LAND PROPERTY AND JIHĀD

A discussion of some early traditions

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Traditions which deal with agriculture and the possession of landed property, or with the question whether the acquisition of farms and estates in the territories conquered by the Muslim forces in the early period is permitted or not, are often divergent and even contradictory. The diverse utterances seem to reflect ideological differences in the attitudes of Muslim scholars as to whether the Holy War, the conquests and the expansion of Islam go on, or whether there is to be a shift towards sedentarization, the cultivation of land and the setting up of a new class structure within the Muslim community.

A study of some of these traditions may give us a clue for a better understanding of certain aspects of these problems and may help us in gaining some insight into the perceptions and views of the conflicting groups of hadīth scholars, jurists and pious ascetics.

I

At a very early period reports attribute to the Prophet an instruction to the effect that farms or estates are not to be acquired in order to avoid worldly inclinations towards goods.

This utterance: lā tattakhidhū l-dāy‘ata fa-targhabū fi l-dunyā' (1) is fol-

1) Ahmad b. Hanbal, Musnad, ed. Ahmad Muhammad Shākir, Cairo 1370/1950, V, 201, no. 3579 (and see the references of the editor and his comments); al-Bukhārī, al-Ta‘rīkh al-kabīr, Hyderabad 1377/1958, IV, 54, no. 1935; al-Hākim, al-Mustadrak, Hyderabad 1342, IV, 3221; al-Daylamī, Firdaus al-akhbār, MS. Chester Beatty 3037, fol. 185b; al-Tibrizī, Mishkāt al-masābīḥ, Karachi 1967,
allowed in certain sources by an enigmatic note of the transmitter, the Companion of the Prophet, ʿAbdallah b. Masʿūd⁴): *wa-bi-rādhāna mā bi-rādhāna wa-bi-l-madīnati mā bi-l-madīnati⁵*). The meaning of the utterance is clarified in another tradition transmitted by the selfsame ʿAbdallah b. Masʿūd: *fa-kayfa bi-mālin bi-rādhāna wa-bi-kadhā wa-bi-kadhā⁶*), ‘what about the property at Radhān and such and such (a location)?’ ʿAbdallah b. Masʿūd’s rebuke is actually addressed at himself, because he acted contrary to the word of the Prophet and acquired for himself abundance of family and wealth⁷).

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⁴ See on him the detailed entry in EI2, s.v. Ibn Masʿūd (J.-C. Vadet).

⁵ It is worthwhile noting that there was a tendency to limit the number of children in the family in the period of early Islam. ʿAlī is alleged to have said: ‘Anxiety is half way to decrepitude, and having a small family is one of the two manners of ease in life’ (al-hammu nisfu l-harami wa-qillatu l-ciyiili ahadu l-yasiirayni), and comp. Ibn Saʿd, ʿAlāʾ al-Hamid al-Sihārī, Beirut 1391/1972, 130, no. 109; Ibn Ṣaʿīd, ʿAlāʾ al-Hamid al-Sihārī, Beirut 1391/1972, 130, no. 109; and see another version: *kathratu l-ciyiili ahadu l-faqrayni, wa-qillatu l-iyiili ahadu l-yasiirayni.* A Sufi opinion about the problem is given in the utterance of Abu Sulaymān al-Dārānī; according to him he who wants children is a fool: children
The same tradition is recorded in Abū ʿUbayd's Amwāl, in the chapter with the question of whether the acquisition of (or lending of) land in territories conquered by force is legal or not. Rādhān was a place in the Sawād of ʿIrāq conquered by force ('anwatan, without a pact concluded with the conquered people-k); an estate at Rādhān was acquired by ʿAbdallah b. Masūd and his name is in fact included in the list of the Companions of the Prophet, who acquired estates in the territories of kharāj).

will be helpful to him neither in this, nor in the next world. When one wants to eat, drink, or copulate they interrupt him and when one wants to worship God they distract him. (Abū Nuʿaym, Ḥīyat al-auliya, Beirut 1387/1967, IX, 264).


Significant are the invocations of the Prophet on behalf of the believers. See e.g. al-Ṭabarī, Tahdhib al-āthār, ed. Muḥammad Muḥammad Shākir, Cairo 1402/1982, I, 279, no. 467: ...llāhumma man aḥhabbāni fa-nnahu l-māla wa-l-walad...; and see ib, p. 282, no. 472: ...allāhumma man āmāna bī wa-saddagāni wa-ʿalima anna mā jīʾtu bihi l-haqqu min ʿindika fa-qāilla mālāhu wa-wuldalaha wa-habbib ilayhi liqāqa wa-ʿajīl lahu l-qādāʾa, wa-man lām yuʾmin bī wa-lam yusāddiqni wa-lam yaʾlam anna mā jīʾtu bihi l-haqqu min ʿindika fa-akthir mālāhu wa-wuladalaha wa-qīlī umrāhu.; [see this tradition: al-Suyūṭī, al-Hawī li-l-faʿāwī, ed. Muḥyī l-Dīn ʿAbd al-Ḥamīd. Cairo 1378/1953, I, 519, inf.; and see ibid, I, 520 sup.;] comp. al-Ṭabarī, Tahdhib, I, 293, no. 475; and see the invocation of Tawūs, ib. p. 303, no. 514: allāhumma ajirni min kathratī l-māli wa-l-walādī. And see al-Daylāmī, Firdaus, Chester Beatty 3037, fol. 187a, penult.: ...lā tatammānu kathrata l-māli fa-ina kathrata l-māli tuḥthiru l-dhunūb. And comp. Anonymous, Wasaʾiyatu l-nabīyyī [f] li-ʿaliyyīn, MS. Cambridge, Dd. 11.7, fol. 69a: ...yā ʿaliyya, idḥā maqata lllāhu ʿabdan lam yāqūṣ min mālīhi shaytān wa-lā yursīli ilā jasadihi ʿillātan wa-lā zallātan... And see the invocation of the Prophet in Muḥammad b. Muḥammad al-Ṭabarī, Bishārat al-mustafā li-shiʿatī l-murtada, Najaf 1383/1963, ...qāla rasūlu llāhi [f]: man aḥhabbanī fa-rzzqhu l-qāfāfa wa-l-kāfāfa, wa-man abghadani fa-akthir mālāhu wa-wulda."

6) See Abū Yūsuf, Kītāb al-āthār, ed. Abū l-Waṣīf, Cairo 1355, p. 189, no. 859;
The acquisition of land and property in these territories was severely criticized by many of the orthodox scholars of Islam. The prevalent idea in the early Muslim community was that the conquered lands were to remain in the hands of the conquered population, who should be ruled by Muslim authorities; the revenues of the land, the *fay*³, belonged to the Muslim community and had to be divided among its members. The transfer of the land of the *kharāj* (or of the *jizya*-k) from the owner of the land-property to the newcomer (i.e. the Muslim, who arrived with the advancing army-k) was considered a humiliating act of debasement and a kind of regression in the status of the Muslim⁷). Some scholars and jurists considered the purchase of land in territories conquered on a basis of a pact (*sulhan*) as a concession (*rukhša*); they condemned however the purchase of land in territories conquered by force (*ʿanwatan⁸*). There were however some scholars who considered the acquisition of *kharāj* land as legitimate arguing that *kharāj* is merely imposed on land, while *jizya* is imposed on the heads of the unbelievers⁹). They argued further that ʿUthmān granted fiefs (*aqtaʿa*) to some Companions of the Prophet in the Sawād of ʿIrāq¹⁰).

and see p. 190, note 1: the people mentioned in the text are: ʿAbdallah b. Masʿūd, Husayn b. ʿAlī, Khabbāb and Shurayḥ. This is also the list recorded by Abū Yūsuf in his *Kitāb al-kharāj*, Cairo 1382, p. 62. Al-Shaybānī, *al-Iktisiṣāb fī l-rizqi l-mustatāb*, ed. Muḥammad ʿArnuṣ, Cairo 1358/1938, p. 37 mentions Abū Hurayra among the people who had lands in the Sawād, tilled them and paid the *kharāj*-tax imposed on them.

⁷) See Abū ʿUbayd, *al-Amwāl*, p. 77, no. 195: ʿUmar: “do not buy the slaves of dhimma people, nor their lands”⁷; I said to Ḥasan: “why?”; he said: “because they are *fay* of the Muslims”. And see ib., p. 78, no. 201: Qabīṣa b. Dhuʿayb: “he who takes land with the *jizya* (imposed on it, from a Jew or a Christian-k) takes over the position of the people of the two Books (i.e. Jews and Christians-k) as to debasement and contempt.” Abū ʿUbayd mentions Companions who censured the purchase of *kharāj* land from native owners. (See ibid. pp. 79-80, no. 205).


⁹) See e.g. Abū ʿUbayd, *Amwāl*, p. 84, no. 224 (and see no. 223).

A harmonizing view is recorded by al-Bakri: he quotes the utterance against procuring abundance of wealth and family, followed by the remark of Ibn Mas'ūd (mentioned above-k) and records the opinion of religious leaders, the imāms, whose true course one should follow, and who ruled in favour of leniency (tasahhalū) over the problem of the purchase of land including territories conquered by force. ¹¹)

The famous jurist al-Jaṣṣāṣ (d. 370 H) considered the acquisition of kharāj land permissible basing his opinion on the tradition of Ibn Mas'ūd. Al-Jaṣṣāṣ maintains that kharāj is not a humiliation, as it is imposed on the land and every land-owner has to pay it. ¹²) Contrary to it jizya is a humiliation and when jizya was imposed on the converts to Islam, Muslim jurists ruled that it was right to revolt against 'Abd al-Malik and al-Ḥajjāj; this was the cause that brought about the fall of the Umayyad caliphate. ¹³)

Abū ʿUbayd records the opinion about the iniquity of levying the jizya from the unbelievers of the Sawād, who had converted to Islam. Al-Ḥajjāj argued that they have to be considered as slaves: a slave who embraces Islam must continue to pay his taxes. This iniquity, reports Abū ʿUbayd, was the reason that some of the qurra' sanctioned the revolt of Ibn al-Ash'ath. ¹⁴)

Some sources say explicitly that ʿAbdallah b. Mas'ūd paid kharāj on his estate in the Sawād; ¹⁵) but there is a peculiar report stating that Ibn Mas'ūd enjoyed a special status as owner of kharāj land: he agreed to buy land from a dihqān on the condition that the dihqān should undertake to pay the kharāj due for it; the dihqān agreed and the transaction was accomplished. ¹⁶) It was indeed a wise solution of a grave

¹²) Al-Jaṣṣāṣ, Ahkāmu l-qurān, Quṣṭanṭīniyya, 1338 [repr. Beirut], III, 102-103; [and see above note 9].
¹⁵) See c.g. note 6.
¹⁶) Yahyā b. ʿAdam, Kharāj, pp. 166-167; al-Bayhaqī, al-Sunan al-kubrā, Hyderabad 1366, IX, 140.
problem. Many Muslims got in fact large possessions in that area and the transactions seem to have been economically successful. Ibn Mas'ūd's career was indeed conspicuous: he was born as ḥalīf of the Banū Zuhra and was employed as shepherd by ʿUqba b. Abī Muḥṣir; it was Ibn Mas'ūd who milked a ewe from his herd for the Prophet and Abū Bakr, when they passed by him on their hijra to Medina. When he assaulted Abū Jahl (in order to give him the last stroke) Abū Jahl expressed anger at the fact that a person of low extraction like Ibn Mas'ūd should kill him. Ibn Mas'ūd like some other rich men among the people of al-Kūfa generously gave up his ʿaṭā after the death of ʿUmar. Ibn Mas'ūd left at his death 90,000 mithqāl (apparently of gold-k), slaves, movables and cattle.

