



 sciencedo

BALTIC JOURNAL OF LAW & POLITICS

A Journal of Vytautas Magnus University
VOLUME 15, NUMBER 7 (2022)
ISSN 2029-0454

Cite: *Baltic Journal of Law & Politics* 15:7 (2022): 1029-1048
DOI: 10.2478/bjlp-2022-007075

The Ottoman Legacy in the UAE Legislations Regarding Land Classifications

Zaid Muhmoud Agaileh*

Professor of Civil Law, College of Law, United Arab Emirates University, UAE.

Received: October 16, 2022; reviews: 2; accepted: December 23, 2022

Abstract

Allah, the Almighty, has subjugated the earth to be at the service of man, as He made it subservient, easy to walk on and build upon, easy to dig, cultivate and extract wealth from its interior. Hence, countries seek to enact legislations that regulate the mechanism of land ownership, define its classifications, set its restrictions, and regulate its uses, with the aim of limiting disputes that may arise in this concern. The United Arab Emirates was not immune from this, as the federal legislator and local legislators in each Emirate enacted relevant legislations. In the Civil Transactions Code No.5 of 1985, the federal legislator listed several classifications of land. This article discusses these classifications with the aim of reaching a conclusion that the UAE legislator, in its classification of lands, was influenced by the Ottoman Land Law and the laws of the countries influenced by it, especially the Jordanian Civil Law, and that the Ottoman legacy is visible in these classifications.

Keywords

Lands, Classification, Ottoman legislations, UAE legislations.

The Legal Regulation of Lands during the Ottoman Era

The Ottoman Empire was founded by Othman I bin Artgrel, and it arose initially as a Turkmen border emirate working to repel the Byzantine raids on the Islamic State, and later it took control of all the neighbouring emirates and became a big state, especially after it reached Eastern Europe and took control of

the city of Constantinople in 1453¹. Because of the multiplicity of countries that were subject to its influence and the vastness of the lands it controlled, the Ottoman Empire laid down the rules that guarantee control over those lands and control of their ownership, disposition and exploitation. But, these rules were primitive and complex².

In the beginning, the Ottoman Sultans used to distribute some of the lands of the countries that they open to the conquering leaders and soldiers, and keep some in the hands of their real owners who used to exploit them, and after all they used to register the rest of the lands to the Public Treasury (Bait al-Mal), which thus became state-owned as a substance and usufruct. These lands which were, ultimately, called the princely (miri) lands, were allowed to be used and exploited in return for paying the decimal tax on their products, crops and grains, and thus these lands became a resource of finance for the Ottoman Empire's treasury and support for the economy at the civil and military levels³.

In order not to pay permanent cash salaries and win the loyalty of princes, ministers, commanders of the army and others, and in order to enable them to carry out their duties and provide services in the field of conducting state business, protecting borders and castles, and participating in the work of the army, the sultans followed the method of feudalism, which means granting some provincial lands to these people according to their military and administrative positions, where they were collecting fees and taxes incurred on the lands from the farmers who were exploiting them⁴.

But, in 1839 the Ottoman Empire abolished this method of dealing with office holders, as the Sultan's Decree (Kalkhana line) was issued in order to abolish feudalism in all of its forms and allocate lifelong salaries to them⁵. This situation continued until the Land Law was promulgated in 1858 and the Tabu departments were established, as transactions became confined to the Tabu official who used to adopt what is called the control book⁶.

However, this did not last long, as the Ottoman state quickly collapsed and several countries emerged in the region, as the legislations of these countries was influenced by the legislations left behind by the Ottoman state, especially with regard to land classifications. This is exactly the case in Jordan where the

¹ Ali Al-Sallabi, *the Ottoman Empire: Factors of Advancement and Causes of Fall*, Islamic Distribution and Publishing House, Cairo, 2001, p.88; Muhammad Fouad Koubry, *the Establishment of the Ottoman Empire*, Translated by Ahmed Suleiman, Dar Al-Kateb Al-Arabi for Printing and Publishing, Cairo, 1993, p.2.

² Abdul Aziz Awad, *the Ottoman Administration in the Province of Syria 1846-1914*, Dar Al-Ma'arif, Cairo, 1982, p.232.

³ Khalil Al-Khalid and Mahdi Al-Azri, *History of Land Rules in Iraq*, Dar Al-Rashid Publishing House, Baghdad, 1980, p.49; Aladdin Al-Bayati, *Explanation of the Law of Land Settlement*, Al-Qadid Press, Baghdad, 2009, p.9; Aladdin Al-Bayati, *Rulings on the Rights of Necessity in Miri Lands*, Iraqi Publishing and Printing Company, Baghdad, 2002, p.17; Alaa Saadeh, *Records of the Tabu Books of Haifa District in the Ottoman Era: An Analytical Source Study*, *Journal of the Egyptian Historian*, Cairo University, Issue 49, July 2016, p.69.

⁴ Abdul Aziz Awad, *Op.Cit*, p.222; Abdel Moneim Al-Sada, *Original Rights in rem*, University House, Beirut, 1997, p.1039; Sati Al-Husari, *Arab Countries and the Ottoman Empire*, 3rd Edition, Dar Al-Ilm for Millions, Beirut, 1965, p.30.

⁵ Mahmoud Shaker, *Islamic History: the Ottoman Era*, Part 8, 4th Edition, the Islamic Office, Amman, 2000, p.121; Khalil Al-Khalid and Mahdi Al-Azri, *Op.Cit*, p.50.

⁶ Hada Abdel-Rahman Al-Masoud, *Land Ownership in the Emirate of Transjordan 1921-1946: Survey and Registration Processes*, *the Jordanian Journal of History and Antiquities*, University of Jordan, Vol.5, Issue 4, 2011, p.63; Khalil Ahmad Qadada, *Considerations on the Right of Disposas as a Right in rem and the Extent of the Powers it Delegates to the Disposer*, *Al-Aqsa University Journal*, Human Sciences Series, Vol.7, Issue 1, January 2003, p.127.

Jordanian legislator was influenced by the Ottoman legislations, especially at the level of civil law, so that the UAE legislator came and literally quoted most of the provisions of the Civil Transactions Law No.5 of 1985, specifically with regard to the issue in question.

Research Plan and Methodology

This article is divided into two sections: section one discusses land classifications under the Ottoman land law, and section two discusses land classifications under the UAE legislation. The major findings and recommendations are stated at the end of the article. In this study, we followed the descriptive and analytical approaches, as well as the inductive approach, through which the legislative texts and judicial decisions are studied in-depth and their parts are linked in order to reach the desired conclusion.

Land Classifications under the Ottoman Land Law

The Ottoman Land Law was promulgated on April 21, 1858, and most of its provisions, which fall into 132 articles, were derived from Islamic law, taking into account the rule of changing provisions with the change of times, which encouraged the Ottoman legislator to borrow some rules provided in the European legislations including, for example, the rules of inheritance based on which the Ottoman legislator made the inheritance shares in the right of disposal equal for males and females⁷. By enacting this law, the Ottoman Empire aimed to impose its control over the lands and control the transactions that take place on them by subjecting these transactions to specific rules⁸. Hence, the Ottoman Empire enacted several legislations, the most important of which were the Title Deeds (Tabu)⁹ Regulation 1859, the Regulation of the Instructions for the Title Deeds in 1859, the Declaration of the Title Deed Law 1861, the Appendix to the Title Deeds Regulation 1867 and the Foreign Ownership Regulation 1869. All these legislations participated in the formation of a new legal formula according to which the relationship between the land and its holder has become a stable legal relationship and is no longer based on a grant from the Sultan¹⁰.

