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An Empty Land?  
Nomads and Property Administration in Hamidian Syria

By

Nora Elizabeth Barakat

A dissertation submitted in partial satisfaction of the  
requirements for the degree of  
Doctor of Philosophy  
in  
History  
in the  
Graduate Division  
of the  
University of California, Berkeley

Committee in Charge:

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## Abstract

### An Empty Land? Nomads and Property Administration in Hamidian Syria

by

Nora Elizabeth Barakat

Doctor of Philosophy in History

University of California, Berkeley

Professor Beshara Doumani, Co-Chair

Professor James Vernon, Co-Chair

This dissertation explores the development of modern property administration and governance in the Ottoman Empire from the perspective of pastoral nomads. Utilizing both central state archival material and district court and land registers, the study combines analysis of governance, administration and the development of modern private property regimes with a social history of pastoral nomadic groups during the Hamidian period (1876-1909). The research employs a case study of the district of Salt in the southern half of the Ottoman province of Syria (contemporary Jordan) to advance three main arguments.

First is the imperative to rethink the characterization of pastoral nomads in the historiography of the Ottoman Arab provinces as members of autonomous “tribes” with marginal roles in processes of modern state building. I show how Ottomanization in the Arab provinces extended beyond urban elites to include nomadic communities in the Hamidian period. Using a fine-grained case study, the dissertation demonstrates that interaction with Hamidian property administration facilitated the rise of a “middling group” of nomads who obtained positions as low-level bureaucrats with powers to sanction claims over land and livestock as well as to allocate tax burdens. Analyzing how the growing wealth and power of this middling group was challenged from above and below, the dissertation introduces differentiation and internal contestation into nomadic groups usually discussed exclusively in terms of their leaders.

Second, the dissertation challenges the narrative of Ottoman law and administration as emanating from Istanbul and the related peripheral status of the Empire’s Arab provinces. By detailing the involvement of pastoral nomads in district-level property administration, I show how provincial struggles shaped the social meaning of Ottoman legal and administrative categories and prompted central bureaucrats and jurists to continually clarify and adapt their attempts to survey, tax and regulate people and property.

Third, the dissertation offers new perspectives on the making of modern property relations in the Ottoman Empire and beyond. It details attempts to regulate and exploit both land legally categorized as “empty” and livestock resources in the Empire’s far-flung provinces. Moving beyond narratives of modernizing Ottoman reforms as derivative, rigid or Orientalist that suppose a unitary state agent, the dissertation emphasizes the uneven, internally contested and regionally interconnected aspects of these projects. The dissertation therefore highlights the parallels between contested modernization projects in the Ottoman Empire and other

contemporary imperial settings while rethinking the role of marginalized populations in those efforts.

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## Note on Transliteration, Dates and Currencies

Transliterating while reading Ottoman Turkish and Arabic sources side by side is complex. I have generally attempted to err on the side of readability for non-specialists within the main text, meaning I have opted for the modern Turkish equivalent of Ottoman words and avoided using diacritics for both Ottoman and Arabic. Because of the importance of understanding their developing meaning in context, I have kept two sets of words in their original languages in italics throughout the text:

*Ashira* (Arabic)/*aşiret* (Ottoman Turkish), commonly translated as “tribe”

*Mukhtar* (Arabic)/*muhtar* (Ottoman Turkish), commonly translated as “headman.”

For these two sets of words, I switch between the Arabic and Turkish transliterations depending on the source text and context: for example, when discussing the duties of *muhtars* as outlined in Ottoman Turkish laws, I use the Turkish spelling, but when discussing *mukhtars* in Salt, I use the Arabic spelling.

I have adopted the same approach for proper names, using the modern Turkish spelling for individuals whose first language was (probably) Turkish (like Cemal Bey) and the Arabic spelling for those who spoke primarily in Arabic (like Nahar al-Bakhit), again avoiding diacritics for both.

For precise Arabic transliterations in footnotes and occasionally in the text, I have used the IJMES system; for Ottoman Turkish, I use the modern Turkish form.

Expressing dates from the three systems found in my sources (Hijri, Rumi, Miladi) is also rather complicated. I decided to mention only the dates given in the original document as well as the Miladi equivalent in the footnotes, meaning many Ottoman documents have only the Rumi and Miladi dates and all of the Sharia court records have only Hijri and Miladi dates. For consistency, I also opted to use the Turkish abbreviation system for expressing all Hijri dates, even in the footnotes for Sharia court records, as follows:

M	<i>Muharrem/Muḥarram</i>
S	<i>Safer/Şafar</i>
Ra	<i>Rebiülevvel/Rabī' al-Awwal</i>
R	<i>Rebiülahir/ Rabī' al-Ākhir</i>
Ca	<i>Cemaziyelevvel/Jumādā l-Ūlā</i>
C	<i>Cemaziyelahir/Jumādā l-Ākhira</i>
B	<i>Recep/Rajab</i>
Ş	<i>Şaban/Shā' bān</i>
N	<i>Ramazan/Ramaḍān</i>
L	<i>Şevval/Shawwāl</i>
Za	<i>Zilkade/Dhū l-Qa'da</i>
Z	<i>Zilhicce/Dhū l-Hijja</i>

The basic currency in Ottoman Salt was the piaster (Ar. pl. *qurūsh*, Tr. pl. *kuruş*), but reference is also made to Mecidi Riyals, French liras, and very occasionally Ottoman or English liras. The following chart is from the Salname of Vilayet Suriye for 1900 – the exchange rates varied, but not drastically, during the period under study, and I will use these exchange rates throughout.

	<u>Mecidi Riyal</u>	<u>French Livre</u>	<u>Ottoman Pound</u>	<u>British Pound</u>
Piasters	24	114	131.5	143

By way of context, during the period under study, court cases indicate that the monthly living expenses (*nafaqa*) of an adult individual ranged between 50 and 120 piasters.<sup>1</sup>

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<sup>1</sup> See Salt Sharia Court Records (SSCR) Volume 5, Record 16, 10 C 1315/6 November 1897, and SSCR Volume 7, Page 9, Record 46, 26 L 1319/5 February 1902.

## Introduction

### Location and Isolation: Rethinking the “Tribe” in Ottoman History

In the fall of 2012, while researching parts of this dissertation, I lived in a neighborhood of Amman, Jordan called Shafa Badran. Shafa Badran was controlled and later owned by nomads from the Adwan group in the late Ottoman period, and their presence in the area is still felt. A few of the large commercial buildings lining the main road, now dominated by auto repair shops, bear the names of prominent Adwan families. Every weekday that fall, I drove from Shafa Badran to Tilaa al-Ali, a more densely populated neighborhood historically owned by another branch of the Adwan, to drop off my son at daycare. From there I traveled to Jebel Al-Luwaybda, bordering the center of the city, to spend my mornings poring over Ottoman land registers at the Department of Lands and Surveys.

In the Hamidian period, this journey would have taken half a day on horseback. In the fall and early winter months of 2012, it took an hour by car, but it was a tortuous hour of stopping, starting, crawling in long lines and weaving through dense traffic. On Friday mornings, before the prayer while most of Amman slept, one could travel this distance in ten minutes. On weekdays during rush hour, the city felt the full weight of its car-driving overpopulation and lack of viable public transport. Ammanis had become used to this level of traffic in the summer, when scores of families especially from the Gulf region came to escape the oppressive heat in their home countries. These visitors were not really foreign, being Arab – many held Jordanian passports but worked and lived in the Gulf. But they were also not exactly local, and their presence was felt in congestion, lack of taxis, long lines at restaurants, and crowded malls.

By fall 2012, however, the ongoing violence in Iraq and the relatively new war in Syria meant that on Amman’s roads, every season was becoming like summer. Sitting in traffic, I played games of counting the locations printed on the license plates around me – 5 cars from Baghdad, 4 from Damascus, 6 from Amman, 3 from Homs, 1 from Sulaymaniya. The license plate game bore testament to Amman’s ongoing and unequal blending of the populations of Bilad al-Sham and Iraq. Jordan’s much-touted security and stability, surrounded by ever-worsening tales of misery and loss, came with traffic.

That winter, there were parliamentary elections in Jordan, and the city’s motorists gained a new source of entertainment while they sat in traffic – hundreds of signs advertising the election candidates lining all of the city’s main roads. Even though less than half of the citizen population voted in these elections,<sup>1</sup> the signs were a conversation piece – there was the candidate with the ill-fated resemblance to Bashar al-Assad, reviled by most of Amman at a time when the war in Syria seemed much simpler, whose eyes were often poked out by vandals. In December, a huge rainstorm sent most of the signs flying into the flooded streets, only to be trampled and driven over when the water finally receded.

What I noticed most about the signs, especially as I studied them on my way to and from my work at the Department of Lands and Surveys, was the way their territoriality reflected the territoriality expressed in the Ottoman land registers. The main candidates in the northern part of Amman where I lived and dropped my son at daycare, for example, were largely from prominent Adwan families. Their family names recalled the names I copied down each day, tracing the

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<sup>1</sup> On the January 2013 elections in Jordan, see Nicholas Seeley, “The Jordanian State Buys Itself Time,” *Middle East Research and Information Project*, February 12, 2013, <http://www.merip.org/mero/mero021213>.

relationship between nomads, land and Ottoman governance in the Hamidian period through the government's land registers.

The point of this observation is not that politics in Jordan are “tribal”.<sup>2</sup> Even if I wanted to use this adjective to describe the family-based nature of many official political processes in contemporary Jordan, a family-based politics that has its own salience in the United States and around the world, the mediocre turnout rates in Jordanian parliamentary elections are testament to the fact that power in the country often flows in non-official channels.<sup>3</sup> Rather, the signs pointed to a territoriality with certain continuity, one that had endured profound changes in governing regimes, legal systems regulating land control, and near-constant population influxes since the land registers were created in the late nineteenth century.

Neither is this story about the perseverance of the true Jordanian spirit in the face of so many newcomers and so much change, nor any other line in the annals of exclusivist Jordanian nationalism aimed against Palestinians, Iraqis, or now Syrians.<sup>4</sup> This dissertation is about a period in the not-too-distant past when Jordan did not exist, and Iraq, Palestine and Syria, while in use, did not correspond to their current national selves either in territory or in ideology. The lines between locals, outsiders, immigrants, refugees and foreigners have always been porous, and the composition, categorization and naming of these groups has shifted over time with the constant influxes of population that have Amman, itself a village of immigrant refugees in the late Ottoman period, bursting at its seams today.

Rather, this dissertation is about connections between nomads and territory. It investigates how nomadic communities became the primary legal owners of land in the modern Ottoman state context of the late nineteenth century, a territorial control that in some cases endures today. Using court records and land registers from the district of Salt in Syria, as well as diverse materials from the central Ottoman archives, I argue that nomads maintained their control over particular pieces of land by participating in the expanding Ottoman administrative and legal structures of the late nineteenth century. I focus on a group of middling nomads who became low-level Ottoman bureaucrats in the Hamidian period in the district of Salt, the district that encompassed the rural area of the Balqa that became the middle section of Jordan, dominated by the city of Amman, in the twentieth century.

Through analyzing this group of nomads, I show how Ottomanization reached beyond urban elites in the Hamidian period. By the end of the nineteenth century, a group of mid-level nomadic leaders had become Ottoman bureaucrats, involved in complex processes of administration including land registration, adjudication, and perhaps most importantly, tax

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<sup>2</sup> American media is obsessed with the apparent “tribal” nature of Jordanian politics. See for example The New York Times's analysis of the response to Muath al-Kassassbeh's detention and killing in Jordan: Rod Nordland and Ranya Kadri, “Tribal Loyalties Drive Jordan's Effort to Free Pilot,” *The New York Times*, January 31, 2015, <http://www.nytimes.com/2015/02/01/world/middleeast/tribes-at-center-of-effort-to-free-jordanian-pilot.html>.

<sup>3</sup> For a discussion revealing the relevance of issues of locale and origin to current political issues in Jordan, see the debate between Tariq Tell and Lama Abu Odeh in *Jadaliyya*: Ziad Abu Rish, “Jordan's Current Political Opposition Movements and the Need for Further Research: An Interview with Tariq Tell (Part 2),” August 24, 2012, <http://www.jadaliyya.com/pages/index/7007/jordans-current-political-opposition-movements-and-lama-abu-odeh>, “Materialist Analysis in the Service of a Nationalist Thesis: Response to Interview with Tariq Tell on the Hiraq Siyasi in Jordan,” September 17, 2012, <http://www.jadaliyya.com/pages/index/7238/materialist-analysis-in-the-service-of-a-nationali>; Tariq Tell, “A Rejoinder to the Response of Lama Abu Odeh: On Jordan, the Hashemite Regime, and the Current Mobilizations,” September 17, 2012, [http://www.jadaliyya.com/pages/index/7385/a-rejoinder-to-the-response-of-lama-abu-odeh\\_on-jo](http://www.jadaliyya.com/pages/index/7385/a-rejoinder-to-the-response-of-lama-abu-odeh_on-jo).

<sup>4</sup> On exclusivist nationalism in Jordan, see Joseph Massad, *Colonial Effects: The Making of National Identity in Jordan* (New York: Columbia University Press, 2001), 263.

collection. As the central Ottoman government attempted to implement more intrusive administrative practices meant to increase both production and revenue, a new group of rural individuals entered the bureaucracy. They brought with them intimate knowledge of their communities that their superiors desperately needed. They had the ability not only to count and record their communities' resources, but also to collect revenue from them. At the same time, these new bureaucrats gained valuable knowledge and, perhaps more important, social connections with the district's governing officials – its treasurers, its issuers of title deeds, its police, and even its governors.

However, the narrative presented here shows that for the Hamidian administration, this expanded “politics of notables” was a double-edged sword.<sup>5</sup> In Salt, middling nomads brought both their own personal interests and those of their constituents into the bureaucracy, capitalizing on their new connections and knowledge of the system to maintain their control over valuable resources, including both agricultural land and livestock. In some cases, this meant that the same low-level bureaucrats involved in tax collection and law enforcement also coordinated violent protests against government attempts to confiscate and reallocate their land. At the same time, Ottoman bureaucrats in Salt and all over Syria were constantly defending themselves against accusations of “administrative inefficiency”, sometimes called “corruption”, as they desperately tried to count, tax, and police local populations and contain the local land conflicts born of these protests. These accusations and the myriad investigations that ensued were the outcome of local communities like the ones in Salt contesting and reframing the categories of administration and governance the Hamidian regime attempted to define through law in the late nineteenth and early twentieth centuries.

The entrance of mid-level nomadic leaders into the Ottoman bureaucracy in the late nineteenth century also had resounding repercussions within nomadic communities. In Salt, these repercussions did not primarily involve permanent settlement, but rather sharper internal differentiation and contestation. By the end of the Hamidian period, this dissertation traces two important developments: First, capitalizing on their legal control of increasingly valuable land, middling nomads who benefited from their entry into the Ottoman bureaucracy became small-time creditors, lending to other nomads especially so they could pay their state taxes. Second, these bureaucrats' constituents, whose revenue they collected as state tax, began to challenge their authority in Ottoman legal arenas. These developing struggles were the legacy of late Ottoman governance and the expansion of the Ottoman bureaucracy in Salt's rural economy.

The unequal mixing of populations I witnessed in 2012 has, in many ways, been the defining feature of the Balqa region around the town of Salt for centuries. Under Ottoman governance, prior to the late nineteenth century, outsiders and newcomers periodically came into the Salt region, settling in the district's villages or making the region a longstanding part of their migration routes and becoming part of the social fabric.<sup>6</sup> Because these earlier movements have not been associated with modern transformation, however, the population herding and cultivating

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<sup>5</sup> Albert Hourani, “Ottoman Reform and the Politics of Notables,” in *Beginnings of Modernization in the Middle East: The Nineteenth Century*, ed. William R. Polk and Richard L. Chambers (Chicago: University of Chicago Press, 1968), 41–68.

<sup>6</sup> On shifts in the composition of the nomadic population of the province of Damascus in the seventeenth and eighteenth centuries, for example, see Karl Barbir, *Ottoman Rule in Damascus, 1708-1758* (Princeton: Princeton University Press, 1980), 103–105; See also Eugene Rogan, “Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914” (Dissertation, Harvard University, 1991), 40–43; Norman Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980* (Cambridge: Cambridge University Press, 1987), 8–9.

in the region in the late nineteenth century became Salt's local, indigenous, and sometimes subaltern actors. The agents of modern transformation, the newcomers who counted, were Ottoman bureaucrats, merchants, and in the case of Salt, refugees. The people who had become "local" accommodated or resisted change, but they did not make it themselves.<sup>7</sup>

For nomads, this process of becoming subaltern and pre-modern went hand in hand with a large-scale denial of their territorial connections. Their rights to land became customary, traditional, and legally suspect. This is not a story unique to Salt. In Western Anatolia, nomads fought to maintain control over lands designated "empty" and reallocated to refugees in much the same way they did in Salt.<sup>8</sup> In Palestine, the assumption that nomads had no historical connections to the lands where they camped, herded and cultivated in the Ottoman period continues to legitimate the Israeli State's land grabs.<sup>9</sup> In the Arabian Peninsula, modernity did not arrive until the mid-twentieth century, with previous narratives of production, trade and land use relegated to prehistory.<sup>10</sup> The arguments in this dissertation about nomads, territory and modernity therefore resound far beyond Ottoman Salt and even beyond the Ottoman context. By asserting that a population pushed to the margins of modern transformation actually played a central role in the creation of a private property regime, I aim to question notions of marginality while simultaneously rethinking processes of modern state creation.

## **District and Empire**

Analyzing transformations in nomadic communities as well as Hamidian governance, this dissertation has a complex relationship with location. On one level, it is about the land of a particular district in Ottoman Syria, the tent-dwelling people who lived there and how they became more closely connected to the Ottoman government, some becoming part of the Ottoman bureaucracy, during the Hamidian period. Like all Ottoman districts, Salt's particular and intertwined geographical, environmental and political circumstances loomed large in the narratives of its inhabitants whether they were tent or village dwellers tracing their origins to the district itself, merchants from Nablus, military officials from Diyarbakır, civil servants from Sivas or immigrant refugees from Chechnya. These circumstances were crucial to the unfolding of the story recorded here in a foundational way not fully expressed by the term "case study." However, this is also a dissertation about late Ottoman governance. On this level, Salt becomes a puzzle piece in the birds-eye perspective Ottoman policymakers adopted when they thought about nomads and settlers, cultivation and pastoralism, refugee settlement and sovereignty, and distilled their ideas and aspirations into law and administrative regulations that attempted to govern and tax local property relations. The dissertation moves back and forth between these two perspectives, seeking to show their mutually constituted character. In the Hamidian moment of intrusive modern administration, this relationship became more intense as a much larger swath of the local population in Salt experienced Ottoman governance on a daily basis.

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<sup>7</sup> This narrative is apparent in Eugene Rogan's masterful account of the social and political history of the Salt region. See Eugene Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921* (Cambridge: Cambridge University Press, 2000), Chapter 6, "Accommodation: Rapid Social Change in Ottoman Transjordan."

<sup>8</sup> Yücel Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914" (Dissertation, Birkbeck College, University of London, 2003), 94-116.

<sup>9</sup> Amira Hass, "Israeli Government Plans to Forcibly Relocate 12,500 Bedouin," *Haaretz.com*, September 16, 2014, <http://www.haaretz.com/news/national/.premium-1.615986>.

<sup>10</sup> Frauke Heard-Bey, *From Trucial States to United Arab Emirates* (London: Motivate Publishing Ltd, 2005).

With this in mind, seven key points are crucial to any understanding of historical dynamics in Ottoman Salt in the late nineteenth and early twentieth centuries. First, the combination of Salt's significant annual rainfall and proximity to more arid regions meant that the people living there combined pastoral and agricultural production.<sup>11</sup> This was true whether they lived mainly in tents in encampments or in villages, and it continued to be true for many communities well into the twentieth century and sometimes to this day. While there certainly existed a continuum between people who spent much of the year living in tents and herding camels in the arid regions to Salt's east and only camped in the district during the summer months on the one hand, and those who spent much of the year living in fixed houses in the district's main town on the other, the importance of animal-based commodity production and transhumant, mobile modes of production for a large majority of the population cannot be overemphasized. Much of the village and town dwellers the Ottoman administration categorized as the district's settled population cultivated land far enough from their homes that they sometimes slept in tents for weeks, especially during planting and harvest seasons.<sup>12</sup> At the same time, communities described as nomadic or "tribal", including those who were involved in camel herding and spent many months outside of the district in the winter, also controlled agricultural land in the district and paid taxes on their land and animals in the late Hamidian period.<sup>13</sup> These connections to the region's land were the basis for their connections to the Ottoman state as subject/citizens of the Salt district.

Second, Salt's proximity to the urban centers of Jerusalem, Nablus and Damascus and its inclusion in the extended hinterlands of each of these cities meant that people producing agricultural and pastoral commodities beyond their own needs mainly sent their surplus west and north. This was true both before and during the Hamidian period. However, production increased during the Hamidian period as merchants in these cities moving commodities from Salt and similar rural locales of Syria to cities tapped into expanding regional and global markets.<sup>14</sup> At the same time, Salt's status as an extended hinterland meant that a number of merchants from Nablus, Jerusalem and Damascus were familiar enough with its land and people to move there in the second half of the nineteenth century, often with parts of their families. This was a significant move to a comparatively rural environment for these city-dwellers, and the particular blend of push and pull factors that led these merchants to Salt is not fully understood. However, increasing competition among elites in Nablus, Damascus and Jerusalem, family politics, and the sense that living close to producers of valuable agricultural commodities would increase production and yield extensive profits were all surely factors.<sup>15</sup>

Third, while Salt's neighbors to its west and north were important, so were its neighbors to the south and east. The district's location on the Damascus Hajj route was the defining factor

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<sup>11</sup> Raouf Sa'd Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914* (London: I.B. Tauris, 1993), Chapter 1; Jūrj Farīd Ṭarīf Dāwūd, *Al-Salt Wa Jiwāruhā* (Amman: Jordan Press Association, 1994), Chapter 1.

<sup>12</sup> Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 219–220.

<sup>13</sup> See Chapter 2.

<sup>14</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 99–102.

<sup>15</sup> *Ibid.*, 95–98; Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*; For a comprehensive list of the families that came to Salt from Palestinian cities and Damascus during the late Ottoman period based on Sharia court records, see Dāwūd, *Al-Salt Wa Jiwāruhā*, Chapter 4.

in its relationship to the Ottoman imperial government prior to the Hamidian period,<sup>16</sup> and the political and economic relationships forged between the Ottoman government and nomadic groups in the context of the Hajj continued to have significant influence until the empire fell. The importance of the Hajj to Ottoman legitimacy and governance has been well documented, even if the actual workings of administration of the pilgrimage are less known especially in the nineteenth century.<sup>17</sup> The Salt district and the Balqa region around it formed an important portion of the Damascus Hajj route, meaning that the district hosted seasonal pilgrims and their encampments as well as year-round fortresses that needed maintenance, protection and supply.<sup>18</sup> In a rural region that, like many of the Empire's other rural regions prior to the 1870's, had little permanent administrative infrastructure,<sup>19</sup> the maintenance and protection of the Hajj route was the political context for the Ottoman government's agreements with nomadic groups in Salt. The extension of direct rule to Salt in the 1870's in line with the 1864 Provincial Administration Regulation, in parallel with similar reorganizations of Ottoman power in rural areas all over the empire, changed the terms and context of these relationships, as did the gradual construction and opening of the Hijaz railway between 1900 and 1908.<sup>20</sup> However, the Damascus Hajj route meant that the town of Salt and the surrounding Balqa region prior to the 1870's were hardly an uncharted, or even an autonomous, Ottoman "frontier."<sup>21</sup> The Hamidian period witnessed a profound renegotiation of power and a shift from indirect to direct rule, but this shift existed in the context of previous relationships between Ottoman officials and local communities that carried the weight of four centuries.

Fourth, Salt's proximity to Egypt was also crucial, both from the perspective of nomads who smuggled banned weapons from British-controlled territory to customers in the region and for elite Ottoman authorities – by this I mean provincial governors as well as bureaucrats and jurists based in Istanbul - who saw the region as a contested borderland especially in the early twentieth century. For the nomads, the town of Salt was an important entrepot to wider regional markets.<sup>22</sup> This trade in banned weapons was one of a host of factors creating a sense of anxiety among the Ottoman ruling elite regarding sovereignty in the region. Another factor was the region's small Christian population, which although historically rooted in Salt, began to be seen as a potential fifth column in the context of the British occupation of neighboring Egypt and the divisive practices of local missionaries.<sup>23</sup> This anxiety meant that local conflicts, especially the

<sup>16</sup> Barbir, *Ottoman Rule in Damascus, 1708-1758*, Chapter Three; Abdul-Karim Rafeq, "Qāfilat Al-Ḥajj Al-Shāmī Wa-Ahammīyatuhā Fi Al-'ahd Al-'uthmānī," *Dirasat Tarikhiyya* 6 (1981): 5–28.

<sup>17</sup> Suraiya Faroqi, *Pilgrims & Sultans: The Hajj Under the Ottomans* (London: I.B. Tauris, 1990); For the importance of the Damascus Hajj route to the Salt region in the seventeenth and eighteenth centuries, see Hind Abū al-Sha'ar, *Tārīkh Sharqī Al-Urdun Fī Al-'ahd Al-'Uthmānī, 922H-1337 H/1516M-1918 M* (Amman: Ministry of Culture, 2010); For more on administration, see Michael Christopher Low, "Empire and the Hajj: Pilgrims, Plagues, and Pan-Islam under British Surveillance, 1865-1908," *International Journal of Middle East Studies* 40, no. 2 (May 1, 2008): 269–90; Lale Can, "Connecting People: A Central Asian Sufi Network in Turn-of-the-Century Istanbul," *Modern Asian Studies* 46, no. 2 (March 1, 2012): 373–401.

<sup>18</sup> Barbir, *Ottoman Rule in Damascus, 1708-1758*, 132–151.

<sup>19</sup> As Rogan notes, the timar system did not extend into the Balqa in the sixteenth century. However, this was the case for numerous rural regions in the empire that became more closely administered in the late nineteenth century. See Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 44.

<sup>20</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 65–66.

<sup>21</sup> *Ibid.*, Introduction.

<sup>22</sup> See Chapter 3.

<sup>23</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, Chapter 5.

most contentious conflicts over land, were to be carefully avoided especially if they involved Christians. Creating the pretext for foreign intervention, or being seen to want to create such a pretext, was a constant source of anxiety among Ottoman bureaucrats in Syria.

Sixth, sovereignty issues in Salt were not limited to concern about the Egyptian border and connections between Ottoman Christians and foreign powers. In the late nineteenth century, the central and provincial Ottoman governments became increasingly concerned about Zionist colonization projects in Palestine and saw them, albeit after significant debate, as potential threats to Ottoman sovereignty. In the nineteenth century, European Zionists included the Balqa region east of the Jordan River – Gilead – within the borders of the “Holy Land”, and there were a number of specific projects to purchase land in the Salt district for European Jewish immigration.<sup>24</sup> These Zionist projects were important because, especially after being formally rejected by Sultan Abdul Hamid II, their agents aimed to amass lands purchased clandestinely through private channels. These attempts created increased provincial and imperial scrutiny into land transactions in Syria as land officials and other bureaucrats debated how best to prevent Zionist colonization.

Seventh, these sovereignty anxieties were a main reason Syria, and its southern regions in particular, was pinpointed as a refugee settlement site in the late nineteenth century. This settlement would become another foundational aspect of being Salti during the Hamidian period, which witnessed not only an influx of “outsiders” (*aghrab*) from regional cities, but “immigrants” (*muhajirin*) from far-flung locations in the Caucasus and Chechnya. These were people who were forcibly pushed from their homelands or places of refuge in the Balkans who would later be referred to as “refugees.” Beyond the imperative to settle as many Muslim cultivators as possible in the vicinity of the developing Hijaz railroad<sup>25</sup> and in territory threatened by British control of Egypt, Salt was also pinpointed as a resettlement site precisely because of its significant rainfall and diverse forms of land use. From a birds-eye perspective framed by categories of land that privileged idealized, and largely non-existent, forms of settled agriculture such as “cultivated” vs. “unused”,<sup>26</sup> this was a region with lots of fertile “empty land”, perfect for resettling productive Muslim farmers who would increase both its agricultural output and its tax revenues.

Based in the experience of nomads in Salt, this dissertation also investigates the birds-eye imperial view to address fundamental questions about Ottoman governance, law, and modernity during the Hamidian period. The reform attempts in Salt, Syria and throughout the Empire’s provinces in the nineteenth century followed a detailed program, one expressed in codified law.<sup>27</sup> For districts like Salt where agricultural land was becoming the most valuable commodified resource, the key Ottoman regulation sanctioning land ownership and transactions was the 1858 Land Code. Implementing the Land Code required a host of rural governing institutions that were mainly created by the Provincial Administration Regulations of 1849, 1864 and 1871. Judicial reforms, hinted at in both the Land Code and the Provincial Administration Regulations, followed in full both with the Mecelle project of the mid-1870’s and the elaboration of the

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<sup>24</sup> Laurence Oliphant, *The Land of Gilead, with Excursions in the Lebanon* (Edinburgh: W. Blackwood and sons, 1880); Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 70–71.

<sup>25</sup> Concern over Christians owning land in the railroad’s vicinity mounted in the first decade of the twentieth century. See for example BOA.DH.MKT 1174/26, 22 Mayıs 1323/4 June 1907.

<sup>26</sup> Terzibaşoğlu, “Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914,” 176.

<sup>27</sup> Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria* (London: I.B. Tauris, 2007), Chapter 4.

Nizamiye court system and procedural regulations of 1879.<sup>28</sup> These three sets of laws and their myriad amendments attempted to programmatically transform the existing governing institutions in the Ottoman provinces.

The Land Code, relying on institutions the other laws created for implementation, focused specifically on rural areas like Salt characterized by tracts of agricultural land which, if left uncultivated, reverted to central state ownership. Through creating an intrusive institutional apparatus aiming to create direct relationships with cultivators, the Land Code and related regulations eliminated, at least theoretically, the revenue claims of powerful intermediaries who had previously collected agricultural taxes on such land.<sup>29</sup> In Salt, I argue, the contested disempowerment of nomadic leaders who had previously collected agricultural revenue as tax, often enjoying exemptions to revert this revenue to the treasury because of their involvement with the Hajj route, should be viewed within this larger context of attempting to eliminate intermediaries.<sup>30</sup> In their stead, these programmatic laws placed a hierarchy of administrative officials charged with bringing the intimate knowledge of local communities needed to efficiently categorize, count and tax local produce firmly into the bureaucracy. The entry of mid-level nomadic leaders in Salt into the Ottoman bureaucracy as purveyors of this type of intimate knowledge occurred in this context of expanding government.

However programmatic, codified and intrusive, these reform attempts did not happen in a vacuum with no previous experience of Ottoman rule. In rural areas like Salt that previous Ottoman administrations had governed through agreements with local leaders, the expanding Hamidian bureaucracy was not akin to a colonial occupation, neither the British in 1917 nor the French in 1920. This was not simply because of complex politics of difference in a region where both the government and the majority of the local inhabitants were Muslim.<sup>31</sup> Rather, Ottoman governors were attempting to expand their existing knowledge and governance of a population with whom they had extensive historical connections. Like changes to rule, and especially property-related rule, in the myriad other global locations where the existing government undertook modernizing reforms in the eighteenth and nineteenth centuries, this bureaucratic expansion was an intensely contested political undertaking. The connections the Ottoman government enjoyed in Salt both facilitated reform and muted its outcomes. The 1870's were an important period in Salt, in other words, but they were not an unqualified rupture.

At the same time, the way governance was reorganized in Salt in the 1870's and all over the empire in the second half of the nineteenth century transformed how rural Ottomans experienced being Ottoman in profound ways. As Eugene Rogan has convincingly argued, the influx of Ottoman officials into Salt meant new infrastructure, a changed built landscape, increased monetization, and many more daily interactions with government and its bureaucratic trappings.<sup>32</sup> The twin processes of survey and taxation, which were the main points of contact between the government and the rural population and revolved around land use, became more

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<sup>28</sup> Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave Macmillan, 2011).

<sup>29</sup> Huri İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," in *New Perspectives on Property and Land in the Middle East* (Cambridge: Harvard University Press, 2000).

<sup>30</sup> Abujaber also argues that the local Bedouin groups his family contracted with in the Balqa were "unofficially exempt" from the tithe. Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, 117.

<sup>31</sup> Thomas Kuehn, *Empire, Islam, and Politics of Difference: Ottoman Rule in Yemen, 1849-1919* (Brill, 2011), 6; Selim Deringil, "They Live in a State of Nomadism and Savagery: The Late Ottoman Empire and the Postcolonial Debate," *Comparative Studies in Society and History* 45 (2003): 311-42.

<sup>32</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, Chapter 2.

intensive. In the Salt region, people categorized as nomads controlled and utilized the vast majority of land around the district capital. Nomads' interactions with these new policies were the defining factor in their outcome, and their participation in implementing these policies shaped the development of modern state institutions in the late nineteenth and early twentieth centuries.

### **Nomads, Land, and Ottoman Modernity: A Historiographical Appraisal**

Understanding the way nomads became part of the Ottoman project to transform governance of land relations in Syria is important because in the Ottoman context and globally, people like nomads are not supposed to thrive under the modern state, much less participate in its creation. In fact, they are not supposed to exist in modern contexts at all, except perhaps as poverty-stricken relics of a simpler time. In the popular imaginary, in films from "Lawrence of Arabia" to the recent Jordanian-made "Theeb", which chronicles the story of Lawrence from a Bedouin perspective,<sup>33</sup> Bedouin nomads embody the pre-modern, hospitably inviting Western European adventurers into their romantic unwritten landscapes in vaguely tragic scenes of the past that viewers know are soon to be "penetrated" by jeeps, oil rigs, tanks and pens. "Theeb" is even billed as a Western, blending one tribal, pre-modern and desertous landscape that Western Europeans wrenched into modernity with another.

This juxtaposition of nomads and the modern is not limited to the popular imaginary. Historians have consistently branded nomads as either the spoilers or the victims of state-sponsored modernization attempts in the nineteenth century, even as their overall appraisal of these attempts has turned 180 degrees. These juxtapositions of nomads and modernity have revolved around two themes: first, the way nomads use, or do not use, landed property, and second, the idea of the nomadic "tribe" as a segmentary socio-political organization existing outside of and autonomous from state governing structures. A review of the ways historians of the Ottoman Arab provinces have portrayed nomads over the past few decades illustrates the stakes of this dissertation's argument that nomads in Syria participated in the creation of a modern property regime whose categories and parameters were defined by state law.

Late Orientalist scholars writing in the mid-twentieth century saw nomadic Bedouin as one of the main reasons for the supposed Ottoman failure to implement any of its proposed reforms, especially in the realm of landed property, in the second half of the nineteenth century. Their framework for understanding social, political and economic relations in the rural regions of the Ottoman Empire provided the foundation for decades of subsequent scholarship and arguably endures today.<sup>34</sup> These scholars, relying on Max Weber in social terms and W.W. Rostow in economic terms, identified modernity specifically with idealized liberal property relations: settled cultivators enjoying exclusive and state-sanctioned control over territorially defined plots of landed property with clear borders, with the state exclusively providing security in exchange for a share of the cultivators' revenue expressed as taxation. Exemplary of this scholarship were H.R. Gibb and Harold Bowen, who elaborated their appraisal of the Ottoman 18<sup>th</sup> century in their 1950 *Islamic Society and the West*, and Moshe Ma'oz, who published an edited volume assessing the "failure" of Ottoman modernization attempts in Palestine in 1968.

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<sup>33</sup> Nick Vivarelli, "Venice Q&A: Jordanian 'Theeb' Director Abu Nowar," *Variety*, August 28, 2014, <http://variety.com/2014/film/news/venice-qa-jordanian-theeb-director-abu-nowar-1201293134/>.

<sup>34</sup> Zachary Lockman, *Contending Visions of the Middle East: The History and Politics of Orientalism*, 2 edition (Cambridge, UK ; New York: Cambridge University Press, 2009), Chapter 4.

For scholars like Gibb, Bowen and Ma'oz, nomads variously referred to as Bedouin or "tribal" were constantly moving to random locations and completely divorced from agricultural practice in the early modern period. The assumptions of constant mobility, hostility to agriculture and exclusive pastoralism precluded any possibility of territoriality or legal control over land among nomads. They understood isolated communities of nomadic tribes and settled cultivating peasants to be almost entirely at odds, with Bedouin a "perennial problem" for peasants attempting to cultivate their lands and dutifully provide the Ottoman state with its share of taxes. For Moshe Ma'oz, for example, the "perpetual conflict between the nomad and settled of the region" was closely related to one of the "oldest themes of Middle Eastern life", namely the sedentary government's constant struggle to contain the Bedouin as part of its duty to encourage cultivation through providing security.<sup>35</sup> This juxtaposition was the connection between Bedouin tribes and Ottoman decline in the 17<sup>th</sup> and 18<sup>th</sup> centuries. Orientalist scholars asserted that since European travelers, whose accounts they largely relied on, saw Bedouin as politically strong in the 17<sup>th</sup> and 18<sup>th</sup> centuries, the Ottoman state must have been extremely weak, or it would have controlled these threats to cultivators.<sup>36</sup>

From late colonial-era functional anthropology and its adoption of Ibn Khaldunian social theory,<sup>37</sup> Orientalist historians of the 1950's and 1960's understood tribes as self-governing communal lineage organizations existing in geographical spaces entirely outside of state control and ungoverned by state law.<sup>38</sup> For these scholars, nomadic Bedouin's main economic activity was collecting "protection" from settled villages. Rather than understanding the phenomenon of protection in terms of a local leader, and often a state-sanctioned leader, collecting rents on territory he claimed control over in exchange for the provision of security, these scholars explained protection as simple extortion in a tribal environment outside of the rule of law, in which Bedouin military might (juxtaposed with Ottoman military weakness) implied the oppression of cultivators.<sup>39</sup> This interpretation of Bedouin/tribal power in the rural property relations of the 18<sup>th</sup> and 19<sup>th</sup> century Arab provinces stands in marked contrast to understandings of the "politics of notables" in urban areas, wherein local leaders were forced to balance their roles as local Ottoman officials (especially in tax collection) with their connections to their local constituencies.<sup>40</sup>

Similarly, late Orientalist scholars understood reports of the Ottoman practice of paying subsidies to nomadic leaders located in the vicinity of the Hajj route, the main axis of Ottoman governance in Salt in the early modern period, entirely within the framework of Ottoman weakness and the Bedouin propensity for extortion and random violence rather than

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<sup>35</sup> Moshe Maoz, *Ottoman Reform in Syria and Palestine* (Oxford: Oxford University Press, 1968), 131.

<sup>36</sup> *Ibid.*

<sup>37</sup> Stephen Caton ascribes this adoption mainly to the work of Ernest Gellner. For a review of of Ibn Khaldunian social theory as it pertains to tribes in anthropological thought, see Stephen Caton, "Anthropological Theories of Tribe and State Formation in the Middle East: Ideology and the Semiotics of Power," in *Tribes and State Formation in the Middle East*, ed. Philip Khoury and Joseph Kostiner (Berkeley: University of California Press, 1990), 85–90. This theory posits that sedentary dynastic states grew out of mobile social groups held together by blood ties (tribes) in order to provide order to an essentially aggressive human society, with the inevitable transition to sedentary life dissolving the solidarity once binding tribal groups.

<sup>38</sup> *Ibid.*, 96.

<sup>39</sup> Moshe Sharon, "The Political Role of the Bedouins in Palestine in the 16th and 17th Centuries," in *Studies on Palestine During the Ottoman Period*, ed. Moshe Maoz (Jerusalem: The Hebrew University, 1975), 24–25.

<sup>40</sup> Hourani, "Ottoman Reform and the Politics of Notables."

incorporating a concept of territoriality.<sup>41</sup> Gibb and Bowen also used the apparent constant victimization of cultivators at the hands of predatory nomads to explain reports of agricultural and commercial stagnation, leading to a phenomenon described as “rural population loss”,<sup>42</sup> the main symptom of Ottoman decline for these scholars.

Although their ideas about nomads, tribes and property would be challenged first by social historians and later by scholars influenced by postcolonial theory, Orientalist scholars introduced an explanatory framework that had remarkable staying power in later scholarship. Perhaps most importantly, they delineated a category: from Gibb and Bowen’s section on “the Bedouin” to Ma’oz’s chapter, these scholars deemed collections of isolated, vertically organized tribes similar enough in their nomadic, pastoral and ostensibly collective practice to warrant the articulation of a group entirely separate from “peasants”, “merchants”, “Ottoman bureaucrats,” etc. The answer to the “Bedouin problem” was sedentarization, isolation or heightened security, but the Ottomans were always too corrupt, weak and inefficient to achieve this.<sup>43</sup>

In the 1970’s and 1980’s, historians of the Ottoman Arab provinces began to critique Orientalist perceptions of nomadic tribes as necessarily violent, non-territorial and internally undifferentiated.<sup>44</sup> These critiques came in the context of an overall shift in the field of Middle East Studies towards interest in political economy, often implying an explicit focus on property relations, and the assumption that capitalist integration, understood in the context of dependency theory, was the main driver of Ottoman and world history rather than state centralization. At the same time, historians influenced by both the civil rights and anti-war movements in the United States of the 1970’s wrote with a newfound focus on the histories of “ordinary people”, moving beyond the elite-focused political histories of the previous period.<sup>45</sup>

Whereas late Orientalist scholars’ ideas about nomadic tribes were largely aligned with Ibn Khaldunian/functionalist notions of communities bound by blood ties, social historians incorporated Marxist ideas of nomadic tribes as pre-capitalist social organizations defined by communal property relations and an internal division of labor separating sheikhs or ruling clans from the rank and file.<sup>46</sup> The Marxist model also assumed separation and antagonism between rural tribal communities and settled urban ones, and processes of urbanization and sedentarization linked to capitalist integration, in the absence of “distorting factors”, were understood to usher in an irreversible process of detribalization.

However, social historians also introduced an important concept to the study of nomads and property relations: territoriality among nomadic communities. Further, the limited internal differentiation posited by Marxist theories of tribes created space for more complex analyses of nomadic communities and their use of landed property. For Hanna Batatu, whose 1979 opus on twentieth century Iraqi politics and economy included a significant section on the Ottoman

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<sup>41</sup> Sharon, “The Political Role of the Bedouins in Palestine in the 16th and 17th Centuries,” 21; H.A.R. Gibb and Harold Bowen, *Islamic Society and the West: A Study of the Impact of Western Civilization on Moslem Culture in the Near East*, vol. 1 (London, 1950), 266 While Gibb and Bowen noted that certain groups seem to have had more influence in the vicinity of the caravan routes, this does not lead to a political explication of this influence, its connections to land as a resource or the maintenance of these patterns of control beyond the presumed military might of Bedouin.

<sup>42</sup> Maoz, *Ottoman Reform in Syria and Palestine*, 161.

<sup>43</sup> See Ma’oz’s discussions of failed Ottoman attempts to sedentarize Bedouin in *ibid.*, 143.

<sup>44</sup> Roger Owen, *The Middle East in the World Economy, 1800-1914* (London ; New York: Methuen, 1981), 6.

<sup>45</sup> Lockman, *Contending Visions of the Middle East*, 151–158.

<sup>46</sup> For an explication of Marxist theories of tribe, see Caton, “Anthropological Theories of Tribe and State Formation in the Middle East: Ideology and the Semiotics of Power,” 85.

period, tribal territoriality was linked to a concept of social differentiation within tribes. Batatu explained a tribe's territory, or *dira*, as an area of land that specific tribes habitually occupied as long as they could defend it, with the shaykh allotting land to the tribe's constituent families and holding the better part of cultivated portions in a common fund for the good of the entire tribe.<sup>47</sup> The shaykhs, who were warrior nomads who did not cultivate, provided security for a mass of "tribal peasants" in the context of a weak Ottoman state.

Batatu argued that this situation was stable throughout the pre-capitalist centuries of Ottoman rule, but became problematic when shaykhs turned into profit-seeking landlords in the context of capitalist integration, the private property relations it introduced and the Ottoman Land Code that "rubber-stamped" those property relations. In this context, the peasant tribesmen were reduced to serfdom. Batatu argued that this process should have spelled the shaykhs' imminent economic downfall and their loss of tribesmen's loyalty,<sup>48</sup> but the British occupation of Iraq and the weak succeeding monarchy precipitated an "unnatural reversal of history", embodied in the continued power of the parasitic shaykhs. The British and their client monarchy exploited the divide between rural and urban by supporting the shaykhs and legalizing their usurpation of land formerly held communally.<sup>49</sup> Batatu introduced a key argument that scholars would continue to make in the twenty-first century: the British (or sometimes the French) colonial state was the only governing actor capable of influencing local structures of authority and the property relations it administered.<sup>50</sup>

In the 1980's and 1990's, two studies foundational for the history of Ottoman Syria and the surrounding region reflected a growing critique of the concept of Ottoman decline in the 17<sup>th</sup> and 18<sup>th</sup> centuries and the related assumption that Ottoman reforms in the late nineteenth century were ineffectual in the empire's rural areas. Norman Lewis's 1987 *Nomads and Settlers in Syria and Jordan* and Eugene Rogan's 2000 *Frontiers of the State in the Late Ottoman Period: Transjordan, 1850-1921*, both argued that the Ottoman state was in fact successful in its late nineteenth century modernization projects. In reviving Ottoman efficacy, however, both authors returned to a Weberian model of state centralization to describe the relationship between the Ottoman government and nomads in Syria. For Lewis, state subjugation of nomadic leaders began with Egyptian and Ottoman attempts and culminated with French and British rule in the different areas of Greater Syria and Iraq.<sup>51</sup> While he discussed Ottoman cooptation of various tribal leaders into the numerous local governing bodies introduced in the Tanzimat era,<sup>52</sup> Lewis viewed the state as coercively implementing policies in spite of, rather than in conversation with, local practice.<sup>53</sup> Lewis's insistence on a social dichotomy between tribal nomads and sedentary

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<sup>47</sup> Ibid., 77.

<sup>48</sup> For a critique of Batatu's treatment of tribalism, see Samira Haj, "The Problems of Tribalism: The Case of Nineteenth-Century Iraqi History," *Social History* 16, no. 1 (January 1, 1991): 45–58.

<sup>49</sup> Hanna Batatu, *The Old Social Classes & The Revolutionary Movement In Iraq* (London: Saqi Books, 2004), 78.

<sup>50</sup> See for example Batatu's explanation of tribal "communal" land tenure practices in the late nineteenth century, based largely on British administrative reports and European travelers' chronicles *ibid.*, 72–3.

<sup>51</sup> Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*, 25–30, 66–69.

<sup>52</sup> *Ibid.*, 36, 125; Lewis's discussion of tribal leaders' incorporation into Tanzimat era administrative structures is in marked contrast to Haim Gerber's discussion of the complete disempowerment of undifferentiated Bedouin by the Tanzimat. Haim Gerber, "A New Look at the Tanzimat: The Case of the Province of Jerusalem," in *Palestine in the Late Ottoman Period: Political, Social and Economic Transformation*, ed. David Kushner (Jerusalem: Brill, 1986).

<sup>53</sup> Lewis was markedly uneasy about this process of state-instigated modernization, one that he linked inextricably to the transition from an apparently stable nomadic pastoral way of life for which he verged on nostalgia. Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*, 35; This nostalgia mirrors Albertine Jwaideh's constant concern for "indigenous" practices of cultivation in Iraq and disdain for the Ottoman Land Code that apparently

cultivators underlined his important assumption that all members of nomadic communities would necessarily oppose a property regime centered on cultivation. In the case of Salt, he argued that cultivation was anathema to “pure” nomadic groups like the Bani Sakhr, who had to be convinced to cultivate and register their land through the settlement of sedentary Circassian refugees within their territories.<sup>54</sup>

Eugene Rogan, whose masterful and detailed work on the social history of Salt and the surrounding districts in the late Ottoman period forms a foundation for this dissertation, largely adopted Lewis’ explanation of the relationship between the Ottoman government and local nomads especially with regard to land. Employing a Weberian theoretical framework, Rogan argued that the Ottoman state successfully monopolized force in the “frontier” region of Transjordan and provided the necessary security for the region’s capitalist integration and the emergence of private land ownership in the 1870’s. Before this period, he argued, the region was ruled by Bedouin organized in tribal chiefdoms and entirely autonomous from the central state’s control.<sup>55</sup> The creation of an Ottoman rule of property was key to the project of centralization, and Rogan challenged interpretations of this project that had deemed it a failure, arguing instead that the Ottoman administration laid the groundwork for the colonial administrations that followed.<sup>56</sup> He described the Ottoman scheme to extend a private property regime in Transjordan as devoid of “ideological motives in the assignation of title”,<sup>57</sup> and generally praised what he characterized as Ottoman moderation both in implementing property reforms and in providing regional security, especially in the face of continued Bedouin attempts to extract protection.<sup>58</sup> In this way, Rogan neutralized a contested shift in the local balance of power by rendering the attempts of former leaders to maintain their spheres of influence and control of property illegitimate in a context of Ottoman moderation.

At the same time, Rogan incorporated detailed analyses of court documents and Ottoman administrative sources into his description of Ottoman Salt, covering topics as varied as the activities of merchants, local marriage practice, transformations in architecture and, most important for this dissertation, the implementation of the Ottoman Land Code. He also included details about specific nomadic groups and their leaders and problematized the assumed polarization between nomadic and settled communities, detailing the credit-based commercial

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disrupted them after multiple centuries of consistency. Albertine Jwaideh, “Aspects of Land Tenure and Social Change in Lower Iraq in Late Ottoman Times,” in *Land Tenure and Social Transformation in the Near East*, ed. Tarif Khalidi (Beirut: American University in Beirut, 1984), 341.

<sup>54</sup> Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*, 130 See also his discussion of the Fadl and Circassians on p. 106.

<sup>55</sup> See Rogan’s discussion of chiefdoms as confederations of tribal groups performing state functions prior to the mid-19th century, “making the state redundant on the frontier.” Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 9; See also Tariq Tell’s concept of the “local order” in Transjordan prior to the extension of direct Ottoman rule, Tariq Moraiwed Tell, *The Social and Economic Origins of Monarchy in Jordan* (Palgrave Macmillan, 2013), 33–38.

<sup>56</sup> For elaborations of Rogan’s argument for a successful, and largely unproblematic, extension of state control over a previously unruly “frontier” region through administrative and fiscal reforms as well as technological installations, see Eugene Rogan, “Moneylending and Capital Flows from Nablus, Damascus and Jerusalem to Qada’ Al-Salt in the Last Decades of Ottoman Rule,” in *The Syrian Land in the 18th and 19th Century: The Common and the Specific in the Historical Experience*, ed. Thomas Philipp (Berlin: Franz Steiner, 1992), 239–40; Eugene Rogan, “Instant Communication: The Impact of the Telegraph in Ottoman Syria,” in *The Syrian Land: Processes of Integration and Fragmentation*, ed. Thomas Philipp (Berlin: Stuttgart, 1999), 126.

<sup>57</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 83.

<sup>58</sup> *Ibid.*, 68.

relationships between nomads and merchants in Salt.<sup>59</sup> Rogan's portrayal of nomads was highly sympathetic and nuanced in comparison with many of his contemporaries: A 1992 volume on "*The Syrian Land*" to which he contributed is replete with references to the menace of roaming and uncontrollable nomads as well as the assumption that abandonment of rural settlements was due to nomadic strength.<sup>60</sup>

For Rogan as for other scholars, the agents of change in Salt's economy were Ottoman bureaucrats and the merchants and settlers who he argued shared their interests. While not exactly villains, local Bedouin, and especially tribal leaders, were the clear losers as the Ottoman administration expanded and became more intensive.<sup>61</sup> Rogan's lingering assignment of nomads writ large to the role of obstacles to rather than participants in state reform projects was related to his treatment of "Bedouin" as a natural economic, social and political category in a way that recreated the homogenizing categories of the Ottoman state or its modernizing discourse more generally.<sup>62</sup>

Although much of the literature cited above drew heavily on functional anthropologists' descriptions of nomadic tribes, by the 1990's the field of Middle East anthropology had largely discredited the idea of autonomous nomadic social organizations and had moved away from the category "tribe" altogether. Talal Asad was at the forefront of this trend, challenging the Orientalist understanding of nomads as essentially warlike and destructive in the 1970's and arguing that the dichotomous opposition between nomadic and sedentary communities downplayed extensive evidence for a single economic system incorporating both nomadic/pastoral and settled/cultivating communities with blurred boundaries.<sup>63</sup> Asad also criticized the assumption of universal consent to the legitimating ideology of tribal leaders controlling "communal" property, whether based on genealogy or security.<sup>64</sup>

Crucially, anthropologists also critiqued the ways their colleagues had ignored or neutralized the role of the state, in their case usually the colonial state, in reframing rural structures of authority. In 1989, Dale Eickelman pointed to the ways colonial classifications created for administrative purposes often posited local tribal hierarchies that were constantly

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<sup>59</sup> Ibid., 108.

<sup>60</sup> Adel Manna, "Continuity and Change in the Socio-Political Elite in Palestine During the Late Ottoman Period," in *The Syrian Land in the 18th and 19th Century; The Common and the Specific in the Historical Experience.*, ed. Thomas Philipp (Berlin: Stuttgart, 1992), 79; Thomas Philipp, "Social Structure and Political Power in Acre in the 18th Century," in *The Syrian Land in the 18th and 19th Century; The Common and the Specific in the Historical Experience*, ed. Thomas Philipp (Berlin: Stuttgart, 1992), 92; Norman Lewis and Dick Douwes, "Taxation and Agriculture in the District of Hama, 1800-1831; New Material From the Records of the Religious Court," in *The Syrian Land in the 18th and 19th Century; The Common and the Specific in the Historical Experience*, ed. Thomas Philipp (Berlin: Stuttgart, 1992), 275-76; Wolf-Dieter Hutteroth, "Settlement Desertion in the Gezira Between the 16th and 19th Centuries," in *The Syrian Land in the 18th and 19th Century; The Common and the Specific in the Historical Experience* (Berlin: Stuttgart, 1992), 290.

<sup>61</sup> This narrative is clearest in Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, Chapter 6, "Accommodation."

<sup>62</sup> This tendency is also apparent in Michael Fischbach's monograph on the implementation of British land reforms in the Transjordan Mandate in the 1930's. See especially his final chapter in which he praises the "bureaucratic ability" of British officials. Michael Fischbach, *State, Society and Land in Jordan* (London: Brill, 2000).

<sup>63</sup> Talal Asad, "The Beduin as a Military Force: Notes on Some Aspects of Power Relations Between Nomads and Sedentaries in Historical Perspective," in *The Desert and the Sown: Nomads in the Wider Society*, ed. Cynthia Owen (Berkeley: University of California Press, 1973), 71.

<sup>64</sup> Talal Asad, "Market Model, Class Structure and Consent: A Reconsideration of Swat Political Organisation," *Man*, New Series, 7, no. 1 (March 1, 1972): 87.

shifting in reality.<sup>65</sup> In the same year, Lila Abu-Lughod argued that neat segmentary models of tribes were often the product of a confluence of interest between Western anthropologists and local elites, whose legitimation discourse was then recorded by anthropologists to describe the motivations for the practice of entire communities.<sup>66</sup>

This critique would become important for historians influenced by both postcolonial theory and Edward Said's *Orientalism*.<sup>67</sup> In the early 2000's, cultural historians began to focus on the imperial discourse both the Ottoman and colonial British and French states employed to understand nomadic tribes in the Arab provinces. Their work showed the extent to which the Orientalist and Marxist paradigms for understanding the relationship between nomads and property outlined above relied especially on the perceptions of British colonial officers as well as European travelers' accounts of their visits to the region. Toby Dodge and Joseph Massad both tackled the constructions of tribes, nomadism and Bedouin in British colonial discourse, with Dodge focusing on the British in Iraq in the interwar period and Massad on British and Hashemite policy in the Transjordan Mandate. Dodge explained that in Iraq, the British concept of a strict rural/urban divide was related to their idea of Ottoman despotism and their belief that Ottoman policies had been more effective in urban than in rural areas.<sup>68</sup> However, he also connected the ultimate sympathy of the British with shaykhs and "their tribes" to a nineteenth century spirit of British ruralism that romanticized nomadic life, apparently untouched by the corruption of capitalism, and imagined Bedouin as a pure-blood, warlike "martial race" akin to the "Pathans" of the Northwest Frontier.<sup>69</sup> Massad confirmed Dodge's explication of the British discourse of a divided society, detailing the construction of a separate legal sphere for the Bedouin, defined as nomadic and tribal, in interwar Transjordan.<sup>70</sup>

The British perspectives Dodge elaborated also mirror the assumptions of Orientalist and Marxist scholars in their portrayal of the power of the tribal shaykh in the rural economy.<sup>71</sup> He noted that the British process of "making sense" of Iraq's rural areas involved composing lists of discursively homogenized tribes and their shaykhs, with the character of each tribe evaluated through perceptions of the character of its supposed leaders.<sup>72</sup> These figures were integral not only for the colonial imaginary, but for the implementation of policy; the relations between the state and the "mass of the population" would be mediated through tribal sheikhs whose positions

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<sup>65</sup> Dale Eickelman, *The Middle East and Central Asia: An Anthropological Approach* (New Jersey: Prentice Hall, 1989), 132.

<sup>66</sup> Lila Abu-Lughod, "Zones of Theory in the Anthropology of the Arab World," *Annual Review of Anthropology* 18 (January 1, 1989): 285.

<sup>67</sup> Lockman, *Contending Visions of the Middle East*, Chapter 6.

<sup>68</sup> Dodge explained that in the British conception, urban effendis were corrupt; rural communities and their shaykhs were untouched. Toby Dodge, *Inventing Iraq: The Failure of Nation Building and a History Denied* (Columbia University Press, 2003), 43–44.

<sup>69</sup> *Ibid.*, 69 Dodge argued that ruralism was relevant to British policy on landed property in Iraq because some officials were highly concerned about the "penetration" of commercial landowners in tribal areas that were understood as precapitalist. British officials equated capitalist transformation with urbanization and detribalization, which was a security concern; Dodge argued that officials worked to maintain the tribal status quo, based on communal ownership of lands by tribes represented by shaykhs, rather than encouraging an exploitative capitalist environment based on a private ownership regime that would increase the chances for rural unrest.

<sup>70</sup> Massad, *Colonial Effects: The Making of National Identity in Jordan*, 57–58.

<sup>71</sup> Dodge, *Inventing Iraq*, 63.

<sup>72</sup> *Ibid.*, 75.

“collective” communities were assumed to welcome, an attitude reproduced by the assumptions of consent within tribes that Talal Asad critiqued.<sup>73</sup>

While illustrating important points about British colonial discourse on nomads and the rural economy, these postcolonial scholars also made problematic assumptions about how this discourse translated into practice on the ground that rendered the Ottoman past a social and legal blank slate. It was in this literature that nomads went from being local and traditional to being subaltern. Without any explicit comparison with the Ottoman era, Dodge argued that the British changed the institution of the shaykh in “strikingly radical and modern ways” by “clarifying and strengthening” his position and rendering “what had previously been “fuzzy communities now...rigidly defined.”<sup>74</sup> Massad argued that Bedouin society underwent a radical transformation during the British Mandate, a process intensified by the Hashemites: “the laws and policies of the Jordanian nation state helped to destroy the Bedouin economy, transforming it into one completely dependent on the state” through the “criminalization of the Bedouin lifestyle” inherent in banning of raiding, the cementing of national borders and the implementation of sedentarization programs.<sup>75</sup> The problematic subalternization of nomads notwithstanding, this argument completely negated the importance of the Ottoman past.

As interest in postcolonial theory filtered to Ottoman studies, Selim Deringil’s work on Hamidian legitimization discourse and Ussama Makdisi’s article on “Ottoman Orientalism” both implied that Western European colonizers did not have a monopoly on employing powerful categorizing tropes in their formulation and implementation of administrative directives. Deringil argued that the late Ottoman state was in fact quite modern and pointed to numerous similarities not only between late nineteenth century Ottoman legitimization discourse and that of their monarchical contemporaries, but also that of colonial governments.<sup>76</sup> Both Deringil and Makdisi argued that nomads and tribes were central to a discourse required to legitimate the intrusive reforms of the nineteenth century. Deringil explained the importance of Ibn Khaldunism to the political thought of late Ottoman reformers, utilizing an essential opposition between nomadic and civilized as well as a strong concept of the evolutionary progress of man from “savagery” to civilization.<sup>77</sup> Further, the Hamidian elites whose writings he reviewed shared an obsessive focus on tribal shaykhs and the assumption that they could serve as representatives of their communities towards the implementation of policy.<sup>78</sup> Comparison of Ottoman and British discourse also yielded important differences: while some British officials operated on the assumption of the “noble savage”, the Ottoman state glorified its own “tribal past”, although from a vantage point that was firmly transcendent of that civilizational stage.<sup>79</sup>

From the argument that the Hamidian regime employed its own civilizing mission, these scholars made the quick jump to labeling late Ottoman governance “colonial” towards its “peripheral” regions and their inhabitants, especially pastoral nomads. Deringil himself made this argument in a 2003 article, ““They Live in a State of Nomadism and Savagery”: The Late

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<sup>73</sup> Ibid., 110.