It is no wonder that the tradition lā tattakhidhū l-ṣawā' is recorded in the early compilations of zuhd. ʿAbdallah b. al-Mubārak quotes it in a chapter which is devoted to living on as little as possible of the things of this world (al-taqallul min al-dunyā), though one can hardly say that Ibn Mas'ūd's financial situation at the time of his death con-

17) See e.g. the discussion in Abū ʿUbayd's Charību l-hadīth, III, 371 penult.-373 [see esp. p. 373: ... wa-qad rakhkhaṣa fi dhālika baḍa ʿumara (scil. bni l-khaṭṭāb-k) rijālun min akhīribi ʿashābi l-nabīyyi ʿalayhi l-salāmu, minhum ʿabdu llāhi bμ masūdun, kānāt lahu ardun bi-rādānā...].

18) See e.g. F. Løkkegaard, Islamic Taxation in the Classic Period, Copenhagen 1950, pp. 49, 57-58.

19) Al-Balādhuri, Ansāb al-ashrāf, ed. Muḥammad Ḥamīdullah, Cairo 1959, I, 204.


21) Al-Balādhuri, Ansāb, I, 299: ... la-qad irtaqayta murtaqan saḥban yā ruwayṭi l-ghanam ... lasta bi-awwali ʿabdin qatala sayyidahu; amā, inna ashadda shayʿīn laqītuhu l-yauma fi nafsī la-qatluka iyyāya wa-llāh yakūna walīsya qattāl rajulun min al-aḥlāfi awi l-muṭayyabín...

22) Al-Dhahābī, Siyar, I, 355.

formed to the moral requirement of the Prophet. Al-Ghazâlî records this tradition in the chapter concerning "the censure of the possessions" (bayân dhâmmi l-mâl); al-Zabîdî, explaining the meaning and the purport of the utterance, states that looking after an estate may distract the owner of the property from the "Remembrance of God" (dhikru llâhi). He quotes a saying of a sage that estates are ways leading to anxiety and concern and that the letters of agents governing an estate (wukalâ) constitute keys to troubles keeping one's mind busy. People who are not affected by troubles caused by estates (i.e. those who stick to the Remembrance of God-k) are of course permitted to purchase estates.

II

An important factor in the opposition to the acquisition of land property in the period of the Islamic conquests was the idea of the Holy War, the jihaâd. This is manifest in the traditions recorded in the earliest compilations of hadîth. The Prophet is said to have foreseen that the believers would abandon the zeal and perseverance in fighting their enemies and would "stick to the tails of the cows"; then God will impose upon them humiliation which will not be lifted from upon them until they return to ride the horses (scil. in the expeditions of the Holy War-k). More detailed is a saying foretelling that when the believers conclude (îna-type transactions) take for themselves...

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24) Nevertheless al-Zubayr, who was entrusted with carrying out the will of Ibn Mas'ûd, entered the court of 'Uthmân and demanded to have the 'âtha of Ibn Mas'ûd handed over to him, arguing that the family of the deceased deserved the 'âtha more than the public treasury. (al-Dhahabi, Siyar, I, 356)

25) Al-Murtaḍâ l-Zabîdî, Ilhâfu l-sâdati l-muttaqin bi-sharhi ihyâ'î 'ulûmi l-dîn, Cairo 1311, VIII, 147; and cf. al-Munâwî, Fayd, VI, 387, no. 9731.

26) Al-Daylami, Firdaus, MS. Chester Beatty 3037, fol. 192a: lâ tazâlu ummatî bi-khayrin mà rtabatu l-khayla 'uddatan li-'adawwâthin, fa-idhâ tarâkû ribâta l-khayli was-lazimû adhnâba l-baqari sallaṭa llâhu 'alayhim dhullan lâ yarjî 'uhu 'anhum bâttâ yarjî 'ilâ l-khayli.

27) According to a lexical explanation it means "selling of a commodity for a certain price to be paid at a certain period, and buying it for less than that price
the tails of the cows, become content with tilling the land and abandon jihad, God will impose upon them humiliation, which will not be removed from them until they return to belief\(^{28}\). A concise version of the tradition is recorded in the early work of al-Shaybānī: "When you buy and sell by 'īna, when you follow the tails of cows\(^{29}\) and dislike jihad, you will get humiliated until your enemy will crave (to subdue you-k)\(^{30}\)."

The identity of the people who dislike jihad and dedicate themselves to the care of their estates and the social class to which they would belong, can be deduced from the prediction recorded in another relatively early compilation: "There will come a time when the poor will go out raiding (scil. in the expeditions of the Holy War-k) while the rich will remain behind being busy with their land and cattle; these people will defile the religion of God\(^{31}\)." Who would be the enemy who would desire to overcome the community of the believers is plainly indicated in a tradition which exposes the ethnic identity of...
the enemies: ‘‘When the ‘arab (i.e. the Bedouins-k) follow the tails of the cows, God will pour upon them (the punishment of-k) humiliation and will put over them the Persians (Wuld fāris), then they will invoke (God) but will not be answered32).’’ To the Prophet is attributed the following prediction: ‘‘It will come about that God will fill your hands with the (captives-k) of the foreign peoples (al-‘ajam), then He will turn them into lions, who do not run away and they will kill your warriors and eat (i.e. devour-k) your fay33).’’ In another utterance the Prophet is said to have predicted that before the advent of the Hour (i.e. the period preceding the Resurrection, lā taqūmu l-sā‘atu...) ‘‘you will become tillers of soil and a man will proceed to a Nabaṭī woman and will marry her for his subsistence, giving up his uncle’s daughter without looking at her’’34).

This prediction reflects the changes which occurred within the Muslim community in the first centuries of Islam: relations between the Arab conquerors and the population of the conquered territories became close and marriages between them with the resulting degradation from the ‘arab group to that of the Nabaṭī peasants became common.

Warnings against tilling the soil are frequent in the early collections of ḥadīth and books of kharāj as already mentioned. Agricultural activity was considered disastrous for the Muslim community. An utterance attributed to the Prophet says that the subsistence of the community has been put under hoofs of the horses and the iron-feet of the spears, as long as they do not sow; if they sow they will turn to be like (other) people35). In the same vein is formulated another saying of the Prophet, foretelling that when this community would

35) Yahyā b. Adam, Kharāj, p. 80, no. 255.
sow, victory will be taken away from them and fear will be cast into their hearts\(^{36}\).

'Ali is said to have been consulted about the meaning of verse 149 in \*sūrat \*āl 'imrān: ‘‘If you obey those who become infidels they will turn you back on your heels and you will become losers’’; he was asked whether it means turning back into the \*ta’arrub (i.e. following the ways of Bedouin life-k). 'Ali stated that it denotes the tilling of soil\(^\text{37}\). In another work of al-Shaybānī this interpretation of \*ta’arrub as denoting tilling the soil is attributed to the Prophet himself\(^\text{38}\), although al-Shaybānī records the early meaning of \*ta’arrub as well: it means to dwell in the desert and to abandon the \*hijra\(^\text{39}\).

It is noteworthy that the word \*ta’arrub denoted originally in the period of the Prophet violation of the oath of allegiance known as \*bay’at al-hijra. A Bedouin group who gave that solemn oath of allegiance committed themselves to stay at Medina and act according to the orders of the Prophet; after his death the group had to obey the orders of the caliphs. Returning to their abode (scil. without the permission of the Prophet-k) meant in fact that they withdrew from their obligations, violated their oath, fell back into their Bedouin way of life and committed ‘‘apostasy with regard to the \*hijra’’ (\*irtidād ‘‘ani l-\*hijra). The Prophet cursed such groups\(^\text{40}\). But the other kind of the

\(^{36}\) Al-Shaybānī, \*Siyar, I, 19, no. 12: \*idhā zarā’at ḥādhīhi l-\*ummatu nuzi’ta minhumu l-\*nasru wa-qulūbihum al-\*ru’bu.


\(^{38}\) Al-Shaybānī, \*al-Iktisāb, p. 36.

\(^{39}\) Al-Shaybānī, \*al-Iktisāb, p. 36.

