

## British Framing of the Frontier in Palestine, 1918–1923:

### Revisiting Colonial Sources on Tribal Insurrection, Land Tenure, and the Arab Intelligentsia

Munir Fakher Eldin

On 22 April 1920, skirmishes took place between British gendarmes based in the frontier town of Baysan and hundreds of armed tribesmen of the Ghazawiyya – one of the biggest tribes in the region. Several men were killed on both sides. The next day, about two thousand tribesmen from across the Jordan gathered forces and attacked the Jewish colonies near Samakh on the southern tip of the Sea of Galilee, a few miles north of Baysan. The British army apparently had military intelligence about these raids and called for support. It is reported that several airplanes and tanks were used to put off the insurrection. Notwithstanding reports of losses in men, military equipment, telegraph and railway lines, the British military could still telegram on 24 April that “situation is in hand.” Yet it was also strongly believed that “matters will get worse instead of better, especially when the morning’s news about the mandates reaches Syria.”<sup>1</sup>

The events coincided with unconfirmed reports that Amir Faysal’s government in Damascus had declared war on the French and began an attack on their forces in Banyas, and that tribal forces were gathering south of the town of al-Qunaytra (both in the Golan region) in preparation for attack on the British to the south. These escalations, however, did not materialize. According to news published by the Egyptian newspaper *al-Muqattam* and quoted by the *Egyptian Gazette* on 18 June 1920, Amir Bashir, the leader of one of the tribes which participated in the insurrection asked for permission to discuss the events with the authorities in Jerusalem. Even more telling was that Faysal’s government had also sent a deputation to Jerusalem, and that four hundred horsemen have been sent to the

Yarmuk Valley (east of Samakh) to arrest the offenders who attacked the telegraph lines there. It was also reported that the Rawala tribe near al-Qunaytra, with a strength of fifteen thousand fighters, was expected to keep quiet and obey Faysal's orders.<sup>2</sup>

Modern national borders in the Middle East have been subject to ideological contestation, yet they remained highly understudied. The historical literature that refers to their making focuses upon the "diplomatic" affairs between the imperial powers after World War I, without venturing into their social histories. Despite their new invention, the underlying assumption remained that the new borders delimited distinct and pre-given, or in the case of Palestine ancient, spaces. Paradoxically, the national narratives accepted this assumption and reproduced it while contesting the imperialistic and colonial agendas in the region. In this article I shift the focus from discussion of borders to a critical concept of the frontier, where events such as the aforementioned insurrection became central to telling the history of the formation of the modern state geographies and their colonial nature in the region. The article proceeds from an analysis of the colonial archival data on an episode of a tribal rebellion in 1920 in Samakh and the Baysan valley – a place located at the meeting point of three new Mandate territories-to-be: Palestine, Syria, and Transjordan. This analysis links the handling of this revolt and its aftermath and the origins of colonial land policy in Mandate Palestine, especially as regards tribal grazing rights and the Ghawr-Mudawwara Land Agreement (or the Baysan Land Settlement) of 1921. In the process, I will also highlight some of the tensions and complexities of elite nationalist and popular politics in the period.

## The Colonial Archival Record

The British military administration reported on the events of the 1920 revolt on three levels of discourse. The first was a discourse of criminality, found most prominently at the level of military intelligence. Military communiqués offered information and indirect causalities and explanations, if any. Using the simple binary of peace/trouble, this discourse completely silenced political agency. For example, one of the military intelligence telegrams reads:

On the morning of 22nd 1 Squadron 2nd Lancers with Deputy Military Governor Beisan went out to round up any of the Ghazawieh tribe found west side of Jordan. *Of late this tribe has been troublesome.*<sup>3</sup>

Yet the colonial archive did not stop at this. On a second, interpretive level of military political intelligence, it reflected more details and analyses of the political rationale and circumstances of the tribes' actions. This level consisted of information on the political attitudes and receptions of the events by members of the Arab urban intelligentsia, gathered conveniently through translations of excerpts from various Syrian and Egyptian newspapers. These sources were tagged according to British categories of political monitoring, as "nationalists," "pro-French," "anti-British," and "anti-Zionist."

It is very hard to know what the colonial officials learned from this information, but it is clear that they were wary of political alliances among various segments of the native population that might challenge the emerging colonial order. Interestingly, however, a close reading of these sources reveals myriad elite positions and perspectives on tribal politics and the emerging political boundaries-in-the-making.

For example, the Damascene newspaper *al-Balagh* (4 May 1920), described the events as a “national movement” and linked them to the fact that the “British ignore the nationalist sentiments that have spread in Syria and Palestine like a flash in consequence of the Sionist [*sic*] danger.” The newspaper also linked the events to the critical issue of disarming local Bedouin tribes. Yet, interestingly, it also reflected profound ambivalence toward the British and rendered the fights as unintended in nature. Thus *al-Balagh* wrote:

It is worth recording that the Arabs in their attacks did not aim at fighting the British troops but at driving the Jews [read Zionist colonial-settlers, to be distinguished from native Jews] out of their country; and if the British troops had not attacked them they would not have moved against them in spite of their confidence of victory over them. The Arabs realised that the British authorities armed the Jews and disarmed the natives, and they believed that their sole purpose was to give the Jews power over them.<sup>4</sup>

A military intelligence summary of an article from *al-Difa'* (25 April 1920) similarly linked the raids to the issue of disarming local Bedouins:

the reason of the fight was because the British authorities endeavoured to collect the arms from the Bedwins [*sic*] fearing if the arms are left with them they will attack the Jews in the colonies near them.<sup>5</sup>

This press coverage reflected confusion about how the events started in Baysan. *Al-Balagh* marked the beginning as the arrest of Amir Bashir, which was followed by a raid by his men and his being freed from prison. The mere mention of the arrest of a leader paints the event as a political rather than a criminal one. *Al-Urdun* (25 April 1920) similarly emphasized the political nature of the revolt, yet mentioned the arrest of Amir Muhammad al-Zaynati, another leader of the Ghazawiyya in Baysan, as the cause of the fighting. *Mir'at al-Sharq* (6 May 1920), however, gave another account, which marked the beginning with a “criminal” act. The British intelligence summary of the article reads:

*The Causes of the Insurrection at Beisan.* Meraat Al-Shark [*sic*], May 6, relates that the causes of the disturbances in Beisan, according to information from a reliable source, is that the Government had arrested Ali Mohammad Saleh for a crime he had committed. After his trial at Beisan he was sent to Jenin under the escort of one gendarme. On the way he drew a revolver he had hidden in his boots and threatened to shoot the gendarme if he

interfered with his escape. The gendarme let him go and returned to Beisan to inform the Military Governor who went, accompanied by gendarmes, to the Gazawyieh tribe to arrest Mohammad Saleh. The party was attacked by the Arabs and had to retreat. The Arabs marched afterwards on Beisan, headed by Emir Mohammad Al-Zeinati and Mohammad Saleh but they were dispersed, leaving many killed.<sup>6</sup>

*Al-Muqattam* (quoted by the *Egyptian Gazette*) gave a wider, geopolitical context, yet one that reflected an orientalist rhetoric and sympathy with the colonial order more than with the native rebels:

the Beduins, who are famous for their love of raids, have found it very suitable for them to carry out their raids under the present Zone system introduced by the Allies to Syria. They attack in one of these Zones and evade the results of their deeds by simply moving to the other Zones [i.e., between the French and the British controlled regions along what later became and international border between Syria and Palestine].<sup>7</sup>

Despite differences in tone and underlying agenda, and regardless of the silences they produced, these local sources shed light (albeit anecdotally) on the larger context of the modern (Ottoman and especially colonial) state's encroachments on tribal autonomy and control of space. But they do not give us sufficient understanding of their larger context.

The third level of discourse in the colonial archive deals with the framing of colonial policy. This consists of political reports by high-ranking military administrators, statements of policy, as well as parliamentary discussions (this is, it must be noted, before the development of the Mandate state apparatuses). Unlike the urban communal clashes of April 1920 in Jerusalem (during the Nabi Musa festivities) and May 1921 in Jaffa, the short insurrection at Baysan and Samakh did not attract commissions of inquiry and was largely untold in the literature.<sup>8</sup> Yet tribal space does appear as a direct subject of colonial policy and discussions about the making of Palestine as a frontier for Jewish colonization. We find a perfect example of this in a report sent by Louis Jean Bols (the chief administrator of Palestine between June 1919 and June 1920) to Lord Curzon (the Secretary of State for Foreign Affairs at the time). The report, dated 7 June 1920, was written as a recommendation of policy shortly before Bols passed his duties to Sir Herbert Samuel.<sup>9</sup> Among several critical challenges facing the British, Bols discussed the Zionist claims in the wake of the Paris Peace Conference regarding the large numbers (millions) of Jewish immigrants that could presumably be supported in Palestine, and the dissemination of propaganda to the effect that there were large tracts of vacant state land in Palestine which could easily be devoted to this end, given that – allegedly – the natives by and large held no title to the land in the country. We turn now to this level of colonial discourse in more details.

## The Frontier and the Origins of Mandate Land Policy

British officials in these early years of military rule, before the inauguration of the Mandate regime, reflected on the ambiguity of their “mandate.” They contrasted military law, which they saw as a framework of governance based on the Ottoman status quo and the principles of equity and impartiality between the various communities, on the one hand, and a policy of colonial privileges based on the Balfour Declaration on the other. Thus, for example, an official sent in the immediate aftermath of the communal clashes during the Nabi Musa festivities of early April 1920, wrote:

There is only one topic at present under discussion, and that is the Zionist. It absorbs and dominates everything, but *what struck me most of all was that nobody seemed to know what the Zionist policy of His Majesty’s Government meant.*<sup>10</sup>

This included the meaning of the term “Jewish National Home” in Palestine; the number of Jewish immigrants to be admitted; whether the Zionists are to be favored in acquiring the “State Land in the Jordan Valley [in Baysan and Samakh specifically] and elsewhere, or were the Moslems and Christians to be allowed to compete and receive equality of treatment at the hand of the Government?” And more:

Would existing cultivators of land be ejected from land they are at present cultivating, having done so for probably a considerable number of years, if when the land survey was completed they could produce no satisfactory titles to the property they have come to regard as their own?

If so, are they to be ejected, and what provision, if any, is to be made for them?

Is it the wish of His Majesty’s Government that the Zionist policy should be put in force pending the conclusion of peace with Turkey?

Or are the Military Administration to deal with Palestine as Occupied Enemy Territory in accordance with the accepted principles of Military Law without favor to any particular section of the community, leaving the question of the putting into force of the pledges to the Zionists given in the Balfour declaration until after the conclusion of peace and the liquidation of the military regime?

The report expressed very clearly the difficulty, as conceived by British administrators, in reconciling these opposite principles of military law and colonial-settler policy:

Bearing in mind ... the ultimate intentions of His Majesty’s Government and their commitments to the Zionists, Lord Allenby has, so far as was compatible with the application of Military Law ... endeavoured to the utmost of his ability and within the limits which were imposed upon him by

the local situation to assist the Zionists to lay the foundation on which to build their edifice after peace was signed, ... he and his Military Administration in Palestine have earned for themselves the reproach among Moslems and Christians that they were pro-Jew and that only Jews got a hearing at the hands of the administration; indeed much of the prestige previously enjoyed by the administration with the Moslem and Christian inhabitants has been lost on this very account.