<sup>74</sup> Ibid., 84–85.

<sup>75</sup> Massad, *Colonial Effects: The Making of National Identity in Jordan*, 59 Massad was strongly critical of social theorists who argued that postcolonial nationalist constructions were the product of “local agency”, seeing them as operating entirely within frameworks erected under colonial rule. See p. 278.

<sup>76</sup> Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876-1909* (Palgrave Macmillan, 1998), 6.

<sup>77</sup> Ibid., 20–21.

<sup>78</sup> Ibid., 52.

<sup>79</sup> Ibid., 28, 32.

Ottoman Empire and the Postcolonial Debate”, in which he argued that the Hamidian regime practiced a form of “borrowed colonialism” vis-à-vis its peripheral regions in a defensive move to prove its own modernity against British and French machinations to turn the Empire itself into a colony.<sup>80</sup> Deringil notes, however, that in the Arab provinces, which he insists were the peripheral object of an Ottoman civilizing mission, local elites were not akin to the colonized elites of the British Empire in India, for example. While non-Turkish elites were Ottoman in every sense of the word and could access Istanbul’s halls of power, becoming Sultan Abdul Hamid II’s closest advisors, the objects of Ottoman colonization were actually nomadic tribes in the Arab provinces who bureaucrats often described as “savage.”<sup>81</sup>

A number of scholars have recently followed Deringil in thinking through the extent to which the late Ottoman regime was colonial, and if so which regions this colonial policy applied to and what types of governance it entailed. These scholars have moved beyond Deringil’s essentially discursive appraisal of the writings of prominent Ottoman bureaucrats to parse the details of Ottoman policies in outlying regions, including Yemen, the Hijaz and eastern Sahara. Thomas Kuehn, whose work focuses on the Ottoman reconquest of Yemen between 1876 and 1910, coined the term “colonial Ottomanism” to describe the Hamidian regime’s hybrid governing style in Yemen.<sup>82</sup> Kuehn argued that the Ottomans created a rule of difference in Yemen, employing a civilizational discourse about the local inhabitants’ backwardness to justify exempting them from certain governing practices, like the Nizamiye court system, that were otherwise meant to be universal. However, they did not classify Yemen as a colony, judging that such a designation would be detrimental to their ability to rule there.<sup>83</sup> Mustafa Minawi also argued that particular bureaucrats often advanced a civilizing discourse towards nomads to advance particular political aims, aims that sometimes completely contradicted each other.<sup>84</sup> Minawi, following on Eugene Rogan’s earlier argument about the Hamidian School for Tribes, argued that the Ottoman civilizing discourse about Bedouin was essentially a way of neutralizing the political threat their autonomy posed to Ottoman governance.<sup>85</sup>

While these studies introduce important nuance to the argument for Ottoman colonialism and provide a framework for addressing Ottoman bureaucratic discourse about nomads, they continue to treat nomads as existing outside of the legal and administrative structures of the Ottoman state and largely constituting “thorns in the side” of Ottoman governance. The treatment of Bedouin tribes becomes a litmus test for how the Hamidian state dealt with such “autonomous” or “marginal” populations. Without discussing the extensive economic and social ties between populations categorized as nomadic and settled or the ways nomads came to be involved in bureaucratic governance, these arguments rely on understandings of state and society that leave society, or at least nomadic society, basically static in the context of state transformation.

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<sup>80</sup> Deringil, “They Live in a State of Nomadism and Savagery: The Late Ottoman Empire and the Postcolonial Debate.”

<sup>81</sup> *Ibid.*, 338.

<sup>82</sup> Kuehn, *Empire, Islam, and Politics of Difference*, 10–14.

<sup>83</sup> *Ibid.*, 13.

<sup>84</sup> Mostafa Minawi, “Lines in the Sand: The Ottoman Government’s Policies of Expansion and Consolidation on Its African and Arabian Frontiers (1882-1902)” (Dissertation, New York University, 2011), 26–28.

<sup>85</sup> Eugene Rogan, “Asiret Mektebi: Abdulhamid II’s School for Tribes (1892-1907),” *International Journal of Middle East Studies* 28, no. 1 (February 1, 1996): 104; Minawi, “Lines in the Sand: The Ottoman Government’s Policies of Expansion and Consolidation on Its African and Arabian Frontiers (1882-1902),” 204–205.

The problematic nature of the “Ottoman colonialism” trend vis-à-vis nomads, and their relationship to property in particular, is exemplified in Janet Klein’s recent book on the Hamidiye militias created among Kurdish tribes in Eastern Anatolia in the 1890’s. Klein conceptualized Kurdistan as a “tribal zone” ruled by nomadic and semi-nomadic Kurdish tribal shaykhs who the Ottoman state empowered at its own eventual peril.<sup>86</sup> She described the Ottoman attempts to reform legal and administrative structures in Kurdistan, an area the Ottoman government ruled since the sixteenth century, as “internal colonialism.”<sup>87</sup> Unlike Kuehn and Minawi, Klein was specifically interested in land relations in Kurdistan and the way they were changing in the late nineteenth century because of the importance of the “agrarian question” to the Armenian Genocide.<sup>88</sup> However, because of the politically sensitive nature of her topic, Klein was denied access to the Ottoman archives for many years and her work on agrarian relations relied mainly on British and French consular reports.<sup>89</sup> Her description of agrarian relations in Kurdistan in the 1890’s mirrored the image of the rural economy described above: Kurdish tribes led by rapacious shaykhs wreaking havoc on local security, with shaykhs taking advantage of a weak and seemingly chaotic Ottoman legal structure to engage in extensive land grabbing.<sup>90</sup> Her analysis shows the overlap between earlier Orientalist arguments for tribal rapaciousness in the context of Ottoman modernization and contemporary arguments for nomadic autonomy in the context of Ottoman colonialism.

The argument for the Hamidian regime’s colonialism, especially vis-à-vis nomads and other “marginal” populations, is also related to a more widespread trend especially among early modernists in the field of Ottoman studies. This body of work, exemplified by Karen Barkey in the political sphere,<sup>91</sup> Şevket Pamuk in the economic,<sup>92</sup> and Reşat Kasaba in terms of nomads and migrants specifically,<sup>93</sup> asserted that the Hamidian regime became markedly more “rigid” than its early modern predecessors, whose flexibility and pragmatism enabled the empire’s longevity. In a recent review article, Alan Mikhail and Christine Philliou connected this trend to the current political mood of globalization that idealizes imperial forms of governance over the modern nation state.<sup>94</sup> More critically, Murat Dağlı has connected claims of early modern Ottoman pragmatism to a problematic glorification of neoliberalism that sees early modern flexibility giving way to a cumbersome and rigid nineteenth century bureaucracy that complicated the Empire’s transition to capitalist modernity.<sup>95</sup>

Reşat Kasaba recently applied this argument for early modern flexibility to the topic of nomads, refugees and migrants in the Ottoman Empire to argue that the early modern empire

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<sup>86</sup> Janet Klein, *The Margins of Empire: Kurdish Militias in the Ottoman Tribal Zone* (Stanford, California: Stanford University Press, 2011), 13–18.

<sup>87</sup> *Ibid.*, 15–16.

<sup>88</sup> *Ibid.*, Chapter 4.

<sup>89</sup> *Ibid.*, 6–7 Klein did eventually gain access to the Ottoman state archives, but her description of agrarian relations in Kurdistan relies heavily on British and French consular reports.

<sup>90</sup> *Ibid.*, 139–152.

<sup>91</sup> Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (Cambridge University Press, 2008).

<sup>92</sup> Şevket Pamuk, “Institutional Change and the Longevity of the Ottoman Empire, 1500-1800,” *The Journal of Interdisciplinary History* 35, no. 2 (2004): 225–47.

<sup>93</sup> Reşat Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees* (Seattle: University of Washington Press, 2009).

<sup>94</sup> Alan Mikhail and Christine M. Philliou, “The Ottoman Empire and the Imperial Turn,” *Comparative Studies in Society and History* 54, no. 04 (October 2012): 736.

<sup>95</sup> Murat Dağlı, “The Limits of Ottoman Pragmatism,” *History and Theory* 52, no. 2 (2013): 205.

tolerated and in some ways encouraged mobility while the post-Tanzimat state, and in particular the Hamidian regime, attempted to repress it.<sup>96</sup> Nomads play an important role in this narrative because of the Hamidian regime's apparent zeal in initiating forced settlement campaigns. Kasaba cites imperial aims expressed in law to settle the Empire's nomads and uses the example of Ahmet Cevdet Paşa's famous attempt to settle nomads in Çukurova in the 1860's.<sup>97</sup> However, he does not delve into the economic or social details of nomadic communities, their land use or the ways their interaction with Ottoman governance changed in the late nineteenth century. Nomadic communities remain symbols of late Ottoman repression, where in the early modern period they apparently embodied flexibility.

In short, historians of both the Ottoman Empire in general and the Arab provinces in particular have changed the way they write about modernity, modern property regimes and the modern state, and the way they write about nomads has changed apace. Where Weberian historians tended to glorify the promise of centralized states exclusively providing security to industrious capitalist, property owning and tax paying cultivators, scholars influenced by postcolonial theory have advanced a "critique of modernity", one that paints the intrusive measures of centralizing modern states as repressive and tends to glorify early modern state practice as more flexible. In this calculus, nomads have gone from being the spoilers of modernization projects to their victims, but their positionality outside the state and its legal constructs has remained essentially the same. Further, this scholarship's movement towards an exclusive focus on Ottoman imperial discourse and bureaucratic reports has precluded its offering any further understanding either of the economic and social activities of nomadic communities, their political makeup or changing internal differentiation. Essentially, we have returned to a vision of "nomadic tribes" whose only visible characters, if they have any at all, are their shaykhs.

### **Rethinking Law, Property and Modernity: Nomads as Agents of Historical Change**

This dissertation moves beyond characterizations of nomads as necessarily outside the legal and administrative structures of the modern state and explores the ways they contributed to the shape of those structures. In doing so, it builds on scholarship of the late Ottoman Empire that has incorporated two important approaches: First, it draws on social histories that have resisted treating nomads as an isolated social category in describing the local and regional economies of the Arab provinces. These social histories have also focused on events in the Arab provinces, and not simply the capital, as drivers of imperial change rather than passive recipients of reforms. Second, it moves beyond an approach concerned exclusively with economic and social relations to consider the role of state legal and administrative categories and structures in the production of social life. Put differently, it aims to take Ottoman law, and particularly Ottoman law dealing with property, seriously.

The mid-1990's works of Beshara Doumani and Dina Khoury did not focus on nomads or even nomads' contributions to the regional economies and social relations of Nablus and Mosul, respectively. However, they treated these cities' local economies as holistic systems in which nomadic populations played an integral part. Doumani used Talal Asad's argument for a single economy incorporating nomadic pastoralist and settled merchants and cultivators to characterize

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<sup>96</sup> Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, Chapter 4.

<sup>97</sup> *Ibid.*, 102–105.

the contributions of Beduin groups to the Nabulsi soap industry,<sup>98</sup> and Khoury noted the important economic role pastoral nomads played in transporting goods between various market centers around Mosul.<sup>99</sup> She included nomadic leaders in her discussion of the “Ottomanization” of Mosul, noting their alliance with leaders based in the city and centrality to rising tax-farm institutions.<sup>100</sup> Tariq Tell’s recent study of the social and economic origins of monarchy in Jordan can also be added to this group – while Tell did not focus on the nineteenth century specifically, he noted the economic integration of Bedouin and settled groups in the Salt region, specifically challenging previous characterizations of Ottoman Transjordan as ruled by camel-herding Bedouin who extracted tribute from shepherders and villagers. Tell also specifically contrasted Ottoman and Orientalist representations of Bedouin.<sup>101</sup>

Doumani and Khoury’s studies are also important for understanding nineteenth century transformations of property relations in the Ottoman provinces in general because they aimed to revise previous interpretations of the 19<sup>th</sup> century as a qualitative rupture precipitated either by Western influence or by integration into the capitalist world economy. Doumani and Khoury both used central imperial and provincial sources to argue that provincial actors became more, rather than less involved in state administrative practices throughout the 18<sup>th</sup> century, and that 19<sup>th</sup> century reforms were, at least in part, a response to developments in the provinces. Further, they asserted that local leaders played important roles in implementing the reforms and negotiating them to fit local circumstances.<sup>102</sup>

Because of their contribution to knowledge of how nomadic groups contributed to local economies, these studies are also important to a foundational aspect of this dissertation: attempting to write a history of nomadic groups during the Hamidian period while avoiding the term “tribe.” This is complicated because Hamidian bureaucratic discourse on the rural economy is rife with the word “*aşiret*” in Ottoman and “*ashira*” in Arabic, both words generally translated as “tribe.” However, because of the baggage associated with the idea of the tribe as an autonomous and isolated social and political organization, I found that problematizing this term was crucial to rethinking the role of nomads in Ottoman governance. Instead, I have attempted to understand what “*aşiret*” and “*ashira*” meant and the work they did in the Ottoman bureaucratic and legal universe as well as in the district courts that created my source base.

While such concerns are far from their focus, I have also gained a great deal from the detailed social histories of Ottoman Salt and the Balqa region penned by largely Jordanian scholars in Arabic, especially those that have relied on the Sharia court records of Salt and Amman and the surviving land registers. Muhammad Khuraysat’s multiple works on Salt as well as the work of George Dawud are notable in this regard,<sup>103</sup> as is the corpus of material

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<sup>98</sup> Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley: University of California Press, 1993), 201–202.

<sup>99</sup> Dina Khoury, *State and Provincial Society in the Ottoman Empire: Mosul, 1540-1834* (Cambridge: Cambridge University Press, 1997), 35.

<sup>100</sup> *Ibid.*, 41; Another scholar who analyzes the political role of leaders of groups defined by discourses of lineage and involved in nomadic and pastoral practice in a very different setting is Julia Clancy Smith. See her discussion of “tribal” leaders in concert with religious notables in interactions with French colonial forces in Algeria and Tunisia. Julia Ann Clancy-Smith, *Rebel and Saint: Muslim Notables, Populist Protest, Colonial Encounters (Algeria and Tunisia, 1800-1904)* (University of California Press, 1994), 4.

<sup>101</sup> Tell, *The Social and Economic Origins of Monarchy in Jordan*, 30–35.

<sup>102</sup> Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*, 5; Khoury, *State and Provincial Society in the Ottoman Empire: Mosul, 1540-1834*, 9.

<sup>103</sup> Muḥammad ‘Abd al-Qādir Khuraysāt, *Dirāsāt Fī Tārīkh Madīnat Al-Salṭ* (Amman: Ministry of Culture, 1997); Muḥammad ‘Abd al-Qādir Khuraysāt, *Al-Masīhiyyūn Fī Qaḍā’ Al-Salṭ: Al-Salṭ, Al-Fuḥays, Ramīmīn, 1869-1920*

created by Adnan Bakhit and his students on Ottoman Jordan.<sup>104</sup> Like the work of Doumani and Khoury, these studies narrate events of the Ottoman period from the local perspective and insert local personalities into an Ottoman history often assumed to emanate from Istanbul.

At the same time, while the social histories cited above are important for outlining a methodology for studying the economic and social activities of nomadic populations, these historians did not interrogate the way local communities interacted with Ottoman legal or administrative categories, nor were they fundamentally interested in the nature of Ottoman modernity or the reforms of the late nineteenth century. In the last decade, scholars have focused anew on late Ottoman law and its implementation in the provinces, especially the Land Law, Provincial Administration Regulations and the laws creating the Nizamiye court system. This scholarship is also foundational for this dissertation, as it provides a roadmap for investigating the roles of people the Hamidian state categorized as nomadic in efforts to reconfigure local administration.

In her work on the Land Code and other nineteenth century Ottoman legislation, Huri İslamoğlu conceptualizes law and administration in the context of the modern bureaucratic state as “power fields in which multiple actors, including state agencies, confront each other to negotiate and contest, and thus to cast and re-cast the very terms of domination and subjugation.”<sup>105</sup> In this way she differs from the three main perceptions of law that have framed historians’ understanding of late Ottoman property relations, and nomads’ role in them, reviewed above: Orientalists relied on the Weberian functional interpretation of law as a neutral tool for centralization that states either succeeded or failed in implementing, and in that context judged the Ottoman state as a failure in implementing the Land Code and other regulations largely because of their inability to suppress nomads. Marxist historians, when they paid attention to the Ottomans at all, saw them using law to rubber-stamp a private property regime that had already developed in the Arab provinces because of capitalist integration, with nomads becoming increasingly irrelevant but for the distorting factor of colonialism which empowered land-owning shaykhs. For postcolonial scholars, largely influenced by Foucault, law defined social reality through its intrusive and expansive measures, with the state legitimating these measures by articulating a civilizing mission aimed at marginal or peripheral groups supposedly outside the reach of state law, with nomads becoming the ultimate subalterns.

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(Amman: Ministry of Culture, 2012); Muḥammad ‘Abd al-Qādir Khuraysāt and ‘Isā Sulaymān Abū Salīm, *Sijillāt Ghurfat Tijārat Al-Salt, 1884-1937* (Irbid: ‘Ammān: Mu’assasat Hamādah lil-Dirāsāt al-Jāmi‘iyah wa-al-Nashr wa-al-Tawzī‘; Zamzam, 2010); Muḥammad ‘Abd al-Qādir Khuraysāt and ‘Abd Allāh Muṭlaq ‘Assāf, *‘Imārat Masjid Al-Salt Al-Ṣaghūr, 1323-1325 H/1905-1907 M: Wathā‘iq Min Sijillāt Maḥkamat Al-Salt Al-Shar‘iyah* (‘Ammān: Wizārat al-Thaqāfah, 2009); Dāwūd, *Al-Salt Wa Jiwāruhā*.

<sup>104</sup> Muḥammad ‘Adnān Bakhīt, *The Ottoman Province of Damascus in the Sixteenth Century* (Beirut: Librairie du Liban, 1982); Muḥammad ‘Adnān Bakhīt and Thāer T. Kādī, *Studies in the History of Bilad Al-Sham in the Sixteenth Century* (Amman: Jordan University Press, 2009); ‘Alīyān Jālūdī and Muḥammad ‘Adnān Bakhīt, *Qadā‘ ‘Ajlūn Fī ‘aṣr Al-Tanzīmāt Al-‘Uthmāniyah: 1281-1337H/1864-1918M*, Silsilat Al-Kitāb Al-Umm Fī Tārīkh Al-Urdun 4 (‘Ammān: al-Lajnah al-‘Alīyān li-Kitābat Tārīkh al-Urdun, 1992); Muḥammad Sālim Ghaythān Ṭarāwinah, *Tārīkh minṭaqat al-Balqā‘ wa-Ma‘ān wa-al-Karak: 1281-1337 H/1864-1918 M*, al-Ṭab‘ah 1 (‘Ammān: al-Mamlakah al-Urdunīyah al-Hāshimīyah, Wizārat al-Thaqāfah, 1992); Abū al-Sha‘r, *Tārīkh Sharqī Al-Urdun Fī Al-‘ahd Al-‘Uthmānī, 922H-1337 H/1516M-1918 M*; Hind Abū al-Sha‘r, *Dirāsāt Fī Tārīkh Al-Urdun Al-Iqtisādī Wa-Al-Ijtīmā‘ī, 1894-1938*, al-Ṭab‘ah 1 (‘Ammān: Amānat ‘Ammān, 2009); To these must be added the standard local history of Jordan in the 20th century, Munīb Māḍī and Sulaymān Mūsā, *Tārīkh Al-Urdun Fī Al-Qarn Al-‘ishrīn*, al-Ṭab‘ah 2 (‘Ammān: Maktabat al-muḥtasib, 1988).

<sup>105</sup> Huri İslamoğlu, “Towards a Political Economy of Legal and Administrative Constitutions of Individual Property,” in *Constituting Modernity: Private Property in the East and West*, ed. Huri İslamoğlu (London: I.B. Tauris, 2004), 10.

In contrast, İslamoğlu treats the Land Code and other late Ottoman legislation related to property as a contested attempt to create categories that would funnel all revenue on agricultural land directly to the treasury, eliminating intermediaries like tax farmers and waqfs. She argues that the categories themselves became power fields marked by contestation, and although the administration was intent on increasing society's "legibility" through intrusive measures to count, collate and tax the empire's resources, the actual implementation of these laws involved what she terms "concessional politics" that involved the extensive participation of provincial actors through the expansion of the bureaucracy.<sup>106</sup> In this sense, "to realize its objective of knowing and thereby taxing, the central government remained dependent on the flow of information from the local society." At the same time, the contestations around legal categories and bureaucratic expansion reconfigured provincial communities.<sup>107</sup>

Two studies have drawn on this and similar approaches to Ottoman law to examine the implementation of the Land Code and Provincial Administration Regulations in specific provincial locales. Martha Mundy and Richard Saumarez Smith conducted a detailed investigation of the process of implementing the Land Code in the district of Ajlun, just north of Salt. Through comparing the process of administration in different villages by reading tax and land registers alongside the Code, they were able to show that local patterns of production played a central role in the actual registration process, which occurred through the language of the Code's categories.<sup>108</sup> In this way, they showed how the Ottoman creation of a rule of property was a joint effort involving jurists in Istanbul and Damascus, Ottoman bureaucrats in Ajlun, local leaders in various villages and families of cultivators. Their explication of the interactions between civil servants and local leaders in one small area of Greater Syria within the discursive framework provided by the legal categories of the Land Code through detailed readings of land registries is foundational for the way I approach the role of nomads in the creation of a modern property regime in Salt.

Similarly, Yücel Terzibaşoğlu investigated the creation of a modern property regime, and especially the violent conflicts the project precipitated, in a region of Western Anatolia that was strikingly similar to Salt in that the population included both a large nomadic contingent and immigrant refugees settled on land formerly claimed by nomads through government decree. While Terzibaşoğlu tends to see nomads as bearers of the "customary" rather than active participants in the Ottoman legal environment of the late nineteenth century,<sup>109</sup> his investigation of Ottoman legal definitions of "empty land" suitable for refugee settlement and the conflicts this entailed provide important background for this dissertation.<sup>110</sup> Further, Terzibaşoğlu traced how the meanings of specific legal categories changed over the course of the nineteenth century as a private property regime was further elaborated.<sup>111</sup>

A few scholars have also revisited the Provincial Administration Regulations and the extent to which they expanded the local bureaucracy to include notables in the Ottoman provinces. These regulations, theoretically, created the institutional apparatus essential for implementing the Land Code as well as other late Ottoman regulations relating to property and

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<sup>106</sup> İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," 26.

<sup>107</sup> İslamoğlu, "Towards a Political Economy of Legal and Administrative Constitutions of Individual Property," 28.

<sup>108</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, Parts II and III.

<sup>109</sup> Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914," 116.

<sup>110</sup> *Ibid.*, Chapter 4.

<sup>111</sup> *Ibid.*, 159.

policing. Safa Saraçoğlu's work on Ottoman Vidin, for example, has detailed the dynamics of notable participation on the multiple governing councils created by the Regulations and the way local notables were able to dominate local Ottoman governance through this participation.<sup>112</sup> This dissertation expands on this argument by showing that local participation in Ottoman governance was not limited to elite urban notables, but rather included mid-level leaders of rural communities who gained bureaucratic positions and were essential to the implementation of Ottoman law in the provinces.

Alongside works that delve into Ottoman administrative reform of the late nineteenth century, this dissertation also draws on scholarship explicating late Ottoman judicial reform in all its complexities. In his work on the Nizamiye court system, Avi Rubin has been at the forefront of this project.<sup>113</sup> This work is crucial because as Rubin has noted, the Ottoman legal system in the late nineteenth century was underestimated and gravely misunderstood by Western European observers, who saw it as chaotic rather than attempting to understand its complexities. Further, the literature thus far has been largely focused on the role of the Sharia courts, for which a much more complete archive exists. Rubin's overview of the Nizamiye court system, which was the main decider of land disputes in Salt in the late nineteenth century, as well as his intervention into the division of authority between Sharia courts, Nizamiye courts and administrative bodies provide an important foundation for my understanding of governance in Hamidian Salt.

At the same time, Klein's problematic analysis of agrarian relations in Kurdistan and the legal system governing them is a good indicator of how far scholars still have to go before a deeper understanding of the complex legal system is reached. Rubin and others, responding to arguments that the system became more "secular" by limiting the role of Sharia courts through the Nizamiye system, have mainly envisioned the system as pluralistic, arguing that Sharia courts maintained an "open-door attitude" when faced with cases legally outside its purview. In this vein, they argue that the system provided ample opportunities to litigants for "forum shopping."<sup>114</sup> I argue that the pluralism of the late Hamidian legal system, especially in the realm of property law, should be regarded as rapidly changing and highly contested. Forum shopping in this sense was not an indicator of a flexible regime, as Rubin and others have argued,<sup>115</sup> but rather an attempt by litigants to take advantage of the cracks in the system to maintain control over resources, especially land, at the least possible cost. This conceptualization is an important foundation for understanding what nomads, as well as other rural litigants, were doing when they went to court, registered their land in multiple venues, and petitioned upper-level government agencies.

To summarize, a number of studies have moved towards treating nomadic communities as essential social and economic actors in regional networks. Others have greatly deepened our understanding of the expansion of the Hamidian bureaucracy and judicial institutions in provincial settings especially with regard to property regulation. This dissertation aims to combine these approaches to address the legal and administrative activities of nomads. In doing so, I aim to break down the discursive barriers that have kept people defined as nomadic out of discussions both of territory and of governance. At the same time, my analysis of district

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<sup>112</sup> Mehmet Safa Saraçoğlu, "Letters From Vidin: A Study of Ottoman Governmentality and Ottoman Politics of Administration, 1864-1877" (Dissertation, Ohio State University, 2007).

<sup>113</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*.

<sup>114</sup> *Ibid.*, 62; Iris Agmon, *Family and Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse: Syracuse University Press, 2006), 74; Ido Shahar, "Legal Pluralism and the Study of Shari'a Courts," *Islamic Law and Society* 15, no. 1 (2008): 112-41.

<sup>115</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, 81.

governance in Salt makes important interventions into ongoing debates about the nature of Hamidian administrative and judicial reforms, especially as it pertains to the Empire's rural areas.

### **Nomads and Written Records: A Note on Sources**

In 1997, anthropologist Andrew Shryock published an important study of two nomadic groups with a strong presence in the Salt district in the late Ottoman period who also play important roles in this dissertation: the Abbad and the Adwan. Shryock's work, which initially aimed to be a history of the shaykhdom in the Balqa region, was based on oral histories collected in the late twentieth century. He chronicled attempts by local Bedouin historians to write histories of their own communities, and argued for an oppositional type of history and ethnography writing based on oral sources, one in which contestation among sources is celebrated rather than suppressed.<sup>116</sup>

Shryock's argument relied on an essential historical dichotomy, and a supposed antagonism, that will, by now, seem familiar: that between the rural "tribal zone" and the settled urban zone. Using European travel accounts, he insisted that the Balqa region around Salt was an ungoverned "tribal zone" before 1867, remained so in a more contested fashion under direct Ottoman rule, and only really came into a meaningful government sphere after the creation of the Mandate in 1921.<sup>117</sup> For Shryock, this dichotomy is not only a discursive tool that his subjects used to delineate their perception of the end of an era, but also a historical phenomenon.

Shryock mapped this urban-tribal antagonism onto a related split he perceived in scholarship on the Middle East more generally: that between "Orientalists" (by which he seems to mean all document-reading historians) who focused on urban document-producing societies, and social anthropologists who focused on illiterate tribes, "the only niche Orientalism had left uncolonized."<sup>118</sup> Orientalists' source base was illegible to anthropologists, who could not read Arabic manuscripts, and social anthropologists' source base was illegible to Orientalists, who could not understand local spoken dialects of Arabic.<sup>119</sup>

One of Shryock's key aims was to problematize document-based history writing as the only way to write historical narrative in order to underline the agency of his tribal subjects as legitimate creators of an alternative kind of history. He argued that the Abbadi and Adwani historians he focused on were drawing on a rich oral tradition that contributes to the centrality of genealogy in legitimating narratives of contemporary Middle Eastern states.<sup>120</sup> However, because of the thick line he drew around a largely undefined "tribal" community and his assertion of its separateness from the realm of documented history in a period he defined as premodern, he limited his subjects' potentially crucial contributions to that realm.

For example, Shryock noted the stories told among his subjects about the provincial military campaigns of 1867 and 1869 that are seen as the initial steps to expanding Ottoman direct rule over the Salt region. In existing historiography, these military campaigns have largely been portrayed as the inevitable march forward of the modern state spearheaded by reform-

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<sup>116</sup> Andrew Shryock, *Nationalism and the Genealogical Imagination: Oral History and Textual Authority in Tribal Jordan* (Berkeley: University of California Press, 1997), 28–32.

<sup>117</sup> *Ibid.*, 82–88.

<sup>118</sup> *Ibid.*, 20.

<sup>119</sup> *Ibid.*, 20,24.

<sup>120</sup> *Ibid.*, 5.

minded Ottoman provincial governors. Shyrock's subjects, in contrast, described these campaigns as an Ottoman intervention into a conflict between two local nomadic groups, and asserted that the nomads had actually requested the intervention.<sup>121</sup> The historical plausibility of their account, or at least of the role of local actors in the campaign, is evident in Rogan's definitive narrative, based on the reports of a British consul who accompanied the governor Reşid Paşa (detailed Ottoman accounts have not yet been uncovered). The consul noted that one of the main nomadic leaders in the Salt region, who opposed the Ottoman intervention, was specifically concerned because one of his relatives who knew the local terrain intimately was with the advancing regiments.<sup>122</sup> This story could be used as evidence that the creation of the Salt district in 1869 was, rather than a logical step in an overarching plan to modernize, a piecemeal Ottoman reaction to local political developments rooted in the existing relationships between local leaders and the government.<sup>123</sup> For Shryock, however, such political history has already been written by Orientalists, and nomadic tribes are marginalized in this history by definition. For them to have agency, he argued, a different kind of history must be written, one that is non-chronological and privileges the oral over the textual.

When I began reading the main sources for social history of the Salt region, Sharia court records and property registers, I was surprised to find that people referred to as "tent dwellers" or members of "*ashiras*" were not only a presence, but a dominant presence, in the region's textual sources for the late Ottoman period. The main existing resources for the Salt district's social history are the collections of Sharia court records for Salt and Amman and the registers created by the district property administration. Both collections cover, with gaps, the periods between 1880 and World War I. They indicate that people categorized as nomadic were not isolated in a "tribal zone" outside of Ottoman governing institutions in the late nineteenth century by any means. Rather, these sources show their key role in creating and maintaining, through their myriad property transactions and court cases, a new kind of Ottoman governance in Salt.

Crucially, I found that these documents also allowed me to trace the stories of particular nomadic actors, and that these actors were not only the paramount shaykhs whose stories have been told in existing accounts. Rather, they allowed me to tell a story about a rising group of middling nomadic leaders of smaller sub-sections of communities who were involved in the everyday minutiae of Ottoman governance these sources record: verifying witnesses, verifying people's control over land, collecting taxes on landed and animal property as well as commodity production, and relaying information about their communities to higher levels of Ottoman government.

While there is a strong secondary literature on Salt's social history,<sup>124</sup> I found this literature's treatment of Ottoman institutions and agencies and the way they worked together and

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<sup>121</sup> Ibid., 84–85, 194, 203–204.

<sup>122</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 49.

<sup>123</sup> For historians, Shryock's account of the 1923 Balqa Revolt elicits the same sense of frustration. See Rashid Khalidi, "Review of Nationalism and the Genealogical Imagination: Oral History and Textual Authority in Tribal Jordan, by Andrew Shryock," *The American Historical Review* 104, no. 5 (December 1, 1999): 1801–2 One of Shryock's subjects also told him the story of the death of a Bedouin *mukhtar* while trying to escape from Ottoman custody, which I relate in Chapter 3 but which does not fit into existing political histories of the region. As with these other events, his subjects' stories match the documentary record fairly closely, but generally give nomads a more agentic role in key moments of the region's history.

<sup>124</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*; Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*; Dāwūd, *Al-Salt Wa Jiwāruhā*; Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*.

at odds superficial. This and the need to contextualize the categories of rule I found Ottoman bureaucrats using to describe nomads led me to the central Ottoman archives in Istanbul. While I did find extensive information on these questions, I also found reams of material on the Salt district and the nomads who camped in and around it that further added to the dissertation's social history element. To my amazement, figures from the middling group of nomadic leaders I had identified using Sharia court records and land records from a supposedly peripheral district of the empire were known to the members of the Council of State in Istanbul. Because of their contested involvement in local governance, they became key players in investigations of Ottoman officials in Syria that reached the imperial capital.

To return to Shryock, this dissertation has mainly avoided two other types of sources. Most problematically, I did not make use of oral history. This is not because I do not believe in oral history as a "reliable" source for the history of the period I cover here. It is more a function of time. The process of locating, making sense of and reading late Ottoman archival material is time consuming, but I decided it was crucial to bring this material to light, both for our understanding of late Ottoman imperial governance and the social history of Ottoman Syria. Oral histories would undoubtedly add elements to the stories told here that I can only begin to imagine, and in that sense would provide a fuller historical record with more local perspective.

Importantly, and as shown by Shryock, an important element of nomads' descendants' narratives about their history is the assertion that Bedouin in what became Jordan were autonomous and ungoverned in the late Ottoman period. In my research, however, I found that those described as tent-dwelling were no more skittish about serving in the Ottoman government, with all its documentary trappings, than their counterparts described as settled in villages. Indeed, many of them had official seals and contributed to the region's documentary history through writing down the amounts of taxes they collected, signing off on particular individual's control of property, and signing their depositions in imperial interrogations. Therefore, by confining myself to written records I also aim to specifically counter the argument that nomads' histories cannot be written using documents.

Except as narratives illustrating contemporary British ideas about sovereignty in the Ottoman lands, I have also largely avoided the works of European travelers to the region and European consuls. This is partly because this material has already been used so extensively, and indeed has formed the documentary basis for the history of the Salt region during the Ottoman period in the absence of more detailed sources from the district itself. These sources are tempting to the native speaker of English studying the Ottoman Empire, since English or even French narrative can read like a breath of fresh air in comparison with Ottoman bureaucratic prose. Further, like the writings of Ottoman bureaucrats, these sources can certainly be "read between the lines" and offer important perspectives on the social and political life of the region under study. However, not having the breadth of historical knowledge of British, French or German society or governance that I do in the Ottoman case, I do not feel as qualified to read these sources between the lines as a basis for empirical information. I have therefore confined myself mainly to sources created by the Ottoman bureaucracy, whether in Istanbul or in the district of Salt itself.

## **Chapter Outline**

Chapter One begins with the birds-eye perspective, examining imperial visions of Syria through the lenses of sovereignty, land and population in Hamidian legal and bureaucratic

discourse. This discourse is important to understand because it framed debates about land rights not only among jurists in Istanbul, but also among litigants, judges and bureaucrats at the district level. The chapter begins by exploring how Hamidian notions of sovereignty were tied up in the ability to effectively assess, promote and tax local production by controlling the land that was its main resource and monitoring the people involved. The chapter shows how this imperative underwrote the reaction to Zionist plans to clandestinely buy land in Syria for colonization projects, and the debates that ensued among Ottoman bureaucrats and jurists about how best to prevent these purchases while still promoting local production and trade in land within the framework of the Land Code. Through these debates, I outline the Ottoman legal concept of “empty land” that was also used to delineate areas in Syria appropriate for the settlement of Muslim immigrant refugees. In the context of these discussions, I explore how Ottoman administrators and bureaucrats approached pastoral nomads, their land use and their rights to land visavis other local producers.

Chapter Two takes this discussion to the district level, outlining the administrative and legal environment in Salt in the context of the Land Code, the Provincial Administration Regulations and the laws governing the Nizamiye court system. Through introducing the agencies and courts involved in sanctioning and deciding disputes over rights to property, I discuss the expansion of the Ottoman bureaucracy at the district level in the 1870’s and 1880’s. In this context, I introduce the middling group of nomads closely involved with practices of taxation, sanctioning property ownership and adjudicating disputes, and myriad other bureaucratic processes who entered the Ottoman bureaucracy in the Hamidian period as *mukhtars*, or headmen, of their communities.. At the same time, I explore the economic dimensions of these nomads’ rise to prominence, detailing their strong relationships with merchant bureaucrats in Salt and the way they leveraged their control over the district’s land to take advantage of the expanding market for agricultural commodities. This analysis shows the way middling nomads’ newfound bureaucratic power both supported and depended on economic prosperity in relation to their own communities.

Chapter Three delves into the challenges this new group of bureaucrats, who were the basis of intrusive practices of modern state building, introduced into Ottoman administration, especially in the realm of managing property relations. Through analyzing an investigation of a provincial governor accused of mismanagement, I show how conflict in Salt, especially between nomads and immigrant refugees who settled on lands they formerly controlled, compromised the ability of the Ottoman administration to effectively allocate land rights and survey and tax ownership and production. In this context, nomadic *mukhtars* who were intimately involved in Ottoman processes of governance resisted, in some cases violently, decisions to confiscate and reallocate their lands. The social connections they had gained in the Ottoman bureaucracy through their work as *mukhtars* were also crucial to these conflicts, because they gave nomadic leaders networks for negotiating the repercussions of their protests with higher government officials.

Chapter Four moves beyond the discussion of landed property to detail nomads’ participation in implementing a regime for managing livestock property in Salt. Through detailing previously unexamined Ottoman attempts to create an intrusive administrative system for monitoring and taxing animal property that focused on reducing animal theft, the chapter shows the way lawmaking in Istanbul responded to reports from bureaucrats in the provinces. Returning to the birds-eye perspective, it thus indicates the empire-wide and collaborative process of lawmaking in the empire more generally. In Salt, the chapter discusses the ways

pastoral nomads supported and helped implement the new system, especially through bringing cases of animal theft to the district Sharia court. At the same time, however, it shows how the state-supported power of *mukhtars* had become problematic not only for Ottoman administration, but also within nomadic communities by the end of the Hamidian period. Protesting government attempts to confiscate their livestock as tax, nomads initiated court cases that specifically challenged the bureaucratic role of *mukhtars* to assess and coordinate taxation in their communities. This internal differentiation and contestation, I argue, was the legacy of Ottoman governance within nomadic communities at the end of the Ottoman period.

## Chapter One

### Land, Population and Sovereignty in Hamidian Syria

They said that there was a large encampment of Abad Arabs in the immediate neighborhood, but that they themselves were not nomads, but people from Salt watching their flocks, and that among them were some Christians...there was something puzzling about the whole party, who in outward appearance could in no way be distinguished from the ordinary Bedouin by the uninitiated eye.

-Laurence Oliphant, *The Land of Gilead*, description of a day trip from the town of Salt to the ruins of Iraq al-Amir, 1880

In 1878, the British mystic, politician and early Christian Zionist Laurence Oliphant toured the Balqa region.<sup>1</sup> While his 1880 travelogue, *The Land of Gilead*, reflects the interest among Western European Christians of his time in the archaeology of the Holy Land, Oliphant's main aim was to scout out land for his new entrepreneurial and political project: a Jewish colony in Palestine, which he envisioned as the entire territory between the Mediterranean Sea to the west and the Arabian desert to the East. Accordingly, Oliphant was interested in the region's inhabitants as well as its ruins. However, as illustrated in the above quote, he experienced some of the same frustrations that Ottoman bureaucrats who hailed from more urban regions of the Empire felt when encountering the people living in the Balqa region. For both, distinguishing between the nomadic and settled populations was extremely important to the successful implementation of their respective projects, whether a seamless government land policy or the establishment of a Jewish colony east of the Jordan River. However, when they actually visited the region, it quickly became clear that the lines between nomadic and settled were hard to draw.

The stakes of this distinction were wrapped up in late nineteenth century modern bureaucratic desires for orderly censuses and tax categories, but they were more immediately involved with the region's reportedly extremely fertile land. Oliphant was quite explicit, both in the proposal for a Jewish colony he presented to the Ottoman Sultan and in the book that came out of his trip to the Balqa region around Salt. He asserted that on the one hand, people who had cultivated the land for generations, "peasants" in Oliphant's imagination of the rural social order, should retain their land rights in the event that the Sultan agreed to a land grant for a colony.<sup>2</sup> On the other hand, pastoral nomads, or "Arabs" as Oliphant referred to them, had no right to the region's land and should be sent back to Arabia from whence they came or settled on "reserves".<sup>3</sup> Thus, while the peasant population of Salt presented something of a snag in Oliphant's plans for the otherwise "empty land" of Gilead, those he saw as nomadic were nothing but a backdrop that could easily fade away.

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<sup>1</sup> There is an extensive literature on Oliphant and his travels. For works focusing on his Christian Zionism and travels in the Balqa, see Shalom L. Goldman, *Zeal for Zion: Christians, Jews, and the Idea of the Promised Land* (Chapel Hill: The University of North Carolina Press, 2009), Chapter 1; Neville J. Mandel, "Ottoman Policy and Restrictions on Jewish Settlement in Palestine: 1881-1908: Part I," *Middle Eastern Studies* 10, no. 3 (October 1, 1974): 312-32; For a brief account of Oliphant's proposal from the Ottoman perspective, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 70-71.

<sup>2</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 248.

<sup>3</sup> *Ibid.*, 245.

The Hamidian administration had somewhat, although not altogether different plans for those they classified as pastoral nomads. Along with Muslim refugees from distant lands, they were to settle these fertile and politically sensitive regions around the Sultan's pet project, the Hijaz railroad, and contribute to the development of a strong, cultivating and loyal tax base unfettered by connections to exploitative European powers.<sup>4</sup> In short, nomads were to participate in strengthening Ottoman sovereignty over every piece of land in Syria, a sovereignty that was rightly perceived to be under threat.

This chapter introduces imperial visions of rural Syria by examining the interconnections between sovereignty, land and population in Hamidian legal and bureaucratic discourse. Debates about land rights between imperial administrators as well as at the district level between bureaucrats and citizen/subjects happened within the framework of this discourse and through its terms and categories, whether in the halls of the Grand Vezirate in Istanbul or in Salt's district courts and land office. In a sense, this legal and bureaucratic discourse held the Empire's diverse lands and populations together, creating a methodological imperative to read the writings of bureaucrats and jurists thinking on the imperial level alongside provincial and district-level material created by judges, local administrators and local inhabitants whose geographical frame of reference was more limited. This chapter therefore introduces this legal and administrative discourse as background to the rest of the dissertation, which focuses more sharply on individuals and families categorized as nomadic and their interaction with governing structures in Salt.

I begin by detailing Oliphant's travelogue, *The Land of Gilead*, as well as the charter proposal he drafted and the Ottoman Council of Minister's (*meclis-i vükela*) rejection of that proposal. This section highlights the contrast between the narrow conception of Ottoman sovereignty in Syria adopted by Oliphant, whose perspective reflects late nineteenth century European colonial viewpoints, and the more expansive Ottoman conception of sovereignty as expressed by the Council of Ministers.

I will then move to the issue of land by examining correspondence between Istanbul and Damascus in the 1890's and 1900's, when continued rumors of a Rothschild-funded colonization plan in rural Syria lent a certain urgency to Ottoman plans for the region's land. This correspondence illuminates the different viewpoints of the main state agencies involved in land administration in Syria as well as outlining the terms of the debate as it stood in the late nineteenth and early twentieth centuries. These discussions, and the way bureaucrats approached the Salt district, were conducted in the legal terms of the 1858 Land Code. While earlier scholars have debated the Land Code's intent and efficacy extensively,<sup>5</sup> this section explores how its clauses and categories came to dominate the language of debates about land by the turn of the century.<sup>6</sup> In subsequent chapters, I will move beyond imperial discourse to examine how the Land Code's categories framed conflicts over land at the empire's lowest administrative level, in a location far removed from Istanbul and among a population long assumed to be independent of Ottoman governance.

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<sup>4</sup> This sentiment was expressed in numerous pieces of correspondence between bureaucrats that will be discussed below. See for example BOA.DH.MKT 785/23 Page 10, Letter from the Minister of the Interior to the Grand Vezir's Office, 12 B 1321/21 Eylül 1319/4 October 1913.

<sup>5</sup> For a succinct review of this literature, see Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, Introduction.

<sup>6</sup> This methodology for analyzing the Land Code follows İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858"; as well as Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*.

Finally, I will explore conceptions of population by using this correspondence as well as imperial decrees to discuss the ways Ottoman administrators and bureaucrats imagined and approached pastoral nomads and their land use in the period under study. I will show that pastoral nomads were conceptually excluded from the basic unit of population used at the imperial level to conceptualize rural administration: the local inhabitants or *ahali*. This term was crucial for determining not only tax burdens, but also prescriptive rights over state land in the late nineteenth century. The Ottoman administration planned to grant those it categorized as pastoral nomads land rights in hopes that they would become bona fide “local people”, but they would gain legal control over land at the pleasure of the Sultan and, in practice, district and provincial administrators. Therefore, whereas the local people could theoretically defend their legal rights to land they had exerted practical control over for generations, pastoral nomads (like Muslim refugees) would be granted whatever land state agents decided was “empty” and expendable.

In this sense, the Ottoman legal and bureaucratic discourse that emanated from Istanbul and sometimes Damascus was exclusionary, and reflected the hostility towards nomads exhibited by urban dwellers in the Ottoman lands in general.<sup>7</sup> However, it would be a mistake to stop there and label late Ottoman governance “Orientalist” or “colonial” vis-à-vis its nomadic subjects. The discourse outlined here was fundamental, but it operated within specific contexts and, in those contexts, exhibited a fair amount of elasticity that responded to the exigencies created by almost 400 preceding years of Ottoman rule.<sup>8</sup> It is only by examining those contexts that we can begin to understand its nuances, which sometimes surface at the imperial level and sometimes require a trip outside the urban confines of Istanbul and Damascus to the rural district to uncover.

At the imperial level, the analysis presented here shows that while nomads were certainly seen by many bureaucrats as the objects of development projects, the Ottoman concept of “empty land” was used as a legal construct with a specific meaning in terms of the Land Code. It was not a political move eliding the inhabitants of southern Syria, and was therefore fundamentally different from Oliphant’s and later Zionist conceptions of “empty land.”

At the district level, the exclusionary conception of “*ahali*” notwithstanding, in subsequent chapters I will document extensive cases of people in the Salt district who were categorized as pastoral nomads acting like, and legally being treated like, “local people.” The reasons for this have partly to do with the difficulties Ottoman administrators faced when categorizing the complex local population, which was characterized by varying levels of mobility and agricultural practice. However, it also involves people’s determination to maintain control over land they had used, whether for its pasture, its water resources, or its agricultural potential, for generations. This determination would of course not always be enough in the context of state-sponsored development projects, war, natural disaster, and a host of other historical contingencies. The situation in Palestine to the west of the Jordan River, where both the *ahali* and the pastoral nomads living in the region were systematically denied their historical rights to land in the twentieth century, immediately comes to mind. However, the environmental and political circumstances in Hamidian Salt did provide opportunities for local people, pastoral nomads prominent among them, to retain control over the land they had historically used for both pasture and cultivation well into the twentieth century and, in some cases, to the present.

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<sup>7</sup> For some examples, see Astrid Meier, “Bedouins in the Ottoman Juridical Field: Select Cases from Syrian Court Records, Seventeenth to Nineteenth Centuries,” *Eurasian Studies* 9, no. 1–2 (2011): 196–199.

<sup>8</sup> What I mean by “elasticity” is closest to Huri İslamoğlu’s conception of “responsiveness.” İslamoğlu, “Towards a Political Economy of Legal and Administrative Constitutions of Individual Property,” 14.

These contextual nuances, which are crucial for understanding the history of social life in Ottoman lands as well as the empire's legacies, illustrate why appraisals of Hamidian governance as "Orientalist" or "rigid" are ultimately problematic.<sup>9</sup> Fine-grained contextual study shows that Ottomans, including Ottomans historically thought of as marginal or subaltern like pastoral nomads, did participate in the shaping of modern state institutions. In many cases, these nuances had to do with the fact that late Ottoman governance did not arise from a vacuum, but rather built on the preceding centuries of interaction with provincial subjects. This history undergirded what Huri Islamoğlu has called "concessional politics", through which professional bureaucrats shared governance with local actors who provided the crucial information the government needed "to realize its objective of knowing and thereby taxing."<sup>10</sup> While existing literature has focused on the councils and commissions created in the Hamidian period and peopled largely by city and town-dwelling notables, the new administrative structures also provided opportunities for rural nomads and village dwellers to carve out a piece of the bureaucracy and the resource allocation it controlled.

### **A State Within a State: Laurence Oliphant's Proposal for a Jewish Colony in the Balqa**

In the introduction to the travelogue documenting his travels in "Eastern Palestine", Laurence Oliphant outlined what distinguished his trip to the Holy Land from the tours of his contemporaries. While other nineteenth century travelers were mainly interested in the region for religious archaeological purposes, his project was to research the establishment of a Jewish settlement colony in Palestine and develop a specific proposal based on that research to present to Sultan Abdul Hamid II. Oliphant wrote that after the 1878 Treaty of Berlin, he began thinking about ways to buttress British interests in the Ottoman Empire by keeping the "Sick Man" alive even though the Treaty anticipated foreign intervention.<sup>11</sup> Oliphant explains that he had already visited Turkish lands three times before, and had come to the conclusion that decentralization was the only solution to the problem of recalcitrant leaders in Istanbul who were deaf to British pleas for substantive reform. Since he knew that the central government would not agree to the type of decentralization he advocated, he wanted to develop "an experiment that might be made on a small scale" as a way to show the Sultan the financial benefits that could be accrued from developing a single province.<sup>12</sup>

Oliphant's proposal to found a Jewish colony in the Balqa was, as Eugene Rogan put it, a simultaneous solution to the Eastern Question and the Jewish Question.<sup>13</sup> His decision to propose an immigration colony as a way to promote decentralization and increase tax revenues was largely tied up in financial concerns: it was logical for such a colony to depend on foreign financing and, he believed, such financing would not be seen as trespassing on Ottoman sovereignty. Oliphant's choice of Jews as the colonizers, besides his perception of their financial

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<sup>9</sup> The best example of the literature on "Ottoman Orientalism" as it pertains to Arab nomads is Deringil, "They Live in a State of Nomadism and Savagery: The Late Ottoman Empire and the Postcolonial Debate"; For discussion of Ottoman rigidity or "stasis", see Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, Chapter 5. For an extensive discussion of this literature, see the Introduction.

<sup>10</sup> Islamoğlu, "Towards a Political Economy of Legal and Administrative Constitutions of Individual Property," 26-27.

<sup>11</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 11.

<sup>12</sup> *Ibid.*, 12.

<sup>13</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 70.

viability, had mainly to do with the political problems associated with European Christians: they were not likely to give up their nationalities, as this would mean forfeiting their privileges in the Ottoman Empire under the capitulations. Further, the latter were too connected to European political projects that directly threatened Ottoman sovereignty.<sup>14</sup> In fact, maintaining Ottoman sovereignty in Syria as he defined it was at the heart of Oliphant's proposal. He believed himself to be crafting a project that would benefit himself, his potential shareholders and the Ottoman government financially without threatening the Sultan's sovereignty in Syria, which he saw as central to British political interests.

The concept of Palestine, comprised of the territory between the Jordan River and the Mediterranean sea, as an "empty land" devoid of inhabitants, or perhaps any inhabitants worth mentioning, would animate the imaginations of many Christian and Jewish Zionist thinkers in the early twentieth century.<sup>15</sup> However, Oliphant chose to focus on the eastern side of the Jordan specifically because the Western side was, in reality, so thickly populated. He was a close follower of the travails of one of the first Jewish colonies in Palestine, Mikveh, established by the Alliance Israelite Universelle. He maintained that the main reason for its struggles, rather than the inexperience of its members with agriculture, was the hostility of its neighbors and of the Ottoman government.<sup>16</sup> Likewise, during his tour of the land of Gilead he was forced to reject many possible settlement sites north of the Balqa region not for lack of fertile land, but because too many people already lived there.<sup>17</sup>

Oliphant was careful in his description of the Balqa region to describe the people living in the town of Salt in a positive way. While repeatedly mentioning that there was little to distinguish them from the "Arabs", meaning nomadic Bedouin, he praised the Saltis' appearance and industriousness in cultivating the lands around the town.<sup>18</sup> For the "scattered Arabs with their flocks who now roam over it",<sup>19</sup> however, he envisioned two potential fates after the establishment of his colony: on the one hand, they could settle on allocated lands, "the same system...which we have adopted in Canada with our North American Indian tribes, who are confined to their 'reserves'".<sup>20</sup> Later, Oliphant specified that he planned to exploit these "reserve" individuals, as well as the Circassian refugees settling in the area and peasants from villages on the western side of the Jordan, as labor for his colony.<sup>21</sup> Alternatively, the nomads could move east, presumably beyond the Damascus Hajj route that formed the eastern boundary of his proposed colony.<sup>22</sup> Oliphant's criteria for granting land rights to individuals were fairly simple: one had to live in a house and one had to cultivate at a certain level of efficacy.<sup>23</sup> While

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<sup>14</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 13.

<sup>15</sup> Variations of the phrase "a land without a people for a people without a land" can be traced to nineteenth century Christian Zionists as well as wider use by twentieth century Jewish Zionists. See Edward W. Said, *The Question of Palestine*, Reissue edition (New York: Vintage, 1992).

<sup>16</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 21.

<sup>17</sup> See for example his description of the plains of Huleh in Hawran county, *ibid.*, 45.

<sup>18</sup> For Oliphant's description of the town of Salt and its inhabitants, see *ibid.*, 179–185.

<sup>19</sup> *Ibid.*, 183–4.

<sup>20</sup> *Ibid.*, 245.

<sup>21</sup> *Ibid.*, 252.

<sup>22</sup> *Ibid.*, 245.

<sup>23</sup> This is most obvious in Oliphant's description of Salih Abujaber, "the only man who lives in a house in the whole province of the Belka" excepting the inhabitants of Salt. *Ibid.*, 233; For a study of the Abujaber family and its activities in the Balqa starting in the 1860's, see Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*.

he noted the presence of many cultivation projects undertaken by nomads,<sup>24</sup> he saw their wheat fields as a drop in the potential bucket of cultivation that his colony could undertake on such fertile land.

Upon his return to Istanbul, Oliphant proposed to the Sultan buying one million acres of land in the Balqa to start a Jewish colony.<sup>25</sup> There were reports that both Abdul Hamid II and a number of prominent ex-Grand Vezirs saw this proposal as a favorable way to increase agricultural tax revenues and development in the region,<sup>26</sup> but the Sultan referred the matter to the Council of Ministers, which read over the translated charter proposal in detail and issued a report rejecting it in May 1880.<sup>27</sup>

Oliphant's charter included an introduction and 33 articles. The introduction had four clauses and placed the charter firmly within his worldview as expressed in *The Land of Gilead*. The first clause encouraged the Ottoman state, as a signatory to the Treaty of Berlin, to use its available resources to create a safe refuge for Jews within and without its borders in order to prevent further persecution. The second clause illustrated the nineteenth century confidence and superiority Oliphant felt vis-à-vis the Ottoman Empire. He argued that a Jewish colony, peopled with Jews "returning"<sup>28</sup> from Christian nations in Europe to Palestine, would represent a major technical investment for the Empire. These immigrants would employ the agricultural tools and prowess used in Europe, thereby "enlivening" (*ihya*) local agricultural practice. Third, the Ottoman government would gain financially, both from the initial price of the sold land and from annual taxes paid by the colony. Fourth, Oliphant optimistically noted that if the pilot project in Gilead went well, foreign capital could be used to create similar colonies in other provinces.

The first few articles of the charter itself laid out the plan for the colony relatively innocuously: the charter would establish an "Ottoman company for the settlement of immigrants in the land of Palestine" (Article 2), which would buy one million acres of land from the Ottoman government in the Syrian county of Balqa, and specifically in the district of Salt between the Jordan River and the Damascus Hajj route (Articles 6 and 7). Pursuant to Oliphant's respect for Salti cultivators, the purchase would not include the town of Salt and its surrounding land that was cultivated by the inhabitants of the town (Article 6). If Balqa county did not have one million available acres then the difference would be made up with land from the Ajlun district to the north, which at the time was part of the county of Hawran (Article 7). The Company would employ a director and assistant whose main duty would be to ensure that its activities complied with Ottoman law, and would also have an agency office in Istanbul (Article 3).

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<sup>24</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 249.

<sup>25</sup> For one of the many treatments of Oliphant's travails in Istanbul, see Mandel, "Ottoman Policy and Restrictions on Jewish Settlement in Palestine," 312–313; See also Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 70–71.

<sup>26</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 70.

<sup>27</sup> There is some confusion over who wrote the text of the charter. Oliphant purposefully did not publish it in *The Land of Gilead* because, he said, it was still an unrealized proposal. Rogan, using a document from the Yıldız collection at the Prime Ministry Archive that I did not find, stated that the proposal was written by the Council of Ministers themselves on the order of the Sultan. See *ibid.*, 71 n.3 However, the copy of the charter I found in the Meclis-i Mahsus section of the Irade collection, which is in Ottoman, is on the letterhead of the Grand Vezirate's translation office. Further, the language and content of the charter match so closely to Oliphant's vision of his proposed colony as expressed in *The Land of Gilead* that it seems unlikely that he was not the original author or at least the main force behind the content of the charter. BOA.I.MMS 66/3114, 6 C 1297/16 May 1880.

<sup>28</sup> Not having found the original charter (which is likely in French but may have been in English) I am reading the Ottoman translation. The word used in Ottoman for "return" is "*avdet*."

The Council of Ministers seems to have become suspicious around Article 8, which stipulated that within three years of its establishment the Company would begin work on a railroad connecting Haifa to Tiberias and then to the Dead Sea. The Company would buy the “empty uncultivated” miri land for the railroad at Balqa land prices, and the Ottoman government would leave one kilometer on each side of the railroad for the Company at no cost. Article 9 detailed that no other company should gain concession rights anywhere in Palestine, and that if the Balqa county government wanted to auction land not owned by the Company it should gain Company approval first. In *The Land of Gilead*, Oliphant elaborated on his grandiose plans for creating a railroad network all over Palestine and Syria that would connect the Mediterranean and Red seas, providing an alternate route to India. The railroad would also eliminate the existing system for the Damascus Hajj route, which he saw as key to “pacifying the Arabs” since Hajj subsidies were the main basis of their income.<sup>29</sup> Since the Sultan was planning to attempt something similar with the Hijaz railway, it is no wonder that the Ministers found this part of the proposal suspicious.

The Council of Ministers mentioned the railway project specifically in its objection, but it was most concerned about three other articles. Article 11 explained that the accountants and tax collectors for the Colony would be nominated from its population, rendering it basically self-taxed. Article 15 said that on Company land, the courts would be composed exclusively of colonists and their decisions would not be subject to appeal, even though the colonists would be Ottoman citizens (Article 14). Finally, Article 29 stipulated self-policing: footsoldiers and cavalry would be elected and financed by the colonists to ensure order, and imperial soldiers would only be required for defense of the colony at its own request.

The Council of Ministers’ explanation for its rejection of the charter is telling. The statement appended to the proposal noted that the project, as explained in the charter’s articles, amounted to “a state within a state” (*hükümet bir hükümet içinde demek*), and raised “political and administrative objections.” The Council admitted that since the region was composed of the “routes of nomads” (*aşair ve urban cevelangahı*), it still needed extensive regulation and development in order to be fit for settlement. However, the sensitivity of the Balqa’s location made the political and administrative problems too concerning to consider allowing a European colonization company to take on this task.<sup>30</sup>

A close reading of *The Land of Gilead* reveals that what Oliphant, and perhaps other British statesmen, meant by Ottoman sovereignty was simply the absence of a British (or, more precisely, French or especially Russian) military occupation. However, the Council of Ministers demonstrated a more expansive idea of sovereignty as expressed in their reaction to Oliphant’s proposal: effective control over territory and the ability to make and enforce decisions about the fate of that territory’s inhabitants. This was already problematic in the case of the non-Muslim inhabitants of Syria who by this time enjoyed constant distinction from their compatriots in the form of foreign protections that interfered precisely with those institutions noted in the Council of Ministers’ objection: the courts, the police, and taxation. Foreign capital, too, had the potential to render this more expansive notion of sovereignty irrelevant: as Oliphant himself noted, a successful agricultural colony with moneylending capabilities could make all of the existing inhabitants in the colony’s environs its dependent laborers.<sup>31</sup>

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<sup>29</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 257.

