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העמותה לקידום שוויון אזרחי الجمعية لدعم المساواة المدنية
The Association for the Advancement of Civic Equality

Changing Land Tenure in the Middle East, from the Ottoman Era through Modern Statehood:

A Case Study of Jordan, Israel, the Occupied West Bank, Syria and Lebanon

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מסמך זה נכתב ע"י סטודנט/ית מלגאי/ת במסגרת פרויקט מדיניות שוויונית בעמותת סיכוי
ומשקף את העמדות של כותב/ת המסמך בלבד

INTRODUCTION

The 19th century was a period of rapid change in the Middle East. Gradual environmental changes like the degradation of grazing fields, the over-pumping of wells and overharvesting of raw materials and related social processes like population growth, economic difficulties and tribal conflict continued to challenge the capacity of the land and administration to support the people who lived there (Kirk 1952; Abu-Rabia 2002). These challenges generated a shift in population distribution across the region from arid to semi-arid and Mediterranean zones. Ideas and products from Europe began to spread across the region, introduced by European traders along caravan routes (Hourani 1992: 249). This meant, for the ruling empires of the 19th century, a creeping social and economic foothold of European power in their territory.

As Middle Eastern society began to change, so did the nature of land tenure. These changes are best illustrated by comparative discussion, as they were not experienced the same everywhere, nor addressed uniformly by the different governments. This discussion considers five nations[1] in the modern Middle East: Jordan, Syria, Lebanon, Israel and the occupied West Bank. If “property relations,” according to historian Kenneth Cuno, “were social relations in the broadest sense of the term, sanctified in law”, then tracing policy chronologically will reveal some of the top-down and bottom-up processes which are responsible for massive territorial and demographic changes over only a century (1980: 246). The following discussion will therefore review some of the policies implemented by the ruling governments, and explore their complex impacts.

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[1] Though Palestine is not yet considered a nation by the United Nations, Palestine will be used to refer to the West Bank and Gaza.

THE OTTOMAN EMPIRE, 1658-1914

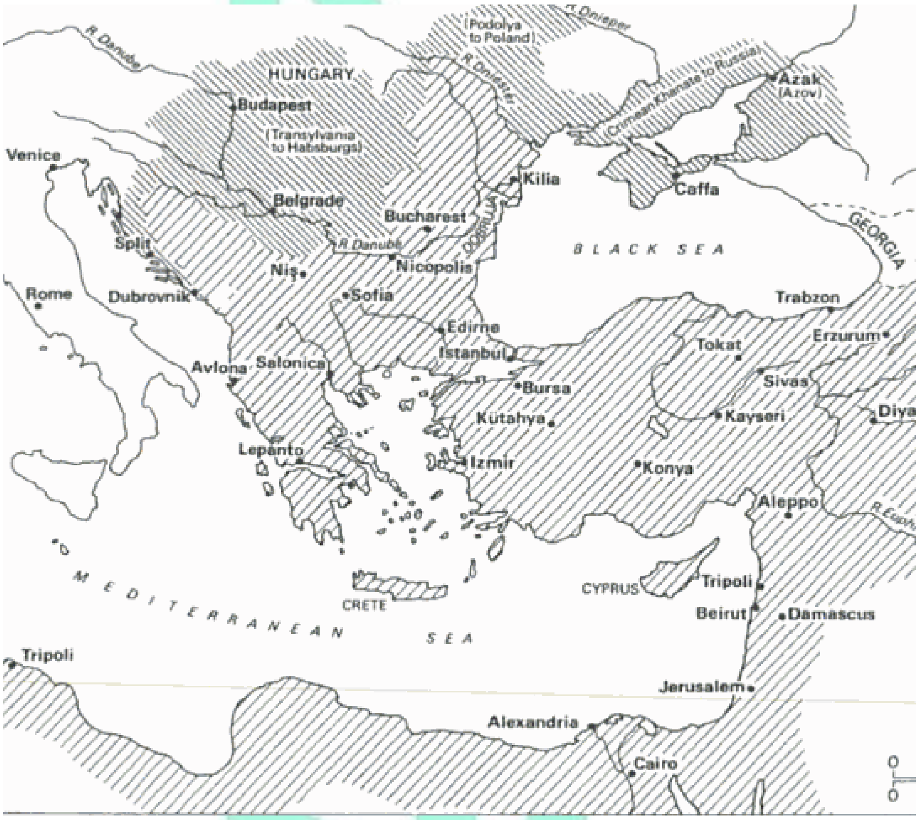
R Danube
HUNGARY
Budapest
(Transylvania to Habsburgs)
(Podolya to Poland)
R Dnieper
R Dniester
Crimean Khanate to Russia
Azak (Azov)
Venice
Kilia
Caffa
Belgrade
Bucharest
DOBRUJA
Split
R Danube
Nicopolis
BLACK SEA
GEORGIA
Niş
Rome
Dubrovnik
Sofia
Trabzon
Edirne
Tokat
Erzurum
Istanbul
Avlona
Salonica
Sivas
Bursa
Kütahya
Kayseri
Diya
Lepanto
Izmir
Konya
Aleppo
R Euph
CYPRUS
Tripoli
MEDITERRANEAN SEA
CRETE
Beirut
Damascus
Tripoli
Jerusalem
Alexandria
Cairo

Fig. 1. The Ottoman Empire, 1683-1800 (Quaternet 2000: 39).

The early Ottomans

The Ottoman Empire had risen to power from Anatolia in the 14th century and ruled nearly all Arab nations and southern Europe by the 16th century (McNeill 1974; Hourani 1974). From their headquarters in Istanbul, the Ottomans succeeded in bringing political unity and military strength to independent sultanates which had been established by earlier dynasties. The Ottomans established a centralized government with provincial delegates which maintained its integrity through the classical period, from the middle of the 15th century into the end of the 17th century (Karaman 2009). The central government consisted of a formal legal system (*qanun*) overseen by the House of Osman (*Osmanlı*), the ruling family, The sultan was the head of the ruling family, and a high official known as the Grand Vizier (*sadr-I azam*) monitored the authorities in the provinces (*eyalet*). The distribution of rights to land and land revenues was motivated initially by the immediate political concerns of the empire. Cavalry officers (*sipahis*), for example, were often provided with the rights to agricultural surplus and tax exemptions in exchange for trained soldiers (Islamoglu 2000: 15; Hourani 1991: 216). This system was known as the *timar*. Other local leaders like religious figures were granted similar privileges under the title of *vakif* (Islamoglu 2000: 16). Inalcik (1993) posits that by implementing the *timar* and *vaklif*, the Ottomans were able to minimize internal resistance, maximize territorial control and present rulers as inseparable from and so essential to state order. These systems of tenure granted privileges to important social actors but did not grant immediate ownership (*raqaba*) over the land itself.

Peasants

Peasants (*fellaheen)* under these systems did not own the land they cultivated, but had nearly the same privileges. Peasants were in charge of making important production decisions, and some received clear property rights for their improvements to the land through land redemption or investments in infrastructure (Aricanli and Thomas 1994; Owens 2000). Improving land could ensure that *usufruct* (*tasarruf*)—the right to use and profit from property not owned by the user, provided that such use does not damage that property—would be passed onto the next generation (Owens 2000). Peasants had security of tenure in the face of economic changes and environmental disasters in an area of the world where both were not uncommon through accommodating Ottoman policies which allowed for traditional inheritance structures (*athar* or *athariyya*) and flexible taxation depending on agricultural yields (Cuno 1980: 246).

The treatment of the peasant class by the central government evoked a "moral discourse" which, like that of other political regimes, framed the enforcement of rules as the arbitration of justice, and "constituted the legitimating idiom of state power". For the Ottomans, this moral discourse was a "juxtaposition of the idea of just ruler of the Near Eastern bureaucratic-agrarian empires with the Islamic notion of good order," according to İslamoğlu-İnan (1994: 5). This image was supported by regulations which ensured food security on the subsistence level for cultivators and for the rest of the empire through regulations on land use, which included policies on crop types and allowable periods for which land could law fallow. While peasants and tax farmers did receive some revenues from the land and make basic managerial decisions, the state retained the title over the land (Islamoglu 2000: 17). As Ottoman rulers came towards the peasants in the provinces through additional measures such as legal protection from exploitation by regional authorities and low taxes, the "just leader" discourse encased an agenda to limit the tax revenues gained by the provinces, inhibit the self-sufficiency of the provinces, and curb their future demands for full sovereignty (İslamoğlu-İnan 1994: 5; Karaman 2009)

Bedouin

Security of tenure was granted informally to Bedouin, who could not hold *tapu,* or deed, until the mid-nineteenth century. Areas which Bedouin used seasonally as cultivation and grazing land were "areas of subsistence", according to anthropologist Emmanual Marx (1977), coordinated through the tribal system to preserve natural resources like pasture and water. Their usufruct thus followed tribal structures rather than governmental ones, and operated according to need, rather than surplus. The geographic mobility of Bedouin following this structure, and its independence from the state apparatus threatened the autonomy of the centralized, sedentary state (Meir

1988). In response, delegates in the provinces shifted the authority of tribal leaders from the tribal system to the government system by granting them certain privileges in exchange for their allegiance to the state. These privileges included formal rights to *miri*, or state land, which granted to the recipients the revenues from farming surpluses, or the rights to revenues from toll roads erected on their territory (Abu-Rabia 2001: 4, 5). Other powerful tribes gained income outside of formal government channels by raiding neighboring villages and levying taxes on villagers and travelers (*mazlima*/*khawa*; *dira*). The government in Istanbul disapproved these activities, but largely ignored them until the 1860s (Marx 1967; Jabbur 1995).

