

From the Pages of the *Defter*:

A Social History of Rural Property Tenure and the Implementation of Tanzimat
Land Reform in Hebron, Palestine (1858-1900)

by

susynne mcelrone

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Zachary Lockman, Advisor

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DEDICATIONS

إلى نصاحي المحترمين وأحبابي الأعزاء الفلسطينيين

and especially to the people of the city and villages of Hebron,
whose kindness and friendliness is unparalleled.

Also, in the same breath,

למדריכיי הנבונים וחבריי האהובים הישראליים

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ABSTRACT

This dissertation is a socio-historical statistical study of the implementation and adoption of Tanzimat-era land-tenure reforms in the Palestinian countryside. It addresses three main questions: (1) what was the character of rural property tenure in mountainous regions of Palestine; (2) to what degree were modernizing property-reform measures adopted by the rural populace; and (3) how did the reform affect rural property-tenure and economic well-being?

The 1858 Land Code was one of a series of Tanzimat reforms that together formalized individual title to property and land tenure. Yet, due to the dearth of accessible documentation, little is known about the implementation of these reforms. Among historians of Palestine, in the absence of proof to the contrary there is broad consensus that the reforms failed. It is widely argued that villagers evaded land registration *en masse*, either because they did not understand the significance of the reform or feared that increased taxation or conscription would result from property registration.

This study brings to light and analyzes a property-value and property-tax assessment register (*Esas-ı Emlak*) compiled in 1876 (1292 *maliyye*) for the villages and rural agricultural lands of the large Halilürrahman (Hebron) district, south of Jerusalem. It permits, for the

first time, systematic investigation of the implementation of property-tenure reforms in Palestine at a district-wide level. This study demonstrates that many rural agriculturalists in rural Hebron had independent economic power and landed wealth above subsistence levels. Hebronites were invested in implementing modernizing reforms to protect their landed assets, which they registered with the *emlak*, property-tax commission as individual holdings and as communally owned properties. While it is commonly understood that traditional, communal land-tenure arrangements (*musha'*) were disallowed after land reform, this study demonstrates how it was incorporated into reform and protected the rights of shareholders. It also argues that property-tenure reform needs to be understood as a process, not an event.

Villagers have rarely figured as subjects of Ottoman histories. This study exploits the *emlak* register together with sharia court cases and 1905 Ottoman population registries to flesh out a picture of late-Ottoman villages, villagers, and rural society from below in southern Palestine.

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Introduction

This study is about land tenure and the implementation and adoption of property-tenure reforms in the rural areas of the Hebron district (*qaḍa*) of southern Palestine during and after the Tanzimat. The 1858 Land Code marked the beginning of property-tenure reform in the Ottoman Empire. It is widely viewed by scholars as one of the most significant modernizing evolutions in Ottoman law. The Code, together with a series of laws that followed it over the following decades, rewrote the legal system of land tenure in the empire, institutionalizing individual, broadly inheritable title to all land and property. Attestation to the significance of these reforms is their legacy. The influence of Ottoman conventions of land tenure has been present in Ottoman-successor governments and states in *Bilad al-Sham* (Greater Syria) region until today.

Despite their recognized significance and enduring legacy, a large body of literature over the past century and today characterizes the *implementation* of these reforms in the empire as a failure. A dismal failure, in fact. This view is most pronounced when the geographical parameters of investigation are the provinces of historical Palestine. It is

noteworthy to recall, indeed it is incumbent upon us to note, perhaps the largest body of research on questions of land tenure in the Ottoman period has been focused on this region. The interest in these questions has been great because of the ongoing ethno-national conflict there, which began in the Ottoman period. This conflict is inextricably entangled with the questions of ownership of the lands and rights of tenure on them.

I do not suggest that all historical studies of land tenure in Palestine or even most of them are enlisted, nationalist histories. However, historical studies of areas enmeshed in ethno-national conflict can affect historical memory. And they do affect it and, we need acknowledge, they *endeavor* to affect it. Historical memory—the way that individuals and societies remember the past—is inextricably intertwined with the way that individuals and societies understand the present, and with the way they envision the future.¹ Of course, all new histories can and do affect historical memories, but in areas of ethno-national conflict the stakes are higher.

The longstanding paradigm of the failure of Ottoman-era land reform has not been subjected to adequate scrutiny. Shortly, I will demonstrate that its strength is more historiographical than historical. There has been a regrettable lack of empirical study on the implementation of Ottoman property-tenure reform because the sources that would permit methodical investigation – the *defters* of the commissions that were assigned to travel to

¹ Margaret E. Smith, *Reckoning with the Past: Teaching History in Northern Ireland* (Lanham, MD: Lexington Books, 2005), 13.

every city, town, and village in the empire and record each and every property, the name of its owner(s), its size, its location, and its monetary worth – have rarely been available for study. This lament is widespread among Ottomanists studying every part of former Ottoman lands.² Few of these registration books have been located and analyzed by Ottoman scholars. Michael Provence was granted a brief permission in 1999-2000 to study property registers of the Damascus rural region, then held at the Syrian Ministry of Agriculture in Damascus.³ Martha Mundy, Michael Fischbach and, more recently, Richard Saumarez Smith have studied land registers and tax registers for Ottoman ‘Ajlun.⁴

² See, for example, Yücel Terzibaşoğlu, “Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914” in Mohammad Afifi, Rachida Chih, Brigitte Marino, Nicolas Michel, and Işık Tamdoğan, eds. *Sociétés rurales ottomanes/ Ottoman Rural Societies* (Cairo: Institut français d’archéologie orientale, 2005), 299; Birgit Schaebler, *Practicing Musha’: Common Lands and the Common Good in Southern Syria under the Ottomans and the French*, in Roger Owen, ed. *New Perspectives on Property and Land in the Middle East* (Cambridge, MA and London: Harvard University Press, 2000), 248.

³ He found that the earliest property surveys were conducted in the 1890s. See his “Ottoman and French Mandate Land Registers for the Region of Damascus”, *MESA Bulletin*, 39/1 (June 2005): 32-43. These records have since been relocated from this archive. Personal communication with Michael Provence, May 2015.

⁴ Michael Fischbach, *State, Society, and Land in Jordan* (Leiden: Brill, 2000). This study grew out of his PhD dissertation, “State, Society and land in ‘Ajlun (northern Transjordan), 1850-1950”, PhD dissertation (Georgetown University, 1992). Since the 1990s Martha Mundy has been studying late-Ottoman tapu registers, tax registers, court cases, and oral history to examine issues of property, land tenure, administration, and production in Ottoman and modern Jordan. Since the beginning of the present century, she and Richard Saumarez-Smith have been collaborating on some of this research. Their most comprehensive work to date is *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria* (London and New York: I.B. Tauris, 2007). Anthropologist Saumarez-Smith’s first book, *Rule by Records: Land registration and village custom in early British Panjab* (Delhi: Oxford University Press, 1996) examined British colonial construction of knowledge through its department of land registration.

This study brings to light one such register, the 1876 (1292 *maliyye*) *Esas-I Emlak* property-tax register for the villages and farmlands areas of the Hebron district. This 337-page *defter* is a statistical compendium of taxable and non-taxable properties and agricultural lands of the district's fifty villages, these properties' size and assessed monetary values, and the property tax imposed on each taxable property. As an *esas* (foundational) register, the 1876 *defter* appears to have been the first such record to have been compiled for the district. It allows, for the first time, systematic examination of the implementation of Tanzimat property- and land-tenure reforms within Palestine at a district-wide level.

The importance of this study cannot be understood without first situating it within the historiographical terrain on which it treads. There is no disagreement among historians that the Land Code provided for the creation of a new means of proving land-tenure, the *tapu senedi*, a deed of title. It also established new regulations and procedures for claiming, registering, safeguarding, transferring to others and forfeiting these rights. A new governmental department, the *Tahrir-ı Emlak Nezareti*, was established to handle these transactions (and to collect the fees they generated). It is now generally accepted among Ottomanists that a primary factor motivating the Tanzimat-era effort to register properties to named owners was the desire to broaden the tax base and to individualize (and standardize) tax rates and, in doing so, to augment the Ottoman coffers.⁵

⁵ See, for example, Tosun Arıcanlı's discussion of the Land Code and the emergence of landed powers, titled "Property, Land and Labor in Nineteenth-Century Anatolia", in Çağlar Keyder and Faruk Tabak, eds.

However, the copious historiographical attention that Tanzimat-era land reform has received in histories of Palestine has comparatively little to do with the implementation of the reform through land-survey and ownership-registration commissions, or with Ottoman contingencies, tax reform, and the innovation of registering urban and village-area garden-plots, buildings, and structures for the first time. A narrow approach has characterized studies of Ottoman land-tenure reform in Palestine. It has been analyzed almost exclusively in terms of its “success” or “failure”. This two-dimensional parameter has been evaluated according to one standard above all others: the tapu certificate, more specifically, the number of people who could produce one to prove their land tenure. This study will propose a broader approach and an examination of other sources, in order to better evaluate the degree to which property-tenure reforms were implemented. The following sections three sections review the development of historical knowledge on Tanzimat land-tenure reform in Palestine.

The Historical Creation of a Historiographical Paradigm: the Early Years

The simultaneous spread and non-development of the paradigm is best understood through excerpts from the literature. It is important to observe that the same arguments have survived *almost verbatim* from work to work on the implementation of land reform, without

Landholding and Commercial Agriculture in the Middle East, NY: SUNY Press, 1991, pp. 123-133; and contributions by Huri Islamoğlu, Martha Mundy, Denise Jorgens and Martin Bunton in the section on “The Transformation of Property Relations Following the 1858 Land Law” in Roger Owen, ed. *New Perspectives on Property and Land in the Middle East*, Cambridge: Harvard University Press, 2000.

evidential substantiation. Raymond E. Crist's early, general study (1957-1961) on Middle Eastern land tenure provides a rough general sketch of this paradigm-in-the-making:

In 1858 the Ottoman government decided to establish a Land Registration Service, which would clarify the general land-holding situation and give each holder of *mulk* or *miri* land a clear title, or *sanad tapu*. The service was a signal failure. Many peasants, convinced that the purpose of the proposed reform was to increase taxes, refused to talk, or they gave false information. Unscrupulous officials from the central government could write their own names in on the titles instead of those peasants who were working the land. A village notable would declare all the land of a village to be his There were no surveys, boundary lines or written documents.⁶

Toward the end of that decade, a study that would be influential for decades was published on the first half of the Tanzimat by Moshe Ma'oz. Regarding the Land Code of 1858, Ma'oz argued that it discouraged large landownership in theory but encouraged it in practice since

many peasants, unwilling to register their land for fear it would involve more taxation or conscription, registered it in the name of their chiefs or powerful urban notables.⁷

Already you, the reader, begins to become convinced that this was *indeed* what happened.

The uneducated peasants could not grasp the meaning of this modernizing reform and

⁶ Raymond E. Crist, *Land for the Fellahin: Land Tenure and Land Use in the Near East*. (New York: Robert Schalkenbach Foundation, 1961), 31-32. The chapters of this book were originally published in serial form 10.1957-1.1961 in *The American Journal of Economics and Sociology*.

⁷ He relies on Avraham Granott's classic 1952 study, *The Land System in Palestine* and Bernard Lewis' 1961 work, *The Emergence of Modern Turkey*. Moshe Ma'oz, *Ottoman Reform in Syria and Palestine 1840-1861: The Impact of the Tanzimat on Politics and Society* (London: Oxford University Press, 1968, 162-163.

unwittingly signed away their greatest material asset. The evidence seems to be mounting. The only problem is that neither of these sources attempts to prove its assertions, and the sources cited by these sources do not, either.

The following decade John Ruedy's chapter on the alienation of landed properties in the nineteenth century, part of a 1971 collection edited by Ibrahim Abu-Lughod, lucidly presents all the elements of the paradigm of failure: peasants' fear of taxes, fear of conscription, and consequent mass evasion of land registration; the falsification of ownership deeds, and the result: the creation of a class of landless farmers.

Rightly fearing that the tax collector and army recruiter would make effective use of the new [land] registers and hardly understanding the enormous importance of the new records and deeds to their own future, when the implementing regulations of the code began to be applied, they evaded massively and stubbornly. The least harmful course a peasant could take was to register the land in the name of a fictitious or long-dead individual. This approach merely confused the records and successions, making his subsequent tenure insecure. More dangerously, he did nothing, allowing local town merchants, frequently the tax farmers, to file whole strings of villages in their own names. In other cases the peasant positively encouraged the city magnates to take title. [...] Since the Ottoman Land Code of 1858 made no provisions at all for mediating the relationship between landlord and tenant, thousands of peasants from the 1870s onward found themselves in fact deprived of the most minimal rights of tenure as they became increasingly under the control of the owner, who might be landlord, tax collector, and moneylender combined.⁸

⁸ John Ruedy, "Dynamics of Land Alienation" in Ibrahim Abu-Lughod, ed., *The Transformation of Palestine: Essays on the Origin and Development of the Arab-Israeli Conflict* (Evanston: Northwestern University Press, 1971), 119-138 (quote from p. 124).

In reference to fictitious and long-dead individuals, Ruedy cites two sources: Doreen Warriner⁹ and the 1945 British *Survey of Palestine*.¹⁰ When we search out Ruedy's citations, it is observed that they do not cite proofs to corroborate their unequivocal assertions of falsification of the records. Warriner's article is the text of a presentation she gave in 1944 to the British wartime economic regional-planning agency, the Middle East Supply Centre. It had not previously been published.¹¹ It contains no references to her sources of information. Her assessment of the Land Code and its "muddled and rather meaningless legal categories", although not untypical of Western sources of the day, reveals her misunderstanding of it and of Ottoman law and society. Surprised and disappointed that the Land Code did not cover questions of tenants' rights, she concluded, "The Ottoman Land Code apparently does none of the things that a land-tenure code ought to do."¹²

Ruedy's other source, the Mandate authority's 1945 *Survey of Palestine*, was prepared hastily for the Anglo-American Committee of Inquiry over two months, The *Survey*

⁹ Doreen Warriner, "Land Tenure Problems in the Fertile Crescent in the Nineteenth and Twentieth Centuries", in Charles Issawi, ed. *The Economic History of the Middle East 1800-1914, A Book of Readings* (Chicago: University of Chicago Press, 1966): 71-78.

¹⁰ *A Survey of Palestine, Prepared in December 1945 and January 1946 for the information of the Anglo-American Committee of Inquiry*, vol. 1, (Palestine: Government Printer, 1945), Clauses 38-39, 237-238. (Hereafter, *A Survey*).

¹¹ Warriner, 72. On the Centre, see Martin W. Wilmington, *The Middle East Supply Centre*, edited and updated by Laurence Evans (Albany: State University of New York Press, 1971).

¹² *Ibid.*, 73.

disparaged the outcome of Ottoman reforms in much the same way as Warriner.¹³

Comparing it to Ruedy, we see emerging what I argue was becoming a compensatory historiographical trend that continues in the literature until today. In the absence of new evidence on the implementation of land reform, and in the absence of evidence to support existent theory on the implementation of land reform, historians have judiciously chosen to paraphrase or quote the claims of those who preceded them.

Despite the 1945 *Survey's* admission that actually very few land registers were found in Palestine when the British assumed rule in late 1917, it, too, authoritatively commented on the authenticity of their contents,

...it was soon apparent to the cultivators that the registers were being used as a means of identifying properties for the purpose of taxation and of disclosing the existence of persons subject to military conscription. For these reasons only a small proportion of transactions was recorded, and these chiefly concerned elderly persons, females, foreigners and those sufficiently influential to be able to avoid military service. As an index of owners, the registers therefore became hopelessly incomplete. Nor was there any survey.¹⁴

Two interrelated points in this assessment (we cannot characterize it as an observation, given that there was little to observe) merit clarification. Neither of these points is the fact

¹³ Martin Bunton's insightful researches have closely examined and critiqued the production and implementation of British land law, ostensibly a continuation of Ottoman law. See, by him, "Inventing the Status Quo: Ottoman Land-Law during the Palestine Mandate, 1917-1936", *The International History Review* 21/1 (1999) 28-56, and *Colonial Land Policies in Palestine, 1917-1936* (Oxford and New York: Oxford University Press, 2007).

¹⁴ *A Survey*, 238.

that there “was no survey”. The tapu land-registration commissions did not perform surveys of the land. They worked with individuals’ claims to land, investigating these claims only in case of need. A land survey would have been superfluous to their objective, which was to register and issue title for properties that were owned and, doing so, to institutionalize a mechanism that would help ensure that property taxes were paid. This mechanism was the requirement that property could not be bought and sold without proof that taxes had been paid. Tosun Arıcanlı has succinctly argued, “This [land-tenure reform] was nothing more than a policy for the purpose of expanding a revenue base for the state without any conflict or collusion between the central and local powers.”¹⁵ This point is much debated. While I would not be so quick to ascribe to a reform of these dimensions only an objective such as this, there is no doubt that revenue from taxes and registration fees, as well as the ‘*ushr*’ tax charged on the harvest, were needed by the Ottoman coffers and an important factor motivating reform.¹⁶

It should also be noted that the Ottomans *did* undertake land surveys, but these appear to have been quite distinct from the tapu commissions. Too little is known about these *şemsiyye* commissions. They appear to be an important part of the story of large land sales in the northern part of Palestine that resulted in many farmers being reduced to

¹⁵ Arıcanlı, “Property, Land and Labor in Nineteenth-Century Anatolia”.

¹⁶ For a summary of this debate see in Donald Quataert, “Agriculture”, in Halil İnalcık and Donald Quataert, eds. *An Economic and Social History of the Ottoman Empire, 1300-1914* (Cambridge and New York: Cambridge University Press, 1994, reprinted 1996), 857- 859.

tenants.¹⁷ These commissions appear to have been dispatched from 'Akka in the early 1870s to areas in the region that today encompasses southern Syria, northern Israel and northern Jordan. Yitzhak Shechter theorizes that *şemsiyye* is a category that was assigned by tapu commissions to the lands of villages which were abandoned or sparsely populated, i.e. their agricultural lands were under-utilized. They were then offered to nearby inhabitants for a fee equal to the assessed value of the land (*bedel-i misl*) and, if they did not want them or could not pay the fees, the lands were auctioned. Shechter hand-copied and studied a *şemsiyye* register in the 1920s while working in the lands division of the Palestine-Israel Colonization Association.¹⁸ Michael Fischbach states there were special commissions sent out from 'Akka that were charged with investigating areas of land to determine whether they were under continuous cultivation. Lands that were not being exploited were then auctioned by the state.¹⁹ According to Alexander Schölch these surveys may have been even more widespread: "At the end of the 1860s and the beginning of the 1870s, the government conducted outright sales campaigns of land that was not continuously cultivated, especially

¹⁷ See Munir Fakher Eldin, "Communities of Owners: Land Law, Governance, and Politics in Palestine 1858-1948", PhD dissertation, New York University (September 2008) and Raya Adler, "The Tenants of Wadi Hawarith: Another View of the Land Question in Palestine", *International Journal of Middle East Studies*, 20/2 (May 1988), 197-220.

¹⁸ Yitzhak Shechter, "*Rishum HaQarqa 'ot b-Aretz Israel ba-Makhatsit HaShniyah shel HaMeah Ha-yud*" (Land Registration in Eretz Israel in the Second Half of the Nineteenth Century)", *Qatedra* 45 (September 1987), 147-160 (Hebrew). It is not known where the register Shechter examined is today. In his article, he reproduces the texts of selected documents from the register that he examined.

¹⁹ In his doctoral dissertation, Michael Fischbach mentions (p. 94) a *şemsiye* commission surveying in the Jordan Valley (Ghor) sometime between 1870 and 1872. I have not found this same information in his 2000 book of the same title.

land in the northern part of the country. But also in the south, interested parties were provided with lists of purchasable land.”²⁰ I relate his observation to the *şemsiyye* commissions.

I do not believe this was part of the tapu commissions’ work, as Shechter has theorized. This is for two reasons. First, the geographical scope of these committees’ work appears, at this stage, to have been quite limited. If this was a regular, empire-wide duty of tapu commissions, one would expect to see reference to it in the laws and directives on land-reform procedures, and one would expect these commissions to have been widely known across the empire. They are not.²¹ Second, *şemsiyye* clerks are listed in the Syrian provincial *salnames* (yearbooks) of 1291 H (1874) and 1296 (1879) in the *sancak* (province) of Tripoli (*Tarāblus-Şām*). They appear as a division separate from the land and property registration divisions.²² It would be important to know more about these commissions and the scope of their work; their relation with the tapu and property-tax commissions and

²⁰ Alexander Schölch, *Palestine in Transformation 1856-1882: Studies in Social, Economic and Political Development*, trans. William C. Young and Michael C. Gerrity (Washington, DC: Institute for Palestine Studies, 1993), 111. Schölch relies on foreign diplomatic and Zionist sources.

²¹ Not only have I found no research on these commissions or lists, with the exception of Shechter’s article, Fischbach’s and Schölch’s brief references and part of an article by Ruth Kark, I have not found any Ottoman scholars who were familiar with these commissions. Ruth Kark has found documents about the commissions in the Israeli State Archives. See pp. 57-59 in her article, “Mamluk and Ottoman Cadastral Surveys and Early Mapping of Landed Properties in Palestine”, *Agricultural History*, 71/1 (Winter 1997), 46-70.

²² ISAM, *Salname-i Suriye* 1291 H (1874), 67. ISAM, *Salname-i Suriye* 1296 H (1879), 80. I am grateful to Martha Mundy for the latter reference, for a number of discussions with her on the *şemsiyye* commissions, and for her suggestion that I look in the *salnames*. In the 1871 provincial *salname*, *şemsiyye* clerks are not mentioned.

offices; the location and quantity of lands that they determined should be auctioned; how it was decided which areas they would survey; and how their work affected land registrations.²³ It appears they were commissioned to enforce provisions in the Land Code allowing the confiscation and auction of agricultural land that lay fallow for three consecutive years without reason.²⁴

To return to the British *Survey*, Ruedy's second source, what merits discussion is the two-pronged claim we observe in this short excerpt from it and also in Ruedy. The claim that the fear of taxation and the fear of conscription led small landowners to evade registration of their properties *en masse* is one of the pillars upon which rests the claim that the implementation of property-tenure reforms failed. I argue it would be extremely significant if the claim that peasants feared taxation and conscription is reliable. This would mean that someone somewhere had interviewed Ottoman villagers. (If a petition had been found – a document source – surely it would have been cited.) The rural inhabitants of the Ottoman Empire have rarely been the subject of history. Rather, rural Ottoman studies have tended to focus rather narrowly on land-related questions and agricultural production.²⁵ One reason often cited is the dearth of sources that give insight into villagers' lives. In a collection of

²³ Shechter states that the commissions worked in secret, p. 147.

²⁴ Land Code, Article 68 (Ongley, 37)

²⁵ Nicolas Michel, "Introduction: Ottomanisme et ruralisme", in Mohammad Afifi, Rachida Chih, Brigitte Marino, Nicolas Michel, and Işık Tamdoğan, eds. *Sociétés rurales ottomanes/ Ottoman Rural Societies* (Cairo: Institut français d'archéologie orientale, 2005), 1

studies on the Ottoman rural population that is going on the market as this dissertation is being defended, Suraiya Faroqhi observes, “villagers before the late 1800s – or even the twentieth century – have left very few traces of their cultural orientations, including even religious practice[. W]ith a few notable exceptions, once culture and identity dominated the [historiographical] scene, Ottoman peasants disappeared from the historiography.”²⁶ In this regard, Amy Singer’s investigations in the 1990s of the Ramle and Jerusalem countryside in the sixteenth century are innovative in their successful efforts to extract from statistical and other sources “from-above” villagers’ political, social, and economic roles.²⁷ In the same vein, Leslie Peirce has written a historical study of legal culture and gender, based on one year in the court of sixteenth-century Aintab. Peirce focuses on the stories of individual rural and urban subaltern clients of the courtroom in order to analyze and explain local legal culture and the local interpretation of broader contemporary historical processes.²⁸ These studies have served me as methodological guides in this dissertation, because it sets before itself two equally important goals: one, understanding the implementation of Ottoman property-tenure reform in rural Palestine and two, recovering the histories of the Palestinian

²⁶ Quoted in the Introduction to *Halcyon Days in Crete VIII: Ottoman Rural Societies and Economie* (Crete University Press, 2015), entitled “Bringing the Peasants Back In?” and authored by Elias Kolovos .http://www.cup.gr/Files/files/HALCYON_VIII-INTRODUCTION.pdf , accessed 27 December 2015.

²⁷ Amy Singer, “The Countryside of Ramle in the Sixteenth Century : A Study of Villages with Computer Assistance”, *Journal of the Economic and Social History of the Orient*, 33/1 (1990), 51-79; Idem., *Palestinian peasants and Ottoman officials: Rural administration around sixteenth-century Jerusalem* (Cambridge and New York: Cambridge University Press, 1994).

²⁸ Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley: UC Press, 2003).

individuals, families, and villages of the Hebron region, as a contribution to both Palestinian history and Ottoman rural history.²⁹

Based on the assumption that no one did conduct a survey of villagers' feelings about property-tenure reform, I have looked elsewhere for the roots of this assertion. When the *Tahrir-i Nufüs ve Emlak* law on the registration of individuals and properties was issued in late-November 1860 (14 Jumadi I 1277), a similar observation was made in the text of the law. In Chapter II, which detailed the procedure by which registrations were to take place, Clause 7 states,

It is known that hitherto, owing to the insufficiency of the measures adopted for registration, the notables and nobility of the population have been daring to conceal persons and their wealth with a view to save their children from military service, and to pay less taxes than other people, and that they have been neglecting to show the wealth and person of other people so as to buy their silence.

²⁹ Historical studies on Palestine that deal with the rural sphere have been overwhelmingly concentrated on the Mandate period, and *fallahin* are rarely the subject of investigation. Main works in the field in recent decades include: Kenneth W. Stein's *The Land Question in Palestine, 1917-1939* (1984); Ylana N. Miller's *Government and society in rural Palestine, 1920-1948* (1985); David Grossman's *Rural process-pattern Relationships: nomadization, sedentarization, and settlement fixation* (1992); Warwick P.N. Tyler's *State Lands and Rural Development in Mandatory Palestine, 1920-1948* (2001); Amos Nadan's *The Palestinian Peasant Economy Under the Mandate: a story of colonial bungling* (2006); and David Grossman's *Rural Arab Demography and early Jewish Settlement in Palestine: Distribution and Population Density during the late Ottoman and early Mandate periods* (2011) To find villagers at the fore, we must look to other scholarly fields, and even then, to 'extraordinary' periods in which the rural role cannot be overlooked. Two exemplary researches which deserve mention are anthropologist Ted Swedenburg's *Memories of Revolt: The 1936-1939 Rebellion and the Palestinian National Past* (1995) and legal scholar Zeina Ghandour's *A Discourse on Domination in Mandate Palestine: Imperialism, Property and Insurgency* (2009). Both make extensive use of oral history.

The clause went on to lay out procedures designed to prevent this from reoccurring, as well as declaring that it would impose a punishment of three years imprisonment and hard labor on offenders.³⁰ The registration process being referred to here is the population registration (the *nufüs*), not the registration of property (*emlak*).³¹ This is the best explanation I have found, which is to say I have found no logical explanation. In Palestine, as we have seen in the excerpts from *A Survey* and Ruedy, this claim has not been made regarding the elite or regarding evasion of the population registration commission. In Palestine, apparently it was the *small* landowners who feared *their own* conscription and *any form* of taxation.

Chapter One of this dissertation traces the decades-long process of issuance and implementation of property-tenure reform laws in the Empire and in Palestine. It will be shown there that when this law was issued in late 1860, the implementation of reforms had only begun to take place selectively, experimentally, in a few selected cities of the Empire. It would be another decade before the empire felt ready to dispatch registration commissions beyond capital cities and into the countryside. Chapters 2 and 3 examine from different angles local responses to the *emlak* commissions tasked with recording the district's properties *explicitly* for tax purposes. Chapter 4 is a case study of court cases involving the generation that followed the generation who lived through the first implementation of

³⁰ Frederic Ongley, *The Ottoman Land Code, Translated from the Turkish* (London, William Clowes and Sons Ltd., 1892), 116-117.

³¹ The modeling of early population registers (*nufüs*) on *temettuat* (profit) registers will be discussed in Chapter 1.

reforms. It examines the consequences of the reforms' implementation and attempts to assess the degree to which the new laws of property tenure had been absorbed into the local discourse of ownership. One conclusion of this study, the sum of its parts, is that the argument that Land Code and property-tenure reforms were evaded and failed to be implemented in Palestine, is untenable based on the case of Hebron. It has become a convention in historical writing to refer to the basket of property-tenure reforms that were promulgated and implemented gradually over three decades, collectively as "the 1858 Land Code". It is important to remember, this reform was a process and not an event. In this light, I will argue that the settlement-of-tenure conflicts, documentation complications, and even first-time tapu registrations that took place in the 1890s and in the first decade of the twentieth century are indications that the reform *had* been implemented and adopted, and that it was working. In Chapter 4 I discuss a variety of mechanisms that were in place to simplify the process of resolution of problems and conflicts, and to facilitate compliance with the law.

The British *Survey* and Ruedy's narratives imply that the fees and the property tax which accompanied property-tenure reform and property registration were somehow hidden from the populace. As will be shown in Chapter One, they were clearly delineated and proclaimed in laws and regulations. There was no surreptitious taxation. As for the claim about conscription, I would argue that Ottomans fearful of conscription would be more likely to fear *nufüs* registration than property registration. The registration of the population

required people to give their birthdate. Therefore, it seems the likely source to which an army wanting to see lists of names would have referred. After all, the population registers were also designed to record details of military service as well as distinguishing physical features, deformities, and handicaps which might render one unfit for service.³² Tapu (title deed) and tax registers included none of this personal information. They were merely lists of names.

Chapters 2 and 3 of this study investigate the implementation of property registration as reflected in the foundational register (*esas defteri*) of the properties (*emlak*) commission for the Hebron district. Chapter 2 studies the building-scape of the villages and surveys the population as reflected in the *defter* through its residences. I compare this relative population data to other, contemporary Ottoman data on the local population to gauge as accurately as possible the degree to which the *emlak* registry reflects the size of the population. Chapter 3 examines the size of landholdings in the Hebron district and the cumulative amounts of individuals' landholdings with the goal of determining the level of regional socioeconomic stratification. The chapter seeks to identify patterns of land tenure and land registration. These chapters demonstrate that in the case of Hebron there is no evidence to substantiate this pillar of the traditional paradigm of the implementation of land tenure reform. Quite the opposite, given the immenseness of the undertaking—creating a

³² My research on the 1321 (1905) population registers of Hebron and Hebron villages, of which I make use in this study, will be published in the future.

register of every owned property, from small rooms and quarter-dunam vegetable gardens to parcels of land that were hundreds of dunams in size—I make an argument that by all measurable indicators the registration was remarkably thorough.

The Historical Creation of a Historiographical Paradigm: the Middle Years

Scholarship of the 1980s and 1990s did not offer a serious challenge to the paradigm which by virtue of repetition had become firmly established as common knowledge in the field.

Gershon Shafir, in his seminal study of the late-1980s, *Land, Labor and the Origins of the Israeli-Palestinian Conflict*, points to this issue, if unwittingly so:

The peasants, *as has been pointed out by all historians who studied this topic*, by trying to use the ayan as a foil...indirectly contributed to their influence. Being fearful that land registration was the harbinger of new taxes, or military conscription, the peasants frequently preferred, or even sought, the protection of an urban notable, under whose name they consented to have their land registered.³³

Beshara Doumani's groundbreaking 1995 study of the political economy of Ottoman Jabal Nablus in the eighteenth and nineteenth centuries remains influential today for a number of reasons, among them the researcher's successful effort to bring Palestinians to center stage in historical studies of Ottoman Palestine. Doumani discusses in some detail

³³ Emphasis added. Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian conflict 1882-1914* (Cambridge and New York: Cambridge University Press, 1989), 34.

within his study the pre-Tanzimat history of land as a commodity in Jabal Nablus.³⁴ It is important to recognize, as Doumani points out, that the Land Code institutionalized, through the innovation of granting title deeds, the already-existing practice of treating land as a commodity. State lands (*miri*) and piously endowed lands (*waqf*) could not technically be owned by individuals. This was the situation both before and after the Land Code. However, the buying, selling, and inheritance of the usufruct to these lands were not innovations of the Tanzimat-era land reform. This pre-dates the Land Code. Transactions involving the transfer of usufruct were sale (or inheritance) of these lands in all but name. This *existent* practice was legally sanctioned by property-tenure reform laws issued in the 1850s and 1860s (see Chapter 1 of this dissertation). From this time forward, title deeds were issued for usufruct. Ironically, the law proclaiming that title deeds would be issued for true private property (*mülk*) would not be promulgated until the 1870s (See Chapter 1).

Transactions involving usufruct as a commodity were not limited to Jabal Nablus in the decades before the Tanzimat. There is evidence that it was also sanctioned by the sharia court of Hebron, at the southern end of Palestine's mountain chain.³⁵ Kristin J. Alff likewise has found in the north that the Sursuqs and other powerful Beirut merchants' family-based

³⁴ Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley: UC Press, 1995), 155-164.

³⁵ See Image 5.1, in the Conclusion of this study, and accompanying discussion. The image is a photograph of a document of one such sale of Hebron lands, recorded in the Hebron court in 1839.

corporations were active by the late 1840s with the purchase and sale of (the usufruct right to) *miri* lands in Palestine, almost a decade before the issuance of the 1858 Land Code.³⁶

Doumani also brings into focus the question that is at the heart of the debate about how un/successfully land-tenure reform was carried out in Palestine. The paradigm of success/failure as it has been crafted hinges its final assessment of censure on the increasing forfeiture by peasants of their lands in the last decades of the empire and later, due to unpayable debts. The conventional paradigm that has developed has offered a range of possibilities to explain how this happened. You may have noticed. They range from unscrupulous land clerks registering lands in their own names and heartless mukhtars and shaykhs stealing the title to the land of their neighbors and relatives in their villages or tribe, to primarily urban-based moneylenders who acquired rural lands that peasants had mortgaged to them, when those same peasants could not repay their loans and interest charges. This important issue of land loss resulting from high-interest mortgages from urban moneylenders, and the complementary discussion of the Ottoman Agricultural bank as an alternative to this private system, is discussed in Chapter 4 of this study. I will argue that, in the case of long-term loans and some short-term loans, urban-based moneylenders offered villagers better terms of borrowing and conditions of repayment than the Ottoman

³⁶ Her dissertation-in-progress, "The Business of Property: Peasants, Settlers, and Beirut Corporations in Palestine, 1850-1923" examines the agency of villagers and family groups in the legal and commercial development of late-Ottoman northern Palestine. See www.histproj.org/completed/ALFF.pdf, accessed 12 April 2015.

Agricultural Bank.³⁷ I also argue that land forfeiture was far from preordained in the event of loan default.

Doumani argues the opposite. He suggests that the infrastructure of market mechanisms that developed before the Tanzimat to permit transactions in land-as-commodity, paved the way for urban economic domination of the countryside after the institutionalization of these rights during the era of Land Code reforms.³⁸ His argument dovetails with the conventional paradigm:

The 1858 law, which required the registration of lands, must have seemed to the peasants like yet another initiative by the Ottoman government to improve its tax collection efforts and to acquire knowledge about individual persons for conscription purposes. This perception was not far from the truth, and it helps explain the peasants' lack of cooperation in implementing the law. Unfortunately for the peasants, their unwillingness to vigorously pursue the registration of their lands in their own names made it easier for urban notables to lay claim to these lands and to expand their holdings.³⁹

The Historiographical Paradigm Today

Until the introduction of the Law of Tapu of 1858...registration was voluntary. ... Moreover, the natives—often completely unaware of the meaning of concepts such as 'private property'—feared 'collateral effects' that would follow registration: tax and conscription in the army. This mix of suspicion and hostility towards the newly introduced provision were

³⁷ This follows an argument Amos Nadan has made for the Mandate period in his *The Palestinian Peasant Economy Under the Mandate: A Story of Colonial Bungling* (Cambridge, MA and London, UK: Harvard University Press, 2006).

³⁸ Doumani, 159.

³⁹ Ibid.

recorded in detail by Samuel Bergheim in an article appearing in 1894 Throughout most of the Empire—in the provinces of present-day Iraq, for example, as well as in a large percentage of the Palestinian region (the area of Jerusalem, also due to its specificity, represented an exception to the rule)—the new regulations did not achieve the desired effects. On the contrary, the *fellahin*, fearing self-exposure, decided in many cases to register their land using the names of deceased relatives or noble residents of major cities.

[Footnote:] This does not exclude the fact that there are cases in which the *fellahin* living in the hill and mountain areas, or the areas in which the majority of them were concentrated, had registered the land in their name. The exact origin of the phenomenon is in any case difficult, if not impossible, to estimate accurately.⁴⁰

This dissertation is being written because the conventional paradigm authored one hundred years ago remains unchallenged and widespread (except hesitantly, in the rare footnote).

There is much historiographical misunderstanding of the laws of reform, the process of reform, and the implementation of reform.⁴¹ There has not been sufficient evidence available to allow systematic study, on the one hand, and the omnipresence of the historiographical paradigm has discouraged challenge, on the other.

⁴⁰ Lorenzo Kamel, “Whose Land? Land Tenure in Late Nineteenth- and Early Twentieth-Century Palestine”, *BJMES* 41/2: 230-242.

⁴¹ Among recent researches, see, for example, Erik Eliav Freas, “Ottoman Reform, Islam, and Palestine’s Peasantry”, *The Arab Studies Journal* 18/1 (Spring 2010), 196-231 and p. 209 in particular; Farid al-Salim, “A Social History of Provincial Palestine: The History of Tulkarm in the Late Ottoman Period (1876-1914)”, PhD dissertation (University of Arkansas, 2008), Chapter 4: “The Second Wave of the Tanzimat: The 1858 Land Code and the New Social Order in the Tulkarm Region”, 88-114. Al-Salim’s book, *Palestine and the Decline of the Ottoman Empire: Modernization and the Path to Palestinian Statehood* (London: I.B. Tauris), which grew out of his dissertation, was published this year (2015), but unfortunately I have not yet been able to consult it.

It has been argued here that the dominant paradigm regarding the implementation of land reform in Palestine, presented through this selection of representative works, has not – and cannot – offer substantiating proof of its claims regarding the degree to which the population did not conform to reform. It has been shown that the argument’s currency has been earned through historiographical repetition. A further point to note is that the paradigm is universal. As Lorenzo Kamel’s footnote above indicates, the paradigm has not allowed for the possibility of regional differences which can reasonably have been expected to have occurred in Palestine, as elsewhere.

The study now on your screen or in your hands does not do a lot of things. First, it does not argue that there were not villagers suspicious of reform. Second, in the absence of evidence, I do not argue one way or the other about unscrupulous clerks and heartless mukhtars and shaykhs. Undoubtedly there were some. There were also families who registered enormous tracts of land. Farid al-Salim has noted, for example, that Muṣṭafa Barqāwī registered 7,000 dunams in Ghabat Shufah and the ‘Abd al-Hadis registered 60,000 dunams in al-Sha’rawiyya al-Gharbiyya north of Tulkarm. On the other hand, Yusuf Jarrar is said to have brandished his sword to the tapu official and said, “*This is my tapu*”. By the end of the nineteenth century, his family had apparently lost most of their lands.⁴² What do these numbers and this story mean? They raise more questions than answers. The numbers

⁴² Al-Salim, 102.

are only part of the story and, cavaliering aside, if the Jarrars had *hakk al-qarār*, ten years' uncontested ownership on the land, or could have proven their ownership of the land by one of a number of possible avenues that, by law, remained open to them, they could have contested someone else's registration of their lands.⁴³ Further, by law, there should have been local families on the tapu commissions charged with the compiling of land registries, the *yoklama* commissions. One wonders what really happened.

Third, and finally, this study does not argue that all or even most Palestinian villagers and city-dwellers registered their properties with the tapu as soon as they were able to, or even when the *yoklama* commissions went from locale to locale. An investigation of *yoklama* tapu registers would more accurately address this.

This study does argue, however, that the history is more complex than has been realized. In 1876 by all indications it appears that the overwhelming majority of villagers in Hebron registered the overwhelming majority of their properties with the *emlak* commission and assumed responsibility to pay the new property tax, which was charged uniformly on all property at a rate of 0.004 percent of its assessed value. They did not evade the commission. They did not fear conscription. Or taxes.

⁴³ Meltem Toksöz found many such cases of contestation took place in the Çukurova region of southern Turkey in the 1870s. "Modernisation in the Ottoman Empire: The 1858 Land Code and Property Regimes from a Regional Perspective", in Elias Kolovos, ed., *Halcyon Days in Crete VIII: Ottoman Rural Societies and Economies*(Crete University Press, 2015). I am grateful to the author for kindly sharing with me a pre-publication copy of her article. This book was being published as this dissertation neared its completion and was not yet available in the United States.

Secondly, this study also argues that the villagers had considerable freedom to *choose* how they registered their lands with the tax commission. Chapter 3 explores these various types of ownerships and their meaning in the reform era – individual private ownership, partnerships, village-wide community ownership, and *musha*. Thirdly, this study further argues that one generation after the implementation of reform, the new language of tenure was well-integrated into the vocabulary and society of rural Hebron. Finally, this study argues that evidence shows that throughout the reform as well as the post-reform years the Ottomans permitted various channels *in addition to* the tapu certificate to prove ownership of property. The implication of this, I argue, is that the accepted methodology of studying land-tenure in Ottoman Palestine must be broadened beyond its current narrow focus. Along the way, this study also aspires to add qualitatively to Ottoman and Palestinian rural studies by examining Ottoman village society in the Hebron region from the bottom-up.

Significance of this Study

The importance of this study is threefold. First, it uses a rare source to bring needed empirical evidence to the table of scholarly discussion on the implementation of Ottoman-era land-tenure reform in Palestine. This study examines more than isolated cases; it looks at an entire district, as well as its parts.

Secondly, it opens a new avenue to the study of land tenure. Scholarly literature has been overly concerned with tapu. As Haim Gerber observed when he studied land cases that came before the Jerusalem district administrative council (*meclis-i idare*) in the first decade

of the twentieth century, “while there was no legal obligation to register land in the tapu, there was indeed such an obligation concerning the *vergi*-survey.”⁴⁴ This study will demonstrate the utility of using these records to examine property ownership in the late-Ottoman era.

Thirdly, this study is very much concerned with the men and women whose names fill the lines of the *emlak* defter, some of them only once, some of them repeatedly. Rural history from below is very much in its infancy in Ottoman studies. Despite the fact that the Ottoman Empire was an agrarian empire, villagers have rarely figured as subjects of Ottoman histories. This study exploits the *emlak* register together with sharia court cases, village history books, and Ottoman population registers to flesh out a picture of late-Ottoman villages, villagers, and rural society in more depth than has previously been possible.

Sources

Four types of primary sources form the core of this study. They are, firstly, the 1876 *Esas-ı Emlak* property-value and property-tax assessment register; secondly, sharia court cases from the Hebron sharia court and, to a lesser extent, from the Jerusalem sharia court; thirdly, Ottoman population registers of 1905 for the Hebron district; and, finally, Ottoman yearbooks (*salnames*) for the province of Syria for the 1870s. Detailed discussions of these

⁴⁴ Haim Gerber, *Ottoman Rule in Jerusalem 1890-1914* (Berlin: Klaus Schwarz, 1985), 205.

sources and the advantages and drawbacks to using them are presented in the body of this study where the various sources come into play.

Chapter One

The Implementation of Tanzimat-era Property-Tenure and Property-Tax Reforms in Palestine

When did the series of land-tenure reforms ushered in beginning with the Land Code of April 1858 (7 Ramadan 1274) begin to be implemented in Hebron and the other administrative districts that comprised Palestine? Not only in textbooks⁴⁵ but also in a number of scholarly research works,⁴⁶ academic authors have skirted this question. Most scholarly sources discussing property-tenure reform in the nineteenth century mention only the promulgation of the 1858 law (and sometimes the 1867 law permitting foreigners to possess property) before leaping on to a discussion of the causes, goals, and effects of the reform. The process of reform is an important missing link in this narrative. Before embarking on a discussion of

⁴⁵ E.g., James L. Gelvin, *The Israel-Palestine Conflict: One Hundred Years of War* (New York: Cambridge University Press, second edition, 2007, republished 2010): 30-32; Charles D. Smith, *Palestine and the Arab-Israeli Conflict, A History with Documents* (Boston: Bedford / St. Martin's, seventh edition, 2010): 20-22; Gudrun Krāmer, *A History of Palestine: From the Ottoman Conquest to the Founding of the State of Israel*, trans. Graham Harman and Gudrun Krāmer (Princeton and Oxford: Princeton University Press, 2008): 81-87.

⁴⁶ E.g. Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus 1700-1900* (Berkeley: UC Press, 1995): 159. Doumani uncritically reproduces the traditional narrative within a larger discussion focusing on the process of the commoditization of land. The two-pronged focus of this discussion is, first, evidence of land as private property before 1858 and, secondly, on the phenomenon of farmers losing their lands due to debts (155-164); Farid al-Salim, "Landed Property and Elite Conflict in Ottoman Tulkarm," *Jerusalem Quarterly* 47 (2011), 66

the implementation of reforms in Hebron, it is therefore advisable to first review the chronology of the promulgation of the reforms in the Empire and their implementation in Palestine. Four sections comprise this chapter. In the first section, we will discuss the promulgation of relevant land-tenure reform laws. The subsequent section discusses property-tax reform. The third section will bring together available evidences that shed light on the progress of the implementation of, if you will pardon the pun, reforms on the ground in Palestine. Following that, in the fourth and final section, the introduction of registration commissions to Palestine will be discussed.

Land-Tenure Reform: The Legalistic View

Following the April 1858 Land Code, additional related regulations and modifications were announced periodically over the coming decades. Title deeds for *mülk* (private property) were not issued until 1274 (1291 H), and the law regarding title deeds for endowed properties was promulgated only the following year.⁴⁷ Article 3 of the Land Code defined *tapu* as a payment made to the government for the right to possess *miri* lands.⁴⁸ Book One of the Code treats *miri* lands in detail. Its first part defines the right of usufruct (*tassaruf*), including what can and cannot be done on *miri* lands and how permissions to improve *miri*

⁴⁷ The former on 28 Rajab 1291 (10 September 1874) and the latter on 6 Rajab 1292 (8 August 1875). For the texts of these laws, see Ongley 229-238, 249-256.

⁴⁸ Ongley, 3.

land can be attained.⁴⁹ Part Two establishes procedures for alienation (*ferağ*) of one's usufruct held by right of tapu.⁵⁰ Articles 41-43 treat the transfer of title to lands held in partnerships. Article 47 sought to resolve confusion that could arise in determining the dimensions of land being alienated according to dimensions expressed in the number of dunams and/or ziras (arm lengths). In the event that discrepancy over numbers and the size of the land parcel arose, this article determines that the traditional system of demarcating land according to its relative boundaries, such as the mountain or the property of another, would take precedence over any stated quantitative measurement. Part Three of the Land Code confers rights of inheritance of usufruct rights on *miri* lands.⁵¹ Article 78, in Part Four of the Land Code, establishes that individuals who can prove ten years' unchallenged tenure on the land (*haqq-ı karār*) were entitled to tapu, whether or not they held a document proving their title on the land.⁵² Protection against land seizure by creditors is outlined in Article 115; Articles 116 forbids mortgaging land by pledge (*rehn*) but permits landholders to mortgage their lands with an explicit guarantee of restitution of the property in full once their debt is

⁴⁹ *Ibid.*, 8-19.

⁵⁰ *Ibid.*, 20-27.

⁵¹ *Ibid.*, 28-30.

⁵² *Ibid.*, 41-42. For example of a title deed predating the Land Code, see Image 1 in the Introduction to this study.

paid (*ferağ b'il-vefa*). Article 118 outlines the conditions by which a creditor may sell mortgaged lands.⁵³

Only the following year, in early 1859 (1275 H), were procedures established for the transfer of tapu rights. The *Nizamname-ı Tapu* (Tapu Code of Regulations) provided for government officials to record land transactions in the provinces.⁵⁴ According to Article 1 of the Tapu Regulations, the heads of the treasury and the administration in the *qaḍas* were to be considered their district's landowners. As such, they were assigned the power to grant temporary usufruct title-deeds to *miri* lands.⁵⁵ These would, in turn, be sent to the provincial council (*meclis*) which would forward it to the central *Defterhane*, the *Tahrir-ı Emlak Nezareti* (Ministry of Property Registration), which would issue the official tapu certificate, which would then be sent back down along this chain to the tapu holder.⁵⁶

According to the letter of the law,

When a person desires to alienate (*ferāğ*) his or her land to another, he must get a certificate bearing the seals of the Imam and mukhtars (*muhtārlar*) of his quarter or village, stating that he or she is really the possessor of the usufruct (*mutasarrıf*) of such land [...] When the alienor and alienee, or their legal agents, come to the meclis of the country (*meclis-i memleketeye geldiklerinde*), the certificate brought by them will be taken and kept. After the fees for the alienation have been paid and the resignation (*istifa*) [from the property by the possessor of its usufruct]

⁵³ Ibid., 62-63.

⁵⁴ Ibid., 71-87. The Regulations were proclaimed in mid-January 1859 (on 8 Jumādī al-Ākhir, 1275H).

⁵⁵ Ibid., 71.

⁵⁶ Ibid., See relevant articles 3, 18, 21 on pages 71, 78-79.

taken place, their statements (those of the alienor and the alienee) will be taken in the presence of the mudir of the country (*müdür-ı memleket*), if the statements are made at the district (*qāḍa*) offices, or in the presence of the financial officers (*māl me'murları*) located at either the provincial (*liwa*) offices or at the seat of the *vilayet* government...⁵⁷

Transfers of land title between two (or more) individuals now required a certificate of ownership that had been stamped by both the imam and mukhtars of the seller's neighborhood or village. This certificate was to specify the location of the property, describe its boundaries, enumerate its size in dunams and include the sale price in kuruş. With this certificate in hand, the seller and buyer were to proceed to government offices to officially register the sale and change of land title.⁵⁸ The innovations of this law were, first, the establishment of an arm of government to record land transactions and, secondly, the stipulation that land must be measured according to the standard of the dunam. Historical documents show that aside from the use of dunams, land sales recorded in the sharia courts of Jerusalem and Hebron had already been following these procedures before the Land Code was introduced.⁵⁹

⁵⁷ Tapu Nizamnamesi of 1859, 3rd Article. (The translation is mine.) Uğur Ünal et al., *Tanzimat Sonrası Arazi ve Tapu, 35 Numaralı Kanun-ı Kalemîye Defteri [ve] 40 Numaralı Kanunnâme-i Arazi Defteri, Transkripsiyon / Tıpkıbasım* (Land and Tapu after the Tanzimat, Book of Written Laws No. 35 [and] Land Code Book, No. 40. Transcription / Facsimile), (Istanbul: T.C. Başbakanlık Devlet Arşivleri Genel Müdürlüğü Osmanlı Arşivi Daire Başkanlığı, Publication No.135, 2014), 130.

⁵⁸ Ibid.. Regarding the historical development of Ottoman thought on ownership of agricultural land, see Martha Mundy and John Saumarez-Smith, *Governing Property, Making the Modern State: Law, Administration, and Production in Ottoman Syria* (London and New York: I.B. Tauris, 2007): Chapters 2-4.

⁵⁹ See, for example, the document issued by Hebron's sharia court in 1839 (Introduction, Image 1). The borders of the two land parcels are relatively defined; no quantitative measurement of size is provided.

Examination of Jerusalem sharia court registers for the period 1839-1858 reveals that the court took care to record the names of both the buyer(s) and seller(s), as well as borders of the property, the sale price, and terms of payment. In this period property (land as well as buildings) is described in the Jerusalem court registers not in terms of size (*dönüm* or *feddan*) but only according to borders. Many sales were of *qirāṭs* (shares, in twenty-fourths).⁶⁰

In 1860, the acquisition of a tapu certificate for every usufruct holder of *miri* lands became obligatory. It was a condition of the Regulations and Instructions Regarding Tapu Seneds (*Tapu Senedātı Haqqı*) declared in February and March that year.⁶¹ The Regulations also stated that a tapu clerk would be appointed in every district (*qaḍa*). He was to be selected locally, from among the clerks of the district administration, the sharia court, or the population (*nufüs*) registrar.⁶²

⁶⁰ See for example, the sale of 14 *qirāṭs* of a residence in Jerusalem (JM 331 / 19 / 2 (*Ghara* Dhu al-Hijje 1265 / 22 October 1849) ; the sale of “half of twelve *qirāṭs*” of otherwise-unmeasured field land (*marqūma lil-falāḥa*) in Hebron (JM 330 / 96 / 2 (21 Rab’I II 1264 / 27 March 1848) and the sale of two gardens (unmeasured in size) and three olive trees on Jabal al-Ṭūr, by villagers from al-Ṭūr (JM 320 / 180 / 2 (5 Sha’ban 1252 /15 November 1836).

⁶¹ These were announced in two parts, the Regulations on 7 Sha ‘ban 1276 / 29 February 1860, and the Instructions one week later, on 15 Sha ‘ban 1276 / 8 March 1860. See Ongley, 88-110. Article 1 of the Regulations explicitly states that no one can hold *miri* without a tapu (title deed) and those without them must now get them. (Ongley 89)

⁶² Ongley, Article 1, page 89.

Also in 1860, village-by-village registrations commissions for both the population and properties were called for. The *Tahrīr-i nüfūs ve emlak*⁶³ was a significant law, composed of seven chapters laying out in relative detail the framework and procedure for property tenure, registration and property tax that would be declared in laws issued over the following two decades. It is important to emphasize that the law called for registration of *emlāk*, (properties) and not merely *arazi* (lands), because this important component of the reform is often overlooked in studies embroiled in land-tenure questions.

The commissions were to be tasked with registering the Empire: “the true value of houses, khans, shops, and similar properties, of farms, mills, factories and other income-bearing properties, and of all lands in general”.⁶⁴ The commissions were likewise asked to record tax-free properties: “mosques, mesjids, Government buildings, schools, places of worship belonging to all communities and similar public buildings”.⁶⁵ In fact, the enumeration of structures was prescribed as the first duty of the commissions, before landed properties. They were directed to count all structures, assign a number to each unit, record that number in a record book which would serve as the basis for the locale’s

⁶³ The law was promulgated on 14 Jumadi I 1277 / 28 November 1860. See Ongley, 111-134.

