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Changes in the Land Usage by the Negev Bedouin Since the Mid-19th Century. The Intra-Tribal Perspective*

Gideon M Kressel, Joseph Ben-David and Khalil Abu Rabi'a

There are a number of causes for the Negev Bedouin's transition from pastoralism to agriculture. Most important are the rising economic, political and military power of the states in the area, forcing pastoralists to settle or to migrate, along with a tendency for people to purchase holdings on the periphery of settled lands. There is also a political commitment of tribesmen to their agnates and home territory. This latter issue is the concern of the current paper. The commitment has the effect to counter farming or the sedentary inclination of the individual shepherd. This is actually rooted not so much in tribal land ownership or control as in the relations to the more narrow group of agnates, with its capacity for blood-money payment and its role in traditional jurisdiction. The honour of the group of agnates is linked with territory. This, along with a production aspect, is how the usage of tribal land is significant for an age-old ethos.

Three major factors have influenced the transition of Bedouin in the Middle East to agriculture; 1) the rising economic, political and military power of the states in the area, which forced the Bedouin either to vacate or to settle under new conditions that offered more of a chance to reap the fruits of farming,¹ and 2) the trend by nomadic shepherds to purchase holdings on the edge of settled lands.² The third factor is endogenous, and has decelerated the process: the political commitment of the tribesmen to their agnates and the *dira* (tribal territory), and the availability of the land and its resources to all members of the tribe on an equal basis. This stems from a tribal ethos moulding the relationships of families within a single tribe, and from an age-old hierarchy in which the camel herders, who belonged to the largest and most powerful tribes, enjoyed pride of place, while the sedentary tribesmen were relegated to the lowest rung.

Our study focuses on this third factor. We examine the encounter between the Bedouin's intrinsic structure, unwritten codes and, especially, usage of land, and the introduction of modernization in agriculture and the temptations to settle. As a research team, we

have pooled our expertise in the fields of jurisprudence (Abu Rabi'a), human geography (Ben-David), and anthropology (Kressel). Land transactions have been analyzed, and population surveys conducted. We shall observe the following: juridical readjustments relating to the use of land over the past hundred years, as traditional tribal rights come into conflict with the modern system of private rights, and common grazing territory is apportioned in the form of private plots meant to be cultivated; the influx of capital, labour (mostly immigrant Egyptian fellahin) and agricultural know-how to the Negev; and the impact of the new entrepreneurial leadership and capital.

Exogenous Demands for Negev Land

Change in arid land usage in the Negev and elsewhere in the Middle East appeared around a century ago, with the spread of "patchwork farming" in wadis that had previously been used exclusively for herding.³ This was significant for a number of reasons. Firstly, the Bedouin were not only attracted to irrigated lands, but also

established permanent ties to their traditional sites, despite the fact that these were relatively barren. Secondly, their self-image was transformed, and the raisers of livestock who had once scorned the fellahin willingly came to resemble them to some extent.⁴ Thirdly the peregrination ranges of the herds shortened. Fourthly and most important, the tribe's responsibility to guarantee equal and exclusive grazing rights to all its members diminished. Cultivation was preceded by the parcelling of land and the privatization of plots appropriated from the tribal grazing land.

When livestock constituted the sole source of livelihood, land was used exclusively for grazing. From the mid-nineteenth century⁵ grain was grown through dry farming (*falha hariba*). All the grazing land was common, tribal territory. Similarly, the right to use whatever water was available belonged to all members on an equal basis. With the transition to the cultivation of private plots, the common grazing grounds were apportioned into small family units. During this stage the role of judges, experts on ownership practices and ownership laws called *ahel ad-diyar* became increasingly important, since it had to be established who had rights to what land, and how the land could be used. Because the Bedouin lived in relatively remote areas, where Ottoman laws failed to penetrate, claims to land were weighed in accordance with tradition. Privatization of tribal lands was accompanied by diminishing use of the term *dira*, which is rarely heard nowadays.

We shall examine this far-reaching change from sociological and juridical perspectives. The new status of the land evolved from a combination of factors: a) the atmosphere of greater political and economic self-confidence that prevailed in the Negev following the restoration of Ottoman rule, helped to stabilize the tribes and encourage investments in agriculture; b) the failure of nomadism to continue to serve as an effective means of political adaptation: as the scale of migration decreased so did the size of the tribe, which thus lost its suitability for administrative deals

with the Ottoman state; c) continuous emigration of fellahin rebels from the Nile Valley.⁶ The first stop in Palestine for the fellahin was in the vicinity of Gaza.⁷ Later some of them became land tenants of the Bedouin aided by local merchants who acted as middlemen. The demand for land suitable for dry farming gave market value and legal status to the arid area for the first time. It was only natural that the new legal standing would be influenced by traditional Bedouin legislation, Ottoman laws and the law that held sway among the fellahin to the north of the Bedouin Negev (i.e. in the southern Hebron Highlands and the coastal plain). Most of the fellahin who had in the distant past been nomads sought to expand their cultivated areas in the Beersheba Valley, which often led to conflicts with the Bedouin resident there.⁸

The rise in the number of people attempting to gain a portion of the land generated a greater appreciation for the land in the eyes of those who grazed on it. Even though the shepherds themselves did not turn to farming, they sought ploughers (*harathin*) as part of land tenancy transactions.

After the founding of Beersheba in 1903, the Ottoman Government recognized autonomous arrangements unique to Bedouin society, which led to the establishment of a tribal court of justice (*mahkmat el'ashair*) composed of 33 Sheikhs representing most of the tribes. It convened in Beersheba. Normally three members would sit in judgment; one would plead the plaintiff's case, another that of the defendant, while the third in judgment (*el murajeh*), and hand down the verdict, which would be final.

Little is known about the legal standing of Negev land at the end of the Ottoman period, compared to what is known about cultivated areas. The following pieces of information can be gathered indirectly from what is known about the transactions conducted by the Zionist movement in its attempt to acquire lands of the Negev:⁹

- 1) the Bedouin began to deal with land under their control;

- 2) the sheikhs served as land registry officials, in that they issued bills of sale (asnad) before government land registry records (tabu) came into being;
- 3) the administration expressed no direct interest in the Bedouin lands, so long as they were sold to Arabs rather than Christians and Jews.¹⁰

Most Bedouin land transactions were with buyers from Gaza and Hebron, but a few were with representatives of the Zionist movement.¹¹ Land sales increased during the British Mandate and for a number of Negev Bedouin land brokerage became a primary occupation.¹² The establishment of the state of Israel put an end to the immigration from Egypt and stimulated Jewish settlement. The fledgling state incorporated Ottoman or British land laws into its legal system, and these did not regard the Bedouin as legal owners of the land on which they tended their flocks. The two regimes that had ruled Palestine prior to 1948 did not see a "Bedouin problem" and the question of land ownership in the vicinity of Beersheba remained an open issue. A 1858 Ottoman law defined Bedouin territory in the Negev as *mawat*, i.e. as state land, regardless of whether it was utilized or abandoned; a British land order of 1921 redefined the *mawat* in such a way that a Bedouin could officially receive the status of "someone possessing a tie to his land." This same order stipulated that anyone who brought live to land defined by the 1858 law as *mawat* had to register the land within two months of the order's promulgation. However most of the Bedouin failed to take advantage of this.

Years later the Bedouin pressed for the revival of regulations allowing for land registration. However, the "Land Law-1959" nullified the Ottoman laws and turned all the *mawat* land into government land. With the signing of the peace treaty with Egypt, Israeli jurists had to address themselves once more to the legal status of certain lands in the Negev.

The Law of Land Acquisition in the Negev - 1980 (part of the peace treaty with Egypt)

focuses on the area in and around Tel Malhata'. Six Bedouin tribes were located in this territory: Abu-Qarinat, Abu-Jwe'id, Abu Rabi'a, Zabarqa, Nassasra and el 'Amor. The law deals with the evacuation of the tribes from the area, and the compensation they were to receive and rekindled the controversy over the Bedouin's historical and legal rights to the lands where they resided. An additional question was the right of the government to evacuate them from a site in Nevatim selected to become an airport. The need to withdraw Israeli military camps from Sinai, in accordance with the peace treaty required a compromise between the government's demand to expropriate the land and the Bedouin's demands for sufficient compensation. The Bedouin were convinced that the new legislation negated their claims of ownership, so that they would not be offered alternative plots. The negotiations were to be conducted between the government bodies and the individual land claimants.

The Abu' Arar "tribe" which had recently had a mukhtar appointed were the first to negotiate. Previously they had been divided between the Zullam tribes who had been their patrons and bitterly opposed their "independence". At the same time tractors began to tear up the ground between the tents and houses on the airfield site, which vividly demonstrated to procrastinators that negotiations could not be avoided.¹³ Negotiations touched upon two basic issues: a) the amount of compensation to be paid relative to the actual value of the expropriated land, and b) tribal authority over the various families, once the land was parcelled into family plots. The value was determined, in a sort of game involving market factors, and the need to reach an agreement in a quick, orderly fashion. A proposal that the scale of compensation offered to the evacuees from Yamit should serve as a model was rejected out of hand, which highlighted the inferior status of the Bedouin in the actual implementation of the law. True, for the first time the authorities recognized the *de facto* right of the Bedouin to the plots where they

resided, but as an argument against payment commensurate with the real value of the land, it was claimed that it was the Zionist movement and not Bedouin that had made the investments that stimulated development and generated the rise in value.

These changes altered the internal social order of the tribes: The Bedouin had always been landowners and the tenants fellahin.¹⁴ Over the years, many tenants had become de facto owners of their plots, which meant that officials dealing with questions of ownership were back to the starting point. For example, men of Abu 'Arar lineage, descendants of immigrants from Egypt, had leased land from all three of the Zullam tribes; they were unable to pay back the initial tenancy deposits (*rahen*) and redeem it, so the tenants were left with the land. When the Land Law of 1980 was passed, and negotiations got under way with those to be evacuated, fellahin tenants presented themselves as the landowners. Bedouin leasers, some of whom possessed certificates issued by the Land Arrangement Office,¹⁵ also presented themselves as landowners. From the perspective of the authorities, the same land was being claimed twice. For the first time, the practice and implications of giving *rahen* came under thorough scrutiny by the legislative branch of government, which preferred to recognize the right of the leasers, without getting further involved. Their unwillingness to get enmeshed in intertribal conflict served to reinforce the traditional hierarchy that had begun to crumble, thus enabling the Bedouin to regain first claim to the land, which they had lost to their tenants. On the other hand, the exploitation of the fellahin laborers who had toiled, cleared and cultivated the land until it eventually rewarded them for their efforts—but who had no formal ownership rights—disturbed the Zionists, whose basic social philosophy was "settlement by the workers".¹⁶ Moved by this the administration refrained from paying the land (*ard marhuna*) to the original Bedouin owners—at least until such time as they returned the tenancy deposit and redeemed

the tenancy deeds (*sanad*) from the tenants (*tiyaha*). At this point litigation was transferred to the traditional tribal courts, but this did not prevent the evacuation of the population from the Nevatim area.

Hajara vs. Tiyaha

Tenants were called *tiyaha*, a term which implies social inferiority and the baseness of agriculture, and was aimed at the fellahin who were thought to "pounce" upon Bedouin plots by requesting tenancy and patronage. Synonyms for *tiyaha* were *lumuma* (*mob mahmiyat* (protégés), and, in light of their origin, *masarwa* (Egyptians), *Qla'iyya* (people from the citadel in Khan Yunis) or *humran* (reddish, in comparison with the Bedouin, who were *asmaran* ([brownish])). The holding of land was thus an expression of a person's background and occupation.