Land documentation

Land that was privately owned, or *freehold* (*mülk*)[2], had been documented by a census of villages throughout the empire carried out during the 14th, 15th and 16th centuries (Quataert 2005). Land within river valleys which hosted annual flood events was surveyed annually and redistributed throughout the village (*ard misaha*) (Cuno 1980: 246). Land could also be granted, like *timar* and *vaklif*, to individuals important to the ruling party (Islamoglu 2000: 16). This practice was not limited to the Bedouin populations Ottoman officials sought to pacify, but extended to the formal, provincial governments. With time, land grants began to shift the status of land from state-owned to free-hold (Shehadeh 1982; Islamoglu 2000: 27).

As land titles shifted, Ottoman society began to restructure itself. Christian peasants residing in northern territories began to constitute a growing middle class. The intellectual and economic capital this group had gained through schooling and agriculture threatened the power of the central government (Shehadeh 1982). Shifting consumer preferences and growing populations dictated new rules for agriculture.

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[2] Islamoglu (2000) suggests that the status of *mülk* did not mean private ownership, but an entitlement to tax revenues, a right to transfer the land to future generations, and an ability to register the land as *waqf* (18).

(Islamoglu 2000). New technology from Europe like the steamboat and modern irrigation systems brought more foreign visitors and increased agricultural productivity. These advancements reduced the economic rewards Bedouin had gained by raiding and taxing caravans, and lessened the feasibility of small-scale agriculture (Quataert 2005).

Ottoman land reform

Land privatization and European influence liberalized land tenure. This diminished the authority of the central government. Measures throughout the 17th century were taken to strengthen Ottoman rule by delegating more authority to tax collectors in the provinces. These actually formalized decentralized land ownership, as they empowered the authorities in the provinces (Hourani 1992: 272; Mundy and Smith 2007: 238). Trade controls and restrictions on the development of infrastructure in the provinces had kept population centers from rivaling Istanbul. As the provinces grew in economic and military strength, however, so did provincial leaders. In response, the central government, partly responsible for its devolution of power, used the tools that had diminished its authority to regain it. In 1838, as part of the *Tanzimat* decree, the first measure for land reform, the Anglo-Ottoman convention, was instituted (Karpat 1972). This convention abolished the *timar* and *vaklif* and replaced them instead with tax farmers (*mültezim*) (Shehadeh 1982; Owen 2000). Additional categories were established through the 1858 Ottoman Land Code to document the realities of tenure in the empire. The idea was to shift the classification of land from a system based on who owned it to how (and how often) it was being used (Islamoglu 2000). The new categories and their guidelines are summarized in Figure 3. Many of these categories have persisted in the tenure systems of modern regimes.

Table 1. Changing land classifications and legal actions under the 1848 Ottoman Land Code[3]

New or modified category	*Replaced*	*Guidelines and notes*
Mawat- dead land	Unattended miri and mülk land	Land far enough from human dwellings so that a loud voice could not be heard, typically in hard-to-reach places (Shehadeh 1982). Became freehold of whomever (state or individual) cultivated, occupied or developed it (Poliak 1940;)
Metruke- public land	Temporary or miri with conditions	Applied to land used for public works like roads; after summer harvest, cultivable land became public for grazing until winter rains (Poliak 1940); lands surrounding villages shared by villagers
Mevkufe- charitable land	Waqf (miri land that had shifted possession)	Closer monitoring of profits generated by *waqf*
Miri- expanded to include trees on freehold land	Difference between miri (grain fields) and mülk (trees, buildings) on freehold land	Contradicted by alternate article of the land code. Significant, as previously trespassers could plant trees on land already claimed by a different party. This would generate multiple claims over the same area (Islamoglu 2000)
Ferağ- irreversible land transfer to state or private lender (ashab); transfer by mültezim of cultivated land to other cultivators	Peasants' usufruct (Tafviv)	Did not require that compensation be paid to peasants who lost usufruct. Could be sensitive to their financial situation (Inalcik 1994; Islamoglu 2000)
Mahlul- prescriptive right	Uncultivated miri or abandoned mülk	State revoked *tapu* if land uncultivated for 3 consecutive years or leasor

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[3] Unless otherwise noted, information from text of the Land Code of 1858, as it appears translated in Hershlag (1964)

		had died. Leasor could reclaim the land for a price or others could purchase it (Bunton 2000)
Tapu- title/deed	Miri and mülk	On mülk, made official land ownership; on miri, gave holder privileges and expectations regarding the maintenance, transfer and development of the parcel (Inalcik 1994). For miri, a “new, more powerful form of usufructory right” (Mundy 2000: 64)

Demise of the empire

The Ottoman Land Code of 1858 was designed to keep track of state lands by documenting them and distinguishing them more clearly from freehold land. The jurists who crafted the Code did not choose statutory land expropriation as a means of strengthening government control. While the nation-states which were born out of the first and second World Wars may have taken Ottoman policies in isolation, the 1858 Land Code was part of a sweeping system of reforms which encouraged foreign trade, technological innovation, economic liberalism, cultural pride and religious freedom through equal citizenship (Hourani 1976; Karpat 1981; Quataert 2005).

The Land Code and its coinciding reforms had some of their intended impacts. The amount of land being cultivated grew, central control was reinforced in the provinces, and the quality of life in urban centers and ports began to improve. Still, the Code is viewed as a futile last attempt by the Ottomans to maintain some semblance of order amid the inevitable processes of territorial decentralization and disintegration (Karpat 1981; Hourani 1992; Quataert 2005).

THE MANDATE PERIOD, 1917-1948

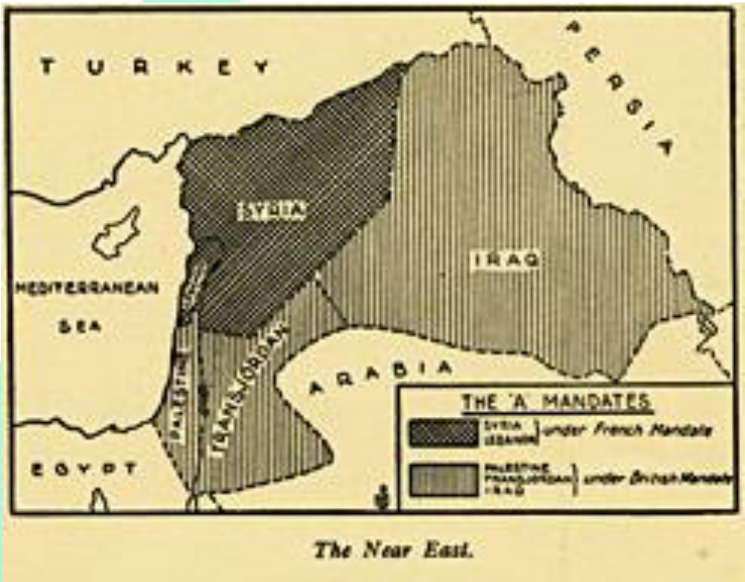
TURKEY
PERSIA
SYRIA
IRAQ
MEDITERRANEAN SEA
PALESTINE
TRANSJORDAN
ARABIA
EGYPT
THE 'A' MANDATES
SYRIA LEBANON under French Mandate
PALESTINE TRANSJORDAN IRAQ under British Mandate
The Near East.

Fig. 2. Mandate A territories of the League of Nations. Lighter areas under British Mandate, darker areas under the French. As appears in League of Nations Secretariat (1929).

Before the outbreak of war, the Ottoman Empire had already begun to split along ethno-nationalist lines (Karpat 1972; Hourani 1992). The sultanate in Istanbul had achieved temporary territorial cohesion through its mid-century reforms, but had enhanced the “center-periphery cleavage” which culturally divided the ruling elite from cultivators in the provinces (Heper 2000: 66). The 1858 Land Code had protected cultivators from local exploitation by tax farmers, but did not grant them a stronger political voice. Cultivators were manipulated outside the legal system by local leaders such as “urban notables” and Bedouin sheikhs, who took advantage of the new registration systems by putting their names on deeds to agricultural land for entire villages (Gerber 1987: 96). Meanwhile, timar and vaklif holders, now considered tax farmers under the law, continued their pre-Tanzimat practices of exploiting agricultural surplus simply by acting under the radar of the territorially strained central government (Heper 1980: 96, 99).

The revolution of the Young Turks in 1908 temporarily restored parliament to the House of Osmun, and made peasants all the more vulnerable to exploitation, as powerful landowners in the provinces sought to formalize their positions through political representation in the new government (Trotsky 1909). The Young Turkish movement ultimately lost its control, but the prediction made by Leon Trotsky, whose childhood home neighbored the Balkan territories held by the Ottomans, rang true: “behind the warm smiles of the European diplomats at the Turkish Parliament, the jaws of predatory capitalists are outlined, ready to benefit at the first opportunity from its internal difficulties to tear Turkey to pieces” (1909).

The Mandate period will thus be shown to be a period of relative continuity[4] in tenure policy, amid rapid social and economic changes caused by internal and external forces. The period is significant first by definition; it serves as a link between the Ottoman Empire and modern nations. More practically, exploring the impacts of Ottoman policy on cultivators and land owners during the Mandate, and highlighting the subtle changes administrators made to it, questions the decisions by modern governments to transfer the policies. Governments such as the State of Israel often use their adherence to the status quo to fend off criticisms by human rights groups. In the case of Israel, for example, a common governmental response to criticisms over the non-recognition of Bedouin land claims is, “the State of Israel…adopted the existing Ottoman and British land laws regarding those issues” (2006: 2). Such a response operates on three incorrect assumptions (1) Ottoman policies were universally just and fair; (2) Mandate policies were likewise, and (3) Policy transfer by modern states was foreordained. As will be shown, maintaining the status quo was not obligatory, nor did it even occur in full during the Mandate (Bunton 1999). Under the Mandates, some of the weakest social groups suffered tremendously from the transfer of Ottoman policy. Land policies taken from the Ottomans, which had been administered over a large territory through provincial offices, were by their nature not conducive to "close settlement and intensive cultivation" (Article 11 1920). Rather than bring justice and fairness, Ottoman policies in the Mandate era created serious problems of landlessness and inter-ethnic group conflicts. As will be shown, these have persisted with the policies in the governments of modern states.