The report also warned regarding the land question:

All the best lands are at present in the hands of the Arabs under one title or another, and are being cultivated by them according to their own ideas and methods. *The realisation of Zionist hopes must and will mean expropriation, whether by fair means or foul*, and the Arab knows this and fears and resents Zionism accordingly. It is no use blinking the fact that the present inhabitant of the country does not want Zionists at any price.<sup>11</sup>

This contradiction and the colonial denial of the natives' right to self-determination were, however, quickly obfuscated and masked through emphasis on the trope of economic prosperity. Upon the San Remo conference's decision to place Palestine under the Mandate regime under such terms as to incorporate the Balfour Declaration, Bols convened the communal leaders and explained to them the "true meaning" of the Balfour Declaration in a way that foreshadowed future governmental rhetoric. He insisted on an interpretation of compatibility between religious freedom, protection of property, progress, and fair government, on the one hand, and the absorption of Zionist immigration on the other. For this to work, he told the leaders, cooperation between all segments of the population was necessary. "Politics," he stipulated, "are the enemy of industry."

The same rhetoric appeared in Bols's discussion of the critical issues of land and immigration, to which he devoted several pages in his report. He basically reiterated the initial British recognition of the Palestinians as proprietors and the lack of any significant tract of vacant state land for massive Zionist immigration, yet he also offered a "politic" way to change this condition: a modern land tax reform. He did not specify the details of such tax reform, but it is easy for students of colonial land reforms to guess that it would have entailed the abolishment of tithes and the introduction of a fixed land tax. Such policy, he believed, would allow both the promotion of native agricultural development and a process of transfer of land from the natives to the colonists by purchase and without "unnecessary friction." Still, however, Bols pointed to what he perceived as a serious obstacle, namely what he called the "unwritten law" of long-standing, customary rights of seasonal migration and access to grazing grounds in Palestine enjoyed by a large number of tribes east of the Jordan River, in the desert south of Beersheba, and in the Sinai Peninsula. This is a rare official admission of the tribal social space of Palestine, which later rhetoric of land reform would obliterate (despite its persistence



for decades and even in today's landscape). It is worth quoting it at some length:

Undoubtedly ... cultivation could be improved and intensified by modern methods and irrigation, but the present proprietors, private and communal, claim that under the oppressive rule of the Turk [and due to the tithe system] such enterprise was useless, the results benefitting the Government and not the individual or community. They point with pride to the fact of increased prosperity under the Military Administration, even although they have not recovered from the effects of the war and are short of draught animals, and claim, with apparent justice that, given the opportunity under a Civil Administration with revised taxation, they will prove themselves as advanced agriculturalists as any....

In addition to the rights of private landowners and communal village lands, are the historical and accepted rights of the nomad and semi-nomad Bedouin Arab located in Palestine, their grazing rights over land not their permanent habitat and their passage to and from such lands in accordance with the seasons, are sanctified by centuries of custom and acquiescence by the peasants over whose land they pass and on whose land their flocks obtain summer pasturage. There are dividing lines across Palestine mutually accepted by the tribes from the North, East and South.



The areas of these migrations are clearly marked and accepted and I attach a sketch map showing these movements. Where local protecting tribes do not exist, island colonies have been formed by the migrating tribes on suitable grass lands so as to furnish necessary protection to the flocks during the annual visit of the contingent from the main tribe.

The migration commences as soon as the crops are in and grazing in the homelands shows signs of exhaustion, that is from about June and continues into July and August. The return starts with the first rainfall, usually early in November. The numbers affected in the North zone are approximately 3,000, in the centre a few hundred herdsmen, in the South up to as many as 10,000.

From the foregoing it will be recognised that Jewish immigration to the land, if in any large numbers, will necessitate *a complete revision* of the present system of tenure and the abolishment of old tribal grazing rights and customs.

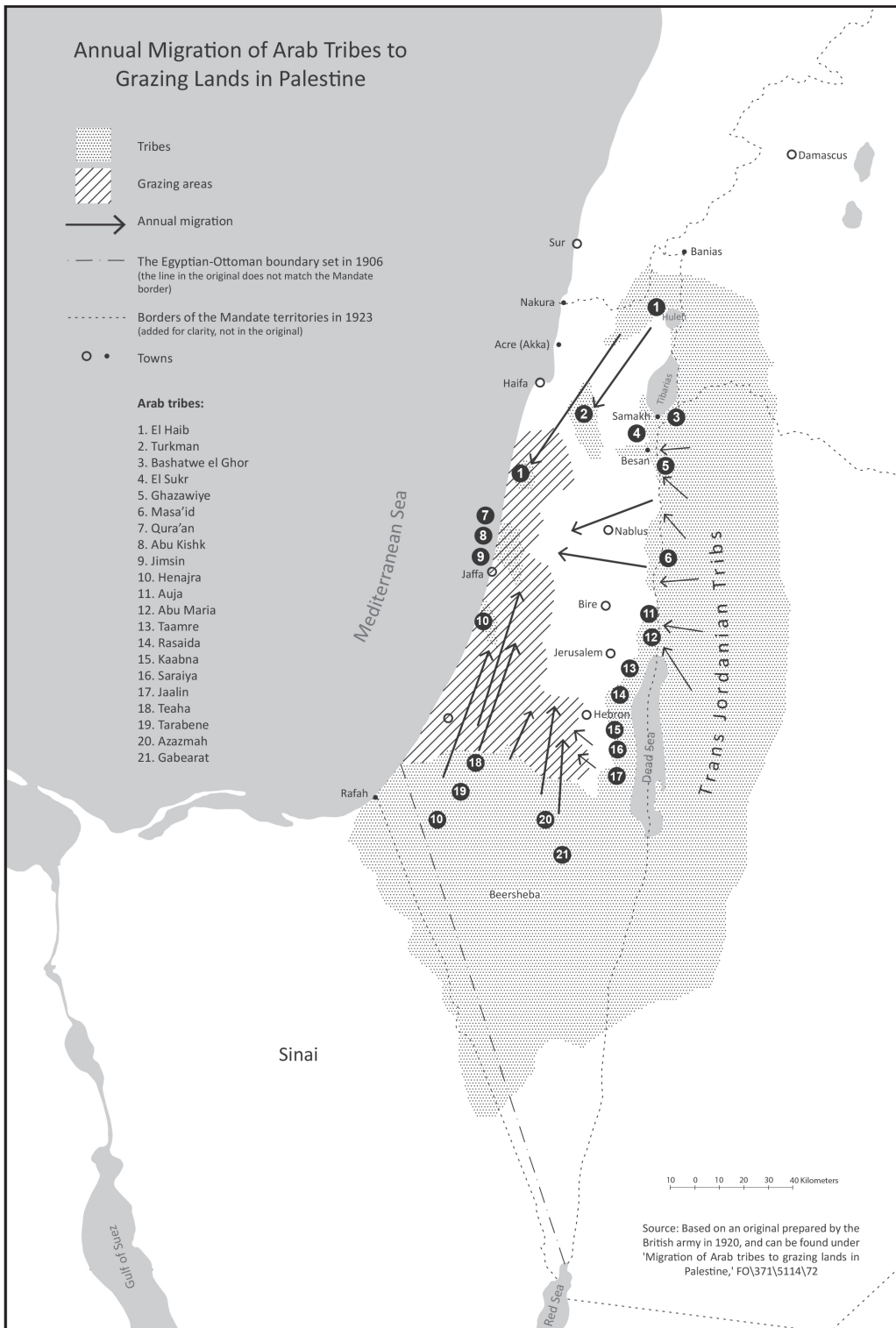
That this revision must take place is accepted, but it can be accomplished gradually and *without unnecessary friction* if ordinary methods are employed, purchase of lands from voluntary vendors of whom there will be many at the present moment, and an increasing number in the future when a more modern system of taxation is imposed as the progress of the cadastral survey renders this possible. Leases on Jiftlik lands will also, as they fall in, become equally available to the Jews as to the remainder of the population.<sup>12</sup>