⁶⁴ *Ibid.*, Chapter 2, Article 9, pp. 117-118. In this section I rely on Ongley’s translations which, where comparable with original texts, I have found to be generally accurate. Ongley translated from the original Ottoman Turkish.

⁶⁵ *Ibid.*, Chapter 2, Article 10, p. 117.

registration, and also to write these numbers on the walls.⁶⁶ This procedure was not an innovation. It had first been implemented in Anatolia and the European provinces in the 1840s, as part of the *temettuat* surveys of individuals' property and income. As Huri İslamoğlu has observed, the technicality of assigning numbers to residences, and to individuals, was essential to the innovation in the Empire of individualizing ownership and tax responsibility.⁶⁷

The first chapter of the 1860 directive prescribed the appointment of four property assessors and twenty-two registrars to record the population and their properties. The second and fourth chapters mapped out the proscribed system as well as the composition and procedure to be followed by provincial commissions. Chapter Three, which will be discussed below, spelled out how the new *vergi* (property tax) would be assessed, charged, updated, and collected.⁶⁸ Chapter Four Chapter Five of the law explained the duties of the

⁶⁶ *Ibid.*, Chapter 2, Article 6, p. 116.

⁶⁷ Huri İslamoğlu, "Politics of Administering Property: Law and Statistics in the Nineteenth-century Ottoman Empire", in Huri İslamoğlu, ed., *Constituting Modernity: Private Property in the East and West* (New York: I.B. Tauris, 2004), 297.

⁶⁸ Mundy and Saumarez-Smith suggest that the 1860 law was ambitious because it proposed "a system of registration where both persons and objects of taxation, and their mutations, were somehow to be entered in a single register." (Footnote 22, p. 254). This is not clearly so, however. The law envisioned one commission for population and property assessment, and another to be in charge of tax matters. (Chapter 1; Chapter 2, Article 2; and Chapter 3, Article 1). Additionally, Article 6 of Chapter 3 refers to a building book in which the tax on buildings was to be recorded. Article 9 of the same chapter states that approved census books would be delivered to the Inspector of the Census, but there is no indication that tax officials were to record tax information in these. Rather, in Article 7, it is stated that the taxes of those who are unable to afford the fees for securing a title-deed will be paid from the Treasury, after their poverty has been certified through verification with details recorded in the census register. (Ongley, 124). Finally, the law's concluding segment stipulates only that property, land, and

district, provincial, and large-provincial government clerks and the chain of command and procedure between them. Chapter Six outlines the procedure for updating tapu certificates and managing record books, while the final chapter indicates that maps are to be constructed of built-up areas, showing the number assigned to each structure.⁶⁹

According to the 1860 law, each commission was to begin its provincial work in the capital of the province to which it had been appointed. There, under supervision of the commission head, registrars and assessors would be trained in-the-field while completing the town's registration.⁷⁰

Then proceeding beyond the provincial capital, the 26-member commission would split into two, to more quickly cover the province. In the towns and villages, local teams of six assessors were to be appointed from among the trustworthy of the populace, one for every group of six villages. These *ad hoc* teams were to be in charge of assessing local property values. According to the law, the two government-appointed assessors on the commission were to act as overseers.⁷¹ All the males in each locality, whether young or old,

census matters are to be recorded and preserved at the *Defter-i Khākanī* offices. It does not mention tax records. (Ibid., 133-134) İslamoğlu also understands the law intended "multiple registers". (İslamoğlu (2004), 298.)

⁶⁹ Ongley, 130-133.

⁷⁰ Ongley, "Law on the Registration of Census and of Properties", Chapter 2, Article 1, p.113.

⁷¹ Ibid., Chapter 2, Article 2, pp. 113-114. Article 4 notes that village mukhtars are not trustworthy and as such were ineligible to participate on the assessment committees. (Ibid., 115.) Also see Chapter 4, Article 1, p. 126.

were to appear before the registrars and register themselves and their properties. Women were to be represented before the registrars by male representatives.⁷²

When registering properties and lands with the commission, individuals were to present their title deeds. According to Article 12 of Chapter 2 of the law, if property transfers had been made informally, property owners would be sent either to the sharia court (*mehkeme*) or, if the property was endowed, to the waqf offices, so they could renew their title deeds.⁷³ Similarly, Article 3 of Chapter 6 also indicates that property and land sales could take place in both the sharia courts and the waqf offices, *if* the tapu certificate (*kuşan*) was presented and it was noted on it that taxes had been paid.⁷⁴ The explicit inclusion here of courts as an acceptable forum at this stage to deal with land deeds, *in addition to* the tapu offices appears to contradict the procedure dictated by the previous year's *Tapu Nizamnamesi*. Why the turnaround? Was this a nod to previously existing practice? Was this a stop-gap measure until clerks were in place at the district level? Answer(s) to these questions will be discussed below (in part two of the "On the Ground" section) and in Chapter Four, where we will run into land-related cases heard before the sharia court more than a quarter-century later, in 1895.

⁷² Ibid., Chapter 2, Article 7b, p. 117.

⁷³ While Ongley and, likely, the original, does not state that the *mahkeme* in reference is a sharia court, the reference in the same article to the *qāḍī* as the head of that court makes this point clear. See E. Tyan, "Qāḍī" in P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, and W.P. Heinrichs, eds. *Encyclopaedia of Islam*, second edition. Brill Online, 2015. Accessed 26 November 2015.

⁷⁴ Ongley, 131-132.

Also noteworthy in this article of the law is the foreshadowing of the issuance in 1865 of a law requiring title deeds for endowed properties. Both *arāzi mevkufe* and *mülk*, (private property) had been excluded from the 1858 Land Code. In sum, then, the 1860 *Tahrir-i Emlāk ve Nufüs* can be seen as expression of the empire’s long-term vision.

Almost another decade would pass, however, before an order was issued for commissions to be dispatched to villages to systematically record all properties. A note from the Ministry of the Defterhane written in December 1871 (1288 H) notes that a *yoklama* (examination) official was to be appointed in every sancak, supported by a team of scribes. Local committees at the village level were to work with this official and his team at the village level to register all *miri* lands in the district.⁷⁵

Later that same year, a law regarding the issue of title deeds for private property (*mülk*, pl. *emlāk*) was promulgated, and it, too, called for *yoklama* commissions to register properties first in the towns and, following them, the villages. *Yoklama* (يوقلامه) is often translated as “roll-call” and these commissions’ work as “surveying”.⁷⁶ In fact, however, as the preceding discussion has shown, despite personal and property registration being legally mandatory, its implementation depended on local cooperation. According to the procedure,

⁷⁵ Mundy and Saumarez-Smith, 51 and endnote 76, pp. 256-257. The date on the document is 5 Shawwal 1288 / 18 December 1871.

⁷⁶ This is the third of four possible definitions offered in the *Redhouse Yeni Türkçe – İngilizce Sözlük*, after (1) verbal noun of *yokla* (to feel with the fingers or hand; to examine, inspect, search; to try, to test); and (2) examination, test, inspection. (Istanbul: Redouse Yayınevi, 1968, Eighth edition 1986), p. 1259.

Ottomans were to approach the commissions; the commissions did not search out individuals. Nor did they map out the land plot by plot, although they were tasked with this regarding buildings within the cities and towns. Regarding landed property, the law explains that people were to present their properties for registration and, upon examination for veracity, they would be recorded. For this reason, I choose to translate the term *yoklama* with the more-common meaning of “examination” and to forego the imprecise description of the commission’s work as a “survey”.⁷⁷

The law applied to every corner of the Empire, and to *mülk* wherever it was found, including on *miri* and waqf lands. Ownership or usufruct of any type of property without obtaining a title deed was now forbidden. *Emlak* officials were to be established in every district (*qāḍa*) alongside the tapu clerk(s). as part of the *Defter Khākānī* offices.⁷⁸ Chapter One of the law called for the registration of *mülk* through *yoklama* commissions. These commissions were to be composed of the *emlak* clerk of the district, a member of the district or provincial Administrative Council (*meclis-i idare*) who was well-versed in registration matters, the district registration official (*tahrīr me’mur*) and also the imam, the

⁷⁷ The Şamseddin Sami dictionary gives only this meaning for *yoklama*: “examination, inspection”. (*Kāmūs-ı Türki* (Istanbul: Tercuman Gazetesi, 1985), 492. It is seemingly relevant to note, in the context of tax-registration and fear of conscription, that in the original *Kamūs-i Türki* published in 1901, *yūqlāmā* was defined as the investigation and examination of a military *kūnye* (a register of names of persons). (Ş. Sami , *Kāmūs-ı Türki* (Istanbul: İqdām publishers, Rajab 1317 H / December 1899), 1565.

⁷⁸ Emlak....nizamnamesi of 1291, preface. Ongley, 229-230.

mukhtars, and council of elders of the place to which the *mülk* belonged.⁷⁹ Registrants were asked to bring to the commission their title deeds, whether issued from the courts or other places. Provision for registration for those who did not possess title deeds was also made.

Mülk had been defined in Article 2 of the Land Code of 1858. It consists of a range of properties: buildings within inhabited areas; lands no bigger than one-half a dunam that are adjacent to inhabited places; land conferred by the sultan as private property; and lands in the possession of non-Muslims which had not been seized by the Ottomans at the time of their conquest.⁸⁰ This 1874 *Emlāk* law was both more and less specific regarding *mülk* than the 1858 Land Code had been. It explicitly mentioned as *mülk* trees, shops, vineyards, and gardens in addition to buildings, but neglected to delimit a maximum size for garden lands, as had been done in 1858.

Fees for registration increased proportionately along with the assessed value of a property, as can be seen in Table 1.1 below. The table shows that these fees were nominal in relation to property value. The jump in the rate-scale of fees between properties valued between 90,000 and 100,000 kuruş, and those valued above 100,000 kuruş, together with the singular-sum fee charged for the category, suggests that there were few privately-owned properties in the Empire that were valued above 100,000 kuruş.

⁷⁹ Ibid., Chapter 1, Article 5, p. 231.

⁸⁰ Ongley, 1-2.

Tax Reform

Simplification and streamlining of the tax system were goals of the reforms declared in the November 1839 *Gülhane Hatt-ı Hümayunu* which inaugurated the Tanzimat. In reality, these reforms had begun earlier, under Sultan Mahmud II (r. 1808-1839). Stanford Shaw traced Tanzimat-era tax reform ideas to a proclamation of reform in early 1838.⁸¹

Table 1.1
Fees Charged Property Owners to Register *Emlāk*, according to the 1874 *Emlāk* Registration Law⁸²

Assessed Property Value of <i>mülk</i> (kuruş)	Costs to Register One Property	
	Cost of Certificate (kuruş)	Additional Fees (kuruş)
≤ 5,000	3	n/a
5,000 – 10,000	3	5
10,000 – 20,000	3	10
20,000 – 30,000	3	15
every additional 10,000 (to 100,000)	3	+ 5 (ea. 10,000)
90,000 - 100,000	3	50
≥ 100,000	3	100

More recently, even earlier proof of reform has come to light. A *temettuat* (profits) register brought to light by İsmail Demir for the population of Kayseri, in central Anatolia, indicates

⁸¹ This was on 23 February 1838 / 19 Dhu al-Qa'da 1255H. Stanford Shaw, "The Nineteenth-Century Ottoman Tax Reforms and Revenue System", *IJMES* 6/4 (1975): 422.

⁸² Source: 28 Rajab 1291 (10 September 1874) *Emlak-ı sırf için Defterhane'den verilecek senedata dair nizamname* (Law concerning Title Deeds to be issued by the *Defter-i Khākanī* for Pure *Mülk*. See Article 10, Ongley, 233.

that the idea for comprehensive reform of the tax system was already being implemented, if only experimentally, in the mid-1830s.⁸³ The *temettuat* surveys of the 1840s sought to record the names, statuses, and professions of household heads, as well as details about households' properties, incomes, and tax payments.⁸⁴ One may note, experimental implementation of reform was not extraordinary in the Empire. The Vilayet Law, for example, when promulgated in 1864, was implemented only in the Danube region, as a test case. With some modifications and additions, the law was then declared and applied more broadly in 1867 and, after further modification, most broadly from 1871.⁸⁵ Tax reform implementation underwent the same process.

Widespread implementation of tax reforms began in the 1840s. *Emval ve emlak* (moveable and immovable properties) surveys, as they were initially called, and their successors, the *temettuat* surveys, gradually came to be conducted widely across Anatolia and the European provinces.⁸⁶ Within two years, some 18,000 income registers were

⁸³ For a study of this register, see İsmail Demir, ed. *Kayseri Temettuat Defteri (H.1250 / M. 1834 Tarihli)* (Kayseri: 1998-99, 3 vols.) My information about Demir's study comes from Yoichi Takamatsu's article, "Ottoman Income Survey (1840-1846)" in Hayashi Kayoko and Mahir Aydın, eds. *The Ottoman State and Societies in Change: A Study of the Nineteenth Century Temettuat Registers* (Kegan Paul International, 2004, and New York: Routledge, 2010): see esp., pp. 16-18.

⁸⁴ Tevfik Güran, "Temettuat Registers as a Resource about Ottoman Social and Economic Life", in Hayashi and Aydın, eds., 7-8.

⁸⁵ For details see Carter V. Findley, "The Evolution of the System of Provincial Administration as Viewed from the Center", in David Kushner, ed. *Palestine in the Late Ottoman Period: Political, Social, and Economic Transformation* (Jerusalem: Yad izhak Ben-Zvi, 1986): 3-29.

⁸⁶ According to scholarly convention, they are labeled surveys. As Takamatsu points out, "It is not yet clear, however, how the surveys had been conducted" (Kayoko and Aydın, eds., 17.)

compiled.⁸⁷ The wealth of information collected in these comprehensive, household property-and-income surveys, which used a freeform recording style more reflective of early-Ottoman accounting registers than the lined pages on printed forms that were to come in subsequent years, were not used to assess taxes, however.⁸⁸

Already in the early 1850s, the Ottoman administration was planning how to further develop the idea of the cadastral survey. New registers were introduced experimentally in the Anatolian coastal city of Smyrna (İzmir), and commissions assessed the value of all the property and lands in the city. The result was new tax regulations (a *nizamname*) issued for the city in 1856, according to which all properties were taxed at a rate of 0.004 percent.⁸⁹ The experiment was then tried out in an Istanbul neighborhood (Galata) and in Bursa in 1858. In Galata, only income from property was taxed. The tax was assessed on properties that generated an income of more than 1,200 kuruş annually, at a rate of two percent. In Bursa, taxes were imposed on property both according to its value (at a rate of 0.004 percent) and also its income (an additional four percent).⁹⁰ The commission then transferred

⁸⁷ İslamoğlu (2000), 296.

⁸⁸ Ibid. For more information about the development, scope and purpose of these surveys, see in particular the contributions by Takamatsu, Tefik Güran, and Kayoko Hayashi-san in Kayoko and Aydın, eds. For an image of *temettuat* survey pages, see Appendix IV, pp. 249-252

⁸⁹ Alp Yücel Kaya and Yücel Terzibaşoğlu, “Tahrir’den Kadastro’ya: 1874 İstanbul Emlak Tahriri ve Vergisi “Kadastro tabir olunur tahrir-i emlak”, (From Registration to a Cadastre: The 1874 Istanbul Property Registration and Tax, “The *tahrir-i emlak* can be called a cadastre”), *Tarih ve Toplum, Yeni Yaklaşımlar* 9 (2009), 16 (Turkish).

⁹⁰ Ibid., 35-36.

to Yanya and, finally, in 1862 experimental registration was carried out in the city of Beirut.⁹¹

It was after carrying out registration in Bursa and Yanya that the 1860 *Tahrir-i Emlāk ve Nüfus nizamnamesi* was issued.⁹² In 1866, further regulations would be issued, extending the *Tahrir-i Emlāk ve Nüfus* regulations to the countryside. Property commissions were now to be established and carry out registrations, assessments, and imposition of the *vergi-yi cedid* (the new tax) in every *sancak* and *qāḍa*.⁹³

On the Ground in Palestine: Establishing the Administrative Apparatuses of Land Tenure Reform

According to Ottoman provincial yearbooks (*salnames*), tapu clerks had not been appointed to Hebron or any of Palestine's district capitals (*qāḍas*) as of the late 1860s, when Syrian provincial *salnames* began to appear.⁹⁴ The 1869 (1286 H) *salname* for the province of Syria names just five officials in the administration in the district of *Khalīl*: the *qaimaqam* Nu'man Ağa, the sharia court judge (*nā'ib*) Muhammad Asa'd Effendi, the mufti Khalīl Effendi, the

⁹¹ Ibid., 16-21.

⁹² Stanford Shaw (1975) dates the empire-wide promulgation of a 0.004 percent vergi tax to a law issued in January 1861 (15 Receb 1277) and instructions about it to earlier that month (18 Cemazi II 1277), citing BOA, Irade, Meclis-i Mahsus 910. (Shaw, 427). Clearly, however, the 1860 law precedes it.

⁹³ Kaya and Terzibaşoğlu, 23.

⁹⁴ The 1869 (1286 H) *salname* was the second yearbook for the province of Syria. The first was published in 1868. Although the empire (*devlet*) began to publish *salnames* at the imperial level in 1847, the first *salname* at the provincial level would not appear until 1283 H (1866). In this year just one provincial *salname* was compiled; it was for Bosna (Bosnia). The following year provincial *salnames* were issued only for Bosna and Haleb (Aleppo). In 1868, five provincial *salnames* were published. These were for Bosna, Haleb, Konya, Tuna (Danube), and Suriye (Syria). Hasan Duman, *Ottoman Yearbooks (Salname and Nevsal): A Bibliograph and a Union Catalogue with Reference to Istanbul Libraries* (Istanbul: IRCICA, 1982). (Turkish).

director of finances (*māl müdiri*) Rashīd Effendi, and the chief scribe (*tahrirat kâtibi*) ‘Abd al-Salām Effendi.⁹⁵ Similar listings are found for the other *qaḍas* of the Jerusalem province: Ghazze (Gaza) and Yāfa (Jaffa).⁹⁶

Tapu and property officials had been appointed by this time at the provincial (*liwa, sancak*) level, however. One Mustafa Beğ was listed as both the provincial lands official (*arazi me’muri*) and head scribe of the tapu (*tapu başkâtibi*) for the *sancak* (province) of Jerusalem. He had two assistants (*refiki*) working with him, Mālikī Mustafa Effendi and Rāghib Effendi. Additionally, there was at the provincial level listed, in the following order: a registration official (*tahrir memūri*) for property (*emlak*), named Hasan Effendi, and two registrars (*muqayyidān*), two assessors (*mukhamminān*), and two surveyors (*messāḥān*) whose names were not recorded. It is significant to note, the assessors were listed before the surveyors. The salname also listed a number of other positions for the province. No clerks’ names recorded next to them. In the Registry of Private Property (*emlāk*) these were a head scribe (*başkatib*), a *vukuat katibi* to record transactions; a *senedat ve i’lāmāt katibi* in charge of writing tapu certificates, official orders, and reports; and a *yevmiyye tahsilat ve ebniye katibi* who would seemingly be responsible for keeping up-to-date the registrar of

⁹⁵ ISAM, *Salname-ı Suriye* 1286 H / 1869, defa 2: 69. It is unusual that the district is referred to in this *salname* merely as *Khalil*; usually Ottoman documents (and *salnames* of other years) use its full name, *Khalilürrahman*.

⁹⁶ ISAM, *Salname* 1286 H / 1869, pp. 68-69.

fees paid to the office and also its record of buildings.⁹⁷ It is unclear whether these positions had been filled.

Be that as it may, evidence shows that *emlāk* registrations had already been carried out in Palestine. According to an 1867 central-government order, by that year registration had been completed in the provinces (*sancaks*) of Yāfa (Jaffa) and ‘Akka (Acre).⁹⁸ Likely this document refers to registration having taken place in the cities (*kasabalar*) only, not the entire province.

In 1869, according to the *salname*, no property or tapu officials had been appointed yet for the *liwa* of ‘Akka or any of its districts: ‘Akka (Acre), Haifa, Tabarya (Tiberias), Safad or al-Nāšira (Nazareth).⁹⁹ To the north, however, in the *liwa* of Beirut, the *salname* indicates that a combination lands clerk (*arāzi me’murī*) and head tapu clerk (*tapu başkātibi*) had been appointed at the provincial level, along with a colleague (*refīq*) to assist him, similar to the situation in Jerusalem.¹⁰⁰ This arrangement prevailed in the Hawran¹⁰¹ and also in the province of Balqa, to which Nablus, Salt and Karak belonged.¹⁰² Likewise, there were in Beirut also a number of additional property-related positions named but apparently not yet

⁹⁷ ISAM, *Salname* 1286., 70.

⁹⁸ BOA, Iradeler, Meclis-i mahsus 34/1409, 123, as cited in Kaya ve Terzibaşoğlu, 24 and Tablo 1, 25.

⁹⁹ ISAM, *Salname* 1286., 85-90.

¹⁰⁰ These were Lūis Effendi and Salīm Effendi. ISAM, *Salname* 1286, 76.

¹⁰¹ *Ibid.*, 104.

¹⁰² *Ibid.*, 110.

filled. These were property-registration (*taḥrīr emlāk*) clerks: a head scribe, a scribe to record transactions, and a scribe to write tapu certificates and official orders and reports. Additionally, there were clerks who would comprise a traveling team but who had not yet arrived at their post (*henuz būrada seyyār bulunacak memūrīn*). They were two registration officials (*taḥrīr memūrī*, *refāket kātībī*), two registrars, two assessors, and two surveyors, all unnamed.¹⁰³ The exact same positions, filled and “to be” filled in the same manner, were likewise listed in the *liwa* of *Tarabulus Shām* (Tripoli), the only difference being that the combination lands clerk and head tapu clerk in Tripoli, ‘Ali Effendi, had two assistants (*refīq*) instead of one, as in Beirut.¹⁰⁴ At this stage, then, it appears that one who wanted to register his or her land and receive a tapu certificate needed to travel to the provincial capital or to wait for the occasional visit from lands officials making rounds (or lands officials who would soon be appointed to make rounds) in the provinces.

Two years later, according to the *salname* of 1871 (1288 H), a *defter-ı khakani qalami* (Office of the Imperial Land Register) for the vilayet of Syria had been established in Damascus. It consisted of a manager and his assistant (*mudīr ve mu‘āvin*), a collator of documents (*mukābele-ci*), and two registrars (*mukayyed*) for each of four geographically divided branches (*şu‘bes*): Damascus-Hawran-Balqa; Jerusalem-Acre; Beirut-Hama; and

¹⁰³ ISAM, *Salname* 1286, 76.

¹⁰⁴ ISAM, *Salname* 1286, 81.

Tripoli.¹⁰⁵ Undoubtedly, these clerks recorded and processed petitions that were forwarded to them from officials in the provinces. Also at the *vilayet* level, eight clerks were responsible for registering properties and issuing tapu deeds (*seneds*) for *emlāk*. Another four officials in this department comprised a traveling team (*me'murīn seyyare*).¹⁰⁶

Not much had changed, however, over the preceding two years at the provincial (*sancak, liwa*) and district (*qāḍa*) levels. The *sancak* (province) of *Şām-ı Şerif* (Damascus) had one lands clerk and two assistants. In the province of Beirut, there was one clerk with one assistant. Tripoli had one clerk with two assistants, and the province of Jerusalem had one clerk, Ibrahim Sā'ī Effendi, and two assistants: Mustafa al-Mālīki Effendi and Rāghib Effendi. It is worthy of note that in contrast to the *salname* of 1869, in 1871 all the provincial lands clerks within the *vilayet* were grouped together in the *salname* instead of among the other officials appointed to each of the provinces, as had been past practice.¹⁰⁷ This move on paper may indicate that the administration of the *Defterhane-yi Khākanī* was taking a more coherent form.

In 1872, the administrative status of the province of Jerusalem was changed to a *mutasarrıflık* which was subordinate directly to Istanbul. From this time on, it is primarily

¹⁰⁵ ISAM, *Suriye-i Salname* 1288 H / 1871, defa 2, p. 52. Details of the branch divisions can be seen on p.51.

¹⁰⁶ ISAM, *Salname* 1288, 52. These were the *Muḥāsebe-i Vilayet Şu'besi Senedāt Tahrīr Emlāk Me'murleri* (officials in charge of title deeds for the registration of property in *wilayet* accounting branch)

¹⁰⁷ ISAM, *Salname* 1288, 107. The listing falls under the headline *Dāḥil vilayet'te olan arazi-i me'murleri* (lands officials within the *wilayet*), i.e. at the district level.

excluded from the Syrian *salnames*, except for details about its postal and telegraph clerks, which were included in the large-provincial-wide lists of those working in these offices. Separate Jerusalem yearbooks are not known to exist. By way of comparison with neighboring districts listed in subsequent *salnames*, however, we can get a sense of how the government apparatuses of reform were advancing. By 1874, not only did the provincial capitals have *tapu* clerks, the district capitals also did. The Syria *salname* for that year lists *tapu* clerks (*tapu kâtibî*) in the districts (*qāḍas*) of Haifa,¹⁰⁸ Tabarya (Tiberias),¹⁰⁹ and Safad.¹¹⁰ At the large-provincial (*vilayet*) level, a head clerk of registration commissions (*qūmîsiyūn*) had been appointed, and five traveling (*seyyare*) registration teams had been formed. Their geographical scope was not identified. Each team was comprised of a registration official (*tahrir memûri*), an accompanying scribe (*refāḡet kâtibî*), one or two registrars (*muḡayyid*), two assessors (*mukhammin*), and two surveyors (*messāḡ*).¹¹¹ In Beirut, the *qāḍas* of Sūr and Sayda each had one or two (respectively) combination property and population-registry clerks (*emlāk ve nufūs kâtibî*), an assistant (*refīḡ*) to them, and a *tapu* clerk.¹¹² The *qāḍas* of ‘Ajlūn and Jabal Druze in the Hawran province of Transjordan did not

¹⁰⁸ ISAM, *Suriye-i Salname* 1291 H (1874), 76.

¹⁰⁹ ISAM, *Salname* 1291, 78.

¹¹⁰ ISAM, *Salname* 1291, 79.

¹¹¹ ISAM, *Salname* 1291, 52-53.

¹¹² ISAM, *Salname* 1291, 64-65.

yet have clerks to register properties.¹¹³ In early 1874, however, the Grand Vizier would announce that land-registry and tapu clerks were in place everywhere across the Empire.¹¹⁴

Toward the end of the summer that year, the system of title deeds that had begun in 1858 with the Land Code for usufruct on *miri* lands, and which was broadened in early 1865 with regulations providing for tapu certificates for leasing rights on waqf lands, was expanded to provide title deeds for *mülk*, as well.¹¹⁵ The 1874 *Emlāk nizamname* has been discussed above.

On the Ground in Palestine: Early Beginnings of Land-Tenure Reforms

Voluntary tapu registrations in the Jerusalem region began in the early years of land-tenure reform. Evidence shows that individuals were registering property with the tapu in Jerusalem as least as early as 1861. In the late fall of that year, for example, villager Mustafa b. Muhammad Musa of 'Isāwiyya, near Jerusalem, recorded in the sharia court of Jerusalem his purchase from a fellow villager of nine *qirāṭs* (shares of twenty-fourths) of a parcel of farmland. The parcel was described in the court record by its number (255) and the declared

¹¹³ ISAM, *Salname* 1291, 86-88.

¹¹⁴ Ongley, 89.

¹¹⁵ *Emlak-ı sırfa için Defterhane'den verilecek senedata dair nizamname* (Code of regulations regarding the title deeds that will be given by the *Office of the Registry [of Landed Properties]* especially for properties (of 28 Rajab 1291 / 10 September 1874. See the text of the law in translation in Ongley, 229-238,

estimate of the size of the land in dunams (*miqdār taḥrīrīhā takhmīnān 16 dūnam*).¹¹⁶

Although the word tapu was not explicitly mentioned in the court record, we can understand from the information entered into the court record that this villager had registered his land with the tapu and more than likely had brought his tapu certificate to court with him, as was required by the 1860 *Taḥrīr-i Emlāk ve Nufūs*. The number 255 can only refer to the parcel's serial number in the tapu register. It indicates, also, that there had been 254 property registrations before this plot had been registered, sometime previous to the sale. The estimation of the plot in dunams is further indication that the land had been registered. As was explained in the previous section, estimation of plot-size in dunams was an innovative requirement as of 1859.

The question of venue in which the sale was recorded is worth pausing to consider. As we have seen, the reform laws did not exclude and, in some cases, dictated that land matters be handled in the sharia courts. Nevertheless, the resort to traditional forums over the new ones has been viewed by some scholars as signaling the “failure” of reform. According to this argument, “the land code played a key part in the process of centralizing authority in so far as it attempted to ensure that disputes over property were relegated to the administrative domain.”¹¹⁷ Iris Agmon and Avi Rubin have each separately characterized

¹¹⁶ JM 345 / 61 / 2 (10 Jumadi I 1278 / 13 November 1861). The parcel's relative borders were also recorded in the court record. The share – by calculation, 6 dunams – was sold for 4,500 kuruş asadi.

¹¹⁷ Martin Bunton, *Colonial Land Policies in Palestine, 1917-1936* (Oxford: Oxford University Press, 2007), 33.

the post-Tanzimat, Ottoman judiciary as a legally pluralistic system. Each scholar has supported his/her argument with multi-jurisdictional cases, those that fell, in Rubin's words, into "grey areas" between the separate jurisdictions of the reform-era *nizamiye* and sharia courts. Both researchers independently found that in such legally ambiguous cases, litigants could choose the forum in which they wanted to have their case heard.¹¹⁸ Of course, it is pertinent when considering this pluralism to recall that it was not only the *nizamiyye* courts that applied the *Mecelle* (Civil Code) of 1869. This Civil Code was also used in the sharia courts, as will be seen in Chapter Four. Further, it can be argued that "forum shopping", as Agmon and Rubin describe it, has its roots in earlier Ottoman practice.

Boğaç Ergene, for example, has shown in his studies of two Anatolian courts in the seventeenth and eighteenth centuries that court clients were not bound to the geographically proximate court. Geographical jurisdictions were not a part of the sharia courts network. Rather, individuals were free to (strategically) choose to which sharia court to take their cases.¹¹⁹ In Hebron's court as well, in the late nineteenth century one can observe that litigants from outside the Hebron district brought their cases to be heard in Hebron, seemingly for the same reasons Ergene identified in Anatolian courts – strategy,

¹¹⁸ Iris Agmon, *Family & Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse: Syracuse University Press, 2006): 74. Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity*. (New York: Palgrave Macmillan, 2011). Chapter 2.

¹¹⁹ Boğaç Ergene, *Local Court, Provincial Society and Justice in the Ottoman Empire: Legal Practice and Dispute Resolution in Çankırı and Kastamonu (1652-1744)*, (Leiden: Brill, 2003), Appendix.

convenience, delicate matters, or a combination of these factors.¹²⁰ Ergene also emphasizes that there was no prohibition against retrials; litigants could and did take their cases to be re-heard in other sharia courts or before other judges. He views these comparatively flexible features of the judicial system as opportunities to privilege certain claims and to attain the “reversibility of justice”.¹²¹ “In short, the court was perhaps not a site of ultimate and unobjectionable justice and was not always considered to be so by its clients.”¹²²

Building on Işık Tamdoğan’s study of the value of *şulh* (amicable agreement) in the Ottoman courts,¹²³ I would argue the opposite. Features such as forum shopping and retrials indicate that the system aimed for “the most just” justice. First, it should be recalled that matters of venue and of re-adjudication required the consent and presence in the courtroom of *both* parties to the litigation, or legally appointed representatives for them. Secondly, no mechanism is known to have been in place to enforce court rulings and ensure their implementation. It can be argued, then, that they were carried out *because* litigants on both sides respected the judgment of the court or, more precisely, perhaps, of the judge presiding over the courtroom.

¹²⁰ Ibid.; see also the discussion in my article, “Villagers on the Move: Re-thinking Fallahin Rootedness in Late-Ottoman Palestine”, *Jerusalem Quarterly* 54 (2013): 56-68.

¹²¹ Ibid., 108.

¹²² Ibid., 105-108. Quotation on 107-108.

¹²³ Işık Tamdoğan, “*Sulh* and the 18th Century Ottoman Courts of Üsküdar and Adana”, *Islamic Law and Society* 15 (2008): 55-83.

How do Ottoman “grey areas” and the ideal of the most just justice translate in Ottoman administrative law and procedure, such as that spelled out in property and tapu laws? As will be seen in Chapters Two and Four, property-registration officials were not legal formalists. Their primary goal was the registration of properties. In attempting to attain this goal, they demonstrated what appears to be considerable flexibility in the process of getting properties registered.

E. Atilla Aytekin argues that a state-centric analysis of the Land Code has characterized scholarly literature, leading to reliance on legal formalist analyses of the law that are divorced from social reality. As an illustration, Aytekin points to the numerous, vague references in the Land Code to “the official” from whom permission was needed in order to carry out a wide range of actions with one’s land, from partitioning collectively held land to planting trees, clearing wasteland for cultivation, and registering inheritance of land.

In literature on Palestine, Kenneth Stein provides example of legal formalist analysis on this point. He uses this methodology to help prove “the failure” of land-tenure reforms. “He [the owner of *miri* land] could not mortgage or sell it [“his” land] without the consent of the state, which was obtained from the Land Office. Even though such consent was usually routine, the aversion to associate with the government spawned unofficial land transfers and influenced those seeking loans to go to moneylenders rather than to the official

agricultural bank.”¹²⁴ If we follow his analysis to its logical conclusion, this “failure” created unbridgeable fissures on the landscape of Palestinian Ottoman society. In other words, it destroyed itself.

In contrast, Aytekin argues the vagueness of this ubiquitous requirement was intentional, because the requirement itself was intended to be a formality.¹²⁵ I suggest that another possibility is that it was conceived of as a safeguard, a clause the state could retroactively enforce in times of need.

Either of these two conceptualizations of vague phrases in the Land Code, formality or safeguard, points to the idea of legal fictions. This legal philosophy has been most thoroughly investigated by scholars of the Ottoman sharia courts (on this, see Chapter Four, below). The following chapters examine how reforms explained above were put into practice in 1876 in rural Hebron. I will argue that the flexibility they appear to demonstrate in implementing property-tenure reform laws was actually the *modus operandi*. In these circumstances, then, we cannot consider it to be circumvention of the law, deviation from it, or ignorance of it by the populace. Rather, we must argue the opposite: that the villagers were so familiar with the new laws of land tenure that they were well-versed in the

¹²⁴ Kenneth Stein, *The Land Question in Palestine, 1917-1939* (Chapel Hill: The University of North Carolina Press, 1984), 11.

¹²⁵ E. Atilla Aytekin, “Agrarian Relations, Property, and Law: An Analysis of the Land Code of 1858 in the Ottoman Empire”, *Middle Eastern Studies* 45/6 (Nov. 2009): 935-938.

numerous avenues available to them to carry it out and used a variety of them, depending upon time and circumstance, after carefully weighing the relative advantages of each.

Before proceeding to examine the *Esas-ı Emlak* register data in the following two chapters, in this final section of this chapter we will describe the registration itself. In the next section, we discuss the commissions that were tasked with compiling the *defters*.

Property Registration Commissions in Palestine

Surmising that voluntary property registration was ineffectual in Palestine, scholarly attention has tended to focus on tapu certificates and the commissions that went from village to village and town to town registering lands and issuing them. However, as observed at the beginning of this chapter, firm evidence about these commissions, when they commenced and how their work progressed in Palestine, has been absent from the scholarly discussion. On their beginnings and development, the lengthy *Survey of Palestine* drawn up quickly during December 1945 and January 1946 for the Anglo-American Commission of Inquiry states,

The land registries in Palestine were apparently opened between the years 1867 and 1873. The procedure was that a *yuklama* (roll call) was held in each village. ...only a small proportion of transactions was recorded, and these chiefly concerned elderly persons, females, foreigners and those sufficiently influential to be able to avoid military service. ... Nor was there any survey. Areas were sometimes expressed in the quantity of seed

required to sow them, or in dunums the number of which was arrived at by the merest guess. In other instances areas were entirely omitted.¹²⁶

This passage reveals lingering British confusion regarding Ottoman laws and procedure, after more than two decades of having interpreted these laws as rulers of the land.¹²⁷ Yet, it has served as the framework that has dominated the historiography of land-tenure reform in Palestine for almost a century. In light of the preceding discussions in this study, a number of inaccuracies mentioned in this quotation have likely struck you, the reader. First, the notion of land registries is vague. As we have seen, individuals were able to register land with the *tapu* already in the early 1860s. Second, when land and property registration officials were installed at the provincial and district levels, voluntary registration continued for some time before *yoklamas* were carried out. The commissions' work was not "the" only procedure for registering land.¹²⁸ Third, the claim that "no survey was carried out" because not all lands in the country were included in the registry indicates a fundamental misunderstanding about the role and *modus operandi* of the *yoklama* commissions. Additionally voiced in this short

¹²⁶ *A Survey of Palestine, Prepared in December 1945 and January 1946 for the information of the Anglo-American Committee of Inquiry*, vol. 1 (Palestine: The Government Printer, 1946): 237-238.

¹²⁷ On British adoption and adaptation of Ottoman land laws during the Mandate, see Martin Bunton, "Inventing the Status Quo: Ottoman Land-Law during the Palestine Mandate, 1917-1936", *The International History Review*, 21/1 (March 1999): 28-56, and Idem., (2007), particularly Chapter 1.

¹²⁸ Although the Turkish pronunciation and common transliteration is *yoklama* (see the previous section), the transliteration used in the *Survey* is closer to the Ottoman-Turkish spelling of the word. An Arabic speaker would read the word as *yūqlāma*. The understood Ottoman pronunciation puts the stress on the first syllable.

passage is a fourth claim which, this study will argue, available evidence does not support. It relates to the demographics of registered owners, which will be discussed in the following chapters.

As of yet, there have been no studies on the *yoklama* tapu commissions and their work in Palestine, even though a number of *yoklama* registers are known to exist. In the early years following Israel's conquest of the West Bank, Ya'akov Firestone located a number of *yoklama* registers, the earliest one apparently from 1879.¹²⁹ In a lengthy footnote in a 1975 article, he wrote that the Land Registry offices held Ottoman land-transaction books (*daimi* registers) for Jenin dating continuously from 1886. He also found there some earlier *daimi* registers, "for all of Northern Samaria". This Biblical name (*Shomron* in Hebrew) corresponding roughly to the mountainous central region known in Arabic as *Jabal Nablus*, became official terminology in Israel shortly after the June 1967 war. Since it does not correspond to the Ottoman period, however, it cannot be determined which districts, towns, or villages Firestone meant to indicate. He also mentioned locating in Jenin a number of *yoklama* registers. He wrote specifically about a late 1883 register (Tishrin I, 1299 *maliyye*), which had been cataloged as "Yoklama #5" by Israeli authorities. He also refers to "Jenin

¹²⁹ Ya'akov Firestone, "Production and Trade in an Islamic Context: Sharika Contracts in the Transitional Economy of Northern Samaria, 1853-1943, part II", *IJMES* 6/3 (July 1975): p. 310, footnote 1. This is a lengthy but, unfortunately, only a passing reference to these land registers. Firestone did not make use of the registers for any published research that I am aware of. He appears not to have recognized their historical and historiographical importance, commenting in this footnote merely that "while the Ottoman [*yoklama*] registers do list an area for each entry, this was based on the owner's declaration, which was made only for the sake of form *and bore no relation to reality*". (Ibid., emphasis added.) .

Yoklama #71”, a revised, summary notebook for the town, bringing together ten yoklama registers, recorded between February/March 1879 (Shubāt 1294) and January/February 1892 (Kanun al-Thāni 1307). Presumably, all these registers have since been transferred to the Israeli State Archives.

Kenneth Stein concurs with the British assessment that few land registers were recorded by the Ottomans for Palestine, and those that were, were “either destroyed by the Turks in Palestine or removed to Damascus during their retreat”. That said, he found evidence that “[a] portion of these [Jerusalem] registries and some of those from the subdistricts of Nablus and Gaza were returned to Palestine in February 1919, while the registries for the subdistricts of Acre, Haifa, Hebron, Jenin, Nazareth, Safed, Tiberias, and Tulkarm were found intact, but not complete.”¹³⁰

Amīn Mas‘ūd Abu Bakr has compiled a list of forty-nine *yoklama* and *dāimi* registers housed in the Department of Lands and Cadastre in Jordan. These registers cover areas in the Jerusalem, Nablus, and ‘Akka provinces and include records for a number of districts and also specific villages in the central coastal plain as well as mountainous regions from Ramallah to Nazareth and Beisan (Beit She’an) in the Galilee. The records date from 1873-

¹³⁰ Kenneth Stein, *The Land Question in Palestine, 1917-1939* (Chapel Hill and London: The University of North Carolina Press), 23. His sources are as follows: Land Department General, ISA, Box 3334/file 14/folio L/1703; Maps and Turkish Documents, ISA, Box 3542 / G44/l; Zionist Commission to Major William Ormsby-Gore, 1 May 1918, Central Zionist Archive (Jerusalem), S25/7432; League of Nations, *Permanent Mandates Commission: Minutes*, Fifth Session, Remarks by Mr. De Caix, 31 October 1924, p. 109; and Turkish Registers, ISA, Box 3527/files 8-14.

1908.¹³¹ Systematic research of these records is urgently needed to provide for the first time a set of data by which the long-standing narrative discussed in the Introduction regarding *tapu* can finally be assessed objectively.

While property-tax reform has, on the whole, been overlooked in studies of Tanzimat-era land-tenure reforms, tax payment was arguably more important to proving land tenure than was the possession of a *tapu* certificate. The *vergi cedit* (new tax), as it was called in the Hebron rural *Esas-ı Emlak*, also known as the *arazi ve müsakafat verigisi* (land and buildings tax),¹³² the *vergi resmi* (vergi imposition)¹³³ and sometimes the *vergi-tax*,¹³⁴ was, as mentioned earlier, a 0.004 percent tax on the assessed value of property. In rural Hebron the tax was imposed on agricultural land, trees, grapevines, residences, presses (*bad, m 'aşara*), stables (*akhūr*), hay storage facilities (*şamānliq*), and caves (*maghāra*). Structures that were excluded from this tax included shrines (*maqām, mezār, türbe, haram*), mosques, sufi lodges, village guest houses (*menzul*), and graveyards (*qabristān*).

Martha Mundy, who has used *tapu* and tax registers to study the implementation of the Land Code in 'Ajlun and the Hawran, has found, quite logically, that in the absence of

¹³¹ Amīn Mas'ud Abu Bakr, *Mulkiyat al-Araqī fī Mutaşarrافیyyat al-Quds 1858-1918* (The Ownership of Land in the Province of Jerusalem 1858-1918), ('Amman: 'Abd al-Hamid Shoman Institute, 1996); 647-650.

¹³² Shaw (1975), 427.

¹³³ Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law, Administration, and Production in Ottoman Syria* (London and New York: I.B. Tauris, 2007). On this, the authors follow Abdullatif Şener.

¹³⁴ Haim Gerber, *Ottoman Rule in Jerusalem 1890-1914* (Berlin: Klaus Schwarz, 1985), 204.

title, a landholder could use tax records to demonstrate his (or her) land tenure. Relying on an 1871 notice issued by the Ottoman land-records department (*defterhane*) and a source that drew on registration instructions in Arabic published for the public in the Tripolian journal *al-Jinan* in 1872, Mundy and Saumarez-Smith describe the proscribed process of tapu registration before the *yoklama* commissions as follows:

Once a village had been given notice [of the commission's pending arrival] 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... . The council was to call persons in the order that their names appeared in the list of souls (*nüfus*). 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 one¹³⁵

Not only was it presupposed, then, that an *emlak* commission had preceded the tapu commission, tax payments were *unquestionably* accepted as proof of ownership, whereas other proofs were subject to investigation of claims. This was the theory of registration. That said, Mundy has noted that in 'Ajlun, although "the Ottoman reforms clearly aimed to unify in one person the holder of title to land and the taxpayer ... reforms in the system of tax collection often lagged far behind the mere introduction of title to land."¹³⁶ The opposite

¹³⁵ Mundy and Saumarez-Smith, 70.

¹³⁶ Martha Mundy, "Village Land and Individual Title: *Musha'* and Ottoman Land Registration in the 'Ajlun District", in Eugene Rogan and Tariq Tell, eds. *Village, steppe and state: the social origins of modern Jordan* (London and New York: British Academic Press, 1994): 79.

may well have been the case in Hebron. At least, that is what bits of evidence found here and there suggest. Consider, for example, part of the testimony given at the Hebron sharia court by Ahmad b. Muslim 'Awdh of the village of Sa'ir in 1894. He and his uncle Khalil were partners in two feddans of land involved in a land conflict over part of the Tamim al-Dari waqf lands in his village's Wadi al-Naṣārī: As recorded in the court register, he declared,

At the time of the registration of properties (*taḥrīr emlāk*), the land was registered in my name and in my uncle Khalil 'Awdh's names, *and it was also registered like that* in the tapu.¹³⁷

The phrasing of Ahmad's testimony seems to imply that the *emlak* came before the *yoklama* tapu commission. It suggests as well that discrepancies in registration between the *emlak* and tapu registers could exist. Otherwise, why would he explicitly state that his lands were registered to him and his uncle in the same way in *both* registers? Even more significantly, the phrasing of his testimony clearly reveals that the *emlak*, property-tax registration was considered a more important proof of ownership than the *tapu*.¹³⁸

¹³⁷ "ووقت تحرير املاك تقيدة القطع باسمي واسم عمي خليل عوض وكذلك تقيدت بالطابو باسمنا..." (emphasis added). HR 16 / 9 / 11 (19 Sh 'aban 1311 / 25 February 1894. The land in conflict, as well as the lands bordering it, are clearly identifiable in the 1876 *Esas-ii Emlak* (EE entries 12936-12939, and see also 12928-12929.) The two relatives individually registered a number of (inherited) properties together, half of each one to Ahmad and half to Khalil. On incongruence between the tapu and tax registers in the Jerusalem district, see Gerber 1985 (204-206). For observation of the same phenomenon in Transjordan, see Mundy and Saumarez-Smith 2007 (117-118, 180-181).

¹³⁸ Ahmad's claim is traceable in the *esas-i emlak*. IN 1876, he and his uncle each registered three plots of lands in Wadi al-Naṣārī. For each plot, Khalil's line-entry immediately follows Ahmad's, and in each case each of them registered the same number of dunams, i.e. half the land. (*Esas-i Emlak* Sa'ir entries, agricultural entries #142 and #143, #150 and #151, and #156 and #157.) The first plot's total size was 44 dunams; the second, 13 dunams; and the third totalled 6 dunams.

Regarding Jerusalem, Haim Gerber has examined the progress of land registration in the Jerusalem *qāḍa* (district) in the early twentieth century based on cases that came before the district's Administrative Council. He found that for each request to the Administrative Council for permission to register land-ownership, a comparison was made between the details regarding the parcel of land and the *vergi*-register. He found that while in many cases the details did not match, in very few cases could the land not be located in the *vergi*-survey at all.¹³⁹

Aside from what was proscribed by law, nothing is yet known about the *emlak* commission(s) in Palestine in general, and in Hebron in particular, or of their composition and how they proceeded through the district and accomplished their work. As will be seen in Chapters Two and Three, it can be inferred from the information they recorded in the register that local cooperation was an essential component of the commission's work. While the path the commission(s) took in Hebron is unknown, the ordering of the *Esas-ı Emlak* register reflects the attention that was given to administrative borders. Image 1.1 on the following pages illustrates the order in which the villages of Hebron were recorded in the *Emlak* register (#1-50). It is enlightening to compare the ordering of the villages in the register with the list of villages in the 1871 *salname* for the province of Syria, which are categorized by *nahiye* (subdistrict). Doing so, it becomes clear that the *emlak* register was

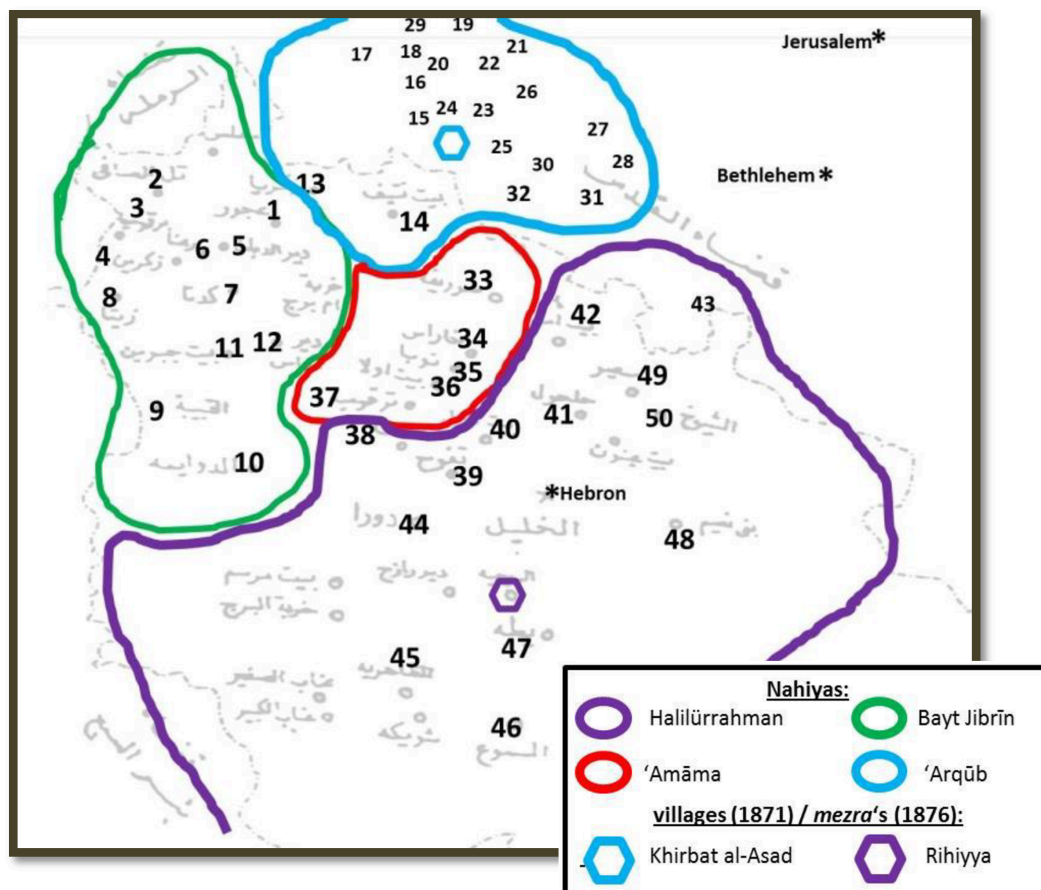
¹³⁹ Gerber, 206.

also organized according to administrative districts, even though the nahiye names are not recorded anywhere in the register. This ordering is further indication that the registration was organized and aimed to be comprehensive.

The *emlak* book of 1876 for rural Hebron contains separate entries for each village. As can be seen on the map on the following page, showing the ordering of villages as they appear in the *emlak* register, villages and *mezra*'s are arranged neither alphabetically nor geographically north to south. Rather, the ordering of locations within districts and from district to district appears to approximate a path on the ground. It appears not unreasonable to conclude that it replicates the path of the commission's advancement through the district (*qāḍa*). *Mezra*' entries in the register are interspaced among the village entries, preceded and followed by village entries that were geographically proximate.

Image 1.1

Charting the Path of the *Emlak* commission(s) in the Hebron district, 1876, according to the organization of the *Esas-ı Emlak* register



The basis for this map (in grey), is a map of the Hebron district according to its British Mandate-era borders (1922-1948).¹⁴⁰ The outer borders of the nahiya as drawn do not necessarily include villages' agricultural lands. In 1876 the borders of the Hebron district exceeded its Mandate-era borders to the north. These "extra-territorial" villages have been placed by spatial alignment using the 1930s topographical maps drawn by Mandate-era Commissioner of Lands and Surveys, F.J. Salmon.¹⁴¹

¹⁴⁰ Source: The map is posted on the Palestinian News and Information Agency (Wafā) website: <http://www.wafainfo.ps/atemplate.aspx?id=2416> , accessed 1 July 2015.

¹⁴¹ INL, Map Division: Sheet 9, Ramle map, 1:100,000, printed December 1942.

Image 1.1 continued

List of Villages in the Order they Appear in the *Esas-ı Emlak*, color-coded according to nahiyas (see the map key)

1	'Ajjur	عجور	26	Ras Abu 'Amar	راس ابو عمار
2	Tel al-Safi	تل الصافي	27	Qabu	قبو
3	Barkusiyya	بركوسيا	28	Hussan	حسان
4	Dhikrin	زكرين	29	Ishwa'	اشوع
5	Dayr Dabban	دير الدبان	30	Wadī Fukīn	وادي فوكين
6	Ra'na	رعنا	31	Naḥālīn	نحالين
7	Kudna	كدنا	32	Jaba'	جبة
8	Zayta	زيتا	33	Surif	صورييف
9	Qubayba	قبيبة	34	Kharas	حاراس
10	Dwayme	دوايمة	35	Nuba	نوبي
11	Bayt Jibrin	بيت جبرين	36	Bayt Ula	بيت اولي
12	Dayr Nakhkhās	دير نحاس	37	Tarqumiya	ترقومية
13	Zakariyya	زكريا	38	Idhna	ادنا
14	Bayt Natif	بيت نتيف	39	Taffuh	تفوح
15	Jarash	جراش	40	Bayt Kahil	بيت كاحل
16	Dayr Aban	دير ابان	41	Halhul	حاحول
17	'Artuf	عروطوف	42	Bayt Umar	بيت اوامر
18	Şar'a	صرعا	43	Bayt Fajjār	بيت فجار
19	Kasla	كسلا	44	Dura	دوره
20	Dayr al-Hawa	دير الهوا	45	Ḍahariyya	ضاهرية
21	'Aqqur	عقور	46	Samu'	سموع
22	Dayr al-Shaykh	دير الشيخ	47	Yatta	يطا
23	Bayt 'Itab	بيت عتاب	48	Bani N'aim	بني نعيم
24	Sufla	سفلا	49	S'air	سعير
25	'Allar	علا ر	50	Shuyukh	شيوخ

Place names in Arabic appear here as they were spelled in the 1876 *emlak* register.

Chapter Two

Claiming Property I: The Villages in the *Esas-ı Emlak* register

This chapter begins to examine the outcome of the property-value and property-tax assessment registration in rural Hebron. It seeks to determine, first, the extent to which the register reflected reality. Secondly, it aims to identify characteristics that defined rural society in Hebron through an examination of the building-scape and population of the villages.