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[4] Article 46 of the Palestine order-in-council of September 1922 preserved "Ottoman Law in force", though enabled the legislation to be changed through amendments. In the French mandate of Syria, the Land Code seems to have been adopted similarly, though literature specifically addressing decisions which formalized it is elusive. Instead, references to preservation of "the Ottoman model", and a policy of politically-motivated land grants and *tapu* surveys provide evidence that in its early years the French mandate preserved the 1858 Land Code (Garzouzi 1963; Khoury 1982; Schaebler 2000; Khoury 1991).

Mandate governments relevant to this study include the French Mandate for Syria (Syria, Lebanon) and the British Mandate for Palestine (Transjordan, Israel, Occupied West Bank). The area of study divided by mandate appears in Figure 6. All mandates were charged with the same task: administer “backward areas...[to] more effectively secure the liberty, material welfare and opportunity for development of the native inhabitants, and that would more effectively secure the opportunity of all states of the world to equal participation in the trade and resources of these areas” (Wright 1923: 691). Orientalist undertones and colonialist overtones will be put aside for now.[5] The focus here is on the notable differences in the implementation of these guidelines through specific land tenure policies, and in their longstanding effects. I will first discuss the “macro-policy” which informed the first decisions made by mandatory governments.

“Divide-and-rule”

Both the British and the French were immediately confronted with Arab nationalist movements which threatened the authority of the mandate governments.

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[5] Many scholars have drawn attention to the power of colonial discourse in shaping modern regimes (see Fitzpatrick 2001; Dubow 1989; Said 1993). The lasting power of British and French rhetoric will be discussed alongside the impacts of Mandate policies on the area of study.

To exert control, leaders took a “divide and rule approach” (Shehadeh 1982; Chatty 2010). The approach facilitated the immediate goal of reorganizing land tenure for the more market-based, European system which Mandate rulers were accustomed to (Schaebler 2000). To exert control, Mandates were divided into semi-autonomous groups according to the distribution of ethno-religious groups. In the mandate for Syria, the Republic of Lebanon was created by the French for the Christian majority living in Beirut and Mount Lebanon, while in Syria ethnic groups such as the Druze, Turks and Alawi were separated into semi-autonomous states (Rabinovich 1979; Chatty 2010). In Palestine, the policy was influenced by the growing Zionist movement, which complicated Palestinian hopes for sovereignty (Seabury 1949). Unlike in Transjordan and French Lebanon and Syria, the settlement patterns of the different groups were more interspersed; therefore, dividing and ruling was made more complicated. This necessitated different approaches by the French and the British in organizing the future nations. While the French could generally continue the Ottoman policy of "buying" notables where they were to secure political allegiances and exert territorial control, the British needed to enact formal legislation (Shehadeh 1982; Khoury 1982; Stein 1984).

The Land Transfer Ordinance of 1920 for Palestine

The Land Transfer Ordinance is represented in the literature as having two related functions: (1) Protection of tenants from dispossession if access to alternative cultivation land was not guaranteed by land lords and (2) Governmental approval of all transactions in land beyond short-term leases. According to the policymakers, the Ordinance had intentions related mostly to agriculture, including ensuring that arable land remained under cultivation, that land did not concentrate in the hands of a few powerful absentee landholders, and that there was a good market in the buying and selling of land rights (Palestine Royal Commission 1937). Academics who disagree insist that the policy was squarely intended to affirm and encourage Jewish land purchases. Zionists were educated and aware of the policies; therefore, they knew how to adhere to them, and when necessary, how to circumvent them (Mogannam 1952; Shehadeh 1982; Stein 1984; Bunton 2000; Shamir 2001; Kedar 2001).

Mandate implications

One of the most controversial regulations set forth by the Land Transfer Ordinance was the prohibition on land sales to non-residents of Palestine. This put a stay on land purchases in Palestine by Arab absentee landowners. The implications here are that, had Egyptians and Syrians—who already owned 500,000 dunums of land in Palestine—been able to buy land from Palestinians after 1920, Arab resistance to British rule or Israeli ambitions might have been more effective (Stein 1984: 48). The restriction was repealed a year later, but Arab non-residents appeared not to be interested or capable of competing with Jews for land purchases in Palestine.

The Protection of Cultivators Ordinance of 1929 changed the clause of the Land Transfer Ordinance which ensured cultivation land for tenants facing dispossession. Instead, it required landowners to provide notice of the eviction and offer compensation to the affected occupants (Bisharat 1993).[6] The change was significant. According to Stein (1984) and Bisharat (1993) the Cultivators Ordinance formally—the Land Transfer Ordinance had been circumvented before—opened up more cultivable land for Jewish settlement, contributing to the landlessness spreading among Arab sharecroppers, and legalized monetary coercion as a viable means of territorial manipulation (Stein 1984: 53; Bisharat 1993: 499). Stein and Bisharat's criticisms are refuted by the statistics on land holdings at the end of the Mandate, however. According to the 1949-1950 agricultural census in Israel, the smallest farmers[7], the farmers who would have been most at risk of dispossession by landowners, held over 54% of all agricultural land (Baer 1957: 194).Stein and Bisharat's criticisms remain valid, but only when considered in a larger policy context which extends several years into the founding of the State of Israel.

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[6] The Protection of Cutivators Ordinance also stipulated that the tenant would receive compensation only if he or she had rented the land for at least two consecutive years (Stein 1984: 53)

Modern-day implications

Although by 1940 land transfer from Arab vendors to non-Arab buyers was restricted,[8] the Land Transfer Ordinance of 1920, with the additions of the Cultivators Ordinance, has remained in place in Israel and the occupied West Bank (Rose 1981). In the West Bank, the Land Transfer Ordinance of 1940 blocked the purchase of Palestinian land by Jewish individuals and organizations (Avruch 1990: 93).[9] In 1979, however, the Likud Party complicated the legal channels through which Palestinians living on *miri* land could defend themselves against dispossession. In a move therefore reminiscent of the British, by adding bureaucracy the State of Israel was capable of achieving its goals- facilitating land acquisitions in Palestine (Cohen 1985: 153). By the 1980s, the British Land Transfer Ordinance was thus applied with a host of new policies to open up land for Jewish settlement and military bases in the West Bank - despite prior prohibitions on it by the original drafters of the policy.

Though the British version of the Land Transfer Ordinance maintains its textual integrity, definite differences exist between the past and present policy *setting*. Arab landlords who had held over 48% of the land in Mandate Palestine in 1945, held only 6% following the War of Independence (Abu Sitta 2001; Hadawi 1970). The rest of the land was property of Jewish settlement organizations or the State of Israel.

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[7] Holdings of less than 100 dunums.

[8] Due to pressure from Arab nationalist groups, under the Land Transfer Ordinance of 1940.

[9] Under Jordanian rule, Palestinians living in the West Bank were still susceptible to manipulation by savvy landlords. Therefore, though they were perhaps more protected under Jordanian rule than under the Israelis, their usufruct was threatened by other forces.

Therefore, the degree of protection the Mandate government was able to offer the Arab tenants did not exist under Israel, as the land had become public property.

Transjordan Land Settlement Law (1933)

In Transjordan, most sharecroppers did not require the level of protections needed by their counterparts in Palestine. Social traditions seemed to withstand attempts by powerful landlords to overtake individual shares of freehold and *musha'*. Small cultivators continued to retain ownership of the land until the 1950s (Fischbach 68-71). Furthermore, Transjordanians were initially more successful than Palestinians in resisting attempts by the British to individualize landholdings. According to Fischbach (2000), many landholders refused to transfer land through the British land office; they "avoided paying registration fees by buying and selling land, inheriting land rights, etc., without registering the transactions"[10] (72). Ethnic groups were not pitted against one another, as had been the case in the French Mandates and in Palestine, nor was there an urgent need to provide land for new immigrants. [11] Therefore, the tenure regime of the Ottomans could function well for the public when applied in tandem with the tribal system. What was required for the new Transjordanian Lands Department was to "create order out of chaos"- and collect taxes (Wåhlin 1994: 34).

The Land Settlement Law of 1933 put in place a Land Settlement Court[12] which settled land disputes arising during the British tapu surveys (Wåhlin 1994). The possibilities of land transfer were therefore distinct from those in Palestine, as informal transactions from the twenties were still granted legal recognition in the thirties. A verbal document or proof of residence could also trump Ottoman legal titles to assert claims (Wåhlin 1994). Therefore, though the government sought to maintain control of its territory through its land registration system, it did not restrict legitimate documents to those which were issued by the Ottomans or the Mandate.

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[10] This occurred despite a campaign beginning in 1924 to register all lands throughout the Mandate (Fischbach 2000: 75)

[11] It is not to say that conflicts did not exist. Disputes over the borders between villages became frequent as populations grew.

[12] These were also established early on in Palestine and French Syria.