In this section, we will discuss land types under the Ottoman Land Law and the right of disposal of princely (miri) lands.

Land Types under the Ottoman Land Law

Under Article 1 of the Ottoman Land Law 1858, lands have been classified into

⁷ See section 54 of the Land Law 1858.

⁸ Abdul Aziz Al-Douri, *The Historical Formation of the Arab Nation*, Centre for Arab Unity Studies, 4th Edition, Beirut, 2003, p.128; Hada Abdul Rahman Al-Masoud, *Op.Cit.*, p.1.

⁹ Tabu is a Turkish word that means obedience, submission, and subordination (Shams Al-Din Sami, *Turkish Dictionary*, General Authority for National Books and Documents House, Istanbul, 1900, p.857). It also means the ownership document, or the land title deed, or the department concerned with managing land affairs (Khalil Al-Khaled and Mahdi Al-Azri, *Op.Cit.*, p.128; Khalil Ahmed Qadada, *Op.Cit.*, p.127; Hada Abdul Rahman Al-Masoud, *Op.Cit.*, p. 66).

¹⁰ Mahmoud Shaker, *Op.Cit.*, p.102; Najeh Sadeq Tamim, *Forms of Land Plots in Palestine and Obstacles to their Use*, *Bethlehem University Journal*, Vol.21, 2002, p. 61.

five types:

(A)- Owned Lands

These are privately owned lands where their owners can dispose of as they wish, as they may sell, mortgage or bequeath them, and they pass to the heirs after death. This classification of land includes the following land categories¹¹:

A- Open areas located inside villages and towns and their surroundings from places that are considered as complementary housing and necessary for digging wells and storing crops.

B- Lands that were separated from the princely (miri) lands and were properly owned with a legal justification.

C- Tithe lands, which are the lands that were distributed and owned by the conquerors, and the lands that were left in the hands of their original owners.

D- Taxation (kharaj) lands, which are the lands that were kept in the hands of their original owners in return for part of the lands yield, which is taken in kind, and its value ranges between one tenth and a half.

(B)- Princely (Miri) Lands

These lands are owned by the state's public treasury (bait al-mal)¹² and include farms, pastures, theatres, forests and other lands that were disposed of in advance with permission and authorization of the Princes (owners of the Timara and Zu'ama rights) who were considered the real owners, but later they became disposed of with permission and authorization of the state officials¹³.

Miri lands include the following land categories¹⁴:

A- Owned lands whose owners died without the existence of an heir and without bequeathing them and became owned by the state's public treasury. These include the lands of the Al-Sham province, most of whose owners have become extinct over time.

B- Lands of the provinces that were conquered and neither given to the conquerors nor left in the hands of anyone, but were kept for the states' public treasury.

C- Lands that remained under the ownership of the states' public treasury and their assignment to no one was proven.

C- Dead (mawat) lands that were revived with permission of the authorized official (al-ma'mour), while their substance remained belonging to the

¹¹ See Hind Abu Al-Shaar, *History of Transjordan in the Ottoman Era*, Publications of the Royal Scientific Society, Amman, 2001, p.275; Mustafa Al-Zarqa, *Introduction to the General Theory of Obligations in Islamic Jurisprudence*, Part 3, Dar Al-Qalam, Damascus, 2004, p.167; Mahmoud Shaker, *Op.Cit*, p.37; Nematullah Nofal Affandi, *Al-Dustour: A Translation from the Turkish Language*, Vol.1, the Literary Press, Beirut, 1301 AH, p.14.

¹² ¹² Abdul Salam Abadi, *Property in Islamic Sharia: Its Nature, Function and Restrictions*, Part 1, Al-Risala Institution for Printing, Publishing and Distribution, Beirut, 2000, p.258.

¹³ Article 3 of the Ottoman Land Law 1858. See Nematullah Nofal Effendi, *Op.Cit*, p.15; Alaa Saadeh *Op.Cit*, p.69; Muhammad Harb, *the Ottoman Empire 699-1343 AH*, Safir Encyclopedia of Islamic History, Safir Press, Cairo, 1996, p.32.

¹⁴ See Articles 2, 3, 103 of the Ottoman Land Law 1858. Suha Qasaimeh, *the Right of Disposal over Miri Lands: A Study in Jordanian Civil Law*, Master Thesis, Al Al-Bayt University, 2002, p.10; Malik Al-Atiyat, *the Problematic of Classifying Lands into Mulk and Miri in Jordanian Law: A Comparative Study*, PhD Thesis, Amman Arab University, 2013, p.32 onwards.

states' public treasury.

(C)- Endowed (Waqf) Lands

Endowment is defined as withholding the property and allocating its benefits for charitable purposes¹⁵. According to Article 4 of the Land Law 1858, the endowed lands include: A- Lands that were validly endowed by their owners in accordance with the rules of Sharia. The substance of these lands along the all rights of disposal over them shall due to the waqf body, as the legal provisions related to transfer and mortgage do not apply therein. B- Lands endowed with an incorrect endowment, which are the lands detached from the miri lands that the Ottoman sultans endowed for a specific party, and these are called endowment of allocations, as the endowment includes only the benefits and miri fees only but not the substance¹⁶.

(D)- Abandoned Lands

These are the lands whose usufruct right has been left to all people or to the people of a village or a group of villages and towns to be shared in, and these lands include¹⁷: A- Lands left to the general public such as roads, public markets, squares, water springs, streams of valleys and others, B- Lands that were left to the people of a village or town such as pastures, threshing floors, jungles and forests. Articles 91-102 of the Land Law 1858 regulated the provisions related to this type of land. Thus, article 92 indicated that it is not possible to allocate a share of the forests, allocated to the people of the villages, and delegate it to someone to plant it or take it as a personally owned forest, and therefore it is not permissible to dispose of these types of lands, plow them, cultivate them or erect any buildings on them. Prescription (barring by limitation) is also not considered in cases related to these lands.

(E)- Dead (Mawat) Lands

According to Article 6 of the Ottoman Land Law 1858, dead lands are vacant lands that do not belong to anyone and are not left to the people of a village or town, and are a mile and a half away from the most urbanized area in such a way that one could not hear the loud shout of a person from the most remote urbanized area. According to Article 103 of the Land Law 1858, anyone can apply to revive these lands with permission of the authorized official and take them as a farm, while keeping their substance to the treasury, but he has to do so within three years otherwise these lands will be delegated to someone else. This was confirmed by the Ottoman Journal of Equity of 1876, which clarified the

¹⁵ Sheikh Ahmed Al-Sawy, the Traveller Arrivals to the Nearest Paths, Hasheyat Al-Sawy's on the Explanation of Dardir - Edited by Mustafa Kamal Wasfi, Dar Al-Ma'arif, Cairo, Vol.4, p.9.