The District of Hebron in 1876 (and not 1875 and not 1877)

A perusal of secondary literature in search of the size and composition of the Hebron district in the late nineteenth century will yield a confusingly wide range of numbers.¹⁴² This is attributable to the problematic attribution of what is ephemeral data to a stretch of time.

While a number of studies investigating settlement patterns over time in Palestine have

¹⁴² Compare the range of estimates on the number of villages in the Hebron district in the late-Ottoman period in Alexander Schölch, *Palestine in Transformation 1856-1882, Studies in Social, Economic and Political Development*, trans. William C. Young and Michael C. Gerrity (Washington, DC: Institute for Palestine Studies, 1992), 188; Mas'ud Amīn Abu Bakr, *Qadhā al-Khalīl 1864-1918* (The District of Hebron 1864-1918), (Amman: Committee for the History of Bilād al-Shām), 34; Suad Amiry, 'Imārat Qura al-Karāsī min tārikh al-Iqtā' fī Rif Filastin fī al-qarnayn al-thāmin 'ashr w'al-tāsi' 'ashr (Architecture of the Throne Villages from the time of the *iqta'* in the Palestinian countryside in the 18th-19th centuries) (2003) 210; and Johann Büssow, *Hamidian Palestine: Politics and Society in the District of Jerusalem 1872-1908* (Leiden: Brill, 2011), 196.

relied on early- and/or late-Ottoman data,¹⁴³ as Mustafa Dabbagh's research indicates, the administrative borders of the Hebron district shifted with some frequency, particularly in the late-Ottoman period. Classifications of settlements shifted as well, not necessarily related to changes on the ground. These two factors complicate and may confuse attempts to understand patterns of growth and development, because the basis of measurement – the district – fluctuated. Detailed analysis of the data is imperative.

Mustafa Dabbagh examined Ottoman imperial (*devlet-i aliyye*) yearbooks (*salnames*) and found that the Hebron district consisted of 50 villages and farms (*mezra'as*) in the *salname* of 1888 (1306 H); 52 villages and farms in the 1899 yearbook (1317 H); 52 villages alone in 1903 (1321 H); and 62 villages and farms in 1910 (1328 H).¹⁴⁴ What were the causes of these changes? By way of an indicative answer, we may compare two detailed lists of the district from the same decade, one a provincial (vilayet) list of Hebron's villages and the number of *hanes* in them in 1871, and the other the *emlak*-registration register of 1876.

¹⁴³ Ehud Toledano, "The *Sanjaq* of Jerusalem in the Sixteenth Century – Patterns of Rural Settlement and Demographic Trends", in Amnon Cohen, ed., *Jerusalem in the Early Ottoman Period* (Jerusalem: Yad Izhak Ben-Zvi, 1979): 69-92; Moshe Brawer, "Transformation in Arab Rural Settlement in Palestine", in Ruth Kark, ed., *The Land that Became Israel: Studies in historical geography* (New Haven and London: Yale University Press, 1989), 167-180; David Grossman, *Rural Demography and Early Jewish Settlement in Palestine: Distribution and Population Density during the Late Ottoman and Early Mandate Periods*, trans. from Hebrew by Marcia Grossman (New Brunswick, USA and London: Transaction Publishers, 2011); Seth Frantzman, "The Arab settlement of Late Ottoman and Mandatory Palestine: New Village Formation and Settlement Fixation, 1871-1948", PhD dissertation, Hebrew University (June 2010).

¹⁴⁴ *Bilāduna Filastīn*, volume 5, part 2: *Fī Diyār al-Khalīl* (In the Hebron region) second edition, with additions and corrections (Hebron: *Rābiṭat al-Jāmi'īn* (University Graduates' Union), 1986), 12.

The Syrian provincial *salname* of 1871 (1288 H) lists 52 villages in the Hebron district.¹⁴⁵ The *Esas-ı Emlak* registration of rural areas in Hebron five years later, in 1876, enumerates 50 villages and eight *mezra*'s in the district. Examining the two documents side-by-side, one sees that two settlements classified as villages in the *salname* of 1871, Rihyya and Khirbat al-Asad, were classified as *mezra*'s five years later in the *emlak* register. The other fifty villages are found in both documents.

It is not clear why Rihyya's status "reverted" to farmlands between 1871 and 1876, because the *emlak* register indicates it was settled. That said, the assessed value of its residences (eight *odas* and two *hane*) in the *emlak* register indicates that the housing was modest. While one of the two *hanes* was valued at 750 kuruş, the other residences were valued at either 250 or 500 kuruş, the lowest housing values across the district. It is impossible to determine from this data whether the residential structures were unusually small or built with cheap materials. It is worth noting, however, that in addition to the residences, one other structure in Rihyya was recorded in the register. Entry number 7 was an untaxed *oda* (lit., room) registered to *şāhibülkhayrāt*.¹⁴⁶ This most likely served as the settlement's mosque, a guesthouse, and/or a place to gather. In subsequent years, Rihyya would be designated a village. In 1922, the Mandate census counted 231 individuals living

¹⁴⁵ ISAM, *Salname-ı Suriye* 1288 (1871), 164-168.

¹⁴⁶ ISA, *Esas-ı Emlak*, entry #13892.

there, and the village's population continued to grow slowly throughout the Mandate.¹⁴⁷ In 2007, Rihyya's population was 3,949.¹⁴⁸

Rihyya's agricultural properties as registered in 1876 were a handful of small garden plots (*ḥākyūres*) of between three and six dunams, each evaluated at 500 kuruş per dunam; two parcels of field-crop land (*tarla*) that were owned by one individual, the first on Khallat Shaqī, was 57 dunams in size and the second, on Khallat Wāḍī(?), was 50 dunams; and, finally, registered to Rihyya were 841 dunams of *tarla* recorded as *musha* of the villagers of Dura collectively.¹⁴⁹

As for the second *mezra'*, Khirbat al-Asad, its status in 1876 is also somewhat confusing. The contents page of the *emlak* register, written in Ottoman hand on the first page, lists Khirbat al-Asad as a *mezra'*, but the site's detailed entry on page 117 identifies it as a village (*qarye*) Yet, no residences are listed there. However, the three parcels of field crop land (*tarla*) registered, each thirteen dunams in size, are described as being located "in the vicinity of the town" (*civar al-balad*). This was not an uncommon description for land in the *mezra'*s, even when there is no settlement particularly close by. That said, these three plots of land were registered to individuals whose residences are not noted as being

¹⁴⁷ Dabagh, 213.

¹⁴⁸ *Al-Sulṭa al-Waṭaniyya al-Filistiniyya, al-jihāz al-markazi lil-iḥṣā' al-filistīnī* (Palestinian Authority Central Bureau of Statistics (PA CBS)), *Kitāb Muḥāfazat al-Khalil al-Iḥṣā'ī al-sanawī (2)* (Annual Statistical Register (2) for the Hebron District (Ramallah: PA CBS, 2010), 62. <http://pcbs.gov.ps/>

Downloads/book1710.pdf, accessed 7.7.2015. Hereafter, PA CBS.

¹⁴⁹ ¹⁴⁹ ISA, *Esas-ı Emlak*, entries #13901-13908.

elsewhere, and their given surnames are al-Asadi, meaning “people from Khirbat al-Asad”. Two of them are brothers, sons of a man named Khaṭīr, the third a son of one Maṣūr. In contrast, the other agricultural properties in Khirbat al-Asad, eight olive groves of varying sizes from 10 to 105 trees, are registered to individuals whose residences are identified as being elsewhere: the villages of ‘Arṭuf some distance to the north, and Sufla and Bayt ‘Iṭāb, which both neighbored Khirbat al-Asad. Interestingly, the olive-tree owners living in ‘Artuf are none other than the three Asadis. It appears almost certain that these three can be related to the two *hanes* (households) counted in the *khirbe* in 1871. I cannot at this stage trace these three men’s story and the fate of this village / *mezra’* in this period farther than this, though. The register does not provide us more clues. The location of their residence is a mystery. None of these three men or their fathers can be identified among the residence owners in ‘Arṭūf.¹⁵⁰ Although it seems reasonable to conclude that the two *hanes* (households) listed in 1871 were those of these three, this does not tell us about their assumed abode(s) in Khirbat al-Asad. Were they under construction? Were they temporary structures? Without more information, we cannot judge why the designation of Khirbat al-Asad was changed from a village to a *khirbe* in these years. We can, however, observe that if it was resettled, this was not permanent. Khirbat al-Asad does not appear among the list of

¹⁵⁰ ISA, *Esas-ı Emlak*, entries #3025-3056.

Hebron-district villages in 1945 *Village Statistics* or in Palestinian Authority statistics of the present day.¹⁵¹

The conclusion to be drawn from this examination of Rihyya and Khirbat al-Asad is that one must proceed with caution when quantitatively interpreting Ottoman data which was not gathered in order to be a statistical resource. As stated in the Introduction to this study, this is one reason I have chosen a socio-historical methodology for this study.

Table 2.1 on the following pages compares the population and village data provided in the 1871 *salname* with the corresponding data provided in the 1876 *emlak* register.

Appendix Two of this study offers comparison between the number of residences in villages as *per* the 1876 *Emlak* registration with the number of households (*hanes*) counted in the villages during the district's first comprehensive population registration in 1905. I argue that the overall correlation over time between relative population indicators in these three types of documents is an indication that the *emlak* registration is a reliable reflection of the size and population of the villages in 1876.

¹⁵¹ Village Statistics, Table 1 and PA CBS, 61-63.

Table 2.1

**Number and relative size of villages in the Hebron district, 1871 and 1876,
based on Ottoman data¹⁵²**

Village	Recorded village name (1871 salname)	Recorded name (1876 Esas-ı Emlak)	# households (<i>hane</i>) 1871	# residences (<i>hane/oda</i>) 1876
Dura	دوه	دورا	249	320
Bayt Jibrin	بيت جبرين	بيت جبرين	148	194
Yatta	بطي	يطا	166	176
Dir Aban	دير ديان	دير ايان	150	171
Dawayme	دوايمه	دوايمه	100	180
Ajjur	عجود	عجور	120	160
Halhul	حلمول	حلهول	118	156
Bayt Natif	بيت نثيف (sic)	بيت نثيف	120	130
Surif	صوريڤ	صوريڤ	100	125
Sa'ir	سعير	سعير	84	108
Tel al-Safi	تل الصافي	تل الصافي	80	97
Zakariyya	ذكريا	زكريا	56	98
Bayt 'Itab	بيت عتاب	بيت عطب	100	95
Bayt Ula	بيت اولاء	بيت اولاء	80	93
Bani Na'im	بني نعيمه	بني نعيم	67	89
Idhna	لونا	إدنا	60	87
Taffuh	تفوح	تفوح	53	89
Dhikrin	دكري	زكرين	60	87
Nuba	نوبا	نوبا	51	81
Tarqumiyya	ترقومين	ترقوميا	80	82
ḡahariyya	ظاهريه	ضاهريه	62	82
Bayt Umar	اومر	بيت اومر	60	71
Samu'	سموع	سموع	77	59
Kharas	حراحي	حاراس	40	59
Bayt Fajjar	بني فجار	بيت فجار	27	53
Dayr al-Nakhhkhas	دير النحاس	دير النحاس	20	45

¹⁵² Ibid., and ISA, *Esas-ı Emlak*.

Village	Recorded name (1871)	Recorded name (1876)	# hanes 1871	# residences 1876
Ishwa'	اشوع	إشوع	32	46
Shuyukh	شويخ (sic)	شيوخ	35	43
Ras Abu 'Amar	راس ابو عمار	رأس ابو عمار	330 (sic?)	39
'Allar	علا ر	علا ر	56	32
Hussan	حوسان	حسان	39	36
Kasla	كعلا	كسلا	29	33
Wadi Fukin	وادي فوكين	وادي فوكين	22	34
Qubayba	قببية شرقية	قببية	40	31
Kudna	كدنا	كدنا	12	31
'Artuf	عرقوف	عرقوف	140 (sic?)	29
'Aqqur	عقور	عقور	38	31
Dayr al-Hawa	دير الهوى	دير الهوا	22	26
Dayr al-Shaykh	دير الشيخ	دير الشيخ	27	27
Dayr al-Dabban	دير دباله	دير الدبان	24	29
Sar'a	مرعا	صرعا	21	26
Nahalin	نحالين (sic)	نحالين	17	25
Zeyta	زينا	زيتا	32	25
Bayt Kahil	كامل	بيت كاحل	80	22
R'ana	رعا	رعا	8	20
Barqusiyya	بركوسيا	برقوسيا	28	17
Jarash	جراش	جراش	13	15
Qabu	قبا	قبو	90	14
Jab'a	جبا	جبعة	9	12
Sufla	السقر	سفلا	80 (sic?)	7
Rihiyya	ريحية (village)	ريحية (inhabited mezra')	12	10
Khirbat al-Asad	خربة الاسد (village)	خربة الاسد (uninhabited mezra')	2	n/a

It is tempting to attribute the mutilation of a number of village names in the 1871 provincial *salname* – Bani N ‘aja for Bani N ‘aim, Bani Najjār for Bayt Fajjār, Lūna for Idhna/Idna, or al-Saqr for Suflā, to name a few of the inconsistencies apparent in Table 2.1 – to the scribe having lost his glasses or the ink on the document he copied from having been smeared as it was carried through the rain (And, who knows?). However, Ottoman scribes are known for their copying skills, so these musings are likely unlikely. Certainly more relevant is the fact that scribes copied from document to document, therefore this nomenclature had a tendency to persist. For example, in the early twentieth century one sees throughout the correspondence from Istanbul to Jerusalem about the Yatta village - Ḥullam bedouin land conflict then ongoing in the Hebron district, that the village of Yaṭṭa is consistently rendered as it is in the *salname* above, as Baṭṭa. However, in locally authored documents of the same period, its name was consistently spelled phonetically correct, either **بطا** or **بطة**.¹⁵³ Although examination of Hebron court registers of this period show that the way to spell names of people and places were not yet standardized, the various spellings one observes of a given name in local records tend to yield the same pronunciation.

This nomenclature can also be extended backwards in time. As an example, we can consider the village of Idhna. Its proper name is Idhna, but until today, while Idhna is the

¹⁵³ This war is the subject of an article I am now preparing for submission for publication. For the non-reader of Arabic: the distinction between the B (*bā*) and the Y (*ya*) within a word in Arabic (and Ottoman Turkish) is slight, made by placing either one or two dots under the line of the word. A number of the mistakes seen above are of this nature, confusion between two letters that can be difficult to distinguish from one another in handwritten documents.

pronunciation the villagers use, Hebronites refer to the village as Idna.¹⁵⁴ The difference between the two spellings in Arabic is the matter of a dot: ا is pronounced with a “d” sound and ا with a “dh” sound. In the *emlak* register, the village’s name is written Idna. I have matched this with the village recorded as “Lūna” (or Lawna) in the 1871 *salname* due to its *nahiya* affiliation, the logically congruent population figures for the two places, the process of elimination as I went through the village lists, and the possibility of misreading the letters of the Arabic words in handwritten script: ادنا (Idna) and لونا (Lūna, or Lawna). There was no village Idna/Idhna listed in the *salname*, and there was no village known by the name of Lūna / Lawna in Hebron in the late nineteenth century or since.

A wrench is thrown into the motor of this theory, however, when we consult early-Ottoman tapu registers. In the sixteenth century, there were in the Hebron district a village named Idna ادنا and a village named Lawza, لوزا which is also just a small pen stroke away from Lūna / Lawna.¹⁵⁵ Of course, there is a three-century interlude that needs to be taken into account here, but tentatively we may suggest that this is more than coincidence, and

¹⁵⁴ I lived for three years in Hebron.

¹⁵⁵ Adnan al-Bakhit and Noufan Raja al-Sawariyyah, *Liwā’ al-Quds al-Sharīf min Daftar Tahrīr TD 131, 932-938AH / 1525-1531/32* (London: al-Furqān Islamic Heritage Foundation, 2007). Also see the list of village for the Hebron *nahiya* during the sixteenth century produced in Toledano “*Sancak Yerushalaim ba-meah Ha-tet*”zany – *Hityashvut Kfarit ve Magamot Demografiot* (The Jerusalem Sancak in the Sixteenth Century—Village Settlement and Demographic Trends) in Amnon Cohen, ed., *Prakim ba-Toldot Yerushlaim ba-Rishit HaTqufa HaOthmanit* (Chapters in the History of Jerusalem in the Early Ottoman Period), 75.

the discrepancy in names between the *salname* and the *emlak* register in this case (and the others) has a history that more research will allow us to decipher precisely.

One who compares the other names in the Arabic script as reproduced in Table 2.1 will quickly notice that the incongruence between names in many instances is due to a small apparent misreading of letters that can look similar in handwritten scripts – confusion between a و and a ر or a د, for example, or a ف and a ن. It is most unclear, however, how other names reached Damascus, where the *salname* was drawn up. Bani N’aja, for example. This does not appear in the sources of early-Ottoman *tapu tahrir* documents. By comparison with the other village names listed in the *salname* within the subdistrict (*nahiye*) of Halilürrahman one arrives at the conclusion that this was Bani Na’im. Is it a coincidence that Khallat Na’ja is one of the land areas that belonged to Bani Na’im in the late nineteenth century? The area, today subsumed into Hebron’s municipal boundaries, was an area of vineyards (*bağ*) in the late nineteenth century. Among farmers who had plots there, each up to twenty dunams in size, were nine Hebronites, members of Bani Na’im’s leading family the Manāşrehs, and a son of the infamous Shaykh ‘Abd al-Rahman ‘Amr of Dura, who had married a woman from Bani Na’im.¹⁵⁶ The unfamiliarity with Hebron that these mis-namings and mis-reading or mis-dating of names indicates prompt us to examine the accompanying numerical data for inaccuracies as well.

¹⁵⁶ *Esas-ı Emlak* entries #11475, 11476, 11477, 12214, 12217, 12630, 12649, 12650, 12652, 12661, 12662, and 12666 and Bani Na’im agricultural entries #155, #202.

There appear to be three errors in the *salname* numbers, as noted in the Table above with the notation “(sic?)”. I believe an extra zero was inadvertently added to the *hane* numbers for Ras Abu ‘Amār, ‘Artūf, and Suflā, and that likely these figures should be 33, 14, and 80 *hanes* respectively. According to the figures as recorded, there were 3,566 *hanes* in the district in 1871. If we assume we can correct for extra zeroes, this reduces the overall *hane* count to 3,071. In 1876, when the unit of counting was not *hanes* but, rather, residences, 3,646 homes were counted in the district. This is the total of the figures in the first column of Table 2.1.

It is expected that there would be more residences than *hanes*, since my research into Hebron’s population registers shows that the *hane* often comprised more than one conjugal family. And as expected, a comparison between the numbers of households in 1871 and the number of residences in 1876 yields these results in all but twelve cases, or 20 percent of the entries. Residences (*oda, hane*) in the rural Hebron district appear to have been primarily single-family units. This corresponds with the situation Kenneth Cuno found in rural Egypt in the mid-nineteenth century.¹⁵⁷

¹⁵⁷ The 1848 census in Egypt was enumerated in the villages not by household (*ma’isha* in Arabic) but, rather, by house (*manzil*). In the three villages he sampled, he found that nuclear families – a husband and wife and their children) were predominant in the *manzils*. Kenneth Cuno, “Demography, Household Formation, and Marriage in Three Egyptian Villages during the Mid-Nineteenth Century”, in Mohammad Afifi, Rachida Chih, Brigitte Marino, Nicolas Michel and Işık Tamdoğan, eds., *Sociétés rurales ottomanes / Ottoman Rural Societies* (Cairo: Institute français d’archéologie orientale), 110.

Hane, on the other hand, which is usually translated as “household”, requires some explanation. “Hane” carries a number of different meanings in its usage. *Hane* as opposed to *oda*, both types of residences, will be discussed below. *Hane* as a counting unit has two definitions. First, it was a unit of taxation. Secondly, it signified a network of kinship.¹⁵⁸ In this second sense *hane* is often conflated with the term “household”. Although the word for “household” in Ottoman Turkish is also *hane*, it is important to clarify that the word’s statistical meaning differed from its social meaning. A household can be seen as a unit of consumption and a unit of production.¹⁵⁹ The statistical *hane* is not necessarily equivalent.

In the Hebron urban and rural areas, as recorded in the population register of 1905, a *hane* was usually comprised of a male head, his wife or wives, their unmarried sons and daughters, their married sons and their wives and children (and sometimes the sons’ male children’s wives and children, as well), and not infrequently further-extended family members – such as the widow or orphaned offspring of a dead brother or uncle, the *hane* head’s widowed mother or his half-brother’s widowed mother, brothers or divorced sisters of the *hane* head or his wife, people identified only as “relative”, and occasionally a black

¹⁵⁸ Kemal Karpat, *Ottoman Population 1830-1914, Demographic and Social Characteristics* (Madison: University of Wisconsin Press, 1985): 9.

¹⁵⁹ Cuno, 110.

servant or slave.¹⁶⁰ In almost every Hebron village there were households (*hanes*) with as many as seventy members.

Ottoman researchers have long debated how many people were represented by the Ottoman category of “hane”. The question is of no small importance, since the household was the basic fiscal and counting unit until the mid-nineteenth century, when it began to be replaced by the individual. A number of important and still-influential studies over the past half century have assumed the *hane* was a nuclear family and ascribed to it five, sometimes six members.¹⁶¹ Thus, a village of ten *hanes* was assumed to have a population of fifty or possibly sixty individuals. Without any way to translate early-Ottoman *hane* numbers reliably into numbers of individuals, however, this evaluation was merely theoretical. Recent studies

¹⁶⁰ There was a *khādim* or *‘abd*, male or female, in a small percentage of village households. If black, the color of their skin is also noted. This information is based on my research of the 1905 population registry for Hebron and its villages (ISA RG39 NT).

¹⁶¹ Ömer Lütfi Barkan, the pioneer of demographic studies, used the number five for *hanes* in his calculations. Kemal Karpat was initially unpersuaded by Barkan’s argument in his 1985 study but two years later came to agree with Barkan’s calculations. See his “The Ottoman Family: Documents Pertaining to its Size”, *International Journal of Turkish Studies* 4/1 (1987): 137-145. Amnon Cohen and Bernard Lewis defined the *hane* as “a married man with his family, constituting a fiscal unit.” They used the coefficient of six per hane in their co-authored study, *Population and Revenue in the Towns of Palestine in the Sixteenth Century* (Princeton: Princeton University Press, 1978), 14-15, quotation on p. 14. Ehud Toledano has also used six as a coefficient, in his study “The Sanjaq of Jerusalem in the Sixteenth Century: Aspects of Topography and Population”, *Archivum Ottomanicum* 9 (1984), 309. The coefficient of five was adopted by Hütteroth and Abdulfattah in their foundational study (1977). Haim Gerber likewise estimated five people per *hane*: “The Population of Syria and Palestine in the Nineteenth Century”, *Asian and African Studies*, the journal of the Israel Oriental Society, 13/1 (1979), 62. David Grossman has also calculated *hane* size by using five as an equivalency. *HaKfar Ha’Aravi ve Banotav: Tahalikhim ba-īshūv Ha’Aravi b-Aretz Israel ba-Tkufa Ha’Othmanit* (The Arab Village and its Daughters: Processes of Arab Settlement in the Land of Israel in the Ottoman Period) (Jerusalem: Yad Itzhak Ben Zvi, 1994), 15. More recently he has applied the coefficient of six as a possibility alongside five. Idem., *Rural Arab Demography and Early Jewish Settlement in Palestine*, trans. Marcia Grossman (New Brunswick and London: Transaction, 2011), 111, 114-115.

have shown that the composition of *hane* was socially dependent and, thus, varied between regions. Maria N. Todorova, who examines Ottoman population statistics in her research on the demography of Ottoman Bulgaria, has found that “as a general rule, the term *hane* should not be translated, but its particular connotation interpreted in each single case.”¹⁶² As one might expect, *hanes* in cosmopolitan locations where work was often procured individually were smaller than in the country, where the dictates of the agricultural economy demanded joint labor. In late-nineteenth century Istanbul, for example, more than half the households contained no more than three to four individuals.¹⁶³ The same has been found to be true for mid-nineteenth century Cairo.¹⁶⁴

The average *hane* size in the city of Hebron, per the 1905 population register, was 11.5 individuals.¹⁶⁵ My initial investigation into the question of *hane* size in the villages’

¹⁶² Maria N. Todorova, *Balkan Family Structure and the European Pattern: Demographic Developments in Ottoman Bulgaria* (Budapest and New York: Central European University Press, 2006), 100.

¹⁶³ For example, according to the census of 1885 for Istanbul, which counted the entire population, 31 percent of the *hanes* were comprised of people either living alone or in small groups with others who were not family members. Another 30 percent of the households averaged just three members, while only 27 percent of the households were extended or multiple-family households. Alen Duben, “Understanding Muslim Households and Families in Late Ottoman Istanbul”, *Journal of Family History* 15 (1990): 73-74.

¹⁶⁴ Phillippe Fargues, “Family and Household in Mid-Nineteenth-Century Cairo”, in Beshara Doumani, ed. *Family History in the Middle East: Household, Property, and Gender* (Albany: State University of New York Press, 2003), 38.

¹⁶⁵ This summation is based on my research in the registers, which will be published in a future study. Johann Büssow makes use of 1905 population registers for the district of Jerusalem in his 2011 study on politics and society in the province of Jerusalem in the Hamidian era. According to Büssow, the basis of grouping individuals in the Jerusalem registry was by *mesken*, i.e., by residence. (Büssow, 21-23.) Although the same forms Büssow reproduces in his work (Pagis’ images) were used in the Hebron district, the unit of grouping individuals in Hebron was the *hane*, not the residence. The register columns

population registers has yielded roughly similar results. In Yatta, the third largest village in Hebron, the population register of 1905 listed 2,643 individuals¹⁶⁶ in 190 *hanes*. This yields an average per hane of 13.9 individuals. There was one, one-person hane and five, two-person hanes. On the other end of the scale, there were ten hanes that numbered between 30 and 39 individuals. The largest hane, hane #20, had 70 people. In Dura, Hebron's most populous village, 5,092 individuals were entered into the population register in 509 *hanes*. The largest hane size was 37; the smallest hanes were those of just one individual. The average hane size was 10.04 individuals per hane; the median was 9 individuals. Table 2.1 shows the range and frequency of *hane* sizes in the nufüs register of 1905 for the village of Dura.

were ignored on this matter in both the city and the countryside, and "hane" was written next to the number of each grouping of individuals.

¹⁶⁶ Hane #111 was not microfilmed, so another two to thirty individuals, approximately, needs to be added to this number. Additionally, 28 births that took place in the years following the year of the registration and were recorded in this register can be subtracted from the population count.

Table 2.2

Number of Individuals per Hane in Dura, According to the Nufüs Register of 1905

Individuals per hane	Frequency (# hanes)	Individuals per hane	Frequency (# hanes)
hanes of 1	7	hanes of 13	26
hanes of 2	12	hanes of 14	24
hanes of 3	26	hanes of 15	19
hanes of 4	30	hanes of 16	11
hanes of 5	39	hanes of 17	12
hanes of 6	40	hanes of 18	10
hanes of 7	51	hanes of 19	10
hanes of 8	32	hanes of 20	11
hanes of 9	35	hanes of 21-25	18
hanes of 10	30	hanes of 26-30	5
hanes of 11	27	hanes of 31-37	2
hanes of 12	29	largest hane	37 individuals

To return to the matter at hand, as stated, we should expect there would be fewer households (*hanes*) in 1871 than residences in 1876, because *hanes* could comprise a number of conjugal families. On the whole, this is what a comparison of the 1871 *salname* figures and the 1876 residence numbers shows. When we add to this comparison the relative data on *hane* numbers from the 1905 population registers in Appendix II we can compare relative indicators of population across three distinct sets of documents spanning thirty-five years. Although the comparisons are not without aberration in individual cases,

which merit investigation, on the whole the data is congruent and, thus, indicates that the *emlak* registration of 1876 reasonably reflects the entire population of the villages.

In what follows in this chapter, we will aim to understand the *emlak* register on two levels. On one level, we will read and analyze the register to understand the social and economic structures of the villages and the distribution of propertied wealth. On another level, we will read between and beyond the lines of the register's entries to determine the process and procedure of the *emlak* commission. Before proceeding further, the mention of a few notes about the organization of the *emlak* register are in order. The registration of properties followed the same basic pattern in each village. First, a list of residences and other structures within village limits were recorded. This was followed by a list of villagers' lands and trees. Often, entries for gardens (*hākyūres*, *bağçes*), vineyards (*bağs*), olive trees, fruit trees (primarily fig trees and, rarely, lemon trees), and orchards (*bustāns*) were mixed together, and fields (*tarlā*) were recorded last. Lands were measured by dunams and *evleks*, the Turkish dunam being equal to slightly less than the metric dunam (939.3 m²), and the *evlek* equal to one-fourth of a Turkish dunam.¹⁶⁷ With few exceptions, olive trees were measured in terms of numbers of trees, and the land they occupied was not measured, registered, or taxed. (Other trees were measured by dunam.) Assessments of agricultural-property values were relatively standard across the district according to types of property,

¹⁶⁷ Şemseddin Sami dictionary. The terms in Ottoman Turkish are **اولك** and **دونم**.

i.e. field-crop land, vineyards, fruit trees, olive trees, and garden plots. These assessments fell within identifiable ranges that appear to have been dependent on quality of land and other factors. Village communal agricultural properties, registered as “reserved for the people” (*ahāli-ye mahsus*) were usually the last items to be recorded in any village list. Tax-exempt properties were also recorded, and occasionally one finds references to agricultural plots being piously endowed properties (*mevkufe*)

Within this broad framework, one can observe standards as well as variations in recording patterns, categories, and values, sometimes general across the register and at other times seemingly village-dependent. The usage of some property categories, for example, appears to have been non-standardized and flexible to a degree. This is particularly the case with gardens and field-crop lands (*hākyūre* and *tarla*, for which one can find considerable overlap in size and, at times, value assessment. Category choices do not, however, appear to have been randomly or thoughtlessly assigned in the vast majority of cases. Generally speaking, individual register entries appear to have been recorded after consideration of the specific property or of that type of property within a limited geographical area. This is particularly true with field-crop lands, which were almost always the largest land parcels. Of course, it is not unlikely that category definitions varied to a degree from village to village or between clusters of villages. The examination below of the two categories of residences – *odas* and *hanes* – will illustrate the range of meanings register

categories could represent. First, however, the following section sketches in broad outline the building scape, if you will, of the district's villages in 1876.

Villages in the Hebron district

The fifty villages of Hebron in 1876 varied considerably in terms of population, village amenities, landed wealth, and the ways they chose to register that wealth in the *emlak* register. The smallest village in the district was Suflā. This tiny settlement of seven residences was located in the northern part of the district, 18.5 kilometers west-southwest of Jerusalem. Throughout the British mandate era the town would belong to the Jerusalem administrative district. Sufla's seven residences varied in value from 500 kuruş to 2,000 kuruş. In 1931, ten houses would be counted in the village, and by 1944/45, Sufla's recorded population would reach sixty individuals. Israel destroyed the village after assailing it in October 1948.¹⁶⁸ In 1876, fifty-eight dunams of garden plots (*hākyūre*) on the edges of Sufla were recorded in the *emlak* register. These were divided among fourteen plots registered to nine villagers. The largest of these landowners was Ahmad b. 'Isa Wādī, whose three garden plots totaled eighteen dunams. All the village's garden plots were valued at 500 kuruş per dunam, meaning his landed worth was valued at 9,000 kuruş. Additionally the village

¹⁶⁸ Walid Khalidi, *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948* (Washington, DC: Institute for Palestine Studies, 1992), 319; *Village Statistics 1945: A Classification of Land and Area Ownership in Palestine, With Explanatory Notes by Sami Hadawi, Official Land Valuer and Inspector of Tax Assessments of the Palestine Government* (Beirut: Palestine Liberation Organization Research Center: 1970), Table 1.

communally registered more than 300 olive trees, an average of about fifty trees per residence owner.¹⁶⁹

The largest village in the district was Dura, located in the center of the Hebron plateau to the west of Hebron. According to the *emlak* register there were 320 residences in the village in 1876, as well as a mosque (*cāmī*), a fountain (*çeşme*), and two tomb-shrines. By 1922, the village's population would rise to 5,834, and in 1931, to 7,255.¹⁷⁰ In 2007, Dura's population approached 30,000.¹⁷¹ In 1876, Dura's recorded lands included more than 100,000 dunams of field-crop land (*tarla*) suitable for growing grains and cereals such as wheat, barley, and dhurra. All this agricultural land was registered to individuals, part as property and part as shares in *musha*. Also registered to individuals were more than 1,000 dunams of vineyards, 136 dunams of olive groves, more than 200 dunams of orchards, and almost 300 dunams of garden plots. Additionally, the village registered close to 850 dunams of field-crop land in Rihyya, a *mezra'* south of the village. Dura's lands in Rihyya were registered to Dura villagers *en bloc*, as *musha*. Among large landowners in Dura were the offspring of the deceased Shaykh 'Abd al-Rahman 'Amr, whose infamy is legendary both in folklore and scholarly histories of Palestine.¹⁷² Among his children's lands in Dura as

¹⁶⁹ Communal, *en bloc* registrations will be discussed below.

¹⁷⁰ Dabbagh, 188.

¹⁷¹ PA CBS, 61.

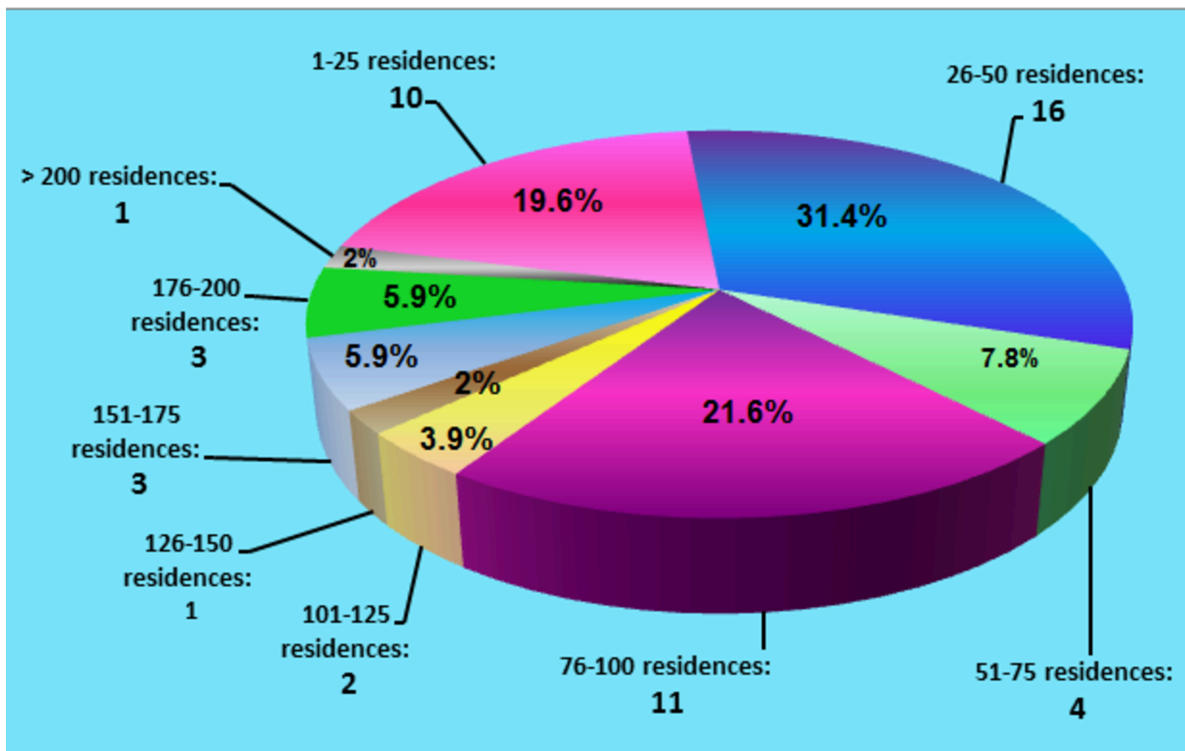
¹⁷² See, for example, Moshe Ma'oz, *Ottoman Reform in Syria and Palestine 1840-1861: The Impact of the Tanzimat on Politics and Society* (Oxford: Oxford University Press, 1968); Schölch, *Transformation*.

recorded in 1876 were a single, 995-dunam plot of field-crop land in Bayt Maqram registered to his daughter Amina, a 1,550-dunam plot of field-crop land in Wadi al-Şifr/al-Şafr /al-Sufr registered to his oldest son Yahya, and a 200-dunam plot registered to his son Musa.¹⁷³

Between these two extremes of regional population lie another forty-nine villages and one inhabited *mezra'*, Rihyya. Chart 2.1 below shows the distribution of inhabited settlements according to the number of recorded residences in each.

Chart 2.1

Distribution of Hebron villages, 1876, according to number of residences



Source: 1292 M (1876) *Esas-I Emlak* register

¹⁷³ ISA, *Esas-I Emlak*, entries # 9177, 9182, 9183. The 'Amr family owned land in a number of villages in the district, such as Bani Na'im and Halhul, and commercial and residential properties in Hebron as well.

Eighteen villages registered their community guest house (*menzūl*) in the *emlak* register.¹⁷⁴ With few exceptions, *menzūls* in rural Hebron were registered as property for the benefit of the community, and as such they were not subjected to the *vergi*. Fourteen villages recorded having a mosque (*cāmī*). Bayt Natif registered two mosques. Fountains (*çeşme*) could be found in Dura and Sa'ir. Four villages had sufi lodges (*zāviye*). The large village of Bayt Jibrin in the western foothills registered two *zāviyes*. Others were found in Halhul, neighboring Hebron to the north, Bayt Natīf, and Bayt Iṭāb. While all villagers obviously buried their dead, graveyards were registered to only three villages, Bani Na'im, Dura, and Sa'ir. This may have been a factor of the location of the graveyards relative to the built-up area of the village. That said, the number of mosques registered is fewer than is known to have existed. Two egregious omissions are the *maqam* and *masjid* of Nabi Yunus (Jonah) in Halhul and the *maqam* and *masjid* of Nabi Lūt (Lot) in Bani Na'im. The village of Halhul, neighboring Hebron to the north, grew around the shrine of Nabi Yunus, which sits atop the highest point in the Hebron district. However the only religious structure registered in Halhul was a sufi lodge (*zāviye*). The mosque and *maqam* of Nabi Lūt, today on the edge of Bani Na'im was about two kilometers outside the village area in the nineteenth century.¹⁷⁵ There is record in the *emlak* register of a tomb-shrine (*tūrbe*) and a graveyard in the village.

¹⁷⁴ On the *menzūl*, see Ahmad Salīm 'Awda's historical essay, "*Qaryat al-Zīb Kama 'Araftuhā*" (The Village of Zīb as I Knew It). www.palestineremembered.com/Acre/al-Zeeb/ar/index.html#Articles , accessed 8 February 2015.

¹⁷⁵ Abu Sitta, sheet 495.

This is almost certainly reference to the Nabi Lūt complex and the graveyard near it. This is puzzling, because the mosque enclosing the shrine also predates the Ottoman period.¹⁷⁶

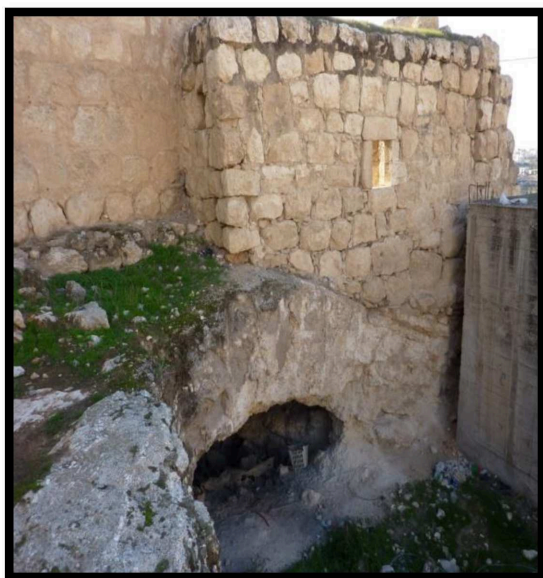
Of course, the *emlak* register was intimately tied with the imposition of *vergi*; the amount of this property tax was determined by the property-value assessments recorded by the *emlak* commissions. However, as first outlined in the 1860 *Tahrīr-ı Emlāk ve Nüfus* registration law which was discussed in Chapter One, the Ottomans were also interested in creating a record of tax-exempt properties. In rural Hebron, as the register indicates, this comprehensive scope of property registration which had been envisioned in 1860 was largely realized.¹⁷⁷

In large villages in the southern part of the district, Yaṭṭa and Samu', caves were registered and taxed: eight in Yaṭṭa and three in Samu'. Other villages in the foothills also took advantage of caves in the rocky landscape for residences and storage purposes (see, for example, Images 2.1 and 2.2, below), but it appears these villages chose not to register them in 1876. The matter of choice in registration will be discussed in Chapter Three.

¹⁷⁶ Author's visits to these sites; Najāḥ Abu Sāra, *al-Zawāyā w'al-maqāmat fī Khalil al-Rahman: Dirāsa Ta'rikhiyya Khaḍāriyya* (Zawiyas and Maqams in Hebron: A Historical and Cultural Study), part 2 (Hebron: *Markaz al-Baḥth al-Ilmi* (Center of Scientific Study), 1987), 10-17, 49-57; Khālid 'Abd al-Karīm al-Manāṣra, *Bani Na 'im: Sh'ulat al-Junūb* (Bani Na 'im: Torch of the South) (Hebron, 1999), 39-41.

¹⁷⁷ See Chapter II, Article 10 of the 1860 law in Ongley, 118.

Images 2.1 and 2.2



On the left, example of the incorporation of caves into traditional village architecture. Ṣahariyya village. Hebron. Photo by author, 2011.

On the right, example of traditional village architecture, the raised platform *maṣṭaba*,¹⁷⁸ incorporated into a cave. Wadi Fukin village, Hebron. Photo by Qais Manasra, 2007.¹⁷⁹

Other common features in the villages included olive presses, of which forty were recorded in the district. Precisely one-fifth of them were located in Dayr Abān, one of Hebron's most populous villages, located in the northern part of the district approximately twenty kilometers west-southwest of Jerusalem. This village of 171 residences registered *en bloc* as

¹⁷⁸ Tawfik Canaan, "The Palestinian Arab House", part 2 of 2, *Journal of the Palestine Oriental Society*, 13/1-2 (1933), 1-84.

¹⁷⁹ Open source: www.palestineremembered.com/GeoPoints/Wadi_Fukin_1684/ar/Picture_15032.html, accessed 25 December 2015.

part of the village's properties 4,086 olive trees.¹⁸⁰ Unsurprisingly, Dayr Abān was one of the biggest olive-producing villages in Hebron, surpassed only by Zakariyya to the southwest, which had just four presses but registered, also *en bloc* as property of the village 12,136 olive trees.¹⁸¹ Fifteen stables (*akhūr*) were registered in the district. Again, a large concentration of them, seven, were found in one village: Bayt 'Itāb, which was about four kilometers east of Dayr Abān and approximately twelve kilometers west-northwest of Bethlehem and Bayt Jāla. A road through Bayt 'Itāb led, after some four kilometers, to the Bethlehem-Bayt Jibrīn road south of the village.¹⁸² Seventy-nine *samānliqs*, used for the storage of hay, were registered in twenty-seven different villages. Another common property registered in the district was *'arṣas* which, by definition, were courtyards or open plots of land within a village.¹⁸³ Forty-nine were recorded in the district. The greatest concentrations were recorded in the south. Fourteen *'arṣas* were registered in Yaṭṭa. These were valued between 250 and 750 kuruş, in 250-kuruş increments. And eleven were registered in Sa'ir, valued at 250, 375, 500, 750, or 1,000 kuruş.

¹⁸⁰ ISA, *Esas-ı Emlak*, entries # 3013-3014. Dayr Abān, like the other villages in its vicinity, were all depopulated in the *HaHar* expedition of October 1948, then destroyed. On this village, see Khalidi, 282-283.

¹⁸¹ ISA, *Esas-ı Emlak*, entry #2299. Zakariyya was also depopulated in the Nakba. The moshav Zekharia was established on village lands in 1950. (Khalidi, 224-226).

¹⁸² Frederick John Salmon, British Survey of Palestine maps, 1935-1938. 1:100,000 series Palestine, Sheet 9: Ramla.

¹⁸³ Şemseddin Sami dictionary (1985), 299.

Residences: Odas and Hanes

Although the Ottoman Empire was an agrarian empire, village societies have rarely been the subjects, as opposed to the objects, of historical investigation. An analysis of housing in Hebron's villages is therefore valuable for what it reveals about rural social structures and about economic stratification within and between rural settlements in a single district.

There were 3,687 residential structures recorded in the Hebron-district villages in 1876. These were categorized as either *odas* (اوطه, Tr., lit., room) or *hanes* (خانه, Tr., house, household, building). Also recorded in most villages was the number of *musaqqafāt* (مسقفات, Tr., lit., buildings, house-property).¹⁸⁴ The Turkish term *musaqqafāt* comes from the Arabic root, *s-q-f*. A *saqf* (pl., *suqūf*) in Arabic is a “ceiling” or a “roof”. This category likely indicated the number of rooms in a single residence, at least those rooms used for living/sleeping. Most residences had between one and three *musaqqafāt*. There were also residences in the Hebron district with four, five, and even seven *musaqqafāt*.

There is considerable overlap in recorded value and size between the categories of *oda* and *hane*. In fact, the extent of this overlap is so great that the distinguishing characteristics of an *oda* as opposed to a *hane* cannot be determined with any certainty. These two Ottoman-Turkish words did not figure among the Turkish lexicon that was absorbed into the local vocabulary. We never find *oda* and *hane* used in Hebron's sharia

¹⁸⁴ Şemseddin Sami, 420 and Redhouse, 828.

court records, for instance. The words' literal meanings are incongruent with the way they were applied in the *emlak* register. There were numerous, multiple-*musaqqafāt odas*, for instance, so an *oda* obviously could be more than "a room". Likewise, there were *hanes* of one *musaqqaf*. We can deduce from assessed values of residences that a *hane* was usually bigger than an *oda*; in general, *hanes* were valued higher than *odas*. Nevertheless, one can easily observe so many exceptions to this platitude that it would be careless to attempt to deduce more than this. Did the category *musaqqafāt* have a variable meaning? Was an *oda* a one-story structure and a *hane* a two-story structure? Did *oda* cover both stand-alone buildings and, equivalent to the Arabic *bayt* (as opposed to *dār*), a room or series of rooms within an extended-family residence? These questions cannot be answered with available information.

Mundy and Saumarez-Smith have assumed that in 'Ajlun a *hane* was a house and an *oda* a room.¹⁸⁵ Their analysis of housing values and socioeconomic stratification within and between villages in 'Ajlun appears to indicate that there was a clear distinction between these two types of housing there, in terms of value.¹⁸⁶ In any case, it did not lead them to question the meaning of the terms. The picture in Hebron was clearly different.

Table 2.2 shows a representative sample of the range of housing values in settlements of various sizes in the different *nahiyas* of the Hebron district. Two phenomena

¹⁸⁵ Mundy and Saumarez-Smith, 138.

¹⁸⁶ *Ibid.*, See housing and housing-value distribution maps and the discussion following, 61-65.

are immediately apparent. First, although the highest-valued *hanes* are almost unexceptionally valued higher than the highest-valued *odas*, on the low end of the scale there is no value distinction between *hanes* and *odas*. Secondly, the range of housing values in the villages, regardless of the size of their population, suggests significant socioeconomic stratification was a characteristic feature of Hebron’s rural society.

Table 2.3

Sample housing-value ranges across the Hebron district, 1876

Village	# hanes	# odas	Highest valued hane / oda	Lowest valued hane / oda	Average residence value
Dura	58	262	7,500 / 5,000	125 / 125	753.5
Bani Na'im	81	8	6,000 / 1,500	500 / 500	1,314.6
Nuba	20	61	3,000 / 3,000	500 / 250	1,083.3
Qubayba	11	20	2,500 / 1,000	500 / 250	780.6
Jaba'	8	4	2,500 / 875	750 / 500	1,062

Source: 1292 M (1876) *Esas-l Emlak* register

The data in Table 2.2 is generalizable to the district as a whole. In most villages, there were more *odas* than *hanes*. In one-fifth of the fifty villages, though, there were more *hanes* than *odas*.¹⁸⁷ Across the district there were a total of 2,438 *odas* and only 1,208 *hanes*.¹⁸⁸ The

¹⁸⁷ There were eleven such villages. They are: Dīr Abān (102 hanes / 69 odas), S'āir (66 / 42), Banī N'aīm (81 / 8), Shuyūkh (with 41 hanes and no odas), Rās Abū 'Amār (21 / 18), Husān (26 / 10), Kaslā (26 / 7), Zaytā (16 / 9), Qabū (12 / 2), and Jab'a (8 / 4). In the eleventh village, Samu', the register data is incomplete. Only for the first twenty of the vilage's buildings were categories (hane, courtyard, cave, etc.) recorded. Among these twenty, all the residences were *hanes*.

assessed values of both *odas* and *hanes* vary substantially within villages; we find this diversity repeated from settlement to settlement, almost without exception. The lowest-valued residences in the district were the occasional humble (perhaps one-room?) *odas* valued at 125 kuruş. Otherwise, *oda* values varied on average from 250 kuruş to 1,500 kuruş and most often consisted of one, sometimes two, and sometimes three *musakkafāt*. In Halhül, for example, we find an *oda* of 3 *musakkafāt*, unusually valued at 3,500 kuruş. It was the highest-valued residence in town. In Dhahriyya we also find an *oda* assessed at 3,500 kuruş, similarly valued higher than any of the *hanes* in the village.¹⁸⁹ Actually, these two *odas* were valued higher than the majority of *hanes* in the district, as well.¹⁹⁰

The largest and highest-valued residence in the Hebron region was a complex registered to Muhammad b ‘Abdallah al-‘Azze of Bayt Jibrīn, a throne village in the western foothills of the Hebron district.¹⁹¹ It was a 7-*musakkafāt hane* valued at 20,000 kuruş.¹⁹²

¹⁸⁸ To this must be added 41 residences in Samū’ that were not categorized. They were all on the same register page, the second of three pages of residences in the village. This omission appears to have been scribal error.

¹⁸⁹ In Dhahriyya *musakkafāt* were not recorded.

¹⁹⁰ The *oda* in Halhül was owned by Ahmad b. Muhammad Hamd. The one in Dhahriyya belonged to Ibrāhīm b. ‘Isa Şabār.

¹⁹¹ Bayt Jibrīn stood at an important crossroads between the plains and the hills and was on the Gaza-Hebron road. It and Dura were the “throne villages” of the Hebron district. Bayt Jibrīn was second in size only to Dura. In 1876, the village registered 194 residences, two (olive) presses, one mosque and two sufi lodges, among its village structures. It also registered 21,768 dunams of communally held crop-land, and individual villagers registered gardens, fruit trees and orchards in their names. In 1948, the town was ethnically cleansed. An Israeli settlement called Beit Guvrin was established on the site in 1949. On crown villages, see Amiry (2003).

¹⁹² ISA, *Esas-ı Emlak*, entry # 1829.

After the 'Azze villa, the highest-valued rural residences were *hanes* valued at 6,000 kuruş. There were only three such structures in the district: one of them in 'Ajjūr and two in the medium-sized, livestock-rich village of Bani Na'im on the arid eastern edge of the Hebron plateau, overlooking the Dead Sea.¹⁹³ In Bani Na'im, one-third of the 89 residences (thirty-three, to be precise) were valued below one thousand kuruş each. The majority of homes in the village, fifty-four of them, were assessed at values between one- and two-thousand kuruş. The mean average of the highest-valued residence in each of the villages in the district is approximately 3,000 kuruş.¹⁹⁴

Only in Bayt Kāḥil (which we will visit in Chapter 4) and in the *mezra* Riḥiyya, discussed above, was the intra-village housing-value discrepancy less than 1,000 kuruş. In fifteen villages the discrepancy in values between the highest- and lowest-valued residences was between 1,000 and 1,999 kuruş. In eighteen villages, this discrepancy ranged from 2,000 to 2,999 kuruş. In twelve villages the discrepancy was between 3,000 and 3,999 kuruş. In one village, Barqūsiyā, the discrepancy was 4,000 kuruş, and in the three villages with the highest-valued residences, as one might expect, the discrepancy between the most humble and the most luxurious residences was more than 5,000 kuruş. The gap between the average

¹⁹³ These residences were registered to Muṣṭafa b. Hamdān of 'Ajjūr and to Husayn b. Musa al-Msasreh and Muhammad b. 'Aliyān of Bani N'aim. Bani N'aim was a village of 89 residences at the time (81 *hanes* and 8 *odas*). All its land was privatized in the 1875 register. Villagers registered 1,549 plots, primarily of field-crop lands, but also vineyards, fruit trees and orchards, olive trees, and gardens.

¹⁹⁴ To be precise, it is 3,119 kuruş. If we exclude Bayt Jibrīn from the calculation, the mean value drops to 2,781 kuruş.

values of residences in the five villages in Table 2.2 and the lowest- and highest-valued residences is similarly significant. This indicates that the values in the highest- and lowest-valued columns are the extremes of ranges, not independent extremes.