Land transfer under the French

The French also sought to maximize the land under cultivation and facilitate a market in land sales. Like the British, they hoped to limit the power of large absentee landlords by tying claims to individual owners (Schaebler 2000). The political turmoil early in French rule (Franco-Syrian War, the Great Revolt of 1925-1927) demanded that they complete *tapu* surveys quickly according to a familiar model (Mufti 1996; Khoury 1991; Schaebler 2000). Therefore, in 1922 the first cadastral survey under the Mandate was initiated with the intention of fixing the status of lands (Gilsenman 1984: 459). The process was accelerated in 1926 and 1929 through Mandate decrees[13] which encouraged the division of *musha*' common lands into private holdings of mulk (Schaebler 2000). It was the view of the Survey Office that dividing musha' would enable village families with a share the "free exercise of the right to property"- tying the family, instead of the shayke or local leader, to the land[14] (Schaebler 2000: 282).

Mandate implications

Unfortunately, like the Land Transfer Ordinance in Palestine, French decrees on *musha'* could not prevent the dispossession of Arab farmers, fix the problems in the agricultural market, or keep individual holdings from concentrating in the hands of powerful landlords. In rural communities, social taboos on the sale of village holdings to outsiders were strong enough at first to discourage sharecroppers from selling their claims (Mundy 2000). Still, by the 1930s and 1940s, intrinsic connections to musha' seem to have faded with the rise of local political institutions and, as in the British

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[13] Decree 171 of 10 March 1926, "Démembrement du Mouchaa" and decree 1590 of 28 November 1929 (Schaebler 2000: 281)

[14] A similar approach to *musha'* was taken in Transjordan (see Fischbach 2000: 134-140).

Mandates, prohibitively high taxes on crop producers (Mundy 2000; Gilsenan 1984: 459). Thus despite their contextual differences, the *fellaheen* in Syria and Palestine were both “selling out” in the name of “financial solvency” (Bisharat 1993; 499). The Palestinian *fellah* sold to Jewish buyers despite ideological opposition among Palestinian intellectuals and political leaders, while the Syrian *fellah* sold his *musha’* share to the “great latifundia”- the rural landowning bloc which committed labor abuses against tenants and inhibited the agricultural market (Gilsenan 1990: 31).

The statistics illustrate the trends: until the Reform Laws of the 1950s, approximately 1% of landowners in Syria held 50% of all cultivated land (Fisher 1978: 212). About 70% of the population living in rural areas did not own any land at all (Garzouzi 1963: 83). In Israel, by 1950, individual landownership had declined, surpassed instead by land*holding*, or tenancy (Baer 1957). In Transjordan, the transfer of claims away from small holders to foreign settlers[15] or powerful landlords was less of a problem. Therefore, half the area in land holdings in agricultural regions was held by a little over 10% of the total landholders (Baer 1957: 193). This constituted a fairly equitable distribution of cultivable land compared to the surrounding countries.

Modern-day implications

The British *tapu* survey in Transjordan continued under independent rule. During the Mandate, population had begun to grow beyond the limits set by the early surveys. This meant that communities which previously survived with internal land agreements needed to seek the support of the state to expand their lands (Fischbach 2000: 130). In response, sovereign Jordan decided to streamline Ottoman land classifications into two categories: *miri* and *mulk*. The only difference to the State, according to

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[15] Despite interest from shaykes in Transjordan in selling to Zionists during difficult agricultural years (Stein 1984: 194).

Fischbach (2000), was the inheritance structure. It did not, like Israel, Syria and Lebanon, consider a transfer of *miri* to *mulk* to be a loss to State power, or to be in conflict with the administrations' goals. This occurred even amid sweeping "nationalization" projects following independence (Fischhach 2000: 130). In Jordan, the severity of the landlessness problem was less, thus supervising and controlling the accumulation of freehold by individuals was less a government priority.

1920 Mahlul Lands Ordinance and 1921 Mewat Lands Ordinance

Following the Land Transfer Act, a series of policies were implemented by the British Mandate in Palestine. These included the 1920 Mahlul Lands Ordinance, the 1921 Mewat Lands Ordinance, a 1923 ordinance on the law of succession, the Land Act of 1928 and the Protection of Cultivators Ordinances of 1929 and 1933. The goals were to enhance government control of land distribution and use (Bentwich 1923: 192; Khamaisi 1995; Bunton 2000). These policies sought to ensure that land remained under cultivation, collect taxes, fix the problem of increasing landlessness among Arab farmers (which had been caused partially by state grants to local leaders and the division of *musha'* common lands), enable usufruct to pass from Muslims to non-Muslims, and acquire additional land as *miri*, which, registered in the name of the state, could be distributed as the state saw fit. The latter two aimed to ensure "close settlement by Jews on the land" through individual purchases and by "including state lands and waste lands not required for public purposes" ("Article 6" 1920).[16]

The most controversial policies passed in British Palestine between the 1920s and 1930s appear to be those which facilitated the territorial ambitions of the Jewish Agency.[17] The most notable are the Mahlul and Mewat Ordinances. These have been criticized for their manipulation of Ottoman land classifications to increase State landholdings (Shehadeh 1982; Yiftachel 2003; LeVine 2005; Feige 2009).The Mahlul and Mewat Ordinances used the designated terms of the Ottoman Land Code, but changed their meanings. According to Gerber (1987), under the Ottomans, “mawat was not even considered state land; it was land free for the taking” (60). The new laws dictated that land that had run fallow could not be granted in freehold to a tenant who redeemed it. Instead, the redeemer of *mawat* land would be denied all rights to the territory under the policy, and had the potential to be tried criminally for squatting. The possessor of *mahlul* (land that had been abandoned and acquired by the State) could no longer reclaim it by paying a tax. Both *mawat* and *mahlul* instead became property of the British Mandate to use as she saw fit (Shehadeh 1982; LeVine 2005: 184-185).

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[16] The incorporation of the Jewish Agency as a formal religious group under the Mandate enabled Zionists to formalize their goals and achieve them through legal means (Tsimhoni 1984; Werner 1983).

Transjordan

Under early mandate rule in Transjordan, *mawat* and *mahlul* policy was oriented less towards expropriating land for state use, and instead towards encouraging tax collection. *Waqfs*, for example, could be converted to *miri* and then to *mahlul* – enabling the user to retain her or his usufruct, but requiring him or her to pay taxes (Fischbach 2000: 76). Because nearly 90% of Transjordan was arid land,[18] however, a *mawat* policy was urgent to preserve the small portion of available agricultural land and to control the expansive desert regions. Therefore, in a move which practically (as opposed to ideologically[19]) resembled the Emergency Regulations for the Exploitation of Uncultivated Lands passed under the State of Israel, British administrators declared all arable land which was not under cultivation to be property of the Mandate (Fischbach 2000: 88). In other areas, efforts were made to tie individuals to *mawat* and *mahlul* that had been used but not registered (Fischbach 2000: 133).

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[18] Calculated from the estimates of arable land in Transjordan provided by Fischbach (2000 :67)

[19] The policy was in the name of preserving national forests, instead of expropriating private land for government use or Jewish settlement.

Mandate implications

The impacts of these policies on the region of study are significant at two levels. First, on a practical level, they assisted the British in acquiring some 1.5 million dunums of land as "public land" in Palestine, and some 1.8 million dunums in Transjordan (Hadawi 1970; Baer 1956: 189). Land possessed by the British was transferred to the State of Israel and the Hashemite Kingdom of Jordan. Thus land acquired through the policies became important assets to the independent states in building their new nations. For Arab residents of Palestine, *mawat* and *mahlul* policies limited the growth of existing villages, and virtually ended the possibilities for building new settlements (Yiftachel 2003). For residents of Jordan, the abolition of *mawat* policies granted to the state significant territory which it was happy to convert to freehold to accommodate the needs of the growing Arab villages (Fischbach 2000: 130). Bedouins living under the British were exceptions to the policies, as they were able to continue grazing and cultivation on *mawat*, despite the conflict with policy. Bedouin settlement was left as an “open issue” for the modern states to grapple with (Kressel 2003; Meir 1988).

The second level is a conceptual level. Mandate mawat and mahlul policies redefined terms which had held a single definition since 1858. Ottoman land classifications under the Land Code such as miri, mahlul, mawat and metruke had, over time, become understood by residents of the Empire. Through the Mawat and Mahlul Ordinances in Palestine, the British changed significantly the land rights of the public using a language best understood by the foreign administrators (Forman and Kedar 2003; Likhovski 1995; Stein 1984). Furthermore, through the same parliamentary discourse, the British added a time limit to a measure in the ordinance which enabled possessors of *mahlul* or *mawat* land to register their holdings to avoid facing appropriation. Not surprisingly, many of the residents of Mandate Palestine who registered were those who could understand the ordinance before the deadline.[20]

Modern-day implications

Practically speaking, the Mahlul and Mawat ordinances were advantageous for both of the new administrations because they persisted alongside British land registration and tax collection systems. In Jordan, shifts in population and changes in the agricultural market had caused the amount of land under cultivation to steadily decline (Stein 1987; Shehadeh 1982). As a result, many outlying agricultural areas had fallen out of use. Rather than apply for a legal title to land not in use (and incur the necessary registration fees and taxes), many prior tenants encouraged the Jordanian land office, continuing its 1927 *tapu* survey, to maintain its early policy and appropriate fringe lands as *muattalah*, or mawat (Shehadeh 1982: 96). In this way, the independent Kingdom of Jordan, including the annexed West Bank, was able to gain a reasonable amount of land through cooperation with the local residents. Indeed by 1958, Jordanian *mawat* policy had secured nearly 1,160,000 dunams as state forest, in part through direct consultation with villagers (Fischbach 2000: 133).