¹⁶ See Hassan Al-Dhiqah, the Ottoman Empire: Culture, Society and Power, Dar Nadi Al-Arabi, Beirut, 1997, p.111; Ali Al-Sallabi, Op.Cit, p.204; Abdul Aziz Awad, Op.Cit, pp.12 & 22.

¹⁷ See Articles 95, 96, 102 of the Ottoman Land Law 1858; Nematullah Nofal Effendi, Op.Cit, p.16.

provisions for reviving dead lands in articles 1270-1280, which provide that these lands are not owned by anyone, nor are they pasturages or threshing floors or wood collections areas, and they are far from the maximum urbanization, and that it is necessary to obtain permission of the Sultan or his agent to revive them, provided that permission is not be for the purpose of ownership, but merely for the benefit.

By combining the provisions of the Land Law and those of the Journal of Equity, we can say that permission of the government (represented by the sultan or the authorized official) determines the scope of ownership of the revived person in terms of whether it is on the substance and the usufruct, or on the usufruct only, provided that the revival takes place within three years from the date of granting permission¹⁸.

The Right of Disposal over Miri Lands

Since the right of disposal is only related to miri lands, we will first discuss the concept of miri lands, and then we will discuss the concept of the right of disposal.

The Concept of Miri Lands

Miri lands can be defined as the lands that are owned by the state and whose owners have only the right of disposal which enables them to use these lands for cultivation, grazing, etc. This means that the substance of miri lands belongs to the state treasury and the right of disposal belongs to the owner¹⁹. These lands are once called Miri and once called Amiri, and perhaps the reason for calling them miri is that they were under the disposal of the Caliph Umar Ibn Al-Khattab, after the Islamic conquest, and later it became associated with the Ottoman sultans and princes, and it may also be due to the fact that the Ottoman Empire was imposing on them taxes and that the term miri is one of the meanings of tax in the Ottoman language, which was used by the Ottoman Land Law 1858 in Article 105²⁰.

Later, this classification has been adopted by the legislations of several countries, such as Jordan and Lebanon. In Jordan, for example, after the Emirate of Transjordan was established in 1921 and separated from the Ottoman Empire in the Treaty of Lausanne in 1923, the Emirate obtained all documents, instruments, records and archives related to public and private property, and after that it regulated land records and established the Land Registry Directorate

¹⁸ See Muhammad Mustafa Shalabi, Introduction to the Definition of Islamic Jurisprudence and the Rules of Ownership and Contracts Embodied in it, Dar Al-Ta'leef Press, Cairo, 2002, p.336; Sheikh Muhammad Abu Zahra, Property and Contract Theory, Dar Al-Fikr Al-Arabi, Cairo, 1977, p.108; Sheikh Ahmed Al-Sawy, Op.Cit, p.3.

¹⁹ See Ali Al-Safarini, the Question of Lands in Negotiations: Ownership Rights of Miri Lands in Palestine, *Journal of Palestinian Studies*, Vol.5, No.17, Beirut, Winter 1994, p.132; Muhammad Shaaban, the Right of Disposal over Lands, *Tekirdag Namik Kemal University Journal*, Turkey, Vol.5, Issue 1, June 2019, p.250; Hassan Al-Dhanoun, Original Rights in rem, Al-Rabitah Publishing and Publishing Company, Baghdad, 2012, p.236.

²⁰ See Shams Al-Din Muhammad Ibn Arafah Al-Dasuqi, Hashiyat Al-Dasuqi on Al-Sharh Al-Kabir and in its Margins Al-Sharh Al-Kabir by Al-Dardir, Muhammad Sobeih Press, Cairo, Part 4, 2017, p.53; Muhammad Shaaban, Op.Cit, p.249; Ali Al-Safarini, Op.Cit,p.135.

in place of the Land Registry Offices (Tabu) ²¹. Later, when Jordan achieved independence from Britain and became known as the Hashemite Kingdom of Jordan it issued several legislations regulating land, the most prominent of which is the Civil Law No.43 of 1976.

The Concept of the Right of Disposal

The Ottoman Land Law 1858 did not define the right of disposal, but it can be defined as "an original right in *rem* branching out of the right of ownership and it is merely related to miri lands, whose substance is owned by the state and which enables the right owner to enjoy the powers of using the land and exploiting it for agricultural purposes"²². This means that the holder of the right of disposal has the power to use and exploit (i.e. the benefit), while the substance is owned by the state.

Accordingly, the right of disposal over miri lands differs from the element of disposal, which is one of the elements of the right of ownership. The right of disposal is a real right branching from the right of ownership and is granted by the state over miri lands whereas the element of disposal is one of the elements, mechanisms, or powers that the law gives to the owner²³. Thus, the right of disposal appears to be close to the usufruct right, which was defined as "the right to use and exploit the property as long as it remains as it is, even if its title is not owned"²⁴. This definition is general and comprehensive for every usufruct, whether it is determined on owned lands or miri lands, whilst the right of disposal is a usufruct that is given on miri lands under certain conditions, and therefore it is more specific²⁵.

The implication of this is that the right of disposal is a right in *rem* that comes in the second degree after the property right, and it is only related to real estates, specifically miri lands; it has no relevance to movables at all, in contrast to the case with the property right that is related to real estates and movables. This right entitles its owner to enjoy all the powers enjoyed by the owner of the property right in terms of using, exploiting and disposing of his right (without the substance)²⁶. However, unlike the property right, which is transferred according to the provisions of Islamic Sharia, the right of disposal on miri lands is transferred according to the rules of transfer stipulated in the Ottoman Transfer Law of 1331 AH, which equalized the shares between males and females.

²¹ Hada Abdul Rahman Al-Masoud, Op.Cit, p.2; Bader Al-Mulqi, Land and its Ownership in Jordan, Publications of the Jordan History Committee, Amman, 1994, p.21.

²² See Ali Al-Obeidi, Rights in *rem*, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2021, p.204, Muhammad Zu'bi, Dispensing the Right of Ownership with the Right of Disposal, *Yarmouk Research Journal*, Human and Social Sciences Series, Vol.10, Issue 2, 1994, p.88.

²³ Zaid Al-Aqaileh, the General Concept of Property in Islamic and Jordanian Law: A Comparative Study, *Mu'tah Journal for Research and Studies*, Vol.22, No.3, 2007, p.26.

²⁴ Muhammad Qadri Pasha, Al-Hiran's Guide to Knowledge of Human Conditions, Al-Kubra Al-Amiri Press, Cairo, 1891, Article 13, p.5.

²⁵ For the difference between the usufruct right and other rights, see: Saleh Al-Luhaibi & Ali Al-Shuwaihi, the Privacy of the Usufruct Right in the UAE Civil Transactions Law, *University of Sharjah Journal of Legal Sciences*, Vol.17, Issue 2, December 2020, p.511 onwards; Rudina Muhammad Karbol, Exceeding the Scope of the Right of Disposal over Miri Lands and Ways to Address them, *Kufa Journal of Legal and Political Sciences*, Vol.10, Issue 33, August 2017, p.131.

²⁶ Muhammad Siwar, Original Rights in *rem*, Part 2, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2019, p.342.

The owner of the right of disposal has the following powers or capabilities:

(a)- The right to use

It means the right to use the miri land in all aspects of use that are consistent with its nature, including ploughing, cultivating, and planting trees in it. The owner of the right of disposal has the right to do all the work necessary for its proper use, such as removing rocks, digging wells, erecting buildings that are needed for its cultivation²⁷.

