



**Governing
Property,
Making the
Modern State**

Law, Administration
and Production
in Ottoman Syria

Martha Mundy and
Richard Saumarez Smith

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Note on transliteration, datation and abbreviation

Transliteration

When citing from documents and archival sources, transcription follows the language of the source: Arabic transcription when from text in Arabic and modern Turkish forms when from Ottoman Turkish. As a result, two spellings may be found in the text for technical terms; both are given in the relevant entries of the index. Terms originally Arabic or Ottoman Turkish but naturalized in English are spelt as in the Oxford English Dictionary, with the exception of *effendi*, spelt throughout as *efendi*. Choices have had to be made when discussing terms in the text and not citing directly from documents. In general, in passages about the villages, terms that are Arabic in origin and meaningful also to the villagers are spelt in Arabic transcription; terms that are Turkish in origin are spelt as Turkish. Likewise in Chapter 7 where a document translated from Arabic into Turkish is cited, Arabic words not common in Ottoman Turkish are transliterated as Arabic in quotation marks. In single transliterated words, neither the Arabic nor the Turkish plurals are used, but an *s* as in the English plural is added to the transliterated word. In Part three the abbreviation *q*, standing for *qirat*/carat, is also used.

In Parts one and two Arabic names follow the ordinary conventions whereby a personal name is followed by a father's and grandfather's personal names, with or without the indication *ibn*, 'son of'. In Part three following village usage the definite article is often employed with an ascendant's name, e.g. Ahmad al-Mustafa. Although marks indicating vowel length are not generally given, where there is a danger of confusion between two names, long marks are used.

Datation

In this study three calendar systems appear: the Gregorian (common Christian era), the *hijri* (AH), and the Ottoman financial (*mali*) calendar (AM). The Ottoman financial calendar was a solar system beginning on 13 March of the Gregorian calendar. The common Christian era is used as a chronological base. According to the datation of the source, either the *hijri* (AH) or the Ottoman *mali* (AM) date is given; and the spelling of the months depends on the language of the source, Turkish or Arabic.

Abbreviation

The following Turkish conventional abbreviations for the *hijri* months are used in footnotes:

M Muharrem/Muharram

- S Sefer/Safar
- Ra Rebiyülevvel/Rabi‘ al-awwal
- R Rebiyülahir/Rabi‘ al-akhir
- Ca Cemaziyelevvel/Jumada ’l-awwal
- C Cemaziyelahir/Jumada ’l-akhir
- B Recep/Rajab
- Ş Şaban/Shabân
- N Ramazan/Ramadan
- L Şevval/Shawwal
- Za Zilkade/Dhu ’l-Qa‘da
- Z Zilhicce/Dhu ’l-Hijja

Abbreviated codes are utilized for archival and manuscript sources in the footnotes; these are explained in the bibliographical sections on archival and manuscript sources.

Lastly, the following abbreviations are occasionally employed for kin relations: F (father), M (mother), B (brother), Z (sister), H (husband), W (wife), S (son) and D (daughter). For the conventions used in genealogical figures see Laslett (ed.), *Household and Family in Past Time* (1972), pp. 41–2.

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1 | Introduction

Two documents

On 11 March 1882 the court of first instance in the town of Irbid, the headquarters of the district of 'Ajlun, sent two notices to the land registry in the same town. The first was a copy of the instruction to the district governor's office and the second a notice to the land registry concerning the title deeds for the disputed land.¹

The first notice in Arabic read:

To the honourable Office of the Governorate of 'Ajlun District: Given that it has been judged in favour of sheikh Na'il al-Gharaiba, recognized by this court as legal representative of Yusuf al-Suwaidan of the people of Hawwara, concerning the validity of the first transfer made by his above-mentioned client to Qasim al-Sabbah and Musa al-Khlaif, henceforth Muhammad al-Hasan, Mustafa al-'Abdul-Qadir, Ahmad al-Muhsin, Hasan al-'Isa, Isma'il al-'Abdul-Hadi and Ahmad al-Mustafa, all of the above-mentioned village, are to be notified that they must give up the share and a half of land (*al-rub'a wa-nisf ard*) which the above-mentioned sheikh Na'il established as belonging to his client and concerning which he obtained a written statement from this court. To this effect the defendants have been denied their claim and they have been notified of this since they are refusing to hand over the above-mentioned share and a half of land to Qasim al-Sabbah and Musa al-Khlaif along with the title deeds, which they assert to be valid. Legal costs amounting to 206 *ghurush* and half of the *miri* tax due on the land will be collected from the defendants, to be delivered to the account of the court. This decision is to be enforced according to due procedure.

Court of First Instance, 'Ajlun, dated 27 Shubat 1297AM [11 March 1882].

The second notice in Turkish read:

Latterly because on 21 Rebiyülahir 1299AH the case in the court of first instance was judged in favour of Qasim, 'Ali, 'Alaiyan and Khalaf sons of Muhammad al-Sabbah and Musa ibn Khlaif and his son 'Ali and because the status of joint holder (*halit ve şerik*) was not accepted as valid, the land registry (*tapu* office) is ordered to register an entry in the names of the purchasers. In accordance with the instruction given by the court of first instance on 27 Şubat 1297 number 225 corresponding to the document written by the court dated 21 Rebiyülahir 1299, since title deeds had been given to the first parties in the transfer on the grounds of their being *halit ve şerik*, and because they refuse to hand over the documents, according to the above-mentioned instruction, the above-mentioned title deeds no longer have any legal validity.

Disputes over property are the bread and butter of courts and lawyers, banal yet central to social relations. The two short notices concerning the judgment of this case reveal certain of the terms of ownership of land in late Ottoman southern Syria. They may thus serve to introduce the conceptual and historical issues explored in this book.

Persons and things

Anthropological analyses have long considered property as a social relation between persons concerning material or immaterial ‘things’.² How then are the persons and the objects in the social relationship of ownership defined in the notices above?

The persons are of two kinds: institutional *personae* and individual persons. Anthropology generally focuses on the second, but let us begin with the first. Central to the making of property here are the court, the *tapu* office, and the governor’s office above them. The court issues the basic notice of the judgment in Arabic, dated in the Ottoman financial calendar, whereas the notice sent to the *tapu* office is in Turkish with the date of the decision in the *hijri* calendar. The institutional *personae* have defined responsibilities: the court to judge by the law on the challenge mounted against the original sale, the *tapu* office to amend the title registers and issue new deeds accordingly, and the governor’s office to oversee implementation of the judgment, all the more so as the challengers to the sale were refusing to hand over the deeds they had received for the land. The language of the court is formal and technical in both Ottoman Turkish and Arabic, the latter the mother tongue of the villagers. The double forms of dating reflect the court’s character as part of Ottoman government as well as its august Islamic genealogy.

Before the institutional *personae* framing property relations stand the individual parties to the dispute. Although all are men from the same village, they have different statuses in the court case. The original owner of the 1½ shares, Yusuf al-Suwaidan, appears in the register but not in the court where he is represented by sheikh Na’il al-Gharaiba. Sheikh Na’il is the only individual granted an honorific designation, a political distinction coherent with his capacity to act for another villager before the court. Lastly, those to whom Yusuf al-Suwaidan is judged to have transferred the land appear formally as two individuals; the notice to the registry, however, reveals that they stand for other kin in the transaction, one brother for four brothers and a father for himself and his son.

The dispute did not question the status of Yusuf al-Suwaidan as owner nor his power to transfer his land. Rather the six challengers argued, and their argument was at first accepted by the registry, that they had sufficient common interest in the land to contest its alienation to a third party. In the end, their claim to a right to challenge the transfer was overridden by the judgment of the court.

On what basis was the judgment made? Essentially, the definition of common interest, indicated by the term *halit ve şerik*, had been narrowed to co-ownership. We return to this below.

Legal doctrine here frames property: it defines the legal persons, institutional and individual, and their powers with regard to the objects it recognizes. Hence a first task in our study is to sketch the terms of the law. This requires reading legal concepts, such as *tapu* and *halit ve şerik*, from inside a legal tradition evolving over time.

In the case of late Ottoman law it proved difficult to rely solely on secondary legal scholarship. In spite of differences in interpretation, European scholarship on the 1858 Land Code generally treated the law as bearing a unitary meaning and intent. A first school of thought considered the Code an expression of the central state's attempt to regain control over the administration of land lost from the seventeenth century onwards.³ Revisionist historiography responded by interpreting the Code as the culminating legal expression of the development of effectively private rights to land over the same two centuries.⁴ But neither of these schools undertook detailed reading of the history of the terms of the Code.⁵ With regard to the administration of the Code, European scholarship of an earlier generation, guided by Eurocentric Mandate or Zionist readings of Ottoman reform, judged it a failure compared to Western property modernization.⁶

Turkish scholars have made a greater contribution, but for two reasons their readings of the Land Code ignored, more than built upon, the work of jurists of the late nineteenth and early twentieth centuries.⁷ Turkish historical scholarship had two core foci, the classical Ottoman regime and the *Tanzimat* reforms of the later nineteenth century, but it left the seventeenth-, eighteenth- and even early nineteenth-century background to *Tanzimat* legal reform obscure.⁸ The Republican secularism of Turkish scholars led them to neglect debates of Islamic jurists in their reading of Ottoman law.⁹ Thus, in a manner that might otherwise appear surprising, the present account of late Ottoman property relations will begin with a sketch of the development of legal doctrine long before the nineteenth century.

But let us return to the case at hand.

If the persons engaged in the social relations of ownership are clear enough, how was the object of right described in the notices? The 'thing' owned appears to be 1½ shares of the land of the village of Hawwara: a fraction of all the lands of the village, not a plot delimited by four borders in the manner of Islamic legal tradition nor a plot numbered with reference to a map. In the *tapu* register of 1876 the borders are given for three great blocks of land of the village each of which is divided into 46½ shares. In fact the regulations for registration of land nowhere prescribed such a form of description. Thus, although not in contradiction with the terms of the law, the description of the object of right was not simply dictated by the law. How then can we explain it? The answer to that question will be developed in Part two of this book which examines the political administration of property, notably, the negotiation of the terms of registration of land between the officers of the administration and regional leaders. This negotiation occurred at the level of the district, as well as in every village.

Hawwara was the third village of the district to undergo land registration

but the first where property was represented as shares in village land. In the two villages registered before Hawwara descriptions of the borders of the separate plots of land of each owner had been entered in the register. The apparent innovation, which was thereafter widely adopted across the district, resulted from a kind of political settlement. In this, officers of the state met regional and village leaders to negotiate the representation of rights in land in accordance with the law, the techniques of registration, the character of tax accounting, and the social organization of production on the ground.

Individual property rights were constructed at the intersection of law, administration and production. The three parts of this book consider these in turn. With regard to law, the nineteenth-century *Tanzimat* reforms are not a failed attempt at Western legal modernization. Nor are they simply a by-product of the imposition of a world market. Rather the reforms, transforming legal vocabularies from within Ottoman tradition, sought to respond to the competitive world system.¹⁰

Law is constructive; doctrine matters. But following Wittgenstein, there is no straightforwardly meaningful rule; meaning arises from interpretation. In the nineteenth century, interpretation was not an effect of pure doctrine but of an increasingly powerful administration of interpretation. Thus, the antinomy between law and governmentality sketched by Foucault is best taken as rhetorical, resting on an elegant but excessively narrow vision of law as God's and the Prince's command.¹¹ Law did not give way to specialized techniques of government in the nineteenth century; rather, it became increasingly bound up with administrative formalization.

In this study we examine the forms of registration and cross-referencing of persons and objects introduced by the *Tanzimat* reforms. Such processes of registration can be interpreted as part of systems of power-knowledge in the manner sketched by Foucault and developed subsequently in studies of 'governmentality'. But we go beyond 'discourse' to consider the political context of the production of entries in particular registers and the consequences of registration for the social agents appearing in the grids. Such analysis works against the 'dissolution of the subject' characteristic of discursive analyses of power-knowledge. Government registers were forms filled out by identifiable agents, institutional and political, acting at two administrative levels: the district and the village. The methodology adopted here moves back and forth: from a reading of the systems of registration to a reconstruction of relations captured by that lens. Thus, through the filter of the register something of the 'local knowledge' concerning right-holders in agricultural production can be discerned. As this implies, the processes of agricultural work, domestic labour and childbearing entail a density of social knowledge and exchange distinct from their partial representation in the registers. Hence, in Part three, different kinds of sources are drawn upon to portray the interaction of village men and women with state administration and the character of property relations in particular villages and in individual families.

And so, before we leave the case with which this chapter opened, let us briefly place the parties to the dispute in the context of Hawwara's political economy.

The case occurred some five years after the land of Hawwara had first been registered in November 1876 in accordance with legislation promulgated almost two decades earlier. Prior to registration in 1876 the government had apparently not recorded individual rights in Hawwara. This did not mean that land was not highly valued in this fertile wheat-producing part of the Hauran plain. On the contrary, there is ample evidence of contest over right in the case of Hawwara to which we shall return in Chapters 6 and 9. Because of this conflict, as well as the absence of records of tax paid by individuals, those awarded rights paid the higher *bedel-i misl* rates for title. The village authorities of Hawwara noted at the time of registration in November 1876: ‘In this register are written the names of 31 individuals, farmers of long standing among whom cultivation has always been joint (*müşterek*); the distribution has been made justly.’¹²

The men of the village council of Hawwara followed the law by designating individuals as holders of property right, neither the village nor any other corporate body of its residents being permitted by law to be registered as owner of such right.¹³ They also respected the law in their description of the object of right.¹⁴ But this legal individuation of right did not sweep away all the practices of joint cultivation alluded to in the statement by the village council members. In the 1876 registration of Hawwara, 31 individual owners held a total of 46½ shares in the three great blocks of Hawwara’s village lands named and defined by their borders and size in *dönüms*. To understand the court case we need to see how this representation of ownership translated into patterns of cultivation on the ground. In other words, what kind of claim was being advanced, first accepted by the *tapu* officials and then rejected in court, under the terms *halit ve şerik*?

We do not know how land was laid out in 1876 at the initial *tapu* registration, let alone in 1882 at the time of the court case. It is only with the tax survey of 1895 (and again much later with the 1933 cadastral registration) that documentary evidence of the layout of fields is available. Yet, combining the evidence of the 1895 tax register with accounts of practice in the years following the First World War, we can extract the salient characteristics of Hawwara’s farming system.

First, the distribution was one of considerable complexity with each holder having many individual parcels of land, the aim being to equalize qualities of land synchronically (see Chapter 9). Second, all the land save the village site was allocated to holders; there were no common pastures, and flocks were let on the fields after harvest, a practice that necessitated tight collective discipline at the level of sub-blocks concerning type of crop and timing of planting and harvesting. Third, the coordination of this discipline and of a triennial pattern of crop rotation occurred at the level of the sub-holding units. If there was diachronic redistribution of plots, it also occurred at this level of collective holding, not at the level of the village as a whole except after long intervals (15–30 years). And fourth, although the major sub-sections of shareholding groups often comprised genealogically unrelated families, this unit of everyday coordination was important in agriculture.

To return to the sale by Yusuf Suwaidan, the legal contest concerned an

alienation of right to persons who were resident in the village but had come in as associates of Na'il Gharaiba. Those who opposed the transfer were led by figures from the two major families of the village, Muhammad al-Hasan al-Shatnawi and Mustafa 'Abdul-Qadir Abu Kirsanna.¹⁵ Cultivation arrangements for Yusuf Suwaidan's land were probably also at issue.¹⁶ The case was fought not on grounds of the purchasers being outsiders but in terms of a violation of the principle of common interest.

The common interest of the cultivators corresponded to the etymological meaning of the terms under which they appealed, *halit ve şerik* or *khalit wa-sharik* in the Arabic of the villagers.¹⁷ The basic linguistic distinction between *khalit* and *sharik* is that *khalit* refers to a property which began as individual but was combined (for example, sheep in a flock) as opposed to a notionally single property or interest held jointly and shared between persons (each a *sharik* in a joint property).¹⁸ Thus the cultivators presented themselves as *khalit*, their plots interlaced with or adjoining the land of Yusuf Suwaidan, and *sharik*, members of a co-cultivating association. It was not, however, the etymological sense of the words but their changed juristic interpretation that was to prove decisive.¹⁹

The court apparently followed the contemporary interpretation of the terms in the Land Code. We do not have a full record of the legal decision, but the published legal interpretations of the phrase *halit ve şerik*, which occurs once in the Land Code in clause 4I, may give some indication of why the claimants lost the case. Clause 4I concerns *miri* land but the commentaries on the Code all cite as definitions for the terms those given in the *Mecelle* with reference to *mülk* property.²⁰ The transposition of definitions from *mülk* to *miri* land in this manner was problematical, marking a break from Ottoman tradition where the distinction between the principles governing *miri* or 'state' land as opposed to *mülk* or private land was clear.²¹ But all commentators cite the *Mecelle* where the definition of *halit* is one sharing a common servitude, such as a road or irrigation channel, and *şerik*, a co-sharer in a holding of property.²² The commentators on the Land Code render the term *halit* entirely dependent on co-ownership and without independent force.²³ And so, although the cultivators unquestionably shared servitudes, because they were not registered as co-owners with the seller in the *tapu* records, their claim challenging the transfer failed.

A court case is never just an academic reading of the text of law. In the case in question, the 'lawyer' (*wakil*) for the winning party, Na'il Gharaiba, would have been well equipped to persuade the members of the court: the deputy governor, two prominent men of the region (one a rural leader of the 'Azzam family of the Wustiya sub-district and the other from a prominent Christian family of al-Husn village involved in regional finance) and a scribe. Na'il Gharaiba appears to have acted at the level of several villages, perhaps as the semi-formal government agent for tax affairs of the village or sub-district, a function that in earlier decades could give a man the title of sheikh.²⁴ He had close relations with figures in the finance administration. That Na'il Gharaiba acted as legal agent in this case reveals the exemplary, educative function of the district court

of first instance.²⁵ Only a few years after *tapu* registration, the villagers became familiar – not always successfully – with the institutions of the new legal order. That Na'il was an accomplished performer in this system surely escaped no one; and that he had a particular interest in assuring the sale by Yusuf Suwaidan to the Sabbah, a family allied to his own as putative agnates, provoked vehement resistance by men cultivating the land.

Property in land is constructed at the articulation of three moments: the law as text and interpretive tradition; the administration of law by government institutions wherein a regional elite comes together with government employees appointed from above; and lastly, the translation and negotiation of legal categories by actors in productive systems where right is generated, in part, by forces independent of the first two moments. While the letter of the law may be common to all the empire, administration entails a regional realization of models of governance. And the recasting of property in land occurred at yet a smaller scale – in each and every village. In order to understand the 'translation' so effected, we need to consider not only the techniques of registration and the character of local administration but also how the registration related to the genesis of right from below. The administration could not impose law on the village as if the latter were a *tabula rasa*. Agriculture entailed social relations of production in the course of which claims to rights in objects and labour were recognized by actors of the locality. The administration thus negotiated the imposition of its new terms upon the living and inherited grid of claims established in production. This process led to divergent outcomes in the different systems of village social production.

§

This introduction has given a brief sketch of the central themes and argument of our study; in later chapters we shall consider in turn the three moments of property: law, administration and production.

Part one of the book sketches a genealogy of the nineteenth-century law governing *miri* land. This genealogy covers a long period of time: Chapter 2 the sixteenth century, Chapter 3 the seventeenth and eighteenth centuries, and Chapter 4 the nineteenth century. This historical depth is required both to read the legal changes of the nineteenth century as internal to the juridical tradition and to understand how Ottoman Hanafi legal tradition responded to economic change.

Against this background of the legal context, Part two documents nineteenth-century political administration in one district of the empire. This limited compass is methodologically important since the effects of reform, which itself evolved over the course of the nineteenth century, differed according to the timing of its introduction and to the political economic relations obtaining in particular regions. The district of 'Ajlun formed part of the Ottoman province of Suriye, the *chef-lieu* of which was Damascus; since the Mandate partition of the Near East in 1922, it has formed part of (Trans)Jordan. The analysis of Part two highlights the centrality of political administration in the reworking of property relations, but it

does so without dissolving the agency of regional elites. Negotiation, translation and conflict, not simply imposition, marked the process of governmental change. The regional elites mediated the demands of central government with the social dynamics of agricultural production and village reproduction, the third moment of property in our analysis.

Part three documents in detail the registration of property in four villages. The four villages belong to two distinct systems of production: the Haurani plain where market-oriented production of wheat and lentils dominated village economies, and the Kura foothills, where village agricultural production was only partially integrated into the market, and livestock provided the major source of cash income. In Part three systematic differences in the forms of actual right are seen to correspond to differences in the two systems of production. Lastly, micro-level analysis of household organization reveals how the object of property, land, was effectively a different 'thing' in the two village systems, and hence why, the law notwithstanding, women came to accede to such property in one system whereas they were almost entirely excluded in the other.

PART ONE | **Ottoman jurisprudence concerning
ownership of agricultural land**

2 | Jurisprudential debate in the sixteenth century

The practices of Ottoman administration were set down from the fifteenth century in texts of administrative law, *kanuns* and *kanunnames*, but it was only in the sixteenth century that the technical terms of land tax administration were subject to systematic interpretation and critique by the developed tradition of Islamic jurisprudence (*fiqh*).¹ This juridical analysis of administrative terms went beyond an instrumental legitimization of administrative (the sultan's) law to form an integrated system of law administered by the Islamic courts of the empire. And in the course of this, jurists engaged in sustained debate concerning the central legal concepts, notably the status of land and payments made by the cultivator, and the legal personality of the administrator and cultivator.

The development of an integrated system of land tax law reflected two aspects of the institutionalization of Islamic learning and jurisprudence under the Ottomans: official adoption of a single law school, the Hanafi, and government appointment of teachers, muftis and judges not only in the capital but also in lower administrative jurisdictions.² Within this institutional structure the sheikh-ul-Islam could sanction rules emanating from administrative law and could select interpretations within Islamic jurisprudence.³

As the Ottomans officially adopted Hanafi jurisprudence, jurists were to build upon the existing corpus of Hanafi doctrine concerning rights in land. This was particularly true in Syria and Egypt where Ottoman supplanted Mamluk rule only in 1516–17. In the late fifteenth century, Cairo, not Istanbul, had been the intellectual centre of Hanafi jurisprudence; thus, Ahmed Şemseddin Gürânî, sheikh-ul-Islam between 1480–88, had in his youth studied in Cairo.⁴ From the late fourteenth century Hanafi jurists had recast the theoretical basis of property in land and thereby broken with earlier doctrine. A word is in order concerning the earlier history of doctrine since some familiarity with its terms will be required to follow Ottoman debates on the nature of property in land.

Classical Hanafi doctrine on the character of property in land

Classical Hanafi doctrine considered ownership of land to derive from the imam's recognition of possession by individuals at the time of the Islamic conquest and from his allocation of abandoned or uncultivated land to Muslim supporters; in return individual owners owed tax to the treasury.⁵ At the Muslim conquest the personal religious status under which owners entered the dominion of Islam defined the nature of tax obligation on their landed property: *'ushr* (the tithe) being restricted to Muslims and the much higher *kharaj* the rule for non-Muslims with treaty relations. Thereafter, however, the tax status of *kharaj* land

remained fixed regardless of change in the religious status of its owner arising from sale of the land or conversion of its owner to Islam. Jurists justified this principle, which served to divide the religious status of the owner from the tax status of the land, in terms of the need to preserve revenue.⁶

The basic understanding that ownership was individual was likewise reflected in a principle governing litigation over ownership, whereby the person with ‘a hand on the property’ (*wad‘ al-yad*), i.e. in possession, was presumed owner, the onus being on the claimant to disprove that presumption. Unlike other schools of law, classical Hanafi doctrine, while not excluding the possibility of the ruler/imam designating conquered land as *waqf* (mortmain) or as property of the treasury, treated such a possibility as exceptional and anything but the rule for territory conquered.⁷

Hanafi doctrine under the Mamluks

The new doctrine articulated in the fifteenth century viewed ownership of agricultural land not as arising from possession by individuals but as vested in the treasury/imam and delegated in different forms to intermediaries and cultivators. Kamal al-Din Muhammad, known as Ibn Humam (d. 1457), is recognized by Hanafi tradition as having first articulated the doctrine concerning land ownership adopted by subsequent jurists of the school.⁸ Ibn Humam developed an historical argument to explain a transition of such magnitude: as a result of the successive deaths of its proprietors the land of Egypt had passed entirely to the state treasury.⁹ The doctrine of escheat to the treasury was ancient, but its extension to all the lands of the Mamluk domains in justification of treasury ownership of land marked a radical departure from the doctrine of earlier centuries.¹⁰ The earlier doctrine was not formally rejected nor was it forgotten; rather, history – in the form of the gradual death without heirs of tax-paying owners – had simply rendered it obsolete.

Once treasury ownership of land became the norm, debate was to turn to how secondary rights, required to farm the land, were to be conceived. At issue were the legal statuses of cultivator and administrator and the nature of the payments made by the first to the second. These debates were pursued under the rubric of land taxation (*‘ushr wa-kharaj*) in legal compendia and specialized epistles.

In earlier doctrine tax was due from an owner of land to the Muslim treasury. But land was now the property of the treasury. Ibn Humam therefore noted: ‘indeed what is taken nowadays is in lieu of rent (*badal al-ijara*) not tax (*kharaj*)’.¹¹ A student of Ibn Humam, shaikh Qasim ibn Qutlubugha (1399–1474), in an epistle on the question of rental of an administrative grant, went on to explore the consequences of this definition for the legal status of the cultivator and the administrator.¹² The administrative grant (*iqta‘*) had earlier been treated in accordance with the principle of individual property right, notably in the foundational ninth-century text, *Kitab al-kharaj* of Abu Yusuf. Abu Yusuf had distinguished between two types of *iqta‘*: either an outright grant of property, usually of uncultivated or abandoned land, or the partial or complete granting

of *kharaj* tax revenue to the grant holder.¹³ But the legal character of such grants had to be rephrased once the doctrine of treasury ownership of land replaced that of individual ownership.

In conceptualizing the rights held by the military grantee and the cultivator, Ibn Qutlubugha deployed the basic vocabulary of property in his tradition. This distinguished between the use-right or object of utility (*manfa'a*), conceived as an 'accident' distinct from the essence – the *raqaba* ('neck') or 'ain – of the person or object owned.¹⁴ Of things or slaves owned, some formed objects of free commercial exchange (*mal*, with the attribute *maliya*) whereas others, such as the service of a slave, could only be transacted by the owner of the *raqaba*. The concept of lease (*ijara*, applicable to real property or services) built upon the distinction between the 'essence' that remains with the owner and the use-right that temporarily becomes the property of the lessee.¹⁵ Thus for Ibn Qutlubugha, as for Ibn Humam, the era of *kharaj* tax died out with the owners of the land.¹⁶ By contrast, their own era was one of rent. Hence the administrative grantee acted as a kind of co-owner (of the *manfa'a*, defined as his remuneration for military service) alongside the treasury (owner of the *raqaba*) to sublet the use of the land to cultivators. Ibn Qutlubugha explicitly ruled out a competing interpretation whereby the grantee would have the legal status not of a co-owner but of an agent.¹⁷ Ibn Qutlubugha's interpretation entailed the following legal consequences: rental contracts with cultivators could be renegotiated by a newly appointed grant holder; and relations between cultivator and grant holder would be subject to the provisions of Islamic jurisprudence governing lease and share-cropping contracts.

Ibn Qutlubugha's formulation was not long to survive the Ottoman conquest of Egypt. Ibn Nujaim (1520–63), who wrote after the Ottoman conquest, attempted a kind of balancing act: he first accepted Ibn Qutlubugha's analysis of the relation between grant holder and cultivator as one of rent but then proceeded to identify the nature of the grant holder's right with Abu Yusuf's second form of *iqta'* entailing rights to the tax of the land, not to any part of its ownership.¹⁸ This solution, while theoretically incoherent, appears a compromise between a conception of subsidiary right in terms of property and one in terms of taxation and office. Ibn Nujaim could be said to have met the Ottomans halfway.

The readings of Ottoman jurists

It was for the Ottoman imperial muftis to try to work out a doctrinal solution coherent with both Hanafi legal doctrine and the practices of Ottoman administration developed in the course of conquests in Anatolia, the Balkans and Hungary. A brief sketch of the most important features of the classical land taxation regime will make clear what the muftis sought to interpret in terms of Hanafi jurisprudence.

On conquest the administration confirmed the particular imposts paid by the cultivators in formal *kanuns*, within a thoroughgoing doctrine of treasury ownership of land.¹⁹ The land was known as *miri* (of the ruler) distinct from individual

mülk land. The Ottoman political regime rested upon a status distinction between office holders (*asker*), most notably the *timaris* or military ‘fief holders’, and the flock of subjects (*reaya*): the first were recipients of taxes and the latter the tax-payers.²⁰ The grant holder of land was legally empowered within the limits fixed in the administrative register (*defter*) to collect both Islamic and customary taxes and to regulate transfers of cultivation rights so as to assure continuous tax revenue and cultivation of land. In principle, the names of the cultivators were recorded in registers (*tahrir defterleri*) based on centrally organized surveys renewed every few decades. In the case of infringement of the limits defined by the central administration, notably if the administrator imposed new rates or forms of taxation not in the registers, or if he unjustly deprived a cultivator of his lot, the cultivator could appeal to the Islamic judge. But the duties that administrators owed the state formed part of administrative law and were not subject to the jurisdiction of the Islamic courts.

The cultivator had a right of continuous exploitation of his lot of *miri* land; this could not be taken away from him so long as he paid the tax due on the lot. Only if he abandoned cultivation for more than three years would he lose rights to his lot. Any transfer of a lot from one cultivator to another required the accord of the *timari* and payment of a considerable fee, the *resm-i tapu*, which reflected the value of the land.²¹ In such transfers priority was given to cultivators resident in the same village, the village being the basic unit for registration and administration.

Without the agreement of the administrator, the cultivator was not able to give up his lot for any reason save physical incapacity; if he left a son (or sons), the latter would be held responsible for the cultivation of the lot. The nature of this responsibility differed from that of an owner of *mülk* property: an owner of *mülk* land was similarly obliged to cultivate and to pay tax on his land but in the event that he failed to do so, the imam could rent out his land to another or could even sell the property to cover the costs of the tax if no one accepted to rent the land. But in the case of *miri* land, should the cultivator’s lot remain uncultivated and no one else be found to take it on, since it was treasury property, the land could not be sold. Rather, the cultivator was to be returned to the lot. Hence in sixteenth-century *kanun*, if a cultivator fled, he or, after his death, his son was to be returned to the village so long as ten years had not passed.²² And, if no other person had taken on the land left behind, the original cultivator remained liable for the taxes due on the lot, as was his son after him. These taxes were termed *resm-i çift bozan/kasr al-faddan*, i.e. ‘abandoning the plough team’; they applied in principle until another cultivator took on the lot.²³ The taxes were due from individual cultivators, the *sipahi* not being able to hold the village collectively liable for the tax on the lot of a cultivator who had fled.²⁴

Although the principles governing succession at death changed over the centuries, they were designed to avoid subdivision of a cultivator’s lot. The right passed without *tapu* fee only to a man’s son/s. Following a sultan’s decree in 1568,

a daughter, followed by a brother or sister living in the village, could exercise a preferential claim (*ahakkiyye*) to take on the lot by payment of the *tapu* fee.²⁵ The imperial order introducing a right for a daughter stated that, were daughters unable to claim any part of their father's land, they would be deprived of that part of paternal income spent on maintenance or improvement of the land. In this manner, justification of female rights made reference to a distinct budget of individual property. The most important elements of this property arising from work and investment were trees or vines, walls, mills and buildings as well as livestock, agricultural implements and personal belongings. The distinction between this personal property and the cultivator's lot was maintained: unlike the former, the lot could not be sold for debt or bequeathed, nor, as we have seen, inherited according to the terms of Islamic *fiqh* governing *mülk* property.²⁶

Such were the broad rules of the classical land regime, which the Ottoman muftis took for granted when debating legal relations between state, administrator and cultivator. The two great imperial muftis of the sixteenth century, Kemal Paşazade (1525–34) and Ebussuud (1545–74), addressed this task.²⁷ For both, agricultural land belonged to the imam/treasury. Kemal Paşazade notes, however, that in the Ottoman case the exact history of how lands came to the treasury is unknown, some (*arazi-i havz*, 'impounded lands') having accrued to the treasury through the inability of cultivators to assure its cultivation and other (*arazi-i memleket*, 'crown lands') through the disappearance or death without issue of its owners.²⁸ This reading respects earlier Hanafi interpretation whereby a basic presumption of individual ownership was overwritten by historical events.²⁹

Ebussuud, by contrast, abandoned this reasoning, offering two explanations for state ownership. The first referred to the interpretation advanced by 'certain schools of Islamic law' that the area of the Sawad of Iraq had become property of the treasury at the time of conquest.³⁰ Here the most prominent Hanafi scholar of all time went beyond his school in justification of Ottoman practice. And in a second interpretation Ebussuud abandoned established doctrinal arguments, advancing an interpretation on the basis of public interest or necessity.³¹ *Arazi-i memleket* was originally *haraç* land but – in the translation of Colin Imber – 'if it had been given to its owners, it would have been divided on their deaths among many heirs, so that each one of them would receive only a tiny portion. Since it would be extremely arduous and difficult, and indeed impossible to distribute and allocate each person's tribute [*haraç*], the ownership of the land was kept for the Muslim treasury, and [the usufruct] given to the peasants by way of a loan.'³² In this fetwa Ebussuud justifies state ownership in terms not of history or school doctrine but of the need for impartible devolution of cultivators' lots.

Concerning the grant holder, Kemal Paşazade defined the *timar* as a form of *ikta* in which the grant holder possesses the right to collect customary dues and Islamic taxes.³³ The term for this right is *hakk-ı karar*, denoting a power to act with regard to a property but not a property right itself in the *fiqh* tradition.³⁴ Ebussuud states rather little concerning the nature of the *timari*'s right, but his fetwas make clear that he regards it as an office where in return for part of the

tax revenue the *timari* or *sahib-i arz* carries out tasks of administration, including the delegation of rights to land. The legal character of the administrator, whom later jurists will term a *naip* (deputy) or *vekil* (agent) of the treasury, appears not to be doctrinally problematic, unlike that of the cultivator.

With regard to the cultivator's right to land, Kemal Paşazade judged that it was obtained by purchase of the land or by inheritance from father to son(s). Out of respect for Hanafi interpretation where 'sale' and 'inheritance' cannot be used for such a quasi-property right, Kemal Paşazade stated that these legal forms derive from the *kanun* not the *şeriat*.³⁵ Thus, Kemal Paşazade made no attempt to legitimate the *tapu* fee or impartible devolution of rights at death in terms of *fiqh*. By contrast, sheikh-ul-Islam Ebussuud made no reference to the *kanun* in his legitimation of the Ottoman land regime. In what may be a first formulation, Ebussuud followed earlier Hanafi doctrine by describing the cultivator's relation with the treasury as a defective rental (*icare-i faside*) – defective because for a valid lease the duration of the rental contract must be specified whereas it is not here – and by interpreting the dues (*tapu resmi*) cultivators pay for the tenure of use-rights as a form of entry-fee or advance on the rent.³⁶ But in perhaps a later formulation, Ebussuud avoids the term rent (*icare*), presumably because this can entail limited power to further devolve land to others, rendering problematic the control over transactions between cultivators exercised by the grant holder. Rather Ebussuud interprets the cultivator's right in terms of a delegation (*tefviz*) of use-rights, or a loan (*ariyet*), or an object held in trust (*vedia*), categories which do not allow the cultivator to transfer any part of his rights to land permanently.³⁷ In these formulations the *tapu* fee is again described as *ücret-i muaccele*, a fee paid in advance for the use-rights of land.³⁸ Ebussuud here implicitly equates the cultivator's rights to those of an office holder – a subordinate, subject office to be sure, but an office none the less.³⁹

The fetwas of Kemal Paşazade and Ebussuud were not written as highly argumentative epistles for other scholars; even the longer of them remain didactic and the shorter verge on the imperious.⁴⁰ In part this may reflect the attempt by the office of the sheikh-ul-Islam to silence challenges to the legitimacy of the Ottoman land tax system. By comparison with the doctrinal *bricolage* of the imperial fetwas, the criticism to which we now turn built impeccably on the categories of Hanafi *fiqh*.

A contemporary of Ebussuud, Taqi 'l-Din Pir 'Ali al-Barkali al-Rumi, known as Birgevi or Birgili in Turkish (d. 1573), has left us a learned counter-argument.⁴¹ A similar argument can also be read in an anonymous fetwa of the second half of the sixteenth century.⁴² There is thus no reason to think that the argument was unknown in mid-sixteenth-century Istanbul, but equally none to think that either of these two versions represents the original formulation of the argument. Given just how opposed its conclusions are to those of the sheikh-ul-Islam, it is perhaps not surprising that both the statements were penned in Arabic not in Turkish.

In the case of Birgili's *al-Tariqa al-muhammadiya*, the arguments are tucked

away at the end of his long denunciation of the evil ways of this world and the departure of contemporary practices from those of the faith. The argument forms part of a stern warning against 'eating the food of office holders'.⁴³

Birgili begins by deploring the legal contradictions presented to Hanafi doctrine by Ottoman land law. The argument is here translated in full.⁴⁴

The state of land in our time is very confused since its holders (*ashabu-ha*) contract the land by sale, rental, sharecropping and suchlike and pay its *kharaj* tax to the military or to other persons appointed by the sultan, but if they sell [their land], then the person appointed by the sultan to collect the tax takes part of the price. And if they die leaving sons, then the sons take all the inheritance to the exclusion of other heirs, and no debts or bequests are paid out of it. Otherwise [if there are no sons] the person appointed by the sultan sells [the land].

Birgili then goes on to propose two possible legal interpretations of the land regime. The first starts from the principle that possession denotes ownership. This will prove to be utterly damning for the legality of the land regime.

[First thesis] So if we start from the principle of possession (*fa-idha i'tabarna bi-'l-yad*) we would say that the land is individual property (*mulk*) and that inheritance should then include all heirs after deduction of debts and bequests. Exclusion of all [heirs] save sons and failure to honour debts and bequests would entail injustice (*zulm*). Transactions [by the sons to the exclusion of other heirs] or by the sultan's appointees in the absence of male heirs would represent disposal of property by a third party, the result being foul (*khabith*). ... So if the sultan's appointee takes all or part of the price for the sale of land, this is forbidden (*haram*). In this manner, over the years, all or most of the land would pass from the ownership of its possessors creating great corruption.

A second less radical interpretation starts from the principle of treasury ownership of land.

[Second thesis] If we say not that the lands are owned by their occupants but rather that the essence (*raqaba*) belongs to the treasury as has been the practice in our time and the time of our fathers and grandfathers; that when the sultan conquered a region he did not divide its land among those entitled to a part in the booty since the imam may choose between dividing the land and keeping it for the Muslims until the day of resurrection on condition [of payment] of tax (*kharaj*); then the possessor (*dhi 'l-yad fi-ha*) would enjoy use-rights. It was said in the *Tartarkhaniya* that lands with no owner, which we call state lands (*aradi al-mamlaka*), may be given to people who then pay the tax and that this is legally valid for one of two reasons: either (1) the cultivators stand for the owners in cultivation and tax payment or (2) they pay rent equal to the value of the tax so that what is taken from them is tax to the imam but rent to them.⁴⁵ In either case, transactions such as sale, gift, pre-emption, *waqf*, inheritance and suchlike are not valid. Thus according to (1) the cultivators are allowed to stand for the owners

only out of the necessity of preserving the rights of the *'askar* (military), that is the *kharaj*, from destruction, but that necessity does not extend beyond this [to the other powers of a true owner]. And according to (2) it is evident that sale by the possessor is illegal and the price paid a bribe.

In other words, sale between cultivators and payment to administrators (the *resm-i tapu*) are not legally valid. The latter constitutes an illegal bribe.

The [Second Thesis] is stronger, less in contradiction with Islamic jurisprudence (*al-shar'*) and less harmful to people so it should be preferred. Thus, transmission to sons can be [interpreted] not as inheritance but in one of two ways according to whether the cultivators are seen as standing for the owners in the payment of tax or as acting as lessees of the land. As for treating its sale as a defective lease wherein the value of a fair rent is paid to the seller, this is completely invalid and without any legal basis. Rental cannot be contracted with the words denoting a sale; this is the chosen opinion [of the School] especially if the duration is not stated.

In this manner Birgili begins to challenge the interpretation of the legal character of the *tapu* fee advanced by Ebussuud.

... So too according to (2) [where the cultivator stands for the lessee of land] the tax cannot be considered as rent paid by the possessor of land because the true conditions are absent. It is a tax (*mu'na*) imposable only on the owner of the land. Only out of necessity is it treated as if rent to the possessor [i.e. the cultivator] and hence is it permitted not to define the amount of the rent to be paid ... But its true nature is tax and paid only to those entitled to tax; it is not a true rent. Its possessor cannot further sublet the land. Second, if we instead say that tax is taken from the person using the land, and so consider his purchase rental and its price an advance fee on the rent (*ujra mu'ajjala*), in fact tax cannot be made into a rent paid by the person using the land; rather he must pay the tax. Thus if what was paid is considered as part of the tax, then the seller [the previous cultivator and/or administrator] not the buyer [the new cultivator] should pay [to the treasury] what he received as part of the tax due. A further problem is that if either the buyer or seller should die during the rental period and the rental agreement be terminated, the advance rental fee [*resm-i tapu*] should be repaid. [But this is not done.]

Thus the truth is that the sale is null and void and what is taken [the *resm-i tapu*] is a bribe that should be returned to the person [cultivator] who gave it.

Here Birgili rejects Ebussuud's attempt to find a legal basis in *fiqh* for the *tapu* fee. In keeping with earlier Hanafi doctrine this argument permits the quasi-lease of land in lieu of tax, so as to maintain the revenue of the state and its military administration, but it rejects the *tapu* fee paid for acquisition of cultivation rights as a bribe inadmissible according to Islamic jurisprudence. If this is a complex argument, it is one that adheres better to the categories of Hanafi jurisprudence

than the judgments of the sultan's sheikh-ul-Islam.⁴⁶ Birgili's doctrinal rigour notwithstanding, it was not his scholastic argument that was to hold sway. Rather the power of practice and of the imperial office of the sheikh-ul-Islam was to define Ottoman Hanafi doctrine on land law.

These debates reveal tensions both practical and ideological.

At a practical level, Birgili's description of everyday exchanges of land reveals that there was a kind of market wherein cultivators exchanged their rights to lots and drew up contracts governing factors of production such as work in ploughing, weeding and harvesting. Yet this was a market heavily conditioned by administrative control over permanent exchanges of lots, subject to a *tapu* fee extracted by the *timari*. Thus, as Kemal Paşazade and Birgili state, cultivators and administrators employed terms such as sale and rental when referring to such contracts, but the conditions required by *fiqh* for such contracts were absent.

At a more ideological level, legal models of right were developed under the Mamluks to articulate hierarchically disposed rights. This was what Ibn Qutlubugha elaborated using the vocabulary of lease, and further innovations to contracts of lease were to be introduced under the Ottomans concerning rights in *waqf* properties.⁴⁷ But Ottoman jurisprudence resisted such a conceptualization for rights in *miri* land. Thus, the *timari*, or what became the standard legal abstraction, the *sahib-i arz*, acted as an agent or officer of (rather than co-owner with) the state. And what the cultivator owed was really tax and not actually rent, even though he was no more a proprietor than he was a lessee. Moreover, the legal vocabulary in which the rights of the cultivator were expressed was composed of terms governing rights to offices not to *mülk* property.⁴⁸ Similarly, the devolution of the cultivator's plot from father to son(s) follows the model for the devolution of office not of *mülk* property. Hence, in many ways Ottoman jurisprudence treated the cultivator more as a quasi-office entailing rights over objects and produce than as a subject contracting property through lease.

In conclusion to this review of the central debates of the sixteenth century we may ask why Ottoman jurisprudence did not proceed to theorize the cultivator's legal *persona* as an office in the hierarchy of delegation of powers. Why was such a definition to remain implicit in the terms characterizing the cultivator's rights to land rather than being made explicit?

The answer may be political. Ottoman political ideology rested on a distinction between those who received tax (the *asker* or military, later more generally office holders, those with a *mansıp* or *vazife*) and those who paid tax (the *reaya* or flock: cultivators, artisans and traders). The administrator (*sahib-i arz*) was regarded as an office holder, a deputy of the state who received tax payments. Ottoman practice, whereby the cultivator paid an entry-fee (*resm-i tapu*) for his lot and was subject to the approval of the administrator for any contracts concerning his land, proved difficult to legitimate in terms of Islamic conceptions of property-right. Likewise, Ottoman administrative practice governing the devolution of the cultivator's plot proved difficult to justify in terms of Islamic jurisprudence. The practice entailed impartible devolution to son(s), itself the pattern for the

devolution of offices, but modified by the end of the sixteenth century to allow, in the absence of a surviving son, a daughter(s) resident in the village to pay the entry-fee for the lot. In short, whereas the practical arrangements governing cultivators in Ottoman administrative law (*kanun*) corresponded to a subject office or status, the ideological necessity of restricting the category of office to the elite of the Ottoman order rendered the jurisprudential definition of the cultivator's legal *persona* doctrinally problematical. It was the sheer political eminence of Ebussuud, the sheikh-ul-Islam of sultan Süleyman 'the lawgiver', that closed debate over terms legally ambivalent.

3 | Jurisprudential debate in the seventeenth and eighteenth centuries

This chapter examines doctrinal debate concerning major aspects of the land and tax regimes during the centuries between the classical regime of the sixteenth century and the modern reforms of the nineteenth century. Emphasizing change in doctrine, we sketch a genealogy of the jurisprudential tradition against which to judge nineteenth-century codification regarding land. The account draws on a continuous series of fetwas and related epistles by Damascene jurists.¹ The reading presented here remains tentative; if subsequent scholarship should challenge its theses, so much the better.

Before we turn to the Syrian material, let us briefly consider the wider historical background.

If Ebussuud is heralded as reconciling the *kanun* with the *shari'a*, he introduced few changes in the forms of the two traditions.² It was in the decades after his death that a marriage of form between the two traditions was to be developed. At the beginning of the seventeenth century, a manual of law, *Zahir ül-Kudat*, was drawn up by Pir Mehmed el-Üskübî; this took the form of fetwas.³ From then on, texts of *kanun* could adopt the formal aspect of *fiqh*. The *Kanun-i Cedid* or 'New Law', dated in its final recension to 1673, took the question and answer form of fetwas written by ulema of the sixteenth and seventeenth centuries crowned by a firman.⁴ The judicial counterpart to this Islamic formulation of land law was the role granted to kadis in the provinces to adjudicate cases of dispute between the cultivators and administrators of land.⁵

These changes in the form of law corresponded to a shift in the character of Ottoman governance, when within a more monetarized economy the military-administrative complex gave way to tax farming during the seventeenth century. Monetization and wider social access to small firearms changed political relations in rural areas.⁶ At the very end of the century (1695) lifelong tax farms known as *malikane* were introduced in lieu of short-term farming of taxes. It was argued that this legal innovation would serve to bind the interest of the tax farmer to that of the cultivators more closely.⁷

The character of political and economic change in the seventeenth century remains the object of debate among scholars. It is agreed that the century witnessed considerable civil strife at the same time as the numbers on the state payroll greatly increased.⁸ What Faroqhi terms 'the establishment of a developed political bureaucracy' cannot be foreign to the more discursive character of *kanuns* written by administrators.⁹ Bureaucratic development at the centre was matched by a deepening of the Ottoman culture of Arab provincial elites who came to

enjoy greater political autonomy. This shift in the locus of governance was to continue in more stable forms throughout the eighteenth century.¹⁰

How exactly the monetarization of tax-assessment affected relations between cultivators on the ground is largely undocumented. In the case of southern Syria, it is unclear even for the sixteenth century how the information in the register (*tahrir defteri*), where total assessments for different crops and the names of heads of cultivating households were listed for each village, was matched by individual responsibility for meeting the collective assessment of the village.¹¹ In the seventeenth century regular updating of registers generally ceased.¹² Given further monetarization of block tax assessment, village-level management of the tax burden can only have increased.

Bearing in mind this wider context, let us consider the major issues in land law debated by the Hanafi ulema of Damascus. The Syrian scholars belonged to the Ottoman tradition and context, but they appear also to have maintained, or even renewed in a spirit of neo-classicism, their references to the pre-Ottoman tradition of the Hanafi school. Until further research on jurists writing in Turkish in Anatolia and the Balkans is published, it remains unclear whether there were systematic differences between imperial and provincial ulema in this regard.¹³ Although none of the major Syrian jurists called into account the legitimacy of the land regime in its entirety, there were marked differences in their positions. Those who held the formal position of mufti in Damascus appeared more punctilious with regard to doctrine sanctioned in Istanbul than the three great figures, Khayr al-Din al-Ramli (1585–1671), ‘Abd al-Ghani al-Nabulusi (1641–1731) and Muhammad Amin Ibn ‘Abidin (1784–1836) whose fame rested more on their writing than on their official position.¹⁴ But our focus will be more on the nature of the themes debated than on the differences arising from such institutional positions – al-Nabulusi went so far as to call into question the right of the sultan to impose as binding the decisions of his appointed sheikh-ul-Islam.¹⁵

The degree to which the Damascene muftis make reference to Turkish terminology drawn from the *kanun* or to juridical texts written in Turkish changed markedly over the period surveyed here. Although the Syrian muftis of the seventeenth century occasionally referred to one or another very famous fetwa of Ebussuud, there is otherwise no evidence that they employed Turkish in their scholarly, as opposed to their practical, work. Of the some three hundred fetwas in a collection that appears to have served as a kind of register of questions posed to the office of the mufti of Damascus, only five were recorded in Turkish.¹⁶ It is noteworthy that a translation into Arabic does not appear to have been made of the *Maruzat* or the fetwas of Ebussuud. Certain of these fetwas were given in works compiled in Arabic by ulema, such as the *Surrat al-fatawi* of al-Saqizi, but generally direct citations of *kanun* and sultanic decisions appear in the corpus of Syrian ulema only from the middle of the eighteenth century. A late Ottoman ‘classicism’ then marks the vocabulary, with the *sahib al-ard* or *mutakallim* cast as *timari* whatever his actual role and with the term *tapu* appearing in the fetwas on land, even with

regard to *waqf* land, whereas it rarely appeared earlier.¹⁷ Nevertheless, even by the end of the eighteenth century Syrian ulema did not necessarily read Turkish: Ibn ‘Abidin notes that he relied upon the translation of sixteenth-century fetwas in *al-Fatawa al-hamidiya* supplemented by a translation of other oddities from the *kanun* on the margins of a copy of *al-Durr al-mukhtar*.¹⁸ This in no manner decreased his intellectual stature.¹⁹

The central issues of debate with regard to land administration concerned the legal *persona* of the administrator, the administration of tax imposition, the legal *persona* of the cultivator, and his right to land. We now turn to examine shifts within juridical understandings of these topics.

The powers and properties of the administrator

The ulema left to the *kanun* and administrative practice the detailed definition of the powers of the military and civil administrators of land.²⁰ Hence it is rare to find discussion of the legal *persona* of the military or fiscal administrators in fetwa collections. It is apparent from two collections of fetwas from the first half of the seventeenth century that the managers of *waqf* endowments frequently came into conflict with tax-collecting authorities, or even more commonly with military figures rather ambiguously referred to as ‘men of force’ (*ahl al-shauka* or *ahl al-shauka wa-’l-jah*).²¹ In a fetwa of Muhibb al-Din al-‘Imadi (d. 1602) the man holding the tax (*’ushr*) of a *waqf* village arranges with the cultivators to cheat the *waqf* by threshing their grain in a place away from the view of the *waqf* administrator – an act which the mufti roundly condemns.²² In two fetwas, the mufti ‘Abd al-Rahman al-‘Imadi (d. 1641) supports the interest of the *waqf* and the cultivators against the administrative judge (*hakim al-’urf*).²³ In a fetwa concerning a forced transfer of rights by cultivators to *ahl al-shauka* without permission of the *waqf* authorities, ‘Abd al-Rahman al-‘Imadi writes: ‘The sultan, Almighty God give him victory, decreed that cultivators of *waqf* villages not transfer their cultivation rights without the agreement of the *waqf* authorities.’²⁴

The legal persona of the sahib al-ard

In discussing the respective powers of different figures, the muftis develop arguments concerning the legal powers of the administrator of land. In the fetwas of ‘Ali al-‘Imadi (d. 1706), mufti of Damascus and grandson of ‘Abd al-Rahman, we find a response to a fetwa by Khair al-Din al-Ramli (d. 1671) that explores the matter concretely.²⁵ Al-Ramli had judged that since the *sibahi* does not own the *raqaba* of state land, he cannot act legally against a person who claims ownership of the *raqaba* as *mulk* or *waqf*; possession entails not ownership but merely safeguarding the land (*fa-yadu-hu ‘alay-ha yad amana*).²⁶

‘Ali al-‘Imadi responded by citing the same three jurists invoked by al-Ramli, two of whom were Ibn Qutlubugha and Ibn Nujaim. ‘Ali al-‘Imadi distinguished in principle between different types of administrators, a *timari* on the model of the *iqta’i* of the earlier jurists who has the right to rent out the land, as opposed to a *sibahi* who has no power beyond tax collection and whose income is the

equivalent of a grant or salary ('*ata*') from the state (*diwan*).²⁷ In the latter case it is rather the *daftardar*, the registrar of land, who has the power to act in defence of the state's ownership interest. 'Ali al-'Imadi then returns to the first case but goes on to distinguish between a *sibahi* who collects flat sums (*kharaj muwazzaf*) and one who collects his due as a percentage of the crop (*kharaj muqasama*) and is intimately involved in the contracts for cultivation of the land, the farming of part of which he may even supervise himself.²⁸ In the second case the *sibahi* has the power to litigate concerning ownership of the land, since he effectively has the specific legal power (*wilaya khassa*) as against the judge's general legal jurisdiction (*wilaya 'amma*) in a manner parallel to that of a *waqf* administrator as against the more general powers of a judge.

What is striking here is how the older unified category of military grant holder has been divided into a categorization of administrators according to their actual roles and how, in the case of a figure effectively little more than tax collector, legal power lies with the registrar.

'Ali al-'Imadi's concern with practical authority over land finds a parallel in 'Abd al-Ghani al-Nabulusi's long excursus in his commentary responding to the argument of Birgili translated in Chapter 2. Al-Nabulusi notes that Birgili's criticisms presumably applied to the system of land in his native Rumelie. By contrast, al-Nabulusi notes that 'in our country and elsewhere in Islam of our day' land falls into different categories: (1) *waqf* land taxed with '*ushr* or *kharaj* and rented out to cultivators by its administrator, (2) *mulk* land similarly farmed out, (3) treasury land rented out to cultivators by the agent of the treasury, (4) treasury land the farming of which is under the direct control of the agent of the treasury, (5) *mulk* or *waqf* land on which cultivators hold *mashadd maska* by virtue of the labour they invested in amelioration of the land, and (6) *miri* land.

Al-Nabulusi's two types of treasury land, distinguished according to the role of the administrator in production, resemble the two categories of al-'Imadi. Al-Nabulusi's fifth category, defined by the type of right held by the cultivator, is yet more striking.

It is to al-Nabulusi's sixth type that the question posed by Birgili applies directly. Al-Nabulusi writes of lands which have been treasury property since the conquest and which

the sultan has delegated to people, as his agents, to cultivate and to pay the tax (*kharaj* or '*ushr*') to the treasury. They hold the land on condition that if they die leaving sons, their sons take over the lands, but if they leave only daughters, the land reverts to the treasury. As administrative agents of the sultan, they may sell [rights to] the land without the [other powers of ownership] held by the treasury. The sale is thus valid; in return for acting in lieu of the treasury, the agent of the sultan for the collection of the *kharaj* takes part [of the price paid] and the seller the other part.²⁹

Al-Nabulusi thus legitimates what Birgili had rejected – a fee taken for the 'sale' of usufructuary rights to *miri* land. He does so on the basis of the judgement of

the 'later scholars' (*al-muta'akhhirun*) that the sultan could sell treasury land if there were a need or an interest (*maslaha*) in so doing. Al-Nabulusi accepts that general interest alone suffices to justify sale and then goes on to assert that a deputy would be similarly entitled to sell land. Al-Nabulusi's solution to the problem of the legal status of these transactions is not entirely satisfying. Unlike Kemal Paşazade who described such a sale as in accordance with *kanun* not *fiqh*, al-Nabulusi legitimates it simply by reference to late doctrine according the sultan the right to sell treasury land.

In line with his emphasis on office, al-Nabulusi then justifies the exclusion of female heirs from succession to such office.³⁰ Although he here appears to have in mind the administrator of land, one of his fetwas makes clear that he believes a similar principle of male succession applies to the cultivator's lot.³¹ Al-Nabulusi notes that rights arising from office devolve entirely in the male line, unlike the inheritance of property; he proceeds to apply this rule systematically, in a manner that neglects to mention the allowance made for a daughter or a sister to take on land by payment of *tapu* fees in the absence of a male descendant.

Concerning the administrator of land, al-'Imadi and al-Nabulusi share two understandings. First, they conceive the office of military grant holder in terms of the actual role of the administrator in the management of agricultural production. Second, the administrator is not a property-holder but an officer of the state.

In the fetwas of al-Nabulusi's contemporary Muhammad al-'Imadi (d. 1723) reference is made to the administrator of *miri* land acting by virtue of a *malikane*.³² But in another fetwa concerning a *waqf* village the powers of the *malikane* holder are described as those of a tax collector, bound by the specific terms of his appointment, whereas the *waqf* administrator holds effective legal power.³³ The *malikane* holder thus could enjoy the prerogatives of an administrator of land or could function as a mere tax collector. The basic distinction, and a tendency to restrict the legal power granted a tax collector, mark the fetwa tradition through the eighteenth century: 'if a village pays *'ushr* to a *timari* who then claims that he has [the right] to administer land and to collect the *tapu* fees', so long as he holds only the tax, no consideration should be given to his claim that the cultivator requires his permission.³⁴ The emergent distinction between tax collector and land registrar will prove critical to the nineteenth-century reinterpretation of the cultivator's right as less a prerogative of office and more a power over property.

Tax collection and land administration: the village and the tax farmer

Muftis of the seventeenth century were concerned with the application of principles for the distribution of sultanian, as opposed to Islamic, taxes, within a tradition that, from the end of the twelfth century, had distinguished between taxes on property and those on the person (*li-bifz al-amlak*, *li-bifz al-ru'us/nufus*).³⁵ Hence in one fetwa where a *timari* attempts to tax his villagers for land they cultivate in another *timar*, Muhammad al-'Imadi judges that because taxes belong to the authority over the land in question, the claim is invalid.³⁶ In a

fetwa concerning a cultivator who has his home in one village where he threshes the grain from land he cultivates in a second village, Isma‘il al-Ha‘ik (d. 1702) recognizes the right of the administrator to collect fees or rent, the term used being *ujra*, for the land on which the cultivator has built his house and for his use of the village grounds to thresh his grain.³⁷ The fetwa is noteworthy for a slight archaism of idiom, the village being described as in the *iqtitā‘* of Zaid, but more so for the power given to Zaid not only to collect a fee for the house plot and use of the threshing grounds but also to prevent the cultivator from placing his grain without permission on the threshing grounds of the village where he lives but does not cultivate.

Elsewhere in the fetwa collections, the terms designating authorities in the villages often do not refer to officials of the state. While the term *za‘im al-qariya* indicates a tax collector, *ustadh al-qariya* and *shaikh al-qariya* denote village headmen rather than government administrators. In one fetwa, ‘Ali al-‘Imadi (d. 1706) judges that having no legal document to prove his exemption from tax the *shaikh al-qariya* like other villagers has to contribute his part of the tax (*qism*) to the administrator.³⁸

The fetwas grapple with two issues: first, which taxes a landholder who does not live in a village is liable to pay, and second, how to avoid injustice in tax collection when there is substantial inequality in landholdings between persons in a village.

The two issues come together in a fetwa of ‘Abd al-Rahman al-‘Imadi (d. 1641) where he supports the custom of a village distributing capitation taxes according to wealth including the property of persons who do not live in the village. ‘Abd al-Rahman likewise rules that Christian weavers, resident but without any property, should not pay any part of the exceptional taxes (*takalif ‘urfiya*).³⁹ Al-Ha‘ik also judges that ‘the people of a village’ should apportion exceptional taxes on the basis of wealth, not a head count, and the fee for village watchmen on the basis of a mixed criterion of landholding and head count.⁴⁰

Village-level leaders are described as trying to haul a cultivator back to a village or to extract back taxes from the son of a man who had fled the village.⁴¹ In several fetwas the corporate ‘people of the village’ (*abl al-qariya*) demand compliance concerning tax payment and size of contributions. Moreover, the mufti rules against the people of a village who demanded that Zaid contribute an excessive amount in relation to the ploughs of land (*faddans*) he cultivates.⁴²

These fetwas suggest that governance did not end with the relations sketched in the classical *kanuns* where a grant holder dealt with individual cultivators unmediated save by the record of the register and the overseeing eye of the judge. Government entailed more layered structures: ‘the people of the village’ and the ‘village head’ played central roles, and corporate village interest often acted long before a higher-level administrator in disciplining cultivators.⁴³ This is a power of self-governance that the muftis on occasion commended. Al-Nabulusi supported the right of the people of a village to expel a man who failed to contribute his portion of the tax burden. For him this collective interest was valid whereas a

demand by the tax collector that a cultivator must live in a particular village was not.⁴⁴

By the middle of the eighteenth century the muftis begin to oppose constraints on the movement of cultivators and the imposition of double taxes on them. But the counterpart to individual freedom was collective responsibility or auto-governance by the village. The practical reasons for this are made clear in a discussion by the mufti 'Ali al-'Imadi (d. 1706) of the principles and practice governing the distribution of taxes within a village, an issue on which his son Hamid ibn 'Ali (d. 1758) will also comment.⁴⁵ 'Ali al-'Imadi attempts to distinguish between taxes by head or by wealth, and notably what the imposition by head should be, imagining a village without landed property on the model of the taxation of bedouins or Kurds. But his son Hamid throws up his hands at the attempt:

most of the taxes imposed on the villages in this day are neither for the preservation of property nor that of bodies, indeed they are simply injustice and aggression, and most of the expenses of the governor and his followers, the buildings he uses and those of his soldiers, and what is paid to the envoys of the sultan, God Almighty preserve him, who come with orders, bans and suchlike, all of that is taken from the villages and they call it provisions. In our lands this is taken twice a year and, on top of that, money and bribes to the aides and followers of the local notables; so it has become the custom to divide all this according to the number of ploughs (*faddans*) in the village or sometimes according to the units of water in irrigated land. Thus the person who has a *faddan* or an hour of irrigation will pay accordingly, regardless of whether a man, woman or youth. The [older] principles ... do not apply since none of these are for the preservation of properties or persons. The only exceptions are ... [penal taxes and blood-money payments] and what is taken for soldiers sent by the commander to some villages to protect crops and herds from bedouins and thieves ...⁴⁶

Hamid ibn 'Ali winds up his argument by saying that since the level of imposition is so excessive and its legitimation so unclear, then it is logical to follow the principle enunciated by Qadi Khan that the distribution of taxes by property has priority. The custom of village people should stand. This discussion suggests that, by the mid-eighteenth century, the distribution of taxes was a matter of village management, with scarcely any reference to names of individuals in a government tax register. A continuing tension between the emerging legal freedom of the cultivator and village management of tax imposition and resources is evident.⁴⁷

The counterpart to such village administration of tax distribution was monetarization of tax payments organized through tax farming. Although Baber Johansen has stated that the ulema condemned tax-farming,⁴⁸ the Damascene muftis of the seventeenth and eighteenth centuries rarely address the issue and when they do, they appear less categorical. It is true that jurists such as Khair al-Din al-Ramli and Ibn 'Abidin denounce such practices.⁴⁹ So, too, the official muftis Muhibb al-Din (d. 1602), 'Abd al-Rahman (d. 1641), 'Ali (d. 1706) and

Muhammad al-‘Imadi (d. 1723) all judge illicit rental (*ijara*) of the right to collect tax revenue.⁵⁰

This did not mean, however, that intermediaries in the process of tax collection were rejected. In the case of *waqf* land, appointing a deputy (*wikala*) or employment for a share (*sharaka*) appear acceptable to the Damascene ulema.⁵¹ ‘Abd al-Ghani al-Nabulusi judges that a person who was paying the taxes for a group of village people should be repaid by the cultivators the amount he had advanced on their behalf.⁵²

The Istanbul muftis are yet more forthright in legitimating commercial arrangements for tax collection (*iltizam*) treating such contracts under the legal rubric of agency (*vekalet*), not rental (*icare*).⁵³ The fetwa collections of sheikh-ul-Islam Abdürrahim (d. 1716) and Abdullah Yenişehirli (d. 1743–44) contain chapters on *iltizam*.⁵⁴ In a manner parallel to the imperial muftis, ‘Ali al-Muradi (d. 1771) sees no difficulty in another party taking on a *timar* promising to increase its revenue.⁵⁵ The legal problem is not when an administrator subcontracts tax collection, but when an agent rents the right to collect tax since that would constitute rental of an object in order to consume it.⁵⁶

In summary, while the Damascene muftis did little to provide a firm doctrinal basis for tax farming, they rarely refused outright to countenance emerging practices legitimated by the sheikh-ul-Islam.

The powers and properties of the cultivator

The nature of the cultivator’s right

The nature of the cultivator’s right to the land he ploughs is a subject of juridical interpretation requiring translation between imperial and local concepts. Syrian ulema offer individual solutions, and only from the middle of the eighteenth century do they attempt a systematic reading of the various equivalences established by their predecessors.

In his fetwas Khair al-Din al-Ramli (d. 1671) employs neither the imperial vocabulary nor the vernacular terms of Damascene jurists. He distinguishes between the right not to be evicted of a lessee arising from occupation (*wad’ al-yad*) and the much stronger right of tenure and management arising from ownership of real objects arising from investment of labour such as buildings, planting of trees, or moving new soil to a field, known by a term deriving from Central Asian jurists, *kirdar*, which entails a *haqq al-qarar*.⁵⁷ By contrast, from the beginning of the seventeenth century, if not before, Damascene jurists refer to the cultivator’s right to a farming lot with a local term – *mashadd al-maskā*. The Damascene mufti Muhibb al-Din sought to prevent the extension of claims to a *maskā* in *waqf* lands advanced by long-term lessees but he nevertheless recognized the right in well established cases.⁵⁸ Similar tensions also mark the fetwas of ‘Abd al-Rahman al-‘Imadi, ‘Imad al-Din al-‘Imadi (d. 1658) and ‘Ala’ al-Din al-Haskafi (d. 1677).⁵⁹ No principles are advanced in the fetwas concerning exactly how a *maskā* is established, save that it requires an established link between village residence and cultivation.⁶⁰ We learn from a later work that, following a difference

between representatives in the court, ‘Abd al-Rahman al-‘Imadi was asked by the head of the scribal administration in Istanbul to clarify the distinction between *falaha* and *maska*. He responded:

There is no doubt that the two terms differ in meaning and legal import. As for *maska* it represents the right to plough in the land of another ... and in law it does not represent a commodity, it cannot be owned, nor sold nor inherited. As for *falaha*, it designates ploughing itself and in law it may form a commodity and be bought and sold and inherited.⁶¹

The mufti of Damascus at the end of the seventeenth century, Isma‘il al-Ha‘ik, devotes a chapter in his fetwa collection to the cultivator’s right, *mashadd al-maska*. This exists in *waqf* and in two types of treasury land (*miri* and *timari* in al-Ha‘ik’s words). Like his Damascene predecessors he does not make reference to *kirdar* and *haqq al-qarar*.⁶² It is striking that al-Ha‘ik discusses the local term *mashadd al-maska* without reference to the legal terms of the imperial *kanuns* and with very little claim for the genesis of this right from labour invested.⁶³ Only in his justification of the exclusively male character of succession to such rights does al-Ha‘ik stress how the sultan entrusted land to men who were capable of tending and improving it and hence how women are necessarily excluded from succession.⁶⁴ Al-Ha‘ik notes – and this is in conformity with the *kanun* – that a person who cultivated without legal challenge and paid tax/rent on land for ten years acquired rights that prevented an administrator from transferring his lot to another person. But unlike the provision of the *kanun*, here such rights were established for the cultivator in *waqf* land as in *miri* land. The use-right was of value; al-Ha‘ik judges that a cultivator might borrow against such rights or transfer them to another cultivator, subject to the accord of the administrator of the *waqf* or *miri* land.⁶⁵ Compared to later Damascene muftis and in spite of his using only the Syrian term for the cultivator’s right (*mashadd maska*) al-Ha‘ik’s fetwas depart little from the classical imperial vision of the cultivator as a quasi-office. Thus he does not argue, as will his successors in the post of mufti of Damascus, ‘Ali al-‘Imadi (d. 1706) and ‘Abd al-Ghani al-Nabulusi (d. 1731) that the right of *mashadd al-maska* arises from the cultivator’s labour in clearing, ploughing, fertilizing and working the land. Although al-Ha‘ik’s reference to the ten-year rule makes it clear that he writes in the context of wider Ottoman government, he nowhere draws the equivalence that ‘Ali al-‘Imadi does between *haqq al-qarar/kirdar* and *mashadd al-maska*.

If we turn from the differences in the formulations of the seventeenth-century Syrian ulema to their common understandings, we find that there begins to emerge a single type of right for the cultivator. Unlike the *kanun*, which governs primarily *miri* lands, a vernacular legal category *mashadd maska* – perhaps derived from Mamluk idioms?⁶⁶ – comes to be set alongside a term designating right created by labour/investment, *kirdar*, and a term *haqq al-qarar*, resonant in the imperial *kanun*.

There appear to be several intertwined factors that render problematic the

character of the cultivator's rights in land by the mid-eighteenth century. First, whereas in the fifteenth and sixteenth century the rights of a cultivator were ultimately sanctioned by the entry of his name in the register (*defterli*) kept by the state or the grant holder (*sahib-i arz*), by the eighteenth century there is scarcely ever a reference to such registers as evidence in disputes over rights, even if as with 'Ali al-'Imadi, the registrar (*defterdar*) was recognized to have ultimate authority for defining rights in *miri* land. Hence arguments about rights had to be built on other grounds. Second, the unification of the principles of devolution of the cultivator's right in *waqf* and in *miri* land – the reasons for which do not lie in legal doctrine but in the impossibility for the *waqf* to maintain short-term leases whereas in *miri* land cultivators had long-term tenure – meant that a different basis from rental or quasi-office had to be elaborated for this general right.⁶⁷

Discussions of *maska* in plough land often drew a parallel with *kirdar*: real property rights in trees, plantings, walls and sheds, the introduction of which required the permission of the land administrator. The problem encountered by the ulema was that if in the case of *kirdar*, labour invested in concrete objects (trees and buildings) resulted in commodities that could be bought and sold, where exactly could one draw the line with plough land? If a cultivator brought abandoned state land under the plough, he could obtain the *haqq al-qarar* in six years whereas the standard rule for previously cultivated land was ten years.⁶⁸ And what of dung or other fertilizer, or clearing rocks, or bringing new soil into a plot? It is not surprising that the term *kirdar* was often used, with its associated *haqq al-qarar*, also for plough land. At issue then is not simply al-Ramli's priority of possession but a potential claim to a firmer quasi-property right. And the character of the doctrinal solution to this question had consequences for the endlessly recurrent question of women's succession to cultivation rights in plough land.

Behind these debates over intermediate property rights, there may be, in a manner that corresponds to an absence of 'rule by records' of individual cultivators, a more general development of a self-governing corporatism in society.⁶⁹ It is not only in the agricultural arena that we observe a firming of the quasi-ownership rights but even more clearly in the urban environment where intermediate ownership rights marked the entry to a craft office, and hence membership in the collective legal *persona* of a trade.⁷⁰ This parallels attempts by villages to obtain a collective *mashadd maska*.⁷¹ The very least that can be said is that Johansen's reading of late Hanafi *fiqh* as a clear narrative of the end of peasant property right needs to be heavily qualified for the seventeenth and eighteenth centuries.⁷² It is rather that the conception of property had changed quite deeply.

Such developments may be one reason for the integration of Ottoman *kanun* vocabularies into the Syrian tradition in texts from the middle and later eighteenth century, the terms of the *kanun* setting limits to the property-character of the cultivator's right and to collective right. Noteworthy are *Bab mashadd al-maska* of the fetwas of Hamid ibn 'Ali (d. 1758) with extensive commentary by Ibn 'Abidin (d. 1836) and 'Ubaidu'llah ibn 'Abd al-Ghani's epistle, dated 1796, *al-Nur al-badi*

fi ahkam al-aradi, ‘Shining a light on the land laws’.⁷³ The first is remarkable for its size and citation of works in Turkish; the subsequent commentary of Ibn ‘Abidin widens the discussion of *maska* into a comparative analysis of every type of ‘intermediate property right’ of the day: *maska*, *kirdar*, *qima*, *gedik*, *khuluw* and *marsad*.⁷⁴ Yet more clearly than Hamid al-‘Imadi, Ibn ‘Abidin seeks to limit the right of the cultivator in plough land to an immaterial right (*haqq mujarrad*) dismissing readings that derive right from the transformations wrought by labour in a plot of land or from the objects (dung, soil, etc.) introduced by the cultivator. Ibn ‘Abidin interprets these as separate objects subject to the rules of inheritance but not as creating a change in the character of rights in land. Nineteenth-century codification was likewise to adopt this approach to the object of ownership in *miri* land.

‘Ubaidu’llah, a little known figure who identifies himself as a student of the sheikh of the sheikh who studied with ‘Abd al-Ghani al-Nabulusi, states that he composed his epistle at the request of friends to clarify the definitions and rules governing land.⁷⁵ The structure of the epistle departs from the ordering of Damascene fetwa and *fiqh* texts. It begins by listing the legal categories of land: ‘*ushriya*, *kharajiya*, *aradi al-mamlaka wa-aradi al-hauz*. Following a classical definition of *kharajiya*, ‘Ubaidu’llah introduces al-Nabulusi’s six-part classification of land from *al-Hadiqa al-nadiya*.⁷⁶ ‘Ubaidu’llah expands Nabulusi’s fifth category into a discussion of the *maska*, and then moves from Nabulusi’s sixth type into a long discussion of all the major theoretical themes and practical provisions from Ottoman imperial sources on *miri* land. The epistle reads like a kind of research paper reviewing all relevant historical debates. Although his analysis is less incisive than that of Hamid al-‘Imadi and Ibn ‘Abidin,⁷⁷ ‘Ubaidu’llah gives an unparalleled exposition of the rules governing the cultivator’s right to land including dated references to sultanlic rulings as well as the rules deriving from the major Turkish fetwa collections of Ebussuud but also of el-Üskübî. If the work has an underpinning argument, it appears to be that the Ottoman taxation system, rather than the regulations governing the cultivator’s right, rests on dubious legal bases. Such judgements were not uncommon among ulema, and we have seen one such condemnation earlier in this chapter. But where ‘Ubaidu’llah’s epistle departs from the earlier Arabic canon is in its taking land, not tax, as organizing principle; this rubric, it should be noted, had become common in Istanbul fetwa collections by the eighteenth century.⁷⁸ ‘Ubaidu’llah’s epistle looks not backwards but forwards to the conceptual ordering of the major legal text of the following century, the 1858 *Kanun-i Arazi*, which opens with the same categorization of types of land.

The legal person of the cultivator

We have seen that jurists of the seventeenth and eighteenth centuries divided the various powers vested in the administrator between two *personae*, tax collector and state registrar (or *waqf* administrator); similarly, they debated the nature of the legal *persona* of the cultivator. A central issue of debate concerned

the provisions of the *kanun* stipulating that a cultivator who abandoned his lot (*kasr al-faddan*) was liable to pay the tax upon it (a liability that passed to the son after his father's death) and that an administrator had the right within ten years to return the cultivator to his village by force.⁷⁹ The restrictions on the freedom of the cultivator to leave his land and to move from his village came to be the focus of debate. The review below first considers the fetwa collections penned by official Hanafi muftis of Damascus, before turning to jurists writing as independent scholars.

Official Damascene muftis of the seventeenth and eighteenth century The seventeenth century witnessed population movement and rural migration into cities. Hence practical and not only doctrinal tension surrounded the principle that the cultivator who left his lot was to be returned. The fetwas of the early part of the century criticize violence exercised by political and military authorities but do not reject the application of rules concerning *kasr al-faddan* or limits on the movements of cultivators sanctioned by the *kanun*.

Beginning with the mufti 'Abd al-Rahman al-'Imadi (d. 1641), such issues become prominent in fetwas. He describes as an innovation (*bid'a*) contrary to religious tradition the imposition by the *bakim al-'urf* of a sum on anyone who settles outside his village.⁸⁰ Nevertheless, 'Abd al-Rahman formally rejected this 'innovation' only in the case of functionaries, students and scholars of religion, whose exemption from such rules was in accordance with a sultanic order.⁸¹ In another fetwa 'Abd al-Rahman describes a *timar* holder who brings a group from one village to cultivate a ruined village. After they have been there for four years, bedouins come and destroy the houses and crops. The *timari* then tries to force the cultivators to return to the devastated village and to pay the *kasr al-faddan* for the years intervening. 'Abd al-Rahman refuses this outright. But even here the judgment is not in conflict with the *kanun* since the cultivators fled after destruction of their village by a third party. The mufti Isma'il al-Ha'ik refuses that the sons of a man who had moved to Damascus more than forty years earlier could be obliged by the administrator of the village to return to live there, but rather like 'Abd al-Rahman al-'Imadi he grounds this judgment in the will of the sultan.⁸² 'Ali al-'Imadi (d. 1706) likewise does not challenge the principles of the *kanun* directly, but the extreme character of his examples suggests that considerable injustice could arise from the application of such rules. His first fetwa concerns a village abandoned for twenty years: 'Ali al-'Imadi denies that the village head (*ustadh al-qariya*) has the right to return a cultivator to the village by force. The second fetwa concerns a monk whose father had lived in a village thirty years earlier and who has no property there; he judges that the people of the village have no right to demand taxes 'for the protection of persons' from the monk. The third fetwa concerns a man who a year earlier had married and moved in with a woman in a village, only then to have vanished; 'Ali al-'Imadi refuses to countenance the attempt of the people of his original village to force his wife to move there so as to make up the taxes for which her husband had

been responsible.⁸³ There are similar fetwas by his relative Muhammad al-‘Imadi (d. 1723), also mufti of Damascus.⁸⁴

‘Abd al-Ghani al-Nabulusi’s fetwas raise similar questions: can the people of a village oblige a man who has left the village a long time ago to pay an ‘absence tax’ (*mal al-ghurbiya*)?⁸⁵ Can the village head oblige two non-Muslims who had moved to Damascus fifty years earlier and have no property in the village to pay part of the taxes on the village? Can the administrator of a village (*mutakallim ‘ala ‘l-qariya*) oblige a *dhimmi* (a Christian or a Jew) born in Damascus, whose father moved to the city sixty years earlier, to return to his father’s natal village and pay the fine for ‘wrecking the plough lot’? The answer is negative in all cases. A last question pits the ulema formally against the government administrators. The administrator of a village (*za‘im al-qariya*) demanded that a group of people who moved to Damascus forty years earlier return to the village and pay a sum for each year away. Although they were from the village, they noted that they held no property there. They then obtained a fetwa from each of the four schools of law; on this basis a legal document was drawn up stating that they had the right to live wherever they chose in God’s land and that they could not be opposed in this. Al-Nabulusi judged that the document should be honoured.⁸⁶

All of the judgments of the Damascene Hanafite muftis support the right of the cultivator to remain where he has moved but none of them – not even the fetwas of ‘Abd al-Ghani al-Nabulusi, penned during his short period as official mufti, and who composed an epistle condemning the principle absolutely – frontally contradicts the *kanun*. This said, in the last fetwa cited above, al-Nabulusi argues not in terms of the statutory time limitation of the *kanun* (ten or fifteen years), but in terms of the freedom of a man to live where he chooses.

This form of argumentation appears in the fetwas of Hamid ibn ‘Ali, who penned three fetwas related to the topic. The first concerns a cultivator on *waqf* land where the *mutawalli* of the *waqf* and the *subashi* of the village require the cultivator to return to live there; the second concerns the attempt of a *shaikh al-qariya* to return a man who left his village in order to study religious sciences. Both are rejected on grounds of the freedom of a person to live where he would in God’s lands: *al-bilad bilad allah, wa-‘l-‘ibad ‘ibad allah*.⁸⁷ The third case concerns the attempt of the people of a village to force two *dhimmis*, who lived in Damascus but owned property in the village on which they paid tax, to return to the village and share in the capitation taxes.⁸⁸ Hamid ibn ‘Ali rejects any attempt to extract taxes for ‘the protection of heads’ from property-holders who do not live in the village. Once again, the examples chosen do not contest the terms of the *kanun*. But unlike earlier fetwas, no mention is made of the decades that a person has lived outside the village and the judgment cites Shafi‘i sources which argue for the absolute freedom of a man to live where he wants.

In the fetwa collection of the Muradiya of the later eighteenth century no fetwa concerns an attempt to force a cultivator to return and only one concerns the extraction of payment for abandonment of cultivation. This takes a collective form: ‘A question concerns a case where some of the people of a village fled and

others died creating a shortfall of tax payments (*wa-‘alay-hi mal maksur*). Zaid wanted to impose this [tax] on those present [in the village] without their having given legal surety and with no legal basis.⁸⁹

The Damascene muftis never embraced the principles of *kasr al-faddan* or *al-naql jabran* with any enthusiasm. Hence their fetwas concern rather extreme cases in which the mufti can reject the particular application of such measures. Yet the officially appointed Hanafi muftis of Damascus do not frontally oppose the *kanun* regulations. Nevertheless, Hamid al-‘Imadi’s citation of Shafi‘i jurists in support of the doctrine that the cultivator was a free contracting agent marks a change in the mid-eighteenth century.

In his commentary on Hamid al-‘Imadi’s fetwas, ‘Ibn ‘Abidin omits the second fetwa and does not himself comment on the issue.⁹⁰ This suggests that, for him, it was a dead letter.

Jurists writing independently of office Apart from ‘Abd al-Rahman al-Imadi’s reference to a sultanic order, ‘Abd al-Ghani al-Nabulusi’s fetwa on a fetwa, and Hamid al-‘Imadi’s reference to Shafi‘i sources, the judgments of the Damascene muftis do not make reference to sources in defence of their judgments. Yet there was a reasonable chain of Hanafi jurisprudential reflection on the legal person of the cultivator of which they were doubtless in some measure aware.

The issue had arisen following the Ottoman conquest of Egypt. Both Zain al-Din Ibn Nujaim (d. 1563) and his brother had addressed the topic. Ibn Nujaim wrote:

We have already explained that the land of Egypt is not taxed but rather rented, so the cultivator owes nothing if he leaves the land and ceases renting; he is subject to no forceful obligation as a result and it should be known that if some cultivators abandoned agriculture and live in a city then they owe nothing. Hence what some unjust persons do in harming the cultivator is prohibited especially if he wants to devote himself to the Koran and study as a student at al-Azhar mosque.⁹¹

Ibn Nujaim here builds his argument upon the late Mamluk interpretation of the relation between cultivator and administrator as one of rent. The character of the contract defines the relationship.

Ibn Nujaim’s argument concerning the freedom of movement of the cultivator as lessee of land will be cited in full in Khair al-Din al-Ramli’s (d. 1671) fetwa collection.⁹² Al-Ramli distinguishes between *kharaj* land, on which the cultivator has an absolute duty to pay tax if he leaves his plot,⁹³ and the lands of Sham, where he states that, if the legal situation is as Ibn al-Humam described for Egypt, the relationship between administrator and cultivator is one of rent.⁹⁴ Albeit tentatively, al-Ramli draws a genealogy of the legal status of land in Syria to late Mamluk jurisprudence and distances himself from the interpretation of Ebussuud and Ottoman jurisprudence.⁹⁵

A major fetwa of al-Ramli concerns a village, one-half *waqf* and one-half *sultani* (i.e. *miri*), many of whose inhabitants fled from heavy extra taxation and

injustices. The cultivators had lived elsewhere, marrying and bringing up children, when thirty years later the manager (*nazir*) of the *waqf* sought to force them to return or to pay all they owed on the lands they had abandoned. With regard to *waqf* land, no scholar ever considered the forcible return of cultivators to be licit.⁹⁶ It is, rather, the argument concerning state land that is complex. Essentially al-Ramli gives three options. First is the opinion of Ibn Nujaim. Second is the classical Hanafite doctrine concerning *kharaj* land, whereby when a cultivator is incapable, or disappears or flees, the sultan may give out the land to another to cultivate or may even sell it should no one be willing to rent the land; or, failing that, the *sahib al-ard* can lend a cultivator the sum needed to put the land in cultivation. And third, al-Ramli notes the dominant interpretation of the later school rejecting sale and rental of the land. At the end of this review of Hanafite positions, al-Ramli concludes that the restricted power accorded land administrators in all of these interpretations means that they are not allowed to use force against the cultivator. Such acts are unjust and wrong, never to be permitted by God.⁹⁷ Al-Ramli goes on to argue that the legal tradition, concerned with assuring cultivation of land, never entered into discussion of forcible coercion of the cultivator. Although the legal principles advanced by al-Ramli would appear to rule out forcible return, al-Ramli nevertheless discussed a case where cultivators had fled from heavy extra taxation and injustice, in other words, a case where the *kanun* itself would excuse the flight of cultivators.

There are in the Zahiriya collection two epistles concerned with the forcible return of the cultivator: *Kitab Nusrat al-mutagharrabin ‘an al-awtan ‘an al-zuluma wa-ahl al-‘udwan* of Yasin ibn Mustafa al-Biqa‘i al-Dimashqi al-Faradi al-Hanafī (d. 1095/1684) and ‘Abd al-Ghani al-Nabulusi’s *Takhyir al-‘ibad fi sukna al-bilad*.⁹⁸ Both bear comparison with al-Ramli’s arguments since, in different ways, each departs from the formal legal reasoning of the great jurist of al-Ramla. Like the former, al-Faradi discusses a case not in contravention with the *kanun* and sultanic decrees: a man of religion from the Biqa‘ who had lived outside his village for more than fifteen years contested the order to return to pay the head tax, *rasm ra‘iya*, in the village where his name appeared in the register.

The structure of al-Faradi’s epistle is complex, blending moral and legal arguments. It opens noting that migration (*hijra*) has been a tradition of the prophets and that men of religion have a duty to go to where they may practise their faith. After an outline of the appeal that led to the epistle and of the arguments which convinced the high judge (*qadi al-qudat*) of the justice of the plaintiff’s cause, a section follows on unjust oppression (*zulm*) where the second reference after al-Baidawi’s commentary on the Koran is to Ebussuud’s similar judgment that wrongdoers will have no rest from punishment on the day of resurrection.⁹⁹ Injustice was prohibited by all religions, which safeguard life, lineage, honour, reason and property.¹⁰⁰

Al-Faradi then structures his discussion of unjust oppression by type of source. He begins with citations from the Koran, before prophetic tradition (*hadith*) on the punishment due the wrongdoer in the here and now. Migration (*hijra*)

is commended, forcible return and extortion of money forbidden especially if fifteen years have passed, prevention of unlawful innovation (*bid'a*) commended, and punishment of the wrongdoer to be administered as judicial punishment (*ta'zir*).¹⁰¹ Al-Faradi next considers the contributions of the ulema to these issues, reviewing Hanafi doctrines on land, the imposition of *kharaj* tax, the status of *waqf* and treasury lands, citing Ibn Nujaim and later scholars on rental.¹⁰² Lastly, he considers fetwas, opening with a fetwa of sheikh 'Abd al-Rahman al-'Imadi which had been the object of legal opinion by the Damascene Shafi'i, Maliki and Hanbali muftis of the day, before citing a remarkable collection of fetwa opinions of Shafi'i as well as Hanafi scholars from Ibn Nujaim to al-Ramli.¹⁰³ Central in the citations are references to the Shafi'i Taqi 'l-Din al-Husni who went beyond any Hanafi opinion to condemn as denying God (*kufir*), not simply as injustice (*zulm*), the practice of obliging a cultivator to till the land and of forcing his return to his village.¹⁰⁴

Al-Faradi then reviews jurists' writings on unjust administrative law (*'urf*) and the punishment due a tyrannical ruler.¹⁰⁵ In a last section, al-Faradi makes clear that all the evidence from the Koran, prophetic tradition (*sunna*) and the consensus of the jurists proves that the departure of a man from his homeland is judged either a necessary, a commended, or a permitted act.¹⁰⁶ Two further short sections follow, the first a juristic condemnation of rental (*ijara*) of tax revenue, the second a discussion of conflicts of interest, for example, that of a tax collector against a cultivator, where the testimony of one party against the other is not admissible in court.¹⁰⁷ Closing with the figure of a repentant wrongdoer, al-Faradi examines with great care the psychic moments of repentance: awareness, remorse, self-accusation, emotional suffering, mental torment and pious expiation.¹⁰⁸ The epistle is a tour de force: it does not contest the letter of the *kanun* and yet provides a devastating vision of the suffering of both the injured party and the repentant wrongdoer. But al-Faradi opens the gate to repentance since, unlike al-Husni, he argues that the issue is one of tyranny (*zulm*) not godlessness (*kufir*).

'Abd al-Ghani al-Nabulusi will go beyond al-Faradi in this regard, without at any point citing al-Faradi's epistle. Although 'Abd al-Ghani starts with a similar case, where men left a village 'a long time before', and where their mistreatment was condemned by jurists of all the legal schools, he makes reference to only three scholars: the Shafi'i Taqi 'l-Din al-Husni,¹⁰⁹ al-Ramli, and once briefly Ebusuud. 'Abd al-Ghani dismisses the issue of tax obligations and focuses on that of forced return. Although al-Nabulusi refers to the two fetwas of al-Ramli, he does not follow the latter in constructing an argument on the basis of the legal freedom of the cultivator as lessee of land, but rather on the cultivator as belonging to a yet more fundamental category of agent. 'The believer is his own lord' (*al-mu'min amir nafsi-hi*) and hence it is heinous for political authority to try to restrict to place of origin a man who seeks religious knowledge. But the cultivator is not always identifiable with the legal person of a believer. Rather, the freedom of a man to live where he chooses is true even for '*dhimmis*, Jews and Christians, or

all the other types of infidel'.¹¹⁰ Here al-Nabulusi leaves law for anthropology: it is human nature for a person to love his natal place, or, as in prophetic tradition, 'love of one's country is an article of faith'.¹¹¹ No cultivator leaves his village voluntarily; the flight of cultivators always results from injustice; and in accordance with the ruling of Ebussuud concerning those who fled from injustice, no action can be taken against them for abandoning their lot of cultivation.

Beyond the legal categories of the lessee and the believer, there is for al-Nabulusi a wider understanding about human nature, before law and religion. And so the great mystic and polymath goes further than al-Ramli or al-Faradi in his condemnation of the forcible control of a cultivator's movement and residence. The latter is not only tyranny (*zulm*) but an act far more heinous: 'if there were in the *shari'a* any wrong worse than denying God, this would fall into that category'.¹¹² For al-Nabulusi, unlike el-Üskübî, 'the order of state' does not justify departure from the Islamic doctrine. In another context al-Nabulusi remarks that the mere fact of a tax being in the *kanun* and the *defter* does not make it permitted by Islamic *shari'a*.¹¹³

Having established that all four schools of Islamic jurisprudence prohibit these practices, al-Nabulusi ends his epistle with a scene where the Islamic judge overrules the judge of administrative law (*bakim al-'urf*) obliging the *sipahi* to return all that he has received from the cultivators and punishing him with heavy blows and long imprisonment so as to reprimand him and his ilk for such violence.¹¹⁴

In a more sober vein, this judgment appears to have become commonplace by the later eighteenth century. Thus, 'Ubaidu'llah 'Abd al-Ghani in his work *al-Nur al-badi fi ahkam al-aradi*, dated 1796, draws the genealogy of the opinion that *kasr al-faddan* is forbidden (*haram*) by citing al-Shurunbulali (d. 1069/1658–59) and al-Haskafi (d. 1088/1677) who took as source *al-Bahr* of Ibn Nujaim's brother and *al-Nahr* of Ibn Nujaim.¹¹⁵ At the end of the eighteenth century, in an epistle that is otherwise the most learned exposition in the Zahiriyah collection of the doctrines governing land, drawing together Ottoman *kanun* as well as Hanafi jurisprudential sources, 'Ubaidu'llah 'Abd al-Ghani simply rules out of court this central principle of earlier Ottoman land law.

Conclusions

The details of the legal debates traced above over more than two centuries should not obscure the basic changes in legal concepts emerging by the end of the eighteenth century.

With regard to a cultivator's right to plough land, the form of right becomes unified across *miri*, *waqf* and *mulk* land. *Mashadd al-maskah*, largely synonymous with *tapu* right, is recognized by the ulema without distinction in the three categories of land.

Secondly, whereas classically the cultivator's right was to a quasi-office, registered in the ledgers of government, by the early eighteenth century jurists sought to interpret the cultivator's right as arising from labour invested in the plough lot, not simply from possession. This not unchallenged conception offered some

criterion by which to interpret the treasury's ten-year rule for the acquisition of *haqq al-qarar* and by which to distinguish between the claims of different cultivators to a single plot of land, when 'the name in the register' – detailed registers no longer being kept – was not available as determining evidence of right.

Thirdly, bound up with the ambiguity concerning how to define the cultivator's right, whether as a subordinate office or as an 'estate of production',¹¹⁶ is a tension concerning the exclusion of close female relatives from succession to the cultivator's plough lot. This is unproblematic if the lot is conceived as a prerogative of office but highly problematic when the lot is seen as an estate.

Fourthly, although by the middle of the eighteenth century the cultivator appears freed of the controls on his subordinate office exercised classically by the land administrator, he frequently appears as a shareholder in an 'estate of administration' vested in the village corporation. It is often not the land administrator but the village that manages the distribution of taxation.

Fifthly, although this chapter has drawn primarily upon the Damascene fetwa collections, the Istanbul sheikh-ul-Islams of the eighteenth century appear to have gone further than the Damascene muftis in recasting the cultivator's lot as an estate of production. There is considerable emphasis on the freedom of a *tapu* holder to meet his tax obligations by rental of land rather than by cultivation himself. Abdürrahim Efendi upholds the right of a man who has lived in Istanbul for twenty years to retain the land he rents out in a village.¹¹⁷ Several fetwas permit the *tapu* holder, with the accord of the administrator, to pledge his rights to land against a loan. In the early eighteenth century both the Damascene al-Ha'ik (d. 1702) and sheikh-ul-Islam Abdürrahim (d. 1716) recognize transactions conducted under the legal rubric of *rahn*, although later muftis will judge that this term should be restricted to *mulk* property.¹¹⁸ Thus, sheikh-ul-Islam Yenişehirli (d. 1744) will allow a reversible transfer (*ferağ*) against a debt, if with permission of the administrator.¹¹⁹ In the nineteenth century this form of mortgage will be allowed on *miri* land under the legal rubric of *bey/ferağ bil-vefa*, a legal category common in the eighteenth century for similar loan transactions in *icaretein vakıf* (see Chapter 4).¹²⁰ Further evidence of the property value of *tapu* rights lies in the occasional relaxation of the rule that an administrator cannot delegate rights to himself, his descendants or his wife, in a case where the mufti upholds the transfer if a wife pays more than the standard rate for *tapu* rights.¹²¹

With regard to the office of the administrator, although the ulema often employ the shorthand '*sahib al-ard*' in general discussions, when discussing cases of contested legal competence they distinguish the power to litigate ownership rights vested in officials of the registry as against the more restricted prerogatives of a tax collector.

Lastly, the conceptual framework for the discussion of relations of administrators and cultivators has changed. Classically, juristic debate concerning the nature of right to *miri* land had been conducted under the rubric of agricultural tax ('*ushr wa-kharaj*, originally part of *kitab al-sair*). But from the later seventeenth

century, first in Istanbul and later in Damascus, jurists came to treat the topic under the rubric of 'land' (*arazi*).

It is striking that the imperial idioms of the *kanun* are fully integrated into the writings of the ulema of Damascus only in the mid-eighteenth century. This integration of legal discourse is matched by a remarkable archaeology of Hanafi doctrine by ulema. The complexity of citation and the integration of administrative with religious law in a minor work such as 'Ubaidullah's *al-Nur al-badi fi ahkam al-aradi* or in the major works of Hamid al-'Imadi and Ibn 'Abidin brings with it a heightened sense of the contingency of aspects of the legal tradition, not least those governing rights to land. Bearing this in mind, we will be less surprised to find Ibn 'Abidin noting in a famous essay how law follows historical change in custom.¹²² If, as Wa'il Hallaq has argued, Ibn 'Abidin here reflects the pace of change in the early decades of the nineteenth century, he also expresses the culmination of a sustained historicism in late Ottoman Hanafi legal thought.¹²³

4 | Legal reform from the 1830s to the First World War

Although this chapter will later return to a jurist of Damascus, it sketches nineteenth-century legal change primarily from the vantage point of the imperial capital. By the second half of the eighteenth century the distance between provincial and imperial legal languages appeared to have narrowed and was to shrink further after the 1830s when legal texts began to appear in printed form, the first issue of the official gazette of the empire being published in Istanbul in 1831.¹ Ibn 'Abidin, who died in 1836, was thus the last great figure in the Hanafi culture of the manuscript.

Ottoman reform initiated change through imperial enunciation of law in the form of *kanuns* and *nizamnames*; this built upon established understandings concerning the power of the *kanun* to render uniform rules and practices across the empire, the right of the sheikh-ul-Islam to determine an official interpretation of Islamic jurisprudence, and the unity of all Ottoman law.² From the sixteenth to eighteenth centuries doctrinal unification had rested on the circulation of appointed judges and muftis and their training in a hierarchy of educational institutions, the pinnacle of which was in Istanbul where Turkish was the primary scholarly language. Such unification had its limits. As we saw in the last chapter, during the seventeenth and eighteenth centuries ulema had interpreted administrative practice through an historical corpus of jurisprudence, and local dynasties of muftis predominated in the provinces. By contrast, from the 1830s the Ottomans were to adopt modern methods to reduce variation in interpretation: printed texts and translations circulated in the official gazette and provincial newspapers; formal codification with numbered clauses and minimal argumentation; structures of judicial appeal; registration of persons and objects governed by law; and unification of categories between different administrative registers. Codified law announced what the regulations of administrative institutions would endeavour to make real. The same reductive systematization was eventually also undertaken for major domains of *fiqh*, producing the *Mecelle*.

Legal change may thus be described in a more linear manner for the nineteenth than for earlier centuries. But the greater reach of the state into society was to rest not only upon law but also upon political administration and the education of elites.

Ottoman reform was not guided by an ideology of private property such as marked France or Britain of the nineteenth century. Nor was Ottoman law-making a mechanical importation of European law. Rather, the changes reflect a gradual reworking of legal vocabularies; only at the very end of the century

could Ottoman law be said to have kneeled down before the shrine of modern private property.³ Three periods may be distinguished: the 1830s–40s when law announced a programme of change, the 1850s to the early 1870s when law refined the administrative institutions, and the decades after the 1870s when law further recast the relations governing person and property.

To judge from the ulema of Damascus, much had changed in land law by the early nineteenth century. The freedom of movement of the cultivator heralded the end of the legal construct of the cultivator as an office holder and a recasting of his holding as a commercially transactable estate. Furthermore, although the ulema accepted the commercialization of tax collection and its transmission between fathers and sons as estates, they provided little doctrinal legitimation for such practices. Thus, the jurisprudential tradition would not present an obstacle to the central state's attempt to reform such practices in the nineteenth century.⁴ Lastly, although the ulema of the seventeenth and eighteenth centuries had theorized the usufructuary right of the cultivator as arising not only from possession or delegation but also from labour invested, in the early nineteenth century Ibn 'Abidin came to differ, arguing that the right to the cultivator's lot was an abstract one (*haqq mujarrad*) not conceptually bound up with labour.⁵ Ibn 'Abidin was here a man of the nineteenth century: the 1858 Land Code and all later legislation incorporate a similar understanding of this right. This conceptual step was required for land to form an object transactable by those who did not cultivate.

Bearing in mind these shifts in jurisprudential formulations, we shall find the conceptualization of rights to *miri* land in the early *Tanzimat* era less of a departure from tradition than if we were to contrast the same with classical Ottoman conceptions.

The character of Ottoman reform

The general thrust of *Tanzimat* reform is not in dispute among scholars. Whatever the composite intellectual sources of the Gülhane Rescript (*Hatt-ı Hümayun*) of 1839, it announced a programme on which the highest figures of state were to work for decades thereafter.⁶ Administration was to rest on the premise that the strength of the state required the development of the wealth of the myriad household estates of the empire. These productive estates comprised those of agricultural families, artisans and traders but not of tax farmers – an occupation cast as parasitic in the Gülhane Rescript. Distributed in printed form to all corners of the empire, the Rescript underscored the relation between the power of the state and the wealth of individuals as the basis of tax assessment; it called for an end to the personal administration of tax collection and for an expansion of official administrative departments.⁷

The new principles of government were expounded in programmatic declarations, the *Mesail-i Mübimme Irades* of the 1840s.⁸ These called for the administration to encourage the generation of wealth through education, public works, and a more equitable distribution of the tax burden. To such ends the central

administration required information concerning agriculture, the infrastructure of communication and exchange, and the forms and distribution of wealth.

