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## LAND TENURE IN PALESTINE.

By SAMUEL BERGHEIM, Esq.

*Answers to Questions.*

1. How are the village lands divided out? Do they belong to individuals or to the village generally?
2. Does the same man plough the same land every year? Can he leave it to his children? Can the Sheikh take away land from a man?
3. What is the *feddân*? Give the size of this measure. Is it always the same?
4. Explain the words *Shekârah*, *Mulk*, *Wakûf* applied to land.

The lands of a village are divided into three classes:—

I. **مُلك**, *mulk*, governed, appropriated or owned—that is real or freehold property.

Such lands are generally in close proximity to, if they do not immediately surround, a village or a town; and are almost invariably used as gardens or orchards.

*Mulk* lands can be given or willed to any person or institution, or they may be inherited by the heirs of the owner after his decease.

Such lands pay a *money* tax of between 3 and 5 per cent. on the valuation; such valuation being made once every five or seven years. This tax is paid into the Imperial Treasury.

No other tax is imposed on *mulk* lands. Houses or other buildings may be erected and trees planted on such lands at the option of the owner.<sup>1</sup>

II. **اميريه**, *ameeriyeh*, formerly (originating at the time of the Mohammedan Conquest of Palestine) under the control of the Ameers, but now belonging to the Imperial State.

These lands are invariably arable and are called by the Felaheen

**اراضي مفتاح**, *Aradee Muftala'h*, agricultural lands, and are used for growing grain of various kinds, such as wheat, barley, beans, lentils—as a winter crop—or dourra (millet), simsem, an oleaginous seed—as a summer crop. Tobacco is also grown in small quantities in some villages.

Such arable lands of a village are held in common by all the members of the village or community, and are called **اراضي مشاع** *Aradee*

<sup>1</sup> Houses and other buildings are subject to a yearly tax *ad valorem*.

*Masha'a*, undivided, held equally, in common, as the property of the whole community and not in plots or parcels of land belonging separately to any of the various individual members of the community. *Masha'a* lands cannot become *mulk*. They belong to the Imperial State and only *حق المزارعة*, the *Hak el Muzard'a*, the right of sowing or cultivating, belongs to the community.

No houses or buildings may be erected and no trees may be planted on these lands without special permission from the highest Imperial Treasury authorities. If this be obtained the house or trees then become *mulk* or freehold, but the land on which they stand is still regarded as *ameeriyeh*.

The *masha'a* lands of a village are distributed or apportioned each year for cultivation during that year to the various members of the community who desire or who are able to cultivate them—that is to plough and to sow them with grain.

Each individual member of the community has the right by inheritance to plough and to sow in the *masha'a* lands by virtue of the *Hak el Muzard'a*, the right of cultivating, and these lands are divided into equal portions according to the number of *faddan* فدادين (pl. *fadda-deen*), in the village.

A *faddan*, فدان, in the ordinary sense means a yoke of oxen; on the hills and light lands it is invariably so; but in the low country and on the plains a *faddan* means two yoke or pair of oxen, and, where the soil is very heavy, four pair.

A *faddan* of land, فدان وطاء, *faddan wattah*, is a piece of land which it takes a day for a yoke of oxen to plough. Its size would be about the same in the hill country as in the low country; the soil on the former being light can be easily ploughed by a pair of oxen working from sunrise till sunset, while in the latter, being heavy, it would require two or four pair of oxen to plough in the same length of time.

A plough is called a *عود* *'od*, stick or reed. The lands of a village may therefore be divided among ten *faddan* and yet be ploughed by 20 *'ods*.

The *masha'a* lands are divided equally among all the inhabitants who wish to cultivate them. Such are called شداد *shaddad*, plural شدادين *shaddadeen*, from شد, to gird, to bind, to prepare or make ready; and each *shaddad* receives an allotment of land according to the number of *faddan* he intends to employ. Thus one man receives an allotment of land for one *faddan*, another for two *faddan*, and so on. Sometimes the land is divided into half *faddan* for such a villager who only owns one ox. Two villagers owning one ox each work together on one plough drawn by the pair of oxen—one day on the land allotted to the one, and the next day on the land allotted to the other.