## Annual Migration of Arab Tribes to Grazing Lands in Palestine

-  Tribes
-  Grazing areas
-  Annual migration
-  The Egyptian-Ottoman boundary set in 1906  
(the line in the original does not match the Mandate border)
-  Borders of the Mandate territories in 1923  
(added for clarity, not in the original)
-  Towns

### Arab tribes:

1. El Haib
2. Turkman
3. Bashatwe el Ghor
4. El Sukr
5. Ghazawiye
6. Masa'id
7. Qura'an
8. Abu Kishk
9. Jimsin
10. Henajra
11. Auja
12. Abu Maria
13. Taamre
14. Rasaida
15. Kaabna
16. Saraiya
17. Jaalin
18. Teaha
19. Tarabene
20. Azazmah
21. Gabearat



Source: Based on an original prepared by the British army in 1920, and can be found under 'Migration of Arab tribes to grazing lands in Palestine,' FO\371\5114\72



The term “Jiftlik lands” in this context refers to the imperial estates in Baysan and Samakh, which Abdulhamid II had created in the 1880s and which were later transferred to Ottoman government possession, under the category of *mudawwara*, in the wake of his removal from power. The three tribal communities that controlled nearly half of the *jiftlik/mudawwara* lands in Baysan – al-Ghazawiyya, al-Saqr, and al-Bashatwa – appear on the map included in Bols’s report (see a reworked version above).<sup>13</sup> Together with fifteen villages in the regions, these people enumerated nearly five thousand and were included in a special British land settlement effort in 1921. This land settlement reflected critical elements and blind spots in Bols’s colonial framing of the frontier condition of Palestine.

### **Struggles for Sovereignty and the Hegemonic Language of Property Rights**

What Bols’s account of the frontier left untold was the issue of militancy as a component of the “customary” land tenure he described – that is, political mastery over social space or, to use the term in its broad sense, sovereignty. In the first two decades following the withdrawal of Muhammad ‘Ali’s army during the Egyptian expedition in the nineteenth century, the Ottomans ruled the lower Galilee indirectly through a tribal leader named ‘Aqil Agha.<sup>14</sup> Yet gradually they consolidated their re-conquest and achieved a significant measure of political and administrative control. The famous Land Code of 1858 was a critical tool in this process. It remade land tenure and allowed both the state and influential elites and landlords (old and new) to lay claim to property. This was still short of a full imposition of exclusive property rights; *miri* land tenure and the actual process of agricultural production continued to allow customary bundles of rights to land, including seasonal migration and grazing. The report of the Shaw Commission following the 1929 uprising tells of the persistence of these practices in the Marj Ibn ‘Amir valley until its acquisition by the Jewish National Fund from Beirut absentee landlords in 1923.<sup>15</sup> Other British estimates reveal the prevalence of the *musha* ‘communal land system, which the Ottomans tolerated despite its incongruity with the new principles of the Land Code of 1858 and the logic of the rising capitalist economy.<sup>16</sup>

In short, while the Ottomans made it possible for individual capitalists to possess usufruct rights over vast amounts of *miri* land, they did not abolish the tithes. This encouraged, among other things, the persistence of patron-client relations and non-capitalist forms of labor and access to land.<sup>17</sup> More critically, the Ottomans put in place obstacles to Zionist immigration and land acquisition, which were eased somewhat after 1909. According to one reading, Abdulhamid II acquired the vast tracts of land in the Baysan valley and Samakh in order to block the possibility of the acquisition of these lands by European settlers, especially Zionists.<sup>18</sup> But it is also possible to suggest additional considerations that have to do with the dynamics of Ottoman political transformation.

