EGYPTIAN VILLAGE COMMUNITY UNDER MUḤAMMAD ʿALĪ’S RULE

— An Annotation of “Qānūn al-Filāḥa” —

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Preface

The aim of this article is to introduce, with an annotated translation, the so-called qānūn al-filāḥa (Law of Agriculture) enacted in 1830 and known as the first penal code in modern Egypt. This qānūn has been referred to not only by the legal historians but also by the social and economic historians(1) as an important source-material for the study of the agricultural society in the first half of the 19th century Egypt, by reason of the practical purpose for its enactment and the concrete contents of its provisions as will be pointed out below.

In the Egyptian agriculture, where control of the countryside was the main economic and administrative concern, it was quite natural that the first new code enacted by Muḥammad ʿAlī dealt mainly with villages and fallāhs (peasants). The provisions of qānūn al-filāḥa were at first part of a booklet called laʿihat zirāʿat al-fallah (Law of Peasant’s Cultivation) published at Būlāq in Rajab 1245 A. H./1830 A. D.. H. A. Rivlin infers that this laʿiha was published as a result of the discussions held at a meeting called “Parlamento” in 1829, composed of the principal officials of the civil and military departments of the central government as well as of the important provincial officials. The assembly presided over by Ibrāhīm Pasha, son of Muḥammad ʿAlī, discussed means by which to correct abuses and ameliorate the wretched state of the fallāhs without reducing taxes.(2)

This laʿiha contains detailed instructions concerning agriculture with regard to different crops and districts and the functions of various officials in the local administration. From page 61 to the end, the laʿiha lists penalties for crimes and offences most of which, though not all, have to do with fallāhs and agriculture. The laʿiha is written in an interesting mixture of colloquial and ungrammatical literary Arabic. A month after its publication, in Shaʿbān
1245 A.H., the part dealing with crimes and offences was republished in literary Arabic, but otherwise with few changes, under the title of qānūn al-fīlāha. This qānūn which consists of 55 clauses deals with crimes by fallāhs such as theft, injury to persons and damage to property, the neglect of duties in connection with cultivation, taxes, public works, and the military service, offences by village shaykhs and other village officials, rebellion in the countryside, and a number of other crimes and offenses.

Later this qānūn was included in qānūn al-muntakhabāt (Law of Collections) published in 1 Muḥarram 1261 A.H./1845 A.D., consisting of 203 clauses, which, besides qānūn al-fīlāha in 1830, collected penal laws enacted between 1830 and 1844, that is to say, qānūn al-siyāsa al-malakiya (Administrative Law) in Rabī’ II 1253 A.H./1837 A.D., lā’iḥat al-jusūr (Law of Dikes) in Rajab 1258 A.H./1842 A.D., and the supplementary laws of these qānūn and lā’iḥa.

I. The Organization of Village Control.

Egyptian villages under Muḥammad ʿAlī were controlled by the following two organizations. The first was the judicial organization composed of al-hākims al-sharʿī or religious officials. The judge called al-qāḍī who was qualified to pass official judgement according to Islamic law (al-shariʿa) stayed in the center of the district (al-bandar), and if the complainant doubted the fairness of his judgement, the lawsuit was submitted to the great religious scholars in the district (kibār al-ʿulamāʾ al-mawjudin bi tilka al-jiha), then to the notable religious scholars in Egypt (ḥadārat ʿulamāʾ al-mahrūsa) al-kirām) at the office of the province (al-maʿmūriya) as is seen in Clause 22 of qānūn al-fīlāha. However this provision is theoretical to a large extent, because in most of cases it could be considered that the disputes among village inhabitants were arbitrated by village shaykhs, assisted by the representative (naʿīb) of the qāḍī.

The second was the administrative organization composed of the hierarchy of al-hākims al-ʿurfi or secular officials, that is to say, the governor of a province (al-maʿmūr), the director of a department (nāẓir al-qism), the administrator of a district (ḥākim al-khutt), the administrator of a canton or a village (al-qāʿim-maqaṭm), and the village notables (al-mashāykh). In qānūn al-fīlāha the largest local administrative unit is the province (al-maʿmūriya) whose governor is the maʿmūr. The office of the maʿmūr is called al-diwān al-khidwi or the Ministry of the Interior, which means the branch of the Ministry of the Interior in Cairo,
because the ma'mūr was responsible for sending periodically the inspection report (al-jurnal) with regard to the administrative and financial affairs of his ma'muriya to the Ministry of the Interior in Cairo. Thus the ma'mūr is the highest authority in the local administration in qānūn al-filāḥa.