(b)- The right to exploit.

This means the right to obtain the yields of the miri land, its produce and its proceeds, directly, i.e. through the owner of the right of disposal, or indirectly, i.e. through someone else, such as leasing it, and thus obtaining a part of the crop which is considered the yield of the land in question²⁸. The produce of the miri land here includes its profits, whether natural, industrial or civil.

(c)- The right to dispose.

Disposal here includes both types of disposal, material and legal. Material disposal includes digging a well or using it to irrigate crops or trees, or converting agricultural land into a farm or plantation²⁹. Legal disposal, on the other hand, includes, the right to transfer this right to a third party or to initiate any of the legal transactions that would entail original real right, e.g. right of way, or subordinate real right, e.g. mortgage. However, the owner of the right of disposal does not have the right to dispose of the substance which primarily he does not own³⁰.

There are many restrictions on the right disposal, the most important of which is that it is not permissible to make it subject to an endowment (waqf) or a will. This is because the substance is owned by the state and the owner of the right of disposal only owns the benefit (the right of use and exploitation)³¹. Here, we can say that the although prohibition may be acceptable with regard to the endowment, it seems unacceptable with regard to the will, because the will is a disposal of the estate that takes affect after death, and the right of disposal is included in the estate, so how can it be inherited, but the will is prevented. Also, the will and the transfer of the right of disposal by inheritance are considered among the means of the acquisition of this right, and both of the legatee and the one to whom the right is transferred enjoys only the powers attached to this right and this is certainly does not extend to the substance.

²⁷ See Article 6 of the Jordanian Disposal of the Immovable Property Law No.49 of 1953.

²⁸ Muhammad Siwar, *the Right of Property in Itself*, Dar Al Thaqafa for Publishing and Distribution, Amman, 2017, pp.44-45.

³⁰ See Salma Suroyya and others, *Regulation of Associations of Flat Owners and Tenants in Management of Flats for Legal Assurance and Justice*, *Baltic Journal of Law & Politics*, 15:3 (2022): 35-52 DOI: 10.2478/bjlp-2022-002003.

³¹ The Explanatory Memorandum of the Jordanian Civil Law, Part 2, 3rd Edition, Al-Tawfiq Press, Amman, 1992, p.716.

Land Classifications under the UAE Legislation

In this section, we will discuss land types in general and the right of disposal over governmental (princely) lands.

Land Types in the UAE Legislation

It is noteworthy that the UAE Civil Transactions Law No.5 of 1985 has borrowed most of its provisions literally from the Jordanian Civil Law No.43 of 1976³², especially those provisions relating to rights in *rem* and lands³³. The UAE Civil Transactions Law of 1985, however, does not specify land types in a specific text or texts. However, by extrapolating the provisions of the law as a whole, it can be said that these types are owned lands, endowed lands, and dead lands. In addition, the local legislations in some emirates provided for another type that is governmental lands.

(A)- Owned Lands

These lands are privately owned lands and their owner enjoy all the powers granted to the owner, namely the power to use, the power to exploit, and the power to dispose. This type of lands is inherited after death of the owner, according to the provisions of the law. In fact, there are several provisions in the Civil Transactions Law of 1985 that refers to this type of land, for example, Article 1134/2 provides that "the ownership of the owned land includes that which is above it and below it, as far as it can be usefully enjoyed in height and depth", and Article 1364 provides that "whoever allows the use of a servitude over a land owned by him may withdraw his permission whenever he wishes". These two articles show that owned land is one of the types of land recognized by the law.

(B)- Endowed (Waqf) Lands

These lands are basically owned by people, but they were endowed for charitable purposes and benevolence. There are several provisions in the Civil Transactions Law 1985 that refer to this type of land. For example, Article 845/3 provides that "the trustee may rent the endowed property along with construction and plants with the consent of their owner..".

The encyclopedia of Islam defines waqf as "a thing which, while retaining its substance, yields a usufruct and of which the owner has surrendered his power of disposal with the stipulation that the yield is used for permitted good

³² The Jordanian Civil Law, in its turn, has borrowed most of its provisions from the Ottoman Journal of Equity of 1876, which was derived from the Hanafi jurisprudence (the Explanatory Memorandum of the Jordanian Civil Law, Op.Cit, p.36; Muhammad Zu'bi, Land Registry Records Resulting from the Settlement, *Journal of University of Jordan Studies*, Humanities and Social Sciences Series, Vol.13, Issue 3, 1986, p.317.

³³ Ali Al-Mahdawi, Al-Wajeez in the Explanation of the Civil Transactions Law: Original Rights in *rem*, University Library, Sharjah, 2010, p.45; Muhammad Al-Jundi, Pre-emption in the Jordanian Civil Law and the UAE Civil Transactions Law, *Journal of Law*, Kuwait University, Vol.9, Issue 1, March 1985, p.171. Zaid Al-Aqaileh, Legal Cultures Dialogue: Benefits and Obstacles of Comparative Law Studies, *Shari'a and Law Journal*, United Arab Emirates University, Issue No.54, Year 27, April 2013, p.49.

purposes"³⁴. This means that waqf is the locking-up of the title of an owned property from disposition and the allotment of its benefits to charity, even though as of a future date. Under the UAE legislation, waqf is regulated by many Laws, but the main Law that regulates and governs waqf is the UAE Federal Law No.5 of 2018 concerning Waqf (Endowment) which is by and large derived from Islamic law (Shari'a).

Under section 4 of the UAE Federal Law of 2018, waqf of lands is of three kinds; namely: charitable waqf, family waqf and mixed waqf. It is charitable, if its benefits are initially allotted to charity. It is a family waqf, if its benefits are allotted to a specific person or persons and after them to their descendants and on their extinction to one of the charitable bodies. It is mixed, if its revenue is allotted to descendants and charity together³⁵.

(C)- Dead (Mawat) Lands

These are the lands which are not owned by anyone and far from urbanization, and could not be cultivated due to lack of water or its scarcity, or because their soil is sandy or it is covered by pebbles or rocks. This may be due to the nature of the land itself, such as the desert and the land covered with rocks, or because of its neglect that leads to its desertification³⁶. In order for a land to be considered mawat, it must be far from urbanization, not be owned by anyone, and be unsuitable in its current state for use in any way³⁷.

Article 1209 of the Civil Transactions Law stipulates that "1- Mawat lands which have no owner are the property of the State, 2- These lands may not be owned or possessed without permission from the state in accordance with the laws in force". Accordingly, it is not permissible to own these lands or lay hands on them except with permission of the state. These lands, however, may be so large that it is not possible for the state alone to reform them, so the state may resort to granting permission to revive them to whomever desires.

This means that in order for these lands to be privately owned, the following two conditions must be met:

A- Revival of the dead land:

Revival is achieved by performing a tangible material action that would change the nature and characteristics of the land and make it usable by removing the reason that made it mawat, such as if the land is desert or sandy, then it is covered with fertile soil to make it capable of cultivation, or if it contains salty water, then it is desalinated, or if it is wholly covered by rocks, then they are scraped off and soil is replaced them³⁸. The Civil Transactions Law of 1985

³⁴ Ameer Ali, Waqf, *Encyclopedia of Islam*, Vol.1, London, 1950, p.193.