\(^{40}\) Al-Ṭahāwī, \*Mushkil al-\*āthār, Hyderabad 1333, II, 96-298; and see al-Bayhaqī, \*al-Sunan al-\*kubrā, Hyderabad 1355, IX, 19; and see the significant tradition according to which the Prophet uttered three times the curse upon people who turned Bedouins after their \*hijra: \ldots \*la’a\*na lā\*āhu man badā ba’\*da hijra\*tīhi\ldots ilā fi fi\*natin \*fa-inna l-badwa khayr\*un mina l-muqāmī fi l-fi\*natin in al-\*Ṭabarānī’s \*al-Mu’jaram al-\*ka\*bir, II, 256, no. 2074; and see al-Bukhārī, \*al-\*Adab al-\*mufrad, ed. Muḥīb\*b al-\*Dīn al-Khaṭīb, Cairo 1379, p. 202, no. 578 (\*al-\*a’rāj\*īyya ba’\*da l-\*hijra counted as one of the seven grave sins, the \*kā\*bīr); and see the discussion of the problem: al-\*Ḥulwānī l-\*Khalwātī, \*al-Waṣm fi l-\*waṣm, Cairo 1323, p. 12; and see Nūr al-\*Dīn al-\*Haythamī, \*Majmā’ al-\*zawā’id, V, 252 (\*hijratu l-bā’\*thā in contradistinction to \*hijratu l-bā’\*diyā).
oath of allegiance, the Bedouin one, the bay'a a'rābiyya did not necessarily compel the Bedouin group to join the Muslim community at Medina; they were free to return to their tribe. A privileged position was granted the tribal group of Aslam: they were considered muhājiirūn although they returned to their tribal territory by the permission of the Prophet. Their relations with the Prophet were based on the principle that they would respond if summoned by the Prophet, and so would he when called by them. Ibn 'Amr (i.e. 'Abdallah b. 'Amr b. al-'Aṣ-k) defines the "believer who turns on his heels" as a man who receives his ḥiḍaṣ, raids for the cause of God, then abandons all this, takes a jizya-paying land and gets his subsistence from it. This is the man who "turns on his heels", says Ibn 'Amr. Al-Sarakhsi seems to express the opinion of moderate orthodox circles in his comment on this report: victory would be indeed withdrawn from the community if all of the people were engaged in agriculture and abandoned jihād. There is however nothing wrong if one section cultivates the land and another wages Holy War, because the fighting forces and their riding beasts need food and provisions. 'Alī, as mentioned above, interpreted "ta'arrub", which originally denoted "turning to nomadism" as meaning "cultivating the land"; obeying the unbelievers means indeed giving up jihād and being engaged in cultivating the land. It is obvious that we have here a reinterpretation of that which constitutes an improper change in the Muslim community: what is now condemned is the cultivation of land, not the act of reverting to nomadism, as before.

The Prophet is said to have stated that God sent him as (a messenger of-k) mercy and war; He did not send him as a merchant nor as a tiller of soil. The worst people, said the Prophet, are mer-

41) Al-Tahāwī, Mushkil al-īthār, II, 298-300.
42) Al-Suyūtī, al-Durr, II, 83; Abū 'Ubayd, al-Amwāl, p. 79, no. 203 (with a slightly different version).
chants and tillers of soil; excepted are only those who are zealous in keeping their faith (illā man shahha 'alā dinihī 44).

The Prophet’s sole mission was jihād. ‘I was sent with the sword before the Hour (of Resurrection-k), my subsistence was laid for me under the shadow of my spear and humility and debasement were imposed on those who oppose me; and those who make themselves to be like other people (wa-man tashabbaha bi-qawmin fa-huwa minhum) become a part of them 45).’ Jihād has thus to be continued by the Muslim community until the last of them would go out to fight the Dajjāl 46). The Muslims should make an effort that jihād may not


cease; the cessation of jihaḍ is one of the four signs of the time preceding the Resurrection⁴⁷).

Some reports describe the steps taken by the rulers and governors so as to prevent the momentum of the jihaḍ from being impeded by the acquisition of land property in the conquered territories and the setting up of settlements and agricultural estates by tribal groups. A conspicuous case of a conflict between jihaḍ, the speedy advance of troops and expansion on the one hand and sedentarization and agricultural development on the other is reflected in the report about the conquest of al-Ḥūla. When the Muslim forces entered Syria, relates Makḥūl⁴⁸), they heard about the high yield of crops in this tract of land and they sowed it. When the news reached ʿUmar he sent his emissaries to burn down the ripening crops⁴⁹). In the letter which he wrote to this group ʿUmar pointed out the role of jihaḍ in relation to agriculture: God put the subsistence of this community in the spearheads and under the iron feet of their spears; if they cultivate the land they will turn to be like the others⁵⁰).

Asad b. Mūsā⁵¹), the transmitter of this report, records another letter of ʿUmar: he who cultivates the land and follows the tails of the cows, who is content with this and consents to it, on him will the jiṣyā be imposed⁵²).

A report recorded by Ibn ʿAsākir says that ʿAbdallah b. al-Ḥurr al-ʿAbsī, a man who is said to have participated in the conquest of

⁴⁷) See ʿAbd al-Malik b. Ḥabīb, al-Waraʾ, MS. Madrid, fol. 3b: arbaʿun min ashraṭi l-sāʿa; sụ̄̇̄s t l-jiwāri wa-qatiʿatu l-arḥāmi wa-taʿṣīlu l-jīḥādi wa-t-l-thīyālu l-li-l-dunyā.
⁵⁰) Ibn Rajab, Majmuʿa, Firenze 197, fol. 90b; and cf. above note 35.
⁵¹) See on him F. Sezgin, GAS, I, 354.
⁵²) Ibn Rajab, Majmuʿa, MS. Firenze, fol. 90b.: ...wa-rawā ayyan bi-lnsādīn lahū ʿan ʿumara annahu kataba; man ttabaʿa adhnāba l-baqari wa-raḍīya bi-dhālika wa-aqarrā bihi juʿilat ʿalayhi l-jiṣyātu.
Damascus, cultivated land in Syria. When this information reached ʿUmar, he ordered the land to be taken away from him and rebuked ʿAbdallah b. al-Ḥurr for putting on his neck the collar of humiliation of the unbelievers (i.e. the taxes levied from the land owners of the conquered population-k)

53). Another report says that ʿUmar granted a piece of grazing land for horses to a group of Banū ʿAbs; they however turned it into cultivated land. He then took it away from them and imposed a fine on them

54). A revealing utterance is recorded of a warrior who was being persuaded to take a farm (mazraʿa, scl. in kharāj land-k) for his family. “By God, he said, we did not come as cultivators of land, but we came in order to kill the people of the land and to eat their grains

55).” Against this background one can understand the widely circulated tradition which links the abasement, vileness and degradation of those in whose houses the instruments for tilling and ploughing are found

56). Al-Ṭahāwī combines this tradition with those forbidding Muslims to take over land property from the former owners. The reason given is that in this way the Muslim becomes the one who is required to pay the tax instead of being the one who exacts the tax from the owner of the land. He thus brings humiliation upon himself. The passage is followed by the tradition of the Prophet about jihād already mentioned above

57). The tradition

53) Ibn ʿAsākir, Taʾrīkh /tahdhib/, VII, 357.
54) Ibn ʿAsākir, op. cit., VII, 357.
which presents the existence of a plough in the house as a sign of degradation has indeed as its aim to discourage people from acquiring land so that they may be prevented from participating in jihād.

An adequate explanation of this tradition is recorded in Lisān al-‘arab. The Prophet’s utterance was given in order to inculcate in the minds of the Muhājirūn and the other Muslims an aversion to agriculture and to indulgence of easy life, as this may detract them from waging war against the enemy; being owners of land they would be obliged to pay the fay‘-tax and they would be treated harshly by the tax collectors and would consequently be humiliated58).

Jihād was recommended as a way of subsistence. A tradition attributed to the Prophet says: “Stick to jihād and you will be in good health and get sufficient means of livelihood59)”. By sufficient means of livelihood the revenues of fay‘ were meant. When on an expedition in Bahrayn one of the warriors invoked God against the enemy: “O God let them perish, O God extirpate them”, his companion rebuked him: “O fool! Invoke god to grant us victory upon this enemy! Were it not for them, we would not receive our payment. (‘atā‘)”60).

The idea that the Muslim conquerors took for themselves the land of the conquered peoples is implicitly reflected in a tradition about the Mahdi: the Mahdi will alight in Jerusalem; he will not leave in the hands of the people of Syria even half a span of land; he will return

58) L ʿA, s.v. skk: ...wa-innāmā qāla l-nabiyyu [ṣ] innahā lā tadkhulu dāra qaumin illā dhallī karāhāta ishtīghāli l-muhājirīn wa-l-muslimīn ḍan mujāhādatī l-ʿaduwwī bi-l-zirā‘ātī wa-l-khaḍī; wa-innahum idhā faʿālī dhālika ṣulūbī bīmā yalzumuhum min mālī l-fayʿī fa-yalqūna ʿan ṣummālī l-kharaḥī ṭa-dhullan mina l-ilzāmātī; wa-qad ʿalīmī ʿalayhi l-salāmū mā yalqūhū aṣḥābū l-diyyāʾi wa-l-mazārī ʿīn ṣafī l-sulṭānī wa-ʾiyāhī ʿalayhim bi-l-mufālābatī wa-mā yanālūhūm mina l-dhulli ʿinda taghayyūrī l-ahwālī bāḍahū...


60) Ibn Ḥajar, al-Iṣābā fī tamyīzī l-ṣahāba, ed. ʿAlī Muḥammad al-Bijāwī, Cairo 1392/1972, VI, 205, no. 8191.
it to the *ahl al-dhimma;* he will gather all the Muslims and despatch them to wage the Holy War, the *jihād*).

III

The fundamental problem as reflected in the discussions of Muslim legal scholars was the question who deserves to be granted the right of possessing land, who is obliged to till the soil, who has the prerogative to receive the revenues of property, what are in fact the aims and purposes of *jihād* and what kind of Muslim community has to be formed. Some of these questions are touched upon in a lengthy passage in Ibn Rajab’s treatise on the Holy War\(^{62}\). Commenting on the utterance of the Prophet: ‘‘...and God put my subsistence in the shadow of my spear...’’ (...*wa-ja’ala rizqi tahtā zilli rumhī...*) Ibn Rajab says that God did not send the Prophet in order to gain worldly goods; He sent him to summon the people of the world to believe in the unity of God by the force of the sword (*wa-innamā ba’athahu dā’iyan ilā tauhīdīhi bi-l-sayfi*). Consequently the Prophet may kill the enemies who refuse his Call to the unity of God, confiscate their property and capture their women and progeny. Thus the livelihood of the Prophet will be from the property of his enemies\(^{63}\). This is as it should be, for God created possessions for people in order that they use them by way of obedience to God, for His worship and unity\(^{64}\). But those who use their property by way of unbelief in God and for associating other gods with Him-God will cause the Prophet and his followers to subjugate them, to wrest away their possessions and to hand them

\(^{61}\) Nu’aym b. Ḥammād, *Kitāb al-fitan,* MS. Br. Mus. Or. 9449, fol. 97b: ...