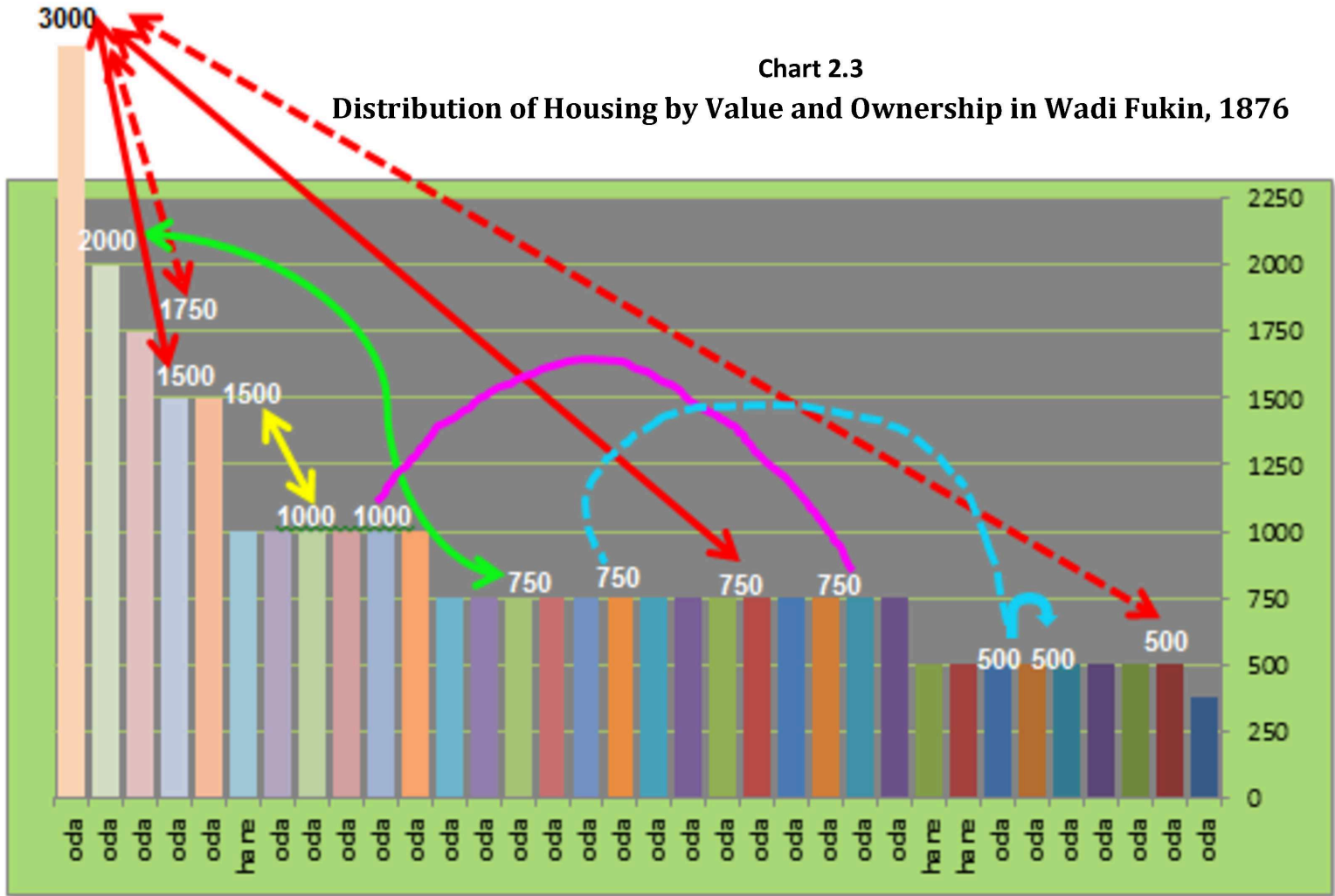
The range of housing values within the villages between the highest-valued and lowest-valued residences was uniformly significant, which appears to give us one very rough indicator of economic stratification within the villages. It is likewise worthy to note that, in contradiction to the dominant historical narrative of land-tenure related reforms in Palestine, the broadness of the range is an indication that the registration process was both methodical and genuine. The enormous task of recording all the owned properties within the empire, whether *mülk* ownership or ownership of tenure through usufruct, involved not only each village, but also each of its families, their representatives, and their members.

It is informative to compare rural Hebron's situation with housing data found by Martha Mundy and Richard Saumarez-Smith for the Transjordanian district of 'Ajlun in roughly the same period, using the same type of source. They found that "[a] rough index of inequality [of housing values within settlements] 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 By contrast, villages of the hills or the mountains exhibit relatively

egalitarian distribution of house values.”¹⁹⁵ As shown here, the case was quite different in Hebron, where the general pattern is one of a diversified range of housing values within the various villages across the district, irrespective of size or location.

Regarding economic stratification statistics, however, a word of caution is in order. Charts 2.2 and 2.3 on the following pages illustrate the nature of this caveat with the example of housing in the village of Wadi Fukin.

¹⁹⁵ Ibid., 64.



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In 1876, Wadi Fukin was a village with thirty-four residences, one mosque, and a communally owned guest house. Each bar in the above charts represents one residence. The lowest-valued residence in the village was an *oda* assessed at 375 kuruş. It belonged to Muhammad b. ‘Abd al-Qādir, who did not register any other properties. The highest-valued residence in the village was also an *oda*. It was valued at 3,000 kuruş. This *oda*, it is worthwhile to observe, was valued significantly higher than any of the three residences that were classified as *hanes*.

The villages’ residences as shown in Chart 2.2 can be divided into three broad categories of value: nine seemingly modest residences valued at 500 kuruş or less; a large middle stratum of twenty residences valued at 750 and 1,000 kuruş, and an upper stratum of five residences, equivalent to 15 percent of the homes and each valued between 1,500 and 3,000 kuruş. As far as residences are a relative indicator of wealth, it would appear that Wadi Fukin was a socioeconomically stratified village.

When we look beyond the raw data (Chart 2.3), the picture becomes both more complex and simpler. Five individuals in Wadi Fukin registered two or more *odas* in their names. Each line of the same color on the chart connects residences registered to the same individual. A dotted line represents the residence of a son or brother of the multiple-house owner who is represented by the same color. For example, Muhammad b. Ahmad Hamd’s residence, structure #30, was valued at 500 kuruş. His son, ‘Ali b. Muhammad Ahmad, registered the highest-valued residence in the village, structure #1, the 3,000-kuruş *oda*. ‘Ali

also claimed ownership of residences #31 and #32, one valued at 1,500 kuruş and the other at 750 kuruş. His son, 'Uthman b. 'Ali Ahmad, claimed residence #2, which was valued at 1,750 kuruş. This group of residences is represented by the red lines.

The second-highest valued residence in the village, structure #17, valued at 2,000 kuruş, was registered in the name of Mahmoud b. Muhammad Ibrahim. His properties are shown with the green line. Mahmoud also claimed residence #20, valued at 750 kuruş. The other oda in what we have described as the upper stratum was structure # 34, valued at 1,500 kuruş. It was claimed by Ahmad b. Mifrāḥ Ahmad, represented by the yellow line. He also registered one of the six residences valued at 1,000 kuruş. The fourth owner of two residences was Ahmad b. Mustafa, who is represented by the purple line. His *odas*, structures #7 and #9 in the register, were valued at 1,000 and 750 kuruş, respectively.

Of course, all this raises the question: how did this situation on paper translate in reality? Who was living in these individuals' second (and in 'Ali's case, third) residences? There are a number of plausible answers to this question. For example, it is possible the ownership claimed in the *emlak* register was merely the family patron's assumption of responsibility for the tax burden for another family member's residence. It is possible that some of these men had two wives. One may also wonder if this was an attempt by the older generation to keep the residence owners of conscription age off the registration books; according to the theory of the conventional narrative discussed in the Introduction, this happened with regularity. Whatever may have been the case in the 1870s, we do know that

the subsequent generation of Wadi Fukin villagers *was* conscripted by the dozens into the Ottoman army to fight in World War I.¹⁹⁶ About this generation, however, the register provides no answers to this question. What this close analysis of the data *does* reveal is that the top strata of wealth represented by housing value is larger than it had appeared from the raw data (Chart 2.2). Similarly, it shows that the gap in wealth between the upper and lower strata is wider than appeared. Thirdly, we see that the middle stratum is only slightly smaller than it had appeared. Of the twenty residences we formerly enumerated in this category according to the values alone, we should discount the two *odas* that are second residences of people who also owned houses in the upper strata of values. We may also exclude the two *odas* owned by Ahmad b. Mustafa (the purple line), since their combined wealth puts him in the upper stratum. In the same manner, we should add to this category ‘Ali b. Ibrahim, He is the fifth owner of two residences. He claimed two modestly-valued *odas*, structures #25 and #26, together valued at 1,000 kuruş. They are represented by the bright blue line.

The dotted blue line leads to ‘Ali b. Ibrahim’s brother ‘Uthman’s residence, structure #24, which was valued at 750 kuruş. Other siblings in Wadi Fukin also registered distinct residences. Şālih’s sons Sulayman and Mahmud registered structures #5 and #6, valued at 750 and 1,000 kuruş, respectively. Ahmad and Muhammad, sons of Salāme registered

¹⁹⁶ Khaled Hroub, “Ataturk and My Grandfather: The Battles for the Dardanelles and the Wadi Foukeen Fighters”, *Jerusalem Quarterly* 51 (2012), 44-48.

residences #11 and #16, valued at 750 and 500 kuruş. And Ḥamdān's daughter and son, Sabḥa and Mustafa, each registered a residence. Hers, structure #18, was valued at 500 kuruş. Her brother's, structure #21, was assessed at 750 kuruş.

Conclusion

Information culled from the *Esas-ı Emlak* has permitted us in this chapter to sketch a picture of late-Ottoman village structure in the southern Palestinian hills that is immeasurably more concrete than has been possible to date. Yet, as pure indicators of relative wealth and economic stratification we must treat these numbers with caution. Firstly, and most obviously, housing values are only one possible indicator of wealth. For example, one not infrequently finds in the Hebron villages that people bearing the title "shaykh" are not those with the highest-valued residences. Of course, shaykhly status is also not necessarily an indicator of wealth, even though the conventional narrative explained in the Introduction to this study would have it so, particularly in the wake of land-tenure reform.

Secondly, and more importantly, as the example of Wadi Fukin has demonstrated, the *Esas-ı Emlak* register was not a statistical register. In the sample image from the register shown in Appendix 1 of this study, you, the reader, will likely focus primarily on the columns of numbers. The frontispiece image to this study is cropped in such a way that, hopefully, your eye was drawn to the most important data in the register: the names of the individuals. The social scientist's instinct is to crunch numbers, abstract percentages, and to identify

trends and aberrations from them in order to explain and interpret a phenomenon or set of phenomena.¹⁹⁷ While the explanatory utility of these efforts is valuable, there is a danger inherent in the abstraction of statistics from non-statistical Ottoman sources. Tapu registers and the *emlak* register examined in this study are not land and property surveys or ownership surveys. (Similarly, Ottoman population registers are not and were not intended to be censuses.) The methodology of property-tenure reforms was to assign rights of responsibility for taxes and rights of ownership. As will be argued in the following chapter, the Ottoman's priority was registration, whether to individuals or in communal forms like *musha*. To the extent feasible, the Ottomans wanted to register properties to individuals and small groups of partners. It is important to remember, however, that this was subservient to the goal itself. To most reliably assess rural propertied wealth according to available Ottoman data on property assessments it is essential to scrutinize the registers contextually. The task is somewhat formidable, but doing so, the clearest, sharpest picture possible comes into focus.

This chapter has demonstrated that the rural sphere in Hebron was a heterogeneous amalgamation of settlements, varying in wealth, size, and amenities from one village to the next. It has brought to light that the envisioned broad scope of *emlak* registration, which was

¹⁹⁷ For examples of such studies, see Grossman (2011), Hutteroth and 'Abdulfattah (1977), Brawer (1989), Frantzman (PhD dissertation, 2010); and U.O. Schmelz's treatment of the 1905 population registers in his "Demographic Research of the J-m and Hebron Regions Towards the End of the Ottoman Period." in David Kushner, ed. *Palestine in the late Ottoman period: political, social, and economic transformation*: 363-371.

concerned with both taxable and tax-exempt structures in the built-up areas of the villages, was implemented in Hebron. Comparing numbers of recorded residences in the *emlak* register with population indicators in Ottoman documentation on Hebron villages from the early 1870s and the early-twentieth century, this chapter has demonstrated that the *emlak* register is a reasonable reflection of the rural population and number of residences within villages. It has brought to light the need to substantially revise upward population calculations based on coefficient of five, six, and even seven for the term *hane*. Finally, this chapter has argued that socioeconomic stratification is a more accurate model of village society than the traditional view which places undue power in the hands of village mukhtars.

Now we turn to the question of the land. Chapter Three examines the extent of agriculture and nature of agricultural-property tenure in rural Hebron as declared by the villages to the *emlak* commission and accepted by that commission in 1876.

Chapter Three

Claiming Property II: Patterns of Agricultural-Property Registration in the *Esas-ı Emlak* register

This chapter moves beyond the immediate vicinity of the village and its structures examined in Chapter Two in order to investigate questions of agricultural-property tenure in the Hebron rural region. It examines the size of landholdings in the Hebron district and the cumulative amounts of individuals' landholdings, with the goal of understanding the socioeconomics of the region. It also analyzes the ways in which agricultural properties were claimed and registered by individuals and villages, in order to identify patterns and characteristics of rural land tenure. The findings presented here for the Hebron district suggest that accepted scholarly understanding of Palestinian village economy and patterns of land tenure in the late-Ottoman era is in need of revision. The *Esas-ı Emlak* reveals that property tenure in rural Hebron was characterized not only by small plots and small landholders, but also by communal landholdings, and by large parcels and large landowners.

This chapter challenges the widely accepted idea that the rural economy in the mountainous regions, where the majority of Palestinians resided, was universally subsistence-based and characterized by small landholdings. It rectifies a common

misunderstanding in the literature that *musha* was incompatible with and outlawed by land-tenure reform laws. This idea, together with *musha*'s continued existence, has been a pillar of the argument that land-tenure reform failed. This chapter demonstrates that *musha* was permitted after land-tenure reforms, and it begins to examine the ways in which villagers simultaneously conformed with Ottoman goals of individualizing deeds to title and tax obligations while preserving land-management techniques like this that were beneficial to them. This discussion will continue in Chapter 4, as well. We begin this chapter with a historiographical intervention regarding the traditional understanding of individual/household agricultural wealth in the province of Jerusalem in the early twentieth century. The following section presents an overview of agricultural property in the district of Hebron. The chapter then considers patterns of registration in the *emlak* register.

Misreadings: Ruppin and Granott on farmholdings and sharecroppers

In 1907, 1909, 1913, and 1914, the Ottomans compiled statistical data on the size of agricultural lands, agricultural plot-sizes, and production in various parts of the empire. These surveys administered by the Ministry of Forests, Mines, and Agriculture (*Orman ve Meadin ve Ziraat Nezareti*) were conducted by means of questionnaires sent to the *qaza* (subdistrict) governments to be completed in part by chambers of commerce (*ticaret odalari*) and city councils (*belediye meclisleri*), and in part by commissions comprised of treasury, tapu and population-registry (*nufüs*) officials. *Vergi* records like the *emlak* register

which is the focus of this study, were key sources of information in compiling these agricultural statistics.¹⁹⁸ The Asian provinces of the empire, including Palestine, were first surveyed in 1909.

The introduction to the 1909 survey clarifies that production levels as reported in the statistical compendium were derived from statistics on the amount of *uŝr* (tax on harvests) collected.¹⁹⁹ The tables of information show that landholdings of grains were reported in three divisions: those 10 dunams or less, those between 10 and 50 dunams, and those larger than 50 dunams.²⁰⁰ It is very important to note, these figures do not reflect the total amount of agricultural properties held by farming families but, rather, the size of their *tarla*, fields for growing grains. This appears not to have been understood by two foundational researchers who have used these statistics, Arthur Ruppın and Avraham Granott.²⁰¹ The under-calculations this led to have influenced not only generations of scholarly writing on Palestinian land-tenure in the Ottoman period but also political decisions.

¹⁹⁸ Tefvik Gran, ed. *Osmanlı Dnemi Tarım İstatistikleri 1909, 1913, ve 1914 / Agricultural Statistics of Turkey During the Ottoman Period*, vol. 3 (Ankara: Devlet İstatistik Enstits, 1997), xviii. Turkish.

¹⁹⁹ *Ibid.*, xviii, xxi.

²⁰⁰ *Ibid.*, Table 3.2 (1909 statistics for areas today in Turkey); *1325 senesi Asya ve Afrika-i Osmanı ziraat istatistiđi* (1909 Asian and African (provinces') Ottoman agricultural statistics (Dersaadet (Istanbul): Matbaa-i Osmaniye, 1327 / 1911); Jerusalem is on page ٤. Ottoman Turkish. Accessed through HathiTrust.org on 6 Jan. 2016.

²⁰¹ Avraham Granott, *The Land System in Palestine, History and Structure* (London: Eyre & Spottiswoode, 1952), (trans. by M. Simon of *Ha-Mishtar Ha-Qarqa'l b-Aretz Israel* (The Land Regime in the Land of Israel) (Dvir: Tel Aviv, תש"ט (1948/49)), 38-39. Arthur Ruppın, *Syrien als Wirtschaftsgebiet* (Syria as an Economic Region), 1917 (2nd edition, Berlin and Wien: Benjamin Harz, 1920), 84-87. German.

Before immigrating to Palestine in 1908, in the early years of the twentieth century Arthur Ruppin was director of the Berlin *Verein für jüdische Statistik* (Society for Jewish Statistics). Sent to Palestine by the World Zionist Organization (WZO) in 1907 to investigate settlement possibilities, Ruppin established WZO's Palestine Office in Jaffa in 1908 and the Palestine Land Development Company in 1909. He was an influential member in a number of the Zionist movement's infrastructural organizations during the Mandate, from educational and banking institutions to the Mekorot water company, the Jewish National Fund (*Keren Kayemet l'Israel*, JNF), the kibbutz movement and the *Histadrut* workers' union.²⁰² His importance to the work of Zionist settlement in Palestine cannot be underestimated. "Ruppin's abilities and achievements made him, within a short time, the [Zionist] movement's 'primus inter pares' expert in all matters connected with Palestine Consequently...the frontiers of the Jewish state in the first Partition Proposal of the *Royal (Peel) Commission* in 1937 as well as the subsequent one of the *United Nations Special Commission in Palestine* just a decade later, in 1947, actually followed what Ruppin had prepared when he began his activities in Palestine... ." ²⁰³

Abraham Granott (Granovsky) was born in 1890 in Folesti, today part of Romania. He became head of the (JNF) in 1919 and settled in Jerusalem in 1922, when the JNF head

²⁰² Etan Bloom, *Arthur Ruppin and the Production of Pre-Israeli Culture* (Leiden: Brill, 2012), 1-2; Arieh Tartakower, "Arthur Ruppin (1876-1943)", *Jewish Social Studies*, 5/1 (Jan. 1943), 89-90.

²⁰³ Bloom, 3-4.

offices were established there. In 1949 he was elected to Israel's first parliament and served as chair of the finance committee.²⁰⁴ At mid-century, he was also world chairman of the Jewish National Fund.²⁰⁵ Granott was a prolific researcher and writer, and his publications on land-tenure, taxation, and agriculture in Palestine/Israel span from the 1920s to his death in 1962. Perhaps his best-known work is *The Land System in Palestine* (1952). This foundational work is, as Charles Smith recently noted, "still a very important source used by students of the land issue."²⁰⁶

Ottoman 1909 agricultural statistics state that there were then in the Jerusalem *qada* (district) belonging to the Jerusalem *sancak* (province), a population of 50,000 males and 70,000 females. It states that 3,000 *hanes* in the district were employed in agriculture, and that 160,000 dunams in the district were planted with grains (*hubūbāt*). Of the 3,000 *hanes*, it was recorded that 2,000 farmed between 10-50 dunams of field-crop land (*tarla*) and 1,000 farmed more than 50 dunams. On the basis of this data alone it was calculated in the statistical register that in the Jerusalem province, which covered the entire southern half of Palestine at the time, 67 percent of farmlands was plots of more than fifty dunams in size, and 33 percent of the agricultural land was plots of 10-50 dunams in size. No holdings

²⁰⁴ Theodore Hatalgui, "Granott (Granovsky), Abraham", in Michael Berenbaum and Fred Skolnik, eds. *Encyclopaedia Judaica*, 2nd ed., vol. 8 (Detroit: Macmillan Reference, 2007), 33. *Gale Virtual Reference Library*, accessed 29 July 2015.

²⁰⁵ Jewish Telegraph Agency online archives: jta.org/1949/02/27/archive/dr-abraham-granovsky-world-head-of-jewish-national-fund-arrives-in-new-york . Accessed 10 July 2015.

²⁰⁶ Charles Smith, *Palestine and the Arab-Israeli Conflict* (7th ed, 2010): p.152, note 31.

smaller than ten dunams were recorded among *hane* holdings. According to the final column in the table, the average amount of land planted with grains by a *hane* in the province was 53 dunams.²⁰⁷ These numbers are shown in table form in Table 3.1, below.

In 1917 Ruppin, relying on what he described as a “semi-official publication”, reproduced these statistics in table form, along with statistics for the provinces of Aleppo, Damascus, Homs, Beirut, Tripoli, Latakia, Karak, ‘Akka, and Nablus.²⁰⁸ However, either Ruppin or the source he relied on misunderstood the categories. His source, *Résumé de la Statistique agricole de la Turquie d’Asie et d’Afrique pour l’année 1325*, was published by the Union permanente des délégués du commerce étranger in Istanbul. This international union, founded in 1905, was composed of representatives of the five foreign chambers of commerce then existent in Istanbul and representatives of a further nine nations that had interests in the Empire but no chambers of commerce in the capital. The member states were Germany, England, USA, Austria-Hungary, Belgium, Spain, France, Greece, Holland, Italy, Persia, Romania, Russia, Sweden, and Norway.²⁰⁹

²⁰⁷ *1325 senesi Asya ve Afrika-i Osmanî ziraat istatistiği* (1909 Asian and African (provinces’) Ottoman agricultural statistics, page ٣.

²⁰⁸ Ruppin, 86.

²⁰⁹ About this organization, see the rapport général of the first *Congrès des chambres de commerce françaises à l’étranger, aux colonies et pays de protectorat*. (Bordeaux, 1907), p.22. French. Available online at: <https://books.google.com/books?id=zZ8pAAAAYAAJ> . Accessed 31 July 2015

Table 3.0

**Grain-Farming in the Jerusalem District and Province, according to Ottoman
Agricultural Statistics, 1909**

Location	Population (m. + f.)	Dunams planted with grains	Hanes employed in agriculture	Agricultural-hane holdings			Average dunams/hane planted w/grains
				< 10 dunams	10-50 dunams	> 50 dunams	
Jerusalem district (qaḍa)	120,000	160,000	3,000	--	3,000	1,000	53
Jerusalem province (sancak)	No info.	No info.	No info.	--	67 %	33%	53

Source: 1325 senesi Asya ve Afrika-i Osmanı ziraat istatistiği (1909 Asian and African (provinces') Ottoman agricultural statistics, page ٤.

However, seemingly missing from the *sancak* provincial data for grains was the data for the *qaḍas* (district) of Hebron, Jaffa, Gaza, and Bir al-Saba', as Table 3.0 shows. Further, Ruppin understood *hane* to represent a conjugal family when, based on 1905 population data, it is uncertain that this was the case. Moreover, Ruppin or the translated source he used seems to have been unaware that the introduction that accompanied the Ottoman survey of 1909 presented a caveat to its statistics. Since land size was extrapolated from the *'uṣr* tax on crops, the compilers stated that they believed that production estimates were more reliable than the data for size of cultivated areas. In their estimation, the size of cultivated areas had had been underestimated by 25 to 30 percent.²¹⁰ Ruppin, to his credit, stated that the figure of 3,000 "familien" working in agriculture in the Jerusalem mutasarrıflık (he identified all the *sancaks* as mutasarrıflıks) was far too low, and he expressed reservation about the reliability of the statistics on more than one point.²¹¹ However, a general attitude of the time (and well into the twentieth century) among westerners was that Ottoman data was unreliable. His reservations, then, have not led to investigation by subsequent authors.

Granott appears to have relied on Ruppin.²¹² He states, however, that his source is "official Turkish data of the year 1909".²¹³ Compounding the problem, Granott assumed that

²¹⁰ Güran (1997), xviii.

²¹¹ Ruppin, 86.

²¹² See the discussion in Granott (1952) on pp. 38-39.

these statistics represented the *total* agricultural landholdings of Palestinian families. He concludes, “The great majority of the *fellaheen* in the sanjāqs of Jerusalem and Nablus – 67 percent in the *sanjāq* of Jerusalem and 63 percent in that of Nablus – were in possession of plots of less than 50 dunams to a family, and such an area was reckoned at that time only as a small holding.”²¹⁴ However, the statistics he brings, those presented by Ruppin and reproduced in Table 3.0 above, took only grain land into account. Other agricultural products – olives, fruit trees, vineyards, and vegetables – are listed in subsequent sections of the statistical register. For example, it is recorded that there were 3,593,566 olive trees in the Jerusalem sancak.²¹⁵ Precisely, according to the statistics, there were 3,550,000 olive trees in the Jerusalem district (*qaḍa*), 12,000 in the Gaza district, and 31,566 in the Yaffa district of the Jerusalem province.²¹⁶ The register also recorded 37,360 dunams of vineyards (*bağ*) in the Jerusalem sancak: 10,000 dunams in the Jerusalem district, 15,000 in the Gaza district, and 12,360 in the Jaffa district.²¹⁷ It is not clear why the district of Hebron was

²¹³ The footnote preceding the discussion of the 1909 data is an article by Ruppin that appeared as a supplement in a German-language journal about tropical agriculture in December 1916, *Tropenpflanzer*. The title of the article is the same as the title of the 1917 book quoted here in its 1920, second edition. The source of the 1909 data itself is not referenced, other than the description in the text quoted here.

²¹⁴ Granott (1952), 39.

²¹⁵ *1325 senesi Asya ve Afrika-i Osmanı ziraat istatistiği* (1909 Asian and African (provinces’) Ottoman agricultural statistics, page 175.

²¹⁶ *Ibid.*, pp. 216-217.

²¹⁷ *Ibid.*, p. 242.

excluded from the statistics, or why Jerusalem's many districts were excluded from the Jerusalem province's grain count discussed above. Neither author was aware of these facts.

Both Ruppin and Granott concluded that this data as they understood it was evidence that affirmed that the majority of *fallahin* in the Jerusalem province (and all of Palestine) by this time were sharecroppers, and the majority of farmland in the hands of large landowners.²¹⁸ The significance of this interpretation has been twofold. First, it relates to the economic well-being of farmers. The claim that the majority of villagers were subsistence farmers will be discussed in this chapter. Second, it refers to the degree of desolation of the land and, concomitantly, the room available for Zionist immigration and settlement on the land on the one hand and, on the other, the gap between Zionist and Palestinian levels of production. Granott's argument is clear: "...it was a predominantly agricultural country with a backward system of tillage, whether from the point of view of the exploitation of the soil or of the low standard of life it provided for the majority of its inhabitants. ... the inhabitants were poor and few in numbers, and were not able to till more than a portion of the land which was available for sowing. Large areas were, therefore, left desolate without any occupation ...".²¹⁹ In the following section, we will examine registered agricultural holdings of Hebron's villages according to the *Emlak* register of 1876.

²¹⁸ Granott (1952), 38-39.

²¹⁹ *Ibid.*, 34-35.

An Overview of Agricultural Properties and Their Registration in Hebron

Agricultural-property registration in the 1876 *Esas-ı Emlak* register for the villages of the Hebron district indicates two principal types of ownership. First, individuals and individuals with one partner (and exceptionally, more than one) registered parcels of land and olive trees. These properties were recorded in the *emlak* register under the name of one individual and, in the case s/he had a partner, there was a notation such as “and partner” or “and brother”. The name of the partner was never recorded. As will be discussed below, some of these registrations were what I call representative ownership. The owner registered in the *emlak* register was the head of a corporate group of farmers. Second, there were explicitly communal properties. These included properties denoted as *musha* and also large quantities of dunams, usually of field-crop land and/or olives, which were registered *en bloc*, wholesale, to the people of a given village communally. These will be discussed in detail below.

Elucidation of the magnitude of the registration project is found in summary enumeration of the properties that were registered. There were 3,682 residences registered in the district’s villages. (See Appendix 2.) Across the district there were registered to individuals 1,450 garden plots; 1,592 plots of fruit trees (fig and occasionally lemon) and

orchards (*bustān*); 1,623 plots of grapevines (*bağ*); 372 olive-tree holdings; and 3,852 plots of field-crop land.²²⁰

Regarding field-crop land, individuals in the district registered a total of 173,337 dunams of land. This is exclusive of non-settled farmlands (*mezras*).²²¹ The *mezras* together amount to more than 14,000 dunams of *tarla*, as well as 312 olive trees.²²² In addition to this, field-crop land registered *en bloc* across the district amounted to almost a quarter million dunams.²²³ Villages also registered *en bloc* more than 39,000 olive trees.²²⁴ Table 3.1 on the following pages details the size of *en bloc* holdings registered by each village. The significance of this type of holding will be discussed below.

²²⁰ I am in the process of creating a full database for all fifty villages and eight *mezras* of the district. It will include each of the almost-13,900 entries in the register. For the villages which have not yet been entered into the database or have only partially been entered, page-by-page tabulations of numbers of plots have been entered into specific-subject databases. I have endeavored to double- and triple-check calculations; nevertheless, there may be small counting errors.

²²¹ To be precise, forty-nine villages registered 161,872.25 dunams. The amount of field-crop land registered by individuals in Bani Na 'im has not yet been calculated. There, 1,296 plots of field-crop land were registered to individuals. These entries cover 38 register pages, slightly more than ten percent of the register's 337 filled pages.

²²² To be precise: seven of the *mezras* together encompassed 13,818 dunams. The eighth *mezra*, the Maşfara, which according to the register's contents page should have been the final entry in the register, was not copied into this *esas* register from the draft register (the whereabouts of which are unknown).

²²³ To be precise, there was a total of 249,777 Ottoman dunams of land registered *en bloc* to Hebron's various villages.

²²⁴ Only in some cases were the number of olive trees registered *en bloc* recorded in the register. To arrive at this number, I have divided the total assessed value of olive trees registered *en bloc* (7,850,475 kuruş) by 200, which is the most commonly found value assessment of village trees in the register.

While Hebron is famous for its grapes, grape leaves, and grape-products such as *dibs* and *malban*,²²⁵ vineyards occupied a relatively small percentage of recorded village lands. With the exception of Hebron's neighbors to the west and to the north, the villages of Dura and Halhul, none of Hebron's sixteen grape-growing villages registered more than 1,000 dunams of grape vines. District-wide (the town of Hebron's lands excluded), only 6,604.25 dunams of *bağ* were registered, all of it to individuals or individuals with a partner. Individual plot sizes were small; the average size of a parcel was 4.07 dunams. The crop was highly valued; its per-dunam value in 1876 was routinely assessed at averages that ranged from village to village between 500 and 700 kuruş.²²⁶ Olives, although not grown as extensively as in the Nablus region, were also grown in much of the Hebron district. Thirty-nine of Hebron's fifty villages registered olive trees; their assessed value across the district totaled more than 8.5 million kuruş.²²⁷ Using an average value, where calculable, of 200 kuruş per olive tree, it can be deduced that there were more than 42,500 olive trees across the district.²²⁸

²²⁵ *Dibs* is grape molasses; *malban* is dried grape rolls. Both are still locally produced and marketed today in Hebron and abroad.

²²⁶ e.g., the average value-per-dunam of vineyard land in the four villages with the largest holdings of grapevines were as follows: Dura: 725 kuruş per dunam; in Halhul, 499 kuruş; in Taffuh, 640.2 kuruş, and in S'air, 577.67 kuruş.

²²⁷ In most villages olives were registered collectively. In only eleven villages olives were registered to individuals, and in four of the eleven, between one and three individuals owned olives alongside much greater quantities registered collectively to the village. In the case of *en bloc* registration of olive trees, the number of olive trees was often not given.

²²⁸ The assessed value of olive trees was calculated according to the number of trees. In cases in which the number of trees were not included in the register, I have estimated the number by dividing the assessed value by 200 (kuruş), which is the value most often assigned to olive trees in the district.

Table 3.1: *En-bloc* holdings of Hebron villages, 1876

Village	Field-crop land		Olive trees		Vegetable gardens		Vineyard / Orchard	
	(dunams)	Value (kuruş)	(#trees)	Value (kuruş)	(dunams)	Value (kuruş)	(dunams)	Value (kuruş)
Bayt Jibrin	21,768	3,809,500	3,200	320,000				
Yatta	21,312	3,200,000						
Dayr Aban	5,624	984,200	4,086	919,350				
Dwayme	16,711	2,924,500	1,262	132,750				
Ajjur	4,050	708,750	4,960	496,000				
Halhul	15,300	2,677,500						
Bayt Natif			4,305	215,250				
Surif			1,480	148,000				
Tel al-Safi	26,496	4,752,500	842	84,250				
Zakariyya	3,680	644,000	12,136	1,213,625				
Bayt 'Itab			(no info.)	328,625				
Bayt Ula	10,675	1,866,625	1,400	140,000				
Idhna	13,000	2,588,625	2,000	200,000				
Taffuh	6,074	911,125	2,400	300,000				
Barkusiyya	7,434	743,500						
Dhikrin	16,588	2,461,000	1,170	58,500				
Nuba	5,633	845,000	2,225	222,500				
Tarqumiyya	5,576	975,875	3,000	300,000				
Dhahriyya	11,421	1,853,625						
Bayt Umar	9,600	1,440,000	(no info.)	20,750				
Samu'	14,457	2,004,575						
Haris	5,069	887,125	1,490	223,500				
Bayt Fajjar	2,000	305,875						

Village	Field-crop land		Olive trees		Vegetable gardens		Vineyard / Orchard	
	(dunams)	Value (kuruş)	(#trees)	Value (kuruş)	(dunams)	Value (kuruş)	(dunams)	Value (kuruş)
Dayr al-Nakhas	3,032	541,750	671	67,125				
Ishw'a	2,525	441,875	1,506	226,125				
Shuyukh	1,000	100,000						
Ras Abu 'Amar			(no info.)	16,625				
'Allar			1,530	153,000				
Husan	(no info.)	280,000	(no info.)	6,000				
Kasla	856	170,000	1,562	387,500				
Qubayba	8,940	1,341,000			102	25,750		
Kidna	2,766	484,000	800	80,000				
'Aqqur			4,268	597,500				
Dayr al-Hawa	1,125	1,042,375	<i>(note: field-crop land and olives combined)</i>					
Dayr al-Shaykh			4,125	618,750	26	25,625		
Dayr al-Dabban	2,791	504,250	279	55,875				
Sar'a	3,466	1,088,375	750	187,500				
Zeyta	14,808	2,709,750						
Bayt Kahil	2,000	300,000					20	15,000
R'ana	3,691	459,375						
Jarash	1,100	193,500	(no info.)	56,875				
Qabu	(no info.)	280,000	(no info.)	6,000				
Sufila			(no info.)	56,600				

Source: ISA, 1876 (1292) *Esas-ı Emlak* register for the villages of the Hebron district

In sum, then, between individual registrations of field-crop land, farmlands, and communally registered field-crop land, rural Hebron encompassed 437,337 (Ottoman) dunams of *tarla*. Mathematically speaking, had the sum of properties been divided equally among all the residence holders in the district, each would have had 117 dunams of field-crop lands, 11.5 olive trees, 1.8 dunams of grapes, and perhaps a garden plot and some fruit trees. To what degree did registration reflect the reality? There are not many statistical data sets available we can refer to, for relative indicators of comparison. One is the *Village Statistics* compiled by the Mandate government in the mid-1940s. However, the time difference between the two estimations (seventy years), the redrawing of district lines in the interim, and the difference in units of measurement (Ottoman dunams are slightly smaller than metric dunams) make comparison cumbersome. Nevertheless, as a relative indicator it can be noted that in 1945, in the Hebron district according to its size at the time, there were found to be 67,259 metric dunams of plantations and irrigable lands and 590,606 dunams of cereal lands.²²⁹

In the following sections of this chapter, the process of registration and patterns of landed wealth of individuals and of villages in the Hebron district will be examined in detail. Before plunging in, it needs to be recalled, registration of a property in the *Esas-ı Emlak* was not a registration of *title* to that property. The *emlak* register was a register of property for tax purposes. Title was issued through *tapu* registration. That said, registration in the *emlak*

²²⁹ *Village Statistics*, Table 2, p. 79.

register signified ownership and, most significantly, it could be used to help prove ownership in cases of dispute or application for a tapu deed.

Appendix I to this study reproduces an image of two register pages and a translation of the form headlines on the pages of Hebron's *Esas-ı Emlak* register. The heading on the column for names, *esām-ı ashāb-ı emlak*, indicates that the tax obligation was to be registered in the "name of the owner(s) of the property". However, as will be discussed in Chapter 4, there did not necessarily need to be congruency between the *tapu* and tax lists, although this was undoubtedly the long-term Ottoman goal.²³⁰ It was possible to register a property in the *emlak* without registering it in the *tapu*. In the absence of a *tapu* register for Hebron with which we can compare, it is impossible to estimate the degree to which one was divergent from the other in Hebron. It can be reasonably assumed, though, that at this juncture the tax register was the more thorough record, at least in the early decades of reform.²³¹

***Emlak* registration as a strategy**

One who wishes to discuss *average* or *typical* patterns of rural land ownership in Hebron quickly runs into difficulties. While we can divide claimed ownership into two typologies, individual/partner and communal, an examination of patterns of registration from village to village reveals that there was flexibility allowed in registration. Individuals, family groupings

²³⁰ Mundy and Saumarez-Smith, 108-109, 135, 204.

²³¹ Gerber (1985),

and villages strategized their methods of registration according to their properties and intra-village social dynamics. An illustrative sampling of four villages will clarify why this is so.

Dayr al-Hawa

Dayr al-Hawa, a village that would be destroyed by Israeli forces in 1948, was situated on a mountain top, 18.5 kilometers west-southwest of Jerusalem among a cluster of villages both small and large. (See Image 1.1, District Map.) Dayr al-Hawa was one of the smaller villages in the district, with just twenty-six residences. These homes were registered to twenty-five different individuals. Thirteen of these householders also registered vegetable gardens in their names. Gardens were the only type of agricultural lands that were registered to individuals in Dayr al-Hawa. According to the *Emlak* register, there were 85.25 dunams of garden plots in the village. Twenty-seven gardens were registered to twenty-three individuals. These were small plots, but only four of them were small enough to qualify as *mülk* according to Land Code reforms. The rest were larger than half a dunam, technically *miri*. Nine of the gardens were five dunams or larger; the largest two were eight dunams each.

These gardens were valued across the board at 500 kuruş per dunam, equivalent to the district-wide average. Nine of these plots were claimed by individuals who did not register a residence. This suggests that these nine were a member of the households of their fathers or of other relatives. Additionally, there were thirteen householders who did not register a garden in their names. One of them, Ḥamād b. S'ad Şafīyya, owned an apparently dilapidated (olive) press valued at a modest 250 kuruş. The other two presses in this tiny village, one belonging to

Muhammad b. Ḥamdān Ḥamīda and the other to Hasan b. Ṣāliḥ Musa, were valued at and slightly above the district-average value, at 3,000 and 3,375 kuruş respectively.²³² We can understand that the village was relatively rich in olives.

Dayr al-Hawa's olive groves, as well as its field-crop land, were registered *en bloc* to the village.

In this hilltop village, trees were planted on slopes and terraces, and grains were planted in the valleys.²³³ Collectively, the village registered 4,172 olive trees and 1,125 dunams of *tarla*.²³⁴

Although it is not known how many shareholders had stake in these lands, we can take the number of residences as a rough estimate. This calculation yields an average of 166.88 olive trees as well as 45 dunams of *tarla* available for each household, in addition to individuals' gardens, placing the small village just above the conventionally placed threshold of subsistence.

Sar'a

Dayr al-Hawa's neighbor to the north was likewise a small village of twenty-six residences, and it would share its neighbor's fate in 1948. In *All That Remains*, the village is described in the years before its demise as having three quarters, mud-and-stone houses, 115 dunams of olive trees, 2,979 dunams of field-crop land, and 194 dunams of orchards. The village was located

²³² *Esas-ı Emlak*, entries 3207, 3194, 3215.

²³³ Walid Khalidi, ed. *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948* (Washington, DC: 1992): 285.

²³⁴ *Esas-ı Emlak*, entry 3243. To compare, *Village Statistics* of 1945 lists only 1,565 metric dunams of cereal land belonging to the village. (p. 102).

two kilometers from the main road between Bayt Jibrin, at the southwestern base of the Hebron foothills, and the Jerusalem-Jaffa road.²³⁵

In 1876, recorded in the village were twenty-six residences of varying values, from Ḥamād b. Ḥamdān Laṭf's three-building *hane* valued at 3,000 kuruş, the first property to be listed among village entries, to a number of modest *odas* valued at 250 and 375 kuruş. The owner of one of these modest homes, Ahmad b. Muhammad Khalayle, also owned a stable in the village, and in the center of town there was a communally owned guesthouse (*menzūl*) upon which, as was customary, the vergi property tax was not imposed.

Among the village's agricultural entries were six small plots of fig trees totaling 65.75 dunams, and a three-dunam vegetable garden. These properties were recorded as belonging to an endowment, and designated as "waqf [al-]dayr" (lit., the endowment of the monastery), and a different householder was recorded as the *mutawalli* of each, responsible for its management. Aside from these seven plots, registered to the village *en bloc* were 3,466 dunams of field-crop land valued at 314 kuruş per dunam, slightly more than twice the average assessed value for *tarla* in the district; and 750 olive trees, each tree valued at 250 kuruş, also above the average district value. If the number of shareholders in these properties was not greater than the number of householders, this small village's farmers must have often

²³⁵ Walid Khalidi, ed., *All That Remains: The Palestinian Villages Occupied and Depopulated by Israel in 1948* (Washington, D.C.: Institute for Palestine Studies, 1992):314.

harvested surplus it could sell or barter, with an average of 133 dunams of field-crop land to till and farm and 28.8 olive trees per household, as well as a dunam or two of figs.

Surif

Surif, a large village with 125 residences situated at the northern end of the Hebron plateau, had relatively little agricultural land in relation to other villages its size in the district, according to the *Emlak* register. With the exception of olives, of which the village registered 1,480 trees *en bloc*, villagers decided to register their agricultural lands individually. These properties were comprised of garden plots, field-crop land, fig trees, and vineyards, totaling 6,588.75 dunams. The overwhelming majority of this property was field-crop land; the other properties covered just 355.75 dunams.

Five individuals in the village registered unusually large, single parcels of field-crop land alongside their other agricultural properties. ‘Uthman b. Na ‘im Sāfī, Sāfī b. ‘Awdallah Lāfī, and Salman b. Salīm ‘Ara‘r each registered a plot of 850 dunams. Muhammad b. Hassan registered, together with a partner, a plot of 1,250 dunams, and Nūfal b. Šāliḥ ‘Adwān registered a plot of 1,275 dunams.²³⁶ The location of these properties is not distinctly specified; in Surif, all village properties were registered as being located “on the edges of the village” (*aṭrāf al-balad*). It would appear that each of these five properties was a large, contiguous parcel. Except for *en bloc* lands and some of the *musha* entries, about which detailed information is not given, one contiguous parcel per entry is an observable pattern throughout the register. Distinct plots or

²³⁶ *Esas-ı Emlak* Surif entries 194-198.

non-contiguous parcels owned by one individual were recorded on separate register lines. Likely, these five large entries were representative holdings – division of the village’s (former?) musha into extended-family (*ḥamūla*)-based proportional shares, for which each of these five men claimed responsibility for the tax burden for his group. In addition to these large shares, these five men each held some other agricultural properties. ‘Uthman registered two plots of field-crop land, one 36-dunams in size and the other 35 dunams.²³⁷ Nūfal owned another four small plots, together totaling 39.5 dunams.²³⁸ Salmān registered two dunams of figs and a 27-dunam plot of field-crop land. Ṣāfī and Muhammad each registered another two small plots; each claimed just 3.25 dunams.²³⁹

An examination of the other Surif villagers’ landholdings reveals an economically stratified village. There were largish landholders of single plots, such as Ahmad b. Hassan Fār, who registered a single plot of 80 dunams of field-crop land. His relative Muhammad b. Husayn Fār likewise registered a fair amount of land, 135.25 dunams split between ten distinct parcels: a vegetable garden of 3.75 dunams; three plots of fig trees (one dunam, 3.25 dunams, and 4.25 dunams in size); and six entries of field-crop plots which measured, 15 dunams, 25 dunams, 8 dunams, 30 dunams, 15 dunams, and 30 dunams in turn.)²⁴⁰ Ibrahim b. ‘Ali registered just one agricultural plot, but at 45 dunams, it was sizable. And some villagers claimed very little land.

²³⁷ *Esas-ı Emlak* Surif entries 150, 178.

²³⁸ *Esas-ı Emlak* Surif entries 69, 87, 164, 166.

²³⁹ *Esas-ı Emlak* Surif entries 47, 85, 80, 108.

²⁴⁰ *Esas-ı Emlak* Surif entries 24, 78, 139, 145, 169, 173, 177, 179, 180, 201.

‘Abd al-Rahman b. Ḥamdān Fār’s three plots of land amounted to just eighteen dunams.²⁴¹

Ahmad b. Naṣār Ahmad also registered eighteen dunams, but it was all located within one plot of field-crop land.²⁴²

Nahalin

Ten kilometers southwest of Bethlehem and today belonging to the Bethlehem district, Nahalin registered all its lands to individuals in 1876. The village was comprised of twenty-five residences (*hanes* and *odas*) varying widely in value. Two were valued at 3,000 or more kuruş; seven fell in the 2,000 – 2,500 value range; four residences were valued at between 1,000 and 1,250 kuruş; and the remaining twelve were evaluated at between 500 and 750 kuruş.

On Nahalin’s registered agricultural lands, grains, vegetables, figs, and olives were grown. The village appears not to have had much field-crop land. Rather, its wealth was in figs, which were valued at 2,000 kuruş per dunam. Two villagers appear to have claimed responsibility for collecting the vergi on most of the village’s gardens, figs, and field-crop land. Shaykh Hassan b. ‘Abdallah and ‘Aliyān b. Muhammad Yāsīn each registered in his name twelve dunams of vegetable gardens, twenty-five dunams of fig trees, and 185 dunams of *tarla*. An individual named ‘Ali b. ‘Aliyān appears to have been a third, somewhat lesser partner in this arrangement, even though the *Emlak* register states he had migrated north to the larger village of Bayt ‘Iṭāb. In his name were registered 197 dunams of field-crop land, divided between one

²⁴¹ *Esas-ı Emlak* Surif entries 130, 142, 172.

²⁴² *Esas-ı Emlak* Surif entry 184.

plot of 185 dunams and one of 12 dunams. Table 3.2 on the following page replicates the division of lands between them in the *defter*, over eight sequential *defter* entries.

Table 3.2

**Registration of Agricultural Properties
aside from olive trees in Naḥālīn: Representational Ownership**

Register entry #	Village agri. entry #	Owner's Name	Property type	Dunams	Value (kuruş)	Vergi (tax) (kuruş)
4765	1	Shaykh Hasan b. 'Abdallah	garden	12	7,000	28
4766	2	Ditto (<i>bū dāḥī</i>)	figs	25	50,000	200
4767	3	ditto	<i>tarla</i>	185	29,125	116.5
4768	4	'Aliyān b. Muhammad Yāsīn	garden	12	7,000	28
4769	5	ditto	figs	25	50,000	200
4770	6	ditto	<i>tarla</i>	185	29,125	116.5
4771	7	'Ali Aliyān (living in the village of Bayt 'Iṭāb)	<i>tarla</i>	12	4,000	16
4772	8	ditto	<i>tarla</i>	185	29,125	116.5

The village's other registered agricultural properties were all olive trees. eleven individuals registered twelve plots of olive trees and, additionally, a man identified only as 'Aliyān was designated *mutawalli* over a thirteenth plot, which had been made waqf. The olive-tree entries varied in value from 250 to 3,000 kuruş. The largest owner was Salāḥ b. Muhammad Fanūn. His plot was the only olive-tree holding valued above 2,000 kuruş. The endowed trees under 'Aliyān's care were assessed at a value of 2,000 kuruş. The size of these olive-tree holdings can

only be estimated; while their assessed value was recorded in the register, neither the number of trees or the size of the land was written down. The total value of olive trees registered in the village was 16,000 kuruş which, according to average district values, translated into about 80 trees.

These two or three representational owners, Shaykh Hasan, ‘Aliyan, and ‘Ali, do not appear to have had other landed wealth. Shaykh Hasan did not register other lands, aside from these. His only other registered property was his *hane* which, at a value of 1,000 kuruş, must have been comparatively modest in the village. ‘Aliyān’s residence was one of the 2,000-kuruş homes. He also registered olive trees in his name, valued at 1,250 kuruş. ‘Ali ‘Aliyān did not register other properties in the village.

According to the *emlak* register, Nahālīn villagers appear to have been agriculturally poor. It is relevant to note, however, that other sources indicate that Naḥālīn had considerably more lands than what it registered. The 1945 *Village Statistics* attribute to the village 1,551 dunams of plantations and irrigable land (483 of which was then owned by Jews) and 5,095 dunams of cereal lands (436 of which had been purchased by Jews).²⁴³ Yossi Katz, who has researched Zionist acquisition in the Etsion bloc, found that 440.7 dunams of Naḥālīn’s *musha* lands and 419.3 dunams of its privately owned land (*mafrūz*) were transferred through

²⁴³ *Village Statistics*, Table 2, p. 103.

purchase to the Jewish National Fund in the 1930s and 40s, and this transfer was registered in the tapu during the Mandate.²⁴⁴

Types of Property Registration Part I: Villages in which all properties were registered to individuals

Only six of Hebron's fifty villages registered every property in the *emlak* register under the name of an individual or in a small partnership that rarely exceeded two individuals. These villages were Sa'ir (108 residences), Bani Na'im (89 residences), Wadi Fukin (34 residences), 'Artuf (29 residences), Nahalin (25 residences), and Jab'a (12 residences). In Bani Na'im alone, 1,549 agricultural-properties were recorded. The village's entries covered forty-one pages, more than ten percent of the registry book. These properties were varied: 1,296 entries of field-crop lands totaling 11,465 dunams; 151 vineyard entries totaling 1,319 dunams; two garden plots, together 7 dunams; 33 registrations of olive trees registered by dunam (121 dunams), and 67 registrations of fig trees covering 280 dunams. As an illustrative example of ownership patterns in these villages, we may consider the most populous and the least populous of these six villages, Sa'ir and Jab'a.

Sa'ir

Sa'ir is nestled in a valley eight kilometers northeast of Hebron. In 1876, 746 agricultural plots of village lands were registered to Sa'ir villagers and to people living in other villages: Shuyukh, Halhul, and Bayt Fajjar, as well as to people from the city of Hebron. These properties totaled

²⁴⁴ Yossi Katz, *HaHityashvut HaYehudit ba-Harei Hevron ve-ba-Gush Etzion 1940-1947 mi-"Mif'al Nahalat Herzog" le-Gush Etzion* (Tel Aviv: Bar Ilan University Press, 1992), Appendix 1, pp. 278-279. Hebrew.

10,714 Ottoman dunams. The lion's share of these properties were in field-crop land (9,916 dunams) and vineyards (751.25 dunams).

Most of the residence owners registered agricultural properties; eighteen residence owners did not record any properties other than their residences. Of course, there were also Sa'ir villagers who owned property but not a residence, and as mentioned, there were property owners who lived elsewhere. Most property owners owned a number of agricultural plots. Among all property owners, seventy-five recorded only one property, be it a residence, another type of structure in the village, or an agricultural property.

Sa'ir's agricultural properties consisted of 20 garden plots; 597 plots of field-crop land ranging in size from half a dunam to 120 dunams; 7 orchards; and 106 plots of vineyards. Additionally, one villager owned 5.75 dunams of olive trees spread out over three distinct properties in Wadi Sa'ir and another villager recorded owning half a dunam of olive trees.²⁴⁵

When we trace each of the names of each of the property holders across the pages of Sa'ir entries and sum individuals' total holdings from their individual entries, which were scattered throughout the Sa'ir pages, we find that half of the property owners registered thirty or fewer dunams and a third of them registered fifty dunams or more. An elite stratum of thirty-two individuals, 16 percent of property owners, registered 100 dunams or more in agricultural properties. Table 3.2 breaks down individuals' total ownership by dunams.

²⁴⁵ These were Muhammad b. Ḥamdān Ghurayr (غريير) (Sa'ir entries #418, #612, and #723) and Muhammad b. Ahmad Iḥdayb (أهديب).

Table 3.3

**Sum Quantity of Agricultural Properties Registered by Individual
Agricultural-Property Owners of Sa'ir Lands (in Ottoman dunams)**

# dunams total	1 - 10 dunams	10.25 to 20 dunams	20.25 to 30 dunams	30.25 to 40 dunams	40.25 to 50 dunams	50.25 to 60 dunams	60.25 to 70 dunams	70.25 to 80 dunams
# owners	39	37	22	14	14	11	8	10
% total owners	19.60%	18.59%	11.06%	7.04%	7.04%	5.53%	4.02%	5.03%
80.25 to 90 dunams	90.25 to 100 dunams	100.25 to 125 dunams	125.25 to 150 dunams	150.25 to 175 dunams	175.25 to 200 dunams	200.25 to 250 dunams	250.25 to 300 dunams	250.25 to 300 dunams
7	5	11	6	4	4	3	0	4
3.52%	2.51%	5.53%	3.02%	2.01%	2.01%	1.51%	0.00%	2.01%

Jab'a

The small village of Jab'a sits atop a hill that was in the northern part of the Hebron district. It is located about fifteen kilometers west and slightly south of Bethlehem. In 1876, the village was comprised of twelve modest residences, four of which were *odas* and eight of which were *hanes*. The residences varied in value between 500 and 1,250 kuruş. Their values suggest they were modest. In 1876, the village's residents registered thirty-five agricultural properties

consisting of gardens, fig trees, and four plots of field-crop land (*tarla*) that each measured 125 dunams.

The 31 plots of figs and vegetable gardens were registered in the names of thirteen individuals. One name among them stands out in the list, 'Ali b. Mustafa Hussān, who claimed seven plots of figs and hakuras totaling 10.5 dunams, a fair share of these being *mülk* properties. According to their assessed value, they were worth 10,250 kuruş. In sum, the villagers' vegetable garden plots totaled eleven dunams, and their fig-tree plots covered 31.5 dunams. When we calculate per-dunam values of these plots, we see they varied widely. Fig trees were valued from 750 kuruş per dunam to as high as 2,375 kuruş per dunam. The most common evaluation was 750 kuruş, but six of the twenty-one small plots of fig trees were valued at 1,000 kuruş per dunam or more. Similarly, with gardens we see that six of the ten plots were valued at 750 kuruş per dunam. Two of the other four were assessed at lower values (one at 166 kuruş per dunam, the other at 666 kuruş per dunam) while the other two were assessed higher (at 1,000 and 1,500 kuruş per dunam).