³⁵ See Hakim B.S, Urban Form in Traditional Islamic Cultures: Further Studies Needed for Formulating Theory, *Cities: the International Journal of Urban Policy and Planning*, February, 16(1), 1999, p.53; Leeuwen R, 1995, the Maronite Waqf of Dayr Sayyidat Bkiri, in Remon A (ed.), *Waqf in the Islamic World*, Damascus, the French Institute of Arabic Studies, 1995, p.261.

³⁶ Muhammad Mustafa Shalabi, Op.Cit, p.336; Ali Al-Obeidi, Rights in *rem*, Op.Cit, p.114.

³⁷ Ghazi Abu Orabi, Rules of the Original Real Rights in the UAE Civil Transactions Law, United Arab Emirates University Publications, Al Ain, 2016, pp.151-152.

³⁸ Muhammad Mursi Zahra, Original Real Rights in the UAE Federal Civil Transactions Law, Vol.1, United Arab Emirates University Publications, Al Ain, 1999, p.63; Ali Al-Obeidi, Op.Cit, p.116.

confirmed this meaning by stating in Article 1213 that “revival of dead land takes place by erecting a construction on it, planting trees on it, drilling water from it, or the like..”.

B- Obtaining permission from the competent authority:

Article 1211 of the Civil Transactions Law stipulates that “1- whoever revives or constructs a dead land with permission of the competent authority becomes its owner; 2- The competent authority may authorize the revival of the land, provided that the reviver only benefits from it without owning it”.

We note here that the UAE legislator stipulated in Article 1209/2 of the Civil Transactions Law that the permission is given by the State and stipulated in Article 1211 of the same Law that the permission is given by the competent authority, and in the Explanatory Memorandum of the Civil Transactions Law it is stated that “revival of the dead lands takes place with permission of the government”. This means that the authority concerned with granting permission is not clearly specified. This in turn creates ambiguity regarding the concerned party, whether is it the Ministry of Finance, being the ministry that supervises the state treasury and its funds including the lands owned by it, or the Ministry of Economy, the municipalities, or any other party, and this would lead to raising disputes.

In one of its decisions, the UAE Federal Supreme Court in Abu Dhabi rejected the appeal raised by the appellant that permission to revive the dead land should be granted by the State and that the word “State” means the Ruler of the Emirate of Abu, and decided that “the mayor may give permission to do so as long as he is authorized by the ruler of Abu Dhabi”³⁹. Accordingly, it is necessary to specify the authority with competence in granting permission so that there will be no multiple references and different bases for granting these lands.

(D)-Governmental Lands

Article 1198 of the Jordanian Civil Code 1976, the origin from which the UAE Civil Transactions Law 1985 borrowed most of its provisions, stipulates that “the State may permit the right of disposal over lands owned by it (miri) to the person who accepts..”. Since the right of disposal applies only to princely (miri) lands, the state-owned land or the governmental land is the miri land which is one of the land types that is associated with the prince or the ruler, who can grant such a right. Later, this matter developed, and the right of disposal became granted by the government, and this is exactly what the word miri means, i.e. governmental.

This means that the idea of the governmental lands or miri lands, which was formed in the Ottoman era and codified in the Land Law 1858, was transferred after the collapse of the Ottoman Empire to the legislations of the countries whose legislations are built on the Ottoman Land Law and the Ottoman

³⁹ Appeal No.147 of the Judicial Year 23 (Sharia Appal), dated 24/1/2004, Publications of the Eastern Law Network.

Journal of Equity such as the Jordanian legislator, and the Lebanese legislator, and thereafter transferred to the legislations of other countries such as UAE. Accordingly, governmental lands correspond to miri lands in terms of idea and essence, and the evidence for this is that the UAE legislator allows the state to grant these lands to its citizens and to entail on them many rights. In addition, the term miri lands was repeated several times in the Explanatory Memorandum of the UAE Civil Transactions Law⁴⁰.

The Right of Disposal over Governmental (Miri) Lands

In the Civil Transactions Law of 1985, the UAE federal legislator mentioned land owned by the state (governmental land) in several articles, such as Article 1292/b, Article 1319/2 and Article 1335 which means that it is one of the classifications of land in the country.

This type of land was also mentioned in the local legislation of several emirates. For example, Article 3 of the Law No.11 of 2021 regarding the Real Estate Registry in the Emirate of Ras Al-Khaimah states "the property is classified into governmental property, private property, and endowed property". Another example is Article 18/1 of the Executive Council Resolution No.25 of 2016 regarding the Governmental Land Allocation in the Emirate of Sharjah states "the beneficiary for whom a decision has been issued to recover the governmental land granted to him reserves the right to reapply to get another governmental land".

In addition, the UAE judiciary confirmed in many decisions that this classification of land exists in the state. Thus, in one of its decisions the UAE Federal Supreme Court says "the characteristics of the real estate ownership in the UAE for governmental lands which are not registered for individuals are that the state represented by the ruler and the local authorities is the original owner of lands in each Emirate"⁴¹. In another decision it says "the Executive Council in the Emirate of Abu Dhabi is the authorized body to issue laws, regulations and decisions relating to governmental lands in the Emirate"⁴².

In fact, the UAE legislator did not mention miri lands in the legislations by name, but it replaced them with governmental lands. However, it mentioned the right of disposal in two places in the Civil Transactions Law, where Article 110/1 states "the original rights in *rem* are the property right, the right of disposal, the right of usufruct..". and where Article 1390/1 states "every owner willing to irrigate his land from natural sources or from artificial sources that he has the right of disposal over it, may have a water passage through the intermediate lands to his land".

However, the UAE legislator expressly mentioned miri lands in the Explanatory Memorandum of the Civil Transactions Law in the explanation of

⁴⁰ See the Explanation of the Explanatory Memorandum of the Civil Transactions Law for Articles 1209 & 1211.

⁴¹ Appeal No.434 of 2018 (Civil Appeal), dated 9/24/2018. See also: the Federal Supreme Court Decision on the Appeal No.419 of 2012 (Civil Appeal), dated 11/12/2012, Ministry of Justice website.

⁴² Appeal No.386 of the Judicial Year 27 (Civil Appeal), dated 4/22/2009, Publications of the Eastern Law Network.

Articles 1209 and 1211, as it was stated in the memorandum "it shall not be an endowed land, or a miri land, or pasturage..", and it was also stated "owned land can be endowed, mortgaged, and inherited, but miri lands, cannot be endowed.." ⁴³.

This in itself is an evidence of the UAE federal legislator's recognition of the existence of this classification of lands in the country. In addition, the UAE judiciary confirmed the existence of the miri land, as it was stated in one of the decisions of the Federal Supreme Court that "the revival of dead land takes place in two ways, first is to own the land with permission of the government, and second is to benefit from the land without owning it, and in this case the land becomes miri land"⁴⁴.

In this way, the UAE legislator has recognized the right of disposal as an original right arranged on miri lands, but it has not regulated its rules. Perhaps the reason for not regulating its rules is that the legislator looks to this right as right that is not much different from the right of ownership or that this right is slightly similar to the right of usufruct. Therefore, it was satisfied with regulating the rules of these two rights in detail without regulating the rules of the right of disposal⁴⁵. In any case, the UAE legislator, through local legislations, allowed granting governmental lands and even arranging usufruct rights over them. All of this means that the essence and idea of the miri lands exists in letter and spirit, albeit by another name at times, and that the idea of the right of disposal exists too⁴⁶.