Until the mid-nineteenth century the great majority of the population of Beersheba district were Bedouin. Control of grazing land was achieved through force of arms and, since battles were decided on the basis of the number of sword bearers (*drabeen seif*) and riflemen, the size of the tribe became a crucial factor.¹⁷ Tribal coalitions and fortune changed especially when very warm years caused population movements.¹⁸

Sedentarization was not immediate. During the Mandate Bedouin took their livestock northwards for spring grazing¹⁹ and returned to their plots in the Negev at the end of summer. The first plots were demarcated by the erection of rock piles²⁰ which established normative ownership rights,²¹ including the right to lease plots to fallahin "protégés". Leasing did not imply recognition of the landholder's "prior claim" to the land, but rather reflected the relative size of the agnatic groups. Whereas Bedouin tribes remained united while moving from place to place fellahin families travelled in small groups. Hence they needed tribal "protection", remuneration for which took the form of high percentages of the crops. At that time to stick a spear in the ground symbolised a claim to possession. Tribal

boundaries were not established until the last decade of the nineteenth century. According to tribal elders, stability was achieved earlier in the vicinity of the permanent settlement in the Gaza Strip than in the eastern Beersheba Valley. Tribal territories were first demarcated and later, as part of a gradual process,²² the family plots.

The hajara system was based on the principle of "might makes right". Tribal status mobility, which was linked to relative size, was reduced once members of a tribe became property owners. That within its borders a tribe recognized individual ownership rights, even if no record existed in the land registry and even when the "owner" was not physically present on his plot, effectively served to prevent land-grabbing. Since no one would dare to cultivate the plot of an absentee landholder; it was as if the latter's personality were already imprinted on the land.²³ This development signified the cessation of tribal warfare and reliance upon spear and stone markers.

Furthermore, social stratification which had been based on agnation became based also in financial considerations.²⁴ The administration "co-opted" the elders of elite groups. As the Ottomans had done sheikhs were rewarded for sedentarizing their tribesmen.

Agnatic Stratification and Capitalistic Stratification: Predicament of the Sheikhs

Some of the land taken over by Negev tribes on "settlement missions" was fully privatized, and some became *musha'* land (tribal land rotated among the members on a regular basis).²⁵ According to the sheikhs and tribal elders, the Ottomans encouraged *musha'*-like arrangements, while the British and Israelis favoured privatization. *Musha'* suited the authorities best when they were weak.²⁶ The Ottomans when they had gathered sufficient strength in the Levant, from 1880, endeavoured to privatize *musha'* land.²⁷ Few sheikhs were able to acquire title to *dira* land and to progressively turn their

fellow tribesmen into peasants and sharecroppers.²⁸

The Turkish rulers had only limited success, but the British were more successful thanks to their greater ability to reinforce the internal stratification of each tribe. The *musha'* concept treated cultivated land as though it were the common grazing territory of the tribe, notwithstanding the shift to agriculture and its required adaptations. The system was perpetuated in order to maintain the reciprocal ties between families, and the unity of the group. Privatization of land was inimical to the concept of tribalism and political unity, and hence the Bedouin were wary of its spread. But tribalism was never equivalent to equality. The principal property of Bedouin families was their flocks, and the size of each family's flock, a function of both luck and ability, determined its strength and position. Collective exploitation of the land's natural, uncultivated produce symbolized the tribal spirit. This was especially true for villages at the desert's edge, far from the centres of government (such as Kaisiyya in the southern Hebron Highlands), where the residents made no attempt to deny their Bedouin past. With privatization of *dira* land, supervision by the authorities was necessary to foster material differentiation and, at the same time, prevent elite groups from taking control of the best tribal land, thereby bringing about clashes between sheikhs and their followers.²⁹ At the turn of the century Negev Bedouin families followed their flocks and lived in tents, while the "guest" fellahin cultivated plots. This made it possible for the tribal elite to reap additional profits while averting a conflict with the principles of *badawa* (Bedouin culture). So long as the proportion of grazing land given over to cultivation stayed small, and the reduction of the *dira* was modest, the spirit of the tribe remained unharmed. Nevertheless the spread of patchwork agriculture in the early twentieth century widened the gap between the families who granted their "auspices" to the fellahin, and the majority who did not. The Ottoman regime, due to the lack of a land registration and tax collection apparatus,³⁰

Institutionalization of Inheritance (Iratha) Procedures

Since the privatization of plots Bedouin inheritance procedures have come to follow those practised in sedentary villages. When the inheritance consisted mainly of livestock and chattel the sons hastened to divide everything. The *shari'yya* rule that half should be set aside for daughters is overlooked. Women may bequeath and inherit animals but under no circumstances may they own land.³⁵ Now Negev Bedouin often postpone the division of a father's plot for years in order, they explain, to avoid jeopardizing their unity. A popular pattern is to leave the bequest untouched until all of the sons have married and are capable of earning a livelihood on their own.³⁶ A likely explanation for this is that as the livelihood of the older brothers comes from other sources they are not eager to take over their inheritance. Another possibility is that they feel that agnatic unity needs additional reinforcement.

The father's property is divided meticulously, with each son receiving an equal portion. This rule, which is relatively easy to apply in the case of flocks, becomes more complicated and difficult when applied to real estate.³⁷ The quality of plots varies. In order to forestall complaints, after the land is divided and demarcated, the brothers often draw lots to determine who gets which plot. The results of the lottery are considered to be as binding as a divine decree, and the system has been adopted throughout the Beersheba Valley.

Brothers are entitled to exchange plots among themselves as convenient. An effort is made to adjoin the boundaries of plots broken up by rocks or rivulets, etc. so long as only land alongside the wadi rivulets was cultivated, and cattle were used for ploughing—i.e. when the plots were small—the apportionment of the landed inheritance was, technically speaking, relatively easy to implement. With the introduction of mechanical means of cultivation, and the extension of cultivated land away from the

saw the *musha'* system as the lesser evil. Apparently, the Bedouin's failure to register private lands stemmed from the sensitivity of the sheikhs to the repercussions of the 'ifraz (dissolution of the *musha'*, as it is called in Egypt and in Palestine) on the spirit of the tribe and their own position at its head.³¹ Those expected to spearhead this development (the sheikhs) preferred to do so surreptitiously.

A clear expression of the 'ifraz is the growing acceptance among the tribesmen of official procedures for land inheritance and for transfer or sale of arable plots. These procedures were semi-legal—influenced and recognized by the authorities, although not conducted by officials or in accordance with law, but along the lines of the tribal heritage. Sheikhs and their immediate associates possessed *dira* lands, on which Egyptian peasants were tenants, and themselves moved to Beersheba or Gaza. According to our elder informants, in early 1940 most of the eastern Negev sheikhs lived either in Beersheba or its immediate vicinity,³² following the trend to absentee landownership, so widespread in Egypt and the Fertile Crescent.³³ In the more established farming districts and stronger central states of the modern Middle East, sheikhs have been observed selling livestock and buying arable land. Negev sheikhs of the latter Ottoman period did invest some money in lands mostly in the districts stretching north. In the growing land market, the sheikhs were ordinarily sellers and not buyers, but when they did buy they favoured plots at the outskirts of towns, far from their tribal territory.³⁴ Thus the control they wielded over their tribesmen weakened, and they distanced themselves from the norms of the *badawa*. The reasons for this development were economic (concern about the output of their investment), political (desire for the backing and protection of the authorities) and sociological.

wadis and toward the mountain slopes and the plains, the plots owned by one person became separated, and the division of the inheritance became a complex problem.

Prior to the privatization of plots, according to Sheikh Freh El-A'asem, wise fathers divided their land before dying rather than leaving wills, in order to prevent their offspring from wrangling over the inheritance. Wills written out on paper, along with "arrangement deals" with the "Board of Land Arrangement" in the Ministry of Justice, appeared in the Beersheba Valley during the 1960's and 1970's, and fathers have been more inclined to formulate wills, usually with their sons' knowledge. Since the enactment of the Law of Land Acquisition in the Negev - 1980, the number of litigants turning to the Shar'i Court has increased and its position has been strengthened. Unlike the state courts the Shar'i Court can sit in judgment only when both parties have agreed in advance to accept its ruling. The State of Israel has authorized the Shar'i Court of Beersheba to approve the inheritance of landownership rights, ratify the apportionment of savings and bank accounts among inheritors, allot insurance fees to these inheritors, rule upon conflicting claims, etc.

Privatization of the Mountain slopes

Small-scale agriculture in the Negev wadis left most of the area free for grazing, so that the *dira* was essentially preserved, and with it the unity of the tribe. But once the tractor was needed for ploughing, from the early 1950's, the desire for additional income motivated farmers to plough the hill slopes.³⁸ But this was part of an older process. There were economic, demographic and external political reasons behind the expansion of cultivated land in the Negev from the end of the Ottoman period until the end of the Mandate period: a) the increase in investment capital that came into Bedouin hands, from (in chronological order) the Ottomans and Germans (who together built Beersheba and laid railroad tracks to Egypt), the British (who erected army camps, paved roads in

the Negev and laid different railroad tracks to Egypt after the first ones were destroyed) and the Zionists, allowed the Bedouin to supply themselves with seedlings and tools and stimulated technological advancement; b) the continued migration toward the interior and the growing population density created pressure to determine the ownership of plots thus far uncultivable.

The 1948 war caused a sharp drop in Bedouin population in the desert from around 70,000 to 12,000. Those who remained were restricted to a fenced-in district east of Plugot Road for the duration of the military administration (1949-1966). These measures accelerated the fragmentation and privatization of plots within the tribal grazing land.

The political factor behind the expansion of Bedouin farming began to take on great weight. The Bedouin themselves started to acquire machinery and, in the wake of the "political ploughing" of land (government-ordered ploughing designed to establish a claim) at the end of the 1940's, orchards were also planted. The Israeli authorities who were claiming ownership of all previously unclaimed land allowed the Bedouin to graze on lands not earmarked for either military use or natural reserves. The Bedouin are also generally allowed to plough and sow winter crops, but any planting that might serve as the basis for a claim to individual ownership is strictly forbidden.

Private ownership of *dira* lands threatens the existence of the tribe. For this reason, privatization of plots on slopes takes place in secret. Stone piles are not erected as boundary markers, and under no circumstances is grazing by the flock of a fellow tribe member prohibited. However, if the owner of a plot on a slope has no intention of cultivating it, there is a tendency not to allow any fellow tribesmen to do so either. The logic behind this derives from the ancient farming practices of *falha hariba*. The fact that the channels that collect run-off water follow the contours of slopes and terminate on terraced surfaces in ravines was used to support the claim that the slope and its run-off waters belong to the

owners of the plots at the foot of the slope.³⁹ So long as the vast majority of land workers were fellahin, the issue of run-off water from the slopes remained dormant, and the fact that it came to the fore attests to the heightened interest of the Bedouin in income from agriculture,⁴⁰ and their growing participation in the physical labour itself.

Related to the issue of run-off water is that of cisterns at the foot of the slopes. The right to draw upon water sources, like the right to graze in the *dira*, is reserved for all the families of the tribe. It is out of the question, even in the present, to purchase ownership rights in wells which provide year-round supplies of water. On the other hand, installations that collect run-off water, such as the ancient cisterns that have been revealed on the mountain slopes,⁴¹ are immediately privatized, which demonstrates how sharp the socio-economic turnabout has been. The justification for privatization of the sources of run-off water is the investment required to clear the silt and to repair the dams and channels.