From the late 1830s the central state established councils to develop plans to increase agricultural production and trade.⁹ In 1838 an Agricultural and Manufacturing Council was established in the Foreign Ministry, changed to the Council of Public Works in 1839 within a Ministry of Trade. In 1843 an agricultural council was established within the same ministry,¹⁰ and the major reform council Meclis-i Vala-yı Ahkam-ı Adliye produced a programme for the establishment of a council for agriculture with three aims: improvement of transport, provision of credit, and just repartition of taxation among individuals.¹¹ In 1845 plans were adopted for consultation with regional councils and for the collection of information concerning the needs of various sectors of the population.¹² These proposals were implemented in 1847; in 1848 an agricultural college was opened in Istanbul, albeit to close only three years later.¹³

Proposals wherein the central administration pledged to offer assistance to the regions were presumably welcomed by many sections of the population. Those for reform of the entire system of taxation were, by contrast, to encounter the opposition of vested interests. It is a testimony to the Ottoman tradition of record keeping that the part of the proposed reform which appears to have gone most smoothly was the gargantuan task of registering the estates of the population of Anatolia and Rumeli. This went beyond agriculture to proposals to investigate and re-register all estates, including those of artisans, traders and men of religion who enjoyed privileges of tax exemption on the basis of descent from the Prophet or of an earlier imperial grant (*berat*).¹⁴ The administration wrote of *tahrir-i nüfus ve emlak*, ‘the registration of souls and properties’.¹⁵ Although the village or urban quarter remained the administrative unit for summation, the 1840s profits (*temettuat*) registers took the individual agricultural family estate as a unit, including its fields, animal capital and other resources. The Arab provinces were excluded from the outset, but registration was carried through for Anatolia and Rumeli between 1842 and 1844.¹⁶

Temettuat registration was to provide information for a more equitable distribution of tax burdens. In fact, a complete reform of the distribution of tax between provinces, villages and individuals was abandoned.¹⁷ The attempt of the first three years of the *Tanzimat* whereby government officials were to collect taxes on the basis of household evaluation proved beyond the fiscal and technical means of the administration.¹⁸ Nor were the data generated in the course of *temettuat* registration employed for a statistical or cartographical reading of Ottoman economy and society.¹⁹ Rather, a novel formulation of the sources of the state’s strength, as arising from its power to tax the myriad estates of its subjects, was grafted on to a revival of the classical model of rule by registers. The entries in the registers remained just that. Only much later in the century do we find statistical representation of the population playing any part in routine government practices.²⁰

Thus the first great attempt of 1840–43 to reform the basis of all tax collection

founded. But certain principles were to remain. A single property tax, known as *vergi resmi*, replaced the earlier variety of particular administrative (*örfi*) taxes.²¹ The impetus to link the registration of taxable property to that of persons was also to mark the long nineteenth century.²² Although crop and livestock taxes were to remain separate from the *vergi* tax, from the 1860s onwards villages (and villagers within) were encouraged to take over their own tax assessment and payment.²³ And, as we shall see in Part three, individuation of tax responsibility was in good measure to be achieved by the last decades of the empire.²⁴

1830s–40s: law as programme

Regional government

Under the *Tanzimat* the participation of regional leaders was to be integral to administrative reform. From the 1840s the central administration sought to establish regional councils on which would serve quasi-elected figures of the regional elite together with government officials.²⁵ An ordinance of the early 1840s forming the councils to oversee tax evaluation at the level of the *kazas* provided for six members chosen from among the people of the region to serve alongside the official members (the Islamic judge, the mufti, an official of the police, the tax collector and a second tax employee, and two scribes). All members chose the head of the council.²⁶

The central administration sought to expand the number of its full-time bureaucratic staff but required fiscal resources to do so. A *nizamname* dated March 1845 backed by a sultan's firman of 21 July 1845 sought to increase the number of government servants and to regularize their pay; this was central to widening 'the circle of prosperity' (*tevsi daire-i intiaşı*). All *zeamet* and *timar* holders were not to be stripped of their rights, but in escheat or abandoned estates, the land was to be assigned to the central treasury and its revenue to the scribal administration.²⁷ By the middle of the 1840s a moderate approach had prevailed: not the abolition of tax farming as proclaimed by the *Gülhane Rescript* nor the annulment of estates still registered as *zeamet* or *timar* so long as their holders lived.²⁸

In the late 1840s instructions for officials and a law concerning eyalet councils were issued.²⁹ These express two policies of *Tanzimat* government: first, the constant need to discipline officials – not infrequently by prosecution – and second, the governmental power of the councils whereon were appointed – later elected – leaders of the regions concerned. Enjoined to oversee the subdivision of the province into *livas* on the basis of mapping, the eyalet councils were composed of a head official, a member of the ulema, four Muslim members of the regional elite, one of each of the other religious communities, and two scribes. The resulting council had the final say in the government of virtually all aspects of the province: application of the principles of the *Tanzimat*, supervision of employees, security and police, market and quarantine regulations, application of the *kontrato* law, financial practices and records of the province, public works and development, investigation of major crimes committed in the province,

prosecution of corrupt officials against whom complaints had been lodged in lower councils, and supervision of the kaimakam and registrar (*defterdar*) in the lower administrative circumscriptions.

Ottoman reform granted regional leadership a considerable place within the context of a centralizing regime. In this respect, Ottoman government was not a colonial regime on the model of the British or the French. Likewise, although Ottoman reform worked to unify practice, the power of the councils meant that they perforce translated the law in the light of regional political and economic forces.

Land law

Although the general direction of legal reform of the land regime is clear, the detailed history of legislation in the late 1830s and early 1840s is less so. Dina Khoury has observed that as early as 1840 a *nizamname* was issued outlining changes to the land tenure system.³⁰ The law ‘sought to limit the property in revenue of *malikane* owners by ordering the reversion to the state of all land whose revenue collectors or cultivators had died’.³¹ It appears that the lands were then to be reissued to the heirs of the *malikane* owners as land held by *tapu*,³² creating a new category of landholders enjoying usufructuary possession empowered to rent out their land to cultivators. The new law allowed the holder to leave his land to both male and female heirs in the manner of entitlement to shares in *waqf*. ‘Fiscal and land transactions were to take place in the government office of the *tapu* and not in the local court.’³³ Lastly, the law was cast as contributing to agricultural development more generally.³⁴

It would seem that the 1840 *nizamname* was a relatively short, programmatic directive. Certain of its promises were to be developed in detail in laws of the later 1840s which form part of the published genealogy of the 1858 Land Code and 1859 *Tapu Nizamnamesi*.³⁵ The first and most important change, building on the analogy between the devolution of rights to *waqf* and those to *miri* land, concerned succession to *miri* land. The sultanic decree (*irade*) concerning this change, together with the instructions governing *tapu* land drafted by the sheikh-ul-Islam, were published in the official gazette *Takvim-i Vakayi* in 1847. In 1849 followed the full text of the *Ahkam-ı Meriye*.³⁶ The law introduced five fundamental reforms. The privilege of sons to succeed to their father’s land without payment of the *tapu* fee was extended to daughters. Not only were daughters and sons to inherit equally, they could also partition the holding. The circle of persons entitled to succession to *miri* land without payment of *tapu* was greatly widened thus rendering escheat very unlikely. The new rules applied not only to land left by a father but also to that left by a mother. And lastly, the law confirmed the unfettered power of a *tapu* holder to rent out his land.

The law treats usufructuary right to *miri* land as an estate. The entitlement of female heirs to *tapu* land had long been problematic; excluded from succession to office, daughters were entitled to succeed, after sons and before any sibling or parent, to the fruits of their father’s (and their family’s, and thereby their

own) labour. In the new law they were granted rights equal to sons and, in the absence of a son, they could receive all the estate. How was this change legitimated?³⁷

The text of the irade notes that in the old law female children were completely excluded from rights of inheritance whereas now they partake in the right of inheritance of land.³⁸ Although women are not cultivators, they are nevertheless able to form an agricultural family and so to contribute to the flourishing cultivation of the land to which they will succeed.³⁹ The widening of the circle of rights to *miri* land is seen as evidence of ‘the justice, concern and compassion of the sultan and the splendid effect of his imperial presence working for an age of equity’.⁴⁰

After four pages entitled the sultanic *kanun*, where the principles are set forth as crisp rules, the remaining thirty-six pages of the *Abkam-ı Meriye*, penned by the sheikh-ul-Islam Ahmed Arif Hikmet el-Hüseyni, are composed of fetwas with a question and response, positive or negative.⁴¹ The whole ends with a long paragraph of praise for the sultan’s noble grace in widening access to rights in *miri* lands. The text was sent to muftis throughout the realm; in Damascus the law is found in a slightly abridged version copied by hand and in an addition to an earlier fetwa collection.⁴²

The change to rules governing the devolution of *miri* land was first announced modestly behind two other legal undertakings: that all abandoned land (*mablulat*) should revert to the treasury and that to counter the production of irregular and unsuitable titles, all *tapu temessükü* documents should be presented to and entered into ledgers in the registry (*deFTERhane*) which in turn was to deliver stamped and printed documents for the same.⁴³ Thus, the widening of rights to *miri* land, its transmission down the family line in the manner of property not office, was linked to the promise of greater administrative control over certification of that right. A *tapu* regulation of 1847 gave detailed instructions for the voluntary exchange of *tapu* documents in government offices.⁴⁴ No longer was the court or local administrator empowered to issue a new *tapu* for land, rather the district council was to prepare a first document to be sent to the administration of the sanjak from where, once the fee had been paid, a document was to be issued to the persons concerned.

1850s–60s: law as blueprint for institution

Taken against the background of earlier law what major changes did the legislation of the late 1850s and 1860s introduce? The central acts of this period are the Land Code (*Kanun-ı Arazi*) of 1858, the *Tapu Nizamnamesi* of 1859 and the Vilayet Law of 1864.

In its form the Land Code breaks with earlier law; it makes no reference to earlier laws or sultanic proclamations, summarizing all provisions within its bounds. Every clause from the introductory section through the last is numbered. The introduction of the Code divides land into five types (*memlûke*, *emiriyye*, *mevkufe*, *metruke* and *mevat*) but the Code effectively concerns only *miri* lands

together with the lands allotted to village services (*metruke*).⁴⁵ There is a small section on waste lands (*mevat*) but as *mülk* rights may also be granted on such land, the establishment of rights therein was also to be treated in the *Mecelle*.⁴⁶

The Code distinguishes between areas of collective right proper to the village and holdings of agricultural land by individuals. The first substantive clause of the Code rules out any collective or village right to *miri* land: ‘The whole land of a village or town cannot be granted in its entirety to a body standing for all of the inhabitants, nor to one or two persons chosen from amongst them. Land is given separately to each person and a title deed to each stating the nature of his usufructuary right.’⁴⁷ The Land Code restricts village common interest to a list of types of land. Thus all villages are seen to have roads, places of worship, and areas where cattle or carts may stand, protected from encroachment or private use.⁴⁸ Beyond these, villages can also have exclusive rights to woodland, threshing grounds and pasture land.⁴⁹ The details of such rights are not subject to central legislation but to recognition of ‘ancient custom’. Lastly, the Code stipulates that the numbers of grazing animals permitted on village pastures should not rise above those sanctioned by custom from of old. Thus, treating the question of village self-government as one of types of land use, the Code protects certain collective rights but provides no mechanism for legal definition of such rights save reference to established custom, acknowledged in previous government dealings with the village.

The Code stipulates a great deal more with regard to the rights of individuals to *miri* agricultural land.

It confirms the owner’s right to rent out his land, in clause 9 which concerns the duty of the holder of usufructuary possession (*tasarruf*) of *miri* land to ensure its cultivation. As well as cultivation by the owner himself, rental and loan are means to this end. Furthermore, every joint holder is accorded the power to force partition, whereas partibility was only implicit in the provisions of the 1849 law.⁵⁰ This signals the formal end of the Ottoman tradition of the indivisible ‘cultivator’s lot’, partible property rendering obsolete the notion of a viable agricultural lot. The Code likewise provides for mortgaging land against debt. The lifting of restraints on dispossessing the cultivator of his lot for debt represented a more painful erosion of Ottoman legal tradition with regard to *miri* land.

The Code formally maintains the reading whereby a holding of *miri* land could not be pledged (*rehn*) against a debt and a lender could not force the sale of *miri* land of a debtor. But, it simultaneously sanctions a mechanism that ‘should protect the interests of traders and other lenders’. In *ferağ bil-vefa* the holding is registered as sold to the lender but with the right of resumption by the debtor on full payment of the debt.⁵¹ If the value of the loan is less than that of the land, the lender may be granted the power to sell the land on behalf of the debtor and so to pay off his loan and reimburse the original owner the balance. Effectively this introduces a form of mortgage on *miri* land, registered by the offices of the state. This provision was buttressed by a sultanic order.⁵²

There was clearly opposition to the requirement of registration and to the

absence of a mechanism to enforce sale by the state. Thus, in the Code there is no mention of what happens in the event of crippling tax arrears; given that tax farmers were often rural financiers, they too appear to have challenged the provisions of the original law. Thus in June 1860 the Meclis-i Vala issued a first report concerning why *miri* land should be exempted from forced sale to cover tax arrears.⁵³ But the power to force sale was eventually granted the tax department. In another report dated 8 October 1860, the Meclis-i Vala appears to support forced sale of *miri* land on the grounds that its not being treated as part of ‘property’ (*emval ve emlak*) entails a logical contradiction between tax law and the Land Code. Yet simultaneously the Meclis rejected appeals from traders and interested parties to permit *miri* land to be sold on demand of individual lenders who had not registered their loans at the registry in the form of *ferağ bil-vefa*. The Meclis’ report proposed excluding from forced sale, in the case of the owner being a cultivator, the roof over the person’s head and a basic amount of land required for survival.⁵⁴ These provisions of the report were translated quite rapidly into sultanic decrees.⁵⁵ The best protection for the interests of both the state and the lenders was seen to be a system of auction through the district administrative council.⁵⁶ This promised to ensure proper valuation of the land as well as to safeguard the capital of money-lenders. The administrative mechanism for forced sale was first sketched in law in 1862 and developed in a more extensive legal ordinance in the early 1870s.⁵⁷

These debates, and their resolution, reveal the Janus-faced character of the senior political administration. The centrality of cultivators’ rights to land for government as a whole resulted in the proposal, later turned into law, to exempt from seizure for debt the house of a cultivator and the *miri* fields required for the maintenance of that house. The importance of administrative control over transactions in *miri* land resulted in auction through administrative channels. On the other hand, the pressure to render convergent laws governing the different forms of real property characterized the work of the Meclis and was to culminate in legislation of the 1870s. The Meclis-i Vala sought to protect the return on investments by traders and tax farmers in the agricultural sector. The administration mediated the interests of the state, the commercial classes, and the cultivators in an increasingly integrated market for land. The complexity of the procedure of foreclosure, entailing an announcement in the vilayet newspaper, acted as a limited brake on dispossession, but it nevertheless institutionalized the principle that *miri* land, like other property (*emval ve emlak*), could be sold for debt.

Such administrative management of mortgage was predicated on government registration of *miri* land. In the *tapu* regulations of the 1840s persons were enjoined to exchange their older documentation for new *tapu* of standardized form crowned by the sultanic signature (*tuğralı*). The *Tapu Nizamnamesi*, issued in 1859 immediately after the Land Code, states that the finance officials, namely the registrar, the finance director and the directors of the districts, were to be legally recognized as the *sahib-i arz* with regard to all transactions of *miri* land. But only in 1860 did a subsequent set of instructions governing *tapu* titles require

holders of *miri* land to obtain the new deed and institute a system of printed title forms and administrative registers for all transfers of land.⁵⁸ These instructions put the onus of enforcement on the holder of land and senior provincial officials. But no intrusive mechanism of survey was yet introduced, and the bureaucratic personnel for title registration remained embryonic.

The Land Code and the *tapu* laws of the 1850s and 1860s introduced modifications within an historically continuous vocabulary of legal regulation of *miri* property. Certain of the greatest changes had already been imposed in the 1847 and 1849 laws: gender equality in the devolution of usufructuary right and freedom to lease land without administrative permission. With its provisions concerning partibility and mortgage, the Land Code completed the transformation of *miri* usufructuary right into an estate.

A Damascene excursus

An insight into how Damascene ulema viewed the changes outlined above can be had from a brief epistle concerning the nature of *tapu* right, *al-Ikhhbar ‘an haqq al-qarar*, written by Mahmud ibn Nasib al-Hamzawi al-Husaini, mufti of Damascus in 1284AH/1867–68.⁵⁹ It opens with some general remarks.⁶⁰ Al-Hamzawi explains that people conduct transactions of *waqf*, sale, exchange, subdivision, legacy, mortgage (*rahn*), dower (*mahr*) and gift for *miri* lands without the permission of the holder of the *raqaba* in the mistaken opinion that the land is their property to dispose of as *mulk*. Furthermore, certain jurists and muftis, ignorant of the fact that issues of *tapu* derive from sultanic decrees, draw up these invalid contracts according to *fiqh*; later in the epistle the author exclaims with regard to such documents that Islamic judges have not been competent to draw up *tapu* documents ever since the time of Ebussuud. Emphasizing his competence to rule on these issues, al-Hamzawi states that he had forty years’ experience as a member on the council, an employee and a mufti, and that he has studied the fetwas of the ulema of both the *Rum* and the Arabs.⁶¹

Three hundred years after the sixteenth-century debate concerning the legal character of the *tapu resmi* al-Hamzawi takes up the old problem of the nature of *haqq al-qarar* now enshrined in the Land Code. He opens by contrasting the current usage of the term, where it signifies priority to use of land (conditional on assuring cultivation and paying what is due to the holder of the *raqaba*, a right established by ten years’ cultivation) with older usage where it referred to [rights arising from] actual objects such as plantings and walls. Al-Hamzawi introduces the judgment of Ebussuud – the payment for *tapu* rights is an advance rent – and of Muhammad Baha’⁶² – *tapu* is [like] rent for *waqf* – before he proceeds to remind his readers that *haqq al-qarar*, *haqq tapu* and *mashadd maska* are all synonyms.

After these definitions, al-Hamzawi lays out his central argument concerning the powers to transact held by the holder of the *haqq al-qarar* as opposed to those that remain subject to the agreement of the owner of the *raqaba*, the government official (*ma’mur*).⁶³ Al-Hamzawi’s argument here entails a certain sleight of hand.

Citing Ebussuud to the effect that all contracts (*mu'amalat*) are invalid without the permission of the *sibahi*, al-Hamzawi then interprets this phrase in a decidedly more nineteenth-century fashion as not governing those 'revocable (*ghair lazima*) contracts such as sharecropping, rental, loan, deposit and entrusting'.⁶⁴ According to al-Hamzawi, the logic behind this list of exceptions is that the *haqq al-qarar* is not transferred thereby from one person to another unlike the contracts of legacy, marital alimony, gift, pledge (*rahn*), *waqf*, *badal sulh* and sale. Al-Hamzawi is aware that he is forcing matters with this reading: thereafter he turns to the judgment of al-Ramli prohibiting unilateral partition, sharecropping and rental, as well as that of al-Hanuti prohibiting subletting on the analogy of *sukna* in *waqf* proper.⁶⁵ Al-Hamzawi gets round this powerful invocation of earlier tradition by a legal genealogy that leaps from Ebussuud and Kemal Paşazade – although al-Hamzawi cites no phrase of the latter – to the Land Code, a genealogy which shows that 'for us permission was given' for such transactions.⁶⁶ Here al-Hamzawi comes close to suggesting an Ottoman, or even a quasi-Turkish ('*ulama' al-Rum*), genealogy as against one based on Arabic sources.

Al-Hamzawi next turns to the provisions of the law concerning succession to usufructuary rights in *miri* land. He closes off all contestation with a modern phrase: the issue is one of the *kanun* not of the Koran.⁶⁷ The rest of the epistle summarizes and expands the account of powers arising from *haqq al-qarar* before closing with a justification of the identical rules governing acquisition, disposal and devolution of usufructuary right in *waqf* lands created from *miri* land. As we have seen, a convergence of the forms of usufructuary right between *miri* and *waqf* land was not an innovation of the nineteenth century. But two innovations in the law appear to have encountered opposition in Damascus: full gender-equality in succession and the capacity of the cultivator with *haqq al-qarar* on *waqf* land to sublet. The mufti closes with the argument that it would be best if the doctrinal choice of the Commander of the Faithful [the sultan] governing succession in the lands of the Muslim treasury were also applied to the lands of true *waqf*: there is no prohibition against this in *al-shar'* and a single mode of succession to *waqf* and *miri* lands would be more elegant and discourage disputes among the heirs.⁶⁸ Essentially this is what central law would begin to ensure as the state increasingly took *waqf* lands into bureaucratic administration.

Al-Hamzawi's epistle is both a statement by a jurist of the *Tanzimat* and a response to arguments advanced by ulema of Damascus, who drew upon Arabic Hanafi jurisprudence to counter legal change. The strategy adopted by the mufti, an Ottoman legal genealogy that passed straight from Ebussuud to the Land Code, does not represent a well supported legal argument; rather like some of the sixteenth-century sheikh-ul-Islam's fetwas, it resembles an intellectual decree. The door is slammed on the more complex intellectual genealogy of Arabic Hanafi jurisprudence with its roots in the Mamluk period and before. The mufti's aim appears to be to silence counter-arguments advanced by Syrian ulema. Perhaps such opposition lay behind the sultan's decree of 1862, on recommendation of

the Meclis-i Vala, concerning the lands of Sham (*berr üş-Şam*). In its report the Meclis reiterated the classical legal argument for the *miri* status of land in Sham – that it was *haraciye* land whose owners had died out without heirs – noting that as yet none of the provisions of the Land Code and *Tapu Nizamnamesi* had been applied there.⁶⁹ It recommended that a special commission be established so as to apply the relevant legislation to Sham eyalet, building on the experience acquired in Saida eyalet.⁷⁰ Southern Syria thus entered late into the property and administrative reforms of the *Tanzimat*.

Administrative consolidation

It was in the 1860s that a law governing administrative development was promulgated. Given the continuity between the 1864 and 1871 Vilayet Laws, we shall discuss them together here. Instead of the previous eyalet administration, the 1864 law established a hierarchy of administrative units – the vilayet, *liva/sanjak*, *kaza/district*, and village council – to which was added in 1871 a further level of administration between the district and the village council, the *nahiye*. In 1877 the Law of Municipalities introduced municipal administration for the towns in lieu of the councils of the villages. Higher-level provincial councils were central to *Tanzimat* government from the 1840s; the 1864 and 1871 laws extended government by councils down throughout the levels of a developed administrative hierarchy. The 1864 law specified the responsibilities of the governor of the vilayet and the councils of vilayets and districts. It also contained detailed instructions concerning village administration: the manner of selection of the *muhtar(s)* (and the necessity of their confirmation by the district kaimakam) and of the village council of elders, and their respective duties: the distribution of taxes imposed collectively on the village, organization of village guards, agricultural development and public health. The 1871 law included yet more detailed instructions concerning the duties of the headman (*muhtar*): communication downwards to the village of government laws and notices and upwards of information concerning the village, its lands and inhabitants. The 1871 law transformed the headman into a government employee, albeit one with privileged access to the secrets of the village.

The same law of 1871 provided for the development of administrative departments in the provinces. The first 34 of the 105 clauses of the law concern the departments of finance, official correspondence, agriculture and commerce, public education, roads, *vakıf*, and policing. Clauses 29–31 detail the duties of the director of the *defterhane* and officials of the administration of property and person (*emlak ve nüfus*) responsible for keeping the registers of crop and *vergi* tax, of population and of property titles. The 1871 law regulates these offices only for the vilayet level, but the later decades of the *Tanzimat* were to see parallel administrative departments introduced at the district level. Alongside a law establishing civil courts, the law of 1871 splits the one council into two, an administrative council and a judicial one, at all administrative levels. The district judicial council was to become the first-level court between the village and the

appeal court at the sanjak level. Thus came into being the double system of civil (*nizami*) and Islamic courts of the mature *Tanzimat* period.

After the 1870s: law as political administration of private property

The political administration was to put into practice further changes in property law introduced almost simultaneously in the early 1870s. These seemingly technical changes built the infrastructure for a unified field of property law in the empire. First, with regard to mortgage, in 1871 a detailed regulation was issued concerning the sale of immovable property for debt. The title of the law, 'The sale of immovable property for debt' expresses the unification of formerly different categories under the single term, 'immovable property' (*emval-i gayr-i menkule*).⁷¹ The law concerns foreclosure for debt of *tasarruf* (usufructuary) rights to both *miri* and *icareteyn vakıf* property.⁷² It adopts the recommendations of the Meclis-i Vala concerning the auctioning of land by the administration and the exclusion from seizure for debt of the house and the land of a cultivator required for family subsistence.

Second, *vakıf* land was increasingly assimilated to *miri* land with regard to the transaction and devolution of *tasarruf* rights and to the administration of title and registration. This assimilation had been given as an aim in an 1865 law instructing the *vakıf* administration to adopt the same forms as those for *miri* land.⁷³ In the early 1870s instructions were also given to the *tapu* office to register holdings on *vakıf* and *mülk* lands exactly as on *miri* lands.⁷⁴ The uniform system of registration of rights in *mülk*, *vakıf* and *miri* land worked to create a single field of 'immoveable property'. Likewise, the establishment from 1872 of a separate section for 'rights' cases as opposed to penal cases in the *nizami* courts created a single court for property disputes.⁷⁵

Lastly, from the early 1870s the registration of property began to be more forcefully pursued. Prior to this time legal responsibility to obtain *tapu* documents had rested with the individual holder, but from 1871 onwards survey teams were to enter the villages and to update all property titles. This followed a procedure termed *yoklama*, inspection or roll-call. An internal memorandum from the *defterhane* head office dated 18 December 1871, stating that half of the empire's lands still remained without formal *tapu* deeds, provided detailed instructions concerning village surveys.⁷⁶ This same procedure was then also extended to *mülk* and *vakıf* usufruct properties.

For the district of 'Ajlun, to which we turn in Part two, it was the legislation of the 1870s that was crucial. But the 1870s did not mark the end of legal transformation in the empire as a whole. The establishment of modern law schools and the integration of the port cities of the Ottoman eastern Mediterranean into European commerce and culture were to lead by the early twentieth century to a true ideology of private property. This can be seen in a textbook such as *Kavanin-i Tasarrufiye – Notları* of Ebül'ula Mardinizade.⁷⁷ The text criticizes the logical basis of earlier categories of land and provides doctrinal support for what were to be the last reforms of property right under the empire. In 1912 laws

were issued that marked a break in Ottoman juridical language: these decreed a cadastral survey on European models, the introduction of mortgage (termed *hypothèque*) on the model of ‘other civilized nations’, and the unification of property categories across all types of land.

The legislation of 1912 appeared too late to be introduced into the Arab provinces. Nor does it appear to have been treated in practice as part of the Ottoman legal corpus by the French and the British who at the end of the First World War occupied and divided the Arab provinces between them. British officials under the Mandate in Palestine and Jordan were to implement a similar programme but were to celebrate their land registration not as part of Mandate legal responsibility to apply Ottoman law, but as evidence of the progress in civilization that European forms of property represented.

PART TWO | **The administration of property in
one district of the empire**

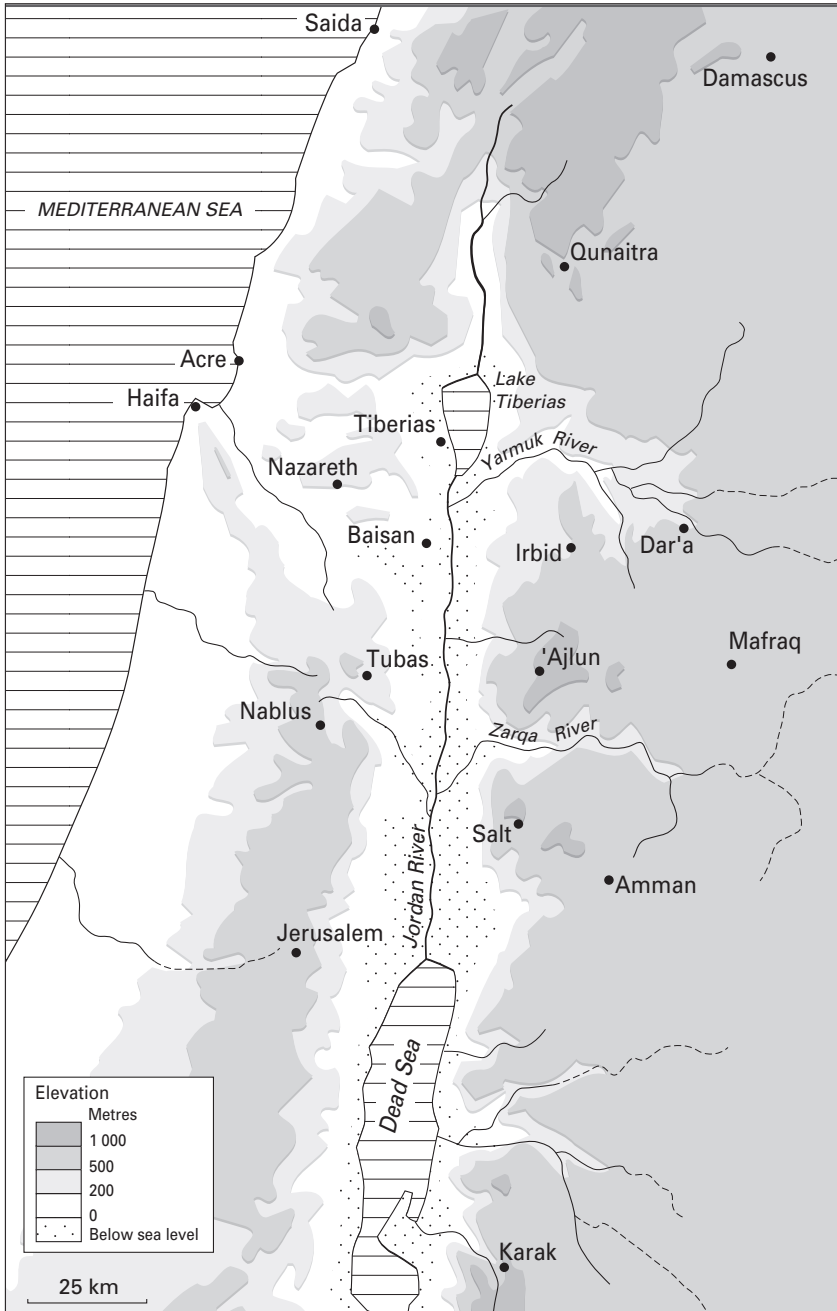
Introduction

The last chapter described change in the laws governing the nature and administration of property right over the nineteenth century. Reforms were introduced in various provinces of the empire at different points in the century. Since regional political economies also differed, the results of reform inevitably varied across the empire. The award of title was not made at the highest level of state but at a lower level of administration where persons with a claim to property and legal *personae* of the administration met.¹ Serving on the councils, leaders of regional political and productive regimes shaped different outcomes.

In *Tanzimat* administration the district (*kaza*) formed the first-level unit for formal administrative development and property registration. The first clause of the 1859 *Tapu Nizamnamesi* states that ‘in the provinces, the finance employees, that is the directors of the registry and finance and the directors of the districts, being empowered to devolve and to transfer *miri* land, have the legal status of the *sahib-i arz*’.² In this clause, several officers stand for the legal *persona*, the *sahib-i arz*, assigned the ‘estate of administration’ in land.

In the district, officers of the central bureaucracy were joined by figures elected to administrative, judicial and municipal councils. From the village to the district, persons with local knowledge were to provide the information required to fill the grids of the printed forms with the details of the property and tax liability of individual subjects. These figures of local authority were simultaneously to become familiar with the new laws.³

Part two examines the administrative construction of the new state of property in two dimensions: first, the integration of figures of regional importance into elected offices and, second, the administration of title certification. It is our objective to demonstrate the intertwining of these two processes central to the political administration of the district. In Chapter 5 we sketch the economic and political geography of the ‘Ajlun district as background to an understanding of its leadership. This is done through cartography. In Chapter 6 we begin the diachronic history of administrative development with a focus on the particular settlement whereby land came to be registered in shares, not as plots on the ground. Chapter 7 interrupts the diachronic account to describe a watershed in the relations of regional leadership with the administration: a formal prosecution of the district governor (*kaimakam*) that occurred during the early stages of land registration. Chapter 8 completes the diachronic account of administrative development and land registration to the end of the Ottoman period.



Map 5.1 The district of 'Ajlun in regional context

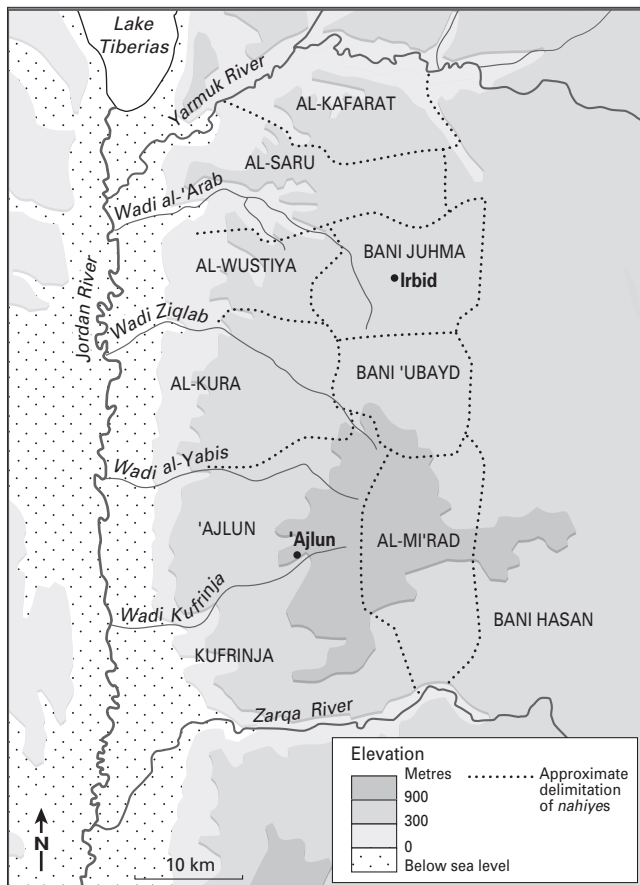
5 | Production and settlement in the district of `Ajlun

The `Ajlun district formed the southernmost part of the sanjak of Hauran in the vilayet of Suriye, of which Damascus was provincial capital (Map 5.1). Bounded by the Yarmuk River on the north and the Zarqa River on the south, the district was one of settled agriculture, comprising mountains in the Jabal `Ajlun, rolling hills in the Kura and Kafarat, and the southernmost extension of the great Haurani plain in the Bani `Ubayd and Bani Juhma *nahiyes* (Map 5.2). Over the centuries of Ottoman rule the region of `Ajlun had at times been attached to urban centres in Palestine or, as in the later nineteenth century, linked to Damascus as a subdivision of the Hauran.¹ Nevertheless, it formed a relatively stable administrative delimitation, and several of its sub-districts (notably, the Kura, Kafarat, Jabal `Ajlun and Bani Juhma) were units recognized by the administration since the Ottoman conquest. In the late nineteenth century the district contained just over one hundred villages.² See Map 5.3.³

Supported by the demand for grain on the European market (only undercut from the 1870s by cheaper grain from India and the Americas) population and fixed settlement in the plains had grown steadily from the 1830s, with cultivators moving into the area from Palestine and the central Hauran.⁴ To the east, and to a lesser extent to the west in the Jordan valley and the Galilee, were semi-nomadic and nomadic populations. The north east was home to the nomadic Bani Sakhr and `Arab al-Sa`idiyin (some of whom wintered in the Jordan valley travelling along the Wadi al-`Arab to join other smaller local pastoral groups) and the south east to the Bani Hasan (who practised mixed semi-nomadic pastoralism and cultivation). The plains produced primarily grain (wheat, barley and sorghum) and pulses; the hills also had important areas of olive cultivation and lesser areas of vines and fruit. Map 5.4 represents land use by three types of crop – olives, fruit and field crops.⁵ Grain and other field crops predominate in the district. The lands of the Bani Hasan were also given over to field crops. The Bani Hasan region is not represented here, however, because of the difficulty of estimating the actual areas under cultivation.⁶

Everywhere villagers produced legume crops and grain – barley, wheat and Indian sorghum – for household consumption. It was the cash crop that differed: in the plains, wheat and to a lesser extent lentils, in the hill villages such as `Inba, Tibna and the Kafarat, olives, and in the Jabal `Ajlun, grapes (usually dried as raisins or pressed as syrup) and lesser amounts of other fruit as well as olives. Although we found no records to allow us to measure livestock, animal production was everywhere central to villagers' strategies for obtaining cash income.

The structure of the region can also be explored through mapping houses,



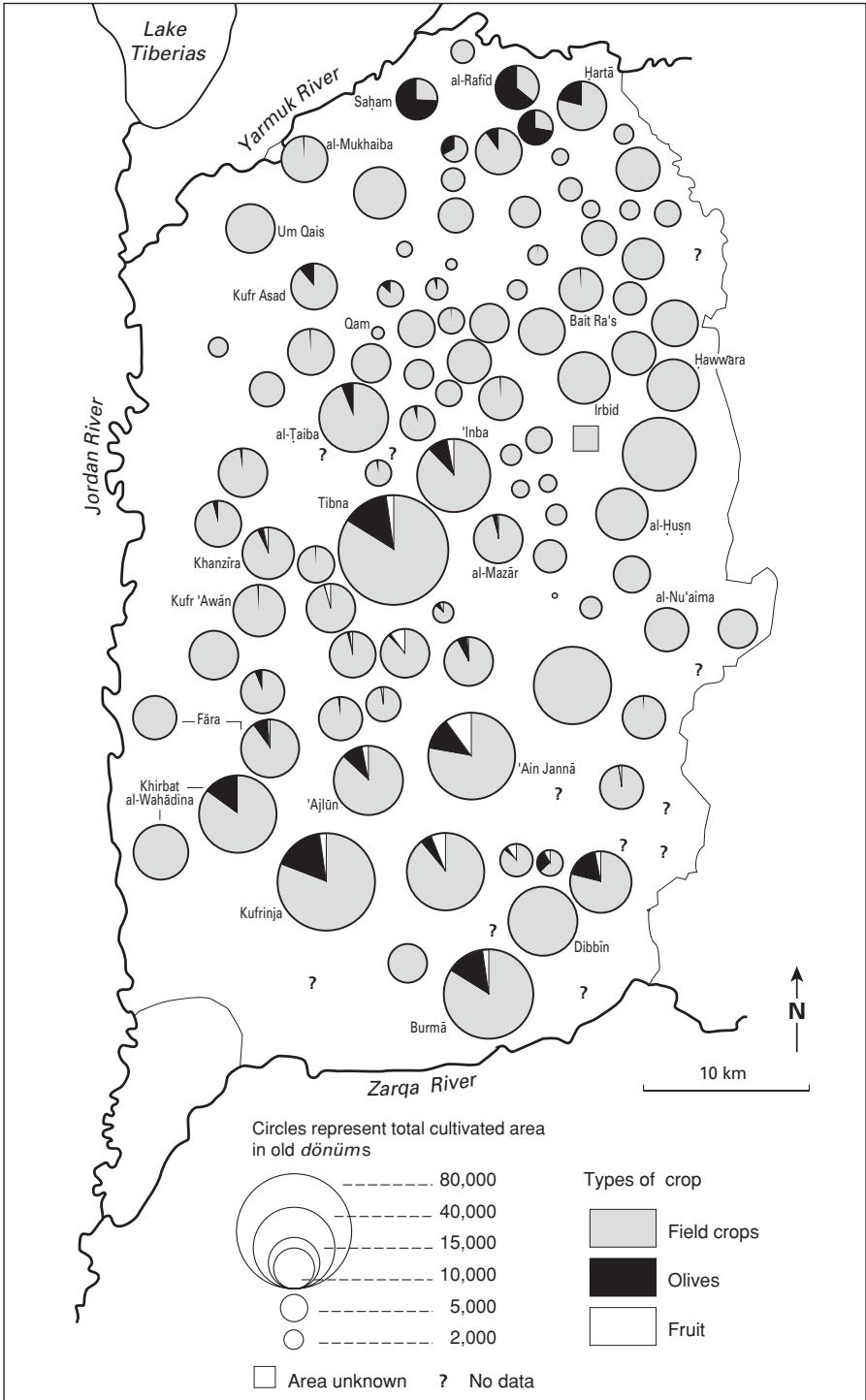
Map 5.2 The district of 'Ajlun: topography and nahiyes

although here even greater caution is needed in interpreting the results. No houses appear to have been registered among the Bani Hasan, where structures were generally tents, carved cave dwellings, and grain stores.⁷ But lack of houses did not mean an absence of agriculture in the area. Even in the core of the district, where built settlements were the rule, we should be wary of assuming a one-to-one correspondence between housing, population and cultivation. Thus, no houses were registered in the village of al-Mukhaiba in the valley of the Yarmuk River, whose inhabitants Schumacher described as Arabs, i.e. tent dwellers.⁸ The people of al-Mukhaiba cultivated both rain-fed and irrigated plots in date palm plantations and field crops. The area under cultivation compares well, moreover, with that farmed in the important village of Malka on the plateau above (Map 5.4). And the form of their dwellings was not to prevent the people of al-Mukhaiba from waging a fierce battle in defence of their titles to land.⁹

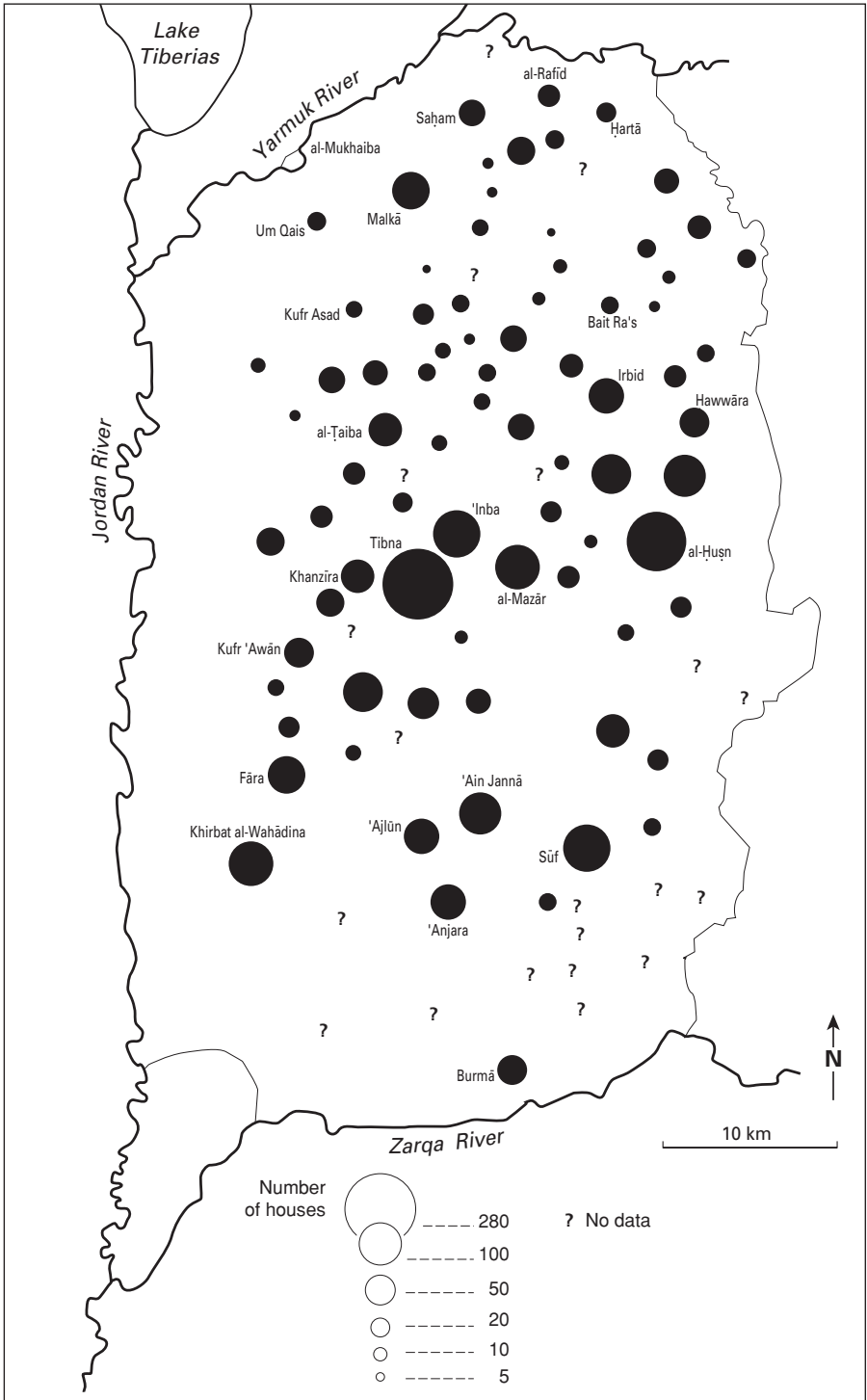
Nevertheless, the distribution of houses reveals certain patterns (Map 5.5). Although the number of houses was small in most villages, several distinct regional clusters of settlement can be distinguished.¹⁰ The number of houses is a telling index, but the base, that of a house, does not represent an identical unit



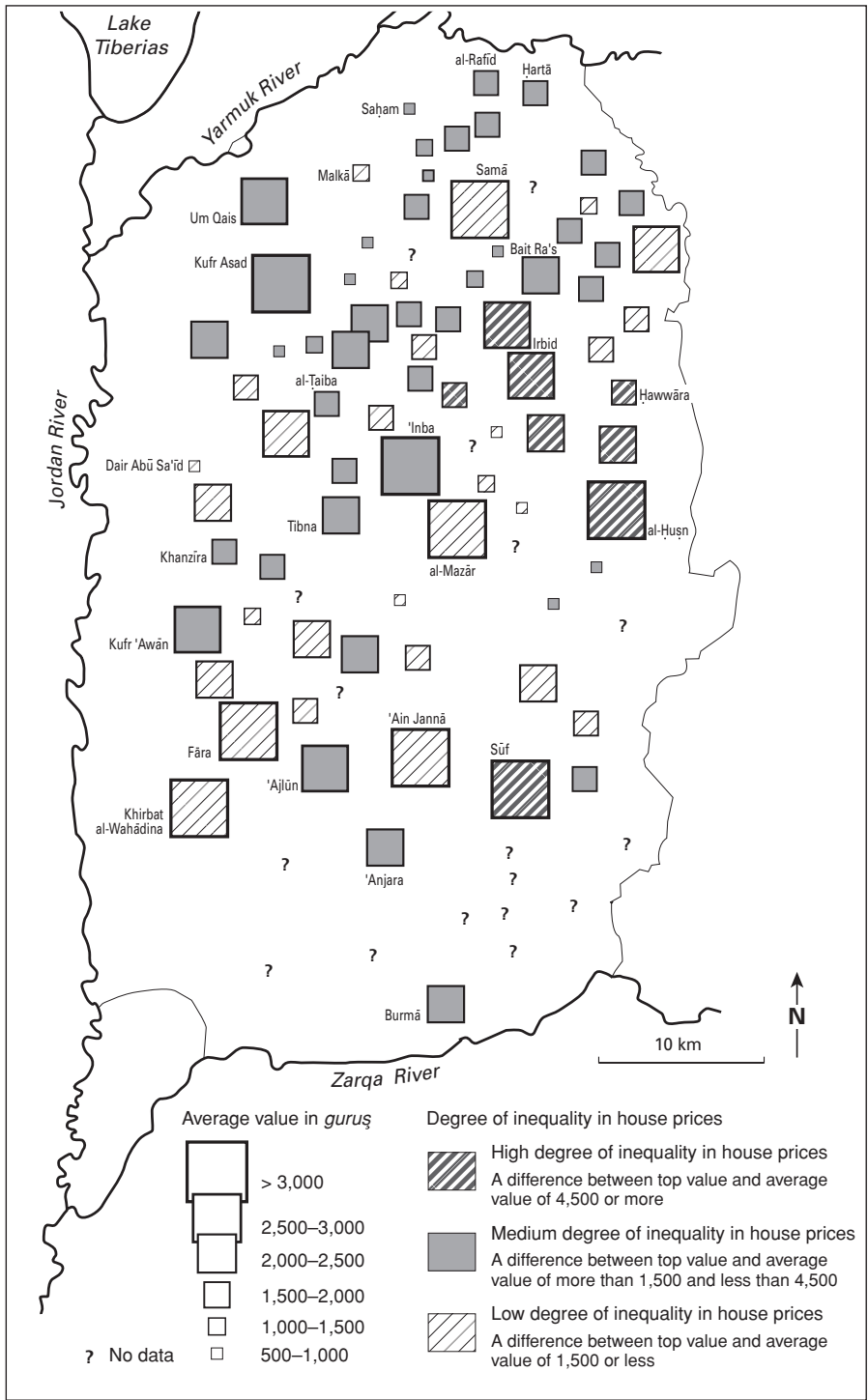
Map 5.3 Villages of the district of `Ajlun



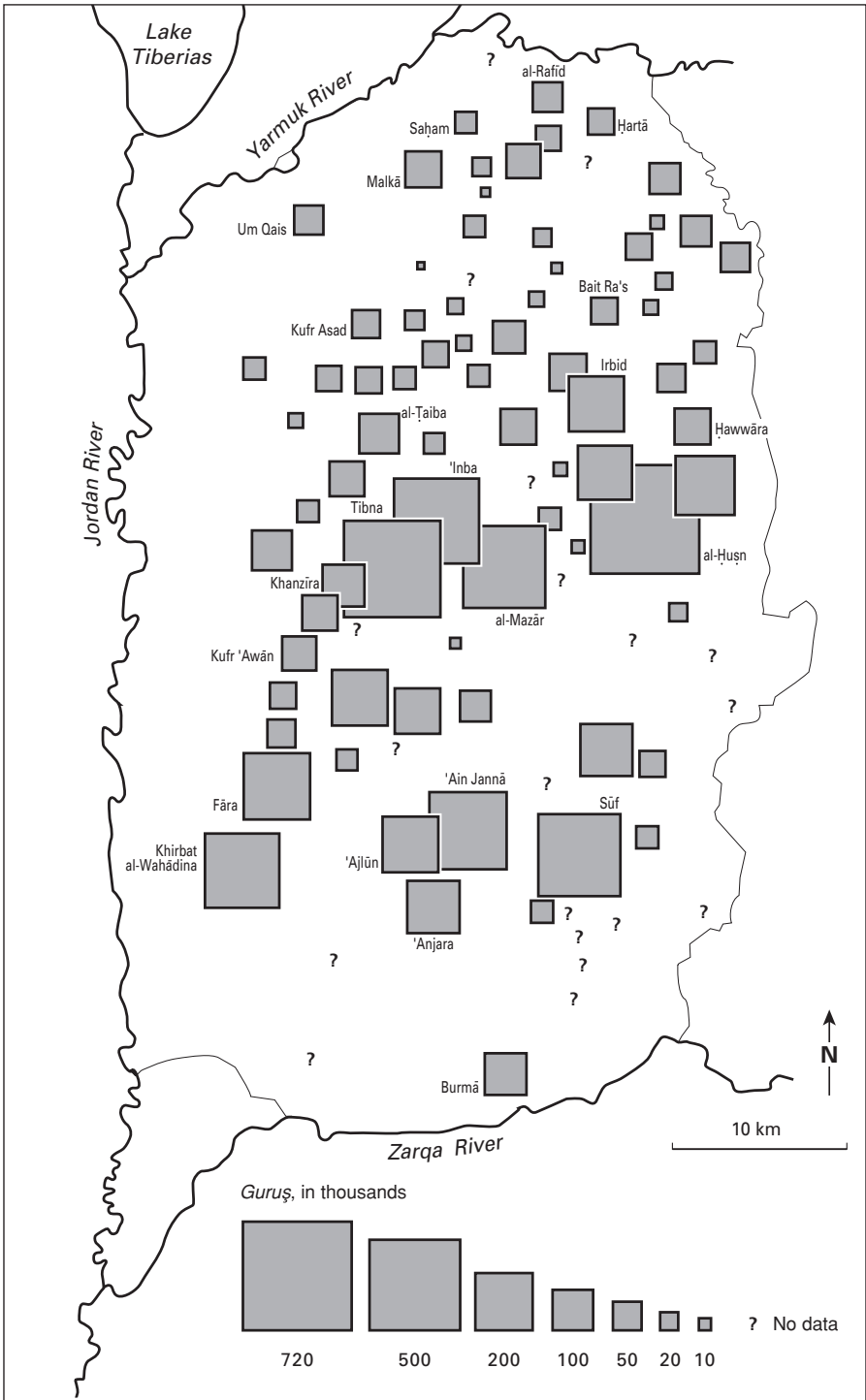
Map 5.4 Land use



Map 5.5 Total number of houses



Map 5.6 Average value of houses in village



Map 5.7 Houses: total taxable value

everywhere. In the different villages, the average value of a house varied from around 500 (essentially one room) to well over 3,000 *guruş* (Map 5.6). Villages exhibit considerable variation: the patterns subsume both differences in the size of compounds (reflecting the organization of livestock production) and in material and size of the buildings (reflecting household organization as well as wealth). In villages of the plain, such as Hawwara, houses had large compounds where animals were gathered. In the Kura villages, animals were often kept out in the countryside, cattle in the Jordan Valley and sheep in the hills. Nevertheless, extreme values are meaningful: villages with houses of very low value such as Dair Abu Sa'id or Saham were places of poor cultivators with small households. The highest average values are found in large, prosperous villages that command important resources such as al-Husn, 'Inba, Suf, 'Ain Janna, Fara and Khirbat al-Wahadina.

If in general substantial houses are found in larger and established villages, there are exceptions to this rule. In the corridor of lands leading down to Wadi al-'Arab, the five houses of Sama are all of a relatively high value, 4,000 *guruş*, owned in four equal shares, by one man, six brothers, another man and two other brothers. This represents a housing development by a family of *nahiye* sheikhs that was home to labourers. Average values hide quite different types of distribution. A rough index of inequality reveals one clear pattern: villages with marked inequality in house values lie in the richest areas of market-oriented wheat production such as Hawwara, Aidun and al-Sarih or serve as site of commercial or government wealth such as Kufr Yuba (the Bataina family), al-Bariha, Irbid or Suf. By contrast, villages of the hills or the mountains exhibit relatively egalitarian distribution of house values. Again, this index may mask other inequalities: Khirbat al-Wahadina derived much of its wealth from cultivation in the Jordan Valley (al-Ghaur), where landless labourers dwelled.

Given variation in house values, a mapping of total value rather than sheer numbers of houses is relevant: Map 5.7 reveals regional patterns of built settlement more clearly than Map 5.5. In the north lie villages of medium size (Saham, al-Rafid, Harta, Kufr Saum, Yubla) which form the core of the Kafarat region. To the west, the large village of Malka and the newer foundation of Um Qais stand alone along the ridge between the Yarmuk Valley and the drainage system of the Wadi al-'Arab. Wadi al-'Arab, with only scattered settlements, divides the north from the dense peppering of small settlements in the Wustiya where al-Taiba stands out. In the central portion of the map we may trace three lines: a series of plains villages from Bait Ra's and Sal to al-Nu'aïma, an axis east to west across the major centres of al-Husn, al-Mazar, 'Inba and Tibna, and a line south along the villages of the foothills above the Jordan Valley extending to the Wadi al-Yabis below Judaita. There are two pivots to these axes: the first, al-Husn, the earlier commercial centre of the region (with 26 shops in 1893 alongside Irbid's 23 shops registered in 1883) and the second, Tibna, the largest settlement with 280 houses and earlier its indigenous political centre (but see page 91 for discussion of the internal structure of Tibna). South of the Kura

nahiye lie three further foothill villages, of which Fara and Khirbat al-Wahadina command substantial blocks of land in the Jordan Valley. To the east of these lies the central cluster of the mountainous area of Jabal 'Ajlun ('Anjara, 'Ajlun, 'Ain Janna, Kufrinja) beyond which, at the border between the Bani Hasan and the mountain, lies the group of settlements above the Jarash basin, the principal of which was Suf. Unfortunately the records for houses were not found for the southernmost part of the district.

Settlement in the 'Ajlun district appears without marked central-place hierarchy. There were correspondingly a number of local leaders, each with a distinct role in regional politics. Irbid was to emerge as central only with administrative and commercial growth over the last decades of Ottoman rule, allowing new patterns of regional government centred on the town. From 1876 government administrators in Irbid began to deliver titles to real property to owners of the area. Even before this, the land of a few villages had been registered in an administrative development described in the next chapter.

6 | The introduction of bureaucratic registration

Indirect rule and the political economy of the region

The region of 'Ajlun was long ruled indirectly through local subregional and village leaders. Both were termed sheikh in documents of the period and the distinction between a sheikh of a major village and of a small district was scarcely a matter of precise administrative definition, rather of effective roles in the process of tax extraction and dispute settlement. It is difficult to determine just what written records were made earlier in the century. Parts of a 1849 list of men in households of 'Ajlun villages are preserved in the Prime Ministry Archives in Istanbul, and earlier in the century European travellers had obtained counts of villages from Ottoman officials.¹ Local figures of authority provided certain forms of tax record to higher-level authority. Our sources concerning such indirect rule, which entailed considerable self-administration, remain very meagre. But it is clear that at issue was indirect rule rather than a frontier between a territory of state sovereignty and that of an ungoverned zone, peopled by tribes.²

The account of bureaucratic development here and in Chapter 8 is restricted by the documentation from which it is abstracted, notably the series of yearbooks of the province of Syria (*Salname-i Suriye*) which published lists of district administrators for years 1868 to 1901 but not beyond.

It was in the 1860s that *Tanzimat* administrative development began in earnest in the province of Syria.³ In June 1865 a first directive was issued to the vilayet to establish *tapu* registration. In the following year came instructions concerning the appointment of members to an *Emlak* Commission, charged with registering wealth for tax purposes, at the level of the province.⁴ Syria, in short, was a late-comer to such registration: *temettuat* surveys had been conducted in the Balkans and Anatolia over two decades earlier. In the 1860s administrative development was the order of the day: the first issue of the provincial weekly newspaper, *Suriye*, 16 May 1866, opened with an article concerning the importance of the new administrative division into vilayet, *liva* and district and the establishment of village councils of elders.⁵

The consolidation of formal administration in 'Ajlun dates to the years 1866–71 when the reformer Mehmet Reşid Pasha held the post of vali in Damascus. In 1867 a police presence was established in the area of al-Balqa to the south of 'Ajlun, and the rudiments of formal administration were established in Salt, the *chef-lieu* of a new kaza, enveloping 'Ajlun in the grid of formal Ottoman administration.⁶ In the first 1868 yearbook of the province of Syria, the administrators of 'Ajlun district were given as a kaimakam, his deputy and a mufti. Officials of the *tapu* land administration were listed – a chief scribe and two assistants – as common

to the three districts of 'Ajlun, Qunaitra and Hauran.⁷ The only other information in the yearbook concerning 'Ajlun was that the *nahiyes* of Saru, Kafarat, Bani Juhma, Bani 'Ubayd, al-Kura and Jabal Mi'rad were under the direct administration of the kaimakam.⁸ At that time, the *nahiye* of Jabal Mi'rad included both the region of Jabal 'Ajlun and that of Suf. Later, after Circassian settlement in Jarash, the two would come to be divided.⁹ In 1869 the civil members of the administrative council, the body with responsibility for tax matters in the district, were two major rural leaders, Yusuf al-Sharaida of Tibna of the Kura sub-district and Hasan Barakat Fraihat of Kufrinja.¹⁰ Alongside them appears a Christian member, Khulaif al-Ghanma of the large plains village of al-Husn. And serving on the judicial council were members of other leading families: Ibrahim Sa'd al-Din of the Kafarat, Klaib al-'Azzam of the Wustiya, and Mahmud al-Musa perhaps of al-Husn.¹¹

Scholars have analysed the political structures in the district in terms of the relations of the indigenous leaders of the *nahiyes* with each other and the central government.¹² Yet, given the poverty of sources for the years before the late 1860s, an understanding of local political relations encounters the historiographic difficulty of imagining a decentralized informal system of government. It appears that the power of indigenous leaders who coordinated tax collection and dealt with financiers in Damascus and Tiberias did not extend much beyond their *nahiyes*. Furthermore, the economic resources commanded by leaders differed.

Another grey area concerns everyday relations between villagers and nomadic groups brokered by regional leaders. The Ottoman government cast itself as defender of cultivators against the predation of nomads.¹³ Retrospective history, such as the memoirs of the teacher and administrator Salih al-Tall of Irbid, also casts 'Ajlun's leaders as firmly combating the nomads. Yet, the movement of flocks and persons, notably across the Wadi al-'Arab and within the Jordan Valley, entailed trade, animal wealth and transport; hence, relations between leaders of the nomads and the villagers of al-Saru, al-Kafarat and al-Wustiya, are unlikely to have been marked solely by hostility.¹⁴ Just as the Ottoman state itself attempted both to buy the support of major nomadic sheikhs and to repress raiding and small-scale extortion of protection money, so, at times, local leaders also found common economic interest with the leaders of nomadic groups.¹⁵

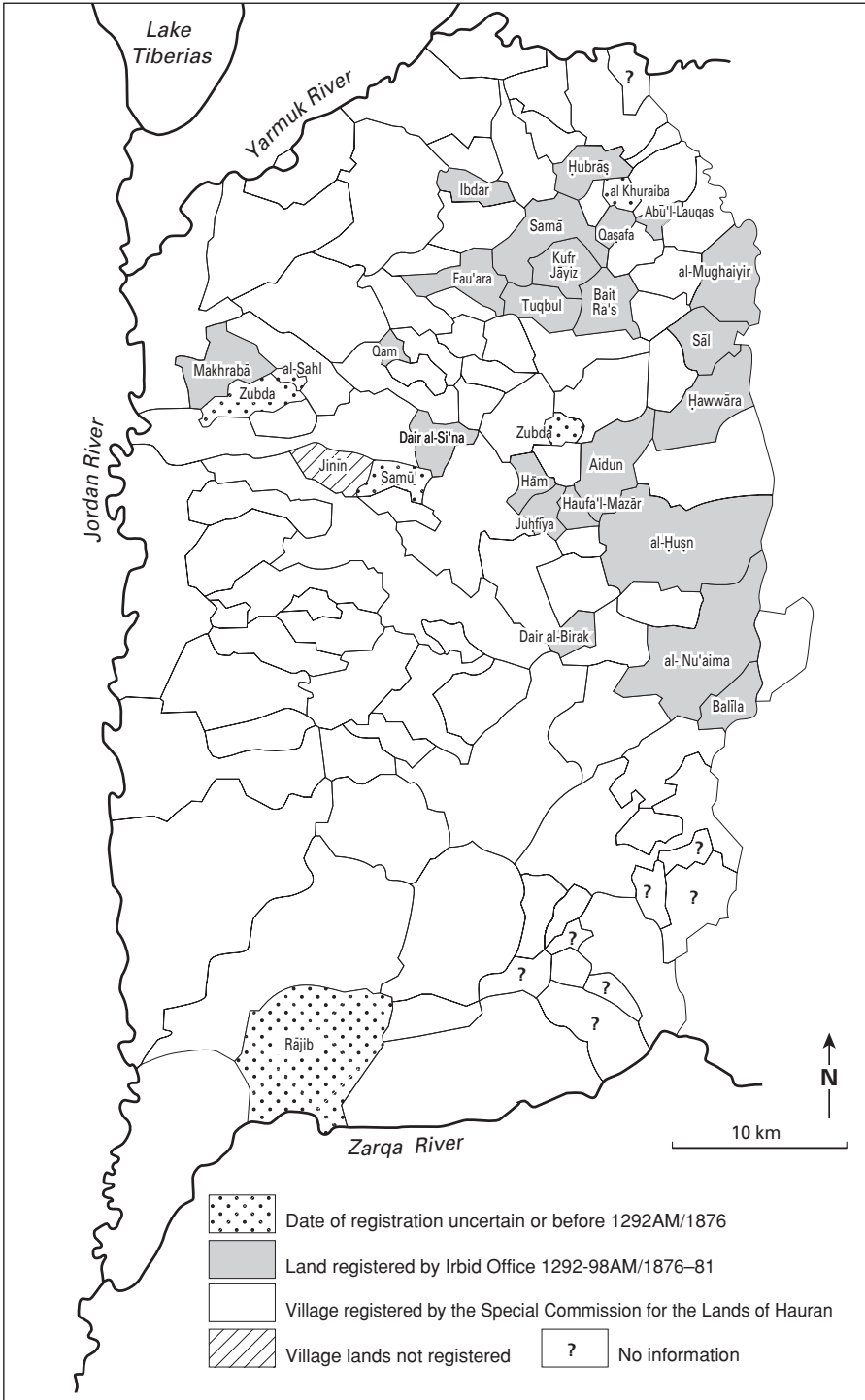
Lastly, even within a *nahiye* the influence of the leader or leading family did not extend equally across the villages. In every *nahiye* there was a large village or two that effectively governed itself, developing its own external relations and recognized leaders.¹⁶ Examples include Khirbat al-Wahadina and Fara in the Jabal 'Ajlun, Judaita in the Kura, Malka in the Kafarat, al-Mazar in the Bani 'Ubayd, and al-Taiba in the Wustiya. 'Ajlun district was ruled through a number of leaders not subject to a stable internal hierarchy; and although largely rural, it was not isolated from trade. Grain and lentils went to Damascus, Acre and Haifa; olive oil and dried fruit circulated both within the region and to Palestinian towns and Damascus; and animal production was sold in Palestinian towns and markets of the district. However obscure the details, cash tax payments appear to have been

mobilized between regional leaders and financiers in Damascus, Tiberias and Nazareth. Below regional leadership, village organization and leadership remained strong.¹⁷ It is this background that we need to bear in mind when considering the beginnings of property registration in the district.

The beginning of title registration

From 1868 there were three *tapu* officials in the Hauran *liva* headquarters. *Tapu* registers appear in Irbid, *chef-lieu* of ‘Ajlun, dated from 1876, although it is not certain whether a *tapu* scribe was formally appointed to the district before 1879.¹⁸ In a few cases land was registered before the opening of the Irbid office; from the time of the establishment of *tapu* offices at higher levels, the procedures and laws of the *Tanzimat* administration were being made known to the leaders and population in ‘Ajlun. The instructions for roll-call (*yoklama*) *tapu* registration, issued in December 1871 and published in an Arabic translation the following year, stated that an announcement of *yoklama* should be made to all villages and towns in the *liva*. Map 6.1 distinguishes between three phases of registration: the years before 1876 when one or two regional sheikhs (and the occasional Ottoman official) registered large areas of land – presumably by dealing with *liva* officials and the administrative council in Irbid; the years 1876–81 when land registry operations began in the district, and properties in a number of villages, most close to Irbid, were registered; and a principal phase (1882–86 and for the Bani Hasan 1888–89) when a Special Commission systematically registered *mülk*, *vakıf* and *miri* property rights throughout the remaining villages of the district.

Rajib in the Jabal ‘Ajlun was among the earliest villages registered in 1872.¹⁹ Its lands were registered in the name of Hasan Barakat, the major leader of the Jabal ‘Ajlun who, according to the provincial yearbooks served on the administrative council of ‘Ajlun in 1869, 1878, 1881 and 1883.²⁰ Hasan Barakat enjoyed direct relations with financial officials.²¹ The history of registration of the three other villages or areas registered prior to 1876 is obscure. Hanna Farkuh, treasurer of the district from 1866, may have registered his acquisition of the area of Zubdat Farkuh in the early 1870s before the Irbid registers were inaugurated.²² The other two villages, Samu‘ and Zubdat al-Wustiya (along with *mezraa* al-Sahl), remain something of a mystery. There are no entries save a few individual plots of a Zubda registered in 1876 by *bedel-i misl* (i.e. the higher rate due when cultivation could not be proved for the ten previous years).²³ Land in these two villages may also have been registered before 1876; the owners appear not to be ordinary cultivators but Ottoman officials or regional sheikhs who later ceded land against debts to Damascene money-lenders in a manner reminiscent of Rajib.²⁴ Lastly, in the case of Jinin al-Safa’, although the houses of the village were registered, the land was not; the Mandate cadastral file indicates that the villagers refused to pay the fees to the land registry and so their lands remained without formal registration until the 1930s.²⁵



Map 6.1 Registration of villages

Yoklama registration

In 1871 instructions were issued requiring a roll-call (*yoklama*) to be carried out in each village as part of *tapu* registration, presumably to prevent powerful figures registering the land of others.²⁶ This does not appear to have been done in villages registered before 1876, but after that, *yoklama* procedures were in effect, although not always followed to the letter. *Yoklama* required the following procedure. Once a village had been given notice, the *tapu* scribe would seek a list of the souls of the village and any list of property (*tahrir-i emlak*) compiled for the tax office. A council was to be formed of the imam or priest, the *muhtar/s*, the village elected elders and two or three respected persons. The council so formed was responsible for declaring all abandoned or undeclared lands; should its members conceal anything, they would be held responsible. The council was to call persons in the order that their names appeared in the list of souls (*nüfus*).²⁷ If registration of property had been done for the tax office, then persons were asked for the receipts of payment of *vergi* tax and other documents relating to the property. If *tahrir-i emlak* had not yet been done, then all holdings were to be investigated and made clear, with plots defined one by one with the location, boundaries, *dönüm* area, and name of usufructuary holder (*mutasarrıf*) listed and attested to by the council. The instructions specified the fees for registration. A copy of the record was then to be sent to the district headquarters. Fees were to be paid within a month, the headman and village council being responsible for collecting payment and distributing temporary documents. A copy of these records then went to the *liva* where the deputy director of the registry was to check the documents to see if anything was at variance with the regulations. In due course, titles crowned by the imperial signature (*tuğralı senet*) were to be given to all holders. Some months later the *yoklama* official was to check again, verifying that no lands had remained undeclared in the village.²⁸

In the first village registered, al-Nu‘aima, the *yoklama* appears to have been done by the rule book.²⁹ Al-Nu‘aima had close relations with the central authorities, perhaps the reason it was the first village to be registered and registration was done in the manner dictated by the government.³⁰ Dated 12 September 1876 the registration is unique in not being entered on a printed form and in both attestations being in Arabic, not Turkish.³¹ The register for al-Nu‘aima lists all the plots in each holding separately, noting their boundaries, size and value. At the end of each holding is given the combined total value of the plots and the amount of *tapu* fees collected. With such detail it is possible to reconstruct the layout of strips of different holders within a single block of land. The number of plots per holder range from a high of 27 to a low of 10 plots. In spite of the specification of size and location of plots, a flat rate per *dunum* (ten *ghurush* per *dunum*) was set for all lands of the village. This flat valuation of all village lands corresponds to another logic discernible underneath the welter of entries for al-Nu‘aima.³² Oral history indicates that the land of al-Nu‘aima was divided into four quarters (*rub‘*). The number of plots per holder in the first quarter range from 27 to 23 (the high figure probably reflecting the sheikh’s privilege);

in the second from 22 to 24; in the third from 10 to 17; and in the fourth 24 plots per holder. This suggests that the unit organizing the physical distribution of land between holders was the quarter, not the village as a whole.³³ Behind the elaborate registration in individual plots lay division of village lands into sub-sections and shares.

The next series of entries, dated September 1876, of the agricultural lands of nearby Aidun village presents roughly the same structure – each holder has ten plots, the borders and area of which are individually defined – but in this case the printed form was used.³⁴ The bulk of the agricultural land of both al-Nu‘aima and Aidun lies in the plains; yet the registration of their lands was completely individualized from the outset; and all subsequent transactions refer back to the initial, individualized registers as baseline. The form of the representation of property, as a series of individual plots on the ground, was in keeping with the instructions of the *Tapu Nizamnamesi*. It was not, however, to be followed in the next plains village registered, Hawwara.

Registered in November 1876, Hawwara marks a break with the form respected in Nu‘aima and Aidun. In Hawwara an owner holds not plots delineated with borders on the ground but a share in the village lands: these are described as three large blocks, each divided into 46½ shares. Holdings are listed block by block with the names of shareholders repeated in the same order under each of the three blocks. Furthermore, the 46½ shares are distributed between 31 holders in a strikingly regular and egalitarian pattern: 12 holdings of one share, seven of 1½ shares, and 12 of 2 shares. Almost all holdings are in the names of individuals: of the 31 holdings only two have the names of two men, in both cases two brothers. Lastly, there are 11 different family names among the 17 holdings for which patronymics are given: this is in no sense a ‘clan village’. Unlike the landholders of al-Nu‘aima and Aidun, those of Hawwara had to pay *bedel-i misl*, not the lower *harç-ı mutat* applicable when cultivators could prove that they held *hakk-ı karar*, and in fact the rates actually paid by people of Hawwara appear to be almost double the 10 per cent of value stipulated by the Code for *bedel-i misl*. The payment of *bedel-i misl* is explained in the register by the statement provided as part of the village attestation: ‘In this register are written the names of 31 persons (*nefer*), farmers of long standing among whom ploughing and cultivation (*ziraat ve filahat*) have always been joint; the distribution has been made justly.’³⁵ The legal basis on which land could have been so registered, as shares but not as plots individually defined in space, was joint usufructuary possession (*bil-iştirak-i tasarruf*), the acknowledgement of such an interpretation being the phrase occasionally written in the final comments column of the register against certain entries, ‘*müşâ*’, i.e. ‘in indivision’, or against the share transacted, ‘*hisse-i şayia*’, ‘a share in indivision’.³⁶

Hawwara’s registration raises questions about both the person who holds the legal *tapu* right and the object of right, the share. At first glance the structure of entries appears to reflect equality among cultivators for whom ‘ploughing and cultivation have always been joint’.

The registration of Hawwara was, however, not as straightforward as the validating statement might lead us to believe. A battle for land in the village had been fought not only at the level of the vilayet but right up to the Porte. This is truly exceptional for villages of the area. Only one of many documents concerning the conflict over rights to land in Hawwara could be traced, although the passage of other documents was logged in the register of correspondence between the vilayet and the Porte. The document, undated but entered in the Şura-yı Devlet files on 18 November 1875, was signed by the collective *persona*, ‘the people of long standing of the village of Hawwara’. It reads:³⁷

To the presence of His Majesty the Great Giver of Blessings

To the presence of our Lord the majestic, awesome, just, mighty, sovereign, protector of the world

To the blessed royal Presence adorned by conquest, may the order be given forever, continuous, absolute, crushing the authors of injustice –

we His servants, people from on old of Hawwara village in the kaza of ‘Ajlun in the sanjak of Hauran of the lofty vilayet of Suriye who have paid in full and without delay all land taxes and other impositions and who pray unfailingly for the Sovereign –

the *mutasarıf* known as Sa‘id Efendi³⁸ imposing on us Ibrahim Na‘il of the people of Jumha village together with seven or eight of his companions, appointing him sheikh and dismissing our sheikh ‘Abdullah,³⁹ taking and dividing the thirty *çapanlık*⁴⁰ and *feddans* of our land which we had ploughed and cultivated, and driving our children from their homes – we stayed out in the open for more than ten months in the harshness of winter and summer. And although after more than thirty appeals imploring grace and mercy, at the time of the Sovereign’s servants Pashas Halid and Hamdi⁴¹ attention had begun to be turned to acquire information from the locality and to establish right, the injustices of the two persons Kurd Yusuf Bey⁴² and Jabra Ispir⁴³ of the Administrative Council being known to the baleful above mentioned sheikh Na‘il,⁴⁴ they disturbed the thoughts of the above mentioned two valis – the order having been given by dispatches and telegraphs to consult and to decree a rectification of the matter – not listening, not releasing from their hands the reins of oppression and injustice, and accordingly not acting to confirm the Sultan’s order and will. So while this is the time of a noble victory of justice and devotion, they stay in the valley of rebellion and wrongdoing, decidedly not following the path of justice and right and not been held accountable by the valis; thus we have remained in the crisis of injustice even after [the matter] had been brought to Your imperial attention.

Verily today in the ordered rule of our Sovereign, if an imperial command is given to effect the lofty sovereign judgement to return to his servants our usurped lands and houses from the above mentioned persons, in this way let His will and decree – our sovereign lord protector of the world – be done.

His servants, people from on old of the village of Hawwara in the kaza of ‘Ajlun of the sanjak of Hauran in the lofty vilayet of Suriye.

The complaint to Istanbul by the villagers of Hawwara was that, as a result of influence in government circles, an outsider and his associates imposed themselves on long-standing cultivators. It was a complaint of false representation; the phrases praising a government initiative to establish facts on the ground are of note. A second issue was the basis on which villagers were to obtain title, by long-standing tenure and payment of tax (*hakk-ı karar*) or not (*bedel-i misl*).

According to this complaint Na'il Ibrahim al-Gharaiba had been recognized as the sheikh responsible for tax payments in the village and had attempted, perhaps with a view to acquiring *tapu* rights to land, to dispossess a number of the other cultivators of their rights to plough land.

Hawwara boasts fine soil for the growing of wheat and lentils, both commercial products. Today in the village the remains can still be seen of two vast compounds, each with a reception divan, dwelling and agricultural storage rooms – that of Na'il Ibrahim and his brothers and that of 'Abdullah Ahmad Abu Kirsanna. These were powerful commercial agricultural compound households. The *şikayet* makes it clear that through commercial networks sheikh Na'il possessed contacts not only with the *mutasarrıf* but also with others, presumably engaged in the grain trade, who belonged to the political and economic elite of Damascus. Once the complaint reached the Porte, however, it appears to have succeeded in opening an investigation into the matter. Unfortunately the only source for the unfolding of the case is the log of correspondence with the vilayet.⁴⁵ The details of the decision are thus unknown; what is clear from the *tapu* registration is that sheikh Na'il was denied any share in the land but equally that the village had to pay *bedel-i misl*, 'Abdullah Ahmad's request for *hakk-ı karar* having been apparently refused. In Chapter 9 we shall analyse the character of Hawwara's registration and the consequences inside the village of the costly legal contest.

Given this background, where control over land had been successfully challenged in the months just before registration, it would have proved difficult to define plots on the ground for the holders.⁴⁶ Thus the cultivators' logic of distributing land by shares, expressed in terms of ploughs (*faddans*), was accepted by the *tapu* registrar. This appears to have provided a legal precedent, for, as we shall see, land in many villages of the region was thereafter also to be registered as shares.

Registration of land in shares

To understand the relation between earlier systems of recording and *tapu* registration of land in shares we may turn to a few original documents submitted in the course of the registration of the village of Makhraba a few years later. Exceptionally we find bound into the registers of the *tapu* register three documents: a statement concerning the village drawn up by local authorities; a note from the *tapu* scribe to the finance director of 'Ajlun; and the response from the finance director.⁴⁷ In the case of Makhraba the attestations by local headmen appear to have taken the place of *yoklama* procedures. Makhraba, unlike Hawwara, was a small village where land rights were not obviously the object of contest.

As can be seen from Figure 6.1, the first document, undated and in Arabic, is inscribed within a rectangle. In the middle of each side is a description of a landmark or name of the adjoining village at the respective point of the compass. The text within the triangle starts with a list of 14 names (13 men, 1 woman) arranged into 10 clusters, beginning with the efendi. It ends with the words, '13 persons (*anfar*)'. Following this are two statements each stamped by the same three authorities who attest the landmarks of the village borders. The first reads:

The persons whose names appear above number 13 persons, all people of the village of Makhraba of the 'Ajlun district. For more than ten years they have been farmers in their village, ploughing and sowing the lands which they hold in occupancy possession (*bi-wad' al-yad*) and for which they hold rights by *haqq al-qarar*, without any opposition or contest. As people of the vicinity of the village, who know the truth of these things, we have given this testimony to the *tabu* official.

The second statement concerns the value and area of the village lands:

In accordance with the request of the 'Ajlun district *tabu* scribe to those humble

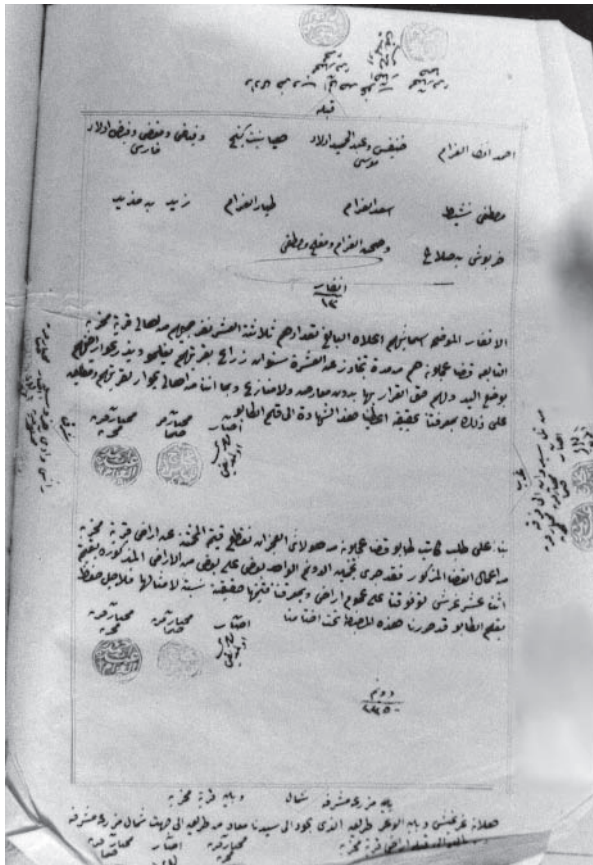


Figure 6.1 Arabic document concerning the lands of the village of Makhraba

souls [i.e. those listed above], we fix (*naqta'*) the estimated value of the lands of the village of Makhraba, which belongs to the fiscal administration of the above mentioned district. The *dunum* is evaluated at 12 *ghurush* on average. We toured all the land and on the basis of our knowledge of its true value, in line with similar [land], we drew up this document under our seals to be kept in the *tabu* registry.

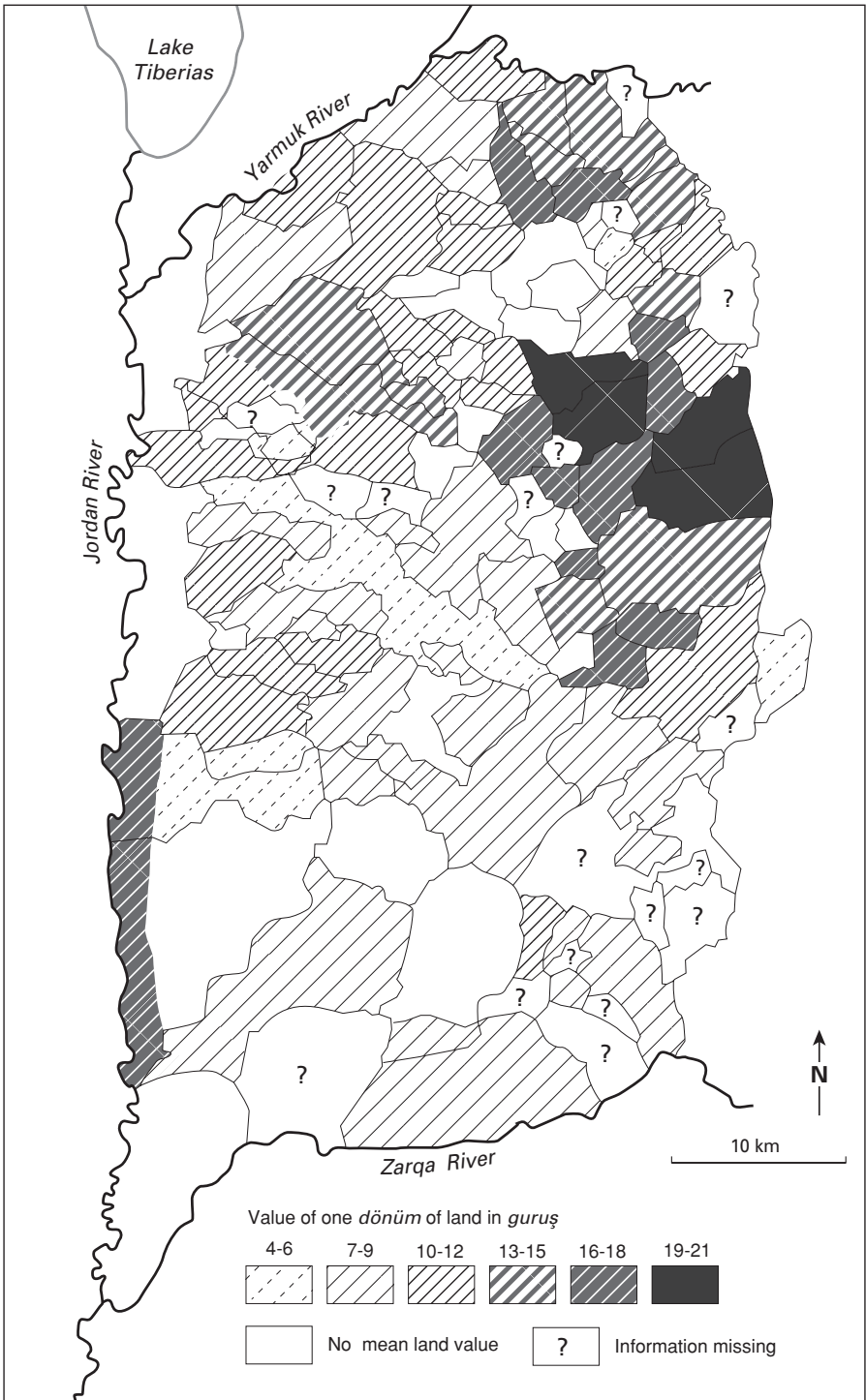
Both statements are attested by Ahmad 'Abduh al-'Azzam, headman of Makhraba, by the headman of the neighbouring village of Samma, and by a third notable. Lastly the total number of *dunums* is given: 2,350 *dunums*.

The second document, in Turkish, is from the *tapu* scribe to the director of finance. He notes that the village is held by Ahmad Efendi al-'Azzam along with 12 other persons who enjoy actual possession; that the testimony from the vicinity grants them rights by *hakk-ı karar*; and that since all previous taxes appear to have been paid, he is granting them provisional title documents on the basis of right acquired by *hakk-ı karar*.

In a third document the director of finance writes back in Arabic noting that he finds the annual sum of property-value tax (*mal wirku*) for the village to be 500 *ghurush* and the sum paid in lieu of the tithe (*badal a'shar*) to be 800 *ghurush* as fixed in 1879–80; that the village has paid its fixed taxes (*mal*) every year since 1871–72, together with its tithe (*a'shar*) since 1879–80; and that there are no back taxes due.

This correspondence appears to reflect anterior administrative practice: the documents concern the village as a whole; the fiscal evaluation of land and the identification of right-holders rests with village headmen and regional leaders rather than with the elected village council of elders or a register of souls held by government officials; the village contains both persons and lands described to the state official but without definition of the internal allocation of land to persons;⁴⁸ and the fiscal value of land is fixed as an average across all lands of the village. It was common fiscal practice in many villages that the lands be assigned a single value. See Map 6.2 where land values deriving from the *tapu* registers are mapped by villages of the region.

So what did *tapu* registration change in the case of Makhraba? *Tapu* registration proceeded to assign shares in the single block of village land. In the *yoklama* register the land appears divided into nine shares of land held by ten sets of holders: two with two shares, one with $1\frac{1}{8}$, one with $\frac{3}{4}$, one with $\frac{5}{8}$, four with $\frac{1}{2}$, and one with $\frac{1}{4}$. Ahmad Efendi al-'Azzam held two shares and together with two other 'Azzams, $3\frac{1}{4}$ shares altogether out of nine shares of the village land; quite exceptionally a woman, Haya daughter of a sheikh (the word usually indicates a religious figure of a Sufi order when it appears in the registers) held $\frac{1}{2}$ share. *Tapu* registration thus defined the number of shares and their distribution between individuals. Registration in shares meant that many of the practices of periodic land redistribution were able to continue within villages. And shareholding forms of representing and managing village land were not



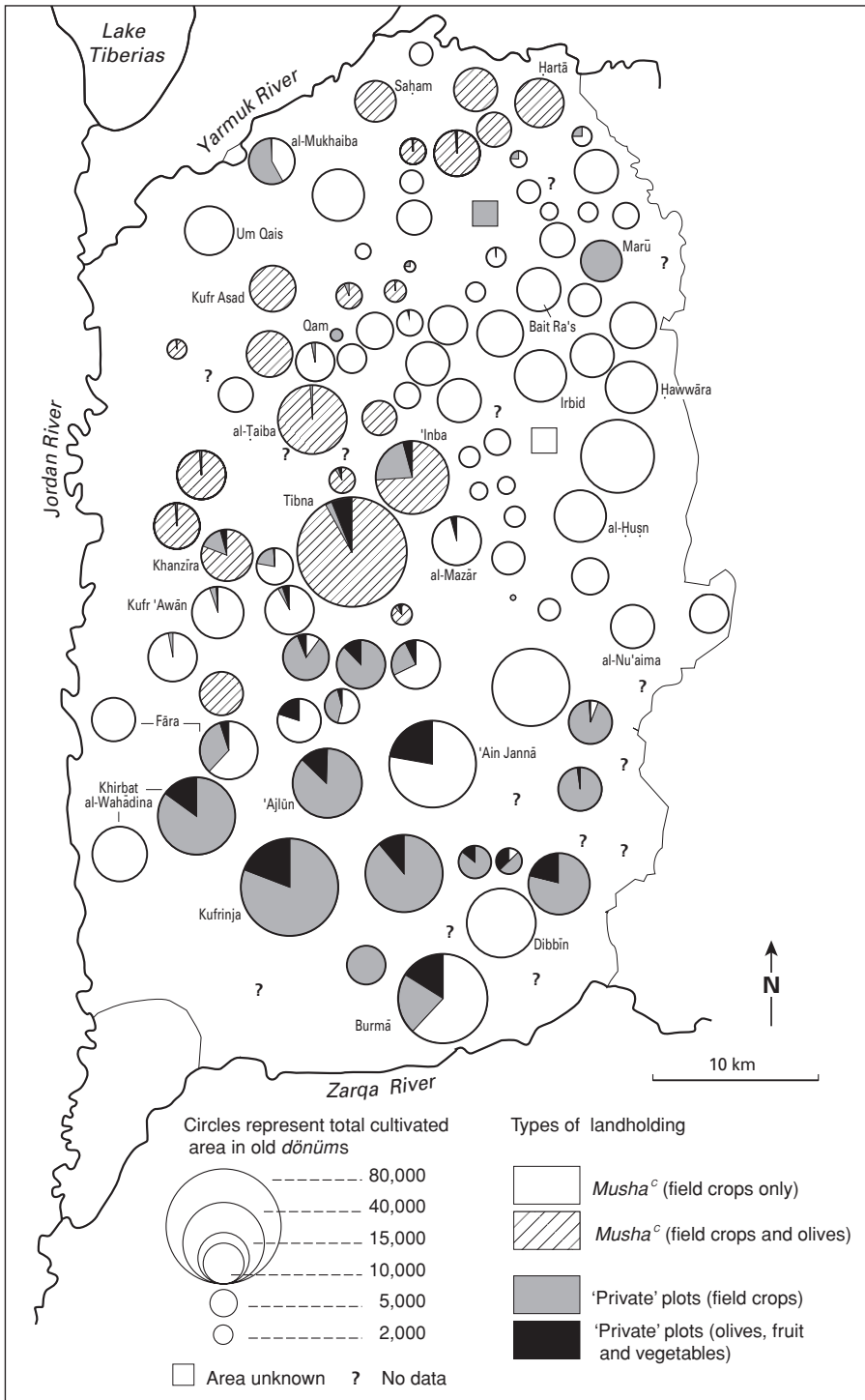
Map 6.2 Land values

restricted to plough agriculture of the plains but were also found in some areas of olive cultivation. While shareholding systems were more common in plains agriculture than in the mountains, we should approach the forms of holding as a continuum rather than a dichotomy; many villages with a mixture of forms lie, so to speak, in the middle. See Map 6.3.⁴⁹

Shareholding is an idiom that covered quite different practical relations in agriculture across the region; it was also an idiom well understood by the political authority of the fisc. *Tapu* registration was not a trigonometric survey mapping all land within village borders; it was a listing of property for which titles were given. The fees charged for the registration of land in the *tapu* were calculated as a percentage of land value, 5 per cent in the case of registration by the basic *hakk-ı karar*. In villages where shareholding systems predominated, but also occasionally where individuated plots did so, the valuation of land was done at the level of the village: in a given village the *dönüm* of rain-fed land was evaluated at a single rate. Since the quality of land might vary drastically within a village, variation was evened out internally by the system of allotment to shareholders to ensure that a unit share represented an equivalent holding of land. A share entitled its holder to land equal in value overall and imposed on him the duty to pay that portion of the tax. This manner of thinking of relations to land was bound up historically with block imposition of tax on the village as a whole.⁵⁰

Makhraba's registration rests on direct relations between the administration and regional leaders and, perhaps, some limited verification by the *tapu* scribe of the distribution of shares in the village. One would find it hard to say that the registration of this small village had followed *yoklama* procedures to the letter. Ahmad Efendi al-'Azzam, who here provides information for the registration of title in Makhraba, served at this time (1878–80) as one of the four elected members on the judicial council (*meclis-i deavi*) of the district.⁵¹ In the *Tanzimat* reforms, the judicial council, which from 1879 became the court of first instance (*bidayet mahkemesi*), was responsible for all cases concerning *miri* land, criminal issues and most commercial matters.⁵² The judicial council was thus a body that had jurisdiction over property and criminal matters, becoming increasingly professional over the years, and that served as a place of education in the new legislation for locally elected members.

In the villages registered between 1876 and 1881 several patterns may be discerned. In a few substantial villages where leaders had little difficulty in proving ten years' continuous cultivation and tax payment, notably, Nu'aima, Aidun and al-Husn, the administrators, working closely with established village leadership, followed the rule book for *yoklama* registration. In other villages, Hawwara and Bait Ra's, the registration reveals anomalies suggesting that the establishment of right was more difficult. Thus, whereas in Hawwara cultivators had to pay extraordinarily high rates for registration by *bedel-i misl*, in the smaller village of Bait Ra's six of the 30 shares of land granted by *hakk-ı karar* were registered as held collectively. Chapter 9 will explore the contests over village leadership and rights to land in these two villages. It was perhaps such contests that prompted



Map 6.3 Type of landholding

these villages to register land. Although Hawwara was not alone in paying *bedel-i misl*, it was by far the richest village to do so. Sal, Tuqbul, Kufr Jayiz and *mezraas* Qasafa, Haufa al-Mazar and Dair al-Birak all paid *bedel-i misl*. In a number of other villages registered by *hakk-ı karar*, notably Hubras, Fau'ara and *mezraa* Zubda, the rates charged appear excessive: perhaps back taxes were also bundled into the total when land registration occurred. Lastly in the zone of poor land and irregular cultivation of Fau'ara, Kufr Jayiz, Tuqbul and Sama just north of Irbid, crossed by the Bani Sakhr when moving their flocks down towards the Jordan Valley, regional leaders may have sought to have their claims to land recognized. This was certainly the case of Juhfiya, described as a *mezraa* of Fau'ara, on which exceptionally the full auction price was paid, and of Sama which appears as a kind of agricultural project into which ploughmen were brought.⁵³ Muflih Efendi al-Zamil was at the time the major leader in al-Saru *nahiye*.⁵⁴

Several other villages registered before the arrival of the Special Commission likewise belong to prominent leaders. The village of Hubras registered in December 1876 was similarly a development by the dominant line of leaders of the Kafarat *nahiye*, the Sa'd al-Din line of al-Rafid.⁵⁵ Finally, land was registered in the *mezraa* of Dair al-Birak in the name of five brothers from al-Husn, Jabr Efendi 'Abd al-Rahman Ka'id, a member of the administrative council, and his four brothers Sa'id, 'Ali, Talla' and Funaish, the last a headman of al-Husn. In the subsequent registration of al-Husn's lands these same brothers held the largest share, three out of a total of 74 shares in ten major plots. But unlike their position in al-Husn where the brothers appear at the head of the list among many others, in the *mezraa* of Dair al-Birak, they register a total of 374 old *dönüms* in exclusive ownership.

The registration of these early years reveals divergent patterns: a few substantial villages near Irbid where powerful village leadership effected registration reflecting actual holding patterns; two or three villages where acute intra-village conflict appears to have prompted somewhat anomalous forms of registration; and a more important number of villages or *mezraas* where regional leaders established majority or even exclusive rights, often by paying high fees. Several of these were in zones of poorer lands across which passed nomadic groups. Reading between the lines of the register, one senses the negotiation of leaders of *nahiyes* and major villages with district administrators. Insight into these relations of political administration can be had from a different source. In 1878–79, for just over a year, the governor (kaimakam) of 'Ajlun was an official named Da'ud 'Abbada. A number of the leaders we have just met, joined by others, accused the governor and the treasurer of demanding bribes, leading to a lengthy prosecution, the *procès-verbal* of which was communicated to the central administration in Istanbul. The theatre of regional political life hidden in this *procès-verbal* forms the subject of the next chapter.

7 | Regional leadership and the prosecution of a governor

Background to the case

In his memoirs Salih al-Tall reports that the first governor of 'Ajlun district was Da'ud 'Abbada.¹ In fact there were governors in both 'Ajlun and Salt for more than a decade before 'Abbada's appointment to the post in 1877–78.² But Da'ud 'Abbada's time in the post was indeed memorable. As an official who invoked the vali of his day, the major reform statesman Midhat Pasha, and as a graduate of the College of Arts (*mekteb-i fünun*) with over a quarter of a century's experience in government service, 'Abbada appears to have been a forceful administrator.³ Along with the treasurer, another Damascene, Jurji Qabawat, he came to be prosecuted on charges of taking bribes. The claimants represented a veritable cross-section of village and regional leaders. As the secretary of the district Antun Siyur observed, 'the meetings held to achieve their appointment to [council] memberships and honorific directorships [of *nahiyes*] resembled a kind of general revolt'.⁴

The matter was a little more complex than Siyur's succinct description. The case pitting members of the two major councils against the governor came at a time when the vali Midhat Pasha lamented to the Porte that 'the conditions and public procedures of the councils and courts were extremely corrupt and disordered' and that new elections were in order.⁵ The case came against a background of troubles the year before 'Abbada's appointment when a number of villages of the 'Ajlun mountains refused to pay their taxes.⁶ 'Abbada's tenure as governor saw the introduction of tax reforms associated with land registration, which entailed bypassing regional leaders and negotiating directly with village authorities and cultivators.⁷ It is this aspect of the conflict that concerns us, but first a word about the basic outline of the case.

In the latter part of the tenure of Da'ud 'Abbada the *mutasarrif* of the Hauran, Shihabizade Salim Bey Efendi, together with his brother Najib Bey (or as he is called elsewhere, Mir Najib), came to the district to confirm the appointment of directors (*müdürs*) to several *nahiyes* and members to the administrative council and court of first instance, and to examine certain aspects of tax reform and *tapu* registration.⁸ During this time, in collaboration with Jurji Qabawat, Da'ud 'Abbada demanded substantial payments from local leaders appointed. When it was learned a few months later that the governor was to be transferred to the less important neighbouring district of Qunaitra, two of the subsequent claimants, members of the administrative council, Muhammad al-Mutlaq of al-Bariha village and Jabr 'Abd al-Rahman of al-Husn, followed the governor to the Hauran sanjak headquarters where, according to their testimony, 'Abbada promised that if they

returned to Irbid they would be repaid the money by Isma‘il Agha. This they did, and on Da‘ud ‘Abbada’s return to Irbid, they assembled with others before the government building demanding repayment. ‘Abbada then gathered his fellow employees, each of whom placed his stamp on the document below.⁹

At the time when the former *mutasarrif* of Hauran Shihabizade Salim Bey came to the *chef-lieu* of ‘Ajlun district, following the order to appoint honorific directors from the headmen and respected persons (*muteberan*), to confirm orders [of appointment] given to members following their election, and to take action with the *tapu* officials touring in the villages, as part of intervention into the affairs of the tax-payers, the notables and distinguished persons of ‘Ajlun district came together [taking a stand] against the government, issuing a statement that they wanted the money wrongfully taken from them by the above mentioned Salim Bey. This document, in the possession of the above mentioned notables [Jabr al-‘Abd al-Rahman, Muhammad Hamud and Muhammad al-Mutlaq], is to affirm that we undertake to disclose the truth, if asked about the circumstances, in a manner that will hide nothing and reveal the true conditions of all, since the important figures of the district have decided to lodge a complaint at the requisite place.

23 Teşrinisani 1295

Scribe of the court of first instance	<i>Katib-i tahrirat</i> Antun Sabur	Finance director Musa Shalhub	‘Ajlun Kaimakam Da‘ud ‘Abbada
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In this, ‘Abbada gave formal notice that the leaders’ claim should be against the *mutasarrif*, not himself, and that all sums received had been extorted on the request of Salim Bey.¹⁰ ‘Abbada thus became party to the case against Salim Bey. ‘Abbada then instructed the claimants to proceed to a particular house in Damascus and to open their claim before the vilayet administration. Instead, the claimants followed Da‘ud ‘Abbada to Qunaitra where they lodged the case before Salim Bey himself. Properly, such a case should have been judged by a public prosecutor appointed by the administrative council of the province. But, arguing that as it was winter the people of the district could not travel or stay in the cold far from home, the investigators obliged Da‘ud ‘Abbada to return to Irbid. The investigation continued in Irbid in spite of a telegram from the province ordering the case to be transferred to Damascus. Two investigators (*memur-i tehkik*) and the succeeding governor of ‘Ajlun signed the legal *procès-verbal*, but no public prosecutor was ever appointed.