However, by referring to the rules governing the right of disposal in the Ottoman and Jordanian legislations, we found that this right is acquired by several means, including⁴⁷:

A- State's permission: this is because miri lands belong to the state and no one may acquire the right of disposal over miri lands without prior permission of the state.

B- Conveyance: which means transfer of the right of disposal or assign it to another person, whether for value, or gratuitously.

C- Priority: which arises when the co-owner of the right of disposal conveys his share to another person who is not a co-owner.

D- Transition: which means transfer of the right of disposal by inheritance to successors. It is to be mentioned here that transfer of the right of disposal on miri lands was governed by the Ottoman Transfer Law of 1331 AH, which equalizes the shares between males and females.

Perhaps the reason for not applying sharia rules of inheritance to the right of disposal over miri lands is that the right of disposal is a grant from the ruler or

⁴³ The Explanatory Memorandum of the UAE Civil Transactions Law, *Published in the Sharia and Law Journal*, the Twenty-Fifth Year, Issue 45, Special Supplement, Part 2, January 2011, p.865 & p.866.

⁴⁴ Appeal No.96 of the Judicial Year 25 (Civil Appeal), dated 12/28/2004, Publications of the Eastern Law Network.

⁴⁵ See Muhammad Mursi Zahra, *Op.Cit.*, p.17.

⁴⁶ Ghazi Abu Orabi, *Op.Cit.*, p.16.

⁴⁷ See Articles 4, 12, 36 of the Ottoman Land Law 1858; Marwan Qaddumi, *Inheritance Rulings in Islamic Law*, Khaled Ibn Al-Walid Press, Nablus, 1998, p.205; Amin Masoud Abu Bakr, *Ownership of Lands in the District of Jerusalem*, Abdul Hameed Shoman Foundation, Amman, 1996, p.320.

the state which determines the method of dividing this grant after death of the right owner. This, in fact, does not contradict the rules of Islamic law rules of inheritance, because these rules apply to the right of ownership, which consists of substance and benefit, but do not apply to the right of disposal which consists of the benefit only, as the substance is owned by the state. We support our opinion with the opinion (fatwa) of Sheikh Wahba Al-Zuhaili who said "the state has the right to dispose of what it owns and it enjoys the freedom to choose the settlement it desires"⁴⁸, and with the fatwa of the Islamic Council for Fatwa, which states "the owner of miri lands is the Muslims' Public Treasury, and the one who has the right to dispose of these lands is the ruler, and it is permissible for the ruler to grant the right of disposal over miri lands equally between males and females"⁴⁹.

Despite the existence of multiple Emirates in the United Arab Emirates, there is no prince (Amir) for each Emirate, rather there is a ruler who heads its government and who has full jurisdiction over its lands. Accordingly, we believe that what was closer to the mind of the UAE legislator is not to call these lands miri, but to call them governmental⁵⁰. The ruler grants the governmental land to citizens to exploit or build on it, but this land will not be fully owned unless a certain period has passed, and this is the essence of the right of disposal over miri (government) lands.

The laws and decrees that show the mechanism of granting governmental lands to citizens stipulate that any disposal of them before the ownership is fully transferred is invalid. Article 11 of Federal Decree No.46 of 1976 regulating the Granting of Lands to Citizens and State Employees in the Emirate of Abu Dhabi states "it is not permissible for any citizen to assign the building or dispose of it by rent, sale, or in any other way, except under the terms and conditions decided by the Building Loans Board of Directors, and every disposal is void".

In the Emirate of Dubai, Article 15 of Law No.4 of 2011 regarding Mohammed bin Rashid Housing Establishment states "it is prohibited for the beneficiary or his heirs after him to dispose of the granted houses or land except with the approval of the ruler of Dubai, and every disposition takes place in violation of the provisions of this article is void".

In the Emirate of Ras Al-Khaimah, Article 17 of the Land Grant Law of 1981, as amended by the Law No.3 of 2013, states "it is not permissible for anyone who obtained the title deed to dispose of it by selling, and every disposal by transfer of ownership is invalid unless accompanied by the approval of His Highness the Ruler".

In the Emirate of Sharjah, Article 4 of the Executive Council Resolution

⁴⁸ Fatwa No.1185/14 dated Rabi` al-Thani 29, 1429 AH, Published on Al-Fikr Endowment Library Website.

⁴⁹ Fatwa No.605 dated 7/1/2012 Entitled "Conveyance of the Miri Land", <http://www.fatawah.net>. See: Adel Nasser & Thaar Hamed, Acquiring the Right of Disposal over Miri Lands Due to Death and an Attempt to Apply it to the Transfer of the Estate to the Heirs: A Comparative Legal Study with Islamic Jurisprudence, *Journal of Studies on the Effectiveness of the Legal Rule*, University of Bejaia, Vol.3, Issue 2, p.120.

⁵⁰ This is what is stipulated in Article 3 of Law No.11 of 2021 regarding the Real Estate Registry in the Emirate of Ras Al-Khaimah.

No.25 of 2016 regarding the Governmental Land Allocation states "the beneficiary is prohibited from disposing of governmental land in any form of disposal that transfers ownership unless he has absolute ownership free of restrictions".

In the Emirate of Umm Al-Quwain, Article 2 of the Resolution No.5 of 2009 regarding the Lands Granted to Citizens states "it is prohibited to dispose of lands and dwellings built on the granted land for the purpose of private housing".

All these provisions are mandatory and are related to public order. In this regard, the Dubai Court of Cassation has established the following two principles: First, all disposals of lands granted by the government to citizens in the Emirate of Dubai are void if they are made without permission of His Highness the Ruler; second the inadmissibility of adhering to the passage of time that prevents hearing the case filed by the person to whom the land was granted if the contract is void⁵¹.

This principle is confirmed by the UAE Federal Supreme Court by saying that "the person to whom the governmental land is granted may establish construction on it during a period of six months. It is not permissible for him to assign or dispose of this land unless it is registered in his name, and any disposal of it before that is void"⁵².

The UAE legislations allow mortgaging these lands, and this is similar to the case in the right of disposal. In the Emirate of Dubai, Article 2/A of the Decree No.31 of 2016 regarding the Mortgage of Granted Lands states "the beneficiary is allowed to mortgage the granted land in favor of any of any bank or a financial institution licensed to operate in the Emirate, and this mortgage is considered legally binding".

It is also allowed to inherit the right granted on governmental lands, although the full ownership has not yet been registered in the name of the person to whom the land is granted, and this is similar to the case in the right of disposal that is transmitted by inheritance. In the Emirate of Fujairah, Article 2 of the Law No.1 of 2017 regarding Disposal of Granted Residential Lands or Government Housings states: "in the event of the death of the grantee, the property is transferred in common to the heirs of the citizen according to a legal notification issued by the competent court".