If the lands of a community are smaller in proportion to the number of the *faddan* of those who wish to cultivate *shaddadeen* they are equally divided among all—that is, supposing 10 *faddan* are sufficient to plough the lands of a village and there are 20 *shaddadeen* who own a *faddan* each, the lands are divided into 20 portions, so that each *shaddad* receives an equal portion.

Again, if the land is sufficient for say only 20 *faddan*, and there are 15 *shaddadeen*, five who own one *faddan* each, and 10 who own two *faddan* each, then the land is divided into 20 portions of one *faddan* each. Every *shaddad* receives a portion, and the remaining five portions are divided equally among the 10 *shaddadeen* who own the extra *faddan*. Thus the owner of one *faddan* receives a portion or portions of land sufficient for the one *faddan*, while the owner of the two *faddan* receives sufficient for one and a half *faddan*.

No stranger is allowed to cultivate or use any of the lands of a village, but with the consent of the whole community or of its elected representatives. The land is then let to him for the one year or season only; and the rent paid by him is used towards the expenses (taxes, &c.) of the whole community.

No member of a village or *shaddad* is allowed to let the land allotted to him for cultivation to a stranger; but he may enter into partnership with one who will supply him with the necessary oxen and seed for the cultivating of the land, such a partnership, however, must be entered into before the allotment or division of the land.

Such stranger is, in either of the cases above stated, then regarded as a member of the community for the time being, and is subject to all the taxes, dues and outlays of the village community.

The portion of land allotted to the *shaddad* belongs to him for that year, but his rights are with respect to the crop itself only; when that has been gathered in, his individual rights, so far as the land is concerned, cease.

The land is divided or apportioned to the *shaddadeen* of a village by lot, which is done in the following way:—

Supposing there are 20 *faddan* of land (*faddan of land* as explained above), this land is first of all divided into four divisions. One is called the southern division, the next the eastern, the third the northern, and the fourth the western division. Each of these divisions is then again divided into 20 equal portions or plots, and this time by measurement; a line or rope is sometimes used, and not infrequently a long reed or ox-goad, which measures generally about nine feet.

Every field in the lands of a village has a name, given to it either accidentally or for a special reason. Thus, a field with a peculiar rock in it is called “the field of the rock,” another with a mound “the field of the mound,” another near a road “the field of the road,” another where a fight has taken place “the field of the fight,” and so on. The different portions or plots into which these fields are divided according to the

number of *faddan* are called *مارس* *maress* or *مارث* *mareth*, plural *مَوَارِس* *mawares* or *مَوَارِث* *mawareth*.

The names of the fields of each of the four divisions of land (the southern, the eastern, &c.), are then written, *usually* on small pebbles, which are then put into a bag. There will then be four bags, one for each separate division, and each bag will contain twenty pebbles, each one bearing the name of a portion of a field. The *shaddadeen* then form themselves into a semicircle, in the centre of which the *Imam* or *Khateeb* of the village is seated. Two little boys always under five years of age, so that they are unprejudiced or unbiassed, stand near him on either side.

One of the bags is then taken up and one of the little boys puts his hand into it and draws out a pebble (called a *Jarral*, *جَرَل*, by some *جَعَرَل* *Ja'ral*), bearing the name of one of the portions of the field. The *Imam* then asks the other boy, "To whom should this portion of land be allotted?" and the boy calls out the name or points to one of the villagers, and the land is allotted to him accordingly.

There is no appeal against this allotment, and each *shaddad* is obliged to be content with the portion or rather four portions of land which have been allotted to him, the same process having taken place with every bag.

Each of the *shaddadeen* who stands round waiting for his lot exclaims as the boy puts his hand into the bag to draw one of the lots, "Allah yakoom bi Jarrali," *اللَّهِ يَقُومُ بِجَرَلِي*, "God keep or uphold or stand

by or take care of = maintain my Jarral." See Psalm xvi, 5 and 6, "Thou maintainest my lot. The lines are fallen unto me in pleasant places; yea, I have a goodly heritage," and which I believe should more correctly be rendered from the Hebrew text, "Thou holdest or standest by the pebble of my lot" (*בְּאֶבֶן הַלּוֹטִי* *Jarrali*). "The dividing

lines have been stretched out for me in pleasant places" (the word translated pleasant is the same both in Hebrew and Arabic and means delectable—the perfection of delight or pleasantness), *i.e.*, in the best portions of the fields. "Yea, a goodly inheritance by lot or allotment is on me" (that is, given to me).