In Israel, the *mawat* and *mahlul* legislation implemented by the British were enhanced through several Knesset ordinances implemented immediately after independence. The first was the "Emergency Regulations for the Exploitation of Uncultivated Lands" (Bisharat 1993: 516). The policy enabled the Minister of Agriculture to expropriate agricultural land which it deemed underused. Even if the land did not fit the Ottoman classification of *mawat* (it was not a mile-and-half from a settlement) the government could shift the title from freehold to *miri* using the same argument- area under cultivation needed to be maximized for the good of the country

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[20] LeVine presents the example of the Tel Aviv Council, which allocated a portion of their budget to tree planting on the edges of the Council, in an attempt to redeem *mahlul* lands (LeVine 2005: 106)

[Emergency Regulations (Cultivation of Waste Lands), 5709-1948]. The Ordinance mandated consultation with the landowner in question through written notification, and granted to him a brief period of appeal. This was obligatory textually, though next to impossible practically; Arab landowners and sharecroppers at risk of having their lands revoked had either fled the country in 1948 or were confined to military enclosures per emergency order.[21] The policy has also expropriated the lands of Palestinians residing in the West Bank, who have sought blue collar work in Israel instead of working as cultivators in the West Bank (The World Bank 2008).

Mahlul and Mawat in French Syria

The French Mandate of Syria preserved the prescriptive right to *mawat* lands which had been enshrined in the 1858 Land Code. The policy enabled shaykes close to the French government to register common lands in their names (Chatty 2000). Still, much of the *mawat* remained common property of Bedouin tribes and *fellaheen* living in the expansive Syrian desert, who divided the area according to tribal and family affiliation, and used the land for grazing, camel herding and seasonal cultivation (Khoury 1982; Lewis 1987: 159).

Modern-day implications

The Syrian Constitution transferred all Mandate legislation regarding land tenure to the modern government, and thereby affirmed prescriptive rights to *mawat* and *mahlul* land. A series of decrees between 1952 and 1953 changed this, however.[22] All land declared *mawat* under the *tapu* surveys of the 1920s was reregistered as *miri*.

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[21] Military enclosure zones were legalized through Article 125 of the Defense (Emergency) Regulations, an earlier British response to Palestinian revolts in late 1930s (Bisharat 1994). Individuals were required to obtain permission to enter and/or exit the area. In practice, a limited number of permits were issued annually. These were received by village notables and Bedouin shaykes, and thus distributed to individuals who most served their interests (Meir 1992). By the time the policy had ended and the concentrated Bedouin were able to return to their lands, complementary policies had been enacted which removed nulled their land claims.

[22] Mahhouk (1956) calls attention to three of these: Legislative Decree 96, Legislative Decree 135, and Ministry of Agriculture Decree 768 (173).

This was intended to break up the powerful landowning class in rural areas which had grown by redeeming *mawat* land (Chatty 2010; Mahhouk 1956). Thus *mawat* policies under independent Syria complemented the laws which had put limits on the quantity of land that could be held individually, by granting the parcels of *mawat* and *mahlul* it had expropriated to landless farmers (Mahhouk 1956: 172).

Land reclamation policy under independent Syria seems to have had similar motivations to those implemented by the British Mandate in Palestine and Transjordan thirty years earlier. Legislators sought to preserve "'scant' resources", as well as undermine the "customary land tenure" system that challenged its modern image and oppressed a large amount of the Syrian population (Chatty 2010: 36, 37). Unlike the mandate policies, however, the Syrian legislation also aimed to interfere with the traditional system of land ownership that had previously guided Bedouin settlement. Bedouin in Syria had been concentrated regionally under the Mandate, and thereby encouraged to replace a pastoral lifestyle with an agricultural one (Thomas 2003). Settlement and cultivation during the Mandate, however, had been controlled by tribal divisions, and the distribution of arable lands was up to the discretion of the local leaders. Under land reform policies, the Syrian land office could distribute agricultural land to Bedouin who had previously been victims of an unregulated system, ensure that fringe areas were cultivated, and begin to implement its Bedouin settlement program (Garzouzi 1963; Chatty 2010).

Modern-day implications

After Syria and Lebanon became independent states, populations in the provinces from whom the French had sought support no longer were of interest. Instead of relying on the Fid'an and the Sba'a Bedouin tribes to police the Syrian desert, or the *pashas* and *beys* of Akkar to control the weapons market in Greater Lebanon, the independent state of Syria could rely on national armed forces for patrol, and regional government for administration (Chatty 2010; Gilsenan 1984). The large tracts of land left open for public use by *fellaheen* and Bedouin constituted a significant portion of the territory of the independent states[23]. They also existed in border regions which the nations found in their best interests to secure. Thus, like the British, the independent Syrian government hoped to “attain two objectives simultaneously: land reform and Bedouin settlement” (Mahhouk 1956: 175). Distinct from the Mandates, however, the Bedouin settlement program in independent Syria included a tool of political disempowerment. This occurred through formal policy[24] and by empowering the Bedouin at the lowest rung of the social ladder- the *fellaheen* and the Bedouin slaves. Therefore, *mawat* and *mahlul* policies, which had expropriated the expanses of Bedouin grazing land in the name of “justice for the farmers”, had served another purpose- ending nomadism. This is one example of the complex tactical decisions made by the modern administrations over the issue of the land tenure.

The independent nations were left with the problems the Mandate could not solve, notably *fellah* landlessness, while new problems like population growth emerged, and put further pressure on the land (Forni 2001). Land policies also needed to “clean up” after the Mandates, whose policies of “divide and quit” created new nations and new internal cleavages, but did not put in place stable frameworks for managing either of them (Kumar 1997; Winslow 1996: 76). Thus the land tenure policies of the independent nations needed to address immediate political and demographic concerns, while securing a smooth transition to independent rule. This created a host of new policies which set prior policy as the default, but adjusted them to the current realities.

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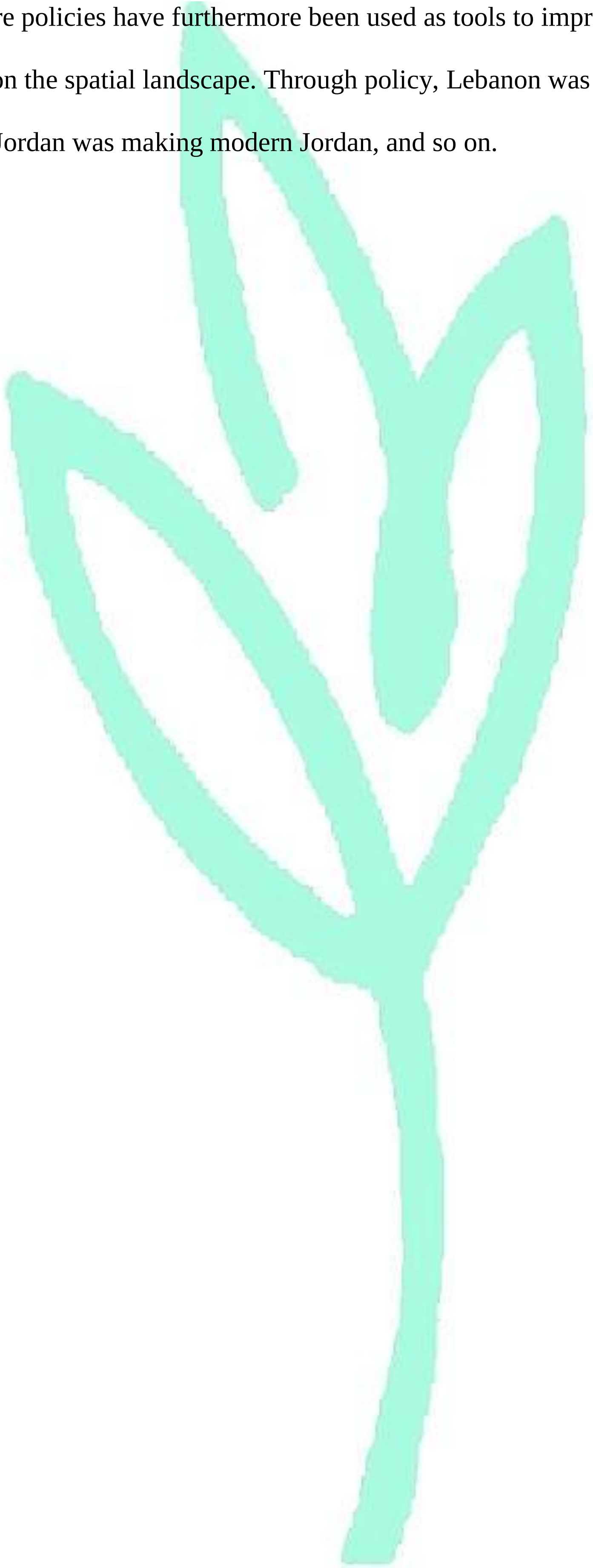
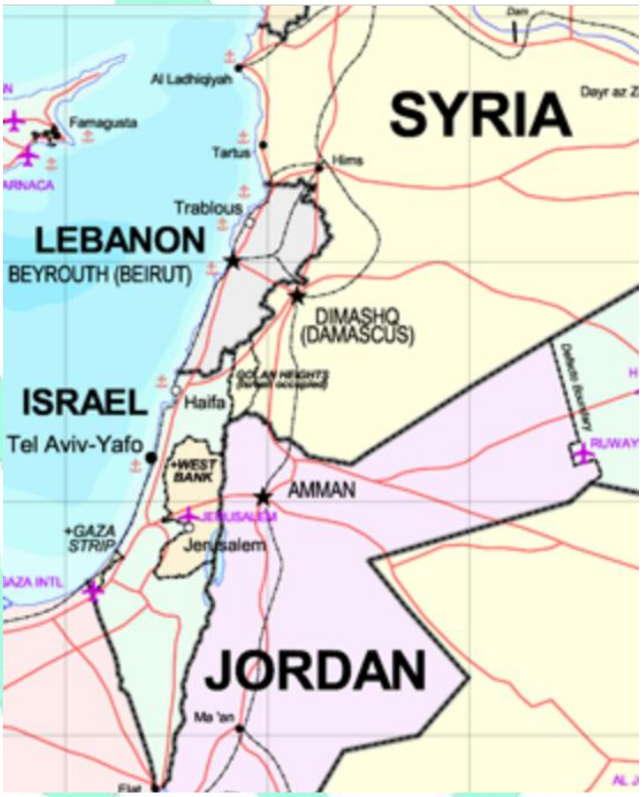
[23] In Syria, semi-arid and arid regions cover 80% of the country. The land occupied by semi-nomadic tribes includes nearly 55% (Leybourne, Jaubert and Tutwiler 1993)

[24] In 1956, Syria’s last Bedouin-specific law was passed, which abolished the political representation which had previously been granted to Bedouin tribes (Chatty 2010). In response, many Bedouin left the country permanently.