Already in the Mandate period, following private ownership of the slopes, some Bedouin invested in quarrying reservoirs. It was no longer the sword, but rather labour, and symbolically excavation, that served to justify private ownership of water sources.⁴² Nevertheless, at around the same time as the privatization of the slopes, the topographical concept of watersheds (*gizan* or *mafrag el maya*) and the path of the water flow (*et-tirja*) was adopted. The division of the cultivated strips in the wadis also underwent a change from the time of the privatization of the slopes; the groups with the greatest number of agnates, set aside for themselves the arable plots in the heights of the wadi, which are the first to receive the flood waters.⁴³

Developing Norms of Land Usage and Privatization

The dwindling of their territory, especially after the establishment of Israel, prompted the tribes to increase their income from sown plots. Heightened involvement in agriculture

on the part of the Bedouin, and their growing investment in the enhancement of the plots, heralded a concept of ownership as a function of the size of the investment. A variety of activities, including stone-clearing, the levelling of land, the setting up of drainage systems, the creation of *limanim* (rivulets dammed up so that rich deposits of eroded land would amass for the planting of trees), deep ploughing, and fertilization (coupled with the contiguity of cultivated plots, which in itself enriched the soil with humus) came to be viewed, more and more, as factors that would increase the value of the plots.⁴⁴

One sign of this is that a survey of the Beersheba Valley shows that the practice of giving land as a gift (*karam el ard*), which was prevalent in the early part of this century, waned and eventually vanished. Land had been awarded as a recompense for taking the owner's side in a dispute or battle, or for participating with the owner in prayer or in an expedition aimed at pillage (*ghazu*). This practice had relied on word of honour and was regarded as a legal manner of acquiring ownership (*tarig el karam aquwa min es-sanad*).⁴⁵ The awarding of land as compensation to a fighter acting in a private capacity actually derived from the earlier practice of allotting *dira* land to allied tribes—a custom that had gone out of fashion. As mentioned, the Zullam tribes had gained possession of the Arad Valley and the eastern slopes running down from the Arad Highland to the Dead Sea in such a way in the mid-nineteenth century.⁴⁶ It may be supposed that as part of a political union, allies, who were not agnates, were granted the right to utilize the *dira* and its water sources; similarly, based on the same principle, once agriculture spread throughout the *dira*, allies were allowed to privately own cultivated plots and to reap the profits. The disappearance, then, of the *karam el ard* practice is a milestone in the development of Bedouin thought with regard to land usage. A conflict of interests is reflected in the fact that, over time, what was once considered a gesture of generosity came to be viewed as an indication of wastefulness, and eventually as a sign of feeble-mindedness. The custom was

never institutionalized, since within a short time various legal formalities in the leasing, mortgaging and ownership transference of land became necessary. The Bedouin, in retrospect, view the practice of awarding land as ignorant and foolish.⁴⁷ The terms used to designate land purchased with money (*mishtra, be' or ard eb-sanad*, i.e. land transferred through a bill of sale) preserve the honour of the original landowners more than the concept of *karam el ard* does.

Institutionalization of the Bill of Sale

Purchased land is in principle distinguished from land acquired through force of arms. Monetary transactions, although not adopted until the end of the nineteenth century, rapidly became the most natural form of conducting business—and this phenomenon deserves an explanation. An early form of payment for ownership of cultivated land was the camel. As the most valued and prestigious piece of property camels constituted the basis for exchanges of gifts, dowries, indemnification, etc. A payment involving camels had the force of a word of honour (*kilmet sharaf*), and came to be required for the finalization of land transactions. This form of payment for land was widespread in the Negev from the mid-nineteenth century up to the end of the Ottoman period. A common saying during the first decade of the twentieth century expresses this: *tarig al karam aqwa min tarig es-sanad* ("the way of generosity [for transferring landownership rights] is stronger than the way of the bill").

The *sanad* made its appearance in the period just prior to World War I, a time of intensive economic activity.⁴⁸ Land purchase through a bill of sale proceeded in parallel with the institutionalization of negotiations over the price and the form of payment. These practices were introduced to the Bedouin population by the effendis, most of whom were residents of Gaza, while a smaller number were among the first settlers of Beersheba.

The *sanad*, written on an ordinary piece of paper with no formal letterhead (see the bill of sale in the appendix, with hand-written

names of the parties to a transaction), delineated the boundaries (*hdad*, the plural of *had* in Negev parlance) of the plot and provided a precise description of it, including such details as cistern, cave, oak tree, etc. The signatories were the seller, the buyer and their appointed witnesses (who were dignitaries). The buyer's signature was usually in pen, while the seller's generally took the form of a fingerprint. Official revenue stamps (*iradat*) were found on every document we examined. Early deeds had Ottoman stamps, and later ones Mandatory stamps.

This unswerving official procedure is surprising in light of the fact that many of these plots were never recorded in the land registry. The logic behind the practice probably ran as follows: the document (foreign to Bedouin jurisprudence) acquired a formal *shar'i* status because the parties involved came from different cultural settings and were so unfamiliar to one another that they came to rely upon a procedure with religious implications: Commitment to a formula, the violation of which would exact punishment by God. Intervention by a government agency on the part of a party with a rightful claim was possible only at a later stage. The spread of the Ottoman administration eastward from Gaza restrained the forceful takeover of lands there, created an atmosphere conducive to business deals, generated a market for a commodity that at as yet had no buyers, and aided in determining a standard price for the land. All this was to the mutual satisfaction of the parties involved, who ostensibly shared an esteem for the administration. However, the buyer and seller also shared a desire to finalize deals between themselves, without any unnecessary involvement of a third party (as in cases of dishonesty).

The same Bedouin who refrained from recording their *dira* lands in the land registry due to tribal ethics had an additional reason to be cautious; his interest, in fact, was identical to that of the effendi who had purchased land. Both of them recognized the government's role in facilitating their

transactions, and its demand for a share of the deal. Despite the pressure exerted, at first, by the Turkish administration, and to an even greater extent by the Mandatory regime,⁴⁹ not even lands transferred from Bedouin to permanent labourers (fellahin) were registered according to law. Because most transactions were not officially reported, no taxes were paid. Esteem for the authorities was reserved, but it existed. Land buyers were often suspicious of sellers who signed by fingerprint and might entertain the hope of eventually regaining possession of the property they were selling, whether by coercion or by law.⁵⁰ For the Bedouin, recourse to legal action entailed pretending that, being illiterate, they had been duped. The stamps that had been affixed imparted an air of officiality to the *sanad*; the document had the appearance of being written under government auspices, and the "law and order" represented by the administration enhanced the deed's credibility. The threatening countenance of the Sultan appeared on the Ottoman revenue stamps.

Indeed, the legal validity of the *sanad* was recognized by the courts to such an extent that litigants during the Mandate period would hasten to call out, "I have a *sanad*!" even before declaring, "It's my land!"⁵¹ In parallel, the role of the *ahel ed-diyar*, i.e., the tribal elders who adjudicated in ownership disputes in accordance with precedents that they could recall, was reduced. Over the years, it came to be understood that the validity of a written document outweighed that of its signatories' recollections or oral testimony.⁵² The possibility of forging documents also became better known, and with it the need for expertise in detecting a forgery. Therefore, the *majlis el 'ashayir*, who replaced the *ahel ed-diyar*, had to be literate. This is illustrated by the following case history.

In the early 1920's, a *sanad* was drawn up between a member of the Nasara tribe and the Kabu'ah family. The former was purchasing land, through a *rahen*, from the latter. When the Kabu'a family elder died, one of his successors, Saliman Kabu'a, approached the Nasasra with the following

claim: "I have purchased the land from the other inheritors, and therefore I wish to draw up a new *sanad*. Please return the earlier *sanad* to me." The Nasasra, however, kept the document. Saliman Kabu'a then went to a third party named ed-Dada, and drew up a new *sanad rehn* for the same plot—even though he had not succeeded in nullifying the earlier one. Soon afterwards, the Nasasra and ed-Dada confronted each other on the disputed plot, each one holding a *sanad* and making the identical claim: "I have a *sanad* here. What more do you want?" The case was brought before the *majlis el 'ashayir* in Beersheba, which at the time consisted of three sheikhs: Abu Rabi'a, es-Sufi and ibn-Sa'id. Upon examining both documents and listening to the testimony of witnesses (signatories to the documents), they noticed that the second *sanad* contained the condition that if the mortgagee was unable to receive his land, the mortgagor would pay him a 60 lira fine. From this they deduced that the man with the second *sanad* had known about the first one; he hoped to evict the Nasasra family, but decided to protect himself in case they refused to cooperate. Consequently, the court ruled that the land would remain with the Nasasra, and that ed-Dada would have no further rights or claims to the land; the second *sanad* was declared null and void. That same plot of land is in the Nasasra's possession to this day, despite the fact that the price for leasing it has risen steeply.

Another reason for the spread of the *sanad* was the need for legal evidence that the taxable land was no longer in the possession of the assessee. The tax burden was one of the primary motivations for selling property, and the *sanad* served as vital legal substantiation. For a number of decades, the Bedouin had paid tax to the government in the form of cattle, but when the taxes grew heavier, and exceptionally warm and dry years reduced the flocks' size and value for breeders, it became more necessary to use money as legal tender. Faced with the alternative of paying their debts in cash or being expelled across the border, the Bedouin opted to sell part of their land. The crisis in the cattle

economy and the decline in the value of livestock between the two world wars stimulated these land sales.⁵³ The deepening involvement in the Negev by the Mandatory Government and the steadily-mounting flow of fellahin immigrants from Egypt starting in 1926, when the first railroad track to Egypt was completed, improved the climate for land transactions.

Another contributing factor in this process was the fact that the Negev Bedouin were growing more accustomed to the consumer products being offered for sale in Beersheba. Testimony given by contemporaries of that period make it clear that once the city was established, there was a growing dependence on its markets. When the Bedouin had frequented Gaza to make purchases before Beersheba had been founded, they became acquainted with the local Arab merchants who would later conduct most of the Bedouin's business for them in the new capital of the Negev. Not infrequently a Bedouin tribesman would have no cash or merchandise to barter for his purchases in Beersheba, so that he had to ask a Gazan merchant to lend him money or allow him to buy on credit. In cases when his debt swelled to such an extent that he was unable to pay it back, even by selling livestock and chattel, then he would be forced to divest himself of his land.⁵⁴

Institutionalization of Land Mortgages (rahn)

The need for cash, which stemmed, on the one hand, from the growing recognition of the potential of sharecropping as a source of income, and on the other hand from an unwillingness to either work the land or abandon it, led to the institutionalization of mortgages. The leasing arrangements that survived from the mid-nineteenth century up to the Mandate period were based on land tenancy of the sharecropping type, and even though the produce was mostly earmarked for sale, it took a long time before the sellers had cash in hand. From the time of the expansion of a monetary economy, and mainly from the time of the Mandate, other

arrangements were developed to promote the liquidity of real estate and to shorten various procedures. The position of land tenant (*sharik* or "partner"), who provided the working force while the original owner provided the means of production (land and tools), gradually changed; with the land serving as a pledge for an agreed-upon amount, the *sharik* became the independent cultivator of the land. The original owner could evict him only on condition that his money was returned. During the 1920's and 1930's, especially in years of drought when the Bedouin livestock economy suffered, the number of arrangements based on *sanad er-rahn* multiplied. A survey of these mortgage documents that remained in the possession of the tribal elders indicates that those who paid the mortgages to the Bedouin were for the most part effendis from Gaza, and that they sub-leased land to fellahin, who continued to arrive from Egypt via the Gaza Strip. As it was disadvantageous to mortgage land without these documents and bills of sale, the scope of such operations decreased over the years. The following is a case history from 1944, which demonstrates how necessary and popular these papers were. The fact that it took place so late in time indicates how gradual the adoption of this bill was.

According to an eye-witness named Id el Majnun, a dispute between a buyer and a seller of land, both from the Qdeirat tribe, was brought before a *majlis el 'asha'ir* in Beersheba. The seller denied the fact that he had sold the land, claiming that he had leased it for a three-year period, while the buyer sought to prove that he had in fact purchased the area in question. The latter had no *sanad*, and based his claim upon the seller's "word of honour." The problem had arisen when the seller came to the buyer's house, demanding that he take back the *rahn* and vacate the premises. The problem was insoluble, due to the absence of documents and witnesses. The judges' ruled that if the first party had intended to sell the land, then the second party (the buyer) would not have settled for a word of honour, in a period

when the *sanak* was already a common institution, and that he would have at least attempted to add a measure of validity to the transaction by executing it in the presence of witnesses. Nevertheless, because of the existing doubt, the court compelled the first party to submit to a *helfet yamin wod-din eb-khamsa* (solemn oath, with a verdict rendered by five judges),⁵⁵ to the effect that he had leased the land and not sold it. Once the first party took the oath, he was allowed to return the *rahn* to the leaseholder and get his land back. The fact that the judges resorted to this type of oath, which is ordinarily used to resolve disputes involving women or money—but not land—attests to their feeling that the case was deadlocked. If no written evidence can be produced, then the judges fall back on the tribal ethics. As a counterweight to the “word of honour” (that the second party claimed to have received from the first party), the oath was necessary, as it embodies a threat of divine retribution against the entire tribe if the person taking the oath should swear falsely. The tribal agnates, who are charged with exacting revenge if one of their members should be murdered, also bear responsibility for the others’ fate at the hands of Heaven, in disputes over land ownership.