This way of dividing the land takes place every year, and thus no member of the community receives the same portion of land every year. It may fall to him by lot again, and it may not, the chances are against its being so.

The owner of a yoke of oxen, therefore, receives four pieces or portions of land in four different parts of the land of the community. These portions which have been measured out as explained above by a line or rope, reed, or ox-goad are each called a *maress*, *مارس* or

مِارِث, from, as is supposed مَرَسَة, a rope. Some believe, and I rather incline to this view, that the word *maress* originates from *meerath*, مِيرِاث, an inheritance. The plural of *maress*—a line, or rope, is *marasaat*; that of *maress* or *mareth*—a portion of land, is *mawareth*, the same plural is used by Felaheen for inheritance, مَوَارِث, *mawareth*, inheritances. The *maress* is under the sole control of the villager to whom it has been allotted, from the day he begins to plough to the day that he has removed the harvested crop from it. His individual right over that piece of land then ceases.

The Turkish laws which have been introduced within the last few years in Palestine with reference to land tenure, and which are being rigorously enforced, are changing all these ancient laws and customs, much against the will and the wish of the people.

The lands are divided by an Imperial Commissioner into various portions and given to individual villagers. They receive title-deeds for individual ownerships, and each one is at liberty to sell his portion to whoever he pleases, either to a member of the village or to a stranger. The villager then sells his *Hak el Muzard'a* right of cultivation in the land; not as *mulk*, but as *ameeriyeh*, and subject to taxes as such; the object of the government being to break down the old custom of *musha'á*.

When the government will have attained this object, which it is doing fast, in spite of the resistance of many of the village communities, the old customs above referred to will die out and be forgotten.

The small plots of land which lie among rocks or in stony places, and which cannot be ploughed in the ordinary way by a *d'od* and a pair of oxen, are generally given to the poorer villagers who possess neither one nor the other, and who dig such a piece of land with a *faass* فاس, a pickaxe, an iron instrument with a pick at one end and a spade or hoe at the other (see *Quarterly Statement*, July, 1893, p. 200; see also Isaiah vii, 25).

The waste lands of a village خَرَاب, *kharáb*, used for pasture are all *musha'á*—held in common—so is the thrashing floor.

Ploughed and sown lands are called عَمَار, *ammar*, built, i.e., cultivated.

Fallow and uncultivated lands are called خَرَاب, *kharáb*, ruined, i.e., waste.

A furrow is called تِلْم, *tilm*. The dividing furrow between one *maress* and another is called تَخْم, *takhem*. Such a *takhem* is generally a furrow double in width to the ordinary one, and marks the division of one man's crop from his neighbour's; but as this mark or boundary furrow frequently disappears after heavy rains, stones are placed at the time it

is made at each end, and such stones are called حِجَارِ التَّخْم (Hejjar Ptakhem), the stones of the boundary. To remove such stones while the crop is still growing or uncut is regarded as a great sin; as the one who does so robs his neighbour, not of part of the land, but of part of his crop.<sup>1</sup>

Every village employs two public servants, (1) an *Imam*, called *Khateeb*, preacher (from خَطَبَ), whose duties are to lead the prayers, to perform the marriage ceremony, to bury the dead, and also to keep the public accounts of the village, such as the taxes, and all Government dues, the repairs of the mosque and the *madafêh*, guest chamber or the room or building reserved for guests.

(2) *ناتور*, *Natoor*, a watchman. His duties are to be always on the look-out to see if any strangers or visitors or Government officials or soldiers are approaching the village, to take charge of their horses and to invite them into the *madafêh*, and to see that they are provided with food. He must also take care that no cattle of a strange village stray into the lands of the community; and that none but those belonging to the village graze in its waste lands, &c.

These two public servants are not paid wages in money, but they receive a certain number of measures of grain at the end of the harvest.

Each *shaddad* before housing or removing his grain from the threshing floor has to pay these measures (the quantity is agreed upon at the time of the division of the land) to the *Khateeb* and to the *Natoor*.