Land tenure policies have furthermore been used as tools to imprint the national character on the spatial landscape. Through policy, Lebanon was making modern Lebanon, Jordan was making modern Jordan, and so on.



MODERN STATEHOOD: 1946-PRESENT DAY


SYRIA
Al Ladhiqiyah
Famagusta
Tartus
Hims
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Trablous
LEBANON
BEYROUTH (BEIRUT)
DIMASHQ (DAMASCUS)
GOLAN HEIGHTS
ISRAEL
Haifa
Tel Aviv-Yafo
WEST BANK
AMMAN
GAZA STRIP
Jerusalem
JERUSALEM
JORDAN
Ma 'an
Elat
RUWAY

Fig. 7. Map of the area of study after 1967.

Interethnic and interclass conflict, which had simmered under the Ottomans, exploded in varying instances during the Mandates (Bowden 1975; Provence 2005). Until the 1948 Arab-Israeli War, however, the territorial coherence of the Mandates had been maintained. Lebanon achieved its independence earlier, through struggle against France (Winslow 1996). Still, this did not mean a loss to the Syrian territory provided for by the Mandate, as Lebanon had been semi-autonomous under the French. Thus while tenure-based conflicts erupted within the mandates and independent Lebanon over issues like peasantry occupancy rights, government control and land sales, land tenure remained subject to the land registration policies set forth by the colonial offices.

The Arab-Israeli War created a crisis over land rights. Not only were newly independent nations of Transjordan, Lebanon and Syria coping with the tangle of policies and unaddressed realities the Mandates had left behind, but they were busy making national identity and building their economies. The Arab-Israeli War penetrated the borders of the fragile states, sending in hundreds of thousands of Palestinian refugees from Mandate Palestine (U.N. Conciliation Commission for Palestine 1950). The war furthermore resulted in military occupation, rather than independence, for the Palestinian West Bank and Gaza. Therefore, land documentation was, and continues to be, essential to drawing the borders of citizenship (eg. who is Lebanese?) and to facilitating national territorial and economic ambitions.

Land expropriation through the new administrations

As the discussion of the Mandate period has shown, the problem of landlessness was not the fault of the 1948 war alone, and was not restricted to the Palestinians. This contrasts with the overwhelming quantity of scholarly material on the period which focuses on Israel's policies of "confiscation" of "land from their Arab owners" through "forcible expropriation" following the war (Jiryis 1973: 97; Bisharat 1993; Kedar 2001; Home 2003; Forman and Kedar 2004; Yiftachel 2006). Of the policies passed by all independent nations, Israel's land laws transferred the most significant quantity of land to the state. The surrounding nations also expropriated lands by passing their own laws, however. In all cases, expropriation was performed in the name of the "public good", according to each nation's conception of a desirable public, and what would be "good" for them in the long term. All nations followed the Mandate policies on land transfer, regarding money, instead of land, as legitimate compensation for the landholders and landowners from whom land was expropriated (Garzouzi 1963; Hazleton 1979).

In Syria, land expropriations occurred in the name of solving the problem of peasant landlessness. The agricultural reforms of the late 1950s and early 1960s under independent Syria put in place limits to individual holdings of agricultural land. Under Law No. 161 (Sept. 1958), single landowners in Syria were allowed to hold up to 80 hectares of irrigated land, or 300 hectares of non-irrigated land. Land holdings which exceeded this, according to the law, would be expropriated by the government within five years (Garzouzi 1963). This was Syria’s response to the problem of powerful landlords; however, what really occurred were mass expropriations from private owners to *miri* “lands of the agrarian reform” (Métral 1984: 469). By instituting reform, the new Syrian government was actually reasserting its power; “lands of the reform” became the *miri* defined by the Syrian Republic: lands of the government. By 1975, 1.4 million hectares of land had been expropriated through the program. 254,000 hectares of the 466,000 hectares that was redistributed was granted to governmental organizations (Boris 1987). The policy remains in place in Syria, and continues to expropriate land from large landowners (Forni 2001).

The Kingdom of Jordan enacted a similar policy in the Jordan River Valley. Law 14 of 1959 limited the size of allowed agricultural land ownership to accommodate a new irrigation project. According to Hazleton (1979), the goals of the reform included “increas[ing] agricultural output” and “rais[ing] the standard of living of families residing in the project area” (260). An amendment in the 1960s, however, enabled land that had been expropriated from landowners to be redistributed in multiple allotments to the same family. Furthermore, large landowners were able to avoid expropriation by transferring their titles to family members (Hazleton 1979).

Therefore, the mechanics of the policy enabled the Jordanian government to win the favor of important families in the area. These “notables” may have been more capable of maximizing crop yield, but needed the land less than the Palestinian refugees and poorer Jordanians.

Therefore, while both the Syrian and Jordanian reforms encouraged a redistribution of freehold to address the problem of landless farmers, they also had other intentions. The reform in Syria enabled the government to confiscate a significant quantity of land for its own use, while in Jordan land reform continued the “politics of notables” the regime had inherited from the Ottomans and the British. Neither generated a major system change, nor were they intended to do so. In both nations, sharecropping persisted, and rural poverty grew (Hazleton 1979; Sarris 2001). The reforms also were not built to withstand regional political changes or changes in world market. By the end of the ‘90s, agriculture in Jordan had declined in productivity due to water scarcity, increased demands for freshwater in urban areas, and regional competition (Molle, Venot and Hassan 2008). Furthermore, land degradation has become a serious problem (Madanat 2010). In Syria, agricultural production actually increased in the ‘90s due to the government’s interest in becoming a major exporter (Barnes 2009). Even amid an economic boom, landlessness remains a growing problem (Forni 2001).

In both countries the early agricultural reforms were steps towards the formation of national identity. According to Barnes (2009), “To the Syrian state, rural areas areas are a source of resources. They provide a political base…and a terrain for implementing development plans and strategies in which politicians, officials, and agencies all have a stake” (Barnes 2009: 522). For Syria, the identity was encapsulated in the notion of the peasant- in the words of President Hafez Al Asad, “I am first and last…a peasant and the son of a peasant" (In Batatu 1999: 193). In Jordan, national identity also stemmed from the periphery. As will be discussed later, this identity, previously a one of Palestinian and Jordanian unity, became Bedouin as the State sought to further its Bedouin sedentarization programs (Massad 2001: 72). In Lebanon, the national identity straddles heritage—the village—in which 75% of the population used to live (Tannous 1949), and reality—the city—in which 82% of the population currently lives (Rihan and Nasr 2001).

The first Zionist Congress had decided that all land obtained by Jewish settlement organizations would be collectively owned and could not be transferred to private owners (Hananel 2010). In response, the Knesset passed several laws immediately after the founding of the nation to bring the majority of freehold land under state control. These included the Absentee Property Law, the Emergency Regulations (Security Zones) of 1949, the Cultivation of Waste Lands Ordinance, and the Emergency Land Requisition Law of 1949 (Bisharat 1994). An ordinance passed in 1950, the Transfer of Property Law, shared its name with the British Land Transfer Ordinance. Instead of addressing land transactions between ethnic groups, the ordinance addressed transactions between governmental and quasi-governmental organizations. Much of the holdings of Arab landowners had been expropriated by the government through the abovementioned policies[25] (Bisharat 1994). The lands had become possession of the State but were not legally transferred to it. The British Land Transfer Ordinance seems to have barred this, as formal consent could not (and would not) be given by the prior holder to permit the transaction. Thus in the name of securing land for "housing of immigrants, popular housing, or development purposes", the State of Israel passed the Development Authority (Transfer of Property) Law (1950).

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[25] This occurred through the Land Acquisitions of Absentees' Property (1948), the Emergency Regulations (Security Zones) of 1949, and the Emergency Land Requisition Law of 1949 (Bisharat 1994: 512-517).

The Development Authority Law established a "corporate body" which could receive the lands confiscated by the government and transfer them "to the State, to the Jewish National Fund, to an institution approved by the Government…as an institution for the settlement of landless Arabs, or to a local authority" (Land Development Ordinance 5710-1950). Ironically, the law resembles a Transjordanian policy which legalized retroactively land transfers within ethnic groups that had been carried out unofficially[26]. The Development Authority Law allowed all prior expropriations of Arab lands which at the time could not shift titles, to be reclassified as *miri* by jumping from one state agency to another (Bisharat 1994). Since the passage of the policy, the Development Authority has assisted the Israel Lands Authority—the state agency responsible for managing national lands–in gaining control of 93% of all land within the state borders (Yiftachel 2006: 139, 140).