Based on all of that, we can conclude that governmental lands or state-owned lands are one of the land classifications in the United Arab Emirates and are similar to the miri lands, and that the right of disposal can be given on these lands. In this concern, Professor Zahra says "in fact, when the UAE legislator stipulated the right of disposal, it meant the right of disposal as a right branching from the right of ownership, and it is a right that only applies to miri lands which are owned by the state"⁵³.

⁵¹ Appeal No.90/2021 (Civil Appeal), dated 4/29/2021, Emirates Lawyers Website.

⁵² Appeal No.216/2012 (Civil Appeal), dated 30/5/2012, Emirates Lawyers Website. See also: Appeal No.489/2011 (Civil Appeal), dated 10/18/2011; Appeal No.107/2017 Judicial (Civil Appeal) dated 10/30/2017, Publications of the Eastern Law Network.

⁵³ Muhammad Mursi Zahra, Op.Cit, pp.16-17.

Conclusion: Findings and Recommendations

In this article, we discussed the Ottoman legacy in the UAE legislation regarding classification of lands, and we showed that the UAE legislator classified lands as they are classified by the Ottoman Land Law and the laws of the countries influenced by it. The followings are the most important findings and recommendations.

Findings

1- The UAE legislator in the Civil Transactions Law and local laws classified lands into owned lands, endowed lands, dead lands, and government lands, which are the same classifications provided by the Ottoman Land Law 1858 and the laws that followed its approach, such as the Jordanian law, the Lebanese law, etc. Thus, the UAE legislator in its classification of lands has been indirectly influenced by the Ottoman land law, and the Ottoman legacy has been confirmed in this classification.

2- The term "right of disposal" stipulated by the UAE legislator in the Civil Transactions Law is the right of disposal over miri lands in its precise sense. Although this classification of lands was mentioned in the Explanatory Memorandum of the Civil Transactions Law in several places, the UAE legislator did not mention it in the legal texts with this name, rather it mentioned another classification, that is the governmental lands or the state-owned lands, where the legislator gives the state or the ruler the right to grant restricted or full ownership rights over these lands, and this in turn is completely similar to the situation in miri lands.

3- Many local legislations in several Emirates use the phrase "Amiri decree" in relation to the Amir (Prince) or the ruler who is the head of the government in the Emirate and in whose name decrees and laws are issued. This is exactly what the word miri means, which means princely or governmental.

4- The right of disposal over miri lands is an independent right that is too close to the ownership right which is practiced on owned lands, as it gives its owner the same powers as those given by the right of ownership, and for this reason perhaps the UAE legislator did not regulate it and found it suffice to regulate only the right of ownership and the right of usufruct.

5- The process of granting lands by the UAE rulers to citizens is very similar to that existed in the Ottoman Empire, where Sultans used to grant lands according to the status and position of the grantees and without controls or limitations, but in the UAE grants are made in accordance with decrees, laws, and controls governing this process, which achieves justice, community service, and public interest.

6- Mawat lands can only be acquired by reviving them with permission of the government. But since the law provisions provide that all lands that have no owner are owned by the state, mawat lands are considered part of the

governmental lands or miri lands, and therefore reviving these lands and owning them under certain conditions contributes to increasing investments in the real estate sector and in increasing the cultivated areas and also helps boost the economy.

Recommendations

- 1- The UAE legislator did well when he refrained from regulating the provisions of the right of disposal, which gives its holder all powers granted to the owner, as the idea of separating the substance, which is owned by the state, from the benefit is nothing more than a theoretical matter that created an unrealistic situation that has no application, and accordingly the UAE legislator is called upon to abolish this right. Therefore, we recommend amending Article 110/1 and Article 1390/1 of the Civil Transactions Law in a way that it replaces the right of disposal with the right of ownership.
- 2- We recommend abolishing the term "miri" lands from the Explanatory Memorandum of the Civil Transactions Law, specifically in the explanation of Articles 12019 and 1211, as the term state-owned lands or governmental lands, which is used by the UAE legislator, is sufficient. This abolishment will also achieve harmony among the provisions of the Civil Transactions Law themselves and it will be similar to the position in some Arab legislations, such as the Jordanian and the Egyptian legislation, where this type of lands was abolished years ago.
- 3- We recommend amending Article 1209/2 and Article 1211/1 of the Civil Transactions Law, with the aim of determining the authority that grants permission to revive dead (mawat) lands. This would prevent conflict and contradiction in granting permission, reduce the degree of discrepancy in granting conditions, and determine the reference to which the person who desires revival resorts.
- 4- Due to the complexity of the local legislations that regulate lands in each Emirate in the UAE, we recommend placing all of them into one comprehensive Federal legislation that regulates all rules relevant to lands including their classification, the process of granting, etc. This will help to achieve more justice and equality, which is stipulated by the Federal Constitution of 1971 in Article 25, which reads "all individuals are equal before the law, and there is no discrimination between citizens of the Union because of origin, homeland, religious belief, or social status".

References

- Abdel Moneim Al-Sada, *Original Rights in rem*, University House, Beirut, 1997.
- Adel Nasser & Thaer Hamed, *Acquiring the Right of Disposal over Miri Lands Due to Death and an Attempt to Apply it to the Transfer of the Estate to the*

- Heirs: A Comparative Legal Study with Islamic Jurisprudence, *Journal of Studies on the Effectiveness of the Legal Rule*, University of Bejaia, Vol.3, Issue 2.
- Abdul Aziz Al-Douri, the Historical Formation of the Arab Nation, Centre for Arab Unity Studies, 4th Edition, Beirut, 2003.
- Abdul Aziz Awad, the Ottoman Administration in the Province of Syria 1846-1914, Dar Al-Ma'arif, Cairo, 1982.
- Abdul Salam Abadi, Property in Islamic Sharia: Its Nature, Function and Restrictions, Part 1, Al-Risala Institution for Printing, Publishing and Distribution, Beirut, 2000.
- Alaa Saadeh, Records of the Tabu Books of Haifa District in the Ottoman Era: An Analytical Source Study, *Journal of the Egyptian Historian*, Cairo University, Issue 49, July 2016.
- Aladdin Al-Bayati, Explanation of the Law of Land Settlement, Al-Qadid Press, Baghdad, 2009.
- Aladdin Al-Bayati, Rulings on the Rights of Necessity in Miri Lands, Iraqi Publishing and Printing Company, Baghdad, 2002.
- Ali Al-Mahdawi, Al-Wajeez in the Explanation of the Civil Transactions Law: Original Rights in *rem*, University Library, Sharjah, 2010.
- Ali Al-Obeidi, Rights in *rem*, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2021.
- Ali Al-Safarini, the Question of Lands in Negotiations: Ownership Rights of Miri Lands in Palestine, *Journal of Palestinian Studies*, Vol.5, No.17, Beirut, Winter 1994.
- Ali Al-Sallabi, the Ottoman Empire: Factors of Advancement and Causes of Fall, Islamic Distribution and Publishing House, Cairo, 2001.
- Ameer Ali, Waqf, *Encyclopedia of Islam*, Vol.1, London, 1950.
- Amin Masoud Abu Bakr, Ownership of Lands in the District of Jerusalem, Abdul Hameed Shoman Foundation, Amman, 1996.
- Bader Al-Mulqi, Land and its Ownership in Jordan, Publications of the Jordan History Committee, Amman, 1994.
- Ghazi Abu Orabi, Rules of the Original Real Rights in the UAE Civil Transactions Law, United Arab Emirates University Publications, Al Ain, 2016.
- Hada Abdel-Rahman Al-Masoud, Land Ownership in the Emirate of Transjordan 1921-1946: Survey and Registration Processes, *the Jordanian Journal of History and Antiquities*, University of Jordan, Vol.5, Issue 4, 2011.
- Hakim B.S, Urban Form in Traditional Islamic Cultures: Further Studies Needed for Formulating Theory, *Cities: the International Journal of Urban Policy and Planning*, February, 16(1), 1999.
- Hassan Al-Dhanoun, Original Rights in *rem*, Al-Rabitah Publishing and Publishing Company, Baghdad, 2012.
- Hassan Al-Dhiqah, the Ottoman Empire: Culture, Society and Power, Dar Nadi Al-Arabi, Beirut, 1997.