In addition to this payment, a plot of land is at the time of the division of the land allotted to each of the above and as generally neither of them possesses plough or ox, they either hire someone to plough and sow the land for them, or the *faddan* of all the village devote a day or part of a day to plough and sow these fields or pieces of land for the *Khateeb* and the *Natoor* as a gratuity. The size of each of these plots is sufficient for sowing five or seven *sa'â* of wheat, about  $2\frac{1}{2}$  to 3 bushels.

Such a piece of ploughed land is called شَكَّارَة, *shkara*, hired, i.e., ploughed by hire.

Sometimes, too, a villager who is unable to be a regular *shaddad* is given a plot of land for which he hires a yoke of oxen and labour, and it is called a *shkara*.

Oxen are the animals mostly used for ploughing. Sometimes an ox and an ass are yoked together, but this is only done when it cannot be avoided, and is regarded as unjust.<sup>2</sup> Horses and mules are also used, seldom on the plains but frequently on the hills.

Camels are often employed for drawing the plough on the plains in the southern part of Palestine, chiefly by the Bedouin.

<sup>1</sup> Deut. xix, 14, "Thou shalt not remove thy neighbour's landmark, which the chiefs (or elders) have piled up."

<sup>2</sup> See Deut. xxii, 10.

I have on several occasions seen a man or a woman attached to a plough pulling side by side with a donkey.

The *ameeriyeh* arable lands pay two kinds of taxes :—

1. *ميرى*, *Meeree*, a yearly tax payable in money, the same as for *mulk*, being from 3 to 5 per cent. on the valuation. This tax must be paid whether the lands be cultivated or not.

If cultivated it is collected by the *Khateeb* and village elders from the *shaddadeen* in proportion to the number of their *fadadeen*. If the land is left fallow or uncultivated for one reason or another, then it is collected from all the male inhabitants of the village equally. If part be cultivated and the rest kept fallow, then those who cultivate pay a proportion of the tax, and the rest is collected from all the male inhabitants (including the cultivators) equally.

This money tax is paid directly into the Imperial treasury.

2. *اعشار*, *A'shar*, the tenth or tithe of all the produce.

This tax is farmed out by the Government to the highest bidder, who in addition to the bribes which he must give to the officials in order to secure the purchase, has to pay a much larger sum than the actual value of the tithe or tenth of the produce if honestly collected. The tithe

owner, *عشار*, *A'shar*, is then expected to proceed to the village so soon as the harvest commences, but no villager is allowed to begin harvesting until the arrival of the *'Ashar* or his representative. The *'Ashar*, however, delays going to the village so long as he possibly can, and he creates all kinds of difficulties in order to force the cultivators to compound with him for a fixed quantity of grain and other produce of the land in lieu of the fair tithe or tenth.

On arriving at a village, which he does with a host of servants, he for the first four or five days does nothing on the plea of fatigue, illness, or other excuse, and the community is obliged to provide him and his servants and horses with food all the time.

He then starts by making a list of all the *shaddadeen* and the number of the *faddan* of each one. He then rides round all the fields and professes to be surprised at the amount of the crop, exclaiming—though in reality it may be half the average—"This is the heaviest crop I have ever seen. What a wonderfully plentiful year this is!" when probably it is anything but that.

He then returns to the village and calls all the *shaddadeen* together, with the *Khateeb* and the elders at their head. He then takes the list he has made and addresses one of the *shaddadeen*, "Oh, so and so," naming him, "What a marvellous crop of wheat and barley you have in your *mawareess*. Wonderful! How bountiful God has been to you. Praise be to Him." The natural reply given by the *shaddad* thus addressed as well as by all present is, "*El Hamdu l'illah*. Thanks be to God." "Well," continues the *'Ashar*, "I am glad you all agree with me that this is a plentiful year. Now how much do you think," addressing the



*shaddad*, "will your entire crop, barley and wheat, &c., amount to in measures (*sāās*) when threshed," and adds, before the *shaddad* has time to answer, "I think so many"—naming an amount five or six times as great as it could under even the most favourable circumstance produce.

There is then a general outcry from all the *shaddadeen*, "Yes it is a blessing however much or little, but it can never make the amount you state."

This farce is gone through several times, and over several days, until either one party or the other is wearied out. The villagers—that is each *shaddad*—sometimes agree to pay a fixed quantity of grain or other produce in place of the legal tenth. The '*Ashar*' then departs, but leaves a servant to watch that no grain is removed from the threshing floor after it has been brought there and threshed, until the quantities agreed to be paid by each *shaddad* have been delivered to him.