The depositions

The depositions open with that of Hasan al-Sabbah; he states that he is the headman of the village of Bait Ra’s and accuses the governor of having threatened to expel him from his post as headman and from his home in the village.¹¹ Da‘ud ‘Abbada responds by demanding written proof of al-Sabbah’s appointment as headman, which would have passed through the administrative council. ‘Abbada states that he knows al-Sabbah not as headman but as someone he has twice

encountered with others in connection with ‘digging up buried objects’. The village of Bait Ra’s stands astride the Hellenistic and Umayyad site of Capitolias; after the issuance of an antiquities law in 1874 the Ottoman administration was concerned to have the claims of the state to antiquities respected and Da’ud ‘Abbada appears to have played his part in that regard.¹²

A fortnight later Hasan al-Sabbah is recalled and questioned more intensively.¹³ He fails to produce written documentation of his appointment as headman. Although he acknowledges that a headman is elected by the people of the village, not simply appointed by the state, he defends his surprising statement that if a headman is dismissed from his post, he is expelled from the house where he lives, maintaining that this is ‘a custom’ of their villages. But in the course of al-Sabbah’s testimony it appears that another man from the neighbouring village of Hakama was also claiming the office of headman and that al-Sabbah had run foul of Da’ud ‘Abbada concerning his right to hold land in Bait Ra’s by *hakk-ı karar*. We shall return to *tapu* registration in Bait Ra’s in Chapter 9, but a word is due concerning what the court case indicates about *tapu* registration in 1878–79.

The *Tanzimat* reforms invited regional leaders to serve as elected officers for two-year terms on formal juridical and administrative bodies, and recast village government into the form of an elected council of elders (*ihdiyâr heyeti*) and of a headman with notary and administrative responsibilities. All of these legal *personae* appear in the statements that certify the award of *tapu* right in the registers of title kept in the district headquarters. During the years in question, there were two basic statements attesting the entries for a village: one from the village level and the second at the level of the administrative council of the district.¹⁴ Attestation (*tasdik*) to title provides a chart of the legal *personae* whose relations frame property. This said, the statements in the register would suggest that the *yoklama* scribe worked alone in these years. The depositions in the court case reveal, however, that in 1878–79 the higher-level signatories on the administrative council and other officials in the *tapu* administration were more directly involved on the ground than the registers might lead us to believe.

Da’ud ‘Abbada counters Hasan al-Sabbah’s claims concerning the office of headman by saying that he had opposed the granting of land rights to al-Sabbah and his group by *hakk-ı karar* since the latter were outsiders (*yabancı*) to the village.¹⁵ He notes that he had refused verbally the registration done by an official named ‘Ajaj Bey who, he implies, had recognized their rights to land by *hakk-ı karar*. Because of his objection, the register was not transmitted to the administrative council. Da’ud ‘Abbada thus implies that his own refusal of the award of land right to al-Sabbah was the true cause of al-Sabbah’s hostility.

At the time the *tapu* officials in the village appear to be an official named ‘Ajaj Bey and the *tapu* scribe of the district Mikha’il Bahri.¹⁶ Asked about ‘Ajaj Bey, Mikha’il Bahri states that he is uncertain as to whether the latter had been a *yoklama* or a *tapu* scribe. Mikha’il Bahri states that when the *mutasarraf* Salim Bey came to the district, an order came from the *tapu* inspector of the vilayet to hand over all papers and registers to the Hauran *tapu* office, from which ‘Abd

al-Fattah Efendi had come to the district. Salim Bey then gave an order to 'Abd al-Fattah Efendi, stipulating that Mikha'il Bahri continue with 'Ajaj Bey so as to fill out the tables and documents and that he be rewarded with 2 per cent of the fees collected. Thus, 'Abd al-Fattah having returned to the Hauran headquarters, Mikha'il Bahri toured the two villages of Bait Ra's and Kufr Jayiz with 'Ajaj Bey. But it was 'Ajaj Bey alone who completed the registration. Not being the formal official at the time, Mikha'il Bahri could not pronounce on the issue of the objection allegedly made by the governor. After four or five days with 'Ajaj Bey in the villages, Mikha'il Bahri had in any case been called to the provincial headquarters. He himself had been solely responsible for the registration only of al-Husn and Yubla villages.¹⁷

Da'ud 'Abbada confirms that he had opposed both the people associated with Hasan al-Sabbah and the registration as done by 'Ajaj Bey. But who was 'Ajaj Bey, whose stamp does not appear in the registers preserved in the Irbid *tapu* office? We learn from Jurji Qabawat that to apply the *tapu* rules in the villages, Salim Bey had appointed his cousin, 'Ajaj Bey. Asked whether 'Ajaj Bey functioned alone, Qabawat notes that touring the villages with him were 'Abd al-Fattah Efendi and the two council members Jabr al-'Abd Rahman and Muhammad al-Mutlaq.¹⁸ When asked why Salim Bey had become involved with the *tapu* registration, Jurji Qabawat noted that Salim Bey's cousin 'Ajaj, who had worked with the tax office, was being appointed to the *yoklama* scribal service.

'Abd al-Fattah, who at the time had come from Damascus to direct the registry (*defter-i hakani*) in the Hauran, is then questioned. He explains that Salim Bey instructed him to teach 'Ajaj Bey the principles of writing the *tapu*. Although he had asked for an assistant, none was provided. So he himself accompanied 'Ajaj Bey in the villages. The two toured the lands of al-Bariha and then Bushra villages, but 'Abd al-Fattah had to leave 'Ajaj Bey in al-Sarih village when he was summoned by the vali Sa'id Basha to the countryside of Muzairib further north in the Hauran. 'Abd al-Fattah later learned that the inspectorate was unhappy with 'Ajaj Bey and refused his permanent appointment.¹⁹

The depositions reveal that property registration was of interest to senior officials and to the higher-level *tapu* inspectorate, but that their interests did not always coincide. The acceptance of registration by the administrative council, in particular by the governor, was not simply a formal matter; and at this time a member of the administrative council, whether by appointment from the governor or out of his own interest, could accompany the *tapu* official on the tours of villages.

Tapu registration was a potentially lucrative and politically charged task of the administration. It entailed more than one contact with a village: a first step was definition of village borders, which entailed their recognition between villages, brokered by the administration.²⁰ A second step was identification of the holders of right: the case of the village of Bait Ra's reveals that this could be problematic when cultivators either lived in neighbouring villages or had entered the village as ploughmen but then established themselves. A third step was fixing the nature of

right, be it by *hakk-ı karar* or *bedel-i misl*. In Bait Ra's, Da'ud 'Abbada appears to have required that right be given only to residents of the village who could prove *hakk-ı karar* and not to cultivators living in neighbouring villages.

Identification of the object of right was itself dependent on local knowledge, the *tapu* official generally accepting the description of the object to which the shares of right-holders applied. The registers so produced were also checked by inspection teams from the *tapu* administration and signed off by the kaimakam and administrative council of the district. Lastly, given a shortage of trained officials during these years, officials were sent down from the sanjak or even the vilayet and called back to other jobs judged more pressing by the administration.

To return to the wider structure of the depositions against Da'ud 'Abbada, these offer a map of relations extending throughout the district with the notable exception of the Barakat Fraihat of Kufrinja in the Jabal 'Ajlun.²¹ The figures who testify next had all given recorded depositions presented to Da'ud 'Abbada for response: Muhammad al-Hamud of Aidun village elected as director of the Bani 'Ubayd *nahiye* claims that Da'ud 'Abbada demanded 65 liras for his appointment;²² Jabr al-'Abd al-Rahman from al-Husn village elected to the administrative council claims that he paid ten gold liras and wrote a pledge for another 32 liras for his post on the council;²³ and Muhammad Mutlaq Efendi of al-Bariha village claims that 'Abbada threatened to appoint Mahmud al-'Ali in his stead on the administrative council if he didn't pay fifty liras.²⁴ We have already met Jabr 'Abd al-Rahman and Muhammad al-Hamud accompanying the *tapu* scribe 'Ajaj Bey on his tours of villages. The government officials, Antun Siyur, Musa Shalhub and Mustafa Shamdin Agha, head of the police, as well as Da'ud 'Abbada and Jurji Qabawat, are all questioned about the payment of money for posts. So too were other headmen from the area who happened to be in the government buildings on business at the time that, the investigators charge, money was being paid to Da'ud 'Abbada and Salim Bey: 'Abd al-Rahman Taha headman of al-Nu'aima who stated that he went to the treasury office for official notices (*ilmühaber*); Muhammad al-Muflih headman of al-Mughaiyir who went to the Hauran headquarters in order to complain of the Bani Sakhr nomads (*urban*); and 'Ali Muhammad headman of al-Taiba village who went to the house of Jurji Qabawat to pay what was due in lieu of military service. All the depositions confirm that money was paid for posts during the time that Salim Bey – who had the authority to make appointments – was present in the district. The sums were substantial and all the leaders had to borrow to raise them, primarily from a trader named Ilyas Abu Sha'r. The treasurer Jurji Qabawat, who lodged in Abu Sha'r's house, on occasion drew up the promissory notes for the balance of the payment to be borrowed from his landlord. Towards the end of the recorded interrogations, in the 22nd session, 2 Şubat 1295/14 February 1880, Mazid al-'Azzam who was appointed to the court of first instance is questioned.²⁵ He denies having given any money for his post. Likewise Funaish 'Abd al-Rahman al-Kayid, brother of Jabr and headman of al-Husn, is pressed as to whether he paid money to secure his post. He too denies having paid anything.

After the series of sessions come individual depositions by four leaders: ‘Abd al-Qadir Sharaida of Tibna, Muflih al-Zamil Abu Ra’s of Sama, Sa’d al-Ibrahim representing his father Ibrahim Sa’d al-Din of al-Rafid, and ‘Ali al-Mindil of Suf. ‘Abd al-Qadir Sharaida charges that he had deposited the sum of 30 liras with Khulaif al-Ghanma of al-Husn for Da’ud ‘Abbada to influence positively the judgment concerning his claim to the lands of Ghaur al-Arba’in.²⁶ According to ‘Abd al-Qadir, these lands had been in the possession of the family for generations (*aban ‘an jadd*). Preliminary decisions concerning the case had come from the *liva* and the vilayet but at the time a final decision was still pending. Furthermore ‘Abd al-Qadir claims that Da’ud ‘Abbada demanded 35 liras to appoint him as director of the Kura *nabiye* but when he refused to pay this, ‘Abbada took the sum to appoint him to the seat on the administrative council for which ‘Abd al-Qadir had won the majority of the votes cast. This occurred when Salim Bey was in the district and thanks to loans arranged through Jurji Qabawat. Da’ud ‘Abbada dismisses all as fiction, but Khulaif Efendi al-Ghanma confirms that he paid the 30 liras related to the claim to Ghaur al-Arba’in to Da’ud Efendi. A decade later Ghaur al-Arba’in was to be appended to the imperial *çiftlik* of Baisan by order of the vilayet: the contest which ‘Abd al-Qadir Sharaida fought was of quite another order to that of the other leaders testifying.

Da’ud ‘Abbada rejects the accusations noting that the decision concerning Ghaur al-Arba’in was taken at the vilayet level and that concerning appointments to councils by the *mutasarrif*.²⁷

Muflih al-Zamil states that no order had come from the *liva* for his appointment, although at the time of the previous *mutasarrif* ‘Uthman Bey he had obtained a majority of the votes for membership on the court of first instance.²⁸ When Salim Bey was in Irbid, Da’ud ‘Abbada demanded 80 French liras to ensure his appointment. Muflih explains that at this time his son had been charged by the court. The court not being in session, Muflih himself was suddenly thrown into jail. Even so this did not destroy his reputation and people intervened; Salih al-Dalqamuni, a headman of Irbid, acted as his guarantor and he moved to the house of a man named Shahin in Irbid. In the morning Muflih was summoned and told that if he paid the 80 liras he would be released. He agreed, went to Tiberias to effect a sale to raise the money, and after paying, he was appointed to the court of first instance.

Both Jurji Qabawat and Da’ud Efendi reject the claims as pure fabrication, and the latter responds that it is well known that Muflih al-Zamil has been brutal with people and oppressive in tax collection. The reputation of the leaders of Saru *nabiye* for such acts has even reached the vilayet. Da’ud ‘Abbada adds that he has presented information concerning the reasons for the ruin of villages and the necessity of local government assistance in the form of lower taxes to redevelop the *nabiye*. As to the arrest of Muflih al-Zamil the governor states that the investigators should ask the police official of the court, there having been a complaint lodged against relatives of al-Zamil, a fact well known in the district. But when the investigating team asks the court for the interrogation

report (*istintakname*) in the case, the scribe of the court responds that ‘Abbada had taken the document when the *mutasarrif* was in Irbid. This ‘Abbada heatedly denies, but the document remains out of view. Decidedly unimpressive witnesses are produced by al-Zamil, whom ‘Abbada denounces as totally under the thumb of his accuser. Issues of land and tax management appear central in this case.

This is followed by a deposition (*arzuhal*) from one of the sheikhs of the Bani Hasan, Hamd al-Harmush, living in Zarqa, claiming that Da’ud ‘Abbada and Jurji Qabawat extorted 70 French liras from the tribe. The matter appears more complex since it arose following the abduction (perhaps elopement?) of two girls from Kufrinja. When the order came from the governor to return the girls, fighting broke out, and a number of the major sheikhs of the Bani Hasan were then seized by the police and put in jail. Two brothers of the principal leaders of the Jabal ‘Ajlun and al-Mi‘rad, Husain Barakat and ‘Attash al-Mindil, also intervened. Although the sheikhs wrote an appeal (*istirham*) the governor demanded 100 liras to release them. In their concluding remarks, the investigators state that Da’ud ‘Abbada imprisoned seven of the sheikhs of the Bani Hasan without a court order, threatened them and then demanded 100 liras, later reduced to 20 liras actually paid.²⁹ Given the gravity of the incident involving two girls where fighting had broken out, it is not clear that the action of the governor would have shocked his peers in the administration although it failed to respect to the letter the legal requirement of a court order.

The next deposition is from Sa’d Ibrahim Sa’d al-Din of al-Rafid on behalf of his father.³⁰ Sa’d al-Ibrahim had come with a written statement from his father to the effect that there had been two orders (*buyuruldu*), one concerning appointment as member on the administrative council and the other as director of al-Kafarat *nahiye* and that Da’ud ‘Abbada had demanded 64 French liras for appointment to the council membership. In the second session Ibrahim Sa’d al-Din himself then comes. He explains that he had come to Irbid on the fourth day of ‘*id al-fitr* together with other village headmen from the Kafarat *nahiye* to give his greetings to the governor; that he stayed on for two days in Irbid when the *mutasarrif* Salim Bey came and summoned the headmen ‘about the question of *tapu* and the modification and settlement of *emval-i miriye* taxes’.³¹ The issue of appointment to the court of first instance arose, and Da’ud ‘Abbada demanded 100 liras. Afraid of imprisonment and damage to his honour like that meted out to Muflih Abu Ra’s,³² Ibrahim Sa’d al-Din gave ‘Abbada 64 liras so as to protect ‘soul and honour’. In the third session he clarifies that after he had paid the money, he was called to Irbid, where ‘Abbada told him that the order had come from the *liva* and that he was now appointed director of the *nahiye*. After Salim Bey left, Da’ud ‘Abbada, Antun Siyur and Jurji Qabawat spent a night in Sa’d al-Din’s village, and the following day they all went to Hartha village where the order of his appointment as *müdiir* was formally read out to the assembled crowd.

The deposition is read out to Da’ud ‘Abbada who responds that the whole claim is without foundation and that he didn’t take a penny (*para*) from Ibrahim Sa’d al-Din. ‘Abbada counters that the claim is of a piece with the latter’s other

unacceptable acts: pretending to defend villagers but in fact deceiving them so that their claims would not be examined by the government; appointing and dismissing village headmen; and compelling the nomads not to give over the livestock taxes along with misappropriating taxes [rightfully] part of government revenue.³³ Just last year, ‘Abbada continues, the owners of livestock had drawn arms against the officials sent to count their flocks. Thereupon, an officer was sent with a detachment of soldiers and seized some of the livestock concealed [from the inspectors]. A report having been sent to the *mutasarrıfiye* and thence to the vilayet, an order came to sell the livestock, to cover the taxes due and to deposit the remainder in an account in the finance department. The report, ‘Abbada adds, makes it clear that no livestock inspectors had come to the *nahiye*. Every year people paid the livestock tax directly to Ibrahim Sa’d al-Din. A further report has been compiled on this, now in the hands of the finance director, Musa Efendi. Da’ud ‘Abbada closes his response by saying that, once the case against him is examined in Damascus, he will reveal more, the acts of sedition and aggression of some of the people of the *nahiye* being known in the vilayet.³⁴

The remainder of the investigation concerns witnesses proposed by Ibrahim Sa’d al-Din to the payment of the 64 liras; Ibrahim Sa’d al-Din states that he had prepared a complaint (*şikayet*) with Muflih Abu Ra’s to submit to Salim Bey. ‘Abbada responds that there are internal contradictions in the testimony and that if the document mentioned were found, it would not correspond to the dates of the events alleged.³⁵

The last document in the series of investigative reports concerns two figures, ‘Ali al-Mindil of Suf and Mahmud al-As‘ad of Kufr Yuba village.³⁶ Both claim that they paid money for appointment to posts of director, the first 3,500 *guruş* for al-Mi‘rad and the second 50 gold liras for Bani Juhma. When ‘Ali al-Mindil was asked what forced (*meçburiyet*) him to pay the money, given that he had been elected to the post, he responds that he feared the mistreatment and threats to which some of his friends had been subjected. He had been told to pay the money to Jurji Qabawat. Qabawat denies the claim as fabrication but notes that ‘Ali Mindil came asking for 3,500 *guruş*. He responded that it was tax money but ‘Ali Mindil had said to him: ‘No, that is Da’ud ‘Abbada’s money.’ ‘Ali al-Mindil left with the money but Qabawat does not know why. Antun Siyur is questioned: he notes that the governor appointed ‘Ali Mindil director of Mi‘rad *nahiye* by correspondence number 292 on 13.Za.1296/29 November 1879 and that the confirmation came back from the *mutasarrıfiye* on the 15th of the month.

Mahmud al-Hamud testifies that when Salim Bey came to appoint members to the council, Da’ud ‘Abbada had asked him for 50 gold liras. Mahmud al-Hamud had responded that he was not willing to abandon cultivation and sell his livestock to cover such a sum; this would ruin his house. Da’ud responded that Muhammad al-Mutlaq had paid 70 liras and that Mahmud al-Hamud should seek help from the people of the *nahiye*. There follow interrogations of Jurji Qabawat, Antun Siyur and a headman of Irbid, Qasim al-Hijazi. From these it appears that Mahmud al-Hamud had obtained the largest number of votes for the seat

on the administrative council, but as he could not produce the sum requested, the seat was given instead to Muhammad al-Mutlaq. Then Mahmud was elected director of the Bani Juhma *nabiye*. The question of payment arose again with 38 liras being asked for this post, which Da'ud 'Abbada then reduced to 30. Moreover, Da'ud 'Abbada had advanced the money for Mahmud al-Hamud's post but quarrelled with Mir Najib, the brother of Salim Bey, so Da'ud tried to keep the money from 'Ali Mindil as reimbursement for what he had himself advanced on behalf of Mahmud al-Hamud. Being a poor man, Mahmud al-Hamud had managed to raise only 17 liras from relatives and friends. His formal appointment order (*buyuruldu*) remained with either Da'ud 'Abbada or Salim Bey, undelivered in spite of his appointment having been announced in his native village of Kufr Yuba to the assembled headmen. Da'ud 'Abbada tells the investigators to pursue this matter with Salim Bey in the vilayet court where he will testify fully. Antun Siyur explains that not all directives for the appointment of directors were given to him in writing; sometimes he received verbal instruction from the *mutasarrif* and kaimakam to write the *buyuruldu*.³⁷ But about the whole topic of payment for official appointments, Antun Siyur notes soberly that 'indeed it was not a forbidden thing at that time'.³⁸

The charges and appeals

The long *procès-verbal* is followed by a summary of the case and charges drawn up by the investigators.³⁹ The latter are divided into two parts: charges of bribery and matters related to the crime. The first comprises the charges advanced by Muhammad al-Mutlaq, Jabr al-'Abd al-Rahman, 'Abd al-Qadir Sharaida, Muhammad al-Hamud, 'Ali al-Mindil, Ibrahim Sa'd al-Din and Muflih al-Zamil. The investigators consider that these charges have been legally established (*derece-i sübute vasil*). The second part summarizes three other charges – those of the sheikhs of Bani Hasan, Muhammad Muflih al-Jabr, headman of Kufr Saum, and Hasan al-Sabbah of Bait Ra's – which are judged insufficient to form part of the charges against the governor. The claim of Muhammad Muflih al-Jabr of Kufr Saum was seemingly so two-edged that he was not even called to testify against 'Abbada. The charge was that Da'ud 'Abbada asked for 100 *mecidis* in return for a judgment by the administrative council to allow certain of the cultivators of Kufr Saum to pay the *vergi* tax directly. On the bidding of the governor, the decision that the cultivators could pay the tax directly was communicated to them. But Muhammad Muflih al-Jabr alleged that the lands of Kufr Saum had long been in the possession (*tasarruf*) of his father and himself. Two cultivators of Kufr Saum, Muhammad al-Ahmad and 'Id al-Muhammad, testified in support of the claim made by Muhammad Muflih al-Jabr, but the matter was not pursued by the investigators. In short, 'Abbada had intervened here in favour of cultivators against those who had paid the tax on the village lands, thus empowering the cultivators to claim *tapu* to the lands.

The vilayet administrative council upheld the decision of the local investigation in spite of the irregularity of its having taken place without a public prosecutor.

Da'ud 'Abbada and Jurji Qabawat then appealed to Istanbul itself, where years later the legal irregularity would be recognized but long after they had spent their time in jail and paid the fines imposed.⁴⁰ From the *procès-verbal* it is clear that payment for office was commonplace.

Equally there is little doubt that the investigators were doing what they could to indict Da'ud 'Abbada and to protect Salim Bey from prosecution. The account of the British Vice-Consul indicates that this fact was not lost on everyone in Damascus:

... two public prosecutions of functionaries for receiving bribes and for malversation of office have lately taken place here, and have excited much wholesome interest in both the Official and the public mind.

The Administrative Council of the Vilayet being the competent tribunal in such cases to pronounce sentence after the preliminary investigation by the Court of First Instance of the Liwa, the Governor General in his quality of President of the Council has taken a prominent and dominant part in the framing of the sentences.

In the one case, the accused, the late Caimakam of the Jebel Ajloon in the Mutsariflik of the Hauran, a renegade jew, together with the cashier of the district, a Christian, were charged with receiving bribes for appointments to posts of Mudirs and members of Medjlisses, and have been sentenced to three years incarceration and to a fine of £600 being double the amount of bribes received, and to the payment also of 8,000 piastres, expenses of a Commission of preliminary investigation sent to the Jebel Ajloon.

The parties have appealed against the sentence to Constantinople but having been imprisoned to enforce payment of costs have been enlarged on bail by invoking the Constitution of Midhat Pasha against the irregularities of procedure of the preliminary investigation. The appeal to Constantinople and the unfavourable comments of the public to the disparagement of the Governor General on the case, are based upon the allegation of the accused and which are said to have been amply substantiated by the investigations and evidence that the bribes were encashed for and paid to the Chief Executive of the Hauran, namely the Mutsarif, a Moslem notable, nominee of the Governor General, and who had hitherto enjoyed a not too high character for probity.

From all I can learn I fear there is little doubt as to the culpability of this latter. The Official in question resigned last Autumn when the accusations first came to be made on the ground of alleged ill-health, and has since been employed by the Vali in investigating charges of venality and malversation in various parts of the Vilayet...

His Highness Midhat Pasha is thus accused of screening his protégé and was obliged to exercise much and arbitrary pressure upon some of the members of the Court to get them to sign the sentence against the renegade jew and the Christian; the members at first declining to sign it unless the real culprit was also brought to justice.⁴¹

Da'ud 'Abbada was to prove unlucky in his attempt to extend the prosecution to Salim Bey, all the more finally as Salim Bey died before 'Abbada's appeal reached its conclusion in the capital, rendering it impossible to re-examine the case. Thus Da'ud 'Abbada had to purge all his time in prison and raise the very substantial sums for the fine imposed before he could be reappointed to government service.

Only two years later a Special Commission for the Lands of Hauran was to begin work in the district.⁴² The scribe on that Commission was 'Abd al-Fattah Efendi, whom we have met in the course of the testimonies made to the investigating committee. It is thus hard to avoid the sense that the dispatch of the Special Commission was in part to correct unsystematic practices in land registration described above.⁴³ The work of the Special Commission will be examined in the next chapter; it marks a turning point in the administration of property in the region. But first, drawing on some of the work of that same Commission, whose greater systematicity allows a basis for comparison between villages and *nahiyes*, we return to the two most important leaders to have presented charges against Da'ud 'Abbada: 'Abd al-Qadir Sharaida of al-Kura and Ibrahim Sa'd al-Din of al-Kafarat to compare the economic bases of these two prominent leaders.

The properties of regional leaders

'Abd al-Qadir Efendi Yusuf al-Sharaida of the Kura

'Abd al-Qadir Sharaida, it will be recalled, was involved in a legal battle at the provincial level, if not higher, to have his family's rights over the area in the Jordan Valley, Ghaur al-Arba'in, below the villages of Tibna and Dair Abu Sa'id, recognized as his family's property under the new *tapu* regime.⁴⁴ Livestock and livestock taxes being valuable sources of cash income, the area was used primarily as pasture, but it also included irrigated agriculture where *wadi* Ziqlab entered the plain.⁴⁵ The struggle for ownership of the land was to last for almost a decade. The final decision, communicated by the vilayet on 6 January 1889 to the *liva* and from there to 'Ajlun three days later, entailed a *bedel-i muaccel* of 117,000 *guruş* – transferred between the privy purse and the public treasury, for lands never previously registered.⁴⁶ Thus Ghaur al-Arba'in was eventually to be judged imperial *çiftlik* and joined to the large *çiftlik* of Baisan on the west of the river.

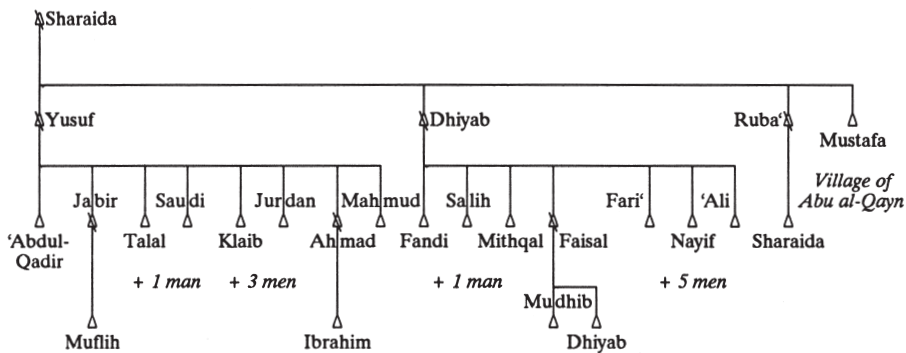
Concerning the claims of 'Abd al-Qadir, Da'ud 'Abbada merely noted that the legal contest was fought at a level far above his jurisdiction. Unlike his accusation of Muflih al-Zamil Abu Ra's of Sama, Sa'd al-Din Ibrahim of al-Rafid, and Muhammad Muflih al-Jabr of Kufr Saum, he does not charge 'Abd al-Qadir Sharaida with exploiting the common cultivator.

'Abd al-Qadir's attempt to gain ownership of lands, for which his father and grandfather had acted as tax collectors, was of a rather grand order. It was to fail. At home, in the Kura *nahiye* itself, his holdings and those of his family were substantial but did not rival the property rights registered by the leaders of the Kafarat. Beyond the Sharaida family's holdings in the vast area of Tibna village,

which later was to be subdivided into a number of villages, ‘Abd al-Qadir Efendi al-Sharaida owned land in the villages of Zubiya and Kufr Abil – one share of the fifteen shares of the 2,700 *dönüms* registered in Zubiya and four shares of the 47 shares in the 16,000 *dönüms* registered in Kufr Abil.⁴⁷

The structure of the 1883 property registration for Tibna includes separate lists of houses, *musha‘* land, olive trees on *musha‘* land, small plots and plantings.⁴⁸ Tibna embraced the largest of village territories in the district, although ‘Ain Janna and ‘Inba also stretched over large areas across what became several villages in the 1920s. See Map 5.3. Just to the east of the village site of Tibna lay a great common plot planted with just under 11,000 individually owned olive trees. The *musha‘* land on which the private olive trees stood appears to have been evaluated by a combined measure of the value of the trees and the ground on which they stood. By contrast, the grain *musha‘* land and the important areas of more individualized small plots were valued at only six *guruş* per *dönüm*. This relatively low rate may well have reflected not only the mediocre quality of the land but also the power of leaders of the Sharaida family to obtain relatively good terms from the government officials. The *musha‘* was divided into two vast blocks: the first, divided into $43\frac{3}{4}$ shares, included the land of Rukhaym 13,563 *dönüms*, Dair Abu Sa‘id 12,950 *dönüms*, Sawan 8,014 *dönüms*, and Ghubayra 219 *dönüms*; the second divided into $44\frac{1}{8}$ shares included the land of Kufr al-Ma’ 22,293 *dönüms*, Rahaba 15,753 *dönüms* and Mahrama 1,323 *dönüms*. These blocks stretch across what is today the land of six villages. The scale of this territory corresponds to complex forms of holding land: there is an average of eight holders to a share. If registration reflected how land was worked in those years, then cultivators must have moved to stay for periods of time in the different zones, whether or not they had built houses there. A share meant holding land in different areas some distance apart and with different quality of soil. By the early twentieth century there were several residential settlements within the lands of Tibna. This may also have been true in the 1880s but there is no evidence for such dispersed settlement in the *tapu* records.⁴⁹

In the *musha‘* grain lands, the leader ‘Abd al-Qadir Efendi Yusuf al-Sharaida held a full share and his brother’s son, Muflih Efendi Jabr three-quarters of a share.⁵⁰ See Figure 7.1. By contrast, the rest of ‘Abd al-Qadir’s brothers did not hold exceptionally large shares and held their land jointly with other men not immediately patrilineally related. Thus brothers Talal and Sudi had a half share along with a third man, ‘Ali ibn ‘Abd al-Rahman (see holding 3); and along with three men, ‘Awad and Muhammad al-Khalil and Muhammad ibn Khamis, two other brothers, Jurdan and Klaib, held five-eighths of a share (holding 4). These shares fell in the first great block of land of Tibna (A) whereas the remaining brother and brother’s son, Mahmud and Ibrahim ibn Ahmad, held shares in the second block of land (B) together with their three cousins, Fandi, Salih, and Mithqal sons of Dhiyab, two second cousins, Dhiyab and Mudhib sons of Faisal al-Dhiyab, and an eighth man, Muhammad ibn Ghaith. The three other cousins, Fari‘, Nayif and ‘Ali al-Dhiyab had their share in the first block of land together



1	$\frac{3}{4}$	$\frac{1}{2}$	$\frac{5}{8}$	1	1	$\frac{1}{4}$	Share
A	A	A	A	B	A	B	Block
1	2	3	4	5	6	7	Holding

Figure 7.1 *Musha* landholdings of the Sharaida family in Tibna, 1883

with five other men. Lastly, yet another cousin, Sharaida ibn Ruba', held his one-quarter share in the second block of land.

Brothers here do not always hold land together but may cooperate with others. In Tibna the only large holdings belong to the two figures of political pre-eminence, 'Abd al-Qadir Efendi and Muflih Efendi. A nephew may hold a share equal to that of an uncle in a manner clearly not determined by inheritance. If we compare holdings in the *musha* to those in houses, we find that brothers who share a house do not always farm *musha* land together but may cultivate with others. It is only in one small plot of $1\frac{1}{2}$ *döniüms* that we find all the cousins, sons of Yusuf and of Dhiyab, holding jointly.⁵¹ Whereas inheritance appears the generating principle of right in the small plots, in the *musha* land rights follow a different logic arising from the organization of production and the distribution of tax liability across the area of Tibna. The full share of land held by a leader such as 'Abd al-Qadir al-Sharaida needs to be interpreted not as resulting from anterior rights of 'ownership' as much as from his political capacity to mobilize the other factors of production – human labour, animal power and seed – required to cultivate a full share of land. Even so, 'Abd al-Qadir Sharaida's share in the land represented only one share of the $43\frac{3}{4}$ shares in the lesser 'half' of the village, less than $1\frac{1}{2}$ per cent of all the grain lands of Tibna.

The *tapu* register of 1883 lists 10,914 olive trees in Tibna, each individually owned, although the land on which they were planted formed part of the *musha* lands of Tibna.⁵² The taxes on the common land planted in olives appear to have been allocated in line with the valuation of the olive trees, in a manner more equitable than what we will see for villages of the Kafarat below. While the holdings of 'Abd al-Qadir Agha Yusuf Sharaida are important, one of 63 trees and another of 46, a total of 107 trees, this represents the eighth holding

in descending rank order by size in Tibna. The holdings, even of ‘Abd al-Qadir Sharaida, belong to a pattern of long-established olive cultivation, unlike the olive plantations developed by Ibrahim Sa‘d al-Din. This pattern includes women owners, of whom there are none in the Kafarat. Thus ‘Abd al-Qadir’s son Muhammad Sa‘id owns fourteen olive trees together with Muhra bint Khamis, most probably his mother or else his wife.⁵³ Likewise Mahmud Yusuf Sharaida owns ten olive trees jointly with Amira bint Mustafa Sharaida. Mustafa Sharaida has his house and grain land in another village but owns 65 olive trees in Tibna. Amira may thus have acquired her olive trees as *mahr* on her marriage to Mahmud Yusuf Sharaida.⁵⁴ Lastly a son of Mustafa Sharaida, Hamdan, holds thirteen trees with Amira bint Faris al-Dhib.

In Tibna women are present in 18 per cent of all holdings but hold only 7 per cent of all olive trees. They do not always hold with male relatives; cases are found of three sisters holding together and of a mother and daughter. Most often, women hold as individuals. Women also own some of the private plots and, exceptional for the ‘Ajlun *tapu* registers, women are listed as owners of four houses in the village. In other words, olive production was bound into the domestic and marital economy in a manner very distinct from the commercial development of olive production in the Kafarat. This is true for the Sharaida as for other families of Tibna.

Ibrahim Sa‘d al-Din and Muflih al-Jabr of the Kafarat

The Kafarat region forms the only evident exception in the registers to the general dominance of field crops and grain in the production mix. See Map 5.4. Oral tradition in the area of Saham and Samar suggests that in the 1880s such development was relatively new and bound up with Kurdish financiers from Damascus.⁵⁵ Taken alone, the registers indicate the following: in Saham both olive trees and land were first registered in April 1882 in the names of villagers, but only two months later, one-half of all the shares were sold to Rifatlu Tahir, presumably Rifatlu Tahir Badr Khan, a Damascene of Kurdish origin appointed governor of ‘Ajlun in that year.⁵⁶ In Samar the transfer of property was less brutal, but there, too, some five years after first registration, a significant proportion of both trees and land were sold to Muhammad Efendi Sa‘dun. In the relatively poor lands of Saham and Samar, development of large-scale olive cultivation came to entail indebtedness for villagers and the rapid alienation of property rights.

Elsewhere in the Kafarat, commercial development of olive cultivation appears more the work of insiders, notably the various family lines known today as the ‘Ubaidat.

The only village of the Kafarat where land was registered in the years before the appointment of Da‘ud ‘Abbada was Hubras; 1,679 *dönüms* of land were registered in December 1876 in a somewhat anomalous form: while the scribe ‘Umar noted that normal fees were collected, these equalled 10 per cent of the value declared, the level for *bedel-i misl* not *hakk-ı karar*; furthermore, as the land use is not defined, we cannot tell whether Hubras had olive plantations. What is clear,

however, is that all the land was registered in slightly different combinations of the same names across the sixteen plots, with roughly half to Ibrahim Efendi Sa'd al-Din and the rest to his sons Quftan, Sa'd, Ali, and Khalil and the grandsons of his deceased brother Muhammad, Sa'd al-Din, Salih and 'Ali.⁵⁷

The registration of al-Rafid, the village where Ibrahim Sa'd al-Din and his son Sa'd both had their houses (valued at 5,000 and 3,500 *guruş* respectively) was done by the Special Commission in June 1883. Al-Rafid is in many respects the central village of the territories of those known as the 'Ubaidat today. According to the register, al-Rafid itself has 64 per cent of its land in olives (this does not preclude some cultivation of field crops amid the olives). Ibrahim Efendi Sa'd al-Din, his sons and one or two of his brothers dominate the lists of property in the village, but do not exclude other holders in the manner of Hubras. Thus, of the basic eight plots of village land in al-Rafid on three of which olives are cultivated, divided into 36½ shares between 35 holders, Ibrahim Efendi holds 5, his brother Fayyad 3, his sons Faris 3, Quftan 2, Su'ud 2, and 'Ali 2, and his brother 'Ali's son Funaijir ½ share. In short just under half of the main blocks of land of the village, a total of some 11,700 old *dönüms*, is owned by Ibrahim Efendi, his sons and his brother's son. The ownership of the olive trees on the three great olive plots is also given as shares in a total number of trees, but here the holding groups differ.

There are three aspects of note to this pattern. First, the tax on the land on which the olive trees stand is borne by a somewhat different group of persons, including more persons outside the network known today as the 'Ubaidat. The owners of olive trees include members of 'Ubaidat lines resident in other villages, notably Kufr Saum for Muffih and Muhammad ibn Jabr and Yubla for Ibrahim Abu Dani, as well as the important financial family of Sa'd al-'Ali and his brother Sa'id of al-Bariha. These combinations suggest that the development of olive cultivation was a commercial operation in this area. No woman appears among the owners of olive trees.

Second, unlike most villages of the region, residence and cultivation rights are not co-terminous. Rights to the olive trees of al-Rafid belong not only to the dominant figures of the village – Ibrahim Efendi Sa'd al-Din and his sons – but also to Da'ud Efendi 'Abd al-Muhsin and sons based in Harta and to Muffih ibn Jabr and brothers based in Kufr Saum. Of the 'Ubaidat family lines whose houses are in al-Rafid, the sons of Muhammad Sa'd al-Din own grain land not in al-Rafid but in Kufr Saum and, together with Ibrahim Efendi and five of his sons, in Hubras; and the sons of Funaijir ibn 'Ali ibn Sa'd al-Din own grain land in the *mezraa* al-Barashta along with the Da'ud Efendi 'Abd al-Muhsin line of Harta. Lastly, although the Ottoman registers contain no mention of Qarqush, according to the Mandate cadastre it formed a *mazra'a* of al-Rafid shared by every al-Rafid landholder.⁵⁸

Exactly how this intertwining of rights arose is unclear; it surely involved both the physical movement of family clusters and the practical construction of these groups around dominant figures with access to finance and government

backing as tax collectors. Ibrahim Efendi Sa'd al-Din looms large in this story: beyond his holdings in al-Rafid and Hubras, he owned olive and fruit trees in Kufr Saum and Samar, and further grain land in Ibdar. Such widespread ownership by a single person appears unparalleled elsewhere in the settled areas of the district.⁵⁹ But underlying such differentiation was the very form of rights to land. In al-Rafid and the other villages of the Kafarat, both land and olives were held in shares, but by distinct groups of shareholders. Thus, many smaller holders in the land did not hold shares in the olives; in other words, they were contributing to tax paid on the land of olive groves but without owning a share in the trees themselves. Second, the distribution of shares reveals three levels of holders: regional leaders with several shares, dominant family clusters related to such leaders with about half of the village shares, and a considerable number of men unrelated to the dominant clusters holding smaller shares in the other half of land in field crops.⁶⁰ In the Kafarat, then, the village does not always form a self-contained unit, but men as individuals, or as members of a descent group, may hold rights to land elsewhere.

Lastly, olive trees were held as shares in a common plantation; in some cases both the number of trees and their total value are given in the register but in others only the total value appears. This form of ownership of olives was found in other villages, in the relatively open countryside of the northern part of the district: the Kafarat villages of Saham, Samar, al-Rafid, Kufr Saum, Yubla and Harta, and the Wustiya villages of Kufr Asad, Dauqara, Samma, al-Taiba and Dair al-Si'na. With the exception of the village of Halawa, it was not found, however, in hilly areas of more ancient olive cultivation, such as the Kura and Jabal 'Ajlun. There trees were generally held as individual property, both on land held in shares (*musha'*) and on smaller, more individual plots of land.

It is unclear to what degree ownership of olives in shares resulted from arrangements for financing the development of market-oriented plantations or from evaluation of tax on olives as an imposition on total oil production rather than on the sum of individual trees. Although there may be a developmental process here, we should be wary of too neat a reconstruction given evidence of historical variation in systems for the taxation of olives.⁶¹ Although trees had long legally been *mulk* property, prior to *tapu* registration the actual form of such rights may also have reflected different forms of imposition.

The local political economic power exercised by the two major leaders of the northern parts of the district, 'Abd al-Qadir Yusuf al-Sharaida and Ibrahim Sa'd al-Din, differed markedly. Bearing in mind just how much more commercially oriented the latter was than the former, we will not be surprised to learn in the next chapter that over time the leaders of the Sharaida and the 'Ubaidat were to play rather different roles in relation to the administration in the growing market town of Irbid.

8 | Property and administration in the later *Tanzimat*

The 1880s and the Special Commission for the Lands of Hauran

Extensive development of administrative institutions took place in the 1880s throughout the province of Syria. In the district of 'Ajlun a separate tax office with three employees was established in 1881;¹ in 1882 a telegraph office was opened, and a professional assistant prosecutor was appointed to the court of first instance;² and at the beginning of 1883 the Special Commission for the Lands of Hauran began work in the area.

The Special Commission for the Lands of Hauran appears in the *tapu* registers of 'Ajlun from February 1883 but in the yearbook of *Suriye* of 1882 it is called the Commission for the Inspection of Lands of the *liva* of Hauran.³ In its issue of 8 November 1883 the provincial newspaper *Suriye*, in an article outlining a development plan for the Hauran, described the commission as 'solving problems of different kinds arising in the lands of Hauran and resolving any disputes which appeared'.⁴ This acknowledgement of conflict suggests that the administration reflected on events such as the disputes over land in Hawwara and Bait Ra's and the accusations advanced by Da'ud 'Abbada against a number of local leaders, and that it sought to adopt more systematic action. In *Suriye* of 15 January 1885, an article acknowledges that, while resistance in the central Hauran meant that procedures for tax evaluation and *tapu* registration could still not be introduced there, the vali had worked together with the directorate of *vergi* tax collection to form a commission which had been working in 'Ajlun for the previous two years to 'bring to light abandoned or uncultivated *miri* lands suitable for auction and also to accord villagers land by *hakk-ı karar* where such rights were due by law; and likewise to award lands where *hakk-ı karar* rights were not established by *bedel-i misl* according to a moderate valuation fixed in the locality'.⁵ The reference to moderate valuation in awards by *bedel-i misl* appears to respond to the excessive fee-taking evident in the 1870s in 'Ajlun. The *tapu* scribe who worked with the commission in 'Ajlun was none other than 'Abd al-Fattah Efendi, who, in the course of the depositions in the Da'ud 'Abbada case, had expressed his reservations concerning *tapu* practices in the district in 1879, notably the work of 'Ajaj Bey. The Special Commission adopted much more standardized forms of registration and moderate rates of fees. No inhabited village was charged *bedel-i misl* in its entirety. In one or two cases an outlying *mezraa* was registered at the higher rate; occasionally, where a landholder declined part of his right to land, a needy co-cultivator was given land by *bedel-i misl*. The rates charged were strictly the 5 or 10 per cent required by law. The valuation of the land

became standardized across large areas and nowhere very high by comparison with earlier years. The Special Commission accepted the registration of rights in shares, on the model of Hawwara and Makhraba. Where land was registered as individual plots, notably in hilly areas, it would appear, unlike the earlier case of al-Nu'aima, to have been so held in practice. Lastly, the pace of registration increased dramatically.

In 1883 the Special Commission was composed of a head, Ahmad Na'ila Efendi, an employee of the property registry of *liva* Hauran, Ahmad Shams al-Din, the district *tapu* scribe, al-Sayyid 'Abd al-Fattah, and two civil members, 'Abd al-Ra'uf and Ispir Acemi.⁶ In the first eighteen months of work the members of the commission would stamp a second paragraph of attestation, between the first signed by the headman, village council and *tapu* scribe, and the third signed by the members of the district administrative council. The second statement of the commission noted that it was formed on the order of the vilayet in correspondence with the imperial *vergi* administration, and in accordance with the instructions of January 1883; the delegation (*heyet*) meeting in the village called and questioned the landholders one by one; the names of the holders were then written individually by the *yoklama* scribe alongside their entitlement to the land by *hakk-ı karar*.⁷ But, by the end of the second year of work of the commission, there is no longer an attestation from the village authorities, but the commission and administrative council jointly attest the registration of several villages at a time. Thus, by the middle of the 1880s the contract between the village estate of administration and the state, expressed in the tri-partite attestations of the first eight years of land registration, disappears from the registers.

The year when this small but expressive shift in the form of attestation was introduced, 1301AH (1883–84), proved a turning point in administrative institutionalization. It witnessed the appointment of a supervisor for a distinct office of correspondence and the formation of a municipal council of the town of Irbid.⁸ From the outset, the members elected to the municipal council, which had social and economic welfare as part of its brief, cut a different figure from the regional rural leaders, the Fraihat of Kufrinja, the Sharaida of al-Kura, and the 'Ubaidat of al-Kafarat, who during these years served continuously as members on the two major councils. The men elected to the municipal council came from Irbid and its surroundings, most belonging to leading families of what was still a very small town. The distinction of these men appears in good part a product, or through the service, of the new complex of government in Irbid. One such person was Na'il al-Gharaiba from Hawwara, who joined the municipal council in 1884–87.⁹

The year 1884 was also the last in which the two great rural leaders, 'Abd al-Qadir Yusuf al-Sharaida and Husain Barakat Fraihat, served simultaneously on the administrative council.¹⁰ This did not mark the end of the election of a Sharaida or a Fraihat to this council or to the court, but it did of the absolute centrality of the leaders of the Kura and Kufrinja on such councils.¹¹ By contrast, men from each of the major families of the 'Ubaidat of the Kafarat, from the

villages of Harta, Kufr Saum and al-Rafid, present from the earliest years, became ever more prominent on the councils in the years after 1885. Geographically close to Irbid, the leaders of the ‘Ubaidat grew exceptionally engaged with the Ottoman administration in Irbid. In 1885 the court admitted to its elected ranks alongside the rural leaders a member from the leading families of Irbid, Qasim Hijazi, who only the previous year had been elected to the newly established municipal council.¹² In subsequent years other such men from Irbid and its vicinity were regularly elected to one or the other of the two major councils.¹³ In this manner the Ottoman administration developed a new centre for the district.

Administrative development continued in the second half of the 1880s. In 1885–86 Kufrinja became the first *nahiye* to have a formal administrative director;¹⁴ from 1887 two of the members on the court became supernumerary officials (*mülazım*), and a scribe for public works joined the administration. The same year a tax collection commission (*tahsilat komisyonu*) was formed composed of the governor, the head of finance, the head of correspondence, the title scribe, and a soldier; its work would continue for over a decade.¹⁵ The period 1888–89 saw a *yoklama* scribe formally appointed alongside the *tapu* scribe, as well as the opening of a department of forest administration with three employees.¹⁶ Here began state control of woodlands that had earlier belonged to the village estate of administration.

If we turn back to the *tapu* registers and the form of attestation to title during these years, we find that from 1888 the *yoklama* scribe began touring the villages of the area. This was to ensure that the village council and headman inform him of the deaths of any owners since the first *tapu* registration as well as of any properties that may have remained undeclared. This campaign was to continue for more than a decade (1889–99). The attestations to the lists drawn up in this period have a different tone from those in the earlier registers of the Special Commission for the Lands of Hauran. Now the state should possess all information concerning the lands and their owners: the village authorities, themselves the lowest rung of the administration, are threatened with prosecution should they hide any information from the eyes of the *tapu* administration. Below these undertakings drawn up and signed by the *tapu* scribe follow the signatures of the headman and the village council. And, once it has been returned to the district headquarters, all members of the administrative council sign the register. Individuals also came to the title office in Irbid to register transfers, and these individual entries likewise are attested by all the members of the administrative council. But the entries resulting from the tours of the scribe in the villages form by far the larger part of the entries in the registers. These cover a number of persons in a given village and appear to reflect the concern of the administration to bring into line the lists of ownership title with those of tax obligations. As we shall see below, the individualization of *vergi* tax registration, which had earlier taken the form of a block sum imposed on villages, was to be accomplished during the 1890s.¹⁷

It was in the same years that land registration was extended beyond the settled

villages to the large area of extensive agriculture and pastoralism of the Bani Hasan.¹⁸ The registration of the lands of the Bani Hasan, not in the names of one or two senior sheikhs as in the Balqa about Amman, is an achievement made possible by registration of land in shares, not fixed plots on the ground. In the *tapu* registers of 1305 (1888–89) eighteen different groups (*cemaat*, *kabile* or *fırka*) of the Bani Hasan *aşiret* held land rights. In line with the mixed pastoral-agricultural nature of production and the strategies for minimizing risk in this semi-arid area, where rates for a *dönüm* of land varied from two in poor rain-fed areas to twenty *guruş* in irrigated land along the Zarqa River, most of these groups held rights to land in more than one area. Only four groups held rights in only one area. Even in these simplest structures of holding, the rights of groups overlap or, in the course of movement across the area, criss-cross one another. Rights are held as shares, almost universally on the principle of one share, one holder.¹⁹ Given the steep registration fees, clearly these individuals were among the more prosperous of the region, but the number of right-holders must have embraced men well beyond the circle of the sheikhs of the area. The social and economic relations behind this register of the Bani Hasan remain obscure. For the purpose at hand, we may simply read the register as an attempt to translate usufructuary rights in a semi-nomadic economy into land rights as recognized by the 1858 Land Code. Behind this may well also have lain the arrangements by which the Bani Hasan, who enjoyed particularly good relations with Ottoman authority, were to calculate and distribute the burden of tax on land.

Administrative development in the 1890s and beyond

The 1890s witnessed administrative developments of five major kinds. The first was an individuation of *vergi* tax responsibility in lieu of the earlier block tax payment. We noted above that between 1887 and 1889 the executive, tax and title officials of the district joined in a tax collection commission. In 1892–94 the existing administration was reinforced by five registration officials posted short-term to the district, two of whom were surveyors (*messah*).²⁰ These officials appear to have aided the district tax commission by registering individual tax liability in the villages in a manner parallel to the earlier Special Commission for title registration. After the temporarily appointed officials left, in 1895 the finance administration of the district was given separate status as a department, comprising the director of finance, an assistant director and a treasurer.²¹ In the same period the *tapu* administration was strengthened, with an employee for the collection of title fees being recruited in 1892 alongside the *yoklama* and *tapu* scribes.

The second development concerned formal education. If election to the councils served to educate regional and urban leaders in legal procedures, it was in the 1890s that formal training of an educated elite began locally. In 1892–93 the first state-appointed school teachers were named to Irbid and Jarash.²² In 1895 an education commission was established under the headship of the deputy governor with eight civilian members and a scribe; except for ‘Abd al-‘Aziz al-Ka’id of Suf,

its members were all from the northern part of the district and closely engaged with the emerging order of government.²³ In 1896 teachers were appointed to al-Husn and in 1897–98 to Kufrinja.²⁴

The third development was the opening of a branch of the Agricultural Credit Bank in 1896 headed by ‘Abd al-‘Aziz al-Ka’id of Suf, with as members Sa’d al-‘Ali of al-Bariha, the financier who served on the councils of the period, Muhammad al-Shara’iri of Irbid who served as head of the Irbid municipal council, and Mahmud al-‘Ali, a figure who often appeared on the municipal council and who may have been a relative of Sa’d al-‘Ali.²⁵ The board of the Agricultural Credit Bank brought together men of financial experience in the orbit of administration in Irbid. The state advanced credit to individual owners of land through the bank, but in line with the developing administration of property, the local social organization of credit was itself already changing. Whereas earlier lines of credit had linked regional leaders to capital in the cities of Nazareth, Tiberias and Damascus, and to established middlemen in the towns of al-Husn and Suf, the town of Irbid gradually welcomed merchants, mainly from Damascus but also from Palestinian towns, who settled and provided credit locally to cultivators on a much smaller scale than the earlier patterns of finance. The expansion of this economic network appears closely intertwined with the developing administration of property.

The fourth development was the appointment in 1897–98 of two employees for population registration (*nüfus*).²⁶ In the province of Suriye implementation of population registration had long proved slow.²⁷ A full household census was to be effected in the district only in 1910 when, in a manner parallel to the temporary special commission for *tapu* and then for tax registration, central support was accorded to the carrying out of population counts in the Hauran, drawing up the lists with the help of village headmen.²⁸

The last development was the transformation of the civil court into a more professional institution. The court began as a council where administrators, not necessarily professional jurists, joined leaders of the region who served as elected members. The years 1889–90 saw a new term (*mülazım*) appear indicating that an elected member of the court was an apprentice or supernumerary official.²⁹ In 1900–01 all but one of the figures on the court have professional titles, even if two were familiar figures from the district.³⁰ Formally, and perhaps effectively, regional leaders were moving into the administration through apprenticeship and association of the fathers with professional administrators. In turn their sons were to enter the new elementary schools opened locally and the higher-level schools in the provincial capital Damascus.

The period 1900–01 marks the publication of the last provincial yearbook. After this date we do not have comparable lists of offices in the district administration. But if we turn to the form of attestation to property title, we can see how property lay at the centre of the recasting of the *personae* of political administration summarized above. By the beginning of the twentieth century the *tapu* scribe’s tours of the villages had ceased. Any person who wished to register a mutation of title had to go in person (or dispatch a legally empowered agent) bearing the

title document or, if it had been lost, a document from the village headman and council confirming cultivation of the land. To register an inheritance, the person required a document from these same village authorities attesting to the death. In the *tapu* register we find two attestations. The first is that of two witnesses, often semi-professional, certifying the identity of the person(s) initiating the mutation. In earlier registers identification of the subject of right had never invited such attention – indeed the simplicity of naming in the title records was astonishing, a personal name followed by father’s personal name being the most common form – but now the subject required witnessing in a mixed form of local and yet formal legal certification.³¹ The witnessing is followed by the attestation (by signature and seal) of the major administrative figures of the district: the governor, his deputy, the scribe of the tax office (*vergi katibi*), and the title scribe. The elected civil members of the administrative council no longer appear. The presence of the governor still speaks of the political centrality of title, but otherwise – his deputy being *ex officio* the head of the court of first instance – the seals belong to *personae* holding formal administrative offices concerned with title to property.

A full registration of population for a civil registry (*nüfus*) was carried out only in 1910. And the *tapu* registers note that for some villages new lists of individual tax liability were drawn up in 1911 for the crop tax (*miri*).³²

It is thus in the difficult years just before and during the First World War that the *tapu* registers reveal a yet more complete network for title. Whenever an individual who had inherited land sought to effect a mutation of title, the following paperwork was required: the original title document or, if that was lost, attestation from the village council to the title; a document from the same attesting to the death of the person and date of the death; a document from the civil registry stating that the death had been duly entered and noting the relatives of the person in question; a statement from the Islamic court listing the heirs and the shares due them in *mülk* and *miri* property respectively; and a document from the tax department to the effect that all back taxes due on the property had been paid. All these documents were noted in the column of the *tapu* register concerning the origin of the property under mutation, but now only the title scribe, not the other administrators, attested that the transfer respected legal procedure.

This is an impressive bureaucratic achievement: distinct administrative departments provided certification of the subject, the object owned, and the state’s tax claim on the object. Furthermore, the court defined succession to rights in property as part of its description of the familial relations framing a deceased person. The administrative elaboration of these distinctions in separate registers and departments, and their cross-referencing on the page of the title register, rendered tangible a ‘state of property’.

Conclusion

In the district of ‘Ajlun ownership right was largely awarded to cultivators and not, as in a number of areas of the empire, to those who previously held superior rights to revenue administration. The timing of land registration coincided with

a recession in the international price of grain, hence the new property right was generally to remain with the cultivators. Urban merchant capital did not find the purchase of rain-fed land in the region sufficiently attractive to face the local political opposition such acquisition entailed.³³

This fact is critical to political administration in the district over the period. In other parts of the empire where the former land administrators acquired title to whole villages and where they also came to occupy posts on the district councils, the character of political administration must have appeared more oppressive and less legitimate to the cultivators.³⁴ The administration took some pains to avoid this, notably, by the introduction of the Special Commission. In 'Ajlun, the leading figures did not monopolize rights to title, and so, the several levels of administration defined by *Tanzimat* legislation were to come into play politically and not just formally.

The narrative history of administration demonstrates just how much political work was required for the construction of an administration that could finally appear as certifying distinct entities: person, property title, family and tax. Our narrative has sought to document the 'moment of mediation' in political administration by revealing property to be as much part of the state, of relations between administrative *personae*, as of civil society, of relations between persons.

A word is due concerning the notion of political administration adopted in this study.³⁵ The term harks back to nineteenth-century analyses, where the distinction between state and civil society rested upon the identification of the latter with the society of property relations, a domain of contract between property holders, the good functioning of which the state assured through the rule of law. In the Hegelian formulation the state was hypothesized as law, and the persons engaged in actual administration represented the 'universal estate' within the three estates of civil society. In Marx's inversion this administration became resolutely part of the state, itself a superstructural institution of a character corresponding to the class rule of civil society arising from relations of production. Following Foucault, theories of governmentality have sought to transcend the distinction state/society in analyses of discursive power. The present analysis, concerned with the construction of property that forms the condition for civil society, has retained the notion of the state – not as a unity, but as formal rules and techniques of knowledge in hierarchically ordered institutions of legal *personae*. Whereas institutions of the central Ottoman state – the central bureaucracy and the rules of *Tanzimat* legislation – appear as if from on high, transcendent or superstructural in the language of Hegel or Marx, the local administration can be seen to mediate between the regulations sent down and the social norms and idioms generated upwards from the relations of production in the district. Hence the focus here has been on the local administration and its transformation in the course of the gradual construction of a state of property. Through the mediation of political administration a civil society of property owners was brought into being whose private entitlements could then appear guaranteed by, but not in essence an inseparable part of, the public state.

Local political leaders came gradually to act as professional administrators. Indeed, the condition of their mediation was their ability to translate between two languages of right, that of village production, where they were still persons of prominence, and that of the administration where they had become officers of government. The mediation was not without contradiction. Certain of the rural leaders lost their places to figures who came to occupy offices of the administrative centre, in the new market of the government of property. Thus, just after the end of Ottoman rule, the villages of the Kura began to contest their position in regional politics. The headman of Judaita village in the Kura refused to hand over the taxes for the village and responded when imprisoned: 'Indeed there is no government at present, when there is a government we will pay what we owe.'³⁶ His case was forwarded to the public prosecutor on order of the Military Administration in Damascus. Likewise two sons of Klaib Sharaida were the object of prosecution, one partly and the other entirely on false accusation.³⁷ It would appear that with the fall of the empire, Klaib Sharaida, leader of the Kura *nabiye*, tried to reassert his autonomy from the rule of Irbid and the centre. After the fall of the Faisal government in Damascus in early 1921, both Jabal 'Ajlun and above all the Kura, did not join the 'government' formed by leaders in Irbid but sought to renegotiate their links with the emerging centre. The British Air Force supporting Emir 'Abdullah bombed the stronghold of Klaib Sharaida.³⁸ Such political confrontations notwithstanding, Emir 'Abdullah and the British authorities were themselves to rule through the established channels and to change little of administrative practice before the mid-1930s.

Not all village leaders took to heart the administrative form they were meant to obey. At a level less likely to enter political history, in the early Mandate years, village leadership was again to mediate between government administrative form and the rights generated in the productive systems of open-field agriculture common to many villages of the district. Armed with ideological hostility to the Ottoman regime and a century of commitment to fixed individual private property in land, British authority was to turn in the 1930s to village authority to define legal right, treating *tapu* title as a valid but not as a necessary proof for cadastral registration of land. Claiming that *tapu* registration did not define property according to their understanding, the Mandate authorities invited village authority to define rights anew. This time, however, marking the borders of each plot 'in steel' on the ground, and in ink on maps, they brought to an end the village estate of administration which had survived under late Ottoman rule less as an entitlement than as a moment of ambiguous mediation.

PART THREE | **Governing property:
administration, village, household**

Introduction

Part three considers the third moment of property where law and administration meet the social world of production. In the grid of a register individual names are set against categories of objects subject to different types of right; on the ground men and women work with others (invisible in the grid) in households and wider groups.

The relation between the administration of property and the social systems of production in villages is explored at two levels.

Chapters 9 and 10 concern four villages: Chapter 9 Bait Ra's and Hawwara in the Hauran plain and Chapter 10 Kufr 'Awan and Khanzira in the Kura hills. The analysis charts both the organization of village production and the relation of villagers to the administration of property over the roughly three generations covered by the study. Beyond shedding light on village land history, the chapters address three issues. First is how to understand, in relation to the changing forms of property, the formation of social groups between government and production. The second concerns the analysis of agency. Unlike a purely discursive analysis, in which the desiring subjects of power-knowledge embrace the categories of government, here more contradictory and finely structured agencies may be observed in the different village histories. Third is the relation between title and tax. According to an ideology of private property, the former should determine the latter; in fact, tax payment remained crucial to actual claims to title.

Chapters 9 and 10 proceed from dry entries of names, objects and quantities in registers. The reader must expect technical analysis involving tables, field maps and genealogies. We think that the resulting reconstruction of agrarian relations and administration merits such attention to detail.

By contrast, Chapters 11 and 12 draw on personal interviews and allow easier narrative reading. The testimony of older villagers in two of the four villages, Hawwara and Kufr 'Awan, offers insight into how rights inscribed in registers were negotiated in real life. Two theoretical issues come to the fore. First, the character of marital and family life in households appears complexly determined by the specific political economies in a manner distant from notions of a modular Muslim family. Second, in *Tanzimat* law, entitlement to inheritance of *miri* land was equal for sons and daughters and the holder of right was not a gendered category. But the negotiation of this law led to quite different outcomes in the two distinct political economies. To make sense of these patterns we examine the work of both women and men and the rights they claimed in the course of their lives.

9 | Registration and political economy in two plains villages

Bait Ra's

Bait Ra's is a small village just to the north of Irbid. *Tapu* registration took place in 1880 before the Special Commission. In relation to land registration the distinctive feature of this village is that there was a complete redivision of landholdings in 1921–22 into two sections (*firqa*), called Hamuri and Bani Ta'an, after an affray between the two had led to deaths on both sides. The major families of the former, including three named Hamuri, had been registered in 1880 while the major families of the Bani Ta'an had not, neither as landholders nor as householders, despite the attempt by one member of the group, Hasan al-Sabbah, to represent himself as a headman.¹ The question to be addressed, then, is whether the Bani Ta'an families were excluded from registration in 1880 because of some misrepresentation or because they genuinely were not resident in the village and had not been cultivating for long enough beforehand to be entitled to registration on the same terms as other families. In some respects this is a question of establishing facts: what the situation on the ground was in 1880 that generated discontent resolved only by a complete re-registration of landholdings forty years later. But the question raises broader issues, first about the objects of *tapu* registration and second about the relation between *tapu* registration and liability for tax.

The first issue concerns the relation between residence in a village and registration as *tapu* holder of rights to cultivate land. A significant proportion of the land of Bait Ra's seems to have been cultivated in 1880 by non-residents. By giving title only to those cultivators resident in a village, registration may have encouraged ploughmen to settle in the villages where they cultivated land, especially in villages of the plains. The echoes of this administrative practice resonate in earlier legal discourse on the relation between land title and residence, and on individual versus collective tax liability. *Tapu* registration brings the three moments of law, administration and production together.

It is unclear, moreover, whether the objects the government wanted registered were the same as those that villagers sought to register. Specifically in the case of Bait Ra's, Roman Capitolias, residents registered cisterns, valued more for archaeology than for agriculture.

Analysing the relation between *tapu* and tax requires comparison between different registers over time. The tax register of 1895 listed three of the four main families of the Bani Ta'an, which had not been registered in 1880, as holding houses, gardens and plots on the jointly held (*musha'*) plough land. The basis of

shares in plough land in 1895 was already different from 1880. Continual payment of tax on the cultivation of a field over ten years carried the right to continue to cultivate that field, if not challenged.² There is no record of a mutation of land title in the *tapu* registers between 1880 and 1921. It seems, then, that for a long time the tax register sufficed to validate rights to cultivate village plough land and that villagers treated the *tapu* registers as irrelevant. But in 1921, following a fight between the two factions, there was a general resettlement of *tapu* rights to land. Although we do not have direct evidence, the size of shares indicates that the 1895 tax register formed the basis of the resettlement of *tapu* rights in 1921. In addition, the fourth Bani Ta'an family, which had been listed neither in 1895 nor in 1880 but a member of which had been killed in 1921, was also given rights. This was the family of the complainant from Bait Ra's against Da'ud 'Abbada, Hasan al-Sabbah.

Whether the three Bani Ta'an families that were registered as tax-payers in 1895 had in fact been resident in the village in 1880 cannot conclusively be resolved. By considering the household composition of these families at the time of the household census (*nüfus*) in 1910, however, and the marriage relations between these families and families known to be resident in the village in 1880, we can say that most probably they were on the scene, if not actually resident in taxable houses. The analysis here is very detailed in terms of names, the identity of which is not always certain, and will have to be summarized. It leads back to the question of procedure at the initial *tapu* registration of 1880. We therefore start with an examination of the form of the 1880 *tapu* entries, after reminding the reader how Bait Ra's has already come to our attention in the case against Da'ud 'Abbada, the governor of 'Ajlun district in 1878–79.

Hasan al-Sabbah's group

Hasan al-Sabbah was the first deponent against Da'ud 'Abbada (see Chapter 7), whom the latter said he knew, not as headman, but in connection with 'digging up buried objects'. In his deposition Hasan al-Sabbah alleged that, when he had not received an order of appointment to the post of headman of Bait Ra's, he had given the governor money – ten French lira and eleven silver *mecidi*. But unlike other deponents, Hasan al-Sabbah seems to have been nobody very special. His evidence indicates that he was not even residing in Bait Ra's at the time, for the examining committee expressed surprise when he said that it was the custom of the village for a headman to be evicted from his house if he was not reappointed.³ He said two people of the village had witnessed his giving money to the governor, 'Ali al-Musa and Ahmad al-'Ali, who were not related by kinship (*karabet ve mensubiyet*) but were members of his tribe (*aşiret*).⁴ They had gone to the district headquarters in Irbid to ascertain how much wood was being demanded from the village, and had seen Hasan al-Sabbah standing with Da'ud 'Abbada.⁵

In response to a request to identify himself and state whether he was related to Hasan al-Sabbah, the first witness, 'Ali al-Musa, answered that, although not a

relative, he was a member of the same group (*aşiret*) as Hasan al-Sabbah, which was known as Bani Ta'an.⁶ The second witness Ahmad al-'Ali, however, said that he was neither a relative nor a member of Hasan's *aşiret*, being originally from the village of Nawa and having moved to Bait Ra's two years previously.⁷ The use of the term *aşiret* for a group of people explicitly not related by kinship is noteworthy. Both 'Ali al-Musa and Ahmad al-'Ali were listed in the *tapu* register of 1880 for Bait Ra's as householders, shareholders in the common plough land, and holders of small private plots adjoining the village site. We shall consider their relations with other members of the village below.

Da'ud 'Abbada's response to Hasan al-Sabbah's complaint was dismissive. First he said that the testimony of someone called Salim Abu Qasim should be taken.⁸ This person was said by 'Ali al-Musa, Hasan al-Sabbah's first witness, to be the man Da'ud 'Abbada wanted to appoint as a headman of Bait Ra's in place of Hasan al-Sabbah.⁹ Salim Abu Qasim was not, however, called to testify. He can be identified as the man listed last (number 33) in the 1895 tax list of Bait Ra's, not a householder in that list but holder of the equivalent of two shares of plough land out of 36. His descendants held $2\frac{3}{8}$ shares out of 36 in five holdings according to the 1921 resettlement register where the family was said to belong to the neighbouring village of Hakama. In the *tapu* register of 1880 every shareholding in plough land was also a householding, although not every householding had land. But an unusual feature of the 1880 list of shareholdings was a joint holding of all the individual shareholdings amounting to six shares out of 30 (not 36). Residence apparently being a condition for being listed as a shareholder in the 1880 *tapu* registration of Bait Ra's it would seem likely that Salim Abu Qasim was one of the invisible cultivators on that part of the village land.

Da'ud 'Abbada suggested, moreover, that the cause of Hasan al-Sabbah's complaint against him related to *tapu* registration in the village on the basis of *hakk-ı karar*, over which he had opposed the man.¹⁰ He said that the villagers should be consulted regarding the witnesses, adding the name of Jum'a al-Hamuri as someone who knew the truth about them. The Hamuris were indeed the dominant group in the village whose main families were registered in 1880. But no one called Jum'a al-Hamuri was registered. Jum'a is not a common name. One of the Bani Ta'an family heads who was registered as a tax-payer in 1895 on three shares out of 36, however, was named Muhammad 'Abdullah al-Jum'a, Jum'a being here a family identity. Could Da'ud 'Abbada have confused names?

In any case Da'ud 'Abbada went on to say that Hasan al-Sabbah was not entitled to rights of *hakk-ı karar* because he was an 'outsider' to the village, as was his group, and that a proclamation to that effect had been issued to the farmers of the village.¹¹

Hasan al-Sabbah's complaint did not form part of the investigating committee's final evidence against Da'ud 'Abbada. The committee told Hasan al-Sabbah that his claim that the governor of the Hauran, Shihabizade Salim Bey Efendi, had been in Irbid when he had given money to Da'ud 'Abbada was false; and he was not called to give further testimony. Instead the investigation turned to the

question of 'Ajaj Bey, the governor's nephew, acting unofficially as *tapu* scribe or *yoklama* scribe in various villages of the district including Bait Ra's, and of Da'ud 'Abbada's opposition to him. 'Ajaj Bey himself was not called to answer questions. Nor was anyone who might have opposed Hasan al-Sabbah's claim to have been a headman of Bait Ra's, whether Salim Abu Qasim or a Hamuri.

The investigation reveals tensions during *tapu* registration over village leadership and proof of title to land by *hakk-ı karar* or by *bedel-i misl*. It is here that the question of residence arises. *Hakk-ı karar* signified ten years' continuous tenure as a cultivator. In a later part of the investigation Da'ud 'Abbada said that most people of Bait Ra's were 'ploughmen of the region' (*bilad-ı harise*) and outsiders (*yabancı*), thus not entitled to *hakk-ı karar*.¹² However, one of Hasan al-Sabbah's witnesses, Ahmad al-'Ali, was awarded title yet told the committee that he had only moved to live in Bait Ra's two years previously. Hasan al-Sabbah and other Bani Ta'an families may have been trying to establish their title to land in Bait Ra's without being yet resident. In the particular case of Bait Ra's, residence appears to have been a condition for being awarded title to land. We turn now to an analysis of the village's *tapu* registers of 1880.

1880 *tapu* registration

There are four features of the *tapu* registration of Bait Ra's in 1880 which are unusual: (1) the concern by residents to register everything of potential value in the village; this included one-*dönüm* plots on *miri* tenure in the village site, and cisterns and wells on *mülk* tenure; (2) the coincidence of shareholdings and householdings, each shareholding in the plough land corresponding to exactly one house with the same composition of co-sharers; (3) registration of one-fifth of the plough land in a joint holding of all individual shareholdings; and (4) the allowance of two shares of plough land to the headman. We consider each feature in turn.

(1) The 1880 list of landholdings for Bait Ra's is divided into two parts, the first listing 16 shareholdings on a single large field of 12,000 *dönüms* called *khamis wa-baiqa* (*biq'a* in later records, the two names together referring to the rich lands to the south of the village site), the second listing 15 one-*dönüm* plots on the village site.¹³ The 16 shareholdings comprise 15 individual holdings totalling 24 shares and one of six shares held jointly by the first 15. With one difference, the holdings of one-*dönüm* plots on the village site are the same as the first 15 shareholdings. Most of the shareholdings are of families which continued to hold land in 1921 (see Table 9.1).

The registration of cisterns or wells too is unusual. Of the 55 entries in the list of *mülk*, 19 are of houses and 36 of cisterns or wells (*bir*). The last four cisterns in the list were for storing water and were common to the people of the village ('*müşâ' olarak umum-i kariye abalisine meşrut eder ki*'). The others were mostly for storing wheat: five were for chaff and one for barley. Not every householding had a cistern or share in a cistern (four being held jointly); and some had more than others, notably 'Ali Muhammad Hamuri and his brothers. The total value

TABLE 9.1 Bait Ra's, complete holdings 1880, 1895 and 1921

	Name	Father	Father's father	Family	1880 <i>Musha'</i> no.	Share	House no.	House value
1	Ibrahim	'Isa		Haili	1a	2	11a	2000
2	'Abdul-Qadir	'Isa		Haili	1b		11b	
3	Qasim	Muhammad		Haili	1c		11c	
4	Mahmud	Lafi	'Isa	Haili	2a	1.5	8b	
5	'Ali	Lafi	'Isa	Haili	2b		8c	
6	Hamid	Lafi	'Isa	Haili	2c		8d	
7	Husain	Lafi	'Isa	Haili	2d		8e	
8	Lafi	'Isa		Haili			8a	2000
9	Ibrahim	Mustafa		Hamuri	4a	2.5	7a	3000
10	'Abdullah	Mustafa		Hamuri	4b		7c	
11	Sulaiman	Mustafa		Hamuri	4c		7b	
12	Mustafa	Mustafa		Hamuri	4d		7d	
13	Shahada	Ahmad		Kaufahi	5a	2	6a	2500
14	Muhammad	'Ali		Kaufahi	5b		6b	
15	Sa'd	'Ali		Kaufahi	5c			
16	'Uqla	Qasim		Kaufahi	5d		6c	
17	Khalaf	Qasim		Kaufahi	5e			
18	'Awad	Hamad	Husain	Hamuri	6a	2.5	4a	2000
19	'Uwaid	Hamad	Husain	Hamuri	6b		4b	
20	'Ali	Muhammad	Husain	Hamuri	7a	4	1a	5000
21	'Alaiyan	Muhammad	Husain	Hamuri	7b		1b	
22	Hasan	Muhammad	Husain	Hamuri	7c		1c	
23	'Uqla	Ahmad		Hamuri	8	0.5	5	1500
24	Husain	Muhammad		Shuha	9	0.5	16	1300
25	'Abdul-Muhsin	Hasan			10	0.5	15	1200
26	Mas'ud	Mustafa			12a	0.5	14b	
27	Yusuf	Mustafa	Salim	Abu Salim	12b		14a	1700
28	Ahmad	'Ali			15	1.5	9	1000
29	'Ata'allah	Khalil			3	1.5	13	
30	'Ali	Muhammad		Wibran	11a	2	18a	4000
31	'Awad	'Ali	Muhammad	Wibran	11b		18b	
32	Husain	'Ali	Muhammad	Wibran	11c		18d	
33	Isma'il	'Ali	Muhammad	Wibran	11d		18c	
34	Muhammad	Ahmad	Musa	Mandahani	13a	0.5	12a	2000
35	'Ali	Ahmad	Musa	Mandahani	13b		12b	
36	'Ali	Musa			14	2	3	2000
37	[joint]				16	6		
38	Shtawi	'Umar					2	2000
39	Mustafa	'Auda					10a	2000
40	Musa	Ibrahim					10b	
41	'Abdullah	Mas'ad					17a	3000
42	Shahada	Mas'ad					17b	
43	Salim	'Ali	Muhammad	Hamuri			19a	1500
44	Salih	'Ali	Muhammad	Hamuri			19b	
45	Matar	'Uwaida						
46	Dhiyab	'Umar	'Uwaida					
47	Muhammad	'Abdullah	Jum'a					
48	Mahmud	'Abdullah						
49	'Abdul-'Aziz	Ahmad						

1895 Holding no.	House no.	House value	Gardens, figs no.	Musba' no.	Share	1921 Holding no.	Share qirat	Share fraction	1910 Nufus household
31			714	728	2	25	24	1	29 17
24	689	1300	716, 718	738	0.5	26, 27 21	19 12	0.792 0.5	50 37, 38
22	687	2500	715	737	1	24 23 22	8 8 8	0.333 0.333 0.333	30 36
20	684	2000		727	1.5	13 14 12 11	11 9 9 11	0.458 0.375 0.375 0.458	31 49 42 43
11	673	3000	699			55	6	0.25	
34				732	3	57 56 54a 54b	6 6 11.5 17.5	0.25 0.25 0.479 0.729	58 57 60 61
10	672	3000	696, 697	724	1.5	7 4	18 33	0.75 1.375	48 63
13	675, 678	6500	700, 708	723	5.5	1, 5, 9 3, 6 2	66 33 33	2.75 1.375 1.375	23 28, 51 46
32				725	0.5	8	12	0.5	41
5	667	2500		726	1	45	31.25	1.302	24, 59
7	669	1000				29, 30	12	0.5	52, 56
9	671	500							
12	674	1000				40	11.75	0.490	15, 45
23	688	2000	722	741	1.5	37, 38, 39	31.25	1.302	12, 20, 64
									47
									21
15	689	1000	711	736	1.5	49	38.25	1.594	35 53
1	663	4000	707	731	2.5	33, 34	52.75	2.198	8, 9, 10
18	682	2500	713	734	2	35, 36	43.25	1.802	25, 26
3	665, 677	4000	706, 709, 710, 712	733	3	50-3, 58	68.5	2.854	3, 18
17	681	500				59	4	0.167	44
25	690	3000	701, 717, 721	735	4	41, 44, 48	47	1.958	2, 5, 14, 32, 55

TABLE 9.1 Bait Ra's, complete holdings 1880, 1895 and 1921 (continued)

Name	Father	Father's father	Family	1880 <i>Musha'</i> no.	Share	House no.	House value
50 'Ali	'Audarallah						
51 'Audarallah	Khalil						
52 Salih			Dalqamuni				
53 'Awad			Abu Husain				
54 Mustafa			Shuha				
55 Hasan							
56 Ahmad	Khalil						
57 'Abdul-Qadir	Yusuf						
58 Salih			al-Karki				
59 Ibrahim			al-Rasni				
60 Mustafa	Muhammad						
61 'Abdullah			Shuha				
62 Hasan			Shuha				
63 Salim	Muhammad		Abu Qasim				
64 Hasan			Sabbah				
65 Salih			Sabbah				
66 Qaftan	'Alaiyan						
67 Takhshum	Yusuf	'Ali					
68 Husain	Ahmad	'Abdullah					
69 'Ali	'Abdul-Qadir	Hasan					
70 Hasan	Muhammad	Ahmad					
71 Ahmad	Mustafa	'Awad					
72 'Ali	Ahmad	Yusuf					
73 Musa	Husain	Hasan					
74 Mahmud	Hamd	Khalil					
75 Falha	Muhammad	'Abdullah					
76 'Awad	Mahmud	Hasan					
TOTAL							

30

of the houses was 44,700 *guruş* (compared with 96,000 for the plough land) while the value of the cisterns was 21,900 *guruş*. Clearly land was valued not only for cultivation in Bait Ra's. This may go part of the way to explain Hasan al-Sabbah's eagerness to be recognized as headman.

(2) The house list for Bait Ra's seems to have been prepared a couple of days before the list of landholdings. Nineteen householdings were listed, one for each landholding plus four of people who held no land (Table 9.1). Surprisingly each landholding is associated with just one house with the same co-sharers, even though the average number of co-sharers per holding is comparatively high (2.33 or 35/15) and the composition of holdings is not always simple. This is sufficiently unusual to suggest that registration of landholdings in Bait Ra's might have been done on the basis of residence, not as a separate operation to reflect exactly who cultivated the lands of the village. In other villages landholdings often had different sets of co-sharers than houses, as would be

1895 Holding no.	House no.	House value	Gardens, figs no.	<i>Musha'</i> no.	Share	1921 Holding no.	Share <i>qirat</i>	Share fraction	1910 <i>Nufus</i> household
26	691	2000	719	740	1	15	14	0.583	
27	692	2000	720	739	0.5	19-20	18	0.75	
14	676	700		730	1.5	32	3	0.125	
4	666	2000	703			47	7.75	0.323	19
8	670	1000				10	14	0.583	39
2	664	1500							
6	668	1500							
16	680	1000							
19	683	500							
21	685	1200							
28			698						
29			702, 705						56
30			704						
33				729	2	16-18, 28, 31	57	2.375	
						42	12	0.5	33
						43	12	0.5	34
						46	31.25	1.302	
									4, 62, 69
									11
									13
									16
									22
									27
									40
									54
									65
									66
					36		864	36	

expected if registration of landholdings genuinely reflected the way land was worked. Moreover, in a plains village the small number of houses held by those without land is remarkable.

The houses vary in value from 1,000 *guruş* to 5,000, the average being 2,300. Five thousand *guruş* for a house is comparatively high for the district (see Map 5.6). The four houses of non-landholders are no less substantial than the others, valued at 2,000, 1,500, 3,000 and 2,000 *guruş* respectively. Despite the high minimum value, there is no evidence of another factor at work in the house list, such as only registering houses built of basalt, that might explain both the high valuation of houses and exclusion of those who lived in less substantial dwellings such as tents or Roman ruins.

(3) The registration of a joint holding of six shares out of 30 in the *musha'* plough land, held by all 15 sets of shareholders, is another feature without parallel in other villages.¹⁴ It points to two tiers of tenure, one by the shareholders, the

other by those who could not claim the right of *tapu* by virtue of long tenure or, more probably, by virtue of their actual residence in the village. In other villages, such as Hawwara, cultivators who could not prove long tenure were given the option of registering land on payment of a higher charge of *bedel-i misl*. But it seems that in Bait Ra's residence was the determining factor. This implies a degree of contestation over registration, as Da'ud 'Abbada implied in his testimony. Unlike the colonial form of land registration under British rule in north-west India in the nineteenth century, *tapu* registration did not distinguish between the so-called owner of a plot of land and the person who cultivated it; there was only one column for registering the person or persons responsible for cultivating a certain plot or share of land and for paying the corresponding share of the tax. The intention of the 1858 Land Code was to give *tapu* rights to those in usufructuary possession. With this joint holding in Bait Ra's, however, a higher level of tenure was validated.

Points (2) and (3) together show that little regard was had either by villagers or by *tapu* officials for the details of cultivation. Landholdings were registered as if right stemmed from patrilineal inheritance, as in house registration, not from the facts of cultivation.

(4) The largest individual shareholding in 1880 was of four shares held by 'Ali, 'Alaiyan and Hasan, sons of Muhammad al-Hamuri, who also held the largest house (listed as sons of Muhammad Husain Hamuri).¹⁵ 'Ali was one of the two headmen to sign the house register along with Lafi al-Haili. A marginal note against the shareholding says that two of the four shares were held under usufructuary right while 'two shares of the *vergi* tax are established for the village headman in lieu of his pay'. The note adds, 'This custom is irregular but has been applied from time past.' Again this is the only explicit statement of such a practice we encountered, though we suspect that it may have been more widespread. It certainly underlines the dominant position of the Hamuris in the village at the time and indicates further what might have motivated Hasan al-Sabbah's claim to be headman.

These four distinctive features of *tapu* registration in Bait Ra's show how the guidelines of registration, before they were standardized by the Special Commission, could be stretched to benefit one set of claimants over another. Within the terms of the law priority could be given to village residents over non-resident cultivators. The irregularity of allowing a headman an extra share was duly noted in the register, which was attested and approved in the proper manner. Only registration of a joint holding of all landholders on one-fifth of the plough land departed from the letter of the Land Code. At the same time *tapu* registration in Bait Ra's clearly laid the basis for subsequent conflictual social relations in the village. Perhaps the Bani Ta'an really had not been cultivating long enough in the village to claim the right to *tapu*. In any case there was already an issue of group opposition, for Hasan al-Sabbah claimed that he and others belonged to one group. Within a few years several families of the excluded group had become both resident in the village and shareholders in plough land, listed as tax-payers in 1895. They had also established

marriage links by the mid-1890s with the families of some of the men officially registered in 1880. We now consider the situation in 1895.

1895 tax registration

The form of the 1895 tax register differs from that of the *tapu* registers not only in the column headings but also in the way objects of registration were identified and listed.¹⁶ First, there was a single list for each village, not a series of lists according to type of property. Under each holding in the tax register, houses and plots were listed, each with a distinct identity and number, valuation and liability, with the total tax liability of the holding given at the end. At the end of all the holdings in a village its total tax liability was given, divided into different categories.

Second, only one individual was named in a holding, not a set of named co-sharers. Where a holding, or a plot within a holding, was shared, the words ‘and his partner(s)’ or ‘and his brother(s)’ was added without names. It is thus not clear from the form of the register how co-liability for tax was determined. Later, if changes were made to a holding as a result of a sale or the holder’s death, and if the register was kept up to date (which, except for one new entry, it was not for Bait Ra’s), naming was more complete and a full set of co-sharers was given.

Third, every object of taxation consisted of a numbered plot that was classified by type and, for cultivated fields, identified by the name or location in which it was situated. Thus column eight gave the type of plot: *hane* (house), *incirlik* (figs), ‘*hakura*’ (kitchen garden), *bağ* or *bahçe* (garden planted with fruit trees or vines), *zeytin* (olive grove), or *tarla* (arable). Each type was valued at a different rate, calculated on area for all but houses and olive groves. Column 12 gave the plot’s location of which there were only three for Bait Ra’s: *derun-ı kariye* (inside the village), *civar-ı kariye* (village outskirts), and *arz-ı Bait Ras* (the land of Bait Ra’s); the first contained houses, the second gardens or figs, and the third plots on the common plough land.

Each person liable for tax thus held a unique set of numbered plots. Shares in plough land were not registered. However, behind the numbering and naming, a shareholding system can be observed. In the field labelled *arz-ı Bait Ras* there were 19 separate plots, numbered 1–19 in column 9 and 723–41 in column 7, held by 19 different persons. The areas of these plots were multiples of 223.33 *dönüms*, totalling 8,040 or 36 times 223.33. Thus the 19 holders of arable plots effectively had shares ranging from ½ to 5½ and the total was 36, not the 30 shares of the 1880 *tapu* register.

The numbering of plots in the 1895 tax register would seem to imply the existence of a reference map showing the location of the named fields and of each plot in those fields. Yet no field map has surfaced in the Ottoman records we examined. It must be assumed that identification of fields was left to those who had local knowledge and that field mapping was still not a routine part of Ottoman land surveys for *tapu* or tax registration. A field map would have served

not only as an index to the register but also as a check on accuracy, to make sure that no plot had been left out. Identification of fields in the *tapu* registers followed the time-honoured form of stating the names of those who held adjoining plots to the south, north, west and east, or their nature (for instance ‘barren’ or ‘road’). This technique did not require a map. The 1895 tax register has the appearance of thoroughness but shows curious inattention to procedures of verification, not only in the identification of plots but also in naming only one person liable for the tax on a holding. Legal title was not the concern of the tax authorities. But as we shall see, the 1895 tax register served to validate later claims to land title, not only in Bait Ra’s. We now return to the question of those people listed in 1895 who had not been registered in 1880.

New landholders in 1895

Table 9.1 gives the complete holdings of those listed in the 1895 tax register in comparison with 1880 holdings of houses and plough land (not of gardens or cisterns) and 1921 holdings of plough land. The final column gives the households associated with the 1895 tax-payer in the civil register of 1910.¹⁷ The main points to note are, first, the change of base from 30 shares to 36, which remained the base up to 1936, and second the addition in 1895 of several new families with substantial holdings not only of shares in plough land but also of houses and gardens. It is these families which we have to consider in relation to the question whether Hasan al-Sabbah’s group of the Bani Ta’an was resident in Bait Ra’s at the time of *tapu* registration in 1880.

The three relevant families are those of ‘Uwaida, Jum’a and ‘Abdul-‘Aziz, holding respectively 4½ (in two holdings), 3 and 4 shares out of 36 in 1895, just less than one-third of the whole, a not insubstantial proportion for newcomers. They also held houses, of as high value as any other in the village with the exception only of ‘Ali Muhammad Husain Hamuri, as well as gardens. Simply from the size of their shares in the common plough land and the extent of their holdings, one would say that they were well established in the village by 1895 and that their holdings are unlikely to have come solely through purchase. Other new holders of shares in 1895 were ‘Aadatallah al-Khalil and his son ‘Ali, Salih Dalqamuni, and Salim Abu Qasim of Hakama, he whom Da’ud ‘Abbada was said to have wanted to act as headman instead of Hasan al-Sabbah. ‘Aadatallah and his son had gardens as well as arable land, but Salih Dalqamuni and Salim Abu Qasim did not. All of them continued to hold land in 1921. But Hasan al-Sabbah himself was not registered in 1895. It was not until the 1921 resettlement that his own son and his brother Salih’s heirs obtained land rights in Bait Ra’s, although the sons of both Hasan and Salih had held houses in the village at the time of the 1910 household census.

The ‘Uwaida, Jum’a and ‘Abdul-‘Aziz families continued to hold shares in plough land in 1921, although not exactly the same shares as in 1895. Together they held about half of the Bani Ta’an section of the village in 1921 (215½q out of 432). The holdings of seven other families in the same section (with

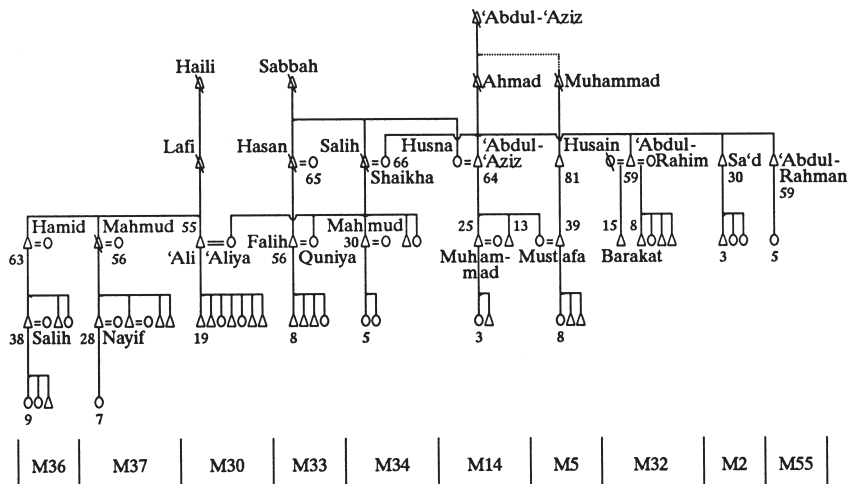
holdings numbered 33 to 57) were not as large. The composition of the section was disparate.

It is possible that ‘Abdul-‘Aziz’s holding in 1895 included the Sabbah holdings, for ‘Abdul-‘Aziz himself was identified as son of ‘Ahmad al-‘Abdul-‘Aziz al-Sabbah, headman’ in a court case of 1914. Similarly, in a case of 1936 relating to the cadastral settlement (*taswiya*), the plaintiffs were identified as ‘Abdul-Rahim al-Ahmad al-Sabbah, his brother’s son Muhammad al-‘Abdul-‘Aziz al-Sabbah and another brother’s son Khalil bin Sa’d al-Sabbah (all written thus).¹⁸ Hasan al-Sabbah himself may have died by 1895, when his son Falih would have been already forty-one. In any case the two families were close, for ‘Abdul-‘Aziz married Hasan al-Sabbah’s sister while his own sister married Salih al-Sabbah. It is to the affinal links between the principal families of the Bani Ta’an that we now turn. Even if the families of ‘Uwaida and ‘Abdul-‘Aziz were not actually resident in Bait Ra’s in 1880 at the time of *tapu* registration, their marriage links with families that were then resident suggest their own residence in the village soon afterwards, thus supporting the impression that they were well established by 1895.

Marriage links between new families

The civil register (*nūfus*) of 1910 (1326AM) listed everyone in a village by household, giving their names and the names of their parents, whether the latter were deceased or divorced, their religion, gender and year of birth. The register for Bait Ra’s is missing households M1 (Muslim household number one, entry numbers 1–11), M6 and M7 (together nine entries missing), and perhaps M67 and M68 whose household numbers are missing though there are no missing numbers of personal entries between households M66 and M69. This is no worse than for other villages of the district. For two of our selected villages the *nūfus* registers scarcely survive: only the eleven Christian Orthodox households of Khanzira, and only one household of Hawwara. Of the other two selected villages, Bait Ra’s and Kufr ‘Awan, the former’s register is less internally coherent than the latter’s in the sense that identification of common parentage for people belonging to different households is less sure. In part this relates to the different social structure of these two villages and to the consequent manner in which the *nūfus* seems to have been carried out. Marriages in Kufr ‘Awan were largely contracted within the village. Parents were often identified in the 1910 civil register of Kufr ‘Awan by the names of their fathers, especially to distinguish two people of the same name. In the case of Bait Ra’s, identification appears less the work of someone who knew the connections of everyone in the village, which for our purposes means that the names of parents of people we think might be siblings do not always agree. This is by way of caveat. Methodologically, we proceed to make links between families, cautiously building a total picture until a definite inconsistency appears.

From the dates of birth of a father and his oldest child it is possible to work backwards to establish a likely date of marriage.¹⁹ In Figure 9.1 two points are relevant. First the marriage of Salih al-Sabbah’s daughter ‘Aliya to ‘Ali al-Lafi



Note: Numbers in the bottom row give the nüfus household number of the portion of genealogy directly above. Thus Hamid al-Lafi's household M36 consisted of Hamid (aged 63 in 1910), his wife, his son Salih (aged 38), Salih's wife and three children (the oldest a daughter aged 9), and an unmarried son and unmarried daughter of Hamid. Neither Lafi nor his son Mahmud was alive in 1910.

Figure 9.1 Bait Ra's, households of Hasan al-Sabbah's family and affines in 1910

must have taken place before 1891 since their oldest son was aged nineteen in 1910. This in turn implies that the family of Hasan and Salih al-Sabbah had good relations with the family of Lafi al-Haili, one of the leaders of the village at the time of *tapu* registration, before 1890. Second, the exchange marriages of 'Abdul-'Aziz and Salih al-Sabbah, whereby each man married the other man's sister, show that the two families were already affinally related at the time of *tapu* registration, since Salih's son Mahmud was born in 1880 while 'Abdul-'Aziz's son Muhammad was born in 1885. Partly for this reason we think that 'Abdul-'Aziz's holding of 4 shares in 1895 may have included as hidden partners both his own brothers and Hasan and Salih al-Sabbah.

We now consider marriages made by the children of Ahmad al-'Ali, Hasan al-Sabbah's second witness in his claim against Da'ud 'Abbada. These are shown in Figure 9.2 and concern first a marriage with 'Abdul-'Aziz's brother 'Abdul-Rahim (M32), and second exchange marriages with two children of Matar al-'Uwaida (M12 and M8). Both Matar and his brother's son Dhiyab al-'Umar were registered as substantial tax-payers in 1895 (see Table 9.1), although neither family had been resident in the village at the time of *tapu* registration in 1880. It may be recalled that Ahmad al-'Ali told the investigating committee that he had only settled in the village two years beforehand, although he might have been cultivating Bait Ra's lands for longer since he was awarded *tapu* rights on the basis of *hakk-ı karar*.

The marriages between Ahmad al-'Ali's children and those of Matar al-'Uwaida

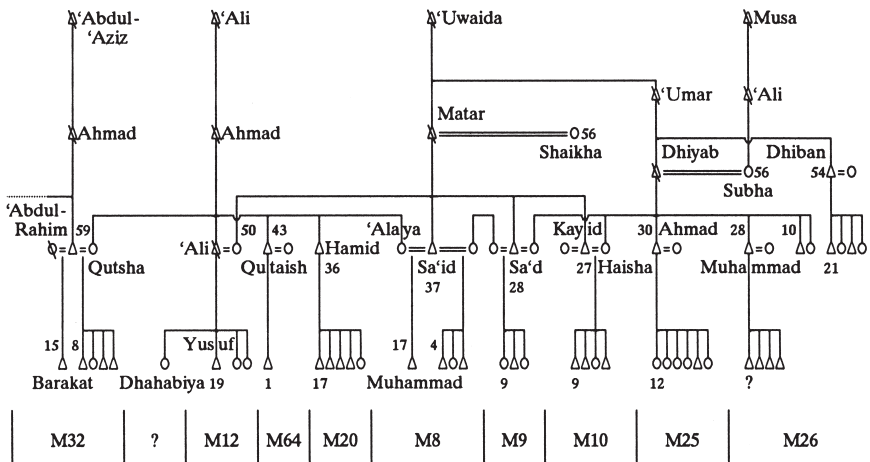


Figure 9.2 Bait Ra's, households of the 'Uwaida family and affines in 1910

dated from at least 1890, judging from the years of birth of 'Ali al-Ahmad's son Yusuf, head of household M12 in 1910, and of 'Ali al-Ahmad's sister 'Alaya's son Muhammad in M8, a household headed by her husband Sa'id al-Matar. Ahmad al-'Ali had been living in the village since 1877 or 1878 and was an ally of Hasan al-Sabbah; Matar al-'Uwaida was registered as holding a house and lands in 1895; the exchange marriages between the two families dated from around 1890. By itself this does not tell us when Matar al-'Uwaida may have established residence in Bait Ra's. But in conjunction with data on the growth of other households of the 'Uwaida family, we may infer that he was living in the village by 1890.

Matar's brother's son Dhiyab al-'Umar was also registered in 1895 with his own house and lands. The marriages of two daughters of Dhiyab to two sons of Matar are likely to have taken place around 1900. A third daughter's marriage to Salih son of 'Abdullah al-Mas'ad (not shown on Figure 9.2) also took place around 1900. 'Abdullah and his brother Shahada had been registered in 1880 as residents of the village, not landholders, but in 1895 'Abdullah was registered as holding 1½ shares of plough land, about the same as what his son Salih held in 1921. They too belonged to the Bani Ta'an half of the village.

By 1910 the two branches of the 'Uwaida family had grown into five households, as shown in Figure 9.2: M8, M9 and M10 for Matar's three sons, and M25 and M26 for the households of Dhiyab's two sons, the second of which also contained Dhiyab's brother Dhiban and his family, an unusually complex household composition.

The extent of household development and of intermarriages is supplementary evidence for the 'Uwaida family having been installed in Bait Ra's at least since 1890. What the exact position had been ten years earlier we cannot say with certainty. In an interview we conducted in Bait Ra's in 1992 we noted that Dhiyab al-'Umar's wife Subha, given as daughter of 'Ali in the *nifus* register,

was remembered as of the house (*dar*) of 'Ali al-Musa.²⁰ This connection, if true, would close the circle with Hasan al-Sabbah and his two witnesses, Ahmad al-'Ali and 'Ali al-Musa. 'Ali al-Musa himself was registered in 1880 but made no appearance in subsequent registers. If Subha was his daughter, she would already have been married to Dhiyab al-'Umar by the time the committee was investigating charges against Da'ud 'Abbada, since her oldest son was born in 1880. The other affinal links between the 'Uwaida and the Ahmad al-'Ali, the Ahmad al-'Ali and the 'Abdul-'Aziz, the 'Abdul-'Aziz and the Sabbah, and the Sabbah and the Haili may not yet have been formed. But a network of associations may already have been sufficiently in the air to justify 'Ali al-Musa's assertion that he was of the same 'tribe' as Hasan al-Sabbah. In this case the tribe was made by alliance.

Before we leave the network of families linked to the Sabbah, two other members of 'Abdul-'Aziz's family should be mentioned (see Figure 9.1). The sons of 'Abdul-'Aziz (M14) and of two of his brothers, 'Abdul-Rahim (M32) and Sa'd (M2), had holdings in 1921 totalling 47q. Eleven years earlier at the time of the census a fourth brother of 'Abdul-'Aziz, 'Abdul-Rahman, had headed household M55; unusually his young daughter Falha aged five was the only other member. The records are otherwise silent over whether 'Abdul-Rahman had ever shared his brother's landholding and what happened to the daughter. According to the census 'Abdul-'Aziz also had a paternal cousin Husain al-Muhammad who headed household M5 and who was the oldest person in the village at the time. Husain's son Mustafa had married 'Abdul-'Aziz's daughter Haja by Husna, the sister of Hasan al-Sabbah. Yet as with 'Abdul-Rahman, the records are otherwise silent concerning this branch of the 'Abdul-'Aziz family. In an interview in 1992 with an elderly member of the Hamuri family, the house (*dar*) of Mustafa's son 'Aqqab, aged five in 1910, was recalled.²¹ Mustafa had been a ploughman (*barrath*) without land and had sold vegetables. We think it probable that Hasan and Salih al-Sabbah or their heirs had been hidden co-sharers in 'Abdul-'Aziz's holding of 4 shares in 1895, rather than Husain al-Muhammad. But perhaps this is colouring a picture according to what happened subsequently. In any case there seems to have been some diversity of occupation within the family before it settled in Bait Ra's.