<sup>30</sup> BOA.I.MMS 66/3114 Page 1, 29 Ca 1297, 9 May 1880.

<sup>31</sup> Oliphant, *The Land of Gilead, with Excursions in the Lebanon*, 231.

Oliphant's proposal to buy land from the Ottoman government for a Jewish colony in Palestine would be repeated in the 1890's by Theodore Herzl. Sultan Abdul Hamid II rejected Herzl in turn, and by this time the central government had issued a general ban on Jews buying land anywhere in Palestine.<sup>32</sup> However, Jewish immigrants financed by European benefactors continued to arrive in Palestinian ports and managed to buy land from people in the vicinity, presumably gaining title to the land either from local land officials skirting the ban or by registering it in someone else's name. This tactic of "infiltration" rather than a charter was preferred by the financier of most of the Jewish colonization projects in Palestine at that time, Baron Edmond de Rothschild, and this was the tactic Ottoman authorities were especially concerned about in the 1890's.<sup>33</sup> In fact, the problem of too much newly commoditized agricultural state (*miri*) land falling into foreign hands, and after the experience of Balkan separatist movements, any non-Muslim hands that could be sponsored by foreign powers, was a constant threat to administrators in Syria. These concerns underwrote the ensuing debate among Ottoman authorities about how to handle land registration in the Balqa region, as well as who were considered the ideal producers and taxpayers on this land.

### **Security vs. The Market: The Southern Syria Land Policy Debate of the Late Hamidian Period**

In his extensive review of land registers for the Salt district, Eugene Rogan noted the spotty nature of land surveys in the southern Syria region. He argued that in contrast to the district of Ajlun north of Salt where land was methodically surveyed and registered plot by plot among village communities, Ottoman authorities in Salt and the region to its south chose to leave agricultural land "to the market." This meant that except for a few isolated instances of comprehensive survey-type registration, the property administration office in the district registered land to individuals on a transactional basis when they wished to sell or mortgage it.<sup>34</sup>

However, there was extensive debate among bureaucrats at the provincial and imperial levels about how to handle land registration in southern Syria. There was indeed a faction of bureaucrats who argued for leaving this land "to the market", i.e. allowing whoever could prove they controlled and cultivated the land and paid taxes to register particular plots or selling uncultivated land to the highest bidder. However, there was a more powerful faction of authorities who, because of concerns about Zionist infiltration, the prospect of foreign interests gaining rights to land near the prospective Hijaz Railway, and the region's proximity to British-controlled Egypt, were deeply concerned about leaving the land in the region "to the market." Rather than being the result of a particular unified policy, the spotty nature of land registration in Salt was the result of this protracted and largely unresolved debate.

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<sup>32</sup> For extensive discussion of the ban, see Mandel, "Ottoman Policy and Restrictions on Jewish Settlement in Palestine."

<sup>33</sup> The literature on Baron Rothschild's work in Palestine is too extensive for review here, but includes Derek Jonathan Penslar, *Zionism and Technocracy: The Engineering of Jewish Settlement in Palestine, 1870-1918* (Indiana University Press, 1991); Gershon Shafir, *Land, Labor and the Origins of the Israeli-Palestinian Conflict, 1882-1914* (University of California Press, 1996); Ran Aharonson, *Rothschild and Early Jewish Colonization in Palestine* (Rowman & Littlefield, 2000); Simon Schama, *Two Rothschilds and the Land of Israel* (Alfred A. Knopf Incorporated, 1978); For some attempts of Rothschild's agents to buy land in the Balqa, see Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 109-112.

<sup>34</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 90-92.

Crucially, the debate between these two factions – I will call them the “market” faction and the “security” faction – occurred within the framework and legal categories of the 1858 Land Code. In fact, these factions’ positions and arguments were unthinkable outside the language and legal parameters of this foundational law and its amendments that marked the boundaries of the legitimate when it came to agricultural land. Although Ottoman authorities saw themselves as the ultimate decision-makers regarding the fate of agricultural land, they were also acutely aware of the necessity of legitimating their decisions to the region’s inhabitants, to each other, to their superiors and to foreign observers. This section introduces the terms and categories that framed Hamidian policy governing agricultural land in Salt and beyond through investigating the debate between the market and security factions. Through detailing this debate, I aim to illustrate the imperial context and stakes of nomads’ struggles to maintain control over land that I examine in the rest of the dissertation.

In the Salt district and southern Syria more broadly, most agricultural land was classified as *miri*, meaning that the state could claim ultimate ownership rights over it. Unlike the situation in northern Syria, where large areas of agricultural land especially in the vicinity of major cities were held by various endowments (*awqaf*) and subject to a different legal framework, in the Salt district only isolated portions of the valuable irrigated land in the tropical zone adjacent to the Dead Sea and Jordan River was held in *waqf*. Therefore, when various Ottoman agencies debated policy regarding the land of the Salt district and the surrounding areas in the 1890’s and 1900’s, they did so in terms of the Land Code’s provisions governing *miri* land.

In fact, the 1858 Land Code focused on transforming the legal structure governing *miri* land. Prior to the Land Code, rights to usufruct, revenues and ultimate ownership of agricultural land in the Ottoman Empire were allocated to distinct parties in what Huri İslamoğlu has conceptualized as a “bundle of rights.”<sup>35</sup> While the situation on the ground had changed markedly since sixteenth century laws outlined the basic framework for this bundle, the ideal legal construct dictated that cultivators held usufruct rights, military figures and later tax farmers held revenue rights as well as the right to allocate usufruct, and the central state held ultimate ownership rights, meaning the right to allocate rights to revenue. In fits and starts, the central government outlined a new system for administering agricultural land in the provinces that aimed at disempowering tax farmers beginning in the 1840’s and including the 1858 Land Code as well as a number of subsequent amendments and related laws. This system aimed to cut out tax farming intermediaries and create direct connections between property administration officials appointed by the central state and empowered to register usufruct rights, sanction transactions and mortgages and collect taxes on the one hand, and individual landholding producers on the other.<sup>36</sup>

Situating the “bundle of rights” over land with individuals was a crucial aspect of the creation of a land market. In this vein, in the context of his analysis of land conflicts between peasants, nomads and refugees in western Anatolia, Yücel Terzibaşoğlu noted a gradual shift in the meaning of *tasarruf*, the Ottoman Turkish word usually translated as “usufruct”, over the course of the nineteenth century. *Tasarruf* went from meaning use rights, as distinct from right to revenue and ownership, to something that combined all three concepts, i.e. exclusive

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<sup>35</sup> İslamoğlu, “Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858,” 17–18.

<sup>36</sup> For a detailed analysis of the development of this process beginning in the 1840’s, see İslamoğlu, “Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858”; For a succinct review of this literature, see Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, Introduction.

individual ownership.<sup>37</sup> The security and market factions debated the fate of the Balqa's agricultural land in terms of this transformed concept of exclusive ownership of agricultural land. However, for both the government and producers, this right of exclusive ownership had limits. The debate over Balqa land occurred at these limits.

### **The Security Faction and the Category of *Mahlul* Land**

In 1893, Governor of Syria Rauf Paşa wrote to the Ottoman Ministry of Interior describing the land situation in the southern region of his province.<sup>38</sup> The occasion of his letter was an attempt by the Imperial Property Register Ministry (*Defter-i Hakani Nezareti*)<sup>39</sup> officials in the Syrian county of Hawran, just to the north of Salt district, to declare 12 pieces of *miri* land "*mahlul*" and put them up for auction. According to clauses 59-72 of the Land Code, if a cultivator with *tasarruf* rights to a piece of *miri* land failed to cultivate it for a period of three years or died without legal heirs, that land would be considered *mahlul*, meaning the state could retake the right to sell it. Similarly, if the inhabitants of a village left and did not return for three years, the village's land would be considered *mahlul* and could be sold or auctioned accordingly (Article 72). By the 1890's, the state agency that enacted this right to reclaim land was the Imperial Property Register Ministry. The cultivator could buy the title back from the Ministry's district level property administration office at market price, or if he or she rejected this option the property administration office could put the land up for auction and sell it to the highest bidder.

The concept of *mahlul* formed, then, the limit of cultivators' exclusive ownership rights according to the Land Code. As of 1858, cultivators had new legal powers to sell, bequeath, and mortgage lands through transactions carried out directly with the government and not at the pleasure of tax farming intermediaries. However, this right carried two key obligations: they had to cultivate the land continuously, and they had to pay taxes. Failing to meet these obligations gave the imperial property administration the legal right to reclaim the land and sell rights to it to the highest bidder, but the property administration had to be able to prove the legal *mahlul*-ness (*mahluliyet*) of the land in question.

The Governor of Syria, Rauf Paşa, called the *mahlul*-ness of the land of southern Syria into question, thereby challenging the Imperial Property Register Ministry officials' power to claim state ownership of and auction it. He claimed that the land in Hawran county was not *mahlul* because the owners had died without heirs or the villagers left. Rather, this land was "composed of the migratory routes of nomads." Even so, the property registration officials in Hawran wanted to place it in the same legal category of land left fallow or unclaimed by heirs and auction it to the highest bidder. In describing these lands controlled by nomads, Rauf Paşa did not propose that they should be placed in another category of land. He and many of his colleagues used the term "*mahlul*" alongside another descriptive phrase for the land in question, "*hali*", literally meaning empty. "*Hali*" was not a category of land in the Land Code, and it is unclear whether the authors meant to use it as a synonym for *mahlul* or a separate descriptor, i.e. that some of the land was *mahlul* and some empty. Because *hali* was not a recognized legal category, however (and there were other legal categories that could also have described such

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<sup>37</sup> Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914," 159.

<sup>38</sup> BOA.BEO 238/17824, Letter from Rauf Paşa to the Ministry of the Interior, 3 Temmuz 1309/15 July 1893.

<sup>39</sup> For the creation of this ministry, see Stanford J. Shaw and Ezel Kural Shaw, *History of the Ottoman Empire and Modern Turkey*, vol. 2 (Cambridge ; New York: Cambridge University Press, 1976), 217.

land, such as *mevat*), the former seems more likely. Rather, Rauf Paşa questioned the *mahlul*-ness of the land in order to support his argument that the property administration's claim to the right to auction the land in question was tenuous because of larger security issues.

Rauf Paşa argued that the land of southern Syria was important to the Ottoman government, which needed unused cultivable land for three much-discussed projects: settling the incoming Muslim refugees of the wars in the Balkans, the Hijaz railway project, and encouraging the pastoral nomads whose migrations these lands included to settle. Further, the governor saw auctioning these lands, as well as *mahlul* land in the neighboring province of Beirut and the special county of Jerusalem,<sup>40</sup> as problematic because of the threat of banned Zionist land purchase. He claimed that district-level property registration officials (*tapu memurları*) in these regions, who were under the authority of the Imperial Property Register Ministry, were in the habit of selling land they claimed was *mahlul* at relatively low prices to wealthy local inhabitants (*mutemevillan-ı ahali*), who would then resell it at very high prices to foreigners, including Rothschild's agents (*Rothschild'in vekilleri*) who were working for Jewish would-be colonists. The implication was that the local property registration officers were taking bribes to initiate the sales of *mahlul* land and were turning a blind eye on sales for the benefit of Jewish immigration, which by that time was illegal under the general ban.

Rauf Paşa's report introduced a debate among Ottoman authorities about how to legally categorize and address the land of southern Syria that would go on for the next fifteen years. His position defined what I have called the "security faction", which included some provincial governors, the Grand Vezir's office and eventually the Council of State in Istanbul. In general, this faction favored keeping the land of southern Syria in government hands as long as possible both so that it would not fall under foreign influence and so the government would have land on which to settle Muslim refugees and nomads and develop the Hijaz railway and other potential projects. As Rauf Paşa's letter suggests, this faction also expressed a profound distrust of provincial property officials. Rauf Paşa was not alone in thinking these officials would put their own financial and political interests, as well as their social connections with wealthy provincial Ottomans, above the imperative to keep imperial lands in such a strategic location out of foreign hands.

Rauf Paşa's letter was enough to encourage the Grand Vezir's office in Istanbul to act. In July 1893 an imperial decree was issued banning all sales and auctions of *mahlul* land in the two provinces of Syria and Beirut as well as the Jerusalem special county.<sup>41</sup> In pinpointing these three administrative areas, the imperial decree covered the regions composing an extended "Holy Land", stretching not only east to the Hajj route but also north as far as Hama. With this ban, at least on paper, the security faction maintained the upper hand throughout the period under study. However, the market faction continued to argue its case until the end of Hamidian rule, and district land registers show that the ban was not only highly contested, but also often ignored by local property administration officials.

### **The Market Faction and Prescriptive Right (Hakk-ı Karar)**

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<sup>40</sup> In naming these two provinces and one county, Rauf Paşa indicated all of the Ottoman administrative units with territory in Palestine, with the latter term including both its later borders between the Jordan River and the Mediterranean and Oliphant's extended eastern border to the Hajj route.

<sup>41</sup> A copy of the letter from the Grand Vezirate communicating this order to the Ministry of the Interior is in BOA.BEO 1023/76607 Page 9, 1 M 1311/3 Temmuz 1309/15 July 1893.

The main opponents to the wide-sweeping ban on selling *mahlul* land, the faction I have termed the “market faction”, came from the ranks of the Imperial Property Register Ministry and the property registration officials it employed in the provinces concerned. Imperial Property Register Ministry officials attempted, it appears unsuccessfully, to get the ban lifted throughout the remainder of the Hamidian period. The frequency and regularity of the letters from the Property Register Ministry to the Grand Vezirate and eventually to the Council of State indicate that the ban on selling and auctioning *mahlul* land was a constant headache for local property administration officials in these provinces.<sup>42</sup>

Rauf Paşa’s successor as Governor of Syria, Osman Paşa, first articulated the dissenting position to the ban in October 1894. His argument was adopted and repeated by Imperial Property Register Ministry officials throughout the rest of the Hamidian period. Osman Paşa argued that the real threat to imperial interests in Syria, Beirut and Jerusalem was not that empty land would fall into the hands of foreigners, but that the ban would deprive the provincial treasury of extensive revenue.<sup>43</sup> His reasoning would be echoed for the next fifteen years by Imperial Property Register officials: because of the ban on auctioning *mahlul* land, the local inhabitants of the villages and towns neighboring that land were taking de facto possession by gradually extending the borders of their cultivation. If they cultivated the land for ten years before formal title was issued for it, they would be able to claim prescriptive right (*hakk-ı karar*). Osman Paşa requested that the ban be lifted at least for *mahlul* land in the vicinity of villages and towns in Syria, arguing that there was plenty of land beyond the reach of local inhabitants in the three counties of Hama, Hawran and Maan for nomads and refugees to settle.

According to the Land Code, a successful claim on prescriptive right would give these “encroaching” cultivators the right to obtain title deed to the land free of charge, i.e. without paying its market price (*bedel-i misil*) to the government (Article 78). If the land was auctioned, however, it would go to the highest bidder, with its price going directly to the treasury as the legal owner of state land that had become *mahlul*. The treasury would then be able to collect the property and tithe taxes from the new owner on an annual basis. Leaving the land *mahlul* therefore also risked losing this annual tax revenue during the period the land was left without a legal non-state owner. Osman Paşa mentioned that another alternative was to simply register the *mahlul* land to the inhabitants “encroaching” on it before the ten years was up, which would mean that the treasury would at least get the market price (*bedel-i misil*) and subsequent taxes, even if it missed out on the possibly higher auction price. If the encroachers did not want to pay market price, the property administration officials’ argument for sending the land to auction would be even stronger.

*Hakk-ı karar*, or prescriptive right, formed the limit of the state’s claim to exclusive ownership of *miri* land in the late Hamidian period.<sup>44</sup> *Hakk-ı karar* was the legal tool that people in the Salt district used throughout the period to gain title to plots of agricultural land without paying its market price. If they could prove prescriptive right, they would only pay a fraction of the land’s market value assessed as a transaction tax in addition to the tithe and other annual fees

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<sup>42</sup> See the list of previous letters on the same subject listed in the Imperial Property Register Ministry’s letter to the Grand Vezirate of 9 May 1901, BOA.BEO 1663/124658, 20 M 1319/26 Nisan 1317. The letter mentions five previous letters from 23 November 1897, 7 July 1898, 12 March 1899, 25 September 1900 and 3 November 1900.

<sup>43</sup> BOA.BEO 1023/76697 Page 8, Copy of letter from the governor of Syria to the Grand Vezirate, 11 Teşrinievvel 1310, 23 October 1894.

<sup>44</sup> For detailed discussion of cultivator’s rights including *hakk-ı karar* in the Ottoman legal tradition see Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, 28–30.

on the land. If they could not prove prescriptive right, the land officials had the right to demand the entire market price at the time of registration, with the cultivators effectively buying the land from the government.

The market faction's argument, while completely within the framework of the Land Code, shows the innovative ways the Code had come to be interpreted by the 1890's. While the Code's project of creating a market for commodified agricultural land responded to commercial interests on one level, the text generally envisions the state and its representatives, in this case the land officials, as allocators of land rights rather than competitors for land rights. Cultivator rights, including their prescriptive rights, were to be privileged because of the status of cultivators as the tax basis of the empire. In the 1890's, however, the Imperial Property Register Ministry was concerned with getting as much money as possible for the treasury out of the initial sale of land categorized as *mahlul*, which rendered cultivators' prescriptive rights problematic because they would obviate that initial sale.

The Imperial Property Register Ministry wrote to the Grand Vezir's Office repeatedly throughout the 1890's protesting the ban on sales and auctions of *mahlul* land in Syria, Beirut and Jerusalem to no avail. In 1900, the Minister wrote directly to the Council of State,<sup>45</sup> explaining that encroaching cultivators were getting even closer to their claims of prescription after seven years of a general ban on sales of *mahlul* land and lamenting the lost treasury revenues. He suggested, as had his predecessors, allowing the sale and auction of *mahlul* land near population centers and between already cultivated lands, because of the impossibility of "protecting such land from the encroachments of the local inhabitants." The "ancient inhabitants" (*ahali-i kadime*) of these lands could buy them at market price, or if they rejected such an offer, the lands would go to auction and would be sold to the highest bidder. By using the phrase "ancient inhabitants", the Minister implicitly drew a distinction between the local cultivators and would-be foreign colonists, signaling his awareness and sensitivity to the security issue.

For lands further from existing population centers that were to be settled by Muslim refugees and nomads, the Imperial Property Register Minister proposed another solution that he said had already been tried in Iraq. He suggested that lands cultivated through temporary arrangements could be exempted from prescription claims by decree. Specifically, he wrote that in 1891 court judges in Iraq had been ordered to reject all land cases that were based on claims of prescription.<sup>46</sup> Short of such an order being issued for Syria, Beirut and Jerusalem as well, there was no way to protect the rights of the treasury from the encroachments of the local people if the ban stood.

By mentioning the problem of local court claims, the Minister alluded to the frustration land and other administrative officials must have experienced when their decisions were overturned in court. The only way to get past this possibility was through executive fiat, which was indeed what the central government (here represented by the Grand Vezirate and Yıldız Palace) had resorted to with the ban on sale and auction of *mahlul* land in the first place. The Imperial Property Register Minister argued that executive power should be used not only to

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<sup>45</sup> BOA, ŞD 2708/73, Letter from the Imperial Property Register Minister to the Council of State, 17 Ş 1318/27 Teşrinisani 1316/10 December 1900.

<sup>46</sup> Despite the multiple studies of land relations in the late Ottoman period in Iraq, I have not found any citation of this ban – admittedly, most of the existing studies focus in detail only on Midhat Paşa's work on land relations in Baghdad Province, which preceded the ban. See for example Ebubekir Ceylan, *The Ottoman Origins of Modern Iraq: Political Reform, Modernization and Development in the Nineteenth Century Middle East* (London; New York: I. B. Tauris, 2011).

protect the Empire's sovereignty, but to protect both "the rights of the treasury" and the central government's plans to settle refugees and nomads.

On one level, the market faction's position explicating the need to lift the ban on auctioning *mahlul* land for the interests of the treasury reflects the personal interests of land officials, whose likely backlogged salaries were dependent on local tax and fee revenues. However, the Property Register Ministry's arguments also show the ways interpretation of the Land Code and its amendments had developed between 1858 and the 1890's. The Ministry's market view pitted the government against cultivators as a competitor hoping to sell the rights to agricultural land to wealthy buyers at auction.<sup>47</sup> This view reflected the Land Code's "janus-faced" character, in the words of Martha Mundy and Richard Saumarez Smith: while the Code aimed to provide cultivators with tools to gain exclusive legal ownership of land that did not depend on tax farmers, it also created clear paths for commercial interests to amass large holdings of valuable agricultural land.<sup>48</sup> By the 1890's, the prescriptive rights the Code granted to cultivators had become increasingly problematic for local property administration officials hoping to gain wide profit margins for the treasury, as well as lining their own pockets, through auction of *mahlul* land to wealthy *ahali*.

### **The Problem of Local Knowledge**

The market faction's proposal to quash court claims of prescriptive right indicates the difficulty local property administration officials experienced when they attempted to claim lands as *mahlul* and auction them off. These difficulties came not only from the security concerns of the higher authorities, but also from local inhabitants making claims over agricultural land they argued had been in their control for ten years or more. The dynamics of these local contestations became clear when the Grand Vezir's office attempted to get more information about the *mahlul* lands in Syria, Beirut and Jerusalem in order to decide whether to continue the ban. In response to the Property Register Ministry's complaints in the late 1890's that there were over one million *mahlul* donums in these areas that its agents could not auction because of the ban,<sup>49</sup> the Grand Vezir's Office instructed the Ministry of the Interior to procure a clarifying list of the lands in question so that the concerned agencies could move forward with settling refugees and lifting the ban.<sup>50</sup>

In May 1899, the Interior Ministry relayed the results of this investigation from Damascus. In the districts of three counties on the fringes of the Syrian and Arabian deserts, Şam, Hama, and Hawran, as well as the district of Salt, the local property administration officials worked with district administrative councils to create a list of "empty and *mahlul*" lands to send to the seat of provincial government and on to the Ministry of the Interior.<sup>51</sup> The main finding

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<sup>47</sup> The point that these discussions illustrate a conception of the state as a competitor for land rights came out of discussions with Huri Islamoğlu in 2013.

<sup>48</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, 47.

<sup>49</sup> BOA.BEO 1023/76697, Page 2, Letter from the Minister of the Imperial Property Register Ministry to the Grand Vezirate, 5 Ca 1315/20 Eylül 1313/ 2 October 1897.

<sup>50</sup> BOA.BEO 1063/79680, Letter from the Grand Vezir to the Ministry of the Interior, 4 Ş 1315/16 Kanunuevvel 1313/29 December 1897; BOA.BEO 1159/86922, Letter from the Grand Vezir to the Ministry of the Interior, 25 S 1316/3 Temmuz 1314/15 July 1898.

<sup>51</sup> BOA.BEO 1327/99496, Page 6, Chart of *Mahlul* Lands in the Province of Syria, 12 M 1317/11 Mayıs 1315/22 May 1899.

expressed in the report was that there were about 1.5 million donums of “empty” land in these three counties and one district, and the report included a list of the lands organized by administrative category. The district of Salt reported over 500,000 *mahlul* donums including 55 separate pieces of land with their sizes and borders duly noted.<sup>52</sup>

This list is indicative of how contested the *mahlul* and empty nature of the land actually was on the ground. The list includes the county (*liva*), district (*kaza*), sub-district (*nahiye*), village (*karye*) and specific location (*mevki*) of each piece of land listed, with the specific location usually being a locally-used name for an area (which often survives to today) rather than an official administrative category.<sup>53</sup> The list then had fields for the type of land (*miri*, *mülk*, etc.), its borders, and any notes the officials wished to include. This list, which is quite similar to contemporary property (*tapu*) registers in its style and language, is an example of the linguistic hybridity through which Ottoman legal and administrative actions functioned in the Arab provinces. The headings of the list are in Ottoman Turkish, and the notes for each list are also expressed in Ottoman. The borders of the pieces of land, however, as in the property registers, are expressed in Arabic and offer the only picture of the rural landscape a historian might glean from these documents: they are replete with an extensive vocabulary for valleys, large rocks, hills of varying sizes, wells, and other rural landmarks.<sup>54</sup>

The “notes” section of the list conveys the discussions that went into the creation of the list, and shows how contested the “*mahlul*-ness” of this land was on the ground. In some of the districts included, the drafters listed counterclaims that could come up in the event the state claimed the land *mahlul* for almost every piece of land on the list. Possible claimants were usually pastoral nomads, but they also included recent immigrants and merchants whose interests had extended to the desert fringes.<sup>55</sup>

In determining and proving the *mahlul*-ness of particular plots of land in order to auction them, the land ministry officials were dependent on local inhabitants, especially those who held positions on district administrative councils, who knew the details of the terrain, borders, and claimants to land in their particular region. This dependence and the close relations it precipitated between local leaders and land officials led to the kinds of corruption claims that generated mistrust of property administration officials and the Imperial Property Register Ministry more generally within the ranks of the Ottoman government. In 1903, the Minister of the Interior showed this distrust by proposing to the Grand Vezir’s office that an independent commission be formed headed by an expert to verify that the lands in the list provided were

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<sup>52</sup> This land was largely in the eastern part of the Salt district as far north as the Zarqa fortress and as far south as Madaba, with some of it lying on the eastern side of the Hajj route.

<sup>53</sup> The closest equivalent to *mevki* might be “neighborhood”, although in rural areas this would not be relevant. One example is Siyah Diyab, which is now a village in Jordan’s Zarqa governorate.

<sup>54</sup> I learned many of these words while researching in the property registers, and also discovered a generational gap in knowledge of them in Amman. I wish to thank Mahmud Qaryuti at the Office of Lands and Surveys in Amman for helping me decipher the border sections of the land registers.

<sup>55</sup> The “notes” section of the section of the list outlining *mahlul* land in Salt district mentioned three other claimants who might trouble state attempts to use specific pieces of this land for other purposes. These were the Da’ja group, who camped on lands to the northeast of Salt around the contemporary town of Zarqa; Egyptian immigrants who had settled in the regions of Sahab and Salbud in the 1830’s and had recently gained title to these lands; and one Salti merchant, Hana Qawar, who was apparently disputing the Egyptian immigrants’ claim to the land in the Nizamiye courts in a still unresolved case that had reached the appeals court at the county level. Some important immigration sites closer to the town and on more valuable land, such as Ayn Suwaylih discussed in Chapter 3, were not included in the list. However, what is clear is the highly disputed nature of the land officials’ claims to the *mahlul*-ness (*mahluliyet*) of this land not only in Salt, but also in the other districts included in the report.

really *mahlul*.<sup>56</sup> He also expounded on the financial possibilities associated with developing the land in question, particularly the land that would surround the Hijaz railroad project. He insisted this land was “without owner and without relation” (*sahipsiz ve ilişkisiz*), aiming to distinguish it from land that was legally *mahlul* but actually being used by cultivators.

The Property Register Ministry was, not surprisingly, against the formation of an independent commission to reassess the *mahlul* nature of the land in Syria included in the list prepared by its officers.<sup>57</sup> In a letter to the Council of State, the Minister argued that no matter who was sent from Istanbul or Damascus to create a list of *mahlul* lands in Syria, their work would depend on that of the local administrative councils. This was how the district property administration officials had drawn up the original list of *mahlul* lands, and any independent commission would not have another way to glean the local information necessary to make a new list. The administrative council was the key local governing body during this period for regulating land relations, but its position among other agencies was contested and higher officials constantly questioned its reliability.

The Imperial Property Register Minister’s second argument against an independent commission was even more telling in terms of Ottoman bureaucrats’ understanding of “empty land” and the claims of nomads, or anyone else for that matter. He said that no matter how many commissions and councils verified the *mahlul* nature of any piece of land, there would still be people who would come forward with prescriptive claims in court when that land was auctioned, sold, or allocated to a particular group of refugees. Therefore, the only way to ensure that this land would be used for the purposes the central state wished was to override the courts by issuing an imperial decree ordering that they throw out all claims of prescription over the land in question, similar to what had been done in Iraq. This was, of course, what the Ministry had been proposing already.

The Property Register Minister’s response indicated not only that the property administration’s claims that particular agricultural land was *mahlul* in order to auction it off were contested, but that the existing legal system provided forums and structure for cultivators’ claims. District property administration officials were in a complex position: they were dependent on local leaders for knowledge of the details of existing land relations, borders of specific plots, and the validity of claims, and they were also subject to counterclaims from local inhabitants in court when they attempted to auction land or allocate it for various government projects. The Minister’s frustrated proposal to quash prescriptive claims and dismissal of the potential of an independent land commission to get any further than his subordinates in settling the question of *mahluliyet* reflects these realities.

The Council of State also rejected the idea of an independent commission, not in defense of the local property administration officials, but rather because its members saw such a commission, which would be salaried and would incur extensive travel costs, as an unnecessary expense.<sup>58</sup> Every imperial official should have the interests of the treasury and the Empire’s sovereignty in mind, the Council ruled, so therefore a local commission of administrators already on the spot could be formed to verify the *mahlul* nature of the land in Syria. Second, the Council

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<sup>56</sup> BOA.DH.MKT 75/23 Page 10, Letter from the Minister of the Interior to the Grand Vezirate, 12 B 1321/21 Eylül 1319/4 October 1903.

<sup>57</sup> BOA.DH.MKT 75/23 Page 11, Letter from the Minister of the Imperial Property Register Ministry to the Council of State, 7 B 1322/4 Eylül 1320/17 September 1304.

<sup>58</sup> BOA.DH.MKT 785/23 p. 11, report of the main office (*riyaset*) of the Council of State, 16 R 1323/7 Haziran 1321/20 June 1905

agreed with earlier suggestions to divide the land, allocating some of it for immigrants and refugees and allowing the sale and auction of that land close to population centers.

In July 1905, the Grand Vezir's office responded to the Council of State effectively closing this chapter of debate over "empty and *mahlul* land" in Syria.<sup>59</sup> The Grand Vezir first addressed the Imperial Property Register Ministry's proposal to ban prescription-based land claims in Syria's courts, writing that no consensus had been reached on this issue. He noted that none of the reports had contained any details about how the land in question would be allocated to refugees and nomads, so issuing a ban on court hearings of this land would be premature. Upholding the Council of State's decision rejecting the idea of an independent commission, the Grand Vezir also declined to lift the ban on auction or sale of any *mahlul* land in the region. He wrote that the entire issue had originally arisen from the machinations of local property administration officials under the authority of the Property Register Ministry, so why should they now be trusted to sell such land (with the implication being that there was still imminent danger of the land falling into the wrong hands).

Over the remaining three years of Hamidian rule, the Council of State and Minister of Interior busied themselves communicating the contents of this decision to the Imperial Property Register Ministry and Damascus.<sup>60</sup> As we will see in later chapters, the general ban on sale of *mahlul* land did not seem to be a major concern of the district property administration officials in Salt, and perhaps elsewhere, who regularly registered that land to nomads and cultivators alike in exchange for title deeds over it. In fact, since no previous land registries existed for the Salt district, the local officials would not have been able to legally register any transactions without first registering the land, de facto *mahlul*, to claimants of prescriptive right and potential buyers.

However, I have not introduced this debate to illustrate the ineffectiveness of late Ottoman rule, the irrelevance of Ottoman law or the incompetence of Ottoman bureaucrats and administrators in the provinces. The Minister of the Imperial Property Register's insistent clamoring for a lift on the ban was intimately related to its practical impossibility on the ground: initial land registrations, which at that time were essentially sales of *mahlul miri* land from the treasury to individuals, and land transactions were the bread and butter of local land officials. In a district like Salt, where comprehensive land surveys do not seem to have occurred since the sixteenth century, no work could have been done without initially registering *mahlul* land. At the same time, the Minister had to be seen to be protecting both the Empire's security and the sanctity of imperial decrees as best he could. Further, even though local officials could turn a blind eye to the ban in their daily work with the implicit approval of their superiors in the Ministry, such actions could be used against them if their conduct were to come under scrutiny for other reasons.<sup>61</sup>

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<sup>59</sup> BOA.DH.MKT 785/23 Page 14, Letter from the Grand Vezirate to the Council of State, 2 Ca 1323/22 Haziran 1321/5 July 1905

<sup>60</sup> See DH.MKT 785/23 Page 16, Letter from the Civil Section of the Council of State to the Minister of the Interior, 18 B 1326/6 Ağustos 1324/19 August 1308 and Page 17 of the same file, letter from the Ministry of the Interior to the Provinces of Damascus and Beirut and the Special County of Jerusalem, 30 B 1326/14 Ağustos 1324/27 August 1908. Because of the three years intervening between the Grand Vezir's decision and this correspondence, it is likely that other relevant correspondence intervened, but this is not mentioned.

<sup>61</sup> See for example the investigation into the Abu Jabir family's acquisition of extensive tracts of agricultural land near the Hijaz railroad, which centered on the apparent negligence of local land administrators. The central Ottoman government was concerned about wealthy Christians, who by the first decade of the 20th century were suspected of being foreign spies, having so much land near the railroad. BOA.DH.MKT 1174/26, Letter from the Imperial Property Register Ministry to the Ministry of the Interior, 4 June 1907.

Rather, I have used this debate to introduce the legal framework surrounding land controlled by pastoral nomads during the Hamidian period and some of the key controversies about the use of this land at the highest levels of government. In short, the Ottoman legal framework dictated that the key to obtaining legal title to fertile state land that was not registered in anyone's name was cultivation. Cultivation was what designated prescriptive right if it could be proven to be continuous and uncontested for a period of ten years, and the lack of cultivation was what allowed state agents to argue that unused, *mahlul*, or "empty" land could be resold at market price or auctioned to the highest bidder. Therefore, the concept of "empty land" existed, in the Ottoman imagination, within a certain understanding of land rights that privileged cultivation.

At the same time, the debates around the *mahlul* land in Syria, Beirut and Jerusalem, the three administrative units that made up "the land of Palestine", reveal a fundamental shift in the way Ottoman bureaucrats thought about land rights both on the spot and in the imperial capital. Where land law had previously been crafted to protect the rights of the cultivator against the greed of tax farmers, and the 1858 Land Code preserved much of this, the altered conception placed the rights of the treasury in competition with those of cultivators and other potential title-holders, including nomads, refugees, and speculators. The Imperial Property Register Ministry therefore saw itself as one of many possible owners of the increasingly valuable land in Syria who now had the profitable option of selling that land off to the highest bidder.

This competition, the result of quickly expanding commercial interests in the region as well as the multitude of interests converging on Syria's land, occurred within a climate of threatened Ottoman sovereignty. For the Grand Vezirate and the Ministry of the Interior, speculation on land meant the probability that the highest bidders would be connected to a foreign power interested in initiating separatist movements or occupation, based on the recent experiences in the Balkans. In Syria, and especially in the areas making up "the land of Palestine", such attempted intervention was basically a given and was already underway. This correspondence therefore illustrates the interconnections of land policy and the fight for sovereignty in Syria and elsewhere that characterized the Hamidian period.

These debates were also framed by a basic contest within the Ottoman state over who should have the ultimate right to make these decisions. The push and pull between the Grand Vezir's office and the Council of State is one manifestation of this struggle.<sup>62</sup> However, the land officials' pleas to render their decisions unappealable in court by executive decree is another.

Thus far, this chapter has focused on questions of sovereignty through contrasting Oliphant's narrow and the Council of State's expansive definition of sovereignty over territory. I have also explored key debates over how land, and especially land conceptualized as "empty" or "*mahlul*", in late nineteenth century Syria should be used and the ways these debates relied on the language, categories and ambivalence of the 1858 Land Code. In the final section, I will take this discussion directly to the question of population by exploring the implications of the above discussion on land rights for pastoral nomads living in Syria, and specifically in Salt district.

### ***Ahali and aşiret: The question of population***

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<sup>62</sup> Mostafa Minawi discusses contestations between these and other arms of imperial government with regard to the establishment of the Damascus-Medina telegraph line. Minawi, "Lines in the Sand: The Ottoman Government's Policies of Expansion and Consolidation on Its African and Arabian Frontiers (1882-1902)," 194.

The market faction's position illustrates two key dynamics of the Land Code's aftermath in the provinces. First, this position shows the Land Code's fundamentally "janus-faced" character: it aimed to preserve the rights of cultivators with clauses like the one providing the conditions for claims of prescription, but at the same time aimed to pave the way for commercial interests both by moving towards effectively commodifying *miri* land and by providing the initial conditions for land-based credit instruments like mortgage.<sup>63</sup> However, the arguments of the Grand Vezir and governor against leaving *mahlul* land "to the market" were not now framed in the interests of the cultivator, but rather in terms of Ottoman sovereignty. The rights of cultivators as the fiscal basis of the empire were to be privileged, in other words, but they had to be the right cultivators.

When describing the land of southern Syria in his letter that opened the policy of debate of the 1890's described above, Governor Rauf Paşa noted that the land in question was composed of the migratory routes of nomads. The main term he and other bureaucrats used to discuss pastoral nomads was "*aşiret*". I am choosing to leave the term *aşiret* untranslated, both because of the connotations of premodernity associated with its usual translation, "tribe",<sup>64</sup> and because I am interested in the way the term itself worked in the Ottoman administrative universe. The *aşiret* was not a new category in the nineteenth century administrative arena. In the mode of rural administration developed by the Ottoman regime in the sixteenth century, *aşirets* were administered separately from villages, with taxes assessed on their summer and winter pasturing grounds, their animals and the agricultural commodities they produced. Many *aşirets* were involved in providing raw materials, animals or military power to state-run enterprises, which won them tax exemptions.<sup>65</sup> In the case of the Salt district, leaders of local *aşirets* were granted tax breaks and stipends for the services they provided protecting and provisioning the Damascus Hajj route.<sup>66</sup> As detailed by Cengiz Orhonlu and Reşat Kasaba, central Ottoman regimes were not generally invested in settling *aşirets* or rearranging their leadership structures until the late seventeenth century, when the government attempted to exile or forcibly settle a number of Anatolian *aşirets* in order to improve rural security.<sup>67</sup> These attempts came in the form of decrees ordering various groups to settle or partially settle either on their grazing grounds or in faraway provinces.<sup>68</sup>

What distinguished nineteenth century decrees with regard to *aşirets* was their totalizing nature, in the general context of reforms that envisioned a comprehensive overhaul of the rural administration of both population and property. A programmatic decree the central government issued to the Anatolian provinces in 1844 shows the way lawmakers hoped to incorporate *aşirets* into the emerging rural system of administration-by-bureaucrats and the marginalization of tax farmers. The decree ordered the settlement of all *aşirets* on their winter pasturing grounds and

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<sup>63</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, 47.

<sup>64</sup> See the discussion of historiography related to tribes and property in the Introduction of this dissertation.

<sup>65</sup> For an overview, see Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, 21–22.

<sup>66</sup> For details see Faroqui, *Pilgrims & Sultans: The Hajj Under the Ottomans*, 57; Barbir, *Ottoman Rule in Damascus, 1708-1758*, 142; Abdul-Karim Rafeq, "New Light on the Transportation of the Damascene Pilgrimage During the Ottoman Period," in *Islamic and Middle Eastern Societies* (Brattleboro, VT: Amana, 1987), 127–36.

<sup>67</sup> Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*; Cengiz Orhonlu, *Osmanlı İmparatorluğu'nda Aşiretlerin İskanı* (Istanbul: Eren, 1987).

<sup>68</sup> Transliterations of some of these decrees can be found in Ahmet Refik, *Anadolu'da Türk Aşiretleri, 966-1200: Anadolu'da yaşayan Türk Aşiretleri Hakkında Divani Hümayun Mühmime Defterlerinde Mukayyet Hükümleri Havidir* (İstanbul: Devlet Matbaası, 1930).

emphasized that they should be governed “like the rest of the local inhabitants” (*ahali-i saire misillü*).<sup>69</sup> While making exceptions for climactic conditions that necessitated traveling to summer pasturing grounds to maintain the health of animals, the decree unequivocally prohibited traveling across provincial lines. Such travel would mean that the administration of *aşirets* would fall under the competence of numerous different officials, rendering efficient taxation, policing, and census efforts impossible. The introductory statement accompanying the decree noted that the central government had considered creating an “*Aşiret* Minister” responsible for these matters, but had abandoned the idea because of the problems such an individual would face monitoring mobile *aşirets* from a fixed location and the impossibility of providing him with a regular military force to assist with settlement.<sup>70</sup>

While the administrative difficulties raised by *aşirets*’ lack of a fixed address was a major reason cited by the drafters of the decree for ordering settlement, the text also emphasized the need to bring *aşirets* under the umbrella of the developing rural bureaucracy and marginalize “leaders and influential people”<sup>71</sup> who had become invested in their mobility. The decree did not specify particular influential individuals, but implied that certain wealthy tax farmers, possibly those invested in summer and winter grazing ground fees, would stand to lose if the *aşirets* whose revenues they collected settled in one location and entered regular village administration. In this sense, the central government’s struggle to settle and directly administer *aşirets* occurred within the context of the larger nineteenth century battle to marginalize tax farmers and develop a direct revenue relationship with producers.

This concern with direct administration and “stasis”, as Reşat Kasaba puts it,<sup>72</sup> went hand in hand with the Ottoman legal privileging of cultivation discussed above with regard to prescription rights. The 1858 Land Code did retain some rights for land not being used for cultivation. Article 13 protected customary rights over lands that became privately owned, even if it also empowered title-holders to prohibit non-customary passage specifically with animals. Pastureland was also mentioned, but it was conceptualized as land shared by villages for their animals, and the right to convert it into agricultural land was stipulated. The Land Code, in short, basically preserved the vision of a village-based rural economy fueled by cultivation articulated in the 1844 decree.

As evidenced by Oliphant’s own experience traveling through the Balqa, many people categorized by the Ottomans as nomadic were engaging in cultivation during this period, especially those engaged in sheep herding who crossed over highly fertile lands during their annual migrations. Would this cultivation theoretically qualify those Ottoman bureaucrats categorized as nomads for prescriptive rights to those lands? In terms of population, it seems that Ottoman bureaucrats and jurists had grounds to exclude nomads from the circle of potential holders of prescriptive right if they wished to do so. The Land Code clearly envisioned people claiming prescriptive right as being members of the “*ahali*”, or local inhabitants of a certain administratively recognized corporate body such as a village or quarter of a town or city.

Malissa Taylor discusses the Ottoman concept of the *ahali*, or the inhabitants of the village, especially with regard to taxation and revenue collection, extensively in her

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<sup>69</sup> BOA.I.MSM 69/2005, 8 Z 1260/19 December 1844, Page 2.

<sup>70</sup> Ibid., p. 1.

<sup>71</sup> “*vücut ve zi-nüfuz*”

<sup>72</sup> Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, Chapter 4.

dissertation.<sup>73</sup> She argues that the extensive use of the term *ahali* in Ottoman legal and administrative literature began in the mid-17<sup>th</sup> century, before which Ottoman law was less concerned with how tax burdens would be allocated within villages and generally relied on the term “*reaya*” to refer to the corpus of non-ruling class (*askeri*) Ottoman subjects.<sup>74</sup> In the mid-17<sup>th</sup> century, Ottoman laws (*kanuns*) began to address the rights of people from outside the village to farmland within the village, with priority always given to the people of the village as a corporate body. Taylor relates this shift in interest to the issues of peasant flight and village ruin that concerned Ottoman bureaucrats starting in the late 16<sup>th</sup> century as banditry and rural rebellion became more widespread. It was in the context of recognizing that cultivators were the “fiscal bedrock” of the Empire and confronting the fear that they might stop cultivating that the people of the village became a legal category, and a legal category with exclusive boundaries.

Taylor further argues that the people of the village were an authoritative body that not only negotiated its own internal allocation of tax burdens, but also attempted to prosecute members of the village community who did not pay their taxes. In this way, there was a distinct parallel between village communities and other corporate bodies in the early modern empire – guilds, Janissary regiments and, I would add, *aşirets*.<sup>75</sup> Nineteenth century law granted many of these authorities that had previously been placed with the *ahali* to the person of the “headman”, or the *muhtar*. However, for our purposes here it is important that Ottoman bureaucrats consistently saw *ahali* composed of settled cultivators and *aşirets* composed of pastoral nomads as conceptually distinct legal bodies.

This distinction is clear in the 1844 decree cited above, in which *aşirets* are meant to become “like the other *ahali*”. The language used to describe individuals in district Sharia court records also demonstrates that nomads were distinct from *ahali* in late Ottoman scribal culture. In the court records, cultivators and merchants were routinely described as “from the *ahali* and residents of x village or town quarter.”<sup>76</sup> This practice provides more insight into the late Ottoman concept of *ahali*, because in late nineteenth century Salt merchants in particular were often listed as members of the *ahali* of Nablus or Jerusalem, but residents of Salt. As Eugene Rogan has noted, by the end of the period under study they had usually become the *ahali* of Salt as well.<sup>77</sup> Here we see membership in the *ahali* of a place meaning long-term connections, perhaps intergenerational connections, with a certain locality rather than temporary residence.

People described in the court records as nomadic, on the other hand, were described as “from *ashira* x residing in tents in the environs of Salt.”<sup>78</sup> They were therefore described in terms of residence and administrative attachment to the district of Salt, but they were not described as members of any group of *ahali*. Rather, they were described as members of *aşirets*. While there were hints of its complex relationship to territory, the contrast between *aşiret* and *ahali* shown here is precisely about bureaucrats’ perception of who had long term connections, and therefore could claim prescriptive rights, to particular pieces of agricultural land.

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<sup>73</sup> Malissa Anne Taylor, “Fragrant Gardens and Converging Waters” (Dissertation, University of California, Berkeley, 2012), Chapter 1.

<sup>74</sup> *Ibid.*, 55.

<sup>75</sup> *Ibid.*, 66.

<sup>76</sup> See for example Muḥammad ‘Abd al-Qādir Khuraysāt and Jūrj Farīd Tarīf Dāwūd, *Sijill Maḥkamat Al-Salṭ Al-Shar‘īyah: 5 Dhī Al-Qa’dah 1302 H-Ghurrat Rabī’ Al-Thānī 1305 H, 1885-1888 M* (Amman: Ministry of Culture, 2007), 12.

<sup>77</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 101.

<sup>78</sup> Khuraysāt and Dāwūd, *Sijill Maḥkamat Al-Salṭ Al-Shar‘īyah: 5 Dhī Al-Qa’dah 1302 H-Ghurrat Rabī’ Al-Thānī 1305 H, 1885-1888 M*, 14.

However, in the minds of central and provincial bureaucrats involved in the land debates described above of the late nineteenth and early twentieth centuries, the designation of nomads as members of “*aşirets*” does seem to have set them apart from the *ahali* in terms of their legal land rights. As noted, a central element of these debates was the prerogative to allocate *mahlul* land for the settlement of refugees and nomads in the area by decree. On the one hand, both Muslim refugees and nomads were privileged as possible purveyors of security and sovereignty because they were Muslim. On the other, the bureaucratic image of allocated lands is not entirely divorced from Oliphant’s vision of “reserves.” It is important, therefore, that nomads were viewed not as potential prescriptive holders of land they controlled historically and were cultivating like the *ahali*, but as legally akin to refugees who had no prior connections to any particular piece of land in Syria.

The stakes of this distinction were well-illustrated by the Financial Department of the Council of State in the course of the debate over *mahlul* land described above. When considering the conflicting “security” vs. “market” arguments regarding what to do with *mahlul* land in Syria, the Financial Department predictably came down on the market side, arguing that land that was not to be allocated to refugees and nomads should be sold by the property administration offices or put up for auction so that the treasury could benefit from its price and future tax revenues. However, the Financial Department went further, arguing that some of the *mahlul* lands included in the list prepared by the local property administration offices might actually be sold at very high prices at auction, and the government should therefore take this into consideration in deciding which lands to allocate to refugees and nomads. Lands for such allocations were to be expendable and not particularly valuable, with value tied directly to the fertility of the land’s soil and its available water resources.<sup>79</sup>

This analysis establishes that there was indeed a divide between concepts of *ahali* and *aşiret* in Ottoman bureaucratic and legal discourse, and that this divide had certain implications in terms of Ottoman conceptions of land rights in Syria. However, exploring how this divide operated in specific contexts of imperial rule is crucial to understanding how local inhabitants experienced, and sometimes participated, in governance in provincial contexts. Just as the Land Code spoke to the rights of cultivators in many of its clauses, the legal and bureaucratic discourse described above could be made to include, rather than exclude, nomadic populations if bureaucrats wished. First, the concept of “empty land” in the context of debates over land in Syria was not fundamentally aimed at denying the existence of or even settling nomadic populations, but about privileging cultivation. In this way, even though nomads were not included in perceptions of long-standing cultivators as the *ahali*, they could legally be granted prescriptive rights over lands they cultivated. Likewise, the concept of *ahali* could be made to include nomads. This move would be crucial in Salt district because it would allow people designated as members of *aşirets* to not only register land like *ahali*, but also to elect leadership with tax-allocation powers like *ahali* without necessarily becoming “like the rest of the local inhabitants” in the sense of living exclusively in a fixed abode or giving up pastoral land use.

In fact, this dissertation shows that the literature depicting the relationship between Ottoman administration and nomads in the second half of the nineteenth century as being mainly about forced settlement, or even exclusion, is overstated. This overstating has to do partly with the towering presence of Ahmed Cevdet Paşa and his writings, especially *Maruzat*, about his

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<sup>79</sup> BOA.DH.MKT 785/23 Page 12, Report of the Financial Department of the Council of State, 18 Ş 1321/25 Kanunuevvel 1319/7 January 1904.

violent efforts to settle nomads in Adana province, many of whom died as a result.<sup>80</sup> This campaign surely had contemporary significance to other bureaucrats administering provinces with nomadic populations.<sup>81</sup> However, as Yonca Köksal's work illustrates, coercion was one of a variety of methods Ottoman rulers used to implement late nineteenth century reform.<sup>82</sup>

The spectacular quality of Cevdet Paşa's campaign notwithstanding, other prominent statesmen like Midhat Paşa also wrote about attempting to encourage nomads to settle, but with more varied results. Like Cevdet Paşa, Midhat Paşa attempted to disempower specific nomadic leaders in an effort to create direct connections between the Ottoman state and members of *aşirets* and to incorporate them into village administration. While he reports feeling successful in some areas, he usually had to work with the leaders of the *aşirets* he was attempting to disempower in order to build villages their communities would consider inhabiting.<sup>83</sup> He also had to deal with extensive rebellions during his term that were directly related to his attempts to collect land taxes from *aşirets*.<sup>84</sup> The frustrations Midhat Paşa experienced were somewhat akin to the imperial decision discussed above to abandon the proposal to create an "Aşiret Minister." The mobility of nomads was problematic for Ottoman bureaucratic logics, but this also meant that attempts at settlement, taxation and general governance were constantly being negotiated and re-engineered to deal with local circumstances based on the experiences of bureaucrats in the provinces.

In short, the framework provided by the Land Code and related laws governing population categories left ample room for the kinds of concessional politics Huri Islamoğlu discussed. The remainder of this dissertation will focus on the district of Salt to show the way nomads engaged in these politics to retain their control over land. The encounter between nomads and Ottoman administrators in Salt was not primarily about forced settlement, or about settlement at all. While settling nomads was an important goal of the Damascus administration and the promise of the rapid development such settlement could bring was mentioned in many of the letters and reports mentioned above,<sup>85</sup> the local administration did not have the resources that Ahmet Cevdet Paşa employed in Adana in what was essentially an exceptional campaign.

Instead, the encounter between nomads and Ottoman bureaucrats in Salt, and the process through which some nomads themselves became bureaucrats, was mainly characterized by adjusting the administrative categories used to govern a corporate unit understood in terms of territory and village dwelling, the *ahali*, to fit one understood in terms of political configuration and tent dwelling, the *aşiret*. As we will see in Chapter 2, the *aşiret* stood in for the village or town quarter in Salt in many respects of late Ottoman administration, including taxation.

Beyond the problems of limited resources, Ottoman bureaucrats on the spot would find that the population they encountered, and specifically the relationship between *aşirets*,

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<sup>80</sup> Ahmet Cevdet Paşa and Yusuf Halaçoğlu, *Ma'rûzât*, Tarih Dizisi 1 (Türbe, İstanbul: Çağrı Yayınları, 1980).

<sup>81</sup> Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, 101–103; Andrew Gould, "Pashas and Brigands: Ottoman Provincial Reform and Its Impact on the Nomadic Tribes of Southern Anatolia, 1840-1885" (Dissertation, University of California, Los Angeles, 1973); For a social history of the larger Çukurova region, see Meltem Toksöz, *Nomads, Migrants and Cotton in the Eastern Mediterranean: The Making of the Adana-Mersin Region 1850-1908* (Leiden ; Boston: Brill, 2010).

<sup>82</sup> Yonca Köksal, "Coercion and Mediation: Centralization and Sedentarization of Tribes in the Ottoman Empire," *Middle Eastern Studies* 42, no. 3 (2006): 469–91.

<sup>83</sup> Midhat Paşa, *Hayatım İbret Olsun*, vol. 1 (İstanbul: Hilal, 1908), 124.

<sup>84</sup> *Ibid.*, 1:131.

<sup>85</sup> See for example the promises included in the Ministry of the Interior's letter to the Grand Vezirate in support of an independent commission being sent to Syria to survey the province's mahlul land, BOA.DH.MKT 75/23 Page 10, Letter from the Minister of the Interior to the Grand Vezirate, 12 B 1321/21 Eylül 1319/4 October 1903.

cultivation and house-dwelling, was actually quite complex and did not conform to the sharp lines the separate legal categories introduced above might imply. This was partly because the Hamidian period was a time of extreme flux in the Balqa region around Salt as numerous groups vied for the region's fertile land. In general, the second half of the nineteenth century was a period of increased business for people supplying the local market with animal and especially agricultural products, which were also in greater and greater demand from the western ports.<sup>86</sup> This increased business meant that people who had previously divided their time between farming and herding undoubtedly allocated more time to farming, which entailed a more settled lifestyle.<sup>87</sup>

This phenomenon was, of course, not limited to Salt, but it was also not limited to the Hamidian period. The people living on the arid fringes of the Syrian and Arabian deserts, in what would become the counties of Hama, Hawran, and Damascus and the district of Salt targeted for their "empty land", had experienced fluctuations in livelihood for generations and patterns of relative settlement and relative mobility. The argument that the population of this region existed on a "continuum" between settlement and mobility applies to time as well as to space.<sup>88</sup> While the eventual permanent settlements of the twentieth century have led historians, myself included, to see this period as one of momentous transformation in the lives of pastoral nomads, it may not have seemed quite as shocking, and certainly not as fast, on the ground.<sup>89</sup>

I do not mean to imply here that "History" with a capital H started for pastoral nomadic populations, or people categorized as farmers who practiced seasonal migration, in the twentieth century when permanent settlement "finally" occurred. The Hamidian period as well as earlier periods of transition each had its own larger context and the reasons for migrating or staying in one place were often regional, if not global in scope. The period of "peasant flight" that many scholars have discussed in the late sixteenth and early seventeenth centuries was one such transition period throughout the Empire,<sup>90</sup> as was the movement west of nomadic groups from the Arabian desert in the seventeenth and eighteenth centuries. That the late nineteenth century left a historical record in the form of court and land registers does not make the earlier transitions any less earthshaking from the perspective of those who experienced them.

The history of migration notwithstanding, the court and land registers show that the local inhabitants of the Salt district, whether they were categorized as *ahali* or *aşiret*, were attached to particular pieces of land and saw themselves as having legal claim to that land.<sup>91</sup> As we will see in Chapter 2, the Ottoman administration granted title to people it categorized as pastoral nomads over lands that were historically in their control, and, whether willingly or not, it granted them prescriptive right. In the end, the government legally recognized these groups' involvement in cultivation, and it would seem that in some cases it also recognized the attachments to land that

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<sup>86</sup> Halil İnalcik and Donald Quataert, *An Economic and Social History of the Ottoman Empire, 1300-1914*, vol. 2 (Cambridge: Cambridge University Press, 1994), 829–831, 848–849.

<sup>88</sup> That this needs to be emphasized at all has to do with the understanding in anthropological literature, especially prior to the 1990's, of Bedouin as politically and economically autonomous and reliant entirely on pastoral activities. For critiques, see Ugo Fabietti, "Between Two Myths: Underproductivity and Development of the Bedouin Domestic Group," *Cah. Sci. Hum.* 26, no. 1–2 (1990): 237–53.

<sup>89</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*; Martha Mundy and Basim Musallam, *The Transformation of Nomadic Society in the Arab East* (Cambridge University Press, 2000).

<sup>90</sup> Taylor, "Fragrant Gardens and Converging Waters"; Karen Barkey, *Bandits and Bureaucrats: The Ottoman Route to State Centralization* (Cornell University Press, 1996).

<sup>91</sup> This is especially relevant considering contemporary Israeli claims to lands held by Bedouin. See Hass, "Israeli Government Plans to Forcibly Relocate 12,500 Bedouin."

migratory life entailed. The highly contested decisions to settle refugees in the district explored in Chapter 3 notwithstanding, the local Ottoman administration did not, in the end, attempt to pretend that the population of Salt did not exist, confine them to “reserves” or expel them to the eastern deserts.<sup>92</sup> The concessional politics of the late Hamidian government left space for such an outcome, although it was by no means ensured and did not occur all over the empire.

## Conclusion

This chapter has explored the connections between sovereignty, population and land in Hamidian legal and administrative discourse as background for the rest of the dissertation, which focuses on the encounter between pastoral nomads and Ottoman governance in the Syrian district of Salt. For Laurence Oliphant as well as for many other foreign bureaucrats and writers, the imperative of maintaining Ottoman sovereignty in Syria in the context of the Eastern Question had little to do with Ottoman rulers’ relationship with the inhabitants of the territory in question. Rather, it was focused on preventing a military occupation by one power in particular to the disadvantage of the rest. For Ottoman bureaucrats, however, sovereignty in Syria as well as the Arab provinces had a more expansive and effective meaning, specifically involved with the power to tax, police and control decisions about the fate of the inhabitants of the land. While this sovereignty was certainly threatened by the 1880’s, the failures of Oliphant, his predecessors and immediate successors to usurp these powers in Syria in the absence of a foreign military occupation demonstrate why taking Ottoman sovereignty seriously is so important for historians of the Hamidian period.

While Oliphant and Ottoman bureaucrats had different ideas of what sovereignty over the land of Syria meant in action, their perceptions of the use of the land and its inhabitants shared certain features. Both focused on cultivation and settlement as the basis of rights to own land, and both viewed nomadic land use as a problematic object of development. As noted above, Oliphant’s argument for creating “reserves” in the midst of his settler colony for pastoral nomads was not entirely removed from the Ottoman policy of allocating expendable pieces of land to *aşirets* for settlement, in contrast to the rights of the *ahali* to register land they claimed to have cultivated historically.

However, this chapter has argued for important divergences between these two visions. First, in the imperial correspondence presented here, it is possible to see that “empty land” for Oliphant meant a land devoid of inhabitants not easily expelled. For Ottoman bureaucrats, empty land was a legal concept intertwined with the category *mahlul*, which in the late nineteenth century referred to land that the state claimed was uncultivated. In other words, for Ottoman bureaucrats whose work carried the weight of four centuries of Ottoman rule over the inhabitants of Syria, the emptiness of the land was subject to legal dispute. As we will see in subsequent chapters, this claim was in fact constantly disputed, just as it was throughout the empire.

Likewise, Chapter 2 will tell the story of how the Ottoman legal category of “*ahali*” was made to include the category “*aşiret*” in the context of land administration in Salt in the late nineteenth century. Crucially, this story did not include the forced settlement of nomads or their actual incorporation into particular villages, narratives that have dominated the literature on the

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<sup>92</sup> In this vein I agree with Martha Mundy and Richard Saumarez Smith that there was a rupture on some level between Ottoman and British administrative practice in Syria. Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, 235.

Ottoman state's nomad-related policies in the nineteenth century. Rather, we will see that *aşiret* was used alongside village and town quarter as an administrative category encompassing processes related to land claims, court cases, taxation and myriad other elements of effective Ottoman sovereignty in rural Syria.

These contextual observations are the basis for my argument against appraisals of late Ottoman governance in the Arab provinces, especially vis-à-vis nomads, as “Orientalist” or rigid. What these appraisals are missing are fine-grained analyses of what Ottoman administration, i.e. actionable Ottoman sovereignty, meant for people living under it, in this case in terms of their rights to the most valuable resource of the period. The following chapters will present such an analysis, showing the ways in which pastoral nomads in a rural district of the Empire contested and contributed to Ottoman governance of property.

