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Public land between the state and the tribes: A dilemma of rural development: A case from Southern Jordan

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SUMMARY - In Jordan, tribal territories have no fixed borders, are located in good pasture areas and can only be used for grazing. That is why these territories are a source of disputes. Tribes struggle against each other to obtain the rights over this territory. The aim of this study is to show that rights over land are still a vague issue for the state and for tribe members. These rights need to be clarified, showing that the deterioration of pastures and animal production is a result of this lack of clarity in the rights over such lands.

Key words: Public land, tribes, grazing, nomadism.

RESUME - "Les terres du domaine public entre l'Etat et les tribus : Un dilemme du développement rural : Un cas dans le sud de la Jordanie". En Jordanie les territoires tribaux n'ont pas de frontières fixes, ils se trouvent dans la zone des bons pâturages et peuvent uniquement être utilisés pour paître. C'est pourquoi ils sont l'objet de disputes. Les tribus luttent entre elles quant aux droits qu'elles possèdent sur ce territoire. Cette étude vise à prouver que les droits sur les terres sont encore vagues pour l'Etat ou pour les membres des tribus, et doivent être éclaircis, et à montrer la dégradation des pâturages et de la production animale comme résultat de ce manque de clarté dans les droits existant sur ces terres.

Mots-clés : Terres publiques, tribus, pâturage, nomadisme.

Introduction, problem and aims

Tribal territories usually have no fixed borders, that is why they are disputable. This problem in Jordan becomes these days acute, especially in the marginal lands, or what is known as pasture land (see Fig. 1).

Historically, these lands were the buffer zone between the Bedouin tribes of the Eastern Desert and the settled tribes of Western Plains. Since Bedouins were and are always moving, individuals, families, groups of every kind, wandering temporarily back and forth through the year, and also occasionally migrate permanently from one region to another, so as each tribe can generally be identified with particular territory (Stewart, 1986). This situation applies to most of the tribes of the studied region, i.e., Karak region. The major tribal settlement process of most nowadays settled tribes in the Western Plains of Karak region took place by the turn of this century (Tarawneh, 1995). That is why almost each tribe in the region claims not so much to control a clearly bounded territory, but defined points in it and paths leading through them. These tribal territories are sometimes considered as patchwork of overlapping territories (Stewart, 1986). They reflect either disagreement between tribes or recognition of several tribes of having rights in the same territory as it is the case with the Bali and Huwaitat (Philpy, 1957) and the Suez desert as being common to all (Burckhardt, 1822). In some cases tribal territories represent "no-man's land" as it is the case in the frontier areas between Afghanistan and Iran (Ahmed, 1983).

The case we have here is much more complex; it is between two major groups, one is composed of different types of tribes, i.e., Bedouins who are settled (*hagaya*)[†], their relatives who are nomadic and another two settled tribes (*qudah* and *n'aymat*). The second group consisted of four different

[†]Hagaya tribe is considered by others as semi-nomadic (Giubb, 1938). The definition of Bedouin (nomadic) or true Bedouin is a dilemma in Jordan. As Giubb (1938) put it "all tribes in Jordan are not Bedouin" or there is no "true Bedouin in Jordan" (Layne, 1994). Yet if we examine the internal socio-economic structure of the hagaya one will find that it is consisted of ten major social sub-groups (clans). Some of these clans were settled in *umm hay* village (see Fig. 2) early in 1920s, whereas other sub-groups are still wondering with their camels in the south-eastern desert (Tarawneh, 1995). That is to say, in the same tribe one would find settlers, peasants and Bedouin. This alludes us to doubt some of arguments presented by western authors.

(from the kinship point of view) settled tribes (*tarawneh*, *sarayreh*, *nawayseh* and *quatawneh*). These four tribes constitute the basic members of a well known tribal federation called locally *sharaqa* (i.e., people of the East). Both groups are claiming specific points in the disputable territory (see Fig. 2). The first group is disagreeing among themselves on how to distribute the land in case of gaining the case, whereas the second group is agreeing on the overlapping of rights and interests in the same territory.