The involvement of the Gazan merchants in land transactions found expression in various ways. There were some who prolonged their status as landholders before turning the land over to fellahin. As a rule, this was an expression of faith in the ability of the Bedouin client immersed in debt to pay back his loans and to reimburse the merchants for goods bought on credit. One of the foremost proponents of long-term credit during the 1920’s was Abu Zkek, a spice (*atar*) merchant from Gaza who transferred his business dealings to Beersheba and as far as the Tel al-Milh district, where he built a *bayka* (type of adobe used for storage, widespread in the northern Sinai and the Negev) as a family residence and a warehouse for his merchandise. Perched upon a donkey that roamed in and out of tent sites, he sold on credit and amassed lands as pledges. The

mortgage system in his day was called *rahn ’adi* (ordinary mortgage), and the time for paying the debt was unlimited. One of the clauses of the *sanad* prohibited charging interest, in accordance with the Koran. However, the force of the *shariyya* dictates weakened in the 1930’s, with a surge in the need for credit, and the mortgage documents were rapidly institutionalized.⁵⁶ They stressed that the holder had no rights to the land, and on the other hand that the landowner had no right to set foot on the land without first taking the *sanad* back from the tenant (after refunding the deposit), as evidence against other claimants or owners. Gradually, once it became apparent that the *rahn* arrangement granted the mortgagor enormous influence, and that this led to problems, the practice was modified in favour of the mortgagee, and two different types of *rahn* came into existence. The first allots an unlimited amount of time to repay the mortgage, and adds that *el ard bdun ro’ wal masari bdun fa’id* (“the land is without some of its produce, and the money is without interest”). The second type, *sanad el wafa*, limits the time for mortgage payment, and states that “if the money is not repaid by the end of the fourth year [this is a typical example, but the number of years may vary], then the *sanad* for leasing becomes a *sanad* for a sale.” Thus whoever is in possession of the *sanad* automatically assumes the status of owner of the plot he had been leasing. Arrangements of the latter type multiplied during the 1930’s, always favouring the mortgagees (who were the Gazan merchants), and they attest to a crisis in the livestock economy. The Bedouin claimed that those who suffered most from the economic deterioration were being exploited, and by way of protest they brought the matter before a *majlis el ’asha’ir*, in consultation with administration officials. A new procedure grew out of these deliberations: it was decided that regardless of the circumstances the landowner would receive only a portion of the land—for example, a third or a quarter—as an absolute owner, and not the entire land.

At the end of the 1930's the livestock economy improved somewhat, and the Bedouin regained strength. This development was largely due to the preparations made by the British for World War II, entailing increased investment in the construction of bases and roads in the Negev. Some of the investment capital wound up in Bedouin hands, and was used to help rehabilitate the flocks and back up claims for mortgaged lands. The sheikhs continued to protest to the British about exploitation of the Bedouin landowners, and after the outbreak of World War II, the administration, being solicitous of the loyalty of the tribes, responded by nullifying the practice of transferring ownership to the mortgagee, and for a while returned to the *rahn'adi*. From the 1940's, when the Bedouin landowner came to recognize his own strength, and when growing immigration of fellahin from Egypt led to an increased demand for arable fields, a new type of *sanad* was formulated, and the price of the *rahn* was raised. This represented a sort of compromise, and the Bedouin who had leased out land and who had come to appreciate the value of cultivation developed new methods of regaining their land after repaying their debts.

On the other hand, the strengthening of the Bedouin side prompted the mortgagees to demand that the signature of a sheikh be added to the fingerprint of the mortgagor. From the anthropological viewpoint, the intra-tribal relations in the 1920's and 1930's thus became most complex. In the course of one or two generations, the privatization of *dira* land received de facto legitimization, which the sheikhs—who by nature of their title headed the biggest families with the largest lineage in their tribe—were the first to exploit. From the 1940's, their signature was required to finalize deals between members of their tribe seeking to privatize *dira* land and to mortgage it. This development can be seen as expressing de jure recognition of the process through which the tribe was divesting itself of its common grazing land. With the breaking apart of the tribal territory, each member adapted himself to a new capitalistic,

individualistic existence. The fact that the sheikhs were granted the authority to validate deals by affixing their signature would seem to indicate that the tribal structure was alive and well, whereas the opposite was true, and the demise of the traditional framework was accelerated by court orders and administrative policy. The agnatic ties of the tribesmen were not, of course, entirely a function of common ownership of property or administrative orders. They continue to exist for other anthropological reasons, structural in nature,⁵⁷ and not just for defence of a *dira*. Where common possession of grazing territory no longer exists, where the mere term *dira* has long been forgotten, and where the living conditions reinforce individualism, we still find the patrilineage readjusting itself and growing. The joint ownership of the property may, in retrospect, appear to be simply a test of the agnates' loyalty.

It is noteworthy that up to the present day, each agnate within the *khamisa* has the right to veto a *sanad* for the sale or mortgage of land, even retroactively, and to demand that the property be returned to him. Although in terms of size the *khamisa* is smaller than the tribe, it is the nucleus of the agnatic organization, and it has arrested the disintegration of tribal unity. That is, even Bedouin whose concerns in tribal affairs are limited are ceaselessly involved in their agnates' affairs. The right of a *khamisa* member to first choice over a plot that his relatives are thinking of selling is called *badaya*,⁵⁸ i.e. "priority" or "I am the one preferred." This concept is also referred to as *et-tabdi*. When a fellah bought land from Bedouin owners he, or someone making the purchase in his name, asked to be given an agreement by all those entitled to "priority" (brothers and first, second or third cousins, with their offspring), to make sure that they would not protest against the sale. The buyer aimed at forestalling not only a potential veto, but also possible claims of partnership after he had enhanced the value of the land. Norms pertaining to joint ownership placed obstacles in the way of transactions and reduced the

liquidity of landed property, as it was not uncommon for the agnates to keep each other in check and to thwart deals. This phenomenon was most widespread when the Bedouin were embroiled in intestinal strife, especially when the economic situation was relatively good and there was no threat of hunger.

One famous case in which the *badaya* was exercised took place within the el A'asem tribe during the 1930's. Jadu' el A'asem (henceforth: Side A), the son of a sheikh who had been designated as his father's successor, became entangled in financial difficulties and offered part of the grazing land belonging to their lineage for sale, despite the fact that his father had yet to bequeath his property to inheritors, and had not authorized the younger man to implement such transactions. The buyer (Side B) was a Gazan merchant named El Batar who was living in Beersheba. Side B demanded that the sheikh's signature be added to the *sanad*, and Side A, aware of his father's opposition to such deals, stole the sheikh's seal, with which he affixed his father's stamp to the document. Some time passed before Side B acted upon his rights to the land, upon which the deal became known. Side B did not cultivate the land himself, but rather sold it to a fellah named abu Mahfudh (Side C), who had recently immigrated from Egypt, and by the time the latter turned up on the land, intending to cultivate it, Side A had become a sheikh, alongside his aged and weary father. The problem surfaced when the youngest of the Jadu' brothers, Hasan, asked that the arable lands belonging to all the male members of the family be divided among the brothers at once, while their father, who favoured such an apportionment, was still alive.

Hasan turned to the *majlis el 'asha'ir* in Beersheba, demanding his portion of the land to which his father held title, in accordance with the *badaya*. The court, being manned by sheikhs, rejected this plea, which challenged their right to handle real estate as they pleased. Because the tribal tribunal did not recognize his claim, Hasan was entitled to appeal to the Supreme Court in Jerusalem—which he did.

Here he sued Side A, his brother, for acting without the consent of his lineage, and Side B for not verifying that such approval had indeed been granted, in accordance with Bedouin custom. Taking into consideration the spirit of the law, the Supreme Court was convinced that Side A had sold the land under false pretences, and that Side B had not made the purchase in good faith, as he failed to ascertain whether the other men enjoying a share of the land (which in the court's view gave them "priority rights" too) had considered the transaction to be legitimate. Consequently, the court ruled in favour of Hasan and his brothers, ordering that the land be returned to them. The defendants were obligated to compensate side C, who had purchased the plot in good faith.

The scope of land mortgaging in the Negev has dwindled ever since the establishment of the State of Israel, but vestiges of such arrangements from the 1920's and 1930's exist to this day and illustrate another facet of the "agnatic principle": impingement upon the legality of land transactions in the Negev. A significant amount of leased land has remained in the hands of the leaseholders, since the owners never bothered or managed to redeem them up to the passage of the Land Acquisition in the Negev Law of 1980. One such case is that of a fellah named el Kutnani, a protégé of one of the Zullam tribes, who held land in accordance with a *sanad rahn* given to him by the landowner, a Bedouin named az-Zalem (Side A). Side A may have had the means by which to return the mortgage payment, but he lacked the agnate backing needed to compel el Kutnani (Side B) to take his money back and move out. In other words, since power was a function of the number of agnates, and the el Kutnani clan became larger than that of az-Zalem, the status quo was perpetuated. Exhaustive scrutiny leads us to the conclusion that in nearly all cases, the leaser belongs to a larger and more powerful agnate group than does the leaseholder. A reversal in the relative size of the groups as a result of disparate rates of childbearing, disease, internal warfare, etc., tips the balance of power in the opposite

direction. Land ownership remained in the hands of the strong, as per the ancient tribal norm, and any appeal to the *ahel ed-diyar* or *majlis el 'asha'ir* proved futile. Only the state law allowing an individual to negotiate with an institution or organization helped to return the issue to legal instances.

This disputed plot happened to be in the area of Tell al-Milh and was about to be expropriated in exchange for suitable financial compensation. Party A issued an order nisi against the "Implementation Authority," barring it from making payment to Side B. This complex affair has yet to be resolved. Israel's Land Administration avoided involvement and left the parties to reach a solution on their own.

Continuation of Land Tenancy

The ties between the Bedouin and the fellahin had a clear economic dimension, while the socio-political dimension was less apparent. The continuation of land tenancy despite developments in leasing arrangements sheds light on the latter aspect of their relations. The Negev Bedouin did not refer to a man who received land for cultivation in exchange for a part of his crop as a "land tenant" or a "leaseholder" (*muzare' mistajer* or *mistajer* for short), but rather as a "partner" (*sharik*). Unlike the procedures for selling and mortgaging, ties with the *sharik* were established directly (without middlemen) and orally without documents). A man finds his master (*hababoh*), and on a personal basis, hinging on loyalty, he pitches his tent beside his master's, joins the circle of the latter's house guests, and accepts responsibility for cultivating his plot, assisting in the service of the members of the household, and fighting alongside them in times of battle. The agnate circle, although based on a blood relationship on the father's side, has always admitted outsiders into its ranks, especially in times of inter-tribal confrontation, when there is a strong desire to grow in number.

The stories about the land tenants stress that, unlike the mortgagees and the land buyers who arrived as family units or small groups, they arrived alone, and that their

loneliness and weakness earned the pity of the sheikhs. In the past, the role of the person "annexed" to the sheikh's service was reduced to attending to the needs of those who frequented the sheikh's *shig* (parlor for males); he would tend the fire, prepare coffee, serve, and perform other menial tasks. From the time of sedentarization and the expansion of agriculture (i.e. at the turn of the century) these "annexed" workers (*lumuma*) also began to engage in the farm work. This partnership was limited to a single agricultural season from the time of ploughing and sowing (November) until the month for threshing (July). In the event that the yield was successful, and there was produce for the sheikh and his partner, the venture was repeated the following year. However, it was the *sharik's* loyalty to his master, and not the results of the farming endeavours, that decided the fate of the partnership. This relationship, in which the worker was never granted rights to the land, was nevertheless considered fair because of another principle it embodied: service in exchange for auspices and protection.