\(^{63}\) Ibn Rajab, *Majmū‘a,* fol. 89b: ...

\(^{64}\) Ibn Rajab, *Majmū‘a,* fol. 89b: ...
over to those who deserve more to have them, namely those who uphold the unity of God, those who obey God and worship Him. The revenues collected are called al-fay, because they return to those who deserve them more and for whom they were destined. In the Qurān which was abrogated there was a verse saying: innamā anzalnā l-māla li-iqāmi l-salāti wa-iltā l-zakāti 65).

Well known is the case of some people of the Anṣār who were engaged in the management of their property and refrained from going out to jihād; they were rebuked in the Qurān. Verse 195 of Surat al-baqara: wa-anfiqū fi sabīli l-lāhi wa-lā tulqū bi-aydikum ilā l-tahluka ‘and expend in the way of God and cast not yourselves by your own hands into destruction’ is said to have been revealed in connection with this situation 66).

The most perfect attitude of a believer is when he exerts himself in the obedience of God, jihād for His cause and the Call for His obedience. The believer should not strive for worldly goods and he is permitted to take from the revenues of the fay only as much as is sufficient for him. Scholars belong to the category of warriors who take part in the jihād and consequently their subsistence should be provided from the revenues of the fay 67).

IV

The growth of agricultural estates and farms and the rift between the population of the cities and that of the farms, estates and possessors of small plots in hamlets and villages in the provinces of the Muslim Empire, the formation of independent and different cultural patterns and customs are reflected in several utterances attributed to the Prophet. He is said to have forbidden to dwell in villages, for village dwellers are like grave dwellers (lā taskunū l-kufūr

65) Ibn Rajab, Majmūʿa, fol. 89b.
67) Ibn Rajab, Majmūʿa, fol. 90b.
fa-inna sākinī l-kufūr ka-sākinī l-qubūr)⁶⁸). The commentary given in al-
Daylami's Firdaus says that the reason for this injunction is the fact
that village people (in the commentary: qurā instead of kufūr) are far
from the cities (amṣār) and are unable to attend the community
prayers of Friday. Further: ignorance is more prevalent among them
and they tend more to accept undesirable innovations⁶⁹).

The prohibition against staying far from Muslim communities by
joining Bedouin dwellings occurs in another tradition where the
Prophet speaks against staying in caves as they are like graves and
against staying with Bedouins, who tend to roughness; God's hand
is stretched over the community and He does not mind the separation
of those who separate themselves (scil. from the community-k)⁷⁰).

The migration from the cities and the establishment of farms and
villages does not seem to have been favoured by the orthodox circles.

203, no. 578; al-Balādhurī, Ansāb al-ashrāf, ed. Muḥammad Ḥamdūllāh, I, 481;
Nūr al-Dīn al-Haythamī, Majma‘ VIII, 105: lā tanzilū l-kufūr fa-innāhā bi-manzilati
86b; Abū ʿUbayd, Gharībū l-ḥadīth, Hyderabad 1387/1967, IV, 191: ...wa-qad
ruwiji ʿan mu‘āwiyyata annahu qāla: ahlu l-qusūr hum ahlu l-qubūr, ya‘nī bi-l-qusūr al-qurā;
yaqūlū; innahum bi-manzilati l-mautū lā yushāhidinā l-amṣār wa-t-jumā‘a wa-mā
ashbahahā; and see al-Jarrāḥī, Kashfu l-khafā‘ī wa-muzilū l-tābās, II, 355, no. 3024;
Ibn al-Aṭhir, al-Nihāyā fi gharībi l-ḥadīth, ed. Muḥmūd Muḥammad al-Ṭanāḥī,
Cairo 1385/1965, IV, 189.

⁶⁹) Al-Daylami, Firdaus, MS. Chester Beatty 3037, fol. 187b, sup.: lā taskunū l-
kufūr ...ya‘nī l-qurā, wahdūhah kafr, wa-hiyya l-qurā l-nā‘iyatu ʿanī l-amṣārī wa-muqāmātī
ahlī l-ṣīmā, fa-yakūnu l-jahli ‘alayhim aghlāba, wa-hum ilā l-bida‘ī asra‘u; cf. al-Munāwī,
Fayd, IV, 401, no. 9797 (and see the version of al-Ṭabarānī recorded on p. 402:
lā ta‘murunna l-kufūra fa-innā ʿamīra l-kufūrī ka-ʿamīri l-qubūrī); al-Bayhaqī, Shu‘ab al-
imān, MS. Reisū l-kūṭṭab, 219 (Sulaymanīyya), fol. 26a; al-Majlīsī, Bihār al-anwār,
LXXVI, 156; and cf. the prohibition to dwell in the Sawād: al-Bustī, al-Majrūḥīn,
I, 123: ...iyāyūm wa-l-suqūnū fī l-sawādī, fa-innāhu man sākana l-sawāda yadda‘u
galbuhu...

⁷⁰) Al-Daylami, Firdaus, MS. Chester Beatty 3037, fol. 188a: lā tanzilū l-kūhūfa
fa-innāhā bi-manzilati l-qubūrī, wa-lā taqribuhū tunban fī l-badwi fa-innā l-badwi li-l-jafa‘ī,
wa-yadū l-lāhī ma‘a l-jamā‘ātī, wa-lā yubdū l-lāhī shudhūdha man shadhūda...; cf. Nūr al-
Dīn al-Haythamī, Majma‘ al-zawā‘id, VIII, 105 (and see ib. three other utterances
coupled with this tradition); and cf. al-Ṭabarānī, al-Mu‘jam al-kabīr, VI, 266, no.
7085 (the Bedouins were ordered to pray behind the Muhājirūn and the Anṣār,
because they do not know how to pray).
The perils inherent in this phenomenon are exposed in the utterance attributed to the Prophet: “The extinction of my people is by the Book and by milk”, *halāku ummatī fi l-kitābi wa-l-labāni*. The Prophet was asked what he meant by it and he explained: “People will study the Qurʾān and interpret it in a different way than that revealed by God; and they will like milk and will leave the (urban-k) communities and turn to the Bedouin way of life (*qāla yataʿallamūna l-qurʾāna fa-yataʿawwalūnahu ʿalā ghayri mā anzala llāhu ʿazza wa-jall wa-yuḥibbiʿūna l-labāna fa-yatrūkūna l-jamaʿāti wa-yabdūna*).

This view is clearly expressed in another utterance of the Prophet: “I have more fear for my people from milk than from wine”. Then he was asked: “How is it, O Messenger of God”? And he said: They will like milk and they will depart from the communities and lose them”.

It is also concisely formulated in a saying reported on the authority of ʿAbdallah b. ʿAmr b. ʿAṣ: “I fear for my people from nothing except milk, because Satan is located between the froth and the liquid milk”.

The antagonism between the nomadic population (probably dwelling not far from the centres of the urban population-k) and the inhabitants of the cities is reflected in a gloomy vision of future

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events: the people of the desert will enter the city and demand a share of the property of the city inhabitants; the latter will not be able to resist them. The Bedouins will accuse them of having stayed long in comfort and luxury while the Bedouins lived in misery. Ka'b's forecast is put in a broader setting; other social groups are mentioned and their role in the events is foretold: the Prophet said: "I would like all the milk which flows from udders in the world to turn into tar." "People will not desist, says Ka'b, until they take for themselves small cattle (ghanam), milk it and vie with each other over it (i.e. in its keeping, breeding etc.-k); when the cattle grows in numbers they will leave the cities, communities and mosques and turn into Bedouins. It is well known, continues Ka'b, that God sent no prophet and established no caliphate or kingdom except from amongst the city dwellers and sedentary population (ahl al-qurā wa-l-ḥadārā); and it was not desired that God should grant these boons to the tent-pole people nor to the Bedouins (wa-kānū lā yaṭmāṭān an yaj'alahu fī ahli ʿamūdīn wa-lā badwin). When God sees their dislike of the communities and the mosques, He will direct against them groups of people from among their slaves and clients (fa-idhā raʾā llāhu raghibatuhum ʿani l-jamāʿātī wa-l-masājidī bta'atha llāhu ʿalayhim mimmā malakat aymānūhum aqūaman...); the latter will talk with them in Arabic and will beat them with yamiš swords until they return to the community and to the mosques." Ka'b consequently recommends not to acquire as slaves many of the foreign captives (al-ʿajam). Were he to have power over the captives, he would kill nine out of ten from among them (wa-lau sullīṭtu ʿalā mā fī aydīkum min sabyihīm la-qatātu min kullī ʿasharātin tisʿatān); the rest he would banish to the gorges. "By God", Ka'b says at the end of his discussion, "they will not remain loyal and they will embitter your life."
The traditions, the utterances, the prohibitions and the injunctions
give us a glimpse into the strivings and struggles within the Muslim
society of the early period concerning land property, *jiḥād*, urban
societies and the acquisition of farms and estates.

V

In contradistinction to the traditions bidding restraint in the
acquisition of land property, the early *ḥadīth* collections also contain
a great many utterances praising the tilling of soil and the acquisition
of land property. A widely circulated saying of the Prophet states that
the best property is a pollinated row of palm trees and a fertile horse
of good quality.76)

The Prophet is said to have enjoined respect to the palm tree which
is the "aunt of the people", as it was created from the remainder of
the clay of Adam; no tree is more respected by God than the palm
tree; Maryam, the mother of Jesus, alighted under this tree. It is the
only tree which is pollinated and its fruits are recommended for par-
turient women.77) The palm trees were described by the Prophet as
"firmly rooted in mud, feeding in years of drought" and he pro-
hibited the sale of palm groves; the money obtained from sale of palm

of palm trees the contemptuous verse of Jarīr: *aqīlu wa-lam amliq amāli bna ḥanzali:
matā kāna ḥukmu llāhi fi karabī l-nakhlī* [See this version: al-Balādhuri, *Ansāb al-ashrāf*,
MS. fols. 967b and 1011a; and see other versions of this verse e.g.: Jarīr, *Dīwān*,
ed. al-Sāwī, Cairo 1953, p. 423 ult.; *LʿA*, s.v. k r b; al-Āmīdī, *al-Mutālif wa-l-
mukhtalif*, ed. ʿAbd al-Sattār Aḥmad Farrāj, Cairo 1381/1951, p. 214]. And see the
answer of Khulayd ʿAynayn: *ayyu nabīyyin kāna min ghayri qaryatin: wa-mā l-ḥukmu yā
bna l-luʾmi illā maʿa l-risli.* [al-Balādhuri, *Ansāb*, fols. 967b, 1011a].