While the most common value assessment for field-crop land in the Hebron district was 150 kuruş per dunam, Jab'a's *tarla* was assessed at 200 kuruş per dunam, fifty kuruş higher than the average. The manner in which Jab'a's villagers chose to register their *tarla* is illustrative of a common way that communal land in Hebron villages was registered. The four shares, each 125 dunams, were registered to four individuals, 'Ali b. Mustafa Hussān, Ḥamdān

b. Maṣṣūr Shāīr²⁴⁶, Ahmad b. ‘Abd al-Laṭīf ‘Abd al-Dāim,²⁴⁷ and ‘Aliyān b. Sālim Hasan. It can be assumed that these four are representatives of the main families of the two *hamulas* that until today comprise this small village.²⁴⁸ The ordering of names and properties in the register gives some indication of this. Among the five Shāīrs, Ḥamdān is the first listed. Among the three Hussān’s, ‘Ali is also the first to be listed.²⁴⁹ The equality of the four shares of field-crop land indicates that village *tarla* lands were communal, or they had recently been divided among the families, or that this division represented the existing *musha* division among them, even though the properties were not recorded as such.

Types of Property Registration Part II: Musha (مشاع)

Musha has been a subject of interest and debate by researchers for more than a century. It has been variably defined as a category of land ownership like *miri* and *mülk*,²⁵⁰ a system of land

²⁴⁶ His family name is written in two variations in the register: Abu Sh’ar and Sh’air,

²⁴⁷ He is also referred to as Ahmad b. ‘Abd al-Laṭīf ‘Eid and, simply, Ahmad b. ‘Abd al-Laṭīf.

²⁴⁸ This pattern has been easier to identify in other villages. According to Jab’a village history, there are two main *hamulas* in the village until today. The *Mushā’ila* consists of three families: Abu Lawḥa, Abu Laṭīfa, and Ḥamdān. The other *hamula*, the Ṭūs, is made up of two family groups: Ahmad and Husayn. See the 2009 article by Dr. Muhib (Abu Muhind) Abu Lawḥa at palestineremembered.com/GeoPoints/al_Jab_a_1022/Article_16021.html, accessed 27 May 2015.

²⁴⁹ ‘Aliyān and Ahmad b. ‘Abd al-Laṭīf’s other family-group members are not readily identifiable from the list of names.

²⁵⁰ Roger Owen, *The Middle East in the World Economy 1880-1914* (London and New York: I.B. Tauris, 1984), 256 (and discussion 256-259); Kenneth Stein (1984), 14, and following him more recently, Michael Ewing, “Land Acquisition in Palestine in the Late Ottoman Period”, www.historian-nyu.com/michael-ewing---land-acquisition-in-palestine-in-the-late-ottoman-period.html#_ftn10, posted 2013; accessed 23 February 2015.

tenure,²⁵¹ a land-equalizing institution,²⁵² and re-partitional agricultural holdings shared by the whole village community²⁵³ Likewise debated have been its origins, its geographical inclusiveness, and the reasons it persisted.

The last of these questions has been the easiest to attempt to answer. Questions of origin and scope have been addressed, but these discussions suffer from the absence of a substantial body of evidence on which to draw. Accepted wisdom regarding musha is that it entailed (1) only large field lands found in the plains, (2) only grain and cereal production, and (3) frequent, periodic redistribution, every one to two years. In the second edition of the *Encyclopedia of Islam* (1993), we find the following discussion within the entry on *mushā'*:

Another important and difficult question is exactly where, geographically, did the *mushā'* institution exist? In the past it was usually held that practically the entire Middle East was governed by it. As research increases, the area of *mushā'* tends to diminish. Thus documents from the Judaeen mountains in the early 20th century indicate that *mushā'* did not exist there for a long time, if ever at all. In fact, the technicalities of the system raises [sic] some doubts whether *mushā'* had ever been very widespread in mountainous areas (periodical division necessitated blocks of flat land, while hilly agriculture in the traditional Middle East was mainly terrace-based). We are better informed on the disappearance of the *mushā'* system. This took place in association with the 19th-century Ottoman reform, starting mainly with the

²⁵¹ Roger Owen (1984), 35; Scott Atran, "Hamula Organisation and Masha'a Tenure in Palesitne", *Man*, New Series, 21/2 (June 1986): 271-295.

²⁵² Ya'akov Firestone, "The land-equalizing mushā' village: a reassessment" in Gad Gilbar, ed., *Ottoman Palestine 1800-1914: studies in economic and social history* (Leiden: Brill, 1990), 91-130.

²⁵³ Ruth Kark and David Grossman, "The communal (*musha'*) village of the Middle East and North Africa", in Walter Leimgruber, Roser Majoral and Cul-Woo Lee, eds., *Policies and Strategies in Marginal Regions: summary and evaluations* (Hants, England and Burlington, VT: Ashgate, 2003), 20-34.

1858 Ottoman land law. This law made it obligatory to register land in a registration bureau, while making it impossible to register *mushā'* property.²⁵⁴

The heart of the area today known in Hebrew and biblically as the Judean mountains is Hebron.

And evidence from both Hebron's sharia court records and the *emlak* register indicates that there was musha in the hills of Palestine. It has been shown to have existed in the hills of Ottoman Transjordan as well.²⁵⁵

Musha is communal ownership of property. Nothing more and nothing less. It can involve periodical redistribution of those lands among shareholders, but the length of time from re-distribution to re-distribution varied from place to place.²⁵⁶ The element of periodic redistribution of land generated much scholarly debate in the past, primarily centered on questions of whether it hindered development and progress, and whether it was a defensive mechanism to ensure that village lands remained in villagers' hands. The idea of a "musha village", however, is a sociological object more than a reality. For locals, the term simply meant

²⁵⁴ Haim Gerber and Ch. Pellat, "Mushā'." In P. Bearman, Th. Bianquis, C.E. Bosworth, E. van Donzel, and W.P. Heinrichs. Eds. *Encyclopaedia of Islam [EI], Second Edition*. (Brill Online, 2011). Accessed 4 December 2011. www.brillonline.nl/subscriber/entry?entry=islam_COM-0808 . Print edition published 1993. A revised entry on mushā' has not appeared in *EI's* third-edition in progress. An earlier formulation of this argument by Gerber can be found in his *Social Origins* (1986): 77-78.

For other examples of this line of argument see, for instance: Scott Atran, 'Hamula Organisation and Masha'a Tenure in Palestine', *Man*, New Series, 21/2 (June 1986): 271-295; and also his "Le Masha'a et la Question Foncière en Palestine, 1858-1948", *Annales, Histoire, Sciences Sociales*, 42/6 (November – December 1987): 1361-1389.

²⁵⁵ Mundy and Saumarez Smith, 156-163.

²⁵⁶ Amos Nadan, "Colonial Misunderstanding of an Efficient Peasant Institution: Land Settlement and Mushā' Tenuer in Mandate Palestine, 1921-1947", *Journal of the Economic and Social History of the Orient*, 46/3 (2003), 322; Schaebler, 245.

communal tenure.²⁵⁷ Musha was not restricted to land. For example, one of the olive presses in Bayt Natif was designated in the *emlak* register as musha.²⁵⁸

Regarding land, when we recall that a tapu title deed to waqf and miri lands was ownership of usufruct and not the land itself, the idea that one could own a musha share without owning the land or even a fixed place on that land is not an unfathomable leap in logic. Birgit Schaebler has argued musha “should be thought of more in terms of *access to* land than in terms of land itself.”²⁵⁹ I agree that the notions of “musha land” and “musha village” are imprecise. However, musha shares themselves were, or at some point became, property in the same way that usufruct was. So, for example, after the death of Mahmoud b. Sālim Rifāī’a Abī Sneine of Hebron, his inheritors appeared in the Hebron court room and, among his possessions which they divided among themselves there, were seven parcels of land varying in size from half a feddan to two feddans and “half a share (*qirāṭ*) of musha in the lands of Khirbet Zayt”.²⁶⁰

There is still confusion in scholarly literature about whether the Land Code and subsequent reforms outlawed musha, as can be seen in the quoted passage above from the *Encyclopedia of Islam*. This point is consequential because it has provided a foundation for

²⁵⁷ Martha Mundy, “La propriété dite mushâ’ en Syrie: à propos des travaux de Ya’akov Firestone”, *Revue du monde musulman et de la Méditerranée*, 79-80 (1996), 273-274.

²⁵⁸ *Esas-ı Emlak* entry #2636.

²⁵⁹ Schaebler, 246.

²⁶⁰ HR 13 / 70 / 401 (8 Jumadi II 1308 / 19 January 1891).

assertions that the continuance of musha is proof that Ottoman land reforms were resisted by the *fallahin*, evaded and, thus, failed in Palestine. The debate began after the fall of the Ottoman Empire, in the early years of British rule over Palestine. It has focused on Article 8 of the Land Code. This article states,

All of the lands of a town or village cannot be granted wholesale (*toptan olarak*) to the whole of its inhabitants, nor by choice to one, two, or three from among them. Different pieces of land are to be awarded to each inhabitant (*her şahsa başka başka arazi ihale olunarak*), and title deeds showing their usufruct (*tassaruf*) are to be delivered to them.²⁶¹

The idea that Article 8 forbade musha landholdings was first challenged in scholarly literature in 1927, by R.C. Tute, then president of the Mandate Land Court in Palestine.²⁶² Tute reasoned, “The proviso implied by making the article apply only to a grant of the whole of the lands of a village, appears to legalise a grant of some of the lands in common.”²⁶³ This notwithstanding, misunderstandings have persisted in the literature about Ottoman intentions to dissolve musha, and its legal permissibility after land reforms.²⁶⁴ The key phrase in Article 8

²⁶¹ 1858 Land Code, Article 8. Ünal et al., *Tanzimat Sonrası*, 105.

²⁶² R.C. Tute, *The Ottoman Land Laws, with A Commentary on the Ottoman Land Code of 7th Ramadan 1274* (Jerusalem: Greek Convent Press, 1927): see Article 8 and his commentary on it, pp. 17-19. In his preface, Tute notes that his understanding of Ottoman land laws is based on Stanley Fisher’s 1919 translation of them into English. Fisher, in turn, as Martin Bunton has observed, relied on George Young’s 1906 translation of the Code into French: *Corps de Droit Ottoman* (Martin Bunton, *Colonial Land Policies in Palestine, 1917-1936* (Oxford and New York: Oxford University Press, 2007): 40.). Neither Young or Fisher, however, commented on the legality of musha in their translations.

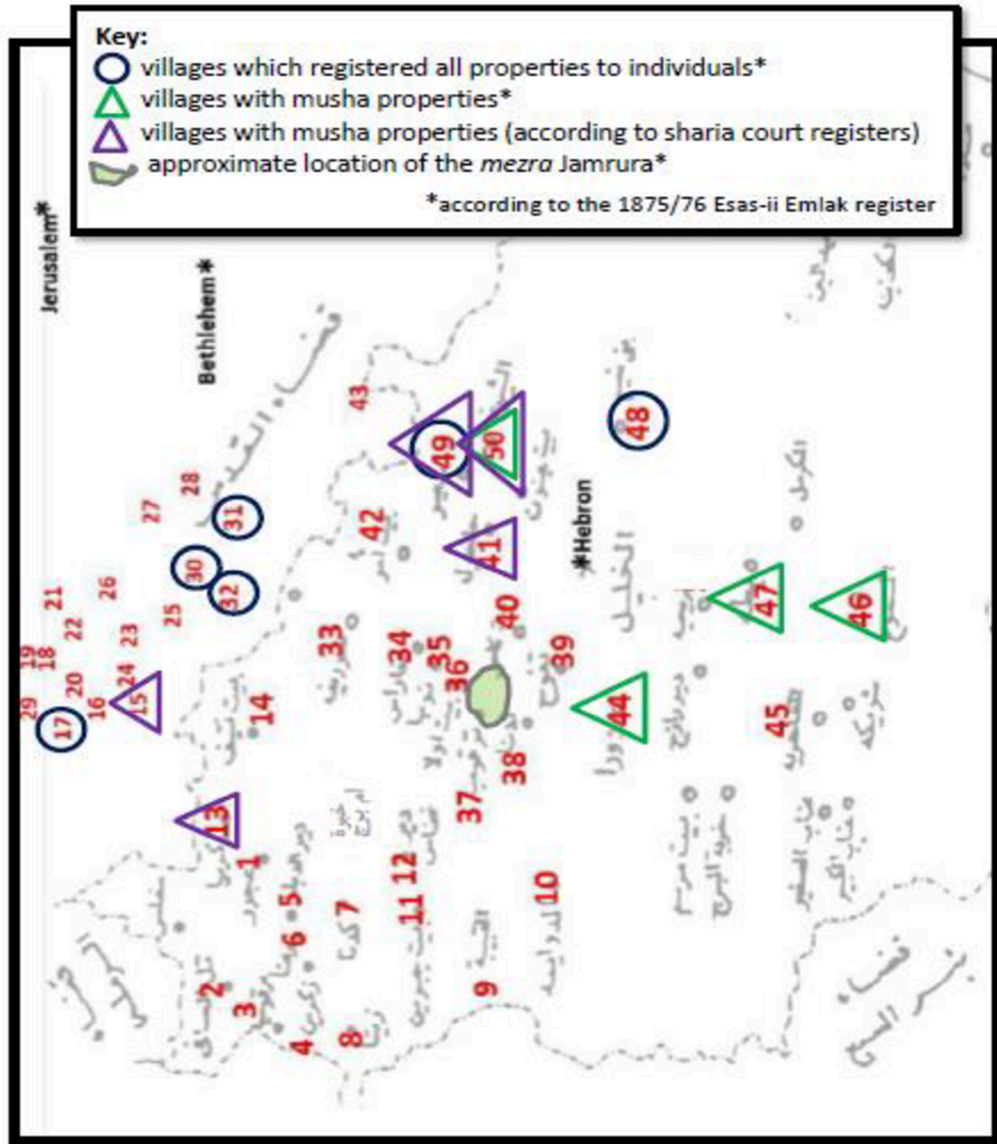
²⁶³ *Ibid.*, 18.

²⁶⁴ For example,

is, of course, “*all of the lands*”. Even in the villages of Hebron in which the entirety of agricultural lands was registered as undivided communal property in the tax register of 1876, the villages’ houses were registered separately. This was accepted as complying with the letter of the law, as the fact of its registration clearly demonstrates. Image 3.1 on the following page maps the villages which have been documented as having held agricultural properties in musha.

As the map illustrates, reference has been found to eight villages with agricultural properties held communally as musha. As it shows, not all musha found to exist in Hebron in the last quarter of the nineteenth century was declared as such in the *Esas-ı Emlak* register. In 1876, only four villages in the Hebron district registered some of their properties as musha. Two of these were among the most populous villages in the district, Dura and Yaṭṭa, with 320 and 176 residences, respectively. Samu’, located not far from Dura and Yatta in the southern part of the district, had 64 residences. Shuyukh, in the eastern part of the district, was relatively smaller. To understand the function of musha for these villages, we will consider each in turn.

Image 3.1: Hebron Villages with communal agricultural properties (musha)



Village-number key accompanies Image 1.1.

Source: Map composed by author with information from Ottoman period sharia court registers of Hebron and Hebron's rural *Esas-I Emlak*, 1876.

Shuyukh²⁶⁵

The small village of Shuyukh is a geographical island of sorts; the village and its lands are surrounded on all sides by the lands of Sa'ir. Forty-three apparently modest *hanes* comprised the village in 1876. Unusually, particularly since all the residences were classified as *hanes*, only two were valued above one thousand kuruş. The reason for their low evaluation is not readily apparent. Village history indicates that Shuyukhi houses were all built of stone. Homes were built in groups around *aḥwasha* (s. *ḥawsh*) a central, open-air courtyard. The homes formed a physical barrier between the inner courtyard and the outside world. A nuclear family occupied in the *hawsh* one thick-walled, high-ceilinged room, often a split-level structure (*rāwīya*), or a room on an upper floor (*aliyye*) over a cave-like storage hall, with the upper living space reserved for the family and its storage of grains, and the lower area serving as storage and shelter for livestock, tools, and other possessions.²⁶⁶ This pattern of building was common throughout the Hebron district, and *aḥwasha* and *rāwiyāt* can be seen throughout the old center of the town of Hebron as well.²⁶⁷

Comparing available population indicators – the number of residences in the *Emlak* register (43); the number of households in the village according to the 1905 *nufūs* register

²⁶⁵ *Esas-ı Emlak*, entries #13,681-13,874.

²⁶⁶ Ḥamid Muhammad al-Shuyukhi, *Qaryat al-Shuyukh – Muḥāfazat al-Khalīl* (The Village of Shuyukh – Hebron District), (Amman, 1999): 11, 13-21.

²⁶⁷ Author's personal observation in Hebron.

(57);²⁶⁸ and the population during the Mandate era (1922: 692 people; 1931: 925 people; and 1945: 1,240 people)²⁶⁹—seems to indicate that a “*hane*” in Shuyukh was, indeed, a one-room residence and not an entire *ḥawsh*, and that the population in 1876 was likely not more than a few hundred men, women, and children.

Two women were among householders in Shuyukh in 1876. One of them, Fatima bint Ṣabāḥ, also owned a few agricultural properties. In the *emlak* register she claimed 14.5 dunams split between olive trees, field-crop land, and vineyard land.²⁷⁰ Ten residence-owners in the village did not register any agricultural properties. There were also twenty-six agricultural-property owners who did not register a residence. Six of the seven villagers who registered more than 75 dunams also registered residences.²⁷¹ One of them, ‘Isa b. ‘Awda, registered two hanes.²⁷² Villagers individually registered a total of 134 plots consisting of vineyards, field-crop land, olive trees, fig trees, and kitchen gardens. These totaled 732.5 dunams, an average of just over seventeen dunams per residence.

The largest registered property owner in the village was ‘Abd al-Qādir b. Shihada. He claimed a seventy-dunam plot of field-crop land in Marāḥ Ḥamād (lit., pasture of Hamad), three

²⁶⁸ See Appendix II.

²⁶⁹ Al-Dabbagh, p. 169.

²⁷⁰ *Esas-ı Emlak* entries # 13701, 13749, 13762, 13813.

²⁷¹ They were ‘Isa b. ‘Awda, Shaykh Ghanāim b. Yūsuf, Shaykh Maṣṣūr b. Ahmad, ‘Abd al-Qādir b. Hajj Khalīl, Khalīl b. Shihāda ‘Awḍ, Ṭaha b. Ḥamdān ‘Isa, and ‘Abd al-Qādir b. Shaḥādeh.

²⁷² *Esas-ı Emlak* entries # 13682, 13711. The former, hane #1 on the village list, was one of the two residences in town assessed at 1,125 kuruş, the highest-valued residences. The worth of the latter, hane #31 on the village list, was assessed at 250 kuruş. ‘Isa was the only villager to register two residences.

dunams of fig trees in an area called Kan'ān,²⁷³ and twenty-three dunams of field crop land belonging to the village of Sa'ir.²⁷⁴ The value of his properties was assessed at 12,500 kuruş. Khalil b. Shihāda 'Awḍ, who owned a few dunams less than 'Abd al-Qādir, was the wealthiest property holder in the village according to assessed property values. He did not claim a residence in 1876, but he registered a courtyard (*'arṣa*), three plots of field-crop land (70 dunams of grade-three land in Arḍ Hajar and 3.5 dunams of grade-3 land in Shi'b al-Fāris), a three-dunam vineyard, and a three-dunam vegetable garden.²⁷⁵ The worth of his properties was assessed at 16,625 kuruş.

As Chart 3.1 below indicates, however, the vast majority of Shuyukhi villagers registered to themselves very little in the way of agricultural properties. Half the villagers who registered agricultural properties claimed fewer than ten dunams. The village's musha holdings were comparatively meager as well. It was just 1,000 dunams of field-crop land. Unlike the villagers' other lands, the location of this plot was not identified. Rather, in the "location" column, the word musha was written. The *Esas-ı Emlak* further noted that the musha had recently been

²⁷³ I have not been able to identify the location of either.

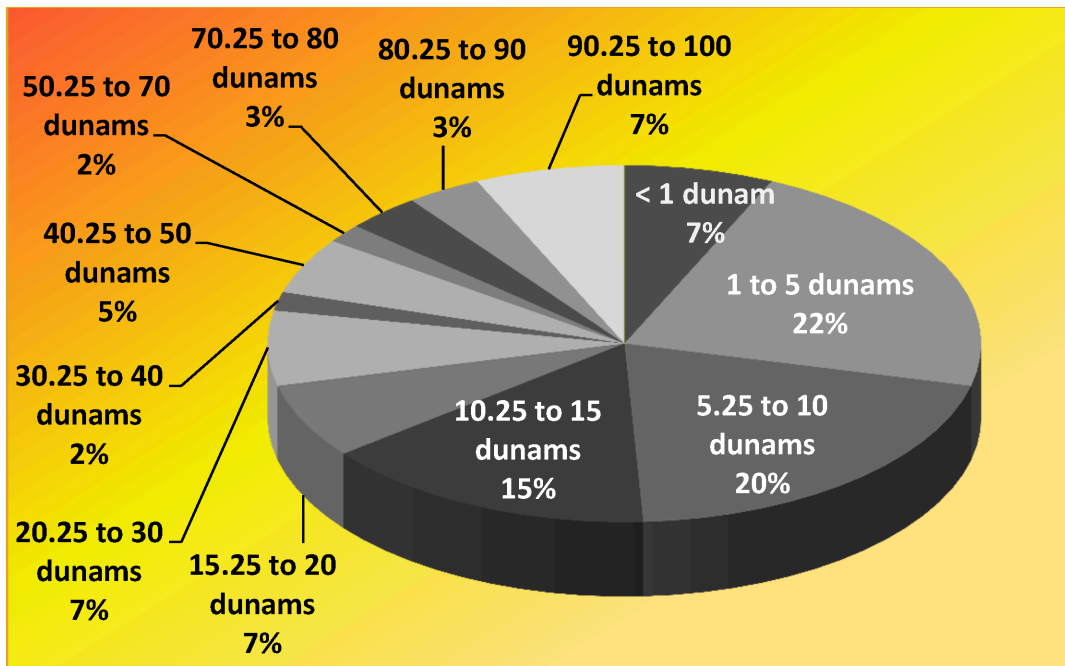
²⁷⁴ *Esas-ı Emlak* entries # 13797, 13866 and, in Sa'ir, entry # 13346.

²⁷⁵ *Esas-ı Emlak* entries #13691, 13757, 13758, 13784, 13847, 13867. There were three grades of land in the district: 1, 2, and 3. As defined in the *Emlak* register, these were high-quality (*'ālī*), middle-quality (*vasaṭ*) and inferior (*dūn*). (See 'Amāira musha summaries, Dura, entry #9283-9284) The vast majority of the district's lands were Grade 2 lands. Grade 3 lands were usually valued less than Grade 2 lands, and Grade 1 lands were usually valued higher. While these category definitions do not make clear the criteria for determining land grades, obviously, they were related to factors such as fecundity of the soil, rockiness of the area and, quite possibly, distance from a water source.

made into waqf land by the villagers.²⁷⁶ If shares in this land had been divided equally among all the householders, each share would have been small, some twenty-odd dunams.

Chart 3.1:

Landholdings of Shuyukh villagers by dunams, according to the *Esas-ı Emlak*



How did Shuyukhis subsist? Village historian Hamid Muhammad al-Shuyukhi describes the village as dependent on agriculture for its livelihood until today. He emphasizes the economic stratification within the village, noting that historically some village families were landless and

²⁷⁶ *Esas-ı Emlak* entry #13869.

without livestock, and thus worked as sharecroppers for bedouin in Bir al-Sab'a during the harvest season. Others had surplus crops and carried grapes in wooden crates to Gaza to sell them there.²⁷⁷ Al-Shuyukhi points to olives as the village's prized crop; he writes that in 1942 the village held about 350 metric dunams of *rūmi* olive trees. *Rūmī* trees are considered to have been planted before the Muslim conquests. The majority of these trees stand in the northwest corner of the village's lands, in Sh 'ib al-Fāris.²⁷⁸

In 1876, there were 84.75 dunams of olives registered to Shuyukh in thirty-one separate entries, averaging 2.7 dunams per entry. The first page of village agricultural entries, the only page to record numbers of olive trees alongside dunams, gives us some indication of the size of the village's olive-tree holdings. Based on the figures below, which yield an average of eleven trees per dunam, we can estimate that on Shuyukh's lands there were likely between 900 and 1,000 olive trees.

²⁷⁷ Al-Shuyukhi, 40-41.

²⁷⁸ Al-Shuyukhi, 41, 22, 24.

Table 3.4

Numbers of olive trees on plots in Sh'ib al-Fāris, Shuyukh village²⁷⁹

Village Entry #	# Trees	# Dunams	Assessed Value	Per-Dunam Value (calculated)	Trees per Dunam (calculated)	Value per Tree (calculated)	Vergi Tax (kuruş)
1	16	1.5	750	500	10.67	46.9	3
2	10	0.75	375	500	13.33	37.5	1.5
3	12	0.75	375	500	16	31.3	1.5
4	13	1	500	500	13	38.5	2
5	10	1.5	750	500	6.67	75	3
6	69	5.25	2625	500	13.14	38	10
7	2	0.25	125	500	8	62.5	0.5
8	2	0.25	125	500	8	62.5	0.5

Two sets of figures in this table have undoubtedly drawn your attention. First, as is apparent from the first and third calculated columns, in Shuyukh the method of evaluation of olive trees was exceptional, based not on a per-tree calculation but, rather, on the number of dunams on which the trees were planted, regardless of the density of planting. Second, the assessed value of Shuyukh's olive groves when calculated on a per-tree basis, as was the norm, was far below the average value assigned to olive trees in the Hebron district, which was typically two hundred kuruş per tree. In 1999, al-Shuyukhi wrote that his village's ancient olive trees continued to give generous yields,²⁸⁰ so poor returns can be ruled out as the cause for this abnormally low assessment of this sector of the village's agricultural wealth.

²⁷⁹ *Esas-ı Emlak* entries # 13736 – 13744.

²⁸⁰ Al-Shuyukhi, 12, 41.

I believe that the *effect* of this low evaluation was its true *cause*. In Shuyukh, as was the case throughout the district, the *vergi* (property tax) was imposed uniformly on rural properties at a rate of 0.004 percent. Effective tax breaks could thus be given only through a devaluation of the property at hand. This theory likely also explains why Shuyukh's sturdy, stone houses were valued so inexplicably modestly.²⁸¹ Examination of Shuyukh's other registered properties indicates that all of Shuyukh's properties were rated "grade three" properties and the value of most, but not all, agricultural properties was likewise assessed at rates that fell short of district averages. In comparison, the lands of the village of Sa'ir, which, it will be recalled, surrounded the lands of Shuyukh on all sides, were overwhelmingly classified as "grade 2" lands. Very few of Sa'ir's lands were classified with the low, "grade 3" rating of land. Only the first full register page of Sa'ir's 746 agricultural entries, which is to say forty-one entries covering a number of different locales, 5 percent of the village's plots, were classified as "grade 3".²⁸² This raises several questions. Were the properties of inferior value, or was the lower grade assigned in order to lower taxes? Assuming the latter, was this decision arrived at through negotiation between the villagers and the official assessors on the *emlak* commission, or was it deception on the part of the villagers? If we can assume the former, and there appears to be historical justification to allow this assumption, why was this method chosen rather than a notation in the register?

²⁸¹ See photos of a number of the village homes in al-Shuyukhi, 13-21.

²⁸² EE entries 12915 – 12955.

There is historical precedent for reducing Shuyukh's taxes. Although the village did not figure among the four Hebron villages that registered sufi lodges (*zāwiya*) in the late nineteenth century, the *dhikr* ceremony was regularly held in Shuyukh, a practice that continued throughout the twentieth century.²⁸³ The inheritance record (*tereke*) of Shaykh 'Ārif b. Ahmad b. Šāliḥ al-Hasāsne of Shuyukh, for example, attests to the shaykhly title assigned to the village and so many of its villagers. This Shuyukhi villager died in 1911 while living a few villages away, in Šurif. Among the possessions he left to his wife, mother, and children alongside a horse, two donkeys, six goats, a silver watch, a sword, and 142 French liras (equivalent to a local fortune, 15,620 kuruş), was a small library of three "torn books": al-Samarqandi's *Tanbih al-Ghāfilīn*, Ibrahim Muhammad 'Abd al-Bāqī's *Durrat al-Wā'izīn*, and an unnamed book by Abu Ma'shar al-Balkhi.²⁸⁴

According to the author al-Shuyukhi, in answer to a petition presented in Istanbul by a number of Shuyukhis in December 1679, a sultanic firman today preserved in private hands in the West Bank exempted the village and its villagers from taxation. Al-Shuyukhi incorrectly claims that the exemption was permanent, stating that the village did not pay any taxes during the Ottoman period and was not registered in Ottoman tax records. Although the *emlak*

²⁸³ Al-Shuyukhi (p. 35) reported in 1999 that every Monday and Friday evening and occasionally at times of celebrations or on the occasion of hajjis returning from Mecca, the *dhikr* was still performed in the village mosque.

²⁸⁴ HR 22 / 40 / 74 (8/73), 3 al-Qada 1329 / 26.10.1911. In this period, Shuyukh was a village of 57 hanes, while Šurif had 77.

register indicates that this was not the case, it suggests that the village did continue to receive special consideration.²⁸⁵

Its 1,000 dunams of musha field-crop lands were assessed at 100 kuruş per dunam, fifty kuruş per dunam below the district average. It is difficult to assess the relative value of this property for the villagers. The greatest proportion of their wealth, according to al-Shuyukhi, has been the olive trees, which villagers registered individually in 1876. Why did villagers decide to endow their communal farmlands, apparently coinciding with the period of the *emlak* commission's tour of the district? Land conflict may be a factor.

Limited land resources and Shuyukh's unique location as a geographical island in the sea of another village's agricultural land would appear to be the main reasons why seventeen Shuyukhis owned land registered as belonging to Sa'ir.²⁸⁶ Three of these Shuyukhis owned only small plots in the surrounding village, the largest being eleven dunams. The other fourteen individuals all owned properties in Shuyukh in addition to their Sa'ir acquisitions. The Shuyukhis' Sa'ir lands, overwhelmingly field-crop lands, totaled 624.75 dunams. Five of these plots were substantial in size, each larger than fifty dunams.²⁸⁷

²⁸⁵ Al-Shuyukhi, 31. The author saw only a translation into Arabic of the Ottoman Turkish document preserved in the hands of 'Adnān Mahmūd Ahmad 'Abd al-Rahman, and reproduced it in full in his book (p. 33).

²⁸⁶ These are registered on Sa'ir village's pages in the *Esas-ı Emlak*, entires #13301, 13346, 13419, and 13640 - 13656.

²⁸⁷ They measured, respectively, 90 dunams, 80 dunams, 75 dunams, and two plots of 60 dunams each. *Esas-ı Emlak* entries #13644, 13645, 13646, 13648, and 13650.

There is evidence to suggest that the border between these two villages was either uncertain – despite its de-facto delineation in the *Esas-ı Emlak*—or in dispute. Several of the parcels designated as Sa’ir holdings were in areas that village historian al-Shuyukhi identifies as belonging to Shuyukh’s lands.²⁸⁸ Additionally, Hebron sharia court records indicate at least one border dispute involving Shuyukhis. In the summer of 1911, eight Halhuli villagers appeared in court to appoint an agent to represent them in an inter-village land-dispute case against Mustafa b. ‘Ali b. Hassan al-Hajj of Shuyukh and his associates (*rufaqqātuhu*) from the village. Regarding these other men, the court record states only that “their names are known”, so it seems that this dispute had been going on for some time.

The conflict was over a borderlands area estimated to be sixty feddans in size, hundreds of dunams. This land, known as Arḍ Wardān, is located within a larger area known as al-‘Arrūb. It was bordered by Halhul lands to the south; musha lands of Shuyukh and musha lands of Sa’ir to the east; Bayt Ummar’s lands to the north; and to the west were the village of Bayt Ummar and musha lands of Halhul.²⁸⁹

²⁸⁸ These are Marāḥ Za’frān, Dayr Abu Ghanaym, Khallat Ilyās, Wadi Ḥarīq, Wadi Ihyāsh, and Khallat al-Qamīḥa. (See the map and listing of village land areas in al-Shuyukhi, pp. 22-24.) It is interesting to note that the two Jewish settlements established much later on Shuyukh’s lands, in 1983 and 1999 on al-Za’fran and Qanān Inyās, respectively, are in or adjacent to these areas which were registered to Sa’ir in 1876 under the names of Shuyukhi landowners, that is, in borderland areas where there appears to have existed a dispute over ownership rights between the two villages.

²⁸⁹ HR 22 / 15 / 32 (6 Sha’ban 1329 / 2 August 1911) The lands in question are clearly seen in Abu Sitta, sheets 458/C3 and 459/A3-B3. As per Land Code reforms, these disputes were no longer heard in the sharia court; we know of them because land-disputants continued to be allowed to appear in court to appoint a representative (*wakil*) to present their case to the tapu official or the Administrative Council.

Samu'²⁹⁰

Samu' village's population was somewhat larger than Shuyūkh. There were 64 structures in the village, including three caves (each valued at 250 kuruş) and four courtyards (*'arşa*) that were each valued at 125 kuruş. The highest valued residence was assessed at 1,250 kuruş. Samu' is unique among Hebron villages with *musha* in that villagers registered all of their agricultural land, 14,457 dunams, as *musha*. This was recorded in thirty-five different parcels in different locations, named, for example, Khallat al-Farā, Arḍ al-Khirāba, and Qiṭat Khālid. Each of them was registered to "the people" (*umūm ahali-ye mahsus*). These land parcels varied in size from four dunams to 1,750 dunams. Eight of the parcels were 1,000 dunams or larger. Thirteen plots were between 100-1000 dunams, the smallest being 150 dunams and the largest 515. Most of their sizes are precise numbers, for example, 254 and 276 dunams. One plot was recorded as being 70 dunams, another 60 dunams, and a third, 50 dunams. The size of the eleven smallest plots, all smaller than fifty dunams, were not all rounded numbers. There were plots 4, 19, 26, and 32 dunams in size, as well as plots of 25, 30, and 45 dunams, for example.

Forty percent of the parcels were the highest grade of land, Grade 1. Almost the same proportion, 37 percent, was Grade 2, which was the category of the majority of lands in the Hebron district. Just eight percent of the lands were assessed as Grade 3 properties. The Grade

Today, Route 60, the principal, West Bank north-south road, passes through this area about one kilometer north of Ard Wardan. Arḍ Wardān is just south of Arroub refugee camp, the border of which abuts Route 60.

²⁹⁰ *Esas-ı Emlak* entries #10026-10130.

3 properties were assessed at 100 kuruş per dunam. The Grade 2 properties were assessed at 150 kuruş per dunam, with the exception of two properties. The parcel of 1,096 dunams in Khallat al-Farā was assessed higher, at 175 kuruş per dunam, and the 1,500-dunam parcel in al-Marūra was assessed at 134 kuruş per dunam. Ten of the fourteen Grade-1 parcels were assessed at 175 kuruş per dunam. The other four ranged from 150 kuruş per dunam to 179.76 kuruş per dunam.

One understands from all these numbers and ranges that the agricultural plots were evaluated individually and their values carefully assessed. Samu' was rich agriculturally. There was enough land to distribute at least 253.6 dunams to each residence holder.²⁹¹ The property-tax on these lands should have been 8,099.25 kuruş but the scribe made an error in totaling the values of the lands, calculating them at 2,004,575 kuruş instead of 2,024,825 kuruş, so the village's property tax was calculated lower, at 8,018 kuruş and 12 para. If the tax burden was split equally between residence holders, each would have been liable for 140.7 kuruş annually, almost equal to the average price of three adult goats at the time.

Yatta²⁹²

In Yatta as in Shuyukh, the village's 21,312 dunams of musha were not registered by location.

Unlike in Samu' and Shuyukh, however, the musha in Yatta was registered to individuals. Sixty-

²⁹¹ There were 64 structures in the village. Of these, four were caves and three were 'arsas. The category of the other forty-one structures, one full register page, was omitted from the record. I am calculating the number of residences as 57, but the number could be lower or, potentially higher if all forty-one structures of unknown type were residences and the caves, too, served as residences.

²⁹² *Esas-ı Emlak* entries #10151-11075.

four men registered sixty-four equal shares, each one 333 dunams of field-crop land that was assessed at a value of 50,000 kuruş, just slightly more than 150 kuruş per dunam. Similar to the situation in Shuyukh, the location of the land was not recorded. “Musha” was written in the “location” column of the *defter*. The village’s musha totaled 21,312 dunams. This likely meant that the individual shares could be anywhere within the lands owned communally as musha. That is, their locations were not fixed on the ground.

Aside from the musha, Yaṭṭawi villagers also registered another 4,000 dunams individually. Almost 3,000 dunams of this were plots of field-crop land ranging in size from one dunam to the largest parcel, 115 dunams. The majority (101 plots) were between 1 and 9 dunams. Another 72 entries measured between 10 and 49 dunams; 39 of these were between ten and nineteen dunams, and fifteen plots were between forty and forty-nine dunams. Three of these plots measured between eighty and eighty-nine dunams. Villagers also individually registered 390 fig trees, 3,813 olive trees, 530 dunams of vineyards and 13.25 dunams of vegetable gardens.

The musha shareholders were not all owners of residences, as one might expect. Of these sixty-four men, only thirty of them registered a residence in town. Most of the musha shareholders held a number of landed properties, but twelve of them did not register in their names any properties at all other than their musha plots. Grouping individuals in the register and their properties according to families gives some reasons how this could be so. The three Abu Qabiṭa brothers, for example. The family’s musha was registered in the name of Ahmad b.

Khalil.²⁹³ The (family's) residence was registered to his brother Ibrahim b. Khalil.²⁹⁴ Ibrahim also registered in his name 15 olive trees, two plots of fig trees, each of them containing four trees; and three plots of field-crop land, 22.5 dunams, 8 dunams, and 2 dunams, respectively. Their assessed value totaled 10,300 kuruş, and the residence was assessed at a value of 2,000 kuruş.²⁹⁵ Their other brother, Muhammad b. Khalil registered the vineyard property, three dunams in size, and two plots of field-crop land, one of them 48 dunams in size, and the other 6 dunams. The assessed value of these properties was 13,050 kuruş.²⁹⁶ Between the three of them they owned a property or properties in every category of Yatta's agricultural products.

Dura²⁹⁷

Dura, the most populous village in the Hebron district, was divided socio-geographically into two parts. Of the town's structures, 171 were registered to the Nammoura section of town, and 159 to the section called Awlād 'Isa, 'Isa being the father of the infamous, powerful and then-recently deceased Shaykh 'Abd al-Rahman 'Amr. Arriving from Hebron, one would travel through the Nammoura half of town to reach the Awlād 'Isa section.

In the vicinity of the village, villagers registered gardens (*hākūra*) and small plots of tarla. Beyond that, there were individually owned vineyards, gardens (*bağçes*), and small and large

²⁹³ *Esas-ı Emlak*, Yatta musha entries # 9.

²⁹⁴ *Ibid.*, residential entries #22. Their *hane* was valued at 2,000 kuruş.

²⁹⁵ *Ibid.*, tree entries # 85, 236, 250; non-musha *tarla* entries # 80, 82, 83.

²⁹⁶ *Ibid.*, vineyard entries # 96 ; non-musha *tarla* entries # 108, 109.

²⁹⁷ *Esas-ı Emlak* entries # 7925-9839.

plots of *tarla* registered to individuals. The majority of these were Durawis, but some of the property owners were recorded as living in nearby Taffūh or in Hebron. The largest of these parcels by far was one of 1,500 dunams owned by a son of ‘Abd al-Rahman ‘Amr.²⁹⁸

The town’s musha was registered according to the two supra-family divisions, to the ‘Arjān and the ‘Amāira. The ‘Arjān musha was 38,333 dunams of *tarla* spread over seven geographical areas (See Table 3.5, below.) Within these areas we find mathematical proportions totaling 360 shares divided into groups of sixty. There were thirty parcels in in Umm al-Shaqf and thirty in Bayt ‘Awā. There were two sets of thirty parcels in Dayr Sāmit. There were 61 parcels in Umm Khesdem, and 59 parcels in Wādī al-Qamāḥ. There were 60 parcels in Arḍ al-Sibṭa and 60 on Jabal Gharbī (the western mountain).²⁹⁹ These parcels were registered to individuals.³⁰⁰ Table 3.5 below summarizes this data and shows the size of plots in each area as well as their assessed value in kuruş. The land was Grade 2 and Grade 3 land.

²⁹⁸ The plot was in Wadi al-Şifr, and it belonged to Yahya, who was a powerful regional figure in his own right. *Esas-ı Emlak* entry # 9183

²⁹⁹ *Esas-ı Emlak* entries # 9291-9650.

³⁰⁰ In the future I will be investigating the shareholders’ identities.

Table 3.5

Musha of the ‘Arjān half of Dura

Parcel name	Umm al-Shaqf	Dayr Sāmit	Dayr Sāmit	Bayt ‘Awā
Dunams/share	120	113	112	126
Value / share	12,000 (kuruş)	11,375	11,250	12,625
# shares	30	30	30	30
TOTAL DUNAMS	3,600	3,390	3,360	3,780
Parcel name				
Parcel name	Wadī al-Qamāḥ	Umm Khesdem	Jabal Gharbī	Arḍ al-Sibṭa’
Dunams/share	73	96	152	82
Value / share	7,375	9,625	15,250	10,250
# shares	59	61	60	60
TOTAL DUNAMS	4,307	5,856	9,120	4,920

The ‘Amāira musha appears to have been a more complex process of division among shareholders. According to the register, it was all located on Jabal Gharbī. We find 184 shares of varying sizes, the smallest shares measuring 42 and 84 dunams, and the largest shares measuring 714 dunams.³⁰¹ This may reflect a group comprised of aging original owners and devolution by inheritance over a generation or two among heirs of deceased original

³⁰¹ I suspect this reflects original landowners and generational inheritance divisions. Line-by-line analysis is needed to determine this.

shareholders. The 'Amāira musha was slightly smaller than that of the 'Arjān, totaling 37,464 dunams.

In addition, “the people of Dura” held 841 dunams of *tarla* designated as musha within the *mezra* of Rihyya, which bordered Dura’s lands to the south. As in Yatta, there were also non-musha plots of field-crop land of varying sizes, vegetable gardens (*hakyures* and *bağçes*), olive trees, and vineyards.

Conclusion

While investigating land issues brought before the Jerusalem district administrative council (*meclis-i idare*) at the end of the first decade of the twentieth century, Haim Gerber found reference to a 1911/12 (1327 *maliyye*) order from Istanbul to Jerusalem. The order prompted the Council that year to direct local land-registration authorities to undertake “a basic land survey in the province of Jerusalem”. The Administrative Council quoted the central-government order in its directive to local authorities. In his 1985 study on Ottoman rule in Jerusalem at the end of Ottoman rule, Gerber likewise quoted the order, in translation:

The relevant passage reads as follows: ‘No basic [land (hg)] survey was conducted at the time [of initial registration (sm)] in the province of Jerusalem, and the lands of the villages were registered in the land registry in common and divided up among the villagers, on an individual basis. Therefore, when

[landowners (hg)] applied to receive title-deeds (*senedat*), they encountered difficulties, which increased daily.³⁰²

Gerber found the passage relevant because, as he understood it, it demonstrated that *musha* was indeed registered in the *tapu*. While it is true that *musha* was registered in the *tapu*, as will be seen in Chapter 4, I do not believe that this is what was being referred to here.³⁰³ As we have seen above, *musha* was not disallowed by the *emlak* registration commission. In fact, villages had relative freedom to register *musha* as they saw fit. Shuyukh registered its *musha*-turned-waqf all on one line. Samu' chose to register *musha* line-by-line according to its location, but not to individuals but, rather to "the people". Dura and Yatta registered their *musha* to individual shareholders. As we will see in Chapter 4, *tapu* deeds were also granted under these circumstances.

I believe the difficulties pointed to in the central-government communication bring us back to one of the points discussed at the beginning of this chapter: the *en bloc* registrations. As shown in Table 3.1 at the beginning of this chapter, *en bloc* registrations appear to have been stop-gap measures taken advantage of by most of the villages. Perhaps it results from

³⁰² Gerber (1985): 214. When Gerber conducted his research, the Administrative Council files had not yet been catalogued by the ISA. He cites the document referred to here as #2515 from the year 1327.

³⁰³ Unfortunately, Gerber does not reproduce the original Turkish. It would be desirable to confirm that "basic [land] survey" was, in the original, *esas-i yoklama* and also that "in common" is indeed, not a translation of the word *mushā'*. My assumption is that Gerber would have noted the Ottoman/Arabic term if it were used, as he noted *senedati*. It is likely that a different phrase, perhaps *ıstirāken*, was used. I do not question Gerber's translation, per se. Rather, I question his interpretation of the meaning of the document.

intra-village conflicts over how to register their lands? There were not any villages who did not register at least their residences in the names of individuals, so fear of recording one's name does not seem a plausible explanation for *en bloc* registrations. It could not have been a measure to avoid taxes, because taxes were assessed and charged. The *en bloc* registration and payment of property taxes it entailed was a stake to official claim *by the village* on the land.

There is a growing consensus among historians that it was economic benefits that Ottomans sought foremost to gain in the second half of the nineteenth century through institutionalizing a fee-based property-registration and transference system, streamlining the tax system, instituting a broad-based property tax, and individualizing its levy. Accordingly, we can conclude that it was in Ottoman interest that the registration commissions displayed the flexibility and pragmatism that are known to be characteristic of Ottoman governance over its large and diverse empire. This allowed them to register the greatest amount of properties possible. In this light, *en bloc* registrations in the *emlak* register appear to have been a compromise. As long as the the land identified and the amount of its dunams recorded, a value for the land could be assessed and the *vergi cedit* (new property tax) could be levied.

For these same reasons of encouraging compliance with the law, it would also be prudent for the Ottomans in the decades to come to keep in place a variety of mechanisms to facilitate individuals' observance of the new regulations and procedures after the fact of their initial implementation. After all, it was from registrations, whenever they took place, and the

yearly revenues that would accumulate *after* registration that the Ottomans expected to benefit most. These mechanisms are a subject that will be discussed in Chapter Four.

Chapter Four

Incorporating Land-Tenure Reform from Below: The farmlands of Jamrūra 20 years after the *Esas-ı Emlak* survey

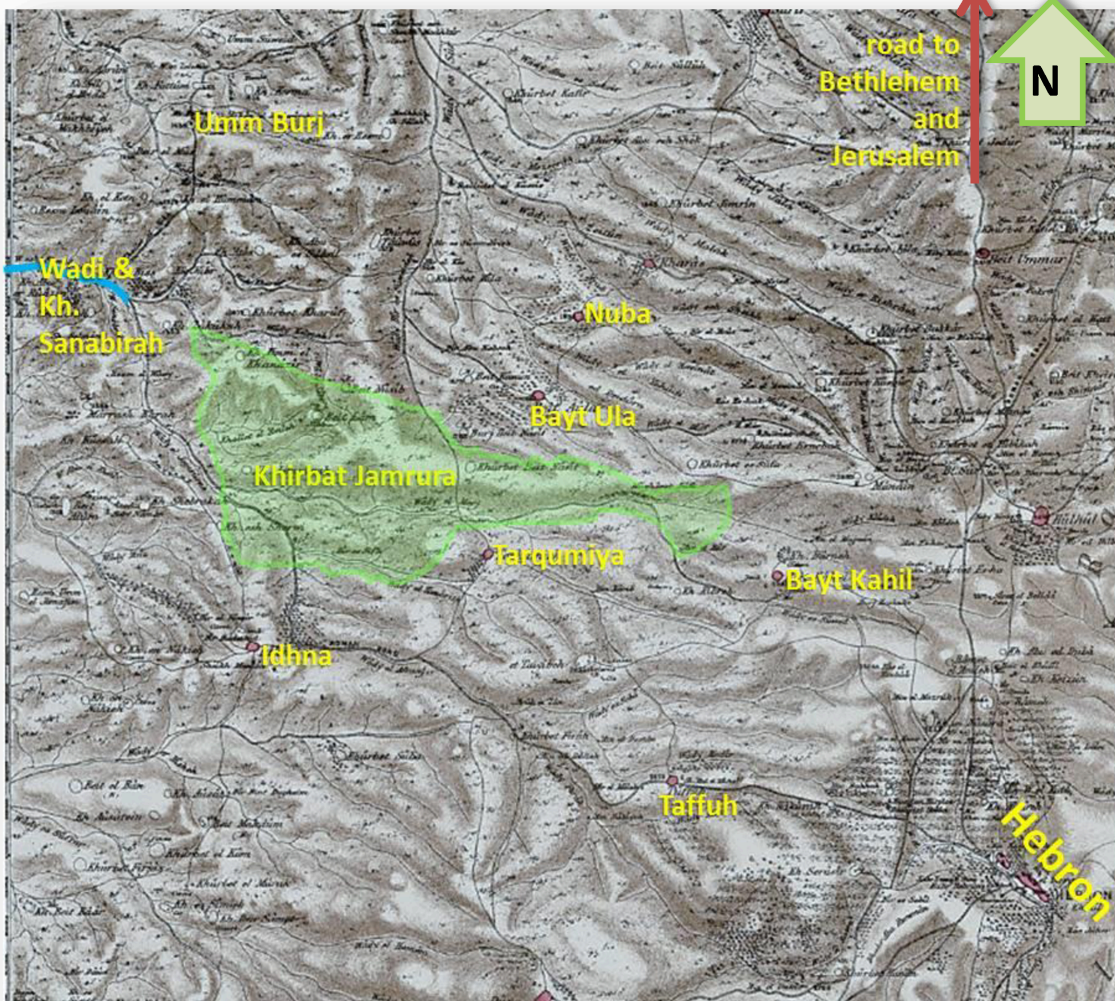


Image 4.1: Location and approximate boundaries of Jamrūra farmlands (*mezra'a*) in the last quarter of the nineteenth century.³⁰⁴

³⁰⁴ The map which forms the basis of this image is a detail from Palestine Exploration Fund Map, Sheet 20 (of 26), surveyed and drawn under the direction of C.R. Conder and H.H. Kitchener, May 1878. Accessed through Wikimedia Commons <https://commons.wikimedia.org/>

This chapter explores effects of the implementation of Land Code reforms in Palestine. It seeks to gauge, in the post-Tanzimat years, the degree of internalization by the rural population of the new vocabulary of property tenure and new methods of claiming and proving this tenure. It likewise seeks to evaluate economic effects of these reforms on rural agriculturalists. The methodology chosen is case-study.

Groups of villagers from Taffuh, Idhna, and Bayt Kahil each separately brought to Hebron's sharia court in 1894-1895 apparently unrelated disputes regarding their tenure of farmlands in an area called Jamrūra. The geographical and chronological concurrence of these disputes makes them suitable for comparative study. The timing of their occurrence, two decades after the systematic *Esas-ı Emlak* tax-assessment survey in Hebron and likely about twenty-five years from the beginnings of systematic implementation of the Land Code in the district, offers an opportune window through which to view the progress of the adoption and functioning of reform measures. Further, each of the three cases to be discussed below deals with different, yet typical problems encountered during what I consider to be a phase of internalization of and adjustment to the new procedures and norms introduced by the Land

wiki/File:Survey_of_Western_Palestine_1880.21.jpg , date of access 22 November, 2015). The image is in the public domain under CC-PD-Mark and Public domain Ordnance Survey images and under US Copyright tags PD-1923, PD-1996, and PD-US-no notice . Image is also available through Israeli National library open-source online access at <http://jnul.huji.ac.il/dl/maps/pal/html/eng/pal002368494.htm> , accessed 22 November 2015. Jamrūra's borders are approximate, based on Taffouh municipality maps (<http://taffouh.org/ar/jammrora/maps/autocad>, accessed 13 May 2015), the municipality's research on the farmlands area (<http://taffouh.org/ar/taffouh/jammrora> , accessed 13 May 2015), nineteenth-century Hebron court cases to be discussed below, and Abu Sitta sheets # 456, 457, 473, 474.

Code and tax reforms. The first case involves Taffuhis' claims through inheritance to rights to profits gleaned from the harvests of Jamrūra lands, in the absence of tapu certificates in their names. The case demonstrates that the tapu office and tapu system of proving land tenure did not fully replace pre-Tanzimat institutions and mechanisms that had been used previously for these purposes. While it suggests that by the end of the nineteenth century the tapu certificate had become the preferred document by the populace for proving land tenure, it shows that legal ownership continued to be able to be proven through documents procured from pre-Tanzimat, traditional institutions. It also addresses the question of the need for harmony between tax documentation and tapu (title-deed) certificates.

The second case, the Idhna case, supports the theory that the tapu system was becoming predominant in society. In this land dispute on the edge of Jamrūra, court was recessed so that officials could consult title-deed registers in the tapu office. This case brings to light an issue that has drawn much attention in scholarly literature on land reform in Palestine: the question of representative registration of ownership of lands in the name of a notable, in this instance the heads of the village's extended-family groups. We have seen samples of land-registrations like this in the *emlak* register, in Chapter 3. I argue that representational ownership in the registers was strategic on the part of villagers, not an attempt to evade reform or a relinquishment of rights. Stakeholders in this arrangement were also included on the title-deed. Thus, villagers created effective shareholder corporations under the name of their

hamula head, conforming to the new laws while preserving options to later divide and re-divide holdings among themselves without incurring transfer fees.

The third case, brought by Bayt Kahil villagers, focuses on property mortgages and the inconclusively much-debated question of whether the Land Code resulted in the impoverishment of peasants, and mass landlessness engendered by new economic situations which compelled rural farmers to take usurious loans. This case shows that the tapu office, the sharia court, and the Ottoman Agricultural Bank all worked in conjunction with each other, at least in a town the size of Hebron, whose population at the turn of the twentieth century was about 20,000.³⁰⁵

In conclusion, it is argued that these three end-of-the-nineteenth century cases reflect the great degree to which Land Code reforms had been incorporated into Hebron society. The first section of this chapter traces the development of Jamrūra and surrounding villages over the Ottoman centuries, providing background and context for the three case studies that follow in this chapter's subsequent sections.