## Chapter Two

### The Limits of Legal Pluralism and the Politics of Local Governance in Hamidian Salt

In April 1853, Dhiab al-Humud, shaykh of the Adwan group, left his encampment near Salt and rode down the well-trodden paths to the Jordan valley below.<sup>1</sup> He brought along a small entourage of men from his extended family, the Salih, and his son, Ali. He had business in Nablus, and he wanted Ali to know his business contacts and the government bureaucracy in the city. On the way, they passed their wheat fields, greeting the Adwan men guarding them. As night fell, they reached the Jordan River and set up camp on its banks. The next morning, they saddled their horses early and rode through the cool dawn mist towards Nablus.

When they reached the city the following morning, Shaykh Dhiab first attended to business. He visited his merchant contacts from the Abd al-Hadi family and discussed their orders for *qilw*, the barilla plant ash used for making soap.<sup>2</sup> He also talked to them about his wheat fields and the expense of transporting the wheat to Damascus and Nablus on the paths from Salt, which was the market center of his region on the east bank of the Jordan.

The next day, Shaykh Dhiab made his way to the center of the city where the Ottoman government buildings stood. Gathering his relatives around him, he entered the building and made for the large room where the Nablus Advisory Council was in session. Back in Salt, Shaykh Dhiab had received some disturbing news the week before, and he wanted to set things straight with the Advisory Council. Because of his *qilw* deals, he knew he had the ear of the Abd al-Hadis, who controlled the Council. Even so, he wanted a written record of his petition and he wanted the authorities in Istanbul to read it.

Standing before the Council surrounded by his son and other relatives, Shaykh Dhiab made his statement, speaking slowly so that the Council scribe could record his words. He stated that he had recently learned that a group of horsemen from the Abbad *ashira*, from the Salt region on the east bank of the Jordan River, had crossed to the Nablus region, stayed overnight with a local nomadic group, and from there had attacked villages on the Mediterranean coast, stealing livestock and burning property. Shaykh Dhiab was concerned because he heard that the horsemen had been telling the villagers they attacked that they were in fact from his own Adwan group. He had come to assure the Council, as the representative of Ottoman authority in Nablus, that he and his group (*jama'tuhu*) were completely loyal to the Ottoman government and would not dream of participating in such activities. He stated that the Abbad, on the other hand, being outside the Ottoman government's sphere of loyalty, made a habit of attacking west bank villages with the help of local Bedouin, whose camps they used as bases. He explained that since both the Adwan and the Abbad were "foreign Bedouin" (*urban aghrab*) in the area and unknown to the local villagers, the Abbad could easily claim that they were from the Adwan, both so that what they stole would not be taken back from them and to tarnish Shaykh Dhiab's good reputation with

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<sup>1</sup> Because he escorted so many foreign travelers to the Balqa region in the mid-nineteenth century, there are descriptions of Dhiab al-Humud in a number of their travelogues. See for example James Finn and Elizabeth Anne McCaul Finn, *Stirring Times: Or, Records from Jerusalem Consular Chronicles of 1853 to 1856* (London: C.K. Paul & Co, 1878), 375, 470; C. R. Conder, *Heth and Moab: Explorations in Syria in 1881 and 1882*, Palestine Exploration Fund. [Publication] (London: Bentley, 1883), 323–324; For his enduring legacy in Jordan among the Adwan, see Shryock, *Nationalism and the Genealogical Imagination*.

<sup>2</sup> Beshara Doumani explains the soap-making process of the period and the role of East Bank Bedouin in it in Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*, 186–187; See also Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, 135.

the Ottoman authorities. He concluded his petition by stating that he and his group only used such attacks to discipline the villagers of the Ajlun region on the East Bank north of Salt, who were outside the sphere of Ottoman loyalty, and that these disciplinary measures were in accordance with the orders he had from the central government.

Shaykh Dhiab's visit must have seemed rather unusual to the Council, because he was the only petitioner from the eastern side of the Jordan River who filed a petition over the four years for which the Council's minutes survive and also the only "nomad" listed. However, his presence in Nablus would not have been particularly surprising, considering his influence in the neighboring Balqa region in general and his contacts with the city's merchants.<sup>3</sup>

Records of the Ottoman orders Shaykh Dhiab mentioned with regard to the villages in Ajlun have not been uncovered. However, his petition complicates the narrative that the Balqa region to the east of the Jordan River was an ungoverned "empty land" or "frontier region" ruled by Bedouin chiefs with minimal formal connections to the Ottoman authorities before the establishment of the district of Salt and institution of direct rule in the 1870's. This narrative has presented the efforts of the reforming Ottoman governor of Syria, Mehmet Reşid Paşa, to strip Shaykh Dhiab of his authorities in military campaigns in 1867 and 1869 as the inevitable march forward (or in this case, southward) of the apparatus of the civilizing modern state.<sup>4</sup> Keeping the contact and pre-existing agreements between Shaykh Dhiab and other local leaders and the Ottoman government in mind, however, Reşid Paşa's campaigns resembled the contested disempowerment of elites occurring all over the empire. Nomadic leaders who had profited extensively from surplus collection undoubtedly suffered in this process, just as tax farmers all over the empire saw their power decrease, sometimes violently, with the uneven implementation of a more bureaucratic and intensive style of governance.<sup>5</sup> That Shaykh Dhiab argued his 1853 petition in Nablus is also crucial, because it indicates that the Salt region was part of Nablus' extended hinterland both commercially and politically before the reforms of the 1870's. This perspective brings the rural region of southern Syria, with the district of Salt at its center, into the larger Ottoman context to which it belonged and problematizes the idea that it was a previously ungoverned "frontier."

Shaykh Dhiab's treatment, and that of his family, in the aftermath of Mehmet Reşid Paşa's expeditions are indicative of his fallen notable status. Rather than being killed or sent to rot in prison in Istanbul or elsewhere, he was first sent to exile in Cyprus and then to Nablus, which, considering their extensive commercial connections, Salt became administratively attached to in the 1870's and 1880's.<sup>6</sup> While the circumstances of Shaykh Dhiab's death in the 1890's remain unclear, material from the Ottoman state archives reveals that he and then his eldest son Ali continued to draw substantial salaries from the Ottoman government well into the twentieth century. In the case of Ali, there was an expectation on the part of the provincial and imperial governments that he would encourage the nomads in the Balqa region to settle in exchange for this salary.<sup>7</sup> Perhaps more importantly for local politics, Ali al-Dhiab was the

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<sup>3</sup> The date of the petition is 21 R 1269/April 30 1853. No. 264. I would like to thank Professor Beshara Doumani for providing me with access to his private collection of the minutes of the Nablus Advisory Council.

<sup>4</sup> For a narrative of these expeditions based largely on European consular sources, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 49–51.

<sup>5</sup> İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," 19–20; Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914," 73–75.

<sup>6</sup> BOA.BEO 317/23720, Page 2, 31 Teşrinievvel 1309/12 November 1893.

<sup>7</sup> BOA.BEO 350/26177, 2 Kanunusani 1309/8 B 1311/14 January 1894.

only local shaykh who registered extensive tracts of agricultural land in Salt in his own name during the first land registration in the district in 1879,<sup>8</sup> and his son Sultan was a key organizer of the local revolt against British-Hashemite rule in Transjordan in 1923.<sup>9</sup>

This chapter explores the roles of pastoral nomads in changing structures of Ottoman rural governance, using the district of Salt as a case study. I will show that unlike in the early nineteenth century, when powerful shaykhs like Dhiab al-Humud were the main representatives of Ottoman governance to nomadic communities they led, the Hamidian period witnessed the rise of a “middling group” of nomads whose influence was intimately intertwined with the bureaucratic process of governing landed property.

This chapter also introduces the process of establishing direct rule in Salt during the Hamidian period, a direct rule that would quickly become embroiled in the conflicts and complexities of administering landed property. In order to detail the establishment of various government entities involved with governing property, I will examine the personnel and main players of the new courts, councils and bureaucratic offices that attempted to address the mounting conflicts over Salt’s land by registering plots to individual, exclusive owners in the terms of the 1858 Land Code. Second, this chapter introduces the “middling group” of nomads with a sketch of one family. Finally, this chapter will introduce the contours of land conflict in Salt and the local, provincial and imperial agencies involved by detailing an investigation into a conflict involving nomads, cultivators and Circassian refugees in the 1890’s.

This chapter emphasizes the conflictual nature both of land relations in Salt and of the process of assigning ownership rights during the Hamidian period. I argue that these conflicts are an important element not only of understanding the local history of the district and integrating it into larger provincial and imperial trends, but also for what they tell us about the nature of Hamidian governance and the relationship between the Hamidian state and its nomadic subjects. Hamidian governance has been portrayed as efficient at best and “rigid” or “colonial” at worst in the Arab provinces by recent scholars, especially those interested in drawing a sharp contrast between modern governance and early modern “flexibility.”<sup>10</sup> My description of the most unlikely of local actors, pastoral nomads, playing key roles in local governance and property administration turns the idea of a colonial Ottoman government ruling its subaltern population with an iron hand on its head. Rather, I show that the complexity of modern bureaucratic institutions in Salt provided ample opportunity for producers, in this case pastoral nomads and cultivators, to contest the system by pitting agencies against each other and identifying legal loopholes to exploit. Further, the expanding bureaucracy meant that more and more local actors, including pastoral nomads, assumed bureaucratic positions even as they continued to use the changing system for their own benefit.

Further, while I argue that the interaction with the Hamidian land administration had a fundamental impact on the shape of local land relations and rights, I present evidence that its agencies were far from successful in reaching their goal of extending exclusive control over the distribution of rights to all of the district’s land. Rather, an “extra-state” land market lived on in Salt throughout the Ottoman period, problematizing the absolute authority of the district property administration. This market provided local actors without the resources or desire to deal with the state system with an alternative way to claim and transact in land and problematized the absolute authority of the district property administration.

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<sup>8</sup> Salt *yoklama* Volume 1, Pages 3-4, Entries 76-88. Ali Dhiab registered a total of 2401 donums.

<sup>9</sup> Yoav Alon, *The Making of Jordan Tribes, Colonialism and the Modern State* (London: I.B. Tauris, 2009), 25.

<sup>10</sup> For an extended literature review, see the Introduction.

At the same time, I contest recent descriptions of the Hamidian legal and administrative system, especially as it was perceived by local litigants, as “pluralistic.”<sup>11</sup> These descriptions seem to extend already problematic portrayals of early modern governance as “pragmatic and flexible” to the Hamidian period in an attempt to rescue it from its status as “the beginning of the end.”<sup>12</sup> In contrast, I argue that while litigants did sometimes have limited state-sanctioned choice in where to take their land transactions and disputes, the different venues they visited represented very different choices vis-à-vis the state-sanctioned land administration and its enforcement agencies. “Forum shopping”, therefore, should be interpreted not as an opportunity afforded to litigants by a flexible and pluralistic state system, but as an avenue for contesting a state system that was theoretically unified.

In this vein, I draw on Huri İslamoğlu’s conception of the judicial and administrative arenas established in the course of the nineteenth century as “power fields” in which various actors struggled to define the contours of the modern state and its ordering of social life, but did so in the legal language and categories set out in state law.<sup>13</sup> At the district level, pastoral nomads participated in these struggles both as Ottoman citizens and litigants and sometimes as bureaucrats themselves. At the end of the chapter, however, I also discuss the emerging conflict over the authority to settle land disputes between entities defined as “administrative” and those defined as “judicial” during the Hamidian period. This struggle, which occurred at various levels of governance from the district to Istanbul, also afforded pastoral nomads and cultivators opportunities to petition specific agencies they thought would treat their interests favorably. While they did so primarily from outside these governing entities, their claims were framed in the language and categories of Ottoman law as well as the conflicts within the Ottoman bureaucracy.

### **The Legal/Administrative Scene in Hamidian Salt**

In the organizational structure of the Tanzimat period, the southeastern region of the province of Syria surrounding the town of Salt became a district along the detailed lines of the 1864 Provincial Administration Regulation in the aftermath of Reşid Paşa’s expeditions in 1867 and 1869. Salt was established as a district of the Balqa sub-province, which straddled the banks of the Jordan River and was centered in Nablus. That the Damascus government chose to integrate Salt into the Balqa sub-province, rather than Hawran to the north which was easier to reach, speaks to the extensive commercial and political connections between the east and west

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<sup>11</sup> Perhaps the earliest scholar to adopt the legal pluralism framework to explain the late Ottoman legal environment at the district level was Iris Agmon in her 2005 book examining family and legal culture in Jaffa and Haifa. For her explanation of forum shopping between the Sharia and Nizamiye courts, see Agmon, *Family and Court: Legal Culture and Modernity in Late Ottoman Palestine*, 74. See also Ido Shahar, “Legal Pluralism and the Study of Shari’a Courts,” *Islamic Law and Society* 15, no. 1 (2008) and Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, Chapter Two.

<sup>12</sup> Prominent examples of the argument for early modern Ottoman pragmatism are Şevket Pamuk, “Institutional Change and the Longevity of the Ottoman Empire, 1500-1800,” *The Journal of Interdisciplinary History* 35, no. 2 (2004): 225–247 and Karen Barkey, *Empire of Difference: The Ottomans in Comparative Perspective* (Cambridge University Press, 2008). For a critique of these, see Murat Dağlı, “The Limits of Ottoman Pragmatism,” *History and Theory* 52, no. 2 (2013): 194–213.

<sup>13</sup> Huri İslamoğlu, “Politics of Administering Property: Law and Statistics in the Nineteenth-Century Ottoman Empire,” in *Constituting Modernity: Private Property in the East and West*, ed. Huri İslamoğlu (London: I.B. Tauris, 2004), 277–9.

banks of the Jordan River before and during the early nineteenth century.<sup>14</sup> Shaykh Dhiab's petition, submitted to the Nablus Advisory Council, is in fact one manifestation of the longstanding status of Salt as part of Nablus' administrative and commercial orbit. The sub-provincial governor (*mutasarrıf*) in Nablus answered directly to the governor of Syria.

While detailed and reliable population statistics for the later 19<sup>th</sup> century are difficult to find,<sup>15</sup> the local population included cultivators and merchants settled in the town of Salt itself and the villages in its environs as well as groups that the Ottoman government referred to as nomadic.<sup>16</sup> The latter ranged from groups like the Bani Sakhr, who came into the district seasonally, to groups like the Adwan and Abbad mentioned in the petition described above, who were involved in both transhumant farming and pastoral activities and whose spheres of movement revolved more closely around the town of Salt. In fact, as Oliphant found, many of the local inhabitants who lived in villages and were referred to as "cultivators" in government records were also involved in transhumant farming and animal breeding. This made categorizing the local population for purposes of taxation and governance challenging.

As the Ottoman administrative and judicial apparatus in the district became more complex, its main preoccupation soon turned to addressing various claims over land whose control was thrown into question by the terms of the 1858 Land Code. By "addressing" I do not mean to imply that the Ottoman government itself was a disinterested or unified player in this equation: as we saw in Chapter 1, the stated and legally elaborated preference of the government, at least at the central level, was for ownership rights over this land to be granted in the interests of cultivation, settlement, and creating safe havens for refugees, investment and development projects.

During the Hamidian period, a number of district-level government agencies and courts were involved in the process of granting legal control over *mahlul* state land and sanctioning land transactions. Tracing the development of these agencies and courts is possible through a reading of the provincial yearbooks of Syria (*salname*), in which Salt appears as a district in most volumes covering the period 1869-1900.

According to all available documentation, the institutions of the Salt Sharia court on the one hand, chaired by a centrally appointed deputy judge (*naib*), and the district's administrative and judicial councils, composed of both appointed officials and semi-elected local notables on the other, developed side by side. Unlike in other late Ottoman districts, therefore, the Sharia court was no more "familiar" to the local inhabitants than other new government-sanctioned entities.<sup>17</sup> Before the establishment of a district Sharia court in Salt in the late 1860's, it is likely that some of the district's wealthier litigants took their important business to courts in Nablus, Jerusalem and Damascus, and many of the "newcomer" merchants probably used Sharia courts

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<sup>14</sup> Ihsan Nimr, *Tarikh Jabal Nablus Wa Al-Balqa*, vol. 1 (Nablus, 1936), 102–105, 135, 175–180, 331–332.

<sup>15</sup> For available population estimates for Salt, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 162–165. An Ottoman census from August 1915 that lists the local population broken down by village, *aşiret*, religion and gender (see Appendix B) lists the local population as 41,293, including 2,609 deported Armenians. BOA.DH.EUM.KLU 9/15, 13 Ağustos 1333/26 August 1915. This is close to the population listed in the general Ottoman census of 1914 for Salt of 39,995. Kemal H. Karpat, *Ottoman Population, 1830-1914: Demographic and Social Characteristics* (Madison, Wis: University of Wisconsin Press, 1985), 178,189.

<sup>16</sup> The Ottoman bureaucracy used a number of terms to refer to people practicing pastoral nomadism in the Arab regions. The term *aşiret* served as an administrative category for purposes of identification and taxation and was used all over the empire. In the Arab provinces, bureaucrats also sometimes used the words "*bedevi*" to refer to Bedouin or "*urban*" to refer to Arab nomads.

<sup>17</sup> Agmon, *Family and Court*, 74.

in these cities before relocating to Salt. However, many litigants would be using Ottoman judicial and administrative services directly for the first time in the 1870's.

The first record of a deputy Sharia court judge (*naib*) appointed to Salt is in 1869, and the first "council", initially combining administrative and judicial functions (*meclis-i idare ve dawa*) appears in 1870.<sup>18</sup> By 1876, the administrative/judicial council had split into two separate entities, one focused on affairs deemed "administrative" and chaired by the district governor, the other focused on affairs deemed "judicial" and chaired by the same deputy judge who chaired the Sharia court.<sup>19</sup> The first sign of a bureaucratic property administration in Salt also appeared with a property administration official (*tapu katibi*) in 1876, although this official disappeared between 1880 and 1892, after which a district property administration (a *tapu* office) became a regular element of the basic government structure in Salt.<sup>20</sup>

The development of the district councils and courts in Salt, like that of the property administration and the district government in general, was by no means linear. While a long-view appraisal of the development of district government does conform in very general terms to central directives, the situation must have seemed rather chaotic on the ground and involved many fits and starts. For example, the first administrative/judicial council in Salt of 1870 was composed of 12 semi-elected notables. The membership of the administrative council shifted until the mid-1880's when it became regularly composed of the district governor as president, four permanent members including the deputy judge, the mufti, the financial director, and the survey scribe, and three or four semi-elected local members.<sup>21</sup> In the case of the judicial council/court of first instance, the trend was towards professionalization – the number of officials with professional bureaucratic titles on the council/court increased as the Hamidian period progressed.<sup>22</sup> The yearbooks do not give a definitive idea about whether these professionals were local or appointed at the central or provincial levels, but the Nizamiye court cases that exist imply that they were highly skilled in interrogation methods and were also fluent in both Arabic and Turkish.<sup>23</sup>

The government entities referred to as "councils" – first the administrative council and the judicial council/court of first instance and, after 1895, a municipal council (*meclis-i belediye*) and a board of education (*meclis-i maarif*) -- included by law semi-elected members from the local population in Salt.<sup>24</sup> These semi-elected members were by and large from the town's small "notable" class, many of whom had moved to Salt from Palestine or Damascus recently – they

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<sup>18</sup> In *Salname-i Vilayet-i Suriye* Vol. 2 from 1286/1869-1870, this council is simply referred to as "meclis"; in the salname from the following year it is called "meclis-i idare ve daawa." *Salname-i Vilayet-i Suriye* Vol. 3, 1288/1871-1872, 46.

<sup>19</sup> *Salname-i Vilayet-i Suriye* Vol.8, 1293/876-1877, 121.

<sup>20</sup> See *Salname-i Vilayet-i Suriye* Vols. 8-25, 1293-1310/1876-1893.

<sup>21</sup> See *Salname-i Vilayet-i Suriye* Vols. 2-15, 1286-1300/1870-1884.

<sup>22</sup> These included a scribe as well as a professional interrogator (*mustantak*) in 1884. *Salname-i Vilayet-i Suriye* Vol. 16, 1301 (1883-1884), 188. In 1892, after Salt was detached from the Balqa province and attached to the new sub-province of Karak, more officials joined the court, mainly a head contract clerk (*başkatib-i mukavelat*) and a deputy (*mübaşir*), the latter consistently being a resident of the Salt district. *Salname-i Vilayet-i Suriye* Vol. 25, 1310 (1892-1893), 234.

<sup>23</sup> See for example the interrogation records in a murder case originating in the Salt court of first instance, BOA.BEO 1639/122919, 14 Za 1318, 5 March 1901.

<sup>24</sup> For details of the complex election process to these councils, see Johann Büssow, *Hamidian Palestine: Politics and Society in the District of Jerusalem, 1872-1908* (Leiden: Brill, 2011), 72-73 and Saraçoğlu, "Lettes from Vidin", 109-117.

were largely merchants and landowners, and by the turn of the century they exercised a firm hold on the district's administration.<sup>25</sup>

While the bureaucrats appointed from Istanbul tended to serve for short terms lasting for a maximum of three years, there were particular local notables whose service as semi-elected members of various government councils and sometimes in bureaucratic positions spanned the thirty years covered by the yearbooks for the province of Syria. Most of the local notables who served did so for more than one term.<sup>26</sup> Of the 80 men who rotated among the administrative council, the judicial council/court of first instance, the municipal council and board of education, 80% served more than one term, and 41% served more than three terms. Therefore, although the councils and agencies local notables served on were legally subordinate to a district governor or deputy judge who was always from outside Salt, their local knowledge as well as their multiple terms of service must have afforded them extensive influence on the councils, and therefore in local government. In fact, they effectively took on bureaucratic positions themselves, becoming the foundation of local Ottoman government in Salt.<sup>27</sup>

Besides noting the name of the deputy judge who also chaired the court of first instance, the provincial yearbooks do not elaborate the personnel of the Sharia court, which was also involved in property relations as we will see below. However, the Sharia court registers themselves show that there was overlap between the personnel of the Sharia court and the town's numerous councils, placing the Sharia court firmly within the sphere of authority of the local notable bureaucrats.

After 1890, when Salt was detached from the Balqa province and many of its own government bodies became more elaborate, the yearbooks name a certain Rihan Ağa as deputy (*mübaşir*) at the court of first instance. From the Sharia court records, we know that Rihan Ağa was from the Abu Halawa family in Jerusalem, although we do not know how long he had lived in Salt. Although he did not seem to have a permanent title in the Sharia court, rather referred to as "mübaşir Rihan" in reference to his job at the court of first instance, he was a constant presence performing routine duties like identifying witnesses (*ta'rif*), verifying witness testimony (*tazkiya*), and witnessing court proceedings (*shuhud al-hal*).<sup>28</sup> Since the courts were located in the same building,<sup>29</sup> it would have been easy for Rihan Ağa to move between them along with the deputy judge himself to perform these everyday functions. There were also a number of other local notables who appeared regularly at the Sharia court to perform such functions.

Although these were not, as far as we know, paid or appointed personnel, their roles in the everyday proceedings of the Sharia court were crucial. In fact, the continued presence of certain notables in the Sharia court and the fact that they were the same men serving on Salt's

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<sup>25</sup> For a profile of this community, see Eugene Rogan, *Frontiers of the State*, Chapter 4.

<sup>26</sup> *Salname-i Vilayet-i Suriye*, Vols. 1-31, 1285-1317, 1868-1900.

<sup>27</sup> For other examples of the late Ottoman bureaucratization of local notables, see Mundy and Smith, *Governing Property*, 97-102. For the importance of councils in providing experience in representative government generally, see Jun Akiba, "The Local Councils as the Origin of Parliamentary Government in the Ottoman Empire," in *Development of Parliamentarism in the Modern Islamic World*, ed. Tsugitaka Sato (Tokyo: The Toyo Bunko, 2009), 176-204; Rogan also argues that merchants in Salt controlled Ottoman governing agencies. Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 118-120.

<sup>28</sup> Records referencing Rihan Ağa include Salt Sharia Court Records (SSCR) Volume 5 Record 28, 4 B 1315/29 November 1897; SSCR Volume 3 Section 2 Record 9, 26 Ra 1306/30 November 1888; SSCR Volume 3 Section 3 Record 19, 11 Ca 1308/23 December 1890.

<sup>29</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 61.

governing councils calls into question the idea that the deputy judge had any firmer hold on the workings of the Sharia court than he did on those of the court of first instance, where his influence was structurally mitigated by the presence of elected local notable bureaucrats as well as paid professionals.<sup>30</sup> It also shows that these entities were complementary not only in terms of their legally defined spheres of authority, but in terms of their everyday workings and personnel. The pool of individuals serving in the Sharia court was much wider than those serving on the various judicial and administrative bodies because of the varied identities of litigants – i.e. litigants referred to as nomads would often call witnesses from their own communities who would be verified by at least one member of the same community. However, many of the individuals who appeared on the administrative, judicial, and municipal councils as well as the board of education were also Sharia court mainstays.

The bureaucratic career of Musa Effendi Shaban, identified in Sharia court records as a Christian from the town of Salt, provides a window into the varied nature of merchant/landowner notable bureaucrats' work in the Salt government. Shaban's career as recorded in the provincial yearbooks spanned 22 years, from 1876 to 1898, and the Salt Sharia court records show that he continued to participate in the business of local government until at least 1904. Despite the institutional barriers to serving consecutive terms on the administrative and judicial councils,<sup>31</sup> Shaban served eleven consecutive terms on the administrative council between 1876 and 1887 and also served on the court of first instance in 1895 and 1896.<sup>32</sup> Shaban was also active in the Sharia court, providing services such as witnessing property transactions, identifying litigants, and giving witness testimony into the early twentieth century.<sup>33</sup> His career, while unique in his intensive participation on the administrative council, gives some impression of the extensive influence Salt's new bureaucratic class had over the business of local government.

With exceptions like Shaban, many of the notable bureaucrats were from families whose histories living in Salt were relatively short. The members of the councils did not include the people who were often the main parties to land conflicts: cultivators, nomads and immigrant refugees. However, the notable bureaucrats did not stand outside of these conflicts: their commercial and landholding interests were closely intertwined with the patterns of production in the district and they also sometimes found themselves in direct conflict with producers, many of whom they contracted in mortgage-based debt arrangements. Musa Effendi Shaban, for example, initiated a claim in the Sharia court against Sulayman bin Furayj, identified as a member of the Wiraykat Adwan Bedouin group, for an unpaid debt of wheat in October 1898.<sup>34</sup> This claim registered his involvement in Salt's lucrative wheat market, a market controlled largely, although not entirely, by merchants who provided cash capital to producers identified in the records as pastoral nomads and settled cultivators.<sup>35</sup>

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<sup>30</sup> For studies documenting the importance of the roles of notables in early modern Sharia courts, see Ronald C. Jennings, "Limitations of the Judicial Powers of the Kadi in 17th C. Ottoman Kayseri," *Studia Islamica* 50 (1979): 151–84. Hülya Cankabal, *Society and Politics in an Ottoman Town: Ayntab in the 17th Century* (Boston: Brill, 2006), 123–134 and 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), Chapter 4.

<sup>31</sup> These had to do with the intricacies of the multi-tiered election system for the councils. For details, see Saraçoğlu, "Letters From Vidin", Chapter 3.

<sup>32</sup> *Salname-i Vilayet-i Suriye* Vols. 8-30, 1293-1316 (1876-1898). Sha'ban served a final term on the district administrative council in 1898.

<sup>33</sup> See for example SSCR Volume 3 Section 1 Record 10, 6 Ra 1305/22 November 1887; SSCR Volume 7 Section 1 Record 103, 18 Ra 1320/25 June 1902; SSCR Volume 11 Record 151, 6 C 1322/18 August 1904.

<sup>34</sup> SSCR Volume 9 Record 39, 19 Ca 1320/24 August 1902.

<sup>35</sup> Rogan, "Moneylending and Capital Flows."

Although people described in Ottoman records as pastoral nomads and settled cultivators do not appear on Salt's governing councils in the provincial yearbooks, they were involved in late Ottoman government in Salt. Leaders of these groups played key roles in the procedures for gaining title to *mahlul* state land and the judicial processes for deciding disputes over that land, as well as in tax collection. According to the terms of the Provincial Administration Regulations of 1864 and 1871, these processes depended upon semi-elected leaders, *muhtars*, of specific administratively defined local communities as well as councils meant to represent those communities.<sup>36</sup> In Salt, these communities included quarters of the town of Salt (*mahalla*), villages in the town's environs (*qarya*) and nomadic groups or subsections of those groups (*ashira* or *firqa*) who were administratively attached to the Salt district and usually spent at least part of the year camping there. The inclusion of the "ashira" in Salt as a separate administrative group requiring its own administrative representative was a crucial element in the rise of a middling group of pastoral nomads with low-level but important positions in the Ottoman bureaucracy.

The inclusion of the *ashira*, along with villages and town quarters, as groups deserving of a representative *mukhtar* meant, first and foremost, the de facto inclusion of *ashiras* and their nomadic members within the circle of *ahali*, or local inhabitants. As discussed in Chapter 1, "ahali" was the successor to the term "reaya", referring to tax-paying producers who lived in villages. Malissa Taylor argues that in the seventeenth century, the *ahali* acquired a corporate authority that revolved around the local power to allocate individual tax burdens within the village.<sup>37</sup> In the nineteenth century, these as well as many other powers related to policing, local intelligence, and the details of production were granted to the person of the semi-elected *muhtar*.

While the *muhtar* was mentioned in an 1849 law establishing Great Councils in provincial cities, his duties were most fully elaborated in the 1864 Provincial Administration Regulation (*Vilayet Nizamnamesi*). The first article of this Regulation dealing with the duties of the *muhtar* outlined his responsibilities with regard to coordinating government tax collection among his constituents (Article 56). He was also to administer local guards and watchmen.<sup>38</sup> A three-person "elder council" (*ihitiyar meclisi*) was to be elected for each local community, with the power to distribute tax burdens within the community, monitor its cleanliness and hygiene, facilitate agricultural production, and settle disputes within the boundaries of the law (this last power would be rescinded with the development of the Nizamiye court system in the 1870's). The second to last article of the law dealing with the *muhtar*'s duties clearly stated that the *muhtar* was to both communicate the content of imperial laws to his constituents and provide information about the local community to his administrative superiors in the Ottoman provincial bureaucracy (Article 61). The final article, while noting that *muhtar* terms would last only one year, noted that *muhtars* committing legal offenses would be subject to dismissal.<sup>39</sup>

The lowest unit of rural administration stipulated in the Provincial Administration Regulation is the village, and the law generally envisions *muhtars* being elected for village communities. The law also refers to a smaller group, the "segment of inhabitants" within village communities and town quarters, when laying out the procedures for electing *muhtars*. While in

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<sup>36</sup> The specific procedures for land transactions are laid out in the Land Title Regulation (Tapu Nizamnamesi) of 1859. For the role of the *mukhtar*, see Article 3. *Düstur: I. Tertib*, vol. 1 (Istanbul: Matbaa-yi Amire, 1289), 300.

<sup>37</sup> Taylor, "Fragrant Gardens and Converging Waters," 66.

<sup>38</sup> The law mentions "*bekçi* and *korucu*", the latter being used mainly for guards of pastures and meadows kept for private use.

<sup>39</sup> *Düstur: I. Tertib*, 1289, 1:618–620.

other laws the idea of “segment” seems to refer to religious groups, it could also have been used to justify the election of *mukhtars* for *aşirets*, or in many cases in Salt, smaller groups within *aşirets* referred to as “*firkas*”. Johann Büssow stated in his work on Hamidian Palestine that *mukhtars* were to be elected for “a variety of local communities, which were defined either territorially or by ethnic and cultural characteristics.”<sup>40</sup> Gabriel Baer, in his work on village *mukhtars* in Palestine, argued that because the term “*sınıf*” (segment) does not specify the character of the groups to elect *mukhtars*, the “Ottoman legislator intended the existing traditional groups to be represented by the holders of the new office.” He notes that this departed from the intended territorial focus of the Provincial Administration Regulation, but argued that “the Ottoman government apparently was compelled, at that stage of the reforms, to base the administration partly on traditional units.”<sup>41</sup>

In Salt, the inclusion of *ashiras* and *firqas* as administrative units for which *mukhtars* were elected meant that leaders of nomadic communities who camped seasonally or year-round within the district, and not just the shaykhs of larger *ashiras*, were granted these important powers with regard to the daily maintenance of Ottoman power. Because of the lack of Ottoman census figures at the level of detail necessary for the period, it is difficult to make this argument quantitatively. A detailed census of the Salt district prepared in 1915 lists the “general villages and *ashiras* of the district” and includes sub-sections (*firqas*) of the Abbad group, for example, numbering between 500 and 1000 people, with some *firqas* having much smaller numbers (see Appendix B). In general, the population of both *firqas* and villages was under 1000 as listed in 1915, and may have been under 500 when these reforms were first instituted in the 1880’s.<sup>42</sup> Article 54 of the 1864 Provincial Administration Regulation stipulated that villages with less than twenty households, perhaps between 100-150 people, would only elect one *muhtar*.<sup>43</sup>

In Salt and elsewhere, the *mukhtar*’s most important duty was confirming claims to land right and coordinating tax collection within his community. In order to register land at the property administration office and receive an official title deed, individuals presented certificates from their *mukhtars* attesting to their longstanding and unchallenged control, and legally cultivation, of that land. This was the process for establishing prescriptive right (*hakk-ı karar*), which as we know from the previous chapter was crucial if those seeking title wanted to avoid paying the land’s market price to the property administration office.<sup>44</sup> Beyond their key duties in property administration, *mukhtars* in Salt were also mainstays at the Sharia court, providing testimony, verifying witnesses, and performing many of the same services otherwise controlled by the bureaucrat notable class discussed above. It is likely that they played similar roles at the Nizamiye court of first instance, although the lack of surviving records from that body leave this point open to question. While their resources were more limited than those of the bureaucrat notable class and their participation in local government did not extend to the councils, these local leaders formed an important middling group who took on lower level bureaucratic roles in the elaborating administration.

One of the key arguments of this dissertation is that in terms of everyday Ottoman administration, this group of *mukhtars* comprised the important players among pastoral nomads

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<sup>40</sup> Büssow, *Hamidian Palestine: Politics and Society in the District of Jerusalem, 1872-1908*, 74.

<sup>41</sup> Gabriel Baer, “The Office and Functions of the Village Muhtar,” in *Palestinian Society and Politics* (Princeton: Princeton University Press, 1980), 103.

<sup>42</sup> BOA.DH.EUM.KLU 9/15, 13 Ağustos 1333/26 August 1915

<sup>43</sup> *Düstur: I. Tertib*, 1289, 1:618.

<sup>44</sup> See for example DLS Salt *Defter-i Tahsilat* Volume 18/1/1, Page 136, Entry 9, Ağustos 1311/August 1895 *yoklama*.

during the Hamidian period. In his recent review of Transjordan's social and economic history, Tariq Tell argued that a "local administrative elite" emerged from "the tribal aristocracy and the larger merchant landowners" in the Balqa region in the Hamidian period.<sup>45</sup> This notion of the Ottoman bureaucratization of a "tribal aristocracy", and their simultaneous transformation into large landowners in the wake of the 1858 Land Code, is not a new one and is not confined to the Salt region.<sup>46</sup> Like in other areas of the empire, it was not that the elites of the first half of the nineteenth century disappeared.<sup>47</sup> Dhiab al-Humud's son Ali did retain his Ottoman salary, register a large amount of land in his own name and become an *ağa*, and a line of Bani Sakhr shaykhs also created expansive plantation farms and became directors of the nahiye of Jiza south of the Balqa.<sup>48</sup>

However, what happened in Salt was more complex and multilayered, because it was not only the "tribal aristocracy" who gained administrative positions and land. The Hamidian reforms also created a group of lower-level nomadic leaders who registered smaller amounts of land and became Ottoman *mukhtars*. Johann Büssow noted "lower-ranking" representatives of nomadic groups negotiating with state agencies in Mandate Syria,<sup>49</sup> but I argue that the seeds of this development lie in the Hamidian period. For groups like the Adwan and Abbad, middling *mukhtars* would be much more important for completing the administrative requirements of participating in Salt's economy, the main point of interaction with modern state structures, as the Hamidian period progressed. For the Abbad and other groups who had not enjoyed good relations with the Ottoman authorities prior to the 1870's, these reforms would mean their first entry into Ottoman administrative positions. During an interview in the late 1980's recorded in his book, an elder from the Abbad Duwaykat group expressed to anthropologist Andrew Shryock the importance of this shift in Ottoman relations with Bedouin in the Salt district, describing how previously there were only a few shaykhs, but after the time of his father in the early twentieth century, "every clan had its own *mukhtar*...nowadays everyone is a shaykh. Now, there is a shaykh in every house. Before, there was only one, two or three."<sup>50</sup>

One of the main reasons for this expansion was the administrative appointment of *mukhtars* of sub-sections of *ashiras* who represented a similar number of people to *mukhtars* of villages or town quarters. This practice meant that like in other communities, the state-sanctioned bureaucracy within pastoral nomadic communities expanded to include more individuals with more diverse means of livelihood and direct, often close familial connections to their constituent producers. The intimate and intrusive style of this governance is obvious in the 1915 census reproduced in Appendix B, in which many listed *aşirets*, each of which presumably elected a *mukhtar*, included less than 100 individuals. In what follows, I will illustrate this trend through a brief sketch of the Wiraykat Adwan family, whose involvement in Ottoman administration expanded in the Hamidian period.

### Nomadic Bureaucrats: The Wiraykat Adwan's Role in Ottoman Administration

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<sup>45</sup> Tell, *The Social and Economic Origins of Monarchy in Jordan*, 45.

<sup>46</sup> See my discussion of the work of Hanna Batatu and other social historians in the Introduction.

<sup>47</sup> Michael Meeker, *A Nation of Empire: The Ottoman Legacy of Turkish Modernity* (Berkeley: University of California Press, 2002).

<sup>48</sup> For a narrative of the life and work of Sattam al-Faiz and his sons, see Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, Chapter 10.

<sup>49</sup> Johann Büssow, "Negotiating the Future of a Bedouin Polity in Mandatory Syria: Political Dynamics of the Sba'a-'Abada During the 1930's," *Nomadic Peoples* 15, no. 1 (2011): 70-95.

<sup>50</sup> Shryock, *Nationalism and the Genealogical Imagination*, 133.

In September 1894, Rufayf Wiraykat al-Adwan, his paternal cousin Minakid and five of his relatives left their encampment in the neighborhood of Abu Nusayr,<sup>51</sup> north of the village of Amman, to conclude business affairs in the district capital of Salt.<sup>52</sup> While in Salt, they visited the house of Habib Effendi, the district tax collector.<sup>53</sup> This was probably only one of many stops in town during what would have been a busy period of drawing up contracts with Salti merchants for the following year's wheat harvest. 1894 had been a good year for Wiraykat wheat, and Rufayf and Minakid, as the leading landowning men in the family, were constantly fielding requests from merchants in Salt for advanced purchase contracts. Unfortunately, Habib Effendi the tax collector had also noticed this, and Rufayf had promised to bring his relatives to Salt and stop by Habib Effendi's house to pay the annual Wiraykat taxes on their wheat fields before the family began preparing to move down to the Jordan valley for the winter.

They had agreed beforehand as to the amounts each family would pay: each of the seven leading Wiraykat men would pay in proportion to how much land he managed. According to this agreement, Rufayf's relatives Raja and Fadl each owed 288 piasters, but they did not have enough cash on hand to pay.

Rufayf's first paternal cousin, Minakid, who was the wealthiest man in the family, had agreed to cover for Raja and Fadl if they requested that the tax collector himself act as guarantor for the loan. Habib Effendi was from Damascus, but he had been tax collector in Salt for the past four years. Considering that roughly half the town owed him money, Minakid thought Habib Effendi was in Salt to stay and would have the money to pay him back if his relatives failed to. Habib Effendi agreed to act as guarantor, and the Wiraykats settled the tax debt in the shaded courtyard in front of his house.

This was, in any case, Minakid and Rufayf's version of events when the debt came up in two Sharia court claims six years later.<sup>54</sup> Minakid began by making a claim against his relatives, Fadl and Raja, saying they had never paid back the debt and producing witnesses who described the deal concluded in Habib Effendi's courtyard. Minakid got his court ruling, but Raja and Fadl returned the following week with a claim against Rufayf – they did not dispute that they owed 288 piasters for the taxes on land they farmed on 1894, but they claimed they had given the money to Rufayf and he had never paid the tax collector.<sup>55</sup> Rufayf's defense belied the deep rifts this and probably other issues were causing among the Wiraykats: he said he had a long-standing quarrel with Fadl and Raja, and that because of their fight he had gone so far as to leave the Wiraykat encampment to stay with his Adwani relatives, the Nimrs. This claim was not resolved in court, but was left hanging without a ruling, as if the men suddenly decided things had gotten too personal and failed to attend the next court session.

While we have no way of knowing what exactly was causing the rift between the men of the Wiraykat, the existing archives do leave some clues. The Sharia court records and the land

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<sup>51</sup> The 2011 parliamentary elections featured many Adwan candidates from Amman's fifth district, where Abu Nusayr falls, and recently deceased Salih al-Wiraykat al-Adwan was elected to the lower house of parliament in those elections. His brother, Abd al-Latif al-Wiraykat, is the former Jordanian Minister of Health.

<sup>52</sup> For recent stories and views of Wiraykat members, see Shryock, *Nationalism and the Genealogical Imagination*, 196–210.

<sup>53</sup> *Salname-i Vilayet-i Suriye* Vols. 26-27, 1311-1313 (1894-1896)

<sup>54</sup> SSCR Volume 5, Page 119, Record 122, 15 S 1315/16 July 1897. Habib Efendi Faris is listed as the financial director (*mal müdürü*) in Salt between 1890 and 1898.

<sup>55</sup> SSCR Volume 5, Page 122, Record 124, n.d. Based on the records around this one, which is missing a date because the ruling is missing, it was recorded sometime in mid-1899.

records suggest that Rufayf, as *mukhtar* of the group, and his paternal first cousin Minakid, were on the rise financially and politically. As *mukhtar*, Rufayf would have been responsible not only for allocating tax burdens and making sure the tax collector got paid, but also for the crucial job of verifying Wiraykat claims to prescriptive right over land at the local property registration office. This verification would allow Wiraykats both to register their land while paying only minimal fees and to cash in, either by selling the land to the speculative merchants flooding Salt or by completing formal mortgage contracts. Not only that, it would secure their land claims against those of the ever more present government, whose agents seemed to be constantly scouting for land they could claim as *mahlul* and “empty.” Some of this “empty” land would end up allocated to Circassian refugees through provincial and imperial decree, decrees the Adwan and other local nomads could only protest with weapons.<sup>56</sup>

Rufayf’s first paternal cousin Minakid (see Figure 2.1) on the other hand, followed in his father Dawjan’s mercantile footsteps. In the late 1870’s, both Dawjan and his brother Hamad, Rufayf’s father, had been among the first Wiraykats to register the land they controlled in the Abu Nusayr region with the Ottoman authorities. Hamad and Dawjan, sons of Sulayman al-Wiraykat, each registered 300 donums, Dawjan in two entries and Hamad in three, in the first land registration conducted in Salt in 1879. Hamad’s son Ghishan also registered 200 donums in two entries.<sup>57</sup> These registrations were not atypical; while Ali Ağa, son of Dhiab al-Humud, registered a total of 2401 donums, most other individuals identified as members of the Adwan registered smaller plots in 100 or 200-donum chunks.

We may never know why the Wiraykat brothers decided to register their lands with the Ottoman authorities, but it may have had to do with the ability to legally mortgage property in their control. In the 1880’s, Dawjan Wiraykat began mortgaging the land he controlled in the area to newly arrived merchants from Nablus as collateral on advanced purchase contracts for wheat. In short, the merchants provided cash and Dawjan, at the end of the growing season, directed wheat from his fields to be delivered to the merchants after threshing. The merchants Dawjan dealt with, Raghīb Shamut and Dawud Mihyar, were some of the most powerful notable bureaucrats in Salt. Beyond his extensive commercial activities in Salt’s wheat, barley and clarified butter markets, Raghīb Shamut served on the district’s board of education for eight terms between 1885 and 1898. Dawud Mihyar, also a prominent merchant, also served eight terms on the board of education in addition to one term on the court of first instance and one term on Salt’s municipal council during the same period.<sup>58</sup>

In February 1887, Dawjan al-Wiraykat completed an advanced purchase contract of wheat with these merchants in the Sharia court, promising to provide them with 80 kayls (about 5,760 kg) of wheat within five months in exchange for 70 Mecidi Riyals (1680 kuruş) up front. Attached to this amount was a mortgage agreement: if Dawjan did not provide the promised wheat, the merchants would gain control of two pieces of agricultural land he claimed he farmed and had usufruct rights over.<sup>59</sup> One of these pieces of land was mentioned in the 1879 land registration,<sup>60</sup> the other was not. While the Sharia court record made no mention of formal title

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<sup>56</sup> On conflicts between Bedouin and Circassians over land, see Rogan, “Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914,” 117–118.

<sup>57</sup> Salt *yoklama* Volume 1, page 7, entries 170-176. On the Salt *yoklama* volumes, see Note 75.

<sup>58</sup> *Salname-I Vilayet-I Suriye* Vols. 17-30, 1302-1316/1885-1898

<sup>59</sup> Khuraysāt and Dāwūd, *Sijill Mahkamat Al-Salt Al-Shar’iyah: 5 Dhī Al-Qa’dah 1302 H-Ghurrat Rabī’ Al-Thānī 1305 H, 1885-1888 M*, 204 Section 2 Record 13, 25 Ca 1304/19 February 1887.

<sup>60</sup> It is actually quite difficult to ascertain whether the piece of land mentioned in the Sharia court register is the same as the one mentioned in the land registry. Each of these records identify land using borders and the borders do not

for either piece, the fact that the Wiraykats held title to lands in the vicinity surely bolstered the merchants' acceptance of it as collateral.

It would seem that this initial contract was a successful venture, because a year later Dawjan completed another mortgage of the same *miri* land in the Sharia court to the same two notable bureaucrats. This time, rather than registering an advanced purchase contract, Dawjan al-Wiraykat sold the land to Shamut and Mihyar temporarily for a period of seven months in exchange for 132 Mecidi Riyals (3,168 kuruş), which he was obligated to repay at the end of the period of temporary sale.<sup>61</sup> This contract also specified that Dawjan had inherited the land from his father, again making no mention of title from the property registration office. As I will argue below, these mortgages of *miri* land, some of it registered and some not, completed in the Sharia court are examples of Salt's "extra-state" land market.

These two successive mortgages to merchants in the 1880's could signal that Dawjan al-Wiraykat was entering a cycle of debt and likely to lose his landed property. It is not clear when exactly Dawjan died, and his probate inventory has not been uncovered. However, the story of the financial rise in the 1890's and 1900's and his nephew Rufayf's position as *mukhtar* of the Wiraykat indicate that Dawjan's commercial relationships with Salt's merchants probably paid off. Minakid Dawjan al-Wiraykat was one of the few Saltis described as producers, whether pastoral nomads or cultivators, who managed to become a creditor during this period. His loans to his relatives Raja and Fadl in 1897 were the first example of his activities as a lender of cash to Wiraykats who needed to pay their taxes. However, the Sharia court registers show that Minakid also became a creditor in the commercial realm in the early twentieth century; in September 1902, he registered a claim against another member of the Wiraykat who had borrowed wheat from him with the guaranty of Sulayman al-Faraj, the same individual who borrowed from Musa Effendi Sha'ban in the example cited above.<sup>62</sup>

While it seems that Sulayman al-Wiraykat's grandsons became creditors in their own right, they also maintained their roles as producers in the local markets for both wheat and clarified butter, an animal-based product usually provided by pastoral nomads. In September 1904, Habib Effendi Faris, the former tax collector, registered three claims in the Sharia court against Wiraykats, including Dawjan's sons Sulayman and Minakid, for debts related to advanced purchase contracts of wheat and clarified butter as well as loans of cash.<sup>63</sup> These claims illuminate the blurred lines between financial relationships based mainly on taxation and those related to Salt's commodity markets.

While assessing the financial position of the Wiraykats vis-à-vis the merchant notables or other Adwan members in Salt is quite difficult given the existing sources, there is evidence that they were able to cash in on their control over land in the district towards the end of the Ottoman period. As will be explained below, the Sharia court in Salt stopped sanctioning land transactions after the property registration office became functional in the 1890s. However, litigants continued to draw up contracts in the Sharia court for agents (*wikala*) to complete sales of land with the property registration office, a task that was under the court's legal authority according to the division of labor set out in imperial regulations. In 1912, Rufayf appointed an

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match, but since the borders are usually quite vague or refer to the land of other individuals the land could be the same. The Sharia court records also do not typically specify the size of the plot in question, so the plot Dawjan mortgaged could have been a piece of the plot he registered in 1879.

<sup>61</sup> SSCR Volume 3, Pages 5-6, Record 7, 13 Ca 1305/27 January 1888. This contract followed the terms of the bey' bil-vefa as stipulated in the 1858 Land Code which legalized mortgaging *miri* land, although not in Sharia courts.

<sup>62</sup> SSCR Volume 9, Page 53 Record 84, 20 C 1320/24 September 1902.

<sup>63</sup> SSCR Volume 11, Pages 201-203, Records 170-172, all on 3 B 1322/13 September 1304.

agent to complete the sale of a piece of land in Abu Nusayr to a Christian from the village of Rumaymin for 56 French liras, or 6,672 piasters.<sup>64</sup> The following month, Minakid's brother Sulayman sold three pieces of land totaling 140 donums to a resident of Salt for 80 French liras, or 8,960 piasters.<sup>65</sup> Because of the lack of a comprehensive survey of the region's land at this time, it is impossible to know how significant these lands were to the family's assets. However, the sums they gained through selling off land were significant for the period.

Although they appointed agents to sell land like many other citizens of Salt, Sulayman's grandsons also visited the land office to increase their holdings in the vicinity of Abu Nusayr. Dawjan's sons Minakid, Sulayman, Mohammad and Minawir continued extending their holdings around Abu Nusayr, registering lands by proving longstanding usufruct right and cultivation (prescriptive right) with the relevant authorities, paying the required fees (but not the market price) and receiving title.<sup>66</sup> Hamad's sons Rufayf, Qasim, 'Iz, Muhammad and Ali also appear in the surviving records performing similar transactions.<sup>67</sup>

This branch of the Wiraykat family was involved in a number of the same kinds of administrative and legal services at the Sharia court that the notable bureaucrats performed. In the late 1880's, Hamad's son Ghishan appeared as a witness to two different property sales, one involving Wiraykat members and one involving a house in Salt that he did not seem to have any other connection to.<sup>68</sup> Similarly, Minakid verified the identity of a litigant in an inheritance dispute between Christians in 1903, and verified the testimony of witnesses from two other pastoral nomadic groups who supported the claims of an Adwan man in an animal theft case in 1908.<sup>69</sup> He was also appointed legal guardian of a minor from the Nimr section of the Adwan, along with a resident of Salt, in 1902.<sup>70</sup> Significantly, Minakid was named as a witness testifying in support of a merchant with two debt claims against other members of the Wiraykat in 1907.<sup>71</sup> Unlike his first cousin Rufayf, Minakid Dawjan was never specifically identified as a *mukhtar* in the Sharia court records. However, his prominent position and varied activities in court imply that he may have taken the title on after his cousin.<sup>72</sup>

In February 1913, Minakid's children and siblings visited the property administration office in Salt to confirm their inherited rights to four pieces of land and a garden after his death in October 1912.<sup>73</sup> The entry in the property register is a prime example of the way various governing entities in Salt worked together to determine property right. Minakid's heirs first had to present a document certifying his death and their rights as inheritors issued by the Sharia

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<sup>64</sup> SSCR Volume 8, Section 2, Page 14 Record 12, 9 Za 1330/20 October 1912.

<sup>65</sup> SSCR Volume 8, Section 2, Page 23 Record 21, 19 Z 1330/29 November 1912.

<sup>66</sup> DLS Salt *Defter-i Hakani* Volume 30/1/2, Page 76, Entry 10, Nisan 1318/April 1902; Volume 31/1/2, Page 77, Entry 39, Teşrinisani 1320/November 1904 *yoklama*; Volume 32/1/2, Page 346, Entries 6-7, Kanunuevvel 1328/December 1912.

<sup>67</sup> DLS Salt *Defter-i Hakani* Volume 30/1/2, Page 49, Entries 8-9, Eylül 1317/September 1901 *yoklama*; Volume 31/1/2, Page 115, Entry 24, Teşrinievvvel 1321/October 1905; Volume 32/1/2, Page 350, Entries 22-23, Kanunuevvvel 1328/December 1912.

<sup>68</sup> SSCR Volume 3, Page 98 Record 145, 10 B 1306/12 March 1889; Page 144 Record 204, 3 Ş 1307/25 March 1890.

<sup>69</sup> SSCR Volume 11, Page 32 Record 33, 22 C 1321/16 August 1903.

<sup>70</sup> SSCR Volume 7, Section 1, Record 158, 8 B 1320/11 October 1902.

<sup>71</sup> SSCR Volume 13, Page 72 Record 32 and Page 73 Record 33, 23 Za 1325/28 December 1907.

<sup>72</sup> Because the provincial yearbooks do not mention the names of *mukhtars*, identifying *mukhtars* or knowing how long they served is difficult because it depends on whether they were identified as such in the Sharia court records. The land records consistently specify that *mukhtars* verified land control, but they do not name specific *mukhtars*.

<sup>73</sup> DLS Salt *Defter-i Hakani* Volume 30/1/2, Page 414, Entry 115, Şubat 1328/February 1913.

court. They also had to present a document from the *mukhtar* of their group, whose name is not provided in the records, certifying that Minakid indeed held usufruct rights over the land in question. The property administration office itself then performed an on-site investigation and adjusted the borders listed on the title deeds, and this entire procedure was approved in two separate decisions of the administrative council in Salt. Finally, the parts of the land Minakid himself owned were split between his three sons and three daughters, and new deeds reflecting the change in borders were drawn up for his siblings showing the land that remained in their control. The following section will further outline the various roles of these legal and administrative entities both in determining rights over *miri* land and in settling disputes over that land.

This section has shown the key roles one family of pastoral nomads played in the governance of the Salt district during the Hamidian period. While they were not involved in the governing councils controlled by notable bureaucrats introduced above, who were largely merchant financiers, they were central to the everyday bureaucratic activities other members of the Wiraykat undertook: registering land in their control, defending their rights in court, and haggling over tax burdens. Further, Minakid Dawjan's activities as a creditor in particular show that the Wiraykats were able to profit from their positions in the new Ottoman administrative apparatus, becoming, along with other families of *mukhtars*, a "middling group" among producers. The following sections will explore how these entities functioned to sanction land control and transactions in Salt, a process that became increasingly contentious as the Hamidian period progressed.

### **Forum Shopping or Legal Savvy? Maintaining Control over Land in Hamidian Salt**

During the Hamidian period property, and state (*miri*) land in particular, was the key issue vexing legal forums and government agencies in Salt and beyond.<sup>74</sup> Many government entities were involved in regulating control over *miri* land in late Ottoman Salt, including the Sharia court, the judicial council/court of first instance, the administrative council, the property administration and the group of *mukhtars* introduced above. At first glance, it would seem that this multiplicity is evidence of the pluralistic nature of the late Ottoman legal environment and a wide range of litigant choice in terms of registering and defending control over land, especially since the Sharia court's role in the process was legally questionable. However, in this case a closer look at locally produced documents implies that the Sharia court, the councils and the administrative agencies played distinct roles and represented distinct opportunities to litigants.

The earliest signs of a property administration in Salt operating according to central imperial law, most importantly the 1858 Land Code and 1859 Tapu Regulation, are five volumes of initial land registrations (*yoklama*) among two of the main parties to later conflict over land, pastoral nomads and Circassian immigrants, dating from the late 1870's and early 1880's.<sup>75</sup> These are the records in which Sulayman al-Wiraykat's sons, Dawjan and Hamad, made their

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<sup>74</sup> Huri İslamoğlu has stressed the relevance of the idea of the nineteenth century as the "age of property" in the Ottoman context. İslamoğlu, "Property as a Contested Domain: A Reevaluation of the Ottoman Land Code of 1858," 7.

<sup>75</sup> These volumes, referred to here as Salt *yoklama* Volumes 1-5, seem to have been lost or misplaced during the moving of the Salt property registers to the Amman Department of Lands and Surveys. I would like to thank Eugene Rogan for providing me with his personal copies. On the *yoklama* process, see Mundy and Smith, *Governing Property*, 70-3. For a more detailed account of these initial registers, see Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914."

initial land registrations in Abu Nusayr. The records detail how these registrations were carried out in accordance with an order from the provincial governor's office in Syria and include signatures that provide an idea of the wide range of district authorities involved: the district governor, the deputy judge, the district mufti, the financial director (*müdiir mal*), the survey scribe (*tahrirat katibi*), two or three members of the district administrative council, the property administration official (*tapu katibi*) and his deputy.<sup>76</sup>

There are no existing property registers detailing transactions between individuals until two tax volumes (*defter-i tahsilat*) from the 1890's followed by regular title registers (*defter-i hakani*) that cover the remainder of the Ottoman period. Beginning in January 1895, the tax registers outline a process for initial registrations of *miri* land whereby the individual wishing to gain title to the property would present a certificate (*ilmühaber*) attesting to his longstanding control over that land issued by the *muhtars* and elders' councils of his respective community. This certificate was necessary to prove prescriptive right (*hakk-ı karar*), giving the individual the power to register the land without paying its market price to the treasury. Although the registers do not name the specific *muhtars* involved, they attest to the type of administrative process individuals like Rufayf al-Wiraykat, and perhaps his cousin Minakid, would have sanctioned. In September 1904, the district administrative council's involvement in this process also began to be listed, with individuals presenting documentation from both their local *mukhtars* and from the district administrative council to prove prescriptive right at each new initial registration of title to *miri* land that was legally *mahlul*.<sup>77</sup> At the end of each month the registers again include seals representing the myriad entities required to sanction these registrations and transactions as well as the collection of taxes based on them: at least one member of the administrative council, the financial director, the property administration official, the survey scribe, the mufti and the deputy judge, who as of 1892 was described as "deputy judge and president of the Salt Sales Commission."<sup>78</sup>

Before the institution of a regular property administration registering and taxing transactions in the 1890's, records from the 1880's show that individuals took transactions of *miri* land and other types of property to the Salt Sharia court, and the court records include disputes involving property including *miri* land throughout the Hamidian period.<sup>79</sup> Indeed, the abovementioned 1887 advanced purchase contract between Dawjan al-Wiraykat and Nabulsi merchants in Salt that relied on Dawjan's *miri* land as collateral is a good example of such transactions. These records could be taken as evidence of a pluralistic system for registering and transacting in land rights, with litigants understandably choosing the Sharia court over the property administration office to carry out their business since no mention of taxes taken either at the time of transaction or annually was made in the Sharia Court. However, the documentary

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<sup>76</sup> See Salt *yoklama* Volume 1.

<sup>77</sup> Starting with DLS Salt *Defter-i Hakani* Volume 31/1/2, Eylül 1320/September 1904 *yoklama*, Page 61, Entry 22. This does not mean that the administrative council was not involved on a transaction by transaction basis before this date, but this is when its involvement began to be routinely recorded.

<sup>78</sup> DLS Salt *Defter-i Tahsilat* Volume 18/1/1, Kanunusani 1307/January 1892 *daimi*, Page 20.

<sup>79</sup> SSCR Volumes 1-3 are dedicated to recording property transactions, including transfers of *miri* land. James Reilly also found such transfers of *miri* land dating from both before and after the Land Code in the Damascus Sharia Court registers. He points out the important difference in language between sales of *mülk* property and transfers of *miri* land, which the Salt registers also conform to. James Reilly, "Shari'a Court Registers and Land Tenure Around Nineteenth Century Damascus," *Middle East Studies Association Bulletin* 21, no. 2 (1987): 158–159.

evidence points to the formal illegality of transactions carried out in the Sharia court in terms of the state-sanctioned land registration system.

While the deputy judge and staff of the Sharia court may have maintained an “open door attitude” to people wishing to record property transactions in the 1880’s before the establishment of a regularly working property administration, these transactions do not seem to have carried any lasting legal weight with that administration from the 1890’s going forward. The Salt property registers include no evidence that a Shar’i certificate (*hujja*) was accepted as documentary proof of control over land any more than a contract created between parties outside state sanctioned legal environments; rather, if an individual did not have a formal title deed (*tapu senedi*) for the property in question, he or she would have to start the initial registration process of obtaining certification from his or her community *mukhtars* and the district administrative council before being able to sell the land.<sup>80</sup> This observation corresponds to the point that the property administration’s main goal was registering state lands to individuals in order to pursue taxation – a Shar’i certificate, in this case, did not prove to the administration that an individual had paid any taxes on the land in question, and therefore was not relevant to proving longstanding control over land.