In a context of an agrarian dynastic empire undergoing state reform and liberalization

of the economic and political discourse – which ultimately saw the economic enterprise of capitalists as the source of the wealth of the nation and the ultimate justification of political power, and placed propertied men as the sovereign citizenry – it was only logical for a sultan struggling to protect dynastic power, as Abdulhamid II was, to counterbalance the expansion of private property. Land revenue in that context, it must be remembered, was the main source of state income and was based on a juridical claim of ownership by the sovereign. Thus while private land concessions could be seen by liberal state reformers as a solution to increase or secure state land revenues, they could also be seen as contributing to weakening the sultan’s position as the ultimate leader of the state and his subjects. The private-imperial property acquired by Abdulhamid II, consisting of millions of acres of land in Palestine as well as in various other places in Iraq, Syria, and Anatolia, was used to defend precisely this status of the sultan. Through this property he founded what Selim Deringil has called the Ottoman “civilizing mission” – a new legitimacy for dynastic power in the modern age.<sup>19</sup>

Abdulhamid II’s project was ultimately a negotiated arrangement that preserved much of the social reality of his subject-tenants in the region. Popular understandings of property and sovereignty, communal solidarity, and even militancy, were not quick to fade away even after the escheat of the imperial domains to the government following Abdulhamid II’s removal from power in 1908. When, in 1910, the government offered to sell concessionary rights to these properties to a private investor, popular mobilization helped put pressure on Istanbul to cancel the plan. Communal leaders in the Baysan valley coordinated with urban leaders and Arab parliamentary representatives and sent telegrams to the government contesting the new policy. They insisted that the land was a sanctified gift they had received from their ancestors, who had sacrificed to protect it over many generations. They mobilized Islamic idioms of government, such as upholding justice and protecting people’s livelihoods. Yet they also used a language that threatened rebellion, prompting a telegram from Istanbul intended to calm spirits.<sup>20</sup> The Ottomans cancelled the plan and offered to grant the tenants full usufruct rights, but demanded the tribes’ disarmament and their settlement in permanent built communities in return. This did not materialize and Ottoman involvement of the Great War changed government concerns and priorities. Bahjat and Tamimi, authors of the famous 1915 *Wilayat Beirut* report, noted that the government preferred to levy taxes both in kind and in gold coins from the Baysan tribes instead of conscripting their children and confiscating their weapons.<sup>21</sup> The status quo of the *jiftlik* arrangement was thus maintained until the British land settlement of 1921.

Broadly speaking, as we have seen, there was an early British concern to allow Zionist land acquisition through the market and with the help of a state-introduced “revision of existing land tenure,” but without direct expropriation or a rapid and drastic attack on the existing human geography of Palestine. But this general policy left much room for interpretation and generated struggles over its general terms as well as devising particular measures to address local issues. It is not possible here to provide an overall assessment of the British land policy or even an overview of the entire history of the Baysan land settlement, but the basic question of how and why this settlement was reached under

Herbert Samuel arises and is of direct relevance to our discussion of local agency.

Samuel was convinced, as we know from his contacts with the Zionist Commission in 1919 and his early public statement of March 1920, that the Baysan *jiftlik* land could be opened up for Zionist settlement via government policy.<sup>22</sup> He apparently continued to hold this opinion despite Bols's and other official assessments that favored a conservative policy toward customary rights. In April 1921, Samuel visited the town of Baysan to deliver a public speech to the inhabitants and meet with their communal representatives. He insisted on a strict legal narrative of state ownership of the land and the economic benefits of colonial policy. He told the representatives that there was no evidence that the inhabitants had legal title to the land and that opening up parts of the valley to industrious and financially capable Jewish colonists would promote the general good of Palestine. Samuel heard counterarguments by the town's representatives, rejecting Zionism and demanding recognition of the original property rights of the inhabitants and their right to develop their own country. Samuel left the town amidst a highly-spirited popular demonstration, which raised anti-Zionist and anti-British slogans and chants.<sup>23</sup>

In the following days, the British arrested Jubran Kazma (alternatively, Kuzma and Quzma), who was accused of agitating the public and "threatening public security."<sup>24</sup> Kazma belonged to a small class of urban agriculturalists and land investors who managed to lease private farms in a limited area of the *jiftlik* land near Baysan after 1909. Kazma was distinct in his reformist mindset and activism in the national movement and his role in popular mobilization in the valley. In the previous summer of 1920, a few months after the insurrection, he had organized a general tax boycott in the valley, which all cultivators and communities seemed to uphold. The reason for this boycott was the new form of tax receipts prepared by the military administration (probably on Samuel's order), in which the term "annual rent" was used instead of "crop share."<sup>25</sup> Through this the British attempted to narrow and fix people's long-standing customary and moral-political privileges to the land and to abolish the Ottoman status quo. Shortly after Kazma's imprisonment, tens of armed tribesmen gathered and threatened to forcefully release him.<sup>26</sup> The insurrection of 1920 must have had still echoed strongly and the British were not interested in escalations. Kazma was quickly released and a few months later the Ghawr-Mudawwara or Baysan Land Agreement was signed between the government and the cultivators in Baysan. Despite intense early attempts to delegitimize the Palestinian national movements and its leaders, including Kazma, Samuel was forced to recognize it.<sup>27</sup> Kazma, for example, was chosen as one of two local representatives in the joint (official and popular) Demarcation Commission that was required to implement the land agreement.<sup>28</sup> For the next two years (until his untimely death in 1923), Kazma would engage intensely in the politics of the land settlement as well as in mediating between the national movement and local tribal leaders, among them Muhammad al-Zaynati and Amir Bashir.

The modernist narratives of rights and social reform developed by the nationalists must have facilitated the achievement of the Baysan land settlement. In these narratives tribal militancy and customary land tenure were translated into the modern, liberal

language of government and property. Thus in a legal petition sent to the government following Samuel's visit to Baysan and paving the way for the land agreement, Wadi' al-Bustani (acting as legal representative for the community) described the Ottomans as external conquerors who violated a legitimate political community rather than tamed a disorderly frontier. "The owners of these lands," he wrote, "knew only their headmen who governed them, adjudicating their disputes and levying taxes from them." He then gave more details about the annual taxes that the villagers and tribesmen paid to the "ruling tribe" in return for "security and government," specifying that they comprised "four *kayls* of wheat and barely in addition to holiday presents of sugar, ghee, etc." Furthermore, when the Ottomans conquered the region they failed to provide security, which caused agriculture to deteriorate. Instead of correcting the conduct of his government, the Ottoman sultan used the situation as an excuse to confiscate the land. To make things worse, the sultan violated the principle of distinction between private interests and public duty, governing the *jiftlik* as a sovereign and benefitting from it as a private person, "as if he was one of his own subjects."<sup>29</sup> The Baysan Land Agreement integrated this narrative, describing the cultivators as the original owners or their descendants, and speaking of correcting past governmental failure.<sup>30</sup>