A Historical Sketch of Ottoman-era Jamrūra and Its Environs

Until recent decades, when Israel confiscated parts of the farmlands (*mezra'*) of Jamrūra in the name of security and under the Absentee Property Law of 1950, very little was generally known about this historically non-settled, agricultural area which, since 1949, straddles the Green Line

³⁰⁵ I have calculated this number from the 1905 nufūs population registries for the city. ISA, RG83, *nufūs*.

at the base of the Hebron foothills.³⁰⁶ (See Image 4.1). The two-thousand-and-some dunams³⁰⁷ known collectively as Jamrūra have served the nearby villagers of Taffuḥ and Bayt Kāḥil as important agricultural lands since the Ottoman era, when the Hebron district extended north, west, and south some distance beyond its present-day borders. An approximation of the expanse of the *mezra'* in the late-nineteenth century is shown on Map 4.1. The area encompasses a number of plots, each known by its own name, for example: Marj Qaṣṣa, al-Ruweisāt, Shi 'ib 'Azzām, Akfar, al-Nijma, al-Khab, Bayarāt Abu 'Umayra, Dharā' al-'Abd, Khallat al-Khamās, and Khallat al-Khaimeh.³⁰⁸

In Hütteroth and Abdulfattah's well-known study (1977) of late-sixteenth century *dafātir-ī mufaṣṣal* (detailed land registers), the western foothills of Hebron appear to have been sparsely populated with small, tax-paying settlements.³⁰⁹ Their research does not shed light on Taffuḥ, Bayt Kāḥil, or Jamrūra. None of these was counted among the thirty villages that

³⁰⁶ About confiscation orders issued in 1983, 1991, 1997, and 2005, see "Jamrūra wa'l-arādhi al-muṣādira" (Jamrūra and the Confiscated Lands), <http://taffouh.org/ar/taffouh/jammrora>, accessed May 2015 (Arabic). Regarding land confiscation orders issued in 2006, see "*al-Khalīl: al-Iḥtilāl ya'atazimu iqtilā' 'asharāt al-ashjār tamhīdan l'iqāmat muqāṭi' min al-jidār fī "Jamrūra"*" (Hebron: The Occupation intends to remove dozens of trees to make way for the establishment of segments of The Wall in "Jamrūra"), *al-Ayyām*, 2 August 2006, accessed at <http://www.miftah.org/Arabic/Display.cfm?DocId=4554&CategoryId=4>, accessed 9 June 2015.

³⁰⁷ Ibid.

³⁰⁸ Some of these names occur in the documents to be discussed in this chapter. This list is taken from Ibid., in consultation with Abu Sitta, sheets #456, 457, 473, 474. Dozens of local names are listed in the area.

³⁰⁹ The authors theorize that this was because the area was inhabited and controlled by bedouin, whose presence discouraged permanent settlement. Wolf Dieter Hütteroth and Kamal Abdulfattah, *Historical Geography of Palestine, Transjordan and Southern Syria in the late 16th century* (Erlangen: Fränkische Geographische Ges., 1977), 46, 48. The relevant register is Liva-ı Kudüs, *defter-ı mufaṣṣal* #112. In recent decades, scholars have moved away from viewing bedouin as settled society's traditional enemy.

comprised the Hebron district at that time, and the authors excluded *mezra's* (farmlands that were not permanently settled) from their published analysis.

One does find, however, counted among the late-sixteenth century settlements, the villages of Tarqumiya and Idhna, which border Jamrūra to the south. They were home to seventeen and sixty-eight hanes (households), respectively.³¹⁰ By the end of the nineteenth century, Tarqumiya and Idhna would be much closer in terms of size. In Tarqumiya, we find in 1876 eighty-three registered residences, while Idhna registered eighty-seven residences. Thirty years subsequently, when the population was counted in 1905, Tarqumiyya would have 182 households of varying sizes, while in Idhna 83 households were registered.³¹¹ (See Table 4.1, below.)

Al-Bakhit and al-Sawariyyah (2007) did include *mezra's* in their study of an early-sixteenth century tapu register for the Jerusalem *liwa*; their findings inform us further about this area. In the 1520s, Bayt Kāḥil and Taffuḥ themselves were recorded as being *mezra's*, although Taffuḥ appears to have had some recognized permanent settlement.³¹² It may be

³¹⁰ Ibid., 123-124.

³¹¹ On the distinction between residences and households, see Table 4.1, below.

³¹² Adnan al-Bakhit and Noufan Raja al-Sawariyyah, *Liwā' al-Quds al-Sharīf min Daftar Tahrīr TD 131*, 932-938AH / 1525-1531/32 (London: al-Furqān Islamic Heritage Foundation, 2007): 76, 77, 151, 223, 224. The Taffuḥ *mezra'* was one of five properties in the Hebron region owned by the Darānī (al-Dārī) children. The authors note that in tapu defter #427 (1525/6), which they also studied in-depth, Taffuḥ is recorded as a village. It may also be noted that on the maps accompanying Bakhit and Sawariyyah's study, in the area of Jamrūra there is identified a *khirbe* named Ḥajrūra which possibly could be a misreading of Jamrūra, since Ottoman accounting registers were recorded in undotted, shorthand *siyakat* script, and the difference

deduced from this evidence that significant permanent settlement by the ancestors of today's main families in these villages occurred at some point between the sixteenth and nineteenth centuries. Needless to say, the sites of these villages have a much longer history of settlement.³¹³ Regarding Jamrūra, the early-sixteenth century tapu register lists two villages in the Hebron district which may have referred to Jamrūra, but neither possibility can be concluded with any certainty.³¹⁴ Ehud Toledano, who has also examined these early-Ottoman registers, reads these two locales as “Jamrūra or: Jamrūn” and Jamrīn villages.³¹⁵

between the *ḥa* (h) and the *jiim* (j) is only a dot: ح ج, and a middle-*jiim* can be hard to decipher from a middle-*miim* (m) in some handwritten scripts. However, the *khirbe* cannot be located in the register itself.

³¹³ Archaeological findings attest to the fact that both settlements are ancient. (Dabbagh, p. 204)

³¹⁴ There is similarity in the names. The register was organized by timar-holders and their properties, which were not always confined to contiguous areas, so proximity of locales on the register pages cannot be taken as a certain indicator of topographical closeness. For example, Taffūḥ and Bayt Kāḥil are found next to each other in the register, but geographically close Tarqumiyya is listed elsewhere.

Jamrūra is written جمرورة, however the *siyakāt* script employed omits the dots which are so crucial to distinguishing letters in Arabic and Ottoman Turkish. One may consider village (entry #347) Jamrīn or Jimrīn (جمرين), for which the authors also suggest the possibility of reading the entry as Jamīra (i.e., جميرة). They identify this as being a mezra “close to Ḥalḥul [village]”, which conceivably could be our Jamrūra: It is four kilometers west of Ḥalḥul. Bakhit and Sawariyyah, pp. 225, 228. Additionally, the authors suggest the following possible readings for the name of Hebron-area village (entry #358) in Tapu Defter 131: جمرويه, جمرونه, جمروت. Jamrūra does not appear to be a possible reading of the record (a facsimile of the original is included with the authors' transliteration and annotations), however the authors frequently note locations in the register which, when compared with their known names today, appear to us as variations or perhaps copying errors: for example, Bayt Kāḥil and Bayt Kāmil; Dīr Šāfit and Dīr Šāmit; Jibrān and Bayt Jibrīn (whose name in nineteenth-century Hebron court records often appears as Bayt Jibrīl), and Baṭṭa (found often in nineteenth-century, central-government Turkish documents) instead of Yaṭṭa. Thus, it is worthwhile to mention (in a footnote) these possibilities regarding Jamrūra, even though definitive conclusions cannot be reached.

³¹⁵ Ehud Toledano, “*Sancak Yerushalaim ba-meah Ha-tet*”zany – *Hityashvut Kfarit ve Magamot Demografiot* (The Jerusalem Sancak in the Sixteenth Century—Village Settlement and Demographic Trends) in Amnon Cohen, ed., *Prakim ba-Toldot Yerushalaim ba-Rishit HaTqufa HaOthmanit* (Chapters in the History of Jerusalem in the Early Ottoman Period), 75 Hebrew. Toledano mapped these locations, but I have not yet

Table 4.1:

Available Ottoman Population Data on Jamrūra and Surrounding Villages

village	Bakhit & Sawariyyah ³¹⁶ (1520s, villages & mezra's)	Hütteroth & Abdulfattah ³¹⁷ (villages only, late 1500s)	Esas-ı Emlak ³¹⁸ (1876)	Population register ³¹⁹ (1905)
Bayt Kahil	mezra'			
households	n/a	No information	n/a	31
residences	n/a	n/a	22	n/a
Taffuh	mezra'/settled			
households	n/a	No information	n/a	73
residences	n/a	n/a	89	n/a
Tarqumiya	village			
households	n/a	17	n/a	182
residences	n/a	n/a	83	n/a
Idhna	village			
households	n/a	68	n/a	83
residences	n/a	n/a	87	n/a
Jamrura	indeterminable	No information	n/a	n/a

Note: The designation “n/a” indicates that this type of information is not regularly provided by this type of source. The designation “no information” means the information was provided by the primary source consulted by the authors but excluded from their published findings. The number of households refers to the number of family units, the majority of them being extended families. This was the unit-group used in early-Ottoman tapu registers and in the 1905 population register. The number of residences refers to the number of residential structures, whether standalone or part of a larger structure, that were counted separately in the 1876 property-value assessment register.

been able to obtain a copy of the map that should accompany the article. Jamrura/Jamrun is #20 on his Hebron *nahiya* map, and Jamrin is #21. See his article,

³¹⁶ Al-Bakhit and al-Sawariyyah, 2007.

³¹⁷ Hütteroth and Abdulfattah, 1977.

³¹⁸ ISA, RG 39, file T-107/4 (107/4-ט, תיק 39, מ.ח.ט').

³¹⁹ ISA, RG 39, file NF, registers #220 (Idhna), 220, 223 (Bayt Kāḥil), 223 (Taffuh), 225 (Tarqumiya).

Mustafa Dabbagh, in his classic, encyclopedic work *Bilāduna Filastīn*, recalls Jamrūra only in reference to other locations, as a named area bordering the villages of Bayt Ula, Tarqumiyya, Idna, and *Khirbet* Umm Burj. Indeed, Jamrūra is northwest of both Bayt Kāḥil and Taffūḥ, separated from it by lands of Tarqumiya and Idhna. Crop lands (*mezraʿas* and *khirbes*) attached to villages figure regularly in Dabbagh’s village entries, but Jamrūra is oddly absent from the entries of both Taffūḥ or Bayt Kāḥil.³²⁰

In the *Esas-ı Emlak* register of 1876, Jamrūra figures as one of seven existent *mezraʿas* in the district. At 2,150 dunams, it was one of the smaller *mezraʿas*, as can be seen in Table 4.2, below. Nearby it were two more *mezraʿas*. The first was Umm Burj, 2,400 dunams of field-crop land to the north of Jamrūra. Umm Burj was registered in shares of 400 dunams, each claimed by men from the village of Nuba to its southeast. The second *mezraʿa*, Sanābira, which may have abutted the western border of Jamrūra, comprised 3,038 dunams of field-crop land. According to a notation in the *Emlak* register, its lands had recently reverted to *miri* (*miri māli olduḡu*).

³²⁰ Unusually, the references to Jamrūra are also non-standardized in *Bilāduna*. We find *Jamrūrā* (جمرورا) once and *Jamrūra* (جمرورة) once, and two more references to it as *Khirbet Jamrūra* (خربة جمرورة). See the entries for the six villages mentioned above, in Mustafa Dabbagh, *Bilāduna Filastīn*, volume 5, part 2: *Fī Diyār al-Khalīl*, second edition, with additions and corrections (Hebron: *Rābiḡat al-Jāmi ʿīn* (University Graduates’ Union), 1986): 175-176, 204, 242-243, 245-246, 251-252, 253-255.

Table 4.2

The plantation farms (*mezra's*) of the Hebron district in 1876

Name	Field-crop land (dunams)	Olive trees (#)	Farmers' village(s) of residence
Maşfara	-----No---information---recorded-----		
Sanābira	3,038	0	(had reverted to <i>miri</i> (state) lands)
Wadī Şurīf	2,807	0	Şurīf, Ғarās, Nuba, Bayt Ula, Bayt Natīf
Zīf	2,415	0	Hebron
Umm Burj	2,400	0	Nuba
Jamrūra	2,150	0	Bayt Kāḥil and Taffuḥ
Riḥīyya	969	0	Residents of the <i>mezra'</i> and of Dura
Khirbat al-Asad	39	312	'Arṭuf, Bayt 'Itāb, Sufla

In Jamrūra, as can be deduced from Table 4.3 on the following page, six villagers of Bayt Kahil claimed the majority of the lands, 840 dunams divided into equal shares, while seven residents of Taffuh held 665 dunams in shares of varying sizes. For comparison, in 1945, according to the Mandate government's *Village Statistics* the still-uninhabited Khirbat Jamrūra then comprised 3,707 metric dunams of land, all owned by Palestinians. This included 1,691 metric dunams of cereal lands, nine metric dunams of plantations and irrigable land, and 2,007 metric dunams considered to be noncultivable.³²¹

³²¹ Sami Hadawi, *Village Statistics 1945: A classification of Land and Area Ownership in Palestine*, with explanatory notes by Sami Hadawi, Official Land Valuer and Inspector of Tax Assessments of the Palestine Government (Beirut: Palestine Liberation Organization Research Center, 1970), Table 1 (p. 50), Table 2 (p. 143), and Table 3 (p. 143). According to research by the Applied Research Institute in Jerusalem (ARIJ), today some 3,000 dunams of Khirbat Jamrūra farmlands remain uncultivable, not because of the quality of

Table 4.3:

Tenure in the Jamrūra meṣra' in 1876, according to the Esas-I Emlak Register

#	Name of Owner	Residence	dunams ^a	Value (kuruş)	Vergi (tax) (kuruş)
1	'Aql b. Sāliḥ ('Aql b. Sāliḥ)	B.Kahil	140	35,000	200
2	'Uthmān b. Ahmad Barūsh	B.Kahil	140	35,000	200
3	Ahmad b. Naṣr (Ahmad b. Naṣār)	B.Kahil	140	35,000	200
4	Sulaymān b. Hasan Naṣr (Sulaymān b. Hasan Naṣār)	B.Kahil	140	35,000	200
5	Muhammad b. Ahmad 'Ali (al-'Atāwneh)	B.Kahil	140	35,000	200
6	Salāmeḥ b. Khalīl 'Ādi (al-'Atāwneh)	B.Kahil	140	35,000	200
7	Muhammad b. 'Isa Ṭubās	Taffuh	105	26,250	150
8	Hajj Sulaymān b. Sālim	Taffuh	105	26,250	150
9	Ibrahīm b. Jādallah Zawātneh	Taffuh	105	26,250	150
10	Husān b. Husayn Muhammad	Taffuh	105	26,250	150
11	Tamīm b. Muhammad Sarayreh	Taffuh	105	26,250	150
12	Muhammad b. Naṣrallah Zreiqāt	Taffuh	70	17,500	100
13	Jabr b. Sulaymān al-Dīka	Taffuh	70	17,500	100
TOTALS			1,505	376,250	2,150

^a Dunams refers to acreage of field-crop lands.

the soil or the terrain but, rather, because of a lack of water resources. *M'ahad al-Abḥāth al-Taṭbīqiyya – al-Quds* (ARIJ), *Dalīl Qaryat Bayt Kāhil* (Bayt Kahil Village Guide) (2009), p. 11. Accessible online at: http://vprofile.arj.org/hebron/ar/pdfs/Beit%20Kahil_ar.pdf. Accessed 24 April 2015.

The Taffūḥ Case: Documentary Discord

Ismaʿīl b. Badawī al-Khmeisi et. al. versus Husayn b. Ahmad al-Hajj al-Zarushta

Two decades after the *Emlak* survey, on a late-summer Monday in 1895, the scribe of Hebron's sharia court, 'Abd al-Qādir Effendi of the Hebronite Hammouri family, rode out to neighboring Taffūḥ. Upon the request of a number of its villagers and under direction from the Hebron sharia-court judge, he had been appointed to hear their case against Husayn b. Ahmad al-Hajj al-Zarūshta. Husayn had received that year 1,200 kuruş from the harvest of parts of Jamrūra lands.³²² This was not the first time, or the last, that the Hebron sharia court judge (*nāib*) would appoint his scribe to hear a case outside the courtroom. On this day, the court session was held in the village square (*sāḥa*).

The complainant, Ismaʿīl b. Badawi al-Khmeisi (خميسة) presented to the judge a claim in his name and in the name of fifteen men and women from Taffuh.³²³ He said they all had rights to shares of the profits collected by Husayn from the harvests of the above-mentioned Jamrura lands. The language of his testimony reveals the degree to which the vocabulary of reform had made its way into the language. As recorded in the court records, Ismaʿīl testified that "*al-arādī muqayyada wa-maṭūba*": the land is registered and tapu-ed.

³²² HR 16 / 144 /120 (12 Rabi I 1313 / 2 Sept. 1895). These lands were known as: al-'Eid, Sh'ib 'Azām, Marj al-Qaşa, Akfar, Khallat al-Khureisa, and al-Ruweisāt.

³²³ They were: Muhammad b. Hassan al-Baḥur, Hassan b. Ibrahim al-Hajj Jadallah, Sālim b. Salāme al-S'āida, Muhammad b. Şalāḥ al-'Aweira, Isma 'īl b. Sālim Abu Zreiq [Zreiqāt], Sulīmān b. Salāme Shiḥāda, Şaḥiyya bint Badawī al-Khmeise who was the wife of Salāme al-(?), Muhammad b. Salāme Sulīmān, Husayn b. Sulīmān al-'Aṭiyān, 'Alī b. Husayn Muhammad, Muhammad b. 'Uthmān Ḥimiyān, Nafsa bint Hassan Muhammad who was the wife of Sulīmān al-Zawātne, Khadija bint Muhammad 'Isa al-Qawāsme who was the wife of Maḥmūd Qāsim, Rifqa bint Isma 'īl Jibrīn, and Hassan bin Salam Silmī.

Other reform-derived linguistic phrases pop up here and there in the court records in these years, such as the term *hujjat sened 'ādī* (a document of a “regular” title deed).³²⁴ Although the word *sanad* with the meaning of “deed” or “document” is also found in Arabic, the word is not used in early archived Hebron court records. It found its way into societal lingo following the advent of requirements (in Turkish) to acquire tapu *seneds* for properties. Likewise worthy of note in this phrase is the qualifying adjective “regular”. Its use reveals an implicit juxtaposition of two different documents of ownership, one issued in the traditional manner, usually in the sharia court, and the new type, the tapu. The phrase indicates that ownership affirmed by the sharia court continued to be valid in the post-reform period. First, it should be noted, the *sened* referred to here was issued in 1297 H (1880), a period when tapu registration had become easily accessible in Hebron. Secondly, had court-issued documents of ownership become invalid, one would expect not to see them described as “regular” – the complement of which is “special” – but, rather, as *qadīm* (old, former), as opposed to the “new” *sened tapu*.

Isma‘īl claimed he and the individuals he represented had rights to the lands in question by right of inheritance from relatives who either possessed or had themselves inherited rights to the land tenure from among a group of twenty-four people to whom *tapu kushans* had been granted. These title-deeds, he said, had been issued on 24 August 1875

³²⁴ HR 18 / 91 / 93 (12 Shawwal 1316 / 23 February 1899).

(22 Rajab 1292), six months before the *maliyye* year of 1292 began and the *Esas-ı Emlak* register was recorded.

This case was framed as a lawsuit, but it was not actually conflictual. The twenty-four claims of ownership dating back to 1875 were not challenged in court by Husayn, the defendant. It was not mentioned in the court record that tapu certificates had been requested or presented in court. Actually, the ownership of the original group was not in question. Husayn acknowledged the ownership rights of the twenty-four individuals, whose names were read aloud and duly recorded in the court record.³²⁵ Husayn asked only for proof that Ismaʿīl and those he represented were indeed entitled according to Islamic law to inherit the rights of the now-deceased tapu holders. The burden of proof was satisfied through witness testimony, in accordance with traditionally accepted rules of substantiation in the sharia court. This is undoubtedly why the case was held in the village square. The group of sixteen was comprised of first- and second-generation inheritors, since some direct descendants of the twenty-four had already died. As one can imagine, between the numbers of individuals invested in the outcome of the case and those called to witness right to inheritance, the crowd gathered must have been sizable.

³²⁵ They were: Muslim al-Sāida, Salāme Sulīmān, Husayn Muhammad, Ibrahim al-Hājj, Ibrahim Salāme, Maḥmūd Qāsim, Salḥī Abu Sneine, Khalīl al-Muṭāliqa, Muhammad ʿIsa al-Qawma, Salāḥ al-Şawāyreh, Badawī b. Muhammad Badawī, Muslim al-Khmeise, Jābir ʿUthmān, Jibrīn Muşṭafa, al-Ḥajj Sulīmān, Sulīmān Ḥamīdān, Salāme Shiḥāda, Ḥassān al-ʿAṭiyāt, Ismaʿīl Jibrīn, Muhammad Naşrallah, Anīm(?) al-Şawāir, Husayn Khalīl, Sʿaīd Badrān, and Muslim Abu Zreiq [Zreiqāt].

Once inheritance rights were proven by the string of witnesses who stepped forward, the judge ruled that the complainants were entitled to their claim of 850 kuruş, and Husayn was ordered to pay Ismaʿīl. As recorded in the court record, the proceedings had been overseen and their validity endorsed (*tazkiyya*) by the two *mukhtars* of the neighboring village of Idhna, al-Shaykh Jābir b. Salāme Ṭamayza and ‘Awdatallah b. Khalīl al-Baṭrān.

The Significance of the Lawsuit: Reading between the lines

The court record implies there was no true conflict between Husayn and the other Taffuḥ villagers. The matter in question was merely one of demonstrating chains of inheritance through witness testimony. It is not unreasonable to conclude, therefore, that this was a dispute of pretense, and that there was an ulterior motive for this case to be brought before the court. I would argue that the real cause for the proceedings was that the complainants wanted a document proving the legitimacy of their inheritance claims. With such a document, inheritors were eligible to obtain tapu certificates for a fraction of the cost they would otherwise be charged.

According to Article 78 of the Land Code of 7 Ramadan 1274 (21 April 1858), an individual with *hakk-ı karar*³²⁶ was entitled to obtain a tapu certificate *gratis*, regardless of

³²⁶ *Hakk-ı karar* (right of decision or permanence) is defined in Article 78 of the 1858 Land Code. It is a prescriptive right to the land proven through ten years’ uncontested possession. (Ongley, 42.) See also, “hakk-ı karar” in Hayrettin Gültekin, ed., *Osmanlıca Tapu Terimleri Sözlüğü* (Ottoman-language Tapu-Terminology Dictionary) (Ankara: Tapu ve Kadastro Genel Müdürlüğü, 2007).

whether he held a document of title.³²⁷ Articles 54-56 established that the children of owners of *miri* (i.e. state) land (and, in the absence of children, the father and in some cases the mother of the deceased) inherited the land without paying a fee.³²⁸ This provision of free inheritance would be upheld by Article 1 of the Land-Inheritance law of 17 Muharram 1284 (21 May 1867), which dealt with the inheritance of *miri* and piously endowed (*mevkufe*) lands possessed by tapu. This Article extended the right of inheritance without fee to the full chain of those eligible to inherit shares of a deceased's estate according to Islamic law, in the case that there were no living children of the deceased.³²⁹ Before 1858, land had been inheritable only by sons, in contradiction to sharia laws of inheritance.³³⁰

Article 8 of the Tapu Law of 8 Jumadi II 1275 (13 January 1859) and Article 8 of the Regulations on Tapu Certificates (*seneds*) issued on 7 Sha'ban 1276 (29 February 1860) detailed the fees inheritors needed to pay in order to obtain tapu certificates. Individuals who could prove *hakk-ı karar*, including by means of inheritance, could obtain a tapu certificate of title for a fee equivalent to five percent of the value of the land if they approached the tapu offices within six months of the promulgation of the law. After that period, according to the latter law, these fees would double to ten percent of the assessed

³²⁷ Ongley: 41-42.

³²⁸ *Ibid.*, 28.

³²⁹ *Ibid.*, 158.

³³⁰ Anton Minkov, "Ottoman Tapu Title Deeds in the Eighteenth and Nineteenth Centuries: Origin, Typology and Diplomats", *Islamic Law and Society*, 7/1 (2000): 73.

value of the land.³³¹ Article 9 of the Tapu Law of 1859 determined the cost of administrative fees that would also be charged the inheritor: three kuruş for the cost of paper on which the tapu certificate was written and a one-kuruş clerk's fee.³³² Article 9 of the 1860 law increased these administrative charges to also cover a clerk's fee as well as a fee equivalent to five percent of the value of the land.³³³ While these fees were not insignificant – the average value of field-crop land as assessed in the 1876 *Emlak* survey was 150 kuruş per dunam, so a small, ten-dunam inherited plot assessed at the prescribed fee-rate would cost 225 kuruş plus administrative fees to register – they were still far less than the *bedel-i misl* (equivalency) charged owners who claimed land through means other than transfer by sale, gift, or inheritance. These fees were equal to the assessed value of the land in its entirety.³³⁴

How can we determine that this was the goal of the case? Unfortunately, available evidence does not permit a discussion of whether internal and/or external pressures had arisen, prompting villagers to update tapu certificates after two decades. While there is no direct evidence to prove that this was indeed the villagers' motivation, three elements suggest its probability. Firstly, as suggested, the case was not conflictual. The defendant's recorded role in the case was minimal. From the court record one learns about him only that in some (undefined) capacity he had claim to some of the profits of Jamrūra's harvests, and

³³¹ *Ibid.*, 74, 93.

³³² *Ibid.*, 74-75.

³³³ *Ibid.*, 93-94.

³³⁴ See, for example, Article 44 of the 1858 Land law (Ongley: 23).

that he requested validation that his fellow villagers were legal inheritors of individuals who held tapu certificates issued two decades previous. Secondly, it is observed that the monetary stakes involved were likely not at the heart of the lawsuit. If, as is probable, ownership was based on a system of shares, each litigant was to receive about fifty kuruş after the case. Although not an insignificant sum, this was no fortune. At the time, fifty kuruş would cover the cost of five-days' rent of a store on the south row of the vegetable market in the Muhtasibin quarter of Hebron,³³⁵ or about one-and-a-half weeks' wages for a clerk in the regional Court of First Instance at the time,³³⁶ or about three weeks' of daily maintenance-money (*nafaqa*) loaned by the court at the time to women whose husbands had left them temporarily without financial means.³³⁷

Thirdly, the case appears in form and procedure to be what Zouhair Ghazzal has characterized as fictitious litigations. Quite unrelated to bribery or corruption, fictitious litigations were procedural fictions, which Ghazzal describes as “judicial inventiveness”, spurious litigations brought about to engender a procedure (a court case) that would produce a needed outcome (a documented ruling) which would validate the existence of an

³³⁵ HR 16/ 93/ 40 (3 Rajab 1312 / 31 December 1894).

³³⁶ HR 16 / 2 / 2 , 7 Sh 'aban 1311 / 13 February 1894. The deceased clerk, 'Alī b. Ḥassan Ghalma(?), was owed six weeks' salary, equivalent to 225 kuruş.

³³⁷ *Nafaqa* loans granted by the Hebron court between the 1870s and 1914 averaged 2.5 kuruş per day for the women of Hebron. See, for example, HR 16 / 78 / 11 (24 Rabi' II 1312 / 25 October 1894), HR 18/55/70 (5 Rajab 1316 / 19 November 1898), and HR 3/122/305 (25 al-Qada 1286 (26 February 1870), and HR 16/78/11 (24 Rabi II 1312 /25 October 1894), and HR 4/19/476 (3 Rabi I 1287/ 3.6.1870).

informal contract or engender a valid contractual settlement.³³⁸ For example, frequently in the Hebron court of the late-nineteenth century did the heirs of a soldier or government clerk bring litigation against a government official, charging that the official owed a small, personal debt to their deceased relative. Also mentioned during the course of the case was the deceased's unpaid salary, still held at the treasury (*şunduq al-khazīna*). Unfailingly, the accused would acknowledge the debt but deny that the litigants were valid inheritors of the deceased. The inheritors were then given the opportunity to have their relation to the deceased documented. In this type of case, complainants had two goals, neither of which was explicit in the way the case was framed and recorded. First, the deceased's relatives wanted to have their relation to the deceased and status as legal inheritors substantiated. Second, they desired to establish legally that the deceased had assets in the treasury, as well as the amount of these assets. The ruling proving their status and acknowledging the fictitious debt on the part of the official also established a contractual obligation to pay to the inheritors the deceased's salary held in the treasury, even though this was not explicit in the ruling.³³⁹

The most transparent examples of procedural fictions in Hebron were petty litigations between notables that took place on dates of religious significance, such as the

³³⁸ The subject is a main theme of Ghazzal's *Grammars of Adjudication: The Economics of judicial decision making in fin-de-siècle Ottoman Beirut and Damascus* (Beirut: Institut Français du Proche-Orient) . Quotation on p. 16. See especially typologies of these cases outlined in Table 2-2, pp. 164-167.

³³⁹ The case mentioned above regarding the clerk at the Court of First Instance is one such case.

start of Ramadan or the beginning of the hajj pilgrimage season at the end of the year. One lawsuit of this sort was brought by a member of the Hebronite Hammouri family against a member of the Jerusalem Daoudi family in July 1892, at the beginning of the Muslim month of Dhu al-Hijja. *Sayyid* Hammouri claimed he had sold to the Jerusalemite a silver watch one month earlier, and that the two had agreed that *Sayyid* Daoudi would pay the price of the watch, fifty kuruş, after one month, on the 7th of Dhu al-Hijja. The *sayyid* Daoudi did not deny the sale of the watch; he denied that the day of the court case was the 7th of the month, the agreed-upon day for payment of the debt. Witnesses were brought in to testify what day it was, by means of recalling their sighting of the new moon the previous week, which they did in great detail.³⁴⁰ The judge ruled that Daoudi's debt had been proven, and that the new moon had been observed. The recorded outcome of the case was that *Sayyid* Daoudi was ordered to pay fifty kuruş to *sayyid* Hammouri. The effective outcome of the case was to document the sighting of the moon and the beginning of the hajj pilgrimage season.³⁴¹

³⁴⁰ "Last Saturday evening, after the sunset on Friday, after the sunset call to prayer, four minutes after we left the mosque after sunset prayers we saw the new moon of Dhī al-Hijje [...] rising from the west toward the north, at half an arm's length [above the horizon], and we were in an elevated place [at the time]..."

³⁴¹ HR 14 / 148 / 476 (7 Dhu al-Hijja 1309 / 3 July 1892) See also HR 14 / 130 / 409 (29 Ramadan 1309 / 27 April 1892). This case follows the same pattern, except the dispute is over fifty kuruş paid for an *abaya* (a men's gown). The date was again confirmed by witnesses who testified to their citing of the new moon, which also signified the end of Ramadan and the beginning of 'Eid al-Fitr.

The pattern of fictitious litigation suits fits the case the Taffuh villagers brought against Husayn. Having now read between the lines of the court record and concluded what this case most probably aimed to achieve, we may now address the question you undoubtedly have been asking yourself while reading the preceding pages: why is there a large discrepancy between the number of landowners as stated in the court case – twenty-four -- and the seven recorded in the property-value assessment register of 1876?

Seven Owners and/or Twenty-Four?: The Harmonious Dissonance in the Documents

To return briefly to the present-day conflicts calling attention to Jamrūra that were mentioned at the beginning of this chapter,³⁴² in light of Israeli confiscations of Jamrūra lands beginning in the 1980s, residents of Taffuḥ traveled to the Tapu ve Cadastro Archive in Ankara, Turkey, in pursuit of proving their longstanding usufruct rights to Jamrūra lands. The villagers were given rare access to this repository, whose nineteenth-century records remain closed to researchers.³⁴³ Among the Ottoman-era files, they were able to gather their

³⁴² See details in footnote 306.

³⁴³ In the first decade of the twenty-first century, the Turkish government granted the archive permission to give to the Palestinian Authority copies of all its Ottoman-era documents on land ownership in Palestine, reportedly some 4,000 pages of documents. (The files have not been made available to researchers.) The news made headlines in Israel/Palestine and Turkey. See, for example, “Turkia he’avira HaArchion Ha’Othmani le-Falistinaim” (Turkey transferred the Ottoman Archive to the Palestinians), *Channel 7*, 21 April 2010, (www.inn.co.il/News/News.aspx/203286 , accessed 12 April 2015), Hebrew; “Turkey transfers Ottoman land records to Palestinian Authority”, *Haaretz* (English edition), 11 October 2006 (www.haaretz.com/news/turkey-transfers-ottoman-land-records-to-palestinian-authority-1.171734 , accessed 12 April 2015); “Turkiya tusallimu al-sulta al-filistiniyya nuskha min al-arshif al-’uthmānī” (Turkey will hand over to the Palestinian Authority a copy from its Ottoman archive) , *Wikālat Filistīn al-Yom al-Akhbāriyya*, 21 April 2010 (<http://paltoday.ps/ar/post/77681> , accessed 12 April 2015), Arabic; “İşte Türkiye’nin elindeki Filistin Tapusu” (Here are Turkey’s Palestine Tapu [records]), 21

ancestors' certificates of usufruct (*tapu kushans*) dating to Tishrin Thani 1306 (*maliyye*) (November/December 1890). With these and more recent documents proving their continuous ownership and cultivation of the land, and after a long legal battle which reached the Israeli Supreme Court, in 2009 a declaration was issued to return the Jamrūra lands in question to the descendants of the twenty-eight Palestinian owners from Taffuḥ to whom records of *tapu* from 1890 exist, a clear demonstration of the enduring legacy and continued importance of the question of Ottoman-era land tenure in Palestine.³⁴⁴

In the 1895 court case discussed above, claims were made in reference to twenty-four owners having obtained *tapu* certificates in 1875 in addition to the defendant Husayn, who presumably also held *tapu* right to the lands. Regarding the discrepancy between the numbers of *tapu* holders claimed in 1895 to have existed since 1875 (twenty-four plus one), and those found in the 1990s to have existed in 1890 (twenty-eight), conclusions cannot be drawn from available information.³⁴⁵ The 1895 court case does not specify, for example, whether the Jamrūra lands held by the twenty-four represented all or only part of Taffuḥ's

February 2006, *Haber 3*, <http://www.haber3.com/iste-turkiyenin-elindeki-filistin-tapusu-haberi-87666h.htm>, accessed 12 April 2015, Turkish; "Osmanlı Arşivindeki Filistin Tapuları" (Palestine *tapu* [records] in the Ottoman archive), *Haberciniz* 28 February 2014 (<http://haberciniz.biz/osmanli-arsivindeki-filistin-tapulari-2654414h.htm>, accessed 12 April 2015), Turkish.

³⁴⁴ For more information, see the Taffuḥ municipality Jamrūra page: <http://taffouh.org/ar/taffouh/jammrora> in Arabic, and <http://taffouh.org/en/taffouh/jammrora> in English.

³⁴⁵ I have not been able to determine the names of the twenty-eight *tapu* holders of 1890 or to read the Israeli Supreme Court rulings.

holdings there. What concerns us is the discrepancy brought to light between the tapu registers of 1875 and the property-value and land tax (*vergi*) register of 1876.

In 1876, only seven residents of Taffūḥ were named as land owners of Jamrūra lands in the *Emlak* register (See Table 4.3, above). The dissonance appears baffling. How can it be explained? How should it be understood? It is plausible that the circumstances of representative claims seen in previous chapters and likewise to be seen below in the Idhna case were in part replicated here, in the *Emlak* register. The proportion of divisions of the land – five plots of 105 dunams each, and two plots of 70 dunams each – suggests a representative division of tax liability, if not ownership. If this was the case, then conceivably one name in the *Emlak* register represented a number of tapu holders. It is not clear from available evidence, however, why these seven would have been chosen. The other property holdings they registered in their names do not set them apart from other villagers in terms of status based on property wealth. Muhammad b. ‘Isa Ṭubās, for example, registered assets valued at a total of 3,250 kuruş: a one-room hane, two vineyard plots together totaling 2.5 dunams, and two vegetable-garden plots, together totaling 1.25 dunams.³⁴⁶ Ibrāhīm b. Jādallah Zawātneh registered only a 9-dunam vineyard plot and a quarter-dunam vegetable garden, together valued at 5,250 kuruş.³⁴⁷ Jabr b. Sulīmān and Muhammad b. Naşrallah Zreiqāt each registered just one small property, the former a quarter-dunam vegetable

³⁴⁶ *Esas-l Emlak*, Taffuh entries #52 (residences), and #51, 114, 366, and 388 (agricultural properties).

³⁴⁷ *Ibid.*, entries #202, 386 (agricultural properties).

garden valued at 250 kuruş, and the latter a one-dunam vineyard, valued at 625 kuruş.³⁴⁸ It is not clear from the records in whose residences these three lived. None of them registered a home in their own names.

Needless to say, landed assets were not the only type of property rural villagers could amass. The Hebron district's registers of sheep and goat taxes, which were assessed on the head, would be invaluable for gaining a fuller picture of Hebron's rural economy, could one be located. Leatherworks and especially the manufacture of goatskin bags and, less frequently, camel bags formed a sizeable and profitable industry in Hebron. Ottoman central-government and military records indicate that over the course of the nineteenth century orders were placed in Hebron for thousands of these sturdy water vessels at a time, to supply the needs of hajj caravans and the Ottoman army.³⁴⁹ Inheritance records and inheritance-related court cases in Islamic-law court archives also point to the economic value of this industry. To illustrate, among the possessions of Hajj 'Abd al-Razzāq b. al-Hajj Muhammad Sidr of Hebron upon his death in the early 1880s were 180 goatskin leather water bags, whose value alone totaled nine thousand kuruş, several times larger than the majority of bequests recorded in Hebron's shari' court in this period.³⁵⁰ Villagers were active

³⁴⁸ Ibid., entries #149, 368 (agricultural properties).

³⁴⁹ Başbakanlık Osmanlı Arşivi (BOA) C. ML 16/741, dated 16 Muharram 1215 (9.6.1800), and C.DH. 27/1321, dated 3 Şubat 1216 *malıyya* (15.2.1803), and C.AS 390 / 16128, dated 18 Rabi I 1218 (6.8.1803), and I.AS. 4/1311 RA-12, dated 21 Rabi II 1311 (2.10.1893).

³⁵⁰ HR 15 / 10 / 15 (27 Muharram 1310 / 21 August 1892). The case took place ten years after Hajj 'Abd al-Razzāq had passed away..

on the supply side of the industry. At least some residents of Taffuḥ supplied the manufacturers in Hebron. For example, court records indicate that al-Hajj Muslim al-Zawātne of Taffuḥ owned, at the time of his death in 1870, not only landed wealth – 19.25 feddans of land but also a sizeable goat herd of 150 large black goats valued at 5,400 kuruş. A further indication of this villager’s socioeconomic status was his black servant named R’awān. She was valued, among his personal possessions, at 1,350 kuruş.³⁵¹

The second issue one must consider, in trying to understand the contradiction of ownership presented by the *Esas-ı Emlak* register and the 1895 court case, is how the tapu and tax lists were created and maintained. Haim Gerber suggested that separate surveys were conducted for tapu and *vergi* (tax) registrations (as opposed to one, joint survey).³⁵² He bases this on his research of Jerusalem Administrative-Council records of 1906-08 and 1911-12. He found among these records hundreds of land-tenure-related cases, which he states came from every village in the Jerusalem subdistrict (*qaza*).³⁵³ Gerber found that most of these were requests to register lands. He determined through his study of minutes of administrative-council meetings that the council’s protocol in such cases was two-fold. An on-site investigation would take place, and tax-records for the plot would be checked in what he calls the *vergi* registers, in an attempt to match details about a given plot with its

³⁵¹ HR 4 / 24 / 505 (11 Rabi’ II 1287 /11 July 1870) and HR 4 / 26 / 514 (12 Rabi’ II 1287 /12 July 1870).

³⁵² See the section “Land Registration” in his *Ottoman Rule in Jerusalem 1890-1914* (Berlin: Klaus Schwarz, 1985): 202-6.

³⁵³ *Ibid.*, 202.

value and tax assessment.³⁵⁴ However, Gerber's research did not shed light on the question of who would have been liable for the taxes on lands that were not under tapu, and why its registered taxpayers would not have obtained tapu certificates.³⁵⁵

Similar to Gerber, Martha Mundy and Richard Saumarez Smith, in their detailed study of land registration and tenure in Transjordan from 1868, proffer that Ottoman protocol assumed that a list of properties upon which tapu commissions could draw to determine eligibility for tapu certificates would already have been drawn up for the tax office before a tapu survey took place.³⁵⁶ If this was the case in the Hebron district, it is plausible that ownership in the two registers could have differed significantly. However, the evidence presented in the 1895 court case indicates that tapu registration of Jamrūra lands to twenty-four individuals took place around the time of the *Emlak* survey, which recorded just seven individuals. The time-distance between the two documents was, at the most, eighteen

³⁵⁴ Ibid., 202, 206.

³⁵⁵ Further, comparing his findings about property-value and property-tax assessment surveys with the 1876 *Esas-ı Emlak* for the rural areas of the Hebron subdistrict (*qaza*) raises a number of questions unanswerable until further investigation can be carried out. The issues may be summarized here. First, Gerber finds reference to at least three such surveys having been conducted in the Jerusalem *qaza*: December 1868, February 1886, and sometime in 1907, the first one alone (understandably) called the *esas* (fundamental) register: *esas-ı yoklama* (p. 204). Second, the summary reports Gerber found regarding the 1907 survey seemingly indicate that there was either an enormous difference in market-rate land values between Jerusalem and Hebron rural areas, or an exponential increase in land values between 1876 and 1907, or a combination of the two factors. Third, the summary reports appear to indicate that some different units of evaluation were used in the Hebron and Jerusalem subdistricts of the Jerusalem *mutasarrıflık*, for example, the monetary evaluation of olive groves according to the number of trees (in Hebron) or according to the number of dunams (in Jerusalem.) (See representative records (for Lifta) presented by Gerber, pp. 204-205.)

³⁵⁶ Mundy and Saumarez-Smith (2007): see the detailed discussions of registration in Chapter 6, 9 and 10.

months. As noted in previous chapters, one finds in the *Emlak* register of 1876 occasional references noting that lands recorded within had been registered “according to the division in the tapu defter”.³⁵⁷ Of course, neither this (literally) marginal evidence nor the date on the tapu certificate(s) recalled by Isma ‘il of Taffuḥ in court sheds light on whether these registrations were part of a systematic tapu *survey* in the district or whether they were done on a voluntary basis. Nevertheless, this evidence does permit us to narrow the realm of possibilities. It is possible, on the one hand, that in Hebron the tapu preceded the (or, this) *Esas-ı Emlak*. This chronology may be an indication that there had been a previous *esas*, tax-evaluation survey which, for one reason or another, had been scrapped.³⁵⁸ In the neighboring Jerusalem subdistrict, Gerber found evidence of a property-tax survey having been conducted in 1868. The next survey he found mention of, however, did not occur until early 1886. This would seem to suggest that the processes of reform implantation in these two subdistricts of the Jerusalem *mutasarrıflık* were not synchronous. It is also possible, on the other hand, although directly contrary to predominant understandings in the field regarding tapu registration in Palestine, that in Hebron some of the villages or some of the villagers registered large tracts of farmlands voluntarily. More research is needed to answer

³⁵⁷ Such is the case, for example, in Yaṭṭa, where the town’s musha had been divided into sixty-four shares of thirty-three dunams each.

³⁵⁸ I am grateful to Martha Mundy for generously communicating with me at length on this question of timing.

these specific questions. That said, neither possibility explains the situation we find in Taffuḥ. We are obliged to probe deeper to decipher the discord between documents.

It is prudent at this point to recall the observation previously made, that variations occurred in the *Emlak* register from one Hebron-area village to the next, in terms of patterns and categories of registration. It has been suggested that this was a reflection of differences in the way that each village organized information for the survey and registration committee. It should also be noted that the composition of the survey committee likely changed as it moved through the district. According to the Law on the Registration of Census and Properties issued 14 Jumadi I 1277 (28 November 1860), in the countryside the assessment and registration teams were to comprise, in addition to two, non-local, salaried property assessors, up to another six individuals from the village being surveyed and/or villages neighboring it.³⁵⁹ Given that Hebron was the largest subdistrict (*qaza*) of the largest district in Palestine in the last quarter of the nineteenth century – the Jerusalem *mutassariflik* to which it belonged began at a line drawn between Jaffa and Jerusalem in the north and embraced the entire southern half of the region, even claiming (until 1906) the entire Sinai peninsula, then known as the desert of Tih – it is conceivable that the core composition of the Hebron-area survey committee changed several times as it progressed southward toward the edges of the district at the beginnings of the desert and the plains.

³⁵⁹ Ongley, 113-114.

The village-to-village registration-pattern variations are seemingly slight, yet they are, nonetheless, important to note. In Sa'ir, for example, the list of properties is organized by families. In other villages, like Tel al-Şāfī and Yaţţa, the village's list was arranged and recorded according to crops – all the fig trees, followed by the vegetable gardens, followed by fields and olive-tree plots. In other villages, such as in Shuyukh, the list of properties was ordered according to locations, first all the plots (olive trees, vineyards, and fields) in Sh'ib al-Fāris, followed by those in Wadi al-Ĥrĥa³⁶⁰ (fields, vineyards, figs, and olives), Kan'ān (olives, figs, fields, vegetable gardens, and vineyards), and etc. These variations suggest that the Ottoman surveyors heading the *Emlak* survey committee were flexible in their survey methodology in order to win the much-needed cooperation of the populace so that the most complete registration of properties and equitable evaluation of property values could be conducted.

But how far were they willing to bend? Or was this bending at all? Was it generally permitted in the district, and elsewhere, to issue tapu certificates to property shareholders who were not registered or otherwise noted as taxpayers? An examination of the case of co-partnerships indicates that the answer is “yes”. Throughout the Hebron district one finds in the *Emlak* survey evidence of joint partnerships of property, from houses to olive presses to farmlands. This is not surprising; Islamic laws of inheritance facilitated the creation of intra-

³⁶⁰ واد الحرحة: Ĥirĥa? Ĥarĥa? Ĥurĥa? I could not locate this wadi.

family partnerships. It is relevant to note the manner in which these partnerships were recorded in the tax register. One partner was named; the other was not. Most commonly one finds the following notation: *ve şeriki* (and partner). Unusually, the notations *ve birāderi* (and brother) and *ve şürekā* (and partners) were recorded.³⁶¹ The printed-form of the registration book paved the way for joint ownership, labeling the owners' column in the plural, *Esāmī-i Aşhāb-i Emlak* (see Appendix I), that is "Names of the Owners of the Property". If we consider that Tanzimat-era tax reform was a shift to a system of individual accountability from a tax-collection system that was structured around the collective, in which the mukhtar(s) of a village was responsible for collecting from villagers proportionally and paying, then the idea that only one member of a partnership would be denoted as the taxpayer in a situation of collective ownership does not seem incongruous but, rather, an extension of previous custom.

Three of the seven names which appear as Jamrūra owners from Taffuḥ in the 1876 tax register are unquestionably identifiable today among the list of twenty-four tapu holders mentioned in the court case.³⁶² The other three are questionably identifiable.³⁶³ The seven

³⁶¹ Both these classifications are found in the small village of Dayr al-Hawa, for example.

³⁶² These are al-Hajj Sulayman b. Salīm, Muhammad b. Naşrallah Zreiqāt, and Tamīm b. Muhammad Sarāyreh (spelled in the 1875 register with the letter *siin*, not *şaad*).

³⁶³ The three questionable references are (1875 / 1895): Muhammad 'Isa Ṭubās and Muhammad 'Isa al-Qawmah (the only Muhammads b. 'Isa in either list); Jabr b. Sulaymān and Jābr 'Uthmān (the only Jabr/Jābr in the list); and Husān b. Husayn Muhammad in the 1875 register, compared with, among the list of twenty-four, one Husayn Muhammad, and one Husān al-'Aṭiyāt. Spelling of names of people and locales was, in this period, non-standardized. Occasionally confusion of names, relations, or spelling

men registered in the *Emlak* register were quite possibly family heads, but their status within their extended families cannot be ascertained from information available. Their reported landed wealth, and lack thereof, has been discussed above. The size of the seven Jamrūra plots recorded in the tax register, five plots of 105 dunams and two plots of 70 dunams, implies that the ownership was in shares. Given the size of the plots and the number of tapu certificates, it is reasonable to assume that a number of people did indeed stand behind the registered owners, working the land. We can understand that this was distinct from a partnership, since there was no notation in the *Emlak* register that a partnership existed. In the following section, the case from Idhna to be discussed will clarify how this arrangement was treated in the tapu register.

It may also be mentioned that in Dura a number of Taffuḥ villagers registered in their names in the *Emlak* register large parcels of field-crop land. These plots were widely variant in size but most were large, some comparable in size to the whole of Taffuḥ's 665 dunams in Jamrūra. For example, Ṣāliḥ b. Jādallah claimed a single, 735-dunam plot in Far'a, as well as an additional 25-dunam plot in another part of Dura's lands.³⁶⁴ One Sālim b. Muslim registered a 285-dunam plot on Khallat 'Ayn Fāris.³⁶⁵ And Ismā'īl b. Badawī al-Khmeise, the

variations of a name also can be found, at times within one document, more often between different documents. Also, it must be added, unfamiliar, scripted names can be the hardest for a researcher to decipher. That is to say, I may unwittingly be responsible for transcription errors regarding the Hebron sharia-court records, of which any form of reproduction other than hand-copying was forbidden to me.

³⁶⁴ The smaller plot was in Qīr'as(?). *Esas-ı Emlak*, entries # 9060, 9064.

³⁶⁵ *Ibid.*, entry # 9063.

representative of the Taffuḥ villagers in the 1895 case, registered on Dura's lands 318 dunams: a 168-dunam plot at Rifāda and a 150-dunam plot at 'Ayn Mawsib (or Mūsib).³⁶⁶

Each of these parcels was too big to be farmed by a single family, without either partners or hired laborers.

To conclude, I argue that the seeming contradictions between tapu and tax lists which this case makes apparent were not problematic in Ottoman eyes, and neither were they disharmonious for the landowners and taxpayers involved. Rather, they should be seen as a reflection of flexibility on the part of the registration commission(s) in working to register villages' properties. It indicates that the *Emlak* commission's concern, not illogically, was not with *who* owned what, per se. It bears recalling that the individual citizen was just beginning in these decades to become significant for the government. For example, traditional population counts in the Empire had, for centuries, used the household as the unit of measurement when counting the population. This remained the case until 1831, when the male individual became the unit of measurement. It would be another half century before women made it onto the population rolls. In 1881, the General Population Administration (Nüfus-u Umumi İdaresi) was created, and population counts began to record the entire population.³⁶⁷ In the Hebron district, however, it was not until 1905 that a full-

³⁶⁶ Ibid., entries #9056, 9059. Some of the Taffuḥi properties in Dura are locatable on available maps. See Abu Sitta, sheets # 474/A3 and C3, 475/A3, and 493/B1 and C1.

³⁶⁷ Gülhan Balsoy, *The Politics of Reproduction in Ottoman Society, 1838–1900* (London: Pickering and Chatto, 2013), p. 7.

population registry would be compiled. The 1888 population registry-books prescribed the recording of females, as well as many details about individual's assets, profits (*temettu*), and taxes paid, but only the names, birth dates, and family groupings of males were registered. In 1905, although the household remained the unit of organization, each individual – male, female, old, and young – began to be recorded by name on a separate line in the register. The intention of the administration to be able to track the population through the empire and across their lives is made apparent by a glance at the record-book forms: there were columns to record each individual's year and place of birth, residence, including street and house number, occupation, parents' names, parents' residence(s), religion (*millet*), eye color, skin color, approximate height and size, unusual physical features or handicaps, and year of conscription, marital status, births, and death.³⁶⁸

In 1876, the Hebron-region *Emlak* commission was interested, particularly at this beginning stage – the *esas* – in assigning names to properties, determining and recording the dunams of lands under cultivation, assessing their worth, calculating the amount of property tax owed on properties and being able to assign that yearly burden to a taxpayer.³⁶⁹ This

³⁶⁸ ISA, NF registers for the Hebron district, 1881 and 1905.

³⁶⁹ Mundy's and Smith's joint investigation of 1895 tax registers for the hill villages of Kufir 'Awan and Khanzira in the Transjordanian hills and Hawwara and Bait Ra's in the plains villages suggests the same priority is observant in Transjordan. In Bait Ra's, for example, partnership/shareholding was annotated in the tax register as observed in the Hebron register, by a notation noting an (unnamed) partner or relative. In Hawwara, however, only one name was assigned tax liability per property. Either there were no partnerships or shareholdings, or the commission chose not to mention them (see Mundy and Saumarez Smith, 117, 140).

suited the needs of the time. The thousands of dunams of land and olive trees registered *en bloc* to “the people” of many of the villages, as discussed in Chapter 3, supports this argument that assigning tax liability was sufficient for the commission at this early juncture, as long as it was agreeable to the people from whom taxes were to be collected.

One may detect elements of the conventional narrative in this assessment. Until today, most historians of Palestine argue that at this stage, due to peasant fright or misunderstanding mukhtars, tribal chiefs, urban notables and businessmen stepped in to register villagers’ agricultural lands. The case of the Hebron district leaves us no choice but to re-examine this narrative regarding other districts of Palestine, and to search out documentary sources that can answer these questions.

We can venture to say that the registration of properties in the tapu and tax registers was not initially understood among villagers to replace or nullify understandings of ownership that were already recognized locally, some expressed only orally and others documented on paper, either informally or in the sharia court. In the same breath, however, we must qualify this statement with the observation that, actually, they *did not* replace or nullify such claims. As this case and the Bayt Kāḥili’s case to be examined in the following section make clear, these claims to ownership continued to be substantiated in the sharia court when the need arose.

Although the 1895 tax-survey registers they examined were composed differently than the Hebron-district one analyzed here (see Mundy and Smith, 117-118 and 138-139),

If we adopt the view that the Empire's primary concern was to generate income in the form of registration fees and tax revenue, then its foremost concern would have been to have a name or a group attached to every property in use. This is not to suggest that the tapu and tax surveys were careless or that it did not reflect reality. On the contrary and in contradistinction to a commonly held view, the property-tenure reform laws make it clear that the Ottomans tried to foresee every possibility of ownership, inheritance, mortgage, debt, temporary abandonment, illness, travel, flooding, inability to pay fees and more, and to create procedures and regulations that allowed ordered supervision and strove for accuracy and fairness. Concerns of correlation between registers may have arisen only when conflict arose. While this scenario might be seen as having created a semi-fiction on paper – at least to the eyes of the outsider – this court case suggests that the non-fictional arrangements of land tenure continued to be both definable and honored.