When the State of Israel adopted a similar practice with regard to the *jiftlik* areas (real estate owned by the sultan),⁵⁹ which it leased to the Bedouin Abu Rabi'a tribe in the vicinity of Tel Arad, the Bedouin accepted this as a natural arrangement, one that was essentially similar to those that had evolved between them and the "annexed" fellahin workers. The "patronage" arrangements, which invariably linked a weak party with a strong one, are not easily reconciled with the concept of civil rights, and with an individualistic world view, but they do fit in with the tribal ethos. During the 1950's, the state authorities in charge of projects in the Negev spoke in terms of the "tribes," but at the same time, other Government departments addressed the Bedouin as private citizens, and this was a source of semantic confusion. Gradually, the Bedouin also adjusted to being addressed directly. While some arrangements were taken care of by the sheikh, in the framework of the tribe, the tribesmen were also developing a personal reliance upon

Government offices and the courts. During the 1970's and 1980's, land tenancy disappeared almost completely, both on a socio-political plane and as a factor in the organization of agricultural work.

Although the phenomenon of land tenancy—which had been so prevalent even during the early years of the state—faded, vestiges of it are present to this day. For example, in early 1982, the daughter of a former tenant of the Abu Rabi'a tribe was kidnapped. Even though the man was no longer a *sharik*, his former master, who had for many years provided him with land, approached him and offered his help. The Bedouin considered it to be a moral obligation to aid someone who had been under his protection, and when he arrived at his former *sharik*'s house he began by saying, "*Ana Kebirak...*" ("I your leader")—a phrase that they had once used regularly.

The fact that the Abu Rabi'a tribe still preserves its custom of granting its auspices to individuals affords them with certain place of honor in the Bedouin community. The partnership common in the past was called *sharik fin-nus* (partner of half), implying an even division of the crops. Under this arrangement, the landowner also supplied the seeds and work tools, i.e. a camel; a one-bladed plough (*fard*); donkeys for moving the sheaves (*ghmer*) to the stacks (*halla*), and afterwards to the threshing floor (*jurun*); a hayfork (*dugran*) for turning over the layers in the threshing floor and for sowing; containers (usually cauldrons and sacks) for the produce, etc. During the 1950's, the Bedouin modernized their equipment, and since then the landowner has provided a tractor, disk plough, and of late also a combine. The partner and his family have invested their labour. At the beginning of the twentieth century, in the past, most of the "partners" were recent arrivals from Egypt via the Sinai Desert, who had not brought seeds and work tools with them. Later on, peasants arrived better equipped and thus less dependent on their patrons, which enabled them to increase their share of the crop.

A second type of tenancy is referred to as *esh-shirk fi thilth* (the third partner), in which the partner from the outside receives a high percentage of the crops—around two-thirds, for example—and the owner the remainder. In such cases, the *sharik* pays for all the production expenses—tools, seeds, etc., and all the work is his responsibility: from the ploughing and sowing until the harvesting, threshing, cleaning and winnowing, as well as guarding the field. In both types of partnership, it was customary for the landowner to have the final say as to the times for sowing and harvesting, while the outside partner determined the types of crops.

The mechanization of harvesting worked against the owners. According to the conventions of land tenancy, upon the completion of the threshing four products were sorted for division. The kernels (*hab*) and straw (*tiben*) were divided in accordance with an agreed-upon percentage, while the landowner had the exclusive rights to the leafy stalks (*gasal*), the stem internodes and the roots (*'uqda*). It was also agreed that the leafy stalks would be given as a reward to the animal that ploughed the field; the lower stem internodes and the roots were given to the land tenant's wife, who used them for baking bread. The Bedouin claim that the fire produced by burning the stems was the most suitable kind for baking. Naturally the harvest, even if performed manually, does not leave any *'uqda* (produce left behind), and when a harvest is executed by a combine whose blades are elevated to avoid hitting stones, the *gasal* are shortened. The Zalem and 'Azazma tribes, which have lived in the Negev Highland, still pull off ears of corn by hand, without the use of sickles, in order to make use of as much of the crop as possible.

Following the threshing (*dars*), the seeds are piled up. The landowner sets aside, at the top of the pile (*saliba*), whatever seeds will be necessary for the following year's sowing. Then a stone marker is placed at the top of the remaining pile, to ward off mutual jealousy and the possibility of one of the partners putting an "evil eye" on the others when it comes time for the division. Two different

manners of division were acceptable:

a) The outside "partner" approached the landowner and invited him to divide the produce, with these words: "*Bidna nigsem el baraka*" ("let us share the blessing"). Both parties departed for the threshing floor, accompanied by members of their families, and carried out the division (*tagsim*) with the aid of a *sa'* (a large wooden bowl). As soon as the first bowl was filled, they declared: "*hadha sa'el khalil khalil*" (this is the bowl of [our forefather Abraham] el-khalil); the produce from this bowl was set aside for the first person who passed by and noticed it (a custom resembling the Biblical commandment to leave for the poor any crops that are forgotten or that are on the edge of the field). The division ended with the building of three piles, two of which belonged to the landowner and one to the outside partner.

b) In the second manner of division, the outside partner set up the piles by himself and invited the landowner to take part in a lottery (*kar'a*). The partners selected three objects, such as a log, stone and piece of cloth, and decided which item was to represent each side. Then they called a third party, handed him the objects, and asked him to lay them on the piles of produce. In order to allay various suspicions on the part of the landowner, such as the possibility that the outside partner might have pilfered some of the produce from the piles prior to the lottery, trenches were ploughed up around the piles, so that if anyone approached it stealthily in the dark, his footprints would be discovered in the morning.

The division of stubble took place in a different fashion. Usually, both partners were to receive 50%. The grain of the landowner was transferred to his grain silo (*matamir*), and his stubble to his fodder silo (*kimer*). A concentration of grain silos belonging to different landowners or relatives was called a *mantara* (watchman's reserve), a name derived from the word *natar* (watchman of grain and fodder). The *natar* was a man from the outside, because it was below the dignity of the Bedouin to perform guard duty. Bedouin who did not employ a *natar* gathered

their produce in a *majorna* (reserve). When a partnership continued for a number of years, the landowner tended to forfeit the right to be present during the division, which meant that no division ceremony took place. The land tenant simply transferred his portion directly to the *mantara*. All of these arrangements, which took shape during two or three generations of working relations between Bedouin and immigrant fellahin, came to an end with the introduction of the combine. Whenever the Bedouin summoned combines for the harvesting, the fellahin were hastily dropped.

Changes in Demarcation of Private Plots

In the Negev areas where the demand for plots was greatest, and where cultivation of farm lands became institutionalized, the methods of demarcating boundaries grew more sophisticated. Stone piles were no longer sufficient, for three reasons. 1) Very large piles located on salient features of the terrain denoted the boundaries between tribes and not between private individuals. 2) If sufficiently large, they suited the demarcation of entire areas, and not plots, where precise measurements were needed. 3) If small, they could be moved at night, with no one being the wiser. In the desert environment, the means of demarcation were determined by the nature of the land's surface and of the cultivation performed there. For example, if the planting of orchards had yet to be begun, boundaries were not set by means of trees or stalks, the burying of the bulbs of squills (*el basul*), which blossom in the autumn, just prior to the ploughing season that prepares the fields for the winter yield, and in a few places the planting of the Arab thorn-bush (*el 'usaj*), which can be transplanted, were used as demarcations of plots in the northern Negev. In the northern Beersheba Valley, near the hilly region, the small stone fence made its appearance as a boundary, meaning that the stones cleared away to make the land arable were used to good advantage. In the hilly part of the Negev the demarcation

followed the outlines of ancient agriculture, and in a few areas in the shadows of the hills, the sign of the agnate group (*wasim*) was engraved onto a rock at the side of the arable land.

Another type of demarcation, which evolved in the Beersheba Valley, is the concealed variety. Stones called *el hafa'idh* (the buried) were buried around half a meter deep in the earth. Burnt stones (*ahjar madugat*), i.e. stones charred in a portable stove, were used for this purpose, and at least three of these were needed to demarcate any boundary line. Witnesses were present during the procedure, so that if a controversy over the boundaries should break out at some future date, they could testify to the location of the stones. This form of demarcation was especially common when the land was bare of stones that could be used for fences, and when the buyer entertained doubts as to the integrity of the sellers. The act of burying the stones was therefore usually one-sided, i.e. it was not publicized unless this proved necessary.

Yet another type was the digging or ploughing of a deep furrow, as a result of which a long, low mound called as *maksar* was created. Initially the measurements were made by counting off steps, and gradually the use of a rope became more popular. The latter method, used especially in the northern Negev during the 1920's and 1930's, was evidently the source of the name for the booklet in which the Bedouin lands were recorded (*daftar hbal*, the book of ropes), which served as the basis for collecting "tithes" on the field crops during the British Mandate period. From the 1950's, the demarcation of plots became more diverse. The new methods included the planting of trees (even a few) and olive groves and the construction of dams (*sdat*) or terraces (*akwam*). Permanent domiciles are today used to mark boundaries, but those who resort to this method can be charged with trespassing in accordance with the Ottoman Land Law of 1858, in its Israeli interpretation, and also with violating the Planning and Construction Law of 1958. Thus the Bedouin's willingness to completely

privatize the land on which they resided, and their ability to demarcate the private plots, reached fruition only after the State of Israel was established, and began to encroach upon their territory.

When Farming is No Longer an Embarrassment

As noted above, the spread of agriculture to the Negev was aided by the Egyptian fellahin. An investigation of the Masarwa family shows that they brought with them the knowledge of cultivating the land, that they were willing to adopt their experience with irrigation farming in the Nile Valley to the conditions of dry farming and that they were not deterred by the risk of natural disasters and the scorn of the Bedouin society that absorbed them. There is almost no documentation of their eastward migration from Egypt, or their destination points in Israel, but at present there is much evidence of other sorts about these developments, and about the influence that their presence had.

The historical processes can be reconstructed through conversations with the elders of the Masarwa family, who recall their genealogy and stories told by their fathers from the time of their arrival in the Negev. Similarly, the Bedouin elders still remember their encounter with the newcomers, and the initial symbiotic relations that developed between the two groups. The answers to our questions about the reasons behind the Bedouin's transition to agriculture confirm that the migrants from Egypt exerted a marked influence. Thus the acculturation operated in both directions. The Egyptians, villagers who had lived in adobe huts, adjusted to the lifestyle of the tribes, which entailed living in tents and sustaining themselves on a limited livestock economy alongside their labour production from dry farming. The local residents gradually adopted the newcomers' productive, thrifty approach toward working the land, alongside their continued occupation with livestock. Hence it is reasonable to suppose that in the places inhabited by the fellahin at an early

stage, the Bedouin attempts at agriculture also took place at an early stage. We tested this hypothesis, but were unable to confirm it.

The pattern of fellahin settlement attests to their preference for areas in the coastal plain. The initial waves of immigrants travelled northward.⁶¹ Those who followed in their footsteps flocked to uninhabited areas, or places where working hands were needed, in both the north and the south. Thus the settlers in the south were the last to arrive.

The limited agricultural resources of the Negev did not induce the fellahin to return to their mother country in order to seek food and provisions. Apparently they had lived under wretched conditions in Egypt, so that the hardships they encountered in the Negev were less severe than those they had experienced in the past. They did not spread much further south than the Beersheba Valley, nor did they reach the Negev Highland and the Arava—the *dira* lands of the 'Azazma and Sa'idiyin tribes. Hence it is a reasonable assumption that agriculture was late to arrive in these areas, but we were surprised to learn that this was not the case; in fact, members of these tribes used camels for ploughing at an early stage, while in the Beersheba Valley the fellahin still did the ploughing for the Bedouin. This paradoxical situation can be explained on the basis of various pieces of information that we have touched upon up to this point.

Apart from acculturation, four factors contributed to the independent attempts that the Bedouin made in the realm of agriculture: 1) loss of traditional involvement with the state administration and stricter handling of their affairs by a superior state apparatus that at the same time restricted their wandering; 2) a desire to establish ownership claims to plots of land by means of farming—a phenomenon that gained momentum with the penetration of the Ottoman administration into the southern expanses; 3) the investment capital that found its way into their hands, which could effectively be used for little other than agriculture; 4) modernization of the machinery, which

enhanced the image of agriculture, increased productivity and the chances of making a living—at least during years with a high rainfall. However, these factors had only a limited effect on the 'Azazma tribe of the last decades of the nineteenth century. As a rule, the Ottomans did not intervene in their affairs, not wishing to get involved in the issue of determining the ownership of lands in the south. Furthermore, they did not try to conscript the 'Azazma into the army or to enlist them into the service of the Empire. Not even the Gazan merchants travelled as far south as 'Azazma territory, and the volume of livestock trade there was much smaller than in the north. Finally, farm machinery did not appear in the Negev hills until the late 1950's, and even then the camel continued to be used for ploughing.

