahajans, the unchastity of a widow does not deprive her of rights to her husband's property, but if she enters into re-marriage, she loses all her rights to it.

Among Hindu Rajputs and Brahamans a widow loses all her rights to her husband's property if she is proved unchaste or enters into remarriage. Among Mahajans a widow does not lose as she remains in his house, but loses all such rights if she leaves his house or enters into remarriage.

As regards Dogars, at any rate this reply seems very doubtful. The majority of the decisions of civil courts I have been able to trace are to the opposite effect. I give all I can find below:--

The following case is the only one traced that corroborates the reply:-

Musammat Fatto of Ghalibpur (Hissar) entered into remarriage with another man : Khuda Bakhsh, reversioner, sued and got a decree for the exclusion of the widow from her deceased husband's property. See case No.95 decided on 22nd April 1883 by Rai Thandi Ram, Extra Assistant Commissioner.

The following decisions are, however, to the opposite effect :--

(1) Mussammant Jhabi, widow of Sarwar, Dogar, of Balliyala (Fatahabad), entered into remarriage with Shrfu. Dardar, reversioner, sued for the exclusion of the widow from her deceased husband's property, The suit was dismissed on the ground that among Dogars a widow on re-marriage does not lose her rights in respect of her first husband's property ; moreover, as the widow had a minor daughter by her first husband, it was necessary that the property in question should remain with her for the maintenance and marriage expenses of the child. On appeal the Divisional Judge upheld the judgement of the court of the first instance on 31st August 1892. See case No.68 decided on 12th May 1892 by Sardar Charat Singh, Extra Assistant Commissioner.

(2) Mussammam Amun, widow of Saman, of Hissar, entered into remarriage with Shabamand. Her grandson, a lineal decendant of her first husband, having died without male issue, the property passed to the widow. Gaman, the widow's first husband's borther, instituted a civil suit, which fell through on the ground that, though Mussammam Amun had remarried, yet she still lived in her deceased husband's house, managing the property and bringing up his descendants : also her second husband was a collateral of her first husband. This decision of the court of first instance was upheld on appeal up to the Chief Court; vide its judgment of 20th July 1888. See case

No. 223/80 decided on 28th July 1886 by M. Muhammad Hussain Extra Assistant /commissioner.

(3) Mussammam Juni, widow of Sadra, of Hissar, entered into, re-marriage with Bhana, who divorced her on the ground of unchastity. She again entered into remarriage with Sajan. Bhana, the reversioner to Sadra's property, brought a civil case to exclude the woman from her first husband's property, which was dismissed ; the court held that as Mussammam Juni has possessed the property from the very beginning and lived in her first husband's house, she could not be deprived of her rights in the

estate. See case No. 220 decided on 28th April 1874 by Rai Thandi Ram, Extra Assistant Commissioner.

(4) Mussammat Bato, widow of Sazawar, entered into remarriage with Farid three years' after her first husband's death, whose property she held for seventeen years. Subsequently Ismail and other agnate heirs got a mutation sanctioned through the Revenue Officer excluding her from the estate. Mussammat Bate instituted a civil suit, and the court decreed in her favour. See case No. 769 decided on 23rd November 1903 by Lala Suraj Narain, Munsif.

ILLUSTRATION—Musalman Rajputs—

Only one case to cite. Mussammat Aziman, widow of Mubarik of Dang Khurd, tahsil Bhiwani, entered into remarriage with Mirdad and bore him a son, but remained in possession of her first husband's property. A suit was instituted by Ismail and other reversioners, and was decreed in their favour, the widow being excluded. See suit No. 38 decided on May 5th, 1892, by Sardar Charat Sigh, Extra Assistant Commissioner.

ILLUSTRATION—Hindu Rajputs—

Mussammat Guman, widow of Shera, of Sirsa, tahsil Bhiwani, entered into remarriage with another man. Rup Ram and other reversioners sued for dispossession of the widow from her first husband's estate, and got a decree. See case No. 141, decided on 22nd May 1877 by Tahsildar, Bhiwani.

ILLUSTRATIONS—Brahamans—

In the following cases the reversioners got the widow dispossessed of her husband's property on the ground of unchastity:-

| village. | Case No. | Name of court deciding the case. | Date of decision |
|--------------------|----------|--|----------------------------------|
| Khot Kalan Hansi) | 23 | Munsif, Hisar | 26 th February 1909. |
| Khot Khurd (Hansi) | 81 | Tahsildar, Hansi | 25 th September 1901. |
| Kajal (Hansi) | 46 | Mir Abid Hussain Extra Assistant Commissioner. | 18 th June 1889. |
| Sisai Bola,(Hansi) | 44 | Ditto | Ditto |
| Thurana (Hansi) | 222 | S. Alamgir. Extra Assistant Commissioner. | 19 th November 1886. |
| Rajthal (Hansi) | 490 | Rai Sanjhi Mal, Extra Assistant commissioner. | 6 th October 1884. |

ILLUSTRATION—*Pachadas*—

The reversioners of the widows husbands got decrees in the following three cases excluding the widows from their deceased husbands estates on account of their remarriage :--

| village. | Case No. | Date of decision | Court deciding |
|--------------------------|----------|-------------------------------|---------------------------------------|
| Madh (Fatahabad) | 399 | 13 th August 1902 | Munsif, Hissar |
| Basti Bhiwan (Fatahabad) | 588 | 8 th August 1887 | Pandit Brij Balab, Munsif, Hissar. |
| Diwana (Fatahabad) | 92 | 13 th October 1878 | M. Ramji Das, Tahsildar. |

Succession
of
daughters.

Question 56.—Under what circumstances are daughters entitled to inherit? Are they excluded by the sons or by the widow, or by the near male kindred of the deceased? If they are excluded by the near male kindred, is there any fixed limit of relationship within which such near kindred must stand towards the deceased in order to exclude his daughters?

Answer 56.

All tribes, except Dogars—

In no case can daughters or their descendants inherit.

Dogars—

If the deceased leaves no collaterals, his daughters and their descendants inherit, but if there are any collateral, however distantly related, they have preferential rights. In case the daughters inherit, all take equal shares, and on their death the property passes to their descendants. The issue of any daughter, who may have predeceased her father, has no right to claim inheritance.

Question 57.—Is there any distinction as to the rights of daughters to inherit (1) the immoveable or ancestral, (2) the moveable or acquired property of their father?

Answer 57.

All tribes, except Dogras—

Daughters in no case inherit their father's property, whether immoveable, moveable, ancestral, or acquired.

Dogars-

See answer to question 56 above.

Note:--I have grave doubts as to the accuracy of this reply and that to question 56. The people, however, state their custom to be such. As to a father's ancestral land admittedly a daughter cannot inherit it. But as regards his self-acquired property, all the mutations and legal decisions I can trace show that a daughter does inherit it to the exclusion of agnates. See for Brahmans, mutation No. 997 of Balsmand, (Hissar), decided on 19th October 1909 : for Bagri Jats, Civil case no. 144 of Kabra Kalan village (Fatahabad decided by the Extra Assistant Commissioner on March 25th, 1876 : for Dogars, civil case No. 84 of Hissar town decided by the Extra Assistant Commissioner on May 1st, 1880 : for Musalman Rajputs, mutation No. 1123 of Budhlada (Fatahabad) decided on November 5th, 1909 : for Pachadas mutation No. 270 of Jhalaniyan (Fatahabad) decided on February 21st 1907 : and for Bishnois mutation No. 269 of Churaud (Hissar) decided on March 31st, 1906. In all of them daughters were given their dead father's land, to the exclusion of agnates. The people offer no explanation as to these cases. I think they have stated their wishes for the future in this matter, not their existing custom.

Question 58.—(1) Under what circumstances are daughters entitled to be maintained out of the estate of their deceased father?

Maintenance and marriage.

(2) What is the effect of (a) marriage, (b) residence in a strange village, upon the right of the daughter to inherit or to be maintained?

(3) If a married daughter with her husband live with the father up to his decease, can the daughter inherit?

(4) Can daughters who are married and barren, or widowed or without male issue, or mothers of daughters only, inherit the father's estate?

Answer 58.

All tribes—

Except among Dogars (in which tribe daughters inherit if there is no agnate of their father) in no tribe is a daughter, whether unmarried, married or widowed, entitled to inherit any kind of property from her father ; while among all tribes a daughter is entitled to proper maintenance until her marriage ; after her marriage, or her departure from her father's village for residence in a strange village , she loses all such rights. She has no claims upon her father's estate even if she and her husband live with her father. Among, however, Jats Bagri, Deswali, and Musalman, even if a daughter leaves her father's village, she is entitled to maintenance out of her father's estate until her marriage.