Idhna: strategies to safeguard landholdings—division and endowment

Khalīl b. Muhammad Salāme ('Awād)³⁷⁰ versus Jibrān b. 'Aṭīyya al-Zayr

The village of Idhna is located just south of the southern border of Jamrūra, northwest of Hebron. Until today, the town is composed of two main family groupings, the Ṭumeizī and

³⁷⁰ Khalīl's surname was determined by consulting family trees in *Majmū'a min al-bāḥithīn* (A group of researchers), ed., *Idhna qaryatun lahā tārikh* (Idhna is a village with history), *Kai Lā Nansa* (So That We Won't Forget) series, No.2 (Hebron: *Markaz al-Baḥth al-'Ilmī* (Center for Scientific Research), University of Hebron, 1995, second printing); see p. 49.

the Salīmī.³⁷¹ According to the 1876 tax register, Idhna was a village of eighty-seven residences, one olive press, two hay-storage structures, one stable, and a mosque. Villagers registered a total of twenty-five small individual *mūlk* plots on the outskirts of town (*aṭrāf al-balad*). The largest of these vegetable gardens and fig-tree groves was five dunams. The village collectively registered 13,000 dunams of field-crop land and 2,000 olive trees. They were not designated as musha. In comparison, three-quarters of a century later, in 1945, the British recorded for the village 14,481 metric dunams of cereal lands and 528 metric dunams of plantations and trees.³⁷²

On the last day of 1894, Idhna villager Khalil b. Muhammad Salāmeḥ appeared at the sharia court in Hebron in an attempt to dislodge a fellow villager from farmlands Khalīl had been leasing him.³⁷³ Appearing with him was his tenant and also a representative of the accountant for pious endowments in Hebron (*wakīl muḥsebe-ci al-awqāf*, a title mixing Turkish and Arabic), al-Shaykh Hassan Effendi al-Tahboub, of Hebron. Khalil began his

³⁷¹ Ibid., p. 52. See also, Applied Research Institute of Jerusalem, Town Profile of Idhna (2009): http://vprofile.arij.org/hebron/ar/pdfs/ldhna_ar.pdf (in Arabic) and http://vprofile.arij.org/hebron/ar/pdfs/ldhna_ar.pdf (in English): p. 7 in both versions

³⁷² *Village Statistics*, 93.

³⁷³ HR, 16 / 95 / 41, 13 Rajab 1312 (31 December.1894). The surnames of Khalil and the defendant, Muhammad, were not recorded in the sharia register. In the 1875 tax register, one finds two Muhammad b. Salāmeḥs: Muhammad Salāmeḥ ‘Awād and Muhammad Salāmeḥ ‘Awdh. There is no record of a property owner named Khalil b. Muhammad among the village’s privatized properties, which comprised the buildings in the village, and small vegetable gardens and fig-tree groves, none of which was larger than six dunams. Although the town’s official name is Idhna (with the letter د) in both the sharia court document referred to here and in the 1875 tax register, the town’s name was spelled Idna (with the letter ن). Today in the Hebron district, Hebronites still refer to the village as “Idna”, while villagers call it “Idhna”. For the sake of convention, I will use the latter.

testimony by giving a history of the land parcel that was the subject of conflict. He said he had inherited from his father three feddans of land in Khallat Jawrat Sālim, located in Wadi al-Afrānj, which were part of the village's farmlands. The land belonged to the Ibrahimī waqf, and 'ushr (tithe) was charged on the crops and paid to the waqf.³⁷⁴ Khalīl said his father had received the three feddans when the village had divided its communally owned lands,³⁷⁵ and he had then registered them in the tapu register. His father's share of village lands, as reported by Khalīl, was one-sixtieth. Khalīl further testified that his father had worked this land for four or five years before passing away. When Khalīl inherited them, he began to work them and continued to do so for fifteen years, then decided to lease part of them to his fellow villager, the defendant in this case, Jibrān b. 'Aṭīyya al-Zayr. Khalīl testified that he had been leasing land to him in Khallat Jawrat Sālim for the previous seven years.³⁷⁶ Khalīl said he had been receiving a portion of the land's harvest as payment and now wanted to terminate the lease, but Jibrān refused to relinquish his hold on the land.

³⁷⁴ The Ibrahimī waqf refers to the waqf endowed to the main mosque in Hebron, the Haram al-Ibrahimī, named after the father of monotheism. Inside the mosque is Abraham's cenotaph marking his grave below the mosque, along with those of his wife Sarah, his sons Isaac and Jacob, and their wives, Rebecca and Leah.

³⁷⁵ The original reads, "بعد القسمة بينه <والد خليل> وبين اهالي قرية ادنا", i.e. after the division between him and the people of the village of Idna. This can be understood to mean that Khalīl's father opted out of communal lands *before* the town divided its lands, but since he also refers to this action as *al-qisma* (the division), and in light of the defendant's rebuttal, I understand this to mean the division of lands took place among all villagers and all lands.

³⁷⁶ There are no 'Aṭīyyas or Jibrān b. 'Aṭīyyas in the tax register. Given the facts of this case, that Jibrān was leasing another's lands, his absence from the register may indicate he was not a property owner.

According to Khalīl's timeline, his father had received his share of village lands twenty-six or twenty-seven (hijri) years before the court case, in 1867 or 1868. While there are no indications that a tapu survey had been conducted by this time in the district, as was discussed in Chapter One, we have seen that tapu clerks in the *mutasarrıflık* of Jerusalem had for years been issuing title deeds for voluntary registrations. Khalīl testified that his father had registered in the tapu his share of village lands (one-sixtieth) at the time he received them. By calculation based on the dunams of village field-crop land registered in 1876, his father had received some 215 dunams of field-crop lands, meaning the Idhna feddan was approximately seventy dunams in size. Although waqf lands (*arazi mevkuŕfe*) were excluded from the Land Code of 1858,³⁷⁷ their registration in the tapu became possible by decree in early 1865.³⁷⁸

The defendant, Jibrān, testified in rebuttal to Khalīl's claims that general tapu registration (*taṭwīb*) had taken place in Idhna just fifteen years before the court case, i.e. in 1297H / 1880. According to him, the village's agricultural lands were registered in the tapu *en bloc*, as belonging to the village communally. He claimed that the three feddans in question were his, and that he had been farming them for fifteen years and had received them as his own at the time of the town-wide division of its lands. According to him, this

³⁷⁷ Their exclusion is made explicit in Article 4(i), (Ongley, 4).

³⁷⁸ See the Regulations, promulgated on 25 Ramadan 1281 (21 February 1865) in Ongley, 138-158. Regulations regarding the inheritability of waqf land on which a title deed (tapu) existed were included in the regulations broadening the inheritability of tapu-ed miri lands, on 17 Muharram 1284 (16 May 1867). (Ongley, 158-160).

took place three years after tapu registration, i.e. in 1883. Apparently, the villagers redistributed lands at the time of tapu registration and farmed their shares for three years, then decided to make permanent the then-existing arrangements. At this time, according to Jibrān, villagers collectively endowed land on which they wanted to plant grapes (*li-ajl zirā'a wa-ghirās 'inab*), and Khalīl had granted him the land he had been farming since, with the exception of one part (*māris*) of it. At that time the villagers also decided they would endow their lands. He demanded that Khalīl either produce a tapu certificate to back his claim, or back down from it.

This demand is a noteworthy indication of the degree to which the new system of authenticating ownership had taken root. Like the case in Taffuḥ, here too, both parties linked ownership to possession of a tapu certificate. In regards to the defendant Jibrān's claim that village lands were divided circa 1880, the *Emlak* register would appear to corroborate. As mentioned above, in 1876, the town's field-crop lands were registered *en bloc*. The idea to endow lands at the time of registration would not have been unique to Idhna. A notation in the *Emlak*-register entry for the village of Shuyukh indicates that its villagers took this step at the time the survey was conducted, endowing the entirety of its one-thousand dunams of communally owned field-crop land. Hasan Effendi al-Ṭahboub's recorded presence in court undoubtedly indicates that the land in question was endowed land, but it is insufficient to determine whose claim about waqf was correct, Khalīl's or Jibrān's. As the case proceeded, this turned out not to be relevant.

It is, however, essential to draw attention to the measures taken in court after Jibrān had set forth his demand. Witnesses were not called in to testify to Khalīl's ownership of the three feddans, although witnesses would be brought in later in the case to testify that Khalīl had leased the lands to Jibrān. Instead, the court recessed so the Tapu Registry could be consulted. This step was likely taken because Khalīl could not produce a *kushan* (tapu certificate), making the court's decision to insist on documentation instead of testimony all the more significant.³⁷⁹ When the case resumed, it was announced that the tapu certificate

³⁷⁹ Oral testimony was the main form of proof offered in the sharia courts throughout the Ottoman period. That said, both the supplementary and mandatory use of written documentation as evidence can be found in the sharia courts throughout Ottoman history. See, for example, Leslie Peirce's study of the Aintab court 1540-1541, *Morality Tales: law and gender in the Ottoman court of Aintab* (Berkeley: University of California Press, 2003):102-103. Boğac Ergene argues its use in the early-modern period was subordinately complementary to oral testimony. (He makes this argument in his 2004 article, "Evidence in Ottoman Courts: Oral and Written Documentation in Early-Modern Courts of Islamic Law", *Journal of the American Oriental Society* 124 / 3 (July-September 2004): 471-491. On the varied uses of documentation in early-modern sharia courts, see his "Document Use in Ottoman Courts of Law: Observations from the *Sicils* of Çankırı and Kastamonu", *Turcica* 37 (2005): 83-111.) Needless to say, the court system and recording procedure underwent periodic reform. During the Tanzimat, a *nizamiyye* (civil, commercial and criminal) court system was introduced alongside the traditional, sharia courts and took over many of its functions. (On the development of this system, see Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave Macmillan, 2011). In Hebron's sharia court between 1867 (the year of the first archived *sicil*) and the 1890s, there was a noticeable shift in the types of cases heard as well as in the manner in which they were recorded in the court register and these are reflective of Tanzimat-era reforms to the judiciary. For example, by the early 1890s, judges regularly began to cite in their rulings clauses (*maddeler*) from the *Mecelle* (*mecelle-i ahkām-i 'adliye*), the civil code promulgated in 1869, as was done in this case. This requirement was one that was actually applied to the *nizami* courts (Ibid., 88), illustrating that in Hebron the sharia court continued to hear civil cases after the reform and that it adopted at least some of the procedural reforms mandated to the new, *nizami* courts. Another innovation in this period was the consultation of court records.

Reforms to the sharia court were also applied. For example, the Order of the Arrangement of the Sharia Records promulgated in 1879 (1296H) redefined recording procedures of court cases in the judge's record books. The law permitted that these records might serve as evidence in court in the absence of other proof. (Ahmed Akgündüz, "Shari 'ah Courts and Shari 'ah Records: The Application of Islamic Law in the Ottoman State", *Islamic Law and Society* 16 (2009): 211. On occasion, one finds

had been located. The plot in question was listed among the listings for Wadi al-Afranj. Its borders were also listed: the mountain, the wall (*ḥā'it*) of Jamrūra, and the portion of Idhna's village's lands which had been registered by the Ṭumeizī (in the court record, الطمايزة)

toward the end of the period being studied notes in the Hebron court records that judges referred back to old court records to verify details and rulings relevant to current cases. For example, HR 14 / 141 / 455 (5 Dhu al-Qa'da 1309 / 1 June 1892) led the judge to consult the court record for the case found in HR 2 / 163 / 739 (2 Dhu al-Hijja 1285 / 16 March 1869), and a week later, HR 14 / 145 / 466 (12 Dhu al-Qa'da 1309 / 8 June 1892) led the judge to consult HR 9 / 52 / 98 (6 Ramadan 1293 / 25 September 1876). Although cases in the *sicillat* were not recorded in strictly chronological order, searching by date was the only possible way to locate a case. Court cases were not recorded into the court register at the time of the hearing, and an examination of registers shows that they were not always recorded on the same day of the case. Litigants left the court room with a copy of the ruling, stamped and dated. In these two cases, although it was not recorded in the court register that litigants produced in court copies of the ruling (*hujje*) they had received on the original court date, without their knowledge of the precise or approximate date of the case, the court staff's search in the *sicillat* would have been potentially quite burdensome.

Another recording innovation in the Hebron court registers worthy of note in this period is the recording of the time and day of the week. In the first part of the court archive's *sicil* number one (recorded in 1867), the scribe recorded the day of the week and the time that each court case took place. (On the *alaturka* time system that was used, see Avner Wishnitzer, " 'Our Time': On the Durability of the *Alaturka* Hour System in the Late Ottoman Empire", *International Journal of Turkish Studies*, 16/1-2 (2010), 47-69.) While it is unknown what happened to most of the court's previous records – some are in private collections of Hebronite families living in Jordan – the numbering of the (1867) *sicil* number one as "one" would appear to indicate that this was the time the judicial reforms of the 1864 Provincial Law were implemented in Hebron. (The reform was applied in 1864 only to the province of Tuna (Danube), as an experimental implementation. It was not until 1866 that the reform was applied elsewhere. On the societal integration of the *nizami* court system there, see Milen V. Petrov, "Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864-1868", *Comparative Studies in Society and History*, 46/4 (October 2004): 730-759.) The procedure of recording the day and time of court cases has not been noted by other scholars who have studied late-Ottoman court records in Palestine (e.g., Agmon on Haifa and Jaffa, Yazbak on Haifa, Phillip on Acre, Büsow on Jerusalem, and al-Salim on Tulkarm). (Additionally, I am grateful to Iris Agmon for her communication with me on this subject in February 2012.) Omri Paz has observed the procedure of recording time (using the same *alaturka* system) in *nizami* courts in Eskişehir (Kütahya district) in his article, "Documenting Justice: New Recording Practices and the Establishment of an Activist Criminal Court System in the Ottoman Provinces (1840-late 1860s)", *Islamic Law and Society* 21 (2014): 81-113.

families.³⁸⁰ Khalīl's plot had been registered in the tapu in the name of Ḥamdān Bashīr al-Salīmī and his group (the phrase used was *wa-jamā'atīhi*), among which numbered Khalīl's father, Muhammad Salāme.³⁸¹

Here, too, as in the Taffuḥ case, we can understand that tapu records (and certificates) had not been updated since the date of the initial registration (the date of which, unfortunately, was not a detail recorded in the court record, since it was not relevant to the dispute at hand). While we do not know how long the search in the tapu records took, the orderliness of the record books is hinted at in the court record. It informs us that plots were organized and recorded according to geographical units and subunits. As the court record also makes clear, one who wished to demarcate on the ground the land's borders based on the relational-border system employed in the tapu register would require the cooperation of the villagers. On the other hand, however, there was no effective way to be more precise in the open countryside. If you, the reader, were now sitting with me, the author, over a cup of tea, I might try to emphasize this point by way of analogy to present-day Guam, where I was perpetually lost until I learned to recognize the landmarks by which locals navigate around the island and with which they peppered their answers to my

³⁸⁰ See also *Atlas of Palestine 1917-1966*, sheet 473.

³⁸¹ As we will see below, Hamdān clarifies that this group was his extended family (*hamūla*). Mundy and Saumarez-Smith likewise found this form of joint ownership-registration occurring in the Transjordanian hill village of Khanzira (today Ashrafiya). While all the shareholders were listed by name in the tapu register of 1884, in the tax register of 1895 only one name appeared in relation to the lands. Mundy and Saumarez-Smith: 181-182.

inquiries for directions, explaining how to reach landmarks unknown to me by reference to their distance past, before, or between other landmarks I did not know. The names of roads were marked only on maps, and only the foreigners with maps knew them or had a need for them.

According to the collectively authored research work, *Idhna qaryatun lahā tārīkh* (Idhna is a village with a history), Idhna's villagers did not divide their musha lands until the last years of the Ottoman period, in the early twentieth century. At this time the lands were divided into the village's two large-family (*'ashīra*) groupings – the Ṭumeizī and the Salīmī – each consisting of three, extended-family (*āl*) conglomerate groupings. Each extended-family grouping received a one-sixth share of village lands as musha until 1931, when shares were divided into twenty-four subshares (*qarāriṭ*, sing. *qirāṭ*), with every male receiving one subshare.³⁸² The tapu register quoted in court in 1894 indicates that this division did take place, but that it began already in the nineteenth century, at the time of the tapu survey.

The court record stated that in the tapu register, Ḥamdān was registered as the principal (representative) owner of the Salīmī lands, but not as the sole owner. This point is key to the villagers' strategy. The villagers created two large corporations, each with its own bloc of legally undivided land parcels, which is to say, undivided as far as the tapu was concerned. With reasonable certainty, we may propose that the division of village lands into

³⁸² *Idhna qaryatun lahā tārīkh* (Idhna is a village with history), 52.

two halves likely reflected already-existing patterns of farming arrangements. By creating a corporation, villagers engendered a situation where each large bloc of land remained communal, *musha*. And since every shareholder's name was on the tapu certificate(s) as a partner, future division of the lands remained a viable option. It was facilitated by partnership clauses in the Land Code of 1858. Article 15 paved the way for arrangements like the one the Idhna villagers created. It stated that land could be divided equitably among partners if all or some of the partners requested division, provided that the division did not harm the overall yield. The yield of the sum of the divisions separately could not be less than the yield of them when joined as a whole.³⁸³

For the Salīmīs, the representative head owner appears to have been the clan elder. Bashīr al-Salīmī had been the head of the dominant family of the Salīmī *hamula*. In the family-history section of Idhna's village history, the branch of the Salīmī family descended from Bashīr forms the first Salīmī tree, and this branch (*fakhd*) of the Salīmīs is known until today by Bashīr's name.³⁸⁴ The family tree shows that Ḥamdān was the eldest of Bashīr's two sons.³⁸⁵ His status did not translate into wealth, according to the *Emlak* registers of 1876. Ḥamdān registered only a modest *hane* valued at 750 kuruş and the largest vegetable

³⁸³ Tute, 20-21.

³⁸⁴ *Idhna qaryatun*, 39. Multiple generation family trees dating back to the nineteenth century comprise large sections of many village history books and are a valuable resource for social historians.

³⁸⁵ The trees, which include only males, are constructed chronologically. Generations are represented vertically and siblings horizontally, from right to left according to age.

garden in the village, two dunams in size, valued at 1,000 kuruş.³⁸⁶ When the court case took place two decades later, he was blind and unfit for travel, so a representative of the court was appointed to go to Idhna to take his testimony about the land principally in his name in the tapu. His testimony was needed to clarify which parcel of the Salīmī land had been apportioned to Khalīl's father. As recorded into the court record, he said:

This land ... in Wadi al-Afranĵ in Jawrat Sālim was registered in my name and in the name of my extended family (*hamula*) at the time of the apportioning (*takhṣīṣ*) of the tapu. We have the right to farm it according to the tapu registry (*daftar*). And we divided this land, and to Muhammad Salāme was apportioned (*khussat*) this [parcel].

This division took place in the years following the *Emlak* survey.

The Bayt Kāḥil case: survival through mortgage

The third sharia court case in this study involves a mortgage sale in mid-February 1895 by Bayt Kāḥil villagers of 39 of their olive trees and 320 dunams of the village's 840 dunams in Jamrūra.³⁸⁷ The village of Bayt Kaḥil, estimated by the Palestinian Authority to have a population of 8,350 in 2015, was comprised of just twenty-two residences in 1876, as well as a village guesthouse and a mosque. Ten years after the court case to be discussed here, the

³⁸⁶ *Esas-ı Emlak*, entries #6141 and 6195.

³⁸⁷ HR 16 / 120 / 76 (20 Sha'ban 1312 / 16 February 1895).

population registers of 1905 would record thirty-one households in the village.³⁸⁸ By estimate, then, the village population at the turn of the century was some three hundred individuals.³⁸⁹

Bayt Kāḥil was not rich in lands. In 1876, the village had registered *en bloc* a twenty-dunam fruit-tree grove (*bustān*) and 2,000 dunams of field-crop land. Villagers registered thirty-four vineyard plots equaling 259.75 dunams in Khallat al-Bir, about three and a half kilometers southwest of the village. This was halfway between the village sites of Tarqumiya and Taffuḥ. One of these vineyard owners was a woman. Another owner was living in the neighboring village of Halhul.³⁹⁰ No owners from outside the village were recorded. Villagers also registered sixteen vegetable gardens in the immediate vicinity of the village, totaling 57.75 dunams. Finally, six villagers (representationally) registered in their name field-crop lands in Jamrūra. Each registered one, 150-dunam parcel. If this land was divided equally, this would have been about forty dunams for every residence.

It is not known what apparent financial stress in 1895 prompted some of the villagers to mortgage what represented one-tenth of the village's lands. The term used in court was *bay' wifā'* (in Ottoman Turkish, *vefā*), which literally means a purchase of good

³⁸⁸ Present-day statistics found on the Palestinian Authority's Central Bureau of Statistics website: http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/hebrn.htm . Accessed 1 September 2015.

³⁸⁹ Average hane (household) sizes were discussed in Chapter 1.

³⁹⁰ These were Amuna bint Muhammad Baryush (al-'Aṭāwne) and one Mustafa b. 'Ābid. (*Esas-ı Emlak*, entries #6752, 6758.)

faith, or a redemption purchase. The terms of this type of sale, as unfailingly recorded in the court register for each such case, were that the seller had the right to buy back the lands for the same price s/he sold them.³⁹¹ In some cases this stipulation was limited by a timeframe of a certain number of years; usually it was open-ended. Interest was often charged on mortgages as well as other types of loans through legal fictions. Someone who mortgaged his residence might “rent it” until he repaid the amount borrowed.³⁹² Someone who borrowed cash or mortgaged his property would also “purchase” an “item”, often described as a silver watch, from the loaner. To illustrate, when Yūsif Idrīs of Hebron borrowed from an orphaned minor 1,325 kuruş for a period of three years, he also “purchased” from the minor a silver watch, for 425 kuruş, equivalent in value to 32 percent of the loan.³⁹³ When al-Hajj Hassan b. al-Hajj Muhammad Farāḥ of Hebron borrowed 1,500 kuruş, he mortgaged an ‘*aliyye* (upper-floor apartment) in his house (*dār*) and also agreed to “purchase” two watches for 450 kuruş, equal to precisely 30 percent of the loan.³⁹⁴

³⁹¹ See, for example, HR 1 / 154 / 306 (14 Rajab 1284 / 11 November 1867).

³⁹² See, for example, HR 14 / 53 / 168 (20 Rabi’ I 1309 / 24 October 1891).

³⁹³ HR 18 / 6 / 15 (29 Sha’ban 1315 / 23 January 1898).

³⁹⁴ HR 14 / 124 / 399 (25 Rabi’ II 1309 / 28 November 1891). These euphemisms were common throughout the Empire. For those used in Istanbul, see Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton: Princeton University Press, 2011): 150.

Part One: The Sellers

Due to the large number of villager petitioners involved in this case – nineteen people – the court session was not convened in Hebron. The court scribe, Hebronite ‘Abd al-Qādir Effendi Ḥammouri-zade, was sent to Bayt Kāhil. He convened the legal hearing in the village mosque’s courtyard.³⁹⁵ Present with him in Bayt Kāhil were two Hebronites, Shaykhs Ahmad and Khālid, sons of Shaykh Darwīsh al-Ja’abri. Shaykh Ahmad would, in a few years’ time, have a son he named Muhammad ‘Ali. Shaykh Muhammad ‘Ali al-Ja’abri would, as an adult, establish Hebron University and serve as long-time mayor of Hebron (1940-1976).³⁹⁶ Shaykhs Ahmad and Khalid’s role in the case, according to the court record, was to confirm the identity of the nineteen villagers. It is pertinent here to note what were likely already their professions. Ten years later, in Hebron’s population registry, it was recorded that Ahmad was then serving the municipality and employed as an agent of the Bānq Ziraat (Ottoman Agricultural Bank) and the land-registry offices. His younger brother, Khālid, who could read

³⁹⁵ Recall, similar procedure took place in the Taffūḥ case. Hebron court registers indicate that the court was in a number of cases willing to hold a court session at its clients’ abodes, if the case involved notable families in Hebron or the villages, for example, or in cases like these, where it was deemed to be the most convenient arrangement for the large number of people involved.

³⁹⁶ Michael R. Fischbach, “Ja’bārī, Muhammad ‘Alī”, in Philip Mattar, ed. *Encyclopedia of the Palestinians*, revised edition (New York: Facts on File, 2005), 255. See also ‘Imād al-Bishtāwī, *al-Shaykh Muhammad ‘Alī al-Ja’abārī wa Dawruhu fī al-ḥayā al-‘āma 1900-1980* (Shaykh Muhammad ‘Alī al-Ja’abri and his role in the Public Life 1900-1980) (Hebron: Dār Usāma, 2007), 26, 198.

and write Turkish as well as Arabic, was in charge of (collecting?) the sheep and 'ushr (tithe on harvests) taxes.³⁹⁷ The Ja'abri brothers will be discussed further below.³⁹⁸

The purpose of the court session was to record the villagers' testimony of the fact of their sale of the lands and to appoint an agent (*wakīl*) to handle the mortgage transaction for them at the Commission of Transactions and Settlements (*Qumisīyūn al-mubāya'a wa'l-iqrār*). This was in accordance with the law concerning mortgages (*rehn*) of 21 Rabi ' al-Ākhir 1287 (21 July 1870).³⁹⁹

³⁹⁷ ISA, 1905 nufūs registers for Hebron, defter 187, hane #142.

³⁹⁸ In 1900, Shaykh Ahmad b. Darwīsh and his wife, Khadīja bt. Muhammad Salmān al-Ja'abri, would give birth to Muhammad 'Ali (Ahmad Darwīsh) al-J'abri, (b. 1900 / d. 1980). Shaykh Muhammad 'Ali appears in the 1905 population registers as the fifth of Shaykh Ahmad's five sons; his older brothers were 'Ali, Salmān, Šādiq, and Muhammad Rāshid. The family's household, of which Ahmad's brother Khālid was also a member, was registered as # 142 in the Mushāriqa neighborhood of Hebron.

Al-Bishtāwī, in his biography of Shaykh Muhammad 'Ali, concurs that the shaykh's father's and grandfather's names are these (19). However, Ahmad and Khālid's roles in late-Ottoman society appear to be a forgotten part of family history. In the course of his research, al-Bishtawi interviewed three of Shaykh Muhammad 'Ali's sons and had recourse to the shaykh's private archive of papers. Yet, regarding the Ja'abri family in the Ottoman period he concludes that "one notes the absence of the family name among those who held religious, judicial or administrative posts in the city of Hebron." (21).

³⁹⁹ Article 116 of the 1858 Land Code (See *Ibid.*, 62-63) explains that although *miri* land cannot be mortgaged (*rehn*), it can be alienated against a debt, by means of *vefā*, which is what occurred in this case Article 1 of the 1870 law on mortgages details the procedure that was to be followed in mortgaging land. A certificate from the village mukhtar(s), stating that the land was eligible for mortgage, was to be shown in the sharia court, and it was the court's role to issue a judgment (*hujjet*) of mortgage. (Ongley, 180.) It would appear that testimony in this case was used in place of a mukhtar's certificate to verify the status of the land and its eligibility for mortgage. Evidence from other contemporary cases further shows that sharia court documents served as documentary proof of land ownership or land transactions at the tapu office. For example, in late 1890 Ahmad b. Mahmūd Salhab of Hebron appeared in court with Salīm and 'Āysha, two adult children of al-Hajj Sulaymān al-Dweik, also of Hebron. Ahmad complained that five days previous he had purchased from the Dweik siblings two-thirds of a feddan in a vineyard (*karm*) in Sibtā, featuring a storage pit (*jawra*). This sale was to be permanent (*bī' bāt*). The agreed-upon price was sixty riyals mecredi (equivalent to 1,200 qirsh), of which Ahmad had given at that time a down payment of five mecedis. According to him, it was agreed he would pay the remainder at

The nineteen sellers shared in the ownership of two parcels of Jamrūra's lands: Qiṭ'a Wadi al-'Abhara and Qiṭ'a al-Rūweisāt. The two areas are adjacent to each other in the middle of Jamrūra.⁴⁰⁰ They had divided the two parcels, totaling 320 dunams, into thirty shares (*sahm*, pl. *ashum*), and they were mortgaging twenty-four of them.⁴⁰¹ Two points about this are particularly noteworthy. First, the villagers expressed the measurement of the parcels in dunams, not feddans. This is significant because the dunam was introduced in Palestine with land reform, during the Tanzimat. Its usage began to be reflected in sharia-court testimonies in Hebron only in the 1890s. This is around the same time we begin to see *tapu kushans* (less often used was the Turkish term, *tapu seneds*) mentioned with some frequency in the court. When the Bayt Kāḥil case was heard in the mid-1890s, the feddan was still the dominant local measurement of land, as can be inferred from many other court cases. We can surmise from the villagers' reference to their lands in dunams that they had

the time the kushan (the *tapu* certificate) was issued. His complaint to the court stated that the siblings were now refusing to get the kushan. The siblings, in turn, denied the sale had taken place and asked for proof. Ahmad declared he had no proof and asked the siblings to take an oath. They took an oath which confirmed the sale as had been related by Ahmad. Ahmad then paid the siblings the remainder of the sale price in court and a ruling of sale was issued. In the absence of real conflict in this case, as proven by the siblings' oath, it can be understood that the *tapu* offices required a declaration from the court proving the sale in order to transfer ownership to Ahmad. HR 13 / 8 / 13 (22 Safar 1308 / 7 October 1890).

⁴⁰⁰ Wadi al-'Abhara runs east-west and is about six kilometers west of the village of Bayt Kāḥil. It is located almost three kilometers north and slightly east of Idhna and less than one kilometer north of Tarqumiya. See Abu Sitta, sheets #473/C1 and #474/A1 (. Al-Rūweisāt is located at the western end of this wadi, just north of the 110th parallel and just west of the 148th longitudinal line (See Abu Sitta, sheet 473/B1.

⁴⁰¹ The court record does not mention who owned the five shares which were not being mortgaged.

indeed been registered in the tapu register (which employed dunams, not feddans), *even though* their kushans were not presented or mentioned in court.

Secondly, the choice of the term *sahm* (share) is also noteworthy. We infrequently find this term employed in the Hebron sharia court, except in a minority of inheritance cases, for example, a number of siblings inheriting shares in a store, a house, a field, or an olive grove. The term *qīrāṭ* (pl. *qarārīt*) was more often used in cases of inheritance, as well as in mortgage cases. *Qīrāṭs* signify twenty-fourths. The distinction between the two is that the latter term was employed when the property in question was left physically undivided, and was shared. Thus, one who sold his or her *qīrāṭs* sold his or her partnership rights to the whole, not a particular portion of the property itself. Additionally, while *qīrāṭs* were shares of twenty-four, there was no limit on the number of *sahms*.

More frequently than the employment of either of these two terms, however, one finds that sharia-court cases involving shares of an entity were enumerated in (*shari'*) fractions in accordance with rules of inheritance according to relation to the deceased. Thus, for example, one could own half a store, one-sixth of a tree, one-eighth of one-fourth of a room (*bayt*), etc. Mundy and Saumarez-Smith (2007) found that in Ajlun, Transjordan, many villages registered their musha in shares (*sahms* or *qīrāṭs*), as opposed to individual plots with named borders. The variety of ways communal properties were recorded in the *Emlak* register was discussed in Chapter 3. One illustration of how this ownership was reflected in the tapu registers has been discussed in this chapter, in the Idhna case. The reference to

shares here indicates that the lands were owned collectively. An analysis of the family names that are identifiable among the nineteen shareholders/sellers named in the case appears to indicate that every family in the village was represented among them.⁴⁰² Given that the land was held in shares (*sahm*), and taking into account the broad representation of village families named in the case, it appears reasonable to conclude that the land was musha and was periodically re-distributed among the shareholders, even though it was not declared so in court or in the *Emlak* registers recorded two decades previously. This was not the only such case. As has been shown, in the *Emlak* register neither Halhul nor Sa'ir had declared any of their lands to be musha, however court records demonstrate that both villages had musha land and continued to preserve their shareholding arrangement into the twentieth century.⁴⁰³ This omission should not be understood as a fault of the recording system or as deception on the part of the villagers. As was shown in Chapter 3, a variety of methods of recording ownership were permitted in the *Emlak* registers, including musha. The method recorded appears to have been dependent on the wishes of the villagers. The Jamrūra land being mortgaged by the Bayt Kāḥil villagers was, it appears, technically musha. However, since it also appears that it had been registered in the tapu as a multi-partner partnership,

⁴⁰² Compare footnotes 404 and 405, below.

⁴⁰³ In 1909 fifteen villagers from Halhul appeared in the sharia court to appoint a legal spokesperson (*wakīl*) for them in a dispute over ownership of 60 feddans brought against them by villagers from Shuyukh. The land, called al-Waradāt, belonged to the village of al-'Arrub and was bordered to the east by musha lands of Shuyukh and musha lands of Sa 'ir, and to the west by musha lands of Halhul. HR 14 / 15 / 32 (6 Sha 'aban 1327 / 23 August 1909).

its status (if we may call it that) as *musha*, was an internal matter that was irrelevant to the court proceeding. *Musha*, it should be recalled, was not a legal category of land tenure.

Since these two land parcels shared by members of so many of the village's families equaled almost 40 percent of the village's 840 registered dunams in Jamrūra, it is likely that these same villagers also had a stake in the other various areas of Jamrūra that the town claimed, in the same way that these two plots were shared. Although the names of the locations of the various communally held parcels were almost certainly recorded in the *tapu* register, in the *Emlak* register the location of each of the thirteen plots in Jamrūra was defined only as being "*civār al-mezra*" (in the vicinity of the *mezra*'). The borders of the two plots, as defined in court, are delineated in Table 4.4, below.

As with the case from Taffūḥ discussed above, here too, there were in 1895 substantially more shareholders claiming rights to these lands than had been recorded in the *Emlak* register two decades previous. According to it, only six residents of Bayt Kāḥil had registered plots in Jamrūra, each one 140 dunams in size.⁴⁰⁴ In 1895, nineteen owners of twenty-four shares out of a total of thirty shares presented themselves. A comparison of names between

⁴⁰⁴ These were 'Aql b. Ṣālīḥ (al-Zuhūr), 'Uthmān b. Ahmad Barūsh (Abriyūsh al-'Aṭāwneh), Ahmad b. Naṣār (al-'Aṣāfra), Sulayman b. Hassan Naṣār (al-'Aṣāfra), Muhammad b. Ahmad 'Ali (al-'Aṭāwneh), and Salāme b. Khalil 'Ādi (al-'Aṭāwneh). Surnames (in parentheses) were added according to a folk history of Kāḥili hamulas and their branches (*fakhdh*, pl., *fukhūdh*) posted at <http://baytkahel.ba7r.org/t125-topic>. The village is comprised of just three main families. The largest is the 'Atāwneh, followed by the 'Asāfra, and the Zuhūr. (See *Dalīl Qaryat Bayt Kahil* (Bayt Kāḥil Village Profile), Applied Research Institute, Jerusalem (2009): 7. The guide is accessible online at vprofile.arij.org/hebron/ar/pdfs/Beit%20Kahil_ar.pdf, accessed 13 July 2015.) It is likely for this reason – familiarity in a small village – that only three villagers in the tax register for Bayt Kāḥil were designated by surname, all from the 'Atāwneh family.

the tax register and the court case yields a pattern similar to what was observed in Taffūḥ. It appears that each name recorded initially in the *Emlak* register was a representative of a larger family group.⁴⁰⁵ The use of the term *sahm* to describe the relationship among the nineteen supports this theory, as does the equivalent and large size of each of the six parcels of land, which certainly required many hands to work them.

It is worth questioning further whether the use of the term *sahm* in this case is meant to indicate that the nineteen shareholders' names did not appear on tapu certificate(s). Unfortunately, reading the court and tax documents side-by-side provides us only enough knowledge to prompt this question but insufficient information to accurately answer it.⁴⁰⁶ On the one hand, as mentioned above, it was stated in court that the nineteen intended to proceed from the courtroom to the lands commission office, presumably with the detailed, sharia-court *hujje* in hand. At the very least, the court document was needed to

⁴⁰⁵ The nineteen sellers were: 'Abd al-Hādī b. Salāmeḥ 'Ādi (al-'Aṭāwneh), Hasan b. Ahmad 'Alī (al-'Aṭāwneh), 'Abdallah b. Sulayman al-'Atāwneh, Mahmūd b. Sālīm b. Sālīm al-'Atāwneh, 'Awdatallah b. Khalil Ahmad D'abūs (al-'Aṭāwneh), Sulayman b. Hasan Naṣār (al-'Āṣāfra), Muhammad Ṣāliḥ (al-'Aṭāwneh), Muhammad b. Naṣār al-R'ad (al-'Aṭāwneh), Muhammad b. al-Hajj Jibrīn (Jibrīl al-'Āṣāfra), 'Alī b. Naṣār Husayn Naṣār (al-'Āṣāfra), 'Abd Rabbuh b. Ahmad Naṣār (al-'Āṣāfra), Sulaymān b. Muhammad Bariyūsh (Abriyūsh al-'Aṭāwneh), 'Awda b. 'Aql Ṣāliḥ (al-Zuhūr), Muhammad b. Naṣār Ahmad (al-'Āṣāfra), one Yūsif b. Ibrahīm Ibrahīm Yūsif (surname unidentifiable), Mahmūd b. Abriyūsh (al-'Atāwneh), 'Abd al-Hādī Riyān (al-Zuhūr), Sulaymān b. Kan'ān Dhawān (al-Zuhūr?), and 'Ali b. Hasan Dhawān (al-Zuhūr?). The underlined names would appear to be siblings or sons of the six owners registered in the *Emlak* register two decades earlier, which are named in the preceding footnote and in Table 4.3, except for Sulaymān, who himself was an original registered owner. Relatives of the sixth original owner, 'Uthman b. Ahmad Bariyūsh (Abriyūsh al-'Aṭāwneh), are not readily identifiable among the nineteen.

⁴⁰⁶ Mundy and Saumarez-Smith have noted the same difficulties in attempting to trace ownership between the tapu and tax records (277, footnote 32).

prove the capacity of the *wakīl* who would be filing the paperwork for them.⁴⁰⁷ It implies that everyone's share in ownership had been officially recorded at the tapu offices.

Table 4.4

**Borders of Bayt Kāḥil's Jamrūra lands mortgaged in 1895
to Hajj Ibrahim Shāwar⁴⁰⁸**

	Al-Abhara	Al-Ruweisāt
To the south	Al-Ṭaff, stretching to the lands of Sulīmān Hassan al-Karābliyyeh of Tarqumiya	The water line (<i>maqālib</i>) stretching to the land of the village of Idhna
To the east	The lands of Khirbat Bayt Ūla	Zaqāq al-'Amyān, stretching to Jawrat Sālim
To the north	Khirbat Umm al-Khanāzīr	The land of al-Hajj Ibrahim Shāwar, called Sahlat al-Khassab, and the road (<i>al-ṭariq al-sultāni</i>)
To the west	Khallat al-Muḥāsabe	Marj Qaṣṣa as far as the lands of al-Hajj Ibrahim Shāwar

On the other hand, we have a (then) twenty-year old tax-registry entry that was in all likelihood symbolic of representative ownership. Further, the villagers characterized the lands as an undivided whole, *shared* between them. The only conclusion we can make with

⁴⁰⁷ The *wakīl* appointed by the buyers was 'Aql b. Ṣāliḥ (al-Zuhūr). He was not one of the nineteen who announced the sale of his shares in court, although his name was the first one in the 1876 properties-tax register list for Jamrūra (see Table 4.3). 'Awda b. 'Aql Ṣāliḥ, one of the nineteen sellers, was undoubtedly his son.

⁴⁰⁸ HR 16 / 120 / 76 (20 Sha'ban 1312 / 16 February 1895).

certainty is that regardless of the manner in which the ownership situation was defined on paper, the situation on the ground was known and honored by the villagers themselves and, it appears, Ottoman law was flexible enough to accommodate the situation.

The court case demonstrates that the nineteen owners were following the letter of the law. It cannot be argued that they were ignorant of it or did not fully understand it. Concomitantly, it can be argued that this case and the two preceding it clearly demonstrate that these villagers in the 1890s were conversant with the land laws and rules of procedure related to them. In fact, the attention to detail that the *Emlak* register reveals, line after line for more than three-hundred pages, indicates that the land registration process on the ground in the Hebron district was taken quite seriously by locals, at least for tax purposes.

Part Two: The Mortgage

So far, this discussion has focused on the sellers and their land. Now we may turn to the terms of the mortgage and the interesting case of the buyers. Each seller in turn made a declaration before the court regarding the number of shares he was selling, and the price he received for them. The sale contained a written stipulation characteristic of the *bay' wifā* sale (i.e. mortgage): the sellers could purchase their lands back for the same price that they sold them. In this case a time limit of four years limited this usually timeless stipulation.⁴⁰⁹ The court record also explicitly stated that should the sellers not repay the mortgage, the

⁴⁰⁹ I base these observations on my investigation of the Hebron sharia court registers from 1867-1914.

purchaser, Hajj Ibrahim Shāwar, would have the right to sell (*bay' bāt*, a permanent sale) the lands to whom he wished in order to recover the price of the mortgage.

The smallest holding mortgaged by any of the nineteen was a half share, and the largest was 2.5 shares. Thirteen of the sellers received a price equivalent to 370 kuruş per share. The other six received lower per-share prices, ranging from 360 kuruş down to 250.⁴¹⁰ These variations in price might indicate that these sellers had requested a smaller loan (if the loan was not collective, too), or perhaps that their plots were of a lower quality than the others.

In 1876, the value of Jamrūra's registered lands, both those belonging to Taffūḥ and those registered to Bayt Kāḥil, had been assessed at a value of 175 kuruş per dunam (See Table 4.3, above), higher than the previously mentioned district average of 150 kuruş per dunam for communally owned field-crop land. When compared to this value, it becomes

⁴¹⁰ Prices were given in Ottoman liras and riyals mecdi. Based on other cases in which conversions from these currencies to the kuruş are given, according to its value in the Hebron district, I have converted as follows: one riyal mecdi equals twenty kuruş, and one Ottoman lira equals 100 kuruş. See, for example, HR 4/ 31/ 528 (27 Rabi' II 1287 / 27 July 1870) and HR 14 / 58 / 198 (9 Rabi'I I 1309 / 13 October 1891). There is no indication in the court registers that these exchange rates fluctuated over the years of this study. Johann Büssow uses the same conversion rates. However, citing Schölch, he also states that the mecdi and the Ottoman lira were "often traded at higher prices". (*Hamidian Palestine: Politics and Society in the District of Jerusalem 1872-1908* (Leiden: Brill, 2011): Appendix Four (563).). Alexander Schölch, used yearly figures recorded by the German Consulate in Jerusalem and the Austrian consulate to chart exchange rates by locale in Haifa/Acre, Jerusalem, and Jaffa in selected years from 1857 to 1882. He found that the exchange rate varied by locale and slightly by year, overall continuously gaining in strength against the kuruş over time. According to his findings (originally published in German in 1986), the lira fetched between 110-133.5 kuruş and the mecdi ranged between 21.75 and 26 kuruş. (*Palestine in Transformation 1856-1882: Studies in Social, Economic and Political Development*, trans. William C. Young and Michael C. Gerrity (Washington, DC: Institute for Palestine Studies, 1993): 103-105.

apparent that the mortgage was a pittance compared to the land's value. The highest-paid sellers, those who received 370 kuruş per share, received the approximate equivalent of only 34.7 kuruş per dunam, since one share was equivalent on average to 10.66 dunams. Collectively, the per-dunam value on all the lands mortgaged together was even lower: 26.4 kuruş per dunam. To convert this into buying power, the mortgage amount received for one dunam would have been about enough to purchase merely half a goat.⁴¹¹ Additionally, we must factor into this sum the interest stipulated by the buyers/lenders. They were to receive one-third of the harvests after the *'ushr* tax (tithe) on crops had been deducted, until the land was re-purchased by its owners.⁴¹²

⁴¹¹ I base this assessment on values assigned to black and white goats in three inheritance settlements for area villagers in these years: 45, 48 and 50 kuruş each. From Samu' village: HR 14 / 17 / 70 (24 Dhu al-Q'ada 1308 / 1 July 1891) and HR 14 / 18 / 69 (same date), and from Şūrīf: HR 3 / 35 / 84 (Ghara Jumadi I 1286 / August 1869). Goats were the least expensive livestock to own. In these three *tereke*s, for example, we also find values for a camel (600 kuruş), a donkey (150 kuruş), and small and large cattle (150, 202, and 500 kuruş/each).

⁴¹² As Iris Agmon has found in her research of Haifa and Jaffa Ottoman sharia courts (see *Family & Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse: Syracuse University Press, 2006), in Hebron I likewise observed in the town's court registers that these types of loans were used frequently by both individual urbanites and villagers throughout the period under discussion. Among the most frequent lenders were well-to-do, orphaned minors, whose affairs were managed for them by their legal guardians (*wāṣī*). Mahmoud Yazbak writes that Islamic law encouraged such investments. He has also found this practice to have been historically routine in Nablus. See his "Muslim Orphans and the Sharia in Ottoman Palestine According to Sijill Records", *Journal of the Economic and Social History of the Orient (JESHO)* 44/2 (2001): 133.

In contradistinction, the "formal credit market" was in its infancy in Palestine at this time. The majority of banks in the southern region were established in Jerusalem, from the late 1880s. The Deutsche-Palestina Bank opened in Jerusalem in 1899. According to Ottoman financial historian Hüseyin Al, it was the first German bank to be opened anywhere in the Ottoman Empire. (Hüseyin Al, "Banks and Banking", in Gábor Ágoston and Bruce Masters, eds., *Encyclopedia of the Ottoman Empire* (New York: Facts on File, 2009): 77)

The mortgage was a potentially disastrous loss for the landholders. If they could not repay this loan/sale, they risked losing these lands for just a small fraction of their worth, and this *after* a four-year period during which they were to pay taxes on the crops and the lands (the *'ushr* and the *vergi*) and interest on the mortgage. The *'ushr* and the interest alone would be equivalent to almost half the fruits the land bore.

It need be recalled, however, this was a calculated risk. A number of scholars of Palestine have argued that usury was rampant in the Ottoman Empire because moneylenders faced no competition. Consequently, fallahin were forced to take loans with unrealistic terms, and when the agreed-upon period had passed the borrower automatically

In Hebron, the "Jewish Colonial Bank of London with its offshoot, the Anglo-Palestine Company", which was "principally engaged in making loans at very low rates of interest to Jewish agriculturalists and traders" was operating in Hebron by 1912. ("Jewish Colonists Redeem Palestine", *NYTimes*, 13 October 1912.) According to the *International Banking Directory* of 1920 (New York: The Bankers' Publishing Company), p. 519, it was still the only bank in Hebron in the early years of British rule, whereas there were by then six banks operating in Jerusalem (p.519), including the Imperial Ottoman Bank, which had opened its Jerusalem branch in 1904 ("Osmanlı Bankası Tarihçesi" (History of the Bank), found on the Osmanlı Bankası Arşiv ve Araştırma Merkezi (Ottoman Bank Archives and Research Centre) website: <http://www.obarsiv.com/ob-tarih.html> .)

Documentary evidence stored at the ISA indicates that the Ottoman credit-banking system was operating in Palestine, and used by at least some Hebron-district residents, already at the tail end of the nineteenth century. Two Ottoman loan registers (*Emval gayr menkül İkrâzât-ı Defterleri*) for the years 1311-1314 (1895-1898) and 1314-1316 (1898-1900) include Hebron borrowers. An Ottoman Agricultural Bank (*Ziraat Bankası*) loan register for the years 1315-1317 (1899-1901), also stored at the ISA, likewise includes some Hebron borrowers. These files are: ISA 5/10 *tet*, 19/1 *tet*, and 9/3 *tet*. According to Martin Bunton, officers of the Ottoman Agricultural Bank were established in every district (*qaza*) in Palestine to manage loans. As in the informal market, most of these loans were given against a property mortgage, but annual interest was fixed at 6 percent, likely to be paid not in kind but, rather in cash. (Bunton (2007): 103, 107).

forfeited his or her property if s/he remained unable to repay the loan.⁴¹³ Based on evidence from Hebron, it would appear it would be more accurate to say that while such incidences did occur, they were the exception, not the rule. Moneylending was a functioning economic mechanism. The sheer number of loan cases heard in the Hebron court regularly over the

⁴¹³ Mahmoud Yazbak, *Haifa in the Late Ottoman Period 1864-1914: A Muslim Town in Transition* (Leiden: Brill, 1998): "The term for deals made in this way was *bay' wafā'*, and entailed that the debtor would sell a piece of property to the lender equal in value to the amount borrowed, for an agreed period of time after which the loan was discharged ... The system on the whole was designed to circumvent the *sharī'a* prohibition on taking interest. It also entailed that debtors who proved unable to pay up their loan at the end of the agreed-upon period simply forfeited their property to the lender." (185)

Kenneth Stein, *The land question in Palestine 1917-1939* (Chapel Hill: University of North Carolina Press, 1984): "Fellaheen debt was not a phenomenon of recent origin. For at least three-quarters of a century prior to the British civil administration, the fellaheen had borrowed for seeds, new plows, fresh horses, donkeys, mules...and repayment of other debts, taxes, or private loans. Local landowners, moneylenders, and merchants charged anywhere from 10 percent to 50 percent per annum interest. ... Usually the fellah was unable to repay the loan; sometimes he took out a larger new loan. Creditors of the indebted fellah found it easy to acquire the debtor's land as compensation for the outstanding loan." (19)

Nahla Z'ubi in her "The Development of Capitalism in Palestine: The Expropriation of the Palestinian Direct Producers" (*Journal of Palestine Studies*, 13/4 (Summer 1984): 88-109) argues: "The tithe imposed on these *fellaheen* which, according to M.F. Abcarius, 'represented approximately 35% of the net yield[...]' added to possibilities of crop failure. This, coupled with the growth in the rural population, made it increasingly difficult for the *fellah* to produce enough on his land for his and his family's needs. The only alternative he had was to borrow money from the moneylender, who was either the head of a rich *hamula* or an urban merchant/usurer. The high interest rates claimed by the moneylenders, which exceeded 40 percent and very often reached 100 percent, made the burden of the *fellah* unbearable. ... As a result, by the 1920s, large areas of *miri* land had been transferred to urban and rural 'notables' or landlords who, in many cases, were themselves the moneylenders." (95)

The "Our History" page of the Turkish Ziraat Bankası site writes ,of the loan system in the Ottoman Empire before the creation of the bank, that "There was a large community of farmers from the agricultural segment of society...who were continually dependent on personal loans... . These loans were provided by professional moneylenders and by various professionals and tradesmen... . These personal loans at high interest were called 'usurer loans'. At that time interest was calculated daily, resulting in annual interest rates of up to 900%." <http://www.ziraat.com.tr/en/OurBank/AboutUs/Pages/HistoryOfOurBank.aspx> .

years of this study indicates that this mortgage/loan system was routinized, legally sanctioned, and an important cog turning the wheels of the local economy.

This point needs to be emphasized *because* there is such a sizable and widespread body of literature in which moneylending is presented matter-of-factly as the domain of the usurious, corrupt urban elite, who unscrupulously contributed to the financial ruin of the countryside. In this regard, it is worthwhile to recall here in full the major findings of Ronald Jennings' pioneering study of loans and credit in the Empire, based on 1,400 cases registered in sharia court *sijillat* between 1600 and 1625 in Ottoman Kayseri, Karaman, Amasya and Trabzon.

1. The use of credit was widespread among all elements of the urban and rural society.
2. The supply of capital available for credit was fairly abundant and hence not the monopoly of any small clique of money lenders.
3. Loans and credit were very much the domain of the Muslim Turkish inhabitants
4. Interest was regularly charged on credit, in accordance with the sharia and kanun, with the consent and approval of the kadi's court, the ulema, and the sultan.
5. A 'commercial' or 'mercantile' mentality and profit motive permeated all the elements of Kayseri society, not just the people of the bazaars but the rural ağas, the Ottoman military class, and the ulema as well.⁴¹⁴

Amos Nadan, who has studied what he calls the informal credit market in (northern) rural Palestine during the Mandate period, has found that urban merchant moneylenders

⁴¹⁴ Ronald C. Jennings, "Loans and Credit in early 17th Century Ottoman Judicial Records", *JESHO (Journal of the Economic and Social History of the Orient)*, 16/2-3 (1973): 169.

continued to form the most prevalent form of loan-banking during the Mandate period, despite attempts by the British to build up a formal agricultural-loan system.⁴¹⁵ He makes a compelling argument regarding credit in the Mandate period, based in part on a series of interviews with Nazarene wholesale merchants. He argues that fallahīn preferred to take non-institutional credit, with its variable interest rate tied to the harvest and payable in kind, rather than fixed-rate loans from banks (when they could be secured), repayable only in cash.

It is not surprising, then, that in the 1890s when formal loan-granting institutions for Palestinian farmers were in their infancy in the Empire, this was likewise the case. In Hebron's court, the mortgage/loan business, known both as *bay' w'ad* (lit. sale of promise) and *bay' wifā*, was booming throughout the period under discussion. To term this system an "informal" loan system in the Ottoman period would be a misnomer. It was mainstream.

Further, the Ottoman judicial system was flexible, aiming for agreed-upon settlements.⁴¹⁶ Automatic forfeiture of the mortgaged property would have been contradictory to this principle. The loanee continued to have rights, even when unable to repay the loan. For one, moneylending was a cash business. As Iris Agmon has observed, "the fictitious buyers expected to get their money back because their investment was based

⁴¹⁵ Amos Nadan, "The Competitive Advantage of Moneylenders over Banks in Rural Palestine", *Journal of the Economic and Social History of the Orient*, 48/1 (2005): 1-39.