- Hind Abu Al-Shaar, *History of Transjordan in the Ottoman Era*, Publications of the Royal Scientific Society, Amman, 2001.
- Khalil Ahmad Qadada, *Considerations on the Right of Disposal as a Right in rem and the Extent of the Powers it Delegates to the Disposer*, *Al-Aqsa University Journal*, Human Sciences Series, Vol.7, Issue 1, January 2003.
- Khalil Al-Khalid and Mahdi Al-Azri, *History of Land Rules in Iraq*, Dar Al-Rashid Publishing House, Baghdad, 1980.
- Leeuwen R, 1995, *the Maronite Waqf of Dayr Sayyidat Bkiri*, in Remon A (ed.), *Waqf in the Islamic World*, Damascus, the French Institute of Arabic Studies, 1995.
- Mahmoud Shaker, *Islamic History: the Ottoman Era*, Part 8, 4th Edition, the Islamic Office, Amman, 2000.
- Malik Al-Atiyat, *the Problematic of Classifying Lands into Mulk and Miri in Jordanian Law: A Comparative Study*, PhD Thesis, Amman Arab University, 2013.
- Marwan Qaddumi, *Inheritance Rulings in Islamic Law*, Khaled Ibn Al-Walid Press, Nablus, 1998.
- Muhammad Al-Jundi, *Pre-emption in the Jordanian Civil Law and the UAE Civil Transactions Law*, *Journal of Law*, Kuwait University, Vol.9, Issue 1, March 1985.
- Muhammad Fouad Koubry, *the Establishment of the Ottoman Empire*, Translated by Ahmed Suleiman, Dar Al-Kateb Al-Arabi for Printing and Publishing, Cairo, 1993.
- Muhammad Harb, *the Ottoman Empire 699-1343 AH*, Safir Encyclopedia of Islamic History, Safir Press, Cairo, 1996.
- Muhammad Mursi Zahra, *Original Real Rights in the UAE Federal Civil Transactions Law*, Vol.1, United Arab Emirates University Publications, Al Ain, 1999.
- Muhammad Mustafa Shalabi, *Introduction to the Definition of Islamic Jurisprudence and the Rules of Ownership and Contracts Embodied in it*, Dar Al-Ta'leef Press, Cairo, 2002.
- Muhammad Qadri Pasha, *Al-Hiran's Guide to Knowledge of Human Conditions*, Al-Kubra Al-Amiri Press, Cairo, 1891.
- Muhammad Shaaban, *the Right of Disposal over Lands*, *Tekirdag Namik Kemal University Journal*, Turkey, Vol.5, Issue 1, June 2019.
- Muhammad Siwar, *Original Rights in rem*, Part 2, Dar Al-Thaqafa for Publishing and Distribution, Amman, 2019.
- Muhammad Siwar, *the Right of Property in Itself*, Dar Al Thaqafa for Publishing and Distribution, Amman, 2017.
- Muhammad Zu'bi, *Dispensing the Right of Ownership with the Right of Disposal*, *Yarmouk Research Journal*, Human and Social Sciences Series, Vol.10, Issue 2, 1994.
- Muhammad Zu'bi, *Land Registry Records Resulting from the Settlement*, *Journal*

- of University of Jordan Studies, Humanities and Social Sciences Series, Vol.13, Issue 3, 1986.*
- Mustafa Al-Zarqa, Introduction to the General Theory of Obligations in Islamic Jurisprudence, Part 3, Dar Al-Qalam, Damascus, 2004.
- Najeh Sadeq Tamim, Forms of Land Plots in Palestine and Obstacles to their Use, *Bethlehem University Journal*, Vol.21, 2002.
- Nematullah Nofal Affandi, Al-Dustour: A Translation from the Turkish Language, Vol.1, the Literary Press, Beirut, 1301 AH
- Rudina Muhammad Karbol, Exceeding the Scope of the Right of Disposal over Miri Lands and Ways to Address them, *Kufa Journal of Legal and Political Sciences*, Vol.10, Issue 33, August 2017.
- Saleh Al-Luhaibi & Ali Al-Shuwaihi, the Privacy of the Usufruct Right in the UAE Civil Transactions Law, *University of Sharjah Journal of Legal Sciences*, Vol.17, Issue 2, December 2020.
- Salma Suroyya and others, Regulation of Associations of Flat Owners and Tenants in Management of Flats for Legal Assurance and Justice, *Baltic Journal of Law & Politics*, 15:3 (2022): 35-52 DOI: 10.2478/bjlp-2022-002003.
- Sati Al-Husari, Arab Countries and the Ottoman Empire, 3rd Edition, Dar Al-Ilm for Millions, Beirut, 1965.
- Shams Al-Din Muhammad Ibn Arafa Al-Dasuqi, Hashiyat Al-Dasuqi on Al-Sharh Al-Kabir and in its Margins Al-Sharh Al-Kabir by Al-Dardir, Muhammad Sobeih Press, Cairo, Part 4, 2017.
- Shams Al-Din Sami, Turkish Dictionary, General Authority for National Books and Documents House, Istanbul, 1900.
- Sheikh Ahmed Al-Sawy, the Traveller Arrivals to the Nearest Paths, Hasheyat Al-Sawy's on the Explanation of Dardir - Edited by Mustafa Kamal Wasfi, Dar Al-Ma'arif, Cairo, Vol.4.
- Sheikh Muhammad Abu Zahra, Property and Contract Theory, Dar Al-Fikr Al-Arabi, Cairo, 1977.
- Suha Qasaimeh, the Right of Disposal over Miri Lands: A Study in Jordanian Civil Law, Master Thesis, Al Al-Bayt University, 2002.
- The Explanatory Memorandum of the Jordanian Civil Law, Part 2, 3rd Edition, Al-Tawfiq Press, Amman, 1992.
- The Explanatory Memorandum of the UAE Civil Transactions Law, *Published in the Sharia and Law Journal*, the Twenty-Fifth Year, Issue 45, Special Supplement, Part 2, January 2011.
- Zaid Al-Aqaileh, the General Concept of Property in Islamic and Jordanian Law: A Comparative Study, *Mu'tah Journal for Research and Studies*, Vol.22, No.3, 2007.
- Zaid Al-Aqaileh, Legal Cultures Dialogue: Benefits and Obstacles of Comparative Law Studies, *Shari'a and Law Journal*, United Arab Emirates University, Issue No.54, Year 27, April 2013.