'Azazma elders, residents of the Negev Highland, testify to the fact that the development of agricultural cultivation got under way at the turn of the century. Accounts given by travellers at the end of the nineteenth century are consistent in their portrayal of the inhabitants of the Azazimat district, the 'Azazma, as poor and wild tribesmen who engaged primarily in raising livestock and in robbery.⁶² At first agriculture consisted of growing barley, and this was limited to plots in wadis. Moreover, unlike the situation in the Beersheba Valley, in the Negev hills the vestiges of ancient farming are utilized in the demarcation of private property. Another difference between north and south is that the slopes of the Negev Highland remained tribal grazing land. Ancient reservoirs, in the south as well as the north, became the private property of families as far back as the 1930's. This was due to the remoteness of the area, the sparseness of its population, and certain constraints of the period against peregrination northward. The 'Azazma's attempts to break out of the highland toward the Beersheba Valley were blocked by their neighbours, the Trabin,⁶³ who compelled them to remain in this barren territory and to make the best of whatever they found there for their livelihood.

Conclusion

The spread of agriculture into the arid Negev from the turn of the century marks a shift in the relative proportions of sown areas and wilderness. After twelve hundred years, the region of Negev villages to the north of the Negev was no longer open on all sides to flocks, and the trend of the nomadic shepherds from the south and east to draw nearer to the settled areas was halted. The change began with the Ottoman regime's increased involvement in the Negev, which was stimulated by a desire to draw nearer to Egypt and the Suez Canal. In contrast to ancient regimes whose policy was to subsidize and sustain an agricultural civilization in the desert for its own sake, the southern movement of farming was now an economic by-product of an overall regional and international strategy.

Some of the capital invested by the Ottomans and their allies, as well as by the British, found its way into the hands of the Bedouin tribes, thus encouraging the entrance of additional tribes into the Negev. In parallel, the strong hand taken by the authorities in putting an end to the tribal wars, which had greatly damaged the villages, generated a sense of confidence in local investments, and induced other investors, mainly Gazan merchants, to channel money into real estate in the Negev.

Ottoman troops managed to regain a hold in the Negev without the aid of traditional allies such as the Bedouin tribes. Furthermore, they were powerful enough to enforce discipline and order among the tribes. Deprived of the benefits of extortion and administrative perquisites, the Bedouin had to strive to make their lands more productive.

Since no professional tradition or independent capital existed in the Negev, agriculture there was shaped by outside circles. Thus from the outset barley and other cash crops were given preference over crops for local consumption. Wheat and the summer crop durra, designed primarily for local consumption, had only a secondary status. This development was brought about

The tribes that made their way to the Negev from the south and the east aspired to continue northward, toward the rainier areas of the coastal plain, or westward in the direction of the Egyptian delta. However, combat prowess was needed to fulfill this aspiration, and only the strongest of the tribes managed to achieve this goal. The distribution of the tribes in the Negev from the turn of the century reflects their stratification, with the larger and stronger of them being located near the settled areas in the north, and the smaller and weaker being dispersed toward the south.⁶⁴ Accelerated urbanization, alienation from the land and migration away from the steppes in most countries of the Middle East have been avoided due to the policy of Israeli authorities—first the Military Administration (1949-1966), then the courts and the Green Patrol (established in 1976), which thwart the Bedouin attempts at unauthorized construction or orchard planting on state lands. Housing construction in a Bedouin township became the safest avenue for investment. The growth of a market for desert lands in Israel has been averted thus far.⁶⁵

The link between status and location—with the northern tribes being superior to those from the south within the Negev Bedouin community—tended to overshadow the traditional hierarchy of this society, which was based on a clear preference for livestock, especially camels, over agriculture. The sparseness of the population in the north, and the absence of fellahin land tenants or leaseholders there, also meant that there were few people present to witness and confirm the humiliation of the Bedouin shepherd who suddenly go up and hitched his camel to a plough. The fact that the tribes travelling through the Negev for around twelve hundred years had always had an option of engaging in auxiliary farming alongside the raising of livestock,⁶⁶ but did not capitalize upon it until the beginning of the twentieth century, can also be explained by cultural traditionalism, which required such a protracted period to break free of.

mainly by the Egyptian fellahin, and to a smaller extent by the fellahin from the Hebron Highland, as these people had agricultural knowledge and performed the work themselves.

The drop in the price of livestock, especially camels, which began during the British Mandate period, reduced the Bedouin's income from this traditional source and forced them to seek alternative sources of livelihood, including agriculture. Since nomadism lost its effectiveness as a means of political adaptation, the main barrier in the way of sedentarization was removed. This too favoured agriculture. The burden of taxes paid to the authorities, along with changes in commerce that accompanied sedentarization and a taste for new market products, accelerated the transition to a monetary economy. The craving for cash, coupled with a reluctance on the part of the Bedouin to devote themselves to farming, created conditions conducive to the mortgaging and sale of land. On the other hand, the Bedouin's unwillingness to lose their lands led to the spread of land tenancy, which entailed payment for the auspices of the heads of the tribes and the right to a portion of the yield. Once the state provided protection to its fellahin citizens, their need for the protection of the sheikhs was reduced, as was the phenomenon of land tenancy.

Since from the outset dry farming in the Negev centered around winter crops (mostly cereals), which were badly hurt by the frequent droughts, agriculture did not become the main source of livelihood for the residents there. It was, and has remained, an auxiliary branch, alongside livestock, trading and whatever other means of earning a livelihood that presented themselves in this area during the modern period. The initial investments in permanent installation, such as water reservoirs, characterize a relatively advanced stage in the sedentarization process. The main efforts in this regard were directed toward the rehabilitation of ancient reservoirs, an endeavour aided by experts from villages in the Hebron Highland. Unlike the agricultural civilizations in the Negev

prior to the Arab conquest, the Bedouin not dig wells or quarry cisterns—at least until recent decades.

After occupying and settling in lands the desert frontiers of Judea,⁶⁷ the Bedouin were apt to maintain their tribal unity, so that territorial disputes between them were avoided. Out of this situation, which persisted for generations in Middle Eastern districts where similar conditions prevailed, the *qusha* *musha'* system evolved in the Negev. With the penetration of agriculture into deep-desert territories, the trend toward private ownership of plots emerged, along with an inevitable gnawing of *dira* land. The fact that the ploughers were foreigners, while the tribesmen themselves all had an ostensible equal interest in raising livestock, facilitated the circumvention of tribal norms and a reliance upon the full-fledged *musha'* system. Initially, plots at the bottom of wadis were privatized, while the slopes were reserved for common grazing. The growing interest in concentrating run-off water, accompanied by a growing awareness of the logic behind the ancient agricultural installations, eventually led to the privatization of plots on the slopes. The concept of capitalistic stratification was thus reconciled with a concept of agnatic stratification. The two could easily overlap, especially once there was a great demand by immigrant fellahin for land, and the profits could be split by many parties. At the same time, the spirit of the tribe did not cease to exert a strong influence, and it was the guiding force in strictly socio-political matters that were detached from property issues. In the light of this process, we suggest viewing the sources of the *musha'* as sheerly endogenous (not imposed by external authorities for tax collection purposes) and political (not economic, as in a search for profits).

During the earliest phase of land transactions in the Negev, the Bedouin evaluated land in different ways. By rewarding allies with gifts of land, they revealed that political alignments were still of supreme importance to them. This act, initially considered a generous gesture, came

to be viewed as a folly. The change in their attitude toward the land occurred within a relatively short period.

The central authorities of Palestine during the past hundred years have striven to promote the institution of private property, being concerned with the stability of the Bedouin population, especially for tax purposes. On the other hand, the government was not interested in dismantling the tribal framework. On the contrary, cooptation was practiced to facilitate the efforts to control the Bedouin. The regime, therefore, reinforced the agnatic hierarchy by allocating financial means to sheikhs. In the later stages of privatization, government supervision prevented the elite groups from taking over most of the *dira* lands, a development which could have led to disputes between the sheikhs and their rank-and-file.

In a departure from the policy set by the Ottoman and British regimes, the State of Israel has not encouraged the trend toward private ownership of land among the Bedouin, and recognizes such ownership only in the event that the Bedouin tribes are prepared to forfeit the land. Under such circumstances the government is usually willing to compensate the owners, by aiding in the construction of houses in urban neighbourhoods. The fellahin, who have been deprived of land ownership rights, are prone to consent to this sort of arrangement, and are the first to relocate in towns. The Bedouin—who refused to register land as private property until the end of the Mandate period, and who awoke to the need to do so only when they sensed the momentum of the development of the Negev and its potential for enhancing the value of their land—were forced by administrative orders to hurriedly register their land whenever it was earmarked for public or military uses.

In rural districts of the Middle East, villages are abandoned as men seek livelihood outside agriculture and leave their fields to be tilled by more prosperous neighbours.⁶⁸ Due to varying political and cultural preferences in Bedouin society, the powerful are those apt to own the *dira* and to vacate it in favour of

more lucrative pursuits among sedentary populations, leaving the deep-desert herding or farming to lesser family groups.⁶⁹ In many ways, these trends do not seem to recapitulate historical processes experienced in Europe.

One of the repercussions of Israeli policy and the Israel-Arab conflict over Eretz-Israel was that it prompted the Bedouin to establish claims to plots by planting agricultural crops, groves and orchards—even when such ventures were unprofitable — and by building installations and structures, even when these were superfluous in terms of earning a livelihood. The concept of nationhood crystallized alongside the already existing concept of tribe, but the latter ideal, in a deviation from the past, became independent of the *dira*, i.e. the common grazing land. The political nature of tribalism served to determine the internal hierarchy, while the national scheme dictated arrangements with external elements, i.e. the authorities, whenever land was involved. Deliberations in Israeli courts over land issues are not usually conducted in tribal frameworks. Instead, private litigants are represented by lawyers. In the public dispute over land, political and socio-ethnic arguments that supposedly represent the view of the entire tribal population become dominant.

Although the broad tribal framework plays less and less of a role in issues involving land, this is not the case with the group of agnates, which in its capacity as *khamsat ed dam* continues to play a role in the Bedouin economy. The traditional jurisdiction in questions of ownership and the right to enjoy the fruit of the land, rests on the agnates' commitment and loyalty up to the present day. The vestiges of tribalism present obstacles in the way of transactions; the liquidity of landed property is limited when the approval of the entire group of agnates is required for a land sale. The honour of the agnates' group is bound up with their tract of land, and a recent historical phenomenon is that they have begun to name themselves after it. Others still perceive the land as embodying their spirit, even in their absence.

Agnatic groups within each tribe are stratified on the basis of size, with the largest at the pinnacle, and this fact is reflected in the leasing of land. A survey of the conditions that applied in the contractual arrangements shows that the agnate group of the leaser is always larger than that of leaseholder. As a rule, the leaseholder is a single individual, an immigrant who had arrived on his own. Violation of the leasing agreement, and a refusal on the part of the leaseholder to evacuate the tract, are also resolved in accordance with the "laws" of group size. Being a leaseholder goes hand in hand with having a family with many sons and other male relatives, vis-à-vis the landowner whose agnates have distanced themselves from him.