Another point which makes this case more valuable to be studied is that the disputable area is located in the good pasture zone (see Fig. 1) and can not be used for farming. Its only use can be for grazing. Despite this fact, tribes are struggling against each other in having rights over this territory through the excuse of cultivating it.

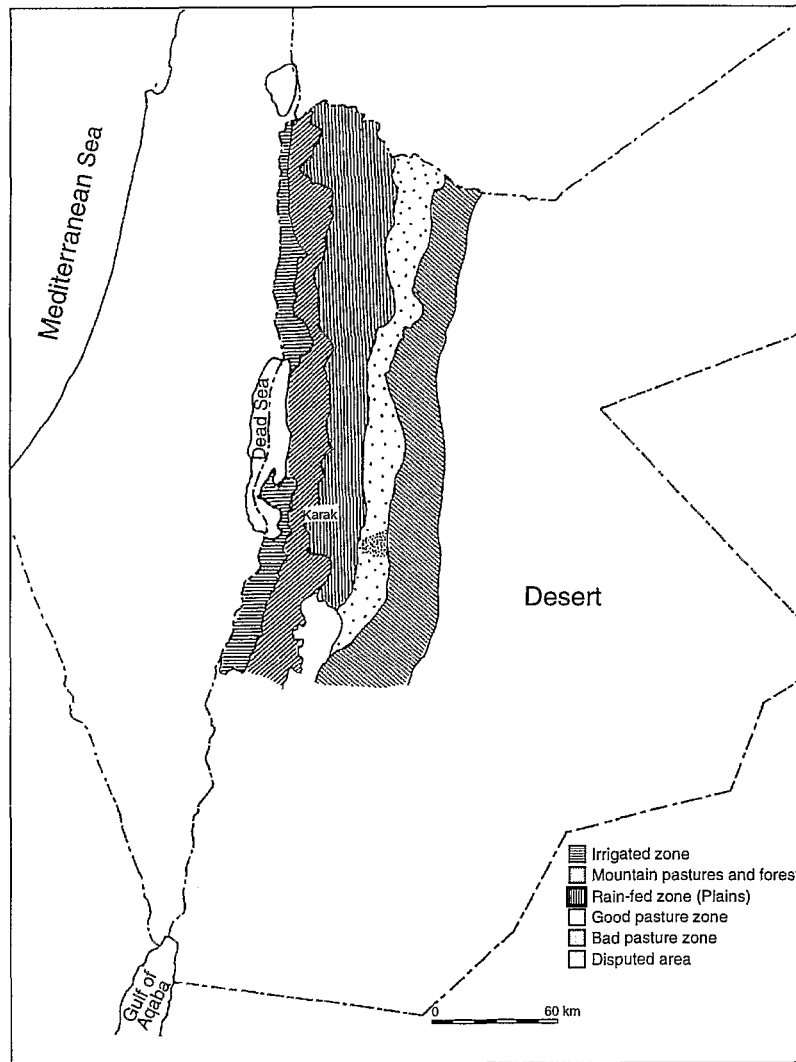


Fig. 1. Location of disputed area.

Actually, such area cannot be distributed among the tribes whether for the Bedouin tribe and their allies or the other settled group, simply because most of tribesmen in the area with little exceptions do not practice commercial herding any more. The tribally claimed area is in the status of *miri-land*[†]. The aim of distributing this land and other land is simply acquiring taxes and fees as revenues for the state treasury on the expense of the soil. The soil erosion and degrading is caused by the attempts of the tribesmen of different tribes to plough the land. This is so, because according to the Articles 77, 78 and 87 of the Land Code of 1933 (which is still in practice) any *miri-land* that has been left

[†] *Miri-land*: crown lands with a heritable right of occupation by the cultivator (Walpole, 1948).