76) Al-Suyūṭī, *Jamuʿ l-jawāmiʿ*, I, 518; al-Munāwī, *Fayd*, II, 491, no. 4066; al-
Ābī, *Nahīr al-Durr*, ed. Muḥammad ʿAlī Qarnā and ʿAlī Maḥmūd al-Biḥāwī, Cairo

Yaʿlā, *Musnad*, ed. Husayn Sālim Āsad, Damascus 1404/1984, I, 353, no. 455; al-
Suyūṭī, *al-Maudūʿāt*, ed. ʿAbd al-Raḥmān Muḥammad ʿUthmān, al-Madīnā al-
groves would be dispersed like ashes by winds\textsuperscript{78}). Paradise was promised by the Prophet to a man who would plant three palm trees and care for them until they bore fruit\textsuperscript{79}). Ka\textsuperscript{t}b al-Aḥbār recommended acquiring palm groves\textsuperscript{80}). From the profits of the crops of sown land (\textit{min \textit{fudūli ghallāti l-zarī}t}) people used to purchase palm groves, but they did not buy sown land from the profits of palm groves\textsuperscript{81}). Palm groves seem indeed to have been a profitable enterprise\textsuperscript{82}).

The planting of fruit trees was considered a virtue; the Prophet is said to have promised that whoever planted a tree from which a person ate or anyone of God's creatures fed, would have that act counted in his favour as alms\textsuperscript{83}).

Traditions which speak in favour of land cultivation became current a short time after the conquests and the acquisition of land property in the conquered territories. The Prophet is said to have

\begin{itemize}
\item \textsuperscript{78} Nūr al-Dīn al-Haythamī, \textit{Majma'}, IV, 68 (and see ib. p. 69).
\item \textsuperscript{79} Al-Waṣṣābī, \textit{al-Baraka}, p. 19 sup.
\item \textsuperscript{80} Abū Ṭalīb al-Makkī, \textit{Qīt}, IV, 198 inf.: \textit{wa-khayru l-māli l-nakhl, bā'ī'uhā manfūq wa-mubtī'uhā mazāq}...
\item \textsuperscript{81} Ibīn 'Abd al-Barr, \textit{Bahjat al-majālis wa-uns al-mujālis}, ed. Muḥammad Mursī l-Khūfī and 'Abd al-Qādir al-Qīṭṭ, Cairo 1969, I, 130.
\item \textsuperscript{82} See e.g. al-Khallāl, \textit{al-Hathib} 'alā l-tijāra wa-l-šinā'īr wa-l-\textit{tāmal}. Damascus 1348, p. 14 inf.: \textit{mā qutila bnu 'affāna ḥattā balaghat ghallatu nakhil mi'ata alfin}.
encouraged the believers to cultivate the land\textsuperscript{84}), stressed that it is a blessed occupation and recommended to put pieces of wood in the fields in order to protect the cultivated fields from an evil eye\textsuperscript{85}). Tradition emphasized that the cultivation of land is a noble occupation, as the first who ploughed the soil was Adam\textsuperscript{86}).

A significant tradition is recorded by al-Bukhārī: an inhabitant of Paradise asked God to cultivate land in Paradise. God asked him: "Are you not satisfied with your situation here?" "Yes", answered the man, "but I like that". He was granted permission and his crops grew to an extraordinary height, like mountains. A Bedouin who attended the council of the Prophet and heard this story remarked: "This must have been a Qurashite or an Anṣārī, they have cultivated lands, we have not." On hearing this the Prophet laughed\textsuperscript{87}). An utterance attributed to the Prophet counts as the two best kinds of property land and small cattle\textsuperscript{88}).

Land property came to be considered the best investment; Sahl b. Ḥunayf\textsuperscript{89}) bids one of the sons of ʿAbd al-Raḥmān b. ʿAuf (well known as one of the richest Companions of the Prophet) to acquire


\textsuperscript{86) Al-Suyūṭī, \textit{al-Durr al-manāhīr}, I, 57 sup.


a farm and argues: "If you cultivate it, you get profits from it; if not it will not suffer any loss". This advice is preceded by a remark which emphasizes the advantage of investment in land property and livestock\(^90\). According to some reports Arabs used to say: "Sell the animals (hayawān) and buy barren land (mawatān)"\(^91\). Ahmad b. Ḥanbal urged to acquire estates and advised that care should be taken to ensure a sound management of property in order to get sufficient means of subsistence and not to need the help of people\(^92\).

The obligation to keep the land property found its expression in some of the traditions attributed to the Prophet. The Prophet enjoined that money obtained from the sale of land be invested in another piece of land\(^93\); money invested in other kinds of property would not be blessed\(^94\). According to another tradition the Prophet is said to have recommended that one should hold on to one's land (amsikū 'alaykum arḍakum) and not hand it over to anyone; if anyone manages a thing well it belongs to him (fa-man ‘ammara shayṭan fa-huwa lahu)\(^95\).

In the same vein are formulated the utterances and advices of the Companions of the Prophet. 'Umar is said to have advised to acquire property\(^96\). According to Saʿīd b. al-Musayyab\(^97\) man is no good if

\(^{90}\) Ibn ʿAbd al-Barr, Bahjat al-majālis, I, 130.
\(^{91}\) Abū Ṭalib al-Makki, Qūt, IV, 187.
\(^{92}\) Al-Khallāl, al-Hathth ʿalā l-tijāra, p. 7.
\(^{93}\) Al-Bayhaqī, al-Sunan al-kubrā, VI, 33, 34.

\(^{95}\) Al-Muʿaddal, Amdli (= al-Fuwāʾid al-ḥisān), MS. Zāhirīyya 18 [majmūʿa], fol. 273a.

\(^{96}\) Al-Khallāl, al-Hathth, p. 15: ...qāla ʿumaru: yā abā ḏabaya ṭахkīdīb mālān. And cf. Ahmad b. Ḥanbal, Ḥal, I, 329, no. 2146: ...mā aʿlāmu shayṭan yatruku l-rajulu khāyran min mutawālin yastaghī bihi wulduhu ṣāni l-nāsi.

\(^{97}\) See on him e.g. Ibn Saʿd, Ṭabaqāt, II, 379-384.
he does not strive to gain property from which he would pay his debts, keep his honour (e.g. by allocating money to poets in order to prevent them from vilifying him in their satirical poems-k) and carry out his obligations; at his death he will bequeath it to his heirs98). Property was amassed in order to preserve faith and honour99). The father of Khālid b. Ṣafwān100) was asked for whom he had collected his wealth. He replied that he had collected it against the vicissitudes of time, the harshness of rulers and in order to contend for superiority within the tribe101).

The Prophet summoned ʿAmr b. al-ʿAṣ to go out on a military expedition, promising him booty, but ʿAmr replied that he had not converted to Islam in order to get property; he had embraced Islam in order to participate in the Holy War and remain in the neighbourhood of the Prophet. But the Prophet said: "How nice is good property for a good man"102). The fortune of ʿAmr b. al-ʿAṣ was thus foretold by the Prophet103).

Land property was considered more profitable and stable than ownership of livestock or of gold and silver; gold and silver are (like-k) stones; if you leave them they do not increase, if you use them they are spent; livestock is like green plants: it withers when it is hit by the sun; but land and water are real property104).

98) Al-Khallāl, al-Ḥathth, p. 15: ...lā khayra fīman lā yatlibu l-māla yaqdi bihi daynahu wa-yaṣūnu bihi ʿirdahu wa-yaqdi bihi dhīmāmahu wa-in māla tārakahu mīrāhan liman baʿdahu.
100) See on Khālid b. Ṣafwān and his father e.g. al-Baladhurī, Ansāb al-ashrāf, fol. 1023a-b.
101) Al-Baladhurī, Ansāb, MS. fol. 1022a.
103) See on his wealth: al-Masʿūdī, Mushākālatu l-nāṣi li-zamānīhim, ed. William Millward, Beirut 1962, p. 16: ...fa-банā ʿamru bnu l-ʿāṣi dārāhu bi-mīṣra wa-ṭtakhdha ni-nafshi l-diyyāʾa, wa-gharasa fi dayʾatih llati yuqālū lāhā l-wāḥi bi-l-ṭāʾif alfi ʿudi karmin, fa-kānāt ghallatuhu asharaṭa alafī alfi dīrhamin... 
104) Ibn ʿAbd al-Barr, Bahjat al-majālis, I, 129: ...qāla l-mustaurid: al-dhahabu wa-l-waqqī qu ḥājarānī, in tārakhumā lam yāṣīdā wa-in akhādhtā minhumā nafīdā; wa-ḥayawānu ka-l-baqṭī, in ʿṣābathu l-shamsu dhawā, wa-lākīna l-māla l-arḍū wa-l-māʾ...
A special position of distinction among the various kinds of livestock is preserved in the *hadīth* for small cattle (*ghanam*): sheep, ewes and goats. The Prophet characterized the owners of the camel herds as rough-hearted; he referred to Rabī'ā and Muḍr; belief rests with the people of Yaman\(^ {105} \)). In another tradition the classification is more detailed: unbelief is with the people of the East (*al-khufr qibala l-mashriq*), the people of Yaman are people of belief (*al-imān yamān*). The owners of small cattle are calm and tranquil (*al-sakīna fī ahli l-ghanam*), pride and haughtiness are to be found among rude men, owners of horses and camels\(^ {106} \).