Radical ecological changes have yet to alter essentially the tribal infrastructure of Bedouin society. Thus the culture associated with nomadic pastoralism is demonstrably quite separate from the political nature of tribalism, and it may call our attention to the prevalence of agnation in most of the Middle Eastern communities. However, the reduced size of the sedentary tribe as compared with its nomadic counterpart may attest to inability, or a lack of motivation, to retain the previous size of the tribal networks, so that the situation remains static.⁷⁰

Notes and References

- ¹ Barth, F 1961, *Nomads of South Persia; The Basseri Tribe of the Khamseh Confederacy*. Boston: Little, Brown and Co. henceforth: *Basseri*; Baer, G 1969, *Studies in the social History of Modern Egypt*. Chicago: the University of Chicago Press, henceforth: *Baer, Studies*; Lancaster, W 1981, *The Rwala Bedouin Today*. London: Cambridge University Press, henceforth: *Lancaster, Rwala*); Tapper, R (ed.) 1983, *The Conflict of Tribe and State in Iran and Afghanistan*. London: Croom Helm; Lewis, N 1987, *Nomads and Settlers in Syria and Jordan, 1800-1980*. Cambridge: Cambridge University Press.
- ² This point was already raised in the fourteenth century by A. Ibn Khaldun in, *The Mugaddimah— an Introduction to History*. New York: Princeton University Press, 1958.
- ³ For evidence of early patch agriculture by the Bedouin in wadis and on ancient terraces during the first decades of the twentieth century, see: Canaan, T 1928, "Die 'Azazime-Bedouinen und ihr Gebiet," *Zeitschrift des Deutschen Palestina-Vereins*, 51:89-118; Jaussen, A 1948, *Coutumes des Arabes au Pays de Moab*. Paris: Librairie D'Amérique et D'Orient Adrien-Maisonneuve.
- ⁴ Jaussen, p. 241.
- ⁵ With the resumption of the Sublime Porte's rule in Palestine after the Egyptian conquest (1831-1840), the administration endeavoured to deepen its supervision over the tracts of land at the threshold of the desert, in order to suppress the wars between the tribes and to encourage agriculture, while freeing the farmer from his commitment to *Multazim*-Sheikh; see: Maoz, M 1968, *Ottoman Reform in Syria and Palestine*. London & Cambridge: Cambridge University Press.
- ⁶ For more on the beginnings of the fellahin journey from Egypt to the Levant, see: Rustom, A 1936, *The Royal Archives of Egypt and the Egyptian Expedition to Syria 1931 to 1941*. Beirut, henceforth: *Archives*.
- ⁷ Especially Khan Yunes and its ancient fortress of Qal'a, whence the Bedouin name for the group "Qal'iya".
- ⁸ For example, the war between the Yata and Zullam tribes at the end of the nineteenth century; see: Al-'Aref, 'A 1934, *The History of Beersheba and its Tribes*. Jerusalem: Matb'at Bet el-Makdas (Arabic henceforth: Al-'Aref, *Beersheba*).
- ⁹ See, for example, Dr Yitzhak Levy's letter of 1903 to Dr T Herzl, specifically the part referring to the plan for settling the Negev, in Levontin, ZD 1924 *To the Land of Our Fathers*. Tel Aviv: Eitan and Shoshani; Hebrew). This plan was supposed to have been implemented with the aid of Sheikh Salam Ibn 'Aid Abu-Rabi'a, the leader of the Zullam tribe at the time. The sheikh met with Levy, who was then the director of the Jewish Colonization Association in Palestine, with the

aim of entering into a pact with the Zionist settlement enterprise against the Turks. In the words of this letter: "It will not prove difficult to acquire land in these areas. The Turkish Government has not carried out a cadastral survey of Bedouin territory, and no land ownership records are to be found. The sheikhs are hardly indebted to the Turkish regime, and they are the ones who give deeds of sale (*sanad*) to the buyers." Land ownership is in this way confirmed at a later time, mainly through claims based on the actual holding of the land. See: Braslavski, J 1947, *Know the Land of the Negev*. Tel Aviv (henceforth: Braslavski, *Know*).

10 *Ibid.*, pp. 51-52.

11 *Ibid.*, pp. 142-144.

12 Member of the Zullam tribe recall two middlemen in particular. Most of the purchases were initially made by Gazan merchants who resold at a profit to fellahin who had recently arrived from Egypt and northern Sinai. Among the purchasers were: the Nasasra, who bought around 8,000 dunams in al-Buhaira; the Al-'Amor, who acquired approximately 4,000 dunams in Tell al-Milh; and a man named 'Abed el Qader esh-Shtewi, who bought 700 dunams from the Shalaliyyin tribe in al-Buhaira and another 300 dunams in El Fur'a. In similar fashion, certain Bedouin sold territory belonging to other tribes to Jews. It is said that in the mid-1940's, one of the sheikhs who acted as a go-between in land transactions used to work at night, because representatives of the Supreme Arab council would roam around the area during the day, to make sure that no lands were being sold to Jews. Sheikhs acted as middlemen in the sale of lands that tribal federations claimed as *dira*, including seven plots in Tel Sa'ba sold to Jews, and other plots within Beersheba itself. Arab nationalists have tended to chastise descendants of those sheikhs, hence it would be imprudent to name them.

13 The Implementation Authority was the organization in charge of evacuating the airport area. This body was established by the 1980 law and was designed to coordinate the activities of all the relevant ministries: Defense, Finance, Agriculture, Housing and Justice.

14 Marx, E 1967, *Bedouin of the Negev*. Manchester: Manchester University Press (henceforth: Marx, *Bedouin*).

15 In the mid-1970's the Ministry of Justice conducted a campaign to record the Negev Bedouin's claims to their holdings. The "holding" right recognizes the Bedouin as "utilizers" of the land by dint of the time spent there, purchase or inheritance—but this is not equivalent to ownership. The territories are state lands. Any Bedouin who proved that he had been holding the land received written certification of his claim, and one can form a picture of Bedouin holdings in the Negev

by piecing these documents together. Bedouin who could produce official certification from the Government Land Registry belonged to a different category.

16 This is exemplified by the regulations on land usage, and the contractual agreement with Nir, a Histadrut company, which made it compulsory for leasing arrangements with a settler to be carried out through a third party. See: Greenberg, Y 1986, *The Concept of Hevrat Ha'Ovdim: from David Ben-Gurion to Pinhas Lavon*. Tel Aviv: Am Oved (Hebrew).

17 For the significance of the size of the agnatic group, see: Kressel, G M 1975, *Individuality vs. Tribality; Dynamics of a Bedouin Community Undergoing Urbanization*. Tel Aviv: Hakibbutz Hame'uhad. Hebrew; henceforth: Kressel, *Individuality*).

18 According to a Bedouin saying, "*Shatat el'Arab belfasad, wathani shatat el'Arab b'el mahal*" (The dispersion of the Bedouin is due to quarreling, and a second reason is drought); see: Bailey, C 1980, "The Negev in the Nineteenth Century: Reconstructing History from Bedouin Oral Traditions," *Asian and African Studies*, 14:35-80 (henceforth: Bailey, "Negev"); *idem.*, "Dating the Arrival of the Bedouin Tribes in Sinai and the Negev," *Journal of the Economic and Social History of the Orient*, 27 (1985):20-49.

19 West of the Negev, along the coastal plain until the Sharon, and back; east of the Negev, along the Ghor until the Bet She'an Valley, and back. Bedouin call the "magnetic" tribal centre to which they return after their short seasonal wanderings, and where they spend most of the year, *magam mgarar* (a definite or absolute place). The creation of the various centres coincided with the bitter fighting between tribes during the second half of the nineteenth century.

20 North of Beersheba, the first ownership demarcation for cultivated plots took the form of burying squill onions (*basula*) in the ground. See: Braslavski, *Know* (note 9, *supra*).

21 Even though a *milek* is a normative right, and not a right to ownership in accordance with Ottoman law, the Bedouin used this concept to express their right. For example, a common Bedouin saying that pointed out the degradation of the tenants was: "*Illi ma lo milek byikhra bkaffo*" (He who is not a landowner defecates in his palm).

22 According to Hasan Nassasra, in 1897 a black sergeant from the Kurnub police was killed when he attempted to mark the boundary between the Zullam and the Qdeirat. Fearing government's reaction, both sides hastened to mark the boundary, which is the one on the Turkish maps and later copied onto British maps.

23 Recently, with the establishment of Bedouin towns, the authorities have encountered refusals by residents to purchase lots expropriated from others, even if the owners were absent and the

- lots lay fallow.
- 24 Sheikh Hasan Salam Abu-Rabi'a recounted the manner of dividing lands among the conquerors, under the supervision of the authorities. During the Zullam-Yatta war, the Turkish Government expropriated the lands in dispute in the Tel Arad vicinity, and made them *jifflik* (lands owned by the sultan). In exchange, the Zullam received an area stretching from Wadi Rahwa southward, vid Dayika, until Wadi Fa'i (the Viper Rivulet). This territory was given as one entity to Sheikh Salam Abu 'Id, for all the Zullam, after being classified as *musha'* in order to forestall disputes in the future. The elders set up a *mujtama'* (tent site) in the heart of this territory, as testimony to their joint ownership of the land, and announced that any Zullam tribesman interested in a plot would have to pay for it, in accordance with the principle, 'illi yidfa' dirhem ya'khod mares (whoever has paid shall receive a portion). The sheikhs treated the money as if it belonged to them naturally, and the money that they amassed from the sale of these lands reinforced their superior status.
- 25 Weulersse, J 1946, *Paysans de Syrie et du Proche-Orient*. Paris: Gallimard (henceforth: Weulersse, *Paysans*); Baer, G 1972, *Introduction to the History of Agrarian Relations in the Middle East 1800-1970*. Tel Aviv: Hakibbutz Hame'uhad (Hebrew).
- 26 In Palestine's plains and valleys, which were more susceptible to penetration of Bedouin herds, and the outskirts of towns, which were especially attractive to the Bedouin sheikhs, the *musha* system was common, especially south of Hebron, in the vicinity of Jaffa and Ramla, and around Gaza. See: Abramovitch, Z and Y Gelfat 1944, *The Arab Economy in Eretz Israel and in the Middle East*. Tel Aviv: Hakibbutz HaMe'uhad (Hebrew).
- 27 *Ibid.*, p. 70; Baer, *Studies* (note 1, supra), pp. 3-16; Fernea, R 1970, *Sheikh and Effendi: Changing Patterns of Authority among the El Shabana of Southern Iraq*. Cambridge, Mass.: Harvard University Press.
- 28 For a survey of the destructive developments to agriculture resulting from full privatization of tribal lands by Agas (leaders of Turkish tribes of herders who became landlords), see: Yalman, N 1979, "On Land Disputes in Eastern Turkey", *Research in Economic Anthropology*, 2 :269-302.
- 29 Since the beginning of agriculture in Beesheba the dominant crop has been barley. In 1911 barley was exported from the port of Gaza — most of it bound for the beer industry in Scotland; see: Ben-Zvi, Y 1960, *Journeys on the Paths of Israel and its Neighbors — Routs and Diaries*. Jerusalem: Publications Institute (Hebrew; henceforth: *Journeys*). Local consumption of barley was limited (it was mainly used as fodder; farming in the Negev was geared to cash crops for export from the outset, which underscores the importance of foreign capital.
- 30 Weulersse, *Paysans* (note 25, supra).
- 31 Al 'Aref, *Beersheba* (note 8, supra).
- 32 For absentee land ownership, see: Warriner, D 1962, *Land Reform and Development in the Middle East: A Study of Egypt, Syria and Iraq*. London: Oxford University Press; idem, "Land Tenure in Egypt and the Fertile Crescent 1800-1950", in C Issawi (ed) 1966, *The Economic History of the Middle East*. Chicago: The University of Chicago Press (henceforth: Issawi, *Economic*); Baer, G 1962, *Fellah and Townsman in the Middle East: Studies in Social History*. London: Frank Cass; idem., "The Evolution of Private Land Ownership in Egypt and the Fertile Crescent," in Issawi, *Economic* (note 32, supra).
- 33 Barth, *Basseri* (note 1, supra), Ch. V.
- 34 Up to the early 1930's only in Beersheba proper were all the plots registered as private; see: *Beersheba* (note B, supra); the city was an extra-territorial entity within the tribal lands, and the population were mostly merchants and clerks, and permanent residents (not Bedouin).
- 35 The following case is known among the Negev Bedouin: Sheikh Salman el Huzayil married off one of his daughters to a member of the el-Asad tribe, during the British Mandate period. As a dowry, he gave her one hundred head of sheep. In 1980, around forty years after her marriage, she had a serious quarrel with her husband. A tribal trial was held, in which the woman's brothers appeared, and demanded that her flock be returned—i.e. the same proportion of sheep that she had brought into the marriage, relative to his sheep. The court had to determine after decades of unification between the two flocks how many of the family sheep she should get. It is customary to mark the wife's flock with a different sign from that of her husband's; the identifying mark (*wasam*) of her father's house is normally used.
- 36 In an example from the El-A'asam tribe the father died in 1965, but not until 1982, i.e. seventeen years later, did his sons divide the livestock. The land has yet to be apportioned. In the case of Ibrahim Abu Rabi'a who died in 1980, the inheritors have not divided either the land or the herds.
- 37 In fellahin societies in the north of Israel, disputes over the inheritance of each son ordinarily takes into account the large contribution to the land of the elder sons, whose invested labour enhanced the value of the land, relative to the younger sons who have yet to reach working age. In polygynous households the gap between older and younger sons could be as large as thirty-some years. See: Rosenfeld, H 1964, *They Were Fellahin*. Tel Aviv: Hakibbutz Hameuhad, pp.26-28 (Hebrew).
- 38 In land broken up by hillocks, rocks and rivulets, one could plough around 2 to 3 dunams a day by camel, and up to 150 dunams by tractor.
- 39 A rhymed saying frequently voiced when

confronting the *ahel ed-diyar* is: "*ard bila goz zai mara bala joz*" (a plot without a ridge above it is like a woman without a husband). Contrary to this there were admonishments to disregard the convexity of the terrain: "*God flattened the land (Allah basat al ard)* so that we can live on it undivided. The people argue over the land (*en-nas byikhtalafu 'al ard*) while forgetting that the land is Allah's.