The settlement and the extension of private property rights could thus be promoted as both a part of the British reform of government, as well as a part of the Arab-Palestinian nationalist reform of society and economy and revival of Arab sovereignty. Yet this accord was highly tension-ridden: on the one hand, recognition of property rights was for the British a method of colonial governance. The valley and the former *jiftlik* land was divided between Palestine and "Transjordan," and the land settlement had helped to control the frontier population and to enforce political territorial divisions totally unknown and foreign to the region during long centuries of Ottoman rule. Furthermore, the colonial framework of rule denied sovereignty for the people it governed. The normative political aspect of private property – namely, popular sovereignty – was blocked in favor of a colonial framework that perceived the people of Palestine as a racial demographic project rather than as a political community. This posed critical limitations on the national reform project and placed it under serious challenges. On the other hand, the land settlement, or the property regime that emerged, destabilized the economic and social practices of many of the communities. According to governmental assessments, we can safely derive that the settlement was designed to work in a much better economic conditions than most Palestinian peasants enjoyed at the time; it demanded from the new owners relatively high payments to the government which turned into a real burden on the vast majority of them. The tribal communities were far more adversely affected than others, as the new legal and economic order run more dramatically against their long-standing customs and methods of use of space – especially their reliance on grazing and seasonal migrations. Tribal leadership and solidarity was deeply impacted as well.

The story of Muhammad al-Zaynati, who had rebelled against the British conquering force in 1920, is a great example of this. He found in the land settlement a new source of authority. Power was to be found in the land market rather than tribal command, honor, and ability to mobilize armed tribesmen. He struck deals with Jewish settlers, selling

land and receiving agricultural machinery, achieving narrow personal gains, while disregarding the interests and welfare of his fellow tribesmen.<sup>31</sup> Jubran Kazma, who had earlier wrote to his colleagues in the nationalist leadership in Jerusalem about the land settlement as a “historic victory, protecting Arab land forever against the Zionist danger,” reported on incidents of land sales in a mixed language of disappointment and renewed hope for a “coup among the patriotic tribal leaders to overthrow corrupt leaders and join the nationalist movement due to traitorous land sales.”<sup>32</sup> Yet the unfolding of the land settlement had eventually led to the sale of a great portion of the tribal lands to the Zionist Jewish National Fund and other private parties. In the mid-1930s, the renowned Palestinian physician and ethnologist Tawfiq Canaan, who, motivated by the Palestinian national movement’s call for wealthy Arab families to invest in property to circumscribe the process of land sales to the Zionists, purchased a farm in the valley, described one of the tribal communities as follows:

Although the Saqr are at present a very poor and uninfluential tribe they still remember past times when they played an important role in the political affairs of this district. They used to have a cavalry of 1000 djada’ah (a two year old mare) beside 1500 other horsemen and more than 2000 footmen. Nowadays they have become so poor that they have been obliged to sell large stretches of their excellent land. Men and women work here and there to earn a few pennies to cover the expenses necessary for their miserable life.<sup>33</sup>

## **Conclusions: What Does the Frontier Perspective Add?**

In the preceding discussion I have tried to link the histories of tribal spaces and British colonial land policy in Palestine. A central story that transpired was the use of private property by the colonial power as a method of controlling the frontier of Palestine and transforming tribal political power and social space. This is a transformation that had begun in late Ottoman rule, but the British put it on a radically different track and pace. I suggested that tribal militancy, of which we had an example in April 1920, must be located in the larger context of this transformation. Our discussion ended with a bleak picture of a near total erosion of tribal political and economic power. Yet caution must be taken with regard to narrating this radical change in politics, demography, and space. We must take notice of the *ways* in which tribal power and wealth were eroded, to inquire into what came instead, rather than simply assume a total loss.

The historiography of “land reform” – or, better, British colonial land policy in Palestine – continues to attract scholarship. It has witnessed several debates over the decades, which reflected changing political and academic agendas. Peasant studies, with its focus on the influence of, and strategies for coping with, capitalism among traditional, non-Western societies, influenced writings on the subject in the 1970 and the 1980s. This scholarship was interested in labor arrangements and the social relations of production and did not examine them in relation to land law and state policy.<sup>34</sup> The

colonial land policy in the territories occupied in 1967, however, promoted Palestinian legal practitioner-scholars in the late 1970s to begin to address Israeli manipulations of the Ottoman and British land regimes for their settler-colonial project.<sup>35</sup> This discussion, however, remained legalistic and caught in the moment, without developing theoretical and historical arguments or research agendas. While these legal scholars were struggling to formulate legal positions to curb the threat of Israeli colonial dispossession, Zionist writers continued to discredit Palestinian national claims and to reinvent the Zionist narrative of the whole colonial land question as a story of difficult accumulation of land by purchase during the Ottoman and British eras.<sup>36</sup> This narrative of course ignored the fact that the colonial settler society controlled only about 6 percent of Palestine in 1948 and that the rest was taken by military conquest, ethnic cleansing, land grabs, and other such methods. A growing body of literature since the 1990s began to address a major missing actor in this history: state policy, both in the British Mandate and the Israeli eras.<sup>37</sup>

One important divergence of positions and interpretation in this recent scholarship has arisen around British land policy and whether it was essentially pro-Zionist or otherwise.<sup>38</sup> The story I have told here shows British policy as pro-Zionist through its own terms: it framed Zionist policy rather than simply implementing it. This can be seen most significantly in its rejection of an *ipso facto* denial of property rights to the natives. Ultimately, they constructed a transformative policy that led toward a new legal and economic order more suitable for the colonists as well as for a native middle class. Yet in the process they also developed legal protections for groups of Arab tenant farmers and later on, in 1940, they introduced ethno-geographic restrictions on transfer of title to land from Arabs to Jews in most of Palestine. My point is not to defend such policies – far from it – but rather to insist that we have not fully understood, despite a popular discourse of anti-colonial criticism, how it worked; namely, how it opened up new socio-governmental fields and how it produced the colonial hierarchies of Mandate Palestine.