Question 59.—What is the nature of the interest taken by a daughter in the property she inherits. Define her rights of alienation, if any, by sale, gift, mortgage, or bequest.

Nature of daughter's interest.

Answer 59.

All tribes—

Among Dogars daughters, who inherit, have full proprietary rights and can alienate by sale, gift, mortgage, or bequest. Daughters in other

tribes do not inherit, but in exceptional cases, in which daughters were allowed to inherit their fathers' properties, they exercised full proprietary rights over the property ; the following instances and cited for references :--

| Village | Mutation No. | Date of attestation | Details |
|---|--------------|-----------------------------------|--|
| <i>Brahmans</i> Mandhal kalan (Hansi).. | 266 | 16 th August 1908 | Mussammat Dharmon gifted the estate she had inherited from her father in favour of her sons. |
| <i>Dogars</i> Kharkhara(Hissar) | 650 | 17 th December 1909 | Mussammat Nathi gifted the estate she had inherited from her father in favour of her sons. |
| <i>Pachadas.</i> Binjraon khurd (Fatahabad) | 1160 | 15 th July 1910 | Mussammat Rahiman and Kalan gifted the estate they had inherited from their father Sagar in favour of Shaku, son of Mussammat Rahiman. |
| Nangal (Fatahabad) | 711 | 4 th July 1907 | On the death of Aisha the estate she had inherited from her father was entered in the names of her sons. |

Daughter's
issue

Question 60—If there be no daughters, do daughters sons succeed? If so, is the property equally divided amongst all the sons of several daughters, or are the shares proportioned to the number of daughters who leave sons?

Answer 60.

All tribes-

See answer to the preceding questions.

Mother
and father.

Question 61—When a man dies leaving no male lineal descendants, no widow, and no daughters or daughters' sons, upon whom will the inheritance successively devolve?

Answer 61

All tribes—

Failing male lineal descendants through males and widow, the inheritance devolve successively on the following relations :--(1) the father,

(2) the brothers and their male lineal descendants through males, (3) the mother,(4) the male agnates. In the following mutations the inheritance devolved upon mothers:--

| Village. | Mutation No. | Date of attestation. |
|------------------------------|--------------|---------------------------------------|
| <i>Hindu Rajputs.</i> | | |
| Phulpura (Bhiwani) | { | 1157 3 rd December 1908. |
| | | 1271 23 rd September 1909. |
| | | 1415 24 th September 1909. |
| Tigranan (Bhiwani) | 1624 | 22 nd August 1909. |
| Lohar Bhiwani (Bhiwani) | { | 2045 12 th December 1908. |
| Jaunpal Bhiwani (Bhiwani) | | 1955 8 th June 1909. |
| Talwandi Roka (Hissar) | | 2287 27 th September 1909. |
| | | 392 13 th June 1909. |
| Salemagarh (Hissar) | 433 and 434 | 4 th September 1908. |
| <i>Brahamans.</i> | | |
| Saharwa (Hissar) | { | 976 19 th February 1909. |
| Jaunpal Bhiwani (Bhiwani) | | 1950 17 th August 1909. |
| | | 1607 5 th September 1907. |
| | | 1711 } 28 th February 1908 |
| | | 1757 } |
| Bapaura (Bhiwani) | { | 2675 } 27 th August 1909. |
| | | 2689 } |
| | | 2690 } |
| Talwara (Fatahabad) | 426 | 16 th March 1910. |
| <i>Jats, Bagri.</i> | | |
| Dhattu Kalan (Fatahabad) | 363 | 3 rd December 1906. |
| Chand Naud (Hissar) | 136 | 23 rd June 1907. |
| Gorchhi (Hissar) | 394 | 21 st December 1908. |

| Village. | Mutation No. | Date of attestation |
|----------------------|--------------|---------------------|
| <i>Jats, Deswal.</i> | | |

| | | | | |
|------------------------------|---|------|----------------------------------|--------------------------------|
| Dobeta (Hissar) | | 357 | 10 th February 1909. | |
| Balsmand(Hissar) | | 946 | 2 nd December 1908. | |
| Niana (Hissar) | | 865 | 18 th January 1909. | |
| Saman Puthi (Hissar) | | 1177 | 28 th December 1908. | |
| <i>Jat Sikhs.</i> | | | | |
| Qasimpur (Fatahabad) | | 52 | 24 th May 1907. | |
| Chandpura (Fatahabad) | | 146 | 4 th December n1908. | |
| Pirthala (Fatahabad) | | 321 | 11 th December 1908. | |
| <i>Musalman Rajputs.</i> | | | | |
| Nangal (Fatahabad) | | 655 | 26 th October 1906. | |
| Dulat (Fatahabad) | { | 251 | 11 th April 1907. | |
| | | 316 | 14 th September 1909. | |
| Bahuna(Fatahabad) | { | 773 | 19 th July 1908. | |
| | | 305 | 14 th October 1909. | |
| Dang Kalan (Bhiwani) | | 342 | 11 th May 1909. | |
| Chaudhriwas(Hissar) | | 997 | 20 th December 1909. | |
| Balsamand(Hissar) | | 845 | 20 th March 1908. | |
| <i>Gujars.</i> | | | | |
| Hissar | | 1602 | 13 th January 1911. | |
| Sidhani (Fatahabad) | | 412 | 3 rd June 1909. | |
| <i>Pachadas.</i> | | | | |
| Chankothi (Fatahabad) | | 1463 | 8 th January 1908. | |
| | { | 1553 | 17 th June 1909. | |
| <i>Bishnois</i> | | | | |
| Pirthala (Fatahabad) | | | 330 | 23 rd October 1909. |
| Talwandi Badshahpur (Hissar) | | | 376 | 3 rd May 1909. |
| Mahalsara Mothsara (Hissar) | | | 81 | 26 th March 1909. |

village

Mutation No.

Date of attestation

| <i>Mahajans</i> | | | |
|---------------------------|---|------|---------------------------------|
| Bamla (Bhiwani) | } | 1484 | 14 th July 1908. |
| | | 1524 | 3 rd December 1908. |
| Jaunpal Bhiwani (Bhiwani) | | 1635 | 3 rd September 1907. |
| Balsamand (Hissar) | } | 867 | 22 nd October 1908. |
| | | 996 | 19 th October 1909. |
| Hissar | | 1201 | 10 th June 1909. |
| Faransi(Hissar) | | 168 | 31 st March 1907. |
| Ramsara(Fatahabad) | | 298 | 24 th December 1908. |
| Talwara (Fatahabad) | | 395 | 25 th May 1909. |

Question 62—When the estate devolves upon the mother of the deceased, what is the nature of the interest she acquires? Define her power of alienation. On the death of the mother will the property devolve on the heirs of the son, or on her heirs?

Answer 62.

All tribes—

A mother has the same rights as a widow has in her deceased husband's estate. On her death the estate devolves on the heirs of her son, or grandson and not on her collaterals.

Question 63.—When the property devolves on brothers, what, if any, regard is paid (1) to uterine descent, (2) to associations? Do uterine associated brethren exclude all others? In what order succeed—

- (i) Unassociated brethren of the whole blood;
- (ii) associated brethren of the half blood;
- (iii) unassociated brethren of the half blood?

Mother's interests.

Effects of association among brothers.

If a man die leaving a uterine brother separated and a half-brother

associated, how will these two inherit?

Answer 63-

Aribes say that association or non-association makes no difference.

Where the *Pagwand* rule prevails half-brothers succeed equally with full brothers

Question 64.—When a man dies leaving associated and unassociated brethren, and the property devolves on his brethren, have the associated brethren any preferential claims to acquired property, moveable, or to ancestral moveable or immoveable, or to ancestral moveable property ?

Answer 64.

All tribes—

The answer is exactly as to the last question. Associated brethren have no preferential claims.

Brother's
sons.

Question 65.—In a default of brethren, does the property devolve upon their sons?

Answer 65.

All tribes—

Yes.

Sisters.

Question 66.—Does the property ever devolve upon sisters or upon sisters' sons? If upon sisters' sons, how are their shares computed?

Answer 66.

All tribes—

Sisters and sisters' sons are in no case entitled to inherit.

Husband.

Question 67.—When a wife dies holding property in her won right, is the husband entitled to succeed to such property or any part of it?

Answer 67.