Al-Ḥasan al-Baṣrī made the following division: roughness is to be found among camel tails (*al-jafā' ma'ā adhnābī l-ibīl*), humility with the cow tails (*al-dhilla ma'ā adhnābī l-baqar*), tranquility with the owners of sheep, power and nobility (*al-ʿizz*) are with the horse-locks\(^ {107} \). A ewe in the house, says the Prophet, is a blessing, two are two blessings, three are three blessings\(^ {108} \). The Prophet advised Umm Ḥāni\(^ {3} \) to acquire small cattle because it brings wealth in the morning and in the evening\(^ {109} \). Prophets were granted revelation while they were shepherds; the Prophet was sent by God while pasturing the small


\(^ {108} \) Al-Bukhārī, *al-Adab al-mufrad*, p. 201, no. 573; and see al-Ṭāhir ibn ʿAbd al-Iṣfahānī, *Muḥṣar al-udabāʾ*, Beirut 1961, III-IV, 660: ... mā min muslimin lahu shāṭūn illā wa-quddisa kulla yaumīn marratān; fa-in kānāt lahu shāṭānī quddisa kulla yaumīn marratayn...; al-Muttaqī l-Hindi, *Kanz*, XVII, 147 ult.-148, no. 487. And see al-Munāwī, *Fayd*, V, 473, no. 8009: a sheep is a blessing for the people (*baraka* is explained in the commentary as denoting subsistence); and see ib. no. 8010: angels pray during the night until the morning for a family in which a flock of sheep returns to their abode in the evening (*mā min ahli baytīn tarūhū ʿalayhim thallatun mina l-ghanāmī illā bātāt al-malāʾikatu tusbālī ʿalayhim hattā tuṣbīha*.

cattle of his family at Jiyād\textsuperscript{110}). The Prophet spoke highly of those who wipe the mucus of sheep and clean their resting places from stones and thorns, because sheep are the beasts of Paradise\textsuperscript{111}). Three blessings were sent down from Heaven, according to the Prophet: the ewe, the palm tree and the fire\textsuperscript{112}).

Several utterances of the Prophet about goats put them on the same level as sheep. "Respect the goat and wipe their mucus, because they are among the beasts of Paradise", said the Prophet\textsuperscript{113}). The complicated question whether the goats in Paradise resemble those on earth is answered by Ibn Qutayba: there are goats in Paradise like those on earth; there are also horses, camels, small cattle and edible birds; there are however no pigs, apes, scorpions or snakes in Paradise\textsuperscript{114}).

An interesting tradition attributed to the Prophet states that he enjoined the rich to acquire small cattle (ghanām) while he recommended that the poor should acquire chicken\textsuperscript{113}). In another tradition the Prophet states that chicken are the small cattle of the poor, and


\textsuperscript{112} Nur al-Din al-Haythami, Majma’\textsuperscript{4}, IV, 66; al-Munāwī, Fayād, II, 216, no. 1637; al-Suyūṭī, Jam‘ al-jawāmi’\textsuperscript{1}, I, 163.

\textsuperscript{113} Al-Damīrī, Hayāt al-ḥayawān, Cairo 1383/1963, II, 327; Nur al-Dīn al-Haythāmī, Majma’\textsuperscript{4}, IV, 66; al-Suyūṭī, Jam‘ al-jawāmi’\textsuperscript{1}, I, 140; al-Munāwī, Fayād, II, 91, no. 1422.

\textsuperscript{114} Ibn Qutayba, Tawil mukhtalifi l-hadīth, Cairo 1326, pp. 310-311.

Friday is their pilgrimage (hajj)\textsuperscript{116). When the rich will acquire chicken God will let the villages fall into ruin\textsuperscript{117). The tradition indicates that the rich will undertake to breed chicken: they will be in competition with the poor and will thus cause the ruin of the villages as a result of the fact that the economic equilibrium of the Muslim community would be disturbed.

The qualities of sheep and goats come up in the injunction concerning places of prayer. The Prophet spoke favourably about the prayer in the resting places (murāb) of sheep\textsuperscript{118). Prayer in the resting places of camels (aṭān al-ibil) was in contrast forbidden by the Prophet\textsuperscript{119). The reason for this last prohibition, as given by the Prophet, was that the camels were created from Satans or from jinns or that they are indwelt by Satan\textsuperscript{120). In a great many traditions the prohibition against praying in the resting places of camels is coupled

\textsuperscript{116} Al-Jarrāḥī, Kashf al-khaḍā', I, 334, no. 1076, 400, no. 1286; Nāṣir al-Dīn al-Albānī, Siṣīṣat al-ḥādithi l-daṣ'īfa, Beirut 1392, II, 249, no. 53.

\textsuperscript{117} Al-Munawwī, Fayḍ, IV, 364, no. 5628; al-Daylāmī, Firdaːs, MS. Chester Beatty 3037, fol. 105a, sup.: ...ʿinda ṭīkḥādhi l-aghniyāʾi l-dajāja halāku l-fuqaraʾi wa-yadhanu l-lāhu ʿazza wa-jalla bi-halāki l-qūrā; Nāṣir al-Dīn al-Albānī, Siṣīṣat al-ḥādithi l-daṣ'īfa, p. 152, no. 119; Ibn ʿArāq, Tanzeḥ al-sharia, II, 249, no. 59.

\textsuperscript{118} Nūr al-Dīn al-Haythamī, Majmaʾ, II, 26; al-ʿAynī, ʿUmdat al-qārī sharḥ saḥiḥ l-bukhārī, IV, 179 penult.-180; al-Munawwī, Fayḍ, IV, 201, no. 5020; Ibn ʿAdīyy, al-Kāmil, VI, 2088.

\textsuperscript{119} See e.g. Ibn Qayyim al-Jauziyya, Ighāthatu l-lahfān min maṣāyidī l-ḥayyān, Cairo 1358/1939, I, 148: ...al-ṣalātu haythu kāna wa-fāi ayi makānīna ittāfaqa siwā mā nāhiya ṣanhu mina l-maṣḥaraṭi wa-l-ḥamāmāmi wa-ʿājmī l-ibīlī.

with the injunction to pray in the resting places of small cattle\(^\text{121}\)). In one of the versions of this tradition the Prophet explains the reason for the prohibition: ‘‘Do not pray in the resting places of camels as they were created from the jinn; look at their countenance and their eyes when they break away’’\(^\text{122}\).

Ibrāhīm b. 'Alī al-Shīrāzī quoting this tradition adds another argument: the believer cannot apply himself to his prayer with his whole heart, because of the fear that the camels may break away (\textit{nufūr}); this does not apply to the small cattle\(^\text{123}\)). Al-Shāfi‘ī supplies an interesting comment on the tradition: the resting places of small cattle are carefully chosen in clean places, while the camels rest in stripbare and dirty places. Further, he says, the terms only refer to places which are capable of being used as resting grounds for camels or sheep even if they have not actually been used in this manner. In both cases prayer is forbidden in these places, if they contain the droppings and urine of camels or sheep (and other animals like donkeys, horses or cows); droppings and urine carry ritual impurity (\textit{najas}) and prayer said in such a place has

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\(^{122}\) Al-Suyūtī, \textit{Jam‘al-jawāmī}, I, 895: lā tuṣallū fi a‘tānī l-ibīlī, fa-‘innahā khulīqat mina l-jinnī; alā tarawīna išā hay‘atīha wa-zawwīniha idhā naṣāra...\(^{123}\)

\(^{123}\) Ibrāhīm b. ‘Alī al-Shīrāzī, \textit{Al-Muhadhdhab fi fisqī l-shāfī‘ī}, Beirut 1379/1959, I, 70 (and see ib. the comments of Muhammad b. ‘Aḥmad al-Rakīb in his \textit{al-nāzmu l-musta‘dhab fi sharī‘ī gharībī l-muḥadhdhab}).
to be repeated. As to praying in the resting places of camels, even if they contain no dirt, this is considered repugnant because of the Prophet's prohibition\(^{124}\). Other jurists like Mālik, Ahmad b. Ḥanbal and Ishāq b. Rāhaway gave a literal interpretation of the tradition. Ahmad b. Ḥanbal is of the opinion that there is no objection to prayer performed in a place where there is camel urine, provided that it is not a resting place for camels\(^{125}\).

In the practice of ṭawāfi', the ritual ablution, one also notices the difference in the assessment of the qualities of camels as against sheep. A man asked the Prophet whether prayer in the resting places of sheep was prohibited. "No" said the Prophet. "Do I have to perform ṭawāfi' after eating the meat of sheep?" asked the man. "No" answered the Prophet. "May I pray in the resting places of camels?" asked the man. "No", was the answer of the Prophet. "Do I have to perform ṭawāfi' after eating the meat of camels?" asked the man. "Yes" answered the Prophet\(^{126}\).

The scholars were however not unanimous about the injunction of performing ṭawāfi' after eating camel meat; their opinions were divergent and even contradictory\(^{127}\). It is significant that the commentators stressed in the early period the pejorative aspects of the camel and its satanic features; by eating the meat of a camel the believer consumes, in their opinion, meat which possesses satanic properties. The ṭawāfi' is meant

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124) Al-Shafi'i, *al-Umm*, Cairo 1388/1968, I, 80 (However if a person prays in the vicinity of an *ṣuṭan* in which there is no dirt at all, the prayer would be considered sufficient, *ajza'a*).


to wipe off the effects of the satanic power and to remove its vile properties 128). Al-Jāḥiẓ counts camel meat among the three kinds of food which are detrimental and dangerous 129).

VI

The traditions about farms and estates mentioned above, encouraging acquisition of land and recommending planting of trees and cultivating of soil, refer in fact to the owners of the lands and to the rich possessors of the land cultivated actually by labourers, clients and often by captives of the conquered territories 130). A peculiar version of a tradition attributed to the Prophet elucidates this assumption: “He who buys a village, working on its development deserves God’s aid!” (man shtarā qaryatan yu‘ammiruha kāna āqqan ‘alā llāhi ‘aunuhu) 131). The virtuous deed is the acquisition of a huge land area and developing it in an economically successful manner, employing slaves, captives or cheap, landbound labourers.

Different in content are the traditions and reports describing the virtues of tilling the soil, the rewards granted the cultivators in the Hereafter and counting the eminent and pious persons who exerted themselves in agricultural activities.

Al-Shaybānī, denying the claim that cultivation of land is dispraised (madhmūma), mentions that the Prophet cultivated land (anna l-nabīyya [ṣ] izdara‘a bi-l-jurf) 132) and that the majority of the

128) See e.g. Ibn Qayyim al-Jauziyya, I‘lām al-muwaqqit‘in ‘an rabbi l-tālamīn, Beirut 1973, II, 15: ...fa-’idhā ghtadāhā min luḥūmī l-ibili wa-fihā tilka l-qiwawatu l-shaytāniyyatu, wa-l-shaytānu khulīga min nārin, wa-l-nāru tuṭū‘u bi-l-mā‘ī...fa-’idhā tawadda‘a l-l-‘abdu min luḥūmī l-ibili kāna fi wudū‘hi mā yuṣfī‘u tilka l-qiwawatu l-shaytāniyyatu fa-tāzūlu tilka l-mafsidatu...