All this, I argue, ought to be investigated rather than simply assumed. By refusing a simple story of colonial land acquisition and loss of sovereignty, I mean to question how property and sovereignty are linked and delinked in given socio-political contexts. While this is in keeping with recent scholarship on the subject, it also opens up a new question, one which has not yet been directly posed. Namely, how can we discuss struggles over land in a colonial context both within and outside the law, in the court and in a legal framework, as well as in lived realities, ideas, and social relations? Much more needs to be told about the latter in the Mandate context; so far, the critical literature has considered these struggles, experiences, and realities secondary and external to the legal history of property. Despite its value, the debate around whether or not the British Mandate was designed to serve Zionism has thus far privileged a top-down perspective, and it requires correction.

The question of agency is, of course, a difficult one to tackle. Taking into consideration the wisdoms gained by the Subaltern Studies school, I believe that the trouble with searching for the voice and agency of the underprivileged is not always a question of



uncovering a lost meaning of human *being* or human interest among non-capitalist, non-modernist, colonized societies. The trouble can be more simple and more difficult at the same time: to convince the political and intellectual elites of a dominant national class to admit heterogeneity, to open up their understandings of private, class, communal, and national interests, and to open their national narrative to non-capitalist versions. To insist on telling about a tribal rebellion at the very origin of colonial land policy in Palestine is to offer a strong reminder that there are inhabitants of Palestine whose history and rights cannot be told in terms of bourgeois property rights and who are often omitted or antagonized in the national narrative. It is also to suggest that when speaking about historical justice and rights in land, a people struggling for freedom must recognize the heterogeneity of forms of rights in the past and discuss the future it wishes to create as a profoundly political and new one, rather than one subjected to the limits and preconditions of a preexisting legal order.

*Munir Fakher Eldin holds a PhD in History and Middle Eastern and Islamic Studies from New York University and is an Assistant Professor at the Department of Philosophy and Cultural Studies at Birzeit University. He would like to thank the editorial team and the external peer reviewer for their critical feedback. He would also like to thank Lana Judeh from Riwaq for her help in reworking the map of tribal grazing migration.*

#### Endnotes

- 1 See telegrams from the General Headquarters of the British army in Cairo to the War Office in London (henceforward, military telegrams), dispatched between 23 and 26 April 1920, the National Archive (TNA), London, UK, Foreign Office (FO) 371/5118.
- 2 See translated excerpts by the British army, TNA FO 371/5188.
- 3 Military telegram dispatched on 23 April 1920, TNA FO 371/5118. Emphasis added.
- 4 Translated excerpt, TNA FO 731/5188.
- 5 Translated excerpt, TNA FO 731/5188.
- 6 Translated excerpt, TNA FO 731/5188.
- 7 Translated excerpt, TNA FO 731/5188.
- 8 The Palin Commission of Inquiry was sent by the British authorities to investigate the causes of the violent clashes in Jerusalem and the Haycraft Commission was appointed by the British High Commissioner, Herbert Samuel, to investigate the Jaffa clashes. The reports of these commissions were similar in terms and conclusions and seem to have been taken into account in drafting the 1922 White Paper, which spoke of controlled Jewish immigration and set an interpretation of the “Jewish National Home” policy as political privileges within a unified, yet hierarchically racialized, Palestine, rather than as the making of Palestine a Jewish state as demanded by the Zionists.
- 9 From Louis J. Bols to Lord Curzon, dated 7 June 1920, FO 371/5114.
- 10 Report signed by “H.S.” [not to be confused with Herbert Samuel, because the latter is mentioned in the third person] on 6 June 1920, FO 731/5114. Emphasis added.
- 11 Report signed by “H.S.” on 6 June 1920, FO 731/5114. Emphasis added.
- 12 Report signed by “H.S.” on 6 June 1920, FO 731/5114. Emphasis added.
- 13 I thank the staff at the British National Archives’ Image Library for providing a digital copy of the original colored map titled “Migration of Arab Tribes to Grazing Lands in Palestine,” TNA FO 371/5114 (72).
- 14 Alexander Schölch, “The Decline of Local Power in Palestine after 1856: The Case of ‘Aqil Aga,” *Die Welt des Islams* 23, nos. 1/4 (1984): 458–475.
- 15 *Report of the Commission on the Palestine Disturbances of August, 1929* (London: His Majesty’s Stationery Office, 1930), 117.
- 16 See TNA Colonial Office (CO) 733/214/5; see also Justice Tute, “The Law of State Lands in Palestine,” *Journal of Comparative Legislation and International Law* 9, no. 4 (1927): 173, 177–78. I discuss this issue in greater detail in a forthcoming study.
- 17 For an important discussion of these issues it is useful to consult two classic articles by Ya’akov Firestone: “Crop-Sharing Economics