The resettlement of 1921

At the start of this chapter we raised a question about the possible exclusion of landholding families from *tapu* registration in 1880. From what we could deduce from household compositions and dates of birth given in the civil registry of 1910, the main families of the Bani Ta'an were linked to each other through marriage by at least 1890 and there was a marriage link with the family of Lafi al-Haili, one of the village headmen in 1880. By 1895 three of these families were established in Bait Ra's with substantial holdings of houses, gardens and plough land. They were registered as tax-payers although they did not have *tapu* title. We now consider the use made of tax registration to validate their title to land in 1921 after a violent clash in the village.

The *nizami* court case of March 1921 is silent about the causes of the fight.

But it makes clear that the fight was between the two halves of the village, the Hamuri section and the Bani Ta'an section. After listing particular individuals belonging to the first group as suspects in killing particular individuals belonging to the second, other individuals of the Hamuri were listed as suspects in firing at the 'firqa Bani Ta'an' with intent to kill. Then reciprocally individuals belonging to the Bani Ta'an were accused of killing individuals of the Hamuri, and others were accused of firing on the 'firqat al-Hamuri'.²² As a result of the criminal investigation some fifteen people from each section were ordered to be prosecuted under Sections 174 or 181 of the Criminal Code.

The exact sequence of events that led to the resettlement of *tapu* land rights in 1921–22 is likewise obscure. It is possible that the newly mandated British administration sought on its own initiative to clarify the situation. There had been no mutation of the *tapu* register of Bait Ra's since 1880. A complete resettlement of land rights, bringing them into line with long-term payment of tax, was a logical initiative for a new administration to take.

But equally the proceedings of the new settlement occurred more or less at the same time as those of the criminal investigation into the fight, suggesting that the two events were not unconnected. Four statements accompanied the new list of landholders in the *tapu* register. The first two, dated 28 February 1921, referred to a Legislative Council (*al-majlis al-tashri'i*) ruling of 21 February and stated that the village had now been measured, boundaries fixed and the cultivators registered on the basis of either inheritance or long tenure (*haqq al-qarar*); 'moreover this had been done without objection from any heir or anyone in usufructuary possession'. The lands were divided into four blocks (*mawaqi'*) on the basis of 36 shares (864q), with 18 shares going to each section. The second statement, signed by the official in charge of property registration (*ma'mur al-tamlik*) and two members of the Legislative Council, requested that the register be approved by the Council in order that it be entered in the standing record.²³

The third statement, dated almost a year later on 9 February 1922, referred to a ruling of the Administrative Council of 19 November 1921. It said that the village council and the headmen of both sides of the village had approved the names of all those registered; but that the headman of the Hamuris maintained that they should not be asked to pay the charges for proprietary title a second time since they had already paid the charges in 1880. The final statement recorded the ruling of the Administrative Council of 13 February 1922 that fees should be collected from everyone and title deeds given accordingly. The Hamuri headman's plea of having paid the fees forty years earlier was implicitly disallowed.

Landholding in Bait Ra's was now regularized. From 1922 onwards landholders had recourse to the *tapu* office to register mutations of their holdings. The 1936 cadastre was essentially an updating of the 1921 settlement when holdings were transformed from shares to fixed plots of land, each share corresponding to strips in three or four blocks of land.

The exact basis on which rights were settled was not mentioned in the two statements of February 1921. However, comparison between the *tapu* lists of

1921/22 and 1880 and the tax list of 1895 shows, first, that the 1880 settlement was substantially revised, and second that, with one or two additions, notably of Hasan al-Sabbah's heirs, the tax listing of 1895 was followed. Not only were shares allocated on a basis of 36, as in 1895, but the sizes of some holdings in 1921 were exactly the same as in 1895. In particular, the holding of 'Ali Muhammad al-Hamuri and his brothers, which had been 4 out of 30 in 1880 but 5½ out of 36 in 1895, remained 5½ out of 36 in 1921.

Table 9.2 summarizes the comparative position of holding sizes by families

TABLE 9.2 Bait Ra's, landholdings by families in 1880, 1895 and 1921

Name	Family	1880	1895	1921
<i>Hamuri section</i>				
A1	'Ali	4	5.5	5.5
A2	'Awad	2.5	1.5	2.125
A3	Mustafa	2.5	1.5	1.667
A4	'Uqla	0.5	0.5	0.5
A5	Ibrahim & Qasim	2	2	1.792
A6	Lafi	1.5	1.5	1.5
A7	'Audatallah		1.5	1.333
A8	Salih		1.5	0.125
A9	Salim		2	2.375
A10	Mustafa			1.083
	SUBTOTAL	13	17.5	18
<i>Bani Ta'an section</i>				
B1	Shahada <i>et al.</i>	2	3	1.708
B2	Husain and 'Abdul-Muhsin	1	1	1.302
B3	Ahmad al-'Ali	1.5	1.5	1.302
B4	Yusuf	0.5		0.49
B5	Shahada		1.5	1.594
B6	'Abdullah		3	3.021
B7	Matar & 'Umar		4.5	4
B8	'Abdul-'Aziz		4	1.958
B9	Hasan and Salih			1
B10	'Awad			0.323
B11	Qaftan			1.302
	SUBTOTAL	5	18.5	18
<i>Others</i>				
	'Ali & sons	2		
	'Ali al-Musa	2		
	Muhammad & brother	0.5		
	'Ata'allah al-Khalil	1.5		
	common holding	6		
	SUBTOTAL	12		
	TOTAL	30	36	36

in 1880, 1895 and 1921. The table's division into two sections follows the 1921 register, no such division having been made in either 1880 or 1895. Although holdings of only a few families remained exactly the same between 1895 and 1921, 'Ali al-Hamuri's stands out. That branch of the Hamuris already had a large holding in 1880 by the standards of others, enlarged by the two shares which came from 'Ali being headman. By 1895 this had become 5½ out of 36, and remained the branch's share in 1921. The remarks in the third and fourth statement of 1922, that the Hamuri headman objected to paying dues for registration by *haqq al-qarar* which had been paid forty years previously, confirm that the resettlement of rights was not without some tension. Two of 'Ali's sons were among the particular individuals accused in the criminal case.

Transfers of land between 1880 and 1921

The inference that, in conditions of conflicting claims to land rights in Bait Ra's, it was the tax register of 1895 that formed the basis of entitlement in 1921/22 has important implications for our understanding of property under late Ottoman rule of Arab lands. Private property in land was not created outright by *tapu* registration in the last quarter of the nineteenth century. It took time for disputes to be settled and for people to adjust to the new institutions. Despite the internal disagreement evident when *tapu* registration first commenced in the late 1870s, Bait Ra's was not a village which experienced great change in the cultivating population from 1880 to 1930. On the contrary there seems to have been continuity in the cultivating population, whatever the discontinuities in official record. Hasan al-Sabbah's heirs were eventually given land title forty years after he had claimed to be a headman of the village. The other principal families of the Bani Ta'an – those of Matar and 'Umar al-'Uwaida, of 'Abdul-'Aziz and of Jum'a – surely could not have entered the village through purchase, for the diversity and extent of their taxable holdings in 1895 was as great as those of any *tapu* holder of 1880. Apart from the heirs of Hasan and Salih al-Sabbah and a person named Qaftan 'Alaiyan from al-Bariha no new landholders were registered in 1921; and there was only one shareholder of 1880 who was given rights in 1921 despite not having held an arable plot in 1895, Yusuf Abu Salim. The 1921 resettlement thus looks like an official attempt to give title to those who had already long been in possession and had paid the relevant taxes. Ironically it was not until Ottoman rule had ended that rights to land were finally officially settled and the authority of the *tapu* land registry was accepted by the landholders.

In the meantime the authority of other offices of government was accepted. Sales of land, in the form of a share in plough land, occurred through the *shar'i* courts, even if they were not registered officially in the *tapu* office. Most of these sales referred to holdings that can be identified in the 1895 tax register, although no explicit mention of that register is made in the court summaries. Of the thirteen *shar'i* court cases concerning Bait Ra's between 1912 and 1920 which we have come across in the record, six concerned sales of land.²⁴

It goes without saying that those transfers registered in the *shar'i* court whose

record has survived account for only a small proportion of those that must have taken place on the ground. Even in a village like Hawwara where transactions were registered in the *tapu* office as soon as the ink had dried on the first *tapu* registration of 1876, a complete history of land transfers cannot be extracted from the surviving *tapu* registers. In Bait Ra's, where there was such a large gap between the *tapu* register of 1880 and the tax register of 1895, landholders would have had good reasons to validate transfers in the *shar'i* court.

Conclusion: title or tax, groups or individuals?

The case of Bait Ra's throws up questions about the construction of property through the articulation between title and tax in the Ottoman system of rule. There was an ongoing dispute in the village over who had been given *tapu* title in 1880. The investigation of Da'ud 'Abbada shows it. The unusual form of the 1880 *tapu* register shows it, in that only residents had title and one-fifth of the plough land was held jointly by the individual shareholding units. The disparity in holdings between 1880 and 1895 and the different base of shares in plough land show it. The absence of any transaction in the *tapu* office during the next forty years shows it.

The tax register of 1895 validated facts of possession. The principal families of the Bani Ta'an were acknowledged as tax-payers on their possessions in the village. But of itself this did not convey title to those possessions. For that they had to wait until Ottoman rule ended.

There must have been a procedure under Ottoman land administration for redressing an award of *tapu* title that was disputed by a substantial proportion of cultivators. But to set the process in motion would have required the cooperation of those who were acknowledged leaders of the village among the Hamuri. In the event the *tapu* records are completely silent for a period of forty years. Instead, the tax register of 1895 seems to have remained the official record of who possessed what in the village until the end of Ottoman rule, although that register too was not updated. Possession without title was sufficient. But with a change of regime, the lack of valid title again came to the fore, resulting in violence. The new government ordered a resettlement.

The case of Bait Ra's also throws up questions of agency in negotiations with the local administration. In 1880 Hasan al-Sabbah claimed that he was a headman in Bait Ra's, and his witness 'Ali Musa said that they belonged to the same group called the Bani Ta'an. Few of those who were later associated with the Bani Ta'an, however, were given *tapu* rights in 1880. Hasan al-Sabbah was apparently the spokesman for a group of mainly non-resident cultivators. In 1895 several leading members of that group (although not Hasan al-Sabbah himself who may by then have died) were acknowledged as tax-payers, their individual names standing in turn for unnamed members of their families as well as for less closely related co-sharers. Twenty-five years later a resettlement was effected awarding male members of families associated with the Bani Ta'an *tapu* title to half the village plough land.

Nineteenth-century Ottoman land reforms individualized rights to land. But in the case of Bait Ra's individuals clearly stood for groups at different levels, even officially; and without constituting themselves as a group individual members of the Bani Ta'an might not eventually have won *tapu* rights to land.

At the core of the Hamuri section were patrilineally related families called Hamuri. Associated families included non-residents like Salim Abu Qasim of Hakama. The Bani Ta'an section, however, was composed of families for which common interest, cemented by marriage, was more evident than patrilineality, even if the ideology of commonalty was put in terms of *'ashira* or clanship.

The history of landholding in Bait Ra's is marked not only by the exclusion of one group, perhaps on grounds of non-residence, but also by what appears from the reaction to Ottoman governance. Villagers, including the major Hamuri family, simply avoided updating records relating to land, notably the problematic 1880 *tapu* register but also the 1895 tax register. This stands in marked contrast to relations of the people of Hawwara with the Ottoman government, as we shall now see.

Hawwara

The initial *tapu* registration of Hawwara in 1876 was also conflictual (see Chapter 6). But here one party's failure to be awarded title to land was resolved by purchase from the title holders and by corresponding mutations of the *tapu* register. Within four years of land registration the contender for title who had lost the case in Istanbul and had not been registered in 1876, Na'il Gharaiiba, had acquired in his own name five shares out of 46½, two and a half times more than any other shareholder. By 1895 when a *vergi* tax register was prepared, the different branches of the Gharaiibas had acquired legal title to 8¾ shares through mutations in the *tapu* register. According to the tax register they and their associates held 16 shares out of 48, one-third of the land; and judging from the layout of fields there was a *de facto* division of the village into two halves, one dominated by the Gharaiibas. They continued to buy land until the cadastral settlement (*taswiya*) of 1933 when one-half of the land was held by the Gharaiibas and their associates in a designated section (*fırqa*). In 1876 only one of these associated families had held title.²⁵

A second conflict is evident from the 1882 court case with which Chapter 1 opened, in which six cultivators of Hawwara contested a sale of land as co-partners in agriculture (*halit ve şerik*). That they lost the case does not mean that co-partnership ceased to exist. Traces of collective organization can be seen in the registers, particularly in the tax register of 1895.

The two conflicts were connected at a general as well as specific level. Both concerned Na'il Gharaiiba and his agnates or associates. Both can also be seen as reactions by villagers to the forces of commercial agriculture. The person who brought his complaint about land rights in Hawwara to Istanbul, 'Abdullah al-Ahmad Abu Kirsanna, was to sell his own holding of two shares of land in 1878, soon after *tapu* registration, to a tax official of the Hauran, Yusuf Tawil,

who then sold it to Na'il Gharaiiba. Other members of the Abu Kirsanna family were likewise to lose much of their holdings in Hawwara and to relocate partly to the neighbouring village of al-Ramtha; in 1895 they held the equivalent of four shares instead of the eight they had held in 1876. As mentioned in Chapter 6, those awarded *tapu* title to land in Hawwara in 1876 had to pay the substantially higher registration fees of *bedel-i misl*. 'Abdullah al-Ahmad and the other vendors to Yusuf Tawil may simply have overstretched themselves. By contrast, Na'il Gharaiiba could afford to buy five full shares, and in the contested court case of 1882 he acted as legal representative (*vekil*) of the vendor Yusuf Suwaidan, where the purchasers were Na'il's agnates and associates.

'Abdullah Abu Kirsanna must have had influence in Damascus in order to bring his complaint to Istanbul. He is said by a member of the family to have been responsible for supplying caravans on the annual pilgrimage between Damascus and Mecca.²⁶ Some of the family's land is said to have been given in marriage payments, a claim supported by two early *tapu* mutations, one (of 1½ shares, a substantial amount for a marriage payment) to the daughter of a sheikhly family of the Bani Hasan.²⁷ Anyone supplying caravans on the *hajj* would have maintained good relations with pastoral tribes. But Na'il Gharaiiba's influence in the emerging administrative centre of Irbid was of a different order.²⁸

To put the history of landholding in Hawwara from 1876 to 1933 only in terms of the rise or fall of particular families, however, or only in terms of commercial individualism versus peasant collectivism, does not capture contrasting ways of forming groups and alliances. The collective organization of agriculture may not be directly visible from individual landholding histories. For this we must consider how land was managed within a community of cultivators. At the time of the 1895 tax survey, when the Gharaiibas were still in the process of building alliances with other families, different forms of land allotment prevailed in each half of the village showing different principles of collective organization.

In the Ottoman modern state of property, *tapu* registration was central. But the relation between land title and possession could be complex even in a village like Bait Ra's where cultivation – as opposed to 'digging up buried objects' – was little commercially valued. Possession of a share of common plough land meant belonging to a group of shareholders. The early years of *tapu* registration in Hawwara were unsettled. Separate registration in 1895 for *vergi* tax introduced a second source for documenting possession, closer to the organization of production than the *tapu* registers. In 1921 *tapu* entitlement was regularized by reference to tax registers. Claims made in 1921 support the impression of unsettledness in the village between 1876 and 1895. After considering these claims, we shall return to analyse the content of the 1895 tax register, particularly in relation to the formation of shareholding groups. The allotment of land at the 1933 cadastre provides a final illustration and contrast.

The initial registration in Hawwara is considered first. As with Bait Ra's there are grounds for wondering what exactly was going on in 1876.

Unsettledness: initial registration in Hawwara, 1876–83

In the 1876 *tapu* register the plough land of Hawwara was described as divided into three large blocks, *buwaib*, *mughniya* and *za'r*, of area 6,500, 4,000 and 6,500 *dönüms* respectively.²⁹ A landholding consisted of a certain share in each block and there were 31 holdings in all.³⁰ Together the shares added to 46½, an average of 1½ shares per holding. If we divide the list into two (see Table 9.3), the first thirteen holdings totalled 23 shares, the other eighteen 23½. The four Abu Kirsanna holdings amounted to eight shares in the first half while holdings associated with the Shatnawis and most of those who contested the sale in 1882, as well as the vendor himself, were grouped in the second. But there was no official recognition of such a division.

Tapu registration of houses was done in November 1883, though Na'il Gharaiiba and two others registered theirs separately in March 1882. In Na'il's case, eight structures were registered in his name jointly with five brothers and two sons of a paternal cousin: one house valued at 7,000 *guruş*, among the most highly valued houses in the district, five wells and two cisterns. The 1883 list had 46 buildings ranging in value from 150 to 6,000 *guruş*. Only two of the 46 buildings were not houses – one was a storeroom, another a stable – and none was a well.

The relation between residence and landholding in Hawwara in the initial years of *tapu* registration was unsettled. Many landholders listed in 1876 were not represented in the house list, in other words (assuming both lists to be accurate) were either not living in Hawwara in 1876 or were to leave soon afterwards. In some cases nothing more was heard of them and title to land was left, as it were, suspended in the record lacking a subsequent mutation, although no holding was officially declared abandoned (*mahlul*). Even in the case of the Gharaiiba house there is an impression of initial unsettledness, for only five of Na'il's seven brothers were listed as co-sharers, and one of the five (Khalil) was to settle in the village of al-Mughaiyir just to the north of Hawwara.³¹ It is as though, coming from the village of Jumha to the west of Bait Ra's, they had not yet determined where each would settle.

On the other hand a number of householders in 1883, who had not been registered as landholders in 1876, had already bought or would shortly buy land in the village. The most important of these was Na'il Gharaiiba. But four other houses in the 1883 list were valued at 5,000 or 6,000 *guruş*, two of which were held by other new landholders. The turnover is thus impressive. First in the list, valued at 5,000 *guruş*, was a house held by the four sons of Muhammad Sabbah who had bought one of the contested shares from Yusuf Suwaidan. Muhammad Sabbah was a putative cousin of Na'il Gharaiiba (see the top generation of the Gharaiiba genealogy in Figure 9.3). Two sons of Muhammad Sabbah's brother 'Ali held houses of less value, numbered two and three in the list. A second new landholder with a house valued at 6,000 *guruş* was Ahmad al-Mustafa Tannash. In 1885 he would buy two half-shares of land, one from a Shatnawi, the other from an Abu Kirsanna. But he had already been named as one of the co-partners (*halit ve şerik*) in the contested sale of land in 1882 by Yusuf Suwaidan, even

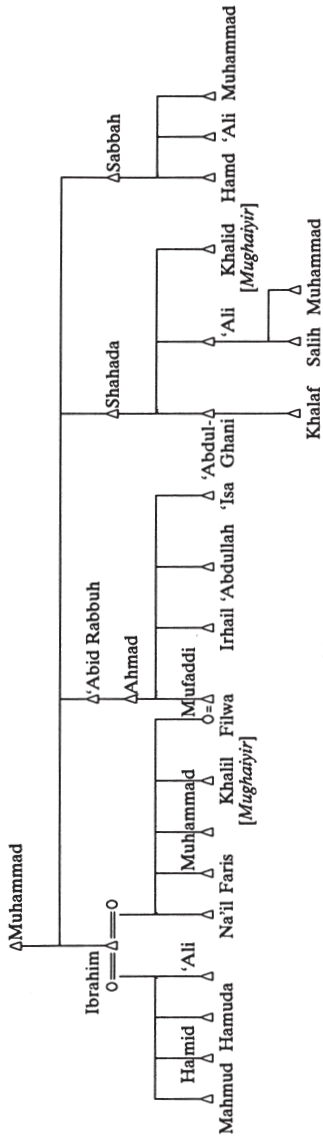
TABLE 9.3 Hawwara, landholdings in 1876 and their history to 1895

1876 hldg share	Family	Name	Father's name	History	1895 hldg share
1	[Kirsanna]	'Abdullah	Ahmad al-Musa	Sells all in 1878 to Yusuf Tawil whence in 1879 to Na'il Gharaiiba; sons Mahmud & Muhammad share house-10 in 1883 with son Salih of no. 10, but not listed in 1895	0
2	Barakat	'Abdul-Rahim		Not resident in 1883; is listed in 1895 at end but never appears in records and no claim is made to his land in 1921	1 ½
3	Shuha	'Abdul-Jalil	As'ad	House-47 registered in 1889 but otherwise unchanged to 1895; 2 shares inherited by son Hamid in 1919 who gradually sells all	2
4	[Rawashida]	Mahmud	Ahmad	House-21 in 1883; in 1895 has one share after <i>de facto</i> sale of ½ to another Rawashida (1895 holding no. 47), made official by <i>tapu</i> mutation in 1908	1
5	Rumi	'Abdul-Qadir		Shares house-6 in 1883 with no. 7; apparently sells ½ share before 1895 (missing mutation) leaving 1 with sons Sulaiman & al-'Abid equally; latter is claimed in 1921 by Jammal (no. 31) and 'Abdul-Muhsin (no. 22)	1 ½
6	Lubani	Muhammad + Salih	Qasim	Sells all in 1878 to Yusuf Tawil whence in 1879 to Na'il Gharaiiba; not resident in 1883; other Lubani remain in village landless	0
7	Rumi	'Umar		Shares house-6 in 1883 with no. 5; no change to 1895	1 ½
8	[1895: Hazir]	Ahmad	'Ali al-'Isa	Not resident in 1883; sells ½ to Ghannam in 1893 and is listed in 1895 at end; in 1903 sells remaining 1 share to four co-sharers (including Khattar al-Husain); missing mutation of ½	1
9	Abu Humada	Musa		Sells all in 1878 to Yusuf Tawil whence in 1879 to Na'il Gharaiiba; not resident in 1883	0
10	[Kirsanna]	'Abdul-Qadir	Ahmad	Son Salih shares house-10 with sons of no. 1, and buys 1 share from no. 11 in 1891, of which ½ sold to Ghannam (no. 86 in 1895) in 1893; has holding 28 in 1895; father also listed in 1895 with 1 ½ (no. 80) which he sells to son Mustafa (listed second of <i>khalit uia-sharik</i>) in 1901	½ 1 ½

11	2	[Kirsanna]	'Awwad	'Abdul-Rahman	No separate house in 1883; in 1891 sells 1 share to son of no. 10 and ½ share to Abu Nasir (no. 83 in 1895); holds remaining ½ in 1895	82	½
12	2	[Kirsanna]	Mustafa	'Abdul-Jalil	No separate house in 1883; in 1885 sells ½ to Tannash and 1 ½ in 1892 (missing mutation) to wife of brother Rashid, Falha al-Qallab; she sells ½ in 1893 to Salih al-Bakr (no. 81), also ½ in 1895 to Khalaf Shahada (no. 41) after tax list completed; only Rashid listed in 1895	-	0
13	2	[1895: Hazir]	Mahmud + Muhammad	'Ali al-'Isa	Not resident in 1883; sell ½ to Ghannam (no. 86) and 1 to Gharaibas (no. 76) in 1892; listed in 1895 at end; afterwards lost to view	91	1
TOTAL 23							
14	1	Haddad	Mustafa		No separate house in 1883; no change to 1895; son Mahmud marries daughter of house-32 after no. 16, and their son 'Abdullah buys no. 16's 1 share from his mother	33	1
15	1	Haddad	Mar'ī	Mahmud	House-4 in 1883; no change to 1895; son Ibrahim marries daughter of no. 16, 'Aisha, who holds no. 18 in 1895	36	1
16	1	Haddad	Salih	Mahmud	House-5 in 1883; no change to 1895; marries daughter of house-32 to whom their daughter 'Aisha (no. 18 in 1895) sells Salih's 1 share after his death, who in turn sells it to her son by no. 14's son Mahmud	35	1
17	1		Ibrahim	'Uthman	Not resident in 1883; sells all to Muflih Sabbah (no. 8 in 1895) in 1893; daughter Zaghanda marries 'Abdullah al-Ahmad Gharaiiba (no. 73 in 1895)		0
18	1		Musa	'Uthman	Registers garden in 1882 but no house; in 1891 sells all to Na'il Gharaiiba's sister Filwa (½: no. 71 in 1895) and sons of Na'il's brother Muhammad (½: no. 77 in 1895)		0
19	2	Khatib	Muhammad	Yasin	Sells ½ to brother Ahmad in 1888 (missing mutation) and ¾ in 1901 to brother Mustafa; Ahmad holds house-19 in 1883 and no. 13 in 1895; Muhammad holds no. 17 in 1895	13	½
20	2	Shatnawi	Muhammad	Hasan	House-21 in 1883; first name of <i>khalit wa-sharik</i> in 1882; no apparent change to 1895 despite loss of one share	17	1 ½
21	2	[Shatnawi]	'Abdul-Qadir	Qasim	House-11 in 1883 but not resident in 1895; no apparent change to land-holding to 1895 despite loss of one share	85	1
22	1 ½	Shatnawi	Ahmad	Muhsin	House-30 in 1883; listed fourth of <i>khalit wa-sharik</i> in 1882; no apparent change to 1895 despite loss of ½ share; brother's son Salim has separate	7	1

TABLE 9.3 Hawwara, landholdings in 1876 and their history to 1895 (continued)

1876 hldg share	Family	Name	Father's name	History	1895 hldg share
23	Shahmi	Muhammad	Ahmad	house in 1895 (no. 9) Not resident in 1883; listed in 1895 at end; in 1921 ½ claimed by Tannash with Council ruling, and ½ by heirs of no. 22 without ruling; otherwise no mutations	88
24	'Ubini	Mustafa		Not resident in 1883; ½ claimed in 1921 by heirs of no. 21; otherwise lost to view	92
25	'Ubini	Muhammad		Not resident in 1883, not listed in 1895, and no mutations; daughter marries father of no. 31 then son of no. 20 with heirs from each	0
26	Abu Humada	Salih		Not resident in 1883; one share claimed in 1921 by Ghazlan, supposedly sold in 1877; not listed in 1895	0
27	Shatnawi	Salama	'Ali	House-16 in 1883; in 1885 sells ½ to Ahmad Tannash (no. 6 in 1895), and in 1892 ¼ to brother Mutlaq's son (father has no. 87 in 1895) but latter not taken into account in 1895	½
28		Isma'il	'Abdul-Hadi	House-19 in 1883; listed fifth <i>khalit wa-sharik</i> ; daughter Hintula inherits ½ in 1888 (missing mutation) which she holds in 1895; in 1902 she sells ¼ to her sister Fatima	79
29	Suwaidan	Yusuf		Sells 1 ½ in contested sale of 1882: 1 to sons of Muhammad Sabbah (no. 46 in 1895) and ½ to Musa al-Khlaif and his son 'Ali (no. 70 in 1895); no other mutation; not resident in 1883	0
30	[Shatnawi]	Husain	'Ali al-Husain	House-12 in 1883; in 1891 sells ½ to Mutlaq's son (whose father holds no. 87 in 1895); no sons; FFBS of Hasan al-'Isa (house 17 in 1883 and no. 20 in 1895) listed sixth <i>khalit wa-sharik</i> whose heirs claim land in 1933 on grounds of having always cultivated Husain al-'Ali's land	4
31	Jammal	'Abdullah		House-22 in 1883; no change to 1895; in 1908 sells 15q to brothers Salih (9), Hamad (3) and 'Abdul-Rahman (3)	16
TOTAL 23.5					1



1895

holding no.	76	72	(76)	74,77	71	73	41	40	8	45,49	46
share out of 48	1/2	2 1/2	1/2	2 1/2	1/2	1 1/2			1	1 1/2, 1/2	1

1933

no. of costarers (male/female)	5/1	6/0	5/0	4/0	10/0	7/0	2/0	3/0	4/0	4/0	2/0	6/0	1/0	1/0	8/0	6/0	5/0
size of holding in qirat	25 1/2	27	24	21	52	23	8	22 1/2	26 1/2	30	4	44	2	3	40 1/2	29	29
203/288 qirat in first quarter (70.5% of 12 full shares)																	
208/288 qirat in second quarter (72.2% of 12 full shares)																	
411/576 qirat (71.4%) or 17 1/8 out of 24 full shares in Gharaba half of village																	
180 1/2																	
83																	
49																	
98 1/2																	

Figure 9.3 Hawwara, genealogy of the Gharaba families with shares in 1895 and 1933

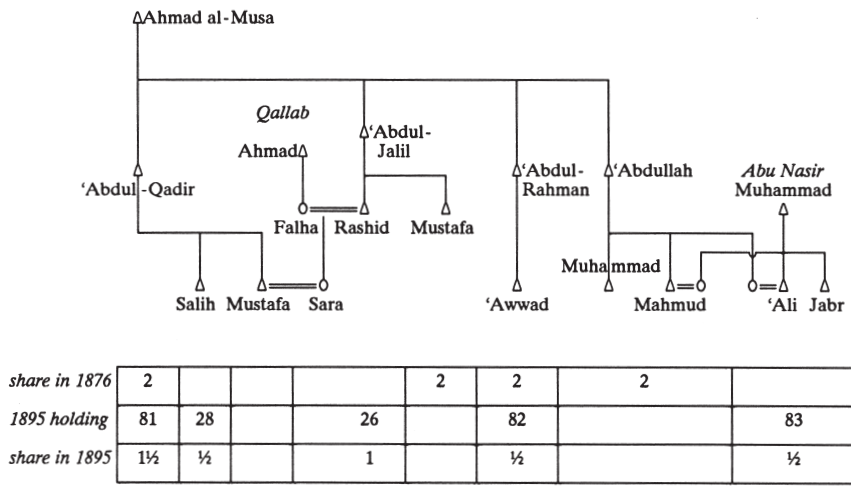


Figure 9.4 Hawwara, holdings of the Abu Kirsanna family, 1876–95

though at that time he had no title to land. An important recruit to the Shatnawi group of families, his descendants would hold more than three shares out of 48 in 1933. The other two high-value houses were held by two sons of ‘Abdullah al-Ahmad Abu Kirsanna with their father’s brother’s son Salih al-‘Abdul-Qadir (6,000 *guruş*), and by Muhammad and Ahmad al-Hasan Shatnawi (5,000 *guruş*). These families led the opposition to the Gharaibas. Muhammad Hasan Shatnawi was the person listed first among the co-partners in the contested sale and had been registered with two shares of land in 1876. In 1933, when the Kirsannas were no longer a force in the village, Hawwara would be divided into two sections named *Gharaiba* and *Shatnawiya*.

These were the biggest houses in 1882–83. But there were houses of less value belonging to other families which would later buy land. Thus, Mustafa Taha al-Shar‘, with a house valued at 1,600 *guruş*, would buy one share of land from Na’il Gharaiiba in 1892, registered in his name in the 1895 tax register.³² Part of Na’il Gharaiiba’s early purchase of five shares was used to bring in allies. A second family was associated less directly with the Gharaibas. Two sons of ‘Abdul-‘Aziz Ghazlan, Hasan and Muhammad, held houses valued at 1,800 and 1,000 *guruş* respectively. In the 1895 tax register Muhammad was listed with a full two shares of land, although no mutation of land title survives for him before 1901. Heirs of the Ghazlan brothers would win title to those two shares in 1921, claiming that they had first bought land in 1876.

At this point in the narrative it may be helpful to refer to Table 9.3 which gives the holdings in 1876 and their brief history up to 1895. At the same time a genealogy of the top generation of the four branches of the Gharaibas may be referred to in Figure 9.3, showing their holdings in 1895 and 1933. The top generation of the Abu Kirsanna family is shown in Figure 9.4.

We now jump to 1921 before returning to analyse the pattern of landholding

recorded in the 1895 tax register. Claims made in 1921 were justified by reference to a tax register; they thus reinforce the impression that the tax survey of 1895 brought order to local records.

Title versus tax: regularization of entitlement in 1921

Although houses were registered as part of *tapu* registration, and presumably title deeds were given to householders, they were rarely the object of mutation in the *tapu* register. By contrast, mutations of landholdings were registered for Hawwara soon after the basic list had been prepared. Until the cadastral survey and resettlement of rights to land in 1933 there was no review of entitlement to land for the whole village. The history of individual landholdings has to be pieced together one by one to construct a picture of the whole. One hundred and thirty mutations survive in the *tapu* registers for the years between 1876 and 1933.³³ There is some bunching of mutations in certain years which reflect administrative initiative as much as circumstances on the ground. Of particular relevance is a set of mutations in March 1921 which brought title into line with possession. In Bait Ra's we saw that this was exactly the time of the resettlement of land title, and that this was done largely with reference to the tax register of 1895.

Fifteen mutations date from March 1921, along with four from January and February and three from April. Thirteen of the fifteen dated March 1921 refer to rulings of the Administrative Council of the district authorizing mutations that required special justification; and nine of these regularize the holdings of Na'il Gharaiba and his siblings. Na'il himself had died in February 1902, so there was long a need to bring entitlement up to date. But also at issue was redistribution within the family according to which of Na'il's brothers had actually managed the land. For instance, one share (out of 46½) was said to have been really in the possession of Na'il's brother Faris for more than thirty years despite having been registered in Na'il's name 'as the oldest brother and head of the family'. The mutation refers to tax holding number 72 (*raqm abwab*), which in the 1895 tax register was held by Na'il with the equivalent of 2½ shares. The previous mutation refers to the same tax number and concerns Na'il's own heirs claiming 1½ shares. The shares claimed in the two mutations thus tally with the tax entry cited. This was one kind of validation. But both refer back to *tapu* purchases by Na'il in 1878–79, as do two more mutations of the same date relating to other brothers of Na'il, another kind of validation. There was thus an attempt to regularize title with regard to previous registration of both *tapu* and tax. But the total amount claimed agreed with the tax register, not with the *tapu*. The mutation relating to Faris added that half a share had been registered in Faris's name and he had paid the *miri* crop tax for it (*muqayyada bi-'smi-hi bi-qiyud al-dara'ib wa-yadfa' amwala-ha al-amiriya*); that at the time of the new listing of 1911 (*al-tahrir al-jadid* 1327AM) it had been put in the name of his heirs; that, considering Faris had died in 1314AH [1896] before the household census (*tahrir al-nufus*), his inheritance had passed to his three sons and one son's son, no others; that all this had been understood from a notice from the village council, a tax certificate (*rukhsat al-dara'ib*) and a ruling

of the Administrative Council, number 121 dated 10 March 1921; and that a title deed correcting and modifying [the original] (*tashihan wa-intiqalan*) should be given to his heirs.³⁴ This mutation tells much about official procedures to validate changes of title at the time. Faris had not been listed in the *vergi* tax register of 1895. The reference to a register in which Faris was liable for the crop tax on one share must therefore be to a crop tax register distinct from that of *vergi* tax, of which the ‘new registration of 1911’ was an update. There is no surviving crop tax register to verify this. The reference to Faris dying before the civil registration of 1910 may mean that no female heirs needed mention.

A second mutation of 1921 gives a further idea of the gap between entitlement and possession on the ground which was being partially closed. This concerned the heirs of Muhammad and Hasan al-‘Abdul-‘Aziz Ghazlan. According to the *tapu* registers Muhammad first bought a quarter-share in 1901 while three of Hasan’s sons bought an eighth of a share (3q) in 1912. However the mutation of March 1921 referred to neither of these purchases but to three other transactions dating from the first years of *tapu* registration, totalling two whole shares. This was the amount registered in Muhammad’s name in the tax register of 1895, whose holding number (65) was referred to in the third column of the 1921 *tapu* mutation under the heading *raqm abwab*.³⁵

Muhammad and Hasan, sons of ‘Abdul-‘Aziz Ghazlan, have been in usufructuary possession of two shares out of 46½ for a period of 44 years in accordance with *tapu* deeds obtained by full purchase: one share from Salih bin Muslih al-Muflih Abu Hunada on 21 Shubat 1292 [5 March 1877] and by court judgment no. 6 dated 9 Tishrin al-thani 1299 [21 November 1883]; half a share from Na’il son of Ibrahim al-Gharaiba which he had bought from Yusuf Tawil; and half a share from another person in the permanent register of Tishrin al-thani 1292 [November 1876, the date of *yoklama* registration] for which a sale transaction was made at the time (*wa-kan waqta’idhin jarat mu’amilat faraghi-ha*). The two [brothers] were entered by name in the tax register and paid their *miri* taxes (*murattibata-huma al-amiriya*); they continued to be registered in the new list of 1327 [1911].

This claim was twofold: title to two shares had been properly purchased; and possession of those two shares had been registered in a tax register, probably a crop tax register as with Faris Gharaiba above, although the mutation also referred to the Ghazlan holding (65) in the *vergi* tax register of 1895. In any case, a tax register was the basis of entitlement over uncertain early *tapu* registration. Salih Abu Hunada had held one share in 1876 in holding number 26 but the only mutation referring to his holding is this one. A sale of 5 March 1877 would have pre-dated even the sale of five shares to Yusuf Tawil.

The Ghazlan claim was validated by reference both to purchases of title and to an entry in a tax register. But other claims to title in 1921 referred only to a tax register. Thus the two sons of Na’il Gharaiba’s brother Muhammad, Qasim and ‘Abdul-‘Aziz, claimed half a share by reference to tax holding number 75,

which in 1895 had been held by Salim bin 'Ali al-Mufakkar. The mutation stated: 'Muhammad held half a share for more than thirty years without a *tapu* deed; it came to him from Salim bin 'Ali al-Mufakkar on the basis of occupancy (*wad' al-yad*) and usufructuary possession; Salim bin 'Ali al-Mufakkar's name was entered in the tax register but the real possessor (*al-mutasarrif al-haqiqi*) was Muhammad who paid the *miri* taxes and whose name was entered in the list of 1911, only until now there was no link to registers of ownership.' The statement went on to say that Muhammad died on 7 February 1912 and was succeeded by his two sons, all this in accordance with Administrative Council ruling number 126 of 10 March 1921.³⁶ Two points are of note. First is validation by reference to an entry in a tax register in the name of someone who never had formal title to land. Salim bin 'Ali al-Mufakkar belonged to Kufr Jayiz (a village bordering Bait Ra's to the north west) but had been part of a sub-group holding eight shares led by Na'il Gharaiiba and his siblings (see Figure 9.5; sub-group A). He also appears in a register of 1919–27, lending money to Gharaiibas in 1922 on the security of land.³⁷ What the 'real' relations were between Salim bin 'Ali and Na'il or Muhammad Gharaiiba are unclear. Secondly, the half-share claimed by Muhammad Gharaiiba's sons from Salim bin 'Ali was distinct from what had been in Muhammad's own name or that of his son Qasim in the tax register of 1895: Muhammad's two shares were claimed by the heirs of four other brothers of Na'il, while Qasim's half-share was not the subject of a mutation in 1921 since it had conformed with his entitlement in 1895 and was subsequently transacted in the proper manner. Of the half-share claimed from Salim bin 'Ali, Qasim would sell his quarter-share in 1925, leaving him with nothing.³⁸ We return to the dynamics of Gharaiiba management of land in Chapter 11.

What motivated the Administrative Council to bring certain entries in the *tapu* register of Hawwara up to date in 1921? Mutations of the *tapu* register were the responsibility of the parties involved, whereas tax was above all the concern of government. From the examples given it will be clear that being listed in a tax register was crucial for validating a claim to title. But this was not a complete resettlement of rights as in Bait Ra's, nor was it the result of full judicial procedure, nor in fact did everyone bring their entitlement into line with their possessions.³⁹ Given the position of the Gharaiibas in the village, it is not surprising that so many of the 1921 mutations concerned them. From the evidence for Hawwara, tax registration under the Ottomans was one thing, registration of title another, and there was no obligation to marry the two. But from the beginning of the Mandate, first the *vergi* tax registers were updated according to existing procedures, then *tapu* registers were brought into line with facts on the ground as validated by tax registers (including a crop tax register of 1911), and finally in 1926 there was an order to keep entries in the *vergi* tax register in line with *tapu* entries. We document this briefly before going back to look in closer detail at the relation between what was represented in the tax register of 1895 and the state of entitlement to land at that time.

Mutations of the 1895 tax register in line with title

Two kinds of objects were taxed in Hawwara, cultivated plots and buildings.⁴⁰ Of the 93 holdings listed in the tax register of 1895, the first 73 relate to individuals who held buildings, whether or not they also held land, while the last 20 relate to landholders who had no building. Buildings were mostly houses (*hane*) or rooms (*oda*) but also a few storerooms and two shops, the latter taxed at a higher rate. By contrast there was only one category of cultivable land taxed in Hawwara: no gardens, vineyards, orchards or olive groves, only arable land (*tarla*); and every holding of arable land consisted of 31 numbered plots in 31 named fields.

Changes to entries in the tax register are of two types, the first to values of land or buildings, the second to the objects or to persons who held them. Additions of value were made in 1896 to the land by a very small amount (less than 0.1 per cent), in 1903 to houses (depending on the house but often by as much as 25 per cent) and at some time presumably during the First World War to all householdings as a war tax (*harp vergisi*), the latter noted in the remarks column not as an addition to the taxable value of a building.

Regarding new entries, the last four columns of the register concern such changes, first the type (*nev-i vukuat*), by sale, inheritance or new registration, then reference numbers to an 'events' register (*defter-i vukuat*) by file number (*defter*) and item number (*umum*), and finally a column for remarks (*mülahazat*) in which the date of the addition is noted (*mahsup* in year such-and-such) and sometimes other details such as the reason for changing a name. A transaction from one entry to another is cross-referenced. The taxable value of the land or building transferred is subtracted from the total taxable value of the entry from which the transfer is made. In some cases a sequence of such transfers leaves the original holding with nothing: entry number 24 has eight subtractions down to zero, each with an explanatory statement. The 1895 tax register that survives acted thus as a master copy of all transactions for the village. For Hawwara, additional entries go from number 94, made in 1900, to at least 188, made in 1934.⁴¹

Provision was thus made in the register for changes to be made in entries. For the first few years after 1895 changes were made both in valuation and in entries. With one exception, changes to landholdings in the tax register up to 1903 did correspond to mutations of title in the *tapu* register. The exception concerned someone whose possession of half a share of land in 1895 was not by title, so there was no *tapu* to alter. Indeed title was not regularized in his case until 1933.⁴²

After 1903, there is only one new entry in the tax register for a landholding before 1920, the others (107–15) all relating to houses or shops.⁴³ Otherwise all changes to entries in the tax register for landholdings date from the beginning of the British Mandate in 1920. Entries 117–24 were added in 1920, 125–54 in 1921, 155–8 in 1922–23, 159–64 in 1926, and 165 onwards continuously after 1927. All these correspond to mutations of the *tapu* register, including the only holdings of houses to be transferred by *tapu* mutation (numbers 30 to 154 and part of 35 to 188). In December 1926 an order was received from the Under-Secretary of the Finance Department (*al-mustashar al-mali*) that tax entries should be

adjusted to entries in the *tapu* register.⁴⁴ But this only put an official seal to a process going on since 1920.

The form of reference is also significant. Landholdings in the 1895 tax register all consisted of plots in 31 named fields, the relative area and value of each plot corresponding to a share, whereas in the *tapu* registers a landholding consisted of a certain share in three large blocks of land. Changes to landholdings in the tax register were initially put in terms of the 31 fields. Theoretically it was possible to sell part of one of the 31 strips which made up a holding. But in fact there were no such transactions: only in the three or four cases of sequestration (*hajz*) were notes written against individual fields.⁴⁵ But from 1921 all changes were made in terms of the three *tapu* blocks of land, not the 31 fields. Transactions of title could only be in terms of shares in the three big blocks of land, until there had been a complete resettlement of landholdings in 1933 and shareholdings had become holdings of fixed plots. Despite variations in the form of reference, after about 1915 there is almost complete correspondence between additions to entries in the tax register and *tapu* mutations, although some entries seem to have been made *ex post facto* after the order of December 1926.

To recapitulate the general argument after the technical discussion of the last few paragraphs, the Hauran is a region whose grain had been exported to Europe in the second half of the nineteenth century. A class of local farmers developed with sufficient means and networks to act as intermediaries between farming communities and government in the collection of tax. In the 1870s Ibrahim Gharaiba and after him his son Na'il, originally of Jumha village to the west of Irbid, were recognized as tax intermediaries for Hawwara, a village with good soil just to the east of Irbid in the south-western corner of the Hauran.⁴⁶ When the government started to register title to land in the mid-1870s, people of Hawwara lodged a complaint in Istanbul against Na'il Gharaiba on the grounds that he was an outsider. The case was won and Na'il was not given *tapu* title in the village. The policy of the Ottoman government was to give title to cultivators. But higher than usual fees were demanded for registration in Hawwara since cultivators were not able to prove continuous payment of tax for the last ten years, possibly because they had been paying tax through someone like Na'il Gharaiba, rather than directly to tax officials. The result was that almost one-eighth of the village – five shares of land, the complete holdings of three people – was sold soon after registration to an official of the financial department of the Hauran, Yusuf Tawil, who promptly sold it on to Na'il Gharaiba; and a little later a further two shares of land were sold to Na'il's agnates and associates. The latter sale was challenged in court by cultivators who claimed the right of pre-emption on the grounds of their being long-time co-partners in cultivation. Among the vendors to Yusuf Tawil was the person who had brought the complaint to Istanbul, 'Abdullah al-Ahmad Abu Kirsanna, whose brother's son was among the six people who challenged the second sale in court. A few cultivators, brought in at the time of registration to make up the tax demand, seem to have unofficially abandoned cultivation in the village, their shares being taken up by others. By the time houses were registered

in 1882–83 several of the original landholders were no longer resident – if they ever had been – while Na'il Gharaiba and some of his agnates and associates had substantial houses in the village.

Twelve years later, in 1895, the Ottoman government carried out a *vergi* tax survey. We do not know the extent of investigation by the tax survey into the status of the tax-payer, whether the occupant of a plot of land was the registered owner, a tenant, a sharecropper or a temporary ploughman. We assume the list was prepared with the help of the village council. But the form of the tax register did not allow for distinctions of agrarian status: the object of taxation was a plot of land, built on or cultivated; there was a single column for entering the person held liable for its tax; and only one person was named, without co-sharers. Several people were registered as holding land who did not hold title to it, while of those who had title some had more, others less, than what they were entitled to. In short, what was registered was the arrangement existing at that time, the outcome of forces of production rather than of abstract entitlement. As far as the master copy of the 1895 tax register allows us to infer (whose relation to tax collection from year to year is not at present known), after 1902 no one was registered as a tax-paying landholder to whom the title had not already been transferred, while some people without title remained tax-payers, presumably because they continued to cultivate the land. At the beginning of the British Mandate, the situation was to a large extent tidied up. Those with an interest in regularizing their occupancy of land did so with the approval of the administrative council of the district, and some who did this cited tax registration to validate their claim. Tax entries were formally brought into line with *tapu* entries. But there were still some people who cultivated land without having title to it and who did not regularize their holdings in 1921. Only with the cadastral settlement of 1933 were holdings systematically regularized and a new system of landholding in permanent mapped plots instituted.

Comparison between the two kinds of register, *vergi* and *tapu*, reveals disparity not only in the terms of registration but also in who was registered. We now return to the 1895 tax register to examine the structure of landholding. We focus on three issues: the proportion of the landless; the pattern of allotment of holdings on the ground; and the formation of shareholding groups.

Extent of landless population in Hawwara, 1895

Comparison of the 1882/83 house list with the *tapu* register of 1876 already gave a sense of the unsettledness of Hawwara in the 1870s in both landholding and residence. Altogether, of the 43 distinct householdings in 1883, 15 can be identified with landholders registered in 1876 and 11 with those who would soon purchase land or had already done so, while 17 cannot be identified with landholders then or later.⁴⁷ Conversely, 12 of the 31 landholders in 1876 (including Yusuf Suwaidan, whose sale was challenged, and two others who sold their holdings to Yusuf Tawil) cannot be identified among residents in 1883, accounting for 17½ shares out of 46½.

By 1895 the village had expanded in size and most of those registered as householders in 1883 had remained in the village. We can therefore analyse the population with greater sureness. The 15 householdings in 1883 of original landholders all continue to hold land in 1895, although one is no longer resident and another was succeeded by two daughters who married inside the village; the 11 new landholders all continue to hold both land and houses; and of the 17 landless householders in 1883 (among whom there are some difficulties of identification), one has acquired land (the father of Khattar al-Husain), ten still have houses but no land, and six appear to have left the village. A further two people who are named in the borders of houses in 1883 but not in the list can also be identified among residents in 1895 who do not hold land. Finally there are 19 new householders in 1895 who cannot be connected with anyone in an earlier list.

Thus, of the 73 householdings in the 1895 tax list, 37 are not connected with landholdings at the time. The figure of 37 includes 'Ifnan Abu Tair, a resident in 1883 who would buy land title in 1902, and Khalaf 'Abdul-Ghani Shahada, along with two sons of his brother 'Ali, who would buy land title in 1895 but had no land according to the tax list; and it includes the son of Salih al-Qadi who was named as holding land in 1876 on the third plot of two *tapu* holders; but it does not include one daughter of a landholder, who was also the daughter's daughter of someone who was landless in 1883, nor any brother of a landholder.⁴⁸ The proportion of 50 per cent of landless households (37/73) is thus as close a measure as is possible. It can be taken to represent a village in the south west of the Hauran plain which, judged from the rapid turnover of land after *tapu* registration in 1876, experienced a boom in the last twenty years of the nineteenth century. We shall see that the figure of 50 per cent stands in strong contrast to villages in the Kura where virtually every household had land.

Landholdings in the 1895 tax register

The order in which holdings are listed in the 1895 tax register becomes important when analysing landholdings. Houses are listed roughly in the order of the 1883 house list, albeit in reverse, suggesting that the tax survey did go round the village numbering house plots sequentially according to the spatial layout. Each building has a separate number as well as a plot number, but the borders of plots are not given, unlike the 1883 *tapu* list. The first 73 entries contain houses, some with land, others not. The last twenty entries concern landholdings without houses. Most of the last twenty are thus of non-residents, although several belong to members of families which do have houses in the village, like number 74 belonging to Na'il Gharaiiba's brother Muhammad with two shares. But the order in which they are listed suggests that the authorities registered landholders according to their affiliation to a tax-paying group. First among the last twenty are holdings of those associated with Na'il Gharaiiba, numbers 74-9. For these the criterion was apparently not whether they were entitled by virtue of a *tapu* mutation but whether they were endorsed by Na'il as members

of his shareholding group. Two non-residents in fact did not hold title to land, nor would they ever do so; and the holdings of Na'il's agnates do not all accord with *tapu* mutations up to that time.

Landholdings after number 79 fall into two groups. All except the last have title, either from an original holding in 1876 or from a *tapu* mutation. But the first few (80–87) have designated plot numbers in a single sequence for all the 31 named fields, while the last six (88–93) only have numbers internal to each field.⁴⁹ Moreover, among the first group are new landholders who bought title in the early 1890s, whereas the penultimate five (88–92) are all original landholders of 1876, only two of whom had sold a portion of their land in the intervening years. In other words, for three (88, 89 and 92) there had been no official record since 1876. This fact, combined with their not having designated plot numbers, suggests that, at the very end of the register, the tax survey listed those whose title to land was outstanding but about whom there was no official information. Two of the missing three (88 and 92) are among those from whom land was claimed in 1921. Of numbers 89, 90, 91 and 93 there is silence in subsequent *tapu* registers, nor are their names mentioned in reports of claims made at the 1933 cadastre.⁵⁰

The very last landholder in the list is special, not only because no plot numbers are given and because nothing is known of him in the records either before 1895 or after, but also because his holding is the equivalent of 1½ shares. It will be recalled that the total number of shares registered in 1876 was 46½. All transactions until 1933 were in terms of 46½ shares. At the cadastral settlement of 1933 the number of shares was increased to 48. In the 1895 tax register too the total number of shares (or their equivalent in proportions of area and value) was 48. Given the care with which landholdings were listed in the tax register, it can be surmised that the last holding represents the difference between 46½ and 48. The holder's name is 'Urbaya bin Hamad al-Khuraisha Bani Sakhr *urban* (bedouins). It may also be surmised that at the initial *tapu* registration of 1876 1½ shares were given to a representative of the Bani Sakhr, transhumant pastoralists who traditionally migrated between the southern Hauran plain and the Jordan Valley, their route passing close to Hawwara. In the records there are no clues to his identity, nor was anyone whom we interviewed in 1992 able to explain the disparity between 46½ shares of *tapu* registration and the 48 shares in terms of which land was registered in 1933. One story has it that, at the time of allotting land, a man from the Bani Sakhr was riding by and asked for a share (*khishr* in bedouin idiom) which he was given. But later he found out that someone from the Rawashida had been given more than him, at which he said 'Is he better than me?' and was given the same amount.⁵¹

Analysis of the last twenty landholdings shows clearly that the tax surveyors in 1895 tried to relate possession to entitlement. In the case of recent purchases, tax holdings in 1895 largely did correspond with title. But there were other forces at play. Families like the Abu Kirsanna were experiencing a rapid shift of fortune that involved transferring resources both within the family and outside.

There was ambiguity in the nature of transfers of title, where landholding meant belonging to a shareholding group. In *tapu* mutations dated 1892 to 1895, some transfers were taken into account in the tax register, others incompletely. There was uncertainty too over exactly who had transferred what in the past, possibly because the means of written transfers had not been standardized but also because the situation on the ground had been unstable in the early years of *tapu* registration. Where a share in plough land had been taken up without purchase of title, the tax authorities appear to have registered those in possession, especially if endorsed by someone of the stature of Na'il Gharaiba. But where shares had not been taken up by any particular individual, the person was registered who nominally still had title, as in the last entries of the tax register, from which some land was claimed by others only in 1921. Finally, there is a suspicion that collective responsibility for tax payments and cultivation played a role. We have seen a hint of this in the grouping of holdings associated with Na'il Gharaiba. But it becomes more evident from an analysis of landholdings in terms of fields, to which we now turn.

The pattern of field holdings in 1895

Hawwara was the first village whose landholdings were registered as shares in jointly held land (*musba'*) rather than as individually held plots (see Chapter 6). The 1895 tax survey registered all property as individual plots, possibly because an object of taxation was thought to require a distinct location. Every landholding in the Hawwara tax list consisted of exactly 31 numbered plots in 31 named fields. As with plots on which there were buildings, there are two sequences of numbers, the first internal to the field or the category of land, the second general for all plots.

The area, value and tax were given in separate columns for each plot in a landholding; for building plots only the value and tax. Most of the 31 fields were valued at 100 *guruş* per *dönüm*, but seven were valued at 75 (fields 2, 4, 5, 8, 17, 26 and 29) and three were valued at 50 (fields 1, 16 and 28). The tax (*vergi*) was calculated on the basis of four in a thousand for arable land, five in a thousand for residential buildings, and ten in a thousand for shops. Totals of value and tax, not of area, were added for each holding. Values of landholdings turn out to be all multiples of 20,387.5 *guruş*, which as a proportion of the total in the village represented half a share, the total representing 48 shares.⁵² The same proportion held for the tax and area both of all 31 plots in a landholding and for each individual plot. Thus, despite registration in terms of individual plots, the underlying structure of landholdings was in shares.⁵³ Each landholder had exactly the same measure of right in each field as in the whole. As mentioned earlier, all transfers were in multiples or fractions of the value of a one-share holding (40,775 *guruş*), not in individual plots, both before and after the form of entering landholdings in the tax register changed in 1921.

Since the logic of registering title in terms of shares was that, in a system of periodic reallocation of land, the actual plots cultivated by a shareholder might

vary and therefore could not become an object of ownership, the fact that transfers of holdings in the tax register continued until 1921 to be in shares of all 31 fields at once raises interesting questions. First, the periodicity of reallocation in Hawwara, and perhaps by extension other villages of the plains, was long, not every second year as in the Kura. This is in keeping with a synchronic system of fair-sharing (distributing variations in quality evenly over a community) as opposed to a diachronic system. Second, one needs to distinguish two levels of reallocation, the first internal to fields, the second general for the whole set of fields. It would be possible to maintain the system of fields for a long time while regularly reallocating plots within each field, or even reallocating the plots of a shareholding sub-unit within their allotted portion in each field. The form of subdivision of a shareholding community gives clues about which level of reallocation was involved. Third, the regularization of holdings in 1921 may have been accompanied by a complete reallocation of the whole system of fields for the first time in a generation. This would be in accord with what one person we interviewed recalled, that a general reallocation had occurred when he was a young boy at the end of the Ottoman period.⁵⁴ Finally, the regularity of the layout of plots in 1895, which shows none of the small variations in order from one field to the next that occur naturally over time with exchanges between neighbours and encroachments, may also imply that the particular allotment of land in terms of 31 fields occurred only a short time before 1895. If this was the case, an exact correspondence between the 3 blocks of land registered in 1876 and the 31 fields registered in 1895 would be sought in vain.

In general, *tapu* mutations from 1876 to 1933 were always put in terms of the three big blocks of land, *buwaib*, *mughniya* and *zaʿr*. At some time after the tax survey of 1895, however, *tapu* mutations began to refer in its third column, under the heading ‘place’, not only to the village (Hawwara) and block of land (e.g. *buwaib*) but also to the tax number, *rakam-ı evvab*. The earliest reference we have to a tax number is in six *tapu* mutations of 1907–08, although it may have been introduced before then and we simply omitted to copy the numbers, not knowing at the time of the existence of a tax register. In these six mutations plot numbers are also given.⁵⁵ In the first five mutations these coincide with general plot numbers of the tax register, and in the sixth with internal field numbers. In subsequent mutations plot numbers seem no longer to have been entered, the tax number alone being sufficient.

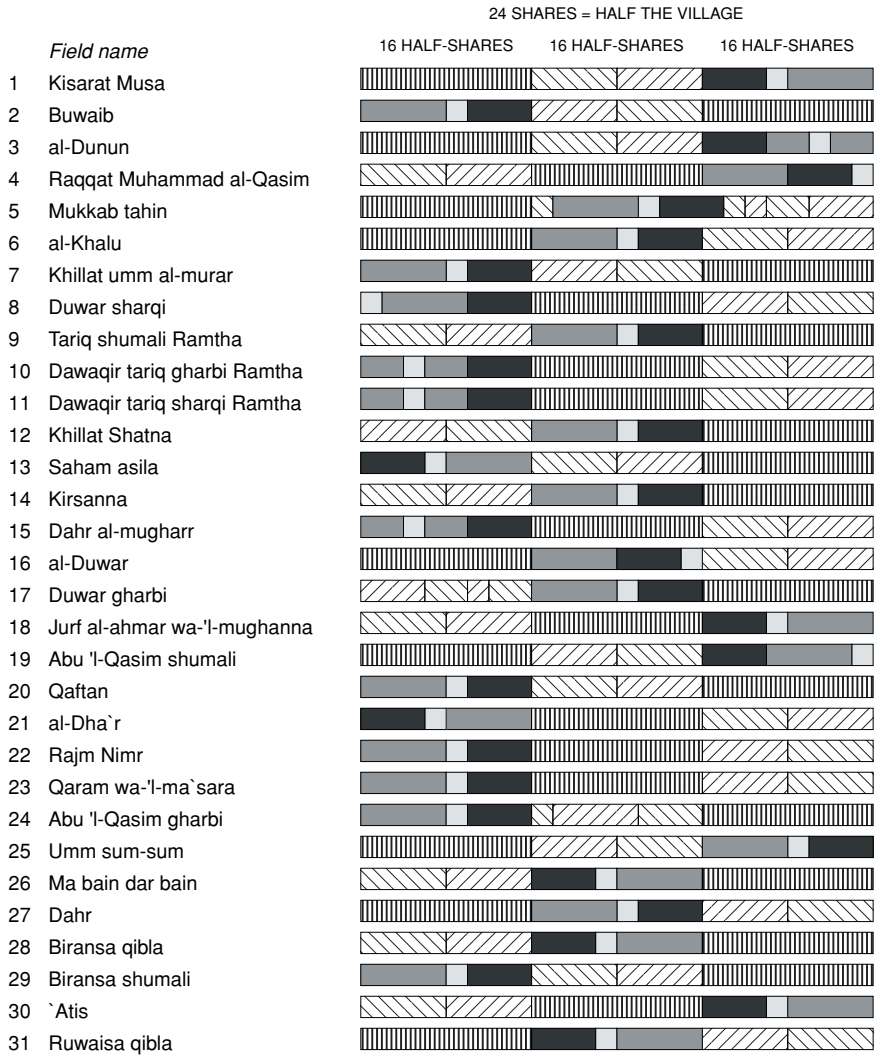
There is no correspondence, however, in the first five mutations between plot numbers and the three big blocks of land. Plot numbers seem to have been listed in order, block by block, no more than five to one block, a maximum of 15 plot numbers (not 31) in any one mutation. Thus, in the first mutation plots in fields five and six were listed under *mughniya* but in the fifth mutation under *buwaib*; plots in fields 13 to 16 in the first mutation were listed under *zaʿr* but in the fourth mutation under *buwaib*; even a plot in the first field was listed under *mughniya* in the second mutation (which gives only one plot to each block, not four or five as in the other mutations) but under *buwaib* in the first. In short,

the three blocks of land seem to have become simply nominal, a convenient way to express shares in land.

Whatever their relation to the three blocks of *tapu* registration, according to the 1895 tax register plots were allotted in an extraordinarily systematic manner. The range of holding sizes varies by not much more than in 1876, between half a share and $2\frac{1}{2}$, with an average of just under one (48/49): $19 \times \frac{1}{2}$, 18×1 , $8 \times 1\frac{1}{2}$, 3×2 , and $1 \times 2\frac{1}{2}$. Instead of an idiom of tax farming or commercial landlordism, we are back in an idiom of relatively egalitarian management of individual resources, and of what could be worked by one or two plough teams. Even Na'il Gharaiba's individual holding was reduced to a manageable level by redistributing part of what he had title to among his siblings. By comparison with 1933, an average of one share for a family farm was still large, requiring two full plough teams. A farm depended upon labour outside its own household, of which there was much in the village.

If holdings are arranged in each field by their plot number, the systematic grouping of holdings becomes apparent. First, holdings are divided into two halves of 24 shares each, which we may call Shatnawi and Gharaiba as in 1933. In 24 fields, the Gharaiba half has the first plots but in the other seven the Shatnawi half does. The Shatnawi half comprises 26 holdings including the last six (numbers 88–93), and the order of holdings in a field is always the same, even in the seven fields where the Shatnawi plots come first: everyone's neighbours are always the same. The only exceptions concern, first, the last holding of all, belonging to the man of the Bani Sakhr, who holds internal plot number 49 in every field; second, holding number 3 whose plot is at the beginning of the Shatnawi sequence instead of at the end in field 20; and third, holding number 6 (belonging to Ahmad Tannash) whose plot is slightly out of place in field 21. There are no sub-groups of holdings that would together make up a convenient fraction of 24 shares. Regularities – such as the two Rumi holdings (numbers 32 and 84) always occurring next to each other – do not make sub-groups. For instance, the four Abu Kirsanna holdings occur at the beginning of Shatnawi plots – a sign of their continuing importance in the village – and make up four shares with the addition of holding number 81's half a share;⁵⁶ but the next holdings add to $3\frac{1}{2}$ or $4\frac{1}{2}$ shares, not four, so together they cannot form a convenient sub-group of eight shares for reordering holdings within the Shatnawi half. There are thus no subdivisions in the Shatnawi half. The relevant group for reallocoting the order of plots in a field would be all 26 holdings. Since the far edge of a field might be different in quality from the centre, equalization of plots (rearranging the order) would have to be done regularly over time, that is to say diachronically.

For the Gharaiba half comprising 24 shares, by contrast, the order of plots varies from field to field. However, holdings group into sets of four and eight shares, and every field (except field-5 where two half-share holdings are out of place) can be divided into thirds (of eight shares) made up of the same units. Subdivision into sixths (of four shares) does not quite work because there are small variations in order from field to field within a group of eight shares. For



Sub-group: holding no. (share)

A	Gharaiba core: 72 (2.5), 73 (1.5), 74 (2), 75 (0.5), 76 (1), 77 (0.5)		8 SHARES
B1	affines, Shar`, Ghazlan: 71 (0.5), 78 (0.5), 10 (1), 65 (2)		4 SHARES
B2	Khlaif: 70 (1), Sabbah: 45 (0.5), 46 (1), 49 (0.5), 8 (1)		4 SHARES
C1	Shuha, Khatib: 24 (2), 13 (0.5), 17 (1.5)		4 SHARES
C2	Haddad: 36 (1), 33 (1), 35 (1)		3 SHARES
C3	Da'ud, `Abdul-Hadi: 19 (0.5), 79 (0.5)		1 SHARE

Figure 9.5 Hawwara, field allotment of the Gharaiba half in 1895

instance, one sub-group of eight shares (sub-group C in Figure 9.5) consists of families which would be associated with the Shatnawis in 1933: Shuha and Khatib with four shares (C₁), Haddad with three (C₂) and Da'ud al-Ahmad and 'Abdul-Hadi's daughter with one (C₃). C₂ and C₃ together make up four shares. But in six fields (3, 8, 10, 11, 15 and 19) C₂'s plots are separated from those of C₃, in four cases dividing the plots of C₁ in half. The relevant group for allotting plots is thus of eight shares, not four. The core Gharaiba group of eight shares (A) consists of Na'il Gharaiba himself (72), his cousin 'Abdullah al-Ahmad (73), his brothers Muhammad (74) and Mahmud (76), Muhammad's son Qasim (77) and Salim bin 'Ali al-Mufakkar (75). In most fields the order of plots within this group does not vary much: 72 and 73 are always together (making up a sub-unit of four shares) while 74 is next to 73 in all but six fields (12, 19, 21, 23, 30 and 31). The eight-share group stands as a unit in relation to other eight-share groups despite some variation in the order of plots internally.

Figure 9.5 shows the pattern. Within the Gharaiba half, reallocation over time at any level would have been unnecessary since there was already sufficient variation in the spatial distribution of plots. For instance sub-group A occupies the first position in nine fields, the last position in twelve fields, and the intermediate position in ten fields. The sub-group of four shares (B₂) made up of 'Ali Khlaif and the Sabbahs occupies first position out of six in two fields, second position in seven, third position in five, fourth position in five, fifth position in five and sixth position in seven. This illustrates a synchronic form of equalization.

The pattern of holdings on the ground is thus regular for each half of the village but in different ways. For holdings in the Shatnawi half, the listing of order is formal implying regular diachronic redistribution. The Gharaiba half, by contrast, is divided into sub-groups and the order of holdings varies from field to field both for the sub-group in relation to other sub-groups and within each sub-group. Both forms of allotment show collective organization, but what does the difference signify?

Regular reassignment of plots among the 26 holdings in the Shatnawi half implies a greater degree of collective organization and discipline, hence a greater sense of equality. The group held together because they worked together, not primarily because they were linked through ties of marriage or descent. If some members of the group had limited resources, they might be expected to make regular adjustments to the amount of land they cultivated as their household labour rose or fell. The liability recorded in the tax register, then, might not correspond exactly with their legal entitlement. Subdivision into smaller groups, on the other hand, each of which had the same set of plots from year to year, would imply greater inequality among members, more reliance upon labour from outside their own households, and a closer correspondence between tax liability and entitlement. Ties of marriage and descent played a greater role in the formation of such groups.

There are two cases which reveal significant differences of organizing principle. The first is the incorporation of two men, who never had title to land, into

Gharaiba sub-groups. Both came from the village of Kufr Jayiz with which the Gharaibas had links. Salim bin 'Ali al-Mufakkar (holding number 75 with half a share) was discussed earlier in relation to regularization of holdings in 1921. He would appear to have been already someone of substance in 1895, not a casual ploughman but a man who could be called upon to help finance a productive enterprise. The other members of Na'il's eight-share sub-group (A) were all close members of his family. The second person from Kufr Jayiz incorporated into a Gharaiba sub-group (B1) was Bayir bin Salih al-Muhafiza (holding number 78 with half a share) whose brother 'Abdul-Rahman had a couple of houses in Hawwara (holding 69). In each field Bayir's plot lay next to that of Na'il's sister Filwa (71), who married her paternal cousin Mufaddi al-Ahmad, brother of 'Abdullah (73) who had joined Na'il from the beginning of the family's move to Hawwara from Jumha. According to Filwa's grandson, another sister of Na'il married a Muhafiza from Kufr Jayiz in exchange for Na'il's brother Mahmud marrying Karma 'Ali al-Muhafiza.⁵⁷ Bayir's incorporation into a Gharaiba sub-group may have been related to this. At the cadastral settlement of 1933 his half-share in Hawwara would be exchanged with 12q in Tuqbul and 9q in Kufr Jayiz. Among those who obtained land in Hawwara at that time were the sons of Mahmud and Karma who exchanged 6q they held in Tuqbul for 3q in Hawwara, while those who received land in Kufr Jayiz probably included the son of Bayir's brother 'Abdul-Rahman. Bayir himself signed the 1933 report which stated that the exchanged 12q in Hawwara had been his property (*mulk*) and that he represented the other partners (*nab 'an baqiyat al-shuraka*).⁵⁸ Like Salim al-Mufakkar, Bayir al-Muhafiza may have stood for a group of farmers from Kufr Jayiz who guaranteed to cultivate and pay the taxes on two half-shares of land in Hawwara at a time when the Gharaibas were consolidating their hold there. In both cases entitlement was worked out much later.

The incorporation of two other half-share holders into the Sabbah sub-group belongs to the same pattern as the two from Kufr Jayiz, except that in their case they continued to hold land in the village and were registered as *tapu* holders in 1933. Husain al-'Ali Sabbah and Ruhail Jabir 'Ali Sabbah had holdings 45 and 49 in 1895 of half a share each. No record of their having bought title to this land survives; nor would there be a subsequent *tapu* mutation of their half-shares all the way to 1933. In 1933 Jabir 'Ali's heirs had half a share and Husain 'Ali's heirs had 17q (after having purchased more land in 1927).⁵⁹ They may simply have been brought in by their father's brother's sons, who had purchased the contested one share from Yusuf Suwaidan in 1882, in order to make up a predominantly Sabbah sub-group of four shares.

The third eight-share group in the Gharaiba half (C), whose composition was described above (Khatib, Shuha, Haddad, Da'ud al-Ahmad, 'Abdul-Hadi), was much more heterogeneous. Except for Da'ud al-Ahmad, all had held land in 1876. But only one of them (Isma'il 'Abdul-Hadi) had been associated with opposition to the Gharaibas in the form of contesting the sale of land in 1882 by Yusuf Suwaidan to the Sabbah and Khlaif. They were not related by kinship

but would appear to have come together only to make up the third group in the Gharaiba half.

A second key to the contrasting forms of incorporation arises from differences in the gap between title and possession in the two halves of the village. In the Gharaiba half, apart from the four half-share holders incorporated into different sub-groups who have just been considered, it was the big shareholders whose measure of possession in 1895 did not match their entitlement – Na’il Gharaiba, his brother Muhammad, his cousin ‘Abdullah al-Ahmad and Muhammad Ghazlan, all of whose holdings would be redistributed among their heirs in 1921 after special ruling of the Administrative Council. For all the other shareholders the measure of their possession in 1895 matched their *tapu* entitlement. Here, property title and the financial ability to manage cultivation lay behind the distinctness of the sub-groups. By contrast, for only nine of the twenty-five shareholders in the Shatnawi half (including 88–92) did their tax holdings agree with their entitlement, while two (nos 3 and 47) did not hold a *tapu* title.⁶⁰ It is as if rights to land depended on membership in a group which reallotted land regularly among its members according to their circumstances. Such an arrangement adapted to the changing capabilities of its members as their households grew or diminished and as their farming stock altered. But the group required collective discipline, not only to manage reallotment of plots and holdings – for holding sizes too could vary in this older system of fair-sharing – but also in harvesting and pooling resources. The idiom of such a group was not of owning so much land, but of sharing common resources and common demands according to the labour, animal and human, which each member commanded. As stated at the end of the original list of shareholders in 1876: ‘cultivation has always been joint; the distribution has been made justly’.⁶¹ Although legally any landholder of the village could claim priority over outsiders wishing to buy land, the spirit of *halit ve şerik* was more than that.

The different patterns of allotment thus express the basic conflict behind the acquisition of land in Hawwara from the beginning of *tapu* registration, the difference between a commercial idiom of property and an idiom of collectively sharing burdens and resources. Both involved the formation of groups. But in the one, necessarily more individualistic, the strongest ties were to relations of kin and clan; in the other, to partners in cultivation.

Land allotment in 1933

We end the section on Hawwara by referring to the 1933 field map (colour plate Map 9.1) to illustrate the principle of synchronic equalization. The map depicts the allotment of fields to different subsections of the village.

Field maps were not prepared by the Ottoman administration in ‘Ajlun to accompany the *tapu* registers. Plots were described in terms of their borders to south, east, north and west, while the borders of villages might be described more minutely in terms of landmarks. Where landholdings were registered in the form of shares in a few large blocks of land, there was no call for field maps, since

the location of a landholding might vary from one year to the next as its plots were reallocated. Cadastral settlements of the British Mandate, however, fixed the borders of each plot by reference to a map. Landholdings consisted of a certain number of fixed plots, mostly held in severalty rather than jointly with others. The layout of fields in 1933 was intended to be permanent, for property now did mean individual freedom to do what an owner wanted with the permanently delineated plots owned. Hawwara's cadastral settlement of 1933 was the first to be done under the new regime. The authorities are said to have wanted landholdings to be consolidated into three blocks but the cultivators objected, preferring their existing form of allotment.⁶² The 1933 field map is therefore particularly important for it provides a concrete illustration of the way landholdings were allotted in the years before the cadastre. We do not know how long the particular allotment of 1895 into 31 fields lasted, by which landholders were divided into two halves in different ways but with each landholding having a plot in all 31 fields. It may have been changed around the time of the regularization of title in 1921. In any case, the allotment of plots in the Gharaiba half of the village in 1895, as illustrated in Figure 9.5, is schematic, not taking into account the different areas or locations of the fields. Some reversal of order between fields may have been the result of reducing a two-dimensional layout to a sequence of numbers in one dimension.

The allotment of fields at the 1933 cadastre was different from both forms of allotment in 1895. Instead of each half having plots in every field, there was now a division of fields between the two halves as well as their subdivisions. The Gharaiba half had the northern set of fields, the Shatnawi half the southern. Each half was subdivided, the Gharaiba into two quarters (one of which was further subdivided), the Shatnawi into three sixths (of which two were further subdivided). The total number of shares was now officially 48, although under the new system a measure of shares was converted into a measure of area, qualified by a rating of value on a scale from one-tenth to three depending on the field. The area of a plot multiplied by the value of the field in which it lay, summed for all plots in a holding, gave that holding's share in relation to other holdings. This was much as the Ottoman administration had done in 1895; but the object of title and taxation, a set of plots, was now frozen on the ground, not to be periodically redistributed. Whether farmers now thought in terms of superficial area rather than the ploughing capability of a pair of bullocks (half a *rub'a*) is a different matter. Many of the 1933 field names are the same in 1895 but there was a finer subdivision into 65 fields (*haud*) instead of 31 and some of the old names disappeared while new names were introduced. An exact correspondence cannot therefore be made. Block-38 is the village site and its surrounds.

The composition of groups is also slightly different. The Gharaibas had continued to expand until they, their agnates (branching from Na'il Gharaiba's father's putative brothers 'Abid-Rabbuh, Sabbah and Shahada) and associates (Khlaif, Ghazlan, Shar', Rawashida, Abu Nasir) controlled a full half of the village. Members of the eight-share sub-group (C) of the Gharaiba half in 1895,

composed of the Haddad, Da'ud, 'Abdul-Hadi, Khatib, Shuha, now belonged to different subsections of the Shatnawi half.

The principle of allotment in 1933 was similar to that in the Gharaiba half in 1895, equalizing variations in the quality of soil by distributing plots in a holding into a number of different fields, or what we have called synchronic equalization. But, as compared with 1895, each subdivision of landholders was now allotted several fields, as shown on the map. The net result of the allotment was that each landholder had between five and nine plots in different parts of the village that varied in quality but together made up a holding commensurate with its share in comparison with other holdings.

It would be interesting to know how the phrase *khalit wa-sharik* was understood in 1933. As far as the layout of the land was concerned, the periodic reallocation of holdings within a band of co-partners, which was its concrete expression, was no longer allowed. The form of allotment in 1933 nevertheless retained a spirit of equalization. In 1948 land would again be redistributed, this time into consolidated holdings commercially more viable and, in the new frame of mechanized agriculture, more efficient.

10 | Registration and political economy in two hill villages

Title registration in both the plains villages we considered was initially conflictual. In each village half of the landowners at the cadastral settlement in the 1930s would have had difficulty in proving residence or cultivation before 1880. The first *tapu* list of Hawwara gives the impression that agriculture relied upon ploughmen coming in seasonally from other villages. One is left wondering how long any of the older families had been resident, for affinal ties between the various Shatnawi and Abu Kirsanna families are not remembered. On the contrary it is ties to other villages that, for many families, remained important in their social nexus.

When we consider villages of the 'Ajlun hills overlooking the Jordan Valley and Palestine, the impression that their agrarian history begins only a little before *tapu* registration cannot be sustained. There is a close-knit quality to many villages, a product of long settlement and much in-marrying over time. Moreover agriculture seems to be organized differently. There is less social hierarchy; the productive unit is the simple household of man and wife; every household has land. The first *tapu* registers, while no doubt marking a new period in land administration, appear as synchronic cuts across on-going family and village history.

These differences are apparent from the content of what and who were registered. The *tapu* registers of Kufr 'Awan and Khanzira seem more transparent than those of Bait Ra's or Hawwara, as if the process of registration involved little social exclusion and was not seen as a source of contention – at least by men. Part of the transparency is because registration was being done by the Special Commission for the Lands of Hauran. Procedure under the commission was standardized. There was less room for village residents to exclude cultivators from registration of their individual shares, as in Bait Ra's; a person with money and influence in local government was less able to assert his power over a body of cultivators, as in Hawwara, and probably less willing too in a part of the district where agriculture was not commercialized. Government may have carried a different connotation for villagers further from the centres of power and legitimation.

The villages of Kufr 'Awan and Khanzira both belong to the Kura *nahiye*. Their links were as much with Palestine – with Baisan, Tiberias, and Haifa beyond – as with Irbid or Damascus. Although alike in many social characteristics, their records differ. Khanzira lacks surviving records of the 1910 civil register (*nüfus*) except for the Christian population, while Kufr 'Awan lacks a surviving tax list of 1895.¹ For the smaller Kufr 'Awan we consider first the general character of the *tapu* lists of 1884, particularly partnerships in *musha'* holdings of plough land, then the formation of village sections, contrasting those implicit in 1884

with the formal division into sections at the cadastral settlement of 1939, and finally the increasing registration of women up to 1939. For the larger Khanzira, we take more of a contrastive overview, first with Kufr 'Awan regarding complex partnerships in holdings of individual plots, then with Hawwara in the relation of tax to *tapu* registration.

Kufr 'Awan

The image of a self-sufficient village community, with its connotation of British colonial essentializing, may not be one to conjure into the historiography of Arab society under late Ottoman rule. Certainly neither Bait Ra's nor Hawwara fit the image. But in Kufr 'Awan, although there were land sales, particularly during the difficult 1910s and 1920s, sales were mostly within the village. While registration entailed some social exclusion, notably of women, the idiom of relations between families was of mobilization to form cooperative groups, not of factionalism or competitive antagonism. Moreover, women did contest their exclusion and were registered in some numbers at the 1939 cadastre. Self-sufficiency in the sense of elaborate division of labour between different specialist occupations, as in India, certainly does not apply. But an enduring egalitarianism and self-sufficiency in labour is reflected in the records of Kufr 'Awan.

Every shareholder in the plough land of Kufr 'Awan in 1884 was a resident of the village, and every registered householder had a share in plough land, either in his own name or in that of his father or brother, with the single exception of the man who was listed last in the house list and whose house had the least value (300 *guruş*). This was not a village of itinerant ploughmen; the labour of everyone was valued. In the local idiom plough land was allotted according to the number of men mobilized. One *zalama* or comrade was entitled to half a *faddan* or six *qirat* if he was married, and half that if he was not married. Eighty-seven *zulum* (pl. of *zalama*) were registered in 1884 corresponding to 21 $\frac{3}{4}$ full shares (522q). Ottoman registration froze this number. Shares could no longer be reallocated as the demography of the village changed. An allotted share of so many *qirat* was now the shareholder's property, transferable through sale, gift or inheritance, as a whole or in fractions. The term *zalama* lost the connotation of labour mobilization. One member of the community might acquire many more *qirat* of plough land than he would be entitled to according to the labour power of his household. He would then have to hire ploughmen to work the land. It was not that Kufr 'Awan experienced no change between 1884 and 1939. But change was less abrupt than in the two plains villages as families adapted to the new forms of legitimating access to and control over land.

A second distinctive feature of agrarian relations in Kufr 'Awan, as compared with Hawwara, is that units of shareholding on plough land were sets of co-sharers rather than individuals. In Hawwara, 29 of the initial 31 shareholding units were single individuals, the number of shareholders being only 33; in Kufr 'Awan, 12 of its 31 shareholding units were single individuals, the average number of shareholders in a holding being over two (64/31). Furthermore, of the 19 joint

holdings seven were of non-agnates, not stemming from a set of brothers. The details are considered later. At issue here is the overall pattern, the way individuals were bound into larger units and groups. In Bait Ra's we noted that in the first *tapu* register householdings and shareholdings were constituted in the same way, on the model of inheritance. In Hawwara, by contrast, distribution of shares between Na'il Gharaba's siblings was not formalized in the *tapu* registers until 1921, land having been registered in his name alone 'as head of the family'. In Kufr 'Awan, on the other hand, we may discern a different principle of holding in each of the four lists. The holdings of plough land reflect the principle of mobilization to make up a viable agricultural unit, in the idiom of *zalama*. Householdings reflect the actual division of families according to demography and serial or multiple marriages. Kufr 'Awan had no large compounds as in Hawwara, left undivided over one or two generations until the survival and success of offspring were assured; the highest value of a house was 3,000 *guruş*. Sons split off from the parental household to form their own households when they married. The third form of holding, of individual plots not subject to reallocation, whether arable fields (*tarla*), gardens, orchards or olive groves, reflects the principle of inheritance since in Kufr 'Awan they were usually left undivided among a set of heirs. Finally the fourth form of holding, of plantings of trees (fruit or olives) on some of the individual plots, may sometimes also reflect marriage settlements. In 1884 in Kufr 'Awan no woman was registered holding olive trees, unlike in other villages of the Kura. But there are two cases of one person holding olive trees on another person's land, and one of these may reflect a marriage payment. In any case, older people whom we interviewed in 1991-92 testified to the endowment of brides with olive trees, and it is therefore important to mention this fourth principle.

If all agricultural labour came from within the community and there was almost no sale of land to outsiders, then one would expect the networks for mobilizing labour to be well developed, since, however accurately the allotment was applied in 1884 of six *qirat* for a married man, half that for an unmarried one, not every household would have the same resources (animal, material and human), and shares were not reallocated after that date. Inevitably the demographic equation in 1884 between household labour and share would become imbalanced. Self-sufficiency of a community does not rest on self-sufficient households but on forms of cooperation between households. These networks of mobilization operated at two levels, at the level of individual households and at that of the constituent groups called *hamula* within the village. The former are reflected in the *tapu* list of *musha'* shareholders, the latter in the grouping of *musha'* shareholders into three or four more or less equal groups. We saw how, for the purpose of laying out the land equitably in 1933, Hawwara was divided into two halves and each half was subdivided either into quarters and eighths or into sixths and twelfths. In Kufr 'Awan the division in 1939 was as minute.

A second form of network linking households was that of marriage alliances. When conducting interviews in the village we were quickly made aware of the importance of affinal networks (*shabaka*). Cooperation in agriculture often reflected

affinal links. In a close-knit community, new means of redistributing land within the community may have become important. It is difficult to document this precisely but there are indications that the endowment of brides with land or olive trees increased at the beginning of the twentieth century, and an increasing acceptance that daughters could inherit land served as a mechanism of redistribution within the community. This will be examined in Chapter 12.

The third form of relation linking households into wider formations was patrilineal descent. In Hawwara the ideology of descent was used to consolidate the grouping of the Gharaibas, in contrast to the Shatnawis.² In Kufr 'Awan, quite early in our interviews we were offered by our principal informant a conception of the village's constitution not as based on tribes (*qaba'il*) but as an encampment (*mukhayyam*) or coming together of disparate groups. At points in interviews he would steer discussion away from linking family ancestry to greater Arab history, for he considered such ideology divisive. In any case mobilization through descent has always to be qualified by the actual situation of family development on the ground. In a village where land was periodically reallocated on the basis of the number of active men, and where men formed their own households on marriage, the principle of common descent would only ever operate in conjunction with other principles of mobilization. When shares were frozen in 1884 the tension between rights of inheritance and the claims of labour may have increased. This is one reason why the reading of cases of multiple marriages has to be sensitive to dates of births, marriages and deaths. The sons of one wife may have already split off and found their own means of livelihood long before those of another wife had grown up or the father had apportioned some of the management of his land between them. Lines of inheritance may in practice fracture in conditions of multiple serial marriages.

Underpinning our reading of the *tapu* registers of Kufr 'Awan is the household census of 1910, which is extraordinarily thorough even though, as with Bait Ra's, the entries of several households are missing (11 out of 136).³ The person who recorded entries was probably one of the headmen who, knowing those whom he registered, would distinguish two people of the same name and same father's name from one another by recording the name of their father's father. Sometimes the name of a mother's father is also recorded, allowing patterns of marriage to be traced in a previous generation. Because daughters generally married within the village, a genealogy could be constructed on the basis of the census and the *tapu* registers against which to set other data.

From the ages recorded in the 1910 census it is possible to project backwards to 1884, the year of *tapu* registration, and to calculate the ages of shareholders registered then. This enables a finer analysis of share allocation in 1884 to test whether in fact the calculation was based on six *qirat* for a married man, three for an unmarried one. Synchronic registration cut across family histories at different stages in their developmental cycle. Some fathers had adult sons at the time of registration, others only young children; and among the former some sons had already split off, married and formed their own households. Again, some

brothers remained united after their father's death, others divided partially or completely. It is important to see with which sons or stepsons a widow lived, if she did not remarry, in order to trace the background to disputes about property. The next section examines the pattern of holdings of shares in common plough land in 1884.

Holdings of musha' land in 1884: allotment by zalama

Tapu registration in Kufr 'Awan was done under the Special Commission in August 1884. In addition to houses and shares in the common *musha'* plough land, two other lists were prepared: individually held fields, gardens or orchards; and plantings of olive or fruit trees. All four lists were registered sequentially, individually held plots first (numbers 578–633), then *musha'* holdings (634–95), then houses (696–750) and finally tree plantings (751–85).⁴ The 31 *musha'* holdings were listed as shares in two large blocks of land called *qibliya* and *shamaliya* (southern and northern), each holding being listed twice. The individual plots and plough land were *miri* while the houses and tree plantings were registered as private property or *mülk*.

Table 10.1 gives the shareholders in *musha'* plough land with their different holdings. Names are grouped by family (except when split between sections) and the whole list is divided into three equal sections of $7\frac{1}{4}$ shares or 29 *zalama* each. The basis for this larger division will be discussed in the next section. Excluded from the list are the single person who had a house but no land and seven holdings of individual arable plots not subject to reallocation, all held by non-residents. The origin of these seven holdings is unknown. By 1939 they had all reverted to families of the village. Several residents also had individual arable plots in addition to their share in plough land, particularly 'Abdul-Rahman Muhammad and his two brothers (family-6, see Figure 10.3) who held seven such plots (584–90). These holdings may have derived from a tax-free grant in recognition of religious status, for several members of the group of families called Dahun, including family-6, were registered in 1884 as sheikh (a religious title) or al-Qadiri.⁵

In most cases there is no difficulty in identification between the different *tapu* lists, although the order in which co-sharers were listed varied. Three uncertain identifications involve possible fathers and sons. In two cases we make the identification.⁶ In the third case (family-30) Ahmad 'Abdullah, last in the list, is taken to be someone resident in the village who was allocated a quarter-share in plough land but whose subsequent history is unclear.

With the above caveat there is no case in Kufr 'Awan where father and son were allocated separate shares in plough land at *tapu* registration (unlike two cases in Khanzira). There are many cases of a man being allocated more than a quarter-share because the unit of cultivation for which he received a *tapu* included one or more sons. Even where a son was married and living in a separate house, his share in plough land would be included in that of his father if the father was still active, as with 'Ali 'Ubaid (family-28, Figure 10.1) whose son 'Abdullah was already 32 in 1884. There are a few cases of a father being registered as a

TABLE 10.1 Kufri 'Awan, properties of *musha'* shareholders in 1884

Family no.	Name	Name (F)	Name (FF)	<i>Musha'</i> Share	House	Plot (<i>tarla</i>)	Plot (garden, trees)	Planting	Olives
1	'Isa	'Abdul-Qadir	634	1/2	739		631a	771-2a	5, 5
2	Ahmad	Ya'qub	636b	1/4	741		631b	771-2b	
	Husain	Ya'qub	-	-	-		608c, 610c, 611b	751b	
3	'Abdul-Rahman	Ahmad	636a	1/4	734, 735c		608a, 610a, 611a	751a	12
	Hamid	Ahmad	640a	1/3	735b		608b, 610b, 611c, 622b	751c, 761b	
	'Id	Ahmad	640b	1/3	735a		608d, 610d, 611e, 622a	751e, 761a	-
	Sa'd	Ahmad	640c	1/3	-		632, 611d	751d, 773	6
4	Sa'id	Ahmad	642	1/2	732		613-14a	753-4a	5, 5
	Ya'qub	Da'ud	638a	1/5	731b				
	Muhammad	Da'ud	638b	1/5	-				
	Ayyub	Da'ud	638c	1/5	731a		613-14b	753-4b	
	Mustafa	Da'ud	638d	1/5	731c		613-14d	753-4d	
	Sulaiman	Da'ud	638e	1/5	731d		613-14c	753-4c	
	'Ali	Da'ud	646	1/4	740				
5	Husain	Hamud	644a	1/4	738a		607a, 609a		
	'Ali	Hamud	644b	1/4	738b		607b, 609b		
6	'Abdul-Rahman	Muhammad	648a	3/8	736a, 748a	584-90b	612b	752b	-
	Ibrahim	Muhammad	648b	3/8	736c, 748c	584-90a	612a	752a	
	Nasir	Muhammad	-	-	736b, 748b	584-90c			
7	'Abdul-Qadir	Salih	654	1/4	733				
8	'Awad	Mustafa	652b	3/8	737				
9	'Abdul-'Aziz	Mustafa	652a	5/8	706, 708		605-06	784-5	5, 4
10	Sulaiman	'Abdul-Latif	650a	1/2	742		618	758	5
	'Awwad	'Abdul-Latif	650b	1/2	723				
	SUBTOTAL			29/4					

TABLE 10.1 Kufri 'Awan, properties of *mushta'* shareholders in 1884 (continued)

Family no.	Name	Name (F)	Name (FF)	<i>Mushta'</i>	Share	House	Plot (<i>tarla</i>)	Plot (garden, trees)	Planting	Olives
11		'Ali	Ahmad	656a	3/16	749a		619a	759a	4
		Mahmud	Ahmad	656b	3/16	-				
		Salih	Ahmad	656c	3/16	-		633	774	2
		Ahmad	'Abdullah	Ahmad	656d	3/16	749c		619b	759b
28b		Husain	Ahmad	-	-	749b				
		Mansur	'Ubaid	658a	1/4	697		601a	779a	7
28c		Muhammad	'Ubaid	658b	1/4	704		601b	779b	
12		Qasim	Muhammad	658c	1/4	698b			781	3
		Musa	Muhammad	658d	1/4	698a				
13	Mustafa	'Abdullah	Mustafa	672	3/4	747	600	598a, 599	777a, 778	43, 8
		'Abdullah	Mustafa	-	-	700				
14	Muhammad	Ibrahim	Mustafa	660a	1/4	701		598b	777b	
		Ahmad	Husain	660b	1/2	745				
15	Husain	'Ali	Husain	660c	1/8	-				
		'Abdullah	Husain	662	1/4	703		602	780	10
16	Salih	Hasan	'Abdul-Rahman	664	1	709	583a	629-30a	769-70a	5, 2
		Husain	'Abdul-Rahman	666	1/2	707	583b	629-30b	769-70b	
17		Hamdan	Ahmad	-	-	-		604	783	5
		Hamdan	Ahmad	668	1/2	744				
18		Muhammad	Mahmud	670	1/4	743		603	782	5
		Salih	Muqbil	674a	7/24	699		623a	762a	17
19a		Rashid	Muqbil	674b	7/24	716		623b, 624	762b, 764	10
		Da'ud	Muqbil	674c	7/24	717		623c	762c	
19b		Salim	Fallah	676a	1/4	713b				
		Salama	Fallah	676b	1/4	713a		621	760	12
SUBTOTAL					29/4					

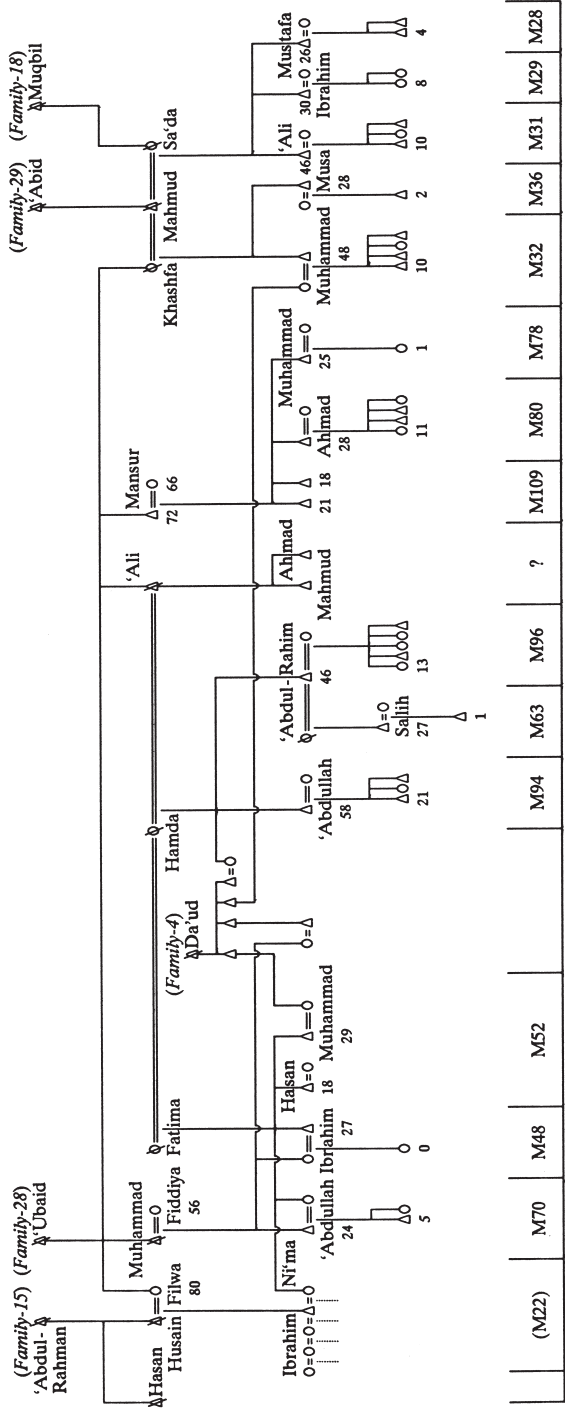


Figure 10.1 Kufri Awan, households of families 28 and 29 in 1910

(M22)	M70	M48	M52	M63	M96	?	M109	M80	M78	M32	M36	M31	M29	M28
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householder or the holder of an olive grove but where it was the sons who were registered as shareholders in plough land, notably in family-20, presumably because the father no longer took an active part in cultivation. But it seems that at the time of *tapu* registration in Kufr ‘Awan people were conscious of how a share would devolve by inheritance in the future – conscious, in other words, of their property – and they did not pre-empt the action of inheritance laws by registering a son’s allocation separately unless cultivation had fully devolved to the son.

The case of brothers is different, for the heirs of an unregistered brother would not normally inherit from those registered. Of the six cases where one brother was not registered with a share in plough land (families 2, 6, 11, 16, 19c and 26), the brother was later included in two cases (families 16 and 19c);⁷ in one case it did not matter since the unregistered brother’s daughter married a registered brother’s son (family-6); in one case nothing more was heard of the unregistered brother (family-11); and in the remaining two cases, the unregistered brother’s heirs remained in the village but did not inherit a share in plough land. Each case was different. It would seem to have depended on the stage of household development as well as on other factors that can only be guessed, such as a division of labour between cultivation and animal husbandry. Where one or more brothers had separate holdings (families 3, 4 and 19), or where all the brothers had their own holdings (family-15), inheritance depended on the original division; similarly where one or more brothers had teamed up with someone else (families 3, 12, 13, 14 and 28).

The general correspondence of a quarter-share per man is evident from Table 10.1. The average size of a registered person’s share in plough land was 0.34 (21¾ divided by 64). But the range varied from ⅓ in family-11 to 1⅛ for ‘Ali ‘Ubaid in family-28. The average size of a *musba* holding, on the other hand, was 0.7 (21¾ shares divided by 31 holdings). Although there were five holdings of a quarter-share held by individuals (646, 654, 662, 670 and 694 in families 4, 7, 14, 17 and 30), cultivation units usually involved partnerships, explicit or implicit, between men.

What kind of factors might have influenced the allocation of shares beyond the basic quarter-share for a *zalama*? The case of ‘Ali ‘Ubaid of family-28 illustrates the difficulty of probing much below the surface. In 1884 he was the person with the largest share, the most highly valued house (3,000 *gurus*) and the largest olive planting. Holding 692 of 1½ shares was shared by ‘Ali ‘Ubaid and Mahmud ‘Abid of family-29 in an unspecified proportion. (See Figure 10.1 for the marriage links between families 28 and 29 and other families.) In a mutation of 1907 the holding would be divided in the ratio three to one (1⅛ to ⅓) and transmitted to the two sets of heirs, eight and five sons respectively (in both cases cutting out daughters).⁸ ‘Ali ‘Ubaid’s two brothers shared another *musba* holding (658) of a full share with two brothers of another family and section of the village, Qasim and Musa Muhammad (family-12), each co-sharer being allocated the norm of a quarter-share. Why the unequal division between ‘Ali ‘Ubaid’s sons and those of Mahmud ‘Abid? Mahmud ‘Abid may have settled in

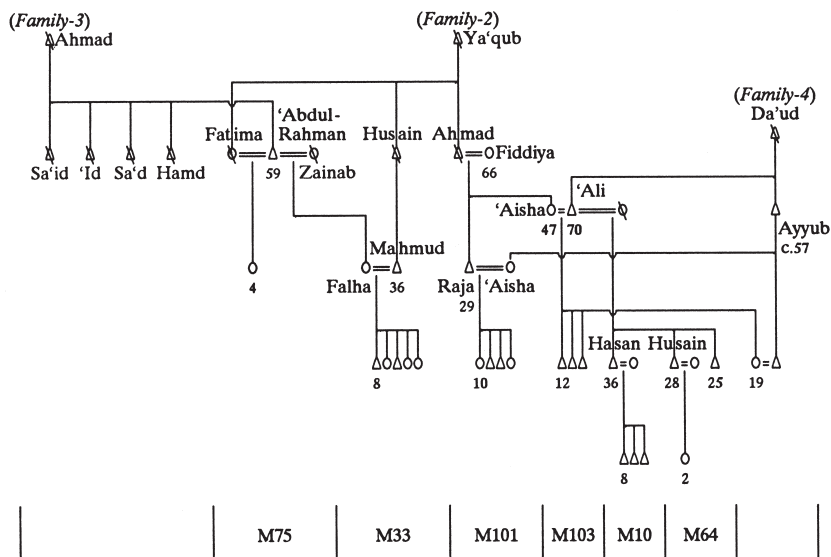


Figure 10.2 Kufir `Awan, households of family-2 in 1910

the village through marriage, first to a daughter of Muqbil (family-18) then to a sister or half-sister of 'Ali 'Ubaid. His holding of three olive trees (763) was on the land of Muqbil's sons (623), indicating that he had no ancestral holding of olives but that the trees came through his first wife. Perhaps he was tied to 'Ali 'Ubaid through bride-service. Neither family was short of sons. In any case 'Ali 'Ubaid was more successful than Mahmud 'Abid, and their unequal shares reflected their relative standing.

At least one other partnership involved people who were either already affinally related or soon to become so. Holding 636 of half a share in plough land was held by 'Abdul-Rahman, one of the five sons of sheikh Ahmad (family-3), and his wife's brother Ahmad Ya'qub (family-2) (Figure 10.2). Ahmad's brother Husain was not named as a co-sharer either in plough land or in Ahmad's house, but together they held an olive grove with two registered plantings (771 and 772) each with the same number of trees. Husain's son Mahmud married a daughter of 'Abdul-Rahman by an earlier marriage, Falha, while 'Abdul-Rahman married Husain's sister Fatima in what may have been an exchange marriage.⁹ In 1884 'Abdul-Rahman still had a share with his brothers in gardens and an olive grove as well as a family house, though he also had a house of his own. But he had no sons. Ahmad Ya'qub's son Raja', on the other hand, was only three years old at the time. Perhaps it was to combine their labour that they went into partnership.