All tribes—

If a wife die leaving property in full right, her sons will succeed to it; failing them and their male lineal descendants the husband

succeeds to it. Among Hindu Rajputs, Jats Bagri and Deswali, and

Pathans, on the death of the husband the property reverts to the collaterals of the original donor; among other tribes on this contingency the property passes to her husband's heirs, just as his own.

Step-son.

Question 68.—Can the son by a former marriage of a woman, who contracts a second marriage, inherit from (i) his natural father, (ii) his step-father? If from his step-father, is his share equal to or less than that of his step father's own sons?

Answer 68.

All tribes---

All tribes who admit remarriage say that the son can inherit only from his own father and not from his step-father. See civil case No. 136 of Saman Puthi village, tahsil Hansi, decided by K.B.Mir Abid Hussain, Extra Assistant Commissioner, on 31st October 1899, as regards Deswali Jats : for Jat Sikhs, see case No. 1367 decided by Khwaja Tasadduq Hussain, Extra Assistant Commissioner, on February 25th, 1901, from Jandwala village (Fatahabad): and for Pachadas, see case No. 684 decided on 27th January 1902 from village Madh (Fatahabad).

In a few cases step-sons have inherited part of their step-father's property, but always with the consent of their step-father's reversioners.

Question 69.—Is any distinction taken as regards the step-son, (1) if he be not born till after the second marriage of his mother, (2) if the step-father in his life time assigns him a share by deed?

Answer 69.

All tribes—

See answer to question 68, a step-son entitled to no share of his step-father's property, nor can a step-father assign to his step-son by deed a share of his immovable, ancestral or self-acquired property; But he can assign to such son his moveable property.

Maintenance of step sons.

Question 70.—Are step-sons entitled to be maintained by their step-father? If so, till what age?

Answer 70.

All tribes—

If a step-son lives with his mother in his step-father's house, he is entitled to be maintained by the step-father until he is of age.

where there are
no relations.

Answer 71.-

All tribes-

Except among Dogars of the Hissar tahsil, among all tribes if a man dies intestate, leaving no relations, his immovable property devolves on all the landowners of the *thula or pana* in which the deceased's land is situated, and in case the village is *bhaiacnara* and not divided into *thulas or panas*, it becomes the common property of the village; while his moveable property is given in alms. Among Dogars of the Hissar tahsil if there is no agnate of the deceased his estate successively devolves upon his daughters, his sisters and their descendants; failing them the rule is as in other tribes.

ILLUSTRATIONS-*Brahmans*-

Harnam, Matu and Mangtu of Dhana Nirsan (Bhiwani tahsil) all died sonless, leaving no agnates. Their estates were entered as common property (*shamilat*) of *thula* Kiswan, in which their lands lay. See mutation Nos. 266 to 268 decided on 28th February 1909.

ILLUSTRATIONS-*Jats, Bagri*-

The following mutations were sanctioned in favour of the village common land of the owners' dying without heirs:-

| village | Mutation | Date of attestation | Name of the deceased. |
|--------------------------|----------|---------------------------------|-----------------------|
| Chaurand (Hissar) | 268 | 9 th June 1906 | Mamraj |
| Khabra Kalan (Fatahabad) | 157 | 4 th February 1902 | Hira. |
| Suli Khera (Fatahabad) | 68 | 18 th March 1902 | Dungar. |
| Alampur (Bhiwani) | 445 | 27 th September 1909 | Nanga. |

ILLUSTRATIONS.—*Jats, Deswali*—

(1) Kirpa of Bas Akbarpore (Hansi tahsil) dies sonless and without any agnate. His estate was entered as *shamilat* (common property) of the *thula* in which his land lay. See mutation NO. 37 attested on 24th January 1905.

(2) Maman of Tosham, tahsil Bhiwani, died intestate. His estate was entered as common property (*shamilat*) of *thula* Sukhdeo, in which his land was situated. See mutation No. 944, attested on 25th August 1909.

ILLUSTRATIONS.—*Mahajans*—

Nainan of Kairu, tahsil Bhiwani, died leaving no agnates, His estate was entered as Shamilat (common property) of thula Khawani, in which his land was situated. See mutation No. 933, attested on 22nd July 1909.

Question 72.—If a person voluntarily retires from the world, and becomes a member of a religious order, what is the effect upon (1) his right to retain his property, (2) his right to acquire property by inheritance ? Upon whom will the property, which he would have inherited, if he had not retired from the world, devolve ?

Civil death
of ascetics.

Answer 72.

Brahmans, Jats Bagri and Deswali, Jats, Musalmans and Bishnois:--

If a man voluntarily retires from the world and becomes a *faqir*, he retains his property in his own name until he dies, but it remains in possession of his agnates. The property which he is entitled to inherit regularly devolves on him. If he returns, he is given back at his estate.

ILLUSTRATIONS.—*Brahmans, Jats Bagri and Deswali and Bishonis—*

In the following mutations the s\estate of a man who had become a *faqir* devolved upon his agnates :--

| village | Mutation No. | Date of attestation |
|--|--------------|----------------------------------|
| <i>Brahmans.</i> Kaunt(Bhiwani) | 208 | 18 th January 1907. |
| <i>Jats, Bagri</i> Chuli Bagaryan (Fatahabad) | 309 | 17 th September 1908. |
| Jui Kalan (Bhiwani) | 225 | 11 th August 1907. |
| Dewawas (Bhiwani) | 141 | 13 th January 1908. |
| Gorchhi (Hissar) | 296 | 5 th May 1908. |
| Bhcريان(Hissar) | 170 | 12 th February 1907. |

| village | Mutation No. | Date of attestation |
|---------|--------------|---------------------|
|---------|--------------|---------------------|

| | | | |
|----------------------------|--|-----------|----------------------------------|
| Bandheri (Hissar) | | 514 | 1 st May 1907. |
| Faransi (Hissar) | | 192 | 23 rd August 1907. |
| Kalirawan(Hissar) | | 333 | 9 th March 1908. |
| | | 347 | |
| <i>Jats, Deswali.</i> | | | |
| Balsamand (Hissar) | | 855 | 16 th February 1910. |
| Bamla (Bhiwani) | | 1388 | 3 rd November 1909. |
| | | 1551 | 9 th May 1909. |
| Kaunt (Bhiwani) | | 302 | 11 th July 1908. |
| Kharkhari Sidhan (Bhiwani) | | 134 | 11 th August 1907. |
| Bosan (Bhiwani) | | 196 & 197 | 30 th October 1908. |
| Fatehpuri (Fatahabad) | | 182 | 18 th September 1907. |
| Singuac (Hansi) | | 349 | 7 th August 1909. |
| Jalap (Hansi) | | 365 | 13 th April 1905. |
| Kheri Gangan (Hansi) | | 334 | 26 th January 1909. |
| Sultanpur (Hansi) | | 1303 | 15 th June 1910. |
| <i>Bishnois</i> | | | |
| Kalirawan (Hissar) | | 332 & 334 | 9 th March 1908. |

NOTE.—There is undoubtedly some vagueness in the matter. Though the above represents the general replies, in practice the time limitations laid down for these cases by the Revenue Manuals (7 and 12 years,—vide Settlement Manual, paragraph 281) is generally acquiesced in.

Adoption
by males.

SECTION IX----ADOPTION

Question 73.—Is it necessary that the adopter should be destitute of a son, a son's son, and a son's grandson? Is the presence of a daughter's son a bar to the right of adoption?

Answer 73.

All tribes—

A man who has no male lineal descendants can adopt; but if he has such descendant, he cannot. The presence of a daughter's son or lower descendant is no bar.

Question 74.—May a man, who has male issue, adopt in case issue being disqualified by any, legal impediment (such as loss of caste) from performing the exequial-rites?

Answer 74.

Among Musalman Jats, Pachadas and Dogars adoption is not permissible in the case mentioned. Among other tribes it is permissible in such a case.

Question 75.—Can a man, who had already adopted a son, adopt another during the life-time of the first?

Answer 75.

All tribes—

A man, who has already adopted a son, cannot adopt another during the life-time of the first.

Question 76.—Can the following persons adopt: - (1) a bachelor; (2) a man blind, impotent, or lame; (3) a widower; (4) an ascetic who has renounced the world?

Answer 76.

All tribes—

A bachelor, a man blind, impotent, or lame, or a widower can adopt. An ascetic can appoint his *chela* (successor), but cannot adopt

Question 77.—Can a woman adopt? State whether it is necessary to the validity of an adoption by a widow that she should adopt with the permission, written or verbal of her deceased husband, or with the consent of his kindred. Adoption by females.

Answer 77.