uncultivated for three years without good reasons may be taken over by the state as *mahlul*-land[†] (i.e. *vacant* land) (Walpole, 1948). This means that, in order to have rights over the *miri*-land tribespeople have to give evidence of cultivation for three to five successive years (Granott, 1952). Tribespeople provide the evidence through ploughing the land. In their attempts, disputes between and among the engaged tribes arise. These disputes intensified ever since expanding cultivation (Walpole, 1948). The disputes initially were sometimes trivial, but many persons had lost their lives over them and no village would ever agree with another when their adjoining boundary was doubtful (Walpole, 1948; Tarawneh, 1996).

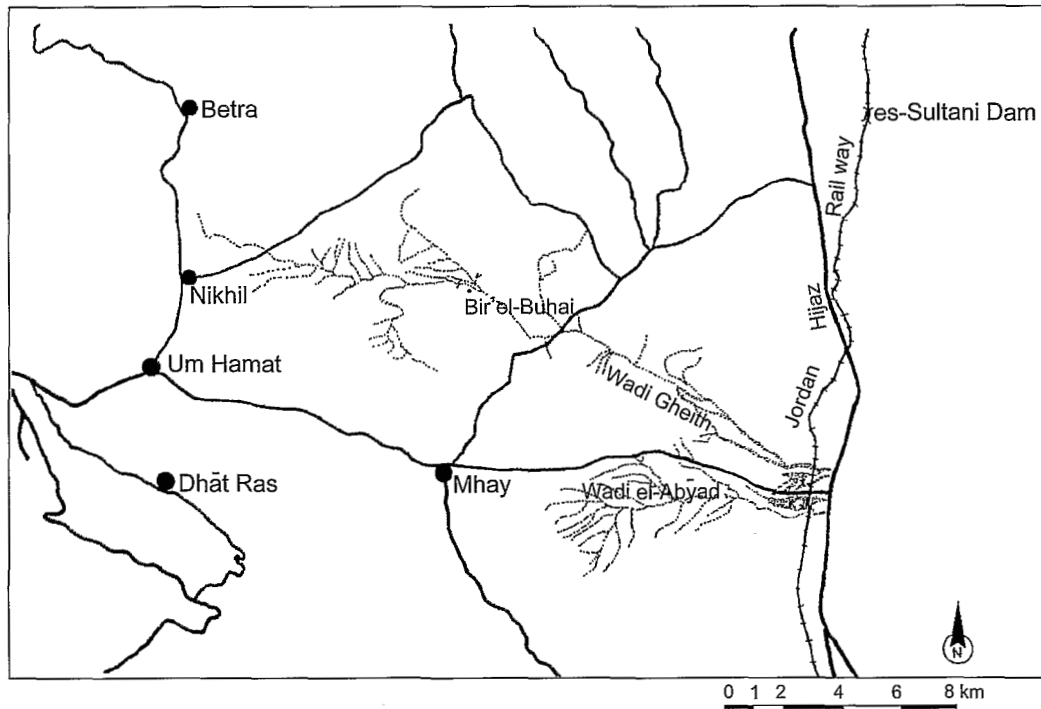


Fig. 2. Points in the disputable territory (Prepared by: Dr. M. Tarawneh; Drawn by: M. Bataineh).

This study aims at the following: first, to provide evidence that rights over land 15 still vague for the state or for tribespeople and it needed to be clarified. Second, to show the deterioration of pastures and animal production as a result of this unclearness of rights over such lands and to show that this deterioration is caused mainly by the immature policies of the Jordanian Governments.