The central and provincial governments were by no means unaware of the threat to the integrity of the developing property administration, and therefore taxation, systems posed by the practice of registering transactions in Sharia courts, issuing warnings to deputy judges to discontinue the practice.<sup>81</sup> In fact, the Sharia court staff in Salt seems to have stopped issuing such certificates for transfers of *miri* land, or indeed sales of any other property, after the property administration office began registering transactions itself in the 1890’s, which makes sense considering the deputy judge’s intimate involvement with the workings of the property administration office in his capacity as “Chair of the Salt Sales Commission.”

What the existing Shar’i contracts from the 1880’s may point to, however, is the existence of an extra-state market in *miri* land that predated the implementation of the property administration in Salt,<sup>82</sup> and the intertwining of that market’s workings with long-existing Shar’i procedures for sanctioning transactions in *mülk* property such as urban plots of land, houses or shops. This corresponds to earlier findings that in the mid-19<sup>th</sup> century wealthy individuals, mainly tax farmers, began transacting in usufruct rights over *miri* land in Shar’i courts in the same way that they previously had for *mülk* property, and that the emerging title regulations and Land Code aimed to extend control over that practice by legalizing it and claiming direct tax and tithe rights on lands whose ultimate ownership (*raqaba*) had formerly reverted to the state and whose revenues had formerly been collected by tax farmers.<sup>83</sup>

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<sup>80</sup> As found by Reilly in the context of the Damascus hinterland, the Salt Sharia court did accept *tapu* deed as proof of control over *miri* land. However, the reverse does not seem to have been true. *Ibid.*, 168.

<sup>81</sup> In 1878 the Damascus Shari’a judge issued a letter to the deputy judges in courts all over Syria asking them to stop conducting land transactions in the Shari’a courts and emphasizing the necessity of completing such procedures in the land administration offices. The text of the letter appears in Dāwūd, *Al-Salt Wa Jiwāruhā*, 47. Mundy and Saumarez Smith cite an epistle of a Damascene jurist from 1867, who laments the regional practice of “incompetent” judges who “draw up invalid contracts according to *fiqh* in ignorance of their regulation by sultanic decree”. See *Governing Property*, 48.

<sup>82</sup> Rogan notes that a missionary in Karak to the South of Salt, where a regular land administration was not instituted until after the turn of the century, described land transactions carried out “in the native way”, i.e. “by a paper signed and sealed by witnesses.” Rogan, “Incorporating the Periphery” 323 n. 41.

<sup>83</sup> Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*, 155–160; İslamoğlu, “Politics of Administering Property”, 312 n. 22. For earlier attempts by tax farmers to establish freehold rights on land on which they collected revenue, see also Terzibaşoğlu, “Landlords, Nomads and Refugees,” 73.

The continuing existence of this extra-state land market in Salt throughout the Hamidian period and beyond is evidenced by a number of Salt Sharia court claims on unpaid debt contracts with *miri* land as collateral dating from the early twentieth century. The 1858 Land Code legalized using title over *miri* land as collateral against debt, but the authority to sanction these transactions was firmly under the property administration. A related procedural office had the authority to force auction of mortgaged property to compensate creditors.<sup>84</sup> However, between 1902 and 1912, 11 claims of unpaid debt with collateral of *miri* land were initiated in the Salt Sharia court. In these claims, the lender specifically noted that the mortgages had been contracted “outside the tapu system”, and in each case the lender obtained a Shar’i ruling warning the borrower to compensate the lender.<sup>85</sup>

While the Sharia court did accept the debt claims by warning the borrowers to compensate the lenders, it did not issue any kind of direct ruling about the mortgaged *miri* land in question. This was possible in the Sharia court setting because unlike in the district-level Nizamiye courts, which looked into issues other than those directly addressed by the litigants through the office of the assistant public prosecutor,<sup>86</sup> Shar’i procedure dictated that the deputy judge rule only on the issue specified by the plaintiff - in this case the debt, with the landed collateral being something of a procedural aside. However, while they had no weight in terms of the property administration’s mortgage procedures and its links to foreclosure enforcement agencies, these Shar’i rulings did serve as written agreements between individuals that recorded the use of unregistered *miri* land as collateral.

After 1891, when a regularly functioning property administration seems to have been established in Salt, the deputy judge did not directly tread on its sphere of authority in his capacity as judge of the Sharia court. In fact, in one case in July 1902, the deputy judge specifically referred a claim regarding rent of a garden to the civil section of the Nizamiye court of first instance after finding that the garden in question was classified as *miri* land, denying the plaintiff’s claim and explaining to both parties that disputes involving *miri* land were not under the authority of the Sharia court.<sup>87</sup> This argument was also used by attorneys in property disputes in the early twentieth century, who argued that property at issue in plaintiff claims was *miri*, not *mülk*, and therefore the claims should be referred to the civil section of the court of first instance and the property administration officer should be present for the hearing even if the case involved inheritance. While the 1902 case of the judge specifically ruling that a garden was *miri* and therefore not under his authority was exceptional, deputy judges in Salt consistently declined to rule on claims when one party argued that the case in question should be heard by the court of first instance, explaining that he could only issue a ruling when both parties to the case agreed to its hearing in the Sharia court.<sup>88</sup>

What then did Sharia court rulings on debt with unregistered *miri* land as collateral mean for the state-sanctioned property administration system and the late Ottoman legal system overall? Some cases did bring up the potentially problematic aspects of the Sharia courts’ implicit sanctioning of mortgages of unregistered *miri* land, seemingly compromising the

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<sup>84</sup> The property registers from the district of Salt include the oversight of this office at least from the 1890’s. See for example DLS Salt *Defter-i Hakani* Volume 30/1/2. For the imperial debates around legalizing the forced auction of mortgaged *miri* land, see Mundy and Smith, *Governing Property*, 46–7.

<sup>85</sup> See for example SSCR Volume 9, Page 81, Record 126, 14 B 1320/17 October 1902. The phrase most often used for “outside the tapu system” is “*khārij ‘an da’irat al-tābū.*”

<sup>86</sup> For more on the role of the public prosecution, see Rubin, *Ottoman Nizamiye Courts*, Chapter Five.

<sup>87</sup> SSCR Volume 9, Pages 7 and 9, Record 12, 3 R 1320/10 July 1902.

<sup>88</sup> See for example SSCR Volume 16, Page 21, 3 Ca 1328/13 May 1910, and SSCR Volume 16 pp. 117-119, n.d.

integrity of the system for regulating property control or rendering it pluralistic. In one case, the plaintiff lender learned after independently contracting a mortgage agreement with the defendant debtor that the land in question was already mortgaged to the Agricultural Bank in Salt in the official property register.<sup>89</sup> In another, a plaintiff lender wished to register a debt with the Sharia Court because the defendants had promised they would register landed collateral and mortgage with the property administration but had failed to do so.<sup>90</sup> However, in both cases, the Sharia court followed its established procedures to warn the borrowers to pay the lenders back, remaining silent, at least on paper, about the land aspects. This practice indicates that at least in the realm of adjudicating and sanctioning rights over *miri* land, the Sharia court's policy in Salt was decidedly "closed door" after the establishment of the property administration, with Sharia court personnel recognizing, and indeed actively participating in, the authority of the property administration in this realm.

It should be noted here, however, that the Salt Sharia Court hardly retreated from the "civil" realm in the late nineteenth century, as the majority of the claims it heard involved unpaid debts resulting from contracts between merchants and producers. However, more research is needed into which laws governed these contracts and whether the laws allowing litigant choice could be understood to include such claims, as well as the distinct results litigants could expect from warnings to debtors from the Sharia court vs. orders from the court of first instance – in particular whether the Sharia court was involved in enforcement systems.

Local records show that families like the Wiraykats, as well as other pastoral nomads, cultivators and merchants, registered transactions and argued disputes both at the Sharia court and the property administration office, moving between these venues with ease. It would make sense that litigants would take their business to the Sharia court in some situations and the court of first instance or property administration office in others, depending on the cost, the degree of trust they enjoyed with their co-contractors, and a host of other factors. While this process of choice does constitute forum shopping, it was not state sanctioned forum shopping. Rather, the practice of registering transactions of *miri* land with the Sharia court was explicitly illegal. In terms of disputes involving *miri* land, Sharia court procedure dictated that the deputy judge turn a blind eye to the repeated mention of a land market "outside the tapu system" in Salt. However, these cases meant that the use of unregistered *miri* land especially as collateral for loans was registered in the Sharia court records, both for the litigants themselves and for historians to return to later. In this sense, using the Sharia court to maintain an extra-state land market implies that litigants in Salt, pastoral nomads among them, understood the contours of the legal system in detail and were savvy in using its loopholes to their advantage.

### **Beyond Local Records: Land Conflict and the Administrative Council in Salt**

The records discussed above regarding registrations and disputes over land in the Salt district depict a rather smoothly running system in which the main conflict was over unpaid debts and the main players were the Sharia court and the land administration, with hints of the involvement of the Nizamiye court of first instance. This impression, created in the absence of a minute-type archive of either district-level Nizamiye court cases or the district administrative council, is complicated by reports of investigations originating in Salt that reached Istanbul for one reason or another. These reports highlight two main themes: first, they show the central role

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<sup>89</sup> SSCR Volume 19 Record 209 Page 89, 27 M 1331/6 January 1913.

<sup>90</sup> SSCR Volume 11, Page 160, Record 139, 18 Ca 1322/31 July 1904.

not only of the Nizamiye court system but also of “administrative” arms of government, specifically administrative councils and governors, at different levels of the provincial hierarchy in the process of land settlement. Second, they show that issues surrounding who controlled land among producers, most notably pastoral nomads, cultivators identified as being from Salt and refugees, were extremely conflictual and often violent. These records emphasize the challenges government agencies faced in attempting to address these issues, which seem to have been more contentious and conducive to violence than relations between debtors and creditors in Salt.

The example presented here is one of a series of investigations of officials in Salt that reached central ministries in Istanbul, most of them originating in local conflicts over land. Mehmet Ali Effendi was the district governor (*kaimakam*) in Salt from 1890-1893. In early 1893, one group of cultivators and two separate groups of notable bureaucrats from Salt submitted petitions to the Ministry of Justice in Istanbul complaining about Mehmet Ali Effendi. The cultivators complained that he had forced them off of lands near the village of Amman in order to settle a newly arrived group of Circassian immigrants. The notable bureaucrats, who included Musa Effendi Shaban introduced above, complained that the district governor had expelled them from the district administrative council even though they had received the majority vote.<sup>91</sup>

Upon request from the Ministry of Justice, the Interior Ministry ordered an investigation from the provincial governor’s office in Damascus, which responded with a lengthy report effectively absolving Mehmet Ali Effendi of any wrongdoing. According to the report, between 1889 and 1891<sup>92</sup> a new group of Circassian refugees had been sent to the Salt district from Adana following orders from the Interior Ministry. The district governor allocated *miri* lands to the immigrants that included 12,000 donums<sup>93</sup> in the vicinity of the village of Amman, where an earlier group of Circassians had settled in the late 1870’s.<sup>94</sup> At that time, a number of Salt residents made a claim that the land in question was actually in their control. The ensuing district-level investigation found that they did indeed enjoy use rights to the land and, in light of the increasing conflicts between the immigrants and the Saltis, the lands should be returned to the Saltis. In 1891-1892,<sup>95</sup> the Damascus provincial government sent an investigating official to look into the matter further and report back to the provincial administrative council.

The investigator from Damascus had reported that the lands in question were a 7-hour journey from the town of Salt, and that between these lands and Salt there were also lands claimed by three pastoral nomadic groups. The pastoral nomadic groups remain unnamed, but judging from the location of the land it is likely that they included sections of the Abbad and possibly the Adwan. The investigation found that there were constant violent conflicts between the Saltis and the nomads as they passed over each other’s lands on the way to the regions they respectively controlled. The provincial administrative council had therefore suggested a trade, with the nomads awarded legal claim to the 12,000 donums near Amman, and the Salti cultivators getting a similar amount of land closer to the town of Salt. The investigation found

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<sup>91</sup> BOA.DH.MKT 25/24, Page 3, 7 § 1310/24 April 1893.

<sup>92</sup> The report states that this investigation occurred “during the governorship of Asim Paşa”, who was the governor of the province of Syria between 1889 and 1891.

<sup>93</sup> About 2,700 acres.

<sup>94</sup> On Circassians in Jordan, see Seteney Shami, “Ethnicity and Leadership: The Circassians in Jordan” (Dissertation, University of California, Berkeley, 1982); Mohammed Haghandoouqa, *The Circassians* (Amman, 1985); Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*.

<sup>95</sup> During Osman Paşa’s governorship of Syria, between 1891-1892.

that at the time, the Saltis had agreed to this trade, and a property official had been sent from the county center, which at that time was in Hawran, to legally complete the land allocations.

The provincial governor's report to the Interior Ministry added that the land that had been given to the Saltis in the trade was both more convenient for the Saltis and more fertile than what the nomads had gotten, and that the current complaints were the result of incitement by a few "simpleminded" (*sade dilen*) individuals and did not imply any wrongdoing on the part of the district governor, Mehmet Ali Effendi. With regard to the complaint about the membership of the district administrative council, the report simply noted that appointments to the council were not the district governor's responsibility, but were rather under the authority of the county-level governor's office in Hawran. Therefore, the report found no reason to pursue legal investigations into Mehmet Ali Effendi's conduct, although the following year a new district governor was appointed to Salt.<sup>96</sup>

The file recording Mehmet Ali Effendi's case, as a representation of the provincial governor's perspective on the issue, leaves a number of central questions unanswered. Besides neglecting to name either the nomadic groups or the Salti cultivators involved in the trade, it does not address the land rights of the Circassians who were initially allocated the 12,000 donums traded between the Saltis and the nomads. Moving into the twentieth century, these conflicts over *miri* land between pastoral nomadic groups, immigrant/refugees, and residents of the town of Salt and its surrounding villages would become increasingly violent and would become the main issue various government agencies attempted to address.<sup>97</sup>

The report does, however, help illuminate the players involved in the process of attempting to resolve land conflicts. It shows the central role of provincial officials and specifically the provincial administrative council in addressing land conflicts in the Salt district. Even in the absence of an elaborated property administration based in Salt itself in the early 1890's, the Ottoman government was quick to send officials from the county-level property administration to legally conclude the provincial administrative council's recommendations. This example also illustrates the importance of the administrative council at various levels of provincial government in resolving land disputes, even though its judicial power was legally limited.<sup>98</sup> The administrative council of the 1890's, especially at the provincial level, was the successor of an institution established in the 1840's: the "great council" of Ottoman cities all over the empire, whose wide-ranging administrative and judicial responsibilities were outlined in an 1849 directive. In that directive, the council was envisioned as being intimately involved in the slow and uneven process of transferring the rights of tax farmers over agricultural lands in the empire to the central bureaucracy and its agents in the provinces.<sup>99</sup> Significantly, the council

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<sup>96</sup> See *Salname-i Vilayet-i Suriye* Vol. 26, 1311-1312/1894-95, 214. This new appointment was not unusual, as Mehmet Ali Efendi had already served three years as Salt's district governor.

<sup>97</sup> See for example BOA.ŞD 2304/6, 18 B 1326/16 August 1908.

<sup>98</sup> The 1864 Provincial Administration Regulation, which amended and clarified the duties of administrative councils at the district, county and provincial levels, specifically stated that administrative councils were not to interfere in judicial (*hukuki*) affairs. Vilayet Nizamnamesi, Article 14, in *Düstur: I. Tertib*, 1289, 1:610. In this vein Mehmet Safa Saraçoğlu's conception of a "judicio-administrative sphere" is helpful, because the line between judicial and administrative was being defined, in highly contested ways, at this time. Saraçoğlu, "Letters From Vidin," 97.

<sup>99</sup> See the 1849 Provincial Administration Regulation (Eyalet Kanunnamesi), Article 27, on the administrative council's duties with regard to auctioning of taxation rights. *Mecmua-I Kavanin (Düstur)* (Istanbul: Takvimhane-i Amire, 1851), 64. I would like to thank Safa Saraçoğlu for bringing this law to my attention and providing me with a copy.

was also to issue decisions regarding the legal status of land, especially with regard to which lands were to be considered *mahlul* and legally available for repurposing by the state.<sup>100</sup>

In the 1860's and in subsequent legislation, as the system of separate judicial and administrative arms of government was more fully elaborated, many duties of the council deemed judicial, especially in the criminal realm, were placed under the authority of the Nizamiye court system. At the same time, many of its administrative duties were taken over by various specific agencies like the Imperial Property Register Ministry (*Defter-i Hakani Nezareti*). However, as we have seen above, district administrative councils retained an important role in sanctioning property registrations and transactions, and Musa Effendi Shaban's complaints are testimony to the power council members wielded in the district.<sup>101</sup>

The fact that the Saltis chose to petition the Ministry of Justice rather than say, the provincial governor or the provincial administrative council he chaired, is also significant. This decision implies an attempt to bypass the local/provincial administrative apparatus of which Mehmet Ali Effendi was himself an employee, as well as a perception that the judicial apparatus might provide a more favorable response to the petition.<sup>102</sup> While more details of the case would be necessary to clarify this possibility, the Saltis' petition shows extensive local knowledge of a complex government apparatus whose agencies were multiplying before their eyes. Attempting to manipulate that apparatus by taking advantage of possible inconsistencies between its different arms, while not necessarily indicative of a pluralistic system, does illustrate the ways in which local producers were able to contest the elaborating legal and administrative apparatus in its own terms.

## Conclusion

This chapter has outlined the roles of the multiple government institutions involved in allocating rights to *miri* land in terms of the 1858 Land Code and adjudicating land disputes. These institutions involved the district property administration, the district Sharia court, the administrative council at various levels of provincial government, the court of first instance and the network of community leaders (*mukhtars*) whose initial approval of prescriptive right was required to register title over land. While the local governing councils and bureaucratic offices were controlled by notable bureaucrats and Ottoman officials who were mainly merchant financiers, the office of the *mukhtar* also created a middling group of pastoral nomads and cultivators. This middling group played key roles in local governance by serving as the first layer of interaction between their fellow producers and the property administration, sometimes becoming creditors in the process.

Through the story of the Wiraykat family, this chapter has highlighted the contours of the participation of pastoral nomads in local governance in Salt. Further, it has shown the important change in this participation compared to the earlier period of Ottoman indirect rule in the region,

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<sup>100</sup> Ibid., Article 46, p. 69.

<sup>101</sup> Yücel Terzibaşoğlu has extensive examples of the contested power of administrative councils in settling land conflicts in late nineteenth century northwestern Anatolia. He also details central initiatives to take these conflicts out of the hands of administrative councils and make settling them the sole responsibility of the Nizamiye courts, including a law to that effect in 1913. Terzibaşoğlu, "Landlords, Nomads and Refugees" 206–215.

<sup>102</sup> Terzibaşoğlu also found a request from the Interior Ministry to the Grand Vezier's office asking for relief of court fees for litigants who wanted to settle land disputes in Nizamiye courts, because the Ministry believed these litigants were petitioning Istanbul directly to avoid the fees. This may have been one reason the Saltis petitioned the Ministry of Justice rather than taking their claim to the district court of first instance. Ibid., 182.

when the government's local "representatives" were largely nomadic shaykhs like Dhiab al-Humud. Direct rule introduced more bureaucratic roles for pastoral nomads in local governance, and limited the participation of shaykhs at least in the Salt region. At the same time, just as Dhiab al-Humud's relationship with the Ottomans had always been fraught with questions about his loyalty, neither were the middling group of *mukhtars* simply conduits of Ottoman law. The following chapters will illuminate the complexity of the roles of *mukhtars* in conflicts over land as those conflicts became increasingly contentious and violent in the early twentieth century.

This chapter has also problematized discussions of state-sanctioned legal pluralism that have begun to dominate characterizations of the Hamidian legal environment. These conversations have mainly focused on the relationship between Sharia courts, once thought of as bastions of religious law, and the new Nizamiye courts, billed as agents of secularism. This chapter has argued that another conflict, specifically that between government entities deemed "judicial" and those deemed "administrative", was also central to the contested process of implementing the Land Code in the late nineteenth and early twentieth centuries. Both the discussions of legal pluralism and the available district-level documentation have tended to obscure this conflict, but it comes up again and again in investigations and court cases that reached Istanbul.

At the same time, this chapter has argued that in registering and adjudicating disputes over *miri* land, the Sharia court's role became decidedly "extra-state" in the Hamidian period. This does not imply that its role was diminished or unimportant either to Ottoman officials or to local litigants, but rather that scholars need a deeper understanding of what the Sharia court came to represent to litigants in various areas of law. In this case, the continuing relevance of the Sharia court to regulating control over *miri* land does not mean that the Hamidian state sanctioned a pluralistic legal system, but rather that litigants used the Sharia court as a venue to contest aspects of the legal system as it pertained to land – most notably taxation. The extra-state market implied by Sharia court records specifically contested the government's attempt to allocate control over and tax every piece of agricultural land in the empire.

Litigants' use of the Sharia court to obtain written record (albeit unenforceable) of illegal mortgages of *miri* land as shown above, as well as some local actors' attempts to bypass the local system altogether by appealing to the Ministry of Justice to regain land right, both show Salt residents' savvy in attempting to negotiate the system to their own benefit. With these examples I have argued that understanding the relative functions of different entities of the state legal system, whether in terms of registering and adjudicating rights to state land or any other issue, is key to understanding the litigant perspective.

It has often been argued that the main beneficiaries of the reformed Ottoman land regime in the Arab provinces were powerful shaykhs who registered large tracts of agricultural land in their own names.<sup>103</sup> In the case of Salt, one example of such a shaykh would be Dhiab al-Humud's son Ali, who registered 2401 donums of agricultural land in his name alone in 1879.<sup>104</sup> The story of the Wiraykat family adds nuance to this argument and shows that late Ottoman reform provided political and economic opportunities to a new "middling group" whose landholdings were smaller and whose official relationships with the Ottoman government were established through the reforms. Further, the following section will show that the office of the *mukhtar* was not uncontested in late Ottoman Salt. While new bureaucratic opportunities surely provided shaykhs with new ways to amass wealth, they also provided other nomads with new

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<sup>103</sup> See for example Owen, *The Middle East in the World Economy, 1800-1914*, 254.

<sup>104</sup> Salt *yoklama* Volume 1, Pages 3-4 entries 76-88, Teşrinisani 1295/October 1879.

ways to contest the amassment of wealth at their own expense. In this way, participation in the process of creating a modern state environment reached below the level of nomadic leaders.

## Chapter Three

### Ottoman Authority in Crisis: Land Trouble and Wayward *Mukhtars*

Early on the morning of Friday May 3, 1907, Nahar al-Bakhit, *mukhtar* of the Manasir section of the Abbad group of Bedouin in the Salt district, made the short ride from his camp in Marj Sikka to the outskirts of the Chechen refugee village of Ayn Suwaylih.<sup>1</sup> On a hill overlooking the village, he found the encampment where a large meeting was set to take place. The encampment was next to a field cultivated by the Adwan tent dwellers and it was bustling with men from all over the Salt district. Nahar greeted his colleagues from other sections of the Abbad group as well as the leaders of the Adwan and Balqawiya groups. He also greeted the leaders of the Bani Hasan group, who had made the trip from their camps in the Ajlun district the night before. A few townsmen from Salt and villagers from Fuhays were also in attendance. All of the men were armed, some with Martini rifles<sup>2</sup> that the Bani Atiya tent dwellers, who camped in the Ma'an district to the south, smuggled from Egypt through the Karak district to Salt. Nahar al-Bakhit had recently obtained one of these rifles, and he checked it frequently as he greeted his fellow Saltis.

Even for Nahar al-Bakhit, who often worked with other groups in Salt because of his Ottoman administrative position as *mukhtar* of the Manasir, this meeting was extraordinary. The Abbad, Adwan and Salti townspeople often quarreled over the district's resources, most prominently its cultivable land. However, on that Friday morning they had a common enemy. The meeting had been called the night before after a quarrel between tent dwellers and Chechen refugees had left a Bedouin man seriously wounded. The fight was over rights to land: the Chechens had stopped the Bedouin, who were trying to graze their sheep on land near the refugee village of Ayn Suwaylih that the Chechens claimed as their own and had sown with wheat. Upon hearing of the quarrel, the leaders of the Bedouin groups attached to the Salt district had decided to meet to discuss the refugee problem.

As reported to the Grand Vezir's office by the governor of Karak county, Cemal Bey, that Friday afternoon over 2,000 men descended on the small refugee village of Ayn Suwaylih and began shooting into windows and doors.<sup>3</sup> According to Cemal Bey, the "wretched" (*biçargan*) refugees were "slaughtered like sheep" (*koyun gibi boğazlarak*) with 11 refugees killed and 15 seriously wounded. However, the Chechens were also armed and fought back, with similar casualties on the Salti side. The battle lasted until after dark, and the Chechens were

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<sup>1</sup> Ayn Suwaylih was the fourth village settled by Chechens in the Balqa region and was established in 1906. Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 121; See also Dāwūd, *Al-Salt Wa Jiwāruhā*, Chapter 4; Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*, 96-123 For a 1905 photo of Wadi Sir, a nearby village settled by Circassian immigrant refugees, see Photo 3.1 in Appendix A.

<sup>2</sup> These weapons were described simply as "*Martin tüfengi*" by the local investigation into the events described here, and were assumed to have been smuggled from Egypt. They could have been Martini rifles in use by the British army at the time or American-made duplicates ordered by the Ottoman military in the 1870's. For local purposes, the important distinction was that they were rifles and not muskets. Jonathan Grant, "The Sword of the Sultan: Ottoman Arms Imports, 1854-1914," *The Journal of Military History* 66, no. 1 (January 1, 2002): 15; Lewis, *Nomads and Settlers in Syria and Jordan, 1800-1980*, 210; Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 188.

<sup>3</sup> This sketch is based on Cemal Bey's description of events, and his claim that the attack was caused by a quarrel over land that left a Bedouin man wounded. BOA.A.MKT.MHM 530/32, Page 2, 7 Mayıs 1323/20 May 1907.

victims of a major theft – the entire contents of 28 houses were reportedly stolen, as well as all of the village’s livestock.<sup>4</sup>

The next day, the Ottoman judicial authorities and police in Salt acted, taking over sixty men into custody for planning and executing the attack. Nahar al-Bakhit was among them, as well as other *mukhtars* and tent dwellers from the Adwan, Abbad, Balqawiya and Bani Hasan groups. The fallout from the attack led not only to a massive reparations project to retrieve the Chechens’ stolen goods, but to the eventual dismissal of the Salt district governor for mishandling local land conflicts and a large-scale imperial investigation of the Karak county governor, Cemal Bey, for his handling both of the conflicts and of the judicial process addressing them.<sup>5</sup> Indeed, the land problems in Salt, the ensuing attack and the problems dealing with the aftermath point to a crisis of administrative authority experienced by the Ottoman government in Syria in the early twentieth century.<sup>6</sup> This crisis was in some ways a consequence of the more intrusive methods of modern governance the Hamidian regime had instituted in the late nineteenth century. However, it was also related to escalating conflicts over land and the modern government’s inability to resolve them, its intrusive regulations and methods notwithstanding.

The idea of a crisis of authority should not be confused with oft-cited arguments for Ottoman decline or administrative inefficiency, or even for arguments that southeastern Syria was basically untouched by Ottoman rule. From the opening chapters of this dissertation, it should be obvious that by the early twentieth century, the district of Salt’s administrative affairs were conducted in terms of detailed Ottoman law. In fact, as argued in the previous chapter, the rural inhabitants of southeastern Syria were more “Ottoman” than ever, with processes of Ottomanization moving decisively out of the cities and into rural areas in late nineteenth century Syria as well as elsewhere in the Empire. *Mukhtars* of relatively small communities and their constituents were active in Ottoman courts and bureaucratic offices, defending their historical rights to resources in the terms and categories of Ottoman property law. Where direct connections to the Ottoman state had been conducted mainly by leaders of large groups in the eighteenth and early nineteenth centuries, by the late nineteenth century more rural tent and village dwellers were in direct contact with an Ottoman bureaucratic official in the form of their *mukhtars*. Ottoman administration had become markedly more intrusive and it touched a much wider swath of the population than it had in the early modern period.

The idea of a crisis of administrative authority in the early twentieth century is rather aimed at theories of the modern state that posit its practices as both top-down and all-encompassing.<sup>7</sup> In Salt, attempts to render governance more intrusive did originate with the provincial or imperial administrations. However, it has been argued persuasively that such attempts were responses to commercial transformations that the government was partly

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<sup>4</sup> Based on late twentieth century interviews, Mohammed Haghandoqa estimated Ayn Suwaylih to consist of 41 Chechen families in the late nineteenth century. Haghandoqa, *The Circassians*, 137.

<sup>5</sup> The bulk of the documentation of this investigation is in BOA.ŞD 2304/6.

<sup>6</sup> I owe the idea of a crisis of Ottoman authority in the nineteenth century to Beshara Doumani, who uses this concept to discuss the challenges to Ottoman legal authority in the mid-nineteenth century.

<sup>7</sup> In the context of Ottoman and Middle East Studies, these arguments usually draw on Foucauldian conceptions of governmentality. See Michel Foucault, “Governmentality,” in *The Foucault Effect: Studies in Governmentality*, ed. Graham Burchell, Colin Gordon, and Peter Miller (Chicago: University of Chicago Press, 1991); James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1999); For the Egyptian context, see Timothy Mitchell, *Colonising Egypt* (Berkeley: University of California Press, 1991); Khaled Fahmy, *All the Pasha’s Men: Mehmed Ali, His Army and the Making of Modern Egypt* (Cambridge University Press, 1997); For a critique, see İslamoğlu, “Politics of Administering Property: Law and Statistics in the Nineteenth-Century Ottoman Empire.”

attempting to harness for its own benefit – in Salt, for example, agricultural land began to increase in value and cultivation intensified decades before the Land Code and Provincial Administration Regulations were implemented in the 1870's.<sup>8</sup> The new low-level bureaucrats who joined the Ottoman administration in the late nineteenth century and were its linchpins in dealings with rural populations were not blank slates. They brought their interests, the interests of their communities, and a host of conflicts with them into the bureaucracy.

In what follows, this chapter will detail land conflicts in early twentieth century Salt through the life of Nahar al-Bakhit, the *mukhtar* of the Manasir group. Nahar al-Bakhit's story illustrates how Bedouin *mukhtars* were both invaluable to the late Ottoman governing system and at the same time problematic for the efficiency and indeed sovereignty of the modern Ottoman state. His story lays bare the politics of modern administration by detailing the way a low-level bureaucrat active in taxation, land survey projects and myriad everyday judicial and administrative state functions could at the same time spearhead what amounted to small-scale rebellion against larger Ottoman projects, chief among them the imperial imperative to allocate "empty" land in Syria to Muslim refugees.

After detailing Nahar al-Bakhit's life story and his involvement with the Ayn Suwaylih attack and its aftermath, the chapter moves to the district and county levels to discuss the larger crisis of administrative authority experienced in Salt and beyond in the late Hamidian period. Through detailing the imperial investigation of the governor of the county of Karak to which Salt belonged in the early twentieth century, I will show that the Ayn Suwaylih attack was only a small example of the hurdles the Ottoman government faced in its attempts to allocate land rights in Syria according to the terms and procedures of modern law. In form, the investigation of Cemal Bey is an example of the triumph of the modern Ottoman judicial system – the Nizamiye system - instituted in the 1870's. It utilized scientific experts, detailed interrogations, depositions and cross examinations recorded word for word. The investigation also relied heavily on the office of the public prosecutor, an innovation of the Nizamiye court system that Avi Rubin rightly argues fundamentally changed the processes of Ottoman justice in the late nineteenth century.<sup>9</sup>

The content of the investigation, however, depicts a modern Ottoman administration in crisis. The investigation shows how the issues of land conflict, land surveying and registration, trade and taxation of agricultural commodities, military presence, punishment for transgression and even bribery were intricately interlinked. In early twentieth century Salt, intrusive state initiatives created complex networks of individuals including *mukhtars*, soldiers, locally appointed officials and officials appointed at the provincial and imperial levels. As the investigation shows, when these individuals did not follow directives to the letter, as they tended not to, the processes of modern governance quickly spiraled into crisis. The personnel problems the Ottoman administration experienced in Salt show the legibility problems intrusive state initiatives suffered at their inception. No matter how many fast-traveling telegraphs they wrote or detailed surveys they attempted to implement, provincial and imperial officials in Damascus and Istanbul could not react to events on the ground fast enough, and the district-level officials

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<sup>8</sup> Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*; Khoury, *State and Provincial Society in the Ottoman Empire: Mosul, 1540-1834*; For Salt, see Tell, *The Social and Economic Origins of Monarchy in Jordan*, 43–44; Lars Wåhlin, "How Long Has Land Been Privately Held in Northern Al-Balqa", *Jordan?*, *Geografiska Annaler. Series B, Human Geography* 76, no. 1 (1994): 33–49, doi:10.2307/490496; Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*.

<sup>9</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, Introduction.

and *mukhtars* with social and political connections to the rural population could not seem to follow their instructions adequately. These legibility problems and the sense of desperation they entailed precipitated new techniques, and modern state policies grew out of these interactions and crises.

The investigation also shows a climate of anxiety over Ottoman sovereignty in southeastern Syria that permeated and underwrote the personnel and administrative problems the local government faced. By the early twentieth century, Ottoman bureaucrats' anxieties in Syria were focusing increasingly to the south. Considering the geography of the Husayn-McMahon correspondence just a few years later, these concerns were not unfounded. Like the anxiety over Zionist infiltration described in Chapter 1, the fear of spies and arms crossing the porous border from Egypt informed myriad decisions at the provincial, county and district levels. As the investigation of Cemal Bey shows, the rural land conflicts that higher-level officials interpreted as signs of administrative inefficiency also carried the threat of foreign intervention with them in post-1860 Syria.<sup>10</sup> In this climate, any local conflict involving Christian subjects who could appeal to foreign consuls for protection became a flashpoint of administrative crisis, and placed the Ottoman officials involved in danger of being seen as intentionally inviting foreign attention.

The investigation of Cemal Bey, a county governor, shows that the personnel problems in Salt were not limited to *mukhtars*. However, *mukhtars* were a crucial aspect of the way everyday Ottomans living in villages, encampments and towns experienced the workings of the modern state. By the 1880's, there were new imperatives in Salt to register land and other property claims, defend those claims as well as other commercial interests in court, and, perhaps most crucially, pay taxes carefully assessed both on agricultural production and livestock property. The bureaucratic mechanisms governing these processes shaped the way rural producers understood the modern state and the language and categories through which they expressed their demands. However, this focus on language and categories should not diminish the weight of the demands themselves. While *mukhtars* could act as agents who made the interaction between Ottoman agents and their tent-dwelling constituents possible, they could just as easily become the conduits for rebellion against unwanted Ottoman policy and the people seen as its main representatives, in this case Muslim refugees. The story of Nahar al-Bakhit illustrates this complexity.

### **Nahar al-Bakhit and Governance by *Mukhtar***

In many ways, Nahar al-Bakhit's story is similar to that of Minakid Dawjan al-Wiraykat and his family. The main difference has to do with the history of the relationship between the Abbad group, which Nahar al-Bakhit led a section of, and the Adwan, to which the Wiraykat belonged. The Adwan had enjoyed strong relations with the Ottoman government before the late Tanzimat reforms of the 1860s and 1870s began, evidenced in part by the petition Dhiab al-Adwan presented to the authorities in Nablus in 1853 described in the opening pages of Chapter 2. They were also in a position of power in the Salt region when Reşid Paşa initiated direct rule, and Adwani leaders, especially Dhiab al-Adwan, were the main object of his military campaigns. The Abbad, on the other hand, do not seem to have had such ties to the Ottoman state before the expansion of bureaucratic processes that began in the 1870's. In fact, they seem to have been

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<sup>10</sup> For an analysis of the 1860 conflicts in Mount Lebanon that also involved community politics and land use, see Ussama Makdisi, *The Culture of Sectarianism: Community, History, and Violence in Nineteenth-Century Ottoman Lebanon* (Berkeley, Calif: University of California Press, 2000).

regarded basically as bandits (*eşkiya*) by the Ottoman authorities, and since they were often at odds with their rivals the Adwan,<sup>11</sup> the latter's ties to the Ottoman government cannot have helped their situation.

Some members of groups like the Abbad whose ties to the Ottoman state in the early nineteenth century were tenuous seem to have benefitted from the expansion of Ottoman governance in the region mainly because the new regulations, the increasing number of Ottoman officials in the region and the expanded revenue collection processes necessitated a government representative being appointed from each sub-section of the larger group. This was not unlike the way lower-level Adwan leaders benefitted from Ottoman policy, but in the case of the Abbad it was somewhat different because the Ottoman reforms also entailed a leveling of the playing field between them, the Adwan and other local groups. Therefore, *mukhtars* were semi-elected, semi-appointed not only for the Manasir, the group Nahar al-Bakhit led, but also the Fuqaha, the Zuyud, the Jabra, the Nuaymat, and other sub-sections.<sup>12</sup> Like the Wiraykat, these groups were not large – local accounts estimate the Manasir to have included 117 households, or between 600 and 1000 people, in the early twentieth century.<sup>13</sup> These sub-sections were similar in size to villages or town quarters, the other administrative groupings from which *mukhtars* were expected to collect taxes on an annual basis according to the Provincial Administration Regulations.

Like members of the Wiraykat family, the Salt Sharia court and land records of the 1870's and 1880's show Nahar al-Bakhit participating in the local market for land and commodities both as an Ottoman citizen and as a *mukhtar*. We first meet Bakhit during the initial Ottoman registration of agricultural land in Salt in 1879. His name appears in a long list of people who were identified only as “from the Abbad *aşiret*.” In 1879, he and three other members of the Manasir registered 3000 donums (about 680 acres) of agricultural land in the Marj Sikka area of the Salt district in four equal shares, taking advantage of the government effort to register land among *aşirets* that included the incentive of waiving hefty registration fees.<sup>14</sup> If divided evenly, each of these Manasir men registered 750 donums – a far cry from the over 2000 donums registered by Ali Dhiab, but still the largest plot of land registered among the Abbad. The registration therefore implied that Bakhit was already a powerful member of the Manasir in the late 1870's.<sup>15</sup>

Bakhit resurfaces in the Sharia court records in August 1885, just as *mukhtar*-approved land transactions are becoming more prevalent in the land sales noted in the Sharia court records. In one land transaction, he is described as one of three “*mukhtars* of the Abbad”, certifying in court that another member of the Manasir had the control over a piece of land in the area of Marj

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<sup>11</sup> See for example BOA.MVL 302/98, 23 S 1273/23 October 1856/11 Teşrinievvel 1272.

<sup>12</sup> For details of the election process, see Büssow, *Hamidian Palestine: Politics and Society in the District of Jerusalem, 1872-1908*, 73–74.

<sup>13</sup> In the one detailed Ottoman census document I have found for the Salt district, completed in 1915, the Manasir are listed in two separate groups, Manasir Wadi Sir and Manasir al-Arda (these refer to two different geographical areas in the Salt district). The populations of the two groups are listed as 619 and 254, respectively, with the total population of the district totaled at 41,291. See BOA.DH.EUM.4Şb.3/72, 27 Za 1333/6 October 1915, recreated in Appendix A. In a deposition related to the case against Cemal Bey conducted in November 1907, a Manasir man is cited as stating that the group led by Nahar al-Bakhit contained 117 households – depending on the multiplier one uses, this probably meant between 600 and 1000 people. See BOA.ŞD 2304/6 Page 92, deposition of Mustafa Effendi, 26 Teşrinievvel 1323/8 November 1907.

<sup>14</sup> Salt *yoklama* Volume 1, p. 18 entry 428, Teşrinisani 1295/October 1879.

<sup>15</sup> For the breakdown of how many properties were registered by each group in the region, see Rogan, *Frontiers of the State*, 86.

Sikka necessary to sell it.<sup>16</sup> This transaction appears in a transitional period, when tent dwellers and other litigants were still asserting their control over land by claiming long-standing use rights and only beginning to bring *mukhtars*, much less documents stamped by *mukhtars*, into court. A few months later, Bakhit appeared in court again to transfer the use rights of five pieces of land in his own control to a merchant from Salt in exchange for 8000 Ottoman piasters.<sup>17</sup> While the sizes of these pieces of land are not mentioned, the price indicates that they were significant. Bakhit's participation in the land market continued around the turn of the century, when he bought a large plot from a fellow member of the Manasir in 1899 and then registered and sold a plot to Circassian immigrants in 1902.<sup>18</sup>

Like other *mukhtars* in Salt, Bakhit performed his early duties with regard to land and also sold his own land rights in both the Sharia court and the property registration office. While the borders of the land Bakhit sold in the Sharia court indicated that they were in the same neighborhood as Marj Sikka and that members of the Manasir had registered many plots in their vicinity with property registration officials in 1879,<sup>19</sup> there is no record of these particular plots in the extant land registry. This could mean either that the surviving collection of property registers is incomplete and Bakhit completed his sale in both venues, or that he was avoiding the property registration office for some reason. In either case, Bakhit's use of the Sharia court to complete his land transaction in the 1880s is exemplary of the practice of tent dwellers and inhabitants of Salt alike. As an Ottoman citizen, Bakhit was therefore typical in his administrative "forum shopping" – he was deeply involved in the local land market and used whatever forum was available and convenient to officially complete land transactions at the lowest possible cost.

As a *mukhtar*, the Sharia court records from the first decade of the 20<sup>th</sup> century show Bakhit performing myriad administrative duties for the Manasir. Many of these duties involved administering their participation in the expanding market for agricultural goods in the Salt region as detailed in Chapter 2. In 1901 and 1902, Bakhit was named as the defendant in four separate debt claims of merchants in Salt because he had acted as guarantor to members of the Manasir and Fuqaha sections of the Abbad, on advanced purchased contracts for wheat concluded between 1899 and 1902.<sup>20</sup>

The court and land records show, therefore, that Nahar al-Bakhit's tenure as *mukhtar* of the Manasir section of the Abbad tent dwellers in Salt was fairly typical of the middling group of *mukhtars* introduced in the previous chapter. He was involved in the expanding markets for land and agricultural commodities in Salt, as well as the Ottoman administrative and judicial apparatus regulating them. Taking the Sharia court records and land registers by themselves, it would seem that Bakhit's story represents a smooth incorporation of tent dwellers and other rural Ottomans into the expanded Ottoman governing apparatus.

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<sup>16</sup> SSCR Volume 2 Record 3, published in Khuraysāt and Dāwūd, *Sijill Maḥkamat Al-Salt Al-Shar'īyah: 5 Dhī Al-Qa'dah 1302 H-Ghurrat Rabī' Al-Thānī 1305 H, 1885-1888 M.* 14 Dhu l-Qa'da 1302/25 August 1885.

<sup>17</sup> SSCR Volume 2 Record 67, published in Khuraysat and Dawud, *Sijill Mahkama al-Salt al-Shar'iyya*, 99. 4 Safar 1303/12 November 1885.

<sup>18</sup> DLS Salt *Defter-i Hakani* Volume 30/1/2, p. 182, entry #1, *daimi*, and p. 184 entry #1, *yoklama*, Haziran 1318/June 1902.

<sup>19</sup> See Salt *yoklama* Volume 1, p. 20 entry 479; Volume 1, p. 19 entry 476; Volume 1, p. 13 entry 312, Teşrinisani 1295/October 1879.

<sup>20</sup> SSCR Volume 6, Page 58 Record 46, 8 Ş 1319/20 November 1901; Volume 6, Page 186 Record 161, 9 S 1320/18 May 1902; Volume 6, Page 187 Record 162, 9 S 1320/18 May 1902; Volume 6, Page 188 Record 163, 9 S 1320/18 May 1902.

Although there is no direct mention of it in the court or land records, it is important to remember that as *mukhtar* of the Manasir Bakhit also would have been closely involved in collecting taxes from the group, both the tithe on their agricultural products and the fees related to their ownership of livestock. Especially during the summer harvest months, he and other *mukhtars* would have been fully occupied by making the rounds among their constituents and delivering the money to the local treasury.<sup>21</sup> As detailed in Chapter 2, this process created a detailed paper trail that, while it does not survive, confirmed the relationships forged between tent dwelling *mukhtars* and Ottoman administrative and financial authorities through the taxation process. *Mukhtars* were pivotal for the actual carrying out of Ottoman taxation policies, and their relationships with Ottoman authorities increased their power vis-à-vis their own constituents. Administratively, therefore, Nahar al-Bakhit was a thriving member of a group of low-level bureaucrats whose rising power was linked closely to the expansion of the Ottoman bureaucracy in southern Syria.

However, the Salt Sharia court records also provide a glimpse of the complexities of Bakhit's role as *mukhtar* and his often split loyalties between his superiors in the local Ottoman administration and his constituents among the Manasir. In 1897, Bakhit testified as a witness in support of two Manasir women in the Sharia court. The women, who may have been Bakhit's immediate relatives, claimed that they had given the financial director in Salt a sum of 5,472 piasters in 1894 for safekeeping, money that they had taken "as a loan" from the murderer of their relative. They claimed that the current financial director would not give them their money, and despite his protests, Bakhit's testimony combined with that of another witness was enough for the deputy judge to order that the money be returned to the women.<sup>22</sup> This case is one small example of the complexities that could arise from the *mukhtar*'s simultaneous loyalties to both his constituents and the royal treasury, and the ways this office could sometimes benefit local groups at the treasury's expense.<sup>23</sup>

The involvement of Bakhit and other Bedouin leaders in the Ayn Suwaylih attack complicates the smooth story of incorporation into the Ottoman administration more seriously. Even though they complied with Ottoman regulations around land registration, the 'Abbad group that Bakhit led had been losing land deemed *mahlul* or "empty" to government allocations to immigrants for decades.<sup>24</sup> While the extensive land registrations among the Abbad and other tent dwelling groups in the late 1870's are testament to their cooperation with the expanded Ottoman system for regulating local land relations, and indeed by the early twentieth century they were highly involved in local Ottoman governance, this cooperation did not preclude their violently protesting a land policy that went squarely against their own interests. Bakhit was surely the recipient of myriad complaints from his constituents about ongoing land confiscations and

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<sup>21</sup> While we do not have record of the workings of this process among the Manasir, other Abbad *mukhtars* did describe their tax collection duties in surviving court records. See the sketch of Abd al-Muhsin al-Bakhit of the Fuqaha in the opening pages of Chapter 4, for example.

<sup>22</sup> SSCR Volume 5, Record 20, n.d. Although this record does not include a date, the records in the volume are basically chronological and the ones around it are from 1897.

<sup>23</sup> Sharia court records admittedly tell us little about the enforcement of their rulings or if the same case may have been taken into the Nizamiye system.

<sup>24</sup> See Chapter 1 for discussion of the legal ramifications of land grants to Muslim refugees in the Balqa region. While the land grants made to immigrants were made on land designated *mahlul* by the local tapu officials, meaning they satisfied the legal requirements of the day, the grants were also buttressed by decrees at both the provincial and county levels. For more details see Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 336.

conflicts with the refugees. The Sharia court case above in which he testified for members of the Manasir against the district financial officer was only the tip of the iceberg in terms of the complexities associated with being a *mukhtar* in the early twentieth century. A decade after that case, Nahar al-Bakhit's relationship with the Ottoman authorities in Salt took a sharp turn for the worse.

While the Sharia court records and land registers provide momentary glimpses of Nahar al-Bakhit's administrative activities in the last decades of the nineteenth century, materials generated by investigations into the Ayn Suwaylih attack and its aftermath allow a much more detailed look into Nahar al-Bakhit's activities and life during the summer months of 1907. The word-for-word depositions and detailed reports these investigations produced provide a picture of that summer that stands in much sharper, and more colorful, relief.

In the days following the Ayn Suwaylih attack in early May, Nahar al-Bakhit was taken into custody in Salt along with about 60 other men from the Abbad, Adwan and Balqawiya groups as well as a few members of the Bani Hasan, who were administratively attached to the district of Ajlun to Salt's north, and townsmen from the nearby village of Fuhays. While all official accounts stated that townsmen from Salt were involved in the attack, it is not clear if any were detained in the Salt prison. Once in prison, Nahar al-Bakhit quickly resumed his role as representative of his people with the Ottoman authorities. This time, the goal was to get out of prison as fast as possible.

As detailed by Kent Schull, detention and fines were the main Ottoman means of punishing suspected and convicted criminals during the Hamidian period.<sup>25</sup> For Nahar al-Bakhit and his colleagues, the prolonged detention of so many of the leading men of the Abbad and Adwan in early summer, a key time for their agricultural projects and the harvest season, would have been nothing short of disastrous. Nahar al-Bakhit's responsibilities therefore shifted in the aftermath of the attack – rather than collecting money from his fellow Abbad to pay the Ottoman taxes, he began collecting money from his fellow prisoners and his relatives outside prison to secure his own release along with that of his colleagues.

According to later depositions, Nahar al-Bakhit was at the forefront of an attempt by the imprisoned tent dwellers to gather enough money from fellow prisoners and relatives to bribe Ottoman officials, from the police and local military (*gendarme*) all the way up to the county governor, to secure their release as initial investigations into the Ayn Suwaylih attack began.<sup>26</sup> Bakhit, the man inside with the most local government connections, took the lead, meeting with the local military officer Said Barbur and reportedly handing him 22 French liras (2,464 piasters) to pass on to the governor of Karak county, Cemal Bey, via the Salt financial director, Phillip Effendi.<sup>27</sup> Beyond trying to secure their release through bribes, the prisoners also attempted to escape from the Salt lockup numerous times in May and June. In late June, the county governor Cemal Bey used their escape attempts to justify moving the 70 detainees 140 kilometers south to the Karak castle, ostensibly a larger prison facility and closer to his own headquarters (see Photos 3.2-3.4 of Karak castle in Appendix A).<sup>28</sup> This decision was even more disastrous for Nahar al-

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<sup>25</sup> Kent Schull, *Prisons in the Late Ottoman Empire: Microcosms of Modernity* (Edinburgh University Press, 2014).

<sup>26</sup> Many of Bakhit's fellow prisoners as well as the prison officials described this operation in depositions after the fact. See BOA.ŞD 2304/6 Page 92, Depositions of prisoners Awdatallah al-Muhaydi, Abd al-Rahman al-Miflih, and prison guard Mohammad bin Mahmud, 10 Teşrinievvel 1323/23 October 1907; and prisoners Fidyan Issa al-Samawi, Kayid Ayubi Fandi, Ahmad al-Fadl, and Ruwayj al-Duwaykat, 12 Teşrinievvel 1323/25 October 1907.

<sup>27</sup> Ibid.

<sup>28</sup> BOA.ŞD 2304/6 Page 202, Telegraph from Cemal Bey to Şukri Paşa regarding danger of prisoners escaping from Salt, 6 Haziran 1323/19 June 1907.

Bakhit and his fellow prisoners. Once in Karak, a 24-hour ride on horseback from Salt, they would be effectively cut off from their family and business networks and it would be extremely difficult to continue directing their affairs from inside prison.

Somehow, the locally posted Ottoman military force managed to prevent the men from escaping on the way to Karak. The operation of moving so many detained men so far involved military wagons “with padlocks” that carried them from Salt to the Hijaz railway station in Amman, a railway trip to Qunaytra and more military wagons to the Karak castle.<sup>29</sup> Once there, the prisoners were shown their new quarters: because the regular Karak prison was also apparently full, a section of the castle used as a military grain warehouse had been hastily emptied ahead of their arrival. The county governor was later criticized for directing the military officers to imprison humans in a space meant for supplies: while bigger than the lockup in Salt, the prison was damp, low-ceilinged, and had sewage problems that quickly got out of hand.<sup>30</sup>

In subsequent depositions, Bakhit’s fellow prisoners described how once in Karak he began two projects as the unofficial leader of the detainees. The first involved gathering more money for the guards and police at the Karak prison from his fellow prisoners, who reportedly paid according to ability, as well as his relatives. Prisoners available to give depositions later said they paid 1, 1.25 or 1.5 Mecidi Riyals (24–36 piasters) to the bribery effort,<sup>31</sup> and later accounts noted that each of the 117 households of the Manasir contributed 13 Mecidi riyals (312 piasters), with the total of 36,504 piasters sent to Karak and passed to unknown hands.<sup>32</sup> While the guards and soldiers insisted that this money was passed on Cemal Bey, it also seems to have given Bakhit a privileged position with the soldiers and prison guards themselves. His fellow prisoners later said that he left the prison when he wanted and could often be found playing cards with the guards and soldiers. When questioned, the guards insisted that Bakhit only left the prison twice during this period, once to buy watermelon and once to buy grapes.<sup>33</sup> However, it seems likely that Bakhit used these opportunities outside to work on his second project: planning the escape of the Manasir and the other Ayn Suwaylih detainees from the Karak prison.

Bakhit reportedly befriended two poor men from the southern town of Ma’an in the Karak prison. Abd al-Rahman and his brother Abd al-Qadir al-Maani had been in the prison before the Saltis arrived, serving time for unnamed crimes. Bakhit was interested in them because Abd al-Rahman had found a hole under his bed that led to a lower floor of the warehouse that was apparently in disrepair. This lower floor had a small window overlooking the castle moat, and Bakhit, probably during his daytime jaunts in Karak, had identified this as the perfect escape route. He used his influence to recruit the Maanis to provide the needed labor for the escape effort, bringing the poor men food and promising them clothing and, by some accounts, wives, after they escaped. Some of the other detainees used this opportunity to describe Nahar al-Bakhit

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<sup>29</sup> BOA.ŞD 2304/6 Page 208, Telegraph from Cemal Bey to Şukri Paşa regarding details of moving prisoners to Karak, 29 Mayıs 1323/11 June 1907.

<sup>30</sup> Both officers in charge of the prisoners in Karak, Süleyman Ağa and Ali Ağa (*yüzbaşıs*), later insisted that they had warned Cemal Bey of the danger of using this facility as a prison. BOA.ŞD 2304/6 Page 92, Deposition of Süleyman Ağa, 8 Teşrinievvel 1323/21 October 1907, and BOA.ŞD 2304/6 Page 127, Deposition of Ali Ağa, 7 Teşrinievvel 1323/20 October 1907. Also BOA.ŞD 2304/6 Page 128, Correspondence between investigative team and Ali Ağa, 10 Teşrinievvel 1323/23 October 1907.

<sup>31</sup> BOA.ŞD 2304/6, Page 92, depositions of Abd al-Rahman Miflih on 10 Teşrinievvel 1323/23 October 1907; and Kayid Ayubi Fandi, Fidyen Issa al-Samawi, Ahmad al-Fadl, and Ruwayj al-Duwaykat on 12 Teşrinievvel 1323/25 October 1907; and Talaq Sulayman al-Qaraan on 13 Teşrinievvel 1323/26 October 1907.

<sup>32</sup> Ibid., Depositions of Mustafa Effendi and Ismail Hacı Ibrahim, 28 Teşrinievvel 1323/10 November 1907.

<sup>33</sup> Ibid., Deposition of footsoldiers Awda Abdullah al-Saub, 9 Teşrinievvel 1323/22 October 1907, and Awda al-Banadi, 10 Teşrinievvel 1323/23 October 1907.

in their depositions as a rich, well known *mukhtar*, a man to be listened to and believed.<sup>34</sup> One of the prisoners who did not join in the escape effort and so was available for deposition after the fact, Fidyān al-Issa al-Samawī, who described himself as a merchant from the village of Fuhays, said that he had decided to stay behind specifically because he was afraid of Nahar al-Bakhit.<sup>35</sup>

Using iron tools that Bakhit either bought in Karak or that his relatives provided when they visited, the Maanis worked for twenty warm nights in late June and early July, dropping down to the lower floor and boring a hole that enlarged the small castle window enough for men to squeeze through. During the day they would cover the hole under Abd al-Rahman's bed with a bag used for hay left behind by the soldiers.<sup>36</sup> Whether the soldiers and prison guards chose not to notice the operation and the nighttime noise it must have involved or were simply too overwhelmed by the large number of detainees in cramped space is difficult to discern. On the twentieth night, the hole was finished and Nahar al-Bakhit reportedly led a group of fifty men down to the lower level of the warehouse to the hole, where they were instructed to squeeze through, lower themselves into the dry moat by rope, and run away.<sup>37</sup>

At dawn on August 4, the officer on duty, who was sleeping outside the prison because, he stated later, the smell of sewage had become too much to bear, heard the sound of a man screaming in pain from behind the prison. He woke up his fellow officers and they went to see what had happened. To their reported horror, they found that fifty of the detainees had escaped. Their leader, Nahar al-Bakhit, had not survived; in an apparent fatal fall, he lay dead in the dry moat below the escape hole whose opening he had orchestrated.<sup>38</sup> For the Manasir Abbad community, it was the end of an era.<sup>39</sup>

In 1902 and 1908, the Dominican scholar and anthropologist Antonin Jaussen published an article and book on the customs of the people in the Balqa region, including a list of the nomadic groups living there, their leaders, and an approximation of the number of tents they included. This was the most detailed census of the local population found to date. Under his section on the Abbad, Jaussen listed Nahar al-Bakhit as the shaykh of the entire group, which he

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<sup>34</sup> Ibid., Depositions of Fidyān al-Issa al-Samawī, 12 Teşrinievvel 1323/25 October 1907, and Talal al-Qaraan, 13 Teşrinievvel 1323/26 October 1907.

<sup>35</sup> Ibid., Deposition of Fidyān al-Issa al-Samawī, 12 Teşrinievvel 1323/25 October 1907.

<sup>36</sup> Ibid., Depositions of Awdatallah al-Muhaydi, 10 Teşrinievvel 1323/23 October 1907; and Fidyān Issa al-Samawī and Ahmad al-Fadl, 12 Teşrinievvel 1323/25 October 1907.

<sup>37</sup> Beyond the depositions, the hole in the castle and the architecture of the prison was also described in an expert report prepared by the judicial authorities in Karak. This report, composed in Arabic, was the product of a visit by the assistant public prosecutor for Karak county, the interrogator, one of the officers in charge of the prisoners and a local architect the day after the prison escape (August 5, 1907). See BOA.ŞD 2304/6 Page 183, 23 Temmuz 1323/5 August 1907.

<sup>38</sup> BOA.ŞD 2304/6 Page 92, deposition of footsoldier Hamad Abd al-Hadi, 8 Teşrinievvel 1323/21 October 1907. The death of Nahar al-Bakhit is also described in BOA.ŞD 2304/6 Page 17, report of the investigative committee regarding the prison escape presented to Cemal Bey for response, 26 Teşrinisani 1323/9 December 1907.

<sup>39</sup> In 1989-90, Haj Tawfik Ruwayij al-Dwaykat related the story of Nahar al-Bakhit's death to anthropologist Andrew Shryock. Dwaykat's story is very similar to the Ottoman record, with the colorful addition that Nahar al-Bakhit broke the rope the escapees used to lower themselves because he was too fat. Dwaykat added that the "Turks" hanged six escapees they caught in Karak, an event with no corroborating documentary evidence. Shryock, *Nationalism and the Genealogical Imagination*, 128-129 Dwaykat claimed that his father, who he described as "an official in the Turkish government in Salt" had been in prison with Bakhit for his involvement in the Bedouin "war" with the Chechans, but had not tried to escape. This is corroborated by the existence of a deposition from Ruwayij al-Duwaykat in Cemal Bey's case file. See BOA.ŞD 2304/6 Page 92, deposition of Ruwayij al-Duwaykat, 12 Teşrinievvel 1323/25 October 1907.

said consisted of 600 tents, along with some sub-groups each with their own leader.<sup>40</sup> He listed the Manasir, but did not include an estimate of its size – the case files described above indicate around 120 families. While Nahar al-Bakhit shared the same title as the other *mukhtars* he worked alongside, Jaussen’s observations may indicate that he enjoyed a special level of status and wealth, at least in the first decade of the twentieth centuries, among Abbadi leaders of that period. It will be remembered from Chapter 2, however, that his was the first generation of Abbadi leaders to obtain any kind of formal representation with the Ottoman government.