Other partnerships between non-agnates in 1884 were temporary alliances between households or individuals with insufficient labour or other resources to make up a viable cultivating unit. For instance 'Abdullah Salih and 'Uthman Shihab held half a share in plough land jointly (families 21 and 22). At the time of *tapu*

registration ‘Abdullah had no children (according to the 1910 census, although of course there might have been children who died before 1910 or who had married outside the village). He had a plot of his own with 20 olive trees. ‘Uthman too had no children at the time of *tapu* registration: the son and daughter living in the village in 1910 were born a little after 1884. In 1884 ‘Abdullah and ‘Uthman were thus two newly married men without brothers.¹⁰

Two points need emphasis. Whatever other considerations may have entered the allocation of shares, the norm of a quarter-share for a married man and half that for a teenage son or bachelor does appear to have been followed. Second, the principle underlying partnerships of cultivation is not always clear, some men already having sufficient labour among sons to manage a farm without involving partnerships with non-agnates. It is perhaps here that a third point is relevant, the extent of household partition. The household was the basic unit of production and reproduction, though a man would seldom cultivate a holding on plough land alone, teaming up with someone else. ‘Ali ‘Ubaid and his brothers Mansur and Muhammad no doubt in some senses belonged to the same line of patrilineal descent. But at any point in time a family might be dispersed between different households. In 1884 the three ‘Ubaid brothers no longer shared any holding, although marriages would later be arranged between the children of at least two of them.

Without the 1895 tax register it is not possible to tell how long cultivating partnerships of 1884 endured. Registration at the cadastral settlement in 1939 did not capture working arrangements at a particular moment of time in the same way that *tapu* registration had in 1884. From 64 shareholders in 31 units in 1884, 262 landholders were registered in 160 units in 1939. There was greater individuation of holdings; the population had grown and holding sizes were much smaller. Individuation also now extended to women. Almost all partnerships in 1939 not derived from a set of siblings involved women, typically a man with his wife or brothers with one of their wives. Of the 69 joint holdings, 15 were held by a man and a female non-agnate (probably the man’s wife), four were shared by a man and his father’s brother’s daughter (who was also his wife), and two were shared by women who were not related through their fathers. Only five involved partnerships between men who were not agnates (of which three also included women).¹¹ A later section will examine women’s claims upon property at the 1939 cadastre. We now turn to a higher level of formation of shareholding groups into village sections.

Composition of village sections

Table 10.1 divides shareholders in plough land into three equal sections of $7\frac{1}{4}$ shares. This division was not official. There is no evidence that the Ottoman government recognized village subdivisions anywhere in the region. At the 1939 cadastre there was a formal division of landholdings into four equal sections (not three) which corresponded roughly with four named social groupings. Some division of the body of cultivators seems thus to have been necessary to laying

out the land in Kufr 'Awan, even if it was into thirds in 1884 but quarters in 1939. In other parts of the world where the common resources of a village were organized on shares, it was usual for a cultivating body to be subdivided into halves, thirds or quarters, before further subdivision either into smaller fractions or according to the number of working ploughs or working men (*zalama*). A system of subdivision of the whole village combined allotment of benefits with the allocation of responsibilities, above all to pay government taxes. The term for village section, *hamula*, from the root *haml* signifying burden, aptly conveys the sense of collective liability. Under late Ottoman reforms the principle of co-liability for tax was gradually replaced by individual registration of *tapu* title and individual liability for both *vergi* and *miri* tax. But the tradition of collectively sharing resources remains evident in the pattern of allotment of plough land.

The division of the shareholding body of Kufr 'Awan into three sections in 1884 bore close correspondence with the named social groupings of 1939 only in respect of the first section. In 1939 villagers were affiliated to four groups, the Dahun, the Dawaghira, the Khashashna and the 'Amaira. In 1884, the Dahun comprised families 1 to 8, the 'Amaira families 12 to 18 together with 28 and 29, the Khashashna families 19 to 24, plus 27, and the Dawaghira families 9 to 11 together with 25 and 26. Roughly the Dahun made up the first section in 1884, the 'Amaira the second, and the Khashashna the third, while Dawaghira families were distributed between all three sections. Since no named group had exactly $7\frac{1}{4}$ shares, some adjustment would have been necessary in 1884 to obtain exactly equal sections, as a result of which a group of families might be split between sections.

There was no basis of common descent tying all families of one group to a common ancestor that we heard of during our interviews, although the topic of origin was sensitive. Only in respect of the Dahun does there appear from the land records to be some common grounds for grouping. The Dahun were registered first in the list of *musha'* holdings (634 to 648, with 654 and a part of 652). Their houses appear to have been all together in a distinct area of the village site. This residential clustering is evident not so much from the numbering of houses, although this is indeed sequential (houses 731 to 741, plus 748), as from consideration of the borders specified for each house in the house list. Other clusters of houses can be made out from the borders, notably 696 to 702 belonging to 'Ali and Mansur 'Ubaid, Qasim al-Muhammad, Salih al-Muqbil, 'Abdullah al-Mustafa's son Mustafa and brother's son Ibrahim al-Muhammad, and Mahmud al-'Abid – all 'Amaira families. Given the strong correlation between residence in the village and holding a share in plough land, it would not be surprising to find some correspondence between social groupings and residential clusters. But house borders are not sufficiently precise to enable an exact map to be drawn of the village site in 1884.

It is unclear how Kufr 'Awan's village sections in 1884 related to the layout of fields. At a gross level the division of the plough land into two blocks in 1884 is continuous with 1939 despite the minute subdivision of each block at the later date. According to our informants the twofold division corresponded to biennial

crop rotation and reallocation of holdings, in order to equalize the value of holdings over time rather than over space.¹² The 1939 field map of Kufr 'Awan is given as colour plate Map 10.1.

The fields which are not coloured on the map represent land that was not allotted to shareholders at the 1939 cadastre, either plots held individually (like the two large plots along a part of the northern border of the village), the village site (in the eastern corner which itself included three sets of olive groves) or pasture and woodland (on the western side, a hill called Sartaba overlooking the archaeological site of Pella or Tabaqat Fahl in the Jordan Valley). The individual plots are largely continuous with those held in 1884. Neither the village site nor Sartaba was registered in 1884. It may be assumed that the area of common plough land in 1884 was much the same as the coloured portion on the map. Moreover the coloured portion is divided in two, a sector closer to the village site and a sector further to the west, called either winter and summer, or near ('house', *dar*) and far ('thistly', *'araqib*). Although we cannot tell whether the land was divided up in exactly the same way in 1884, the 1939 field map does represent a model continuous with earlier conceptions.

Both sectors of plough land, near and far, are divided into four more or less contiguous blocks (the easternmost block cut in two by the village site), equal not in area but in the shares they represent; and each block, representing one-quarter of the village shareholdings, is further divided into four approximately equal sub-blocks.¹³ There are thus sixteen sub-blocks in each sector and every shareholding has just two strips to cultivate, one in a near sub-block, the other in the corresponding far sub-block. In 1939 the total number of shares in the village decreased slightly from $21\frac{3}{4}$ to 21 shares and $15\frac{2}{3}$ *qirat*. Each of the four sections of shareholders thus represents $129\frac{11}{12}$ *qirat*. In the easternmost block, containing strips belonging to the first shareholding section A1-4, two of its sub-blocks represent $34\frac{1}{6}$ *qirat*, a third $30\frac{3}{4}$ and the fourth $30\frac{5}{6}$; but each of the other blocks consists of three sub-blocks of $32\frac{1}{2}$ *qirat* and one of $32\frac{5}{12}$. How on earth was such precision achieved?

The question has two aspects. On the one hand, how was land divided up so equally, taking into account the immense variety of soil, contours, proximity to sources of irrigation, rocky outcrops and so on? This is land not on the Hauran plain but cut by streams running down from the 'Ajlun hills to the Jordan Valley. On the other hand, how were shareholdings grouped into exactly equal quarters and more or less equal sixteenths? Fascinating as the first aspect is, which concerns valuation, the extent to which local knowledge was utilized by the British colonial government, and comparison with the method of valuation employed by the Ottoman government beforehand, it is the second that concerns us here.

In general there is a clear correlation between the four named village sections and the four blocks of shareholdings. But the shares held by each village section were never exactly equal, nor could they be if each section was defined by its constituent families, for each family could grow or diminish, and land was transferred accordingly. Moreover the apparent division of village shareholdings in 1884 into

three, not four, suggests that not all had the same standing.¹⁴ Adjustments had to be made in order to make up equal blocks of holdings.

With a significant amount of land passing officially through women, and being registered in the names of women in 1939, exact computation of shares by so-called families would be misleading. For instance the 19 Dawaghira male landholders all had land in one block, but of the ten Dawaghira female landholders five had land in the other three blocks associated with other families. Affinal networks (*shabaka*) between families were crucial to the feeling of collective solidarity which was such a pronounced feature of the village.

If at a higher level there is a general correlation in 1939 between named village sections and the equal division of shareholders into quarters, at a lower level there is no exact association between particular families and the sub-sections that represent sixteenths of the whole village. Families differ in this regard, some holding shares in the same sub-section (and land in the same corresponding sub-block), others not. The details would be cumbersome. When we asked about this point we were told that a person was free to associate with whichever group he liked. However there is no denying some correlation. For instance, family-6 had all its 23 *qirat* in the first sub-block (A1), but members of family-3 had their combined 41 *qirat* in three sub-blocks of block one (A1, 3 and 4), and three of block two (A5, 7 and 8).

The example of one village section may be given to illustrate the adjustments necessary to obtain such precise – hence fair – allotment of land. The section called Khashashna (*al-‘ashira al-Khashashna, al-firqa Sari al-Ahmad al-Ali* in the 1939 register of rights, *jadwal al-huquq*) was headed by a man of family-27 called Sari al-Ahmad.¹⁵ Sari al-Ahmad had the largest share in the village (11¼q), apart from the imam and his son (originally of the nearby village of Ausara) who had between them bought 21 *qirat* and were included in the section. Families belonging to this section held 128⁵/₁₂ *qirat* out of 519²/₃ or just under a quarter (0.247). They could thus hold land almost entirely in one block, B13–16. To make up an exact quarter one woman of a Dawaghira family (family-10) with ¾q and a man and a woman from an ‘Amaira family (family-28) with 2½q were allotted land in the same block, although at the same time one man and one woman of Khashashna families (20 and 27) opted to hold land in block A5 where most Dawaghira families had their allotment. Were there any special ties that might have led the first three to affiliate with the Khashashna section and the last two with the Dawaghira section, apart from individual choice? The woman from the Dawaghira family, Labiba Salih ‘Awwad, was married to a man of a Khashashna family (20) with whom she shared a holding together with his three sons. She had been awarded rights only after claiming them at the 1939 cadastre. Her case is considered in more detail in the next section (Figure 10.6). Similarly, the man and the woman who held their land in block A5 were husband and wife in a joint holding, the husband Nayif Ibrahim Sulaiman having bought his quarter *qirat* from his wife’s mother, Hamda Salih ‘Awwad (the sister of Labiba) at the time of the cadastre, after earlier having given away his inherited share as a marriage

payment. His case too is discussed under Figure 10.6. The third case is of two elderly 'Amaira landholders in their sixties; but they too had marriage connections in the section to which they affiliated. Scratch the surface of relations in Kufr 'Awan and *shabaka* networks of marriage appear. Indeed it would have been the agent's personal choice, which group to affiliate to for the allotment of land. But structural factors influenced their choice.

The factors influencing affiliation look quite different from those influencing the formation of shareholding groups in Hawwara. According to the tax list for 1895 two different models operated in Hawwara. On the one hand there was that of *khalit wa-sharik*, co-partnership in the business of cultivation in which everyone was equal and shares would be temporarily redistributed according to capabilities and need. On the other hand was a more hierarchical model of allegiance to leaders in closed solidary groups bound by kinship. Both required extensive mobilization of labour to work the land. But whereas in one model cultivators relied on each other, in the more hierarchical model those with title to land built networks in local government and commerce, relying largely on hired labour for agriculture. The one model was of self-sufficiency, the other of capital accumulation. In Kufr 'Awan, by contrast, agriculture was lighter – ploughing could be done by mule rather than by teams of oxen – and there was no need to mobilize labour from outside the community. The household was the unit of agricultural production, two or more households cooperating with each other to combine their different resources. Women's labour in agriculture was valued. Partnerships were between individual households rather than in the full-blown model of *khalit wa-sharik* where collective discipline was paramount. For a fair allotment of land, groups were formed largely around long-standing association between families. But to make up a group with an exact allocation of shares was not a big affair of bringing in new allies, as in Hawwara, for the links between households and families through marriage were already multiple. There was greater plasticity in the formation of shareholding groups in Kufr 'Awan.

Between 1884 and 1939 the model of allocating shares by *zalama* underwent a transformation. The population expanded, landholdings became smaller and the calculation of women's entitlement to land became more important. Land transfers became a means of enabling both production and reproduction. Nothing expresses this change more than the extent to which women fought claims to land and were registered as landholders at the 1939 cadastre. In the final section devoted to Kufr 'Awan we look at the chronology of *tapu* mutations in relation to women's increasing entitlement to land.

Women's claims to land, 1884–1939

The initial *tapu* lists of Kufr 'Awan show diversity in the management of different forms of property: houses, shares in jointly held plough land, individually held plots and trees. The civil register of 1910 adds evidence on household formation and networks of marriage. Mutations of the *tapu* register add further information on family landholding histories. When we come to the cadastral settlement

of 1939 the build-up of information on individual families over the previous 55 years is sufficient to enable a more finely textured picture to be constructed of the relations between families that underpin property. In particular it allows us to see the central role played by women, not so much as objects of exchange for land between men but as agents directing the management of household and family resources. Although 18 per cent of the landholders (47 out of 262) may not be a very high proportion of women holding land in 1939, and although the court cases and records of claims show that women had to fight to secure rights from men, nevertheless in comparison with Hawwara or Bait Ra's it is a significant proportion. These were shares in the common plough land, not private plots, gardens or olive groves which might well have been held by women even in 1884, as they were in other villages of the Kura like Khanzira. In Kufr 'Awan no woman had been registered in any capacity in 1884, not even as the holder of an olive tree. Between 1884 and 1939, then, Kufr 'Awan villagers' approach to the registration of land changed.

The chronology of official mutations of landholdings in Kufr 'Awan is different from that of Hawwara considered in the last chapter. There are only two official mutations before 1908 when there are suddenly 17, mostly cases of restricted inheritance in which daughters are excluded, followed by a further three of the same type in 1910 and 1911. It seems that this first batch of mutations was the result of government initiative, for Khanzira has a similar batch in 1906–08. Between 1912 and 1924 there are then seven sales (including two outside the circle of Kufr 'Awan families, one to the village imam, the other to a member of the Sharaida family) and one case of inheritance. Finally from 1930 to 1936 there are another 24 mutations, including 16 sales within the village of which five are to the imam's son. Some of the inheritance mutations of the 1930s are huge affairs, bringing a family's landholding history up to date from the original *tapu* entry in the name of some long-dead forefather through a series of subsequent deaths of his heirs. They parallel cases of inheritance in the *shar'i* courts to which the mutations refer. What concerns us here is the registration of women in the two sets of mutations, those of 1908 on the one hand and those of the 1930s on the other.

Prior to 1908 there had been only two mutations, one of 1889 relating to the new registration of land that had escaped *tapu* registration in 1884, the other of 'Abdul-Rahman al-Ahmad's full quarter-share in plough land (family-3) sold to two brothers of a family of blacksmiths which had settled in the village a little earlier. Two of the 1908 mutations concerned further sales to this family (1½q from four sons of 'Ali 'Ubaid, family-28, and 1½q from the two sons of 'Ali al-Ahmad, family-11).¹⁶

Of the 17 mutations in 1908 plus three of 1910–11, five involved sales: two to the blacksmiths, as above, one from an inheriting daughter of Rashid al-Muqbil (family-18) to her brother and father's brother's son, one concerning an individual plot from an inheriting daughter to her brother (belonging to a family not shown on Table 10.1), and one from Salih al-Ahmad (family-11) to the son

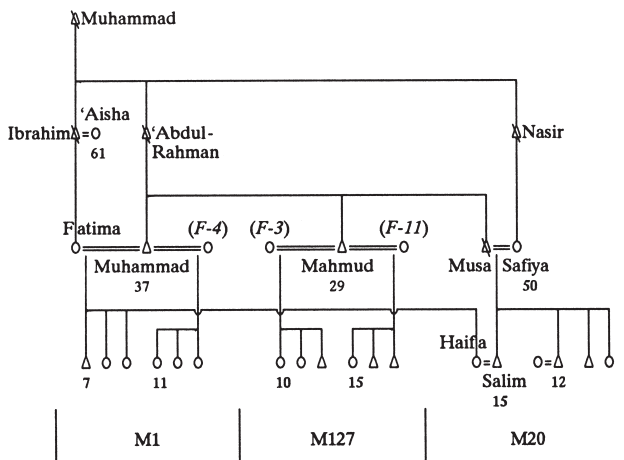
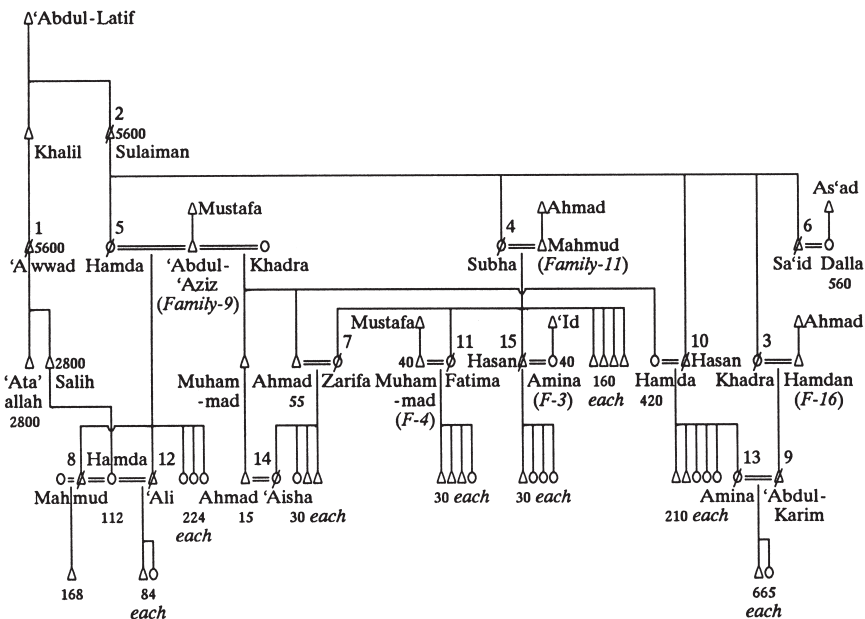


Figure 10.3 Kufr `Awan, households of family-6 in 1910

Salah of Salih al-Muqbil (family-18), probably in connection with the marriage of Salih al-Ahmad's son Husain to Salah's daughter Tanha although the size of the sale (3q) is twice the standard for a bride's *mahr*.¹⁷ The so-called sale by an inheriting daughter to her brother captures the spirit of the other 15 mutations, which are all cases of inheritance. In only four of these inheritance cases were daughters mentioned; and in two an only daughter married her father's brother's son, their fathers having previously held land jointly. Thus, Ibrahim and Nasir al-Muhammad of family-6 passed their rights to their only daughters, Fatima and Safiyya respectively, while their brother 'Abdul-Rahman passed his rights to three sons, Muhammad, Musa and Mahmud, excluding his daughters. Fatima married Muhammad al-'Abdul-Rahman while Safiyya married his brother Musa (see Figure 10.3).

The eleven cases of inheritance in which daughters were excluded need not be considered in detail. Reference to some of them was made in an earlier section, for instance concerning 'Ali 'Ubaid's eight sons and Mahmud al-'Abid's five sons (families 28 and 29 in Figure 10.1). The only two cases where daughters were named as heirs in the mutation, apart from the two special cases of only daughters already mentioned, were of the sons of 'Abdul-Nabi (family-27) on the one hand and of Hasan 'Abdul-Rahman (family-15) on the other. In the former, 'Ali 'Abdul-Nabi's rights passed to four sons and three daughters, while Sulaiman 'Abdul-Nabi's rights passed to his two sons and three daughters. Only one of these daughters married within the family. We do not know why this family was practically alone in registering daughters as heirs ahead of the times. Curiously, in 1939 family-27 was one of the few of which no women were registered as landholders. The second case is of Hasan al-'Abdul-Rahman's rights passing to six sons and four daughters. One possible explanation here is that the case dates from 1910, the year of civil registration. Once the civil register



Note: large numbers denote sequence of inheritance, small numbers denote shares

Sequence of inheritance

One share out of $21\frac{3}{4}$ is conceived as 11200 units for the purpose of calculating fractions

1. 1890, 'Awwad s.o. Khalil: $\frac{1}{2}$ share = 5600 to two sons equally (2800 each)
2. 1891, Sulaiman s.o. 'Abdul-Latif: $\frac{1}{2}$ share = 5600 to 2 S + 3 D equally (1120 each)
3. 1906, Khadra d.o. Sulaiman: 1120 to only son 'Abdul-Karim (1120)
4. 1916, Subha d.o. Sulaiman: 1120 to 4 sons + 3 daughters equally (160 each)
5. 1917, Hamda d.o. Sulaiman: 1120 to 2 sons + 3 daughters equally (224 each)
6. 1917, Sa'id s.o. Sulaiman: 1120 to wife Dalla ($\frac{1}{2}$) and brother Hasan ($\frac{1}{2}$) (560 each)
7. 1919, Zarifa d.o. Subha: 160 to husband ($\frac{1}{4}$ = 40) and 2 S + 2 D equally (30 each)
8. 1920, Mahmud s.o. Hamda: 224 to wife (Hamda d.o. Salih) ($\frac{1}{4}$ = 56) and only son (168)
9. 1923, 'Abdul-Karim s.o. Khadra: 1120 to wife ($\frac{1}{4}$ = 280) and 1 S + 1 D equally (420 each)
10. 1923, Hasan s.o. Sulaiman: 1120+560 to W ($\frac{1}{4}$ = 420) and 2 S + 4 D equally (210 each)
11. 1923, Fatima d.o. Subha: 160 to husband ($\frac{1}{4}$ = 40) and 2 S + 2 D equally (30 each)
12. 1924, 'Ali s.o. Hamda: 224 to wife Hamda ($\frac{1}{4}$ = 56) and 1 S + 1 D equally (84 each)
13. 1925, Amina w.o. 'Abdul-Karim and d.o. Hasan: 280+210 to 1 S + 1 D equally (245 each)
14. 1925, 'Aisha d.o. Zarifa: 30 to husband ($\frac{1}{2}$ = 15) and father ($\frac{1}{2}$ = 15)
15. 1925, Hasan s.o. Subha: 160 to wife ($\frac{1}{4}$ = 40) and 1 son + 3 daughters equally (30 each)

Figure 10.4 Kufr 'Awan, sequence of inheritance of one share in family-10, 1884-1931

had been prepared and a clearance certificate from the civil registry had to accompany a *tapu* mutation, daughters could not easily be excluded. Rather, the way to exclude daughters was either to persuade them to sell their rights to their brothers or male agnates, or for a father before his death to give his rights to his sons. Why Kufr 'Awan came to accept the registration of daughters, while Bait Ra's and Hawwara did not, is a question that goes to the heart of their different agrarian systems.

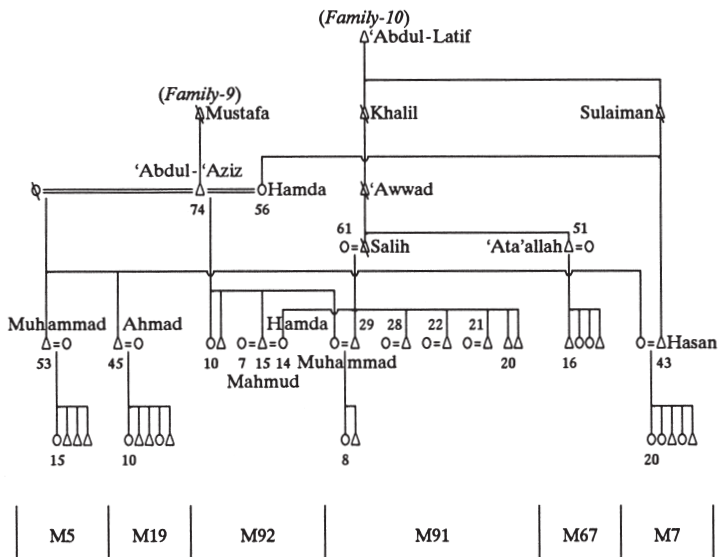
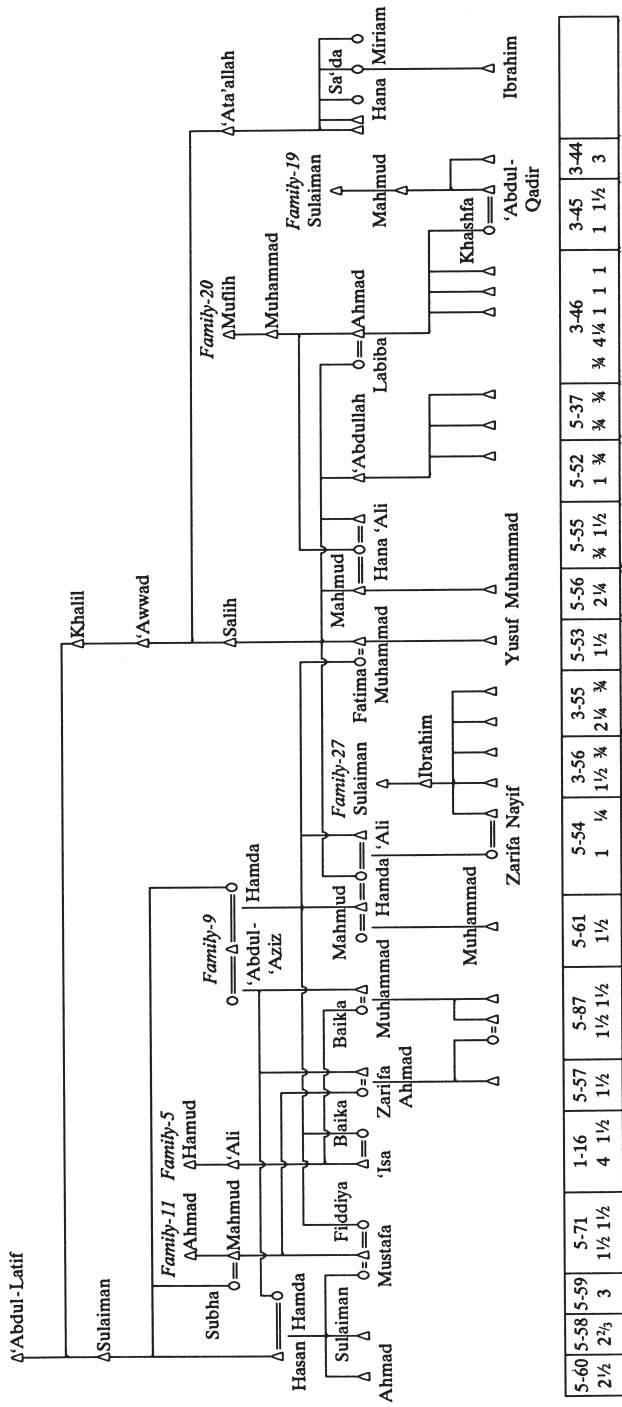


Figure 10.5 Kufr `Awan, households of families 9 and 10 in 1910

An example of a mutation of the 1930s which brings landholding within a family up to date is illustrated in Figure 10.4. The mutation refers back to holding 650 of family-10 in 1884 where Sulaiman al-'Abdul-Latif and his brother's son 'Awwad al-Khalil held one share.¹⁸ The mutation mentions 15 deaths beginning with those of 'Awwad followed by Sulaiman 41 and 40 years previously. No further details are given concerning 'Awwad's two sons. Sulaiman's two sons and three daughters all subsequently died, their shares passing wholly or partly to their children. We learn of an exchange marriage among Sulaiman's children with family-9 as well as of ties with families 11 and 16, through which marriage links are recorded to families 3 and 4 as well as back to 9 and the 'Awwad al-Khalil branch of 10. Many families in the village had an interest in the devolution of Sulaiman's shares. After giving details of the various deaths and heirs, the mutation refers to a *shar'i* court decision and to a clearance certificate from the civil registry, both of October 1931. The *shar'i* court case under that reference gives the same details of 15 deaths from those of Sulaiman and 'Awwad, together with a calculation of shares devolving to the surviving heirs according to both *shar'i* principles and the Land Code for *miri* land.¹⁹

Although the inheritance mutation of the 'Abdul-Latif family may appear complete, it should be noted that, when compared with details of household composition given in the civil register of 1910, there are curious omissions suggesting that not every death was in fact recorded. This in turn raises questions about who registered the case and why. Most notably, Salih al-'Awwad had already died by 1910, household M91 consisting of his widow, six sons aged between 16 and 29 of whom four had wives and the oldest had two children (see Figure 10.5). There is no inheritance mutation or *shar'i* case for Salih. For 'Ata'allah,



Note: The upper row gives the holding number, the lower row gives the share in qirat, placed as nearly under the person concerned as possible. Holding numbers refer to a 'near' block of land and a field number within that block; each holding has a second field in a 'far' block of summer crop land. Thus 5-60 refers to field 60 in block-5 while its corresponding field (not shown here) is 6-97. An asterisk under a share indicates tenure by a woman.

Figure 10.6 Kufr 'Awan, shares of family-10 in 1939, showing holdings of women

on the other hand, there is an inheritance case of 1932 (without a corresponding mutation in the land register) saying that he had died six months previously leaving two sons, a daughter, and the son of another daughter who had pre-deceased her father. At the cadastre of 1939, a number of transactions brought the affairs of Salih's and 'Ata'allah's heirs up to date, including sales for debt, various claims by women and an affirmation that 3q of 'Ata'allah's share had been sold in 1915. The end result was to leave the heirs of 'Ata'allah with nothing and the heirs of Salih, including his daughters Hamda and Labiba, with 9¼q.

To conclude this section we present one further genealogy of the family of 'Abdul-Latif bringing together seven cases of women holding land in 1939. Figure 10.6 complements Figures 10.4 and 10.5 which also concerned 'Abdul-Latif's family. But whereas Figure 10.4 showed the diachronic sequence of inheritance from 'Abdul-Latif's two sons, and Figure 10.5 showed household composition in 1910, Figure 10.6 shows the composition of landholdings in 1939. This brings us back to the analysis of landholding partnerships. The *zalama* system of apportioning shares is no longer in evidence in 1939. Instead, the critical factor affecting landholding partnerships is how much land passes through women, whether at marriage or as inheritance.

Comment on Figure 10.6: Transactions involving women at the time of the cadastral settlement (taswiya) of 1939

'Ata'allah. He inherited 6q from his father according to the mutation of 1931 mentioned above; at the same time he sold 1½q to Khalid Muhammad 'Awad al-Khidr, son of the village imam (ACR.SC *sijill* 12, *hasr al-irth* 1929–31, p. 175, case 80, 6 October 1931, and DLS.AT.*Dabt* 1931–32, p. 65, nos 70–73 [December 1931]). In an inheritance case of 1932 his rights passed to his two sons, a daughter Hana and the son of a daughter who had pre-deceased him, Ibrahim (ACR.SC *sijill* 14, *hasr al-irth* 1932–34, p. 22, case 34, 23 July 1932). At the cadastre in 1939 two daughters, Hana and Miriam (who had not been mentioned in the inheritance case) claimed that 3q of land sold earlier by their father had been really a mortgage; but sale documents were produced dating from 1915 and 1924 showing that 1½q were sold to 'Ali al-Salih (their FBS) and 1½q to someone of family-15 (DLS.CR Kufr 'Awan, *jadwal al-iddi'a'at* for *musha'* lands, Report 17, 5 March 1939). This leaves 1½q unaccounted for. In 1939 none of 'Ata'allah's descendants held land.

Salih. He inherited 6q from his father by the terms of the same inheritance case mentioned above. There was no separate inheritance case for him in the *shar'i* courts nor a mutation of his holding in the land register. At the 1939 cadastre his daughter Labiba claimed a share of her father's inheritance from her brothers and brothers' sons, and she won ½q (DLS.CR Kufr 'Awan, Report 20, 5 March 1939). At the same time she claimed in a court case that her brother 'Abdullah had registered some of her land in his name, and she won another ¼q from him (DLS.CR Kufr 'Awan, Court Case 12, 9 May 1939). In 1910 Labiba was probably already married in the nearby village of Judaita; when that marriage

proved childless she married Ahmad Muhammad Mufflih of family-20 (interview with Ni'ma Muhammad Mahmud al-'Abid, 25 October 1991). In the final 1939 register Labiba shared holding 3–46 with her husband Ahmad and his sons (we do not know if they are her sons) (DLS.CR Kufr 'Awan, *jadwal al-huquq* 16 March 1939, no. 242, and *jadwal al-tasjil*, 3–46). In 1910 Ahmad had recently married his father's half-sister's daughter Khadra (shown in Figure 12.6 but not in Figure 10.6) and they were living in his father's household M55, as yet without children (ANR Kufr 'Awan). Labiba's marriage to Ahmad is connected with two other landholding women in 1939, Ahmad's sister Hana and his daughter Khashfa.

Ahmad's sister Hana was married first to Labiba's brother Mahmud and then, after his death, to his brother 'Ali with whom in the final register of 1939 she shared holding 5–55. Hana's $\frac{3}{4}q$ parallels Labiba's $\frac{3}{4}q$. Hana had been named as one of the heirs of the sons of Mufflih in another large retrospective inheritance mutation of 1932 (corresponding to a *shar'i* inheritance case of 1930) (ACR.SC *sijill* 12, *hasr al-irth* 1929–31, p. 163, case 83/177/4, 12 November 1930, and DLS. AT.*Dabt* 1931–32, p. 65, nos 44–7 [March 1932]). At the 1939 cadastre Hana claimed $\frac{3}{4}q$ as her share of this inheritance, and she won $\frac{1}{2}q$. Like Labiba she too filed a suit in court claiming that her brother Ahmad had registered $\frac{1}{2}q$ of her 1q inheritance in his name; and like Labiba Hana won another $\frac{1}{4}q$ (DLS.CR Kufr 'Awan, Report 25, 6 March 1939, and Court Case 6, 9 May 1939).

Ahmad's daughter Khashfa held a full *qirat* in a joint holding with her husband 'Abdul-Qadir of family-19. Khashfa's share equals those of her brothers, perhaps the result of a marriage settlement paralleling a *pre mortem* gift by her father of one *qirat* to each of his sons. We do not know if she had other sisters. It is possible that she and her brothers had inherited land through her mother Khadra – if Khadra, not Labiba, was indeed their mother – but the inheritance case relating to Mufflih's sons stopped at Khadra's mother Tamam, a daughter of Mufflih and half-sister of Khashfa's father's father, who had inherited land from her full brother 'Abdullah when he died without issue (see further Figure 12.6 concerning Ahmad's brother's wife Yumna Mustafa Nimr al-Mufflih). In any case Khashfa did not file a claim for land in 1939. Her father Ahmad still held $4\frac{1}{4}q$ in his own name even after initial settlements of 4q on his children and after relinquishing $\frac{3}{4}q$ to his sister Hana.

Labiba's case should also be considered with that of her sister Hamda. Hamda had already inherited land from both her husbands (Mahmud and 'Ali) through their mother Hamda, daughter of Sulaiman 'Abdul-Latif. Her share was 112 where 11200 represented 24 *qirat*, i.e. roughly $\frac{1}{4}q$ (see Figure 10.4). At the 1939 cadastre Hamda claimed 3q from her brother 'Abdullah as her *mahr*, resulting in $\frac{1}{4}q$ being settled on her daughter Zarifa (DLS.CR Kufr 'Awan, Report 18, 5 March 1939). She also claimed in court that her brother had registered $\frac{1}{2}q$ in his name that was properly her *mahr* given by her husband 'Ali al-'Abdul-'Aziz, as a result of which she was awarded another $\frac{1}{4}q$ (*ibid.*, Court Case 5, 9 May 1939). It seems that this $\frac{1}{4}q$ she immediately sold to her son-in-law Nayif with whom Zarifa, in the final 1939 register, shared a holding (*ibid.*, Sale 10, 16 January

1940). The other $\frac{3}{4}q$ of Zarifa's share had been inherited through her father 'Ali from both his mother and, presumably, his father 'Abdul-'Aziz. According to the 'Abdul-Latif inheritance mutation Zarifa and her brother (not shown on Figure 10.6) had each inherited $84/11200$ (0.18q) through their father's mother, of which her brother's share would have reverted partly to her when he died, apparently after falling in a well (interview with Ni'ma Muhammad Mahmud al-'Abid, 25 October 1991). There is no inheritance case or mutation relating to 'Abdul-'Aziz's original 15q which he had held in 1884. Zarifa herself died at the end of 1939 after the final register had been approved, her share reverting to her husband ($\frac{1}{2}$) her mother Hamda ($\frac{1}{3}$) and her half-brother 'through her mother', Muhammad son of Mahmud ($\frac{1}{6}$) (although according to the civil register of 1910 Muhammad was the son of a wife of Mahmud called Fiddiya) (ACR.SC *sijill* 18, *hasr al-irth* 1938-41, p. 100, case 118, 17 December 1939).

Zarifa's husband Nayif was one of five brothers who all held more land than he, moreover land in the predominantly Khashashna block of fields as befitted the family's affiliation, whereas Nayif's holding, shared with Zarifa, was in the block associated with the Dawaghira families, Nayif having bought his $\frac{1}{4}q$ from his wife's mother at the time of the cadastre. We learnt from Nayif's nephew that when Nayif had expressed the wish to marry Zarifa her family asked his brothers to find a bride for her half-brother Muhammad al-Mahmud. They did this by paying *mahr* in animals to a family in the neighbouring village of Kufr Rakib (interview with Muhammad Falih al-Ibrahim, 19 November 1991). But this does not quite explain where Nayif's share of his family's inheritance went.

To complete the picture, mention should be made of the three daughters of Hamda Sulaiman 'Abdul-Latif who each inherited $22.4/11200$ (approximately $\frac{1}{2}q$) from their mother (Figure 10.4). Fatima married Muhammad the son of Salih al-'Awwad in an exchange marriage whereby her brother Mahmud married Muhammad's sister Hamda. A second daughter of Hamda Sulaiman, Fiddiya, shared holding 5-71 with Mustafa son of Mahmud al-Ahmad of family-11, her mother's sister's son who had also inherited land ($160/11200$) originating from Sulaiman 'Abdul-Latif. Fiddiya's share was a full $1\frac{1}{2}q$, equal to that of her husband. Fiddiya would have inherited land from 'Abdul-'Aziz as well as from her mother. In 1910 she had been living in her father's household M92, aged only 10, while Mustafa lived with his first wife, daughter of Hasan Sulaiman (Fiddiya's mother's brother) in a household of their own (M107) as yet without children. Finally, the third of Hamda Sulaiman's daughters, Baika, also held $1\frac{1}{2}q$ in holding 1-16 shared with her husband 'Isa al-'Ali Hamud who held 4q. 'Isa probably belonged to family-5, although we are not certain since he was not listed in the 1910 census, neither in his own household nor in the household of his possible brother Hamud 'Ali Hamud (M129, not shown on Figure 10.6) whose sister Baika was already married and with children to Muhammad 'Abdul-'Aziz (in M5, see Figure 10.5). At some time between 1923 and 1934 'Isa had bought $\frac{3}{4}q$ from the children of Ahmad 'Abdul-'Aziz that had come to them by inheritance from Ahmad's wife Zarifa, the daughter of Mahmud al-Ahmad of family-11. But 'Isa's other $3\frac{1}{4}q$

probably came by inheritance within family-5, for otherwise that family's holding in 1939 is unaccountably short, Hamud al-'Ali's only surviving son Muhammad holding only 3q in 1-07. ('Isa's wife Baika al-Sulaiman is not found in the 1910 census, implying that she had already married 'Isa and the record of their household is missing.)

The seventh holding by a woman belonging to or closely related to the 'Abdul-Latif family is of Hamda daughter of 'Abdul-'Aziz, the wife of Hasan Sulaiman from whom she inherited 420/11200 (see Figure 10.4) or 0.9q. At the 1939 cadastre 3q of land belonging to her and her two sons was mortgaged to two different parties, including 1½q of her own share (DLS.CR Kufr 'Awan, Report 27, 6 March 1939, and Court Case 15, 11 May 1939). The major part of Hamda's 3q must have come by inheritance from her father 'Abdul-'Aziz; indeed perhaps the reason she had her own holding of 3q separate from her sons is that this represents what she inherited from her father, like the 3q held in 5-87 by her brother Muhammad's two sons.

Looking at the intricate web of relations in Figure 10.6 through which land was transferred, one may ask what land, as object of property, was being used to constitute. In the *zalama* system land had been an immoveable common resource to which a household had access according to the number and marital status of its males. The extent of land cultivated by a household matched its human resources. But with land as property, title to which was transferable, the relation between household and land was reversed. Shares in land, transmitted through both men and women, established a household's measure of command over productive space, and household members had to accommodate themselves to that measure. In this sense, property now constituted households.

The degree of individuation of holdings in 1939 is impressive. A father might hold land separately from his sons and daughters, a mother from her sons, and a wife from her husband. The shares of brothers might be unequal. Registered partnerships of landholding were not so much between households as within them. Although the marriage relation at the centre of a household was the focus of transactions in land, only a few transactions occurred at the time of marriage, in the form of a sale from one man to another of typically 1½q. Most transactions occurred very much afterwards – in some cases after children had grown up – and took other forms. Land as property was not only a power to constitute individuals into a household but also a potential to constitute future individuals and households through the reproduction of social relations. Claims to land were made partly to realize that potential.

In 1884 title registration froze the labour power of households as it then stood. In 1939 the cadastre similarly froze shares to land as designated plots with fixed borders. But the settlement also opened the door to a number of claims to property, brought primarily by women. The cadastral records thus bring to the surface the central focus of marriage relations in land transactions that might otherwise not be evident. The form of modern property was adapted to village society. The

most valuable asset of villagers, land, was used to create and underpin existing relations of production and reproduction within the village, not primarily as a means to command the labour of others.

By 1939 one or two individuals had acquired substantially larger holdings than others, notably the imam and his son (not originally of the village), Sari al-Ahmad Khashashna and a few others.²⁰ In the process, some families had lost land. Whereas in 1884 every household of the village except one had been allotted a share in the common plough land, by 1939 there were several households from among the original families which no longer had any land at all. The records are silent about how these families made their living, whether as sharecroppers on others' land or outside agriculture altogether. Oral testimony can here fill some gaps in the picture, for example concerning the importance of herding in the village. We return to examine this evidence in Chapter 12.

Khanzira (present Ashrafiya)

This chapter closes with a brief comparative look at a second village of the 'Ajlun hills. Khanzira shared with Kufr 'Awan the same basic features of mixed agriculture and an egalitarian ethos in which every man was counted in the collective allotment of *miri* plough land and everyone's labour was mobilized for domestic production. But Khanzira was larger, with a greater diversity of holdings and complexity of holding partnerships. It was closer to the centres of the Kura sub-district, Tibna, Dair Abu Sa'id and Kufr al-Ma'. Its families married out more. Without going into details of family relations in the village, an overview puts the structure and history of landholding in the hills into perspective with the more volatile Hauran plains. In particular, it confirms the importance of women's holdings initially of olive trees then later of land, and it shows a more complex calculation of the factors underlying partnerships. We first consider the basic outline of landholding at *tapu* registration in 1884.

Production and property in 1884

As with Kufr 'Awan, three kinds of objects of *tapu* entitlement were registered for Khanzira: houses, cultivated land, and tree plantings. The cultivated land was divided into two separate lists: common plough land was registered as shares in two big fields, called 'southern' and 'northern' as in Kufr 'Awan, while other plots (including gardens, orchards, vineyards and olive groves) were held individually. Plantings were on both individually held plots and on land held in common by the village; 154 plantings were registered (of which 95 were on individually held plots and 59 – all olive trees – on land held in common), 83 householdings, 215 individual plots, and 68 shareholdings in plough land.²¹ A holding meant an explicit share in what existed on, or in the usufruct of, a distinct plot of land. For instance, A, B and C, sharing eleven olive trees on a particular plot in the explicit ratio 1:1:2, were listed as three separate holdings; but brothers D, E, F and G, holding six olive trees jointly in one plot and seven in another, formed two holdings since their shares were not explicitly stated. There was thus much overlapping, particularly

in individual plots and plantings, with one set of people holding several distinct plots (some with plantings, listed separately) and one or two members of the set perhaps holding additional shares in other plots. Altogether some 186 distinct individuals may be identified in the four lists, of whom 154 had a share in either a house or plough land, eleven had a share in an individual plot without a share in anything else, and sixteen had a share in a planting without anything else. One hundred and five were named both in the house list and as shareholders in plough land, while 35 had a share in plough land but not explicitly in a house.

The extent of holdings was thus more elaborate than in Kufr 'Awan. But a set of numbers and non-overlapping categories does not convey the interconnection between individuals and families. Four issues are considered in comparison with Kufr 'Awan: the number of families without any kind of landholding; the make-up of *musha'* holdings in terms of units of male labour (*zalama*); the representation of partnerships in gardens; and the number of women named in any of the lists.

Landless Of the 83 holdings of houses in 1884, 22 were shared by combinations of people who had their own separate house. The basic holding unit was a set of brothers or close agnates, without an explicit share being recorded, while houses shared by a combination of such units had the shares specified. The principle of inheritance among male heirs governed the holding of houses, the tenure being *mülk*, in contrast to plough land and also to individual plots where other principles operated in addition to inheritance. Some co-sharers of houses do not appear in other lists but are not counted as landless if their brothers held shares in plough land. On this definition only two people were landless in Khanzira in 1884. One of the two appears again in the 1895 tax list without land of any kind, and in that list his family name is given as Tushman, the name of several Christians in the village. But he does not appear in the household census or civil register (*nüfus*) of 1910, of which the details of only the eleven Christian households survive.²² The other landless person in 1884 does not appear in any subsequent record.

Analysis of holdings in 1895 shows the same pattern. Of the 87 holdings with houses, 27 did not have land. But 23 of these may be discounted because they belonged to sons or brothers of people who did have a share in plough land in another holding. Of the remaining four, one belonged to the Christian who was landless in 1884; one belonged to another Christian who had had a share in plough land in 1884 but in 1895 no longer did; the third and fourth cannot be linked positively with others in the list.²³ The impression is confirmed that in villages of the hills almost every resident male was allotted a share in the common arable lands.

Unlike Kufr 'Awan, however, not everyone who held a share in the common plough land of Khanzira had a share in a house in the village (in their own name or that of a close relative). There were at least two families in 1884 whose members had a total of three shares in plough land out of 43 $\frac{3}{4}$, but which did not live in houses of the village as defined for *tapu* registration. Both had houses registered

TABLE 10.2 Khanzira, share per person and per holding in 1884

	Holdings	¼-shares	Co-sharers	¼-share per person
<i>Single individual</i>				
¼-share	4	4	4	1
½-share	16	32	16	2
¾-share	3	9	3	3
1-share	4	16	4	4
TOTAL	27	61	27	2.15
<i>Partnerships</i>				
Brothers, BS, FBS	22	50	51	0.98
Brothers + ZS	1	4	4	1
Father-son	2	6	6	1
Equal unrelated	9	25	21	1.19
Unequal unrelated	7	29	30	0.97
TOTAL	41	114	112	1.02
GRAND TOTAL	68	175	139	1.26

at the 1895 survey. A further three or four individuals who each made up a final share in a *musha'* holding in 1884 may also not have been permanently resident in the village at the time. Others who were listed as co-sharers in *musha'* holdings may have been living with relatives.²⁴ One or two people, both in 1884 and 1895, were registered as belonging to the neighbouring village of Juffain.

Allotment of plough land The principle of allotting shares in the common plough land in Khanzira was the same as in Kufr 'Awan, by counting the number of male heads and by making up viable shareholding units through partnerships. But there may have been more land per head available in Khanzira despite its greater population, for there is only one holding in which two brothers shared a quarter-share and the majority of holdings by a single person were of half a share, or two *zalama* not one. In other words the calculation of household labour may have been less exact, and a married man could take on half a share or more if he felt his labour prospects sufficient. The total number of shares was $43\frac{3}{4}$, equivalent to 175 *zalama*, giving an average of 15q per holding or $7\frac{1}{2}$ q per person registered. A breakdown of the composition of *musha'* holdings is given in Table 10.2. Three-fifths of the holdings were in partnerships in which each partner had a quarter-share, corresponding to one *zalama*.

In Table 10.2 partnerships have been classified into three types. The majority were between close agnates, usually brothers or a brother's son but in two cases between a father and two sons, and in two other cases between cousins whose exact relationship is unknown. A partnership between a father and sons, each

named, was unusual for normally the share of a father would include that of his sons without the latter being named. In both cases, only the father's name was specified as holding plough land in the 1895 tax list with a $\frac{3}{4}$ -share ($\frac{1}{4}$ for the father and $\frac{1}{4}$ for each son), but a subsequent *tapu* mutation after one father's death shows a son retaining his own share in the *musha'* holding as well as inheriting a part of his father's share.²⁵ Nine joint holdings involved equal partnerships between members of families not closely related, usually two men each with a quarter-share. Perhaps some were related affinally, as in Kufr 'Awan. But for Khanzira affinal networks between families cannot be drawn from the records because the 1910 civil register of the village has not survived except for the Christian population. In only one case, listed separately in the Table, was a fourth co-sharer described as the sister's son (ZS) of three brothers; the man's share would later revert first to his mother, then by sale to her brothers. A third form of partnership is distinctive, whereby a fourth unrelated person was brought in to make up a shareholding unit. Six out of seven were of one-share holdings; the seventh was of $1\frac{1}{4}$ shared between three brothers holding $\frac{1}{2}$, and an unrelated fourth man, his brother's son and a sixth man, unrelated to anyone else in the village, holding $\frac{3}{4}$.²⁶ In two of these cases the fourth partner was Christian, perhaps recently resident and not yet fully incorporated into the community, unlike other Christians who held shares in plough land on their own. Both men's families were registered in 1910. There is a sub-story to be told about the Christian community in Khanzira for they were not occupationally specialized but held land, and they may have had links with Nazareth across the Jordan River as much as with 'Ajlun or al-Husn. The other four cases similarly involved a single male attached to a well-established family of the village. That their names were registered at all testifies to the *zalama* ideal.

An indication of the permanence of partnerships between unrelated people is whether they endured to 1895. The 1895 tax list was individualized, with only one name specified per holding. A measure of whether a partnership was still operative in 1895, even if the partners were listed separately, is if their *musha'* plots were next to each other in numbering (every *musha'* holding having a plot in four fields, each plot with the same number). Of the nine holdings in 1884 classified in Table 10.2 as equal partnerships involving 21 men, everyone had the same share in 1895 but in only three cases were the plots of former partners contiguous or nearly contiguous. This implies that the partnerships in 1884 were entered into for short-term reasons such as temporary labour shortage. As for the seven unequal partnerships, the two Christians no longer held land in 1895, but for four others the plot of the dependent co-sharer lay adjacent or next-but-one to that of a former partner, suggesting that the relationship of dependence had affected the allotment of land.

Partnerships in gardens The most striking feature of landholding in Khanzira in 1884, by comparison with Kufr 'Awan, is the number of plots held independently of any common interest, many with associated plantings of fruit trees, vines or

olive trees; 215 plots were registered, each with its name and a description of what bordered it in addition to its area, taxable value, type and who held it. A planting of trees existed on 61 of these plots, with two distinct plantings existing on the same plot in three cases.²⁷ The plantings did not belong invariably to those who held the plots. For instance on one of the plots with two plantings, the plot was held by members of the Tarbush family and one planting of fourteen olive trees belonged to a subset of the plot-owners while a second planting of six olive trees belonged to Khazna the daughter of 'Isa.²⁸ It is not necessary to go into details of who held what variety of holdings in combination with whom. A core of 91 individuals had shares in the whole range of holdings. In terms of families there were only two or three which did not have any individual plot, notably the Christians. What is of interest is whether a principle can be identified governing partnerships in individual plots that was distinct both from the operation of inheritance and from the counting of male heads in the allotment of common plough land.

A number of plots were held jointly by a set of brothers who had their own separate holdings of shares in plough land. This would be expected if the plot was inherited; individuation of plough land holdings resulted from the *zalama* principle whereby each married man was allotted a quarter-share of plough land, 6q or half a *faddan*. A number of plots were also held jointly by more distantly related men who might have their own separate holdings of houses as well as separate shares in plough land. This too could be expected by the operation of inheritance over a generation or two. A third type of partnership was similar to those *musha'* partnerships where one person would team up with another to make a viable cultivating unit. On individual plots, unlike on plough land where a man's labour was only counted once, the same person could team up with different people.²⁹ One noteworthy partnership of this type was between five men, unrelated to each other by descent, each holding one-fifth of a largish plot of 64 *dönüm*.³⁰ It is unclear what factors each brought to the partnership that might have governed the determination of their shares. Perhaps they had opened up a new plot in the woods at the back of the village site. In any case the principle determining their shares was clearly not inheritance. They would appear to have come together for a particular task at hand, *tapu* registration capturing that moment for inscription in the permanent record. The impression of the *tapu* lists of Kufr 'Awan and Khanzira is of far greater thoroughness than those of Bait Ra's and Hawwara.

A fourth type of partnership on individual plots was a more complex form of the second or the third, where a number of people formed a co-sharing unit to combine with another similar unit. For instance one unit (B) consisted of three sons of 'Abdul-Rahman 'Aqil ($\frac{1}{2}$) and their brother's two sons ($\frac{1}{2}$). This unit held two plots on its own. Another holding unit was a combination of two smaller units (C and D) each of which held some plots on their own (as C or D) and some in combination (as C plus D). C plus D also held one plot in combination with a subset of B (minus one son). B held two additional plots jointly with other co-sharing combinations, one with E, the other with F. B consisted of five men, C of five, D of three, E of seven, and F of four. Each of these larger co-sharing

units B–F was in turn made up of two or more smaller units, like a set of brothers or of cousins who held a house or plough land together. Only in the holding of individual plots did such large combinations occur. Such combinations might have arisen as the result of a set of individuals in a previous generation having come together to open up a new plot of land, followed by inheritance. The question cannot be answered from the written records alone.

Since the location of every plot is given in the *tapu* list and the people who hold the neighbouring plots are also named, it should be possible to reconstruct a layout of individual plots by correlating descriptions of borders and working backwards from the field map of the cadastral settlement of 1939. But despite the continuity of the landholding population, there are too many undocumented discontinuities for this to be done without the knowledge of someone on the ground. The 1895 tax register only adds further complexity. For, as we have mentioned before, in contrast to *tapu* registration in which the names of co-sharers were recorded, only one name was recorded in the tax register for each holding. The 1895 list gives the field name in which each plot lay, as in the 1884 *tapu* list. But this is insufficient for a link to be made between the two lists. Moreover, in the 1895 list no distinction was made between plots and tree-plantings. Olive groves were numbered in one sequence (1 to 238) and were rated by what grew on them, presumably from counting the trees in some way, with values varying from 50 to 3,775 *guruş*.³¹ Arable plots (*tarla*), gardens (*bağ*) and orchards (*incirlik*) were numbered in a second sequence (1–213) and were rated at between 50 and 250 *guruş* per *dönüm*. Even what should be a simple task of tallying one person's holding in 1884 with his or her holding in 1895 turns out to be far from simple, for the tax survey seems to have registered more individual plots, including perhaps some on the village site which had been excluded from *tapu* registration.³²

The variety and complexity of partnerships on individual plots indicate sophisticated mechanisms of co-cultivation operating long before *tapu* registration. People of Khanzira were clearly concerned that their various arrangements of cultivation be recorded exactly, and this was done within the limitations of registration. Contributions to production were not registered as so much labour from one party, animal or human, so many ploughings from another, so much seed from a third; they were reduced to uniform shares. One has to imagine why five people were needed for one kind of task, or why two people shared a plot in the ratio three to one rather than equally.³³

Holdings of women The analysis of landholding in Kufr 'Awan showed that women began to be registered as inheriting daughters in *tapu* mutations of shares in plough land from around 1907, and at the cadastral settlement of 1939 women did hold small amounts of land, sometimes only after pressing claims to rights. But at the initial *tapu* registration in 1884 no woman was registered holding either land or olive trees. By contrast, in Khanzira women were registered in 1884, particularly as owners of olive trees. One woman held an individual plot on her own as well as olive trees on village common land; a second woman owned six olive trees

on another family's land; and another six women owned olive trees on common land. A total of eight women out of 186 holders is not a large proportion, but none the less significant. Of 991 olive trees held on common lands, 50 were held by women.³⁴ On lands attached to the village of Tibna, the central village of the Kura sub-district lying just to the east of Khanzira, 340 holdings of olive trees were listed in the initial *tapu* register of 1883, of which 61 were in the names of women (17.9 per cent), although in terms of trees their proportion was less (770 trees out of 10,914 or 7.1 per cent).³⁵ Women played an important role in olive production in the 'Ajlun hills.

In 1895, a similar proportion of women had holdings of plots with olive trees, ranging in value from 75 to 1,350 *guruş*. But as with individual plots generally the continuity of women's holdings is not evident. Of the eleven holdings of women in 1895, at least five cannot be linked to known families of the village, and only three are the same as in 1884. This is despite the good continuity in holdings of shares in plough land between 1884 and 1895. It would seem that a different procedure applied at the tax survey, for it is unlikely that so many transactions could have occurred in the intervening eleven years. For instance, in the *tapu* list of plantings a distinction was made between those on individually held plots and those on the common lands of the village. But in the tax list no such distinction was made.

The cadastral settlement of 1939 gave occasion to a large number of claims to land that had built up over the years, of which many concerned women. Because of the uncertainty of identification of individual plots between the *tapu* list of 1884 and the tax list of 1895; because the civil register of 1910 for Khanzira has only partially survived; and because of the sheer complexity of landholdings, it has not been possible to build up the same knowledge of family histories for Khanzira as for Kufr 'Awan. Analysis of claims made at the 1939 cadastre of Khanzira awaits further research.

The role of tax registration in 1895

The uncertainty of initial *tapu* registration in Bait Ra's and Hawwara meant that the tax survey of 1895 was particularly important in establishing who actually cultivated land in the two villages. Claims to title were later based on the tax registers. By contrast the initial *tapu* registration in Khanzira was thorough. There were therefore no outstanding claims to title at the beginning of the British Mandate that were not a function of the normal operations of inheritance from registered holdings in the *tapu* registers, notably the exclusion of women from their rightful share. The relation of the tax register to *tapu* entitlement was correspondingly simple.

Some of the difficulties of linking individually held plots in the *tapu* register of 1884 with those listed in the tax register of 1895 have already been mentioned. It is scarcely credible that five of the eight women registered as holding olive trees in 1884 should have alienated their holdings in the following eleven years. Rather, the classification of plots and procedures of the tax survey seem to have led to

unpredictable exclusions. But no case has come to light where a contradiction between the two registers was made the basis of a claim to any individual plot or holding of trees.

Regarding plough land and houses, however, there is good continuity between the *tapu* and tax registers. Indeed there is evidence from the order in which holdings were listed in the tax register that the scribe went over existing lists more than once to ensure nobody with existing title was missed out.³⁶ Of the 105 holders of plough land in 1895, only five had shares that differed from what they held in 1884, including one person who cannot be identified in the 1884 register or an intervening *tapu* mutation. Conversely only four shareholders in 1884 were not registered in 1895.³⁷ None of these changes was the result of a *tapu* mutation. Three *tapu* mutations of inheritance had been registered in 1890 which were all taken into account in the tax register, while neither of the two further *tapu* mutations of 1894 and 1895 was.³⁸ In general names of heirs were not entered in place of deceased holders in the tax register, unlike for Hawwara.

Shares in plough land were not explicitly registered in 1895. Instead, as in Hawwara, the areas and taxable values of holdings in four fields – not the two blocks of *tapu* registration – bore certain fixed proportions to the total areas and values of those fields, which correspond to the shares registered in 1884. Plots were numbered 1–105 in each field, every shareholder having the same plot number in each field. The combined area of the four plots of a full share of 24 *qirat* was 322½ *dönüm*, each plot differing in area though valued at the same rate.³⁹ The average share per holding was exactly 10q: four holdings of one share, 12 of $\frac{3}{4}$, 34 of $\frac{1}{2}$, and 55 of $\frac{1}{4}$.

The subsequent maintenance of the tax register in relation to *tapu* mutations can be summarized. First, the mutation history in the *tapu* registers of Khanzira is strikingly simple: 58 *tapu* mutations of shares in plough land were registered between 1895 and 1939. But 56 of these occurred between 1905 and 1913; and, ignoring sales from an only daughter to her father's brother's son or from the mother of an only unmarried son to his co-sharer in the holding (her brother), only ten of the 56 were sales, all to existing landholders of the village. Between 1912 and 1939 only two *tapu* mutations of plough land were registered, one in 1930 concerning the abandonment of land by someone who had been registered in 1884 but had already left the village by 1895, the other a sale in 1926. One mutation concerned the registration of a new plot in 1906, which led to the first new entry in the tax register (number 192). The remaining cases were all of inheritance. The bunching of mutations in the year 1906, when 34 were registered of which only two were sales, shows that the administration concertedly brought the *tapu* registers up to date. The order of the 27 mutations registered in September 1906 largely follows the order of the original *tapu* list.⁴⁰ Although a mutation was registered in 1894 in which four daughters inherited, this was a special case of no sons, and it was not until halfway through 1905 that daughters were consistently named as heirs. Whether all surviving daughters were mentioned is a different matter, for the ratio of sons to daughters in the 27 mutations of September 1906 is 68

to 31, and in 14 of the mutations there were supposedly no daughters. A *tapu* mutation did not yet require a certificate from the *shar'i* court, nor of course from the civil registry whose registers were only prepared in 1910.

The absence of all *tapu* mutations of inheritance for twenty-six years from 1913 to 1939 indicates a policy of *laissez-faire* towards the sub-district of the Kura from the last years of Ottoman rule through the period of the British Mandate during the 1920s and 1930s. There were incidents of revolt in the Kura during the Faisali period and the 1920s.⁴¹ The virtual absence of sales during the same period is equally extraordinary. The consequence of this official dereliction was that at the cadastral settlement of Khanzira in 1939 there was a large backlog of claims to land.

The tax register was maintained over the same period with similar inconstancy. Entries were added in respect of the *tapu* sales and the two cases registered in the *tapu* office of a new plot of land and of a holding being abandoned, but only in one case (number 199) in respect of inheritance. Five new entries in the tax register (numbers 194–8) resulted from *tapu* sales up to 1912, entry number 193 relating to a new house. Thereafter 26 entries were added in 1923, of which 19 were of new houses or rooms (and one cave) and six were of new gardens. The final two entries, numbers 226 and 227, corresponded to the two *tapu* mutations of 1926 and 1930.

There is some evidence that the tax register was used for registering changes in the possession of individually held plots that had occurred independently of *tapu* mutations. Entry number 195, dated 1907, concerned the joint *tapu* holding of three brothers and a fourth brother's son, which in the 1895 tax list had been registered as four separate holdings. The fourth brother's son died leaving an only daughter who sold her share to the son of one of her father's uncles at the same time as that uncle sold his share to someone else of the village.⁴² Entry 195 was of the uncle's son's four plots of plough land, transferred from his deceased cousin's holding (number 48) which in turn showed a corresponding deduction of those plots. But the house and two olive-tree plots in holding 48 were not transferred to holding 195. Instead, the new entry 195 had parts of arable plots transferred from two other holdings belonging to people unrelated to the four brothers, which did not correspond to an official transfer of title in the *tapu* registers.⁴³ It appears that there may have been a division of labour between the two offices of tax and *tapu*, whereby the latter concerned *musha'* holdings of common plough land while the former registered changes in individually held plots. None of the 26 new entries of 1923 in the tax register, whether of gardens or houses, had corresponding *tapu* mutations. As in Hawwara, the different ways of registering holdings of plough land also caused difficulties.⁴⁴

Enough was said concerning Kufr 'Awan to give an idea of the kinds of claims to land made at the cadastral settlement of 1939. In Khanzira too a large number of claims to land were made as part of the process of the 1939 cadastre. But to enter into the details of these claims would require knowing the actors better than we do.

11 | A village of the plains: Hawwara

Tapu registration entailed a grid where the person and object of property title were laid out in columns. The person so registered was identified by name, but beyond what a name might express in itself, the category of owner was not gendered in the law and the register. The object owned was entered in the register as a bounded and measured stretch of land, or frequently, in recognition of a different form of abstraction, as shares in land. In law and in the register, the reproduction of both person and object were guaranteed. A name was substituted for another in case of sale, gift or succession after a death. Equally, an entry in the column of land would continue against the name of the new owner, subdivided perhaps, but traceable backwards through a chain of references to earlier entries in the registers.

It is only in the register that person and object appear in such individualized legal genealogies; in the village, they belonged to skeins of different density: households, co-cultivating groups, networks of marital exchange, and village-level institutions. These were the frameworks for production, on which rested taxation and therefore ultimately property. To chart these social networks we have had to draw on other sources: the civil register (*nūfus*) arranged by households, court records, including those derived from the court hearings in a village at the time of the Mandate cadastre, the tax register where different forms of real property are listed under a single holder, and lastly, the memory of older villagers.

On the basis of these sources, the next two chapters trace the history of particular families, their property and production, in Hawwara and Kufr ‘Awan.

Farming in Hawwara

One share of land in Hawwara required two plough teams of oxen; thus the 12 holders with two shares in 1876 would each have needed four plough teams of cattle, and for each team a strong man as ploughman. These are large exploitations. It is the plough team or *faddan* which provides the idiom for land, a full share or *rub‘a* being a double *faddan*.¹ In the words of two farmers, ‘As for ploughing, a *faddan*, that is, a *thumna* or 12 *qirat*, took about 25 days to plough with an ox team; with one horse, it took about 25 days to plough nine *qirat* of land. Six *qirat* took 10–12 days with an ox team. But the land was laid out in strips, a *mi‘na* being the length of a stretch ploughed at one go, about 50–60 metres long, as people divided up the very long strip into sections (*al-marīs yaqta‘u-hu qit‘a qit‘a*).²

Cultivating units held many plots: 31 in 1895 and between five to nine in the 1933 cadastre. The work schedule of pre-planting and seeding was demanding of

plough animals and male labour. Crop rotation was triennial: a grain crop (wheat in 'deep' soil, and barley or *nu'mana*, a native pea used for high-protein fodder, in 'shallow' soil), a lentil crop, and a fallow or summer crop, the last primarily sorghum or chickpeas (field vegetables or melons becoming important only after the influx of Palestinians following 1948).

Hawwara's major households not only farmed, they also kept several milk cows, riding animals, and herds of sheep and goats. Yet the village had no pasture lands of its own. Unlike the village of Ramtha whose vast lands permitted it to set aside an area for pasture each year, Hawwara allotted only a limited space near the village site for herds to be assembled.³ The straw from grain production was vital for livestock during the late summer and early autumn months when grazing was poor, and herds needed to be fed in the large compounds of the village. Although in winter and spring, grazing was good on the uncultivated lands outside the village, by harvest time it was depleted. Villagers' flocks, and also those of bedouin who had come to work in the harvest, were then let on to the stubble of the harvested fields. When asked whether anyone had ever burned the stubble in a field, one farmer responded: 'This is prohibited in the Koran since it is the right of flocks to pasture on harvested land. If the watchman found anyone doing such a thing, he would punish him.'⁴ Thus, in adjoining fields both sowing and harvesting had to be coordinated.⁵ Letting large numbers of livestock on to the fields imposed considerable discipline on farmers:

Those with neighbouring fields all sowed the same crop in one block. Ploughmen sometimes helped each other, if one finished ploughing a section long before the adjoining strip. At harvest time the field watchman (*mukhaddir*) would go round the houses in the evening announcing that the following day they were to harvest a given plot. The harvesting would then proceed up the strips together. If someone harvested beyond the others, the *mukhaddir* would take the nets where the straw was loaded on the camels and impound them. Such collective discipline – known as *al-dabt wa-'l-rabt* – made people happy.⁶

Farmers paid for the services of the *mukhaddir* and of the *haris* (guard); Mahmud al-Humaiyid recalled paying a *sa'* of wheat to each for the three-quarters of a *faddan* he cultivated. The former was responsible for the livestock and crops and the latter for working with the headman and government, notifying people of any government business that concerned them. For example, the guard would go round the houses saying that today the tax collector was coming (*al-yaum al-jabi*). As a large village Hawwara had a *mukhaddir* and a *haris* in each half of the village.⁷

At the core of farming were plough teams and ploughmen. In prosperous households women worked in the grain fields only at harvest, when they would transport the cut grain, though they also worked in the planting and picking of lentils. In less prosperous households they would seed and work in all parts of cultivation save ploughing. Harvest was a time of labour shortage, many persons coming to work in the harvest from the Jaulan, 'Ajlun, and even Palestine. Most

farmers hired camels from the bedouin who came with their womenfolk to work at harvest time. It was only wealthy people who owned camels, using them to carry grain to the port cities of Palestine.⁸

Many labourers came from outside the village: ploughmen walked through the village in October, were hired and shared a family's compound and food until July, and returned home with a fourth of the crop. Harvesters and harvest camel drivers also swelled the village labour force. Landless families resident in the village hired out their labour in like manner.

Life histories

'Abdul-Rahman Mahmud Ahmad al-Mustafa Tannash

We begin with an interview with a grandson of Ahmad al-Mustafa Tannash, holder of a house-complex valued at 6,000 *guruş* in 1883 and one of those who contested the sale in 1882 as co-partners in cultivation (*khalit wa-sharik*). Having no land in 1876, he bought *tapu* rights over subsequent years. Family lore explains that Ahmad al-Mustafa was a man wealthy in oxen rather than land and that this was the source of his prosperity. He was first persuaded to plough a summer crop, after the winter ploughing was long over in his native Haufa; later he settled more permanently in Hawwara.

One day the Shatnawiya decided to go to Palestine to a place called Fir'in (*bid-na nugharrib Fir'in*); they rode their mules and as night approached they met Ahmad al-Muhsin in Haufa who took them in.⁹ They came to know each other, and as Ahmad was a man with a lot of livestock, they invited him to cultivate with his plough team to grow sorghum in the summer season to be divided in halves between them. Ahmad came with his ox team and cultivated; the grain grew up and was harvested (*ghallat wa-sarat al-qatafa*). So they went to call Ahmad from Haufa. He brought bedouin men with camels to transport his share. They wanted people to come and cultivate land in those days, as numbers were few. So they got them to pick up their belongings, and the Shatnawiya invited Ahmad to be a neighbour telling him to settle just here. He bought a first *nisf thumna* of land for 50 *majidis*, started to build a great house, and continued to purchase land.¹⁰

In the story told by 'Abdul-Rahman Mahmud, his grandfather Ahmad appears alone, a man wealthy in oxen. The Ahmad al-Mustafa known to the registers was a man also wealthy in sons: Mahmud, 'Abid, Salih, Mustafa, 'Isa and Khalaf, as well as three daughters. Ahmad al-Mustafa was to live another twenty years after registration of his great compound house, dying late December 1903.¹¹ The compound is no longer intact but 'Abdul-Rahman Mahmud recalled that on the eastern-facing side there were five dwelling rooms and two vast *khans*, one of six arches (the arch or *qantara* served as a measure of house size) and another of four arches, as well as a western side and a reception room (*madafa*). Ahmad al-Mustafa and his sons were to prove successful farmers, cultivating land of others and buying their own. In 1876 when Ahmad al-Mustafa was farming land registered in the names of others, his sons Mahmud and 'Abid would have been

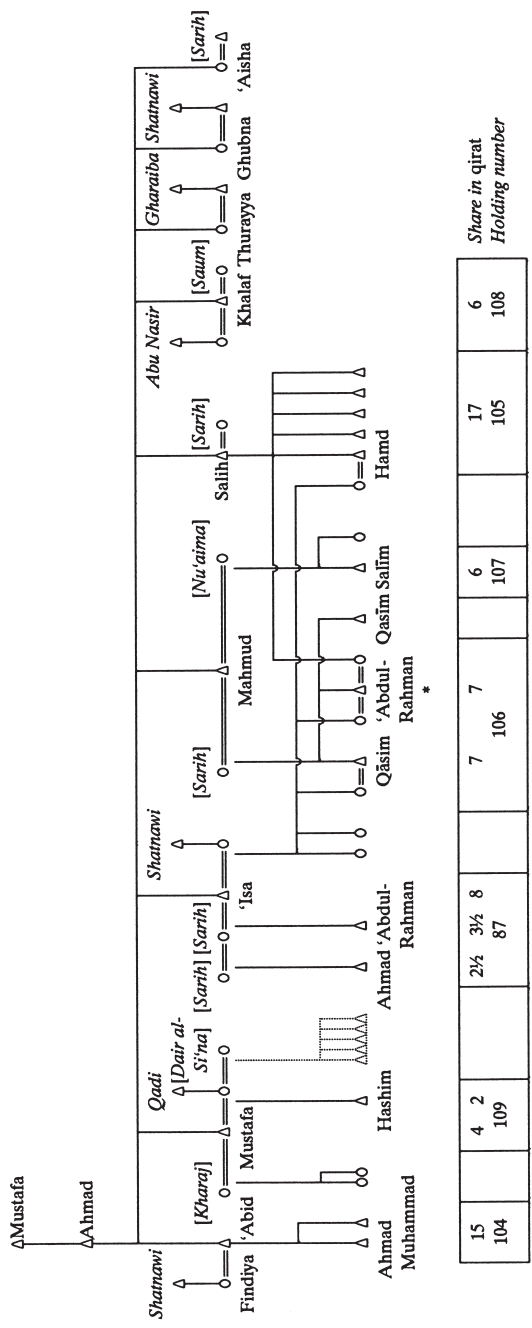


Figure 11.1 Tannash family holdings in 1933

young men capable of guiding a plough team. By 1885 when he bought a full share of land in two separate purchases, he may have been able to field three or four plough teams from within the family. In 1895 he was registered with the equivalent of three *faddan*. So long as Ahmad al-Mustafa ruled the compound, the family did well.

We do not know whom Ahmad al-Mustafa married. See Figure 11.1 where the names of wives' villages are given in square brackets. In the generation of his sons, marriages were contracted as much outside the village as within it, serial marriage was common, and polygyny not infrequent. Family resources were to be divided around the time of Ahmad al-Mustafa's death in 1903. His son Mahmud had bought land in his own name in 1901 (together with Muhammad 'Abdul-'Aziz Ghazlan, as joint purchasers of half a share) and in 1903 'Abid bought a quarter of a share.¹² By this time the older brothers presumably were farming independently from younger brothers, Salih, 'Isa and Khalaf. The final settlement of inheritance of Ahmad al-Mustafa's estate took place only in 1921 when a total of two shares were declared: two half-shares formally purchased by Ahmad in 1885 and another two half-shares which the authorities granted them on the basis of long cultivation and tax payment, although derived from holdings originally in the names of others. Of the three daughters of Ahmad al-Mustafa, the 1921 settlement mentions only Thurayya; perhaps her marriage to a Gharaiiba of the opposing side of the village meant that her husband's family had demanded that she receive something for her rights. In any case she never took possession of her land but at the time of the inheritance settlement, she was said to have sold her part to her brothers and the sons of her two deceased brothers, Mahmud and 'Abid; no price for the same was, however, given in the register.¹³ By 1921 the rest of the household appears also to have divided, since it was in March of the same year that Salih al-Ahmad bought a small house in his own name.¹⁴

Born in 1917, 'Abdul-Rahman Mahmud never knew his father, who died when he was less than two years old. When he was a child the household was composed of his mother and his brother Qâsim about ten years his elder.¹⁵ But his mother was a strong woman (*muruwwat-ha qawiya*) who worked in sowing the fields, tending animals and other phases of agriculture. Their house consisted of one large arch with two rooms and a courtyard. They had a pair of oxen, one working horse (*kadish*), two donkeys, four to five milk cows and about a hundred sheep. The sheep went to pasture with the shepherd of their part of the village and the cows with the cowherd.

The family farmed a quarter of a share of land. In 1933 at the time of the cadastre 'Abdul-Rahman and his brother Qâsim were to hold some seven *qirat* of land each. During the years immediately after their father's death they used to employ a ploughman (*harrath*) for one-quarter of the crop and his keep, who lived in the compound with them from October to July or until the threshing was over (*ta yutir al-bayadir*). Every year it could be a different ploughman. On six *qirat* of land they would sow some 15 *mudd* of wheat, the same of lentils, ten *thumna* of *kirsanna* (a kind of vetch), four to five *thumna* of barley, and some

nu'mana as fodder. As a summer crop they might plant two *ratl* of sorghum, not broadcast like the other grains but sown with a kind of pipe. For olive oil, like others of the village, they would go in the autumn to purchase supplies in the Jabal 'Ajlun. They sold their grain to traders who came to the village, especially from Palestine, either directly at the threshing grounds or from the house, the price of a *mudd* of wheat varying between ten and fourteen *qurush* when 'Abdul-Rahman was young.¹⁶ But they bought little in those days, the family buying a *tanaka* of paraffin only once a year to light one tiny lamp.

The two brothers continued to live together after Qâsim had married his first wife, the daughter of his uncle 'Isa al-Ahmad. (Qâsim was later in life to marry two further wives, a Ghazzawiya from the Jordan Valley and then a Palestinian.) It was only after 'Abdul-Rahman married, to the daughter of another uncle Salih, that the brothers divided everything, the land and the animals.¹⁷ Having thus only one ox, 'Abdul-Rahman bought a second and built up his own flock of sheep. His mother stayed with him, the younger son being the favourite (*al-saghir mabbub*). His first marriage ended in divorce, the spouses not getting along; he then married another cousin, daughter of 'Isa al-Ahmad, in a happier marriage. In his description of the household of his youth, 'Abdul-Rahman made no mention of his older half-brother Salim. As elder brother from a different mother, Salim had established a separate household before 'Abdul-Rahman entered the world.

'Abdul-Rahman remained in farming. We can see from his account how a great household was partitioned among sons, usually along sets from different mothers. His was a successful farming family where income from animal raising and farming had allowed for the acquisition of land. Yet the generation of his grandfather was quite different from his own. 'Abdul-Rahman's life was that of a more modest farmer, who married within the family.

Khadija 'Abdullah Muhammad 'Abdul-Rahman al-Jammal

Khadija's father's family is said to have come from the region of Nazareth and to have moved to Kitim in the Jabal 'Ajlun where they were associated with a family named Duwairiya and acquired the name Jammal since they traded in camels. The family had developed marriage relations with Yafa village in the district of Nazareth. Muhammad 'Abdul-Rahman married twice, first to Hasun from Yafat al-Nasira, who bore him three sons, 'Abdullah, Hamad and Salih, and a daughter Zahra, and then to Nasra al-'Ubini of Hawwara who bore him 'Abdul-Rahman.¹⁸ See Figure 11.2 (where Nasra is given as Khadra as in the *shar'i* court records). Zahra married a man in Yafa, but when he died she returned with her two sons to live in Hawwara. According to Khadija three of her father's brothers married women from the 'Assaf family of Yafa: her father 'Abdullah taking as first wife Amina Ahmad al-'Assaf; 'Abdul-Rahman marrying Amina's sister Hamda; and Hamad marrying Warda al-'Assaf. Such a cluster of marriages back to her home village would appear to have been the work of Muhammad 'Abdul-Rahman's senior wife, Hasun. But we would be mistaken to think that such marriage exchange was not accompanied by movement of menfolk also:

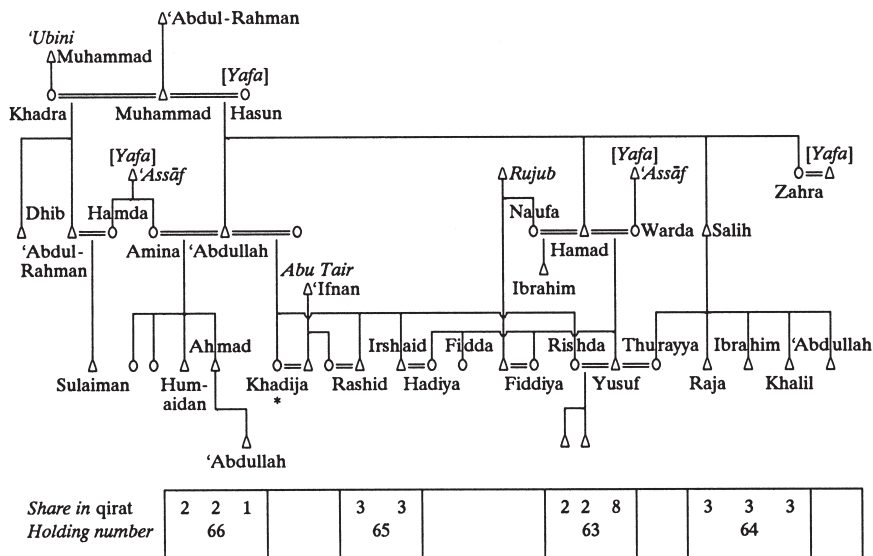


Figure 11.2 Jammal family holdings in 1933

Khadija reported that the ploughmen in the family came from the district of Nazareth and Warda al-‘Assaf noted in a 1913 court case that her grandfather was from Hawwara.¹⁹

Her father ‘Abdullah’s household comprised four main living rooms, one for each brother, ‘Abdullah, Hamad, Salih and ‘Abdul-Rahman, and an enormous stable, a building of twelve arches (*khan ‘ala 12 qantara*).²⁰ Khadija recalls that the division of labour had been as follows: ‘Abdullah had been with the four camels, Hamad with the ploughmen, Salih had charge of feeding the animals, and ‘Abdul-Rahman at home receiving people. Khadija said that the women of the house had been afraid of ‘Abdul-Rahman, since being in charge of the house, he was the women’s disciplinarian (*mas’ul ‘ala ’l-dar wa-‘ala ’l-niswan*).²¹ The household owned many cows, taken to pasture as far away as the Jordan Valley. As for the division of labour between the women, every two women assumed one of three chores in rotation: cleaning, baking, and fetching water. The food was cooked in huge pots, and all the persons of the house ate together.

The household cultivated about 1½ *rub‘as* of land according to Khadija’s estimate, derived from what the sons were to have. She noted that all the land had been registered in the name of her father ‘Abdullah, who later officially transferred shares to his brothers’ names.²² It is likely that Muhammad and his sons were also cultivating land owned by non-residents.²³ Sometime between 1903 and 1907, over twenty years after the land and house were first registered, they divided all. Khadija failed to mention ‘Abdul-Rahman’s younger brother Dhib who only appears in *tapu* transfers from 1921 onwards; he does not appear to have had any surviving children.

It appears that at the time land was registered in ‘Abdullah’s name, his father Muhammad was still alive. This is rather exceptional: the more usual pattern was for fathers to endow older sons with land but to retain legal control over the rest, often privileging a younger son, who might be from a second wife. As we saw in the case of ‘Abdul-Rahman Tannash above, households tended to divide according to wives/mothers of sons. That the brothers continued to farm together for many years may reflect the links with the ‘Assaf family of Yafat al-Nasira, orchestrated by Hasun, the senior wife and mother of ‘Abdullah. Three of the four sons of Muhammad married women who were relatives of Hasun; only Salih married a woman from a family of Hawwara, the ‘Ubini, from whom his father Muhammad had taken his second wife.

Exchange with families in Yafa of Nazareth was not repeated in the marriages of the children of the four sons. Indeed one of the marriages, that of Hamad with Warda al-‘Assaf, ended in divorce in 1908 although the couple had four children. In 1913 Warda sued her former husband. In the court case, Warda was identified as from Yafat al-Nasira but she noted that she lived in a house in Hawwara from where her grandfather hailed; with the support of testimony from ‘Abdul-Rahman Muhammad, her husband’s half-brother, and from a relative of her daughter Fiddiya’s husband, she demanded and received two of the four milk cows, three of the four goats, and the six kids she claimed Hamad owed her and three hundred *qurush* still due from her prompt dower (*mahr muqaddam*).²⁴ Warda’s daughter Fiddiya was married to Sulaiman al-Rujub in an exchange marriage whereby her father Hamad obtained a second wife, Naufa al-Rujub.²⁵ This marriage, where Hamad gave their daughter in return for a new wife, was unlikely to have pleased Warda, although it is not clear whether it preceded or followed her divorce. In any case the marriage did not end in good long-term relations with the Rujub family. Early in 1921, following Hamad’s death, Fiddiya formally sold her 1½q of the 9q inherited from Hamad to her brother Yusuf along with any rights in the family house of three rooms and the two wells.²⁶ This was followed immediately by a claim to inheritance against Yusuf and his four sisters made by Naufa Muslih Rujub as wife and mother of Ibrahim al-Hamad.²⁷ In this Hamad is said to have left 6q of land, a camel, a horse and a three-room house. Naufa settled for the sum of 2,000 common piasters (*qurush ra’ij al-balad*), no grain and no animals. The sum is tiny when one compares it with dowries; in earlier years these could reach 10,000 common piasters. But it too suggests a real break between the Jammal and the Rujub, from which Naufa hailed and into which Fiddiya had married, or, at the very least, a resistance by all the women concerned to Yusuf al-Hamad’s appropriation of all the inheritance on which five women had a claim. Only eighteen months later, Yusuf’s wife Thurayya, daughter of his uncle Salih al-Muhammad, was to appear in court to obtain a *khul’* divorce by giving up the 42 *majidi riyals* due in prompt *mahr* and the 300 common piasters in deferred *mahr*.²⁸

When we interviewed Khadija, she made no secret about preferring her husband and his household to that of her brother; later in life Khadija was known by

her husband's name, 'Ifnan, not by her family name Jammal. It would seem that Fiddiya had made something of the same choice: once Fiddiya received payment from her brother for her share in her father's estate, the terms of the statement in the court make clear that she no longer had the slightest claim on her family house. As one woman of Hawwara who, like Naufa, claimed rights of inheritance against her husband's sons remarked to the land registration commission in 1933: '... since it was not the custom at that time for women to take their inheritance, I was unable to obtain from the courts (*amam al-'adala*) my manifest rights even though I never [formally] relinquished those rights'.²⁹ It was not until the mid-1920s that village authorities and families in this plains village felt obliged to declare female heirs to government offices, and this in spite of the great volume of interaction with government offices. Sisters were encouraged, doubtless pressured, to give their rights in inheritance to their brothers, and so, too, widows to their sons or to their husband's sons by other wives. Even in the case of women gifting their inheritance to their brothers, as in the case of two sisters Fatima and 'Aziza to their two adult brothers Husain and Hasan and minor brother 'Ali, sons of Salih al-Bakr in 1913, the terms in which the head scribe and the judge attest the sisters to have declared the gift are harsh: Fatima and 'Aziza state 'that our two [brothers] have of ours neither gold nor silver, neither copper nor lead, neither estate nor inheritance, neither accounting nor error in accounting, neither cow nor horse, donkey, mule,³⁰ camel, sheep or goat, neither land nor standing crop, neither plough nor grain, neither debt nor anything in kind, neither trade item, mattress, furnishing or seed, neither fee nor rent, neither little nor much, neither whole nor part, nor anything at all that may form the object of litigation – to this we swear to Allah the Almighty, the Magnificent'.³¹

In this competitive and commercial economy of plough agriculture and animal raising, land passed between men and only very rarely to women. As Warda al-'Assaf's case suggests, women's only uncontested right was to their *mahr*, which at the outset was frequently set high and in cash terms, although it is less clear that it was all paid, let alone to the bride. It was difficult to obtain straightforward answers to questions about *mahr* from older people in Hawwara: *mahr* was generally evaluated in cash but might also include animals and grain.³² But one reason for the reticence may reflect what the divorce cases from Hawwara in the *shar'i* court records suggest: that all the prompt dower had often not been paid at marriage. Unlike women's claim to inherit land, the *mahr* remained due in local tradition as in law. It may be that women like Warda were able to obtain household animals against the sum due them as *mahr*. Furthermore, a way round the high price of *mahr* was to arrange for exchange marriages – usually of sons and daughters but occasionally, as in the case of Fiddiya and Naufa, of a daughter for a second wife, or even, albeit rarely, two daughters as wives for their fathers. Thus Hamad gave Fiddiya for a wife from the Rujub and married his son Yusuf and daughter Hadiya to the son and daughter of his brother 'Abdullah. And 'Abdullah's son Rashid and daughter Khadija married a daughter and a son of 'Ifnan Abu Tair. Here again we find a change in marriage forms between the first

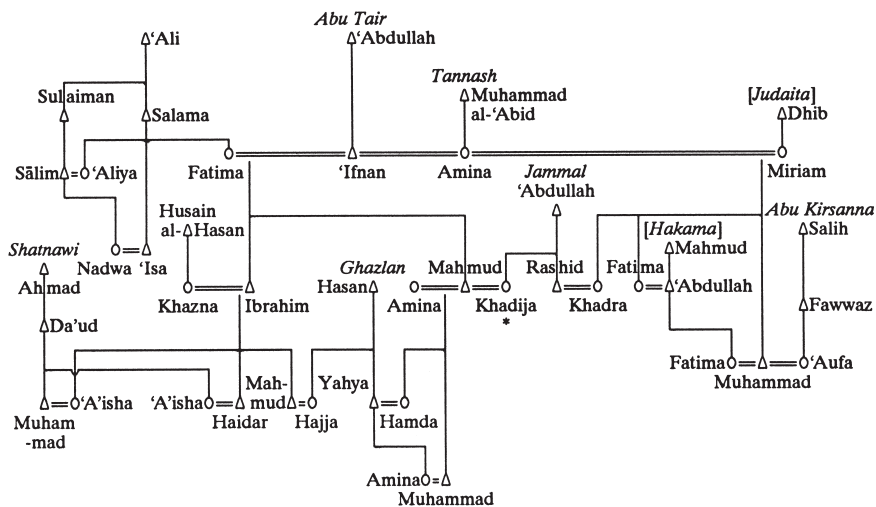


Figure 11.3 Marriage relations of the Abu Tair family

generation, where wives were brought in from (and given to) other villages and families, and the succeeding generation, where exchange marriage and in-village marriage offered conservative alternatives.

When we asked Khadija about her *mahr* she laughed and started on a tale of how her groom's family had demanded forty *rashshadiya* more. Her husband's half-sister was a strapping girl whereas Khadija was only eleven when she married. Khadija was born just after the end of Ottoman rule – her mother told her she was pregnant when the Turks were defeated (*inkasar Turkiya*) – implying Khadija married about 1930. As Khadija's daughter-in-law pointed out, 'they wanted women for work in those days'. So the husband's family demanded and got the extra forty *rashshadiya*. Khadija's trousseau (*jihaz*) was composed of two black dresses, two slips (*tannura*), a headdress (*hatta*), two silver bracelets, and a *sahara/matwi*. Khadija laughed, noting that the bride exchanged for her (*badilati*) had received a much larger chest than she had. And to add insult to injury her brother Rashid took the money given to her by the guests at the wedding (*al-nuqut*). We asked whether this were to make up for the extra that he had to give for his wife; the answer was yes, that was roughly it.

Her husband's family was one of the smaller in the village. See Figure 11.3. 'Ifnan Abu Tair, Khadija's husband's father, had married three wives: Fatima Salamat al-'Ali of Hawwara who bore Ibrahim and Mahmud (Khadija's husband), Amina Muhammad al-'Abid of the Tannash of Hawwara (who appears either to have been divorced or to have died without surviving children), and Miriam al-Dhib from Judaita who bore Muhammad, Fatima and Khadra (Khadija's *badila*).³³ At the time Khadija married, her husband Mahmud, she said, had separated from his brothers. Earlier he had organized the cultivation of land of both his brothers as his brother Ibrahim had died young, leaving children

Haidar/Muhammad, Mahmud and 'A'isha.³⁴ Ibrahim's wife was later to remarry and so it was Mahmud who cultivated the land of his brother (without remuneration, said Khadija) and provided thereby for his children when young. His half-brother Muhammad was much younger, born about 1913 and presumably not taking control of land before his first marriage in 1929 at only sixteen, little before Khadija's own marriage.³⁵ Khadija's husband's mother, Fatima Salamat al-'Ali, was still alive at their marriage but died thereafter.³⁶ Fatima's co-wife Miriam al-Dhib lived much longer; Khadija and Mahmud had a special debt to her since she had given her daughter Khadra as a *badila*. For Khadija, this relationship somehow appeared to lie behind the kind treatment by her husband Mahmud of his brother's children. Presumably Miriam al-Dhib was the matriarch of the various households and had helped that of Mahmud in spite of the fact that it was her son Muhammad who obtained 5/9ths of the family land in 1933 as against only 2/9ths each for the sons of Ibrahim and for Mahmud. Khadija recalled that Muhammad had 9q of land, Mahmud 3q and Ibrahim 3q, and that her husband was for a time cultivating all the land. Her husband had one team of plough oxen and two milk cows; Miriam al-Dhib had two milk cows, as did also Ibrahim's household.

Khadija's husband had had a first wife Amina by whom he had a son Muhammad and daughter Hamda. Her husband's son by his first wife married into the Ghazlan family and went off to plough land with his in-laws. Land was not plentiful in the family and Khadija was to ensure that it passed to her children more than to the children from her husband's first wife, rather as Miriam al-Dhib had assured a larger portion to her son Muhammad than to 'Ifnan's first wife's sons, Ibrahim and Mahmud.

Khadija recalled how nice her husband had been to her; she was fond of him although he was much older than her. Once when she was out harvesting, a bedouin woman working with them sang a ditty about her: 'Pity me, my family: how do young girls take old grey men? That is bad luck for me' (*ya wail-ak ya-'bli minni; kaif al-sabaya ta'khudh al-shayban; hadha qarada bi-'l-hazz li*). Before Mahmud died he had offered to register land in her name but she refused; Khadija likewise refused to remarry and stayed to raise her children.

In the history of the two families to which Khadija belonged marriage links to Palestine gave way to more conservative marriage strategies by the 1920s and 1930s. The family history likewise highlights the male character of property in plough land. Women generally did not acquire plough land in their own name, neither as part of their dower (*mahr*) nor through their equal legal entitlement as inheriting daughter. When women sought to claim their rights to inheritance from a father, they settled for a lesser bargain that transferred their claim into a cash sum (perhaps honoured by payment in animals or grain). As for widows, their situation depended upon their successful mothering of sons. Thus Naufa al-Rujub was to join Fiddiya in claiming against her husband's son Yusuf, her own son Ibrahim by Yusuf's father having died. Had Ibrahim lived, Naufa's situation may well have been different. Women were most likely to have had a

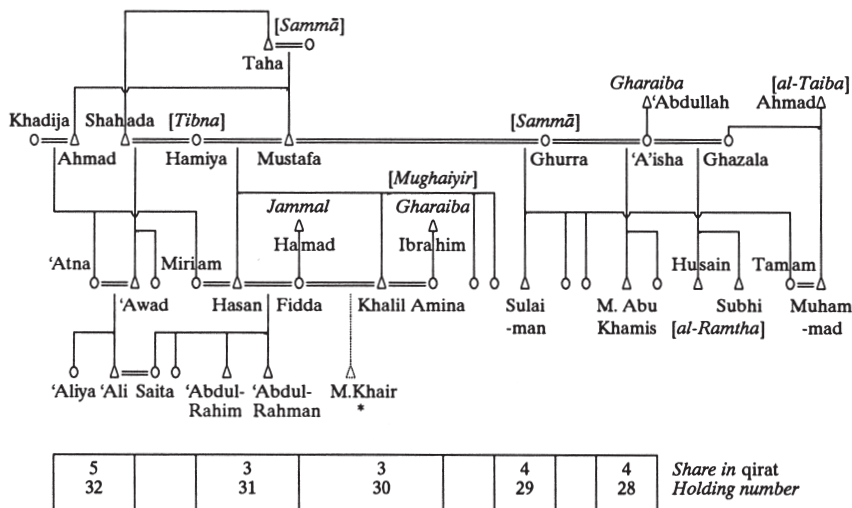
substantial say in the control of land as property when they were widows with sons. Thus, Khadija was to be offered and to decline a legal part in her husband's land but was to achieve status and economic security as mother of her deceased husband's sons. While these patterns were the general ones, given the roulette of demography, women, in the absence of surviving male competitors for an estate, did appear in the registers as legal owners of plough land.

Muhammad Khair Khalil Mustafa Taha al-Shar'

Muhammad Khair also hails from a long-established smaller family of Hawwara not unlike that of the Jammal or the 'Ifnan considered above. A house valued at 1,600 *guruş* was registered in the name of Mustafa Taha in 1883 but it was only in 1892 that Mustafa, his brother Ahmad, and cousin 'Awad bought one share of land from Na'il Gharaiba.³⁷ The family was to cultivate their land with the Gharaiba half of the village in 1933.

Taha al-Shar' had married a lady of the Jiddi family from Samma in the Wustiya who after Taha's death remarried a man in Kufr 'Awan. See Figure 11.4. Marital exchange with Samma was to continue in the next two generations. Taha's son Mustafa first married Hamiya al-Dilh, from Tibna. According to Muhammad Khair, Hamiya had first been married to Shahada al-Shar', uncle of Mustafa, to whom she had borne 'Awad and Amina. To Mustafa Hamiya bore Hasan, Khalil, Hilala and Amina. Mustafa then took a wife from Samma, Ghurra Sulaiman Jiddi, who bore Sulaiman, Tamam, Salima and Hamda. Besides these first two wives Mustafa again married a third wife, 'A'isha 'Abdullah al-Gharaiba of Hawwara who bore Muhammad Abu Khamis and Fatima. In 1922 Mustafa married yet again giving his daughter Tamam from his second wife Ghurra to Muhammad Ahmad Abu Zahir of al-Taiba in the Wustiya for Muhammad's sister Ghazala. By 1931 Ghazala had left Mustafa. Mustafa went to court noting that he had been married nine years earlier and that his wife Ghazala had borne a son Husain, aged one year and two months. Six weeks earlier his wife had left without reason; he demanded that she return, be obedient in her wifely duties, and pay the legal costs of the suit. Ghazala countered that the marriage formed part of an exchange so no *mahr* had been fixed. She demanded that his appeal be rejected and that he pay the appropriate *mahr* (*mahr al-mithl*), 100 Palestinian liras. Mustafa answered that the *mahr* of his wife was 130 Ottoman liras as was the *mahr* of his daughter. He confirmed that nothing had been paid, but each wife was in exchange for the other, so he was not obliged to pay a *mahr* for her. The judge ruled that the petitioner did not pay his wife a *mahr* and that according to clause 33 of the Family Code, the wife is not obliged to obey her husband if no *mahr* has been paid. Mustafa lost the case, 7 March 1931.³⁸

On the 25th of March Tamam came to court noting that she had been married on 2 November 1924 for 130 Ottoman liras. She had children but her husband Muhammad Ahmad Abu Zahir of al-Tayba did not pay her a *mahr* since 'he gave his sister Ghazala to my father'. She demands that he pay her the value of the *mahr* and the maintenance (*nafaqa*) due as well as the court fees. She claims



Sequence of transactions

1. 1892, Purchase of one full share by Mustafa, Ahmad and 'Awad (8q each)
2. 1915, Sale by 'Awad of 3q
3. 1932, Inheritance from Ahmad and 'Awad, and redistribution by Mustafa
 1. Ahmad died in 1896, his 8q passing to his two daughters 'Atna and Miriam equally
 2. Miriam died in 1901, her 4q passing to her mother Khadija (3) and her husband (1)
 3. 'Atna died in 1907, her 4q passing to her children 'Ali and 'Aliya equally
 4. 'Awad died in 1909, his 5q passing to his children 'Ali and 'Aliya equally
 5. Khadija died in 1910, her 3q passing to her daughter's children 'Ali and 'Aliya equally
 6. Hasan died in 1910, his 1q passing to his sons 'Abdul-Rahim and 'Abdul-Rahman equally (without mention of daughters)
 7. 'Ali and 'Aliya sell the 7q inherited from their mother and mother's mother, and Mustafa sells his original 8q as follows: 3q to 'Abdul-Rahim and 'Abdul-Rahman equally, and 4q to each of Khalil, Sulaiman and Muhammad Abu Khamis, sons of Mustafa
4. 'Abdul-Rahim and 'Abdul-Rahman somehow lose 1q, leaving them with 3q, and Khalil likewise somehow loses 1q (of which 1/2 is documented at the time of the cadastre) leaving him with 3q

Figure 11.4 Shar` family holdings in 1933

as maintenance each month: one *mudd* of wheat, one *sa'* of cracked wheat, one-half *ratl* of dried yogurt (*jamid*), one-half *ratl* of olive oil, one-half *ratl* of salt, one *ratl* of onions, three *awan* of soap, one *thumniya* of lentils, and one hundred *qurush* as the cost of things for her and her son Sulaiman, and clothing for her (a *shurush*, a *malfa'*, a *tannura* and a *tubba*) and her son. Tamam wins the case.³⁹

Five days later Ghazala returned to court with another claim paralleling Tamam's. She demands maintenance for another son, Subhi, aged three, whom she had failed to mention earlier, and the following monthly maintenance for herself and the two boys, of which she would take half: 2 1/2 *mudd* of wheat, 1 1/2 *mudd* of cracked wheat, one *ratl* of olive oil, 2 *ratl* of paraffin, one-half *ratl* of clarified butter, one *ratl* of dried yogurt, one *ratl* of salt, one *ratl* of onions, two

ratls of lentils, one-half *ratl* of soap, one-half *ratl* of sugar, one-half *waqiya* of tea, total value 95 French *qurush*; and every six months new clothes, for her (a *shurush*, *malfa*, *watiya*, *shura*, and *tannura*) worth 86 *qurush* and for her son Subhi a *maznuq*, *qamis*, *shura* and shoes, worth 19 *qurush*. This is granted according to clause 1817 of the Family Code.⁴⁰

Three years later Ghazala was to obtain a full divorce from Mustafa al-Shar'. She confirms that the marriage was consummated for a *mahr* of 130 Ottoman gold liras, in accordance with decree 20 of 30 March 1931 for which she paid one-half the legal fees. She obtains a *khul'* divorce and gives up all *mahr* and all maintenance. Ghazala confirms this settlement on 17 December 1934.⁴¹ By giving up her claim to *mahr* she presumably opened the way for her brother to negotiate new terms to keep his wife Tamam; as far as we know the marriage of the younger couple was not dissolved.