Socio-economic background

Karak area (historically called Moa'b Plains) used to be the second productive area in both cereal and animal production after the Northern Houran Plains of Jordan. This was mentioned in several works of the European travellers in the second half of the 19th century (e.g., Doughty, 1888). Most of the tribes of the open plains of Karak have settled by the end of the 19th century and the beginning of the 20th century (Tarawneh, 1995). Most of these tribes were considered as semi-peasants, i.e., not completely settled (but rotating in almost closed defined territory), herding sheep and goats and farming cereals. After settling, they continue to practice herding and cereal production as their main source of living. This situation lasted until the end of the 1960s. Early in the 1940s tribesmen began to be incorporated in the state bureaucratic domain of the state, especially the military posts. This incorporation was intensified as education flourished among the tribespeople in the 1950s and the 1960s. The intensification is reflected through the high engagement of tribespeople (male and female)

[†]These lands are usually forest or grazing grounds. In 1920s an area of approximately two million dunums was declared *mahlul* (Walpole, 1948). A Hektar is equivalent of 10 dunums.

in the civil domain of the state, in addition to the military one. Onwards bureaucratic jobs became much more important and prestigious than working in the land or herding.

Jordan as a whole and Karak community is nowadays turned to what I call "Salary-based Society". In rural areas of Jordan it is rare to find families who are fully dependent on fanning or animal husbandry. Families adopt different strategies for their struggle of surviving (military and civil posts as the first priority, farming cereals and growing fruit trees in their gardens in the second place and owning small stock of sheep or/and goats or cattle) (Tarawneh, 1995). In some other cases, rural families send one or more of their members as migrants to the Gulf states or abroad and receiving remittances from them (Antoun, 1972), as it is the case in rural Iran (Kramer, 1982).

Now, there are two major dimensions pertinent to production and exchange which are important for identifying herding communities or groups; one, from specialized to more diversified pastoralism. Second, from relatively autonomous to more highly articulated communities of livestock keepers (Galaty and Johnson, 1990). The difference that exist between specialized and diversified, between autonomous and articulated systems, between highly mobile and more sedentary systems or even between more subsistence and more market oriented systems can be grasped in large part in terms of variation in the quantity and quality of relations between the major factors consisting pastoralism such as land, livestock and labour (Ingold, 1980). These relations rest on cultural assumptions and social factors that organize and direct the complex of technical pursuits proper to pastoralism. That is to say, most pastoral systems usually involve herding on natural pasture and implies that animal husbandry is economically and culturally dominant. By dominant it is meant that animal husbandry is given much weight, animal products are attributed qualitative significance and domestic animals serve both as economic tokens and as symbols of cultural significance (Galaty and Johnson, 1990). Others such as Khazanov (1984) distinguished between nomadic, semi-nomadic and semi-sedentary pastoralists on the basis of the degree of mobility of herd and household and the extent of agriculture practices found. But unfortunately such identification of the pastoralist groups does not hold true in the case of Jordan, because most pastoralists became settled in permanent villages and increasingly involved in the outside commercial world to the degree that many have lost the cultural dimension of pastoralism (i.e., lost interest in pastoralism). This process tends to be universal in the Middle East, because livestock numbers in most countries is increasing while the number of pastoralists decreases. It has been noted that in addition to traditional pastoralists (who are decreasing in number) new absentee investors are managing their herds through hired labourers (FAO, 1991). This indicates the increasing concentration of livestock related to wealth, i.e., large herds in the hand of few richer herders. That is why the number of sheep in Jordan for example rises from 804 thousand in 1977 to 1279 thousand in 1988 and goats from 358 thousand to 510 thousand for the same years (Ministry of Agriculture, 1988). At the same time natural pasture lands diminished. It was about 60% of the Plains of Karak, whereas nowadays it is almost 30% (Ministry of Agriculture, 1991). According to the report of the Ministry of Agriculture (1978) Karak Plains used to be (until the 1960s) a good source for cereal and sheep exportation, especially for Saudi Arabia and Palestine. The major natural pastures located in the Eastern areas of Karak Plains. A large portion of these Eastern land were in last 30 years given to tribespeople on individual basis, such as the case of *nekhel* (Tarawneh, 1995) and the case of *fej al usaiker* (Tarawneh, 1996).