The life and death of Nahar al-Bakhit illustrates the complexity of the role of the *mukhtar* in late nineteenth century Syria and beyond. While Bakhit benefited from his administrative position, his life was not simply an example of the “politics of notables”, nor does his rise and that of his colleagues represent a simple incorporation into the Ottoman bureaucratic sphere. Indeed, the Manasir Abbad whom Bakhit represented had both benefited and suffered from intensified Ottoman governance in Syria. While benefiting from the increasingly regulated markets for land, commodities, and as we will see in Chapter 5, livestock, they had also been victims, alongside other tent dwellers, of confiscations of valuable agricultural land. It is not altogether surprising, therefore, that their *mukhtar* could both act as collector of taxes for the Ottoman government and simultaneously orchestrate a violent rebellion against the government policy of settling Muslim refugees on their land. For Bakhit as for the Manasir, being Ottoman meant both participating in government-regulated commerce and taxation and protesting, both through petition and attack, the results of what they saw as ill-conceived government policy.

Bakhit’s story also therefore shows why accounts of Bedouin in the Hamidian period as simply threats to Tanzimat-style security, or untouched bastions of extra-state autonomy, is highly problematic. The Manasir Abbad, along with the other Bedouin groups in southern Syria, were deeply imbricated in Ottoman life and governance in the late Hamidian period – indeed their use of land and livestock was regulated and categorized in terms of Ottoman law and their leaders had become low-level Ottoman bureaucrats, with all of the complexities entailed therein. Bakhit’s story shows how Ottomanization moved beyond elite levels through the extension of Ottoman administration into more rural areas in the post-1860s era.

At the same time, Bakhit’s story shows the complexities Ottomanization introduced to processes of modern administration. *Mukhtars* were central to land registration, taxation, adjudication, and law enforcement. Essentially, most state initiatives to raise revenue, create infrastructure, monitor public security, and so on that involved the local population depended on them as intermediaries. However, as with Nahar al-Bakhit, they were not simple conduits of information or enforcers of law – rather, they were the representatives of communities who were not always content with Ottoman policy, and their empowerment in the Ottoman bureaucracy increased their ability not only to organize their constituents but also to manipulate the system. This ability grew out of their knowledge of the workings of bureaucracy, but it was also the result of the personal connections they gained as bureaucrats – with the military who accompanied tax collection tours, with the treasurers and financial directors who took their tax money, and with the land administration and courts that used their testimony to verify claims. The next section will use the investigation of the Karak county governor accused of mishandling the Ayn Suwaylih attack and other local issues to detail these connections and elaborate the crisis of administrative authority in Salt.

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<sup>40</sup> Antonin Joseph Jaussen, *Coutumes Des Arabes Au Pays de Moab*, Etudes Bibliques (Paris: J. Gabalda & cie, 1908), 399; Antonin Joseph Jaussen, “Les Tribus Arabes À l’est Du Jourdain,” *Revue Biblique* 11 (1902): 422.

## Crisis of Authority: Governing Salt in the early 20<sup>th</sup> century

The story of Nahar al-Bakhit's life is partly readable in the Salt court and land records, which show his service as *mukhtar* as well as his participation in the Salt market for land and commodities. However, the more detailed story of his hand in the Ayn Suwaylih attack and his dramatic end in the dry moat of the Karak castle is available to historians because of its inclusion in a large-scale imperial investigation in the aftermath of the Ayn Suwaylih attack and other events in Salt and the county of Karak to which it belonged. This investigation centered not on the attack itself, which turns out to have been somewhat common by district standards, but on the conduct of Cemal Bey, who was the governor of Karak county in 1907. While we know little about Cemal Bey's origins or education, he was a career Ottoman bureaucrat and had been in the Ottoman civil service for twenty years, many of them in Syria, before arriving in Karak.<sup>41</sup> Before being appointed as county governor (*mutasarrif*) of Karak in 1906, he served as county governor of Hawran to the north of Salt, where he was also involved in conflicts over land between villagers and nomadic tent dwellers. Before Hawran, he had been on the survey staff in the district of Wadi al-Ajam in the northern part of Syria.

Ironically, the man who initiated the investigation against Cemal Bey was the same man who had recommended he take on the position of governor of Karak in the first place. Şukri Paşa, then governor of Syria, needed a new county governor for Karak when Arif Bey, Cemal's predecessor, requested a transfer.<sup>42</sup> As Şukri Paşa wrote to the Minister of the Interior in 1906, Arif Bey was unfit for the governorship in Karak because he was afraid of riding horses, and riding was a basic element of the job in a county where so much of the population was mobile.<sup>43</sup> Cemal Bey, apparently having acquired good horse-riding skills during his tenure in Wadi al-Ajam and Hawran, was transferred to Karak in January 1907, while Arif Bey made for more urban environs.<sup>44</sup> However, just nine months later Şukri Paşa had secured an imperial order suspending Cemal Bey's governorship in Karak.<sup>45</sup> Rather than suffering the *mukhtars'* fate of being thrown into a local prison, Cemal Bey was instructed to stay in Damascus while the provincial administrative council carried out an initial investigation into his conduct in both Hawran and Karak counties.<sup>46</sup>

In this investigation, Cemal Bey's handling of the Ayn Suwaylih attack and prison escape was only one of a long list of grievances. Initially, Şukri Paşa aimed to have Cemal Bey ousted from the civil service altogether and put on criminal trial for treason. So constant were the problems in Karak county and Hawran before it, and so tenuous was the administration there, that

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<sup>41</sup> Cemal Bey mentions his twenty years of service in the first letter he writes to the Grand Vezir's office in his own defense – ŞD 2304/6 page 65, 17 Teşrinievvel 1323/30 November 1907.

<sup>42</sup> DH.MKT 1143/51, Page 1, Request from the governor of Gallipoli county to the Minister of the Interior, 1 Ağustos 1322/14 August 1906. For another profile of Arif Bey, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 57–58.

<sup>43</sup> DH.MKT 1143/51, Page 4, Letter from Şukri Paşa to the Minister of the Interior, 31 Ağustos 1322/13 September 1906.

<sup>44</sup> DH.MKT 1143/51, Page 12, Letter from the Minister of the Interior to the Grand Vezir's office, 21 Kanunusani 1322/3 February 1907.

<sup>45</sup> BOA.I.HUS 158/86 Page 2, Letter from Yıldız Palace, 20 Ş 1325/15 Eylül 1323/28 September 1907.

<sup>46</sup> Cemal Bey's status in Damascus was somewhat disputed; while he complained to Istanbul that he was under house arrest and was not able to move freely, meet with his associates or send telegraphs, Şukri Paşa insisted that he was free to move as he pleased and this was confirmed by Kazım Paşa, the outside observer the Interior Ministry appointed to oversee the investigation as discussed below. See DH.MKT 1156/72, especially Page 24, Report of Kazım Paşa to the Minister of the Interior, 7 Teşrinisani 1323/20 November 1907.

Şukri Paşa was convinced Cemal Bey was purposefully making trouble in order to invite foreign attention to southern Syria. In his crowning complaint, Şukri Paşa claimed to have evidence that Cemal Bey was plotting an escape to Egypt with his right hand man, the assistant survey clerk in Karak, Ihsan Effendi.<sup>47</sup>

The issue of Ottoman sovereignty therefore loomed large once again in the investigation of Cemal Bey. Karak county, bordering the Sinai desert under Egyptian/British control, had become a contested borderland, threatened first and foremost not by the specter of Zionist colonization, but by the British military. This sense of siege also contributed to a general feeling of suspicion that underlay the crisis of Ottoman administrative authority in Salt. The threat to Ottoman sovereignty was embodied not only in visions of a potential British military occupation that became reality a decade later, but in the figure of the insider spy in the ranks of the Ottoman civil service. Şukri Paşa seems to have been convinced that Cemal Bey had become such a spy. Considering the ongoing British cultivation of such figures and the progression of the Arab Revolt less than a decade later, his fears were grounded in a certain context of siege.

Further, the crisis of administrative authority was escalated by the threat of imminent foreign intervention should the right measure of local “chaos” ensue. By the first decade of the twentieth century, decades after French involvement in conflicts in Mount Lebanon, the long history of connections between Christians in Karak county and religious leaders in Jerusalem had taken on a new political significance.<sup>48</sup> This shift is noticeable in the archives reviewed here, as the imperial property administration became progressively more agitated about Christians holding large amounts of land near the newly built Hijaz railway. As I will outline below, it was land conflicts involving Christians in the district that ultimately moved Şukri Paşa to request that Cemal Bey be removed from his post and put on trial.

For his part, Cemal Bey was convinced, perhaps rightfully, that Şukri Paşa was out to get him and was attempting to place blame for the crisis of authority in southern Syria squarely on his head. Because Cemal Bey was an officer in the civil service, the initial investigation into his conduct was carried out not by the Nizamiye courts, but by the provincial administrative council based in Damascus and chaired by none other than Şukri Paşa himself.<sup>49</sup> Cemal Bey wrote to Istanbul repeatedly in the last months of 1907 explaining that he would not cooperate with any investigation conducted in Syria because of Şukri Paşa’s inevitable influence. Indeed, Cemal Bey petitioned everyone he could think of begging for the investigation to be removed from Syria and conducted directly by the Council of State in Istanbul, which according to imperial regulations could act as an appeals body reviewing the provincial administrative council’s decision.<sup>50</sup> Because the Grand Vezir’s Office as well as the Minister of the Interior were also doubtful about Şukri Paşa’s motives,<sup>51</sup> and because Cemal Bey refused to answer the investigators’ questions in

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<sup>47</sup> BOA.I.HUS 158/86 Page 1, Letter from Şukri Paşa transferred to Yıldız Palace, 4 Eylül 1323/17 September 1907.

<sup>48</sup> Makdisi, *The Culture of Sectarianism*.

<sup>49</sup> Yücel Terzibaşoğlu also documents the judicial activities of the administrative councils in the Ayvalık region and the push and pull between the administrative councils and the Nizamiye court system. Terzibaşoğlu, “Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914.”

<sup>50</sup> See for example BOA.DH.MKT 1156/72, Page 18, Letter from Cemal Bey to the Grand Vezir’s Office, 18 Teşrinisani 1323/1 December 1907. Cemal Bey also involved his friend Kamil Paşa, the Chief Inspector of the Sixth Army, who intervened with the Minister of the Interior and the Grand Vezir’s office on his behalf – see *Ibid.*, Page 12, Letter from Kamil Paşa to the Grand Vezir’s office, 19 Eylül 1323/2 October 1907.

<sup>51</sup> Early on in the investigation, the Interior Ministry hired Kazım Paşa, the director of the Hicaz Railway Project in Syria, to look into Cemal Bey’s case secretly because they doubted that Şukri Paşa had enough evidence to justify a criminal prosecution. Kazım Paşa’s efforts were ultimately limited because of the problems associated with extending the railway to Mecca, but his involvement shows that authorities in Istanbul were also doubtful about why

formal depositions in Syria, the administrative council's reports were ultimately reviewed by the Council of State in Istanbul on the heels of the 1908 revolution.<sup>52</sup> The details of the crises of summer 1907 in the Salt district and the Karak and Hawran counties more widely are available to historians precisely because of this review, as the voluminous file containing the results of the initial investigation was sent to Istanbul rather than being preserved in Damascus.

The provincial investigation was carried out in October and November 1907 by a team of officials appointed by an official with the title "public prosecutor of the administrative council", who headed the investigation. As stipulated in the Provincial Administration Regulations, the investigative team followed the same procedural regulations as the public prosecutors in the Nizamiye court system in carrying out the investigation of a member of the civil service.<sup>53</sup> The administrative public prosecutor's team consisted of three officials, Mustafa Fahmy, Abd al-Mecid and Tefvik Şaban.<sup>54</sup> They traveled first to Karak, then to Salt and the town of Madaba, and finally to Hawran. They visited the scenes of all of the accusations against Cemal Bey, including the Karak and Salt prisons, and employed experts in their on-site investigations – in Karak, they used a report prepared by a local architect who visited the scene with the local Nizamiye court officials the day after the prisoners escaped to measure the hole made by the prisoners and estimate how long it had taken them to make and what tools they had used.<sup>55</sup> The team also questioned tens of men – military officers of varying rank and footsoldiers, prison guards, prisoners who had not managed to escape but had witnessed the operation, members of the administrative councils of Karak and Salt, and others. The deposition reports they produced recreate the interrogations word for word, and show that the investigative team moved smoothly between Arabic and Ottoman Turkish as they questioned their subjects.<sup>56</sup>

Avi Rubin has argued persuasively that the office and functions of the public prosecutor was the main innovation of the Nizamiye court system when compared to the Sharia courts. He describes how in the various Nizamiye courts, litigants found that the public prosecutors often had more say than judges in the case proceedings. Without minutes from the courts, it is difficult to say how widespread this phenomenon was in Syria. However, the investigation reviewed here, led by a special public prosecutor working for the administrative council in an investigation of a civil official, shows the aggressive nature of this official and his subordinates and the way they methodically sifted through evidence, including both oral testimony and written records associated with the case.<sup>57</sup> It also shows the importance of this official outside of the Nizamiye court context – as dictated by regulations governing the entire empire, provincial administrative

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Şukri Paşa was targeting Cemal Bey for investigation. BOA.DH.MKT 1156/72 Pages 2 and 3, Letters from the Grand Vezir's Office to the Ministry of the Interior, 22 and 24 Ş 1325/17 and 19 Eylül 1323/30 September and 2 October 1907; and Page 24, Kazım Paşa report to the Ministry of the Interior, 7 Teşrinisani 1323/20 November 1907.

<sup>52</sup> The final results of this review are in BOA.ŞD 2304/6, with the chair of the Council of State issuing a final decision on 6 B 1326/21 Temmuz 1324/3 August 1908 (Page 1).

<sup>53</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*.

<sup>54</sup> The seals of these three individuals are affixed to their correspondence with local officials and they are described as investigative officials (*tahkik memuru*). See for example BOA.ŞD 2304/6 Page 120, Letter from investigative team to the deputy governor in Karak, Rifaat Bey, 11 Teşrinievvel 1323/24 October 1907.

<sup>55</sup> BOA.ŞD 2304 6 Page 183, 23 Temmuz 1323/5 August 1907. See also note 34 above.

<sup>56</sup> For the depositions, see especially BOA.ŞD 2304/6 Page 92, Depositions carried out in relation to the prison escape, 27 Teşrinievvel 1323/9 November 1907, and Page 127, Depositions with notables and officials in Karak, 9 Teşrinievvel 1323/22 October 1907.

<sup>57</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, Chapter 5.

councils had extensive investigative powers and tools with which to examine civil service officials accused of going astray.

Despite the many attempts of the investigative team, Cemal Bey refused to undergo any kind of formal interrogation in Damascus, arguing that the entire investigation process was colored by Şukri Paşa's influence. Instead, he wrote detailed responses to questions posed by the investigative team.<sup>58</sup> This was a shrewd move on his part, because his refusal to testify guaranteed that the investigation would be procedurally flawed and would have to be reviewed by the Council of State in Istanbul, which is exactly what he had been clamoring for since his dismissal from his post.<sup>59</sup> In the summer of 1908, as the Young Turk revolution turned the capital upside down, the Council of State reviewed the investigative team's extensive reports, summaries, and depositions as well as Cemal Bey's responses to the accusations against him.

Beyond treason, many of the accusations against Cemal Bey were related to bribery. In an empire in severe financial trouble hard pressed to provide salaries that kept up with the rising cost of living, accusations of bribery against public officials were extremely common. However, the investigations into these accusations provide a unique window into the workings of governance at the district and county levels. In the case of Cemal Bey, they show the ways in which the intrusive modern state practices of policing, taxation, and land survey and registration were closely intertwined and involved the same individuals. These practices were crucial to the way tent dwellers and other rural Ottoman producers experienced, challenged and affected modern state initiatives.

As explained above, Cemal Bey was accused of taking bribes first and foremost from the tent dwellers detained in relation to the Ayn Suwaylih attack in exchange for helping them get out of prison, apparently by having them moved to an insecure facility in Karak from which they could easily escape. This alleged operation involved a few key actors: Nahar al-Bakhit, who as *mukhtar* was at the head of the initiative to collect enough money from the prisoners to present to the soldiers; the soldiers themselves, particularly a sergeant (*çavuş*) named Said Barbur who allegedly took money from Nahar al-Bakhit while the detainees were in Salt as well as a low-level officer (*onbaşı*) named Abdullah Ilhas who allegedly took more money from him while they were in Karak; and various notable bureaucrats in the town who had apparently taken money either from the soldiers or from representatives of the detained tent dwellers to pass on to Cemal Bey.<sup>60</sup>

The depositions of the soldiers who were interrogated about the bribery accusations illustrate the militarized nature of rural taxation in the Hamidian period and the ensuing ties between local bureaucrats, especially *mukhtars*, and the low-level military personnel assigned to rural taxation duty. Sergeant Said Barbur's defense in denying his involvement in the bribery operation was simple: he said he could not have collected bribes from the prisoners in Salt because he was outside the town while they were in prison, busily collecting taxes from the cultivators and tent dwellers of the district, some of whom lived far afield.<sup>61</sup> Their imprisonment, after all, happened at the height of both the harvest and tax seasons. Indeed, his testimony gives the impression of a mobile tax collecting operation involving not only Ottoman soldiers, but the

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<sup>58</sup> The investigative team's questions and Cemal Bey's answers are in BOA.ŞD 2304/6 Pages 17-25, 27 Kanunusani 1323/30 January 1908.

<sup>59</sup> This type of move shows the politics of the proceduralism Avi Rubin discusses in the late Hamidian context of the Nizamiye court system. Rubin, *Ottoman Nizamiye Courts: Law and Modernity*.

<sup>60</sup> A summary of the detailed accusations related to the prisoner escape can be found in BOA.ŞD 2304/6 Page 17, Interrogators' questions to Cemal Bey regarding the prison escape, 27 Kanunusani 1323/9 February 1908.

<sup>61</sup> BOA.ŞD 2304/6, Page 92, Deposition of sergeant Said Barbur, 22 Teşrinievvel 1323/4 November 1907.

*mukhtars* of each community, who together went about the task of convincing the inhabitants of town, village and encampment to pay the tithe and fees for their livestock.<sup>62</sup>

This picture gains further detail from the testimony of the officer Abdullah Ilhas, who had met with Nahar al-Bakhit in prison in Karak and had allegedly taken money from him to pass on to the accused Cemal Bey.<sup>63</sup> Ilhas admitted to meeting with Bakhit for about fifteen minutes in prison and buying a blanket for him at the market in Karak. Upon hearing this, the investigators were indignant: they asked Ilhas why he, as a military officer serving the state, would visit criminals in prison and run their errands. Ilhas explained that he had known Bakhit for a long time, Bakhit being the shaykh of an *ashira*, and he had gone to the prison to see how he was doing. His testimony shows the way local administrative activities including taxation created social bonds between the military and tent dwelling *mukhtars*. Figures like Abdullah Ilhas and Said Barbur needed Nahar al-Bakhit and his colleagues in order to enforce Ottoman policy, and the relationships between them created a kind of mutual respect that Ilhas used to defend himself against accusations of corruption in his deposition.

Cemal Bey was also accused of collecting bribes from other sources beyond Nahar al-Bakhit in relation to the prison escape. The bribery accusations notably involved those individuals in the district who tended to hold cash and could provide it quickly, avoiding the imperative of a lengthy collection operation among village or tent dwellers. Therefore, merchant notables, who were probably the most solvent individuals in the district aside from the financial officer and treasurer, quickly became imbricated in the accusations.

In the aftermath of the Ayn Suwaylih attack, the Manasir community was financially strapped not only by the imperative to collect enough money for bribes and the detention of their leaders at the height of their summer agricultural and commercial activities, but by the imperial order to provide the Chechen refugees with reparations for the property and livestock stolen in the attack. Four different branches of the Abbad as well as some of the Adwan, Balqawiya and Bani Hasan communities were subject to demands for reparation payments to the Chechens.<sup>64</sup> When the military officers arrived to arrest Nahar al-Bakhit and his colleagues accused of orchestrating and participating in the attack, they reportedly also made off with randomly collected livestock and property especially from the Fuqaha branch of the Abbad.<sup>65</sup> With their *mukhtars* in prison, the Abbad and other tent dweller groups involved in the attack were without intermediary figures and advocates who had personal connections in the local Ottoman bureaucracy. A *mukhtar* of the Balqawiya group, Sulayman al-Raqqad, who somehow managed to escape detention, described to the investigators how he collected the amount demanded from the Balqawiya group for the reparations from his constituents and delivered the money to the district treasurer in person, thereby defending his constituents' interests in the face of rising demands for reparations and distributing the burden fairly among them.<sup>66</sup> The Abbad, on the other hand, were forced to look elsewhere to complete this task.

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<sup>62</sup> For more on the role of the local military force in tax collection, see Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 119.

<sup>63</sup> BOA.ŞD 2304/6 Page 92, Deposition of Officer Abdullah Ilhas.

<sup>64</sup> BOA.ŞD 2304/6 Page 98, Letter from the Judicial Committee to Cemal Bey, 7 Mayıs 1323/20 May 1907.

<sup>65</sup> BOA.ŞD 2304/6 Page 92, Deposition of Alaa al-Din Efendi Tawqan, 25 Teşrinievvel 1323/7 November 1907

<sup>66</sup> Ibid., Deposition of Sulayman al-Raqqad, 28 Teşrinievvel 1323/10 November 1907. Al-Raqqad stated that he had been detained in Salt for one night in relation to the attack and then given a document ordering him to collect 200 mecredi riyals from his constituents for the reparations project. The term he used for the document in question was "huwayla", pl. hawail.

At the request of the tent dwellers, Salt merchants quickly filled the role of the detained *mukhtars* and coordinated the collections for reparations and delivery to the authorities in Salt. Among the four main sections of the Abbad accused of being involved in the attack, namely the Manasir, Fuqaha, Zuyud and Jabra groups, the prominent Salt merchants Alaa al-Din and Munib Tawqan<sup>67</sup> accepted the unpaid duty to distribute the burden of the 2000 Mecidi riyals (48,000 piasters) demanded from them fairly among households and coordinate collection.<sup>68</sup>

The investigative team was interested in the Tawqans' role in the reparations project because of accusations that they had actually collected twice what was demanded of the tent dwellers at the request of Cemal Bey, who allegedly pocketed the difference. They therefore summoned the Tawqans and asked them why, as merchants, they would have accepted the unpaid government duty to collect reparations from the tent dwellers when, on the face of it, they had no interest in doing so. In his deposition, Alaa al-Din Effendi Tawqan described his interest in the Abbad's fortunes: "I am involved with them. I have so many outstanding loans with them and my interest is wound up with theirs. I tried to help them because I was afraid they would be decimated. If they are decimated, all of my loans will default."<sup>69</sup> Alaa al-Din Effendi played the role of the *mukhtar* for the Manasir and other Abbad groups in the reparations project: he made sure that the livestock already confiscated was auctioned and its value sent to the reparations fund towards the obligations of the Fuqaha, and that only what was required of the other Abbad was taken in the form of more livestock confiscations. Other local merchants were also involved in the reparations – Salt merchant Nimr al-Haj collected the reparations from the Buqur tent dwellers.<sup>70</sup>

Like the other deposed individuals, the Tawqans defended themselves against accusations of facilitating bribery by introducing new accusations against other local figures. Initially, a number of men from the Bani Hasan group were detained, and some also stayed in the prison in Salt and were moved to Karak. However, a few were immediately released, and Alaa al-Din and Munib Tawqan passed on the rumor that they had paid Cemal Bey off to the investigators. They said that a Bani Hasan *mukhtar* had spent two nights at the home of Muhammad Effendi al-Khalili, a local notable merchant, after being released from prison and before heading back to the Bani Hasan encampments on the border between the Salt and Ajlun districts to the north. Apparently, the Bani Hasan *mukhtar* had borrowed 100 Mecidi liras (2400 piasters) in cash from the solvent merchant to pass on to the county governor in exchange for his release.<sup>71</sup> When questioned, Muhammad Effendi al-Khalili denied that any money had exchanged hands in relation to the detention of members of the Bani Hasan. Muhammad Effendi al-Khalili confirmed that he often traded with the Bani Hasan, lending them money in the form of advanced purchase contracts for grains. He said that after being released from prison, the *mukhtars* had stayed at his house as guests for two nights before returning to their encampments in Ajlun district, but that he had not lent them any money.<sup>72</sup>

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<sup>67</sup> Eugene Rogan profiles Ala'a al-Din and Munib's father, Dawud Tawqan, in his book, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*.

<sup>68</sup> Ibid., Deposition of Ala'a al-Din Effendi Tawqan, 25 Teşrinievvel 1323/7 November 1907.

<sup>69</sup> Ibid.

<sup>70</sup> BOA.BEO ŞD 2304/6 Page 36, Final report of the investigation's chief interrogator, 27 Kanunuevvel 1323/9 January 1908.

<sup>71</sup> BOA.BEO ŞD 2304/6, Page 92, Depositions of Ala'a al-Din Effendi and Munib Effendi Tawqan, 25 Teşrinievvel 1323/7 November 1907

<sup>72</sup> Ibid., Deposition of Muhammad Effendi al-Khalili, 25 Teşrinievvel 1323/7 November 1907

The role of Salt merchants in the collection of reparations for the Chechen immigrant community details the complexity of the relationships between tent dwellers and merchants built on years of credit-based trade. These relationships closely correlate with those described by Beshara Doumani between village dwelling cultivators and city-dwelling merchants in eighteenth and early nineteenth century Nablus.<sup>73</sup> In the Salt district, these relationships were basically about producing grains and clarified butter and moving them from the encampments where tent-dwellers lived to the town of Salt to be transported to larger urban centers. However, over a period of years this process created special relationships of trust between particular merchants and particular tent dwelling groups. The *mukhtars* of these groups would stay at the merchants' houses when they visited the town for commercial, legal and tax-related business at certain times of the year, and the tent dwelling community could appeal to these well connected men when they needed assistance in dealing with the government. As Alaa al-Din Tawqan's statement shows, this was not a one-way relationship, nor were the tent dwellers simply the merchants' servants: rather, their fortunes were closely intertwined. As with the relationship between the tent dwellers and the local military, the *mukhtars* were crucial to the everyday maintenance of these commercial and social ties.

The other solvent individual accused of being involved in Cemal Bey's bribery schemes was the district financial director, Phillip Effendi, in whose house Cemal Bey stayed when he was in Salt. Phillip Effendi was essentially accused of being a go-between: he was responsible for passing the money collected for reparations to the Chechen immigrants and held the relevant paperwork showing they had received it, but was accused of funneling the extra money collected to Cemal Bey. Cemal Bey was also accused of taking a bribe through Phillip Effendi from another local notable bureaucrat, Salama Effendi Twal, in exchange for appointing him as district treasurer.<sup>74</sup> The *mukhtar* of the Hadidi community of cultivators in Salt said when he went to obtain title deeds for property of people in his community from the treasury, Salama Effendi charged extra fees for the stamps he affixed to the deeds. When the *mukhtar* protested, Salama declared, "I paid 100 lira for my post, how do you expect me to get that money back?"<sup>75</sup>

Like everyone else implicated in these accusations, Phillip Effendi denied that he had passed any money to Cemal Bey either in relation to the detainees or Salama Effendi Twal's appointment as treasurer. In a masterful redirection, he said that while he had been extremely busy while Cemal Bey had been his guest since it was tax season, he knew that Cemal Bey had kept nothing from his right hand man, Ihsan Effendi, the assistant survey clerk in Karak with whom Cemal was accused of planning a clandestine trip to Egypt.<sup>76</sup> This tactic of redirection was deployed by deposed individuals over and over, leading the investigators on something of a wild goose chase among Salt's officials, merchant notables and *mukhtars* in an attempt to confirm how exactly Cemal Bey had collected his alleged bribes.

In his written responses to the investigators' queries, Cemal Bey practiced his own tactics of redirection. He placed the blame for the Ayn Suwaylih attack squarely on the shoulders of his immediate subordinate, the governor of Salt district (*kaimakam*) Haşim Effendi, arguing that Haşim Effendi had dragged his feet when presented with warnings from the immigrants that the

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<sup>73</sup> Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*, Chapter 2.

<sup>74</sup> *Ibid.*, Deposition of Farah Effendi Abu Jabir, 23 Teşrinievvel 1323/5 November 1907.

<sup>75</sup> *Ibid.*, Deposition of Salama al-Hadidi, 24 Teşrinievvel 1323/6 November 1907.

<sup>76</sup> BOA.ŞD 2304/6 Page 101, Correspondence between Philip Effendi and investigative team, 23 Teşrinievvel 1323/5 November 1907.

Salti tent and village dwellers seemed to be planning an attack.<sup>77</sup> As for the prison escape, he launched an elaborate critique of the state of the rural military establishment in Syria, asking how the guards and soldiers posted to the Karak castle could have possibly missed the preparations for such a complex escape operation. Cemal Bey simply denied the accusations of bribery, saying there was no conclusive proof that he had taken extra money from anyone.<sup>78</sup> Indeed, the denial and redirection tactics employed by the prisoners, soldiers, notable bureaucrats and local officials alike underscore the legibility problems the investigative team faced in its attempts to examine Cemal Bey's case according to imperial regulations.

Local *mukhtars* like Nahar al-Bakhit, who were the Ottoman administration's best hope for gaining the knowledge about the local population needed to monitor, survey and tax effectively, were at the heart of these legibility problems. The personnel issues throughout the local administration were wider, however, and reflect the intertwined nature of modern state functions during this period. The investigators from Damascus faced a district and county population of officials and citizen/subjects connected not only by their commercial activities, but by intrusive government policies – taxation created ties between the military and *mukhtars*, and the money allegedly required to grease the wheels of bureaucracy cemented the connections between tent dwellers, merchants and even locally posted Ottoman officials who hailed from elsewhere.

In this context, whether one was from Salt, elsewhere in Syria or a Turkish-speaking locale was important, but it was not decisive. Most of the appointed officials working in the bureaucracy – the financial director, the treasurer, and some of the survey staff – were from Salt, but other members of the survey staff, the military officers and the district and county governors were not. I do not mean to imply here that the people of Karak county acted as a collective to shield Cemal Bey from the investigation – rather, local citizen/subjects and Ottoman officials alike testified in their own interest while aiming to present themselves as supporting state interests. However, the connections between them meant that it was easier for individuals to deflect blame onto others involved in networks of collection, surveillance and law enforcement. In short, the intrusive state policies of the late nineteenth century had blurred the lines between state and society, expanding bureaucratic processes to the extent that most of the county's population was involved in and knowledgeable about them. This expansion rendered implementing state initiatives both more complex and more contested.

### **Surveys and Sovereignty**

Perhaps the most important Ottoman state initiative in late Hamidian Salt aimed to comprehensively survey local property holdings in order to tax them more efficiently and increase the treasury's share of expanding local profits. Beyond examining accusations of bribery that centered on the prison escape orchestrated by Nahar al-Bakhit and the reparations effort among tent dwellers, the investigation into Cemal Bey's conduct as governor also included a detailed review of the local government's attempts in both Karak and Salt to survey land, fixed property and livestock in summer 1907. The investigation did not draw definitive links between the process of surveying property and the Ayn Suwaylih attack, but the processes of property registration certainly created a heightened sense of urgency among Salt's inhabitants with regard to establishing and defending their rights to land.

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<sup>77</sup> BOA.ŞD 2304/6 Page 17, report from Cemal Bey to investigative team, 27 Kanunusani 1323/9 February 1908.

<sup>78</sup> BOA.ŞD 1304/6 Page 27, Report from Cemal Bey to investigative team, 27 Kanunusani 1323/9 February 1908.

In imperial settings, cadastral surveys have been described as the modern state's ultimate governing tool in an environment in which revenue collection depended heavily on landed resources.<sup>79</sup> In the Ottoman context, there were repeated calls for a comprehensive cadastral survey at least of the Anatolian lands of the empire from the 1890's, not least because of the need to identify lands on which to settle the growing numbers of refugees. However, such a survey was not accomplished before the fall of the empire, and there has been some debate among scholars as to why cadastral surveys were not implemented even though they were repeatedly called for by officials in the land administration and decreed during the CUP period.<sup>80</sup> In the Western Anatolian context, where nomads and refugees also vied for land legally declared "empty" by the land administration, Yücel Terzibaşoğlu found that the disputes over borders, land use and control were simply too complex and involved too many actors for final settlements to be reached quickly.<sup>81</sup>

In Salt, the investigation into Cemal Bey shows how contentious surveying property, in this case land and livestock, could be. It also shows the way notables, both merchant bureaucrats and leaders of large tent dwelling groups, could use the political clout they had built up over generations with the Ottoman administration to derail survey and taxation attempts. The property surveys were, on the one hand, an extension of similar attempts to survey and register land in Hawran county to the north and all over the province of Syria, as well as the empire more generally, in the 1870's and 1880's.<sup>82</sup> However, they were also a government response to the market boom in Salt and Karak during this period – the Ottoman state, in other words, wanted a larger piece of the profits.<sup>83</sup> As detailed in Chapter 1, property registration in Salt also had to do with the project to settle Muslim refugees in the district. Beyond identifying "empty" land, surveying the district and registering the land allocated to the refugees, it was thought, would not only motivate others to register land in their control, but would strengthen the refugees' claims vis-à-vis possible protestors to the allocations. Registration would also theoretically force the refugees' tent and village dwelling neighbors to pay regular taxes on their newly registered holdings.

However land survey and registration in Salt was a political Pandora's box just as it was all over the empire. Eugene Rogan has argued that the authorities in Salt decided to leave land registration "to the market" in the Salt district, in contrast to Ajlun where registration occurred methodically, village by village.<sup>84</sup> Indeed, this is the impression one gets from reading the district's late Ottoman land records, which represent the spotty achievements of the local authorities in Salt: on paper, refugees had control over specific plots of land and Bedouin, village dwellers and townspeople had control over other plots, with large holes of unregistered land in

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<sup>79</sup> Ranajit Guha, *A Rule of Property for Bengal: An Essay on the Idea of Permanent Settlement* (Orient Blackswan, 1982); Alain Pottage and Martha Mundy, eds., *Law, Anthropology and the Constitution of the Social: Making People and Things* (Cambridge: Cambridge University Press, 2004).

<sup>80</sup> İslamoğlu, "Towards a Political Economy of Legal and Administrative Constitutions of Individual Property"; Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*; Richard Saumarez Smith, "Mapping Landed Property: A Necessary Technology of Imperial Rule?," in *Constituting Modernity: Private Property in the East and West*, ed. Huri İslamoğlu (London: I.B. Tauris, 2004), 149–79.

<sup>81</sup> Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914," 150.

<sup>82</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*.

<sup>83</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*.

<sup>84</sup> *Ibid.*

between. Central archival material shows that the large blank spots in Salt's survey had more to do with the inability of Ottoman authorities to enforce property settlements in a highly contentious political environment than any intentional decision to leave land registration "to the market." In fact, this material suggests that the land registration that did occur in Salt may have been largely heuristic, rather than representing "facts on the ground", at least until the Mandate period when the Ottoman records took on new weight as the basis for the comprehensive British land survey of the region in the 1930's and 1940's.<sup>85</sup> For an administrative authority already in crisis, completing surveys of property, land and people in the Salt district was ultimately unachievable.<sup>86</sup> This was due not to administrative inefficiency or a top-down decision to abandon the survey process altogether, but to contestations of the process involving violent conflict over property on the one hand, and the efforts of local town and tent dwelling notables to sabotage the survey process on the other.<sup>87</sup>

In early May 1907, before the landslide of events that led their relations to sour, Şukri Paşa wrote to Cemal Bey warning him about the problems that could come up during that summer's scheduled survey of land and fixed property (*emlak ve arazi tahriri*).<sup>88</sup> Without naming names, he warned first of the influence of powerful individuals in the district who would try to stop the survey process, encouraging Cemal Bey to summon them to Karak and investigate their motives. He also warned Cemal Bey to make sure his survey team in Salt was free of corruption. In fact, many of the details the investigators were able to obtain about the bribery accusations explained above came from a group of merchant notables from Salt who were originally deposed not in relation to the Ayn Suwaylih attack, but in relation to their being summoned to Karak, a 24-hour journey on horseback south of Salt, in June 1907.

As directed by Şukri Paşa, Cemal Bey seems to have attempted to prevent problems with the survey in Salt by removing key merchant notables from the town altogether during the survey process – many of the leaders of tent and village dwellers were already in prison because of their involvement in the Ayn Suwaylih attack. Those summoned to Karak included five men: Farah Abu Jabir, the scion of one of the wealthiest merchant notable families in the region; Adib Effendi al-Kayid, a close confidant of Abu Jabir; Husayn Effendi al-Yusuf, a member of the Salt administrative council; Salih al-Khalifa, and Mustafa al-Hadidi. In separate depositions, each of these merchant notables described being escorted to Karak under arms for three days in late June 1907, their time in the county capital coinciding with that of the Ayn Suwaylih prisoners held in the castle just before they escaped. After keeping them in Karak for three days, Cemal Bey reportedly summoned them to his office, presented them with expensive robes, and released them to begin the 24-hour ride back to Salt as they pleased.<sup>89</sup>

With the exception of Farah Effendi Abu Jabir, all of the summoned merchant notables feigned ignorance when asked why Cemal Bey would do such a thing. They denied giving him any money in Karak, saying they thought they were being rewarded for their friendship to the

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<sup>85</sup> Fischbach, *State, Society and Land in Jordan*.

<sup>86</sup> Counting people proved no less problematic in Karak county - note that the Ottoman general census of 1906/7 did not include numbers for Karak county. See Karpat, *Ottoman Population, 1830-1914*, 164.

<sup>87</sup> The striking resemblance between these survey problems and those described by Terzibaşoğlu for the district of Ayvalık in southwest Anatolia cannot be emphasized enough. These problems were hardly exclusive to Salt. Terzibaşoğlu, "Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914."

<sup>88</sup> BOA.ŞD 2304/6 Page 216, Şukri Paşa to Cemal Bey, 24 Nisan 1323/May 7 1907

<sup>89</sup> BOA.ŞD 2304/6 Page 92, Depositions of Farah Abu Jabir, Adib al-Kayid, Mustafa al-Hadidi, Husayn al-Yusuf, 23 Teşrinievvel 1323/5 November 1907.

exalted Ottoman state and then redirecting the investigative team's attentions to rumors that Cemal Bey had taken bribes from everyone ranging from the tent dwellers to Salama Effendi the treasurer. Farah Abu Jabir was indignant: he said his and his colleagues' detention was the direct result of a formal complaint they had made to the provincial government about the survey process in Salt, a complaint that may have been the reason Şukri Paşa warned Cemal Bey about the survey initially.<sup>90</sup> He also said that from the beginning Cemal Bey's soldiers had come to his house asking for money and demanding that he go with them to Karak, and that initially he had attempted to escape by taking a detour through his family estate in the village of Yaduda, evading his military escort and trying to board a train to Damascus.<sup>91</sup> Abu Jabir was detained at the closest railway station in Amman before he could get on the train, flanked by ten tins of olive oil he planned to present to provincial governor Şukri Paşa in hopes of escaping Cemal Bey's apparent predations.<sup>92</sup>

The chief survey scribe in Salt, Ali Riza Bey, told the investigators that he and Cemal Bey, at Şukri Paşa's instruction, had removed the notables from Salt in order to complete the survey process and ensure its integrity. He did not condone Cemal Bey's methods, noting that some money had probably changed hands both because Cemal Bey had returned the notables to Salt dressed in fancy robes and because the son of one of them, Husayn al-Yusuf, quickly gained an appointment as the tax collector on fees for the local cultivators' animals.<sup>93</sup> Despite Cemal Bey's efforts, Salt's registers of land and fixed property do not show that any comprehensive survey of the district's holdings was completed that year, or indeed at any point throughout the Ottoman period. Because of the local conflicts over land and the opposition of bureaucrat notables, immovable property would be left to the market in spite of Ottoman survey attempts until the 1930's.<sup>94</sup>

Beyond surveying fixed property and land, the local Ottoman administration's attempts to survey and tax the region's animals also suffered from accusations of mismanagement and theft. For the districts of Salt and Karak, the annual tax payment owed by the large nomadic groups who resided within the district's borders in the summer harvest months before they returned to the arid regions east of the Hajj route, described in the investigation only as "the desert" (*çöl*) in the fall, was an important source of revenue. Their annual migration into lands under direct Ottoman

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<sup>90</sup> The relationship between the Abu Jabir family and the Ottoman authorities was complex. The Abu Jabirs were involved in local administration, with Farah's father Salih being one of the first local members of the Salt administrative council. However, by 1907 authorities in Damascus and Istanbul had become uncomfortable with a Christian family owning so much land near the Hijaz railway and there were imperial investigations into the property administrators that let these sales occur. See BOA.DH.MKT 1174/26, Letter from the Imperial Lands Ministry to the Ministry of the Interior, 4 June 1907. Indignance is the best way to describe Abu Jabir's attitude towards what he clearly saw as harassment at the hands of the authorities: "I am a man of wealth and property." BOA.ŞD 2304/6 Page 92, Deposition of Farah Abu Jabir, 23 Teşrinievvel 1323/5 November 1907. For a history of the Abu Jabir family in the Salt region, see Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, Chapter 8.

<sup>91</sup> Ibid.

<sup>92</sup> BOA.ŞD 2304/6 Page 201, Note from Haşim Effendi, Salt district governor, to Cemal Bey, 7 Haziran 1323/20 June 1907.

<sup>93</sup> BOA.ŞD 2304/6 Page 106, Correspondence between investigators and Ali Riza Effendi, 22 Teşrinievvel 1323/5 November 1907.

<sup>94</sup> Fischbach, *State, Society and Land in Jordan*, Chapter 4.

rule left the authorities with a small window of time in which to count their animals, assess the amount of taxes they would be charged and collect the required amounts.<sup>95</sup>

The tax registers detailing these animal counts do not survive, so it is difficult to ascertain if *mukhtars* of sub-sections of these large camel-herding nomadic groups were elected as they were for smaller groups like the Abbad and Adwan who lived closer to Salt year-round and were more involved in agriculture. In the investigation papers, these groups were represented by shaykhs, although there are hints that a lower stratum of mid-level leaders was also involved in administration. Like *mukhtars*, these shaykhs presented themselves as representatives of nomadic constituents and purveyors of Ottoman authority among them, but they generally had more historical political clout than the *mukhtars* introduced here and were representing much larger groups of people. However, the investigation also shows the involvement of these large camel-herding groups in Ottoman administration.

The animal counts in the summer of 1907, like the survey of fixed property, were plagued with problems. In the town of Karak itself, Cemal Bey was accused of mishandling the count of the camels of the Bani Atiya group. The main shaykh of the Bani Atiya, Shaykh Harb, petitioned the provincial government after Cemal Bey was dismissed from his post, accusing him of collaborating with the local tax administration to overcharge the Bani Atiya and pocket the difference, as well as confiscating and selling their weapons. With this petition, he hoped to retrieve some of the money taken from the Bani Atiya, and he also provided a deposition to the investigation against Cemal Bey.

In his petition, he first elaborated the credentials of the Bani Atiya with the Ottoman state: besides cooperating closely with the tax collectors to count the camels and collect the usual amount assessed on each, they were also the official protectors of the Hajj route between Mudawwara south of Maan and Al-Muazzam south of Tabuk, and therefore had probably historically enjoyed tax exemptions.<sup>96</sup> In this context, Shaykh Harb balked at the demand of the Karak tax administration that the Bani Atiya pay double fees for their 300 camels, a demand he claimed originated with Cemal Bey at the height of his corruption but that had no basis in provincial policy. He accused Cemal Bey of collaborating with the notable bureaucrat assigned to the camel count, Qadar al-Majali,<sup>97</sup> to charge for an extra 300 camels and pocket the difference. In his deposition, he described following the tax collectors back to the center of Karak, flanked by the people of the Bani Atiya who had paid the collectors directly and camped in Karak's environs while he appealed to the governor. Unceremoniously, Cemal Bey refused to hear his plea and dismissed him to the county accountant, who likewise was of no use.<sup>98</sup>

Rebuffed in his petition as well as in his deposition, Shaykh Harb used his final weapon against an Ottoman official he felt was oppressing him and his constituents: he said that if they were forced to pay such exorbitant taxes, the people of the Bani Atiya would be pushed into poverty. Rather than be financially ruined, they would vote with their feet and move south into

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<sup>95</sup> For description of this process see BOA.ŞD 2304/6 Page 36, Interrogator's final report, 27 Kanunuevvel 1323/9 January 1908, and BOA.ŞD 2304/6 Page 111, Deposition of Karak tax collector 'Issa Madanat, 15 Teşrinievvel 1323/28 October 1907.

<sup>96</sup> BOA.ŞD 2304/6 Page 164, Telegraph from Shaykh Harb to Damascus, 19 Eylül 1323/2 October 1907.

<sup>97</sup> The ties between the Majali family in Karak and the Ottoman administration that come out of this investigation are striking, even more so because of their supposed role leading the anti-Ottoman revolt in Karak in 1910. While Qadar al-Majali provided his own deposition to the investigation in Arabic, his relative Tevfik, who was on the regular survey staff, gave his in fluent Ottoman Turkish and was accused of translating Arabic newspapers smuggled to Karak from Egypt into Turkish for Cemal Bey.

<sup>98</sup> BOA.ŞD 2304/6 Page 111, Deposition of Shaykh Harb, 8 Teşrinievvel 1323/21 October 1907.

Egyptian territory where the tax demands would supposedly be more amenable.<sup>99</sup> Cemal Bey was therefore accused of mishandling the Ottoman relationship with the Bani Atiya and opening the door for a large community with intimate knowledge not only of the administration of the Hajj route but also of the terrain of a loosely administered and contested region to join the enemy.<sup>100</sup> Shaykh Harb's petition therefore illustrates the way the sovereignty question lurked in the background of the more general crisis of Ottoman administration in southern Syria.

When questioned, the accountant for Karak county claimed that the Bani Atiya had come to the environs of Karak in early August because they were trying to evade the taxation attempts of the district governor of the neighboring Maan district, and that the district tax collection authorities had been acting in accordance with orders from Damascus to make sure they paid the required fees on their camels as well as fees for attempting to evade taxes.<sup>101</sup> Cemal Bey, however, stood accused of failing to appease Shaykh Harb and risking the flight of the entire nomadic community over the Egyptian border.

Shaykh Harb's involvement was also important to the sovereignty issues in Karak county because the provincial and imperial authorities were concerned about the apparent plethora of weapons in the region, especially British-made weapons like the Martini gun that tent dwellers in Salt had used in the Ayn Suwaylih attack and other conflicts over land.<sup>102</sup> In this context, Shaykh Harb accused the tax collectors of confiscating four Martini guns from his constituents and then selling them in the Karak market, a charge supported by a Karak merchant in whose home Shaykh Harb had found one of the weapons hanging on the wall, as well as two mounted soldiers who accompanied the camel fee collection trip.<sup>103</sup> The Bani Atiya were allegedly involved in weapons smuggling operations in collaboration with the Huwaytat tent dwellers, who had relatives in Egyptian territory, and would carry weapons north to the nomads in the Balqa region including the Abbad and 'Adwan.<sup>104</sup>

As a leader with privileges related to the Hajj route, however, Shaykh Harb and his constituents also had at least some level of imperial permission to carry weapons, and so were indignant when the tax collectors confiscated their guns as part of the survey process. The investigative team looked into Shaykh Harb's accusations that the tax collectors had sold his weapons for personal profit, and while these accusations were supported by soldiers and the merchant who apparently bought one of the Martini guns, the tax collectors themselves denied involvement.<sup>105</sup> Although the investigators met with another wall of denial, the involvement of the Bani Atiya in weapons smuggling would have made the provincial and imperial administrations even more uneasy about their possible defection to Egypt.

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<sup>99</sup> Ibid.

<sup>100</sup> BOA.ŞD 2304/6 Page 36, Interrogator's final report, 27 Kanunuevvel 1323/9 January 1908

<sup>101</sup> BOA.ŞD 2304/6 Page 131, Correspondence between investigators and Karak accountant, 9 Teşrinievvel 1323/22 October 1907.

<sup>102</sup> The weapons smuggling issue appeared in Şukri Paşa's initial complaint about Cemal Bey to the Grand Vizir's office in which he accused him of treason. See BOA.I.HUS 158/86 Page 2, Letter from Yıldız Palace, 20 Ş 1325/15 Eylül 1323/28 September 1907.

<sup>103</sup> BOA.ŞD 2304/6 Page 111, Depositions of Karak merchant Mustafa al-Jafari and soldiers Said Buluz and Sulayman, 9 Teşrinievvel 1323/22 October 1907

<sup>104</sup> BOA.ŞD 2304/6 Page 36, Interrogator's final report, 27 Kanunuevvel 1323/9 January 1908

<sup>105</sup> BOA.ŞD 2304/6 Page 111, Depositions of Shaykh Qadar al-Majali and tax collector 'Issa Madanat, 15 Teşrinievvel 1323/28 October 1907.

Shaykh Harb's petition and deposition provide a commentary on the way developing borders changed the political game for mobile populations in the early twentieth century. The Bani Atiya were a large camel-herding nomadic group who, unlike the Abbad, Adwan and Balqawi tent dwellers, do not seem to have been extensively involved in agriculture and spent most of the year outside intensively cultivated areas. This should not be taken to mean they never cultivated or somehow were against cultivation, but only that the bulk of their income and livelihood seems to have come from camel herding and weapons smuggling in addition to their pilgrimage-related activities. Shaykh Harb's petition points to another element of the relationship between large camel-herding groups and the provincial Ottoman government, namely that mobility made it easier for him to threaten to leave Ottoman lands as a way of influencing Ottoman policy. Similarly, when Alaa al-Din Tawqan decided to take on the duty of collecting refugee reparations among the Manasir and other Abbad communities, he noted that the Abbad had reached such a state of ruin during their disastrous summer that, being tent dwellers, they had simply begun taking down their houses and moving elsewhere to escape the soldiers' extortionist demands. This was threatening not only to the authorities in Salt, who would lose important tax paying constituents were the Abbad to leave, but to the merchants, whose debts would go unpaid.<sup>106</sup>

These threats, however, are distinct from the argument that because Bedouin were mobile they were able to remain autonomous from the Ottoman government and elusive to the debt demands of merchants.<sup>107</sup> Both Shaykh Harb of the Bani Atiya and the Abbad Manasir communicated with state agents in the same language, terms and form as other Ottoman subject/citizens attempting to improve their situation while maintaining good standing with the government through petitioning higher Ottoman authorities. They accused Cemal Bey of conducting himself outside the boundaries of the ideal of Ottoman justice, they highlighted the lost tax revenues suffered by the treasury, and they appealed first to local officials to make their case and then, in the case of Shaykh Harb, to higher Ottoman authorities. Mobility was a powerful bargaining chip, but the nomads used it within an Ottoman political context and in the language of that context. Shaykh Harb's threats were analogous in this sense to the petitions of other rural Ottomans who threatened that state injustices would lead to the ruin of the peasantry that constituted the empire's tax base.<sup>108</sup>

The problems with surveying that Cemal Bey's investigation expose detail the highly contested nature of intrusive state policies in Salt and in Karak county more widely. In this case, the importance of the history of Ottoman rule in the region is obvious. Ottoman authorities in southern Syria were not implementing policy in a formerly autonomous region that they had no previous knowledge of or connections in. Rather, the privileges certain communities had developed over centuries of rule rendered intrusive policies more complicated to execute: Cemal Bey found himself decorating merchant notables to keep them from derailing the local survey, ultimately unsuccessfully. Nomadic groups in the county balked at the idea of paying extra taxes when, in their eyes, they continued to provide important services to the state and enjoyed exemptions both from excessive taxation and from arms bans because of those services. Neither

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<sup>106</sup> BOA.ŞD 2304/6 Page 92, Deposition of Ala'a al-Din Tawqan, 25 Teşrinievvel 1323/7 November 1907.

<sup>107</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 108; Minawi, "Lines in the Sand: The Ottoman Government's Policies of Expansion and Consolidation on Its African and Arabian Frontiers (1882-1902)," 47.

<sup>108</sup> See for example a petition considered by the Meclis-i Vala written by an Ajluni notable claiming that fighting between the Bani Sakhr, Adwan and Abbad was disrupting local agriculture. BOA.MVL 302/98, R 7 1853/5 January 1856.

the merchants nor the nomads were being pulled into Ottoman structures of rule for the first time: rather, they were renegotiating their position in a changed Ottoman context. This renegotiation was the substance of the crisis of administrative authority the investigation of Cemal Bey embodies.

### **Land Conflict and Sovereignty**

The accusations of bribery, mishandling of surveys and taxation, and facilitation of a large-scale prison escape against Cemal Bey were important. However, the straw that seems to have broken the proverbial camel's back for the governor of Syria, Şukri Paşa, was yet another land conflict that escalated in the Salt district in late July and early August of that eventful 1907 summer, just as Cemal Bey and the Karak tax collectors were busy with the survey of Bani Atiya camels and Nahar al-Bakhit was preparing to escape from the Karak castle with his colleagues. This conflict involved another large camel-herding nomadic group with strong administrative ties to Karak county and historical responsibilities and privileges vis-à-vis the Hajj route: the Bani Sakhr. Unlike the Bani Atiya, the Bani Sakhr were deeply involved in agriculture as well as in day-to-day Ottoman administration: their main shaykh, Talal Paşa, was the director of the sub-district of Jiza to the south of Salt and, as his title implies, a highly decorated Ottoman civil servant.

The historical conflicts between the Bani Sakhr and the people of the town of Madaba south of Salt, a group of Christian villagers who had migrated from Karak to the settlement site in 1880 after a conflict with other groups in Karak, are well documented.<sup>109</sup> Eugene Rogan describes a settlement concluded by none other than the prominent Ottoman statesman Midhat Paşa, who at that time was serving as governor of Syria. Rogan presents this settlement as evidence of the subordination of the region's Bedouin to the Ottoman land regime: the Bani Sakhr leaders tried to petition the provincial government but Midhat Paşa rejected their claim because they had not previously registered the lands they cultivated in the Salt region.<sup>110</sup> As in the case of the Circassian and Chechen refugees, the legal claim that the region's land was *mahlul* and therefore open to settlement by newcomers was not enough: the Christians from Karak were granted rights to land previously controlled by the Bani Sakhr by imperial fiat and according to Midhat Paşa's provincial-level decree, although they were not granted the same tax exemptions as the Muslim refugees.<sup>111</sup>

However, as Rogan notes, the Bani Sakhr attempts to regain control of the fertile land around Madaba continued just as the nomadic groups around the town of Salt refused to back down from what they considered their historical right to land settled by the refugees. Between 1880 and 1907, there were numerous skirmishes between the Bani Sakhr and Madaban settlers and Bani Sakhr leaders repeatedly attempted to register their claims to the fertile lands near Madaba.<sup>112</sup>

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<sup>109</sup> For a review of the conflicts in Karak that precipitated the migration as well as the discussions between missionaries, Ottoman officials and Christian leaders, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 78–9.

<sup>110</sup> *Ibid.*, 81.

<sup>111</sup> *Ibid.*

<sup>112</sup> Rogan notes that Bani Sakhr leaders registered a claim to the lands of Jalul in the Sharia court in 1904, but there is no corresponding registration in the land records. It is possible that such a registration was lost, but more likely that the Bani Sakhr were unable to obtain formal title to the land so registered their claim in the Sharia court as a

In July 1907, just as Nahar al-Bakhit's friends from Maan were working on the escape hole in the Karak prison, two land conflicts were escalating in the sub-district of Madaba. The first was between the Bani Sakhr and the Balqawi tent dwellers, who used the lands around Madaba for agriculture and were attempting to harvest their fields just as the Bani Sakhr moved into the region for the summer months. The conflict had to do both with arguments over agricultural lands that both groups claimed as their own, and arguments over the damage done to Balqawi agricultural projects when the Bani Sakhr moved their animals. The second similar conflict was between the Bani Sakhr and the Christian inhabitants of Madaba.

In late July 1907, Cemal Bey received numerous pleas to go to Madaba in person and conclude an agreement between the three conflicted parties, as former governors had apparently done before him. These pleas came from the district governor of the Salt district, but also from the leaders of the Madaban villagers, the Balqawi tent dwellers and the Bani Sakhr.<sup>113</sup> Salim Abu al-Ghanam, the *mukhtar* of the Balqawi tent dwellers who was also involved in the Ayn Suwaylih attack, said that he wrote to Cemal Bey complaining of Bani Sakhr aggressions including theft and murder, but received no response, later opting to appeal to higher authorities.<sup>114</sup> Talal Paşa, the shaykh of the Bani Sakhr, responded with a letter of his own describing how the Balqawi nomads had prevented the Bani Sakhr from watering their animals or even drinking from the well of Hisban near Madaba and poignantly describing the cries of thirsty women and children.<sup>115</sup> Cemal Bey, however, declined to go to Madaba, saying that he was tied up in Karak with the survey of the Bani Atiya camels.<sup>116</sup>

Cemal Bey's reasons for staying out of Madaba were actually more complex, and he elaborated on them in his written defense during the investigation. He explained that the conflicts over land between these three parties occurred every summer, he had been aware of them when he was governor of Hawran county and had asked the provincial government to take steps to avoid them in 1907 to no avail. He saw the conflicts as the direct result of the protections the Bani Sakhr enjoyed because of their privileged position with the administration of the Hajj route. While Şukri Paşa and the investigators explained the Madaba conflicts as simple arguments over resources without assigning blame, Cemal Paşa argued that the violence in Madaba was largely due to Bani Sakhr aggression, but that whenever local authorities tried to punish the Bani Sakhr they ran into problems with Abd al-Rahman Paşa, the Chief Protector of the Hajj route based in Damascus.<sup>117</sup>

Whatever the veracity of Cemal Paşa's claims, the Bani Sakhr position was further bolstered by the position of their leader, Talal Paşa, as an Ottoman bureaucrat. Talal Paşa was not simply a *mukhtar* like the other low-level bureaucrats highlighted here, but he held the non-elected office of director (*müdür*) of the sub-district of Jiza. As the fighting in Madaba escalated, the district governor in Salt heard that Talal Paşa had gathered the Bani Sakhr leaders at his house in Jiza to discuss what to do about the conflict. They reportedly decided that after the ongoing

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possible defense against others' claims later. Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 137.

<sup>113</sup> BOA.ŞD 2304/6 Page 36, Chief Interrogator final report, 27 Kanunuevvel 1323/9 January 1908.

<sup>114</sup> BOA.ŞD 2304/6 Page 188, Letter from Salim Abu al-Ghanam to Damascus, 18 Temmuz 1323/31 July 1907.

<sup>115</sup> BOA.ŞD 2304/6 Page 186, Letter from Talal Paşa to Damascus, 21 Temmuz 1323/3 August 1907.

<sup>116</sup> BOA.ŞD 2304/6 Page 189, Correspondence between Cemal Bey and Şukri Paşa, 19 Temmuz 1323/1 August 1907.

<sup>117</sup> BOA.ŞD 2304/6 Page 28, Report from Cemal Bey to investigative team, 27 Kanunusani 1323/9 February 1908.

survey of Bani Sakhr animals was finished, they would attack the village of Madaba in what was rendered in both Ottoman Turkish and Arabic as “general killing.”<sup>118</sup>

When news of this decision reached Damascus, Şukri Paşa began sending Cemal Bey direct orders to go to Madaba and conclude a settlement between the conflicting parties in order to avoid a “bloodbath.”<sup>119</sup> Cemal Paşa still refused to travel to Madaba, saying he was too busy with the Bani Atiya and Huwaytat and that his presence in Madaba would do no good. Şukri Paşa eventually sent two relative outsiders, the commander of the Karak military regiment, Ömer Paşa, and the district governor of Wadi al-Ajam, Amir Arslan Bey, who apparently concluded a settlement, the detailed terms of which do not survive. Talal Paşa, being a government employee, had given them a window by making sure the attack would wait until the Bani Sakhr animal survey was concluded. However, he managed to use the conflict to his own financial advantage in the end: in what may have been their goal all along, the Bani Sakhr, who Talal Paşa argued were in a piteous state after the attacks against them, were excused from the animal tax in 1907, depriving the treasury of at least 100,000 piasters.<sup>120</sup> This loss of revenue became yet another complaint Şukri Paşa and the investigators leveled against Cemal Bey.

Indeed, Talal Paşa’s ability to use the situation in Madaba to the financial advantage of the Bani Sakhr, as well as Cemal Paşa’s complaints about the Hajj administration’s granting of virtual political immunity to the group, is important to understanding how the historical ties between certain large and regionally powerful nomadic groups and the Ottoman administration continued to have influence even as the Hijaz railway obviated the necessity for protection of each kilometer of the Hajj route. Both the Bani Sakhr and the Bani Atiya were able to leverage their connections with and privileges under the Hajj administration when it came to survey and taxation – in effect, it gave them a strong bargaining chip with the local authorities.