In intention and practice, the passage of the Development Authority Law by the State of Israel resembles Syria's passage of its agrarian reforms in the late '50s. Both policies addressed the countries' respective crises, while asserting each state's territorial control. In the case of Syria, the crisis was landless farmers and a lack of agricultural productivity, while Israel was addressing the demands of around a million new Jewish immigrants by freeing up vacated lands for development (Development Authority Law 5710-1950; Lipshitz 1998). In Jordan, the agricultural reform was first instituted to take advantage of a public works project, rather than respond to crisis, although it did also serve to manage locally the influx of Palestinian refugees (Hazleton 1979).

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[26] Through the Land Settlement Law (1933).

Significant differences separate the Jordanian and Syrian policies from Israel's, however. In Jordan and Syria, expropriated freehold land was initially redistributed as freehold.[27] In Israel, freehold land was expropriated and held as state property. Furthermore, in Jordan and Syria, the land that was redistributed to the *fellaheen* was desirable; often, it was contiguous with established agricultural settlements or in open fertile areas (Mahhouk 1953; Métral 1984; Fischbach 2000: 130). In Israel, much of the expropriated land was transferred to the Jewish National Fund, to use for Jewish settlement projects. Expropriated lands which went to the "institution authorized by the government to settle 'landless Arabs'" were not granted to *fellaheen* as freehold. The most desirable areas for cultivation were leased to Jewish agricultural settlements (Yiftachel 2003). These settlements, called *kibbutzim* and *moshavim,* were to be the drivers of a Zionist-led national economy (Hananel 2010). Table 1 illustrates the differences among the countries of study in the division of *miri* and *mulk*. In other countries, the majority of cultivation land is privately owned. In Israel, cultivation land is almost exclusively *miri,* and therefore controlled by the Lands Administration.

Table 2. Distribution of registered land by title[28]

Country	***Miri***	***Mülk***	**Total land area**
Syria[29]	38%	62%	185,200 km^2
Jordan[30]	30%	70%	89,329 km^2

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[27] This change in the 1970s, when land expropriated as freehold was redistributed as miri (Ziadeh 1985).

[28] Does not include the percentage of land registered as *waqf*, which is not a significant portion of land, but should be distinguished from either category.

[29] As of the year 2000 Forni (2001: 9).

[30] As of 1950 (Baer 1957). More recent studies do not provide numbers but do suggest that the percentage of lands in Jordan registered as miri has surpassed that of mulk. Suggests Madanat (2010), "the major part of the country's land is state, or treasury land, which implies that it is being under-exploited. Consequently, many Jordanians do not have access to land, either for housing or for farming."

West Bank[31]	40%[32]	60%	5,640 km^2
Israel[33]	93%	7%	22,072 km^2

While the Israel Lands Administration is often charged with discrimination[34], problems exist in the lands departments of other governments. In the other nations, problems have stemmed from the continuity of British and Ottomanan bureaucracy in government departments. In Jordan, the Department of Lands and Survey (DLS) (established, 1927) continues to implement the original policies set in the 1920s. This has created illogical "procedures [which] are still long and complicated for no obvious reason" (Madanat 2010). The lack of changes could stem from a fear of making any "radical" changes to the status quo, and from problems of low budgets and understaffing (Madanat 2010). Corruption remains a serious problem in land governance among all countries in the area of study. Academics suggest that corruption could be an inheritance of the "conveniently undefined and indefinite"[35] proceedings of local governments under the Ottomans, as well as the growing interest of international businesses in acquiring landholdings in the region (Werner 1983; Madanat 2010; Zimmerman 2011). New technologies like online land registration systems have provided superficial modernizations and a perceived transparency to the land systems without overhauling or exposing them (Zimmerman 2011). Thus while some academics may suggest that the Israeli system "'is characterized by the lack of a service ethic, weak formalization, and a high degree of personalization' and that, as a result, the bureaucracy does not display a commitment to the rule of the law sufficient to protect Arabs' property and civil rights or their rights to equal treatment and to procedural justice" (Bisharat 1994: 509-510, quoting Rosenbloom 1987), the same could be said of other nations' systems, and their treatment of poor rural populations.[36]

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[31] As of the mid-1980s. 1.5 million dunums of *miri* in the West Bank become *miri* only after Israeli lands policies were implemented in the West Bank (Peleg 1995: 31)

[32] Not including use restrictions on freehold land, which have effectively revoked usufruct from some landowners (Peleg 1995: 32)

[33] As of 2006 (Yiftachel 2006).

[34] See Yiftachel (2006), Marx (2000), Abu Hussein, Abū Ḥusayn and McKay (2003), and Lewin-Epstein and Elmelech (1997), for accounts of discrimination against Arab citizens of Israel, as well as against Jewish immigrants from Ethiopia and Arab nations.

[35] Bentwich (1932: 245), as quoted in Werner (1983)

Bedouin settlement projects

Perhaps the most telling aspect of each nation's approach to land policy is its treatment of Bedouin tribes. The presence of Bedouin within each nation inhibit the purported "modernity" of the modern states, threaten national security, and, in some cases, contribute to the population growth of ethno-religious minorities.

In French Syria, the Mandate had established a semi-autonomous region in the Syrian Desert for the Bedouin (Chatty 2010). Therefore, independent Lebanon had very few Bedouin tribes. Those which did inhabit the country were treated in a similar fashion to Palestinian refugees of the Israeli War of Independence; they were "simply…unrecognized and denied nationality" (Chatty 2010: 25). Rights to grazing lands which had been recognized by tribal agreements were ignored, and, as in Syria, the land instead was leased to *fellaheen* to fix the agricultural crisis. This denied Bedouin pastoralists the access to grazing land they had enjoyed under the Ottomans and the Mandate. Bedouin settlements which have developed in rural areas are strictly unrecognized by the Lebanese authorities. The government denies the villages healthcare, schools, water, electricity, roads and public facilities (Chatty 2010).

In Syria, state-induced Bedouin settlement first took place in the Jazirah, a fertile region north of the Syrian desert. The project was funded by land registration fees acquired by charging Bedouin for leases to registered agricultural plots, and was granted some of the territory that had been acquired by the state through the early land reforms[37] (Chatty 2000; Mahhouk 1956). The program was not instituted by force; instead, suggests Chatty (2000), it was driven by coercion. Each head of a family who decided to settle was given 10-50 hectares to build his residence and to cultivate. Later, the policy was extended to villages which had developed during the Mandate in the steppe and the desert (Leybourne, Jaubert and Tutwiler 1993).

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[36] Including in Area C of the West Bank, in which Israeli policies have in essence closed land registries, and administrative complexity has made land transfers nearly impossible (The World Bank 2008).

In Israel, directly following the War of Independence, the Bedouin in the Negev Desert were concentrated to an enclosure zone by the Emergency Regulations (Security Zones). Within this zone, the Bedouin were concentrated to a density of roughly 15 people per square kilometer (Marx 1967: 14). The lands which they had resided on outside of the enclosed area were, unless otherwise registered, declared *mawat* by the Israeli government, and registered as such. Through the passage of the Mawat ordinance, these lands became property of the government (Bisharat 1994). Altogether, this constituted 250,000 dunums of Bedouin land (Maddrell 1990). During the period of the military administration, Bedouin were essentially ignored by the state, who was busy registering absentee properties and *mawat* in its name, and in settling Jewish immigrants and managing other security issues (Dinero 2011). Therefore, like in the surrounding nations (with the significant spatial differences) Bedouin built low-density settlements according to land claims and family affiliation. Today, 45,000 Bedouin reside in thirty-six of these settlements, the majority of which remain in the enclosure area (Khamaisi and Shmueli 2011).

Although many of these villages were founded on tribal territory, they are considered to exist illegally on state lands. The only options granted to the Bedouin in Israel to reside legally are by obtaining leases on state land issued by the Lands

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[37] Later programs were funded by the Syrian government , including a grant in 1955 of approximately $2.8 million to the program (Mahhouk 1956: 175)

Administration. These can be granted only in areas zoned for residence (or for agriculture, in the case of land under cultivation), which means that the state not only holds the land, but controls where Bedouin can legally settle. Israel furthermore maintains the political infrastructure which allows Bedouin to take their land claims to court (Maddrell 1990). As of 2006, however, in not a single case in which a Bedouin presented his ownership claim to the court, had the judge found in the name of the Bedouin (Yahel 2006).Therefore, despite recognition of some Arab and Druze titles in the North of the country, the state has retained in full its landholdings facilitated by the government ordinances of the 1950s and 1960s.