Realities and future strategies

The situation of the public Eastern pasture Land is exposed to desertification, because of the following:

Destroying such pastures by means of continuous ploughing practiced by tribespeople either for given evidence that they do cultivate the land (in case that it has been distributed among tribespeople), i.e., following the Articles 77, 78 and 87 of the Land Code, or for given evidence that they have rights over such lands (in case it is not distributed). In both cases the Eastern Land is not profitable for farming wheat or barley. The annual rate of rainfall in this area is low, about 100-200 mm (Ministry of Agriculture, 1978). This rate is unequally distributed over the months of the rain season. Tribespeople insist on claiming that they have clear boundaries and ownership right in such land as it is the case in some other part of the world, i.e., in Southern Sinai. In our case and in Sinai tribespeople confirm their rights in such marginal land, in spite the fact that the land they claim is mostly of little value (Stewart, 1986).

As a result the soil surface is exposed to erosion, whereas the natural plants useful for grazing began to disappear (in certain large places, plants were completely vanished). This might be disastrous when accompanied by the intensive grazing in the last 50 years.

Tribal major economic activities have changed from farming and herding to the civil and military domain of the central state. This was the result of the governmental policies from the 1930s and 1940s to sedentarize tribes and their incorporation civil society through education, communication and infrastructure (Jureidini and McLaurin, 1984). As a result of this social change, land and livestock as factors of pastoralism are no more given due cultural or even economic significance. On the contrary, for tribespeople, dominating the open *miri*-land is a matter of ideological significance (Tarawneh, 1996). This does not mean, however, that tribal power in Jordan is diminished as it is the case in some other parts of the world and therefore they did not lose much of their political power. Participants of the FAO workshop held in Amman December 1991 argued that pastoralists have lost much of their political power and therefore there is need for new political organization to have their voice heard (FAO, 1991) and that tribal rights should be formally respected and protected along with customary relations that exist between and among tribes (FAO, 1991). These participants have neglected the fact that tribespeople adjoining pasture land are the ones who impose their customary laws on the state civil ones. In many cases the state can not use such land and even can not distribute it unless the tribespeople concerned agree among themselves based on their own customs to distribute the land (Tarawneh, 1996). I would like to present a new case (still unpublished) through which the state is the weak part.

Part of the Eastern Land has been proclaimed in 1992 by the state representative's the Department of Land and Survey to be distributed among the adjoining tribes for the sake of cultivation (see Fig. 2). As soon as the state's representative announce this proclamation, tribes got into conflict on who have rights and who do not and how much share each has. In few months, the case came to a dead end. As it has been mentioned earlier, tribes in dispute reorganize themselves in two tribal federations, the first consisted of three different tribes (*hagaya*, *qudah* and *n'aymat*). This first federation is headed by *hagaya*. The second group, i.e., *sharaqa* federation consisted of four tribes (*sarayreh*, *nawayseh*, *qatawneh* and *tarawneh*). This last federation has been led by *tarawneh* tribe.

What is unique in this case is the existence of a document in which the boundaries between the disputed groups were fixed[†] (see Appendix 1). In 1992 the *hagaya* refused such document and neglected its validity even though it was signed and approved by highly state officials. Since then, the case went to the court of the Department of Land and Survey and still not been settled^{††}.

This might indicate the political power of tribes whether settled or semi-settled or even the non-settled and not as the participants of the FAO workshop in Amman have claimed and argued.

It is inconsistent with what the participants of such a workshop have recommended, tribal rights in Jordan and their customary laws and relations concerning land are respected by the state. On the contrary, tribespeople should be prevented from violating rangeland by means of ploughment. This might be reached by changing the Articles of the Land Code that gives excuse and permit tribespeople to plough public land.