131) Al-Suyūṭī, Jam‘u l-jawāmi‘, II, 258.
religious scholars prefer agriculture to trade and stress that it is more useful.  

omedical scholars and Ḥafṣa are said to have preferred land property in Khaybar to getting the granted income in food.  

Abū Hurayra had land property and used to sow in his plot early in the morning.  

Sayyid b. Abi Waqqāṣ used to carry large baskets of dung (‘urra) to his plot in order to fertilize it.  

Shī‘i tradition asserts that the Prophet and ‘Alī exerted themselves tilling the soil; prophets and pious men cultivated the land working as labourers.  

God ordered Moses to sow the land and he obeyed God’s injunction.  

God’s name is explicitly written on every stalk and destroying of plants or burning them is an unforgivable sin. It is obvious that the man who exerts himself cultivating the land performs a laudable deed.  

The angels ask God’s forgiveness for the sins of the sowers and planters as long as the sown plants are green.

In some late traditions the peasant is named al-ḥārith or al-ḥarrāth; he is given the highest praise and is promised the highest reward.  

“The peasant, says a tradition, is God’s friend on earth (al-ḥarrāthu šadiqū llāhi fi l-ārdī), a friend of the angels and of the prophets. Were his sins more than the sands of Ālij, God would forgive him all his sins because of the invocation of the birds; they invoke for him...
every time they eat from his plants and God responds to their invocations”\textsuperscript{142}).

In another tradition of this kind the Prophet is said to have stated: “When the peasant takes the seeds into his hand [and the seeds are of a lawful possession] an angel calls out ‘a third for the sower, a third for the birds and a third for the beasts’. When he puts the seed into the soil he is granted by God ten awards [for good deeds-k] for every grain. When he waters the soil and the plants begin to grow he is like a man who endows life a believer by every grain; the plant continues to praise God until the harvest. When he threshes it he [is in the position of a man who] threshes his sins; when he winnows it his sins vanish (\textit{dhahabat dhunūbihu}). When he weighs it he is freed of his sins and becomes like a baby on the day he was born. When he turns back home and his family is joyous by his presence, on his account are put down rewards of worship of forty years. When he aids by the harvested crops the hungry, the neighbour and the poor, God grants him safety from His punishment’\textsuperscript{143}).

A most exhaustive account concerning the hardship and plight of the peasant and the lavish praises and rewards granted him is recorded in an anonymous tradition in an anonymous manuscript: The Prophet said: “The superiority of the peasant to the other people is like the superiority of the crescent to the stars. There is no angel passing a cultivated plot without saying ‘may God bless you and your plot’. God has hosts of innumerable angels in the air; they invoke God for the peasant until the Day of Resurrection and put down his good deeds. The labour of the peasant is indeed hard and his reward is abundant. Wild beasts, birds, fish in the seas and animals on earth, everything (literally: everything wet and dry, \textit{kullu ratib wa-yābis}), every stone and every clod of clay in the West and in the East ask God to forgive the peasant his sins. Peasants trust God and their trade is with God (\textit{wa-humu l-mutawakkilūna ʿalā rabbihim wa-inna tijāratahum}

\textsuperscript{142} Ibn ʿArāq, \textit{Tanzih al-shariʿa}, II, 198, no. 37.
\textsuperscript{143} Al-Waṣṣābī, \textit{al-Baraka}, pp. 16 inf.-17.
ma' a rabbihim); they will pass the Path (sirāt, scil. on the Day of Judgment-k) with the prophets, the strictly veracious (al-siddiqîn-k), the martyrs and the pious quick like the flash of lightning. They will be granted intercession like the intercession of the prophets. The smell of the body of the peasant will be considered by God equal with the smell of the mouth of the fasting believer; the sweat of the body of the peasant will be considered by God equal with the sweat of the warrior (fighting for the cause of God-k). God will then say: 'O my servants, enter Paradise from any gate you like’144).

Some words may be said about the changes in the perceptions of the Arab people in the first period of Islam as to land property on the margin of the traditions and utterances scrutinized above.

It may be noted that there was a considerable concern for land property in Mecca in the period of the Jâhiliyya and early Islam. Arabic sources record some cases of conflicts between Meccan leaders as to ownership of certain plots of land145).

There were close relations in the period of the Jâhiliyya between Mecca and al-Tâ'if: many leaders of the Meccan clans acquired land in al-Tâ'if. The agreement concluded between the Prophet and al-Tâ'if facilitated the purchase of land in Wajj by the Qurashites146).


145) See e.g. al-Baladhuri, Ansâbu l-ashrâf, IV a, ed. M. Schloessinger, Jerusalem 1971, p. 8, l. 5.

and regulated the conditions of partnership between the Meccan owners of the vineyards and their Ṭāʾifi partners who saw to the tilling and watering of the land acquired by the Meccans¹⁴⁷).

Noble Qurashites entered partnership deals with Bedouins, bought land property and invested in the tilling of the land and its development¹⁴⁸).

It is of crucial importance that the compact between the Prophet and the Medinans included a stipulation which granted the Prophet a weighty prerogative: to act deliberately as to "the matters of every piece of land not reached by water" (...anna rasūla ʿlāhi ṣallā ʿlāhu ʿalayhi wa-ṣallam lammā qadima l-madinata jāʾalū lahu kulla ardīn lā yablughuhā l-māʾu...)¹⁴⁹).

It is evident that this stipulation gave the Prophet a considerable measure of authority which enabled him to control the activities of the tribal groups who alighted in Medina and tried to attach themselves to one of the tribal divisions in Medina or to settle in one of the suburbs of the city. This prerogative also gave the Prophet the opportunity to allot land in the conquered territories to some tribal groups or to individuals. Some of his Companions in fact received valuable and expensive plots.

The Prophet for example granted Bilāl b. al-Ḥārith a part of the land of al-ʿAqīq¹⁵₀) and allotted ʿAmr b. Salīma al-Kīlābī a patch of land as his exclusive property, as a ḥimā¹⁵¹). Another ḥimā was granted by the Prophet to a man from the tribal group of Bahz, from Sulaym¹⁵²). The Prophet granted vast areas of land to his Companion

¹⁴⁷) Ib., notes 32-33.
¹⁴⁸) See e.g. al-Baladhuri, Ansāb, IV a, p. 3; al-Bakrī, Muʾjam mā staʾjam, p. 1070, s.v. Qurayya.
¹⁴⁹) Al-Bakrī, Muʾjam mā staʾjam, p. 953, s.v. al-ʿAqīq.
¹⁵¹) See e.g. Ibn Ḥajar, al-Itṣāba, IV, 642, no. 5860.
¹⁵²) See e.g. Ibn Ḥajar, al-Itṣāba, IV, 755, no. 6140.
al-Zubayr\textsuperscript{153}). On his arrival to Medina the Prophet allotted [land] property to Abū Bakr and Čūthmān\textsuperscript{154}.

This prerogative was later expanded and included other matters connected with land ownership: the Prophet is said to have ordered the Jews of Naḍīr to sell their land-property declaring that he intends to expel them from Medina. According to a tradition they were encouraged by "the hypocrites", who promised them their aid, to refuse the Prophet’s recommendation and refrained from selling the land. Then the Prophet received a revelation about the planned treachery of the Naḍīr and their plot to assassinate him and ordered them to leave Medina, taking with them only a load of a camel. The land left by the Banū Naḍīr became the exclusive possession of the Prophet; he divided it among the Muhājirūn\textsuperscript{155}).

The delegations of the tribes that used to come to the Prophet asked to allot their tribes the right to pasture in territories which they claimed for themselves; leaders of tribes asked for themselves land property on which they intended to pasture their cattle. Sometimes the conflicting claims of the tribal groups were exposed during the visit of their representatives at the court of the Prophet. Such was the case of the delegation of the Banū Bakr b. Wāqī‘il who asked for themselves the right to pasture the vast area of the Dahna\textsuperscript{2}. The area was in fact pastured by the tribal divisions of the Banū Tamīm and the Prophet withdrew his consent to grant it to the Bakr b. Wāqī‘il, affirming the legal rights of the Banū Tamīm to this area\textsuperscript{156}). Some of the Companions of the Prophet became in fact owners of big estates: Čūthmān possessed estates in Khaybar and Wādī l-Qurā and he owned the Bi‘r Arīṣ as well\textsuperscript{157}). ČAlī b. Abī Ṭālib owned

\textsuperscript{153) See e.g. ČAun al-Sharīf Qāsim, \textit{Nashāat}, pp. 257-259.}
\textsuperscript{154) See Abū Yusuf, \textit{Kitābū l-kharāj}, Cairo 1382, p. 61.}
\textsuperscript{155) Al-\textsuperscript{c}Aynī, \textit{Umdat al-qārī}, XII, 43.}
\textsuperscript{156) See e.g. ČAun al-Sharīf, \textit{Nashāat}, pp. 278-279; Ibn Ḥajar, \textit{al-Iṣāba}, VII, 83-87, no. 11654.}
As owners of estates are mentioned: ʿAmr b. al-
ʿAs̲āʾi̲w̲i̲ya̲, Muʿāwiyah, Saʿīd b. al-Mūsāyyab, ʿAbdalla b. ʿAmir b. Kurayz and others.

The vigorous activity of purchasing estates started indeed in the period of the Caliphate of ʿUthmān. Talha b. ʿUbaydullah sold a plot of land and received for it a sum of a hundred thousand [dirhams?]. Al-Zubayr sold a court (dār) and received for it a sum of six hundred thousands [dirhams?]. The crops of Umm ʿIyāl, the estate of Jaʿfar b. Ṭalḥa, were valued at four thousand dīnāirs.

ʿAbdalla b. Jaʿfar bought swamp land and paid for it sixty thousand [dirhams?]; he sold it with a considerable profit. He ameliorated marsh land and sold it at a high price.

The endowments of ʿUthmān and the big estates of the members of the noble tribal divisions of Mecca were in fact one of the factors of the revolt against ʿUthmān and led to his assassination. The believers were enraged at the fact that ʿUthmān granted his relatives, the Banū Umayya, the pasture lands in the vicinity of Medina as himā areas for their cattle. ʿUthmān granted Marwān the contested estates of Fadak; the area of Mahzūr in the region of Medina, which the Prophet assigned as the possession of the Muslim community, was deliberately granted by ʿUthmān to al-Ḥārith b. al-Ḥakam, the...