Ghazala was not Mustafa al-Shar''s last bride. According to his grandson, he married a fifth time to a young girl of al-Mazar who lived with the women of the compound for a year. When Mustafa planned to cohabit with her, she addressed him as 'grandfather' (*jiddi*), and the marriage was not consummated.

According to his grandson, Mustafa's house was a large compound with four wells and six stables. Mustafa had owned a *rub'a* in Hawwara and also half a *rub'a* in Ramtha. A *rub'a* was even larger in Ramtha than in Hawwara, some 550 *dunums*. The family also had a house in Ramtha which included two large *khans* and a well.

Muhammad Khair at first did not recall Mustafa having had any brothers, but when asked about Ahmad Taha he remembered Ahmad's daughters, 'Atna and Miriam. At about the time that Ghazala left Mustafa, a settlement of Ahmad's estate was made. Backed by the headman and the village council, Mustafa had declared to the *shar'i* court of Irbid in 1927 that he was sole heir of his brother Ahmad who (he claimed, without mentioning Ahmad's widow or daughters) had died in 1907.⁴² But in 1931 Mustafa's son Muhammad Abu Khamis overwrote that version by a further declaration to the court. He acknowledged that his uncle Ahmad, whose date of death he gave as 1896, had left two daughters, Miriam and 'Atna, and a widow Khadija 'Abdul-Rahim who all died after Ahmad.⁴³ Both of Ahmad's daughters were married within the family, 'Atna to 'Awad and Miriam to Hasan son of Mustafa. By Muhammad's account, 'Atna's children stood to inherit 7 of Ahmad's 8q in addition to 5 inherited from their father 'Awad (after he had sold 3q of his original eight). In the event, however, the disparate versions of Ahmad's date of death, with different implications for inheritance, were resolved. When the devolution of Ahmad's share was registered in the *tapu* office in January 1932, two months after the *shar'i* court ruling to which it referred, 'Atna's children sold the 7q they inherited through their mother while Mustafa sold his own 8q, all 15q going to Mustafa's sons or son's sons.⁴⁴ The details are given under Figure 11.4.

Muhammad Khair's own account was that Mustafa had divided his estate during his lifetime and that 'Awad al-Shahada was granted a share of land at

the time of division. Mustafa gave his two youngest sons by Ghazala, Subhi and Husain, the house and all the land in Ramtha. He endowed them specially since he had arranged his older sons' marriages but not theirs; as he was leaving the two young boys, he feared for them as orphans. The large house in Hawwara was divided between the other sons, Hasan and Khalil, sons of Hamiya '*al-Tibnawiya*'; Muhammad Abu Khamis and Sulaiman each established separate households.

There are some problems in reconciling the different accounts. The end result, however, is clear. Each of Mustafa's four sons obtained 4q, while 'Awad's son and daughter obtained five. Mustafa's daughters were bypassed, should any ever think to claim her inheritance. This was the distribution registered at the cadastre in 1933, except that meanwhile Khalil and Hasan's sons somehow lost 1q each.⁴⁵ Mustafa's young sons, Subhi and Husain, received nothing in Hawwara but – so we learn from Muhammad Khair – everything in Ramtha.

When Muhammad Khair was a boy his father's household was joint between the sons of his uncle Hasan and his own father Khalil. Hasan had married three times but only his wife Fidda Hamad al-Jammal bore him children, 'Abdul-Rahim, 'Abdul-Rahman, Saita and Rahma. After Hasan's death his widow Fidda married his brother Khalil and remained in her own house. Khalil already had a wife, Amina Ibrahim al-Gharaiba of Mughaiyir, who bore him one son and four daughters. Fidda bore him Muhammad Khair, a second son and three daughters.

According to Muhammad Khair, the sons of Hasan and Khalil, bound one might say by the presence of Fidda al-Jammal, divided only in 1950, along patrilineal lines, so Muhammad Khair and his paternal half-brother moved out of the compound only in 1952. When they had all farmed together, they had cultivated 10q of land, with four to five camels and three ox teams, but in those years they were still ploughing the land of Subhi and Husain in Ramtha too. Divisions appear to have been more acrimonious between Khalil and his elder paternal half-brothers. The civil court records leave trace of a quarrel between Khalil and Sulaiman not long after division in 1934.⁴⁶

Mustafa Taha al-Shar' married a series of women, fathering many children, and yet ensured that no land pass to any of his daughters. Both Mustafa and his son retained widows by leviratic marriage, Mustafa having married Hamiya al-Dilh when widowed by Shahada, perhaps contributing to the good working relation with 'Awad who married 'Atna al-Ahmad. Fidda Hamad al-Jammal likewise remarried Khalil al-Mustafa after Hasan al-Mustafa's death. This set of women appear central, if almost invisible, in the history of running the large compound under the headship of Mustafa and then of Hasan and Khalil, the sons of Hamiya. This was the stable core whereas otherwise the family practised widespread marriage exchanges with other villages and families on the understanding that daughters and wives had no power to alienate land.

General observations

The history of families in Hawwara appears bound up with that of agricultural development in the plains. In the course of the nineteenth century family members

had often moved once or twice coming into the region, acquiring a base in more than one village. For instance, members of the Rumi family from Malka came to farm and own land in Hawwara and later several returned to Malka; the Abu Kirsanna and Shar‘ families farmed and owned land in both Hawwara and Ramtha; the several families known as Gharaiba lived in Jumha, Hawwara and Mughaiyir and some also owned land in Kufr Jayiz and Tuqbul. If those who came to own land often had a link to more than one village, landless ploughmen (and their families) were even more mobile. Bound up with movement to agricultural opportunities were wide-flung marriage exchanges between families and villages. Movement into the area slowed only around the First World War. Population had grown during the long nineteenth century; land was no longer plentiful; village membership became more fixed; and the work of a ploughman was less well remunerated.⁴⁷ From the 1920s people began to move not into but out of the region for work – for seasonal work to the ports and fields of Palestine and then, slowly, to the growing towns of Transjordan for study or work in the army and trade.

In the middle and later nineteenth century landowning families built large compounds about a complex division of labour among both men and women. By the First World War these great compounds, often with four or more adult men, gave way to smaller households where two brothers, a man and his brother-in-law, or a man and a hired ploughman worked together. In line with a stabilization of interests in the village, following the division across sons of larger exploitations, and with a decrease in landholding per man, by the 1920s families began to marry more inside the village, often with close relatives. Following land registration in 1933, much of the leapfrogging of rights resulting from this history was finally eliminated. Thus in 1933 at the time of the Mandate cadastre several members of the Gharaiba family exchanged with members of the Muhafiza family of Kufr Jayiz 12q in Tuqbul and 9q in Kufr Jayiz against 12q held by various members of the Muhafiza family in Hawwara.⁴⁸

But if these appear as common trends families had divergent histories: a few such as the Haddad scarcely bought or sold land, and when they did so, such exchanges appeared part of a family strategy of conservation;⁴⁹ others such as the Tannash and the Shar‘ bought land early and generally retained their land; others, notably the Abu Kirsanna, were to gift their land for wives and to sell other parts, leaving sections of the family landless by the Mandate cadastre; and yet others, such as the Ghanaim, first bought and then sold all, some leaving the village and others staying. These histories in which we see the importance of transfers of land rights over the years speak of the role of money, credit, debt and land sale in this commercial village economy.

The last history we shall examine for Hawwara concerns a family, sections of which engaged deeply and successfully with the commercial networks built around the government centre of Irbid. The Gharaiba embrace a larger constellation of families than the cases examined above. The account draws on interviews with members of two wings of the Gharaiba family as well as on a

more formal discussion in a gathering of older members of the clan.⁵⁰ We begin with the history of the dominant Gharaiba line, that of Ibrahim, examine the household and marriage links of Na'il Gharaiba's generation, and then explore the history in Hawwara of two of the three other lines acknowledged as carrying the patronym Gharaiba.

The household of Na'il Ibrahim al-Gharaiba

Ibrahim al-Gharaiba was a man of prominence who married wives from families of regional sheikhs of the Kafarat and the Wustiya. The Gharaiba were said to be from Jumha where there is still a building known as their guest house, but by the time of Ibrahim they were cultivating large areas of land in the vicinity of Kufr Jayiz and storing grain in Maru in the years before they established a large compound in Hawwara. Ibrahim had married first 'A'isha of the 'Ubaidat of Kufr Saum, who bore sons Mahmud, Hamid, Hamuda and 'Ali, and then Khadija of the 'Azzam family of the Wustiya, who bore sons Faris, Na'il, Muhammad and Khalil. See Figure 11.5.

By 1876 the political head of the family was Na'il Ibrahim. Knowledgeable in issues of land, he was said to have served as a kind of adviser to the government.⁵¹ Na'il, his brothers, sisters, and two cousins, 'Abdullah and Irhail Ahmad 'Abid-Rabbuh, all lived in a vast compound of four by four arches (*qantara*), a total of sixteen rooms.⁵² Na'il was responsible for the reception room (*madafa*) and political relations of the family, Mahmud and others for cultivation, Na'il's cousin 'Abdullah for the sheep, and Faris and others for the camels that carried grain down to Acre to be sold.⁵³ Together they owned four to five hundred sheep. Huge cooking pots had been shared, each woman taking her food out to her children; some eighty-five persons were said to have lived in the compound at one time; marriage thus could entail a woman simply moving from one *qantara* to another.⁵⁴

Although the compound formed the centre of activity of its members, and Hawwara their main village for farming, Khalil al-Ibrahim lived and farmed in Mughaiyir as did most of the stem of the Shahada Gharaiba. Of the cousins who lived in the compound, Irhail owned a small amount of land in Tuqbul (3q of the 21½ shares of the village land).⁵⁵ And, while Filwa returned with her children to Hawwara where they bought land, her husband Mufaddi al-Ahmad never left Jumha.

Family history considers as brothers of Ibrahim not only 'Abid-Rabbuh but also Shahada and Sabbah.⁵⁶ Another relative, 'Abdul-Karim al-Gharaiba, may have been a brother or cousin of Ibrahim; he bore no sons but two daughters, of whom Fasal married Na'il al-Ibrahim and her sister, whose name was not recalled, Jabir al-'Ali Sabbah.⁵⁷ As one person noted, the name of a man who has only daughters is written in faint ink and tends to be forgotten since it is sons who keep their father's name alive. Na'il's second wife was a Gharaiba from the Shahada branch, Karma Khalid; and three of his brothers, Muhammad, Hamuda and Hamid, also married Gharaibas. Three other brothers married women from

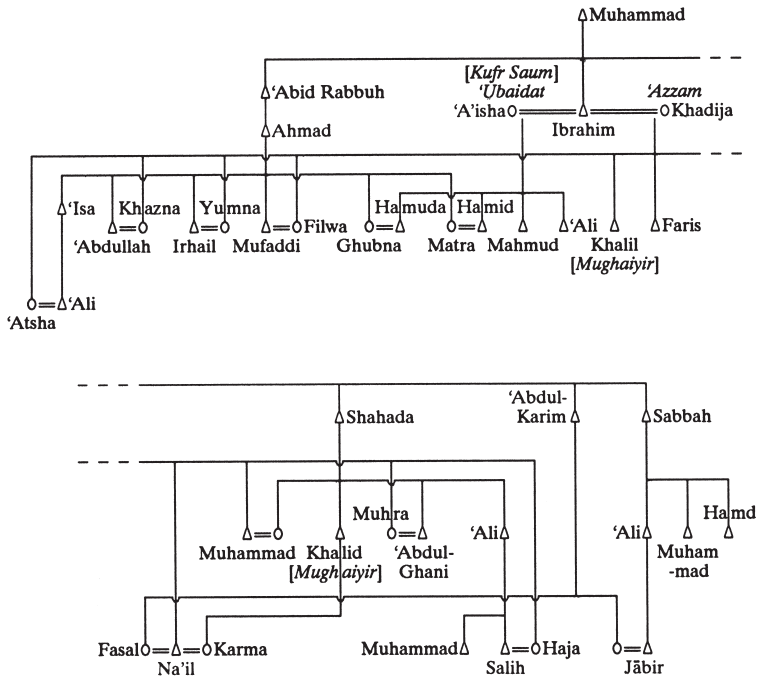


Figure 11.5 Gharaiiba intermarriages in the upper generation

outside the family circle: Khalil's wife could not be remembered; Faris married a lady from Nawa in Syria; and Mahmud married one wife from al-Mazar and another from Kufr Jayiz, Karma 'Ali Muhafiza. Their sisters Filwa, Yumna and Khazna married three cousins Mufaddi, Irhail and 'Abdullah al-Ahmad 'Abid-Rabbuh; 'Atsha married 'Ali al-'Isa al-Ahmad, Muhra married 'Abdul-Ghani al-Shahada, and Haja married Salih al-'Ali Shahada. Two sisters married outside the circle of the Gharaiiba, Rahma to the Muhafiza family of Kufr Jayiz (from whom her brother Mahmud had married) and Rifa'iya to the 'Ubaidat family of Kufr Saum (from whom her father had married). By any standard the family constituted itself by marrying in.

How exactly the great compound devolved is not clear. For a family whose leaders were so skilled in dealing with government, the rarity of their dealings through the court and *tapu* office for internal succession of rights to land surely reflected family strategy. For Na'il's household we have nothing resembling the detailed and acrimonious division of the great compound of Muhammad Hasan al-Shatnawi of the other half of the village.⁵⁸ According to the family, the compound was physically divided only in the 1950s, and not until the early 1970s did the grid of streets cause the form of the wider compound, though not all its rooms, to vanish. This did not mean that there had been no division of rights to the structure but it reflects a tendency to postpone legal division within the family.

Turning to the devolution of land, Figure 9.3 shows the holdings of the different

branches of Gharaibas in Hawwara in 1895 and 1933. The 1895 tax holdings of Na'il, his brother Muhammad and cousin 'Abdullah (nos 72, 74 and 73 of 2½, 2 and 1½ shares, respectively) were not in accordance with *tapu* mutations, and it was these that were regularized in 1921. The regularization of holdings in 1921 involved a redistribution of the 4½ shares registered in Na'il's and Muhammad's names in 1895 among Nail's brothers' heirs, Na'il having died almost twenty years earlier in 1902 and *tapu* title to 3½ shares having remained in his name. The heirs were all male. Regularization of tax holdings did not seem to require statements from the *shar'i* court listing all heirs, male and female, with shares calculated according to both *shar'* and civil law, in the manner required of *tapu* mutations. And Na'il had died before the household census of 1910, so no statement was cited from the civil registry either.

One of the mutations of 1921 did mention female heirs. This related to Mahmud's one-third of one share bought jointly with Faris' son 'Abid and their cousin Irhail al-Ahmad in 1892, and registered in Mahmud's name in 1895, holding 76. Mahmud had died in February 1921, the month the mutation was registered.⁵⁹ Statements from the village council and the head of the civil registry were cited, as were tax receipts, but nothing from the *shar'i* court. In the same transaction Mahmud's heirs by Karma 'Ali al-Muhafiza, who included four daughters and the widow herself, sold their 6½q to the two sons of his other wife as well as to a (male) cousin, 'Awad al-Hamid. The complexity of the settlement in 1921 concerned not only the gap between *tapu* and tax registration but also the varying fortunes of different stems and the exclusion of female heirs. Although Na'il had been in the grave for twenty years, it was as though his ghost had written the settlement.

The other branches of the Gharaiba

Lastly, we turn to two other branches of the Gharaiba, those of Mufaddi al-Ahmad and Khalaf al-'Abdul-Ghani Shahada. Unlike his brothers, Irhail and 'Abdullah, who lived in the compound and farmed in Hawwara, and 'Ali al-'Isa who appears to have moved to Mughaiyir, Mufaddi al-Ahmad never left Jumha. See Figure 11.6. By his first wife Filwa al-Ibrahim, Mufaddi had two sons Mustafa and Ahmad and three daughters Shamsiya, Ghazala and Hamda. Later in life Mufaddi married again; it was then that Filwa and her children moved to Hawwara. Mufaddi preferred to stay with the sheep in Jumha. It was Mustafa who bought land in Hawwara where prospects were better. The land was registered in his mother Filwa's name since Mustafa was not considered one of the village; in this way none of the village men could challenge the sale during the time that a legal objection could be lodged. According to Budaiwi al-Mustafa, his father's brother Ahmad did not have land until he married, when Mustafa formally gave him 3q of land and paid the *mahr* for his bride. Ahmad then established himself separately. Ahmad left one son Muhammad; he pre-deceased his mother Filwa who died in 1917.⁶⁰ At the cadastre of 1933 Muhammad had only 3q but in terms of legal title that derived from his grandmother Filwa's land.

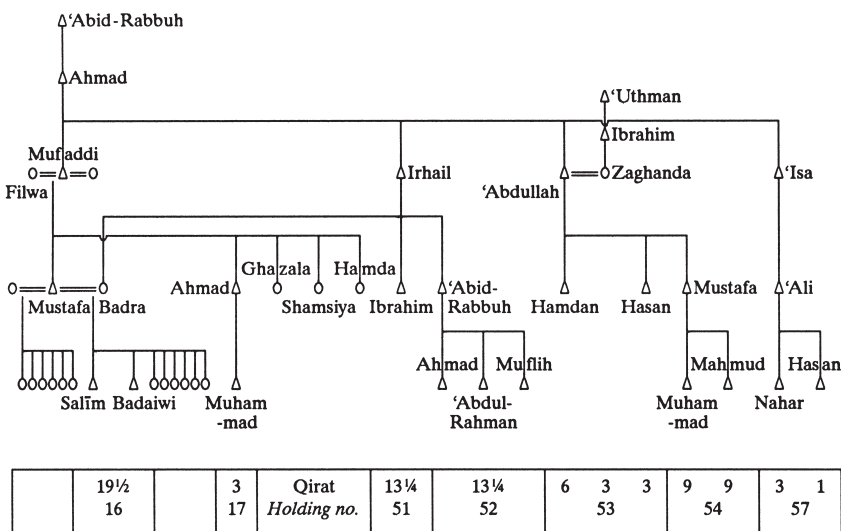


Figure 11.6 Ahmad 'Abid-Rabbuh's descendants and their shares in 1933

Mustafa married two wives, each of whom had six daughters; the mother of his two sons who were born only late in his life was his father's daughter Badra Irhail al-Ahmad. When Budaiwi was young, his father hired two ploughmen as well as a man to drive the camels. The household had four oxen, one horse and four camels; the last were used in transporting grain. The ploughmen generally came from nearby villages, although for some years they were from Sarat near Nablus.⁶¹ Mustafa acquired additional land to the 12q registered in his mother's name, 19½q being registered in his sons' names Salim and Budaiwi (still a minor) in 1933.⁶² An old man at the time of land registration, Mustafa appears to have chosen to put all in the name of his two young sons.⁶³ His wife Badra also endowed her sons with ½q in 1933, in settlement of a loan she had made to Khalil Mustafa Taha al-Shar'.⁶⁴ Almost sixty years after land registration, we had the pleasure to meet twice with Budaiwi Mustafa Mufaddi, Abu Hashim, who lived in part of what had formed the vast house-complex of Na'il Ibrahim and his brothers. In Abu Hashim's intimate reception room, furnished with modest floor coverings, a little Turkish table, and a coffee pot from Damascus, hung two photos, one of his father and the other of a sufi sheikh, Muhammad Sa'id al-Kurdi, from the neighbouring village of al-Sarih. Umm Hashim, also a close relative of her husband, joined us. Their son Hashim had become a teacher and short-story writer who, as a Communist activist, had spent many years in jail.⁶⁵

If the grandson of Mufaddi combined education with farming, the branch of Khalaf 'Abdul-Ghani al-Shahada was more solidly in trade. None of the Shahada had a house in Hawwara in 1883; the line of Khalid was resident in Mughaiyir. Khalaf 'Abdul-Ghani first bought land in Hawwara in 1895, six *qirat* from Falha

Ahmad al-Qallab.⁶⁶ In the 1895 tax register, finalized before the sale, Khalaf was registered with only a house (holding 41); indeed it was not until 1920, after his death, that the land was entered in the tax register in the names of his sons (holding 120). His cousin Muhammad 'Ali Shahada also had a house in 1895 (holding 40), see Figures 11.5 and 11.7. Khalaf was to die in 1912 followed by his unmarried son Muhammad in 1917.⁶⁷ His four surviving sons made three major purchases in the difficult years for cultivators after the First World War. Purchases totalling 20½ *qirat* were registered in their names in *tapu* mutations of January, March and November 1919, mostly from the Ghanaim family (13½*q*) which had first bought two half-shares of land in 1892 and 1893 but by 1933 had nothing.⁶⁸ In 1925 Khalaf's sons bought a further six *qirat* from Qasim Muhammad al-Gharaiba.⁶⁹ Between 1895 and 1925 the family bought a total of 38½*q* of land traceable in the *tapu* registers; at the 1933 cadastre the four brothers held 44*q* between them.

Unlike so many other households of farmers that were subdividing, shrinking in size, and struggling with debt over the same years, the household of the four sons of Khalaf was flourishing. The son of Falih Khalaf described the household of his youth as composed of the four brothers with four camels, two horses, a workhorse (*kadish*), two mules, eight oxen and between 150 and 300 sheep. They owned, he remembered, 40*q* of land, for which they hired four ploughmen from the village for a quarter of the crop. Of the marriages of the children of the four brothers, four of their daughters married cousins (one girl 'Aliya Falih al-Khalaf married two cousins, whether following divorce or widowhood is unclear).

As the number of transport animals suggests, the family was as much in trade as in cultivation. Their purchases of land represented the investment of trading capital. Khalid Falih Khalaf al-Shahada, after study in the Technical School in 'Amman, was to open a family shop for building materials in Irbid in the 1930s. But shopkeeping like trading not being a noble profession in the eyes of the village, Khalid did not mention his father's village shop of which we have a record in the civil court records from 1922 and which presumably had existed for some years before that date.⁷⁰

The purchases by the sons of Khalaf al-Shahada follow a preceding series of purchases by a Syrian trading family of Irbid, the Baibars, during the First World War. This was the first time in the records of Hawwara that non-resident traders acquired title to land, doing so from several farming families: Rumi, Jammal, Shar', Gharaiba and Abu Nasir between September 1914 and June 1916. Each of these purchases was in conjunction with a branch of the Sabbah line of the Gharaiba, the four sons of Muhammad Hamd al-Sabbah, in a kind of partnership of 50 per cent to the Baibars and 50 per cent to the sons of Muhammad Hamd. The Sabbah were established cultivators of Hawwara, with two houses in the names of Muhammad and 'Ali al-Sabbah's sons in 1883, the sons of Muhammad having purchased land in 1882 from Yusuf Suwaidan, and the sons of Hamd from Ibrahim 'Uthman al-Husain in 1893 (see Chapter 9). Presumably the Sabbah, who acquired 15*q* of land in the course of the First World War, assured the cultiva-

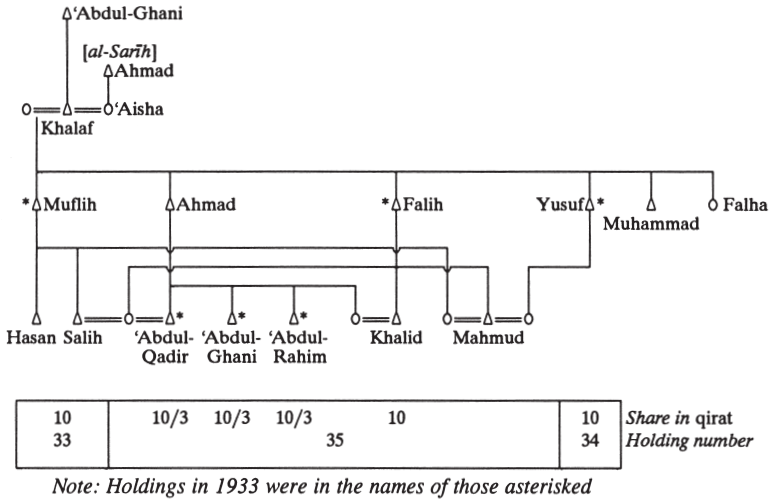


Figure 11.7 Holdings of 'Abdul-Ghani al-Shahada's descendants in 1933

tion of the land for the various members of the Baibars family from whom they perhaps borrowed money to finance their part of the purchases.⁷¹

Perhaps the most remarkable of all the sales is that by the major leader of the Gharaiba, Qasim Muhammad al-Ibrahim, of all his land to the sons of Khalaf Shahada. The explanation of the family is that he was generous (*karim al-nafs*) and gave to all; he represented the interests of the most disparate of persons, acting as a true leader and an educated man, an efendi as the scribe of the *shar'i* court termed him in one entry. This sale by Qasim al-Muhammad, who represented the political honour of the Gharaiba to those who stood out for their trading wealth, may seem inauspicious, even scandalous. Qasim had no surviving sons, although his daughter, married into the family, enjoyed particular respect.

The prominence of land transactions within the village and of sales to the Baibars during the First World War raises questions concerning the role of access to money and credit in land transactions in Hawwara. Separate registers for mortgage debts (*faragh bi-'l-wafa'*) exist only from 1913 for 'Ajlun. Before this time we can but guess to what degree the members of prosperous households lent money to other cultivators of the village in the decades before the First World War, although we have seen Badra, wife of Mufaddi, obtain land in return for a debt. Impressionistic evidence suggests a shift from long-distance trade with the ports of Palestine to development of shops in the village and individual debt to financiers such as Sa'd 'Ali Basha and his wife in al-Bariha and a variety of traders in Irbid and al-Husn.⁷² With the exception of the Shahada line, by the 1920s the Gharaiba, likewise, appear more as borrowers than as lenders.

12 | A village of mixed agriculture in the hills: Kufr `Awan

Farming in Kufr `Awan

We have seen in Chapters 9 and 10 that the patterns of production and of household organization in Kufr `Awan differed markedly from those of a plains village such as Hawwara. In Hawwara the idiom to describe agricultural land was the ox team; in Kufr `Awan it was the married man. In Hawwara production depended on labour from outside the village; in Kufr `Awan exchanges of labour in agriculture took place almost entirely within the village. At harvest, institutional form was given to general exchange of labour, celebrated after a person's grain had been threshed and winnowed, by a special dish (*'ajja*) of eggs, olive oil and flour cooked in a crockery pot; wealthier families might provide other dishes such as *mujaddara* (a dish of rice and lentils) or even *mansaf* (a festive rice, yogurt and meat dish).¹

In Hawwara wheat production was largely destined for the market; in Kufr `Awan grain production was primarily for village consumption. Hence whereas in Hawwara wealthier families transported their grain to the ports of Palestine, in Kufr `Awan small-scale traders came to the village at harvest time. In Hawwara the structure of village landholding was transformed through land sales over the course of the fifty years studied, whereas in Kufr `Awan land sales remained secondary to exchange through marital payments and inheritance. In Hawwara large house compounds comprising many rooms were the mark of wealth; in Kufr `Awan most houses were composed of two rooms. In Hawwara senior male control was a defining feature of house compounds; in Kufr `Awan, the pair of man and wife formed the practical and imaginary first unit of society with senior male control restricted to the intertwined processes of arrangement of marriages and *intra-vivos* devolution of land. In Hawwara women were generally excluded from land ownership; in Kufr `Awan they appeared increasingly as landholders in official documents. And while in Hawwara families often had far-flung affinal relations, in Kufr `Awan marital alliance with families in other villages remained the exception not the rule.

If cash income in Kufr `Awan derived only partially from its cultivated fields, as a whole the village depended for coin on animal raising: cattle herded in the Ghaur, sheep and goats pastured in the hills, and their products such as clarified butter and dung cakes, all sold in the markets of Palestine, especially Baisan. The articulation between cultivation and animal herding was central to the village economy and to differences in family histories. In Kufr `Awan, animals were herded almost entirely outside the cultivated fields. Little collective discipline was

exercised over crop rotation or the timing of planting and harvesting, strips also being subdivided into different crops from one to the next according to household need. Only very occasionally did a village herder, who tended the few sheep kept in homes for milk, lead a small flock across harvested fields of the village. And this was only after children had passed through the fields gleaning what remained of the crop, small piles of which they would clean and sell to the village shops.

In Kufr 'Awan most of the tools for agriculture were supplied by artisans resident in the village or in neighbouring villages in return for payment in kind. The blacksmiths were paid a proportion of the crop on the threshing ground for those tools needed in cultivation (the *siqqat al-mihwal*, the *arjiya*, and the axe) and for the *ghatar* of the oven, while sickles (*minjal*), horseshoes and keys were paid for one by one.² The family of blacksmiths was headed by Sa'd Nasir al-'Isa and his brother Mansur who in 1902 bought a full six *qirat* of land in the first sale registered for Kufr 'Awan.³ At the turn of the century the village also had a resident shoemaker ('Ata'allah al-'Id with a wife Hana) and a weaver (Farah al-Ha'ik with a wife Khurma).⁴ Unlike the blacksmith these craftsmen were paid for each item, shoes and *kilims* (villagers supplied the carded wool to the weaver). The artisans were Christian whereas all the cultivators in Kufr 'Awan were Muslim. Besides the blacksmith, the other figures who received a part of the crop from the threshing ground were village functionaries: the headman, the imam, the field watchman (*natur*) and the village guard (*haris*). The principle for paying the last differed from that for the other village functionaries; his due was calculated by house (*dar*) not by land owned (*watat*). The headman entertained and dealt with government officials, including soldiers, administrative officials and the forest inspector, paying out of what he received in dues.

In many families women would work at all stages of cultivation, scattering seed behind the plough, using the drill for crops not broadcast, weeding and harvesting. Even in prosperous families women would join in agricultural work at times of labour shortage such as harvest. Husband and wife often worked together in cultivation or in animal herding. Many families had enough olive trees, planted near the village site, to provide for their needs; a few men had enough trees to sell oil to others in the village. Women worked in olive production: weeding, picking and preparing the olives in the tradition of the Kura whereby the olives are first boiled for a short time, then laid out on cloths on the roof of the house to dry in the sun for two days before pressing. This technique reduces harshness and concentrates flavour, producing sweet oil. All of this is women's work.

In Chapter 10 certain of the patterns of family division emerged from close examination of the *tapu* registers. These indicated that a married son might farm independently of his father and brothers, moving out to a new house a few years after marriage. It was the work of women to make the elaborate series of grain storage bins and shelves surrounding the living area once the structure of a house was built. And so it was women's work to tend household fowl, carry the grain to the mills in wadi al-Yabis, make the various kinds of bread, prepare the daily meals and tend the house, laying out and folding up the mattresses

and pillows. The interviews below will reveal what the registers and documents of government indicate only obliquely: the centrality of the wife and mother in the household and the dislocation experienced by the children of a family in the case of the death of a mother. Because of the centrality of the link between husband and wife in the constitution of the household, a widower or a widow would often remarry; the manner that this marked children will appear in several of the individual histories below. People of Kufr 'Awan agreed that no one could replace a mother, and so the *qarut* (the child orphaned of one parent as against the *yatim* orphaned of both parents) was more likely to be raised by a maternal aunt than by a step-mother, a mother's sister representing the mother lost.

To understand better the organization of production in the village, we shall turn to the histories of particular persons and families of the village, examining the content of property right, a share in land of the village. A share of land was occupied and encircled by the work that rendered it productive. Persons made the land and the land made persons through dense social exchanges of people and things. Land was offered in return not only for work in temporary sharecropping exchanges, but also as property in more permanent exchange for persons at marriage and for cash in sales. The men and women formed in the process of production appeared as ungendered legal owners of property in the registers of the state. How did this legal form enable changes in social relations in what was on first registration an egalitarian, intensely intermarrying, and little commercialized village economy?

Life histories

Husna Salih Hamdan: farming in the village

We went to visit Husna Salih Hamdan in December 1992. Husna lived in a house just behind the two olive trees which had formed her *mahr*; together with her were one of her daughters, 'Arifa, who had married in the village and her son's wife, Nafal, from the neighbouring village of Bait Idis. After we had been presented, Nafal went out to make tea. Being of the august age of 103, Husna was hard of hearing and had indeed only faint memories of many things.⁵ We asked her of her early life and family.

Before Husna had married, she had lived in a house in the old village site with her mother and father, her brother Hasan and her two sisters, Hisna and Tamam. (The house was later sold to a Palestinian family, one old lady of which continues to live in the same house in what is today a largely abandoned part of the former village core.) In the 1884 *tapu* registration Husna's father had been recorded as owning 12 *qirat* of land in an independent holding, but by the time Husna was a young girl he probably farmed only six *qirat*.⁶ In 1908 her father went to the land registry to transfer six *qirat* to his half-brother, and the other six to his son Hasan.⁷ Husna remembers that before her marriage when she was still living at home they had two plough oxen but no sheep to speak of and no donkeys. In short they were a family solidly in farming. In their family a woman worked with her husband at all stages of cultivation, be it of wheat or lentils or

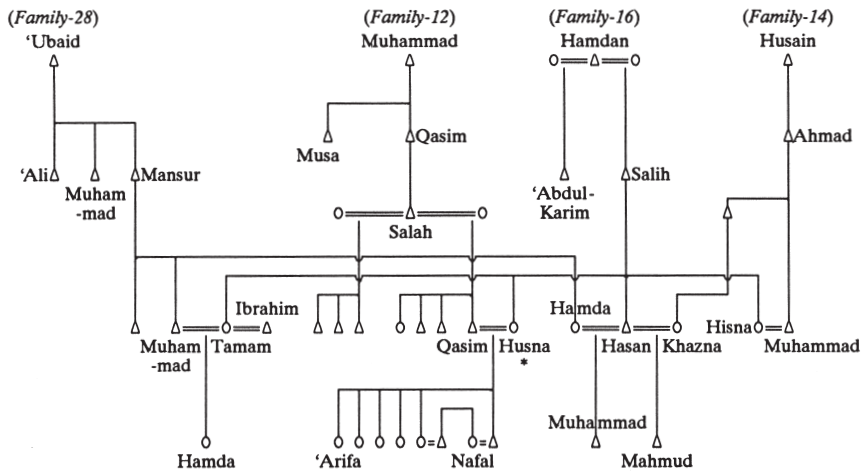


Figure 12.1 Family links of Husna Salih Hamdan

other crops, and women and children worked beside men in the winnowing of the harvest. As evidence, Husna said that she had broken her arm during harvest time when working with the *qadim*, the heavy mule-drawn threshing board.

Husna was the third child, born in 1889, after her elder sisters Hisna born 1884 and Tamam born 1887, and before her brother Hasan born in 1890 (see Figure 12.1). Hisna married Muhammad Ahmad al-Husain, who belonged to a small family of farmers of much the same social status as her own. Tamam married into a larger and more powerful family, with her brother Hasan marrying a sister of Tamam's husband, Hamda.⁸ In 1911 Hasan's wife Hamda bore Hasan a first son, Muhammad. Hamda was twenty and he a year older, but Hasan had by then already married a second wife, Khazna, of exactly his age, the daughter of his elder sister Hisna's husband's brother. Khazna was later to bear Hasan a second son, Mahmud.

When we asked Husna whom Tamam had married, she did not mention the first marriage of her sister but only Tamam's second marriage to Ibrahim al-Mustafa of the Manasira, a man of Bait Yafa in Palestine who settled in the village. Husna's silence may reflect a breakdown in both those marriages, perhaps a falling out between the families. What is clear is that relations between Hasan and Muhammad (his son by Hamda) were distant by 1939–40, the time of Mandate land registration. Muhammad sued his father for an equal part in the land to that of his brother, Mahmud. But Hasan refused, noting that he 'had married Muhammad with one and a half *qirat* of land two years earlier'.⁹ In other words, Hasan had given as *mahr* for his first son's marriage $1\frac{1}{2}$ of the $4\frac{1}{2}$ *qirat* of land he then held. Although Muhammad had legally challenged his father, he accepted his father's refusal, stating that as the land belonged to his father, so he was free to do what he wanted with it.¹⁰ Thus three *qirat* of land were registered in the name of the younger brother, Mahmud, with whom,

presumably, his parents continued to live and work.¹¹ The father and the two sons would then effectively have each obtained $1\frac{1}{2}$ *qirat*.

It was the tradition in this family for a man to arrange the transfer of his land as he wished, although he had an obligation to assist his son with marriage. Thus, to go back one generation, had Salih not divided his land between his son Hasan and his half-brother ‘Abdul-Karim, the literal application of the law would have led to his half-brother, ‘Abdul-Karim, born the year the land was registered, being entirely excluded. Furthermore, the 12 *qirat* of land would have been divided between Salih’s surviving wife, each of his three daughters, and Hasan. *Pre mortem* gifts were entirely within the law and in both cases permitted fathers in this modest family to transfer land to sons as they wished during their lifetime and to avoid its dispersal to daughters.

But let us return to Husna. She married into another small family of the same farming section of the village, to Qasim the eldest son of Salah al-Qasim, a man who at the time of his son’s marriage had two other sons and a daughter from his first wife. Salah was later to take a second wife who bore him another three sons. Husna’s *mahr* was two *rumi* olive trees and the plot of land on which they stood. Doubtless Husna also received a little jewellery and a few clothes, and perhaps the two mattresses and pillows which a father should ideally give his daughter at her marriage. But the *mahr* of which Husna spoke was not silver or clothing but the two olive trees. The trees and land went first to her father, Husna explained, but after his death reverted to her. In 1884 her husband’s grandfather Qasim had been registered as owner of three olive trees but not of the land on which they stood (see Table 10.1).¹² The plot belonged to the owner of another ten trees on the same plot, a farmer from the family into which Husna’s older sister Hisna and her brother Hasan were to marry.

Husna’s husband Qasim was some three years older than herself, just over twenty, and shortly after the marriage, they established themselves as independent economically from Qasim’s father Salah. Yet the couple continued to live in the same house with Qasim’s father and brothers for many years until, after Husna’s father’s death, they finally built a small house on the land at the edge of the village where the two olive trees stood. When Qasim established his economic independence, his father gave him two *qirat* of land but as the young couple had very few work animals, he worked more as a ploughman (*harrath*) for others than as a farmer on his own land. In the original registration of 1884, Qasim’s grandfather Qasim had farmed jointly with both his brother Musa (who was later to pre-decease Qasim without surviving children and hence all of whose land was to revert to Salah al-Qasim’s line) and with two brothers (Mansur and Muhammad al-‘Uбайд) of the powerful larger family into which Husna’s brother Hasan and sister Tamam were later to marry.¹³ This suggests that Qasim’s family had earlier worked in conjunction with a family far better endowed with livestock and hence that Qasim’s dependence on the plough animals of others was not novel to his family. Husna’s memory of how farming had been organized in former times was that according to the number of animals a person had, so much land

did he plough. This statement appears to express both a collective memory of a time when land was abundant but people and animals few and Husna's own appreciation of the importance of livestock, not only of land, in the working capital of a household.

As a woman who had worked in farming Husna was forthcoming about this domain, whereas several other women had only faint memories of older cultivation practices. Each farmer held two plots, one strip to the west of the village site on the slope down to the Jordan Valley and the other closer, although over the years the exact physical location of the two plots would shift. In the 'araqib, the distant lands, Husna recalled that they only ever planted winter crops because the soil was 'yellow' and the climate too hot, whereas in the strip nearer home (*watat al-dar*) cultivation was of both winter and summer crops. For the winter season, the strip was divided to plant a mixture of wheat, barley and lentils, the ploughing season extending from the beginning of November to mid-January depending on the rains. For the summer season the soil was ploughed three times, followed by planting after mid-March. Summer crops were more varied: white sorghum from which bread was made, yellow sorghum used as chicken feed, hairy cucumber (*faqqus*), watermelon, tomatoes, okra and musk-melon (*shammam*). Besides her work in the fields Husna used to go with other women to cut firewood in the woods above the village. And from her two olive trees Husna provided the family with oil and olives, boiling the olives briefly and then drying them on the roof, before taking them to the press of which there was one in each quarter of the village.

Husna bore five daughters ('Arifa, her first child born when she was 21, Fidda, Fiddiya, Tamam and Fatima) and three sons, only one of whom, Mustafa, was to survive. Her daughter 'Arifa was married in 1934. In those years marriage payments were between 10 and 30 liras, overall about 50 Jordanian dinars, divided in principle into three parts: grain, livestock and money (*habb, halal* and *nuqud*). But what 'Arifa actually received was the headband (*'urja*) decorated with gold coins. The 'cloak' (*'aba*) given to the bride's mother's brother was in those days either a *shuwal* of wheat or a quantity of olive oil.

In the farming families of middling means to which Husna belonged, shares in the common lands of the village were transmitted primarily *inter vivos* between men on an understanding of the entitlement of brothers and sons from a father. In neither of the families did a father gift land to a woman and in neither were the laws of inheritance to run their course. But women appear in relation to agricultural property in two ways: first, Husna's *mahr* of two olive trees and the land on which they stood, close by the village site, and second, her brother Hasan's alienation of 1½ *qirat* of land to his son Muhammad's bride, or more likely in the first instance to her family, as her *mahr*. Such productive resources did not generally go directly to the hand of the young bride. But *mahr* was in the bride's name: it was hers both ethically and legally, hence hers to claim. A young couple was expected to struggle together as the fundamental unit of social production. And sometimes, as in the case of her brother's son, Muhammad, in

order to establish such a unit, a young man might have to pledge all of his land as *mahr* to gain a bride and co-worker.

Over the century of Husna's life, the village population grew. The only increase in agricultural resources was in olive trees, planted largely in the lands surrounding the village site. Other agricultural resources, notably the lands held in shares, appear either to remain fixed, or like pastoral resources, to have shrunk markedly over the century. Whereas in the late nineteenth century the Jordan Valley was extensively used for cattle raising, this was less and less possible following land registration and the expansion of irrigated cultivation over the twentieth century. And the large areas of the village where villagers pastured sheep and goats – on Sartaba and other hills overlooking the valley, and on the steeper more wooded slopes above the village – were to be declared closed to animals in the 1950s. With population growth average holdings in the common plough land also declined over the years. Thus, the daughters of Husna did not receive land or trees as part of their dower and the entire rights to common land of Muhammad, son of Hasan, came to 1½q of land, pledged as *mahr* for his bride.

Ahmad Khalifa Sa'd al-Ahmad: wage labour, cattle herding and farming

Ahmad Khalifa Sa'd al-Ahmad, born in 1910, had a grizzled look and proved in good shape for an 82-year-old. He belonged to one of the more prominent families of the village, distinguished by religious status and exceptional endogamy.

In 1884 when land was registered and his father Khalifa was aged 12, he had already succeeded his father Sa'd and was registered as joint holder of an entire share of 24 *qirat* along with two of his father's brothers 'Id and Hamd.¹⁴ A third brother of his father, Sa'id, had an independent holding of 12 *qirat*.¹⁵ The fourth brother of his father, 'Abdul-Rahman, aged 33 at the time, held six *qirat* in a joint holding with the six *qirat* of the brother of his second wife, a man of a smaller family (family-2) of the same section of the village (see Figure 12.2).¹⁶

Khalifa married a cousin, Zahiya, daughter of 'Id al-Ahmad, who was to bear him four surviving sons and three surviving daughters. Only late in life, and after Zahiya's death some time during the First World War, did Khalifa take a second wife. Khalifa had been a religious person and led the prayers, never taking money for it, unlike Muhammad al-'Awad 'Abu Khudriya', the village imam, who is said to have led the prayers at noon and sunset but when it came to any other time would demand payment. Sheikh Khalifa was to live a full span of life and was one of the few men to have land registered in his name at both the Ottoman survey in 1884 and in 1939–40 when he was about 68 years of age.

Ahmad recalled that when he was young they farmed six *qirat*. They had about 100 goats which they grazed up in the hills rather than in Sartaba since they had a large cave. At this point of household development, when Ahmad and his younger brother 'Abdul-Rahman were very small children, they were not cultivating the land that was to be theirs. Rather Muhammad 'Uthman al-Shihab, of the 'Amaira, took on the land.¹⁷ It was Muhammad 'Uthman who decided what crops he would sow, but as the oxen belonged to their family,

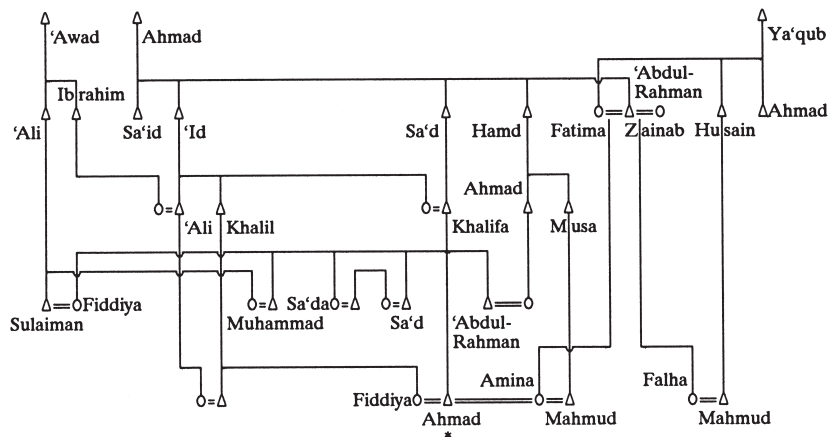


Figure 12.2 Marriage links of Ahmad Khalifa Sa'd al-Ahmad

the division of the crop was half-half. A condition of the tenure was that the children would weed, especially his sister Fiddiya, who was six years older than Ahmad, and would help in the harvest. The children would also glean (*ghamar*). This arrangement continued until the time when Ahmad was 5 or 6 and all the males of the family had to leave the village for a period of a year, staying in the nearby village of Ausara, because a distant relative had killed a man of the other half of the village and it was a year before the *diya* payment (*jamal naum*) was agreed and accepted.¹⁸

In the years just before Ahmad married, the family household had consisted of his father, his father's second wife, his brother Sa'd who by then was married and took care of the cows, his brother Muhammad who was married and took care of the sheep and goats, his younger brother 'Abdul-Rahman and himself. Sa'd had married Khadra al-Ahmad from the village of Ausara in an exchange marriage with his sister Sa'da. Muhammad had married 'A'isha 'Ali al-'Awad al-Mustafa, a cousin of 'Ali Qasim whom we shall meet below, in an exchange marriage with his sister Fiddiya marrying Sulaiman 'Ali al-'Awad.

Ahmad noted that he had been a *qarut*, having lost his mother. By the time he was 13 or 14 in the early 1920s, Ahmad and his younger brother 'Abdul-Rahman, had come to tend a number of cows and to spend much of their time out of the village grazing them. But there was a plague that decimated the herd, and so for two years (1925–26) when he was 15 and 16 he had gone to Palestine and worked at harvesting in the area of Nazareth and Mulabbas, earning about seven *qurush* a day in cash.

When he was 19 Ahmad married his cousin (FFBD) Amina 'Abdul-Rahman al-Ahmad who was four years older than him.¹⁹ Amina had earlier married another cousin, Mahmud Musa Hamd al-Ahmad (her FBSS), but her first husband appears to have died young.²⁰ Amina was the only child of the second marriage of 'Abdul-Rahman, Ahmad's grandfather's brother, who at the time of *tapu*

registration had held land jointly with his second wife Fatima's brother, Ahmad Ya'qub. From his first wife Zainab, 'Abdul-Rahman had had a daughter, Falha, who was born some 31 years before Amina, his daughter by Fatima.²¹ Falha married the son of Husain Ya'qub, brother of Ahmad and Fatima. It is not clear whether the two marriages took place as a simultaneous exchange or sequentially, the two families having been interknitted since at least 1884. Amina's mother, Fatima, like 'Abdul-Rahman's first wife, pre-deceased her husband. Thus, Amina was, like her husband Ahmad, to grow up without her mother, a *qarut*. In the census of 1910 'Abdul-Rahman's household consisted of himself aged 59 and little Amina aged 4, the only household of the village to have such an unusual form.²² (Presumably 'Abdul-Rahman's first daughter, Falha, who was married into the family with which her father farmed, helped them at home during these years.) Because 'Abdul-Rahman had only a daughter and no sons, in 1902 he sold all the 6q he had inherited to the Christian blacksmiths of the village.²³ This did not leave the couple landless, however, since 'Abdul-Rahman and Amina had inherited 1½q of common land from her mother Fatima. (It is not clear whether this part was Fatima's *mahr* or inheritance or the result of a double claim concerning both *mahr* and inheritance.)

On Amina's marriage in 1929 Ahmad Khalifa's family gave as *mahr* two olive trees, a she-goat and the equivalent of 220 kilograms of wheat.²⁴ We do not know whether 'Abdul-Rahman was still alive at the time of Amina's second marriage, by which time he would have been 74, nor whether they took over administration of the 1½q of land which Amina had inherited. It seems not, as Ahmad Khalifa stated that he continued to live from raising cattle during these years. Amina bore a son and daughter of whom only the first was to survive.

In about 1935 Ahmad took a second wife, again a cousin and again a girl who had already once been married (to a FFBS), Fiddiya Khalil al-'Id al-Ahmad.²⁵ It appears that Ahmad's father Khalifa facilitated a series of exchanges by offering 1½q of land as *mahr* for Fiddiya. Thus, Ahmad married Fiddiya but gave 1½q (*'ishtara al-zauja wa dafa' mahra-ha'*) to Ibrahim al-'Awad, a member of the family with which Ahmad's brother Muhammad and his sister Fiddiya had contracted marriages; Ibrahim al-'Awad gave his daughter to 'Ali al-'Id al-Ahmad, who in turn gave his daughter to Khalil al-'Id's son, all on the same day. The transfer of the 1½q was never formally registered but presumably declared as part of the relevant holdings at the cadastre in 1939.

At about this time Ahmad's younger brother 'Abdul-Rahman also married a cousin (FFBSD), Fatima Ahmad al-Hamd al-Ahmad, establishing a separate household.

In the late 1930s, Sheikh Khalifa went to the *haji*, staying away for three months. When he returned he divided up the remaining land among the four sons, with each son getting 1½ *qirat*.²⁶ Of the daughters, Fiddiya was given a *kail* of wheat and some animals, but if any other daughters survived they seem not to have received anything. Thus it was only after the cadastre in 1939–40 that Ahmad abandoned raising cattle and took over ploughing his own and Amina's land,

each being registered as owning 1½q in the cadastral records in a joint holding. Amina was to die before she reached 45, leaving her one son to inherit the two olive trees she had received as *mahr* and her 1½ *qirat* of common land.

Family histories of Hasan and Husain ‘Abdul-Rahman ‘Amaira

At the time of the 1884 *tapu* registration two brothers, Hasan and Husain al-‘Abdul-Rahman, were registered as owners, the first with a full 24 *qirat* and the second with 12.²⁷ Specialized in farming (*li-’l-shadad*), Hasan was to leave his land to six sons and four daughters, whereas Husain, specialized in cattle herding, was to leave only one son.²⁸ But the men of both families were known as ‘cowboys’ – according to Ni‘ma Muhammad Mahmud al-‘Abid who married a grandson of Hasan ‘Abdul-Rahman – quite unlike other men of the ‘Amaira such as ‘Abdul-Rahim ‘Ali ‘Ubaid, who was religiously learned and had a shop selling clothes, sweets and brass utensils from early in the twentieth century with regular deliveries via Dar‘a on a 3 per cent commission from a trader in Damascus. Ni‘ma recounted the tales of Husain ‘Abdul-Rahman’s clashes with the ‘Adwan bedouin of the Jordan Valley. And she remembered that years later when the first truck was purchased by Ibrahim Muhammad al-Dahun (family-6) and Jamil and ‘Ali al-‘Abdul-Rahim (family-28), the grandsons of Hasan commandeered it and drove it all round the village.²⁹

We here consider in turn the family history of the line of Hasan, into which Ni‘ma married, and that of Husain ‘Abdul-Rahman, through the words of his grandson Mahmud al-Ibrahim.

Ni‘ma Muhammad Mahmud al-‘Abid: cattle raising

Ni‘ma Muhammad Mahmud al-‘Abid was born in 1906 and so was 12 when the Ottoman Empire fell. Around that time her father died, although her mother was to live until almost 90, dying in 1954. Ni‘ma’s father’s share in the land was 1¼q as was that of his full brother Musa and each of the three sons of their father’s second wife. Following her father’s death the children’s life was hard – Ni‘ma remembers having to glean after the harvest. Her mother’s brother Ahmad Muhammad al-Da‘ud (family-4) took care of them but as they were considered orphans they also received alms (*zakat*) from her maternal grandmother’s relatives, the Nawasira (family-6).

A few years after the end of the First World War Ni‘ma married Falih Mahmud al-Hasan in an exchange marriage where her brother ‘Ali married her husband’s sister Khadra. Her husband’s father Mahmud al-Hasan had never returned from his military service in the Ottoman army in World War I, one of at least twenty-five men of the village to die in the war.³⁰ When Ni‘ma married after the First World War, conditions were difficult; she proudly remembers participating in two parties from the village that crossed the river to scavenge guns and supplies abandoned by the Turkish soldiers before they crossed the Jordan River fleeing towards Damascus.³¹ In those years there was ‘absolutely nothing’, and so her *mahr* was non-existent though she wore her mother’s headdress of gold coins

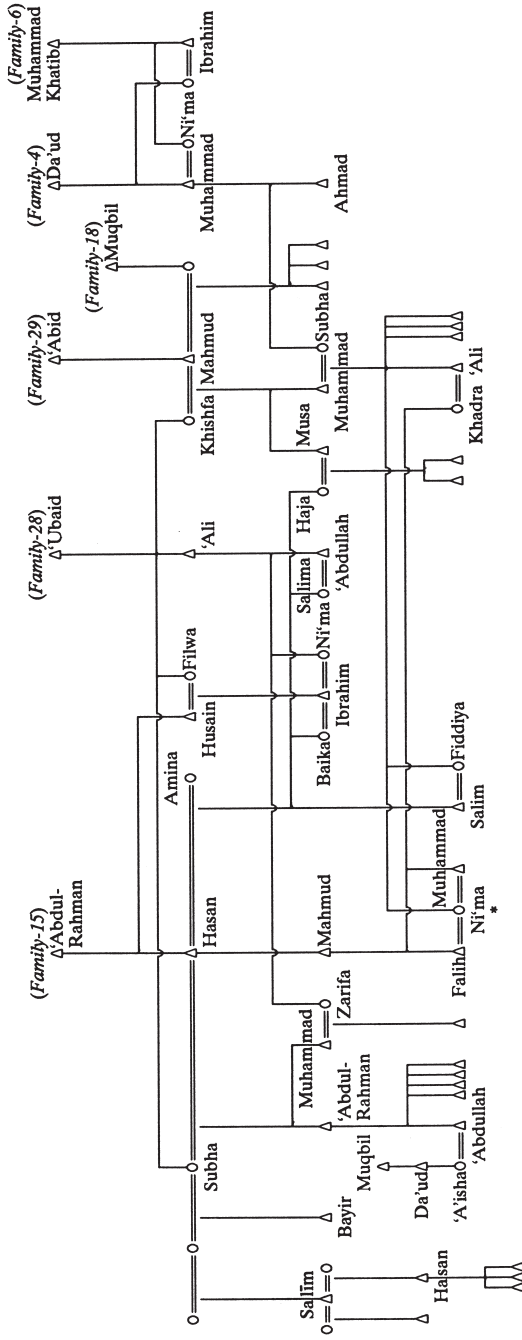


Figure 12.3 Family links of Ni'ma Muhammad Mahmud al-'Abid

(*urja*) at her wedding. Her husband Falih Mahmud was to die only two years after his marriage, and the two young sons Ni'ma had borne him were also to die young.

After the death of Falih, Ni'ma remarried his brother Muhammad to whom she bore two girls (who died) and three boys (who all lived). Married into the line of Hasan al-'Abdul-Rahman, Ni'ma linked in herself a whole series of the major families of the village; indeed, she proved the unsung genealogist of Kufir 'Awan. Through her mother Subha Muhammad al-Da'ud, Ni'ma was related to two major lines of another section of the village, the Dahun: to the Da'ud through her mother's father and to the Nawasira through her mother's mother Ni'ma Muhammad al-Khatib, a sister of the men who topped the 1884 *tapu* list (see Figure 12.3).³² And through her father's mother Khishfa al-'Ubaid, Ni'ma was related to a powerful group of her own 'Amaira section in the village, 'Ali al-'Ubaid having had the largest holdings of land and olive trees in 1884. The 'Ubaid also married with the descendants of 'Abdul-Rahman over several generations.

Together with her second husband Muhammad, Ni'ma herded cows; when they started out they had 13 cows, all of which died in a plague (*waba'*) except one young female calf, to which Ni'ma carefully fed prickly pears which she had planted. After a while they bought two cows and began to build up a herd again, spending their time living in tents grazing the cows in the areas south of Sartaba (*I'raq, Wadi Hamam* and *al-Nuhair*). Ni'ma was no faint-hearted soul: she recalled that several times as she slept alone in the tent at night, thieves lifted up the edge of the tent to get at the clarified butter (*samna*), only for her to drive them away by firing a gun rather than shouting so that they would think her a man not a woman.

With regard to land in the village, Falih and Muhammad each had one *qirat* of land, with Falih's passing to Muhammad after his death. Muhammad did not like cultivating so the land was worked by 'Ata'allah al-'Awwad of the Dawaghira.³³ Ni'ma's husband had three sisters, Rishda, Amina and Khadra (not shown on Figure 12.3), of whom the former two gave up their rights while Khadra asked for rights and was given an olive tree on the land called al-Hamra as compensation. Ni'ma's husband's family had one other olive tree in wadi Salih in *watat abu Khalifa*. At the 1939 cadastre Muhammad was registered with three *qirat*.³⁴ More generally, the land of Hasan, who married four wives, was formally devolved in 1909 equally between his six sons and four daughters.

Mahmud Ibrahim Husain al-'Abdul-Rahman: breeding cattle and horses

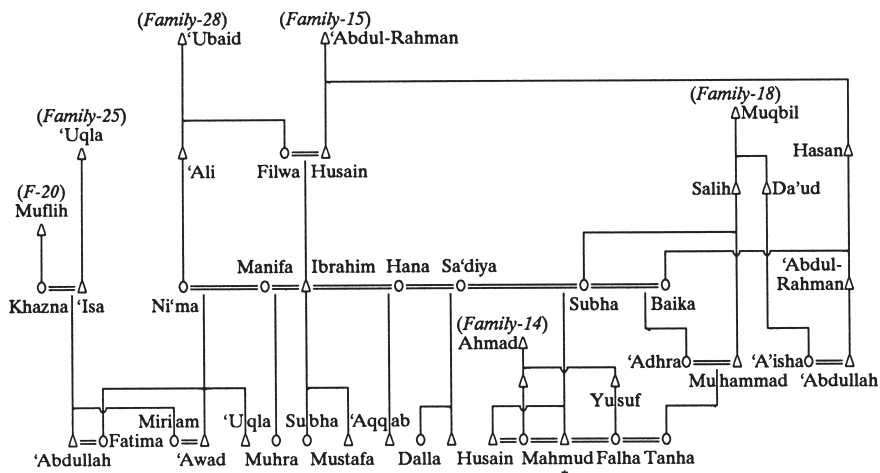
When Mahmud al-Ibrahim received us in June 1992, he was an impressive figure, a man of 89, tall, with a sense of humour and a piercing glance. He was living with his third wife in a simple cement house that commanded a splendid view over the outer fields of the village across to Palestine.

Mahmud's grandfather Husain appears to have been older than his brother Hasan, Husain's only son Ibrahim having been born in 1864 ten years before any of Hasan's sons. At the time of *tapu* registration Ibrahim was already 20 years

old and, although the 12 *qirat* were registered in the name of his father, family memory recalls an informal partition between father and son with each holding a *zalama* (6q). Although Ibrahim was to inherit all 12q of land, he and his sons specialized in breeding and trading of cattle and thoroughbred horses in the Jordan Valley; he knew well conditions in the *çiftlik* lands between Baisan and Tall al-Arba'in. Mahmud said that his father had owned two hundred head of cattle, which remained in the Ghaur under a herdsman named 'Ali 'al-Ghawarni' Muhammad al-Mufdi. But Ibrahim al-Husain's greater fame was to have had 14 thoroughbred horses. Horses were not owned in the manner of cows or sheep. While Ibrahim had fully owned a stallion 'Shain', his mares were owned in shares. The principle was that if there were two partners (*sharik*) the first foal went to the person who fed the mare (and the foal until 16 months of age) and the second foal to the co-sharer, after which the partnership (*shirka*) would be disbanded; similarly with three or four co-sharers. Pedigree in horses followed the mare in the legal tradition. Thus, Ibrahim's 14 horses entailed a skein of relations across the villages of the Ghaur and the Kura.³⁵

This successful network of relations is mirrored in Ibrahim's almost legendary marital history (Figure 12.4). His first marriage followed family paths: to Baika an inheriting daughter of his uncle Hasan who bore him a daughter 'Adhra in 1882.³⁶ A few years later he married Sa'diya, known as al-Dabbakhiya, from Kufr Abil who bore a son and a daughter Dalla; family legend has it that Sa'diya stole a pot of money from Hasan's house but they fetched her back on horseback whereupon she threw herself into a well while her relatives were there; she was fished out alive with a rope before nightfall and was divorced along with another wife on the spot.³⁷ The other wife at the time may have been the woman whose name neither Mahmud al-Ibrahim nor Ni'ma al-Muhammad could remember, but who was said to have had a *mahr* of an impossible size (6 *açhiya*), the beautiful (*masjuna*) married woman whom Ibrahim met, persuaded to leave her husband, and then married for forty *kis*.³⁸ Doubtless to calm the household, and in a move certainly not against his mother's wishes, Ibrahim was then to marry his mother's brother's daughter Ni'ma 'Ali 'Ubaid in a lasting marriage producing at least five children, three of whom survived their parents. Thereafter Ibrahim took as wife Manifa As'ad al-'Abdul-'Aziz of Rihaba whose only child Muhra was to marry a man in Baisan. A few years later Ibrahim was to marry Subha Salih al-Muqbil in what appears an exchange marriage with his eldest daughter 'Adhra marrying Subha's brother Muhammad Salih. This family marriage was also to last, with Subha bearing Mahmud and Husain (who was to die young). Ibrahim again remarried, taking Hana Salih al-Ahmad of Bait Idis (who bore him two sons). Thus in 1910 Ibrahim's household comprised 16 persons but was of limited complexity: his mother Filwa (aged 80), himself (aged 46), his wives Ni'ma (aged 41), Subha (aged 30), Manifa (aged 30) and Hana (aged 27) and their ten young children.³⁹

Mahmud did not have very clear memories of the workings of his father's household. This was for two reasons. First, in his youth and for many years after his father's death, Mahmud worked as a trader (*jallab*) in cattle largely in the



5-75	3-35	3-25	3-20		3-23	Holding number	5-72
2 1	1 1 ³ / ₄	2 ¹ / ₂ 9 ¹ / ₁₀ 1 ¹ / ₄	1 ¹⁹ / ₂₀ 1 ³ / ₄		3 ² / ₅	Share in qirat	1 ¹ / ₄ 2 ⁷ / ₁₀

Figure 12.4 The marriages of Ibrahim Husain 'Abdul-Rahman

Ghaur. Indeed when the Ottoman Empire fell he was already engaged in animal trading and so was down in Baisan.⁴⁰ Second, his father died when he was still a young man, and his mother was to remarry. Mahmud's first marriage was to his mother's brother's daughter Tanha Muhammad Salih al-Muqbil for a *mahr* of a cow, two *kail* of wheat and one-third in coin. The marriage was to last only a year and about the same time his mother Subha remarried 'Isa al-'Abdullah (family-14) for a *mahr* of 1/2 q of land and some olive trees.⁴¹ The subject was a source of pain to Mahmud al-Ibrahim even as an old man and so we do not know more of its causes. There was seemingly a general break between the houses of Salih al-Muqbil and Ibrahim al-Husain since later 'Adhra al-Ibrahim was also to return to live with her half-brother's sons under a maintenance agreement discussed below.

Mahmud al-Ibrahim was then to marry a second time to Falha Yusuf Ahmad Husain (b. 1902), with a *mahr* of seven *kis*, said to have been paid in the model manner as one-third animals, one-third wheat and one-third coin; she was to bear him five sons, of whom four lived, and three daughters. In the 1920s and 1930s Mahmud continued to work as a cattle trader. He farmed two *qirat* of his own land from his father but also cultivated five or six *qirat* of land of others since he had an ox team for ploughing. They had no olive trees to speak of and so purchased oil from Fara or 'Ajrun when they needed it, although later after the 1939 cadastre he was the first man of the village to plant olives on his holding in the former common fields. Before then they had cooked with *samna* from their cattle rather than with olive oil. They had also had a claim on a plot of private land which, according to Mahmud, they lost in a scam organized by the imam Abu Khudriya.

It was Falha who on her deathbed recommended to Mahmud that he marry her paternal cousin, the widow of his brother Husain.

Before we leave the children of Ibrahim and his many wives, we may briefly consider the devolution of his land. His son Mahmud reported that at Ibrahim's death his twelve *qirat* of land were distributed equally between his six surviving sons. According to the registers, by 1939 a total of 13½q of land were registered among the descendants of Ibrahim, in a distribution complicated by early death and the claims of women.

A first modification on this male model of devolution was posed by 'Adhra (daughter of Baika) who, together with her half-brothers 'Uqla and 'Awad, demanded that her ⅔ *qirat* inheritance be registered with their lands and removed from the hands of her other half-brothers, Mahmud, 'Aqqab and Mustafa. Given that 'Adhra was sole heir of Baika (as well as an heir of her father) the ⅔q appears a meagre settlement. But it was to assure 'Adhra's maintenance and her honourable burial when, apparently, all of 'Adhra's children had pre-deceased her and, perhaps as part of a more general falling out between the children of Ibrahim al-Husain and those of Salih al-Muqbil, she had returned at the age of 44 to live with her natal relatives. 'Adhra's maintenance agreement is particularly detailed:

She has given her part in her deceased father's estate in lands, shops, dwellings, water wells, threshing grounds, and olives to her brother 'Awad al-Ibrahim and his brother 'Uqla. On this basis every year he will dress her with a long dress, a head-cover, an embroidered skirt and [shoes?] (*bairama, malfa', shura wa-mashaya*) and give her all the provisions she needs of flour, cracked wheat, lentils, salt, onions, oil, ghee, milk, soap and suchlike: just as he provides to his own mother and wife so will he to her, and he shall give her all necessary assistance. 'Awad and his above-mentioned brother accepted this gift and have taken possession of all that she had of her father's estate. He pledges that he will provide her with all the said articles and that she will live in his place and that he will care for her in the manner mentioned. And when she dies, 'Awad and his brother will set aside her gold, prepare for her burial, and slaughter seven sheep in her name. And 'Adhra for her part likewise [undertakes that] if at the time of her death she has bracelets or money or suchlike then he ['Awad] is most entitled to take possession of them. None of her other brothers has the right to inherit anything of hers, neither of her own property nor of her father's inheritance. She has given all of her property to her brothers 'Awad and 'Uqla in a valid gift and they have taken possession of it. This occurred in the presence and with the agreement of both parties to these conditions. The accord and agreement are valid according to the *shar'*. And they empowered the imam, the headman and the council of elders of Kufr 'Awan [to ensure the implementation of this agreement] and those present swore that He is the best of witnesses.

4 Muharram 1345 [15 July 1926]
signed 'Adhra al-Ibrahim of Kufr 'Awan
witnesses

notables (*wujub*) Hasan al-Salim, Ibrahim al-'Ali
members of the council Muhammad al-Salih, 'Abdul-Rahman al-Hasan
mukhtar of Kufr 'Awan Muhammad al-'Ali
document writer Muhammad al-'Awad imam of Kufr 'Awan

If 'Adhra decided to transfer her land formally to her half-brothers, Muhra al-Ibrahim (daughter of Manifa) and Subha al-Ibrahim registered their land formally but then arranged for its cultivation jointly with that of their half-brother 'Uqla.⁴² Ni'ma al-Muhammad explained the award of land as follows: that Muhra's $\frac{1}{10}q$ resulted from her having been the only child of her mother Manifa (the principle of division across wives being observed in practice although with no real basis in law) and that Subha's $\frac{1}{4}q$ came from an agreement at the time of her exchange marriage to a man named Mahmud by which her brother Mustafa married a lady called Fatima, on the understanding that both women could obtain some land.⁴³ Lastly 'Awad al-Ibrahim's wife Miriam 'Isa al-'Uqla brought $1q$ registered in her own name to her husband's holding; this she had inherited from her mother Khazna al-Muflih.⁴⁴ Against this Fatima al-Ibrahim, who had married Miriam's brother 'Abdullah in an exchange marriage, also obtained $1q$ from her brothers and cultivated in a joint holding with her husband's $2q$ in another section of the village. If we take these transfers together, we find that women obtained considerably less than they were entitled to by the law of inheritance but they did so by links through women and through a combination of claims by marriage and inheritance in a manner reflecting the dynamics of practice and production quite as much as the law.

Lastly, Husain, the full brother of Mahmud, died without issue leaving his land (and later his widow) to pass to his brother; and 'Awad was to sell $\frac{1}{2}q$ to his brother 'Uqla in a transaction perhaps bound up with his obtaining $1q$ with his wife Miriam al-'Isa, thus leaving the children of Ibrahim with the following distribution in 1939: Fatima 1 , 'Awad $1\frac{3}{4}$ (including $\frac{1}{3}$ from his sister 'Adhra but not including $1q$ belonging to his wife Miriam), 'Uqla $2\frac{1}{2}$ (including $\frac{1}{3}$ from his sister 'Adhra), Muhra $\frac{1}{10}$, Subha $\frac{1}{4}$, Mustafa $1\frac{19}{20}$, 'Aqqab $1\frac{3}{4}$, and Mahmud $3\frac{2}{5}$, a total of $13\frac{1}{2}$ as against the 12 *qirats* that their father Ibrahim had held.

'Ali Qasim 'Awad al-Mustafa: spirituality and goat herding

'Ali Qasim, a man with an open, intelligent face and blue-grey eyes, had greeted us passing the other way on his donkey laden with grass when we first walked up the road to visit Kufr 'Awan in November 1991. On our coming to visit in June 1992 with his sister's son, he welcomed us with a poem on the value of moral reputation and the troubles encountered by the poor; we sat under the fig tree in front of his house, built outside the village on a plot overlooking Kufr Abil and Kharija, in the company of his wife, his son and many fair-haired, handsome grandchildren.

Calculating his date of birth from the fall of the Ottomans, 'Ali Qasim reckoned it as 1921. It was not his father Qasim but his grandfather Sheikh 'Awad

who had been present at the *tapu* in 1884. Sheikh 'Awad was a religious mystic (*mutasawwif*) but it had been 'Awad's father Mustafa whose spiritual powers were remembered, a true mystic who did not follow any one *tariqa* although he was close to the *Qadiriya*. Sheikh Mustafa had once been in Tibna with the Kura leader Yusuf al-Sharaida when he had a vision that his son 'Awad had fallen into a well in Kufr 'Awan; Yusuf al-Sharaida immediately dispatched horses to Kufr 'Awan where his men rescued 'Awad from the well. 'Ali Qasim's wife, who was from Khanzira, added that if Sheikh Mustafa threw a stone, it turned into sugar. As a *wali* (saint) with powers of healing, even after his death, his turban continued to cure the sick. His son 'Awad was a lesser mystic though he, too, possessed powers to cure illness.

In 1884 Sheikh 'Awad was registered with nine *qirat* of land in a joint holding with 'Abdul-'Aziz al-Mustafa of the Dawaghira; at the time of the *tapu* 'Awad's eldest son Muhammad would have been a young man capable of farming and just married. 'Awad's first wife was Falha Sa'd al-Ahmad (a father's sister of Ahmad Khalifa whom we met above). Falha bore him Muhammad and Ahmad, both of whom were to pre-decease their father, and a girl Fatima (b. 1869). His second wife was Sa'da Ahmad al-'Ariyan from Fara who bore Mahmud and 'Ali (twins b. 1874), Zahiya (b. 1879), Qasim (b. 1883), Mustafa (b. 1888), a second Fatima (b. 1889) and another daughter Shaikha. 'Awad's third marriage to Fandiya Hamd al-Ahmad renewed the alliance with the family of his first wife. Fandiya bore him five sons, the oldest Ibrahim born in 1888. 'Awad's fourth and last wife was a lady in Tubas across the valley in Palestine (not shown on Figure 12.5). 'Awad would tend his sheep until four in the afternoon, walk over to Tubas to spend the night, and return the following day.

Sheikh 'Awad thus left an entire small lineage behind – nine surviving sons and two surviving grandsons – but only 9q of land. Not surprisingly, in 1908 the division of 'Awad's land was effected only between his male heirs, excluding all daughters and wives, each male heir obtaining just under one *qirat*.⁴⁵ But inheritance through women and purchases of land allowed the sons of 'Awad to possess some 21q of land between them by 1939. In 1912 Muhammad 'Isa 'Abdul-Qadir, who was married to 'Awad's daughter Shaikha, sold three *qirat* of land to 'Awad's sons 'Ali, Mahmud and Qasim.⁴⁶ In 1923 Muhammad Sulaiman al-Fallah sold 1½q of land to Mahmud and Qasim.⁴⁷ And finally in 1932 the eight sons of Qasim and Mahmud bought a total of 2¼q from eight members of a family affiliated to the Sulaiman 'Abdul-Nabi and Salim al-Fallah Khashashna families in an elaborate transaction.⁴⁸ Thus all the indications are that the sons of 'Awad and Sa'da were doing well until the early 1930s during years when many other families suffered considerably.

Concerning the immediate family of 'Ali Qasim, his mother Muhra 'Uthman al-Shihab had been married in an exchange marriage with Qasim's sister Fatima marrying Muhra's brother Muhammad. Qasim's other full sister Zahiya married Musa Hamd al-Ahmad, their mother's co-wife's brother. Muhra bore Muhammad (b. 1908), 'Ali, Husain and Ni'ma, and his second wife Fatima Muhammad 'Id

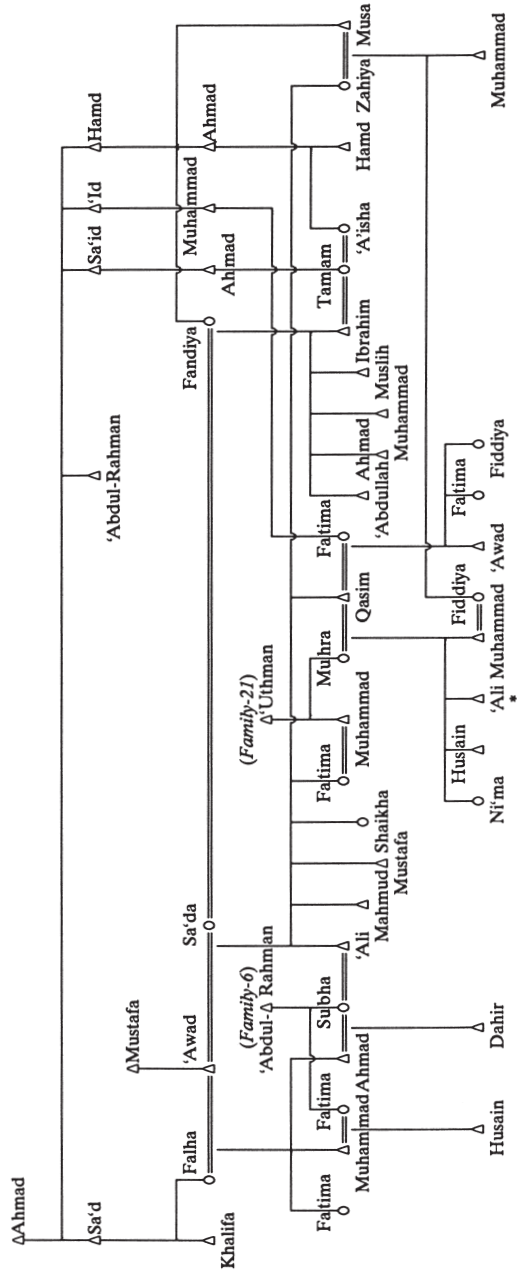


Figure 12.5 The children of Sheikh 'Awad

al-Ahmad bore 'Awad, Fatima and Fiddiya.⁴⁹ Qasim died aged 43 leaving his wives Muhra and Fatima, Muhammad aged 18, 'Ali aged 6 and the yet smaller children.⁵⁰ After Qasim's death, his second wife Fatima remarried Muhammad Musa al-Hamd al-Ahmad, his sister Zahiya's son, leaving 'Awad in the care of his step-mother Muhra and his half-brothers.⁵¹ The household when 'Ali was young was thus led by his mother and older brother. They were to live together almost ten years after his father Qasim's death until in 1935, when 'Ali was 14, a series of disasters struck the household.

'Ali's elder brother Muhammad's first wife Amira Hamud al-'Ali Hamud (family-5), none of whose children survived, died a few days after childbirth. And his second wife, Naufa Mahmud al-'Ali 'Abdul-Nabi also died in the same year, likewise within a couple of days of giving birth. Their mother Muhra died in the same year, so the three young men were left without a woman in the house. And, finally, in the same year all but 25 of a flock of 120 black-haired goats died of a disease general in the village at that time, there being no veterinary care. Naufa's mother Rishda then came to keep house for the three brothers.

After his two wives' early deaths Muhammad married a third wife called Fiddiya Musa al-Hamd al-Ahmad for 20 lira. 'Ali left school in 1938 and about a year later in 1939 when he was 18 he married his present wife Rishda Mahmud Bani Hamid of Khanzira, who was 13 at the time. About this marriage, 'Ali said that he had been shy to marry and that his brother Muhammad arranged his engagement. The document was written by a marriage specialist in Kufr Abil called Sheikh Khalid al-Hami, but this document was lost.⁵² Rishda's *mahr muqaddam* was 31 lira, which was mostly paid in animals, whereas the delayed dower (*mahr mu'ajjal*) was fixed at only one lira, which raised a laugh that divorce had been so cheap (although, it was emphasized, rare).⁵³

As for the household economy, 'Ali Qasim recalled that the three brothers inherited four *qirat* of land.⁵⁴ They had only one plough team (*faddan*) and no milk-cows, all the milk products for the family coming from the goats. Muhammad was responsible for the house ('*qa'im 'ala-'l-bait*'), which lay on the hill just down from the village core. Their land was usually given out to ploughmen from the village, who changed from year to year and were paid in different ways. They had two olive trees within the village site; and they raised chickens. 'Ali spent much of his time living away from the village (*mu'azzib*) herding in the area facing Sartaba; sometimes cooked food would be brought him from the house; he would play the reed flute (*mijwiz* or *naya*) which, 'Ali Qasim remarked, animals would recognize and could therefore be used in their training. One night he was by himself, as usual without a light, and lying playing the flute, he thought to get a drink of water (though he had drunk tea earlier and considers his desire unnecessary), so he went up to his skin of water and was bitten by a snake. He kept on vomiting, his leg became swollen and red, and he lay there throughout the night. At daylight he couldn't walk at all but dragged himself under the shade of a tree. There was nothing the other herders could do about it. He was in the region of *abu 'l-khass*, north of Sartaba, across *wadi al-mulawi*. He spent two

weeks under the tree, and eventually his brother came and got him to ride home on a donkey. It was another twenty days before he recovered. This happened the year before he was engaged to his wife Rishda Mahmud.

'Ali Qasim limited his flock to what one person could manage – with his wife – about a hundred head, maximum 120. But this figure assumed that herding did not require moving from place to place through cultivated areas, which is the pattern nowadays and requires closer supervision. Sartaba was a good herding place because there was always water available from the springs below at Tabaqat Fahl. Sometimes he would sell his goats at Baisan but more often to a dealer (*jallab*). The season for selling was in the spring, particularly May, when the young male goats (*jaddi*) would be sold. In comparison with non-herders his family ate meat more frequently. After the disaster in 1935 it took two or three years to build up the flock. The tax on herds used to be five *qurush* per head, which would be collected by the tax collector (*tabsildar*). Every year one had to report the number of goats, and mounted policemen (*fursan*) would come to check the count.

Kull sarabat yaum tayasat sinna (every day a herdsman, a year of thick-headedness) he said jokingly.⁵⁵ We asked how animals were rendered so disciplined (*alif*). He said there were several ways: feeding animals by hand; selecting the two best goats and putting bells on their necks in order to warn snakes of their approach and the herder of thieves or jackals (*dhib*) at night, and to serve as a guide to other goats of the herd. Sometimes he would give his favourite goat water to drink from his own water-skin. He sold about 60 kids a year; he was also selling clarified butter (*samna*) in Baisan. As the domestic economy was so specialized – they never felt the need to buy olive oil, relying on *samna* instead – we asked whether the inside of their house was constructed any differently from others. 'Ali Qasim responded indirectly, noting that his wife had spent much of the time down at Sartaba with him and that she did the milking and all the preparation of the clarified butter.⁵⁶ When *samna* was ready it would be put in a very carefully tanned skin, from which all smell had been eliminated and the skin had been impregnated with herbs. No cheese was made except for domestic consumption, using fig leaves instead of rennet, though 'Ali knew how to get rennet from the stomach of a tiny lamb or kid that had died.

Muhammad died in 1967, at which point his widow and children divided up the land, until then joint between the two brothers. After the land had been divided 'Ali Qasim planted trees on his portion. While the trees were growing he would plant watermelon on the ground but later it was just trees, a mixture of fruit and olives. The government closed Sartaba to herding in 1978; by then 'Ali Qasim had built his house outside the village site and had given up herding.

Yumna Mustafa Nimr al-Muflih: a farming family

We began this set of family histories with Husna Salih Hamdan who belonged to a modest farming family without an elaborate network of marriage exchanges into powerful families of the village. By contrast, Yumna Mustafa Nimr, with whom we close this chapter, came from a larger and more prominent family of a

different section of the village. Comparing in this way the families to which the two women belong should not lead us to forget just how egalitarian the basic distribution of shares of land had been in 1884. At that first registration, just as Husna's father Salih and her husband's grandfather Qasim had both held six *qirat* (one *zalama*), so too had Yumna's grandfather and her husband's father. Yumna's grandfather Nimr was one of four or five brothers, of two (or perhaps three) mothers, to whom was closely interrelated another family (that of 'Abdullah Salih with six *qirat* of land).⁵⁷ In 1884 Nimr and three of his brothers were jointly registered as holding a full share (24 *qirat*) of land; as individuals they held no more than did Husna's or Ni'ma's ascendants but collectively the family had greater presence.⁵⁸ Both Nimr and his brother 'Abdullah were young at the time, Nimr 20 and 'Abdullah probably not yet married.⁵⁹ (See Figure 12.6.)

Thus, it was more in numbers (and in the marriage networks that such numbers allow) than in land per adult male that the family to which Yumna belonged might be distinguished from that of Husna's ascendants. To return to the family itself, the 1884 *tapu* registration reveals a complex structure. The oldest figure, Musa al-Muflih, perhaps a half-brother of Nimr or someone who took on the family name by association, is registered as owning a house but it is his son 'Ali whose name appears against all the 15 *qirat* of family land.⁶⁰ 'Ali's younger brother Ahmad was only about nine years of age when the registration was carried out and so his share was apparently put in the name of his elder brother.⁶¹ Nimr's two half-brothers by his father's elder wife Tufaha, Muhammad aged 34 in 1884 and Mahmud aged 33, had their own separate houses; but another two houses were given in the name of the father Muflih.⁶² These two houses, as well as Muflih's 15 olive trees and the plot on which they stood, were registered in the names of Nimr and 'Abdullah in 1889, presumably after Muflih had died.⁶³ But with the plough land it was Muflih al-Musa's four sons who were registered, just as 'Ali was registered as shareholder in plough land, not his father Musa. Nimr's mother Mahra, aged 60 in 1884, was to survive until the grand age of 90.

In 1910 when the household census was conducted and Mahra was still alive, the household of Yumna's grandfather Nimr comprised 16 persons. It was one of the three largest households in this village where average household size was just under six persons. Nimr appears to have taken under his control the share of land that was originally the lot of his younger brother 'Abdullah who had died twenty years earlier.⁶⁴ In 1910 Nimr's household consisted of himself aged 46, his mother Mahra 86, his sister Fatima 40, and his wife Subha 39; his eldest son Ahmad 24 and Ahmad's wife 'A'isha 22 and two young daughters Khadra 3 and Daliya 1; Nimr's second son Mustafa 22 and his wife Fiddiya 20 and their infant daughter Yumna; Nimr's third son Muhammad 20 and wife 'A'isha 18 and their two small daughters Ni'ma 2 and Hamda, an infant in arms; and finally Nimr's fourth son Khalil aged 12. Subha was the mother of all four sons. With three young married sons the household thus promised to grow and eventually to divide between the sons and their children. In 1910 the young children of Nimr's sons were as yet all daughters but surely were to be followed by sons.

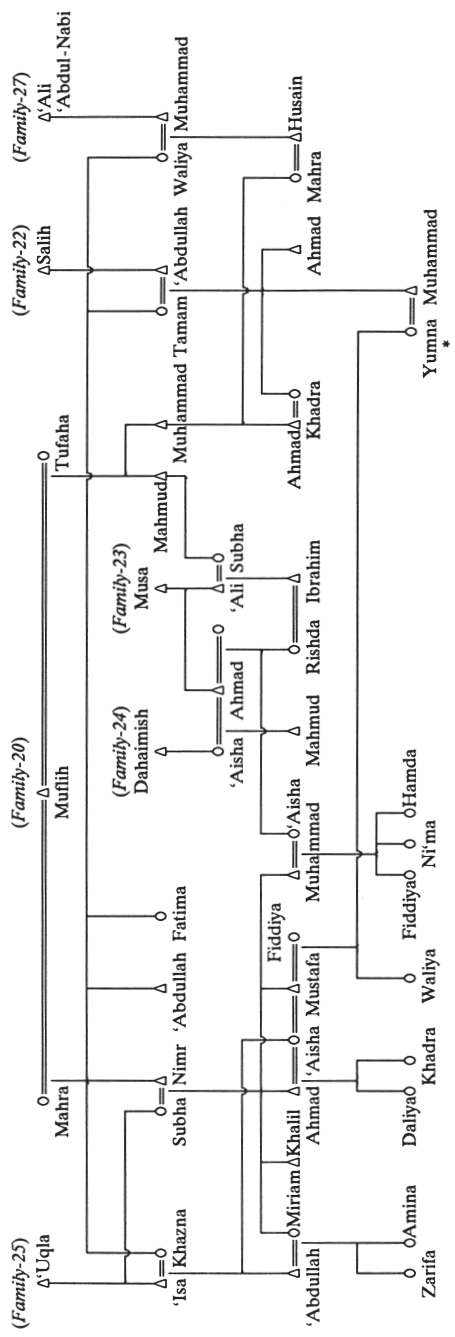


Figure 12.6 Family links of Yumna Mustafa Nimr al-Muflih

This however did not happen; the household did not divide. Mahra died five years later in 1915 followed in 1918 by her daughter Fatima. Ahmad al-Nimr was conscripted into the Ottoman army in the First World War never to return. Ahmad's daughter Khadra grew up in the household, her mother 'A'isha remarried her deceased husband's brother Mustafa, whose first wife Fiddiya had died young before the beginning of the World War leaving her small daughters, Yumna and Waliya. Nimr himself died in 1920 at the age of 56. In 1922, Mustafa al-Nimr died at the age of 34. And then three years later Muhammad al-Nimr died aged 35 leaving his wife 'A'isha and daughters Ni'ma and Fiddiya, his daughter Hamda having died many years earlier.

Thus, by 1925, of the four sons of Nimr only the youngest, Khalil, survived to head the household composed of his own wife and children and the two widows of three brothers and their young female children. Khalil was then not yet thirty. Yumna remembers that she was little over three when her mother died. Her father Mustafa having remarried, she went to live in her mother's brother's house. It was only when she became marriageable that Yumna returned to her uncle Khalil's house. Within two years she was married to a relative on her father's side, who was, more importantly, the son of her paternal great-aunt (FFZ) Tamam. Tamam, Yumna implied, lived as much in Khalil's household, where she would have been the most senior woman, as in her marital house during those years.

Yumna's *mahr* was written up in a document (*wasl al-mahr*) by the imam of the village. It consisted of a *qirat* of common land ('*qirat wataf*') and 12 old olive trees ('*irq zaitun rumi*') lying just below the village on the east in the field called *khallat Hammad*.⁶⁵ Yumna noted, however, that as a result of squabbling between the two sides at the time of the wedding only one sheep had been slaughtered for the guests; likewise it turned out that the '*urja*' headband decorated with gold coins was but a loan.⁶⁶

The household into which Yumna married was small, comprising her husband Muhammad and his mother Tamam. Muhammad's brother Ahmad had gone to serve in the Ottoman army during the First World War and like Ahmad al-Nimr never returned. His sister Khadra had married Nimr's half-brother Muhammad's son Ahmad several years earlier.

The household farmed some five *qirat* of land of their own with two working oxen;⁶⁷ besides the oxen, they had two milk-cows and many chickens but no sheep or goats. Yumna recalled that all she ever did in farming was to take food out to her husband in the fields and only with summer crops drill-sown in rows, rather than broadcast, did she or her mother-in-law help her husband with the cultivation.

The house into which Yumna had married was still standing in 1992, on one side of the compound where the modern house in which we were sitting had been built. It was composed of one very large room, the back part consisting of a raised platform about a metre from the floor. The whole structure had three cross-arches running back to front, between which had been laid branches supporting the mud roof. Across the back wall was a double semi-enclosed whitewashed ledge,

with almond-shaped openings, built into the plaster, in which had been stored small jars, glasses and suchlike. On all sides there had been storage bins, again built into the structure, with holes at the bottom to release the grain. There was also a much smaller storage container on the right-hand edge of the platform, jutting out of the wall, in which sesame seeds had been stored. On the left-hand wall nearest the entrance was a big storage bin for wheat, constructed against the arch, underneath which was a slightly lower area for animals, about 2½ metres deep and 4 across. At the back on the left was a further storage container for barley. In the middle there was yet another storage bin in front of which juttied out the smaller storage container for sesame. Then on the near right there was a ledge higher up, rather like the one across the back of the house on which small articles had been placed but on this one stood pigeons. Underneath this was an area for grinding. Cooking had apparently been done outside in the compound, though the timber in the roof looked black with either smoke or age.

This had been a house where persons slept on the raised platform surrounded by storage bins of grain. In good weather animals were kept outside in the compound but in cold, inclement weather they too were admitted to the lower section of the house. Yumna did not herself grind the grain: like most women in the village she took her grain to the water-powered mills in wadi al-Yabis, which continued to function until the 1940s when motorized mills were introduced to the village.

Yumna claimed that in a good year one measure of wheat could yield twenty, in both *dar* and *'araqib* fields. The nearer fields, the *dar*, were planted with both winter and summer crops. The winter crops were wheat, barley (only for animals) and lentils. Of summer crops Yumna mentioned white sorghum and sesame, the latter being primarily a cash crop, and also a few vegetables: hairy cucumber (*faqqus*), onions and a little garlic. They had made several kinds of bread not only from wheat but also from sorghum.⁶⁸

Yumna's *mahr*, both the land and the trees, together with the document, passed to her uncle Khalil al-Nimr at her marriage. Much later on, after she had had children,⁶⁹ Yumna went to the governor (*hakim*) in 'Ajlun to plead for a source of livelihood (*rizaq bi-yadi-ha*). Effectively this made it known that she and her husband were preparing to go to court. So there was then a meeting of the headmen of the village (*jalsa* of the *shuyukh*) where Khalil granted her the twelve olive trees but kept the part in the common land (*watat*). And finally – at the irony of which the women laughed loudly – in the Mandate cadastre of 1939, her twelve trees were registered along with her husband's three olive trees in his name.

Epilogue

This book grew out of engagement with a particular place: discussions with our landlord of 1986/87 about the history of his natal village Hawwara, work with students on their field projects, and visits to the Irbid land record office from 1988. Behind our explorations lay two concerns. First was an awareness that whereas agrarian and property relations had been central to the historiography of nineteenth-century Western Europe, South Asia and Russia, that of the Arab East remained dominated by urban and political history. Second was a sense that the political sociology dear to the British Mandate and the Hashemite Kingdom, wherein tribe and religion form the constituent categories of society, fitted rather poorly the society of north Jordan we were coming to know.

We began to explore the Ottoman records in the town of Irbid, where one of us was employed in the local university: the *tapu* records (1876–1939) in the land registry, the *nüfus* lists (1910) in the civil registry, the registers (1918–30s) in the civil court, and later in Amman the records of the Islamic court (1910–40) and cadastral records (1933–40). (A visit to the Irbid tax registry produced nothing, but in the later 1990s Ayman al-Sharayda was to find and copy tax registers from the same office.) We divided labour, one copying records by hand, the other analysing the material to reconstruct histories. Later we interviewed older residents in four villages. This local history belonged to a wider history of law and administration which we then sought to understand.

Questions about the character of Ottoman legal reform demanded an understanding of the legal order itself. Prior to the nineteenth century, Hanafi jurisprudence had been the locus of theoretical debate concerning fiscal (*‘ushr wa-kharaj*) and land (*aradi*) regimes. Authoritative readings by the sheikh-ul-Islam were not uncontested, even in the capital (see Chapter 2). Contestation was not simply a product of the existence of other law schools, Shafi‘i, Hanbali and Maliki, alongside the official Hanafi, but also of an historical memory built into the structure of juridical reference itself. Ottoman Hanafi jurisprudence had inherited a clear model of individual property in land (*mulk*) where the owner enjoyed freedom to dispose of land through commercial exchange. Nevertheless, it proved possible to develop hierarchical models of right within a doctrine of community/state ownership of land. Hanafi jurisprudence also possessed concepts of office (*wazifa*) deriving from the offices of the judge and the manager of *waqf* property which became abstracted in the Ottoman period to offices of the state more generally. The distinction between office and property was never entirely erased. Hence administrative rules, whereby in the sixteenth century the cultivator’s freedom of transaction was restricted or in the seventeenth and

eighteenth centuries the commercial transaction of offices (treating office as property) was permitted, could be challenged within the juridical tradition. This was all the more so in provinces where the transmission of readings delivered by the sheikh-ul-Islam in Turkish was not easily institutionalized.

The survey (Chapters 2–4) of doctrinal change between the sixteenth and the nineteenth centuries made clear that the rules promulgated in 1847, 1858 and 1871 formed readings within an evolving legal tradition. Hanafi jurisprudence had long responded to politico-economic change by invoking conditioning circumstances: necessity (*darura*), social interest (*maslaha*), custom (*‘urf*) comprising both the practice of historical eras (*‘urf ‘amm*) and of particular social groups (*‘urf khass*, extensible to administrative practice, whence the term *hakim al-‘urf*) and, less commonly, reason of state (*nizam-ı memleket*) identified with the *kanun* or administrative law.

The book opened with the observation that an earlier generation of scholarship on the Land Code of 1858 had been poised between two visions. The first, ‘political’, vision was of an Ottoman state reasserting central control and hence adopting a highly restricted form of private property. The second, more ‘economic’, vision saw the Land Code as the legal expression of a prior development of private property in land. The reading developed here has sought to document legal change itself. The law mediates changes that are simultaneously political and economic. When in the eighteenth century offices of tax collection came to be treated as commercially calculable properties, the former constraints on the cultivator’s legal person also became problematical; if office itself was to be conceived in monetary (‘property’) terms, how much more so the cultivator’s ‘quasi-office’, his taxable estate of production? In Chapter 3 we noted that the commercialization of government corresponded to greater auto-governance in society. In the agrarian sector this took the form of a village ‘estate of administration’ that did not correspond to earlier constructions of the cultivator and his lot as the first-level unit in the Ottoman system of rule. The administrative regime dealt with the institutions of the village as an issue of custom or of leadership in the form of the village sheikh. Divisions internal to the village could be recognized through the category *halit ve şerik*, as particular claims not general institutions. Nevertheless, that legal category did acknowledge the structuring of rights within a village.

Against this background what kind of a reform did the nineteenth-century Ottoman state adopt? And in what basic ways did it differ from comparable cases – the reforms of Tsarist Russia or the British Raj in North India? Ottoman legal constraints on peasant movement, which never enjoyed uncontested legitimacy in Islamic legal tradition, came to an end a good century before Russian emancipation.¹ Moreover, true to the long tradition sketched in Chapters 2 and 3, the nineteenth-century Ottoman state chose to individualize right to agricultural land and to restrict village management to a category of land (*metruke* in the 1858 law) and offices (guards, headmen) for village services. The previous legal basis for the recognition of internal right-holding groups (*halit ve şerik*) was

simultaneously eliminated. By contrast, British administration in North India, imbued with the mission of introducing private property in the corporate society of the East, abstracted a model of a 'village community' of co-parceners and drew up little constitutions for each village signed by both parties.² But while the Raj rigorously mapped and objectified both sides of the relation of property, the Ottomans left to the subject (and effectively to the estate of administration of the village) the definition of the object. Ottoman administration did not detach the object, 'land', to which individual rights were registered, from the social forms of its mobilization in production. Thus, in the region studied, systems of production entailing networks beyond the individual owner continued, albeit modified by the freezing of the quantum of right, its assignment to individuals, and subsequent devolution on the model of inheritance. While individual title was fixed, the continuing relation of the subject to the state through taxation could be drawn upon to provide another template of entitlement when the title records became greatly divorced from facts on the ground (see Chapter 9).

This nineteenth-century Ottoman settlement was to be overridden, just before the end of the empire, by a full-blown cadastral law. That a state should invest such enormous resources into the definition of the objects of ownership through a cadastre is not as self-evident as it might seem, the nineteenth-century Ottoman solution having in no way constrained growth in production or population.³ Why then did the Ottomans finally adopt this step in a break with the nineteenth-century agrarian settlement? It is noteworthy in this regard that in spite of heavy levels of peasant borrowing in the early twentieth century, especially in the plains villages, relatively little land in the region was actually transferred to trading interests. Even in commercially oriented Hawwara the purchases by the Baibars traders were all done in conjunction with village cultivators. So long as the social networks governing production on land (the object of ownership) were not broken, then commercial capital thought twice before translating its real power into ownership of land. One Irbid trader left us his reflections on the dilemma. Facing fearfully the prospect of managing land in Bait Ra's in 1936, he asked that his plots be consolidated into one or two holdings within those of the Bani Ta'an *hamula*. He had bad relations with the Hamuri side of the village and, not being of or in the village, stated that he could protect neither his oxen nor his crops.⁴ A cadastre, where the state shatters the object of ownership into pieces (drawn on maps and 'struck in steel in the ground' as the villagers put it) promises to realize the dream of commercial capital for objects cut out – as much as possible – from the social networks of agricultural production.

The Ottoman reforms proceeded by building an increasingly unified status of property-owning subject, wherein neither gender nor religion was relevant to accession or devolution. Subjects belonged to villages and towns, but as property owners their legal personality was not that of a gendered man or woman nor of religious confession or other social identification ('tribe'). It is with the British Mandate that society in the region of 'Ajlun was to be cast as a collection of tribes, the term having been a category in Ottoman administration only for

bedouin groups. Thus, in the land registration of the Bani Hasan, exceptionally individuals were ordered under *aşiret*, although there too the owners were listed as individuals in what announced a basic change in their political relations with the state.

In late nineteenth-century Ottoman administration, religious identifications were central to institutions of cult and to household registration in the civil registry. But in the basic spheres of property and taxation, the state recognized no such labels. In our analysis we have sought to understand the patterns of formation of local social groups as arising from subjects combining in the work of making persons and agricultural wealth. It is on these grounds that we have argued that the object of right in agricultural land differed fundamentally between the two social systems of production, the plains and the hill villages, analysed in Chapters 9–12. Thereby, we have elaborated a comparative historical sociology distinct from European political constructions of Arabs (and Others) as congeries of tribes and sects.

Notes

1 Introduction

1 The sale is found in DLS.AT.Yoklama, 1292-97AM, p. 122. Exceptionally the two notices are affixed to the page of the register.

2 See the review of this literature in Hann (ed.), *Property Relations* (1998).

3 In this political reading, the Code was coherent with earlier Ottoman *kanun-names* in seeking to protect the tax basis of the state through securing minimal rights of cultivators. This was the standard interpretation through the 1970s. See Warriner, *Land and Poverty in the Middle East* (1948), pp. 15-18; Davison, *Reform in the Ottoman Empire 1856-1876* (1963); Karpat, 'The land regime, social structure and modernization', in Polk and Chambers (eds), *Beginnings of Modernization of the Middle East* (1968), pp. 69-90; and Baer, 'The evolution of private landownership in Egypt and the Fertile Crescent', in Issawi (ed.), *The Economic History of the Middle East, 1800-1914* (1966), pp. 80-90. Baer argued that Ottoman legal reform worked towards the dissolution of the tribal and village community through the reassertion of state control over land but fell short of the absolute property of modernity.

More muted versions of the 'state-reassertion' thesis, emphasizing continuity with *kanun* and the defence of peasant right, can be found later in Gerber, *The Social Origins of the Modern Middle East* (1987) and Pamuk, *The Ottoman Empire and European Capitalism* (1987), p. 87.