After the revision of certain FAO workshops on pastoral communities like the one held in Amman and in Mongolia, September 1990 participants recommended that rangeland and water resources should remain state property, while large portion of such land transferred to individuals as it has been proved above. This recommendation was born died because such workshops is organized by national and international officials such as the representatives of the Ministry of Agriculture who design the development plan for the pastoral economy of the country. In the same time, the Department of Land and Survey (another governmental officials) expose such rangeland to destruction by turning it from

[†]Such document is rare to find or even to exist in most of the tribal societies, because of illiteracy in the past. A famous document has been studied and published by Stewart (1986). Our document is dated 1975, but as it is clear from the document, it rests on previous agreements between the traditional tribal leaders of both groups. According to my informants, the first agreement was settled early in the 1920s between the paramount sheikh of *hagaya* (*ghayth al-hdayat*) and the paramount pasha of *tarawneh* (*hussein pasha*). The second agreement was registered in Governor's house in 1965.

^{††}Land settlement process (in some respect it indicates to the destruction of the *muscha'* system, i.e., the collective ownership of land [Whalin, 1989]) began in 1933 in the Northern part of Jordan and still going on until these days in the Southern part of the country.

public to individuals. This indicates the disarticulated nature of an underdeveloped state's decision-making. This means that, governmental decision-making concerning rural development should be reformed before going to the ground and this might be part of the FAO's duty and other national and international agencies.

The nearly completed sedentarization of tribes in Jordan (Day, 1987), the increasing number of non-pastoral livestock keepers, the high demand for barley as animal feed by means of importation and the increasing practice of ploughing marginal land are all interrelated issues which implies a new strategy for developing the economy of pastoralism. Such a strategy should rely on a new cultural basis. The cultural dimensions of traditional pastoralism (in case it exist) have been weakened and were not incorporated in the outside commercial world as happened in the case of Syria for example. The traditional pastoral system of tribespeople in Syria which is called *hima*[†] was incorporated and reformed from-within in the state national development plans (Shoup, 1990). In the case of Jordan and according to many interviews I made with certain pastoralists in the Eastern land of Karak there was no such system like *hima*. This implies that there were no defined system for organizing grazing between or among the tribes, that is to say livestock keepers in Jordan are not familiar with collective or common organizations concerning grazing, i.e., the co-operative sense is absent. This fact gives the state officials the opportunity to reconsider their development plans concerning public land as pastures. This might allude to the possibility of creating a fully controlled ecologically adaptive range use-system through the introduction of communal pastoral associations. These associations should not only aim at proper resource management and range conservation by giving priority to pastoral groups whose traditional range management practices and grazing rights have to be respected as the FAO's experts who assembled in Amman (Dec. 1991) have argued, but rather creating the sense of co-operation and communality between and among tribespeople who are interested in animal husbandry. This can be done through a specific process of habitation (i.e., education or learning).

Based on informants from different tribes of the two groups, the original and first agreement was written between Sheikh *ghayth al-hdayat*, the paramount leader of the *hagaya* and the shiekh of the *sharaqa* federation who was the shiekh of *tarawneh*, *hussein Pasha*. Informants of the *sharaqa* argued that they have read the first agreement which states that *wadi al-abyadh* forms the border between the *sharaqa* and the *hagaya*. The proposed year of the agreement is not clear, some informants stated the year 1923 others mentioned 1933. What important is that the agreement is existing, because the document at hand refer to "previous agreements".

The educated son of the existing shiekh of the *hagaya* informed me "in the past we were weak [...] we could not stand against the power of the *sharaqa* people [...] all officials of the government were against us, now we are educated and we know our civil rights [...] we are no more illiterate therefore this time we will not let the *karakyyie* to do the same as they did with *bani 'atyah*^{††}". The *hagaya* argued that the wadi located to the north of the border assigned by the document which is called *wadi ghayth* (see Fig. 2) belong to them. *Ghayth* is the name of the paramount shiekh of *hagaya* who signed the first agreement with *hussien pasha*. The educated son argued "how could my grandfather give his land to the other [...] I am sure he was used by others because he was illiterate [...] we will fight every body for our land [...] we have historical rights over this area, our fathers and grandfathers use to graze their animals and reside in summer".