All tribes—

Among Musalman Jats a widow cannot adopt, except with the written permission of her husband. Among Pathans, Jat Sikhs, Dogars, and Pachadas a widow can in no case adopt, whether the husband leaves her a written permission or not. In other tribes a widow can adopt if she has either (a) written permission to do so from her husband or (b) obtained his collateral's consent. In case (a), among Hindu and Musalman Rajputs, Brahmans and Gujars, the consent of the husband's collaterals is requisite, in addition to his written permission, should the widow adopt from outside her husband's collaterals. If however, she adopt from among them, the written permission of the husband alone is sufficient.

Hindu Rajput widows, however, of Bhiwani town appear not to be bound by these restrictions and to have full power to adopt. See civil case No. 18 decided by Lala Sanjhi Mal, Extra Assistant commissioner on May 19th 1902, from Lohar Bhiwani (part of Bhiwani town). Order upheld by the Chief Court on May 17th 1897. In it a widow, Mussammat Jodhan, adopted her brother's son; her husband's reversioner, Hardawari, objected. The courts held the adoption was lawful.

In the whole of the Bhiwani tahsil indeed, among all tribes, widows appear to have greater powers to adopt than elsewhere in the tract. see, *passim*, the following instances, though they in the main corroborate the general rules just enunciated :-

ILLUSTRATION.—*Hindu Rajputs*—
Mutations---

| Village | Mutation No. | Date of attestation | Name of widow adopting. | Whether the person adopted was an agnate of her husband, and if not, whether there was not any collateral of her husband alive. |
|---------------------------|--------------|---|-----------------------------|---|
| Rewari (Bhiwani) ... | 932 | 28 th April 1907 | Mussammat Kundnau. | The person adopted was an agnate of her deceased husband. |
| Sai (Bhiwani) ... | 1036 1424 | 12 th April 1909 19 th September 1909. | Ditto Mussammat Chandan. | Ditto Ditto |
| Begha Bahmanan (Bhiwani). | 205 | 12 th November 1907. | Mussammat Aman. | Ditto |
| Rewari (Bhiwani) ... | 1058 | 23 rd April 1909. | Mussammat Biran. | The person adopted was not related to her deceased husband, Jassu Mal and Girdhari, her husband's agnates, were alive. |
| Lohar Bhiwani (Bhiwani). | 1672 | 20 th June 1907. | Mussammat Kundnao. | The person adopted was her husband's sister's son; there was no agnate of her husband alive. |
| | 1910 | 2 nd November 1907. | Mussammat Taran. | No agnates alive. |
| Jaunpal Bhiwani (Rewari) | 2221 | 13 th September 1909. | Mussammat Harbai. | The Person adopted was not related to her husband ; Jaimal and Gahar, aguate Beirs of her husband, were alive. |

ILLUSTRATION. *Brahmans*:-

No judicial case forthcoming. Following mutations have occurred:-

| village | Mutation No. | Date of attestation | Name of widow adopting. | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|--------------------------|--------------|---------------------------------|-------------------------|---|
| Lohar Bhiwani (Bhiwani). | 2059 & 2060 | 7 th September 1999. | Mussammat shib Devi. | The person adopted was not related to her husband, whose aguates, Maharat, Gaupat and Bastar, were alive; |
| Kural (Bhiwani) ... | 427 | 9 th September 1908. | Mussammat Darkan. | The person adopted was the son of the widow's husband's brother. |
| | 415 | Ditto. | Mussammat Sanwali. | Ditto. |
| Bahl (Bhiwani) ... | 415 | 27 th February 1907. | Mussammat Rukman. | The person adopted was the son-in-law of the widow. Her husband had left no aguates. |
| Sui (Hansi) ... | 808 | 24 th February 1908. | Mussammat puran. | The person adopted was the son of the widow's husband's brother. |
| Gangua (Hissar) ... | 721 | 19 th December 1909. | Mussammat Chaoli. | Ditto. |

ILLUSTRATIONS.—*Jats, Bagri*—

No judicial case. Following mutations are forthcoming:-

| village | Mutation No. | Date of attestation | Name of widow adopting. | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|---------------------------|--------------|--------------------------------|-------------------------|---|
| Moda Khera (Hissar) | 193 | 31 st March 1905. | Mussammat Rajian. | The widow adopted her husband's nephew. |
| Khabra Kalan (Fatahabad). | 353 | 4 th July 1909. | Mussammat Rupan. | The widow adopted her own son-in-law, there being no agnates of her husband. |
| Banmadauri (Fatahabad). | 314 | 25 th January 1908. | Mussammat Biran. | The person adopted was not from among the collaterals. and was adopted while Haman, Harji and Bira, agnates of the widow's husband, were alive. |
| Mehunwala (Fatahabad). | 340 | 4 th March 1908. | Mussammat Lachhman. | The widow adopted one of her husband's collaterals. |
| Dadam (Bhiwani) ... | 133 | 30 th March 1907. | Mussammat Dhapan. | The widow adopted her husband's nephew |
| Bosan (Bhiwani) ... | 188 | 12 th January 1908. | Musssammat surjan. | Adistant collateral was adopted. |

ILLUSTRATION.—*Jats, Deswali*

No judicial case. Following mutation have occurred:-

| village | Mutation No. | Date of attestation | Name of widow adopting. | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|---------------------------|--------------|---------------------------------|-------------------------|---|
| Hasangarh (Hissar) ... | 463 | 28 th June 1907 | Mussammat Buji. | The widow adopted her husband's nephew. |
| Pinghal (Hissar) ... | 187 | 8 th December 1906. | Mussammat Bakhti. | Ditto. |
| Masudpur (Hansi) ... | 830 | 19 th January 1908. | Mussammat Nathi. | Ditto |
| Kheri Gangan (Hansi). | 337 | 22 nd February 1908. | Mussammat Mari. | The widow adopted the son of her husband's sister, there being no agnates alive. |
| Thirwa (Hansi) ... | 736 | 26 th May 1907 | Mussammat khemon. | The widow adopted her husband's nephew.- |

ILLUSTRATIONS.—*Rajputs*—

No judicial case forthcoming. Following mutations have taken place:-

| village | Mutation No. | Date of attestation | Name of widow adopting | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|--------------------------|--------------|---------------------------------|------------------------|---|
| Bhiwani (Bhiwani) ... | 1165 | 2 nd August 1907. | Mussammat Fatan. | The widow adopted her husband's nephew. |
| Allakhpura (Bhiwani) ... | 159 | 21 st February 1907. | Mussammat Jawahran. | Ditto. |

ILLUSTRATIONS.—*Gujars*-

Giana died sonless. the estate was mutated in the name of his widow mussammat Giani, who had permission from her husband to adopt Godhu. He was adopted accordingly; but on the death of the widow the estate was mutated in favour of her husband's agnates. Godhu instituted a civil suit. The court decreed in his favour, holding that as Godhu had been lawfully adopted, he was entitled to inherit the estate. See case No. 185 decided by Tahsildar, Hissar, on 5th June 1877.

ILLUSTRATIONS.-*Bishnois*-

No judicial case is forthcoming. Following mutations are worth citing:-

| village | Mutation No. | Date of attestation | Name of widow adopting | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|-----------------------------|--------------|-----------------------------|------------------------|---|
| Gawar (Hissar) | 271 | 30 th April 1909 | Mussammat Singari. | The window adopted the son of her husband's brother. |
| ... Adampur (Hissar) ... | 233 | 27 th May 1908 | Mussammat Nand Kori. | Ditto. |

ILLUSTRATIONS.—*Mahajans*—

No judicial case is forthcoming. Following mutations are worth citing:-

| village | Mutation No. | Date of attestation | Name of widow adopting | Whether the person adopted was an age nate of her husband, and if not. whether there was not any collateral of her husband alive. |
|----------------------------|--------------|---------------------------------|------------------------|---|
| Nangthala (Hissar). | 487 | 27 th November 1909. | Mussammat Mansi. | The widow adopted the nephew of her husband . |
| Kharkhari Sohan (Bhiwani). | 131 | 28 th March 1907. | Mussammat Ashrati. | Ditto. |
| Baganwala (Bhiwani) | 163 | 28 th March 1907. | Ditto | Ditto. |

| Village | Mutation No. | Date of attestation | Name of widow adopting | Whether the person adopted was an agnate of her husband, and if not, whether there was not any collateral of her husband alive. |
|-----------------------|--------------|--------------------------------|------------------------|---|
| Tosham (Bhiwani) ... | 796 & 797. | 2 nd February 1908. | Mussammat Angai. | The widow adopted the nephew of her husband. |
| Dinod (Bhiwani) ... | 2118 | 6 th February 1907. | Mussammat Nando. | Ditto |
| Dolhri (Bhiwani) ... | 212 | 28 th May 1907 | Mussammat Najbari. | The widow adopted her daughter's son, there being no agnate of her husband alive. |
| Deorala (Bhiwani) ... | 525 | 1 st April 1908 | Mussammat Dakhan. | The widow adopted from outside the family, although Binjha, Mohan and Rulia, near agnates of her husband, were alive. |

Question 78.—In the event of the death of a son, adopted by a widow with the sanction of her husband, may the widow adopt another person without permission of her husband to that effect?