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158) Ib., p. 15; and see Yaḥyā b. Adam, al-Kharāj, p. 78, no. 244: ʿAlī asked ʿUmar b. al-Khaṭṭāb an allotment and was granted Yanbu; and see Ḥamad al-Jāsir, Bilād yanbu, al-Riyāḍ n.d., p. 22.

159) Al-Mushākala, p. 16.

160) Ib., p. 16.


162) Ib., p. 16.

163) Ib., p. 13: ...wa-fī ayyāmi ʿuthmāna ṭakhadha ašhashbu rasūli l-lāhi l-amwāla wa-banau l-dūra...

164) Al-Fasawi, al-Maʿrifa wa-l-taʾrīkh, II, 415, sup.

165) Ib., II, 415.


brother of Marwān). It was at the time of ʿUthmān that many estates in the Arab peninsula were exchanged for estates in the conquered territories.

ʿAmr b. al-ʿĀṣ, mentioned already above, built his court in Egypt, but he had estates and land property in Palestine as a governor of Palestine). He managed to get rich and was reprimanded for it by ʿUmar. In his concise and well formulated answer ʿAmr b. al-ʿĀṣ does not deny the accusation of ʿUmar, but points out the economic background of his agricultural activity and explains that his transactions are within the bound of what people usually did.

Al-Zubayr had a thousand servants (alf ghulām) who were active in levying the kharāj for him.

ʿUmar b. al-Khaṭṭāb was of the conviction that the lands should remain in the hands of the conquered people; this was already said in the former chapters of this paper. The land left in the hands of the conquered people was due to assure the levying of the kharāj and the jizya, without being diminished by the purchase of the land by Muslims who paid merely the ʿushr.

169) Ib., I, 198; and see on Mahzūr: Yāqūt, Muḥam̄ad al-buldān, s.v. Mahzūr.


172) Al-Qalqashandī, Maʾathir al-ināfa fī maʿālimi l-khilāfa, ed. ʿAbd al-Sattār Farrāj, Beirut 1980, III, 279 inf.: ... yadhkuru fihi bi-anānu balaghahu fāshiyatu mālin fashat lahu...

173) Ib. p. 280: ... fa-innahu atāni kitābu amīri l-muʾminīn yadhkuru fihi fāshiyatu mālin fashat li wa-anānu yaʾrifun qabla dhālika wa-lā māla ti; wa-innī uʾlimu amīra l-muʾminīn annī bi-baladin al-sīru fihi rakhiṣun wa-anī uʾāliju mina l-zirāʾati mā yuʾālijuhu l-nāsu, wa-fī rizqi amīri l-muʾminīn saʾatun, wa-lāhi lau raʾaytu khyānūaktu ḥalālan mā khuntuka.


175) See e.g. Ibn Abī l-Hadīd, Sharḥ nahj, XII, 149: ... kariha an yashṭariya ardhun al-muslimīn wa-alayhā kharājūn fa-yasīra l-kharājū mutaqilān ilā l-muslim...

‘Umar, the opinions of the legal scholars, the fuqahār, as well as the orders of some further caliphs, Muslim leaders, commanders of troops, governors and rulers acquired vast areas of land in the conquered territories in the very early period of Islam.

Early sources give some accounts which help to assess the profits of the noble land owners in the conquered territories. Ṭalḥa’s income from his estate of Nishastaq in ‘Irāq amounted to five hundred thousand dirhems a year.

According to another account Ṭalḥa got an income of four hundred thousand to five hundred thousand from his estates in ‘Irāq and an income of ca. ten thousand dinār from his estates in the Sarāt.

Finally the estates of the former kings and rulers of the conquered lands, the sawāfi, which were destined to form the estates of the Muslim Empire and secure the sustenance of the future generations of the Muslim community, were gradually divided among commanders of troops and high officials of the Caliphs.

These sawāfi included, according to some reports, the land owned by Kisrā, the land of the relatives of Kisrā, the land of people killed in the war, the land of people who joined the enemy, lands attached to pools and post stations (dayr barzd) and lands which had been confiscated by Kisrā; all these possessions were confiscated on the order of ‘Umar.

The size of the land confiscated by ‘Umar can be gauged from the accounts about the revenues of these territories: they were assessed at 4,000,000 to 7,000,000 (dirhams). A late compendium of Law, the Musannaf of Abū Bakr Ahmād b. Abdallah al-Kindī al-Sanṣārī al-Nazwī (d. 557 AH), records some

179) Ibn ʿAsākir, Tahdhib taʾrīkh, VII, 84.
180) Yahyā b. Adam, Kharaj, p. 64, nos. 199, 200; and see Abū Yūsuf, Kharaj, p. 57.
181) Yahyā b. Adam, Kharaj, ibid.
other versions about the origin and the character of the sawāfī, with special reference to the sawāfī in ʿUmān. The sawāfī, according to the account, belonged to the Majūs; at the advent of Islam they were given the choice to embrace Islam or to leave their abode; they preferred to leave and abandoned their possessions.

According to another account recorded by al-Nazwī, the sawāfī were possessions owned by people who had been treated iniquitously by the unjust rulers; they consequently left and abandoned their lands; according to this account legal scholars considered these sawāfī unlawful (harām).

A third opinion says that the sawāfī were owned by the People of the Book (some say Christians); Abū Bakr sent to them his governor who put to them two alternatives: either to convert to Islam or to face war. They were given the choice to pay the jizya while being humiliated, or to abandon their places and leave the land to the Muslims. They chose to leave and abandoned the land, which was turned into sawāfī182).

It is evident that the opinion stating that the sawāfī were estates confiscated by iniquitous rulers originated in later times and reflects the perceptions of some ʿUmānī orthodox religious leaders. Moderate imāms were of the conviction that the sawāfī were in the hands of either just or unjust rulers. Sawāfī appropriated by oppressive rulers should be evaded by the believers183).

The revenues of the sawāfī were destined to be divided among the “people of the swords” (aṣḥāb al-suyūf); this was glossed as denoting “the defenders of the country” (humātu l-bilād)184). It is worth noting that the organization of the military forces went through considerable changes and it is rather doubtful whether the sawāfī could serve as the basis for supplying the provisions of the recruited troops. It may be remarked in addition that there were considerable changes in the

183) Al-Nazwī, al-Musannaf, XIX, 103-104.
184) Al-Nazwī, al-Musannaf, XIX, 103, inf.
ownership of these ṣawāfi: they were leased, partly granted to leaders or officials, or sold; there were detailed discussions among the fuqahā' as to whether it was lawful to acquire these ṣawāfi and to use these lands for agricultural cultivation\textsuperscript{185}).

It was already in the first period of Islam that great tribal units poured into the conquered territories. The stages of their migration to the conquered territories, the role of the families and kinfolk who joined them, their care for land property for the settled population, the link between the misr and the tribal units, all this was recently outlined in the researches of Šāliḥ Aḥmad al-ĆAliyy\textsuperscript{186}) and by Khalil ʿAthāmina\textsuperscript{187}). The tribal groups struck camp in these territories and established settlements based on tribal tradition and divided according to tribal factions. Šāliḥ Aḥmad al-ĆAliyy gives a vivid description of the process of settlement in a concise passage:

\begin{quote}
..kāna ḥādhāni l-miṣrāni (i.e. Kūfah and Baṣra-k) al-maqāma l-ʿrasmiyya’ li-l-ʿarabī, ghayra anna ʿadadun minhumu mtalaka l-qurā wa-sāra yuqīmu fihā. wa-mina l-murajjihi anna kullān min hāʾulāʾī kāna yuqīmu maʿāhu aydan ʿadadun min aqāribihi wa-rubhamā min ʿashīratīhī. wa-qad dhakarat al-maṣādiru ʿadadun mimmanī mtalaka l-qurā wa-ashārat ilā istīlānihi fihā. wa-min al-muʾakkadī anna ḥādhā qad badaʾa bi-sūratīn wāsītātīn mundhu khilāfati ʿuthmāni...\textsuperscript{188}).
\end{quote}

It is evident that in those early periods of Islam this process of settlement in the conquered territories was closely linked with the political aims of the rulers of the Muslim community and the actions of the Holy War, the jihād.

The economic and political changes during the centuries brought upon a totally different division of land property and led to quite diverse perceptions as to ownership of farms and estates. But the

\textsuperscript{185} Al-Nazwī, al-Muṣannaf, XIX, 103-120.
\textsuperscript{186} Šāliḥ Aḥmad al-ĆAliyy, Imtidādu l-ʿarabī fi ṣadri l-islām, Bagdad 1981.
\textsuperscript{187} Khalil ʿAthāmina, "Arab Settlement During the Umayyad Caliphate", JSAI, VIII, (1986), 185-207.
\textsuperscript{188} Imtidādu l-ʿarab, p. 27.
scholars of religious Law stuck persistently to the ideas of orthodox Islam attributed to the Prophet and his Companions and considered the prophetical utterances transmitted during the centuries as just and right precepts and injunctions. It was this continuous tradition which kept alive the memory of the just decisions of 'Umar and the iniquitous orders of the oppressive Umayyad rulers.

It is indeed significant that the pious and ascetic believers refrained from buying food grown on lands of the sawāfī; they considered the land as appropriated unlawfully by the rulers. They avoided buying food from the Sawād of 'Irāq, considering the division of the land unlawful; a specific case of this kind is recorded about the revenues of Bādūrayyā. Some pious men did not eat the food coming from Egypt, except olive oil, others did not eat food from the crops of Bagdad. Some pious believers refrained from eating the meat of the buffalo (jāmūs) or from using buffalo dung for lighting fire, arguing that the jawāmīs had been appropriated unjustly by the Umayyads.

The numerous traditions of hadīth as confronted with the concrete conditions of land acquisition reflect clearly the deep differences between orthodox precepts and the continuous living practice.

Land property became disconnected from jihād and the utterances of the Prophet about these topics remained a reminiscence of a glorious past period.

189) See Ahmad b. Hanbal, Kitāb al-wara', Cairo 1340, p. 17.
190) Ahmad b. Hanbal, al-Wara', p. 36.
191) Ib. p. 52.
192) Ib. p. 10.