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[†] *Hima* is an ancient Islamic traditional grazing system aimed at organizing and reorganizing pasture lands periodically (Shoup, 1990).

^{††} The event that took place between the *karakyyie* tribes and *bani 'atyah* was broken out in 1975 and lasted until 1985. At the end of the case, the *karakyyie* dominated through the court of the Department of Land and Survey in Amman over 85% of the disputed area (called *fajj al'asyker*) which is adjoining (north-west) the disputed territory, the subject of this paper (see Tarawneh, 1996).

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Appendix I

Document and dispute

The document at hand has two significant parts; first, the marking of boundaries between the mentioned two tribal groups, secondly, the official's seals or signs. The first is important because it fixes the boundaries between the two tribal groups, whereas the second reflects the high level of incorporation by the state in the dispute. Despite this incorporation, the *hagaya* refuses the whole agreement. A situation that represent the power of the tribes alongside with the power of the central state.

The document

On march 12, 1975 a commity has assembled in the office of the chief commandor of the Jordanian army. The members of this commity are: The chief Commandor of the Jordanian Army, Ministerio of Finance, Minister of Justice, Minister of Interior Affairs, Governor of Karak District, Assistant of the Minister of Interior Affairs, Director of the General Security Department, Director of the Departamento of Land and Survey and the Director of the Desert Patrol. After studying the subject of qa dispute between the karakyyie tribes, tarawneh, sarayreh, nawayseh and qatawneh at one hand, and the tribes of hagaya, qudah and n'aymat at the other hand, and with reference to previous agreements, it became clear that the decision taken in November 7, 1965 by the commity (Mutasarif of Liw al-Karak, Chief Commandor of Karak District, Director of the Department of Land and Survey and Sheikh Mu'arik al-Magaly) was suitable and give justice to all parts of the dispute. Therefore the commity decides the following:

(i) *Agreeing on all suggestions in this decision:*

- *All parts of dispute confess that the disputed land is state owned, and that their claim of having rights over such land linked with cultivation.*
- *Because the land is state owned, the commity suggests that the director of the Department of Land and Survey start conducting a survey in order to distribute the land on the behalf of the tribespeople concerned based on the respected laws.*
- *The commity sees that the border between the karakyyie tribes and the tribes of hagaya, qudah and n'aymat is wadi al-abyadh until the railway to the east.*
- *The area north to wadi al-abyadh is considered as the territory of the karakyyie tribes, whereas the area south to wadi al-abyadh considered as the territory of the hagaya, qudah and n'aymat. This wadi forms the southern frontier of the karakyyie, whereas it form the northern frontier of the other group.*
- *Each group substitute the other in case that one has tilled a piece of land which falls in the territory of the other group. The value of the substitution is 500 fils for each dunum.*
- *Based on the document of the Minister of Interior affairs No. 8-2-26373 dated November 8, 1965 which was written to the Director of General Security Department and to the Director of the Desert Patrol, all land located east to the railway is considered as pasture land, therefore it is forbidden to till it.*
- *The reserviors existing in the land north and south of wadi al-abyadh should be used for drinking and should be given to the persons who dug them. Each reservior will be given an area of five dunums.*

(ii) *The commity confirms that the allotted land is state owned and the given rights to both groups are limited to cultivation. This means that tribespeople have usufrucht rights over land not as private property.*

March 12, 1975

Seals of:

Chief Commandor of the Jordanian Army/Minister of Finance
 Minister of Interior Affairs/Minister of Justice/Governor of Karak
 Assistant of Minister of Interior Affairs/Director of the General Security Forces
 Director of the Desert Patrol/Director of the Department of Land and Survey