4 In a more 'economic' reading this school interpreted the law as an expression of change wrought at the level of relations of production. See al-Hanna, *al-Qadiya al-zira'iya wa-'l-haraka al-falahiya fi Suriya wa-Lubnan* (1975). In 'The application of the 1858 Land Code in Greater Syria',

in Khalidi (ed.), *Land Tenure and Social Transformation in the Middle East* (1984), p. 414, Sluglett and Farouk-Sluglett argued that 'the real meaning' of the Land Code '... must be seen as a revenue-raising device, to take advantage of the evident demand for the formalisation of "property rights", however defined'. Abou-El-Haj, *Formation of the Modern State* (1991) extended the argument for the development of private property during the seventeenth and eighteenth centuries to the whole of the empire. See the parallel argument for Egypt advanced by Cuno, 'The origins of private ownership of land in Egypt: a reappraisal', *IJMES* xii (1980), pp. 245-75.

5 Quataert, 'The 1858 Land Law', in İnalçık (ed.), *An Economic and Social History of the Ottoman Empire* (1994), vol. 2, pp. 856-61, gives an overall reading of the Code coherent with the present study but with little detailed legal history.

6 Earlier scholarship agreed that whatever the nature of the Land Code, its application through *tapu* registration was a dismal failure. See Davison: *Reform* and Maoz, *Ottoman Reform in Syria and Palestine* (Oxford, 1968). Warriner: *Land*, pp. 17-18, notes: 'No general registration was ever carried out. At the same time as the Ottoman Government introduced compulsory registration of title in 1858, it also carried out a census. While in theory this census established title to individual holdings of land by registering a claim under the name of the occupying owner, in fact the titles as they were then established did not correspond at all to reality.'

Stein, *The Land Question in Palestine, 1917-1939* (1984), p. 23 writes: 'Both registers together were a patchwork of incomplete, inaccurate, and unfaithful representations of the true nature of

landholdings in Ottoman Palestine.’ There is no evidence that Stein examined the registers.

7 The richest commentary on the Land Code is that of Eşref, *Külliyyat-ı Şerh-i Kanun-i Arazi* (1897). But there are other commentaries: Hüsnü, *Arazi Kanunnamesi Şerhi* (1892–93); Ziya’l-Din, *Mükemmil ve Muvazzıh Şerh-i Kanun-i Arazi* (1893–94); Haydar, *Şerh-i Cedid-i Kanun-i Arazi* (1893–94); Atef Bey, *Arazi Kanunname-i Hümayunu Şerhi* (1901); and finally Karakoç, *Tahşiyeli Arazi Kanunnamesi* (1921–22). For these authors the Land Code formed part of a living legal tradition.

8 This is true not only of Ömer Lütfi Barkan in his *Türkiye’de Toprak Meselesi* (1980) but also of a legal scholar such as Halil Cin, *Mirî Arazi ve Bu Arazinin Özel Mülkiyete Dönüşümü* (1987) and the revisionist historian Huricihan İslamoğlu-İnan, *State and Peasant in the Ottoman Empire* (1994) and ‘Property as a contested domain’, in Owen (ed.), *New Perspectives on Property and Land in the Middle East* (2000), pp. 3–61. Mehmet Genç marked a departure, followed increasingly today by younger scholars, in his *Osmanlı İmparatorluğu’nda Devlet ve Ekonomi* (2000).

9 This too is changing, as Turkish intellectuals re-examine Islamic jurisprudence and seek alternative frameworks to Atatürkism. See the works of Kaşıkçı, *İslam ve Osmanlı Hukukunda Mecelle* (1997) and of Akarlı, as in his ‘Gedik: A bundle of rights and obligations for Istanbul artisans and traders, 1750–1840’, in Pottage and Mundy (eds), *Law, Anthropology, and the Constitution of the Social* (2004), pp. 166–200.

10 See the remarks on Ottoman history in Ahmad, ‘Post-colonialism: what’s in a name?’, in de la Campa *et al.* (eds), *Late Imperial Culture* (1995), p. 23.

11 Foucault, ‘Governmentality’, in Burchell *et al.* (eds), *The Foucault Effect* (1991), pp. 87–104.

12 DLS.AT. *Yoklama*, 1295–98, p. 205.

13 *Düstur*, vol. 1, p. 167, clause 8 of the Land Code reads: ‘All the lands of a village or town may not be registered as a single entry in the name of the corporation of all its inhabitants, nor in the name of one, two or three persons as their representatives. Rather, lands must be registered in the name of every individual of the village separately and *tapu* documents given to each one stating clearly the manner of usufructuary possession.’ [our translation]

14 See *Düstur*, vol. 1, p. 200, *Tapu Nizamnamesi*, clause 3, which requires specification of village and district, boundaries of land, seed sown, and size of land in *dönüms*. In fact specification in seed was uncommon in the ‘Ajlun district, but the quantum of *dönüms* commonly reflected thumbnail measures of land by plough team, see Mundy, ‘Shareholders and the State’, in Philipp (ed.), *The Syrian Land in the 18th and 19th Centuries* (1992), p. 220.

15 See Chapter 6 for the earlier opposition to Na’il’s acquisition of land.

16 Yusuf al-Suwaidan disappears from view in every documentary source after his appearance in the first land registration and no one in Hawwara could remember him. Suwaidan is an established Christian family in the nearby settlement of al-Husn; perhaps Yusuf al-Suwaidan was from this group.

17 Terms that are Arabic in origin and meaningful also to the villagers are spelt in Arabic transcription when issues concern villagers in general and not translation from documents composed in Turkish.

18 See Lane, *An Arabic–English Lexicon* (1865), vol. 2, pp. 788–9.

19 The terms, conjoined, formed a recognized legal concept related to *miri* land long before the Land Code. Atef Bey: *Arazi*, p. 5, notes that in older law if a person died without male heirs, and relatives who could claim succession on payment of *tapu* did not take up their right, the following persons, in rank order, could

claim the land: (1) those who owned trees or buildings as *mülk* on the *miri* land, (2) the *halit ve şerik*, and (3) needy persons of the same village.

The terms appear in this context from at least the mid-seventeenth century, not only in the context of succession but also of reversing alienation within a period of five years. Bahaî Efendi – presumably Mehmed Bahaî Efendi who served twice as sheikh-ul-Islam in the mid-seventeenth century, see Kahraman *et al.* (eds), *İlmiyye Salnamesi* (1998), pp. 375–7 – judged: ‘Mesele: arazi-i miriyyede şufa caiz olur mu? Elcevap: Olmaz. Ama şerik ve halit varken talep ettiği surette ahare verilmemek ile memurdur.’ The fetwa appears among those appended to *Zahir ül-Kudat*, attributed to Pir Mehmed al-Üskübî (d. 1612) in Akgündüz (ed.), *Osmanlı Kanunnameleri ve Hukuki Tablilleri* (1996), vol. 9, p. 446. In a late *kanun* dated to the era of Ahmet III (SK, Esat Efendi 852, fol. 87a), fields are described as *müşâ’ ve müşterek* by claimants, who, absent at the time of alienation of land, describe themselves as ‘*halit ve şerikleriz*’; they are recognized to have a right under the *şer’* to reverse the alienation to a third party within five years. The fetwa cited in the *kanun* is attributed to al-sayyid al-faqir ‘Ali, perhaps sheikh-ul-Islam Paşmakçazade Ali Efendi who served at the very beginning of the eighteenth century (*İlmiyye Salnamesi*, p. 403). See also sheikh-ul-Islam Abdürrahim (d. 1716), *Fetava*, BL.OR.12463, fols 506a–507b, and Ibn ‘Abidin who gives a parallel fetwa in *al-‘Uqud al-durriya fi tanqih al-Fatawa al-hamidiya* (1883), vol. 2, pp. 190–91. ‘Ubaidu’llah ‘Abd al-Ghani, *al-Nur al-badi fi ahkam al-aradi*, dated 1796, ZAL.4400, fol. 148a, writes of land as *khalit mushtarak* in a fetwa he ascribes to Ebussuud himself: ‘*afta maula-na al-‘allama shaikh al-islam Abu ‘l-Su‘ud anna la shuf’a fi ‘l-aradi al-amiriya illa idha kanat khalit mushtarak fa-inna ‘l-sharik ya’khubdu-ha bi-haqq al-tabu au huwa aula min al-ajnabi*’.

In none of the above is a joint *temessük* or *tapu* document mentioned as a condition for the claim to be recognized.

20 The relevant part of the *Mecelle* was published in Turkish in 1871, clause 954. The *Mecelle* (*Abkam-ı adliye mecelleleri*) represents a codification (i.e. clauses are numbered and juridical argument is minimal) of major civil contracts according to the Hanafi school of jurisprudence.

21 The most careful of commentators on the Land Code, Eşref: *Külliyat*, p. 293, notes that the phrase *halit ve şerik* is explicitly used to distinguish the right to challenge an alienation of *miri* land (*rüçhan*) from the right of pre-emption (*şufa*) in *mülk* property.

22 See the discussion of clauses 945 and 1045 of the *Mecelle* in Eşref: *Külliyat*, p. 291.

23 Eşref is disturbed by this reading since he points out that grammatically the ‘*ve*’ preceding *şerik* would imply that the second term *şerik* qualifies or amplifies the meaning of *halit*. But he too opts for the accepted reading that the term is effectively otiose (*Külliyat*, p. 291). A *halit* has no independent power to reverse alienation: ‘*Binaenaleyh yalnız halit olan kimseye hakk-ı rüçhani gayr-i caizdir*’ (*Külliyat*, p. 295).

24 He is described today as a literate man who studied in Istanbul and knew Turkish. Na’il is never designated as sheikh in the *tapu* registers where the term invariably denotes a man of some religious renown; nor does the family today claim a pedigree of religious learning. In 1884–88 when he serves on the newly formed Municipal Council of Irbid, he is suitably termed efendi: *Salname-i Suriye* xvii (1302AH), p. 185; xviii (1303AH), p. 173; xix (1304AH), p. 193; and xx (1305AH), p. 123. He also serves on an Educational Commission established in 1894–95 (*Salname-i Suriye* xxvii, (1312–13AH), p. 211) and on the Board of the Agricultural Credit Bank as late as 1900: *Suriye*, no. 1785, 26 Teşrinievvel 1316AM. Abu ‘l-Sha’r, *Irbid*

wa-jiwaru-ha (1995), p. 216, states that in 1892–93 he serves as appraiser on the Property Tax Commission, but our notes on *Salname* xxv (1310–11AH), pp. 227–8, do not include his name. Abu 'l-Sha'r: *Ibid*, p. 211, notes on the basis of oral history that Na'il was an employee in the *tapu*. We have no information to support this judgement but presumably Na'il was close to such circles.

25 For the composition of this judicial council as reported in the *Salname-i Suriye*, see Abu 'l-Sha'r: *Ibid*, pp. 239–41. For the principles of selection of the members of the judicial councils of the districts, see the Instructions concerning the Election to Councils and Tribunals of 1875 translated in Young, *Corps de Droit Ottoman* (1905–06), vol. 1, pp. 45–7.

2 Jurisprudential debate in the sixteenth century

1 See İnalçık in *El2* on *kanun* and *kanunname* and Akgündüz: *Kanunnameler*, vol. 1, 'Osmanlı Hukukuna Giriş', pp. 5–303.

Drafted by senior administrators and issued in the name of the sultan, *kanunnames* governed issues of taxation, penal law, and civil and military administration. The character of *kanuns* changed over the centuries from laws ordering the tax administration of conquered provinces and often containing penal material as well as matters of tax organization, to *kanunnames* applicable to all the empire, concerned with one particular branch of administrative law, be it the rank and honours of civil and religious officials, land, taxation or penal law. Provincial and imperial *kanunnames* continued to be composed until the early eighteenth century. Nineteenth-century legal reform, known as the *Tanzimat*, was to build upon this understanding of the centrality of administrative law and of state authority in authorizing particular interpretations of Islamic jurisprudence.

Concerning penal law and *siyaset*, see

Heyd, *Studies in Old Ottoman Criminal Law* (1973).

2 For the first, see Jackson, *Islamic Law and the State* (1996), who argues that the official adoption of a legal school by the state was a Mamluk innovation; for the second, see Zilfi, *The Politics of Piety* (1988).

3 This procedure was formally stated as a principle in the introduction to the *Maruzat* attributed to the sheikh-ul-Islam Ebussuud who served (1545–74) under both Süleyman I and Selim II, see Paul Horster (ed.), *Zur Anwendung des islamischen Rechts im 16. Jahrhundert* (1935), p. 23.

4 Kahraman *et al.* (eds): *İlmiyye Salnamesi*, p. 289–90. This 'Mamluk' legacy is of importance not only as background to the doctrinal choices of the Ottoman muftis of the sixteenth century but also as corpus of reference for Syrian jurists until the middle of the nineteenth century.

5 See the survey in Johansen, *The Islamic Law on Land Tax and Rent* (1988), pp. 7–11. For a clear statement of mature pre-Mamluk Hanafi doctrine, see al-Sarakhsi, *Kitab al-Mabsut* (1986), vol. 3, pp. 6 and 47–8 and vol. 10, pp. 77–84 where (p. 79) *kharaj* is defined as an impost on land (*mu'nat al-ard*).

6 See al-Sarakhsi: *Kitab al-Mabsut*, vol. 10, p. 83.

7 See Akgündüz: *Kanunnameler*, vol. 1, pp. 135–9. This was the developed doctrine. For a sense of the complexity of earlier debate about the status of land ownership see Ziaul-Haque, *Landlord and Peasant in Early Islam* (1977), pp. 194–218.

8 There may have been a second Central Asian genealogy for this doctrine, but the different threads of citation have not been sufficiently studied to judge. See, for example, the text of Birgili, pp. 17–18 above, where he cites *al-Fatawa al-tartarkhaniya*, not Ibn Humam, for the origins of the doctrine.

9 See the translation from *Sharh al-Fath al-qadir* in Johansen: *The Islamic Law*, pp. 84–5.

10 Nor did this pass without opposition: see al-Farazi (d. 690AH/1291), *Kitab fi ard al-Sham wa-'l-kalam 'alay-ha*, Maktabat al-Asad, Zahiriya collection (henceforth ZAL) 9080, fols 126–30.

11 Johansen: *The Islamic Law*, p. 84, translates *badal al-ijara* as ‘payment for tenure’ but for reasons made clear below, payment of rent is more precise, *badal* signifying either a lump sum or payment in lieu of rent.

12 Zain al-Din Qasim Qutlubugha (802–79AH), *Mas'alat ijarat al-iqta'*, Süleymaniye Kütüphanesi (henceforth SK) Laleli 951/4, fols 176–89. For a fuller analysis, see Mundy, ‘Property or office?’, in Pottage and Mundy (eds): *Law, Anthropology*, pp. 142–65.

13 For the first see Abu Yusuf, *Kitab al-Kharaj* in al-Fadl Shalaq (ed.), *al-Turath al-iqtisadi al-islami* (1990), pp. 167–9. See the historical survey of the term *iqta'* by Claude Cahen in *El2*, vol. 3, p. 1088.

14 Ibn Qutlubugha: *Mas'alat ijarat*, fol. 178b.

15 The contract of *ijara* governs a very wide field of objects from labour-service to commercial goods and real properties of various kinds. See Schacht, *An Introduction to Islamic Law* (1964), pp. 21 and 154–5.

16 As a later anonymous fetwa (see note 42) put it: ‘The land of the treasury following the death of its owners is no longer *kharaj* land given the absence of the person liable to pay *kharaj*’ (*wa-'aradi bait al-mal bi-maut arbabi-ha lam tabqi khara-jiya li-'adam man yajib 'alay-hi al-kharaj*), SK. Reşid Efendi, 1036/4, fol. 40a.

17 See Ibn Qutlubugha’s shorter second epistle, *Jawab fi ijarat al-iqta'*. The copy of this epistle in the collection of SK.Laleli 951, fols 169–75, is in a difficult hand. Hence my reference here is to the manuscript, ZAL.7470, fols 1–17, in the beautifully clear hand of the jurist, Muhammad ‘Abdullah al-Timurtashi, dated 981AH/1573–74. In a marginal note al-Timurtashi (fol. 2b) expresses his

disagreement, noting that the grant holder was only described ‘like an agent’ and that there is reason for such a comparison. With al-Timurtashi we are in the Ottoman framework.

18 See his epistle on the *iqta'*, SK.Izmir 811/9, *Risalat al-iqta'at*. In the catalogue the manuscript is given as Izmir 811/8 but in fact it is number 9 in the volume. For a recent edition of the epistle, see Saraj and Muhammad (eds), *Rasa'il Ibn Nujaim al-iqtisadiya* (1998–99), pp. 239–43.

19 Certain parts of Anatolia, where rights to land were accorded local elites (under the term *malikane-divani*, an institution distinct from the *malikane* of the seventeenth century), appear as an exception to this general rule. For the Syrian provinces see Mantran and Sauvaget, *Règlements fiscaux ottomans* (1951). For debate concerning the degree of continuity between Byzantine and Ottoman systems, see İnalcık, ‘The problem of the relationship between Byzantine and Ottoman taxation’, *Actes des XI Internationales Byzantistenkongresses 1958*, pp. 237–42, and Bryer and Lowry (eds), *Continuity and Change in Late Byzantine and Early Ottoman Society* (1986).

20 For Syria of the sixteenth century, see ‘Ali al-'Arabi (circa 982/1574–75), *Risala fi 'l-hisba wa-'l-siyasa wa-'l-qawanin*, ZAL.7761, fols 29a–30a on the office holder who is not to be treated like ordinary people because of the inviolability of his office: *fa-'inna-hu la yuf'al bi-hi kama yuf'al bi-'l-'awam li-hurmat al-mansab*. On this text see Pascual, ‘Une traduction arabe d’un qanunname’, *Revue d'histoire maghrébine* xii/37–8 (1985), pp. 53–66.

21 See Minkov, ‘Ottoman *tapu* deeds in the eighteenth and nineteenth centuries’, *Islamic Law and Society* viii/1 (2000), pp. 83 and 89 on *resm-i tapu*.

22 See Pir Mehmed al-Üskübî, *Zahir ül-Kudat* in Akgündüz: *Kanunnameler*, vol. 9, pp. 402–3, *mesele* 43, where the example concerns Muslims: ‘*on yuldan sonra raiyyet*

nakl olunmaz; tatil-i arzına tazmin ne şer'îdir ne örfî. The latter phrase reveals the difficulty of legitimating this aspect of administrative law: 'indemnifying for lack of cultivation of land is a matter neither of Islamic law nor of custom'. The principle is clearly stated again in *mesele* 48.

A period of ten years was also required for the acquisition of permanent rights to cultivate a lot of land where the cultivator's name was not previously in the register.

23 Ibid. p. 404, *mesele* 52: 'On yıl mürurundan sonra cebren nakle memur değildir. Arzdan muattal yeri kaldıysa tatile göre tazmine kadirdir. Resm-i çift bozan dedikleri budur.' In a case concerning a non-Muslim the son was still paying the *resm-i çift bozan* of the father after thirty years! See *ibid.* p. 403, *mesele* 47. For Syria, see 'Ali al-'Arabi: *Risala fi 'l-hisba*, fol. 13b: 'wa-li-yu'lam anna 'l-ra'aya idha harabu min timar sibahi wa-'atalu falahata-hu wa sakanu fi-timar akhar fa-mithl ha'ula' yu'khadh min-hum al-'ushr martain zajran la-hum'. Later *kanun* stresses that either the *çift bozan resmi* or the double tax (*öşr*) would be collected, see SK.Esat Efendi 852, fol. 62a.

24 Akgündüz: *Kanunnameler*, vol. 9, p. 404, *mesele* 54.

25 See 'Osmanlı kanunnameleri', *Milli Tettebular Mecmuası* i (1903), p. 66, for reference to a firman of early Zilkade 975AH entitling the daughter to land on payment of *tapu*. In 1018AH/1609 a firman allowed the same to a paternal brother, and failing that a sister resident in the vilage. For the right of a daughter, compare Akgündüz, *Kanunnameler*, vol. 9, p. 399, *mesele* 25: 'Kızı talibe ve ragibe iken ahare verilmeğe izn-i sultanî yoktur'. A sultanic order of 1034AH/1624-5 permitted the land of a mother to be transferred to her son and later also to her daughter, brother or sister on payment of *tapu*.

26 Female heirs were legally entitled to inherit part of a father's *mülk* property (trees, walls, agricultural implements,

buildings) but not in his *miri* lot of cultivation.

27 See Imber, *Ebu's-Su'ud* (1997), pp. 3-23.

28 Imber: *Ebu's-Su'ud*, p. 120, translating a fetwa collection of the John Rylands Library gives a text which mentions *aradi al-hauz* unlike the otherwise very similar fetwa published by Akgündüz: *Kanunnameler*, vol. 4, p. 84. Imber's translation reads: 'Leasehold (*hauz*) land and royal demesne (*aradiy al-mamlaka*) are lands where no one knows from whom they were seized at the time of the conquest, or to whom they were given, or whose owners have died out. Because the status [of the lands] and [their] owners are unknown, they were taken for the treasury.' The text of the fetwa published by Akgündüz, drawn from the *Kanun-i Cedid*, reads as follows: 'Ve arz-ı han memleket odur ki, hin-i fetihde ne veçhile aldığı ve ne veçhile verildiği malum olmayıp yahut malikleri münkarizler olup mechul ül-malik olmakla beytülmalâ zabt olunup, vükela-yı sultanî vilayet yazdıkları vakit ikta eyleyip bazı sipahiye idrar-ı timar üzere verile. Bu diyarda arz-ı miri bu kisma denilir.'

29 As Imber and Akgündüz have noted, Kemal Paşazade's interpretation is of more open architecture than that of his great successor.

30 See Damad Efendi Shaykhizadeh's (d. 1667) *Majma' al-anbar*, a commentary on Ibrahim al-Halabi's (d. 1549) *Multaqa al-abhur* (1974), p. 663, where Shaykhizadeh comments on al-Halabi's phrase 'the land of the Sawad is the property of its inhabitants' (*ard al-sawad mamluka li-abli-ha*) by noting that '[this is true] for us unlike the Shafi'i whereas for him it is *waqf* of the Muslim community and its inhabitants are tenants'.

In his introductory statement to the registers for Skopje and Salonica dated 1568, Ebussuud gives the two readings, the Hanafi – that the lands of the Sawad of Iraq are *mülk*, see İnalcık, 'Islamization of Ottoman laws on land and land tax',

in Fragner and Schwarz (eds), *Festgabe an Josef Matuz* (1992), p. 105 – followed by a statement concerning *memleket* lands that rests on other schools of *fiqh*. The latter statement translated by İnalçık reads: ‘According to some of the legal schools established by the great imams, the lands of the Sawad in Iraq are of this category. Lands in this fertile country also belong to the *memleket* category and are known as *miri*’, *ibid.* p. 106.

31 Neither *maslahat* nor *zaruret* are explicitly invoked by Ebussuud but remain implicit.

32 Imber: *Ebu’s-Su’ud*, p. 124. I have added the term *haraç*, after Imber’s translation of ‘tribute’.

33 See the fetwa in Akgündüz: *Kanunnameler*, vol. 4, p. 84.

34 On the nature of *hakk-ı karar* in *fiqh* see Akgündüz: *Kanunnameler*, vol. 4, p. 106–07. Imber (*Ebu’s-Su’ud*, p. 130–31) translates the term ‘right of settlement’ and İnalçık as ‘fee paid’, see İnalçık, ‘Islamization’, p. 106. Neither translation adequately conveys the meanings of the term. Nor does Minkov: ‘Ottoman tapu deeds’, p. 72, solve the problem by translating the term ‘right by virtue of residence’ or, ‘entitlement, based on the premise of living in the same area’.

Writing of urban property and noting use of the term by jurists since the sixteenth century, Akarlı translates *hakk-ı karar* as ‘perpetual or permanent tenure’, see ‘Gedik’, p. 185.

35 Akgündüz: *Kanunnameler*, vol. 4, p. 84 translated by Imber: *Ebu’s-Su’ud*, p. 120: ‘Nevertheless, in accordance with the feudal law (*qanun*), sale and inheritance by male children has been permitted.’ See the discussion in Imber: *Ebu’s-Su’ud*, pp. 121–2, of another fetwa where Kemal Paşazade appears to argue that the ‘sale’ is of the *hakk-ı karar* not the land itself; this would bring his interpretation closer to that of Ebussuud.

36 See Akgündüz: *Kanunnameler*, vol. 4, p. 82 concerning succession by son

or daughter ‘... *kimsesi kalmasa, ahara icareye verilme emr olunmuştur. Tapu adına verilen akçe, ücret-i muacceledir. Zaman-ı tasarrufları beyan olunmamağın icare-i fasidedir.*’

37 İnalçık translates *ariyet* as lease, whereas in both Arabic and Turkish it always means something held as a loan. See İnalçık: ‘Islamization’, pp. 102–3 and 105. Delegation is a term used to describe the entire structure of government, as a cascade of delegation from the summit. Compare al-Timurtashi, *Fa’id al-mustafid fi masa’il al-tafwid*, ZAL.10493, manuscript dated 1031AH/1624.

38 Later jurists will further refine the interpretation of *resm-i tapu* as payment for delegation of rights to land. Thus the *tapu* fee, which Ebussuud struggles to interpret as an advance rent or fee, is defined by the mid-seventeenth century Anatolian scholar al-Saqizi, as *rasm idhn al-tafwid*, the fee for permission of delegation. See al-Saqizi (d. 1059/1649 according to Zahiriya catalogue and 1099/1688 according to Brockelmann) *Surrat al-fatawi*, ZAL.6143, fol. 22b. At the beginning of the nineteenth century, in what appears a spirit of historical reference to Ebussuud, Ibn ‘Abidin defines *tapu* as simultaneously document, fee paid for writing the same, and a form of advance rent, see *al-Uqud*, vol. 2, p. 188.

39 Ebussuud aims to avoid the idioms of property right thus rendering null and void any contracts written by ulema: ‘*Mutasarrıf olanlar, asla tasarrufat-ı mezbureden şer’le hiçbirine kadir olmazlar. Eğer birisi birine hakk-ı kararın alıp tasarrufun tefviz ettikte, sipahi eğer caiz görürse, tasarrufa kadirdir ve illa değildir. Kudat, bey ve şira hücceti vermek batıl-ı mahzıdır. ... Vediat koymak ve ariyet vermek, bir hükm-i şer’i icap eder nesne değildir.*’ Akgündüz: *Kanunnameler*, vol. 4, p. 81.

40 The degree to which the fetwa form becomes marked by the overt command structure of the *kanuns* remains an open

question; some of the fetwas of Ebussuud serve to introduce *kanunnames*.

41 On Birgevi/Birgili see the article by Kasim Kufrevi in *El2* and Zilfi: *Politics of Piety*, pp. 143–6.

According to ‘Abd al-Ghani al-Nabulusi, *al-Hadiqa al-nadiya* (1859), p. 3, in his commentary on *al-Tariqa al-muhammadiya*, al-Barkali was the son of a learned father of Sufi tradition. After brilliant studies he worked for Mulla Muhyi ‘l-Din Akhizade and then became an assistant of ‘Abd al-Rahman Ahmad Kadiasker in the time of Sultan Süleyman before giving himself to asceticism and good works. He began to serve the *murshid* sheikh ‘Abdullah al-Qarmani al-Bayrami, who directed him to teach students. There grew up a great friendship between him and ‘Ata, the teacher of Sultan Selim. A school was built for Birgili in the town of Barkalin. The text of *al-Tariqa al-muhammadiya* was published in Istanbul in 1261AH/1845 and Cairo in 1296/1878–79. The work was repeatedly translated into Turkish (see Zilfi: *Politics of Piety*, p. 176, n. 58) but no translation seems to have been made into European languages. There were also two editions of ‘Abd al-Ghani al-Nabulusi’s commentary, *al-Hadiqa al-nadiya sharh al-Tariqa al-muhammadiya*, a lithograph edition, Cairo, 1276/1859 and a printed edition, Istanbul, 1290/1893. The references here are to the earlier edition.

42 Anonymous, SK.Reşid Efendi, 1036/4, fols 36a–41b. Since the last work cited in the fetwa is Ibn Nujaim’s work *al-Tuhfah al-mardiya* of 1552, the fetwa presumably belongs to the era of Süleyman I and Ebussuud’s tenure of the office of sheikh-ul-Islam. It is sandwiched between a fetwa in Turkish concerning fair levels of taxation and the relation of the *kadi* to the *timari* in this regard and another in Arabic directed to the *shaikh mashayikh al-islam* concerning when and how the entitlement of the religious functionaries and the *‘atayat* of the *diwan* were to be paid in relation to the timing of the harvest.

43 Al-Nabulusi: *al-Hadiqa al-nadiya*,

p. 716, *al-tawarru’ wa-’l-tawaqqi min ta’am abl al-waza’if*.

44 Ibid. pp. 729–33.

45 The reference appears to be to a collection made by ‘Alim ibn ‘Ala’ al-Din al-Hanafi on the order of the great Khan Tartarkhan under Muhammad II Tuqlaq (1324–51) and his successor Firuz Shah (1351–88) on which a commentary was written by Burhan al-Din Ibrahim al-Halabi (d. 1549) *al-Fawa’id al-muntakhaba min al-fatawi’ l-tartarkhaniya*. See Brockelmann, *Geschichte der Arabischen Litteratur* (1938), vol. 2, p. 643.

46 Birgili’s text does not pass into obscurity: it is cited by the important seventeenth-century jurist al-Haskafi and forms the basis of a major commentary by ‘Abd al-Ghani al-Nabulusi, although neither author takes up its condemnation of the *tapu* fee.

47 See Akarlı: ‘Gedik’, pp. 182–3.

48 *Tefviz* in lieu of *temlik*/awarding ownership, *ferağ* in lieu of *bey*/sale, and *intikal* in lieu of *irs*/inheritance.

3 Jurisprudential debate in the 17th and 18th centuries

1 For biographies of Hanafi muftis of Damascus see al-Muradi, *Arf al-basham fi-man waliya fatwa Dimashq al-Sham* (1988).

2 See Imber: *Ebu’s-Su’ud*, pp. 24 and 269–72.

3 This scholar (d. 1020/1611–12) held posts over three decades culminating in his appointment as mufti of Üsküb. On the basis of three copies of the manuscript in the Süleymaniye Library, the text has been published, see Akgündüz: *Kanunnameler*, vol. 9, pp. 395–483. A copy exists in Damascus: *Fatawi zabir al-qudat fi ’l-qawanin al-’uthmaniya*, ZAL.10493, fols 80–156.

4 ‘*Kanun-i Cedid*’, *Milli Tettebular Mecmuast*, i/1–2 (1903), pp. 60–112 and 305–09.

5 İslamoğlu, ‘Les paysans, le marché et l’état en Anatolie au XVIe siècle’, *Annales, ESC* xliii/5 (1988), pp. 1025–43 and Veinstein, ‘Les ottomans: fonctionnarisation

des clerics, cléralisation de l'Etat', in Iogna-Prat et Veinstein (eds), *Histoires des hommes de Dieu* (2003), pp. 179–202.

6 See İnalçık, 'Military and fiscal transformation in the Ottoman empire, 1600–1700', *Archivum Ottomanicum* vi (1980), pp. 283–336 and Faroqhi, 'Crisis and change, 1590–1699', in İnalçık (ed.), *An Economic and Social History* (1994), vol. 2, pp. 531–44.

7 See Genç: *Devlet ve Ekonomi*, 'Osmanlı maliyesinde malikane sistemi', pp. 99–147.

8 Zilfi: *Politics of Piety*, p. 94.

9 Faroqhi: 'Crisis and change', p. 552. See Murphey, 'Continuity and discontinuity in Ottoman administrative theory and practice', *Poetics Today* xiv/2 (1993), pp. 425 and 437.

10 See İnalçık, 'Centralization and decentralization in Ottoman administration', in Naff and Owen (eds), *Studies in 18th Century Islamic History* (1977), pp. 27–52; Salzmänn, 'An ancien régime revisited', *Politics & Society* xxi/4 (1993), pp. 393–423; and Khoury, *State and Provincial Society in the Ottoman Empire* (1997).

11 See Bakhit and Hmoud (eds), *The Detailed Defter of Liwa' Ajlun* (1989); Singer, *Palestinian Peasants and Ottoman Officials* (1994); and Hütteroth and Abdulfattah, *Historical Geography of Palestine, Transjordan and Southern Syria in the Late 16th Century* (1977). It is not clear from this work whether all aspects of the *defter* and *tapu* regimes found in Anatolia and the Balkans were implemented in greater Syria.

See also Mantran and Sauvaget: *Règlements fiscaux* and Hamid al-'Imadi, *Mughni al-mustafti 'an su'al al-mufti*, ZAL.5656, fols 462a–b.

12 Faroqhi, *Approaching Ottoman History* (1999), p. 92, writes: 'With the increase of tax farming at the beginning of the seventeenth century, the expensive and labour-consuming compilation of *tahrir* registers was largely dropped.'

13 If we are to believe Zilfi: *Politics of Piety*, pp. 43–80, imperial ulema were

recruited essentially on the basis of dynastic family ties, not merit, during the eighteenth century. If true, what was the intellectual counterpart to this closure?

14 Al-Nabulusi did briefly hold official posts, first as Hanafi judge of the Maydan for a year in 1664 and, late in life, as mufti for a few months in 1722–23. He had been chosen as mufti of Damascus 'by popular consensus' in a decision ratified by the governor but subsequently overridden by the Porte; see von Schlegell, *Sufism in the Ottoman Arab World*, Unpublished PhD dissertation (1997), p. 110.

15 See al-Nabulusi, *Risalat al-radd al-wafi 'ala jawab al-Haskafi fi mas'alat al-khiff al-hanafi*, SK.Çelebi Abdullah Efendi 385/21, fol. 166a 'wa-laisat al-fatwa ka-'l-qada' tatakhasas bi-takhsis al-sultan fi ahadin min al-nas mutlaqan kama yaz'imu-hu ahl hadha 'l-zaman', and fol. 167a where the corruption and vanity of high religious officials is condemned.

16 *Fatawa bani 'l-'Imadi wa-ghairihim*, ZAL.5864. The note on compilation gives the date 1020AH/1611 and compiler Muhammad Muhibb al-Din al-Hasa' al-Ashqari al-Qadiri. Many of the fetwas are of Muhibb al-Din who is occasionally entitled Muhibb al-Din al-'Imadi; this must be the mufti Muhibb al-Din Muhammad Abi Bakr Da'ud al-Hamawi al-'Alwani (949–1010AH/1542–1602) see al-Muradi: 'Arf al-basham, pp. 57–63. (It is unclear why Muhibb al-Din is known in the collection as al-'Imadi unless the title simply derives from the phrase 'imad al-fatwa or by association with the lineage descended from the grandfather of 'Abd al-Rahman.) Lesser numbers of fetwas of many subsequent muftis are also to be found in the collection, which is heavily concerned with land issues. Although the order of the fetwas does not correspond to the chronological sequence of the muftis, certain of the fetwas appear in the form that they were delivered to the office and in different hands (the Zahiriya catalogue states that the text is penned and signed by

the muftis). The Hanafite muftis include: 'Abd al-Rahman Muhammad 'Imad al-Din al-'Imadi (978–1051AH/1570–1641) who studied with Muhibb al-Din; Fadlallah al-'Imadi – presumably Fadlallah Shihab al-Din 'Abd al-Rahman al-'Imadi (1045–96/1635–85) 'who travelled to Rumelie and became a judge in Beirut' (*Arf al-basham*, p. 102); 'Imad al-Din 'Abd al-Rahman al-'Imadi (1004–68/1595–1658); 'Ala' al-Din Muhammad al-Haskafi (1025–88/1616–77); Ahmad *al-mufti* (presumably Ahmad b. Muhammad al-Hamnadari al-Dimashqi (1024–1105/1615–94); Isma'il 'Ali Rajab al-Ha'ik (1046–1113/1636–1702); 'Ali Ibrahim 'Abd al-Rahman al-'Imadi (1048–1117/1637–1706); Muhammad Ibrahim 'Abd al-Rahman al-'Imadi (1075–1135/1664–1723); and Hamid 'Ali Ibrahim al-'Imadi (1103–71/1692–1758).

There are also fetwas from the Shafi'i muftis Muhammad Da'ud al-Qudsi, 'Abd al-Qadir, and Muhammad Muhammad al-Hisni al-Husaini, and the Maliki mufti Abu 'l-Qasim al-Maghribi. This list of muftis does not claim to be complete on issues not concerning land.

17 *Majmu' Fatawi' al-Muradiya*, ZAL.2642, fol. 332: '*fa-bal takun al-maskali-'l-ukbt al-madhkura bi-haqq al-tabu min nazir al-waqf*'.

18 Ibn 'Abidin: *al-'Uqud*, vol. 2, pp. 189 and 193. In his rearrangement and abridgement of the fetwas of Hamid ibn 'Ali, Ibn 'Abidin excludes the passages cited in Turkish from *Kanunname-i liva-yı Şam*, 'Abdullah Efendi and *Hazinet ül-Fetava* substituting translations made for him and found on the margins of a copy of *al-Durr al-mukhtar* (see note 49). Compare *Mughni al-mustafti*, ZAL.5656, fols 462a–464b and *al-'Uqud*, vol. 2, pp. 191–3.

19 Writing of Cevdet Pasha and perhaps drawing on Cevdet's own self-estimation, Ebül'ula Mardin, *Medeni Hukuk Cephesinden Ahmed Cevdet Paşa* (1996), pp. 5–6, describes him as less of a scholar of Islamic jurisprudence than either Ibn Nujaim or Ibn 'Abidin.

20 Compare for sixteenth-century Syria 'Ali al-'Arabi: *Risala fi 'l-hisba*, fols 21b–24a, *Fi bayan ahual arbab al-timar wa ma yata'allaq bi-hum min al-ahkam*. In an early seventeenth-century fetwa collection, ZAL.2600, *Fatawa Yahya Efendi* – Yahya b. Zekeriya Bayram, d. 1053/1644, see Kahraman *et al.* (eds): *İlmiyye Salnamesi*, pp. 364–5 – the mufti responds to a question concerning Zaid who had been distinguished in battle and rewarded with several villages and *mezraas* as his retirement (*takaiüt*), only to have these reclaimed by the treasury. This is not a question the mufti can judge: its resolution should be decided by the political authorities: '*rey-i ulü-l-emre müfevva'dır*' (fol. 95b).

21 *Fatawa bani 'l-'Imadi*, ZAL.5864, fol. 24a and *Fatawa al-'alim al-'allama maula-na al-marhum 'Abd al-Rahman Efendi al-'Imadi*, ZAL.5377, fol. 80a.

22 ZAL.5864, fol. 73a.

23 For the first see ZAL.5864, fol. 73a and also fol. 41 where the *sipahi* is said to have ordered the people of a village to cultivate a *mazra'a* of a *waqf* without permission and for the second, ZAL.5377, fols 64b–65a.

24 ZAL.5377, fol. 80a.

25 *Al-Nur al-mubin fi fatawi' al-'Imadiyin*, ZAL.7508, fols 66b–67b.

26 *Al-Fatawa al-khairiya* (1882–83), vol. 2, p. 61: '*la yantasib khasman li-mudda'i-ha mulkan aw waqfan li-'adam mulki-hi la-ha li-anna 'l-sultan ma ja'al la-hu fi-ha illa 'l-kharaj ...*'

27 For the distinction between a grant with administrative power (the full *iqta'*) and a salary or grant in return for services without delegation of administrative power, see Ibn Qutlubugha: *Mas'alat ijarat al-iqta'*, fols 185a–b.

28 *Al-Nur al-mubin*, ZAL.7508, fol. 67b.

29 Al-Nabulusi: *al-Hadiqa al-nadiya*, p. 734. The 'seller' apparently refers to the cultivator selling land and not the ultimate owner, the treasury.

30 Ibid. p. 737.

31 *Fatawa al-Nabulusi*, ZAL.2684, fol. 75: ‘ard al-timari la turath wa-innama yantaqil min al-mutasarrif fi-ha li-awlad al-mayyit al-dhukur dun al-inath fa-in lam yujad li-’l-mutawaffi awlad dhukur yufawwid al-timari li-man yasha’ haith fawwad al-sultan la-hu dhalika wa-’llahu a’lam’. Ibn ‘Abidin: *al-‘Uqud*, vol. 2, pp. 188–9 states that another prominent seventeenth-century jurist Yahya Minqarizadeh al-‘Ala’i (d. 1088/1677) held the same opinion.

32 *Al-Nur al-mubin*, ZAL.7508, fol. 70b: ‘taht takallum Zaid bi-tariq al-malikana’.

33 Ibid. fol. 71a. The *malikane* concerns block tax paid in lieu of ‘*ushr*’ due from the cultivators of a *waqf* and specified in the *berat* of appointment. The fetwa supports the right of the cultivators, backed by the *waqf* administrator and confirmed in a document drawn up by the *shar‘i* judge, not to have new taxes unspecified in the *bara’a*, imposed on them.

34 The fetwa is attributed to ‘Ali al-Muradi (d. 1184/1771) *Majmu‘ Fatawi al-Muradiya*, ZAL.2642, fol. 345: ‘su’il ... idha kan ‘alay-ha ‘ushr li-’l-timari wa-za’am anna la-hu al-tawjih wa-’l-idhn wa-anna-hu ya’kbudh al-tabii fi dhalik hal la yahtaj ila idhni-hi fi dhalik wa la ‘ibra li-za’mi-hi wa-’l-hala hadhihi. Ajab na’am la yahtaj wa-’l-hala hadhihi wa-’llahu subhanu-hu a’lam’. Note that the tax collector in the fetwa cited is termed a *timari*. This reflects the integration of the writings in Turkish of the imperial muftis after the important fetwa collection of Hamid al-‘Imadi (d. 1758).

35 According to the mufti Hamid al-‘Imadi in Ibn ‘Abidin: *al-‘Uqud*, vol. 2, p. 166, this tradition goes back to Qadi Khan (d. 1196), in his *bab al-qisma of al-Fatawa al-khaniya*, a work published independently in Cairo in 1895 and many times thereafter as part of *al-Fatawa al-alamghariya*. As Ibn ‘Abidin notes, *ibid.*, a series of major Hanafite scholars of the thirteenth through fifteenth centuries also

adopted the same principle for distribution of sultanian taxes.

36 *Al-Nur al-mubin*, ZAL.7508, fol. 72b.

37 *Fatawa*, ZAL.5677, fol. 10a.

38 *Al-Nur al-mubin*, ZAL.7508, fol. 69b.

39 *Fatawa ‘Abd al-Rahman*, ZAL.5377, fol. 68a. Where it is a question of introducing change, ‘Abd al-Rahman requires that established principle be respected, *ibid.* fol. 68b.

40 *Fatawa*, ZAL.5677, fol. 10b.

41 On the basis of the Hama court records of 1785–1830, Douwes, *The Ottomans in Syria* (2000), p. 157, notes: ‘Given that the taxes were imposed collectively on the village community, the community had an interest in the return of fugitives. In the district of Hama the taxes resting upon the villages were assessed in relation to the land and not to the number of adults or households, thus binding the peasants to the land.’

42 *Al-Nur al-mubin*, ZAL.7508, fol. 69b.

43 Compare Douwes: *The Ottomans*, p. 169: ‘Not all villages of the Hama area were farmed by the more powerful well-to-do locals. The village community or the village sheikh acted as *multazim* with some frequency. In 1802 the taxes of over half of the Turcoman villages to the south of Hama were farmed by the villagers.’

44 *Fatawa*, ZAL.2684, fol. 199.

45 Ibn ‘Abidin: *Al-‘Uqud*, vol. 2, pp. 166–7. We have not found this fetwa in the collections of the ‘Imadis.

46 Ibid. p. 167.

47 Rafeq, ‘The Syrian ‘*ulama*’, Ottoman law and Islamic *shari‘a*’, *Turcica* xxvi (1994), p. 20, writes on the basis of the *shar‘i* court records: ‘Because disparities in wealth grew during the 18th and 19th centuries, both between the social groups in the cities and between city and countryside, credit tilted towards group borrowing in the countryside from individual creditors in the city.’ On this topic, Rafeq

cites Masters, *The Origins of Western Economic Dominance in the Middle East* (1988), pp. 153–64 and Rafeq, ‘Economic relations between Damascus and the dependent countryside, 1743–1771’, in Udovitch (ed.), *The Islamic Middle East* (1981), pp. 674–5.

48 Johansen: *The Islamic Law*, p. 103, citing al-Ramli, *al-Fatawa*, and Ibn ‘Abidin, *al-‘Uqud*.

49 Ibn ‘Abidin, *Radd al-mukhtar ‘ala ‘l-Durr al-mukhtar* (n.d.) vol. 3, p. 266: ‘*lakin al-waqi‘ fi zamani-na anna ‘l-musta‘jir yastajiru-ha li-‘ajl akhdh kharaja-ha la li-‘l-zira‘a wa-yusamma dhalika iltizaman wa-huwa ghair sahib kama afta bi-hi al-Khair al-Ramli?*’.

50 See the fetwas of Muhibb al-Din in *Fatawa bani ‘l-‘Imadi*, ZAL.5864, fols 6b and 77, of ‘Abd al-Rahman in ZAL.5377, fol. 55a, and ‘Ali and Muhammad al-‘Imadi in *al-Nur al-mubin*, ZAL.7508, fols 69a and 72a.

51 *Fatawa bani ‘l-‘Imadi*, ZAL.5864, fols 139, 190.

52 *Fatawa*, ZAL.2684, fol. 75.

53 Feyzullah Efendi (d. 1703), *Fetava-yi Feyziye* (1266/1850), p. 165.

54 Abdürrahim Efendi: *Fetava*, fols 25b–26b and Yenişehirli, *Behcet ül-Fetava* (1872), pp. 192–3.

55 *Majmu‘ Fatawi al-Muradiya*, ZAL.2642, fol. 326.

56 The tradition also protects the agent on the ground. See Anonymous, *Majmu‘a fi ‘l-fatawi*, ZAL.6023, fol. 46b, where the mufti judges that a person hired to collect the taxes on the basis of a share in the profit cannot be made to pay part of the loss, in the case of such being made on tax collection. This judgment is likewise common in the Turkish sources.

57 Cuno, ‘Was the land of Ottoman Syria *miri* or *milk*?’, *Studia Islamica* lxxxix/1 (1995), pp. 134–7, argues that by his classicism al-Ramli sought to redefine most of the land of Syria as *mulk* not *miri* land. This interpretation appears excessive. As well as defending the rights of *waqf* against

state administrators, Al-Ramli may have sought to defend the interests of private landowners and *waqfs* against the stronger rights of cultivators entailed in recognizing *maska* rights on *waqf* as on *miri* land.

58 *Fatawa bani ‘l-‘Imadi*, ZAL.5864, fols 116, 133b.

59 Ibid. fols 201, 292 and 52.

60 Ibid. fol. 45 for a fetwa of Muhibb al-Din and fol. 133b for a fetwa by ‘Abd al-Rahman.

61 See Ibn ‘Abidin: *al-‘Uqud*, vol. 2, p. 181. Ibn ‘Abidin does not agree with ‘Abd al-Rahman’s judgment that the ‘ploughing’, i.e. the value of labour, as opposed to the crop itself, can be sold.

62 In one fetwa ‘Abd al-Rahman al-‘Imadi, ZAL.5377, fol. 53b, describes the right arising from ownership of a building on *waqf* land as ‘*ala sabil al-ibtikar*, not as *kirdar*’.

63 *Bab mashadd al-maskā min fatawi al-shaikh Isma‘il al-Ha‘ik rahima-hu ‘llah*, ZAL.5677, fols 9b–10b.

64 Ibid. fol. 9b, ‘*aradi bait al-mal la turath wa-‘innama yadfa‘u-ha man fawwad al-sultan amra-ha ilay-hi ila ‘l-qadirin ‘ala islāhi-ha min al-rijal wa-la hazz li-‘l-nisa‘ fi-ha*’. This statement parallels al-Nabulusi’s apparent exclusion of women from succession, compare p. 25 above.

65 Al-Ha‘ik: *Bab mashadd al-maskā*, fol. 9b writes of a *rahm*. See p. 38 on the legal status of such ‘mortgages’.

66 See Rabie, *The Financial System of Egypt 1169–1341* (1972), p. 66: ‘The most important among the lesser clerks of the *iqta‘* was the holder of the *shadd* called *mushidd* or *shâdd*.’ It is true that the term *shadd* means to plough in Syrian Arabic, but its construction in the phrase *mashadd al-maskā* suggests that it may have an origin in Mamluk tax assessment.

67 The doctrinal position was also presumably developed as a defensive strategy against the doctrines of other schools: against Maliki doctrine which allows longer leases than the Hanafi three-year lease of *waqf* land, against the Hanbali

refusal to permit a cultivator *maska* rights in *waqf* land, and against certain Hanbali interpretations which consider the cultivator's right in *miri* land (more exactly in land originally conquered forcibly) to be a full *mulk* property right on the analogy of *ihya 'l-mawat*.

68 Compare the fetwa of 'Ali al-Muradi (d. 1771) whereby cultivator obtains the *maska* eight years after bringing land under the plough following permission of the *timari*, *Majmu' Fatawi al-Muradiya*, ZAL.2642, fol. 329.

69 See *Fatawa 'Abd al-Rahman Efendi al-'Imadi*, ZAL.5377, fol. 65a where two villages negotiate collectively the division of water between them before the administrative judge (*hakim al-'urf*); fol. 76a on the limits of collective responsibility of a village before tax authorities; and a fetwa of 'Imad al-Din al-'Imadi (d. 1658) where a group of village people who hold a *maska* testify as a legal person concerning the *waqf* status of land, *Fatawa bani 'l-'Imadi*, ZAL.5864, fol. 292.

Compare Veinstein, 'Inalcık's views on the Ottoman eighteenth century and the fiscal problem', *Oriente Moderno*, n.s. xviii/1 (1999), pp. 1–10, on self-governing corporatism as characterizing Ottoman society in the eighteenth century.

70 Akarlı: 'Gedik'.

71 *Fatawa bani 'l-'Imadi*, ZAL.5864, fol. 116.

72 Johansen: *The Islamic Law*, pp. 106, 117.

73 The first was abridged and edited in Ibn 'Abidin's *al-'Uqud al-durriya* and the second, dated Jumada 'l-akhir 1211AH/ December 1796 and perhaps in the author's hand, is in ZAL.4400, fols 134–52.

74 *Al-'Uqud*, vol. 2, pp. 181–3.

75 *Al-Nur al-badi fi ahkam al-aradi*, ZAL.4400, fol. 134a.

76 Compare p. 24.

77 Moreover, the author occasionally slips in his citations in a manner less exact than Ibn 'Abidin.

78 There are sections entitled: '*fi ma*

yata'allaq bi-'l-aradi' in Yahya Efendi (d. 1644), *Fetawa*, ZAL.2600, fols 319a–324a; '*fi 'l-aradi*' in Feyzullah: *Fetava*, pp. 570–72 and Abdürrahim: *Fetava*, fols 501b–524b; and '*fasl fi 'l-aradi*' in Yenişehirli: *Behcet ül-Fetava*, pp. 640–42.

79 In the sixteenth and early seventeenth century, the duty to pay the tax was unlimited so long as the land remained uncultivated, see '*Osmanlı Kanunnameleri*', *Milli Tettebular*, p. 305. Later *kanun* compilations, dated to the early eighteenth century (see Akgündüz: *Kanunnameler*, vol. 9, p. 487) do not make clear how the obligation to pay tax on land left uncultivated comes to an end, but they do emphasize that after ten years, registration in the registers of another settlement redefines a person's legal status: SK.Esat Efendi 587, fol. 83b describes the ten-year rule for returning a cultivator on sultanic *evkaf* as 'old *kanun*', and SK.Esat Efendi 852, fols 60b–61a, discuss the re-registration of *reaya* in a town after ten years and fols 62a–b the ten-year rule.

80 It is not clear to what extent Anatolian muftis of the seventeenth and eighteenth century passed judgment in like fashion.

Al-Saqizi (d. circa 1650), *Surrat al-fatawi*, ZAL.6143, fol. 21b, attributes to Ebussuud a ruling outlawing the demand of the village *sipahi* that a cultivator who had left his plot, the cultivation of which was taken on by another, should pay the fee for 'breaking the plough lot' (*rasm naqd faddana-hu*). Al-Saqizi goes on to say that the sultan had prevented judges from supporting such rulings. It is important, however, that the case concerns land taken on by another, not land lying idle. In short, al-Saqizi appears unhappy with the practice, writing '*li-anna rasm naqd al-faddan haram mahd*', but, rather like the Damascene muftis of the same period, does not condemn it frontally in the forms in which it was allowed by the *kanun*.

Appended to the fetwas of el-Üskübi in *Zahir ül-Kudat*, are collections by

Yahya Efendi – probably sheikh-ul-Islam Zekeriyazade Yahya Efendi (d. 1644, *İlmiyye Salnamesi*, pp. 364–5) rather than sheikh-ul-Islam Yahya Efendi Minkarizade (d. 1677, *ibid.* pp. 392–3) and sheikh-ul-Islam Bahaî Efendi (d. 1654, *ibid.* pp. 75–7). The fetwas of Bahaî Efendi are suggestive of a shift in understanding. In four fetwas the *tapu* holder of *miri* land had left it uncultivated for more than three years: the first concerned a *sipahi* who left land uncultivated for seven to eight years; the second an ordinary cultivator who left his land empty for more than three years; the third a minor whose land remained uncultivated for five to six years; and in the fourth, *mesele* 426, so long as the cultivator returns to plough his land, even to plough land as fallow, the land administrator cannot give it to another. In all cases the cultivators can reclaim the land before its alienation to another. This does not nullify the general principle that the *sahib-i arz* can give *tapu* rights to land left uncultivated by its owner for more than three years, see *ibid.* p. 449, *mesele* 396, nor that a man who continues as *tapu* holder is bound to cover the land tax, see *ibid.* p. 451, *mesele* 412. But taken as a whole, the emphasis is on the land administrator acting reasonably rather than on the cultivator losing his rights to land. Thus the administrator cannot refuse to give permission simply for personal reasons, *mesele* 410, p. 451, and if he insists, the Islamic judge can override him forcibly, *mesele* 423, pp. 452–3. Compare Abdürrahim: *Fetava*, fols 502a and 517a–b for strength of cultivator’s right.

A term not found in earlier fetwas describing a person who had cut all relations with his place of former residence, *kat-ı alaka*, also appears in the collection (see Bahaî Efendi, *ibid.* p. 451, *mesele* 412, p. 455, *mesele* 444, and p. 455, *mesele* 443, attributed to Ahmed Efendi el-Mu’id, d. 1057AH/1647). See likewise Abdürrahim: *Fetava*, fol. 22b: ‘*Zeyd kariyesinden kalkıp bil-külliyet kat-ı alaka edip varıp ahar*

kariyede tavattun edip ba’dehu müherrir-i vilayet Zeydi kariye-i aharide raiyyet kayd ve tehririle hâlâ kariye-i evvel sipahisi Zeydden resm-i raiyyet almağa kadir olur mu elcevab olmaz.’

81 *Fatawa*, ZAL.5377, fol. 82b.

82 *Fatawa*, ZAL.5864, fol. 246b.

83 ZAL.7508, fol. 68a.

84 *Ibid.* fols 70b–71a.

85 *Fatawa al-Nabulusi*, ZAL.2684, fol. 199.

86 *Ibid.* fol. 201.

87 Hamid al-‘Imadi: *Mughni al-mustafti*, ZAL.5655, fols 328b–329a.

88 Ibn ‘Abidin: *al-Uqud*, vol. 1, p. 283 and vol. 2, pp. 165–6.

89 See also *Majmu‘ Fatawi al-Muradiya*, ZAL.2642, fol. 345.

90 Ibn ‘Abidin: *al-Uqud*, vol. 1, p. 283 and vol. 2, p. 283.

91 Zain al-Din al-shahir bi-Ibn Nujaim, *al-Bahr al-ra’iq sharh Kanz al-daqa’iq* (1893), vol. 5, p. 118.

92 *Al-Fatawa al-khairiya*, vol. 1, p. 100, the core of al-Ramli’s argument being ‘*wa-inna ard bait al-mal la kharaj fi-ha wa-l-ma’khuḍh min-ha ujra fa-la sha’y ‘ala ‘l-fallah law ‘atala-ha wa-huwa ghair mustajir la-ha wa-la jabr ‘alai-hi bi-sababi-ha*’. Al-Ramli is not alone in citing the judgments of the two Ibn Nujaim. Both al-Shurunbulali (d. 1659) and al-Haskafi (d. 1677) cite al-Nahr and al-Bahr of Ibn Nujaim and his brother to the effect that *kasr al-faddan* is *haram*. The commentary of ‘Ala’ al-Din al-Haskafi, a scholar who studied with al-Ramli and served as mufti of Damascus, makes no reference to Ottoman judgments on the topic of forcible return of a cultivator yet does not frontally reject the *kanun*; it cites the judgments of the two Ibn Nujaim on Egypt. See *Hashiyat al-Tahtawi ‘ala ‘l-Durr al-mukhtar sharh Tamwir al-absar* (1838), vol. 2, p. 467, marginal text of al-Haskafi.

93 *Al-Fatawa al-khairiya*, vol. 1, p. 96. See also the fetwa where a cultivator who left his original village and settled in another failed to pay his part of the *kharaj*

al-muqasama. Al-Ramli judges that the people of the village have the right to expel the cultivator.

94 Ibid. p. 96.

95 Ebussuud judges that the land of Şam was *haraciye*, see el-Üskübi, *Zahir ül-Kudat*, in Akgündüz: *Kanunnameler*, vol. 9, p. 432, *mesele* 256.

96 The *kanun* is formal on the question; see *Milli Tetebbular Mecmuası* i/2 (1903), p. 305: ‘*ama ... evkaf reayasında bu kanun icra olunmaz*’.

97 Al-Ramli cites in justification the two compendia of Ibn Nujaim and his brother, *al-Bahr al-ra’iq* and *al-Nahr al-ra’iq*: *Al-Fatawa al-khairiya*, vol. 1, pp. 99–100. Both Johansen: *The Islamic Law* and Cuno: ‘Was the land of Syria *miri* or *mulk*?’ interpret the doctrinal choices of the Syrian ulema as representing regional landed interests against the officials of the central state. This example would not support such an interpretation: at issue is an attempt by both the *mutawalli* of the *waqf* and the *sibahi* of the state to return cultivators to their plots.

98 Al-Faradi’s epistle is ZAL.6879, fols 1–56a; al-Nabulusi’s epistle is in *Majmu’ mushtamil ‘ala 41 risala*, SK.Çelebi Abdullah Efendi 385/33, *Risalat takhyir al-‘ibad fi sukna al-bilad*, fols 264b–270 and ZAL.4008, fols 42–4. It has been published and translated by Aladdin, ‘Deux fatwas du Şayh ‘Abd al-Ġanī al-Nābulusī’, *Bulletin d’Etudes Orientales* xxxix–xl (1987–88), pp. 7–37.

99 ZAL.6879, fol. 5a: ‘*wa-mithlu-hu fi Abi ‘l-Su‘ud rahima-hu al-malik al-ma‘bud*’.

100 Ibid., fol. 5b, refers to what are known today as *maqasid al-qur’an*: *hifz al-anfus wa-l-ansab fa-l-a‘rad fa-l-‘uqul fa-l-amwal*.

101 Ibid. fol. 13a.

102 Ibid. fols 13b–17b.

103 Ibid. fols 17b–20b.

104 Ibid. fols 20b–21b.

105 Ibid. fols 23a–34b.

106 Ibid. fols 34b–35a.

107 Ibid. fols 35a–40a.

108 Ibid. fols 40a–56a.

109 Rafeq ‘The Syrian ‘*ulama*’, p. 24, judges that the reference is to the ‘Damascene Shafi‘i Mufti Taqy al-Dīn al-Husni’ 1053–1129/1643–1717. The reference in al-Farazi, al-Nabulusi and Hamid al-‘Imadi (see *Mughni al-mufti ‘an su‘al al-mufti*, ZAL.5655, fol. 329a where the name is given as al-Taqi al-Husni) may be to Taqi ‘l-Din Abu Bakr b. Muhammad b. ‘Abd al-Mu‘min al-Husni al-Husaini al-Shafi‘i al-Dimashqi (752–829AH/1351–1426). In *Kitab Qam‘ al-nufus wa-ruqyat al-manus*, SK.Bagdatlı Vehbi Efendi 649, fols 71b–82b, al-Husni condemns the godlessness (*kufri*) of rulers and of those jurists who justify extortionate taxation and appropriation of land. Al-Husni’s *Kitab Qam‘ al-nufus* belongs to a genre of oppositional mirror-for-princes tracts; in his great legal work *Sharh al-tanbih*, SK.Ayasofya 1213, vol. 5, fol. 22a he argues that rulers and judges may themselves be *bugha*, i.e. in opposition to the true imam, and hence to be disobeyed. The vagueness of the references by al-Faradi, al-Nabulusi and Hamid al-‘Imadi make it impossible to judge whether the earlier or later al-Husni is at issue; in any case, there is manifestly a long tradition of Shafi‘i condemnation.

110 *Risalat takhyir*, SK.Çelebi Abdullah Efendi 385/33, fol. 267a.

111 Ibid. fol. 267a: ‘*li-anna ‘l-insan min tab‘i-hi mahabbat watani-hi wa-‘l-hanin ilay-hi wa-‘l-farah bi-hi wa-‘l-tashawwuw ila ru‘yati-hi wa-‘l-tarab bi-madhi-hi wa-‘l-thana ‘alay-hi wa dhikr ma fi-hi min al-mahasin wa li-hadha warad fi ‘l-atr hubb al-watan min al-iman*’.

112 Ibid. fol. 267a.

113 *Majmu’ mushtamil ‘ala 41 risala*, SK, Çelebi Abdullah Efendi 385/9, *Risala fi jawab su‘al warad ‘alay-na min al-Quds al-sharif*, fols 67a–71b. In his condemnation al-Nabulusi draws a parallel (*nazir*) between the exceptional taxes, listed in registers and *kanuns*, which *dhimmi*s pay out of fear of Muslims, and unjust

taxes imposed on subjects in general by oppressive rulers: *'wa-laisa dhalika bi-halal wa-huwa haram 'ala 'l-hukkam akh-dhu-hu min al-ra'aya wa-laisat al-dafatir wa-qawanin bi-muqtadi-hi li-hall dhalika fi 'l-shari'a al-muhammadiya fa-'inna ghasb al-amwal bi-ghair haqq sbar'i haram fi-ijma' al-muslimin wa-mustabillu-hu kafir bi-'llab ...'* In his fetwas al-Nabulusi nevertheless recognizes the priority of the entry in the register as normally establishing a legally binding precedent for taxes.

114 *Risalat takhyir*, fol. 270b.

115 *Al-Nur al-badi*, ZAL.4400, fol. 146a.

116 This term, like that of 'estate of administration' used below, is that of Max Gluckman concerning hierarchies of right in a different African context, *The Ideas in Barotse Jurisprudence* (1965), pp. 91–2. The terms have earlier been adapted for the analysis of agricultural right in Palestine and North India. See Firestone, 'The land-equalizing *musha'* village', in Gilbar (ed.), *Ottoman Palestine 1800–1914* (1990), p. 115 and Saumarez Smith, *Rule by Records* (1996), p. 41.

117 Abdürrahim: *Fetava*, fol. 503a. See also fol. 503b upholding the right of a sister to claim land who, like her deceased brother, lived in a town fifteen minutes away from the land in question.

118 Al-Ha'ik: *Bab mashadd al-maskaa*, fol. 9b and Abdürrahim: *Fetava*, fol. 514b. See also SK.Esat Efendi 852, fol. 80, where the *kanun* envisages a *rehin* of land rights on the grounds of *zaruret* and permits, on payment of the debt, the return of the land to the original holder within ten years.

119 Yenişehirli: *Behcet ül-Fetava*, p. 640. The published edition describes the land held by *tapu* as *vakıf* whereas this is only implied by the term for the administrator (*mütevelli*) in some manuscript copies, see ZAL.2600, fol. 295.

120 Yenişehirli: *Behcet ül-Fetava*, pp. 260–62.

121 Abdürrahim: *Fetava*, fol. 505a.

122 Ibn 'Abidin, '*Nasr al-'urf fi bina'*

ba'd al-ahkam 'ala 'l-'urf, *Majmu'at rasa'il Ibn 'Abidin* (n.d.), vol. 2, pp. 112–63.

123 Wa'il Hallaq appears to over-emphasize the first aspect in 'A prelude to Ottoman reform: Ibn 'Abidin on custom and legal change', 'New Approaches to the Study of Ottoman and Arab Societies' (1999), vol. 2, pp. 17–26. Parallel statements concerning historical change in legal doctrine can be found in the *siyasa* literature. See, for example, Badruh Efendi (d. 1671), *Abkam al-siyasa*, ZAL.7147, fol. 6b.

4 Legal reform from the 1830s to the First World War

1 The first issue of *Takvim-i vakayi*, the official gazette of the empire, appeared 25.Ca.1247, 1 November 1831.

2 Unlike contemporary understandings wherein *kanun* stands for European-inspired positive law as against Islamic *shari'a*, the two terms could be fused in Ottoman statecraft: see the phrase *kanvanin-i şer'iye*, employed in an important petition advanced to the sultan by senior administrators in late summer 1839, analysed in Abu-Manneh, 'The Islamic roots of the Gülhane Rescript', *Die Welt des Islam* xxxiv (1994), pp. 191–2.

3 İslamoğlu: 'Property', pp. 33–4 characterizes the transformation marked by the Land Code of 1858 by drawing comparisons with other European states of the nineteenth century.

4 Khoury: *State*, pp. 184–6 describes a text in the Mosul Library that sought to defend the estates of *malikane* holders. We did not find any comparable text in the Damascus Zahiriyi collection. There is a slight problem either in the text or in Khoury's reading of the same (p. 185) where an argument parallel to al-Nabulusi's (compare p. 24) is given as if in response by the author to al-Nabulusi.

5 Ibn 'Abidin: *al-'Uqud*, vol. 2, pp. 187–8.

6 Scholarship has emphasized European influence, notably of Canning, on

the drafting of the Rescript. By contrast, Abu-Manneh: 'The Islamic roots', provides evidence of the background and debates among senior administrators.

7 Young: *Corps de Droit Ottoman*, vol. 1, p. 31: '...un usage funeste subsiste encore, quoiqu'il ne puisse avoir que des conséquences désastreuses; c'est celui des concessions vénales connues sous le nom d'*iltizam*. Dans ce système l'administration civile et financière d'une localité est livrée à l'arbitraire d'un seul homme, c'est-à-dire, quelquefois à la main de fer des passions les plus violentes et les plus cupides, car si ce fermier n'est pas bon, il n'aura d'autre soin que son propre avantage.

'Il est donc nécessaire que désormais chaque membre de la société ottomane soit taxé pour une quotité d'impôt déterminée, en raison de sa fortune et de ses facultés, et que rien au delà ne puisse être exigé de lui.'

8 Of particular importance are BOA. MSM 36, 58 and 78.

9 Güran, 19. *Yüzyıl Osmanlı Tarımı* (1998), pp. 45–6.

10 The council described by Güran may correspond to the council formed in the Finance Ministry, the order for which is dated 1843 in the BOA Nizamât Defterleri 39/37, p. 19.

11 See Güran: 19. *Yüzyıl*, pp. 48–9. See BOA.MSM 36, 1256/1843, especially document 8 where re-evaluation of tax burdens on the basis of sound knowledge, education of those concerned with agriculture, and improvement of transportation are all discussed.

12 See Güran: 19. *Yüzyıl*, p. 49 drawing on BOA.MSM 45 and 58.

13 Güran: 19. *Yüzyıl*, p. 47.

14 BOA.Nizamât 35/33 entitled *Kanun-ı Kalemiye* gives instructions issued by Reşid Pasha dated April and May 1840 to the local councils confirming the principle of taxation on the basis of each person's property and ability to pay (*herkesin emlak ve arazi ve hal ve tahammülü*) (p. 8) and noting that property and lands and suchlike were to be evaluated according to

the profits they produced (*muçib-i temettü olacak emlak ve arazi ve sairesi olmadığı takdirde*). These instructions go on to instruct the local councils to look into the situation of all religious functionaries and the genealogy of those descendants of the Prophet enjoying tax-free status as well as the conditions of taxation of the nomadic populations of their districts. Instructions were to re-register all the population, not only the agricultural population. In this same register (p. 15) the undertaking is also given to provide printed forms to tax collectors. See Barkan: *Türkiye'de Toprak Meselesi*, pp. 317–22.

15 This is the title given to the BOA. Nizamât 39/37 the various texts in which date from March 1256/1840 to 1259/1843. The first text, with dates between 1255–57/1840–41, concerns the instructions to be given to the tax collectors for the registration of persons and property; all financial claims and tax due on *zeamet*, *çiftliks*, *timars*, and *vakıfs* were to be registered so that tax collection be based on knowledge not fantasy, and so as to effect a re-evaluation of the *vergi* tax. Second is a *nizamname*, fols 11–12, concerning the formation of councils in the districts to oversee the new tax registration; this is undated but is presumably also from 1840–41. These are followed, fols 18–26, by responses concerning these two regulations dated between 1256–59/1841–43. Further instructions, fol. 18, note that in the case of land having been transferred to heirs or others, or of nomads cultivating land, then in return for a fee of 1 or 2 per cent of the land's value, the tax collector should deliver to the cultivator a new *tapu temessükü* describing the borders of the land.

16 İslamoğlu, 'Politics of administering property', in İslamoğlu (ed.), *Constituting Modernity* (2004), pp. 296–303.

17 Kaya, 'L'économie politique des *tanzimat*', in Afifi *et al.* (eds), *Sociétés rurales ottomanes* (2005), pp. 271–95.

18 Ibid. and Şener, *Tanzimat Dönemi Osmanlı Vergi Sistemi* (1995), pp. 38–44.

19 There is a difference between the compilation of information on households, as in the *temettuat* registers, and the employment of such information in a statistical reading of social morphology. This distinction does not appear adequately maintained in İslamoğlu: 'Politics'.

20 Saumarez Smith, 'Mapping landed property', in İslamoğlu (ed.): *Constituting Modernity*, pp. 149–79.

21 Şener: *Vergi Sistemi*, pp. 94–6.

22 See the Law on the Registration of Census and of Properties (*tahrir-i nüfus ve emlak*) dated 14.Ca.1277/28 November 1860 in Ongley, *The Ottoman Land Code* (1892), pp. 111–34. This proposes a system of registration where both persons and objects of taxation, and their mutations, were somehow to be entered in a single register. While the panoptic ambition of this proposal is impressive, it is not surprising that the Ottoman administration was later to develop separate registers for persons and taxable property.

23 Şener: *Vergi Sistemi*, pp. 101, 125 (with reference to 11.Ş.1277 'Varıdat-ı öşriyyenin zürra-ı ehle ihalesi hakkında nizamname') and 138.

24 Şener: *Vergi Sistemi* does not go beyond the 1870s, but so far as one can see from local administrative sources, application of the principles of *Tanzimat* tax reform was finally achieved only after that time. Taxation is a domain where the gulf between legislative pronouncement and practical application poses difficulties to the historian, all the more so as many documents of the financial administration in Istanbul await classification and release to researchers.

25 See Ortaylı, *Tanzimat Devrinde Osmanlı Mahalli İdareleri* (2000), pp. 28–45.

26 On such councils see Ortaylı: *Tanzimat Devrinde*, pp. 19–21.

27 See BOA.Nizamât 37/35 Rebiyülevvel 1261AH entitled *Zeametler hakkında nizamname*. The register comprises entries concerning the transfer

of such estates the last of which is dated 1296AH/1878–79.

28 Ortaylı: *Tanzimat Devrinde*, p. 18 on retreat from abolishing *iltizam* tax-farming.

29 BOA.Nizamât 44/42. See note 35 below.

30 Khoury: *State*, pp. 105–7. Khoury describes the *nizamname* as 'the laws of 1840' translated into Arabic as the first of the *Majmu'at rasa'il fi 'l-aradi al-amiriya*, the Waqf Library of Mosul, the Hasan Paşa al-Jalili Collection, 25/1. This *nizamname* does not appear in the BOA Nizamât Defterleri nor is it mentioned by historians of Ottoman law, such as Karakoç, *Tahşiyeli Kavanin* (1922–24), Cin: *Miri Arazi*, Barkan: *Türkiye'de Toprak Meselesi*, or Cin and Akgündüz, *Türk Hukuk Tarihi* (1995). No copy of this *nizamname* appeared in the Damascus collections, but that is not surprising given that in 1840 Syria was just returning to Ottoman rule. Presumably it will be found in the BOA series of the Meclis-i Vala-yı Ahkam-ı Adliye; this series was unfortunately closed to researchers in 2001 when we carried out research concerning land law for the years between 1839 and 1858.

31 Khoury: *State*, p. 105.

32 Khoury: *ibid.*, writes: 'Lands were to be reclassified as *tapu* land, subject to a new system of taxation, and given to cultivators for a price determined by the market value of the land (*mu'ajjal bi-'l-mithl*).'

33 Khoury: *State*, p. 107.

34 *Ibid.*

35 BOA Nizamât 44/42. This printed collection of laws is dated 15.R.1267/18 February 1851. Besides the laws restructuring succession to *miri* land, the *kontrato* (a new law governing lease of land), *tapu* regulations and a law establishing eyalet councils discussed above, it contains laws for developing agriculture, police statutes, instructions for *şer'i* judges, a general rule for good conduct among employees, establishment of a unified ministry for *vakıf*

lands, reform of taxation, a building code, instructions for the offices of *defterdar* and *kaimakam*, and the penal law.

36 See issues 331 and 332, 7.Ca and 14.Ca.1263, 24 and 31 April 1847, p. 1; the sultanic decree and laws were published in issue 402, 10.Ra.1265, 6 March 1849. See Karakoç: *Tahşiyeli Kavanin*, vol. 1, pp. 130–60.

37 Presumably greater detail concerning the drafting of this law should be found in the BOA *Meclis-i Vala-yı Ahkam-ı Adliye* series. In 2001 this series was closed to researchers.

38 *Takvim-i Vakayi*, no. 331, p. 1: ‘*Evlad-ı inasın dahi hakk-ı veraset-i araziye dıbulü.*’ Note that the term *veraset*, inheritance as in *mülk* land, is here used even though technically it is a right to *intikal* that is at issue.

39 Ibid. ‘*Eğerçe taife-i nisa bilfil erbab-ı ziraatten değil iseler de ziraat familyası teşkil edebilecekleri ve o cihetle kendilerine müntakıl olacak araziye imar eyleyecekleri bedihi olmak.*’

40 Ibid. ‘*Hakk-ı tassaruf-ı araziden hisseyab olmaları usul-ı melikiyete ve kaide-i hakkaniyete muvafık düşeceğinden mecmuat-ı madelet ve merhamet olan asr-ı nasfet hasr-ı hazret-i mülikanenin asar-ı celile ve cemilesinden.*’

41 *Takvim-i Vakayi*, no. 403.

42 The first is al-Husaini, *Majmu‘a*, ZAL.6023, fols 53b–171. This opens with the praise of the sultan found at the end of the printed version, gives the text of the law and summarizes the ancillary questions. The second is an addition at ZAL.5651, fol. 282a, penned into the fetwa collection of al-Sayyid al-Husaini al-Muradi (d. 1774–75) copying the order sent from the sheikh-ul-Islam to the mufti of Damascus enjoining him to respect the terms of the new sultanic *kanun* in all fetwas and judgments. This is both in Arabic and Turkish, dated early Rebiyülevvel 1264, February 1848.

43 See Karakoç: *Tahşiyeli Kavanin*, vol. 1, p. 124.

44 The latter is dated by Karakoç to 5.C.1263, 22 May 1847.

45 The contents of the Code, divided into an introduction and two books, are as follows: Introduction clauses 1–7, I. On *miri* land 1. *tasarruf* of *miri* lands 8–35, 2. *ferağ* of *miri* lands 36–53, 3. *intikal* of *miri* lands 54–8, 4. *mahlulat* of *miri* lands 59–90; and II. On *metruke* and *mevat* lands 1. *metruka* 91–102, 2. *mevat* 103–5, 3. further issues 106–32.

46 The topic of *mevat* lands also occurs in the book on the alienation of *mubah*/common property, *Mecelle*, Book X, Chapter 4, Section 5.

47 Clause 8 of the Land Code, see *Düstur*, vol. 1, p. 167.

48 Ibid. articles 93 and 94.

49 Ibid. articles 91, 92, 97, 98 and 101.

50 Ibid. article 15.

51 The relevant clauses of the Code are 116–19. For the debate concerning whether the interests of traders and money-lenders are sufficiently protected by this mechanism, see BOA. Nizammat 40/38, pages 53–5. Compare Chapter 3, p. 38, for earlier legal recognition of such practices.

52 This was pronounced 9.N.1274, 9 April 1858 and published a month later in the official gazette *Takvim-i Vakayi* 562; see Karakoç, *Tahşiyeli Kavanin*, pp. 166–7.

53 BOA.Nizammat, 40/38, pp. 54–5, Zilhicce 1276.

54 BOA.Nizammat, 40/38, p. 54, 21.Ra.1277. This provision will be maintained in the law of 1871 concerning sale of real property for debt.

55 An irade was issued 24.Ca.1277, 7 January 1861 upholding the ban on forced sale for private debt, lest people be stripped of their means of livelihood. It judged, nevertheless, that *miri* land could be sold to cover tax arrears. This was followed nine months later by a further irade of 24.Ra.1278, 29 September 1861 that permitted *miri* land to be put up for sale for tax arrears but excluded personal debt to a tax farmer (*mültezim*) and protected from sale the house of a cultivator (large

enough to shelter his/her children) and the land necessary for support of the household. Should the cultivator owe more than he could thus pay, guarantors were to be asked to assume the balance of the debt for tax arrears. See Karakoç: *Tahşiyeli Kavanin*, pp. 257–9.

56 Karakoç: *Tahşiyeli Kavanin*, pp. 54–5. Such announcements were printed in the official newspapers of the provinces, such as *Suriye*, the official paper of Damascus.

57 The law of 7.Ra.1279, 2 September 1862, *Düstur*, vol. 1, p. 244.

58 *Düstur*, vol. 1, p. 209, dated 8.L.1276, 29 April 1860.

59 Al-Muradi: *Arf al-basham*, p. 224, states that al-Hamzawi (1234–1305AH/1818–87) studied in Damascus and was appointed to the court of al-Buzuriya in Damascus and then to the great court in Istanbul. In 1266/1849–50 he became a member of the council of the eyalet; in 1269/1852–53 he was appointed director of the *waqfs* of Damascus and then to many posts, the most of important of which was to the council investigating the events of 1860. He was made mufti in 1284/1867–68 and wrote several works.

60 *Al-Ikbbar ‘an haqq al-qarar in al-Majmu‘ min al-rasa’il* of Mahmud al-Hamzawi, ZAL.100, fols 47a–50a. The epistle is dated 1299AH/1881.

61 *Al-Ikbbar*, fol. 47a. Al-Hamzawi states that he has consulted Ebussuud, Kemal Paşazade, ‘Abd al-Rahim Efendi, Yahya Efendi, *Jami‘ al-ijaratain* and the writings of ‘Ata’llah and others but in the epistle he cites only Ebussuud, Muhammad Bahaî, al-Ramli and al-Hanuti.

62 This is sheikh-ul-Islam Bahaî Efendi (d. 1654), see Chapter 3, note 80.

63 Al-Hamzawi stresses the necessity of the presence of the government official in any law suit in the civil courts, noting, in classical manner, that these lands are in the possession of the *ra’aya* only by virtue of faulty lease and that their right therein is but usufructuary like that of the holder

of an office (*haqqu-hum fi-ha al-intifa’ ka-sabib al-wazifa*). *Al-Ikbbar*, fol. 48b.

64 *Al-Ikbbar*, fol. 48a.

65 *Al-Ikbbar*, fols 48b, 49a.

66 *Al-Ikbbar*, fol. 49a.

67 Ibid. ‘*fa-huwa amrun qanuni la hukm qurani*’.

68 *Al-Ikbbar*, fols 49b, 50a.

69 The text of the report and the note sent to the sultan are given in Karakoç: *Tahşiyeli Kavanin*, pp. 260–61.

70 The date of the report and note of the Meclis-i Vala were 7.B. 1278 and 17B.1278, 9 and 19 January 1862. The sultanic irade was dated 18.B.1278, 20 January 1862.

71 The term is that of the *Mecelle*, see clauses 128 and 129.

72 See *Dein için emval-i gayr-i menkulenin fûruhtu hakkında nizamname*, *Düstur*, vol. 1, pp. 237–8.

73 See *Taşralarda musakkafat ve müstagalat için verilecek ilmühaberlerin tarifnamesi* in *Düstur*, vol. 1, pp. 251–6, dated 9 Şubat 1280AM, 21 February 1865.

74 DLS.AT.Talimat: *Emlak yoklama nizamnamesi* 28.B.1291, 9 September 1874, and *Emlak yoklama defterleri hakkında tarifname* 5.N.1291, 16 October 1874, *Arazi-i mevkufe senedatının defterhaneden verilmesi hakkında talimat* 6.B.1292, 8 August 1875.

75 The *şer’i* courts were increasingly relegated to cases of family law, still uncodified law, or ancillary procedures such as *vekalet*, one of the rare ways to effect property transfers outside the administration or civil court. The *şer’i* courts also determined the proper shares of inheritance for both *mülk* and *miri* land and matters related to family *vakıfs*.

76 DLS.AT.Talimat, item 3, folio 1: *Defterhane nezaret-i celilesinden meb’us tezkirenin suretidir*, 5.L.1288, in a collection marked *Arazi kanunnamesiyle talimat ve tarifname ‘al-qadima*. This required the appointment of a *yoklama* official at the level of each sanjak to be supported by a number of scribes. The officials were to go

to each village where a committee was to be formed of the imam and village council or priest and headmen together with two or three respected persons of the village. This committee was to work together with the officials, who would come with a copy of any population register or *emlak* list done for tax purposes, to register all *miri* lands in the village and also to list any uncultivated lands (item 3, fol. 2). See discussion in Chapter 6.

77 Teacher of civil law in the Istanbul Department of Law, Faculty of Arts and the Imperial Law School; the book is stated to be based on notes given in the course he taught in the Cadastral School and was published in 1927. The text appears close to that preserved in a hand-written report in SK.Yazma Bağışlar 4563, by Ebül'ula Zein el-Abidin Efendi, *Hukuk-i tasarrufiye-yi arazi ve ahkam-ı evkaf*, n.d.

Part two: Introduction

1 Following Thomas, 'Le sujet de droit, la personne et la nature', *Le Débat* c (1998), pp. 85–107, the term *personae* is used for legal institutional agents, notably of government. These *personae* are central to the social relations of property and are not reducible to the sentient human person who may act as different legal *personae*.

2 *Taşralarda arazi-i emiriyenin tefviz ve ihalesine mal memurları yani defterdar ve mal müdürleri ve kaza müdürleri mezun olmalarıyla bunlar sahib-i arz hükmündedirler*, *Düstur*, vol. 1, p. 200. The major European translation of this regulation renders *sahib-i arz* as 'le propriétaire de la terre', the landowner: Young: *Corps de Droit*, vol. 6, p. 93. The reader will by now know how misleading this is.

3 On law as education: Cain, 'Gramsci, the state and the place of law', in Sugarman (ed.), *Legality, Ideology and the State* (1983), pp. 95–117.

5 Production and settlement in the district of 'Ajlun

1 In the tax survey of 1538 most of the nineteenth-century district 'Ajlun appears as core of a *liva* also including the subregion of Salt (see Bakhit and Hmoud: *The Detailed Defter*). In the tax survey of 1596 'Ajlun, the Kura, Salt, the Bani 'Alwan (present Bani Hasan) and the entire plain of Baisan formed part of *liva* 'Ajlun whereas the northern areas of Bani Kinana, Kafarat and Bani Juhma formed part of the Hauran, see Hütteroth and Abdulfattah: *Historical Geography*, p. 5.

2 See Mundy, 'Village land and individual title', in Rogan and Tell (eds), *Village, Steppe and State* (1994), pp. 58–79 and 'Qada' 'Ajlun in the late 19th century', *Levant* xxviii (1996), pp. 79–97. Maps 5.2 and 5.3 follow the lists of villages by *nahiye* in *Salname-i Suriye* iii (1288AH/1871), pp. 284–7. Al-Taiba village formed part of al-Kura whereas in later years it often formed part of al-Wustiya *nahiye*. The map also departs from the *Salname* list in dividing al-Mi'rad and Jabal 'Ajlun whereas they form one *nahiye* in 1871. Kufrinja was recognized as a separate *nahiye* from 1885, see note 14, Chapter 8. For a discussion of the sources and methodology behind Map 5.3 see Mundy: 'Qada' 'Ajlun', pp. 78–80.

3 The basic source for maps 5.4–6.3 are the DLS 'Ajlun *tapu* registers. See the list of the registers published in Abu 'l-Sha'r: *Irbid*, pp. 566–7.

4 See Gerber, *Ottoman Rule in Jerusalem: 1890–1914* (1985), pp. 28–51, concerning demographic growth.

5 This map uses the smaller 'old *dönüm*' measure since it was the unit in which land values were calculated and cultivators actually dealt. 2.72 'old *dönüms*' were equated to the 'new *dönüm*' in the registers. The area under field crops corresponds to that designated as *tarla* in the registers. If the reader wishes to identify individual villages, a transparency can be made of Map 5.3 and placed over the others.

6 On the Bani Hasan see Mundy: 'Qada' 'Ajlun', pp. 88–91.

7 Taminian, 'Ain', in Mundy and Saumarez Smith (eds), *Part-Time Farming* (1990), pp. 13–19.

8 Schumacher, *Northern 'Ajlun* (1890), p. 87; Quteifan, Family, Kinship and Economic Structure in a Village of North Jordan', Unpublished MA thesis (1988).

9 Fischbach, 'Al-Mukhaiba village', *Dirasat* xxi/1 (1994), pp. 46–71.

10 Unfortunately, we have only limited information from the registers for centres of considerable importance, notably al-Nu'aima in the plains, Jarash and its villages, Kufrinja and Rajib. In so far as possible, then, Maps 5.5, 5.6 and 5.7 must be corrected – in imagination!

6 The introduction of bureaucratic registration

1 BOA.Kamil Kepeci Defterleri 6554, May 1265/1849. See the lists of Eli Smith, published in Robinson and Smith, *Biblical Researches in Palestine* (1841) vol. 3, pp. 162–7 for the Jabal 'Ajlun. Attempts under Egyptian occupation to increase direct control faced revolt: see al-Sharayda, *Dirasat watha'iqiya li-jabal 'Ajlun* (1995).

2 The latter is suggested by the problematic title of an otherwise valuable study of the region just to the south of 'Ajlun: Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850–1921* (1999).

3 For the vilayet as a whole see the useful survey based on European consular records by Max Gross, *Ottoman Rule in the Province of Damascus 1860–1909*, Unpublished PhD dissertation (1979). For earlier attempts to establish direct Ottoman government in the area, see Rogan: *Frontiers*, pp. 44–8 and Fischbach, *State, Society, and Land in 'Ajlun (Northern Transjordan) 1850–1950*, Unpublished PhD dissertation (1992), pp. 75–86.

4 BOA.BEO, Vilayet Gelen-Giden Kayıt Defterleri, vol. 347, Suriye, Giden, p. 55, no. 18 dated 8 Haziran 1281AM, for *tapu*

registration in the districts and p. 207, 8 Haziran 1282 for the election of members to the *Emlak Komisyonu*.

5 *Suriye*, 4 Mayıs 1282AM. Most of the issues 1–476 are preserved in the Millet Kütüphanesi, İstanbul.

6 Gross: *Ottoman Rule*, pp. 116–67.

7 *Salname-i Suriye* i (1285AH/1868–69), pp. 56–7: *arazi memuru ünvanıyla tapu baş katibi* and two *refiks*.

8 *Idem*. These *nahiyes* largely correspond to the districts noted by Burckhardt, *Travels in Syria and the Holy Land* (1822), pp. 288–9. See the discussion in Abu 'l-Sha'r: *Irbid*, pp. 168–9.

9 A European traveller F. A. Klein reported that in 1868 the local leader Hasan Barakat Furayhat of Kufrinja had been recognized as *mudir* of the Jabal 'Ajlun *nahiye* – Rogan, 'Al-Salt, Jabal 'Ajlun, and the advent of direct Ottoman rule', *Dirasat* xv (1988), p. 37: 'In the afternoon we reached *Kufrenji*... This is the seat of a kind of sub-governor they call here "Effendi". This Effendi has under him the district of Jebel Ajloon and is himself under the direction of a Governor residing at *Irbid*, north of Husn. ... These belong to the ancient and very influential family of the "Fureihat", who were formerly the lords of this district but the new system of government has made an end to the influence and power of this and similar great families.' Kufrinja was not easily governed from *Irbid*.

10 *Salname-i Suriye* ii (1286AH/1869–70), p. 101. Yusuf Efendi Sharaida was also to serve in 1872–74 before being succeeded by his son 'Abd al-Qadir on the administrative council from 1877: *Salname-i Suriye* iv (1289AH), p. 103; v (1290AH), p. 94; ix (1294AH), p. 113.

11 We are not able to identify the last figure with certainty.

12 The *Mudhakkirat* of Salih al-Tall (a copy of which was graciously given us by Eugene Rogan) stresses this aspect. So does more recent scholarship: Fischbach: *State*, pp. 51–86 and 164–78 and Abu 'l-Sha'r: *Irbid*, pp. 167–86. Abu 'l-Sha'r

completes her account of regional leadership with a discussion of village sheikhs, pp. 173–6. Compare also al-Nawasira, *Ta'rikh nahiyyat al-Mi'rad min 1257–1336H/1840–1918M* (2002) and *Nahiyyat Kufrinja (1281–1336H/1864–1918M)* (2002), and al-Sharayda, *Nahiyyat al-Kura fi qada' 'Ajlun 1864–1918M* (1998). Salih al-Tall appears as a teacher in Irbid and as director of the Kura *nahiyye* in *Salname-i Suriye* xxxi (1317/1899–1900), p. 218 and xxxii (1318/1900–01), p. 215.

13 It is in relation to such conflicts that the 'Ajlun district appears in the first issues of the provincial newspaper *Suriye*. Records of correspondence between the Porte and Suriye vilayet in the 1860s and early 1870s reveal the government's concern with establishing control over the nomadic groups, by military force and by granting honours and remuneration to tribal leaders. A particular effort to discipline the Bani Sakhr in 'Ajlun and the Jordan Valley is noted in reports dated April and May 1285/1869, see BOA. BEO, vol. 342, p. 168. On the hostility of the Ottoman government to its officials establishing good relations with nomadic leaders, see Gross: Ottoman Rule, pp. 182–3, n. 36.

14 Compare Mundy and Shami, 'Review of Lewis: *Nomads and Settlers*', *Journal of Peasant Studies* xvi/2 (1989), pp. 292–4.

15 In work on the Ottoman state's relations with bandits and nomadic leaders in eighteenth-century Antakya, Tamdoğan-Abel describes how the government oscillated between punishment and incorporation; see Tamdoğan, 'Le *nezir* ou le relations des bandits et des nomads avec l'État dans la Çukurova du XVIIIe siècle', in Afifi *et al.* (eds), *Sociétés rurales ottomanes* (2005), pp. 259–69. Compare p. 87 where the leader of the Kafarat *nahiyye*, Ibrahim Sa'd al-Din, is accused by the kaimakam of having shielded the livestock of nomads from government tax officials.

16 Robinson and Smith: *Biblical*

Researches, p. 162, noted that al-Taiba was 'capital of the whole province' during their visit of 1834.

17 Compare Gross: Ottoman Rule, p. 179 who writes of vali Subhi Pasha as: '...retreating back to the old policy of imprisoning village *shaykhs* whose people still owed money to the government'.

18 See *Salname-i Suriye* xii (1297AH/1879–80), p. 218; the scribe is Mikha'il Bakhri. Registers of villages surveyed 1292–94AM were signed by a scribe 'Umar. It is unclear whether he was an official *tapu* official since the name does not appear in *Salname* ix or x. A *yoklama katibi* of the name of 'Umar Efendi appears attached to vilayet *Defter-i hakani kalemi* in *Salname-i Suriye* vi (1291AH/1874–75), p. 55.

19 DLS.AT.Zabt 1324–6/1908–11, entry numbers 23–92 concern the inheritance from Hasan Efendi Barakat to his heirs of the lands of Rajib first registered in Teşrinisani 1288/November 1872.

20 *Salname-i Suriye* ii (1286AH), p. 101, x (1295), p. 103; xiii (1298), p. 222 and xv (1300), p. 248.

21 In 1882 the provincial newspaper *Suriye* informs us that a Damascene, Ibrahim al-Sula, foreclosed the land, owned entirely by Hasan Barakat, for debt, *Suriye*, nos 877, p. 1 and 891, p. 2. It appears that Hasan Barakat had put the land up against a loan, presumably through *bai' bi-'l-wafa'* although we have no trace of such in the Irbid registers, or else had defaulted on repayment of tax payments advanced by al-Sula who had served as director of finance in 'Ajlun in the later 1860s, *Salname-i Suriye* ii (1286AH/1869), p. 101, in 1872–74, *Salname-i Suriye* iv (1289), p. 103 and v (1290/1873–74), p. 94, and later in the Hauran *liva* finance administration. Al-Tall: *Mudhakkirat*, fol. 7, gives Ibrahim Efendi al-Sula as finance director and Hanna Farkuh as treasurer in 1866. But this is not the end of the story. The legal procedures to foreclose appear to have pressured Hasan Barakat to repay

the debt; the village, an area where fruit plantations were developed, did not leave the family.

22 Hanna Farkuh appears as treasurer in 1869, see *Salname-i Suriye* ii (1286), p. 101; in 1876 at the time that the village of al-Nu'aima was registered: see DLS. AT. *Yoklama*, 1295–98, p. 75; and again in 1878, see *Salname-i Suriye* x (1295), p. 103.

23 A *mezraa* was an area of land without a village settlement. The basic unit of Ottoman land administration was the village, but the administration had long recognized that areas of land could be associated with cultivators of a village as a *mezraa*.

24 Fischbach: State, pp. 159, 187–8 and 205. In BOA.ŞD.2273/38 document 15, fol. 4b, the kaimakam of 'Ajlun in 1878–79 Da'ud 'Abbada stated that he had borrowed 100 pure *meçidis* from the treasurer, Jurji Qabawat, to buy a plot of land in Zubdat al-Wustiya.

25 Fischbach: State, p. 96.

26 *Defterhane nezaret-i celilesinden meb'us tezkiyenin suretidir*, 5.L.1288, in a collection marked *Arazi kanunnamesiyle talimat ve tarifname 'al-qadima'* in DLS. AT. *Talimat*, item 3, folio 1. For an Arabic description see Abu 'l-Sha'r: *Irbid*, pp. 276–8, drawing on articles in the Arabic journal *al-Jinan* of 1872 setting out the regulations in detail.

27 The assumption of the law is that such lists of souls exist. In the region in question there is no evidence of such lists having been available for the *tapu* officials.

28 DLS.AT. *Talimat*, item 3, fols 1–3.

29 This is the first village registered in the available registers. Abu 'l-Sha'r: *Irbid*, p. 282, judges that since the first register is numbered by hand beginning with page 276, the series had begun earlier. It appears that loose-leaf sections were bound together to form this register.

30 Abujaber, *Pioneers over Jordan* (1989), pp. 172–3.

31 DLS.AT. *Yoklama*, 1295–98, pp. 66–75, dated 31 Ab 1292. The use

of Arabic is exceptional. Although the Ottoman of the registers is highly arabized and the description of property often uses local Arabic words, all important entries prior to 1304/1888–89, especially the final statements, are in Ottoman. Then follow some years when the final statements are in Arabic, until in the Young Turk period of the early years of the twentieth century, they appear again in a Turkish hand.

32 The forty holders pay an average of 155 *ghurush* in *kharj al-mu'tad* (the 5 per cent registration fee due) per holder. This represents one-fortieth of the 6,200 *ghurush* due in *kharj al-mu'tad* from the village as a whole. If we first divide the list in two: holders 1–18 and holders 19–40, we find that the two sets pay almost exactly equal shares of the fiscal burden (3,100 versus 3,118). Dividing further so as to distinguish group 19–30 from 31–40, we find that the two pay almost exactly one-quarter each of the tax due on the village (1,539 versus 1,579). Holders 1–18 fall into neat halves by land value and fees due: 1,550 (holders 1–10) and 1,550 (holders 11–18).

33 See Abujaber: *Pioneers*, pp. 172–3.

34 DLS.AT. *Yoklama*, 1292–95, pp. 1–18. As in the case of al-Nu'aima, the registration of Aidun was attested by both the headman and the imam of the village unlike those registered subsequently where only the headman appears along with other members of the village council.

35 DLS.AT. *Yoklama*, 1295–98, p. 205.

36 *Düstur*, vol. 1, pp. 168–9.

37 BOA.ŞD.233, 2884/31, document 2, dated 6 Teşrinisani 1291. Document 1 logs the document into the Şura-yı Devlet *melfufat müzekkiresi* with a number in the register as 5 *istida* 517, a *şikayet* against Ibrahim Na'il, who had been appointed sheikh in the village, advanced to the sultan as an *arzuhal* by the people of the village.

38 This appears to be Sa'id Efendi, the *mutasarrıf* of Hauran, who returned to Damascus in March 1290/1874 to be

succeeded in June of that year by As'ad Efendi. BOA.BEO, vol. 349, entries 65 and 86 for 1290AM. He is also noted as having cleared his financial responsibilities (*beraet-i zimmeti*) in March 1875, *ibid.*, item 13 of 1291AM.

39 For earlier practice of appointment of a sheikh to a village in the Hauran, see the document dated 1863 reproduced in Abu Fakhr, *Ta'rikh liwa' Hauran al-ijtima'i* (1999), p. 334.

40 This word is problematical, appearing in this form in neither Turkish nor Persian. Engin Akarlı (personal note) has suggested the following possible derivation. 'Çapan may be a corrupted version of *çapa*, which means hoe. *Çapalamak* means hoeing or to hoe. *Çapalık* means a piece of land worked by hoe (as opposed to plough) and thus a vegetable garden (as opposed to a field). Phonetically, it is quite easy to move from *çapalık* to *çapanlık*.' Another possible meaning would come from the Persian roots *shaban* (with shin) and *chopan* (with che), which both mean shepherd (Ziba Mir-Hosseini, personal note).

The first derivation would make better sense in its etymology as it would then be a Turkish abstract of the object, rather than a derivation from a Persian word for a person.

41 The first is presumably the vali Muhammad Halet Pasha and the second Ahmed Hamdi Pasha whose dates in the post were according to Gross: Ottoman Rule, p. 559, respectively, February 1873–September 1874 and February 1875–June 1876.

42 It is possible that this figure is Yusuf Agha of the Mahayini family of grain merchants of the Maidan who served on the Municipal Council of Damascus in 1871–72, see Schatkowski-Schilcher, *Families in Politics* (1985), pp. 149–50. A Muhammed Yusuf Bey appears as *mütemayiz* member of the vilayet administrative council in 1868: *Salname-i Suriye* i (1285AH), p. 22; again in *Salname-i Suriye* vii (1292/1875), p. 52, a Yusuf Başazade Muhammad Bey

appears, perhaps the same as Midhat Pasha's Yusuf Mamluk (see next note) or the Kurd Yusuf Bey of the document.

43 Midhat Pasha notifies the Porte that Jubran Ispir Efendi was elected to the administrative council and Yusuf Mamluk Efendi to the court: BOA.ŞD.2272/32, document 1 dated 27 Mart 1295AM/8 April 1879. The former is presumably Ispir Acemi Efendi, a member of the administrative council of the vilayet in 1872–74 – *Salname-i Suriye* iv (1289AH), p. 72, and v (1291AH), p. 47. Jubran Ispir Efendi continues to appear as an elected member of the administrative council until 1881–82, see *Salname-i Suriye* xiv (1299AH), p. 103. Ispir Acemi Efendi also serves as a member of the Special Commission for the Lands of Hauran, see Chapter 8, note 6.

44 It is unclear whether the name Ibrahim simply dropped here or whether in fact the father of Na'il Ibrahim, here named Ibrahim Na'il, was in fact first appointed, although his son was already the active figure at the time of the case.

45 The Şura-yı Devlet sent a first report to Damascus on 29 Teşrinievvel 1291/19 October 1875, further instructions on how to proceed on 5 Teşrinisani 1291/17 November, and another note concerning the lands cultivated in the village on 16 Şubat 1291/28 February 1876 (BOA.BEO, vol. 349, entries 162, 172 and 290). Both of the main protagonists in the case had by then sent correspondence to the Porte: on 15 Mart 1292/27 March 1876 a response from the justice administration concerning the legal claim/*istida* of 'Abdullah Ahmad that the village land be awarded by *bakk-ı karar* is forwarded by Şura-yı Devlet to the province and on 26 Nisan 1292/8 May 1876 the justice administration responds to the correspondence of the village headman (*muhtar-ı labik*, holding the office of headman) Na'il Ibrahim. BOA. BEO, Suriye, Giden, vol. 350, entries 11 and 50. The last entry in the same register concerning the case notes that further clarification was sent from Şura-yı Devlet

to the province on 22 Temmuz 1292/3 August 1876 and, in an ancillary note, that the report which was made to the council was given from the Şura-yı Devlet documents room to one İbrahim Bey (ibid. entry 147). This suggests that the whole file was communicated to someone in direct contact with Damascus; in any case no other documents were successfully traced in the Istanbul archives.

46 The last entry for correspondence concerning the case was dated 15.B.1293/24 Temmuz 1292/1 August 1876: BOA.BEO, vol. 350, entry 147.