Sometimes the villagers hold out and refuse to compound, and the '*Ashar*' then places several of his servants to watch that all the grain (in the straw as harvested) is brought to the threshing floor. When all the harvesting is done, the straw still unthreshed as brought from the field belonging to each *shaddad* is put up by him, the *shaddad*, into what he considers ten equal stacks. The '*Ashar*' is then asked to choose one stack. This he does, but refuses for some days to have it threshed and winnowed (which the *shaddad* is bound to do for him) and until this is done the *shaddad* is not allowed to touch his own stacks.

After a day or two, the '*Ashar*' goes round to look at all his stacks representing the tithe, and having made the inspection he then calls his men and orders them to prepare their horses and bring him his own to leave the village immediately, "I have been robbed of more than half of each stack belonging to me" (totally untrue, because the stacks given for the tithe have all been removed to another part of the threshing floor at a distance from the stacks belonging to the *shaddadeen*, and have been closely watched night and day by the servants of the '*Ashar*'). "I am going to put my case into the hands of the authorities." In the end the villagers each and all agree to pay a certain number of measures of grain, &c., in addition to the division already made, *i.e.*, the stack already set apart for the '*Ashar*'. When this has been threshed and winnowed and a quantity sufficient for the supplementary amount agreed upon as above has been delivered, camels are provided by the villagers at their own expense to carry the grain of the '*Ashar*' to the chief town in the district. The '*Ashar*' then clears out together with his servants, and the *shaddadeen* proceed with their own work of threshing, &c.

I may add that I can safely say from close observations I have made during nearly ten years' farming in the Sharon plains near Ramleh, that the amount collected by an '*Ashar*' rarely, if ever, averages under *one third* of the whole crops, instead of the legal *tenth*, *viz.*, 33 per cent. instead of 10 per cent.

The very word '*Ashar*' is an opprobrious term, and an extortionate

merciless man is generally likened to a 'A<sup>sh</sup>ar, and held up to execration just as were the Publicans of old.

A great many strangers from the hill country go down to the villages on the plains during harvest time; the men to help to reap and the women and children to glean. Gleaning is only allowed in all the fields after the sheaves have been removed.

Sometimes, but only in very special cases, permission is given to glean between or among the sheaves. See Ruth ii, 15, "Let her glean even among the sheaves."

In some villages the custom of leaving at the close of the general harvest a part of the *mawaraess* unreaped is still in vogue. This is called Jaru'âa, جَرَوْعَة, the portion for the widow, the fatherless and the strangers, who are all allowed to gather the standing grain for themselves.<sup>1</sup>

III. واقف, *wakuf*, or *wakf*, stopped—dedicated, not transferable, inalienable, or lands devoted towards the maintenance of a mosque or religious institution.

Most of the *wakuf* lands were *ameeriyeh* lands the revenues of which were devoted by Sultans or other rulers since the time of the Mohammedan conquest for the maintenance of a particular mosque or *makam*, such as the mosque of Omar, the tomb of David at Jerusalem, the mosque over the tomb of Abraham at Hebron, &c.

The revenues consist of similar taxes to those on *ameeriyeh* lands, viz., a money tax and a tithe, and are collected in the same way as above described, but instead of being paid into the Imperial Treasury they are paid into the *wakuf* treasury which distributes the revenues to the various institutions. The Imperial Government has, however, now taken over the control of the *wakuf* treasury and looks after the outlays itself.

No *ameeriyeh* land can be made *wakf*, but by the will of the Sultan himself. *Mulk* lands or houses can be so dedicated.

Arable *wakuf* lands are held by the villagers in exactly the same way as the arable *ameeriyeh* lands, viz., in *musha'd*.

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## A HITTITE MONUMENT.

By WILLIAM SIMPSON, Esq.

I HAVE an old volume, published in 1736, with no author's name, entitled "A Journey from Aleppo to Damascus." The date of the journey is not given, but the details of the route from place to place seem to be made

<sup>1</sup> See Leviticus xxiii, 22, "When ye reap the harvest of your field thou shalt not make clean riddance of the corners of thy field; thou shalt leave them unto the poor and the stranger."