- 40 During the later 1950's, through the intervention of the Vocational Education Division of the Histadrut (General Labor Union), young Bedouin were sent to *kibbutzim* for a training course on operating farm machinery. The trainees, mostly blacks, were selected in accordance with the preference of the heads of the tribes. For details on the standing of the blacks in the tent encampments, see: Marx, *Bedouin* (note 14, supra), p. 67.
- 41 An infrastructure of installations for collecting water, most of which consists of relics of ancient civilizations that ruled the desert wilderness, is scattered throughout the Negev; for more on the reservoirs on the slopes, see, for example: Moran, U and D Palmah 1985, *Reservoirs in the Negev Hills*. Midreshet Sde Boker: The Nature Preservation Society (Hebrew). Specially skilled workers, usually Qaisiyya fellahin from the southern Hebron Highland, were hired to clear the reservoirs of silt and to quarry new cisterns.
- 42 One of the best-known cases that reached the traditional judicial bodies of the Negev Bedouin was the cistern in the plot belonging to Hasan Nasasra, a fellah of Qala'iyya origins, who had purchased a tract of land from Saliman Mehamid, a Bedouin from the Kabu'a tribe. Around a year after the deal was finalized the buyer found an old cistern stuffed with silt on his property, and with great effort he opened and repaired it so that I could collect water. At this point the seller complained that he had sold only a piece of land meant for cultivation, and not the said cistern, which therefore should remain his property. The arbitrator awarded Nasasra ownership of the cistern, as he was the one who restored it to working order, and also in consideration of the principle contained in the *sanad*, that "all the rights that the owners have to a tract of land are transferred to the buyer when it is sold." See: Ben-David, J 1983, "Stages in the Development of the Spontaneous Bedouin Settlement in the Negev, in the Transition from Semi-nomadism to Sedentarization," Ph.D. Thesis, The Hebrew University of Jerusalem, Jerusalem (Hebrew).
- 43 Various expressions that were coined reflect this new concept. For example: *et-tar ji bsuhula wa-es-sandi hasab el muruwa* ("the descent [possession of land downstream] is easy [for all] but the ascent [possession of land up the river bed] depends on manly strength").
- 44 Although organized agricultural instruction to the Bedouin on how to increase productivity was slow to materialize, Bedouin who worked in or alongside the Hebrew settlements adopted the more scientific approach they encountered there, and applied it in their own territory.
- 45 Freh el-A'asam, a foremost expert on traditional Bedouin jurisprudence, asserts that whoever gives the gift exclaims: "*el ard lak, ma ntaleb fiha min warah jiza*" ("the land in yours, we will not claim anything that was on it, or even a part of it"). Vestiges of the *karam el ard* can be found, for example, in the story told about Sheikh Salem Ibn 'Id Abu-Rabi'a, who lived in the early part of the century. He possessed vast tracts of land, which required a fighting force to protect, during the Zullam-Yatta war. Even today an Abu'Iyad family living among the tribe acknowledges that it received its land as a gift from Sheikh Salem in the context of that war.
- A similar case is that of Hasan 'Id el A'asem, who gave 400 dunams of land between Hura and Turshan as a gift to a man named esh'-Sha'r. The latter, a Bedouin from the Abu Jad clan belonging to the Huwetat tribal federation in Jordan, was a religious man who often made pilgrimages to the El Aksa Mosque in Jerusalem. He died and was buried in Jerusalem, and was presented the gift of land because its owners wished to receive a blessing from Heaven. Until today the land is known as *Ard esh-Sha'r*.
- 46 Al 'Aref, *Beersheba* (note 8, supra), p. 108.
- 47 Cf. Braslavski, *Know* (note 9, supra).
- 48 Freh el-A'asem testifies that the earliest *sanad* that he ever attained was from 1913. Written documents concerning land appeared in the Hebron Highland vicinity several decades prior to that, and they reached as far south as Dhahariya. Research by Layish and Shmueli on the Bedouin of the Judean Desert has uncovered documents concerning land, most of which date from the early twentieth century, and the earliest being from 1831; see: Layish, A and A Shmueli 1976, *Legal Documents of the Bedouin of the Judean Desert and the Negev* (Jerusalem: Document Collection of the Hebrew University, p.206 (Arabic); Layish, A 1980-1982), "Challenges to Customary Law and Arbitration; The Impact of Islamic Law upon Settled Bedouin in the Judean Desert", *Tel Aviv University Studies in Law*, 5.
- 49 According to the Mandatory Land Law of 1920, a transaction that is not recorded in the Land Registry has no legal validity.
- 50 The *mejelle-iahkam-i'adliyye*, the Ottoman civil code of 1877, enabled *be'belwafa* deals (p. 118), i.e. a sale of land pending redemption of the loan—a method used to circumvent the *shar'i* restriction on charging interest. Through this method, the landowner could reclaim possession of a plot by paying his debts. Usufruct of the plot by the buyer constituted his interest. In the Negev, there were

- no such deals. However, the *sanad rahn* mentioned here is basically the equivalent of *be'betwafa*.
- 51 Cf. Abu Rabi'a, H 1982, "Uses of Land among the Bedouin", *Notes on the Bedouin*, 13:3-8.
- 52 This is expressed in the admonishments pressed upon Bedouin who appealed to *mahkamat el 'Ashair* in those days: "*illi amda 'alasanad mat wes-sanad ma mat*" ("he who signed the bill has died, and the bill has not died") and "*idha kan es-sanad ka'in, el walad ma bhareb, illisawa abuh*" ("so long as the bill exists, the son will not undermine his father's deeds").
- 53 Braslavski, *Know* (note 9, supra), pp. 144-154.
- 54 According to Braslavski (Ibid. p. 139), "The Bedouin sank into debt, owed to the merchants and the usurers...he became deeply entangled in high interest, litigation and confiscation of property. He was compelled to sell his cattle, and here and there his land."
- 55 The *Yamin eb-khamsa* is a vow known for its severity, which obligates the accused party who denies his guilt, as well as all his agnates through to the fifth generation. The accused says, "*wallah el 'azim*" three times, and "*inni barri min et-tuhma hadhi*" ("I am innocent of the guilt imputed to me") three times. Afterwards, five of his relatives, who are selected by the plaintiff, take the vow individually, saying, "*ashhad bellah innih sadeq fi ma qal*" ("I swear by God that he is right in everything he said"). Confirmation that this vow has been taken is called *yihlef wakhamstohy etzaki lo* ([he'll] swear and his group of agnates guarantee the truth of his words).
- 56 One finds injunctions in the Koran to arbitrate justly. Contracts are safeguarded by commands to put them in writing, to call witnesses and to give securities (*rahn*) and material proof when no scribe is available. Resorting to the use of a *shar'i* formula in Negev land transactions stemmed from concern lest contracts to return a trust or deposit (*amana*), or a mortgaged piece of land, to its owner not be fulfilled. Recounting to the parties the prohibitions against taking interest (*riba*) accompanied the use of the *shar'i* formula. See: Schacht, J 1964, *An Introduction to Islamic Law*, pp.12-14.
- 57 Cf. Kressel, *Individuality* (note 17, supra).
- 58 This same term also applies to the issue of the right of the *ibn 'amm* (father's brother's son) to the hand of his *bint 'amm* (father's brother's daughter), for he takes precedence (*abda*), and is entitled to claim his female cousin for his a bride, if she had been given to someone else without his consent.
- 59 Cf. Baer, G 1972, *Introduction to the History of the Agrarian Relations in the Middle East 1800-1970*, pp.39-40.
- 60 The agricultural terminology that emerged in the Negev during these years essentially resembles that currently used by the fellahin living in the northern part of the country. See: 'Araf, S 1982, *Earth, Man and Holy War* (Arabic).
- 61 The flight of the fellahin in 1829 from the forced labour demanded of them by the regime of Muhammad Ali, and the auspices granted to them by Abdalla Pasha, the ruler of Acre, served as a pretext for the Egyptian invasion into the Levant in 1831; see: Ben-Zvi, *Journeys* (note 27, supra), pp. 448-449 and Rustum, *Archives* (note 6, supra).
- 62 Palmer, E H 1871, *Desert of the Exodus*, II, p. 291; Musil, A 1907, *Arabia Petraea* (Edom 1), pp. 168 ff.
- 63 On the engagements of the 'Azazma in the War of Zari, 1875-1879 and 1882-1887, and the 'Azazma Tarabin War, 1877-1890, see: Bailey, *Negev* (note 18, supra), pp. 67 ff.
- 64 A popular saying indicative of the relations of the Negev tribes was: "*shamel sana wala tigbel yom*" ("travel northward for a year and don't travel southward for a day"); Braslavski, *Know* (note 9, supra), p. 144.
- 65 On widespread speculation in land, associated with rural migration outward, see: Richards, A 1982, *Egypt's Agricultural Development, 1800-1980. Technical and Social Change*.
- 66 In contrast to the notion that the Arab conquest put an end to Nabatean-Roman-Byzantine agriculture in the centre of the Negev, archaeological finds dating from the dawn of the Arab-Muslim period in the Negev attest to the fact that the conquerors maintained the cultivation and the irrigation of their predecessors for at least another hundred years. In other words, during the Umayya dynasty, agriculture was still widespread in the Negev. See: Nevo, Y D 1985, *Sde Boqer and the Central Negev in the 7th-8th Century A.D.*
- 67 Cf. Sharon, M 1977, "The Bedouin of the Hebron Hills", in A. Shmueli et al. (eds), pp. 548-557 and Shmueli, A 1980, *Nomadism about to Cease* (Hebrew).
- 68 A primary objective of the Sublime Porte from 1831 was to regain possession of Egypt. Cf. Hurewitz, J C 1984, "Egypt's Eastern Boundary: The Diplomatic Background of the 1906 Demarcation", in A Cohen and G. Baer (eds), *Egypt and Palestine, a Millenium of Association (868-1948)*, 1984; Cf., for example, Kazenin, F 1980, "Urban Migrants and the Revolution," *Iranian Studies*, 13, 1-4:257-277.
- 69 The trend of the social elite of the Bedouin community in the Middle East to settle in towns, leaving lower social strata of their tribes the "burden" of subsistence from the depleted resources is discussed frequently in very recent literature; for example: Cole, D P 1975, *The Nomads of the Nomads: The Al Murra Bedouin of the Empty Quarter*; also see: Lancaster, *Rwala* (note 1 supra).
- 70 Cf. Bates, D and A Rassam 1983, *Peoples and Cultures of the Middle East*, pp.194-195.

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