The state's dominance over development and land ownership has only been furthered through its planning projects for the Bedouin. Despite some developments in culturally sensitive planning, state planning projects have, since the 1960s, been motivated by two central goals:

1. Create a Jewish population majority on the periphery
2. Transfer land to the state to carry out its development objectives
3. Turn Bedouin into a source of labor for the Jewish-led economy[38]

This continues in the state's latest initiative called the Abu-Basma Regional Council. Ten villages have been "recognized" through Abu-Basma since 2004, with an additional three undergoing early planning processes (Interview with Aharon Zohar). These villages are different from the seven urban townships founded by the government since the '60s, which gave residents only one living option—urban living. In Abu-Basma, villages of 5,000 residents or less (though planned to house larger numbers in the future), have been planned with input from residents and a greater consideration for the existing situation in villages. Perhaps the best example of the continuity in the State’s policy is found in the newly recognized town of Umm Batin, a Bedouin settlement which has been continually inhabited for over 300 years (Umm Batin Newsletter, 2006). The State of Israel has tried to force residents of Umm Batin to settle in the planned township of Tel Sheva since the 1970s. The residents, however, resisted, despite the constant threat of housing demolition within the village, and the state’s withholding of services (Local Council of Umm Batin, 2006). In 1994, the state decided to “recognize” the village where it is located, drawing borders around the bulk of existing development and preserving existing structures in the official plans. To build their homes legally and receive services, however, the residents of Umm Batin will need to end their disputes with the government over the ownership of land (Interview with Jaber Abu-Kaf; Interview with Dudu Cohen). This means trading their claims to freehold land for compensation, and instead leasing the land as miri from the Israel Lands Administration. Furthermore, residents of Umm Batin residing outside of the planned area will need to relocate to within the town’s borders (Interview with Avinoam Levin). Therefore, while the residents’ land claims may be “recognized”, in that they are incorporated into the village plans, they are not recognized by the Lands Authority, nor are they fully accommodated by the settlement borders; the state, again, retains its monopoly over Bedouin lands. Meanwhile, the 35 villages which do not have approved plans from the government remain “unrecognized”. The only services they receive are those which have existed since the Mandate, or which have been won through lawsuits (Swirski and Hasson 2005).

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[38] Adapted from Maddrell (1990: 8).

While Syria, Lebanon and Israel have each maintained linear policies regarding their nomadic populations, Jordan presents an example of a significant shift from one approach to another. During early Transjordanian rule, Bedouin had been ruled as a separate population in need of transition; as in other nations, including Israel, Bedouin were governed by a series of government institutions separate from those of the general public[39] (Massad 2001: 52). Instead of using planned settlement to sedentarize the Bedouin, the early Transjordanians took another approach: military conscription. In doing so, the government was making national citizens. The next approach, similar to those taken in French Syria, was regionalization. Suggests Massad, "in a country where the inhabitants had tribal and family links that crossed the invented national boundaries, the reorganization of identity had to be territorialized…blood ties had to be superseded by territorial contiguity and residency" (Massad 2001: 58). This was to be achieved through a blend of Western and tribal law, resulting in a form of legal hegemony, in which terms like "raid" became "breach of security" (Massad 2001: 64). These early policies, though perhaps less dramatic than those passed by the early Israeli government, were nonetheless instituted by force. This contradicts statements by early Jordanian geographers, who suggest that the Jordanian administrators "worked hard and patiently to pacify and absorb…the tribes", and that "slowly and hardly even noticed even by the Bedouins themselves, the sheikhs and their families were tamed, institutionalized, and absorbed" (Abu Jaber and Gharaibeh 1981: 295-6). This may have been true later, when the government shifted its approach from appropriation of local leaders and top-down force to subtle coercion.

The first settlement project was implemented in the early 1960s, and offered pre-built housing and irrigated agricultural lands to tribes living in the south of Jordan. Cultivation lands were registered as freehold through the Department of Lands and Survey in the name of tribal sheikhs (Hiatt 1984). Each household plot was 60m- smaller than the one dunum plots offered in other countries. Furthermore, as in Israel and Syria, settlements were erected on tribal territory, but were carried out without the full consent of the Bedouin, and without considering their cultural needs (Abu Jaber and Gharaibeh 1981).Today, the most successful projects are those which incorporated agriculture into their master plans. Suggested Marx in, 1981, “at least the Negev Bedouin would like to live in such villages” (Abu Jaber and Gharaibeh 1981: 301).

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[39] Through the Bedouin Control Law of 1929 (Massad 2001)

The settlement programs instituted by all nations in the area of study illustrate what occurs when a modern nation-state collides with an indigenous, mobile population. The different results, are a combination of geography, economy and national identity. Lebanon’s program departed from the programs implemented in Syria, Jordan and Israel. While all nations’ settlement programs are based on a degree of coercion, Bedouin who choose to settle through the Israeli, Jordanian and Syrian programs are provided basic services and housing[40] (Marx 2000; Chatty 1998; Hiatt 1984). Furthermore, most Bedouin in Syria, Jordan and Israel are full citizens (Marx 1967: 54; Massad 52). In Lebanon, the policy towards Bedouin is one of strict non-recognition. The difference may lie both in the threat Muslim Bedouins pose to the Maronite leadership in parliament, as well as in their roots; many Bedouin in Lebanon are immigrants who fled Syria during the Mandate or Palestine after the War of Independence (Chatty 2010). To recognize the rights of Bedouin in Lebanon would be to recognize the rights of the 455,000[41] registered Palestinian refugees living in refugee camps and cities throughout the country.

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[40] An interesting point of intersection in the Syrian and Israeli approach is in the application of national parks legislation to Bedouin territories. In Syria and Israel, Bedouin tribes are restricted from accessing traditional grazing lands which have been granted parks status. Similarly, unrecognized settlements in Israel have been rejected for recognition on the basis that they fall within a conservation area or military zone (Chatty 1998; Portnov and Safriel 2004).

[41] Estimate provided by the United Nations Relief and Works Agency for Palestine Refugees (2011).

In Syria, Asad's *fellah* roots seems to have guided the state's preference for *fellah* Bedouin over nomads, the latter from whom land was expropriated to provide housing for settled tribes. In Israel, the Zionistist-collectivist identity privileged a Jewish-led agricultural economy secured through land leases, over an Arab-led economy operating on privately-owned land. In Jordan, the national identity—albeit deliberately crafted like all nations'—was Bedouin.[42] This in part is the result of demography when Transjordan gained its autonomy, as nomadic and semi-nomadic Bedouin made up 50% of the total population at the time (Massad 2001: 56). The major cleavage which divides Israel and Lebanon's policy towards the Bedouin from that of Jordan and Syria is land ownership; while Israel granted "recognition" to tribal lands through planning, it did not go as far as Jordan and Syria in registering land under the occupants' names. The policies of these nations towards the Bedouin have gone unchanged, despite claims of changes in national citizenship, in the case of Lebanon, and more innovative planning, in the case of Israel.

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[42] As King Hussein told the Jordan *Times* in 1985, "Whatever harms tribes is considered harmful to us. Law will remain closely connected to norms, customs and traditions." Quoted in Berman-Kishony 2010: 405)

DISCUSSION

The Ottomans, the French and the British all asked the same question as they attempted to administer their territory- “How can this state maintained?” (Heper 2000). For the Ottomans and the Mandate governments, the answer was to “divide-and-rule”, managing their expansive territories by delegating power to the local leaders (Shehadeh 1984; Chatty 2010). The Ottomans, whose regional political units were the provinces, did not have to make many efforts to divide their territory into governable units. Instead, the focus of their efforts was on ruling- maintaining their authority across such a large and diverse region (Inalcik 1993; Karaman 2009). For the British and the French, “dividing and ruling” was more complicated. The Ottoman Land Code had put in place a land registration system which the Mandates adopted, ensuring a degree of continuity, and therefore a degree of civilian acquiescence. Ottoman policies alone, however, did not ensure the level of Mandate modernity the British and the French sought to foster in the new nations. The 1858 policies were furthermore out-of-touch with local realities, and lagged behind the social and economic changes which had made feudal societies obsolete. Thus the British and French Mandates initiated a process of legislation readjustment, in their view improving the agricultural market while accommodating complicated political demands.

In the modern period, “divide-and-rule” has meant dividing up the remaining bastions of tradition or popular resistance which could challenge the character, economic standing or legislative authority of the independent states. In the case of Israel, the state is not only modern, but Jewish[43]. Lebanon, too, although not formally Maronite, has apparent interest in maintaining its Christian character despite having an unofficial Muslim majority (Soffer 1986; Faour 1991)[44]. For these nations, dividing and ruling has meant not only picking apart traditional cultures, but dividing ethnic groups which have been in conflict since the Mandate period. This has also meant using land tenure policies to privilege the ethnic groups most in line with each nation's character, while at times ignoring, disempowering, co-opting or remaking the others.

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[43] See Peled (1992), Dowty (1998), Smooha (2002), Peled and Navot (2005), and Yiftachel (2006) for conflicting views on Israel as a Jewish and democratic state.

These concerns persist to the modern day, when population growth by ethnic minorities poses even greater challenges to the population advantages of the dominant groups (Carmi 2008; Faour 1991). Often, the policy has been obscured by State recognition of cultural minorities[45], and specific policies targeted at improving their status of living (Crighton and Mac Iver 1991; Lustick 1980). Ultimately, however, creating "fractured regions", as Yiftachel (2001) calls them, enhancing spatial expressions of sectarianism, have longstanding negative ramifications. Some of the most dramatic examples include the fifteen-year Civil War in Lebanon and the second Intifada in Israel. They are also indicated by the socioeconomic disparities among ethnic groups (Krayem 1997; Pressman 2006; Zahar 219-240 2005; Lustick 1980). Still, the socio-spatial division of different populations—Jews and Arabs, Druze and Muslims, Bedouin and non-Bedouin, absentee landlords and the peasant class, citizens and refugees—and the "center-periphery cleavage" which often characterizes it, persists in all countries in the area of study. Therefore, the question facing modern nations remains the same after over sixty years of independence- "how can this State be maintained?" The answer, overwhelmingly, is control, in the name of the *fellah*, Bedouin or immigrant common good.

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[44] The "Christianness" of Lebanon is fostered by the power-sharing agreement set in place by the 1943 National Pact, while the "Jewishness" of Israel is spelled out in the nation's 1948 Declaration of Independence.

[45] Examples are Israel's recognition of the Arab "linguistic, religious and cultural minority" and the guarantee of Shi'ite representation in Lebanese parliament (Smooha 1990; Dekmejian 1978).

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