Even though there was no bloodbath in Madaba in summer 1907, Şukri Paşa was furious with Cemal Bey, who at that point was still in Karak dealing with the prison escape. He had not only defied a direct order to travel to Madaba, but his mismanagement had invited foreign attention. In fear of the Bani Sakhr “general killing”, the Madaban Christians had petitioned not only the Ottoman authorities, but also the Latin Patriarch and French consul in Palestine.<sup>121</sup> This involvement of foreign consuls in the affairs of the town of Madaba was not unprecedented – as Eugene Rogan detailed, the entire Christian settlement was the result of the efforts of Catholic missionaries based in Jerusalem who had appealed to the French consul in 1880 to petition the Ottoman government to grant the Christians land in the Balqa.<sup>122</sup>

The Madabans’ plea to the foreign consul in 1907 therefore brought their land conflict, in contrast to the Ayn Suwaylih attack which involved far more loss of life and property, into the sensitive realm of sovereignty issues that provided the backdrop to the general crisis of Ottoman authority in Salt. For Cemal Bey, one crisis followed another, from the Ayn Suwaylih attack in May to the property survey problems in Salt and animal survey problems in Karak, to the prison escape and finally the Madaba conflict. Whether or not he was attempting to defect to Egyptian territory, Cemal Bey’s modern administration faced serious problems in southern Syria.

A good expression of the legibility problems the provincial and imperial governments experienced in Salt at the end of the Hamidian era is the general state of frustration exuding from

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<sup>118</sup> BOA.ŞD 2304/6 Page 36, Chief Interrogator’s final report, 27 Kanunuevvel 1323/9 January 1908.

<sup>119</sup> BOA.ŞD 2304/6 Page 180, Şukri Paşa to Cemal Bey, 27 Temmuz 1323/9 August 1907.

<sup>120</sup> BOA.ŞD 2304/6 Page 36, Chief Interrogator’s Final Report, 27 Kanunuevvel 1323/9 January 1908.

<sup>121</sup> Ibid.

<sup>122</sup> Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 78–9.

the pages of the reports of the inspectors assigned to investigate Cemal Bey's conduct in Salt. The circumstantial evidence against Cemal Bey, especially with regard to bribery, was extensive: there were tens of claims that he had probably taken money illegally in relation to the Chechen reparations operation, the appointment of the treasurer, the release of the Ayn Suwaylih prisoners, and the property survey in Salt. However, whenever the investigators attempted to establish a confirmed trail for the money in question, denials ensued: the merchants and financial director denied providing cash for the bribes, the tent dwellers presented themselves as pawns in a larger political game in the district, and the other Ottoman officials, while providing as much detail as they seemingly could, practiced strategies of redirection. The investigators were left to insist that although they were faced with a wall of denial from the district's inhabitants in general, the circumstantial evidence was too much to ignore. Cemal Bey must have taken bribes and his mismanagement of district affairs was obvious considering the level of crisis in Ayn Suwaylih, Madaba, Salt and the Karak castle in 1907.<sup>123</sup>

While Şukri Paşa predictably secured the recommendation of the district administrative council to send Cemal Bey to criminal trial, the Council of State in Istanbul was ultimately unconvinced by the flood of circumstantial evidence its members reviewed, writing that the evidence presented against him was ultimately inefficient. In August 1908, the Council of State recommended that Cemal Bey be absolved of any wrongdoing and reinstated in the Ottoman civil service.<sup>124</sup>

In his memoirs written during the Mandate period, Karaki notable Awda al-Qusus provided a view from the town of Karak on the Cemal Bey case. Al-Qusus was a member of the first Nizamiye court of first instance in Karak in the 1890's, and thus had a close relationship with the county's Ottoman officials who came from elsewhere. He included his description of Cemal Bey in a larger list of Ottoman governors of Karak county, who he judged one by one as either respectable public servants or bribe-collecting villains. According to al-Qusus, Cemal Bey was unquestionably on the respectable side, while his predecessor, Arif Bey, was interested only in bribery. He details Cemal Bey's attempts to build a road between Karak and Qatrana, claiming that he convinced the local people to help with the building project at no charge but was stymied by the machinations of the provincial government in Damascus.

Al-Qusus did not include the Ayn Suwaylih conflict, the prison escape, the problems with surveys, or the conflict in Madaba in his memoirs. He did, however, describe his memories of Cemal Bey's dismissal from Karak and his deportation under arms to Damascus. Al-Qusus maintained, along with Cemal Bey himself, that the governor of Syria was out to get him because Cemal Bey had spoiled Şukri Paşa's attempts at personal gain when he was governor of Hawran county. He reported that because he was so frustrated with Şukri Paşa, Cemal Bey had proposed that Karak be made an independent county reporting directly to Istanbul, along the lines of neighboring Jerusalem, in a coded telegraph that was intercepted and decoded by Şukri Paşa's employees. This, rather than the conflicts and chaos in Karak county, was what made Şukri Paşa attempt to prosecute Cemal Bey.<sup>125</sup>

Al-Qusus remembered going with Cemal Bey to the train station to see him off with other Karaki families, and he also remembered transmitting messages between Cemal Bey in Damascus

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<sup>123</sup> BOA.ŞD 2304/6 Page 29, Şukri Paşa to the Ministry of the Interior, 24 Kanunusani 1323/6 February 1908.

<sup>124</sup> BOA.ŞD 2304/6 Page 1, Council of State Presidency to the Ministry of the Interior, 21 Temmuz 1324/3 August 1908.

<sup>125</sup> Nāyif Jūrj al-Qusūs al-Halasā and Ghassān Salāma al-Shawārib al-Halasā, *Majmū'at Wathā'iq Wa-Awrāq Urdunīya Mulḥaqa Bi-Mudhakirrat 'Awda Salmān Al-Qusūs Al-Halasā (1877-1943)*, vol. 1 (Amman, 2006), 43–44.

and the shaykhs of Karak county while Cemal Bey was detained. He also recalled that Cemal Bey was eventually found innocent, and argued that the Council of State's decision was based on a letter that the Karaki shaykhs wrote in his support.<sup>126</sup> While the Council of State's own record of its decision is much more complex, as described above, the letter from the Majali shaykhs of Karak petitioning for Cemal Bey's reinstatement is included in a file on the case preserved by the Ministry of the Interior.<sup>127</sup> Al-Qusus's description of events, which in its assignation of local agency is similar in some respects to the narratives expressed to Shryock in the 1980's about the reasons for the Ottoman incursion into Salt in the 1860's, brings Karak county firmly into the larger Ottoman orbit both of administration and of apparent political intrigue.

Claims of intrigue notwithstanding, the reformed Ottoman judicial system followed procedural regulations closely in this case. From the work carried out by the public prosecutors in Syria to the review of the Council of State, this was a typical investigation of an Ottoman civil servant conducted by the empire's administrative apparatus. Indeed, the investigation shows the efficacy of that system, the way it relied on multiple types of evidence, and the way its appeals process ultimately functioned to produce justice, interpreting Cemal Bey's unfortunate summer in Karak county not as machinations of a defecting governor but rather as the unlucky presence of civil servant presiding over a local storm.

A crisis of administrative authority, therefore, did not mean the absence, disintegration or necessary inefficiency of that authority. The struggles against attempts to allocate land controlled by tent dwellers to relative outsiders by imperial decree and survey and tax animals more stringently were conducted in the terms of the reformed Ottoman legal and administrative system and through the categories of Ottoman governance. Indeed, the entire investigation in some ways represents the triumph of Ottoman reform, with its detailed interrogations and precise measurements at least on paper. What we see in Şukri Paşa's frenzied orders to Cemal Bey to hurry to Madaba or Talal Paşa's triumphant avoidance of the 1907 animal taxes are rather challenges to Ottoman policy and its implementation. For all of their detailed regulations and reports, officials in Damascus and Istanbul were unable to control, or even to fully comprehend, the events in Salt district.

### **Conclusion: Nahar al-Bakhit and Politics in Salt Reconsidered**

His dramatic end attempting to escape from an Ottoman prison notwithstanding, Nahar al-Bakhit's sons continued to thrive in Salt's Ottoman sphere after his death. It is not clear if any of his three sons, Akraym, Ninawir or Naharayn, held the post of *mukhtar* of the Manasir. However, the records from the few years preceding World War I indicate that Bakhit left his sons in a strong financial position after he died and that they continued the family's involvement in local commodity markets, becoming small scale creditors in their own right. In November 1910, Naharayn registered a debt claim of his own against another member of the Manasir, claiming that in May 1909 he had completed an advanced purchase contract for 12.5 kayls of wheat with the defendant, who had still not paid even though the contract had a term of four months.<sup>128</sup> This is one the few cases in the Salt records in which someone described as a tent dweller (or villager, for that matter) acted as creditor in an advanced purchase contract. It shows that while the new

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<sup>126</sup> Ibid., 1:44.

<sup>127</sup> BOA.DH.MKT 1156/72 Page 25, Letter from Karak Majali shaykhs to the Minister of the Interior, 16 Teşrinisani 1323/29 November 1907.

<sup>128</sup> SSCR Volume 16 Page 97, 27 Z 1328/30 November 1910.

tax burdens and commercial expansion precipitated by direct Ottoman rule may have pushed tent dwellers and other producers of agricultural commodities into debt, some were able to benefit from the reforms, becoming small-scale creditors in their own right.<sup>129</sup>

In 1911, a Salt merchant provided an idea of Nahar al-Bakhit's net worth when he died by making a claim against his three sons for two separate debts. One was from a purchase Bakhit made of commodities in the merchant's shop, and the other was from an advanced purchase contract on raisins. The plaintiff, Hamdulillah Ibrahim Qutaysh, explained that a portion of both debts had already been paid back, but Nahar still owed him the considerable sum of 1698 piasters when he died. He also said that he knew Bakhit's estate had been split between his three surviving wives and his three sons, and that it included more than 500 goats, 50 cows, five male camels, one female camel, and three horses.<sup>130</sup> The worth of these animals amounted to approximately 62,000 piasters,<sup>131</sup> a significant fortune for the period under study.

The reported size of Nahar al-Bakhit's estate indicates that his wealth remained substantial under direct Ottoman rule. Like other tent dwelling *mukhtars*, he benefited from his new bureaucratically defined relationship with the state and the opportunities it afforded him to participate in the local administration, taxation and adjudication. As noted above, the Ottoman administration needed figures like Bakhit as much as their constituents did – they were the higher authorities' only hope of gaining the knowledge of rural populations they needed to implement intrusive government policies. In the process, Bakhit and other *mukhtars* developed strong relationships with military figures, career Ottoman officials and local notable bureaucrats.

However, Bakhit's activities in the summer of 1907 as reviewed here show that his service to the Ottoman state was far from simple. In effect, the expansion of the Ottoman bureaucracy that precipitated the increased "Ottomanization" of the rural regions also brought a new level of conflict into the bureaucracy. Bakhit not only organized tax collection in his community, he was also involved in organizing a large-scale attack on a village of refugees that were directly sponsored by the same Ottoman state to which he dutifully delivered revenue. His ability to manipulate the local administration and orchestrate a detailed and dramatic prison escape is testament to the bureaucratic knowledge and connections his activities as *mukhtar* facilitated.

The problems provincial and imperial authorities faced with *mukhtars* as purveyors of information and Ottoman policy were not particular to Salt, as is attested by numerous late Hamidian regulations outlining and re-outlining the proper conduct of *mukhtars*. *Mukhtars* were perhaps most problematic to the reformed administration because of their role as semi-elected representatives of groups of subject/citizens and the expectation that they would work solely towards the interests of the empire. However, personnel issues in the Hamidian bureaucracy were also not limited to *mukhtars*, as the review of problems with surveys, the modern state's ultimate tool for surveillance and taxation, reveals here. Intrusive modern state initiatives created complex networks of provincially and centrally appointed officials, locally appointed officials, locally elected officials and their constituents in rural areas of the Ottoman Empire. However, those networks did not always work the way imperial directives, for all of their procedural detail, envisioned.

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<sup>129</sup> Beshara Doumani charted a similar development among peasants who became creditors in the Jabal Nablus area in the mid-nineteenth century, often in relation to government tax demands. Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900*, Chapter 4.

<sup>130</sup> SSCR Volume 16 Pages 147-148, 23 M 1329/24 January 1911.

<sup>131</sup> I calculated the worth of Bakhit's livestock estate using averages of the values of animals mentioned in Salt Sharia court records. See Table 4.1.

The investigation of Cemal Bey depicts a region in crisis, as controversial Ottoman policies precipitated both violent conflict over land and accusations of corruption and mismanagement that, while numerous, were difficult for investigators to pin down. In the late Hamidian context, both Ottoman citizen/subjects and Ottoman bureaucrats used accusations of corruption and mismanagement to criticize Ottoman policy. The numerous investigations of Ottoman governors in southern Syria that found their origins in conflict over land were, therefore, indicative of an administrative authority in crisis.<sup>132</sup> This crisis was the result both of the expansion of the Ottoman bureaucracy and the renegotiation of long-standing relationships between the state and various social groups.

The life of Nahar al-Bakhit and the investigation of Cemal Bey both show that tent dwellers in Salt district and Karak county actively renegotiated their power in the modern context of intrusive state initiatives. While Nahar al-Bakhit used his position to gain physical freedom for himself and his colleagues, Shaykh Harb and Talal Paşa used their long-standing connections to the Hajj administration, the tax and weapons exemptions they enjoyed and, in the case of Talal Paşa, their positions in the newly refigured Ottoman bureaucracy to reduce their constituents' tax burdens. They employed these tactics not as formerly autonomous actors being incorporated into modern state structures, but as Ottoman subject/citizens and bureaucrats using their historic privileges to impact Ottoman policy.

In the late Hamidian context, tent dwellers and other rural Ottomans in southern Syria were also able to benefit from the heightened anxiety created by threats to Ottoman sovereignty. These threats have been depicted as the defining features of the late empire, and indeed they were important. However, in the investigation of Cemal Bey we see sovereignty trouble as a backdrop to a host of other issues that would have existed whether the British had a military force in Egypt or not. The sovereignty question changed, but did not define, the local context. Shaykh Harb's threats show that local actors were often able to take advantage of these problems just as they took advantage of the modern state's other vulnerabilities, most notably its imperative to collect revenue. In this as in other local political discussions, tent dwellers were important players in defining the way Ottoman policy worked on the ground.

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<sup>132</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*, Chapter 7 See also BOA.ŞD 2280/10, an imperial investigation of two officials charged with accepting bribes in their handling of a land conflict between nomads in Gaza in 1897.

## Chapter Four

### Beyond Land: Animals as Property in Late Ottoman Salt

The last week of August 1903 was a busy one for Abd al-Muhsin al-Bakhit. For the *mukhtar* of the Fuqaha Bedouin<sup>1</sup> in the Salt district of Syria, harvest time meant a long to-do list of errands in town. Besides collecting taxes from his relatives and settling matters with the authorities in Salt, he also had to visit the homes of his merchant partners and draw up contracts for the next season's wheat and clarified butter before moving his family, belongings and flocks to the warmer Jordan Valley for the winter. Finally, there were the courts. During that late summer week alone Abd al-Muhsin appeared in no less than five sessions of the Salt Sharia court.<sup>2</sup> He played every role available to citizen/subjects of the Ottoman Empire in the late Hamidian Sharia courts – he initiated claims as plaintiff, defended himself against others' charges, voiced testimony as a witness and verified the testimony of other witnesses. Visiting the Sharia court almost every day, Abd al-Muhsin probably spent the week camping on the outskirts of Salt with his relatives, who were also deeply involved in the town's business, so that he could easily ride into town for his court appearances.

Beyond the frequency of Abd al-Muhsin's visits to court, the content of the cases he argued is also striking. Three out of the five involved animals directly, and another involved debt for animal products. In one case, Abd al-Muhsin accused another man from the Fuqaha of giving him an "ignorant cow" as a gift and then illegally taking the cow back after Abd al-Muhsin had taught it to plow, thereby increasing its value.<sup>3</sup> In another, a Salti woman accused him of illegally giving her borrowed work horse to someone else to carry a heavy tent to a faraway encampment, killing the exhausted animal in the process.<sup>4</sup> These cases show not only the continuing centrality of animals in the rural Ottoman economy in the late Hamidian period, but the involvement of Bedouin in state-sanctioned legal mechanisms for regulating animal ownership and exchange.

Thus far, this dissertation has focused on landed property, the ways in which pastoral nomads' involvement in late Ottoman regulation of land created new opportunities for a "middling group" of Bedouin *mukhtars* to emerge during the Hamidian period, and the ways in which *mukhtars*' power and influence became problematic for Ottoman authority. Abd al-Muhsin al-Bakhit is a prime example of a rising nomad whose increasing wealth was tied up in the commoditization of land – besides those mentioned above, he was involved in a wide array

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<sup>1</sup> I am taking the spelling of "Fuqahā" from Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 89; This is how the group's name appears in the court record. This group is still prominent today and is known as a section of the 'Abbad group, but its name is pronounced "Afgaha" in the local dialect in Jordan and this is how Andrew Shryock chose to record it in his extensive treatment of their oral history. See Shryock, *Nationalism and the Genealogical Imagination*, 13, 41, 62, 135–7; Fredrick Peake, whose book is the product of his work in the Transjordan Mandate in the 1920s and 1930s, lists the "Fqaha" as a division of the 'Abbad in his chapter "Belqa Tribes." Frederick Gerard Peake, *A History of Jordan and Its Tribes* (Coral Gables, Fla: University of Miami Press, 1958), 166.

<sup>2</sup> Salt Sharia Court Records (hereafter SSCR) Volume 11, Page 11 Record 11, n.d.; SSCR Volume 11, Page 12 Record 12, 2 C 1321/26 August 1903; SSCR Volume 11, Page 14 Record 18, 4 C 1321/28 August 1903; SSCR Volume 11, Page 14 Record 11b, 6 C 1321/30 August 1903; SSCR Volume 11, Page 17 Record 20, 6 C 1321/30 August 1903.

<sup>3</sup> "baqr majhūl", SSCR Volume 11, Page 14 Record 18, 4 C 1321/28 August 1903.

<sup>4</sup> This case was heard in two separate court sessions, SSCR Volume 11, Page 11 Record 11, n.d. and SSCR Volume 11, Page 14 Record 11b, 6 C 1321/30 August 1903.

of cases involving land and agricultural commodities in the Salt court records after 1900. He also registered and transacted in land at the town's property registration office and he was a major provider of wheat to Salti merchants. Like other Bedouin leaders operating in Salt, Abd al-Muhsin took advantage of the increasing importance of commoditized land and its main agricultural derivative, wheat, in the local and regional economy.

However, Abd al-Muhsin's career as well as other records from Salt shows that livestock continued to be a key commodity throughout the Ottoman period. The claims preserved in the Sharia court records also highlight the legal challenges that livestock posed: they could run away, refuse to work, learn new skills, fall ill or die.<sup>5</sup> While their non-controversial legal status as moveable private property meant that jurists spilled less ink on treatises about animals than about agricultural state (*miri*) land or waqf property, regulating animals as property through law, and enforcing that law so that the state could benefit from their high value through taxation, posed certain unique problems.

This chapter investigates the roles of Bedouin in late-nineteenth-century Ottoman attempts to address these problems. While scholars have extensively examined Ottoman systems for regulating landed property in the nineteenth century, late Ottoman attempts to organize and especially to tax the ownership of and trade in valuable animal property are less known.<sup>6</sup> The chapter moves from the district back to the imperial level to outline such attempts, using central state archival material detailing related laws and directives. I will show that moves to regulate and more efficiently tax animal property came out of attempts to prevent livestock theft, which was a major problem in the rural empire from the Arab provinces to the Balkans. In the second half of the nineteenth century, central jurists recognized the imperative to curb animal theft towards safeguarding taxable private property. The need to prevent animal theft also legitimized the introduction of intrusive measures to regulate and more efficiently tax animal property across the empire.

At the same time, this chapter will return to the Salt Sharia court records to explore the roles of Bedouin in the administration of animals as property. At the district level, I show that the regulation of animal property was intimately tied to the regulation of land in that it relied on the same low-level bureaucrats: *mukhtars* who had the power to allocate tax burdens among their communities as well as to collect revenue. This chapter shows that the rise of a group of middling Bedouin *mukhtars* was predicated not only on their wealth in land and their political power to regulate land control, but also in their wealth and political power vis-à-vis animal property.

However, this chapter also shows the ways in which the power of *mukhtars* became problematic in the early twentieth century not only from the perspective of the central government, but also from within their own communities. Through the example of the Fuqaha as well as other Bedouin groups in the Salt district, I will show that in the 1910's, Bedouin contested the power of the *mukhtar* to allocate tax burdens within their communities and facilitate the collection of revenue. The office of the *mukhtar* therefore formed not only the main

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<sup>5</sup> For discussion of similar issues in early modern Egypt, see Alan Mikhail, "Animals as Property in Early Modern Egypt," *Jornal of the Economic and Social History of the Orient* 53, no. 4 (2010): 621–52.

<sup>6</sup> An important exception is Alan Mikhail's work on animals as property in Ottoman Egypt. See *ibid.*; See also Alan Mikhail, *The Animal in Ottoman Egypt* (Oxford University Press, 2014); Other recent work on animals in the Ottoman context that does not focus on animals as property specifically includes Suraiya Faroqhi, ed., *Animals and People in the Ottoman Empire* (Istanbul: Eren, 2010); See also Richard Buillet, *The Camel and the Wheel* (New York: Columbia University Press, 1990).

route of participation in late Ottoman reform for some Bedouin, but the pivotal site of contesting that reform for others.

This chapter also considers the process of reform and lawmaking at the imperial level. The story I present here of the development of laws regulating animals as property illustrates the importance of conceptualizing modernizing reform not as primarily top-down, externally inspired or necessarily efficient, but as a set of messy and contested processes moving in directions that jurists and bureaucrats did not predict or intend. Although this chapter focuses on the relatively specific topics of Bedouin and animals as property, its arguments are important for broader understandings of the role of populations usually considered marginal to processes of modern state building in the Ottoman Empire and beyond. The measures the Ottoman government attempted to implement towards regulating and taxing animal property throughout the Empire exemplified the intrusive technologies of rule that were hallmarks of modern state building all over the world: new forms of documentation of people and property including birth and death certificates, travel documents, passports, title deeds, surveys and censuses; new forms of tax collection that, theoretically, focused on individuals rather than groups; comprehensive education systems meant to include all subject/citizens, and the like.<sup>7</sup> The Empire's increasingly intrusive management and revenue collection methods were, in the case of animals as well as other forms of property, closely linked to rapid commercial development and that property's increasing market value.<sup>8</sup>

Therefore, while these reforms were expressed in a nineteenth century discourse that valued an abstract conception of order, it is important to remember that in practice they involved state agents attempting to extract revenue from key sources of local and imperial wealth. This chapter shows what narratives of "the Eastern Question" tend to leave out: that modern state building in the Ottoman context responded to the Ottoman context first and foremost. Bureaucrats and jurists attempted and modified reforms based on the experience of implementation all over the Empire. Ottoman state building was not a derivative exercise in mimicry, but rather the product of the types of interactions discussed in this chapter.

This chapter explores Bedouin roles in implementing a modern regime for regulating and taxing animal property at two levels. I will first outline the major trends in regulations, laws and proclamations related to animal property that the central government issued between 1870-1913. This outline will show that late-nineteenth-century jurists legitimated the creation of an intrusive system of property management and taxation through regulations aimed at reducing animal theft. Further, it will show that the process of making and amending laws in Istanbul was highly influenced by the experiences of bureaucrats attempting to implement those laws in provinces whose inhabitants were highly mobile, with reports from provincial governors and councils providing the content jurists utilized to amend existing regulations. This initial section will also examine the diversity of attitudes among Ottoman provincial bureaucrats towards the nomadic populations they encountered, especially with regard to animal theft and animals as property, challenging arguments for a cohesive discourse of Orientalism among late nineteenth century Ottoman bureaucrats vis-à-vis Bedouin and other pastoral nomads.

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<sup>7</sup> For treatment of modern technologies of governance in the Ottoman context drawing on Foucaultian theories of governmentality, see Fahmy, *All the Pasha's Men*.

<sup>8</sup> For an overview of economic growth and increasing prices in Syria and elsewhere in the Arab provinces in this period see İnalcik and Quataert, *An Economic and Social History of the Ottoman Empire, 1300-1914*, 2:829–831, 848–9.

After investigating the background of legislation on animals as property and bureaucratic experiences in the provinces, the chapter moves to the rural district level to examine Bedouin roles in regulating animals as property through the Sharia court records of the district of Salt. In the realm of animal property, the Salt Sharia court continued to be an important arena of policy implementation throughout the late Ottoman period even as the central state attempted to shift civil and criminal cases to the newly established Nizamiye (regular) courts. Further, quantitative analysis of the records shows that the majority of litigants in the numerous Sharia court cases involving loss or theft of animals and animal sales were identified as pastoral nomads. By initiating court proceedings for their cases of animal theft in a state sanctioned judicial arena and identifying their animals in the terms stipulated by imperial laws, Bedouin strengthened the foundations of the system for managing animal property and markets outlined in central regulations.

The court records confirm that animals and animal products were important to the wealth of Bedouin *mukhtars* like Abd al-Muhsin al-Bakhit alongside their holdings in commoditized agricultural land. However, the Sharia court records on animal property also show an unprecedented level of contestation of *mukhtar* powers, especially in the realm of taxation, in the post-Hamidian period. Bedouin contested both the practice of confiscating animals in lieu of agricultural taxes and the leadership of the *mukhtars* coordinating taxation. They also took advantage of the multiplicity of state sanctioned and extra-state legal forums for regulating animals as property to retain control over their livestock. In this way, rather than being victimized by or rebelling against Ottoman reforms, Bedouin in Salt contributed to a modern state building process whose language had currency all over the Empire.

### **Ottoman administration of animals as property**

There is extensive evidence that animal theft was a widespread issue in rural areas all over the Ottoman Empire. Scholars have documented the prevalence of animal theft cases in Sharia court records from sixteenth century Anatolia to seventeenth and eighteenth century Syria to nineteenth century Vidin (Bulgaria).<sup>9</sup> Likewise, the issue was treated in Ottoman law throughout the Ottoman period.<sup>10</sup> The second half of the nineteenth century was unique in the sense that legislation aimed at curbing animal theft was written in the context of myriad other attempts to increase the efficiency of revenue collection and the related security of private property.<sup>11</sup> In this context, it also provided a legitimating tactic for increasing mechanisms for monitoring animal property in general.

The central Ottoman government issued numerous directives, announcements and proclamations concerning animals, and livestock specifically, in the late nineteenth and early twentieth centuries. These regulations aimed to reduce animal theft, but at the same time introduced extensive measures for monitoring animal property at the district and village levels.

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<sup>9</sup> For sixteenth century Anatolia, see Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (University of California Press, 2003), 72–3; For Syria, see Meier, “Bedouins in the Ottoman Juridical Field: Select Cases from Syrian Court Records, Seventeenth to Nineteenth Centuries”; For Vidin, see Saraçoğlu, “Letters From Vidin: A Study of Ottoman Governmentality and Ottoman Politics of Administration, 1864-1877,” Chapter 5.

<sup>10</sup> Leslie Peirce notes that the Law Code of Süleyman I prescribed heavy fines, hand amputation or hanging for repeated offenders in cases of theft of horses, mules, donkeys and cattle, as well as fines for those who failed to turn stray animals over to local authorities so that their owners could be informed. Peirce, *Morality Tales*, 72–3.

<sup>11</sup> For analysis of many of these techniques, see İslamoğlu, “Politics of Administering Property: Law and Statistics in the Nineteenth-Century Ottoman Empire.”

The regulations centered on a few main administrative problems: how to monitor and tax animal ownership and exchange in vast rural regions with limited administrative infrastructure; how to handle administration given the mobility of both animals and many of the people raising them; and which officials to rely on to implement the new system.

The first late Ottoman regulation dealing with livestock appears in the Ottoman Penal Code of 1858, which stipulates a maximum year-long prison sentence for theft of a variety of types of moveable property important to the functioning of the rural economy: stones used in kitchens for cooking, cut lumber prepared for sale, caught fish, and animals used for farming and transporting commodities.<sup>12</sup> In 1867, a much more comprehensive proclamation titled “Announcement of the decreed methods for preventing the theft of black cattle, water buffalo, donkeys, and breeding horses” was issued.<sup>13</sup> This proclamation included six articles that outlined a new and intrusive system for regulating and taxing animal property. Its initial provision created a system for identifying and monitoring individual animals with ownership documents. Like the laws regulating land control, this ownership document system relied on the network of district and village-level bureaucratic officials and judicial institutions whose duties were outlined in the 1864 and 1871 Provincial Administration Regulations.<sup>14</sup> *Muhtars* in villages were to issue ownership documents for individual animals detailing their type, age, color and defining characteristics, in exchange for a fee.<sup>15</sup> In designated district markets, market officials (*mültezims*)<sup>16</sup> would check these ownership documents and collect a one percent fee on the sale before granting permission to owners to sell their animals.<sup>17</sup> Ownership documents would also be required for animals to be butchered, and another district-level official was to collect the documents of butchered animals and deliver them to the local bureaucratic office to be destroyed.<sup>18</sup> Animals without ownership documents would automatically be considered stolen.<sup>19</sup>

After this proclamation was issued, reports streamed into Istanbul from various provincial governors outlining problems with its implementation and suggesting solutions compatible with local conditions. The most discussed issue in the 1870s and 1880s concerned where animal sales should take place. In June 1872 the Council of State issued a proclamation to the provinces ordering that livestock should only be sold in designated markets, usually found in village or town centers, because of concerns that extra-market sales would lead to a loss in tax revenue and

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<sup>12</sup> Ottoman Penal Code, Article 224, *Düstur: I. Tertib*, 1289, 1:586.

<sup>13</sup> *Kara sığır ve manda ve merkep ve hargele nev'inden olan hayvanatın hırsızlıktan men'i için bu defa ittihaz ve icrasına karar verilen usule da'ir i'lannamedir*. This law was included in the first volume of the *Düstur*. While the *Düstur* copy does not include a date, Sarkiz Karakoç found the same law in a different compilation dated 18 Safer, 1284 (21 June, 1867). See Sarkiz Karakoç, *Külliyat-I Kavanin*, vol. 1 (Ankara: Türk Tarihi Kurumu, 2006), 433.

<sup>14</sup> For a more extensive discussion of these laws, see Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, 27–31.

<sup>15</sup> Announcement of the Decreed Methods for Preventing the Theft of Black Cattle, Water Buffalo, Donkeys and Breeding Horses, Article 1, *Düstur: I. Tertib*, 1289, 1:742.

<sup>16</sup> *Mültezim* is also often translated as “tax farmer”, but it is not clear from the text of the law whether the *mültezim* in question was also the official designated to collect the sheep tax (*ağnam rüsumu*). The use of the term “*mültezim*” in this law is surprising because in general the central administration was attempting to cut out the former duties of tax farmers during this period, although this process was of course highly contested. This term does not appear in later versions of the law. For a discussion of the contestations surrounding tax farming with regard to land, see İslamoğlu, “Politics of Administering Property: Law and Statistics in the Nineteenth-Century Ottoman Empire,” 291; For a discussion of the institution of *iltizam* and *mültezims* in the district of Jerusalem during the Hamidian period, see Büssov, *Hamidian Palestine: Politics and Society in the District of Jerusalem, 1872-1908*, 329–31.

<sup>17</sup> Announcement of the Decreed Methods, Article 2, *Düstur: I. Tertib*, 1289, 1:742.

<sup>18</sup> *Ibid.*, Article 5.

<sup>19</sup> *Ibid.*, Articles 3 and 5.

could thwart the ownership document scheme that aimed to reduce theft.<sup>20</sup> In March 1877, the governor of Adana wrote to the Ministry of the Interior requesting exemption from this order. In his letter, he introduced the main problems with the ownership document scheme for bureaucrats administering large areas with limited administrative infrastructure. He wrote that there were not many designated markets in the sub-provinces (*liva/sancak*), districts (*kaza*) and sub-districts (*nahiye*) of his province and that the existing villages were dispersed and generally far from any district center. He was also concerned with the implications of the order for the people of Adana, whom he described as largely members of *aşirets* who relied on raising and selling livestock for their livelihoods. He presented the following problem:

Suppose a man has an ox, and another man from his neighborhood (*mahalle*) wants to buy it for 300 *kuruş*. If he considers the cost and difficulty of bringing the ox to a designated market or a district or sub-district center and bringing it back again, he will see himself selling at an inevitable loss.<sup>21</sup>

Therefore, he proposed leaving the situation “as it was” (*kema kan*) in Adana province, meaning that each *muhtar* would be responsible for keeping track of animal ownership and sales within his community as stipulated in the original order.<sup>22</sup> In March 1879 the administrative council of Diyarbakır (Ma‘muretül‘aziz Province) reported similar problems with people reaching designated markets to sell animals, also complaining that the ownership document scheme was not generating enough funds to cover the personnel it required.<sup>23</sup>

The Council of State responded to these and other complaints with another general order in 1885, explicitly granting permission for livestock to be sold outside of designated markets.<sup>24</sup> This decision generated new complaints, with the governors of Beirut in 1894 and Hüdavendigâr (western Anatolia) in 1897 complaining that the order had given animal merchants an easy way to avoid taxation. The governor of Hüdavendigâr described animal merchants coming to designated markets to find buyers and then completing the sales elsewhere so as to avoid the fees.<sup>25</sup> Beyond the logistical issues, these reports highlight the demand for livestock in the empire’s rural trading networks, increasing the central state’s imperative to efficiently manage and tax this key commodity.

This initial controversy over designated markets in the 1870s prompted the Council of State to survey provincial governors in the early 1880s, asking them to send reports of how

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<sup>20</sup> This order was a generalization of a proclamation originally issued to the province of Bosnia and extended to the Empire’s other provinces in June 1872. I was not able to find a copy of the entire proclamation, but it is discussed extensively in both the letter from the governor of Adana cited below and in BOA.ŞD 1901/44 p. 5, 5 B 1289/27 Ağustos 1288/8 September 1872, Letter from the Governor of Bosnia to the Grand Vizier’s Office.

<sup>21</sup> *Farzen bir adamın bir öküzü olupta onun mahallinden müşteri zuhurunda üç yüz kuruşa satılır ise resmen küşad olunmuş pazar mahalline ve yahut kaza ve nahiye merkezine getirdiği surette geri götürmekte külfet ve meşakkat görüleceği cihetle çaresiz noksan fiatla bey ‘ ve fûruht ederek manzur olacağından buralarına meydan kalmamak.* BOA.ŞD 2117/59 p. 3, 12 Ra 1294/15 Mart 1293/27 March 1877, Letter from the Governor of Adana to the Ministry of the Interior.

<sup>22</sup> Ibid.

<sup>23</sup> BOA.ŞD 1456/28 p. 4, 10 Ca 1296/20 Mayıs 1295/1 June 1879, Letter from the Provincial Council of Ma‘muretül‘aziz to the Grand Vizier’s Office.

<sup>24</sup> BOA.ŞD 1568/43 p. 2, 22 Za 1314/12 Nisan 1313/24 April 1897, Copy of a Report from the Provincial Council of Hüdavendigâr to the Province’s Governor.

<sup>25</sup> Ibid., and BOA.ŞD 2282/30 p. 1, 3 RA 1312/22 Ağustos 1310/3 September 1894, Letter from the Governor of Beyrut to the Ministry of the Interior

implementation of the ownership document scheme was progressing and whether animal theft was decreasing.<sup>26</sup> Some officials, like the Governor (*mutassarif*) of Jerusalem, reported small problems such as a lack of printed ownership documents to distribute to animal owners.<sup>27</sup> Other reports were mixed: the Governor of Baghdad sent a detailed report to the Ministry of the Interior in 1884 in which he outlined the information he had collected from the director of each sub-province in Baghdad. He reported that the plan was in various stages of implementation in some areas, with heads of *aşirets* acting in the position of village *muhtars* and issuing ownership documents for animals. However, the sub-province of Najd had apparently made no progress at all, with the director arguing that the people's "temperaments" (*emzice*) were unsuited for such a project.<sup>28</sup> Other reports simply stated that the ownership document scheme was too complicated, too much of a hassle for local people and too difficult to implement.<sup>29</sup> In general, this early phase of implementation of the ownership document system reflected the challenges provincial bureaucrats faced in imposing an intrusive, detailed and uniform property management and taxation regime for animals across the diverse regions of the Empire, and prompted the various central government offices involved in drafting and approving the laws to change their approach.

The Council of State attempted to amend and clarify the ownership document system by drafting a new law on preventing animal theft in November 1888, but the Grand Vizier's office rejected it as creating too many difficulties for local people.<sup>30</sup> This prompted a new discussion about what to do about animal theft and how to regulate animals as property in general. After having a second draft law rejected, this time by the Chamber of Deputies in June 1909, the Council of State proposed generalizing a plan created and submitted by the provincial government of Hüdavendigâr to brand all large animals according to which district they came from.<sup>31</sup> By then, however, the Chamber of Deputies was moving towards a new approach to dealing with the problem of animal theft: amending the Penal Code to increase the punishment of perpetrators.

In 1910, the Chamber of Deputies requested that the Ministry of Forestry, Mining and Agriculture comment on the branding proposal as well as the proposal to amend the penal code.<sup>32</sup> The report from the Ministry's Veterinary Department reflects a sea change in approaches within the central Ottoman government to animals as property and the problem of animal theft. The Department rejected the branding scheme as potentially harmful to animals and decreasing their value. More importantly, it argued that the entire approach to animal theft had been misguided from the beginning, and that the right way to deal with it was not to create an ownership document scheme or to brand animals, but to increase punishments for thieves. Besides the numerous reports that the ownership document scheme caused hardship to local people, the Director of the Department also argued that those who raised and sold animals in the

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<sup>26</sup> The reports resulting from this request are in BOA.ŞD 1707/8, 8 Za 1307/14 Haziran 1306/26 June 1890.

<sup>27</sup> Ibid. p. 3, 13 C 1291/20 Nisan 1298/2 May 1882, Letter from the Governor (*mutassarif*) of Jerusalem to the Council of State.

<sup>28</sup> BOA.ŞD 1707/8 p. 4, 27 R 1301/13 Şubat 1299/25 February 1884, Letter from the Governor of Baghdad to the Ministry of the Interior.

<sup>29</sup> See *ibid.*, p. 11, 23 R 1300/19 Şubat 1298/3 March 1883, and BOA.ŞD 2026/12 p. 1, 2 N 1314/23 Kanunusani 1312/4 February 1897, Letter from the Governor of Manastir to the Ministry of the Interior.

<sup>30</sup> BOA.DH.MKT 1606/15, 13 B 1306/15 March 1889.

<sup>31</sup> BOA.ŞD 1607/44 p. 3-6, 22 S 1328/20 Şubat 1325/5 March 1910, Letter from the Governor of Hüdavendigâr to the Ministry of the Interior and details of the Hüdavendigâr General Council's plan for branding animals.

<sup>32</sup> BOA.BEO 3727/279470, 19 Ra 1328/18 Mart 1326/31 March 1910, Letter from the Chamber of Deputies to the Grand Vizier's Office.

Empire were too mobile for any kind of bureaucratic scheme to work. The Director used the example of the futility of attempting to implement such regulations among mobile (*seyyar*) *aşirets* in Anatolia, arguing that an entirely new law to prevent animal theft needed to be drafted.<sup>33</sup>

In 1913, a “Temporary Law on Preventing Animal Theft”<sup>34</sup> was finally issued, and its provisions, while not entirely abandoning the attempt to create a system for managing and taxing animals through ownership documents, were much more focused on catching and punishing perpetrators. Articles 2-10 of the law describe the correct procedures for local officials to follow when an animal was stolen: the owner of the stolen animal should inform the village’s shepherd, guard, *muhtar* and the nearest police station; the animal’s description should be recorded and the *muhtars* and police stations of neighboring villages, as well as the director of the sub-district, should be informed; the sub-district directors should inform the neighboring civil officials of the theft via telephone, telegraph or the gendarmerie; the village guard, *muhtars* and police should begin attempting to follow the animal’s tracks as soon as they heard of the theft; and wherever the tracks ended, whether at a village, an *aşiret*,<sup>35</sup> a farm, an independent house, or a dairy farm, the people, owner or renter of that place would be responsible for either proving that the tracks led away from their property, producing the thief or paying the price of the animal. If the tracks ended at a village or *aşiret*, the inhabitants were to divide the cost of the animal between them.<sup>36</sup> The law specified that animal thieves and those who aided them would be subject to the Nizamiye trial procedures and punishments laid out in the Penal Code.<sup>37</sup> Finally, it specified that the Interior and Justice Ministries were responsible for implementation.<sup>38</sup>

In general, this movement from a method based on property administration to one based on catching and punishing thieves reflects not only a shift in general approaches to managing and taxing animal property that took account of the challenges faced in the late nineteenth century, but also a shift in ideas about which officials and ministries should be responsible for provincial administration. While the original proclamation in the *Düstur* relied exclusively on *muhtars* and *mültezims* to issue and check ownership documents, the 1913 law placed more responsibility in the hands of the Ministry of Justice, its local Nizamiye courts and the police force.

Indeed, this regulation shows that the office of the *muhtar* was problematic for the central government and for provincial administrations in the realm of animal as well as landed property. Even as the entire animal ownership document system rested on the duties of the *muhtar*, the central distrust of this official is obvious in both major laws related to animals as property. The final article of the law appearing in the *Düstur* is a warning to *muhtars* who might consider

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<sup>33</sup> BOA.ŞD 547/2 p. 2-3, 15 Ca 1328/12 Mayıs 1326/25 May 1910, Report of the Veterinary Department to the Minister of Forestry, Agriculture and Mining.

<sup>34</sup> “*Hayvan sirkatinin meri hakkında kanun -ı muvakkat.*” A printed copy of the law that was distributed to provincial officials can be found BOA.DH.ID 104-2 p. 49, 18 Ca 1331/12 Nisan 1329/25 April 1913.

<sup>35</sup> The “*aşiret*” here seems to be treated as a territorial entity, as it appears in the above list with no other explanation. This is the only law of the period I have read that includes the “*aşiret*” explicitly in a description of rural administration. See discussion below.

<sup>36</sup> Leslie Peirce’s observations on animal theft and loss in sixteenth-century Aintab, culled from Sharia court records, suggest that this procedure for tracking animals between various regions may have built on widespread practice in the Empire before the attempt to create an ownership document system. She describes communications between various officials in neighbouring regions alerting individuals that their lost or stolen animals had resurfaced in a particular place. See Peirce, *Morality Tales*, 73.

<sup>37</sup> Temporary Law, Articles 14-15.

<sup>38</sup> *Ibid.*, Article 20.

creating false ownership documents,<sup>39</sup> and Article 18 of the 1913 law outlined the punishments for *muhtars* and other local officials who thwarted the ownership document system or “permitted sluggishness” (*tecviz-i terahi*) in pursuing cases of animal theft.<sup>40</sup> Other regulations pertaining to local administration, taxation and property also contained articles that indicate the lack of confidence on the part of the central authorities that *muhtars* would carry out their duties as required.<sup>41</sup>

The 1913 law is also important with regard to *muhtars* because it is one of the only legal texts of its period to specifically mention the *aşiret* as one of the local bodies responsible for tracking stolen animals.<sup>42</sup> The inclusion of the category *aşiret* in the 1913 imperial legislation points to its specific relevance to the problem of rural animal theft as well as its continuing salience as an administrative category in the late Ottoman rural context. As will be shown below, contesting the definition and boundaries of this category, as well as the related office of the *muhtar* of the *aşiret*, was one of the main ways pastoral nomads contributed to the process of implementing a system for managing animals as property in the district of Salt.

Further, even as the central administration attempted to definitively shift the responsibility for adjudicating cases of animal theft to the recently established Nizamiye courts, the judicial system in Salt and elsewhere for administering animal sales and resolving cases of theft was complex and involved both the Sharia and Nizamiye courts. While the first law in the *Düstur* did not mention the issue of which courts should resolve disputes over animals,<sup>43</sup> the Council of State’s 1888 draft law and the final 1913 Temporary Law both emphasized that such cases should be adjudicated under the Nizamiye system and according to the Penal Code.<sup>44</sup> The central government’s attempts to move cases defined as civil and criminal from the authority of the Sharia courts into that of the Nizamiye courts in the 1880’s were contested in multiple realms, as attested by regulations aiming to further define the authorities of different types of courts.<sup>45</sup> Civil cases like sales, assignment of legal ownership, and debts were to be considered by the civil section of the Nizamiye Court of First Instance, and criminal cases like theft were firmly within the authority of this court’s criminal section.

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<sup>39</sup> See article 6 of the first version of the law in *Düstur Vol. 1*: 742, Article 3 of the second draft in BOA.DH.MKT 1606/15, 15 B 1306/17 March 1889 and Article 18 of the third version in BOA.DH.ID 104-2 Page 49, 18 Ca 1331/12 Nisan 1329/25 April 1913.

<sup>40</sup> Temporary Law, Article 18.

<sup>41</sup> See, for example, Article 109 of the 1871 Provincial Administration Regulation, which stipulates that councils of elders were responsible for reporting any “misconduct or offense” on the part of *muhtars*; *Düstur: I. Tertib*, 1289, 1:648; See also Articles 13 and 14 of the Regulation on Financial Matters, which outline the procedures for sending an official to villages or urban quarters whose *muhtars* failed to deliver the taxes collected from the local inhabitants to the district treasury *Düstur: I. Tertib*, vol. 2 (Istanbul: Matbaa-yi Amire, 1289), 6.

<sup>42</sup> *Aşiret* comes up twice, in Articles 6 and 7. *Madde 6: Mesruk hayvan izi bir karyeye veya aşirete veya çiftliğe veya tek hane ve mandıralara müntehi olunca o aşiret veya karye ahalisi veya çiftlik ve tek hane ve mandıra sahib veya müstecerleri ya izin kendi hudutları haricine çıktığını ispat veya sarıkı ihbar ve yahut hayvanın bedelini alatarikiltaksim te’diye etmeye mecburdurlar. Madde 7: İz bir kaç karye ve aşiret arasında ga’ip olursa yine altuncu maddeye tevfiik hareket olunur.*

<sup>43</sup> This law was issued as the Nizamiye court system was being outlined in law. See Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, 27–31.

<sup>44</sup> BOA.DH.MKT 1606/15, p. 4, 13 B 1306/3 Mart 1305/15 March 1889, Article 14 of the draft law. See also Temporary Law, Articles 15-16.

<sup>45</sup> See “*Mehakim-i şer’iyye ve nizamiyenin tefrik-i vezaifi hakkında irade-i senniye*” (Decree on the separation of the duties of Sharia and Nizamiye courts) of 16 Şubat 1303/28 February 1888, cited in Karakoç, *Külliyat-I Kavanin*, 1:762.

The Salt Sharia court records show not only that a large number of cases of lost or stolen animals continued to be heard by the Sharia court throughout the late Ottoman period, but also that litigants sometimes took the same case to both the Sharia and Nizamiye courts in order to obtain the most favorable ruling possible. As I argued in Chapter 2, this practice should be interpreted as local contestation of imperial rulings rather than as state-sanctioned legal pluralism. Maintaining the relevance of the Sharia court, particularly with regard to rural property administration, was a major way in which local actors influenced the way the system regulating animals and other types of property actually worked at the district level. The following section will detail examples of Bedouin involvement in such “forum shopping”<sup>46</sup> in Salt, further illustrating their central role in this process.

The uneven process of drafting laws to prevent animal theft in the Ottoman territories described above highlights a few main difficulties bureaucrats and jurists faced in their attempts to bolster regulation and taxation of this important source of mobile wealth in the empire. As noted by the Governor of Adana, an ownership document scheme for livestock was near impossible to implement in vast rural areas with limited administrative infrastructure. However, this was not the only problem central officials faced. The shift in approach central government bureaucrats and jurists favored by 1913 focused on the issues both of personnel and the push and pull between various judicial and administrative agencies also witnessed in the realm of land policy.<sup>47</sup> The move away from relying on local administrative officials like *muhtars* and *mültezims* to implement policy ultimately aimed at protecting private property rights in livestock was exemplary of the frustration central officials felt especially with the office of the *muhtar*. Further, the attempt to place the issue of animal theft definitively under the judicial authority of the Ministry of Justice and its Nizamiye courts speaks to a larger, and highly contested, Ottoman effort to render the newly minted judicial system independent of executive influence. The following sections will show the relevance of these debates not only in a rural district of the empire far from Istanbul, but among pastoral nomads who are usually portrayed as being outside the Ottoman sphere of influence.

### **The role of Bedouin in administering animals as property**

What do the laws and correspondence between bureaucrats and jurists regarding animals as property tell us about their attitudes towards Bedouin and other pastoral nomads in the Ottoman provinces? Although the laws themselves have little to say about the identity of particular thieves, an argument can be made that some bureaucrats in the provinces saw Bedouin primarily as animal thieves whose attacks on village communities threatened the Empire’s tax base.<sup>48</sup> The records described above also lend some support to the idea that bureaucratic visions of nomads fitted into an Orientalist discourse – the governor of Baghdad, perhaps repeating the language of the director of the sub-province of Najd, used the term “*vahşet*” (savageness) to describe the sub-province’s nomadic inhabitants and explain why their “temperaments” (*emzice*) were unsuited to the ownership document scheme.<sup>49</sup>

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<sup>46</sup> For a discussion of “forum shopping” in Haifa and Jaffa during the same period, see Agmon, *Family and Court: Legal Culture and Modernity in Late Ottoman Palestine*, 74–5.

<sup>47</sup> See Chapter 3.

<sup>48</sup> See, for example, BOA.A.MKT.MHM p. 2, 25 Z 1285/27 Mart 1285/8 April 1869.

<sup>49</sup> BOA.ŞD 1707/8 p. 4, 27 R 1301/13 Şubat 1299/25 February 1884.

At the same time, however, there seems to have been a widespread impression among many bureaucrats in the provinces that the *aşirets* living in the regions they administered were important providers of livestock to local markets and a subsequent concern about the new property regime that had more to do with the logistics of market facilitation than an overarching Orientalist discourse. The Governor of Adana's plea for exemption from the rule to limit animal sales to designated markets because of the difficulties the rule would pose to *aşirets* in his province who raised and sold animals for a living is a key example,<sup>50</sup> but the Director of the Veterinary Department also mentioned that one of the main problems the ownership document scheme faced was the mobility of people who raised animals in the Empire. These reports did not reference the extensive attempts to settle *aşirets* during this period described by Reşat Kasaba and others, and seemed to assume a certain level of mobility among animal merchants in the regions they governed.<sup>51</sup> In short, the bureaucratic attitudes towards nomadic populations, including Bedouin, seem quite mixed when reporting on attempts to implement a new system for administrating animals as property.

The records of the Salt Sharia court provide a much more complex picture of Bedouin roles in the district-level system for managing and taxing animals as property and preventing theft. A quantitative analysis of four volumes of disputes covering the period 1897-1904 provides an impression of the importance of animal-related cases in the court.<sup>52</sup> 158 of the 767 claims brought to court during this period involved livestock, or 21%. The most common type of animal-related dispute, constituting 49% of these claims, concerned litigants attempting to retrieve lost or stolen animals in court. Another 25% of animal-related claims involved various aspects of livestock sales; litigants claimed that the animals they bought were damaged or stolen, that they never received the animal they paid for, or, most frequently, that an animal's buyer had failed to pay its entire price. Smaller numbers of cases concerned claims on dowry or inheritance that included animals, as well as other issues including borrowed animals disappearing, problems with joint ownership of individual animals, and animals dying while left in the care of another individual.<sup>53</sup>

The court cases related to animals also furnish glimpses of daily economic life in the Salt region and nomads' diverse participation in the local economy. More than anything, these records show the integrated nature of pastoral and cultivating economic activity, as well as the relative mobility of the entire community. In one case from September 1902, a man from Salt claimed that his donkey had been stolen from his wife while she was visiting the "lands of the Arab al-Masuh"<sup>54</sup> in the spring to pay back a debt for clarified butter, one of the main animal

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<sup>50</sup> BOA.ŞD 2117/59 p. 3, 4 Ra 1294/15 Mart 1293/27 March 1877.

<sup>51</sup> Kasaba, *A Moveable Empire: Ottoman Nomads, Migrants and Refugees*, Chapter 4; Gould, "Pashas and Brigands: Ottoman Provincial Reform and Its Impact on the Nomadic Tribes of Southern Anatolia, 1840-1885," Chapters 5-9.

<sup>52</sup> SSCR Volumes 5,6,9,11. On animal theft cases in the Salt Sharia court, see Rogan, "Incorporating the Periphery: The Ottoman Extension of Direct Rule over Southeastern Syria (Transjordan), 1867-1914," 213-215.

<sup>53</sup> See for example SSCR Volume 5, Page 51 Record 54, n.d., in which the plaintiff accuses the defendant of beating his work horse to death and demands its worth, while the defendant insists the animal died naturally. Cases such as these were resolved through witness testimony in the Sharia court and resort to "experts" like veterinarians was not made in the documents reviewed here, although this may have occurred in the Court of First Instance.

<sup>54</sup> I have not found any reference to this group in secondary sources but there is a mention of "*Māsūh*" as a border to a piece of agricultural land near Madaba in the Salt tapu registers: DLS Salt *Defter-i Tahsilat* Volume 18/1/1 p. 82 #6, Kanunusani 1309 (January 1894) *yoklama*. There is also a village called *Māsūh* in contemporary Jordan near the city of Madaba. This area was registered by the 'Ajārma group, so it is likely that the people referred to in the record were members of the 'Ajārma or connected to them.

products that pastoral nomads supplied to the Salt market.<sup>55</sup> In another case from July 1903, a man described as a Christian villager from the town of Madaba to the south of Salt claimed he was “away with the ‘*arab* (Ar.)” for work when his cows were stolen. He then described looking for his cows, making his way from village to village all the way to Jerusalem, where he heard that the defendant in the case had taken them from his house while he was away and sold them in Jerusalem.<sup>56</sup> This and other cases also emphasize the constant movement of animals, people and goods across the Jordan River between Salt and Jerusalem and Nablus in the late nineteenth and early twentieth centuries.

The lack of an existing minute-type archive for the Salt Nizamiye civil and criminal courts makes it impossible to assess the Sharia court’s relative importance in the realm of animal-related disputes. However, the high number of Sharia court cases involving animals shows that the local population in Salt saw benefits from bringing their claims before the Sharia court and that it remained a central arena for regulating animals as property in the district throughout the Ottoman period. Further, the numbers of Bedouin mentioned in these cases and the way they are described provides a window into their roles in the local legal scene. Individuals identified as nomadic (tent-dwelling) or as belonging to an *ashira* appeared in 61 percent of Salt Sharia court cases involving lost or stolen animals, while the remaining 39 percent involved people identified as being from a particular village or quarter of the town of Salt.<sup>57</sup> Bedouin appeared as plaintiffs almost as often as they appeared as defendants, and they also often appeared as witnesses for both plaintiffs and defendants in cases of theft.<sup>58</sup> In numerous cases, people identified as tent-dwelling shaykhs acted as prominent members of the Salt community to verify the validity of witness testimony.<sup>59</sup> These records show not only that animals were a key resource in the local economy, but also that Bedouin, who were involved in almost 70% of cases involving animals, were important players in the process of implementing administration of animals as property at the district level.

The court cases also identify pastoral nomads as important providers of animals to markets. The records include a number of strings of cases in which plaintiffs retrieve their animals from defendants and defendants then accuse the individual they originally bought the animal from of theft, and so on. Some of these strings lead back to pastoral nomads as the original sellers of the stolen animals.<sup>60</sup> However, victorious plaintiffs also often identified pastoral nomads as the sellers of their non-stolen animals, and some cases discuss individual Bedouin sellers working in specific animal markets in the district center that were probably the

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<sup>55</sup> SSCR volume 9, page 50, Record 79, 18 C 1320/ 22 September 1902.

<sup>56</sup> SSCR volume 9, page 213, Record 246, 7 R 1321/3 July 1903.

<sup>57</sup> The term “*badw*” is only rarely used in these cases, and usually comes up in the testimony of witnesses describing the original seller of an animal, not in descriptions provided directly by court scribes. Court scribes used the term “tent-dwelling” (*sukkān al-khiyam*) or, less often, ‘*arab*’.

<sup>58</sup> Pastoral nomads acted as plaintiffs, defendants or witnesses or were named as the original sellers of stolen animals to either plaintiffs or defendants in 45 out of 74 cases of lost or stolen animals in SSCR volumes 5, 6, 9 and 11. Among these 45 cases, pastoral nomads appeared as plaintiffs in 19 cases and as defendants in 22 cases (these include 7 cases in which both the litigant and the defendant were Bedouin). For examples of pastoral nomads as plaintiffs in cases of animal theft, see SSCR volume 5, page 12, record 15, n.d., and page 13, record 17, n.d. Also see SSCR volume 6, page 12, record 11, 12 Ca 1319/27 August 1901, and page 38, record 25, 23 B 1319/5 November 1901.

<sup>59</sup> SSCR volume 11, page 130, record 117, 3 S 1322/19 April 1904.

<sup>60</sup> SSCR volume 9, page 266, record 224, 2 Z 1320/2 March 1903.

“designated markets” debated in central regulations.<sup>61</sup> Utilizing specific markets in the district center was one way Bedouin in Salt legitimated the imperial system for regulating animals as property as it was envisioned in Istanbul. Indeed, as important participants in the regional livestock market, they had an interest in supporting established markets where they could reliably find buyers for their valuable property.

Because the existing collection of court records from Salt begins only in the 1880’s, it does not facilitate the long-term price comparison needed to ascertain the extent to which livestock’s market value was increasing during the period under study or to compare livestock prices to other valuable commodities, most notably newly privatized agricultural land.<sup>62</sup> However, because trade levels and prices of agricultural commodities were rising at various rates in late nineteenth century Syria,<sup>63</sup> it seems safe to assume that the animals needed to produce and transport these commodities were also increasing in value and that this increase was a key motivation for government interventions towards more closely regulating and taxing animal property. Table 4.1 (Appendix A) provides a sense of the values of animals indicated in the Sharia court cases during the period under review.<sup>64</sup> Readers should keep in mind that this table represents values of animals as quoted by litigants involved in disputes over the control of those animals. As such, there may have been many motivations to misquote the values of animals and in numerous cases plaintiffs and defendants quoted different values for the same animal.

The Sharia court records do not provide direct information regarding how the ownership document scheme played out in Salt, nor has a narrative report of this process been found. However, the court cases did fit into the larger Ottoman legal scene regulating control of animal property and the ongoing central efforts to reduce theft. The Salt court gave priority to identifying animals, with each case of animal theft describing the animal’s color, age, and defining features in similar terms to the centrally prescribed ownership documents. The animal in question, if present, was usually tied to the door of the court so that witnesses could identify it “in person” during their testimonies.<sup>65</sup> This aspect of the Salt cases closely mirrors Astrid Meier’s descriptions of earlier cases of animal theft from the northern Syrian town of Hama in the eighteenth and mid-nineteenth centuries, as well as Leslie Peirce’s descriptions of animal

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<sup>61</sup> See SSCR volume 5, page 7, record 9, ? Ca 1315/October 1897. The Salt records refer to both “*sūq al-Salt*” and, less frequently, “*al-sūq al-sulṭānī*” (SSCR volume 5, page 108, record 113, n.d.). It seems likely, though unconfirmed, that these names referred to the same market. Many records also refer to buying animals in “*al-sāḥa al-‘umūmiyya*”, which seems to also be the area where the authorities would auction off recovered stolen animals whose owners did not appear (SSCR volume 5, page 41, record 46, 16 Za 1315/8 April 1898).

<sup>62</sup> It is exceedingly difficult to provide “exemplary” land values based on tapu records because of differences in the quality and location of agricultural land as well as the myriad motivations on the part of both landowners and agents to misquote land values. However, my readings of the records give the impression that land was the most valuable possession of tent dwellers and other local inhabitants alike. By way of providing a sense of its value, in April 1899 a mid-sized (11-*dönüm*) plot of agricultural land was valued by the Tapu Office at 2500 piasters. See DLS Salt *Defter-i Hakani* Register 30/1/2 p. 1 #3, Mart 1315 (April 1899) *daimi*. It would also be instructive to assess whether a shift occurred in asset holding from livestock to land in the aftermath of the 1858 Land Code; this is beyond the scope of this article but could be done using probate inventories from locations with a longer series of existing records for the nineteenth century.

<sup>63</sup> İnalcık and Quataert, *An Economic and Social History of the Ottoman Empire, 1300-1914*, 2:831.

<sup>64</sup> The values in the table were collected from SSCR volumes 5, 6 and 9. Some records were excluded from the table and calculations because the values of the animals were not listed or were listed in groups of different kinds of animals.

<sup>65</sup> See for example SSCR volume 3, page 37, record 3B, 5 Ra 1306/9 November 1888.

theft cases in sixteenth-century Aintab.<sup>66</sup> The regional and temporal continuity implies that the importance assigned to identifying animals in central legislation described above, as well as the details chosen to precisely identify them, may have come out of jurists' extensive experience of animal theft in Sharia courts.