Answer 78.

All tribes—

In the event of the death of a son adopted by a widow with the sanction of her husband, the widow may adopt another son according to the conditions laid down in answer No. 77.

Question 79.—May a man give a adoption (i) his only son, (ii) his eldest son, (iii) his brother? Who may be adopted.

Answer 79.

All tribes save Mussalman Rajputs and Mahajans.—

An only son cannot be given in adoption. An eldest son or an brother may be so given.

Mussalman Rajputs and Mahajans—

All three persons mentioned in the question can be given in adoption.

Question 80.—Must the person adopted be of less than any specific age? If so, up to what age may a person be adopted? Can a person be adopted after tonsure or investiture with the sacred thread in his own family? Age.

Answer 80.

All tribes—

There is no limit of age, and a man can be adopted either after or before tonsure or investiture with the sacred thread. Among Pathans and Brahmans however a man who is married and has issue cannot be adopted.

Question 81.—Is there any rule by which it is required that the person adopted should be related to the person adopting? If so, what relatives may be adopted? To what particular relatives (if any) is preference required to be shown? Is it necessary that the adopted son and his adoptive father should be (1) of the same caste or tribe, (2) of the same got? Relationship

Answer 81.

Among Hindu, Rajput, Pachadas and Mahajans it is not necessary that the man adopted should be a relative of the person adopting; and no relations have any preferential claims for adoption.

Among Hindu Rajputs the person adopted must be a Rajput and among Brahmans and Mahajans the adopted son and the adoptive father must belong to the same got. Among all other tribes the person adopted has to be of the male descendants of the grandfather of the person adopting, brother's sons having preferential claims to other descendants. The actual selection rests with the person adopting, but none outside the tribe can be adopted. Among Jats Deswali, Mussalman Rajputs, Gujars and Mussalman Jats the consent of the reversioners of the person adopting is necessary to confirm the adoption, if the person adopted be not one of his grandfather's descendants. Among Dogars and Jat Sikhs a man of a different got can not be adopted.

ILLUSTRATIONS---*Hindu Rajputs*---

No judicial case. Mutations---

| Village | Mutation No. | Date of attestation | Remarks |
|---------------------------------|--------------|---------------------------------|--|
| Lohar Bhiwani (Bhiwani) | 2113 | 8 th September 1909. | The adopted son belonged to the adopter's tribe. |
| | 2117 | Ditto | The person adopted was a adopter's nephew. |
| Dinod (Bhiwani) | 2838 | 24 th November 1908. | Ditto |
| Dhana Nirsan (Bhiwani) ... | 340 | 8 th December 1908. | Ditto. |
| Dhani Mahu (Bhiwani) ... | 358 | 14 th March 1909. | Ditto. |

ILLUSTRATIONS---*Brahmans*---

No judicial case forthcoming. Following mutations are cited:---

| village | Mutation No. | Date of attestation | Remarks |
|--------------------------------|--------------|--------------------------------|---|
| Pur (Hansi) ... | 773 | 14 th July 1908. | The person adopted was a grandson of the adopter's brother. |
| Bas Azamshahpur (Hansi) ... | 761 | 11 th July 1907 | The person adopted was a nephew of the adopter. |
| Talu (Hansi) ... | 971 | 8 th December 1908 | Ditto |
| Kirori (Hissar) ... | 295 | 25 th April 1908 | Ditto |
| Bas Khurd Bijan (Hansi) ... | 712 | 17 th February 1909 | The person adopted was a collateral of the adopter. |

ILLUSTRATIONS ---*Jats, Bagri*---

No judicial case seems to have occurred, and in only one mutation was the estate of an adopter mutated to the name of his adopted son who was his nephew, in the village of Kharkhari Sohan (Bhiwani). See mutation No.128, attested on 21st December 1906.

ILLUSTRATIONS.—*Jats, Deswali*—

A.—Cases—

(1) Udia, of Singua (Hansi tahsil), gifted his estate to his maternal uncle's son, Shadi, whom he had adopted. His agnates sued to set aside the adoption. Mr. Fox, Sub-Judge, decreed in favour of the plaintiffs, and held that a Deswali Jat could not gift his ancestral estate to his maternal uncle's son. See case No. 131, decided on 3rd November 1896.

(2) Jhanda, of Bhatol Jatan (Hansi tahsil), adopted his brother's son. His agnates sued to cancel the adoption. Lala Sansar Chand, Extra Assistant Commissioner, dismissed their claims on the ground that as the person adopted was the son of the adopter's brother, the adoption was valid. See case No. 78, decided on 26th October 1899.

B.—Mutations

| village | Mutation No. | Date of attestation | Remarks |
|----------------------|--------------|---------------------------------|---|
| Kheri Lochap (Hansi) | 175 | 29 th April 1909 | The person adopted was the adopter's nephew. |
| Khot Kalan (Hansi) | 1053 | 27 th March 1908 | Ditto |
| Qutabpur (Hansi) | 223 | 19 th January 1910 | Ditto. |
| Pabra (Fatahabad) | 690 | 22 nd June 1910 | Ditto. |
| Gorakhpur(Fatahabad) | 519 | 12 th November 1907 | Ditto. |
| Satrod Khas (Hissar) | 659 | 30 th September 1907 | Ditto. |
| Balsamand (Hissar) | 833 | 30 th April 1907 | Ditto. |
| Saharwa (Hissar) | 1049 | 12 th January 1909 | Ditto. |
| Bhaini (Hissar) | 532 | 8 th April 1907 | The person adopted was son of the adopter's paternal uncle. |

ILLUSTRATIONS.—*Musalman Rajputs*—

No judicial case seem to have occurred, but in one mutation a man's land was mutated in favour of his nephew, whom he had adopted,---vide mutation No. 976 of Siwani (Bhiwani tahsil), attested on 28th August 1909.

ILLUSTRATIONS.—*Pachadas*—

Bodal of Hanspur (Fatahabad tahsil) adopted his brother's son. His agnates sued to set aside the adoption. Mir Abid Hussain, Extra

Assistant Commissioner, upheld the adoption, holding that a man could adopt his brother's son and make a gift of his ancestral estate in his favour. see case No. 13, decided on 21st December 1907.

Illustration—*Mahajans*—

No judicial case is forthcoming. The following mutations have occurred:--

| village | mutation no. | Date of attestation | REMARKS. |
|---------------------------|--------------|---------------------------------|--|
| Lahor Bhiwani (Bhiwani) | 2139 | 10 th September 1909 | The person adopted was the adopter's nephew. |
| jaunpal Bhiwani (Bhiwani) | 1708 | 28 th February 1908. | The person adopted was not a relation of the adopter, but he belonged to his got |
| | 650 | 1 st March 1909 | Ditto |
| Kairu (Bhiwani) | 845 | 15 th July 1908. | The person adopted was the adopter's nephew. |
| | 846 | | |

Question No.82—Is there any rule prohibiting the adoption of the son of a woman whom the adopter could not have married, such as his sister's son or his daughter's son?

Answer 82—

Among Dogars, Jat Sikhs, Mussalman Rajputs, Gujars, Mussalman Jats, and Bishnois a man can not adopt any of the relatives mentioned in the question; among all other tribes a man may adopt his sister's son or his daughter's son, but the relatives of the wife can in no case be adopted.