⁴¹⁶ Abdülmecid Mutaf, "Amicable Settlement in Ottoman Law: *Sulh* System", *Turcica* 36 (2004): 125-140; Boğaç Ergene, "Why did Ümmü Gülsüm Go to Court? Ottoman Legal Practice between History and Anthropology", *Islamic Law and Society* 17 (2010): 215-244.

on lending the money for interest and not on buying real estate.”⁴¹⁷ This is why some loans were given in exchange for properties that would be rather impossible to sell, for example, one-third of three apartments (*‘aliyyes*) within a house along with one-third of an outhouse (*bayt rāḥa*).⁴¹⁸ The idea that payback was the goal of the loan is also the reason why many loaners took borrowers to court in an attempt to retrieve their loans, such as, for example, ‘Āisha bint Sulīmān ‘Āshūr al-‘Ajlūnī and Maryam bint Ahmad al-(l)skāfī of Hebron. They brought a lawsuit in late 1891 against an individual who had mortgaged to them an *‘aliyye* in his house (*dār*) thirty-five months earlier in exchange for 1,000 kuruş and 150 kuruş annual “rent” payments. Their demand in court was that either they receive the money owed them or be allowed to sell the property.⁴¹⁹ It also occurred that the loaner was asked to be patient, because the borrower had come to court, acknowledged the loan and testified of his inability to repay it at that time.⁴²⁰

In other cases, the mortgager approached the court not in an attempt to reclaim his or her loaned money but, rather, with a request that s/he be permitted to sell the

⁴¹⁷ Iris Agmon, *Family & Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse: Syracuse University Press, 2006): 7.

⁴¹⁸ HR 4 / 81 / 633 ((27 Rabi ‘I 1287 / 27 June 1870) .

⁴¹⁹ HR 14 / 53 / 168 (20 Rabi ‘ I 1309 / 24 October 1891). For other examples of this ruling see HR 5 / 59 / 31 (26 Sh’aban 1288 / 10 November 1871); HR 5 / 64 / 51 (15 Ramadan 1288 / 28 November 1871) . HR 18 / 68 / 52 (27 Jumadi II 1316 / 12 November 1898) .

⁴²⁰ For example: HR 5 / 19 / 285 (16 Rabi II 1288 / 5 July 1871).

mortgaged property. This is what Shalom b. Musa Qamkhīn the Jew⁴²¹ did in 1891, bringing a case against the children of a deceased Hebronite woman who had mortgaged to him property in exchange for a loan of 4,000 kuruş in 1873. Shalom did not request repayment of the loan. Rather he requested permission to sell the lands. It was granted him.⁴²²

In a similar case, ‘Abd al-Fatāḥ b. Nāṣir al-Dīn al-Maghribī of Hebron took to court the son of the deceased man to whom he had loaned 1,000 kuruş in exchange for mortgaged property. Although ‘Abd al-Fatāḥ (like Shalom before him) had the option to demand the amount be repaid by the inheritors of the estate of the deceased borrower, he only requested permission to sell the land.⁴²³ It is likely in both these cases that discussions between the loaner and the inheritors of the deceased had taken place outside the court room, and it had been determined that the estates of the deceased could not cover repayment of the loan. The important point to note is the formal procedure of resolving the debt, phrased as a request to the court for permission to sell the mortgaged property to recover the debt. This procedure protected the loaner against future complaint of having sold land that was not his or her possession. The inheritors of the land were present in court in both these cases, either to agree to this solution or to ask for another one. Unilateral forfeiture did not occur.

⁴²¹ This is how he was named in court. Qamkhīn might be a misspelling of Kimchi.

⁴²² HR 14 / 125 / 402 (25 Sha‘ban 1309 / 25 March 1892).

⁴²³ HR 16 / 108 / 63 (22 Sha ‘ban 1312 / 18 February 1895).

There are two factors we should bear in mind when trying to assess/interpret the economic situation of the Kāḥili villagers, based on the low price they took in exchange for their land and the seemingly high interest they agreed to pay. Firstly, these terms were not unusual. In Hebron, an examination of court records for the period under study shows that urbanites from all socioeconomic strata were the most frequent mortgaging borrowers in the sharia court. They also took loans-as-mortgages according to terms similar to the Kāḥilis' mortgage terms. For example, three months after the Bayt Kāḥil case, two shaykhly sons from the Qal'a neighborhood of Hebron, members of the prestigious Dari-Bakri family and sons of a father who bore the titles Shaykh Effendi, took a loan (*istidāna*) of 2,395 kuruş from three children of one deceased Husayn Effendi, who was the Yüzbaşı of the Army Reserves (*redif*), and his widow Fāṭima bt. Yūsif Arnaūṭ ("Albanian"), the children's legal guardian (*waṣīa*). As collateral, the Dari-Bakris sold (*bay'*) them a plot of their land, of unspecified size, with fig and quince trees, grape vines and a stone *sīra*⁴²⁴. The mortgaged parcel was surrounded by vineyards which the Dari-Bakris also owned. The deal also included the price of "two watches", recorded as being a present (*mawhūba*), the payment of which was delayed for

⁴²⁴ According to Suad al-Āmirī and Farās Riḥāl's *Manāṭir: Quṣūr al-mazār'ī fī Rif Filasṭīn (Maṭaras: Agricultural Palaces in the Palestinian Countryside)* (Ramallah: Riwaq, 2003), a *sīra* is a structure found widely in the vineyards of the Hebron region and served as residence during the grape harvests (115)

two years. This was the interest on the loan, and it equaled 709.5 kuruş, precisely 29.6 percent of the loan.⁴²⁵

Interest rates did vary, of course. The orphaned daughter of a Dhikrīn villager from the al-Şūş family lent 1,614 kuruş to a family relative from the village. The “gift” he arranged for the orphan, the price of a silver watch (242.25 kuruş) was exactly 15 percent of the loan.⁴²⁶ Familiarity may have played a role in the lower interest rate. However, when a shaykh of the al-Ḥasāsneh family of the village of Shuyūkh borrowed, through the offices of the Orphans’ Fund (*şundūq al-aytām*), 2,348.5 kuruş from the orphaned children of a relative of his from their village in 1911, his interest, in the form of *Tanqīḥ al-Ḥāmidīyya*, a book of fatwas “purchased” from the court judge for a period of three years, cost him 750 kuruş, equal to 32 percent of the loan.⁴²⁷ These few, representative examples serve to demonstrate that the moneylending system was an integral part of local society, that its procedures and parameters were well established, and that people from all strata of Hebron urban and rural society regularly took loans on credit on fairly similar terms and did so through official channels, in these cases, the sharia court.

⁴²⁵ HR 4/ 129 / 88 (12 al-Q’ada 1312 / 7 May 1895). Mahmoud Yazbak has noted the purchase of fictional objects – books, watches, etc. – as interest in the sharia courts of Nablus and Jerusalem. See his “Muslim Orphans and the Shariaa in Ottoman Palestine According to Sijill Records”, JESHO 44/2 (2001): 130-3). Iris Agmon likewise observed the same frequently in the Haifa and Jaffa sharia courts of the turn of the twentieth-century. Personal communication (2012).

⁴²⁶ HR 3 / 96(?) / 235 (Ghara Ramadan 1286 / 9 September 1869) .

⁴²⁷ HR 22 / 47 / 79 (16 Dhu al-Hijje 1329 (AH) / 24 Tishrīn II 1327 (*maliyye*) / 7 or 8 December 1911). The full title of the book by Hanafite Muhammad Amīn b. ‘Amr b. ‘Abd al-‘Azīz, known as Ibn ‘Ābdīn, is *al-Uqūd al-Dariyya fī tanqīḥ al-fatāwa al-ḥāmidīyya*.

The second factor to keep in mind when contextualizing the Kāḥili villagers' loan is evidence available about alternative lenders, that is, the fledgling Ottoman credit institutions. A systematic, critical study of the operation of the Ottoman banks and credit institutions awaits.⁴²⁸ What we may term the formal credit market was in its infancy in Palestine during the time covered in this study. The majority of banks in the southern region were found in Jerusalem. From the mid-nineteenth century, banks were established there to handle banking matters of foreign and foreign/immigrant Jewish populations.⁴²⁹ The Deutsche-Palestina Bank opened in Jerusalem in 1899. According to Ottoman financial historian Hüseyin Al, it was the first German bank to be opened anywhere in the Ottoman Empire.⁴³⁰

⁴²⁸ While there are a very few studies on the bank itself (André Autheman and James Amery Underwood's *The Imperial Ottoman Bank* (Istanbul: Ottoman Bank Archives and Research Center, 2002) is a translation of Autheman's book of the same title published in French in 1996 by the French Ministry of Economy and Finances; John Karatzoglou's *The Imperial Ottoman Bank in Salonica: the first 25 years: 1864-1890* (Istanbul: Ottoman Bank Archives and Research Center, 2003); Edhem Eldem's *A History of the Ottoman Bank* (Istanbul: Ottoman Bank Historical Research Center, 1999)), no one has yet researched its loan operations in practice.

⁴²⁹ Eitan Burshtein, "Bankaot b'Aretz Israel [Banks in The Land of Israel] 1848-1915" in *HaBank shel Valero: HaBank Ha'Ivri HaRishon ba-Aretz Israel 1848-1915* (The Valero Bank: The First Hebrew Bank in the Land of Israel, 1848-1915), (Tel Aviv: The Eretz Israel Museum, 2013): 87-95.

⁴³⁰ Hüseyin Al, "Banks and Banking", in Gábor Ágoston and Bruce Masters, eds., *Encyclopedia of the Ottoman Empire* (New York: Facts on File, 2009): 77.

In Hebron, the Zionist Organization's Anglo-Palestine bank, forerunner to the Israeli Bank Leumi, was established in the first decade of the twentieth century.⁴³¹ According to the International Banking Directory of 1920, it was still the only bank in Hebron in the early years of British rule, whereas there were by then six banks operating in Jerusalem,⁴³² including the Imperial Ottoman Bank, which had opened a Jerusalem-branch building in 1904.⁴³³ Additionally, agents of the Ottoman Agricultural Bank, established in 1888, were appointed to work in district (*kaza*) centers.⁴³⁴ As will be discussed below, Shaykh Ahmad al-Ja'abri fulfilled this role in Hebron at the turn of the twentieth century.

Documentary evidence found at the ISA indicates that the Ottoman credit-banking system was operating in Palestine and used by at least some Hebron-district residents at the end of the nineteenth century. The two earliest Ottoman loan registers archived in Israel include Hebron city and village borrowers. These are the *Ikrāzāt-i cedide defters* (New Loans)

⁴³¹ "Jewish Colonists Redeem Palestine", NYTimes, 13 October 1912; V. Necla Geyikdağı, *Foreign Investment in the Ottoman Empire: International Trade and Relations 1854-1914* (New York: I.B. Tauris, 2011): 103.

⁴³² *International Banking Directory of 1920* (New York: The Bankers' Publishing Company), p. 519.

⁴³³ "Osmanlı Bankası Tarihçesi" (History of the Bank), found on the Osmanlı Bankası Arşiv ve Araştırma Merkezi (Ottoman Bank Archives and Research Centre) website: <http://www.obarsiv.com/ob-tarih.html>. Christopher Clay adds that the bank's management decided to open in Jerusalem instead of Jaffa due to the city's prestige, despite its lesser commercial importance. See his article, "The Origins of Modern Banking in the Levant: The Branch Network of the Imperial Ottoman Bank, 1890-1914", *IJMES* 26/4 (November 1994): 603.

⁴³⁴ Bunton (2007): 103, 107.

for the years 1311-1314 (1895-1898) and 1314-1316 (1898-1900).⁴³⁵ There is not much context for the researcher to extract from these accounting registers, but they do clearly show the varying interest rates charged on mortgage loans.

Donald Quataert writes that the Bank Ziraat charged six percent annual interest.⁴³⁶ The records for Hebron mortgages show that, actually, six percent was the base rate for a loan to be repaid in one year. For each subsequent year of repayment, three percent was added to the total interest to be charged against the original loan. (See Figure 4.1, below.) So, when Ismā'il al-Khaṭīb of Hebron took a loan of 5,000 kuruş in mid-1896, and the repayment schedule established at the time of the loan called for ten annual payments of 500 kuruş, each was to be accompanied by 165 kuruş interest (*fā'iza*), totaling 1,650 kuruş interest over ten years.⁴³⁷ This amounted to a total interest of 33 percent of the original loan, similar to private moneylenders' rates. We can surmise, however, that this was *not* a private loan

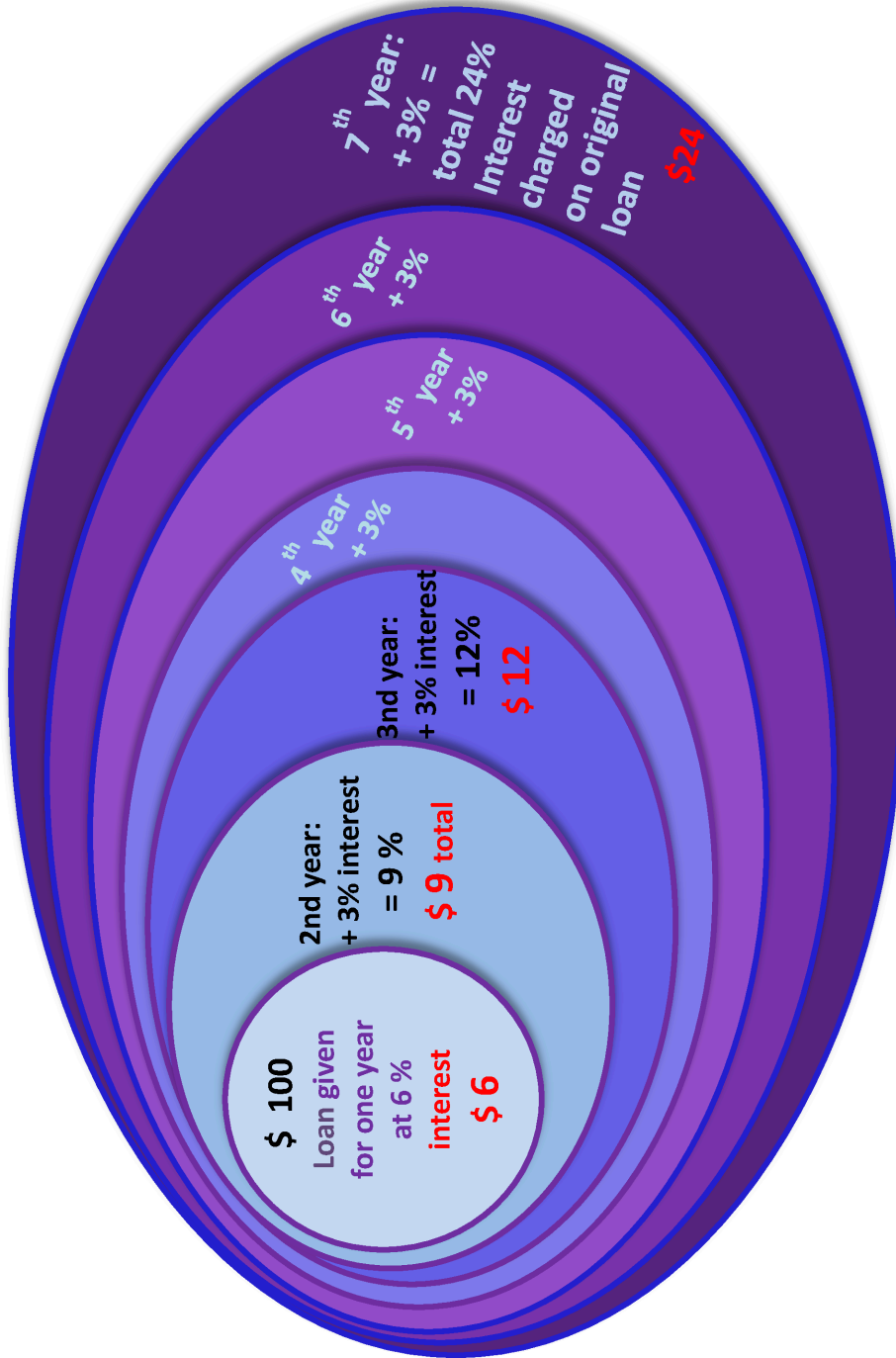
⁴³⁵ These files are: ISA RG83 5/10 tet and RG83 19/1 tet. It is not clear if these registers belonged to the *Emniyet Sandığı*, the Ottoman Agricultural Bank, or another government institution. There is no indication in or on the registers regarding the name of the office that kept and managed them. One other register, (ISA RG83 9/3 tet) for the years 1315-1317 (1899-1901), is labeled "Bānq Ziraat, i.e. the Agricultural Bank.

⁴³⁶ He did not study bank records, however. See his "Dilemma of Development: The Agricultural Bank and Agricultural Reform in Ottoman Turkey, 1888-1908", *IJMES*, 6/2 (April 1975): p. 214. Bunton (2007), in his chapter on credit during the Mandate, follows Quataert regarding the Ottoman period (103). Nadan (2006), citing Mandate government reports, writes that at the beginning of the Mandate period, banks "had to comply with Ottoman law, which prohibited interest in excess of 9 percent—a law that remained in force throughout the [Mandate] period." (216)

⁴³⁷ ISA, RG 83 19/1 tet. Loan # 295. Date of the loan: 5 Haziran 1312 (maliyye) / 17 June 1896.

recorded in the government books, since no loaner was named. The loaner does indeed appear to have been the institution.

Chart 4.1: Interest Scheme on Institutional Loans, late-Ottoman period



To give further example, two years later, Hebronite Khalīl Jabr ‘Ābdīn took a loan of 4,000 kuruş. It, too, was a long-term loan. Over the following decade, he was to pay 400 kuruş annually and, with each payment an interest charge of 132 kuruş would be due, likewise amounting to 33 percent interest on the original loan.⁴³⁸

In the years preceding World War I, we find a number of short-term loans which make this pattern of calculating the interest clear. In 1912, a loan of 674 kuruş was given to Khalīl Hāshim Effendi al-Turk, who resided in Hebron. He was scheduled to pay it back over the following two years, in two equal installments with a total of 60.75 kuruş interest. This equalled nine percent total on the loan amount.⁴³⁹ Muhammad Kāmil Effendi Tahboub of Hebron took a loan of 375 kuruş in 1912, to be repaid in three yearly installments of 125 kuruş accompanied by three yearly interest payments of 15 kuruş, totaling 12 percent of the loan, that is, six percent interest charged for the first year and another three percent of the original amount tacked on for each of the two subsequent years, until the loan was repaid.⁴⁴⁰ Hajj Ibrāhīm Abu Miyyāle of Hebron’s loan of 400 kuruş that year, to be repaid over the following four years, was charged a total of 15 percent interest on the original loan.⁴⁴¹ Finally, a long term loan of 5,000 kuruş given in 1912 to Muhammad S’aīd Effendi Tahboub,

⁴³⁸ Ibid., loan #404. Date of the loan: 30 Nisan 1314 *maliyye* / 12 May 1898.

⁴³⁹ ISA, RG 83 85/4 tet, *Halvaot* register for Hebron 328: *Ikrāzā-l Cedide Defteri* 1328-1329, loan #1116, 11 Tishrīn Thāni 1328 / 24 November 1912.

⁴⁴⁰ Ibid., loan #1115, 21 Nisān 1328 / 4 May 1912.

⁴⁴¹ Ibid., loan # 1119, 23 Nisān 1328 / 6 May 1912.

to be paid back over the following ten years, was to be charged 1,650 kuruş interest: totalling 33 percent.⁴⁴²

According to these rates, then, short-term government-sponsored loans received far better interest rates than what independent moneylenders charged. However, those needing large sums and, specifically, time to pay them did not fare better with the banking institution. They may even have fared worse, since repayment was due in cash, not kind, and moneylenders familiar with local circumstances were likely more flexible than could be a local branch of an empire-wide institution governed by rules established in Istanbul. Additionally, examination of the list of borrowers in these sources suggests that either it was seemingly exclusively the well-known and well-to-do that applied for these loans, or that these loans were granted only to the well-known and well-to-do.⁴⁴³ Kark and Oren-Nordheim have suggested that fallahin could not obtain these loans because they did not hold tapu certificates and, therefore, had no proof of property they could use as collateral.⁴⁴⁴ The Bayt Kāḥil case, together with reports of similar types of group registrations in Transjordan by Mundy and Saumarez-Smith, disproves this theory, demonstrating that villagers could and

⁴⁴² Ibid., loan # 1120, 20 Māyis 1328 / 2 June 1912.

⁴⁴³ By way of comparison, we may consider Amos Nadan's findings about credit-seeking Palestinian farmers in the Mandate era. "My own interviewees in Galilee repeatedly claimed that the only viable option...was to approach moneylenders, who were usually local wholesale merchants. They further stated that it had been difficult to get loans from banks." (Nadan (2006): 214).

⁴⁴⁴ Ruth Kark and Michal Oren-Nordheim, *Jerusalem and Its Environs: Quarters, Neighborhoods, Villages 1800-1948* (Jerusalem: Magnes Press, 2001): 215.

did retain communal patterns of land division (*musha*) and also registered them with the *tapu*.

Part Three: The Moneylenders

So, who were the moneylenders for the Bayt Kāhil villagers? They mortgaged their property to al-Hajj Ibrahim Shāwar and his three brothers, Hajj Muhammad, Naji, and Musa.

According to the 1905 population registry for Hebron each of the four brothers were sons of Ṭālib Shāwar and Fāṭima bt. ‘Amr Abu ‘Amr and each was the head of his own household (*hane*) in the Sawākne neighborhood.⁴⁴⁵ Hajj Ibrahim was born in 1853/4 (1270H) and was the oldest of the four brothers.⁴⁴⁶ In 1905, both he and his brother Hajj Muhammad were registered as merchants (*tācirs*) who could read and write Arabic. Their brother Naji was listed as a merchant and also a grocer (*baqqāl*). The youngest brother, Musa, was also a

⁴⁴⁵ ISA, 1905 nufūs register #176. According to the Shāwar family tree, their father was Ṭālib b. Ibrāhīm b. Muhammad b. ‘Abd al-Dāim. ‘Abd al-Dāim is the family patriarch. See shawar.ps/family-tree/. Amīn Mas’ūd Abu Bakr has found reference in the court records to at least one branch of the Shāwar family having lived in the small Madrasa neighborhood next to the Ibrahimī mosque. (See his MA thesis, written at the University of Jordan and published in 1994 by the university’s Committee for the History of Bilād al-Shām, titled “Qadhā al-Khalīl 1864-1918” (61, the relevant case is one of the three listed in footnote #92 .).) According to the 1905 population register, none of the households in the *mahalle* were headed by a Shāwar. Its residents were almost exclusively from the Tamimi family. The ‘Aqāba neighborhood had a *qaṅṅara* known as *Qaṅṅara Shāwar*, but Shāwars did not reside there.

⁴⁴⁶ It is interesting to observe the internal coherence of Ottoman logic. In the court register as in the population register, the four brothers are named in order of their age. The oldest, Ibrahim, was born in 1270 / 1853-4 and headed #51. Hajj Muhammad, born 1275 / 1858-9, headed hane #52. Nājī, born in 1279 / 1862-3, headed hane 53, and Musa, the youngest, born in 1283 /1866-7, headed hane #54. Their residences were given as: Qaṅṅara (arch) Baṣla, Qaṅṅara ‘Alūsh, Ḥawsh (courtyard) Jawād, and Qaṅṅara al-Dība(?).

grocer. Hajj Ibrahim was married with three sons, two daughters, and five grandchildren.⁴⁴⁷

Circumstantial evidence introduces the possibility that their father may have been a moneylender, too. In 1876 he had registered an eight-dunam vineyard in Taffūh.⁴⁴⁸ In 1869 he had purchased, *bay' w'ad*, a house (*dār*) in the Hebron neighborhood of al-Shaykh 'Ali Bak'a in exchange for a loan of twenty gold liras, equivalent to 2,000 kuruş.⁴⁴⁹

The court record of the Bayt Kāḥil case states incidentally that in 1895 Hajj Ibrahim already owned property in Jamrūra, at Sihlat al-Khasb, which bordered the Rūweisāt plot that he was now buying on mortgage with his brothers. (See Table 4.4, above.) Whether this was actual ownership or temporary ownership, that is, acquired through a recent mortgage loan, cannot be determined. The court case further states that Hajj Ibrahim was already entitled to “one-fifth plus one-fourth of one-fifth” of the harvests of the land now being mortgaged. (He may have been the owner of the five shares which were not being sold.) Michael Fischbach has noted in 'Ajlūn, in northern Transjordan, that the *khums* was a common way of reckoning the owners' share in sharecropping. A sharecropper would supply, for example, the animals, tools and labor, and the owners of the land would supply

⁴⁴⁷ His sons were 'Abd al-Maṭlab, Shākir and Shaykh Muhammad Y'aqub. In 1905, it was recorded that the first two were also merchants fluent in Arabic.

⁴⁴⁸ ISA, *Esas-ı Emlak*, entry # 6562.

⁴⁴⁹ HR 3 / 65 / 152 (22 Rajab 1286 / 28 October 1869). For conversion to kuruş, I rely on Büssow's calculations (Appendix Four: Currencies, Prices and Salaries) in Büssow (2011): 563.

the seed and receive one-fifth of the harvest.⁴⁵⁰ This arrangement could have existed between the Shāwars and the villagers in Jamrūra whether Hajj Ibrahim was the permanent or temporary owner of the property. Given the fractional divisions, we can assume that he possessed the rights to one-fifth of the harvest by himself, and he and each of his brothers together possessed the rights to another one-fifth of the harvest. Given *tācir* Hajj Ibrahim's brothers' professions as stated in 1905, it is not unlikely that the Shāwars were in the business of providing villagers with loans to finance their plantings, then buying their harvests and selling them in Hebron, either in the younger brothers' stores or to other urban merchants.

I have not found records to indicate whether this mortgage was repaid or whether Hajj Ibrahim and his brothers gained permanent title to these lands and, perhaps, sold them. It is worthwhile to note that the family has held on to at least some Jamrūra property over the years. According to a news story in *al-Ayyam* In early 2006, the Shāwar family was among the owners of Jamrūra lands who were notified that their olive trees were to be uprooted so that The Separation Wall could be extended. In an interview, family members

⁴⁵⁰ Michael Fischbach, "State, society, and land in 'Ajlūn (northern Transjordan), 1850-1950", PhD dissertation, Georgetown University (1992): 207.

told the newspaper they had been informed that sixty-one of their olive trees were scheduled to be uprooted by Israel.⁴⁵¹

Part Four: The Quiet Witnesses

Two more individuals are worthy of discussion in this case: Shaykhs Ahmad and Khālid, sons of Shaykh Darwīsh al-Ja'abri, whose presence is noted but whose title and role in court are unexplained in the court registers. As noted, Shaykh Ahmad was likely at this time already working as a representative of the Ottoman Bānq Ziraat (Agricultural Bank) and the land-registry offices. His younger brother, Khalid, was in charge of sheep and agricultural-produce taxes (*aghnām* and *'ushr*). Shaykh Ahmad's two hats are as significant as the brothers' presence at the court session. While Ahmad's roles were likely filled by two individuals in bigger cities, in Hebron it appears administrative, financial, and judicial personnel were working in unison when it came to land issues. His presence signifies that the private-mortgage system was no less legitimate than a mortgage through a bank.

Conclusion

This chapter has clearly shown that the tapu certificate was not necessary to prove land tenure in the late Ottoman period. It was the desired document, but it was not the only one

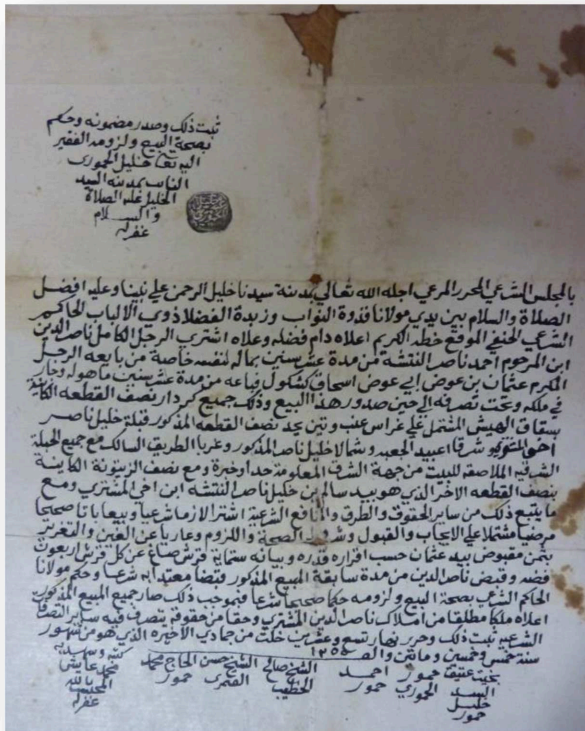
⁴⁵¹ The article has been republished on the Miftah website: www.miftah.org/Arabic/Display.cfm?DocId=4554&CategoryId=4 . Miftah organization was founded in 1998 by Hanan Ashrawi to promote democracy and good governance in Palestinian society.

that was valid. Further, it has been shown that it was not necessary to have a tapu certificate in order to claim ownership for the *emlak* commission and pay taxes. Taxes were another way of claiming ownership. This demonstrates that proving tenure through tapu and tapu alone is a requirement imposed *after* the Ottoman period, anachronistically. Under subsequent regimes, the tapu ironically has come to have more legal weight than it did under the government that created it.

Further, these court cases establish that villagers in Hebron were aware of and familiar with the law. The way that villagers in these three cases constructed their arguments, arranged their proofs, and presented their demands to the court proves that one generation after the land and tax commissions, reforms had been integrated into societal procedure, and villagers were conversant in the ins and outs of the new laws.

Conclusion

La Transparence Prétendue de Documents



Images 5.1 and 5.2. On the left: Hebron sharia-court document recording a land sale. Dated 29 Jumādi II 1255 / 9 September 1839. On the right: *Tapu kushān (sened-i khākāni)*. Dated 27 Safar 1317 / 7 July 1899.

source: the private papers of Hajj ‘Amr ‘Ali ‘Aliyan al-Natsheh. Photographs by the author.

The document in the photo on the left was issued by the Hebron sharia court in September 1839 (29 Jumādī II 1255). It records a sale that had taken place ten years previously. The sale

was half a *qit'a* of land planted with grape vines and fig trees. The land was located in Saqāq al-Haysh, Hebron. The property had been sold by 'Uthmān b. 'Awdh Abī 'Awdh Ishāq Kashkūl of Hebron to Nāṣir al-Dīn b. Ahmad Nāṣir al-Natsheh of Hebron. This area today forms part of the built-up area of the city of Hebron.

The document on the right was issued by the tapu offices in Hebron in July 1899 (27 Safar 1317). It is a deed of ownership, a tapu *kushān*, a tapu *senedi*. It recognizes the ownership of a member of the Natsheh family of a vineyard in Abū Majnūn. The basis of ownership was *haqq-ı karar*. This right was granted to those who could prove a minimum of ten years' uncontested ownership on the land. This area today forms part of the built-up area of the city of Hebron. Abi Majnun, as it is known, is still owned primarily by Natshehs.

What do both these documents have in common? Both prove ownership. Both could be acquired on the basis of testimony, as we have seen in the chapters of this study. Both cost a bit of money to acquire. Both were issued (at least) ten years after the fact of possession had taken place. This does not mean that Natshehs did not own these lands during the ten years in which they did not have these documents. They did. (If they had not, it would have been difficult to acquire the documents showing they did.) What both these documents tell us is that in 1839 and 1899, respectively, after years of farming and reaping in Abi Majnun and Saqāq al-Haysh, two Natshehs had a need, or perhaps a desire, but most likely a need, for a document in order to prove their ownership. These documents did not change the fact of ownership; they merely validated it.

There is one other important point of commonality between these two documents. Both have been preserved in private hands, passed down from generation to generation, one for a century and one for almost two centuries. Magritte reminds us that the painting of the pipe is not a pipe. But decades before the 1858 Land Code, we see that a document was a proof of ownership that was worth holding on to. How, then, could it be argued that the fellahin didn't understand the meaning of Land Code reforms, according to which they needed a paper to prove their ownership?

This dissertation has endeavored to demonstrate through documentation and reasoned argument that the soil in which the conventional narrative of the (non)implementation of property-tenure reform in Palestine was planted was not well-suited for sustainable growth. How has it survived then, for so long? Part of the reason has been the assumed lack of sources against which the tenets of the narrative could be examined and analyzed. The *Survey of Palestine* written for the Anglo-American Committee of Inquiry in 1945/46 claimed,

...at the time of the occupation of Palestine by the allied forces in 1917 and 1918, the authorities succeeded to thirteen district land registries, the records of which were in a state of complete chaos as regards names of owners, areas and correct definition of the boundaries of the land affected. To add further to the confusion, the Turkish Army in the course of its retreat had removed many of the records to Damascus, Adana and towns in the interior of Turkey. Many of these archives have not been

recovered. The Ottoman land registry records, incomplete as they are, still constitute the basis of a large number of claims to real rights ...⁴⁵²

However flimsy these claims may be,⁴⁵³ they have largely gone unchallenged⁴⁵⁴ even though the existence of registers has been documented, as was discussed in Chapter One.

The 1876 *emlak* register for the villages of Hebron is not a land register *per se*. But it is a register of lands and also of properties, both taxed and untaxed. The register reflects what by all available standards of measurement appears to have been an individualized, methodical process of registration resulting from negotiation and compromise carried out anew from village to village. I have argued that the varying patterns of registration observable in the different villages—privatization, shares, *musha*, *en bloc* registration, and combinations of these—demonstrate that the majority, if not all, of the villages made their own decisions how to register their lands, and that their wishes to privatize holdings, retain communal holdings of land, and/or find a compromise solution were respected and recorded by the committee(s).

⁴⁵² *Survey of Palestine*, 238, point 38.

⁴⁵³ See the discussion regarding located registers above, in the final section of Chapter 1. Also see Shimon Rubenstein, "Seker HaQarqa 'ot ve litur Sifre HaMeQarqa 'in, me-evnei HaYasod shel HaMediniut HaTsiunit BaAretz Israel b-1918-1919" (The Land Survey and Locating Land-Record Books, Building Blocks of Zionist Policy in the Land of Israel 1918-1919), *Kivunim* 37 (1987), 115-178.

⁴⁵⁴ For an historiographical illustration of this tension between narrative and fact see, Stein (1984), discussion on the disappearance/existence of land-registry documentation and British reasons for closing the Land registry offices for two years, between 1918-1920, pp. 23-24.

It has been attempted in this dissertation to read the 1876 *emlak* register of Hebron simultaneously on three levels. This study has been concerned with the implementation of reform, the character of property tenure in the rural areas, and the history of the neglected non-urban Ottoman sphere. It has also been concerned with recovering a history that is inaccessible to the descendants of those whom it is about, the villagers of the Hebron district. They, like the majority of Palestinians who are not citizens of Israel, are more often barred from the country than granted permission to enter it and to access its archives. Along the way, this dissertation has also proven that pillars upon which rest the conventional paradigm of mass evasion and failure of land reform measures in Palestine – such as the persistence of *musha*, land mortgages for loans from urban moneylenders, and the continued use of the court system for land matters – were not aberrations from reform procedure but, rather, well within the realm of the legal and the sanctioned.

When we examine the historical facts of rural land tenure in Hebron closely (and thickly), it becomes clear that it is incumbent upon us to expand and complicate the conventional understanding of rural Palestinian society in the nineteenth and early twentieth centuries. Firstly, while it is true that the majority of villagers were born and died in the same place, there was by the late nineteenth century a broad, documented network of rural commercial exchange and movement that merits study and recognition.⁴⁵⁵ One

⁴⁵⁵ I have made this argument in more detail in “Villagers on the Move: Re-thinking Fallahin Rootedness in Late-Ottoman Palestine”, *Jerusalem Quarterly* 54 (2013): 56-68.

physical indication of this is *menzûls*, or guesthouses. As shown in this study, eighteen of the Hebron villages registered a structure for hosting guests in the village in 1876. Another indication is out-of-district land ownership. As Appendix IV illustrates, the majority of property owners registered in Hebron's *Esas-ı Emlak* whose residence was outside the district, lived not in one of Palestine's cities but, rather, in another of its villages.

Secondly, as this dissertation has shown, Hebron's villagers were not, as the conventional narrative would have them, unaware of the society in which they lived and of which they were a part, nay, the majority. Whether bargaining for a lower tax rate based on historical and religious privilege, as did the Shuyukh villagers; registering land ownership in the names of a representative few, as was seen in Nahālīn and Idhna; converting village agricultural properties into waqf, as did the Shuyukhis with their musha and as did the Idhna villagers, apparently, with their vineyards; registering village lands *en bloc* as most villages did with at least part of their lands or trees; or registering all properties to individuals, as did Bani Na'im, Sa'ir, Nahālīn, Wadi Fukīn, 'Arṭūf, and Ja'ba – Hebron villagers strategized to comply with reform but to comply in such a way that reform worked *in* their interest and not against it.

This study has begun to unravel the historiographical web of information upon which the narrative of land tenure in post-1858 Ottoman Palestine has been built. Doing so, it has revealed the debility of its evidence. Not only has this study shown that property-tenure reforms were carried out thoroughly in at least one part of Palestine, its evidence has put

into question conventional theories about the size of rural landholdings in the mountainous regions. The notion that they were small has continued to be influential.⁴⁵⁶ As has been shown in Chapters Two and Three, however, most individuals (and families) in Hebron's villages owned more than one plot of land and although we have seen that a number of villages appear to have had fewer than 50 dunams available for each of its residence owners, other villages both small, like Sar'a, and large like Dura, had enough to disburse to each residence holder hundreds of dunams. While Hebron's villages were larger in size and fewer in number than in other mountain districts, such as Nablus, the weight of evidence now compels us to re-examine current understandings throughout Palestine.

This study has also raised a number of questions which call for more research. Prominent among them are, what was the scope and geographical extent of the *şemsiyye* commissions, and how influential were they in bringing about land auctions and sales of large land-tracts in Palestine? When more is known about these commissions, it may be possible, for example, to more precisely understand the strategy of *en bloc* registrations which were seen in so many of Hebron's villages.

Finally, this study has emphasized that the possession of a tapu certificate was not the sole means of proving ownership of property in the Ottoman Empire in the years

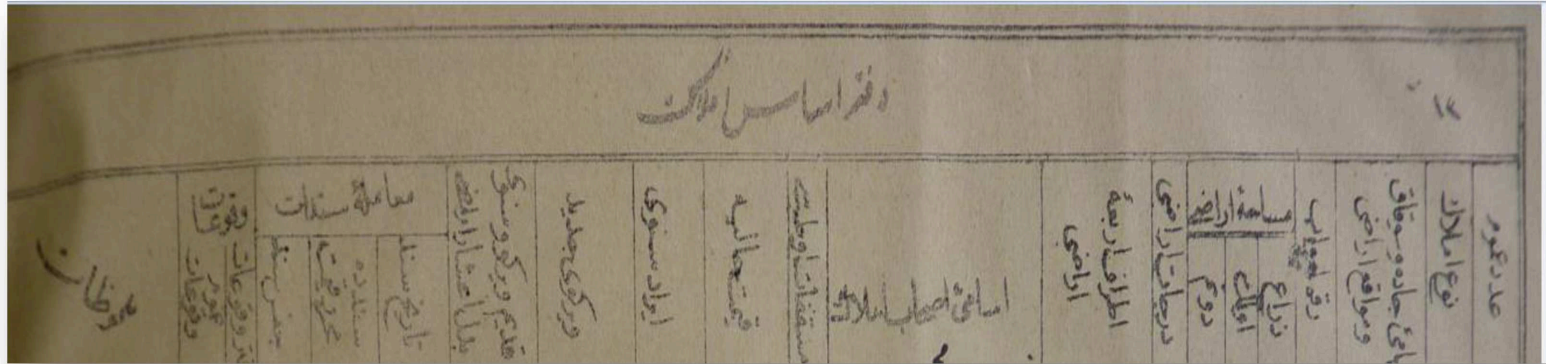
⁴⁵⁶ Doumani (1995), for example, argues "...in the highlands of Palestine, where small landholdings prevailed and where the average male peasant could expect to inherit a piece of land, the proceeds of which could provide a living for himself and his family." (157).

following property-tenure reforms. The importance of the historical tapu certificate today is anachronistic. It developed in the Mandate period and has come to have even greater importance under Israeli rule. In the post-Tanzimat years of the nineteenth century, tax records, oral testimony, and sharia-court documents continued to be sufficient to prove property tenure. The *transparence* of the tapu is *prétendue*.

APPENDICES

Appendix I: 1876 (1292) Rural Properties Foundational Register (*Esas-ı Emlak*) for the District of Hebron: sample page image and form headlines

The image shows two pages of a handwritten register. The left page is numbered 58 and the right page is numbered 59. Both pages have a header section with the title 'Esas-ı Emlak' and other administrative information. The main body of the pages consists of a grid of columns. The columns are headed with terms like 'Mülkiyet' (Ownership), 'Mülk' (Property), 'Mikdar' (Quantity), and 'Mülkiyetin Sahibi' (Owner). The entries are handwritten in Ottoman Turkish script, listing various rural properties and their owners. The handwriting is dense and fills most of the page area.



Foundational Properties Register

page
13

24	21		17			16	15	14	13	12	11	10	9	5			4	3	2	1
	23	22	20	19	18									8	7	6				

Photo by author. Source: ISA, RG 39, file T-107/4.

1. general (running) number
2. type of property
3. street and alley name/location of land
- 4 number of doors
5. size of the land
 6. dönüms (slightly smaller than the metric dunam)
 7. *evleks* (quarter dönüms)
 8. *zira'* (arms' length increments, from tip of the fingers to the elbow)
9. land category (1,2,3)
10. property borders
11. name of land owner(s)
12. number of buildings / roofs
13. current value of the property
14. annual revenue from the property
15. new *vergi* (tax on property)
16. old *vergi* and annual '*ushr* (tax on crops)
17. documentation
 18. date of deed
 19. property value recorded on deed
 20. type of deed (*sened*)
21. actions
 22. registry entries
 23. general entries
 24. notes

**Appendix II: Village Population and Size Indicators:
residences (1876) and households (1905)**

village name (as recorded)	# residences (1876) ¹	# households (1905) ^a
دورا Dura	320	509
بيت جبرين Bayt Jibrin	194	128
يطية (يطا) Yatta	176	190
دير ابان Dir Aban	171	128
دوايمة Dawayme	180	191
عجور 'Ajur	160	167
حلحول Halhul	156	162
بيت نتيف Bayt Natif	130	96
صوريف Surif	125	107
سعير S'air	108	113
تل الصافي Tel al-Safi	97	77
زكريا Zakariyya	98	69
بيت عطب Bayt 'Itab	95	63
بيت أولا Bayt Ula	93	95
بني نعيم Bani N'aim	89	103
إدنا Idna	87	83
تفوح Taffuh	89	73
زكرين Dhikrin	87	74
نوبا Nuba	81	64
ترقومية Tarqumiya	82	182
ضاهرية Dhahariyya	82	136
بيت أومر Bayt Umar	71	64
سموع Samu'	59 ^b	106
حارس \ خراس Haris / Kharas	59	52
بيت فجار Bayt Fajjar	53	50
دير النخاس Dir al-Nakhas	45	44

(continued on following page)

village name		# residential structures (1876)	# households (1905)
إشوع	Ishwa'	46	N/A
شويكة	Shweike	N/A	44
شيوخ	Shuyukh	43	57
رأس ابو عمار	Ras Abu 'Amar	39	29
علا	Allar	32	30
حسان	Hasan	36	30
كسلا	Kasla	33	25
وادي فوكين	Wadi Fukin	34	15
قبيبة	Qubayba	31	37
كدنا	Kidna	31	36
عروط	Artuf	29	N/A
عقور	Aqqur	31	20
دير الهوا	Dir al-Hawa	26	19
دير الشيخ	Dir al-Shaykh	27	21
دير الدبان	Dir al-Dabban	29	29
صرعا	Sar'a	26	40
نحالين	Nahalin	25	25
زيتا	Zeyta	25	29
بيت كاحل	Bayt Kahil	22	31
رعنا	R'ana	20	9
برقوسيا	Barqusiya	17	19
جراش	Jarash	15	N/A
قبو	Qabu	14	N/A
جبعة	Jab'a	12	7
ريحية	Rihiyya	9	N/A
سفلا	Sufla	7	N/A
بيت جمال	Bayt Jimal	N/A	4
TOTALS		3,682	3,646

Notes

Sources: 1875 *Esas-I Emlak* and 1905 *Nüfüs* registers. I am grateful to Alex Winder for kindly providing me with a household-count for nine of the smaller villages.

¹ This figure includes only residences registered in the village, exclusive of other registered structures. As an indicator of population, they should be seen as relative only. Residences varied in size and value, however the number of *musaqqafat* (lit. buildings, roofs) and the value of a residence give only a vague, relative indication of the number of household members that resided in a *hane* or *oda* (lit., house and room, respectively). It should be noted, as well, in a number of villages one finds that a given individual owned more than one residence.

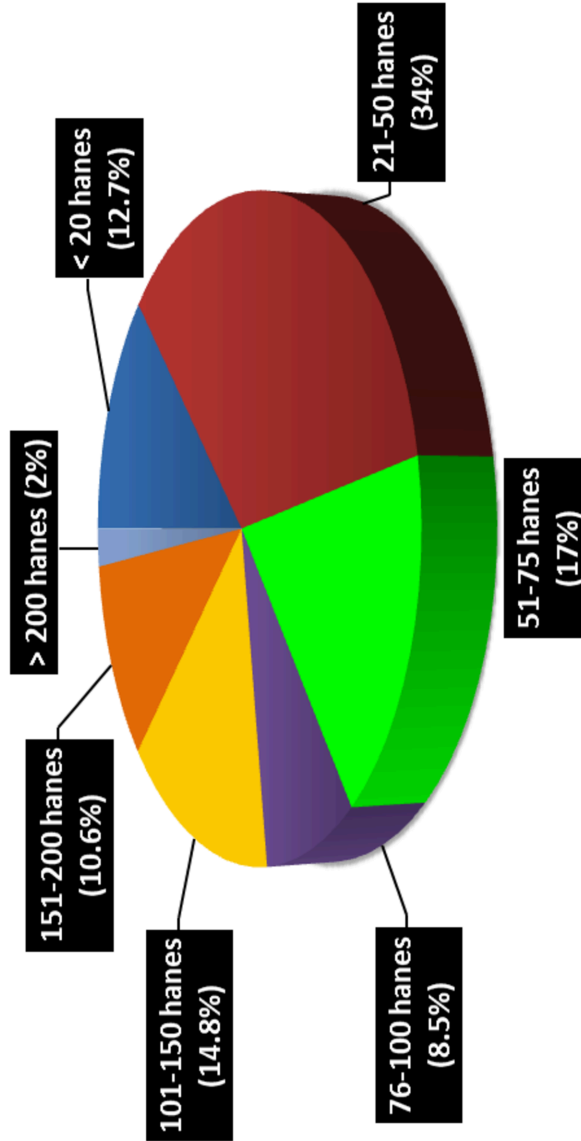
^a Household (*hane*) sizes varied greatly within villages and in within the town of Hebron, from two to seventy-two members. One can count population-registry lines to obtain a more precise idea of the size of the population. However, because the registers were updated as people were born and died, and as women married and moved to other households, it is most laborious to attempt to extract a precise count of the population at a given date. One would need to examine each line individually before inserting it into a calculable database, particularly in the case of women, because their entry in the household in which they were born was not erased when they married. Instead, a note was made that she had married, and the household number (and village or town, if need be) of her husband was recorded. The woman's name was then added to the list of members of the household of her husband with an annotation noting which hane (and village or town, if need be) she had moved from.

^b In Samu', one page of village structures – forty-one entries – was recorded without mention of the type of property; it is possible some of these could have been stables, grain warehouses, or courtyards. Of the twenty-three village structures which were identified, four were courtyards, one was a press, and two were caves, which could have been storage for grains, implements, and/or animals, or a residence. Each of the sixty-four total structures listed was registered to a different individual. The number fifty-nine above reflects the unknown forty-one structures, in addition to the sixteen structures which were *hanes*, and also the two caves, which could have housed people, animals, and/or farming tools.

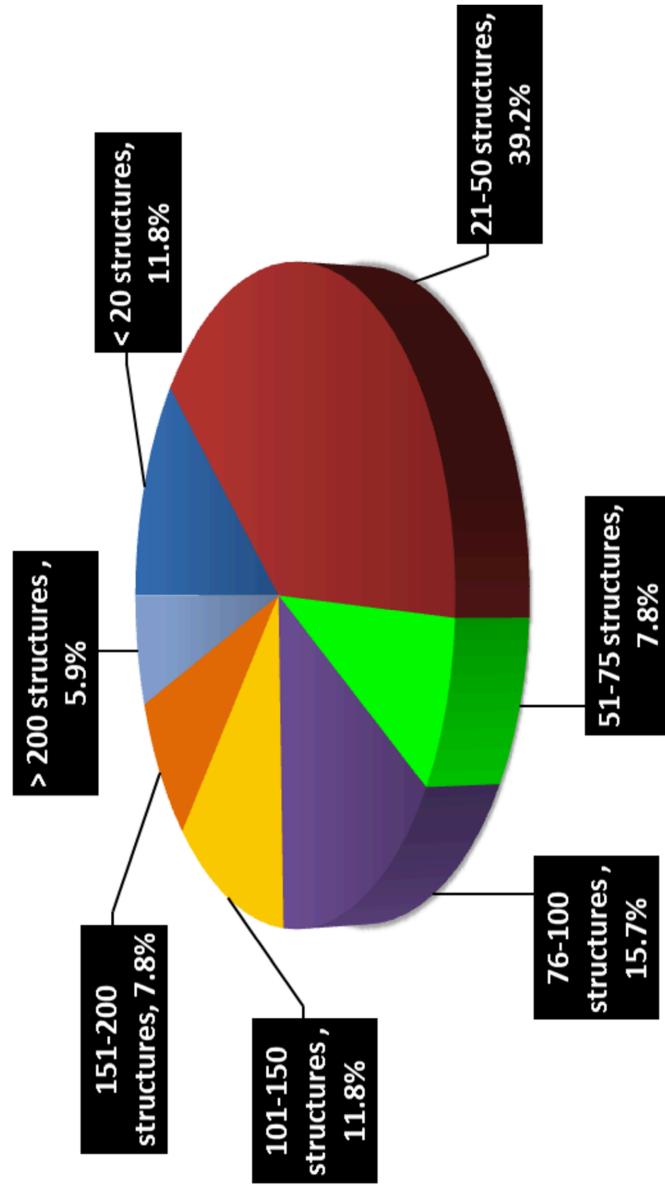
Appendix III

Hebron Villages: Indications of Population Size 1876 and 1905

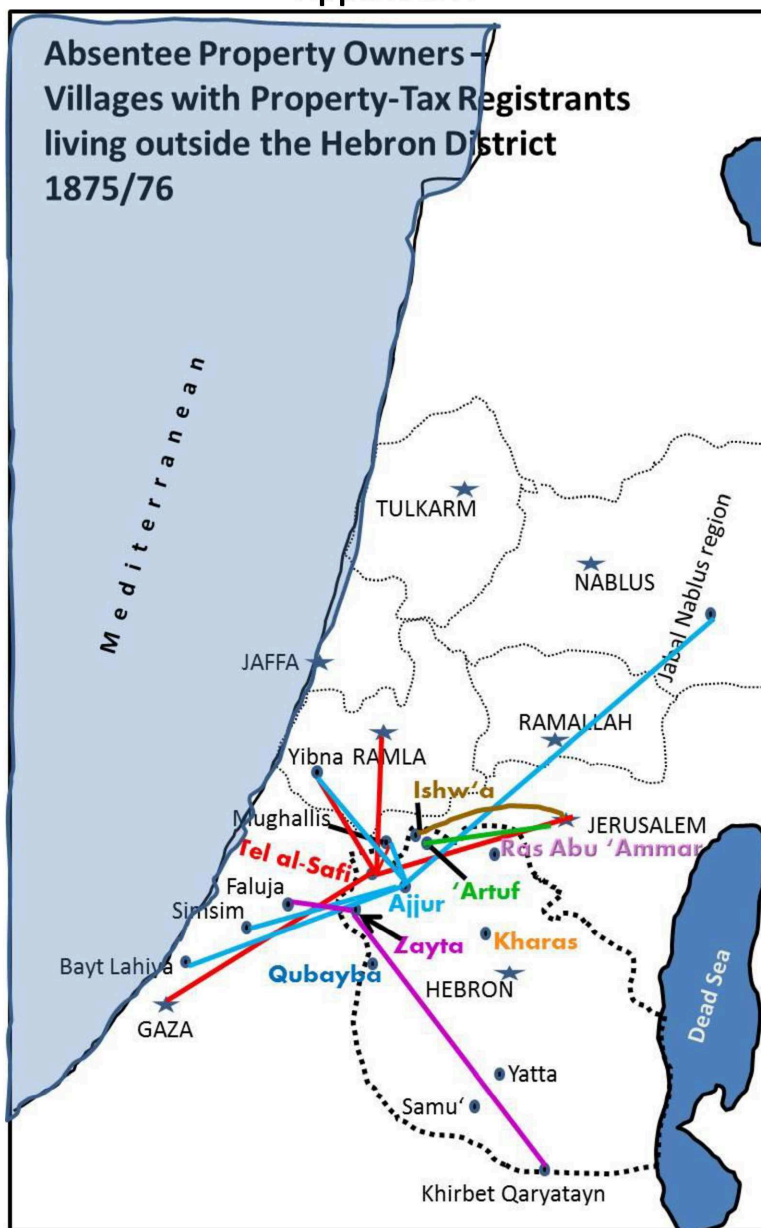
Hebron-district villages, 1905: Relative Village Size (households/village)



Hebron-district villages, 1876 : Relative Village Size (structures/village)



Appendix IV



Key: Colored lines show the out-of-district residences of land-owners in the Hebron villages written in the same color. For example, among registrants of land in Ajjur were individuals living in Jabal Nablus (Nablus district), Bayt Lahiya and Sinsim (Gaza), Mughallis (Jerusalem), and Yibna (Ramla). Locations of the residences of absentee owners with property in Ras Abu ‘Ammar, Qubayba and Kharas could not be identified. The names of the locales appear to be, respectively, Tibaṭras(?), Y ‘alūq(?), and Qarṭās. *Note:* With the exception of the Hebron district, district administrative borders shown are approximate; they have been drawn according to Mandate-era borders.

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- HR Hebron Sharia Court Archives, Hebron, Palestinian Authority
- JM Jerusalem Sharia Court registers, University of Jordan, Amman
Archive and Microfilm Division
- BOA Başbakanlık Osmanlı Arşivi, Istanbul
- ISAM Türkiye Diyanet Vakfı İslam Araştırmaları Merkezi, Üsküdar, Istanbul
Salnameler database.
- NTSH Private papers of Hajj ‘Amr ‘Ali ‘Aliyan al-Natsheh of Hebron

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