As prominent animal merchants in Salt, Abd al-Muhsin al-Bakhit and other local Bedouin had a stake in maintaining a predictable and secure animal market. As such, their legal and administrative activities in court must be considered alongside their economic activities. Indeed, the Salt Sharia court records show nomads, alongside other local inhabitants, participating in the maintenance of a legal language for regulating animal property that had currency all over the empire. Although the Sharia court was not the forum that central legislation designated to manage or adjudicate disputes over animals as property, it remained a state-sanctioned legal authority and Bedouin use of it signaled their willingness to participate in local administration. Their identification of animal property with specific descriptors, both when they were litigants and when they were witnesses, followed the letter of the recent laws described above. In these important ways, Bedouin in Salt strengthened the foundations of the imperial system envisioned by jurists on the Council of State.

### **Contesting *mukhtar* authority and forum shopping in post-Hamidian Salt**

Earlier chapters of this dissertation have documented the rise of a group of middling Bedouin *mukhtars* in the 1880's and 1890's in Salt. These individuals were granted important roles in highly contested administrative processes for allocating rights to land at the turn of the century. As mentioned above, one of the *mukhtar*'s most important powers as outlined in the 1864 Provincial Administration Regulation involved allocating tax burdens among their communities. The administrative opportunities afforded to Bedouin *mukhtars* in Salt facilitated their attainment and maintenance of noticeable economic and political power vis-à-vis the other Bedouin in their communities.

Predictably, this process did not go uncontested. The prevalence of clauses in late Ottoman legislation attempting to deal with wayward *mukhtars*, and in the case of animal theft to move the responsibility for prosecuting thieves to the Nizamiye court system, speaks to the wider imperial context of events in Salt. However, the Salt context shows that the *mukhtar*'s power was not only contested from above as higher authorities fretted over the quality of information *mukhtars* provided to them, especially in the realm of property and revenue collection. By the close of the Hamidian period in 1908, the tax-related power of *mukhtars* was also contested by other Bedouin aiming to retain their tax-free access to land and animal property. As such, the rise of a middling group of *mukhtars* was a key phenomenon both for imperial policies and for the social contexts these policies attempted to govern.

To understand the details of how the newfound power of *mukhtars* was challenged at the district level by the close of the Ottoman period, we return to the story of Abd al-Muhsin al-Bakhit, the *mukhtar* of the Fuqaha Bedouin of the Salt district. The Salt Sharia court records tell a clear story of the rise of Abd al-Muhsin al-Bakhit in the first decade of the twentieth century.

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<sup>66</sup> Peirce, *Morality Tales*, 73; My impressions of the Hama collection are based on Astrid Meier's detailed descriptions of cases of animal theft in Meier, "Bedouins in the Ottoman Juridical Field: Select Cases from Syrian Court Records, Seventeenth to Nineteenth Centuries," 204–7, as well as James Reilly's notes on volume 53 of the Hama Shar'ī Court from the mid-nineteenth century. I would like to thank Professor Reilly for generously sharing his notes with me.

The late summer spate of court sessions Abd al-Muhsin attended in 1903 described at the beginning of this chapter was part of a pattern. In the 1890's and 1900's, Abd al-Muhsin established himself as a key producer of agricultural and animal products in Salt's expanding markets. Abd al-Muhsin first appears in the court records in 1902, when one of Salt's wealthiest merchants, Fayyad al-Nabulsi, registered a claim against him for a debt of wheat, barley, clarified butter and cash.<sup>67</sup> In that claim alone, Nabulsi referenced eleven previous contracts he had concluded with Abd al-Muhsin beginning in 1899. That Nabulsi returned to Abd al-Muhsin again and again for both agricultural and animal products shows this was a productive long-term relationship. Abd al-Muhsin also had a longstanding commercial relationship with the Mihyar family, who were prominent traders in wheat as well as notable bureaucrats who served on Salt's governing councils throughout the Hamidian period.<sup>68</sup> Dawud al-Mihyar's commercial relationship with the Wiraykat Adwan family of pastoral nomads is also documented in Chapter 2.

In 1904, Abd al-Muhsin consolidated his growing wealth by investing in land at the Salt property registration office. There, he registered seven plots of agricultural land in seven different locations controlled by the Fuqaha.<sup>69</sup> He registered these lands with prescriptive right (*hakk-ı karar*), after the district administrative council in Salt and the Fuqaha *mukhtars* issued a decision attesting to his longstanding and uncontested control and cultivation of the land. Therefore, Abd al-Muhsin only paid fees for the paper title deeds to the land, which the property registration office estimated to value over 20,000 piasters. There is no indication that Abd al-Muhsin sold any of this land during the Ottoman or early Mandate periods that the Salt land records cover. In 1912, however, Abd al-Muhsin and his three brothers cashed in on their control over a valuable irrigated field by registering and then selling it to a Salti merchant at the property registration office.<sup>70</sup>

Beyond his growing wealth, we also know that Abd al-Muhsin was involved in tax collection as early as 1901. In one of the cases presented in that late August week of 1903, a woman from Salt accused Abd al-Muhsin of borrowing her horse two years earlier and lending it against her wishes to another man to carry a heavy tent to the faraway encampment of Na'ur. On the return trip, she explained, the horse fell and died. She had lent the horse to Abd al-Muhsin, she said, and had told him not to let anyone else ride it. In Abd al-Muhsin's defending statement, he explained that he had been forced to find a trusted friend to transport the tent because he had been busy collecting agricultural taxes from the other members of the Fuqaha. Because he was able to prove that he had borrowed the horse from the Salti woman legally and without condition, the judge ruled that he did not have to pay her its worth.<sup>71</sup>

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<sup>67</sup> SSCR Volume 6, Page 84 Record 63, 19 Ş 1319/29 January 1902.

<sup>68</sup> For the commercial relationship between Abd al-Muhsin al-Bakhit and various Mihyar merchants, see SSCR Volume 9, Page 43, 10 C 1320/14 September 1902; SSCR Volume 9, Page 55, 22 C 1320/26 September 1902. For the career of especially Dawud Mihyar on Salt's governing councils, see *Salname-i Vilayet-i Suriye* Vols. 17-30, 1885-1898.

<sup>69</sup> DLS Salt *Defter-i Hakani* Volume 31/1/2, Page 77, Entries 43-49. The date listed for the decision of the district administrative council approving the registration of the land with prescriptive right is 8 Teşrinisani 1320/21 November 1904.

<sup>70</sup> DLS Salt *Defter-i Hakani* Volume 31/1/2, p. 343, Entries 88-89.

<sup>71</sup> SSCR Volume 11, Pages 11 and 14, Record 15, 6 C 1321/30 August 1903.

After 1910, Abd al-Muhsin is specifically referred to as *mukhtar* of the Fuqaha in the court records and is also referred to with the title “shaykh.”<sup>72</sup> With a few exceptions, “shaykh” is the only title given to Bedouin in the court records during the period under study and, along with the official administrative title of *mukhtar*, this title shows that Abd al-Muhsin was in a leadership position within the Fuqaha group in the 1900’s. In the post-Hamidian early CUP period, Abd al-Muhsin continued to be a mainstay at the Sharia court as *mukhtar* of the Fuqaha, providing witness testimony and verifying the testimony of other witnesses. Further, the records show his continuing involvement in tax collection. However, as the cases described below illustrate, the power of the *mukhtars* and specifically their prerogative to collect taxes on both animal and landed property from their constituents became problematic towards the end of the Ottoman period. Bedouin contesting taxation focused on a specific kind of animal theft: tax collectors’ practice of confiscating animals in lieu of agricultural taxes through the medium of the *mukhtar*.

In April 1912, Far‘ al-Husami, identified as a member of the Fuqaha tent dwellers in Salt,<sup>73</sup> visited the Sharia court to register a claim against the district tax collector, Mustafa Effendi.<sup>74</sup> He accused the tax collector of illegally confiscating his yellow five-year-old work horse as well as a small donkey. Far‘ explained that the tax collector had taken his horse and donkey in lieu of unpaid taxes on the agricultural property owned by the Fuqaha that the district tax office was demanding from the Fuqaha *mukhtars*, who he identified as six men including Abd al-Muhsin al-Bakhit. Far‘ protested that Abd al-Muhsin and his colleagues had no right to his horse or his donkey, and they were responsible for paying the tax, so the tax collector had no right to confiscate his animals. The tax, he implied, was the burden of the *mukhtars* alone.<sup>75</sup>

This claim, although unprecedented before the turn of the century, was not isolated in Salt. Other Bedouin claimants against the tax collector’s practice of confiscating livestock for unpaid agricultural taxes were even more explicit in their accusations. A month after Far‘’s claim, a woman named Ashtiyya<sup>76</sup> of the Khusaylat Bedouin,<sup>77</sup> also attached to the Salt district, registered a similar claim regarding goats Mustafa Effendi had confiscated in lieu of the Khusaylat agricultural taxes.<sup>78</sup> Like Far‘, Ashtiyya claimed that the Khusaylat *mukhtars* had no

<sup>72</sup> SSCR Volume 13, Page 294 Record 218, 26 Ş 1327/12 September 1909. See also SSCR Volume 15, Page 149 Record 50B, 29 S 1328/12 March 1910.

<sup>73</sup> “*Muslim uthmānī min ‘ashīrat al-Fuqahā sukkān al-khiyam bi-ḍawāḥī al-Salt*”.

<sup>74</sup> Mustafa Effendi is identified as the scribe for the wirko tax. The record specifies that Mustafa Effendi was acting as the deputy (*wakīl*) of the Director of the Tax Office (*mudīr māl*) of the district of Salt, Abd al-Qadir Effendi.

<sup>75</sup> SSCR volume 18, page 159, 25 R 1330/13 April 1912. The Arabic phrase for “*mukhtars* of the Fuqaha” is “*mukhtāriyyat al-Fuqahā*”.

<sup>76</sup> Ashtiyya not being a familiar name, I am guessing at the spelling – it could also be read “Ishtiyya.”

<sup>77</sup> The records identify the Khusaylat as a section of the Da‘ja community. Gertrude Bell spent time with people of the Da‘ja group in 1905 and recorded her experiences with Da‘ja shaykhs who served as her guides in the Balqa region. See Gertrude Bell, *Syria, the Desert and the Sown* (New York: E.P. Dutton and Company, 1907), 51–2, 59–61; See also Peake, *A History of Jordan and Its Tribes*, 176.

<sup>78</sup> The record references the ‘*ushr*’ tax (*ōṣr*), which was a tithe on agricultural revenues. In the period under study it was usually assessed at around 12.5 percent. However, the court records do not include details about the process of calculating the ‘*ushr*’, let alone the legal basis for taking animals in exchange for this tax. Note that in the earlier case described above, taxes are described more generally as *amwāl amīriyya* – a term that could have referred to the *ōṣr*, the *vergi* (property tax) or even the sheep tax (*aḡnam rūsumu*). For more details on these taxes in the neighboring district of Jerusalem during the Hamidian period, see Büssov, *Hamidian Palestine: Politics and Society in the District of Jerusalem, 1872-1908*, 86–8; For some details of taxation of agricultural revenues in Salt during the period under study, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 168–9; Fischbach, *State, Society and Land in Jordan*, 33.

relation to her goats, which she said had been part of her dowry.<sup>79</sup> In that claim, Mustafa Effendi mounted a defense, saying he had found the goats with the *mukhtar* of the Khusaylat himself.<sup>80</sup> He therefore accused the Ashtiyya of manipulating the office of the *mukhtar* by claiming his goats were actually hers, thereby shielding them from confiscation.

A more sophisticated version of this tactic was also used against Mustafa Effendi's predecessor, the tax collector Farid Effendi, in a series of cases in 1910. In one of these, Hamad bin Awad al-Sulayman of the Bani Hasan Bedouin registered a claim against both Farid Effendi and the *mukhtar* of a larger and more powerful group, Fawwaz Effendi of the Bani Sakhr Bedouin.<sup>81</sup> Fawwaz Effendi, like his uncle Talal Paşa mentioned in Chapter 3, was part of a line of Bani Sakhr leaders who were the only Bedouin to attain official Ottoman office beyond that of *mukhtar* when they became directors (s. *müdiir*) of a new sub-district (*nahiye*) south of Salt composed of land in their control in the 1890's.<sup>82</sup> Hamad bin Awad accused Farid Effendi, the district tax collector, of taking his valuable horse in lieu of taxes that Fawwaz Effendi owed to the treasury for the collective tax on the Bani Sakhr agricultural revenues. Farid Effendi's defense was similar to Mustafa Effendi's in 1912, but with more detail and more serious accusations. He said that contrary to the plaintiff's claim, the horse in question, which was tied to the court door for identification purposes, actually belonged to Fawwaz Effendi of the Bani Sakhr, and that Fawwaz Effendi had already tried to retrieve it from the tax office. He said that even though the plaintiff, Hamad, was not a member of the Bani Sakhr, he had colluded with Fawwaz Effendi to mount a case in the Sharia court in which he would say the horse was his, produce bribed witnesses to corroborate his claim and obtain a ruling from the Sharia court judge to force the tax office to return the horse. He therefore accused the Bedouin of "fabricating" Sharia court claims to subvert his efforts at revenue collection. When Fawwaz Effendi got to court, his response was predictable: not only did he have no relation to the horse, but Hamad was not even a member of the Bani Sakhr, so why would he collude with him? The 1910 cases therefore contested not only the powers of the *mukhtar* to allocate tax burdens, but the boundaries of the administrative communities (*ashiras*) on which the election of *mukhtars* was based in the first place.

There are, of course, different possible readings of these cases. If we believe the tax collectors, the Bedouin and their *mukhtars* colluded to fabricate Sharia court claims and obtain favorable rulings that would allow them to retain their animal property. In this reading, it does not seem to matter whether the animals belonged to the *mukhtar* or the claimant Bedouin in the first place. This reading is tempting, especially given that many Sharia court cases were "fabricated" in the sense that litigants could predict their outcome based on Sharia procedure and claimants and defendants would decide to present them in advance to obtain written record of various procedures and contracts concluded outside of court at a prior date.

On the other hand, in the context of the rise of middling *mukhtars* described in previous chapters, it is not unthinkable that rank and file Bedouin would challenge the *mukhtar*'s power to allocate tax burdens in court or would see *mukhtars* and tax collectors as collaborating to strip them of their valuable livestock property. It is also entirely possible that less fortunate tent

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<sup>79</sup>“*Jamī‘ al-ghanam al-madhkūra laysa li-Sālim al-Himlān al-madhkūr bihā adnā ‘alāqa.*”

<sup>80</sup> SSCR volume 18, page 167, 2 Ca 1330/19 April 1912.

<sup>81</sup> SSCR Volume 16, Pages 115-116, 1 Dhu l-Hijja 1328/4 December 1910. For a photo of Shaykh Fawwaz's encampment taken by photographer Moritz Bernhard in 1906, see Photo 4.1 in Appendix A.

<sup>82</sup> For a family tree, see Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, 179.

dwellers believed that their wealthy leaders should pay the taxes for the entire group and that tax collectors were attempting to deflect attention from their legally questionable practice of confiscating animals for agricultural taxes.

Either way, these cases reveal important themes in post-Hamidian Salt. First and foremost, they highlight the contested nature of the office of the *mukhtar* especially in the realm of tax collection. The fact that tax collectors were confiscating animals from Bedouin in lieu of the agricultural tithe, which was supposed to be paid in wheat, shows that tent dweller *mukhtars* were not delivering revenue on the lands their constituents owned as they were expected to.

Further, it is important that in each of the cases described above, the judge followed Sharia procedure, asking the claimant Bedouin for proof that the confiscated animals belonged to them, and not to the *mukhtars* or the tax collectors, in the form of verifiable witness testimony. When the Bedouin produced these witnesses, the judge issued rulings in their favor ordering the tax collectors to return their confiscated animals to them. The tax collectors' arguments that the claims were fabricated, which challenged Sharia procedure as much as the plaintiffs' honesty, were irrelevant to the claims presented by the plaintiffs. This point is crucial because in the Nizamiye courts, where central laws dictated these cases should be adjudicated, the outcome of the Bedouin's claims may well have been different. As in the investigation of Cemal Bey, the Nizamiye courts followed a procedure that was generally based on Sharia procedure, but they introduced the important office of the public prosecutor.<sup>83</sup> The public prosecutor could initiate investigative proceedings in cases deemed to touch on public rights, in this case "the rights of the treasury" that Farid Effendi the tax collector alluded to. Had the Bedouin taken their claims to the Nizamiye courts, in other words, they may have had to provide more than two corroborating witnesses for proof that they owned the animals in question and did not owe them to the treasury as tax.

These cases therefore also show how pastoral nomads took advantage of the complex legal environment regulating animal theft at the end of the nineteenth century. The records do not provide clear explanations for why litigants chose to bring these cases to the Sharia court rather than the Court of First Instance. While the above point regarding the office of the public prosecutor is a possibility, Bedouin and other litigants may have avoided the Nizamiye court system simply because it was more expensive.<sup>84</sup> In cases of theft, they may also have done so to avoid the penal implications of the Criminal Code. Without a complete archive of the Salt court of first instance, these arguments remain somewhat speculative. However, it is clear that Bedouin were active in both court systems and sometimes tried to play them off of each other.

One example of a nomadic litigant taking advantage of the multiplicity of legal arenas in Salt is a case from February 1902. In this case, a man identified as a tent dweller from the Mashalkha group,<sup>85</sup> who was attempting to retrieve his stolen cow, tried his luck with the Sharia court after he had brought his case to the criminal section of the Salt court of first instance five years earlier. As a result of the earlier Nizamiye case, the defendant had served three weeks in prison but had not produced the cow, and in the meantime the plaintiff heard it had been sold in the Baysan valley across the Jordan River. The defendant, in turn, evoked a different legal

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<sup>83</sup> For a detailed explanation of the office of the public prosecutor in the Nizamiye system, see Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, Chapter 5.

<sup>84</sup> *Ibid.*, 47.

<sup>85</sup> Peake describes the Mashalkha as a confederation of eight smaller groups living in the Balqa region in the Mandate period and with possible origins ranging from Palestine to Egypt. Peake, *A History of Jordan and Its Tribes*, 177–8.

authority: he argued that a lower price for the stolen cow was settled out of court through a *sulh* procedure<sup>86</sup> with a prominent local figure whose name recurs in such cases. The plaintiff denied this and produced two witnesses who concurred that the cow was sold for the higher price, winning the case.<sup>87</sup>

The issue of animal theft, like the issue of land control, problematizes the idea that the late Ottoman state sanctioned a type of “legal pluralism.”<sup>88</sup> The authorities of the different legal entities in the late Ottoman context were not so much overlapping, but contested. This multiplicity was not a sign of the central state’s flexibility in providing legal choice to its provincial subject/citizens, but rather the continuing local relevance of the Sharia court in the face of persistent government efforts to definitively shift its duties to the Nizamiye courts. While the available sources do not allow definitive arguments about why litigants chose the way they did, the choice of Sharia courts themselves problematized and reshaped the centrally dictated system for regulating animal property.

In this vein, it is also notable that Sharia court judges in Salt continued to accept claims of animal theft as well as civil claims especially involving lost animals and animal sales throughout the Ottoman period. This is important because there are certain animal-related issues that historians know to have been problematic in Ottoman lands in the late nineteenth century that do not come up in the Salt Sharia court cases. The most prominent relates to rights of passage and animals damaging privately owned fields and crops when they were on the move. The inclusion in the 1858 Land Code of a clause protecting customary rights of passage is evidence of disputes in this regard especially as pastureland became privatized, and disputes of this nature have been documented for other regions of the empire.<sup>89</sup> In Salt, there is evidence that there was conflict between various communities involving passage of various communities and their animals, but this evidence exists among central archival material documenting local investigations that reached Istanbul, not in Sharia court records.<sup>90</sup>

Like the evidence presented in Chapter 2, therefore, the handling of animal-related cases indicates that the deputy judge of the Sharia court was selective in the animal-related cases he would accept and avoided those involving state agricultural (*miri*) land. A fuller understanding of the politics of the division of labor between these bodies in the late nineteenth century is generally needed: while it is obvious that Sharia courts were not relegated to “personal status” issues in the late nineteenth century, the term “legal pluralism” does not fully explain the complexities of the legal scene. Another unanswered question involves the enforceability of these rulings; while the Court of First Instance had the district police forces at its disposal, it is not clear how Sharia court rulings on criminal and civil cases were meant to be enforced.

In any case, these records paint a picture of Bedouin, as plaintiffs, defendants and witnesses, contesting the system for managing animal property laid out in Istanbul by manipulating the complex legal scene regulating animal ownership at the district level. Like other litigants, Bedouin faced the challenge of securing their control over and limiting the tax burden associated with this inherently mobile and highly valuable resource. By moving between

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<sup>86</sup> For a discussion of *sulh* and its role in eighteenth-century Sharia courts, see Işık Tamdoğan, “Sulh and the 18th Century Ottoman Courts of Üsküdar and Adana,” *Islamic Law and Society* 15 (2008): 55–83.

<sup>87</sup> SSCR volume 6, page 93, record 69, February 4 1902.

<sup>88</sup> Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, 59–68; Agmon, *Family and Court: Legal Culture and Modernity in Late Ottoman Palestine*, 74; Shahar, “Legal Pluralism and the Study of Shari’a Courts.”

<sup>89</sup> Terzibaşoğlu, “Landlords, Nomads and Refugees: Struggles over Land and Population Movements in North-Western Anatolia, 1877-1914,” 177.

<sup>90</sup> BOA.DH.MKT 25/24, 7 Ş 1310/24 April 1893.

the Sharia court, Nizamiye institutions and extra-state dispute resolution mechanisms, Bedouin contributed to the social reality that followed central attempts to shift the balance of power between judicial institutions from the Sharia to the Nizamiye courts.

## Conclusion

The legal treatment of animal theft at both the district and the central imperial levels provides a starting point for understanding Ottoman modes of regulating animals as property, as well as expanding our understanding of the productive and legal activities of pastoral nomads. Crafting legislation on animal theft was an imperial effort. As reports streamed into Istanbul detailing experiences of implementing the initial law that attempted to create an ownership document system, the jurists on the Council of State discussed and amended their legislation in response. While there is no record of direct correspondence between the rural district of Salt and Istanbul, the Salt Sharia court records show that the legal vocabularies for identifying animals, as well as the hurdles the central government faced in implementing the new regulations, were as salient in this region of the Arab provinces as they were elsewhere in the empire.

Indeed, the issue of animal theft provides a key example of the fits and starts of the development of the modern bureaucratic state's mechanisms for regulating and taxing property, as well as the diverse and empire-wide contributions to that process. Where did Bedouin fit into this process of modern state building? By selling their animals at official markets, initiating hearings of their cases in a state-sanctioned legal and administrative arena, and identifying their lost or stolen animals in the terms outlined by central regulations, Bedouin litigants in the district of Salt legitimized this emerging system. Like other local merchants, they had an interest in maintaining the reliability of animal markets that coincided with government attempts to form an efficient system for regulating livestock property rights and reducing theft.

At the same time, Bedouins' roles as providers of valuable animals to rapidly growing markets put them at odds with government attempts to capitalize on commercial expansion through tax collection. Accordingly, Bedouin contested the bureaucratic leadership, i.e. the *muhtar* of the *aşiret*, assigned to tax and regulate their control over animal property. In Salt, the rise of wealthy middling *mukhtars* was apparent by 1910, precipitating claims from non-*mukhtar* Bedouin that the *mukhtars* should be responsible for paying Ottoman taxes rather than allocating them among their communities. The rise of *mukhtars* was therefore contested not only by higher-level officials concerned about their loyalty to the treasury and state, but also from below. By problematizing the office, wealth and power of the *mukhtar*, other Bedouin participated in an empire-wide phenomenon that precipitated the introduction of central directives attempting to further define and modify the duties of this crucial bureaucratic office. Bedouin also took advantage of the complex legal scene of the late Empire by utilizing multiple judicial arenas to either retrieve their livestock or to win compensation for lost animals. They thus contributed to the way the legal and economic infrastructure governing control over their most valuable resource functioned.

In existing literature, Bedouin and other pastoral nomads have been portrayed as marginal to the contested process of building a modern bureaucratic state in the Ottoman Empire. Existing accounts argue that they were incorporated, i.e. they accepted new property regimes, settlement schemes and legal categories whose production and details were outside their control, or that they rebelled, ultimately unsuccessfully. This chapter has shown that, in the matter of creating a system for administering animals as property at the district level, Bedouin played

integral rather than marginal roles. In the district of Salt, the majority of litigants in cases involving animals as property were identified as Bedouin. Like other Ottoman litigants attempting to maintain control over their property amid the sweeping economic and legal changes of the late nineteenth century, they neither rejected the new system outright nor did they follow it to the letter. Rather, they utilized and manipulated the system with the aim of preserving their unfettered and untaxed control over livestock to the greatest possible extent, and thus contributed to the processes of modern state-building at the district level alongside other Ottomans.

## Conclusion

### Tribes, Newcomers and the Hamidian Legacy

“I confiscated the horse to cover the taxes Shaykh Fawwaz is required to pay. The plaintiff is one of his followers and the horse belongs to Shaykh Fawwaz. The evidence for this is that the plaintiff came to Salt with Shaykh Fawwaz and stayed with him in the same place. When he came to the tax office to get the horse back, he was unable to do so without paying the back taxes Shaykh Fawwaz owes. He decided that the best way to get the horse back would be to make a court claim, argue that the horse was his and bring witnesses who would attest to this. Since it is proven that the horse belongs to Shaykh Fawwaz, and in order to protect the rights of the imperial treasury, I request that this fabricated and false claim be rejected.”

-Farid Effendi, Salt Tax Collector

“The horse is the private property of the plaintiff. He is not one of my followers. He is a member of the Bani Hassan *ashira*, and came with me to Salt as a guest.”

-Shaykh Fawwaz of the Bani Sakhr<sup>1</sup>

These quotes from Hamad Awad’s lawsuit, described in detail in Chapter 5, are about more than moving animals among *ashiras* to avoid taxation. They are also about evolving conceptions and uses of what Benjamin White, in his analysis of the creation of concepts of minority and majority in Syria under the French Mandate, called “politics of community.”<sup>2</sup> By 1910, the *ashira* had moved from being a community with amorphous borders to an administrative category whose boundaries had become politically charged. This political charge had to do with the inclusion of *ashira* as a segment of inhabitants documented in Chapter 2, the election of a representative *mukhtar* based on the community it defined, the empowerment of that representative to sanction land claims, and the process of collecting taxes that this representative was authorized, problematically, to coordinate. These processes, outlined in the 1864 Provincial Administration Regulations and the 1858 Land Code and elaborated in the period covered by this dissertation, signaled an important shift to the social meaning of *ashira* in the provinces and its linkage to the administrative apparatus of the modern state. Like sectarianism, therefore, contemporary “tribalism” (*asha ‘iriyya*) is a distinctly modern phenomenon inextricably linked to the development of modern state institutions.

White links the development of concepts of majority and minority to the spreading of the modern state apparatus over a defined territory and the inclusion of that territory’s population in a particular institutional framework marked by certain categories.<sup>3</sup> I see the same process happening in the Salt region, but I locate its roots in the Hamidian period and not the Mandate. In this vein, I agree with Ussama Makdisi in his analysis of the communal violence of 1860 in Mount Lebanon that contemporary politics of community have strong roots in the elaboration of

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<sup>1</sup> SSCR Volume 16, Pages 115-116, 1 Za 1328/4 December 1910

<sup>2</sup> Benjamin Thomas White, *The Emergence of Minorities in the Middle East: The Politics of Community in French Mandate Syria*, Reprint edition (Edinburgh: Edinburgh University Press, 2012), 4-5.

<sup>3</sup> *Ibid.*, 210.

late-Tanzimat reforms in the Ottoman Empire.<sup>4</sup> However, I differ with Makdisi in that I see these politics as moving beyond an exclusive focus on religion as a reflection of the main obsession of European powers. Further, I take issue with Makdisi's argument that the spreading of the state in the Ottoman case was a colonial experience. This argument elides the prehistory of Ottoman rule both in Mount Lebanon and in southern Syria. Ottoman governance in rural areas was different, and less intrusive, before the 1860's, but it was not absent or even primarily characterized by neglect.<sup>5</sup>

Rather, I have argued that the Hamidian period comprised a renegotiation of existing political arrangements. In Salt, the relationships between local nomadic leaders and government authorities built around provision and protection of the Hajj route retained significance far beyond the building of the Hijaz railway. Leaders like Talal Paşa of the Bani Sakhr, Ali Ağa of the Adwan, and Shaykh Harb of the Bani Atiya continued to benefit from the historical relationships their fathers and grandfathers had enjoyed with previous Ottoman rulers. The Hamidian period and the rise of a group of nomadic bureaucrats changed these relationships and especially altered the way everyday nomads interacted with the government: their degrees of separation to Ottoman governance became much smaller. It is a distortion, however, to consider the Salt district and Balqa region more generally as an autonomous or neglected "frontier" before the Hamidian period. Cemal Bey's frustration with the lasting power of leaders like Talal Paşa and the free pass his influence conferred to Bani Sakhr violence described in Chapter 3 is testament to how the longstanding status of particular figures and groups affected the Hamidian political scene in the Balqa.

At the same time, I have shown that local interaction with Hamidian property policies, especially around land, precipitated the rise of a group of mid-level nomadic leaders who were able to capitalize on their newfound political and financial power. Contrary to prevailing views, these were not paramount shaykhs who registered large tracts of land under the Land Code and became wealthy landowners, reducing their subordinates to wage labor. Rather, men like Abd al-Muhsin al-Bakhit, Minakid al-Wiraykat and Nahar al-Bakhit became low-level Ottoman bureaucrats along with leaders of other small groups of local producers, including settled cultivators and Muslim immigrant/refugees. Political participation as *mukhtars* with the power to sanction property registration and coordinate tax collection was one linchpin of this rise; commercial and social relationships with specific merchant moneylenders based on advanced purchase contracts and mortgage of agricultural land was another. For pastoral nomads, the Hamidian period was a time of intensive participation and integration into modern state structures.

However, this is not a simple story of cooptation of a formerly autonomous and problematic group of nomads into an ascending modern state. The middling group of nomadic *mukhtars*, like *mukhtars* in general, presented deep problems to the smooth running of the Ottoman governance and revenue extraction machine. The intertwined stories of Nahar al-Bakhit and Cemal Bey, the ill-fated governor of Karak county who presided over a multifaceted crisis in Ottoman authority in the summer of 1907, are just one example of the dramas that unfolded all over the rural areas of the empire in the aftermath of the Land Code, its related administrative restructuring and the crises related to refugee resettlement in the Hamidian period.

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<sup>4</sup> Makdisi, *The Culture of Sectarianism*, Chapter 1.

<sup>5</sup> Makdisi, *The Culture of Sectarianism*; This neglect thesis is also important for Rogan's argument that Transjordan was a frontier region. Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 21.

As detailed in Chapter 1, this crisis occurred against a backdrop of anxiety regarding Hamidian sovereignty over the land of Syria and the specter of foreign influence, whether in the form of Zionist colonization or British occupation. This anxiety informed but did not define the categories of governance in the region. The challenges the Ottoman government experienced from within, mounted by individuals like Nahar al-Bakhit and his constituents, shaped Ottoman policy in profound ways, sometimes bringing the local government practically to its knees. Their challenges, however, were not aimed at regime change; they were rather moves to garner a larger piece of the Ottoman pie by protesting key elements of Ottoman policy in the region.

### **Land Policy, Locale and Nationalism: Ruminations on the Hamidian Legacy and the Question of Tribe in Jordan**

Benjamin White's analysis of minority and majority is also instructive in his recognition that "the nation-state form creates the objective conditions in which people begin to consider themselves as majorities or minorities; however, these remain subjective categories."<sup>6</sup> In late Hamidian Salt, a protracted process of negotiating (in the most violent understanding of the term) the meaning of categories organizing population and property unfolded. The challenges associated with this process were what ultimately prevented the Ottoman administration from extending its intrusive brand of modern governance over every inch of Salt's land, as evidenced by the blank spots and transaction-based character of the district's land registers.

In fact, I would argue that issues of community politics were at the bottom of the stark difference between comprehensive land registration in Ajlun, where Mundy and Saumarez Smith documented the methodical work of commissions going from village to village and registering every piece of land,<sup>7</sup> and Salt, where large swaths of land lay unregistered at the end of the Ottoman period. The main difference between the two districts had to do with the presence of "newcomers" whose claims to land were accomplished through imperial decree in Salt, and their absence in Ajlun. It will be remembered from Chapter 1 that because of the preponderance of cultivating village-dwellers in Ajlun, it was not a target either of foreign interests like Oliphant for the creation of a Zionist colony or of the provincial and central Ottoman governments for settlement of Muslim refugees.

In this sense, it is important to distinguish between "newcomers/outsideers" who have often been lumped into the same category:<sup>8</sup> for the inhabitants of Salt district, the notable bureaucrats profiled in Chapter Two, who largely traced their origins to Damascus, Nablus and Jerusalem seem to have occupied a different position from both the Muslim refugees and Christian cultivators settled in the district by government decree. Although they did become increasingly interested in amassing land, these notable bureaucrats either struck agreements with local nomadic groups who controlled the land, or, increasingly as the land administration became more established, bought it on the market.

An example of the first trend was the family of Farah Abu Jabir noted above, who established a plantation farm in the 1860's in the village of Yaduda after migrating east from Nazareth. While the Greek Orthodox religious affiliation of the Abu Jabirs became problematic for the Ottoman government, who were quite concerned with potential foreign spies owning so

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<sup>6</sup> White, *The Emergence of Minorities in the Middle East*, 209.

<sup>7</sup> Mundy and Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria*.

<sup>8</sup> Tell, *The Social and Economic Origins of Monarchy in Jordan*, 44.

much land near the railroad, it does not seem to have bothered the inhabitants of Salt's district. Rather, the important point here is that the Abu Jabirs considered the groups controlling the lands they settled in the Balqa the original owners, remitting a portion of their revenues to both the Ajarma and the Bani Sakhr leaders as tax.<sup>9</sup> As argued by the family historian Raouf Abujaber, they accomplished good relations with the region's Bedouin by integrating themselves into the local legal and social framework, recognizing the validity of Bedouin land claims, rather than acquiring land through imperial decree.<sup>10</sup>

In contrast to these merchant notables, both the Muslim refugees settled around Salt and the Christian cultivators in Madaba in conflict with the Bani Sakhr owed their title deeds entirely to the provincial and imperial rulings issued from Damascus and Istanbul. Although these rulings were legally supportable, they were contentious and their beneficiaries were seen as interlopers. This was true even though the Christian cultivators shared language and regional customs with their neighbors and the Muslim refugees shared the religion of most of the district's inhabitants, and they were both closer in economic class to the local tent dwellers and cultivators than the merchants. The conflicts these decrees precipitated, as described in Chapter 3, made it increasingly difficult for the local Ottoman government to continue with comprehensive land registration. They effectively pushed concessional politics to its limits, precipitating a crisis of Ottoman authority during the Hamidian period.

In Jordan's nationalist era, some of the most vexing problems continue to involve questions introduced during the Hamidian period: the relationship between sovereignty, land and population. The way this played out was, of course, deeply affected by historical events no one in the Hamidian period could have predicted: the creation of the State of Israel in 1948 and the expulsion of Palestine's native population, hundreds of thousands of whom fled, under various circumstances, to the Balqa region and whose descendants remain there; the 1991 Gulf War, during which the Palestinian diaspora living in Kuwait was expelled, largely to the Balqa region; the American invasion of Iraq in 2003 and the current civil war in Syria, both of which caused unprecedented refugee crises that have transformed the Salt region's demography.

The Hamidian refugee problems were in fact the beginning of a history of problems hinging on the politics of community – under a modern rubric of nationality and citizenship, numerous disenfranchised groups came into the Balqa region, and later Jordan, under dire circumstances. These groups, because of their identity and history, were afforded certain privileges in the modern state context that became the subject of intense debate. Circassians fleeing the Balkans and Christians fleeing Karak were given land, Palestinians gained Jordanian citizenship, Iraqis and Syrians gained little more than a constantly contested, uneasy and quickly rescindable right to remain on the land, educate their children and work for a living. An exclusivist nationalist narrative has grown out of longstanding debates over these privileges, both the real and the perceived, and each wave of refugees creates new expressions of what many have termed “Jordanian nativism.”<sup>11</sup>

The narrative of multicultural nationalism that is the usual response to nativist exclusionism imagines Jordan, and Amman in particular, as a “melting pot” and emphasizes the contributions of people nativists would call outsiders to the making of the modern state: Circassians brought the wheel, and refugees of all stripes brought population, urbanity and

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<sup>9</sup> Abujaber, *Pioneers Over Jordan: The Frontiers of Settlement in Transjordan, 1850-1914*, 117–118 Abujaber argues that this arrangement had official sanction from Damascus.

<sup>10</sup> *Ibid.*, 137–140.

<sup>11</sup> Abu Odeh, “Materialist Analysis in the Service of a Nationalist Thesis.”

education to what is often described as a previously nearly empty land of unruly nomads. The problems with this solution to nativism lie beyond their historical inaccuracy as documented in this dissertation: this seemingly progressive narrative also bears a striking similarity to right-wing Israeli attempts to sell Jordan as an “alternative homeland” for Palestinians and deny the right of Palestinian return to land occupied in 1948 and 1967.<sup>12</sup>

These debates also hinge on the definition of the descendants of the communities reviewed here as “tribal”, a descriptor that has been alternatively adopted as a celebration of indigenous tradition and vehemently denied as a premodern flaw in political debates in Jordan’s recent decades.<sup>13</sup> There is no doubt that *ashira*/tribe continues to hold intense political weight in the Hashemite state. I would argue, however, that this has less to do with the machinations of various shaykhs during the Mandate period and the relationships they developed with the British/Hashemite ruling regime,<sup>14</sup> and more to do with the evolving politics of community that began to link *ashira* to modern state administration, resource allocation and taxation beginning in the Hamidian period. Undoubtedly, the British and Hashemites created new meanings and new linkages between tribe/*ashira*, representation and state participation in the twentieth and twenty-first centuries. Most recently, for example, this linkage has manifested itself in the collection of member voting cards among particular *ashiras* during parliamentary elections, a type of ballot box voting that did not occur under the Ottomans.<sup>15</sup> However, the structural weight of the *ashira* as a viable political community worthy of a state representative empowered to sanction right and duty among his constituents was established in the 1870’s and 1880’s and elaborated in the early twentieth century.

The evidence of contestation within nomadic groups over how taxation would be organized and the linkage of this contestation to the boundaries of the *ashira* presented in Chapter 4, however, leaves a number of questions unanswered. Most importantly, was this contestation the result of the rise of a middling group of *mukhtar* nomads whose financial and political power, especially in the intertwined realms of credit provision and taxation, became problematic for their constituents as it progressed? Or, alternatively, did this contestation have to do with increasing tax demands of the government during the second constitutional period, as the CUP consolidated its rule and made its mark in terms of rural policy?

The 1908 Young Turk Revolution was undoubtedly a source of great excitement, and ultimately disappointment and disillusionment, among the urban literati of the Ottoman Arab provinces. However, while we know that CUP policymakers were closely interested in the empire’s rural areas and rural production, the interactions between state reformers and provincial producers documented here for the Hamidian period are less known for second constitutional period. We know that CUP rule during World War I, and especially the heavy-handed governorship of Cemal Paşa in Damascus, generally left a negative impression of Ottoman rule in Syria on the levels of censorship, language policies and the sense of a growing rift between Turkish-speaking and Arabic-speaking elites.<sup>16</sup> We also know that the rural areas discussed here

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<sup>12</sup> For a succinct example of the state of these debates, see Tell, “A Rejoinder to the Response of Lama Abu Odeh.”

<sup>13</sup> Linda L. Layne, *Home and Homeland: The Dialogics of Tribal and National Identities in Jordan* (Princeton University Press, 1994), Chapter 5.

<sup>14</sup> Alon, *The Making of Jordan Tribes, Colonialism and the Modern State*, 6.

<sup>15</sup> Seeley, “The Jordanian State Buys Itself Time.”

<sup>16</sup> Hasan Kayalı, *Arabs and Young Turks: Ottomanism, Arabism, and Islamism in the Ottoman Empire, 1908-1918* (University of California Press, 1997), Chapter 6; James L. Gelvin, *Divided Loyalties: Nationalism and Mass Politics in Syria at the Close of Empire* (Berkeley: University of California Press, 1999), 7–9; For the complexities

were especially hard hit by wartime policies, including mandatory conscription, government confiscation of grain and other goods and a coinciding wave of environmental challenges.<sup>17</sup> The ways community politics beyond the trope of sectarianism developed in step with CUP policies, however, have yet to be explored.<sup>18</sup>

### **Rethinking Ottoman Orientalism: Nomads and Ottomanism Across the Empire**

The story I have related here is not one isolated to Salt, or even to the Ottoman Empire's Arab provinces. Issues at the nexus of population and population movement, land and sovereignty were playing out all over the Empire during the Hamidian period. The similarity of Salt's story to other rural Ottoman areas supports my argument that this region should not be regarded as a frontier, a newly colonized space or an object of Ottoman Orientalism.

In his analysis of late Ottoman Yemen and appraisal of the coloniality of Ottoman governance in that province, Thomas Kuehn argues that an essential element of colonial governance is the institutionalization of a politics of difference.<sup>19</sup> He shows that in Yemen, the Ottoman government did make some profound changes based on their perception of the population's cultural and social readiness for reforms implemented elsewhere in the Empire: for example, they did not institute the Nizamiye court system, which as we have seen here was crucial to the way local governance played out in Syria. There is very little evidence, in fact, that such an institutionalized "othering" occurred anywhere in Syria. Nor is there evidence that such an othering was applied to the region's nomadic populations. In fact, as I have shown, while there could have been a legal argument for creating a separate administrative architecture for nomads, Salt's "tent dwellers" were subsumed into the administrative structure governing "the rest of the local inhabitants."

Rather than colonial governance and subalternization, I would argue that the contestation over categories and contestation of policies were the defining feature of the Hamidian period in Syria for nomads. Ottoman bureaucrats raised and educated in more urban environments certainly did look down their noses at their rural compatriots to a certain extent. However, they did not exclude them from the evolving modern state's semi-representative governing apparatus that was becoming the way to defend rights to resources and pay for it. There was no separate legal system for Syria, nor for its nomads. Whether they lived in goat-hair tents or stone houses, they were "like the rest of the inhabitants" when they visited the courts and the land office.

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of identity politics in Ottoman Syria during this period, see Rashid Khalidi, *Palestinian Identity: The Construction of Modern National Consciousness* (Columbia University Press, 1997), 86–88.

<sup>17</sup> Salim Tamari and Ihsan Salih Turjman, *Year of the Locust: A Soldier's Diary and the Erasure of Palestine's Ottoman Past* (University of California Press, 2011); Melanie Schulze Tanielian, "The War of Famine: Everyday Life in Wartime Beirut and Mount Lebanon (1914-1918)" (Dissertation, University of California, Berkeley, 2012).

<sup>18</sup> Without making use of the Ottoman archives, Tariq Tell's argument that shifts in entitlements related to wartime scarcity were behind some groups' shift from Ottomanism to "localism" during the war years is a step in this direction. Tell, *The Social and Economic Origins of Monarchy in Jordan*, Chapter 3.

<sup>19</sup> Kuehn, *Empire, Islam, and Politics of Difference*, 4; Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005), Chapter 6.

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DH.EUM.KLU	Dahiliye Nezareti Emniyet-i Umumiye Kalemi Umumi
DH.EUM.4Şb	Dahiliye Nezareti Emniyet-i Umumiye Dördüncü Şube
DH.ID	Dahiliye Nezareti İdare-i Umumiye
DH.ŞFR	Dahiliye Nezareti Şifre Kalemi
HAT	Hatt-ı Hümayun
HR.SYS	Hariciye Nezareti Siyasi Kısm Evrakı
İ.DH	İrade, Dahiliye
I.HUS	İrade, Hususi
İ.MMS	İrade, Meclis-i Mahsus
İ.MSM	İrade, Mesail-i Mühimme
İ.ŞD	İrade, Şura-yı Devlet
İ.TAL	İrade, Taltifat
MV	Meclis-i Vükela
MVL	Meclis-i Vala Maruzatı
ŞD	Şura-yı Devlet Maruzatı
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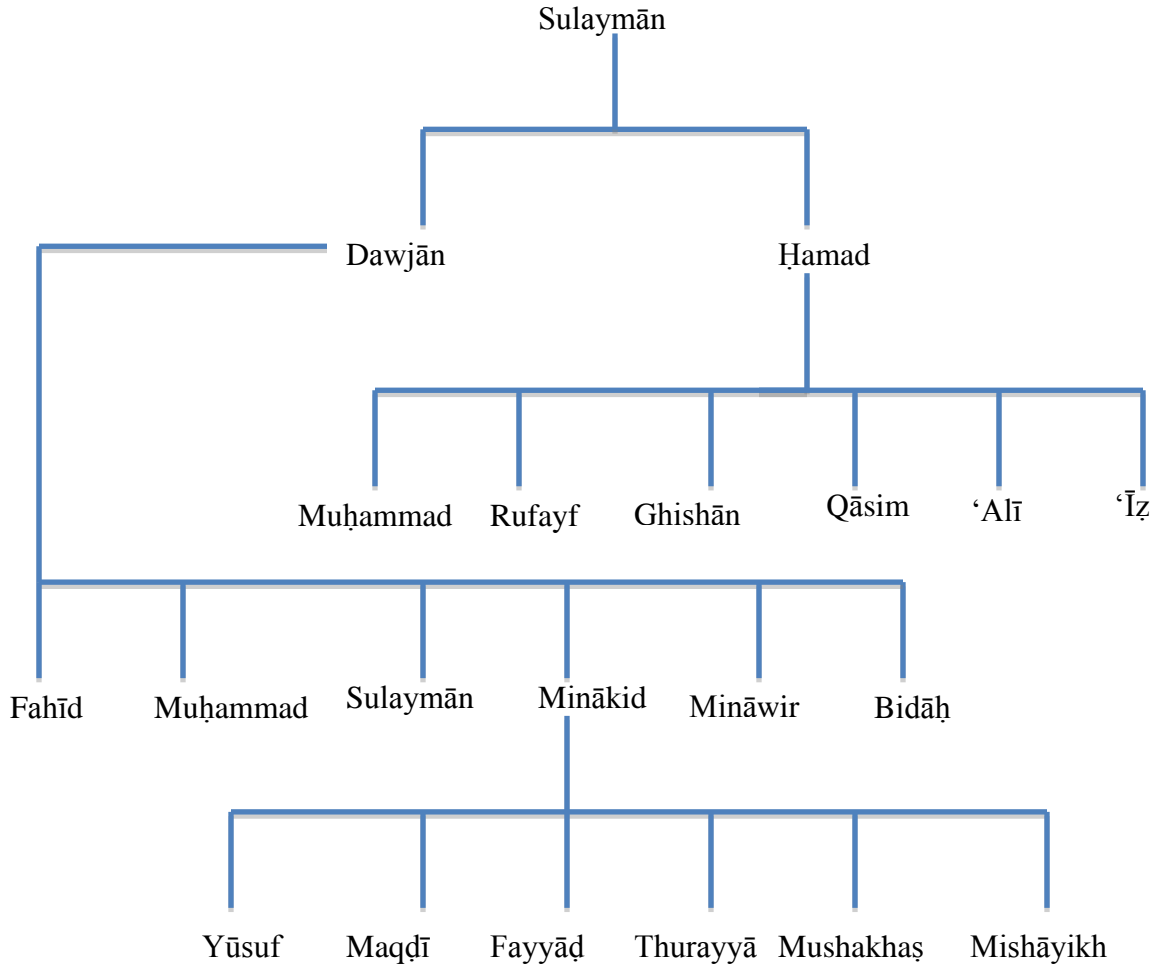
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Appendix A: Tables, Figures, and Photos

Figure 2.1: Some Descendants of Sulayman Wiraykat



Source: Salt Sharia Court Records, Volumes 2-13, Salt *yoklama* Records, Department of Lands and Surveys Salt *Deftter-i Hakani* Volumes 30/1/2, 31/1/2, 32/1/2

Table 4.1: Livestock Values in the District of Salt, 1897-1904

Type of animal	# of cases in which animal appears	# of values mentioned	Mean value (piasters)	Median value (piasters)
Goat ( <i>mā'iz</i> )	3	6	60	55
Sheep ( <i>kharūf</i> )	1	1	60	60
Goat ( <i>ghanam</i> )	2	2	72	72
Donkey ( <i>himār</i> )	20	27	295	240
Bull ( <i>thawr</i> )	6	6	327	312
Cow ( <i>baqara</i> )	14	16	431	372 <sup>1</sup>
Horse ( <i>hiṣān</i> )	2	2	480	480
Work Horse ( <i>kadīsh</i> )	10	11	602	600
Mule ( <i>baghl</i> )	5	8	969	946
Camel ( <i>jamal</i> )	1	1	1680	1680
Horse ( <i>faras</i> )	9	10	1860.5	1800

<sup>1</sup> There is a large discrepancy between the median and mean of cow values because of one outlier value mentioned in SSCR volume 5, page 26, record 31, 15 L 1315/9 January 1898. This record involves the sale of two cows for 2000 piasters, but they are described as “*ra'sayn baqr jawāmīs*”, meaning they may have actually been water buffalo and more valuable.

Photo 3.1, Circassian village of Wadi Sir in 1905



Moritz, Bernhard, photographer. “Ostjordanland Tsherkessenkolonie in Wâdi Şîr. 1905. (East Transjordan: Circassian colony in Wadi al-Sîr. 1905).” Photograph. Berlin: Dietrich Reimer, 1916. From Library of Congress: *Miscellaneous Items in High Demand*. <http://www.loc.gov/pictures/item/2014648724/> (accessed May 15, 2015).

Photo 3.2: Karak Castle



Jordan. Sulṭat al-Siyāḥah. “Karak Karak, about 79 miles south of Amman, was originally a Moabite town. Today its chief attraction is its very fine Crusader castle.” Photograph. c. 1960. Library of Congress: *Miscellaneous Items in High Demand*. <http://www.loc.gov/pictures/item/2013649096> (accessed May 15, 2015).

Photo 3.3, Karak Castle Fortifications



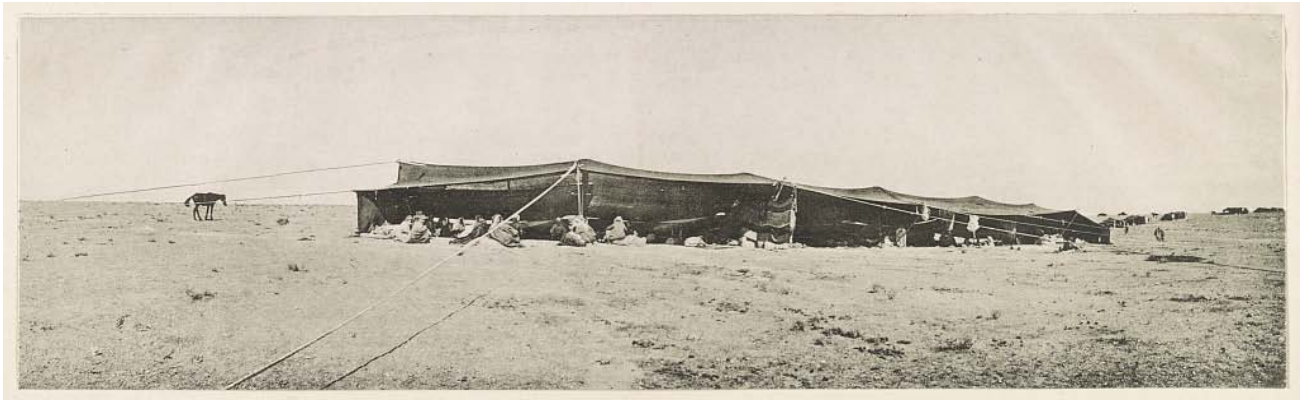
American Colony (Jerusalem), Photo Dept., photographer. "East of the Jordan and Dead Sea. Crusader fortification, Kerak." Photograph. c. 1900-1920. Library of Congress: *Matson (G. Eric and Edith) Photograph Collection*. <http://www.loc.gov/pictures/item/mpc2004005564/PP> (accessed May 15, 2015).

Photo 3.4: Karak Castle, early 20<sup>th</sup> Century



American Colony (Jerusalem) Photo Dept., photographer. "East of the Jordan and Dead Sea. General view of Kerak (Kir of Moab)." c. 1900-1920. Library of Congress: *Matson (G. Eric and Edith) Photograph Collection*. <http://www.loc.gov/pictures/item/mpc2004001781/PP> (accessed May 15, 2015).

Photo 4.1: Encampment of Shaykh Fawwaz of the Bani Sakhr, 1906



Moritz, Bernhard, photographer. “Lager der Beni Şachr-Beduinen Zelt des Scheich Fauûz. 1906. (Camp of the Banī Şakhr Bedouins : Tent of Sheikh Fawwāz. 1906).” Berlin: Dietrich Riemer, 1916. Library of Congress: *Miscellaneous Items in High Demand*. <http://www.loc.gov/pictures/item/2014648734> (accessed May 15, 2015).

Photo 4.2: Bani Sahkr Encampment, 1906



Moritz, Bernhard, photographer. “Ostjordanland Lager der Beni Şachr-Beduinen. 1906. (East Transjordan : Camp of the Banī Şakhr Bedouins. 1906).” Berlin: Dietrich Riemer, 1916. Library of Congress: *Miscellaneous Items in High Demand*. <http://www.loc.gov/pictures/item/2014648733> (accessed May 15, 2015).

Photo 4.3: Threshing with Animal Help in Dar‘a north of Salt, 1906.



Moritz, Bernhard, photographer. “Der‘âh Getreidedreschen mit dem Dreschschittlitten. 1906. (Dar‘â : Threshing grain with sleds. 1906).” Berlin: Dietrich Reimer, 1916. Library of Congress: *Miscellaneous Items in High Demand*. <http://www.loc.gov/pictures/item/2014648726/> (accessed May 15, 2015).

## Appendix B

### Ottoman Census of the District of Salt prepared in May 1915

Chart showing the registered population of the district's villages and surrounding *aşair*<sup>1</sup>

Name of the Village or <i>Aşiret</i>	Latin		Protestant		Roman Catholic		Roman Orthodox		Muslim		Total
	F	M	F	M	F	M	F	M	F	M	
Salt Town ( <i>Salt Kasabası</i> )	355	397	179	205	375	411	792	926	3554	3844	11038
Fuhays Village ( <i>Fuhays Karyesi</i> )	91	113					426	455			1085
Māhis and Jabra <i>Aşireti</i>									220	285	505
Afqahā <i>Aşireti</i>									539	659	1198
Zayūd <i>Aşireti</i>									200	307	507
Buqūr <i>Aşireti</i>									142	165	307
Khitālayn al-Salāyma and al-Huwaydīya									40	51	91
Nu‘aymāt ‘Abd al-Raḥman al-Mūsa									104	123	227
Kāyid Lawzīyīn <i>Aşireti</i>									45	42	87
Raḥāmna <i>Aşireti</i>									69	101	170

<sup>1</sup> This census table appears in two files from the Dahiliye collection of the Başbakanlık Ottoman Archives: BOA.DH.EUM.KLU 9/51, 13 Ağustos 1331/26 August 1915, and BOA.DH.EUM.4Şb 3/72, 5 Ağustos 1331/18 August 1915. The second file includes a copy of a report from the governor of Karak, dated 23 Mayıs 1331/5 June 1915, explaining that the list was prepared in accordance with an order from the provincial governor, that the local population was not subject to conscription, and that while before there were no Armenians in the district, this table shows the presence of the Armenians recently sent to Salt. For information on Armenian refugees deported to Salt and the neighboring regions in 1915, see Rogan, *Frontiers of the State in the Late Ottoman Empire: Transjordan, 1850-1921*, 231–232.

Ziyādāt Aşireti									172	233	405
Khitālayn Ḥajāhja Aşireti									89	91	180
Nu‘aymāt Ghanānīm Aşireti									51	69	120
Khitālayn Şanābra Aşireti									34	51	85
Bani Ḥasan Zawāhra Aşireti									36	37	73
Kāyid Ḥajjāj									215	265	480
Rumaymīn Village	65	73					55	58			251
Kāyid Abū Rīsha Aşireti									23	30	53
Rumān Village									301	299	600
‘Ayn al- Ḥamrā Village									62	87	149
‘Ayn Şuwayliḥ Village									336	409	745
Bani Ḥasan Khalayla									98	98	196
Yājūz Village									60	58	118
Mashālkha Rayyān Firkası									136	187	323
Mashālkha Tawfiq al- Fā‘ūr Firkası									109	142	251
Kāyid al- Wiraykāt Firkası									116	133	249
Mashālkha Muḥamma d Sa‘īd Firkası									402	490	892
Nu‘aymāt Ḥuwayrāt Firkası									42	62	104

Khitālayn Ma‘ādāt Fırkası									40	56	96
Nu‘aymāt Yazijīn									61	67	128
Manāšīr al- ‘Arḍa Aşireti									116	138	254
Khitālayn Ramāḍna Aşireti									71	86	157
Khitālayn Aşireti									57	66	123
‘Ammān Village									1308	145 7	2765
Rajīb Village									6	7	13
Abū ‘Alanda Village									15	22	37
Quwaysma Village									46	55	101
Wādī al-Sīr Village									601	673	1274
Sahāb Village									304	245	549
Juwayda Village									21	21	42
Khirbat al- Sūq Village									5	2	7
‘Umayrī									13	9	22
Umm Qusayr Village									23	24	47
Arfayfa Village									158	154	312
Da‘ja Khuşaylāt Aşireti									55	55	110
Da‘ja Shubaykāt Aşireti									124	159	283
Ruşayfa Village									81	118	199
Da‘ja Jawāmīs Aşireti									212	189	401
Hūnayṭī Aşireti									118	119	237
Dabbūb									105	102	207

Aşireti											
Raqqād Aşireti									47	48	95
Shawābka Aşireti									56	67	123
Ḥadīd Aşireti									186	194	380
Manāşīr Wādī al-Sīr Aşireti									251	368	619
Nā‘ūr Village						43	44	223	292	602	
Mādabā Village	278	332				388	374				1372
‘Awāzim Aşireti									147	162	309
Azāyda Aşireti									278	357	635
Ghunaymāt Aşireti									273	286	559
Suyūf wa Ghulaylān Aşireti									131	147	278
Shawāmla Aşireti									266	316	582
Ghur Suwayma Aşireti									106	111	217
Copts in Hisban Village ( <i>Ḥisbān karyesinde Qibī</i> )									7	8	15
‘Umr Aşireti									31	25	56
Thawābīya Al-‘Adwān Aşireti									53	102	155
Kayid al- ‘Adwān Ghūr al- Rāma									77	119	189
‘Adwān al- Ayūb									8	20	28
‘Adwān al- Nimr									70	119	189
Ghawārna									24	54	78
‘Adwān al- Sālih									176	315	491

Nimr al- ‘Assāf									76	141	217
Ḥisbān Village									15	27	42
‘Ajārma Maṭirīn Aṣireti									111	110	221
‘Ajārma Sharīqīn Aṣireti									69	97	166
‘Ajārma Ḥarāfish Aṣireti									121	172	293
‘Ajārma Shahwān Aṣireti									173	197	370
‘Ajārma ‘Afishāt Aṣireti									90	131	221
‘Ajārma Sawā‘ir Aṣireti									112	137	249
Shahwān al-‘Alāwī Aṣireti									29	36	65
‘Adwān al- Thawābiya Aṣireti									69	92	161
Jīza Village									190	209	399
Juwayza Village									20	17	37
Um Qusayr Ṣukhūr Village									41	39	81
Um al- Walīd Village									95	94	189
Natil Village									48	55	103
Dulayla Village									16	16	32
Baṭḥa Village									95	94	
Jalūl Village									50	43	93
Ḥawwāra Village									17	16	33
Um Rumān Village									29	30	59
Manja									30	33	63

Village											
Zibāyir ‘Adwān Aşireti									27	29	56
‘Ayna Village									10	15	25
Um al- ‘Amd Village									50	77	127
Qastal Village									35	33	68
Bani Şakhr Shaykh Fawwāz Aşireti									58	76	134
Bani Şakhr Mukhtār Zāhir Hamula									84	70	154
Bani Şakhr Shirārāt Hamula									63	83	146
Total	789	915	179	205	375	411	1704	185 7	1490 1	174 03	
Armenians ( <i>Ermeni</i> )									1324	128 5	2609
Total	789	915	179	205	375	411	1704	185 7			4125 3