ILLUSTRATIONS—*Hindu Rajputs*—

No judicial case is forthcoming. The following mutations were sanctioned in favour of sister's sons who had been adopted:--

| village | Mutation No. | Date of attestation. |
|--------------------|--------------|---------------------------------|
| Sai (Bhiwani) | 1348 | 21 st September 1909 |
| Agroha (Fatahabad) | 713 | 19 th June 1909. |

ILLUSTRATIONS—*Brahmans*—

In the following two mutations sisters, sons were adopted and the adopters' land entered in their names:--

| village | Mutation No. | Date of attestation. |
|------------------|--------------|----------------------------------|
| Lohani (Bhiwani) | 258 | 21 st September 1909 |
| Bhakra (Bhiwani) | 178 | 26 th September 1908. |

ILLUSTRATIONS—*Pathans*—

Sarfaraz Khan of Tohana (Fatahabad tahsil), adopted his daughter's son, Azmat Ali Khan, and made a gift of his property in his favour. Baland Khan, reversioner, sued to set aside both adoption and gift. Lala Kashmiri Lal, Munsif, decreed the plaintiff's claims and cancelled the adoption. On appeal the Divisional Judge quashed this order, and held the adoption and gift valid on the ground that the land was adopter's self-acquired property and not ancestral. This order of the appellate court was upheld by the Chief Court on 27th February 1908. See case No. 44, decided on 12th February 1907.

ILLUSTRATIONS—*Mussalman Rajputs*—

The members of the tribe take exception to the adoption of a sister's son, but Karim Bakhsh, of Siwani (Bhiwani tahsil), adopted his sister's son, Shah Nawaz, and made a gift of his property in his favour,--vide mutation No.843, sanctioned on 6th January 1908. Inam Ali, Umrao Ali, Feroz and Alia, collaterals of the adopter, were alive, and do not seem to have objected.

Question 83.—What formalities are necessary to constitute a valid adoption? Will the omission of any customary ceremonies vitiate the adoption?

Ceremonies.

Answer 83.

Pachadus, Dogars and Pathans—

No formalities and necessary to constitute a valid adoption : the adopter must, however, have kept the adopted son in his house with him for some time.

All other tribes—

The essential ceremony in adoption is the seating of the adopted son on the lap of the adopter before the assemble kindred, and the distribution to them of some sweetmeats or gur. Among Hindu Rajputs, Brahmans, Mussalmans, Rajputs and Gujars a drum is also beaten, and the assembled female relatives sing songs suited to the occassion.

Dattaka and
Kritrama
Forms.

Question 84.—What is the difference between the Dattaka and Kritrama forms of adoption? What are the formalities appropriate to each?

Answer 84.

All tribes—

Both the forms are unknown.

Effect of
adoption on
inheritance
From
natural
father.

Question 85.—Does an adopted son retain his right to inherit from his natural father? Can he inherit from his natural father if the latter die without other sons?

Answer 85.

All tribes—

An adopted son does not retain any right to inherit from his natural father even if the latter die without other sons. But in this case if the adopter be one of the reversioners of his natural father, the adopted son takes such share, if any, as he is entitled to by his place in the family as son of his adoptive father. This reply is confirmed by the following mutations in which the rule just given was acted upon:--

| Village. | Mutation No. | Date of attestation | Name of the adopted son, who on adoption relinquished his rights in his natural father's property and whose name was consequently struck off from the holding which he had inherited from his natural father. |
|--|--------------|--------------------------------|---|
| <i>Hindu Rajputs</i> Bhattukalan (Fatahabad) | 872 | 14 th march 1909 | Jamns |
| Brahamans. Kirori (Hissar) | 304 | 27 th August 1908 | Lachhman |
| Sirsa (Bhiwani) | 803 | 6 th March 1907 | Charanji |
| <i>Jats, Bagri.</i> Siswal (Hissar) | 837 | 24 th May 1907 | Jairam |
| <i>Jats Deswali</i> Saharwa (Hissar) | 1062 | 14 th February 1909 | Dhanpet |
| Jakhod (Hissar) | 362 | 22 nd January 1909 | Ganpat |
| Chibbarwal (Fatahabad) | 101 | 28 th April 1907 | Sheoram |
| Bas Badshahpur (Hansi) | 963 | 14 th October 1907 | Toda |
| Mussalman Rajputs Babuna (Fatahabad) | 667 | 15 th March 1907 | Nazir |
| <i>Pachadas</i> Hanspur (Fatahabad) | 338 | 20 th June 1907 | Buknus |
| <i>Mahajans</i> Talwandi Badshahpur (Hissar) | 427 | 28 th June 1909 | Sheodat. |
| Bherian (Hissar) | 169 | 12 th february 1907 | Hardawari |
| Hissar | 1342 | 27 th May 1918 | Radha Kishan. |

Question 86—Describe the rights of an adopted son to inherit from his adoptive father? What is the effect of the subsequent birth of natural legitimate sons to the adoptive father? Will the adopted son take equal shares with them? If the *Chundawand* system of inheritance prevail how will the share of the adopted son, if any, be computed in such a case? Can an adopted son whose tribe differs from that of his adoptive father inherit from him? Inheritance from adoptive father.

Answer 86.

All tribes—

An adopted son inherits from his adoptive father. If natural legitimate sons are subsequently born to the father, the adopted son also shares with them as a natural son, even if his got differs from that of his adoptive father, which fact makes no difference in his rights of inheritance ; but it is essential that the adopted son should belong to his adoptive father's tribe. In such cases, if in the family of the adoptive father the *Chundawand* system of inheritance prevails, no regard is paid to it and the *pagwand* system of inheritance is followed.

SECTION X---Ghar Jawai, or resident son-in-law.

Question 87.—When a son-in-law, leaving his own family, takes up his residence permanently with his father-in-law as ghar jawai, what will be the effect on the rights of such son-in-law to inherit (1) from his father , (2) from his father-in-law ?

Answer 87.

All tribes—

A son-in-law by living with his father-in-law neither loses his rights to inherit from his own father nor gains any rights to inherit from his father-in-law. see answer 110 also.

NOTE—There is some doubt as to the correctness of this reply among Muhammadam Rajputs.

SECTION XI.----Bastardy

Question 88.—Where a marriage has taken place between parties whose marriage, either by reason or relationship, or previous marriage, or difference of caste, or on any Where marriage has taken place.

other ground, was not permissible, will the offspring of such marriage be considered legitimate or illegitimate ?

Answer 88.

Jats, Rajputs, both Hindu and Muhammadan, Pachadas and Bishnois reply that if the marriage was property solemnized, the offspring are considered legitimate, and inherit like other sons. Pathans say the discovery would automatically invalidate the marriage. The woman would be turned out, and the child be considered illegitimate.

Inheritance of bastards.

Question 89.—What are the rights of illegitimate children to inherit the property of their natural father?

Answer 89.

All tribes—

Illegitimate children have in no case any right to inherit the property of their natural father.

Maintenance of bastards

Question 90.—Are illegitimate children, who do not inherit, entitled to maintenance as against the heirs of their deceased father?

Answer 90.

All tribes save Dogars and Jat Sikhs—

Illegitimate offspring are not entitled to maintenance as against the heirs of their deceased father. Among Dogars and Jat Sikhs such children are entitled to maintenance from the estate of their deceased father till they reach the age of puberty.

Sons by karewa marriage.

Question 91.—Are sons, the offspring of a marriage by the *karewa* from, entitled to inherit equally with sons, the offspring of a regular marriage?

Answer 91.

All tribe—

Yes, among all tribes admitting karewa.

SECTION XII.—Wills and Legacies.

Legality of wills.

Question 92.—Can a proprietor make, by word of mouth, or in writing, a disposition of his property to take effect after his death?

Answer 92.

Among Hindu Rajputs, Brahmans and Mahajans a man can make a disposition of his self-acquired property to take effect after his death by word of mouth, or in writing, but he cannot make a will about his

ancestral property. Among all other tribes the custom of making wills is quite unknown, and no man has ever made, whether by word of mouth or in writing, a disposition of his property to take effect after his death, whether it be self-acquired or ancestral property.

Question 93—Can a legacy be left to one of the heirs without the consent of the rest? Legacies

Answer 93.

Among Hindu Rajputs, Brahmans and Mahajans every person has full power over his self-acquired property, and may leave a legacy to any one he wishes ; in respect however of his ancestral property, no legacy can be left to one of the heirs without the consent of the rest. Among other tribe, the custom of leaving a special legacy to any one is quite unknown.

Question 94—Does a widow, who succeeds to immoveable property as a legatee, take it in full ownership? Rights of widow as legatee.

Answer 94.

Yes, but only among the tribes which recognize legacies—Hindu Rajputs, Mahajans and Brahmans—See the previous replies—and then only as regards the self-acquired property of the legator.

SECTION XIII—Special property of females

Question 95.—Describe *stridhan* and specify the different descriptions of property that come under that designation. What persons at what times make gifts of *stridhan*? Stridhan

Answer 95.