- in Mandatory Palestine: Part I,” *Middle Eastern Studies* 11, no. 1 (January 1975): 3–23; and “Crop-Sharing Economics in Mandatory Palestine: Part II,” *Middle Eastern Studies* 11, no. 2 (May 1975): 157–194.
- 18 See Roy S. Fischel and Ruth Kark, “Sultan Abdülhamid II and Palestine: Private Lands and Imperial Policy,” *New Perspective on Turkey* 39 (2008): 158.
  - 19 Selim Deringil, *The Well-Protected Domains: Ideology and the Legitimation of Power in the Ottoman Empire, 1876–1909* (London: I.B. Tauris, 1998).
  - 20 See a petition sent by local tribal leaders to Istanbul and published in *Filastin*, 18 June 1913. See also the text of the telegram from Istanbul as published on *Filastin*, 13 August 1913.
  - 21 See Rafiq al-Tamimi and Muhammad Bahjat, *Wilayat Beirut, al-Qism al-Janubi* [The Governorate of Beirut, the Southern Part], Part One (Beirut: Matba‘at al-Iqbal, 1916), 399–404. Interestingly, the authors of the report were very sympathetic toward the local tribes and their culture. They indicated mistreatment their leaders received at the hand of post-Hamidian government officials, implying this to be a cause of sedentarization’s failure and renewed plans to grant them usufruct rights over the land once again.
  - 22 See Warwick P. N. Tyler, “The Beisan Lands in Mandatory Palestine,” *Middle Eastern Studies* 25, no. 2 (1989): 123–162; Samuel’s statement of March 1920 can be found in TNA FO 371/5114.
  - 23 *Al-Karmil* reported that “the demonstrators were Bedouins, villagers, and merchants who filled the streets in the town. They carried large black banners proclaiming ‘Long Live the Arab Congress, Down with Zionism,’ and in the rear smaller banners proclaiming ‘Palestine Is Our Country,’ ‘Muslims and Christians Are Brothers.’” See *al-Karmil*, 21 April 1921.
  - 24 See report in *al-Karmil*, 11 May 1921.
  - 25 He mentions this campaign retrospectively in a letter he sent to Jamal Husayni, dated 28 July 1921, Israel State Archives (ISA) Box 410 P-3785.
  - 26 *Al-Karmil*, 11 May 1921.
  - 27 The British attempted to delegitimize the Muslim-Christian associations and the Palestinian Arab Congress formed by the nationalist movement in Palestine in 1919, and to argue that they were a handful of incompetent men who did not represent the wider population. Kazma is mentioned as one of a three-man delegation representing the Palestinians that the Congress demanded to attend the Paris Conference in 1919 as a delegation representing all Palestinians. The British rejected this demands; and their dismissive discussion of the Congress and of the persons suggested representatives can be found to the mission in ISA M/155/5.
  - 28 The other representative was Mubarak Zu‘bi, about whose political activism we have little information.
  - 29 Wadi‘ al-Bustani, “Memorandum in Defense of the Ghawr Lands, Part III,” *al-Karmil*, 14 September 1921.
  - 30 See ISA B/8/3.
  - 31 See Central Zionist Archives (CZA) L 18/1242. See also memoirs by Ariel Ronen, *Mi-zichronot Bet-She’an* [From the BetShe’an Memoirs] (n.p.: Kevutsat Hamadyah, Mishpehot Ronen u-Vukhman and Bik‘at Bet She’an ha-Mo‘atsah ha-ezorit, 1995), 39–50, especially 41.
  - 32 I have discussed these dilemmas in Kazma’s letters to Jamal al-Husayni in my “Hawajis al-Nahda fi rasa’il Jubran Kazma ila Jamal al-Husayni, 1921–1923” [*Nahda* Anxieties in Jubran Kazma’s letters to Jamal Husayni, 1921–1923], *Hawliyat al-Quds* 11, no. 2 (Winter 2011), 25–33.
  - 33 Tawfiq Canaan, “The Saqr Bedouin of Bisan,” *Journal of the Palestine Oriental Society* 16 (1936), 31–32.
  - 34 See, for example, Kathy Glavanis and Pandeli Glavanis, eds., *The Rural Middle East: Peasant Lives and Modes of Production* (London and New Jersey: Birzeit University and Zed Books, 1982).
  - 35 Most important are two works by Raja Shehadeh: “The Land Law of Palestine: An Analysis of the Definition of State Lands,” *Journal of Palestine Studies* 11, no. 2 (1982): 82–99; and *Occupier’s Law: Israel and the West Bank* (Washington: Institute for Palestine Studies, 1985). In Arabic, see: Usama Halabi, *Musadarat al-aradi fi al-daffa al-gharbiyya al-muhtalla: dirasa qanuniyya tahliliyya* [Land Confiscation in the Occupied West Bank: A Legal-Analytical Study] (Jerusalem: Jam‘iyat al-dirasat al-‘Arabiyya, 1986); ‘Ala’ al-Bakri and Hanan Rayyan, *al-Awda‘ al-qanuniyya li-mulkiyat al-aradi fi al-daffa al-gharbiyya* [The Legal Status of Landownership in the West Bank] (Jerusalem: Jam‘iyat al-dirasat al-‘Arabiya, 1982).
  - 36 Aryeh Avneri, *The Claim of Dispossession: Jewish Land-Settlement and the Arabs, 1878–1948* (New Brunswick: Transaction Books, 1984); Kenneth Stein, *The Land Question in Palestine, 1917–1939* (Chapel Hill: University of North Carolina Press, 1984).
  - 37 Some of this scholarship has been pro-Zionist and uncritical, but most of it has had a critical agenda. The most important work in the first category is Dov Gavish, *Karka’ u-Mapah: mi Hesder Karkaot le-Mapat Eretz-Israel, 1920–1920* [Land and Map: The Survey of Palestine, 1920–1948] (Jerusalem: Yad Yitzhak Ben-Zvi, 1991), which appeared in an English translation as *The Survey of Palestine under the British*

*Mandate, 1920–1948* (New York: Routledge, 2005). In the latter category, see: Oren Yiftachel, *Ethnocracy: Land and Identity Politics in Israel/Palestine* (Philadelphia: University of Pennsylvania Press, 2006); Martin Bunton, *Colonial Land Policies in Palestine, 1917–1936* (Oxford: Oxford University Press, 2007); Geremy Forman, “Settlement of Title in the Galilee: Dowson’s Colonial Guiding Principle,”

*Israel Studies* 7, no. 3 (2003): 61–83; and Alexandre Kedar, “Colonialism, Colonization and Land Law in Mandate Palestine: The Zor al-Zarqa and Barrat Qisarya Land Disputes in Historical Perspective,” *Theoretical Inquiries in Law* 4, no. 2 (July 2003): 491–539.

38 This divergence can be read in Gavish, *Survey of Palestine*, and Bunton, *Colonial Land Policies*.