47 DLS.AT.Yoklama, 1292-7, p. 153.

48 The term *nafar* may be used here to indicate only men, hence the lack of fit of the 13 names, of whom one is a woman, with the 12 *nafar* mentioned by the *tapu* scribe and the 13 mentioned by the regional authorities when in fact 14 names appear.

49 On Map 6.3 al-Nu'aima and Aidun appear as *musha'* whereas formally in the *tapu* registers landholding in these villages is as separate plots.

50 Firestone, 'Land equalization and factor scarcities', *Journal of Economic History* xl (1981), pp. 813-33 and 'The land-equalizing *musha'* village', has argued that it is also the result of evening out a particularly heavy tax load. On this argument, see Mundy, 'La propriété dite *mushâ'* en Syrie', *Revue du Monde Musulman et de la Méditerranée* lxxix-lxxx/1-2 (1996), pp. 267-81.

51 *Salname-i Suriye* x (1295AH), p. 103; xi (1296AH), p. 101; xii (1297AH), p. 218.

52 *Düstur*, vol 4, pp. 236-9. The jurisdiction of the Islamic court, by contrast, was gradually restricted to issues of personal status (marriage, divorce, custody, inheritance, care of orphans) and family *vakıfs* although its power to register agency (*vekalet*) allowed it to give legal form to a promise to effect the transfer of land at the title offices.

53 See the discussion of house registration in 1889, p. 64. The land was

held in joint holdings calculated as 9 shares in which the three senior brothers held 6 shares and the six sons of their deceased senior brother held 3 shares. The village site land was registered in Temmuz 1305/July 1889 in four shares, one to Mubarak and Fandi, sons of Talla' al-Muhammad, a second to the six sons of Sulaiman al-Muhammad, a third to Mutlaq al-Muhammad, and a fourth to Muflih al-Muhammad. DLS.AT.Yoklama, 1305-07, pp. 23-5. Compare the genealogy of the Rusan clan in Peake, *Ta'rikh sharq al-Urdunn wa-qaba'ili-ha* (n.d.), p. 431. Muflih al-Muhammad in the case against Da'ud 'Abbada (Chapter 7) identifies himself as Muflih al-Zamil, and he is elsewhere named as Muflih Abu Ra's. BOA.ŞD.2273/38 document 16.

54 See Chapter 7, pp. 85-6.

55 The land of Hubras was divided in half between Ibrahim (and four of his sons: Sa'd al-Din, Ali, Qaftan and Khalil) and the three grandsons of Ibrahim's deceased brother Muhammad (Sa'd al-Din, Salih and 'Ali al-Muhammad), see DLS. AT.Yoklama, 1292-97, pp. 45-7.

7 Regional leadership and the prosecution of a governor

1 Salih al-Tall in his *Mudhakkirat* has two notes concerning 'Abbada. The first and more accurate, fol. 7, comes from a notebook of Salti al-Ibrahim al-'Ayyub, one of the Christian notables of al-Husn. It states that Da'ud 'Abbada who was Jewish was kaimakam for Irbid in 1877 and appointed Muhammad al-Hamud *mudir* of Bani 'Ubayd *nahiye*. The second, fol. 225, for which the source was Salih's father Mustafa Yusuf al-Tall, is more problematical. It states that the first *musallim* who came to Irbid was Da'ud 'Abbada, a Jewish man.

2 *Salname-i Suriye* xi (1296AH/1878-79), p. 104. BOA.ŞD.2273/38 document 14, fol. 2 indicates that Da'ud 'Abbada had held the post for thirteen months before he was designated for transfer to the lesser

governorship of Qunaitra. His trial began at the very end of 1879, 15 Kanunuevvel 1295, BOA.ŞD.2273/38 document 14, fol. 5, also BOA.ŞD.2272/70 and 2277/21.

3 'Abbada's invocation of the vali Midhat Pasha was to prove to have been a misplaced hope, although not his demand that his prosecution be transferred to Damascus: see PRO.FO.78/3130, fols 322 and BOA.ŞD.2273/38 document 14, fol. 3a. Gross: Ottoman Rule, p. 305, notes that Midhat had appointed '... mainly native Syrians on the grounds that they understood local conditions better than any Turkish official brought out from Istanbul'.

4 '*Thaura*'-i *umumiye kabilinden idi*: BOA.ŞD.2273/38 document 14, fol. 17a/31. *Thaura* is not used in Ottoman Turkish: the investigations were held in Arabic and later translated into Turkish, hence purely Arabic words appearing in the *procès-verbal* are given between quotation marks in Arabic transliteration.

5 BOA.ŞD.2272/32, document 1, dated 27 Mart 1295/8 April 1879.

6 Gross: Ottoman Rule, p. 232, drawing on PRO.FO.78/2622, Damascus, Jago to Derby, No. 8, 29 April 1877, writes: 'The tax was not easily collected outside of the major towns of the province, and in some parts of the country, as in the *qada* of 'Ajlun, there were peasant revolts against the local authorities.' For a French consular report, see Mundy: 'Shareholders', p. 237.

Jago, the British Vice-Consul in Damascus, PRO.FO.78/2985, fol. 127, wrote in his report dated 16 August 1879: 'The Caimmakamlik of Ajloon consists of the mountain range of that name together with the plain in the immediate vicinity. While the villages of the latter are naturally more amenable to Imperial authority in the matter of taxation, those of the mountain have paid little or nothing of late years, chiefly, on account of the alleged exactions and depredations of the petty Arab tribes which are located and

which cultivate the soil on the eastern side of the range; and which were held sufficiently onerous as to warrant the withholding of Imperial taxes.

'In 1877, however, an armed expedition on a small scale was directed against the mountain for the recovery of arrears of taxes; and punishment was inflicted while numbers of men were impressed for military service; but without any serious collision.'

7 BOA.ŞD.2273/38 document 14, fol. 5a/7 describes the reasons for the *mutasarrif* of Hauran touring the district as 'taking action with the *tapu* officials touring the villages, as part of an intervention into the affairs of the taxpaying people'. Gross: Ottoman Rule, p. 278, states concerning the changes in tax collection introduced by the vali in 1878–79: 'Instead of permitting bids to be made on whole districts, Midhat insisted that each village be auctioned separately and that the bidding take place openly and without secrecy. Furthermore, he encouraged the peasantry to bid communally on their own villages and required no payment from them until the harvest was completed. The results of Midhat's policy were remarkable.' And Jago, PRO.FO.78/2985, fols 127–8, notes: 'Since then order has been established and the authorities are attempting to do away with the old system of taxation which was to levy a lump sum upon each village in proportion to the extent of land it was supposed to cultivate (holding the Sheikh and Elders responsible for the distribution and proper payment) and to introduce the Tabo system which obtained in the settled parts of the country. Owing, however, to the distrust of the people, Tabo papers, which confer a sort of freehold title to the land upon payment of land tax and tithe, have been taken out by one or two villages only as yet.'

8 Salim Bey presumably belongs to the ruling Lebanese Druze clan of the Shihab.

9 BOA.ŞD.2273/38 document 14, fol. 5a/7.

10 Later in the *procès-verbal* (BOA. ŞD.2273/38 document 14, fol. 16a/29) the finance director Musa Shalhub testifies concerning the document. He notes that at the time people had come asking for the money from the kaimakam himself. After Da'ud 'Abbada said that the money had gone to Salim Bey not himself, Shalhub, too, stamped the document.

When asked which officials were present at the drawing up of the document, Shalhub gave the names of *tahrirat katibi* Antun Siyur and treasurer Jurji Qabawat; when asked who was there, he answered: 'the Efendis 'Abd al-Qadir Sharaida, Muflih al-Zamil, Muhammad Hamud, Jabr 'Abd al-Rahman, and Muhammad Mutlaq; there may have been others but I don't remember them. They demanded their rights, the total sum demanded was not stated, I didn't see them individually.' When asked how they expressed themselves, he answered: 'They said: "we want our *emval ve hukuk* taken from us unjustly (*bi-gayr-ı hakk*)".' Da'ud 'Abbada said to them that in fact he didn't take the money, 'you in fact know the truth', he said to them. They responded: 'we gave the money to you, so now we are asking for it from you'. Da'ud 'Abbada said that he had no share in the money. When pressed as to why he stamped the statement concerning the *mutasarrıf*, Musa Shalhub recounts how when the *mutasarrıf* was in Irbid, he saw money taken from Muflih al-Zamil. Lastly, Shalhub states that he was forced to stamp the statement.

11 BOA.ŞD.2273/38 document 14, fol. 1, first session dated 15 Kanunuevvel 1295/27 December 1879.

12 An Antiquities Regulation governing excavations was issued in 1874, see Shaw and Shaw, *History of the Ottoman Empire and Modern Turkey* (1977), vol. 2, p. III.

13 BOA.ŞD.2273/38 document 14, fol. 11b/20, dated 29 Kanunuevvel 1295.

14 The first states that (a) the *yoklama* scribe came to the village on such and such

a date, (b) so many entries were registered for which a given sum was due in fees, (c) once the total due was paid in the district treasury the documents were to be supplied, and (d) an account of the registration should be sent to the headquarters of the *liva* Hauran (or sometimes, to the vilayet). This first statement is stamped by the headman, by members of the village council, and generally also by the *yoklama* scribe. The second basic statement generally contains four major clauses: (a) the register was drawn up by the scribe in cooperation with the knowledgeable people of the vicinity, (b) the assessment was fair, (c) the amount payable in *tapu* dues was set, and (d) a copy of the register was to be sent to the sanjak (or vilayet) registry. This second statement is attested by the administrative council of the kaza comprising the scribe (*katib-i tahrirat*), the director of finance (*mal müdürü*), the *nakib ül-eşraf* of Hauran, the deputy (*naip*) and the kaimakam of 'Ajlun, and four civilian members. The stamps bearing the names of the individuals holding these posts are affixed to the statement. Slightly different wordings of the statements can be seen in the early years of registration.

15 BOA.ŞD.2273/38 document 14, fol. 14a/25. At a later stage in the depositions, fol. 27a, 'Abbada repeats the phrase, noting that most of the people are from elsewhere, being cultivators from the vicinity: *hakikat-ı hal-i zahir der ki ahalinin ekserisi yabancı olup bilad-ı harisidendiler*.

16 Mikha'il Bahri was an experienced *tapu* official. He served in the Damascus sanjak *tapu* service as second assistant in 1869: *Salname-i Suriye* ii (1286AH), p. 59.

17 Mikha'il Bahri's stamp appears below the registration of al-Husun but Yubla's registration appears to have been rejected at some level since it was later done, or redone, by the Special Commission in 1299AM.

18 BOA.ŞD.2273/38 document 14, fol. 6b/10. Jabr al-'Abd al-Rahman claims (fol. 8a/13) that he had been sent officially by

the kaimakam as part of *tapu* registration of al-Sarih village. In fact al-Sarih's registration in the registers will appear finally dated Haziran 1299AM/1883.

19 'Abd al-Fattah reports that 'Ajaj Bey completed the registration of Bushra village; if so that too was suspended before being accepted since it appears as the first village stamped by the Special Commission for the Lands of Hauran in Kanunusani 1298AM/1883.

20 BOA.ŞD.2273/38 document 14, fol. 26b/50 describes a dispute over village borders between al-Bariha and Irbid and its settlement.

21 A possible reason for this was that at the time that the *mutasarrif* Salim Bey came to 'Ajlun, the directorships of the Bani 'Ubayd, al-Saru, al-Kafarat and al-Mi'rad were at stake, not of the other *nabhiyes*.

22 Muhammad al-Hamud appears on the genealogy in Peake: *Ta'rikh sharq al-Urdunn*, p. 395 as a member of the Khasauna family. According to *Salname-i Suriye* xxiv (1308-09/1891-92), p. 189; xxv (1310-11/1892-93), p. 227, and xxvii (1312-13/1895), p. 211 he serves on the court of first instance and also on the education commission.

23 According to *Salname-i Suriye* xxviii (1313-14), p. 197 and xxix (1315), p. 203 he served on the court 1896-98. See Peake: *Ta'rikh*, p. 407 where both Jabr and Funaish 'Abd al-Rahman al-Kayid appear on the genealogy of the Nusairat of al-Husn.

24 In *Salname-i Suriye* v (1290), p. 94; xxiii (1307), p. 128; xxv (1310-11), p. 227; xxvi (1311-12), p. 199; xxvii (1313), p. 211 he serves on the administrative council in 1873-74 and again 1890-95 and on the court 1898-1901, *Salname-i Suriye* xxx (1316), p. 211; xxxi (1317), p. 217; xxxii (1318), p. 213. It is not clear who Mahmud al-'Ali is; he may be a brother of Sa'd al-'Ali of the other branch of the Bataina family to that of Mutlaq; see the genealogy of Peake: *Ta'rikh*, p. 383. Muhammad

Efendi Mutlaq al-'Umar was still alive in 1910 at the time of the household census. Reported as born in 1236AM/1821 he headed a household of 34 persons. This was matched only by the household of Sa'd Efendi 'Ali al-'Umar, said to have been born in 1270/1854 again with 34 persons registered. ANR al-Bariha, M1 and M51. For source, see Chapter 9, note 15.

25 Mazid served on the court in 1872-74, 1877 and 1880-81: *Salname-i Suriye*, iv (1289AH), p. 103; v (1290), p. 94; ix (1294), p. 113; xiii (1298), p. 222. See Peake: *Ta'rikh*, p. 483, where he appears on the genealogy of the 'Azzam clan.

26 Khulaif al-Ghanma served as the Christian member on the administrative council: *Salname-i Suriye* ii (1286AH/1869-70), p. 101; iv (1289/1872-73), p. 103 and on the court 1873-75, 1877-81 and 1887-88 *Salname-i Suriye* v (1290), p. 94; vi (1291), p. 86; vii (1292), p. 109; ix (1294), p. 113; x (1295), p. 103; xi (1296), p. 104; xii (1295), p. 218; xiii (1298), p. 222; xx (1305), p. 122.

27 BOA.ŞD.2273/38, Document 15.

28 BOA.ŞD.2273/38, Document 16.

29 BOA.ŞD.2273/38, Document 16.

30 See Peake: *Ta'rikh*, p. 447, and 'Ubaidat, *al-Tatawwur al-hadari li-qada' Bani Kinana* (1984) for genealogies.

31 BOA.ŞD.2273/38, Document 17, fol. 3a.

32 That is, the Muflih identified as al-Zamil al-'Azzam in the preceding deposition.

33 In the summary of the case against Da'ud 'Abbada, the investigators noted that Da'ud 'Abbada had claimed that Ibrahim Sa'd al-Din was a bad and disagreeable character who had wrongfully put his hand on *miri* lands and did not pay the *miri* taxes, see BOA.ŞD.2273/38, Document 19, item 6 under the charges of bribery.

34 BOA.ŞD.2273/38, Document 17, fol. 3b, dated 14 Kanunusani 1295/26 January 1880.

35 BOA.ŞD.2273/38, Document 17, fol. 5a.

36 BOA.ŞD.2273/38, Document 18.

37 BOA.ŞD.2273/38, Document 18, fol. 6a/9. When asked who gives the orders for appointments, Siyur answers that ‘some orders were issued on the basis of an oral instruction from the *mutasarrıf* and some on the same from the kaimakam. Some after being held in the *mutasarrıfiye* are given to the kaimakam; sometimes the person appointed goes to salute and thank the *mutasarrıf*. Then with a line of soldiers preceding him, he goes to the room of the court of first instance and there in the presence of the officials of the court, the order of appointment is read out and the written order given to the *müdür*. Sometimes I read the order out in the district headquarters in the presence of some cavalry and the headmen of the *nahiye*. That is all I know.’

38 BOA.ŞD.2273/38, Document 18, fol. 6b/11: *bu da o vakit[te] muharrem bir şey değil idi.*

39 BOA.ŞD.2273/38, Document 19.

40 BOA.ŞD.2277/21.

41 Jago, PRO.FO.78\3130, fols 320–22 dated 20 April 1880. Compare the phrase ‘renegade jew’ to the silence about the governor’s religious background in the official papers and to Salih al-Tall’s understanding that ‘Abbada remained Jewish, see note 1 above.

42 The Commission first appears as an investigative commission for the lands of *liva* Hauran and begins work in ‘Ajlun district in 1883, compare Chapter 8, note 6.

43 Mundy: ‘Shareholders’, p. 237, n. 34.

44 In Robinson and Smith: *Biblical Researches*, vol. 3, p. 166, al-‘Arba’in is given as a village of the Kura *nahiye*; in short, that area of the Ghaur had belonged to the area of tax collection of the Sharaida of Tibna.

45 For contemporary studies of two villages in this area see Ghannam, ‘*Qariyat al-Harrauiya*’ and Ziyadeh, ‘*Qariyat Tall al-Arba’in*’, in Mundy (ed.), *al-Qariya ma bain al-numuw wa-’l-takhtit* (1990), pp. 48–83 and 84–120.

46 See DLS.AT.*Daimi*, 1304AM, p. 68 for the notice of first decision as being 25 Kanunusani 1304AM. The lands were said to have been evaluated at 30 *paras* per *dönüm* which would give a total area of 156,000 *dönüms*. This vast area is bounded on the south by Ghaur al-Fara and the village of Sila, to the east by the mountains of al-Kura *nahiye*, to the north by *wadi* al-Taiba, and to the west by the Jordan River (*şeriat nehri*). The owner duly inscribed was the ‘sultan el-Gazi Abdul-Hamit Han, son of sultan Abdul-Mecit Han, may he rest in heaven’.

47 DLS.AT.*Yoklama*, 1300AM, pp. 74–5 for Zubiya and pp. 149–52 for Kufr Abil.

48 DLS.AT.*Yoklama*, 1299–1301, pp. 38–55 for tree plantings, pp. 56–71 for houses and pp. 210–59 for *miri* land-holdings.

49 Ayman al-Sharayda is working on an analysis of the 1895 tax register for Tibna. This should allow a finer analysis.

50 The names registered in the *tapu* (DLS.AT.*Yoklama*, 1299–1301AM, pp. 232–53) correspond to those in the genealogy of the Sharaida family in Peake: *Ta’rikh*, p. 458.

51 DLS.AT.*Yoklama*, 1299–1301AM, p. 229, entry number 925.

52 DLS.AT.*Yoklama*, 1300AM, pp. 37–55, entries 343–682.

53 The reason to think that Muhra is his mother (‘Abd al-Qadir’s wife) is that his father’s brothers Jurdan and Klaib have as co-holder in their share one Muhammad ibn Khamis, probably the brother of Muhra.

54 It is possible that Amina was the mother not the wife of Mahmud, but as her father Mustafa was still alive and holding olive trees, we believe she was Mahmud’s wife.

55 Fischbach: State, pp. 189–90; Yunus, *The Articulation of Civil Law and Customary Law*, Unpublished MA thesis (1987).

56 Fischbach: State, pp. 188–90.

57 See the genealogies for Sa’d al-Din

al-Ibrahim and Muhammad Sa'd al-Din al-Ibrahim (given in the *tapu* register as Muhammad Muhammad al-Ibrahim) in 'Ubaidat: *Al-tatawwur*, pp. 171 and 178.

58 Fischbach: State, p. 155.

59 There are areas for which no registers were found, such as Suf and Jerash. The above generalization applies only to the villages for which *tapu* registers were available.

60 In this regard Harta, registered in April 1883, fits the rule with just over half the village *musha'* plots being owned by Da'ud Efendi 'Abd al-Muhsin and his sons but also with an important participation of members of the Abu Dani clan of Yubla in olive ownership, whereas Kufr Saum, registered in September 1883, has the lowest proportion of the common land held by Muflih ibn Jabr and his sons, 21 per cent or a total of 28 per cent when the brothers of Muflih are also counted. It is noteworthy that one of the shareholders in the common plots is Sa'd ibn 'Ali Efendi and his brother Sa'id, the financiers of al-Bariha closely associated with Muflih ibn Jabr.

61 Singer: *Palestinian Peasants*, pp. 49–50.

8 Property and administration in the later *Tanzimat*

1 *Salname-i Suriye* xiii (1298AH/1880–81), p. 222.

2 *Salname-i Suriye*, xv (1300AH/1882–83), p. 248.

3 *Salname-i Suriye* xiv (1299), p. 193 and xvii, p. 183 names as members, Na'ila Efendi (head), Ispir Acemi Efendi (member, third rank) and principal scribe delegated as member 'Abd al-Ra'uf Efendi (see note 6 below).

4 *Suriye*, no. 935, 27 Teşrinievvel 1299, p. 1. The other objectives mentioned in the same article were to establish elementary schools, assure security on the roads, stop aggression against Hauran cultivators by Kurdish debt collectors, build three forts in the Jabal Druze, complete a carriage road from Damascus to the Hauran, reform

the police forces, discipline headmen who unjustly interfered with people's business, and impede attacks on the settled areas by nomads.

5 *Suriye*, no. 994, 3 Kanunusani 1300, p. 1.

6 The third statement for the village of Bushra, the first done by the Commission of the Lands of Hauran, is stamped by Ahmad al-Na'ili head, 'Abd al-Fattah, *tapu* scribe of 'Ajlun district, and members: Ispir Acemi Efendi and Ahmad Shams al-Din, employee of the Hauran *defter-i hakani*. DLS.AT.Yoklama, 1295–98, p. 89, dated 11 February 1883. Ispir 'Ajami Efendi should presumably be identified with the member of the administrative council of the province accused of being in cahoots with Na'il Gharaiiba, see Chapter 6, note 43.

7 DLS.AT.Yoklama, 1295–1298AM, pp. 84–9.

8 *Salname-i Suriye* xvi (1301AH/1883–84), pp. 193–4.

9 Compare Chapter 1, note 24. See *Salname-i Suriye* xvii (1302AH), p. 185; xviii (1303), p. 173; xix (1304), p. 192; xx (1305), p. 123.

10 *Salname-i Suriye* xvi (1301AH), p. 194.

11 Husain Barakat was on the administrative council in 1305–06AH/1887–88. In 1887–88 'Abd al-Qadir Yusuf Sharaida was on the court of first instance; for the following two years he served on the administrative council. *Salname-i Suriye*, xx (1305AH), p. 122; xxi (1306), p. 118; xxii (1307), p. 128.

12 *Salname-i Suriye* xvii (1302AH), p. 185.

13 For example, Qasim Hijazi was himself elected to the administrative council in 1892–93: *Salname-i Suriye*, xxiv (1309–10AH), p. 189.

14 *Salname-i Suriye* xviii (1303AH), p. 173. In 1889–90 Jerash became the site of an honorary administrative director, *Salname-i Suriye* xxii (1307AH), p. 127, and in 1901 the Kura *nahiye* gained independ-

ent administrative status, see *Salname-i Devlet* (1319AH/1901–02), p. 525.

15 *Salname-i Suriye* xx (1305AH), pp. 122–3.

16 *Salname-i Suriye* xxi (1306AH), pp. 118–19.

17 For block assessment of the *vergi* tax see Chapter 6, p. 75 on Makhraba village.

18 For cartographic analysis of the registration of the Bani Hasan, see Mundy:

‘Qada’ ‘Ajlun’, pp. 88–91.

19 DLS.AT.Yoklama, 1305–07, pp. 1–33.

20 *Salname-i Suriye* xxv (1310–11AH), p. 228 and xxvi (1311–12AH), p. 199.

21 *Salname-i Suriye* xxviii (1313–14AH), p. 197.

22 *Salname-i Suriye* xxv (1310–11AH), p. 228.

23 *Salname-i Suriye* xxvii (1312–13AH), p. 21; besides al-Ka’id, the members included Yusuf al-Da’ud and Muflih al-Jabr of the ‘Ubaidat from Hartha and Kufr Saum, Muhammad Shannaq of Saum al-Shannaq, Na’il al-Gharaiba of Hawwara, Muhammad al-Hamud of Aidun, ‘Awwad al-Hijazi of Irbid and Ahmad al-Nu’man whose origin we cannot identify.

24 *Salname-i Suriye* xxviii (1313–14AH), p. 198; xxix (1315AH), p. 205.

25 *Salname-i Suriye* xxviii (1313–14AH), p. 198. A Sulaiman al-‘Ali also served on the municipal council.

26 *Salname-i Suriye* xxix (1315AH), p. 204.

27 See BOA.ŞD.2276\15, 2276\25, 2276\32, 2276\42.

28 See BOA.DH.SN.THR 1805 15\56, 2114 18\51, 3050 27\98. Compare the document from the Interior Ministry requiring persons and property in the central Hauran to be registered in Abu Fakhr: *Ta’rikh liwa’ Hauran*, p. 353.

29 *Salname-i Suriye* xxii (1307AH/1889–90), p. 127 and xxiii (1308–09/1890–91), p. 128 where the *mülazım* was Ibrahim Sa’d al-Din of the ‘Ubaidat. In subsequent years other major rural leaders served as *mülazım*. In 1894–95 the number of

mülazım members was increased to two, with Yusuf al-Sharaida and Muflih ibn Jabr ‘Ubaidat occupying the posts: *Salname-i Suriye* xxvii (1312–13AH/1895), p. 211.

30 *Salname-i Suriye* xxxii (1318AH), p. 213.

31 The witnesses are described as *muarrif* and *şahit* and their action as *tasdik*.

32 Compare Chapter 9, p. 136. This information derives from the entries for the village of Hawwara; we are not certain that the survey covered all villages of the district.

33 On the central Hauran see Schilcher, ‘The Hauran conflicts of the 1860s’, *IJMES* xiii (1981), 159–79 and ‘Violence in rural Syria in the 1880s and 1890s’, in Kazemi and Waterbury (eds), *Peasants and Politics in the Modern Middle East* (1991), pp. 50–84 and Schäbler, *Aufstände im Drusenbergländ* (1996). For resistance to acquisition, see Fischbach: ‘Al-Mukhayba’.

34 Compare on Yanya province, İslamoğlu: ‘Property’, pp. 36–9. The 1858 Land Code is explicitly phrased in terms of awarding right to cultivators. There is also evidence that this was policy among officials appointed from the centre at the Syrian provincial level: BOA.ŞD.2272\86.

35 Neocleous, *Administering Civil Society* (1996).

36 ACR.CC 1918–22, *qarar asas* 153/116, dated 7 June 1919 at the time of the Faisal government.

37 ACR.CC 1918–22, *qarar asas* 68/918 where Fallah Klaib al-Sharaida is accused of violating the virginity (*izalat al-bakara*) of a six-year-old girl and breaking the arm of her father, only to have the first accusation dropped from the proceedings statements of the public prosecutor dated 24 February 1919 and 2 March 1919; and *qarar asas* 49/23, where ‘Abdullah Klaib Sharaida is accused of the murder of a man named Ibrahim from the village of Kufr al-Ma’ only to have the case dropped for lack of evidence, dated 24 April 1920.

38 See al-Madi and Musa, *Ta'rikh al-Urdunn fi 'l-qarn al-'isbrin* (1988), pp. 111–12, 156–64 for an account whitewashing Emir 'Abdullah, and Wilson, *King Abdullah, Britain and the Making of Jordan* (1987), p. 64 for a correction of the same.

9 Registration and political economy in two plains villages

1 The origin of the name Ta'an is obscure. No family is called Ta'ani in any of the three main lists (1880, 1895 and 1921), unlike the three or four Hamuri families at the core of the Hamuri section. In one or two *shar'i* court cases witnesses are identified as Ta'ani: for instance 'Sa'id Matar 'Uwaida al-Ta'ani' in a case of 1914 (see note 18 for reference). But the identity Ta'ani here could just as well be of a faction as of a group linked by patrilineal kinship.

2 See Chapter 6 regarding Makhraba.

3 BA.ŞD.2273/38 document 14, fol. 11A/20.

4 12A/21.

5 12b/22 and 13b/24.

6 13A/23: 'Q. Is there a close or kin relation (*karabet*) with the said Hasan? A. There is no relation of *karabet*. We are known by the name of Bani Ta'an. We are members of an *aşiret*.' This suggests a political rather than a descent model for the constitution of the group. In this regard compare the document published by Abu Fakhr: *Ta'rikh liwa' Hauran*, p. 335, dated 1873, wherein the sheikhs of two groups agree to be cousins (*abna' 'amm*).

7 13b/24.

8 12b/22.

9 13A/23. Hasan al-Sabbah had earlier told the committee that Salim Abu Qasim 'from Hakama village' asked the governor to be appointed as headman in his place (11A/20).

10 14A/25: 'The above-mentioned person's suit (*dava*) concerning me cannot be without reason or motive, because the *tapu* official (*memur*) having gone to the

mentioned village was about to award rights (*tefviz*) to the people in the form of *hakk-ı karar*. I opposed the designated person in accordance with my official duty concerning the fact that they were not entitled (*gayr-ı müstahak*) to *hakk-ı karar*.'

11 14A/25: 'It is well known that most people in that village do not enjoy rights of [are not *sahibs* of] *hakk-ı karar*: Hasan al-Sabbah himself not being of the people of the village is an outsider (*yabancı*), and his group (*cemaat*) is of the same ilk, for which reason an official proclamation was even made to the cultivators.'

12 15A/27.

13 DLS.AT.Yoklama, 1292–97AM, pp. 140–42. Its two concluding statements are dated 13 and 21 Teşrinisani 1296, corresponding to 25/11 and 3/12/1880.

14 The joint holding is written in the following form: '*İbrahim ve hissedarları ve Mahmud ve hissedarları ve ...*' where Ibrahim and his co-sharers hold the first shareholding, Mahmud and his co-sharers the second, and so on. In fact the joint holding misses out number 13, but we think this is either our own copying mistake or that of the original copyist.

15 In 1910 'Ali's household, M23, now separate from those of his brothers, M22 and M46, contained 38 people, one of the largest we came across in the census registers, though not the most complex in terms of composition. The household consisted of 'Ali and his wife, six sons by two other wives, and the wives and children of five of the sons. The original lists were recopied after the burning of the Civil Registry in 1970. We refer to households listed in the *nüfus* census by household number, C for Christian and M for Muslim, and number of the individual in the household, e.g. M23–1 for 'Ali Muhammad Hamuri.

16 *Daftar mufassal dara'ib nawahi jabal 'Ajlun* (DMD) was compiled in 1996 by Ayman al-Sharayda as reduced photocopies of volumes of the summary tax register (*defter-i hulasa-i zaraib*) exist-

ing at that time in the Irbid tax office. For Hawwara and Khanzira, photocopies of entries in their tax lists made after 1895 were made available to us kindly in 2005 by Ayman al-Sharayda from photocopies in his possession. It was not possible to check the original list for Hawwara as the relevant volume no longer existed in the Irbid tax office.

17 In reading Table 9.1 various points may be noted. First, 1921 holdings are more likely to have been in the names of sons or sons' sons than in those registered in 1895, partly on account of the passage of time and partly because in 1895 only one name was registered whereas in 1921 co-sharers were registered too. For purposes of comparison Table 9.1 shows only the name given in the 1895 register. Second, 1921 shares are given in *qirat* out of a total of $36 \times 24 = 864$, as well as in fractions of shares, in order to facilitate comparison with the shares given in 1895; 24 *qirat* make one share. Third, the order of names is roughly by register and type of holding, but has been rearranged to allow one easily to see who had a house but no land in 1880, who appeared for the first time in 1895, and so on. Finally, house number 686 in 1895 is missing from the sequence of house numbers, but we do not know what its omission signifies; an occasional number was missing in lists of other villages. It may also be noted that the only new entry to the 1895 register was the name of Bayir al-'Audatallah with a new house in 1917; his sons had 12q in holding 19 in 1921 and are included in Table 9.1 under Bayir's father's name. For Hawwara, names were inserted at the end of the 1895 tax list soon after its completion and new entries were made up to 1933, largely paralleling mutations in the *tapu* register. But for Bait Ra's, the 1895 tax list appears not to have been kept up to date.

18 ACR.SC *sijill* 2, 1329–33AM, no. 177, and DLS.CR Bait Ra's, *jadwal al-iddi'a'at*, *taqir* 23. See Figure 9.1.

19 Here too a caveat is necessary, for

a wife's year of birth was usually given as two or three years after that of her husband, while birth years of older people seem, from their frequency distribution, often to be rounded. We therefore use the years of birth of men. Boys' dates of birth may have been altered to avoid military conscription. We came across one case in Kufr 'Awan where a man said his mother had registered him and his brother as twins to avoid conscription.

20 Interview with several older members of Bait Ra's on 5 December 1992, including Ya'qub 'Ali Ibrahim Haili, Matar Husain Lafi Haili, Yusuf Salih 'Ali Hamuri, 'Isa Husain al-Muhammad and Mahmud Ahmad Dhiyab al-'Umar. We made notes against various names on a print-out of the *niifus* list and we think that the information about Subha must have come from Mahmud Ahmad Dhiyab al-'Umar, her son's son, although we did not write the source of all the notes we made on that list.

21 Interview on 30 November 1992 with Yusuf Salih 'Ali al-Hamuri, a headman of Bait Ra's at the time. We are grateful to him and to Umm Yahya, who introduced us to him, and to Dr Cherie Lenzen who introduced us to Umm Yahya.

22 '... *wa-X wa-Y wa-Z firqat al-Hamuri wa min ahali Bait Ra's al-maznun 'alaibim bi-maddat itlaq al-rasas 'ala firqa Bani Ta'ani bi-qasd qatl allati hadath min-ha wafat al-ashkhas al-marqumin a'la-hu'*, 3/3/1921. ACR.CC *Da'irat istintaq 'Ajlan, asasi-1* 1921, *qarar-4* 1921.

23 DLS.AT Sukhur al-Ghaur volume, unnumbered pages at end. The list of landholders and accompanying statements of the 'new registration' of 1921/22 are found in a volume relating to Sukhur al-Ghaur and other villages of the Jordan Valley copied in 1923 and 1926 from the *defter-i esas-1 yoklama* in Tiberias. The list has a note of transfer to the *da'imi* register of June and August 1922. The transferred list without the four statements is found in the Arabic register 1922–24, June and

August 1922, pp. 49–84, with different numbering.

24 Three of the sales were from various members of the Dalqamuni family relating to a holding of $\frac{1}{2}$ shares out of 36 which they had bought from 'Awad 'Ali Wibran, a shareholder in 1880. This holding can be identified with that held by Salih Dalqamuni in 1895. ACR.SC *sijill* 2, 1329–33AM, nos 158 [dated 25/7/1913], 160 [17/7/1913], and 161 [18/7/1913].

25 Mahmud al-Ahmad held $\frac{1}{2}$ shares in 1876 in holding 4 (see Table 9.3). In 1933 his family name is given as Rawashida.

26 Interview with Salah al-Hasan Salih 'Abdul-Qadir Abu Kirsanna on 24 October 1992.

27 See Figure 9.3 regarding Falha Ahmad al-Qallab. In the case involving the abduction of a girl from Kufrinja mentioned in Chapter 7, one of the imprisoned six sheikhs (*meşayih*) of the Bani Hasan was named Qasim al-Qallab (BOA. ŞD.2273/38 doc. 16, fol. 10A/17).

28 See Chapter 1, note 24, for Na'il's official positions. He was also listed in 1895 as a tax-payer in at least one other village or *mezraa* (DMD, pp. 94–5 interleaved after p. 838) whose identity is unclear as the initial entries are missing. He held two fields, valued at 105,000 and 49,900 *guruş*, a substantial holding.

29 DLS.AT.Yoklama, 1295–98, pp. 202–6, dated 5 Teşrinisani 1292AM [18/11/1876].

30 There is one exception. Musa al-'Uthman had one share in the first two blocks (nos 18 and 49) but in the third block (*Z'ar*) Salih bin Mustafa al-Qadi held Musa's share instead (no. 80), perhaps as a religious functionary. Salih shared house number 37 in 1883 and his son 'Abdul-Qadir had holding no. 60 (of a house, not land) in 1895.

31 Na'il and five brothers (Faris, Muhammad, Mahmud, Khalil and Hamid – not Hamuda and 'Ali) held five-sixths of the compound, while 'Abdullah and Irhail

al-Ahmad ['Abid-Rabbuh], Na'il's paternal cousins, held one-sixth (see Figure 9.3 and Chapter 11).

32 Na'il Gharaiba was selling the $\frac{1}{2}$ shares he had bought through Yusuf Tawil from Musa Abu Hunada (holding no. 9) (DLS.AT.Yoklama, 1308–09, p. 3, nos 1–6 [July 1892]). The other half-share sold at the same time was to 'Ali Musa al-Khlaif who with his father had bought half a share from Yusuf Suwaidan in the contested sale of 1882 and who had a house valued at 1,000 *guruş* in 1883.

33 A mutation generally gives three numbers, corresponding to the share transferred in each block of land, and three numbers for what remains to the vendor. But sometimes previous purchases are combined, sometimes not. For instance the sale by Yusuf Tawil to Na'il Gharaiba has nine numbers corresponding to the purchases by Yusuf Tawil from three different people, not three; and it is counted here as three mutations. Mutations of title were registered sequentially by date in registers covering the whole district. There were no separate files for each village. Each mutation refers backwards to the entries changed and forwards to the next mutation, if there is one, citing the date and entry number. In theory it should be possible to start from the original *tapu* register of 1876 and follow the sequence of mutations of each holding through time. But in practice, there were some mutations out of sequence or without cross-references, and some registers were missing or had pages missing. By contrast, *vergi* tax holdings were listed village by village, and mutations were written underneath, or in the margin of, the entry changed, with a reference to any new entry added to the end of the list.

34 DLS.AT.Dabt 1920–21, pp. 91–2, no. 9/24–6 [March 1921]. The previous mutation in the same register concerns inheritance among the heirs of Na'il himself. The seven mutations following it concern Na'il's other brothers 'Ali, Mahmud,

Hamid, Hamuda and Muhammad, and his paternal cousin's two sons Irhail and 'Abdullah al-Ahmad. These refer to rulings of the Administrative Council of 10 March 1921, nos 122, 123, 127, 128, 126, 124 and 125 respectively.

35 Ibid. pp. 90–91, no. 7/15–20. The two shares validated in the mutation of March 1921 did not take the place of the three-eighths bought in 1901 and 1912, for which title was still valid.

36 Ibid. pp. 93–4, no. 14/39–41.

37 DLS.AT.*Dabt* 1919–27, pp. 49–50, no. 5 [August 1922]. The mortgage was for three years with the mortgagors paying an annual rent (*badal ijar*) of 25 *mudd* of wheat to the mortgagee (*al-rabin wa-l-wakil al-dauri*). Salim bin 'Ali al-Mufakkar also appeared as witness to a conditional sale (*bai' bi-l-wafa'*) of half a share in 1890 by Sulaiman 'Abdul-Qadir al-Rumi to Faris and Muhammad Gharaiba (DLS. AT.*Zabt* 1306–15, p. 5, no. 24), which referred to an earlier register of 1890 that is missing. A marginal note added that the conditional sale was for three years, and a further note dated 1325 [1909] stated that it had been redeemed. The second witness in 1890 was 'Abdullah 'Ali al-Muhafiza, also of Kufr Jayiz, whose sister Karma married Na'il Gharaiba's brother Mahmud. See p. 148 concerning a second shareholding group in 1895 involving Bayir bin Salih al-Muhafiza.

38 DLS.AT.*Dabt* 1924–25, pp. 163–4, no. 7/37–42 [August 1925].

39 For instance, one of the six men who contested the sale in 1882, Hasan al-'Isa, never held land in his own name although he was listed as a householder in 1883 and 1895. His heirs were awarded 9q in 1933 from the share held in 1876 by Husain al-'Ali Shatnawi (no. 30 in Table 9.3) on the grounds that they had always enjoyed usufruct of the land. Husain al-'Ali had only had daughters. One daughter's son, with another daughter, mounted a claim of inheritance in 1933 which they lost. Hasan al-'Isa was Husain

al-'Ali's FBSS. See DLS.CR Hawwara, *iddi'a'at, taqirir* 21, p. 11, no. 81. See also note 42 regarding Khattar al-Husain.

40 A threshing ground was registered for the first time in 1926 (tax entry no. 163), corresponding to a *tapu* mutation of May 1925 (DLS.AT.*Dabt* 1924–25, no. 4/12).

41 The last reference to a new entry is under holding no. 35, dated 1934 and referring to new entry no. 188. But our copy of Hawwara's tax register is missing the last pages after no. 165 and changes might have been made to entries on those pages that refer to entries beyond no. 188. However there are no *tapu* mutations to which they could correspond.

42 Entry no. 100 is a complete transfer of holding no. 3 from Muhammad bin Husain al-Na'im to his son Khattar, including both a house and the equivalent of half a share of land. No further transaction is mentioned for this holding. This Khattar seems to be the same as Khattar al-Husain who first bought land by *tapu* deed in 1903 (corresponding to entry 103 in the tax register) and whose sons held 40q in 1933 of which only 17 derive from known *tapu* mutations.

43 No. 116 is a partial transfer from no. 32 corresponding to a sale of 1914. The note under no. 32 is in Turkish but undated.

44 The reference is contained in additions to entries 10, 33 and 35, made in 1931. The date of notification is 11/12/1926 (written thus), reference no. 325/5933/20/8.

45 Against field number 2813 in holding 36 there is a note that the share of one of the holding's partners 'in this plot' had been seized, with a note underneath that it had been cleared. This is one of two cases written in Arabic. In Turkish there is only one case of clearing the seizure of two fields in 1912 (holding 77, fields 2808 and 2946). These may have been judicial seizures rather than anything relating to tax or debt.

46 Na'il Gharaiiba was represented by the central judicial administration as *muhtar-i labik*, official headman (see Chapter 6, note 45), while the complainants said he was an outsider.

47 The figure of 43 houses includes the Gharaiiba compound registered in 1882, 41 houses registered in 1883 (excluding five repeats including the storeroom and stable) and one house registered in 1889 belonging to 'Abdul-Jalil As'ad Shuha (holder of two shares in 1876, no. 3).

48 Thus 'Abdul-Rahman Salih Muhafiza (holding two houses in 69 but no land) is not included in the landless figure as his brother Bayir had half a share of land in holding 78. For Salih al-Qadi see note 30 above. 'A'isha bint Salih [al-Haddad] held no. 18 (a house) whose father held no. 35 (both house and land). Her mother's father, Salama Abu 'Awwad, had held house 32 in 1883. Qasim Abu 'Awwad had holding no. 1 in 1895 (a house). 'A'isha inherited her father's entire share and sold it to her mother Nasra bint Salama Abu 'Awwad (DLS.AT.Zabt 1323-24, p. 5, nos 3-5 [June 1907]) who remarried 'A'isha's FBS, Mahmud al-Mustafa (son of holder no. 33 with one share of land) by whom she had one son 'Abdullah. Nasra in turn sold her one share to 'Abdullah in 1918 (DLS.AT.Zabt 1330-34, p. 120, nos 72-4 [January 1918]). 'A'isha herself married another FBS, Ibrahim al-Mar'i, whose father had holding 36 in 1895 with one share of land which was divided equally between his three sons after his death, his two daughters selling their share of the inheritance to their brothers (DLS. AT.Zabt 1323-24, p. 135, nos 191-6 [June 1908]). In 1933 Ibrahim shared 14q with his three sons by 'A'isha and one son by another wife. We thank Maisun al-Zu'bi for sharing her information on Hawwara with us: Daur al-nashat al-zira'i fi iqtisad al-wihda al-baitiya, Unpublished MA thesis (1990).

49 Holding no. 87, belonging to Mutlaq al-'Ali, has a general plot number in the

first field but thereafter only internal field numbers. But there is a gap in the general plot numbers in every other field between the plots of nos 4 and 15, so no. 87 shared in the allotment of plots in the Shatnawi half, whereas nos 88-93 were residual.

50 See Table 9.3 for brief accounts of holdings 88-92.

51 Interview with Budaiwi Mustafa Mufaddi Ahmad Gharaiiba, Abu Hashim, 15 November 1992. He recalled the bedouin's name as 'Arif al-Hamd rather than 'Urbaya, perhaps confusing the name with someone called 'Arif Dhiyab al-Muhammad Khuraisha who held 6q in 1933, the source of which is unknown. The person from the Rawashida he named as I'mur al-Tuti, which bears striking resemblance to the father of Mahmud bin Ahmad 'Umar Tuti, holder of one share in 1895 (no. 48), and donor of his other half-share to Muhammad bin 'Umar in no. 47, both of whom were identified as Rawashida in the 1933 cadastral register.

52 Half a share represented one plough team or *faddan* and was the natural unit for conceptualizing the size of holdings rather than the *rub'a* or full share.

53 For instance, for a half-share holding the area of a plot in the first field (*kisarati Musa*), valued at 50 *guruş* per *dönüm*, was 1 *dönüm*, for a one-share holding the area was 2, and for a two-share holding the area was 4. Similarly for other fields. The total area of a one-share holding of 31 plots was 421 *dönüm*. A one-share holding, valued at 40,775 *guruş*, paid *vergi* tax of 0.4 per cent of this or 163.1 *guruş*. 48 times this = 7,828.8 *guruş*, which is the total tax on land given at the end of the register.

54 Interview with Khalid Falih Khalaf 'Abdul-Ghani Shahada, Abu Yasin, on 21 June 1992.

55 DLS.AT.Zabt 1323-24, p. 5, nos 3-5; p. 20, nos 31-3; pp. 24-5, nos 83-91; p. 110, nos 20-25; and p. 135, nos 191-9.

56 Salih al-Bakr (no. 81) was sold 12q by Falha Ahmad Qallab in 1893,

leaving her with one share that was put in her husband's name (Rashid 'Abdul-Jalil al-Ahmad Abu Kirsanna, the family name wrongly entered as Shuha) in holding no. 26 of the tax register (DLS. AT.Yoklama, 1308–09, p. 34, nos 28–33 [January 1893]). The *tapu* sale refers to a missing mutation of Mart 1308 [March–April 1892] by which Falha must have acquired 1½ shares. Her husband's brother Mustafa 'Abdul-Jalil Abu Kirsanna had held two shares in 1876 of which he sold a half-share to Ahmad Tannash in 1885 (ibid. 1301–02, p. 40, nos 22–7), but this mutation does not refer forwards to a subsequent sale by Mustafa, presumably to Falha. Mustafa's name never reappears in *tapu* registers.

57 Interview with Budaiwi Mustafa Mufaddi Ahmad Gharaiba, Abu Hashim, 15 November 1992.

58 DLS.CR Hawwara, *iddi'a'at, taqrir* 3, 20 & 22 September 1933, pp. 1–2 & 7. See Chapter 11 for further discussion of this exchange.

59 DLS.CR Hawwara, *jadwal al-iddi'a'at*, holdings 45–7.

60 No. 47 would be sold his half-share in 1908 by no. 48.

61 See Chapter 1.

62 Interview with 'Abdul-Rahman al-Tannash on 26 November 1992.

10 Registration and political economy in two hill villages

1 Regarding villages of the Kura *nabiye*, the tax lists of Kufr 'Awan, Kufr Abil and Kufr Rakib are missing from DMD. The parallel basic register of properties (*defter-i esas-ı emlak*) existing in the Irbid tax office in May 2005 has a few entries (nos 26–35) for Kufr Abil crossed out in red with a note of transfer to the Jabal 'Ajlun office dated 1 March 1927. Similar notes append the final entries (nos 352–403) for Judaita and (nos 1–47) Bait Idis. There are no entries for Kufr 'Awan or Kufr Rakib. Notes of transfer from the 'Ajlun office are written against the lists

for Dair Abu Sa'id and Samu' (pp. 175–80 and 182–6) even though another list for Dair Abu Sa'id exists on pp. 126–46 of the same volume. Photocopies of the summary tax lists for Judaita and Bait Idis exist in DMD, as do those for Dair Abu Sa'id (as part of Tibna) and Samu'. This probably indicates that the basic and summary lists for Kufr 'Awan were kept for some period in the 'Ajlun office and have not survived. References to *rakam-ı evvab* in *tapu* mutations show that a tax list for Kufr 'Awan had once existed.

2 The phrase used by an informant in Hawwara to describe the form of grouping of the Shatnawi half was '*man laffa laffa-hum*', 'one wrapped with another'. Interview with Salah Hasan Salih Abu Kirsanna, 24 October 1992.

3 The names of children are added until 1332 [1916]; no deaths are recorded.

4 DLS.AT.Yoklama, Ağustos 1300AM recopied 1329AM, pp. 76–84 [August 1884]. Entries for Kufr 'Awan start at number 578 after the lists for Judaita. After Kufr 'Awan come the lists for 'Ain Janna and other villages of the 'Ajlun hills. Note that in Table 10.1 only the first, even number in a *musha'* holding is given.

5 In addition to the individual plots 584–90 the family had plots in the neighbouring village of Kufr Abil, which were transferred to the three brothers' heirs along with those in Kufr 'Awan in a mutation of October 1908 (DLS.AT.Zabt 1323–24, pp. 188–91, nos 545–75).

6 'Ali Musa is taken to be the son of Musa Muflih (family–23) and Salih Hamdan the son of Hamdan Ahmad (family–16). In a similar case, Muflih Musa is shown to be the father of Nimr and his brothers, family–20, by a subsequent transaction, for in 1889 Muflih's house (710) and olive grove (595 with 775) were registered after Muflih's death in the names of his sons Nimr and 'Abdullah, and the boundaries of the new numbers are identical with the old.

7 In a mutation of September 1908

Salih Hamdan of family-16 transferred half of his half-share to his son (cutting out at least three daughters) and the other half to his half-brother 'Abdul-Karim who had been aged one in 1884 (DLS.AT.Zabt 1323-24, p. 139, nos 252-5). His allocation of half-share had been above the norm. In the second case the brother's name may have been omitted by mistake, for in a mutation of 1923 Muhammad Sulaiman of family-19c was included as a co-sharer in the original holding of $\frac{3}{4}$ -share, the reference being to a register of June 1884 different from the one we copied (DLS. AT.Dabt 1922-24, p. 43, nos 33-6 [September 1923]).

8 DLS.AT.Zabt 1323-24, p. 56, nos 155-6 [October 1907].

9 See the case of Ahmad Khalifa in Chapter 12, Figure 12.2.

10 Their children's birth-dates are as follows: Ahmad 'Abdullah (M71-1) 1893; Khadra 'Abdullah al-Salih (M55-6, her father's name being given like this in the civil register) 1892; Muhammad 'Uthman (M13-1) 1887; Mahra 'Uthman (M124-3) 1885.

11 Of the remaining 43 joint holdings, 36 were between sets of brothers, one was between a father and his son – there were other cases where a father held separately from his sons – and six were between a brother and his sister, his father's sister or his sister's children.

12 The tax register of 1895 would clarify this. Like Kufr 'Awan, Khanzira plough land was divided into two blocks at *tapu* registration in 1884, as at the cadastral settlement in 1939. But according to the 1895 tax register shareholders had plots in four fields (in the same order), not two.

13 In terms of the official blocks of land (*haud*), one half of the village (quarters A1-4 and A5-8, totalling 259 $\frac{5}{8}$ *qirat*) was assigned blocks 1 and 5 in the near lands (68 $\frac{1}{3}$ and 191 $\frac{1}{2}$ shares respectively), valued at 12 *qurush* per *qirat*, and block 6 in the far lands, valued at 5.5

qurush per *qirat*. The other half of the village (quarters B9-12 and B13-16 also totalling 259 $\frac{5}{8}$ *qirat*) was assigned block 3 in the near lands, valued at 13 *qurush* per *qirat*, and block 4 in the far lands, valued at 4.5 *qurush* per *qirat*. Valuation of the land was done by a process that is not transparent in the records. For instance in block-1 the ratio of area to share varied from 6.53 *dunum* per *qirat* for field 1-02 to 43.28 for field 1-11. How was it decided that field 1-11, held by a 1 $\frac{1}{2}$ q shareholder and measuring 64.914 *dunums*, was the same value of 18 *qurush* as field 1-05, also held by a 1 $\frac{1}{2}$ q shareholder but measuring 13.482 *dunums*?

14 In terms of shares, Dahun families had 5 $\frac{5}{8}$ in 1884, Dawaghira 2 $\frac{7}{8}$, Khashashna 5 $\frac{1}{2}$ and 'Amaira 7 $\frac{3}{4}$.

15 Three sections were officially recognized in the register of rights (*jadwal al-buquq*): [1] *al-'ashira al-Khashashna, al-firqa Sari al-Ahmad al-'Ali*, numbers 1-55 totalling 128 $\frac{5}{12}$ *qirat*; [2] *al-'ashira al-'Amaira, al-firqa Muhammad al-'Ali al-'Ubaid*, numbers 56 to 156 totalling 186 $\frac{1}{2}$ *qirat*; and [3] *al-'ashira al-Dahun wa-'l-Dawaghira, al-firqa Muhammad al-Ahmad al-Muhammad*, numbers 158 to 259 totalling 204 $\frac{3}{4}$ *qirat*. Adjustments to shares were made after claims (*iddi'a'at*) had been judged. Against each name is a note in red saying who combined with whom in the allotment of plots – e.g. 'no. 15 + no. 19 in one strip (*maris wahid*)'. A final register (*jadwal al-tasjil*) lists the holders of each plot block by block, with the plot's area and value.

16 DLS.AT.Zabt 1315-19, p. 39, nos 7-10 [March 1902]; DLS.AT.Zabt 1323-24, p. 58, nos 181-4 [January 1908], and *ibid.* p. 131, nos 147-150 [September 1908].

17 DLS.AT.Zabt 1323-24, p. 115, nos 83-6 [August 1908]. In 1910 M95 consisted of only Husain and Tanha.

18 DLS.AT.Dabt 1931-32, p. 65, nos 70-73 [December 1931]. The reference is to numbers 557 and 558 of Haziran 1300 [June 1884], not to 650 and 651 in DLS.

AT.Yoklama, Agustus 1300AM recopied 1329AM, pp. 76–84 [August 1884] from which we worked. This is consistent with references in mutations of 1908 where the numbers are 93 less than our numbers. It implies that there were two copies of the original register of different dates.

19 ACR.SC *sijill* 12, *hasr al-irth*, p. 175, case 80 of 6 October 1931.

20 Sari al-Ahmad's holding was of 11 $\frac{1}{4}$ q while the average holding was only 2q ($519\frac{2}{3} \div 262$). 11 $\frac{1}{4}$ q was still less than two *zalama*.

21 DLS.AT.Yoklama, 1299–1301, pp. 145–50 (plantings), 150–53 (houses), 155–72 (gardens), 172–9 (plough land) [November 1884].

22 On a more restricted definition of landless, three other Christians were landless in 1884, brothers of someone who held a quarter-share in the common plough land, Da'ud bin Sulaiman al-Ya'qub. The four brothers shared a house. A fifth brother, Khalil, had his own separate half-share holding but was not given in the house list.

23 A number of people are listed more than once in the 1895 list not always in the same way, as if it had been prepared from separate lists of different taxable items without an overall index. For instance the fourth person without plough land, 'Abdul-Rahim 'Akil Yusuf in no. 61, has an olive grove in no. 150 (where the father's name is 'Aqil). He is not counted the same as 'Abdul-Rahim 'Abdul-Rahman 'Aqil, a member of the main Tarbush family, whose holding 117 includes an olive grove, although in the 1884 list of plots that person and his brothers are given as 'sons of 'Aqil' in several plots.

24 For instance Khalil Sulaiman, mentioned in the last but one note, may have been living with his brother Da'ud, although it is odd that he was not listed as co-sharer in the house along with Da'ud's other brothers. By contrast, Sa'id Yusuf Mar'i in 1884 had a quarter-share in a holding (no. 24) shared with two other

resident families each of which had a half-share; but he cannot be linked genealogically to either family and may not have been living in the village. In 1895 his holding of a half-share – he was one of the few who had a different size *musha'* holding than in 1884 – included a house. Two other Christian landholders were similarly not resident in 1884. Salama Iliyas [Tushman in 1895] had the fourth quarter-share in holding 65 in 1884, sharing with Ibrahim Muslih's son, son's son and brother's son; in 1895 he had a house but no land while in 1910 he lived in the household headed by his son Sa'id (no. 10). Rizqallah Yusuf similarly had the fourth quarter-share in holding 64 in 1884, sharing with the three sons of Salim al-'Isa; he was not registered in 1895 but his two sons (by Salama Iliyas's sister) shared a household (no. 7) in 1910, and a daughter had recently married a son of Khalil Sulaiman (household no. 11) and would give birth to a son Tu'ma in 1911. Khalil Sulaiman himself was registered twice in 1910: once as head of his own household (no. 8) where his age was given as 100, and again in the household of his son Sa'id (no. 1) where his age was given as 86.

25 DLS.AT.Zabt 1320–22, p. 92, nos 672–7 [September 1906] relating to the *musha'* holding of Hasan Mar'i and his sons Ahmad and 'Abdullah, each with $\frac{1}{4}$. Ahmad having died in 1899 and Hasan in 1900, 'Abdullah and a third son Muhammad inherited $\frac{1}{4}$ each while 'Abdullah's independent quarter-share remained with him unchanged. In the other case, there is no mutation recording the father's death.

26 See note 24 above concerning Sa'id Yusuf Mar'i.

27 The figure of 61 + 3 plantings is derived from the earlier figure of 95 by counting a complete set of co-sharers, instead of each distinct share, as a holding. Nineteen plantings were of olive trees, the rest of vines, figs or other fruit. It is not clear from the plot classification alone (olives, *bağ* and *babçe*) what fruit

were planted, the name of the plot often indicating vines or figs (e.g. *hakura al-tin* or *kurm khillat dabi*).

28 Holding 4 (no. 562 in the *tapu* register) belonged to Salah, Ahmad and ‘Abdullah al-‘Abdul-Rahman and their father’s brother’s son Salih and Muhammad al-‘Abdul-Rahim. The first planting was held by Salah ($\frac{1}{4}$), Salih and Muhammad ($\frac{1}{4}$) and Ahmad ($\frac{1}{2}$). Khazna was probably the sister of Ahmad, Muhammad and Salim al-‘Isa al-Bakr who belonged to the other half of the village. She may have been married to a son of ‘Abdul-Rahman Tarbush.

29 Thus, Sa’d al-Ahmad al-Nassar, who on the common plough land held a quarter-share as partner of Bayir ‘Abdul-Rahman and Bayir’s brother’s sons Ahmad and Muhammad al-Salih, held one plot jointly ($\frac{1}{2}$ - $\frac{1}{2}$) with the latter two sons of Salih, another three plots jointly ($\frac{1}{2}$ - $\frac{1}{2}$) with Salih bin Salih Abu Shanab, and a fifth plot jointly ($\frac{1}{3}$ - $\frac{2}{3}$) with Lafi and Fahd al-Hamdan. He was not agnatically related to any of his partners.

30 Holding no. 156 (numbered 817 to 821 in the *tapu* register of November 1884, p. 166) was held by Sulaiman ‘Awwad al-Taha, Sa’id Khunaijis Muhammad Dhiyab, ‘Abdullah Ahmad Dahaimish, ‘Ali Muhammad al-Salih, and Mustafa Muhammad al-‘Isa. Each partner had shares in a number of other holdings, but not with each other in the same combination. Sulaiman ‘Awwad, ‘Abdullah Ahmad and ‘Ali Muhammad each shared a house or part of a house and a half-share holding of plough land with a brother (Muhammad, ‘Abdul-Qadir and Ahmad respectively), none of whom was named as co-sharer in holding 156. Mustafa was one of four sons, his father having a full share of plough land in his name alone. (In 1895 three of the four sons had separate holdings of houses and/or individual plots while the father was still registered as holding one share of plough land.) Sa’id Khunaijis had three houses in his

own name, shared a $\frac{1}{4}$ -share holding of plough land with four sons of Muhammad Ibrahim (probably his distant cousin) in the ratio $\frac{1}{2}$ to $\frac{3}{4}$, and had one individual plot in his own name as well as shares in six other plots besides no. 156, not always with the same partners.

31 By olive grove is meant a plot classified as *zeytin* (olive) with a number in the *zeytin* sequence 1–238. Three plots (in holdings 22, 47 and 59) were classified as *zeytin* but numbered in the arable plot sequence.

32 A simple example will show the difficulties of correlating the 1884 and 1895 lists. In 1884 Salim al-Mar’i had a garden (*bag*) and an arable plot on his own (*tapu* holdings 719 and 720), called *kurm khillat dabi* and *ard mizrab*, the former with a planting presumably of vines (no. 52). He also shared one arable plot (715) called *wa’ra minwa* with his brother’s son Muhammad al-Husain, and a second arable plot (897) called simply *hakura* with his brother Hasan. In 1895 Salim had holding no. 1 with olive groves numbered 57, 65, 94, 136 and 137, and two arable plots and a garden numbered 20, 101 and 162. The names of the latter plots were *minwa*, *mizrab* and *dabr rashid*, and of the former *ain*, *ain*, *habal*, *mizrab* and *mizrab*. Muhammad al-Husain’s holding no. 88 in 1895 was of three olive groves (1, 43, 208) and one garden (174), the latter called *khillat al-dabi’a*. Hasan al-Mar’i had holding 52 in 1895 with only a house and a $\frac{3}{4}$ -share of plough land. Allowing the identification of 1895/20 with 1884/715 and of 1895/101 with 1884/720, is Salim’s garden named differently in 1895 and 1884? And where were all the olive groves in 1884?

33 Firestone, ‘Crop-sharing economics in Mandatory Palestine – Part I’, *Middle Eastern Studies* xi (1975), pp. 4–5.

34 It has not been possible positively to identify most of these women. Hamda, daughter of Muhammad Ibrahim, who held a 15-*dönüm* arable plot and 3 olive

trees on village common lands (*tapu* holding 683 and planting no. 101), was probably the sister of Qasim, Mustafa, 'Uqla and Naji, whose own holdings were quite extensive: 46 olive trees on their own plots as well as a fruit orchard, four arable plots and shares in two others (*tapu* holdings 748,767 and 795–803). But her position in the list suggests she might have been the daughter of one of the three sons of Ibrahim 'Abdullah who had holdings 678, 679, 693, 696 and 699. She was not registered in 1895. A second woman, Watfa or Qutfa daughter of Salih [1895: Salih al-Salama], held ten olive trees on her own and another five in a joint holding with Mufflih al-Dhiyab ($\frac{1}{4}$) and four sons of 'Abdul-Rahman 'Aqil ($\frac{1}{2}$). In 1895, she had holding 96 with two plots of olive trees, nos 25 and 55, but these are not next to those belonging to either Mufflih's brother 'Ali or any of 'Abdul-Rahman's sons.

35 See Chapter 7, pp. 92–3.

36 First to be listed are those with houses (numbers 1–87); then those with olive groves but not houses, the largest holdings first (88–131); then those with arable plots but neither houses nor olive groves, first the simple arable (*tarla*) then the more highly rated gardens (132–9 and 140–44); then a single holding of plough land (145) followed by holdings of olive groves and arable plots missed out earlier (146–56 and 157–65); finally the holdings of plough land (166–70 and 173–91) – 171 and 172 are again of individual arable plots – that have none of the other categories of land. The order in which holdings with only plough land are listed, however, does not follow the order of the 1884 *tapu* register.

37 The two Christians mentioned earlier, Rizqallah Yusuf and Salama Iliyas, each lost his quarter-share by 1895. A *tapu* mutation of 1895 transferred Rizqallah's share to his two sons, but neither father nor son was registered in the tax register, although the sons shared a household

(no. 7) in the village in 1910. Salih and Muhammad 'Abdul-Rahim had a half-share in holding no. 27 of 1884 but were not registered in 1895 in their own names, although a mutation of 1906 relates to Salih, and their children had land in 1939.

38 At this time, each mutation of a holding of plough land was accompanied by mutations of other holdings (houses, individual plots, or plantings). From September 1906 only mutations of plough land were registered.

39 A one-share holding had plots of area 135 *dönüm* in the first field (*khashabiya*), 23 in the second (*'aqaba*), 46 in the third (*maidan*) and 118½ in the fourth (*ra's 'amud*).

40 DLS.AT.*Zabt* 1320–22, pp. 90–94, nos 618–27, 646–79, 684–721 [September 1906].

41 In 1921 the sub-district refused to pay an animal tax, resulting in Tibna being bombed by a British aeroplane: Wilson: *King Abdullah* (1987), p. 64, and Fischbach, *State, Society and Land in Jordan* (2000), pp. 72–3. Compare Chapter 8, p. 103.

42 DLS.AT.*Zabt* 1319–22, p. 181, nos 13–19 and 20–23 [September 1906].

43 One-third of a plot from holding no. 46 and 188/2000 of a plot from holding no. 76 were transferred to no. 195, each having a note to that effect dated 1323 [1907] at the bottom of the entry, which referred to a current register (*vukuat-ı umumiye*) but not to a *tapu* register.

44 For instance, entry no. 199, corresponding to a *tapu* mutation of inheritance of 1906 but entered in the tax register only in 1913 as a transfer from holding no. 54, was put in terms of the two common fields of the *tapu* register while the old entry had not only the four plough land plots deducted but two arable plots in addition, leaving a house and four olive-tree plots in holding 54, although logically they should have been transferred too. It is unclear why this was done. It is also unclear why this was the only mutation of inheritance

which merited a new entry in the tax register, unless it was because it happened to be the first of the 27 such mutations registered in September 1906 (DLS. AT.Zabt 1320–22, p. 90, nos 618–19).

11 A village of the plains: Hawwara

1 The term *rub'a* appears in the *shar'i* court records. No one we interviewed could provide a satisfactory etymology for *rub'a*, most suggesting logically that *rub'a* could mean 'a quarter' and therefore 'a share', a usage coherent with reference to the *faddan* as a *thumna*, i.e. an eighth. If, on the other hand, the term were derived from *rubā'*, a variant of *rubā'*, then it would mean 'four at a time', with reference to the four oxen required for ploughing. Douwes: *The Ottomans*, p. 135, concerning the *mal faddan*, a tax assessment on cultivated area according to the number of *faddan*, in central Syria in the years 1785–1830, writes: 'The *faddan*, or span (Turkish *çift*) was not a fixed square measure but represented the area which could be ploughed by one or two yokes of cows or oxen during the season, which lasted for about 28 days in the Hama area. [...] The Hama area appears to have been unique in that a double *faddan* was used. But not only "four cows" or two span *faddan* figure in the Hama records; also "six cows" and "eight cows" *faddan* are mentioned.' It would appear that the 'Ajlun area generally was an area of fiscal reckoning by four oxen, a *rub'a* in vernacular parlance.

2 Interview with Muhammad Khair al-Shar' and Mahmud Humaiyid al-Shatnawi, 10 December 1992.

3 Interview with Budaiwi Mustafa Mufaddi Gharaiba, Abu Hashim, 22 November 1992.

4 Interview with Mahmud Humaiyid al-Shatnawi, 10 December 1992.

5 al-Zu'bi: Daur al-nashat, p. 40, describes how pastoral production dropped dramatically from the mid-

twentieth century following the end of collective discipline in cropping.

6 Joint interview with Muhammad Khair al-Shar' and Mahmud Humaiyid al-Shatnawi, 10 December 1992.

7 Ibid.

8 Ibid. On one *qirat* of land the camel-driver would get between 1 and 1½ *mudd* of grain.

9 'Abdul-Rahman Mahmud al-Ahmad was not a genealogist, perhaps here confusing Ahmad al-Mustafa with Ahmad al-Muhsin, an important figure in the Shatnawi group of families, with which his own family line was closely allied. Or it may be that the establishment of the Ahmad in question in Hawwara concerned a generation well above that of the men registered in the *tapu* in the 1870s and early 1880s, the growth of permanent settlement in Hawwara dating from the 1840s. See Lewis, 'The Syrian steppe during the last century of Ottoman rule', in Mundy and Musallam (eds), *The Transformation of Nomadic Society in the Arab East* (2000), pp. 34–41.

10 Interview with 'Abdul-Rahman Mahmud Ahmad Mustafa al-Tannash, 26 November 1992.

11 ACR.SC *sijill* 5, vol. 2, p. 163, no. 206, dated 14.C.1339 [23 February 1921], where the date of his death is given as 5.L.1321 [25 December 1903].

12 DLS.AT.Zabt 1315–19, September 1901, p. 71, nos 27–9, and *ibid.* January 1903, p. 99, nos 67–9.

13 DLS.AT.Dabt 1920–21, March 1921, p. 97, nos 20/73–5.

14 The house is described as containing one old arch and a yard (DLS.AT.Dabt 1920–21, April 1921, p. 112, no. 36).

15 When recalling the household of his youth, 'Abdul-Rahman did not mention an elder brother Qasim, who was killed as a young unmarried man in a revenge killing which pitted the Khatib family against the Tannash as allies of the Shatnawi some time in the middle 1920s. See ACR. CC 1925–27 *jaza'i*, p. 356, no. 179/166, 11

April 1927, concerning tension between the two sides.

16 In the civil court debt records the cost of a *mudd* of wheat in 1925, taken as part of a seven-month loan, was one *majidi riyal* (ACR.CC 1925-27, *katib al-'adl*, p. 235, 23 December 1925).

17 This was after 1933, when 'Abdul-Rahman would have been only sixteen, and the land was registered at the cadastre in both their names.

18 In the *shar'i* court records Nasra was named as Khadra al-Muhammad 'Ubini who, after Muhammad Jammal's death, married Husain Muhammad al-Shatnawi by whom she had a son and a daughter. See ACR.SC *sijill* 20, *hasr al-irth*, p. 103, no. 81, 6 August 1942. She also had a second son Dhib by Muhammad 'Abdul-Rahman al-Jammal, who must have been much younger than 'Abdul-Rahman since he is not granted land in his own name in 1907 and only much later do the two brothers buy land jointly. Herself the daughter of a registered landholder in 1876, Khadra's marriages first to the father then to a son of 1876 landholders, shows the importance of trying to fit names in a list into life cycles and the development of households.

19 There is evidence of the movement of cultivators on a larger scale having been a concern to authorities in Nablus earlier in the nineteenth century. See BOA. A.MKT.UM 382\12 (4.Ca.1276/29 December 1859): a response from the Porte to the Saida vali and the kaimakam of Nablus concerning over two thousand persons, who abandoning homes and belongings, had been reported as having left the 'Arraba region for 'Ajlun. The Porte enjoins the local governors to return the people to their older shelters and to treat them with justice and, unlike what had been reported to the Porte, with equality for both Qais and Yemen. Such large-scale movement clearly responded to opportunities for grain cultivation and lower taxation in the southern Hauran during those years. But

in spite of the fall in grain prices from the 1870s the movement of persons would still appear to have been more into Transjordan than back to Palestine until the end of the century.

20 The house registered in her father 'Abdullah's name was evaluated at 3,000 *guruş* in 1883.

21 Presumably Khadija here transmits what older women of the family said about the organization of the household; she would have been too young to speak from her own experience.

22 This accords with what we know from the records, though Khadija gave each brother the same amount whereas the records show 'Abdullah giving 9q to Salih but only 3q each to 'Abdul-Rahman and Hamad while retaining 9q for himself, totalling the one share registered in his name in 1876; at the cadastre, however, they had a total of 32q, closer to what she had reckoned by adding up each person's separate share. Hamad Muhammad Jammal buys one-quarter share in his own name in January 1903, doubtless financed out of family resources (DLS.AT.*Zabt* 1315-19, January 1903, pp. 99-100, nos 70-72) and then 'Abdullah transfers 15q to his brothers in 1907 (DLS.AT.*Zabt* 1323-24, September 1907, pp. 24-5, nos 83-91).

23 In 1921 one of the adjustments concerns a transfer of 6q to sons of Ahmad Muhsin al-Shatnawi jointly with 6q to the Jammals: two to Dhib and 'Abdul-Rahman, another two to Yusuf, sole male heir of Hamad, and one *qirat* each to Humaidan son of 'Abdullah and Sulaiman son of 'Abdul-Rahman. The source is the Rumi family of Malka (1895 tax holding no. 84) some of whose members settled in Hawwara but all of whom retained links with Malka (DLS.AT.*Dabt* 1920-21, March 1921, p. 106, nos 36/157-9).

24 ACR.SC *sijill* 3, pp. 79 and 88 [February and May 1913].

25 It is not clear whether Naufa was a sister of Sulaiman; in any case the family

was very small and Khadija confirmed that the marriage was an exchange.

26 That the *shar'i* court records Fiddiya selling not gifting her inheritance suggests that she may have received some payment; the terms whereby she gives up all rights in the house and wells suggests a break between the families. ACR.SC *sijill* 5, 2/168/204, 10 March 1921.

27 ACR.SC *sijill* 5, 2/167/210, 8 March 1921. Ibrahim was to die young, pre-deceasing his mother Naufa.

28 ACR.SC *sijill* 5, 2/296/253, 14 August 1922.

29 DLS.CR Hawwara, *iddi'a'at*, unnumbered report filed after no. 32 by Amina Hamd al-Muhammad, widow of Ahmad 'Abdul-Muhsin, leaving all her property to her husband's sons.

30 The word means jewellery (or essence) but coming in this manner in the midst of a list of animals, it is not clear how it should be translated.

31 ACR.SC *sijill* 2, p. 177, 23 September 1913.

32 See al-Zu'bi: Daur al-nashat.

33 Khadra appears to have died without surviving children (ACR.SC *sijill* 20, p. 101 no. 78, 1 August 1942).

34 'A'isha was to marry Muhammad Da'ud Shatnawi in 1926 in an exchange marriage whereby his sister 'A'isha married Muhammad/Haidar Ibrahim 'Ifnan (ACR. SC.MR *sijill* 1, nos 1129–30, 5 August 1926).

35 Muhammad's first marriage, as recorded in 1929 where his age is given as sixteen, was an exchange (*badal*) with his wife's father 'Abdullah from Hakama marrying Muhammad's sister Fatima (ACR.SC.MR *sijill* 7, no. 5709, 1 August 1929, and *sijill* 8, no. 9613, 30 July 1929). His second marriage with the daughter of Fawwaz Abu Kirsanna was registered in 1935 (ACR.SC.MR *sijill* 12, no. 12541, 18 July 1935).

36 Khadija reported that Fatima died only two months after her marriage, but in the inheritance case of 1942 cited in note

33, Fatima Salama al-'Ali is reported as having died in 1937.

37 DLS.AT.*Zabt* 1308–09, July 1892, p. 3, nos 1, 3 and 5. In the record the purchasers are said to be Mustafa and Ahmad and 'Awad sons of Taha. But both family oral history as below and *shar'i* court inheritance case records imply that 'Awad was a cousin not a brother. As he married Ahmad Taha's daughter, we have accepted that 'Awad was a cousin, not a brother of Ahmad and Mustafa Taha.

38 ACR.SC *sijill* 5, p. 85, 19/13, 7 March 1931.

39 ACR.SC *sijill* 5, p. 90, 29/19, 25 March 1931.

40 ACR.SC *sijill* 5, p. 91, 33/22, 30 March 1931.

41 ACR.SC *sijill* 13, p. 175, 87, 17 December 1934.

42 ACR.SC *sijill* 8, n.p., case 52, 15 November 1927.

43 ACR.SC *sijill* 12, p. 184, 95, 3 November 1931.

44 DLS.AT.*Dabt* 1931–32, January 1932, p. 79, nos 92–7. This refers to *shar'i* court case 95 of 3 November 1931, cited in note 43.

45 DLS.CR, Hawwara 1933, *jadwal al-iddi'a'at*, entries 28–32.

46 ACR.CC 1934–35, p. 18, 391/362, where Sulaiman al-Mustafa al-Shar' reported the theft of two mattresses, a wool mattress and two *mudds* of flour at night from his inhabited house and suspected his brother Khalil al-Mustafa and Muhammad Ghandur al-Ghazlan as they had prevented him from threshing (or entering) on their threshing ground, threatening and cursing him. The case was to be investigated, 12 June 1934. It should be noted that the Ghazlan and the Shar' belonged to the same co-cultivating sub-section of the village both in 1895 (group B1) and in 1933. The criminal court records give the sense that conflicts within a co-cultivating sub-section, as well as within a single agnatic group, were not infrequent. There is other evidence of tension between the Ghazlan

and Mustafa al-Shar' in the criminal court records: in 1925 'Abdullah Talib and Sulaiman Salih Ghazlan were condemned for beating and cursing Mustafa Taha al-Shar' (ACR.CC 1925-27 *jaza'i*, p. 17, 51/51, 15 February 1925, and p. 35, 12/126, 26 March 1925.)

This said, the Ghazlans appear to get into a number of quarrels. Thus the following year Talib al-Muhammad and his son and Sulaiman al-Salih Ghazlan are condemned for having beaten Na'il Da'ud Na'il al-Gharaiba, and the following month sons of Salih Ghazlan are among others prosecuted for beating the watchman of Jumha village who had tried to prevent them entering with their flocks into the cultivated fields (*ibid.* pp. 198-9, 198/194, 24 April 1926, and p. 204, 219/199, 12 May 1926).

47 Whereas all interviews indicated that 'in the old days' the ploughman took one-quarter of the crop, a dispute in the civil court records of 1937 indicates that even between family members the ploughman was due only one-fifth of the crop. ACR.CC *huquq* 1937, p. 31, 584/578, 16 May 1937: Mustafa al-Ahmad Tannash sues Husain al-Ahmad Tannash over agreement that he was hired as *harrath* for the year by the defendant for 1/5 of crop but was then prevented by the defendant from working the land. He demands that either he be allowed to return to his work or that he be paid in cash (10.5 Palestinian guineas) for the period he has worked. The judgment is that plaintiff should first have given notice via *katib al-'adl*.

48 See Chapter 9, p. 148.

49 See Chapter 9, note 48.

50 Interview 17 January 1992 with Khalid Falih Khalaf 'Abdul-Ghani of the Shahada; meeting with a number of the senior members of the Gharaiba 27 June 1992; and interviews 15 and 22 November 1992 with Budaiwi Mustafa Mufaddi Gharaiba.

51 See Chapter 1, pp. 6-7 on Na'il. There is no hard evidence for Na'il's

education but he was evidently literate in both Arabic and Turkish.

52 See Chapter 9, p. 129 and note 31.

53 This image of indivision does not correspond to the allocation of different shares in land in the 1895 tax register. Cf. Figure 9.3.

54 These details were the source of merriment between Budaiwi Mustafa Mufaddi Gharaiba and his wife, herself a Gharaiba doubly related to her husband.

55 ACR.CC *katib al-'adl* 1927, p. 222, 17 December 1927, where the land is sold to sons of Khalid Shahada al-Gharaiba.

56 By contrast, DLS.AT.*Dabt* 1920-21, March 1921, p. 94, nos 42-7 states that Ahmad the father of 'Abdullah and Irhail was the son of Ibrahim.

57 Interview with Budaiwi Mustafa Mufaddi Gharaiba 22 November 1992.

58 ACR.SC *sijill* 1, p. 90, n.d., and *sijill* 2, no. 181, 9 July 1914.

59 DLS.AT.*Dabt* 1920-21, February 1921, p. 84, nos 10/67-9.

60 ACR.SC *sijill* 14, *hasr al-irth* 1932-34, p. 21, case 32, 19 July 1932. Filwa's daughter Ghazala appears to have died young without issue.

61 Interview with Budaiwi Mustafa Mufaddi Gharaiba, 15 November 1992.

62 DLS.CR Hawwara, *jadwal al-iddi'a'at*, entry 16. Mustafa is recorded as buying 2q in 1919 (DLS.AT.*Zabt* 1330-34, January 1919, p. 118, nos 46-8), while his two sons bought 3.6q in 1927 (*ibid.* 1927-29, November 1927, p. 2, nos 24-6).

63 The *tapu* mutation of 1932 for Filwa's half-share gives 3q each to Mustafa, his two sons and his brother's son Muhammad al-Ahmad. The female heirs all sold out their shares. DLS. AT.*Dabt* 1931-32, August 1932, p. 142, nos 71-6.

64 DLS.CR Hawwara, *iddi'a'at*, *taqrir* 4.

65 See the collection of short stories, Gharaiba, *Bait al-asrar* (1981).

66 DLS.AT.*Yoklama*, 1310-12, November 1895, p. 102, nos 5-10.

67 DLS.AT.Zabt 1334–1920, February 1919, p. 57, nos 10–12. Khalaf's 6q pass to his four surviving sons without mention of any female heirs, on the basis of documents from the village council, the civil registry and the tax office. However a case was registered in the *shar'i* court in 1923 by Khalaf's wife 'A'isha Ahmad Muhammad Abi-'l-Furs of Sarih claiming that Khalaf had left four sons and a daughter Falha as well as their mother Mahra Ibrahim and herself, and describing his estate as a quarter-share of land, a house (boundaries specified), ten cows, a horse and other animals as well as 80 *riyal majidi* (ACR.SC *sijill* 5, p. 381, case 282, 4 January 1923).

68 DLS.AT.Zabt 1330–34, January 1919, p. 113, nos 4–6, and p. 117, nos 40–5; *ibid.* March 1919, p. 134, nos 24–9; and DLS.AT.Dabt 1334–1920, November 1919, pp. 161–2, nos 191–6.

69 DLS.AT.Dabt 1924–25, August 1925, pp. 163–4, nos 37–42.

70 ACR.CC *jina'i* 1921–22, no. 227/209 of 1922. The case concerns a number of men who fired shots into the shop of Falih Khalaf, according to him in retaliation for a case arising from a marriage dispute of his cousin who had married a woman relative of theirs. The decision was dated 28 January 1922 hence the incident had occurred some time before that. The men accused were of the Lubani and other smaller families of Hawwara.

71 There is a record of a loan in September 1915 from Ahmad Muhammad Baibars to Muflih Hamd al-Sabbah against which he mortgages his 12q of land for 4,510 *qurush*; the loan is paid off in January 1921. DLS.AT *daftar al-ruhunat wa-'l-faragh al-wafa'i* 1322–32 and 1918–27, p. 36, entry 2. But we have no trace of credit relations between the sons of Muflih's brother Muhammad, who bought land with the Baibars.

72 The 1895 tax register lists only two shops, one held by Na'il Gharaiiba (within holding number 72), the other by 'Ali

'Abdul-Rahman al-Shanab (holding 23) who had held house number 15 in 1883. Both shops were valued at 500 *guruş*. In 1900 four more shops were added, one to an existing holding ('Uqla al-Husain, number 29, value 1,250), the other three new (numbers 94, 95 and 96 held by 'Abdul-Latif, Mahmud al-Mutlaq and Mustafa al-Dibs, respectively, each valued at 2,000 *guruş*). Ahmad Tannash himself had a new shop added to his holding in 1907, valued at 3,000 *guruş* including a storeroom (holding 6), as did Mahmud al-'Abdullah Abu Kirsanna (holding 106, also valued at 3,000 *guruş* including a storeroom). Two others, each valued at 500 *guruş*, had been added to existing holdings in 1903 ('Abdul-Jalil al-As'ad al-Shuha, 24, and Salih Abu Salih, 56). Mustafa al-Dibs's shop was successfully claimed by Khalid al-Muhammad al-Hasan and reclassified as a house in 1919, the only positive indication we have that those listed in the 1895 tax register may have included tenants.

12 A village of mixed agriculture in the hills: Kufr 'Awan

1 Interview with Yumna Mustafa Nimr al-Muflih, 22 June 1992.

2 Unfortunately we did not ascertain exactly what proportion of the crop went to the blacksmith.

3 See the case of Ahmad Khalifa below for the circumstances of the sale. In 1910 there were six Christian households in the village: those of Sa'd al-Nasir, his brother Mansur, his sister's husband Jibra'il Mar'i, and Jibra'il's widowed sister's son, plus two unrelated households (ANR Kufr 'Awan, C1–6). What craft the last four households practised is unclear.

4 Interview with Abu 'Umar Muhammad Ahmad Muhammad al-Da'ud, 13 November 1992. These persons do not appear in the household census of 1910.

5 According to the 1910 household census she had been born in 1889 (ANR Kufr 'Awan, M46–6).

6 DLS.AT.Yoklama, Ağustos 1300AM [August 1884] recopied 1329AM, p. 79, nos 668–9. See also Table 10.1.

7 DLS.AT.Zabt 1323–34, September 1908, p. 139, nos 252–5.

8 ANR, Kufr 'Awan, M45 for Hasan, M53 for Hisna and M78 for Tamam.

9 DLS.CR Kufr 'Awan, Court Case 7/96, decision 9 May 1939 with reference to article 1817 of the *Mecelle*. As for how much land Hasan held by 1939, the following appears from the *tapu* registers. Of the 6q which he had received from his father, he sold 1½q in 1935 to Khalil al-'Id al-Ahmad, leaving him with 4½ (DLS. AT.Dabt 1934–onwards, August 1935, p. 60, nos 1–4). And in January 1936 (*ibid.* p. 92, nos 18–21) he is registered as selling another 1½q to his son Mahmud. There is a problem here since logically the transfer was to his son Muhammad, not to Mahmud in whose name his remaining 3q were to be registered in 1939. Unfortunately we did not ascertain whom Muhammad married and hence cannot see where the 1½q may have gone; Muhammad himself has no land registered in his name in the 1939 cadastre.

10 DLS.CR Kufr 'Awan, *ibid.*

11 DLS.CR Kufr 'Awan, *jadwal al-iddi'a'at* dated 16 March 1939 (with later corrections from reports – *taqarir* – and court cases and additions from *jadwal al-huquq*), no. 104.

12 DLS.AT.Yoklama, August 1884, p. 84, no. 781. It appears that Qasim had co-farmed with the owner of the land, 'Abdullah al-Husain (*ibid.* 602, 780), perhaps acquiring ownership of the three trees by his labour. There is not necessarily any discrepancy between the record, which does not record individual plot ownership for Qasim, and Husna's account whereby she comes to own both the trees and the land on which they stand. The land in question lies close by the original village site. The general report on the land registration of Kufr 'Awan (DLS. CR, Kufr 'Awan, Report to the Director

of Lands and Survey, dated 8 July 1940, item 4) notes that 'the area exempted from registration in the village block (*haud al-balad*) comprises the village site, agricultural lands and olive trees. These lands and trees were not made subject to cadastral registration because their owners did not wish registration to take place. Hence the fiscal distribution of these lands and trees was evaluated and included in the schedules of evaluation for the purpose of tax imposition.' The area of the village block registered in the cadastre was only about one-quarter of the block. In other words, since the land of the village site was not registered, the area on which the three trees stood could have become the property of the trees' owner without it appearing so in the registers. Land registration outside the village block had been compulsory in 1939–40.

13 DLS.AT.Yoklama, August 1884, p. 79, nos 658–9. In 1910 (ANR Kufr 'Awan) M46 comprised the following persons in the order they appear in the register: Husna's HF (husband's father), H, HB, HZ, HM, self and D (aged 3 months).

14 DLS.AT.Yoklama, August 1884, nos 640–1, and ANR Kufr 'Awan, M84.

15 DLS.AT.Yoklama, *ibid.* 642–3.

16 *Ibid.* 636–7.

17 See note 57 and Figure 12.5 for 'Uthman al-Shihab.

18 According to the report in ACR. CC (untitled) 1918–22, entry 44/60 dated 30 May 1920 charging 'Isa al-'Ali (who had fled and was not under arrest at the time of the report) with the murder of one man and wounding of his brother, Ahmad Khalifa would have been a few years older than 5–6, about 9–10 if the age given in the household census is taken as base.

19 The age difference was four years in the household census, where ages of young people may have been slightly underestimated. In ACR.SC.MR *sijill* 7, no. 6016, 5 September 1929, the ages are given as 20 for the groom and 28 for the bride and a

mahr mu'ajjal of 3,000 Palestinian *qurush* (PQ) is specified. The *mahr* recorded for Amina's second marriage compares with a high of 9,000 PQ recorded for one marriage (both parties from the village) in those years.

20 It would appear that Amina was widowed not divorced although this is not certain. What is certain is that Mahmud Musa al-Hamd did not survive to be registered with land in 1939.

21 ANR, Kufr 'Awan, M33.

22 Ibid. M75.

23 DLS.AT.Zabt 1315-19, March 1902, p. 39, nos 7-10.

24 Compare note 19 above. As always in the marriage registers of these years the *mahr* is given only in cash terms.

25 In 1932 Fiddiya had sued her husband Hamd Ahmad al-Hamd for maintenance (ACR.SC *sijill* 11, p. 163, no. 31/21, 17 July 1932). The court summary states that Fiddiya had been married five years earlier and that her husband Hamd had taken a new wife. Four months before, he had driven her out and left her without maintenance. She demanded that he pay what he owed and the legal costs. He agreed that he had married her for a *mahr* of 4,220 Palestinian *qurush* of which 20 PQ was delayed *mahr* and the rest prompt *mahr*. He was willing to have her live in the same house as his second wife or to rent a different house for her, 'which I shall furnish with a mat, two mattresses, covers and three wool embroidered (? *muhashshabin*) pillows, a lamp, a mixing bowl, a water *tanaka*, a jug, a cup for drinking, a cooking pot, a tray and a spoon'. Hamd also agrees to pay maintenance of 50 PQ per month and 80 PQ for clothes; Fiddiya agrees to live in the house with him on condition that he move her co-wife out. In accordance with clause 51 of the Family Code (*buquq al-'a'ila*), he should pay maintenance from that day forward and settle her in a house. He pays the legal costs of the case.

Less than two years later, Fiddiya

appears to have obtained a divorce. Hence her (and her groom's) second marriage probably took place in 1935 or 1936.

26 DLS.CR Kufr 'Awan, *jadwal al-iddi'a'at*, 165/167, and *jadwal al-tasjil*, 1-04 and 6-61. Khalifa's part was registered in a joint holding with his son Muhammad.

27 DLS.AT.Yoklama, August 1884, p. 79, nos 664-5 and 666-7, and Table 10.1.

28 DLS.AT.Zabt 1323-26, December 1909, p. 122, nos 48-9, and interview with Ni'ma Muhammad Mahmud al-'Abid, 7 November 1992. Family identifications follow Table 10.1.

29 Ibid.

30 Interview with Ni'ma Muhammad Mahmud al-'Abid 1 July 1992 in which she stated that 'more than thirty people' from the village had gone into the Ottoman army never to return. Ni'ma was able to recall a full 25 men of the village who died in the war, hence her higher figure is entirely credible.

31 Ibid.

32 In Figure 12.3 Mahmud al-Hasan's mother's name is not given. The 1910 household census has the first few entries of Mahmud's household missing, including that of Mahmud himself which would have given his mother's name.

33 See the discussion of Figure 10.6.

34 Interview with Ni'ma Muhammad 1 July 1992. DLS.CR Kufr 'Awan, *jadwal al-buquq*, no. 92, and *jadwal al-tasjil*, nos 3-22 and 4-13.

35 Interview with Mahmud Ibrahim Husain 29 June 1992, with contributions from Muhammad Falih Ibrahim.

36 Baika does not appear in the household census of 1910 although she is the subject of an inheritance transfer in 1909. It is possible that she was divorced and living separately (in one of the households the data of which were illegible) or that she had died shortly after the inheritance transfer and before the census or that the inheritance was done posthumously to protect her daughter 'Adhra.

37 Interviews with Mahmud Ibrahim

on 29 June and with Ni'ma Muhammad on 1 July 1992. Dalla was already married in 1910 to Musa Salama Fallah (family-19b) in household M26 with an infant son Muhammad. She is not shown on Figure 12.4. Neither Dalla nor Muhammad held land in 1939.

38 Interview with Mahmud al-Ibrahim, 29 June 1992. Clearly one enters the realm of fables here but both Ni'ma and Mahmud spoke of Ibrahim having had seven wives.

39 ANR Kufr 'Awan, M22.

40 Mahmud al-Ibrahim recalled the Palestinians saying: '*Ya Hawarna, inqasar Turkiya, irja' li-biladi-kum* (Hauranis, Turkey fell, go back to your homeland)' so they went back across the river at one of the known crossing points. Other older figures of the village spoke of the defeat of the Ottomans as '*inqasar al-islam*' (Islam has been defeated). Mahmud's account of the First World War rang true: 'Meanwhile ten Turkish horsemen had gone to 'Abdul-Rahim 'Ali 'Ubaid al-'Amaira, the headman at that time. The rest of the Turkish army tried to cross the river in bits and pieces, many drowning in the process, so that local people didn't drink from the river for three months afterwards. As I was crossing I saw an aeroplane firing on the Turks to the east of Baisan in the land of Ahmad al-Zainati. The Turkish soldiers were fleeing out of Nablus where they had been routed. Other groups passed through the village over the period of a month, going up towards Irbid on their way back to Syria, and once a whole division of 200 men came through, staying overnight in the village at the place called *al-Hamra*, where we villagers gathered bread for them (*lammaina la-hum khubzan*).' Generally the period of the First World War had been one of famine (*ju'*) and the Ottomans had taken whatever grain they could to Irbid where there were central stores, so villagers had hidden grain in wells, caves and other places. Mahmud remembered that the price of a *sa'* of wheat reached 2

liras and they had to make clothes out of the bedding.

By his account, many of the villagers went to loot arms from the Zaqiq area, especially gunpowder and weapons; he himself brought back at least one donkey-load including two swords, which were officers' arms. Ten or eleven men of the village went into the army at the time, and buying a son out cost 50 liras. He finished his eloquent account by saying that then the British came, conditions improved and there was a new *tapu*.

41 Interview with Ni'ma Muhammad 25 October 1992.

42 We do not know with certainty who was the mother of Subha al-Ibrahim as she and Mustafa were born after 1910.

43 Interview with Ni'ma Muhammad 31 October 1992. Muhra was awarded her land without contest in 1939 whereas Subha claimed 2¾q against her brother 'Uqla, of which she was awarded ¼q (DLS.CR Kufr 'Awan, *iddi'a'at*, *taqrir* 26 for *musha'* lands, 5–6 March 1939).

44 Ni'ma said that Miriam 'Isa al-'Uqla had first married a man in Bushra (Muhammad al-Makaza) from whom she had a daughter before he died. She then married 'Awad al-Ibrahim in an exchange marriage with Ibrahim's daughter Fatima marrying 'Abdullah 'Isa al-'Uqla. Miriam's land came from her mother, Khazna al-Mufflih (see also Figure 12.6).

45 DLS.AT.Zabt 1323–24, October 1908, p. 197, nos 650–53.

46 DLS.AT.Zabt 1326–30, January 1912, n.p., nos 48–9. This left Muhammad 'Isa with 9q of his original 12.

47 DLS.AT.Dabt 1922–24, December 1923, p. 43, nos 43–6. This leaves Muhammad Sulaiman with 1½q. It is unclear whether this was an outright sale or related to a marriage.

48 The transaction is remarkable in its complexity with eight sellers and eight buyers in each family but also in that it formally leaves Dahaimish 'Ali Muhammad (family-24) as owner of 6

qirat in 1932 whereas Dahaimish died in 1910 before the *nūfus* registration. The sellers are the heirs of two men who died during the First World War: the surviving daughter and a deceased daughter's son of Muhammad 'Ali Muhammad (d. 1917 of natural causes), the widow and three sons of 'Awad Dahaimish (d. 1918 in the Ottoman army) and two of 'Awad Dahaimish's three sisters. The family will only declare Dahaimish's death in 1938 and bring its paperwork up to date just before the cadastre. This was not an uncommon strategy, for it allowed a family to see how things developed over the years. DLS. AT.Dabt 1931–32, November 1932, p. 186, nos 36–9, and ACR.SC 1932–34 *hasr al-irth*, vol. 14, p. 18, case 27, and 1938–41 *hasr al-irth*, vol. 18, p. 28, case 105.

49 In the 1910 registration Qasim's second wife is given as Fatima daughter of Najib and Kasaba (M124–6). This appears to be yet another wife, married earlier than Fatima Muhammad Hamd al-Ahmad. In a case concerning the legal guardianship (*wisaya*) of Qasim's minor children 'Ali, 'Awad and Husain, all his sons are said to be from Muhra and the daughters from Fatima whereas 'Ali Qasim stated clearly that 'Awad was a son of Fatima (ACR.SC 1929–35 *al-wisaya wa-'l-talaqa*, vol. 13, p. 78, case 31, 10 September 1932). 'Ali Qasim was uncomfortable mentioning the names of sisters and hence for the daughters of Qasim, we have relied on the official records.

50 'Ali Qasim, interview of 28 June 1992, stated that his father died when he was 6 or 7. The above-cited 1932 guardianship case states that Qasim had died six years before.

51 'Ali Qasim, interview of 28 June 1992

52 When they went on the *hajj* together they had to prove that they were married, so had to go to the authorities in 'Ajlun to declare officially that the document had been lost.

53 Antoun, *Arab Village* (1972), pp. 123 and 170, n. 19, states that *mahr*

mu'ajjal became important only after 1960 in the Kura. On marriage payments more generally, see Mundy and Saumarez Smith, 'Al-mahr *zaituna*', in Doumani (ed.), *Family History in the Middle East* (2003), pp. 136–43.

54 'Ali Qasim remembered that the rate of land tax in the early 1930s was 60 Palestinian *qurush* per *qirat*.

55 The Arabic proverb puns, the *tais* being the billy-goat and *tayasat*, foolishness or, after the butting of the billy-goat, thick-headedness.

56 The larger size of such a skin was called *zarf* which takes 20 *ratl* (generally large skins are *qirb* or *jur*); a small *samma* skin was called '*uqqa*, holding 2–3 *ratl*.

57 DLS.AT.Yoklama, August 1884, p. 79, nos 682–3. In 1884 'Abdullah Salih farmed his land together with another farmer, 'Uthman al-Shihab who similarly held 6q. Yumna identified her husband's father as 'Abdullah Salih Hamd al-Muflih.

58 Ibid. 680–81.

59 ANR Kufr 'Awan, M83 for Nimr. 'Abdullah had died by the time of the 1910 household census.

60 DLS.AT.Yoklama, August 1884, p. 79, nos 684–5 and p. 81, entry 721. It is not clear whether Musa al-Muflih was son of the same Muflih al-Musa, father of Muhammad, Mahmud, Nimr and 'Abdullah. The latter Muflih's holdings of two houses, an olive grove and the 15 olive trees thereon (ibid. 710–11, 595 and 775) were definitely registered in the names of Nimr and 'Abdullah, Muflih's sons by Mahra, in 1889, for the boundaries correspond. With both Musa al-Muflih and Muflih al-Musa, the father was registered with a house or individual plot while the son was registered with shares in the plough land. A genealogical connection cannot be firmly asserted, however, since Musa al-Muflih did not survive to be registered in 1910. In Figure 12.6, as in Table 10.1, 'Ali Musa al-Muflih and his brother Ahmad are of family–23, whereas Nimr al-Muflih and his three brothers are of family–20.

61 The estimate of Ahmad al-Musa's age is deduced from the age of his son Mahmud and his widow 'A'isha Dahaimish as given in ANR.Kufr 'Awan M11.

62 DLS.AT.Yoklama, August 1884, p. 81, nos 729 and 730, and p. 80, nos 710-11.

63 DLS.AT.Yoklama, 1305-07, July 1889, p. 10 or 20, unnumbered entries (missing the first three) with a note of transfer to *tahsilat* register of 11/1306 numbers 118-28. In a series of microfilms in the Amman Department of Lands and Surveys of tax registers that had originated from 'Ajlun, we found entries numbered 115-28 dated 11/1306 (register 1, page 90). Entry 115 concerns the 15 olive trees, 116 and 117 concern houses, and 118 concerns the land of the olive trees. These correspond exactly in their borders, value, and description to the properties registered in 1884 in the name of Muflih al-Musa.

64 In a legal settlement of the early 1930s, Abdullah's land is described as reverting to his mother Mahra and thence to his full siblings from Mahra: Nimr, Waliya, Khazna, Tamam and Fatima (the last also to die without issue) (ACR.SC *si-jill* 12, 1929-1931 *hasr al-irth*, p. 163, case 83/177/4, 12 November 1930). However the land may actually have passed in practice, this report expresses a later rationalization in line with the letter of the law. This said, it appears that the children of Waliya did inherit land through her, but it is not clear whether those of Khazna did.

65 In the 1884 *tapu* lists her husband's father was registered as holding 20 olive trees in this plot. Thus Yumna's *mahr* was of importance to the family. DLS.AT.Yoklama, August 1884, p. 83, no. 765.

66 It would appear that having paid such a big *mahr* to Khalil al-Nimr for his niece, the husband's family held back on the other expenses.

67 Yumna maintained that they had 12 *qirat* but she had also said of Khalil's household that they had over twice what either household could have held according to any other source; perhaps she just slipped her terms using *faddan* for *zalama*. Yumna's memory at several points elided generations; the vagueness probably arises from her not having worked much in the fields, unlike Husna.

68 The standard loaf made with yeast was called *karadish*; Yumna described the making of it with water, in order for it not to break up, and dusted with flour. Another type of loaf was called *tabtabiyat* and made over a griddle (*saj*). A third undesirable quick kind of bread, mixed only with water without yeast and stuffed into the hot coals, was called '*awa'is*.

69 Yumna bore six sons of whom only 'Abdullah survived, the rest dying before they were two or three. Of the five girls to whom she gave birth, four survived: Fatima, Miriam, Fidda and Amina. The girls married with *mahr* paid in cash save for Amina who married in 1956 for ninety dinars and four *dunums* of land.

Epilogue

1 See Moon, *The Russian Peasantry 1600-1930* (1999), pp. 199-228 on village communes and 228-30 on nineteenth-century reform; on the latter compare Wcislo, *Reforming Rural Russia* (1990), pp. 23-4.

2 Saumarez Smith: *Rule by Records*.

3 The development of cadastral registration was even later in England than in the Ottoman Empire: Pottage, 'The measure of land', *Modern Law Review*, li (1994), pp. 361-84 and 'The originality of registration', *Oxford Journal of Legal Studies* xv (1995), pp. 371-401.

4 DLS.CR Bait Ra's, *iddi'a'at*, *taqdir* 32c signed 'Abd al-Qadir 'Abdullah Abu Raji' of Irbid.

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