Among Pathans, Mussalman Jats, Bishnois and Mahajans the property given to a woman as dowry, presents of jewels, or other moveable or immoveable property, which has come to her from her father's family, is known as *stridhan*. Among the first two tribes—Pathans and Mussalman Jats—the dower (*mahar*) of a woman, and among Bishnois and Mahajans the ornaments given by her husband's family at the time of her marriage also fall under the definition of *stridhan*. Among all other tribes there is no custom of *stridhan*, and all property given to woman by her father's or husband's family at the time of her marriage and at other times during her life is considered to belong to her husband and to be under his control, and the woman has no special control of any property in her husband's house.

Question 96.—Define the extent of the power of the husband over the *stridhan* of his wife. Under what circumstances can he consume or alienate it by sale, gift or mortgage? Powers of the husband over *stridhan*.

Answer 96.

Among Mahajans, Bishnois, Pathans and Mussalman Jats the husband has no power to dispose of his wife's *stridhan* without her consent. Among other tribes *stridhan* is unknown, and the husband has full powers over his wife's property, if any.

Power of a married woman to alienate her stridhan.

Question 97.—Can a married woman alienate her *stridhan* by sale, gift or mortgage ? Is any distinction made as to land given to her by her husband ? Is any distinction made if there be sons or if the property be not acquired by herself ?

Answer 97.

Among Mahajans, Pathans and Mussalman Jats a woman can alienate her *stridhan* by sale, gift or mortgage; if, however, the *stridhan* includes any property which she has received from her husband's side, she has only a life interest in it, which she forfeits when she leaves her husband's house. she cannot alienate it by sale, &c. Among Bishnois a woman cannot, without her husband's consent, alienate in any way her *stridhan*. Among other tribes *stridhan* is unknown.

Power of a widow to alienate her stridhan.

Question 98.—Can a widow alienate her stridhan by sale, gift or mortgage ?

Answer 98.

Among Mussalman Jats, Mahajans and Pathans a widow can alienate by sale, gift or mortgage her *stridhan*, but if it includes any immoveable property which she has inherited from her husband she cannot alienate it. Among Bishnois a widow can alienate her *stridhan* only with the consent of her husband's reversioners.

Succession to stridhan of an unmarried woman.

Question 99.—Upon whom does the *stridhan* of an unmarried woman successively devolve ?

Answer 99.

All tribes---

Among Pathans and Mussalman Jats if an unmarried woman has any special property, it, on her death, goes to her parents or her father's agnates. Among other tribes an unmarried woman can have no property under her control.

Succession to stridhan of a married woman.

Question 100.—Upon whom does the *stridhan* of a married woman successively devolve: (1) if it were given at the time of her marriage, (2) if it were given by the father, but not at the time of her marriage, (3) in all other cases ?

Answer 100.

All tribes—

In all cases the special property of a married woman devolves successively upon (1) her husband, (2) her sons, (3) her husband's agnates.

SECTION XIV.---Gifts.

Question 101.-State the facts necessary to constitute a valid gift. Can a gift be conditional or implied? Is delivery of possession essential? Must be gift be made in writing? Conditions essential to a valid gift.

Answer 101.

Musalman Jats have no custom of gifts of immoveable property. Moveable property can be transferred, and delivery of possession is essential. The gift need not be in writing.

Among all other tribes gifts may be made either orally or in writing, but transfer of possession is in all cases essential: and in the case of an oral gift of immoveable property, it must be entered in the revenue papers. Among Hindu Rajputs, Brahmans, Jats, Bagri and Deswali, Bishnois and Mahajans, a gift may be made conditionally (for instance that the donee will be responsible for the maintenance of the donor) and the gift may be revoked if the condition is not fulfilled. Among other tribes gifts are not made conditionally.

Question 102.-Are there any special rules relating to death bed gifts? Can a man, who is suffering from a death disease, make a gift to his relation, male or female, or in charity? If so, can such gift affect the whole or a part only of his property? If a part only, how much? If some heris consent and some dissent is the gift good? If so, to what extent? Death-bed gifts.

Answer102

All tribes-

Death-bed gifts do not rank in any way differently to gifts made at other times.

Question 103.-Do you observe the rule of the Muham-madan Law with regard to Mushaa? Is the gift of an undivided part of a thing valied? Mushas.

Answer 103.

All tribes-

The rules of Muhammadan Law with regard to mushaa are unknown. a gift of an undivided share in common property, if otherwise valid, can be made.

Gift of shares. Question 104.-Can a co-sharer in joint property make a gift of his share without the consent of the other co-sharers?

Answer 104.
All tribes-
Yes.

Gift of undivided village land. Question 105.-If a gift, whether of divided or of undivided land, be made to a person, who is not a member of the village community, will such gift carry with it the right to share proportionately (1) in the shamilat, (2) in the miscellaneous village income?

Answer 105.
All tribes-
Yes, as regards the shamilat, save as regards gifts made in charity.
No, as regards miscellaneous village income.

Dowry. Question 106.-Can a father make a gift to his daughter by a way of dowry (*jahez*) out of his property, moveable or immoveable, ancestral or acquired, whether or no there be (1) sons, or (2) near kindred; and whether or no the sons or near kindred, as the case may be, consent?

Answer 106.
All tribes-
Among Hindu Rajput, Brahmans, Pathans, Bishnois and Mahajans a father can not give ancestral immoveable property in dowry to his daughter, but he can give self-acquired immoveable property whether the sons or collaterals consent or not. Among other tribes immoveable property, whether ancestral or acquired, can not given in dowry. Among all tribes a father can give in dowry to his daughter to his daughter as much moveable property as he pleases, whether the sons or collaterals consent or not.

Question 107.-Upon whom does the right of inheritance to the property given in dowry to a daughter successively devolve?

Answer 107
All tribes-
Among Pathans the inheritance of such property devolves upon the daughter's male issue, and in their absence it devolves upon her husband.

Among other tribes it goes to her husband, and in his absence to her male issue, failing whom it devolves upon her husband's agnates.

Question 108.-Define the power of the daughter or of her husband over such property as regards (1) control, (2) alienation.

Answer 108.

Bishnois and Muhammadan and Hindu Rajputs-

A daughter can not alienate her dowry without the consent of her husband.

All other tribes-

Reply that the daughter controls and can alienate such property: her husband's consent is immaterial.

Question 109.-Can a father make a gift of the whole or any specific share of his property, moveable or immoveable, ancestral or acquired, to his daughter, otherwise than as her dowry, to his daughter's son, to his sister or her sons, or to his son-in-law? Is his power in this respect altered if he have (1) sons, (2) near kindred and no sons? Of what near kindred is the consent essential to such gifts?

Answer 109.

A man may give moveable property, inherited on self-acquired to his daughter or her son or husband or to his sister or her son. He can also give self-acquired immoveable property. He can not give any inherited immoveable property without the consent of his sons or grandsons, or, failing them, of the heirs entitled to succeed.

ILLUSTRATIONS.—*Jats, Bagri*—

One Mira of Chandpura (Fatahabad tahsil) gifted his estate to his daughters, Sedho and Kahno. Bhagmal and other agnates sued to set aside the gift. M. Muhammad Hussain, Extra Assistant Commissioner, decreed their claims. On appeal the Divisional Court quashed the order on 10th May 1888, holding that the gift was valid as the estate was the donor's father's self-acquired. On further appeal the Chief Court upheld this order on 18th January 1890. See case No. 627, decided on 11th August 1887.

ILLUSTRATIONS.—*Jats, Deswali*—

1. One Jai Singh of Umra (Hansi tahsil) gifted his land to his daughter's son. The agnates sued to set aside the gift. The court cancelled the gift on the ground that it was made without the consent of the plaintiffs, the reversioners of the donor. See case No. 352, decided on 3rd April 1879 by Mr. Anderson, Assistant Commissioner.

2. One Jhanda of Bhatol Jatan (Hansi tahsil) gifted his estate to his daughter's son Giana. The gift was cancelled on a civil suit being brought by the agnates. See case No. 222, decided on 14th July 1898 by the Honorary Munsiff.

Power of a daughter over her jahes.

Consent of near kindred.

Question 110.—Will the power of a father to make the gifts described in the last Question be affected by the custom of *ghar jawai*: that is if his son-in-law and daughter live with him. Can any relative prohibit a gift of property of any description to a son-in-law resident with his father, to a married daughter resident with her father, or to the children of such person? Will the rights of the son-in-law as against the estate of his natural father affect his capacity to receive a gift from his father-in-law? Ghar jawai.

Answer 110.

All tribes throughout say that the presence of the *ghar jawai* makes no difference in the matter.

Question 111.—Give the rules regarding the power of a proprietor to make gifts of his property, moveable or immoveable, ancestral or acquired, to persons who are not related to him, or in charity? Is the consent of the sons, if such there be, or of the near relatives, necessary? If of the near relatives, who are considered such? How does (1) the absence of son, (2) the circumstances that the property is divided affect the power of the proprietor to make such gifts? Gifts to strangers.

Answer 111.

Among Jats, Bagri and Deswali, Mussalman Rajputs, Gujars and Mussalman Jats a proprietor cannot make a gift in favours of a person who is not related to him, of his immoveable property, ancestral or acquired, without the consent of his heirs. It is immaterial whether the property be joint or divided. There are no restrictions on his power to make a gift of his moveable property to any person, or in charity. Among other tribes a gift of ancestral property to any person not related to the owner, or in charity, cannot be made without the consent of the owner's heirs; but every proprietors has the power to make such gifts of his self-acquired immoveable and all his moveable property without obtaining his heir's consent. Here also it is immaterial whether the property be joint or divided.

ILLUSTRATIONS.—*Jats, deswali*—

(1) One Ram Dyal, of Niana (Hissar tahsil), gifted his land to Ram Dial and other Gujars. His agnates sued to set aside the gift. The court decreed in their favour, holding that though the land had been acquired by the donor, yet a gift of immoveable in favour of members of another tribe was illegal. See ease No. 40, decided on 21st April 1894 by the Munsiff, Hissar.

(2) Thandia, of Jeora (Hissar tahsil), gifted his property to Matram and others, who were not his collaterals. Ramjs, agnate, sued to have the gift cancelled. The court cancelled the gift on the ground that the donees were not the donor's collaterals. See case No. 25, decided on 29th April 1895 by the Sub-Judge, Hissar.

(3) Basan, of Bichpari (Hissar tahsil), gifted his estate Mamchand, who was not his collaterals. Gugan and other agnates sued to set aside the gift. The court cancelled the gift. See case No. 723, decided on 10th December 1907 by the Munsif, Hissar.

(4) Jaimal, of Talu (Hansi tahsil), gifted his estate to his maternal uncle's grandson. Parsa, reversioner, sued to set aside the gift, and got a decree. See case No. 73 decided on 29th June 1895 by Mr. Fox, Sub-Judge, Hissar.

ILLUSTRATIONS.—Pachadas—

Suba of Bhirrana (Fatahabad tahsil) gifted his estate to Rahim Bakhsh and others, who were not his collaterals. Nur Muhammad and other reversioners sued to set aside the gift. L. Kashmiri Lal, Munsif, held the gift legal on the ground that the estate was not ancestral, but had been acquired by the donor's father. See case No. 308, decided on 3rd May 1909.

NOTE.—In my opinion a proprietor has greater power to alienate even his ancestral land in reality than this reply shows. It represents the people's wishes more than their present custom.

Question 112.—Under what circumstances is a gift revocable? Specify particularly the effect (1) of possession on the part of the donee, (2) of relationship between the donee and the donor? Is a gift revoked by the subsequent birth of children to the donor?

Revocation of a gift.

Answer 112.

All tribes—

When a gift is made, whether to relative or not, possession is given, and it is irrevocable. The subsequent birth of a child to the donor does not render it revocable.

SECTION XV. Partition.

Question 113.—Whose consent is requisite to the partition of a joint holding? Define the conditions under which such a partition can take place? Is it necessary that the wife or wives of the proprietor should be past child-

Conditions.

bearing? If so, to what description of property does this restriction apply?

Answer 113.

All tribes—

Partition is at the option of any share-holder in a joint holding. A proprietor can divide his lands among his sons whether his wife be past child-bearing or not. But a child born after partition is entitled to his share.

Claim by sons.

Question 114.—Are the sons entitled to claim partition as a matter of right?

Answer 114.

All tribes—

No, so long as their father is alive.

Unequal distribution.

Question 115.—Can the father exclude one or more sons from their share, or otherwise made an unequal distribution? If so, is there any distinction as regards the moveable or immoveable, ancestral or acquired, property of the father?

Answer 115.

All tribes—

Among Hindu Rajputs, Brahmans, Pathans and Bishnois a father cannot make an unequal distribution of his ancestral immoveable property between his sons; he is, however, at liberty to make a distribution of his acquired property, whether moveable or immoveable, as he pleases. Among other tribes a father can make an unequal distribution of no property, moveable or immoveable, ancestral or acquired. All sons must share equally.

NOTE.—The above reply is of course subject to the modifications due to *chundawand*, where that custom is followed.

Share of wives.

Question 116.—Are the wives, whether childless or otherwise, entitled to share at partition?

Among Jat Sikhs and Mahajans a childless wife is not entitled to a separate share at partition : she lives with her husband, and after his death she is entitled to receive maintenance from those upon whom her inheritance has devolved, that is, she is maintained from her deceased husband's estate. Among other tribes when a proprietor distributes his property during his life-time childless wives are entitled to one share of the estate; those wives who have male issue are not entitled to any share. If the *chundawand* rule of inheritance obtains

the partition is made proportionately to the number of wives; otherwise a

childless wife gets the share of one son.

Question 117.—How many shares may a father reserve to himself at partition? Shares reserved by father.

Answer 117.

All tribes—

A father may at partition reserve to himself as many shares as he pleases.

Question 118.—What is the effect of the birth of a son after partition? Does such birth entitle the father to cancel the partition? If the father have reserved one or more shares for himself, will such shares devolve on the son born after partition? Subsequent birth of a son.

Answer 118.

All tribes—

If a son be born after partition the father may cancel the partition and redivide his property between all his sons equally. No son can specially inherit any share or shares which the father may have reserved for himself; on his death those shares are shared by all sons in accordance with the rule of inheritance followed by the family.

Question 119.—Can any one of the person upon whom the estate devolves, irrespective of the sex of such person or of the relationship in which such person stood to the deceased, claim partition, as a matter of right? State particularly whether the widow or sister or unmarried daughters can claim partition? Does the right of the widow to claim partition depend upon her being childless or otherwise? Who can claim

Answer 119.—

All tribes---

All male shareholders in an estate can claim partition as a matter of right. Among Dogars, Pathans and Bishnois a sister, unmarried daughter or widow shareholder in an estate can claim partition: among all other tribes these females can only do so, (a) that they are not unchaste, and (b) that they do not mean by asking for partition to injure the estate.

See also section 115, Act XVII of 1887, and Financial Commissioner's ruling in P.B.11 of 1895.

Subject of partition.

Question 120.—Must property of following description be

brought into partition:-

(1) Moveable : (2) immoveable : (3) ancestral : (4)
 acquired : (5) recovered : (6) nuptial presents : (7) inherited from
 the maternal grandfather : (8) inherited from the father-in-law?

If aquired or recovered property be brought into partition, what compensation is given to the person who made the acquisition or recovery?

Answer 120.

All tribes—

The whole of an estate wheather moveable, immoveable, ancestral acquired or recovered property can be brought into partition, except property acquired by one sharer either by gift or inheritance from his or her maternal grandfather or father-in-law, or as nuptial presents. The person who made the recovery of any property is entitled to no compensation.

Right of
 associated son to
 share reserved by
 father.

Question 121.—Has a son, who remains associated with his father after partition to the remaining sons, the right to exclude them from inheriting the share or shares reserved by the father?

Answer 121.

All tribes—

No.

Subsequent
 acquisition of
 father.

Question 122.— Will acquisitions made by a father after partition devolve equally on all the sons, whether or no one or more sons have remained associated with him ; and whether or no such acquisitions have been made with the share ore shares of the associated son or sons?

Answer 122.

Among Hindu Rajputs, Brahmans, Jats, bagri and Deswali, pathans, Bisnois, and Mahajans acquisitions made by the father after partition devolve on the so who have remained associated with him, unless the father directs by his will otherwise; but these acquisitions do not include property which the father may have inherited

as reversioner, and which on his death, as a rule, is shared by all entitled to

inherit according to the rules of inheritance obtaining in the family. Among all other tribes acquisitions made by the father after partition, whether by inheritance, purchase or by the share of his associated sons, devolve on all his sons and not on his associated son or sons only.

Question 123.—If a son remain associated with his father after partition to the remaining sons, and if such son die childless, can the remaining sons claim his estate in the father's life-time, to the exclusion of the father?

Answer 123.

All tribes—`

In such a case the remaining son's cannot claim the deceased sons' estate in the father's life-time. The father retains it : only after his death the other sons divide it, *pagwand* or *chundawand* as the case may be.

Heir of associated
son.