However, almost all practical administration was carried out under the direction of ḥākim al-khuṭṭ or administrator of a district, who informed the government’s orders in connection with village administration to village officials, and in whose name crimes and offences were punished. The administrative subdivision under the khuṭṭ was al-nāḥiyya and al-balad. Generally the nāḥiya is translated into the canton and the balad into the village. However, at least in qānūn al-filāḥa, the distinction between them is not clear, and they are used interchangeably. The administrative official of the nāḥiya was called al-qā‘immaqām and he was assisted by village notables (mashāykh). They were responsible for the administrative functions, such as passing on government instruction and giving information about village affairs as is seen in Clauses 19 and 23, and for the police functions, such as organizing watchmen (ghufārā’, pl. of ghafīr) for the guard of village against thefts at night, maintaining the security of village, arbitrating villagers’s disputes and imposing punishments as will be argued below in detail. In qānūn al-filāḥa the village notables are called mashāykh al-hiṣāṣ, mashāykh al-balad, mashāykh al-qurā, mashāykh al-nāḥiya and al-mashāykh al-kibār. The hiṣaṣ (sing. hiṣṣa) was the subdivision of a village (balad, qārā). The mashāykh al-hiṣāṣ, mashāykh al-balad, mashāykh al-qurā and mashāykh al-nāḥiya are used interchangeably, whereas al-mashāykh al-kibār are referred to as distinguished from mashāykh al-hiṣāṣ in clauses 26 and 46, and are described in clause 27 as heads of village notables somewhat similar to the ‘umda in the latter half of the 19th century. While the qā‘immaqām was considered as the official under the direct control of the ḥākim al-khuṭṭ, the village shaykhs represented village inhabitants as well as the state, so they are put side by side with fallāḥs in many clauses of qānūn al-filāḥa concerning the punishments for crimes and offences. However, in spite of this difference, both of the qā‘immaqām and the village shaykhs were appointed and dismissed by the ma’mūr as is seen in Clause 8.

In qānūn al-filāḥa it is explicitly stated that Islamic law applied to such cases as the violation of honor in Clause 16, the abortion of a pregnant woman by reason of quarrels in Clause 28, the murder of a child by his father in Clause 30, the compulsory marriage of a young woman by village shaykhs in Clause 31,
the arbitration of disputes between the husband and his wife’s relatives in Clause 32, the secret killing of enemy’s domestic animal in Clause 33, and the injury of some parts of body or the homicide in fights in Clauses 7, 24, 27, and 29. These cases were judged by the religious officials according to Islamic law, namely, the revenge \( \text{al-qis\={a}} \) and the blood money \( \text{al-di\={a}} \), and their judgements were executed by the secular officials depending on the letters of decisions. However, other crimes and offences by \text{fall\={a}}hs and village officials were punished directly by the secular officials without referring to the religious officials. It is interesting to note here that the amount of blood money which should be estimated in principle by the religious officials according to Islamic law, is regulated in Clause 25 concerning the prohibition of the excessive punishment by the \( \text{h\={a}kim al-khu\={u}} \). \(^{(12)}\)

Different penalties were inflicted according to various crimes and offences; the warning \( \text{tanbih} \), the temporary detention \( \text{habs or sajn} \), the flogging by whip \( \text{kurb\={a}j} \), the confinement in the prison \( \text{luman} \), the compulsory labour at the public factories \( \text{al-abniya al-miriya} \) of the \( \text{ma’muriya} \),\(^{(13)}\) the confinement in the prison at Alexandria,\(^{(14)}\) the banishment to the Mount Fayzughli\(^{(15)}\) and the execution, besides the recruitment for the military service in case of young men. Especially the \text{kurb\={a}j} was the main penalty which is executed in the name of the \( \text{h\={a}kim al-khu\={u}} \), although it is considered that in practice its execution was carried out by the \( \text{qa’immaq\={a}}m \) and the village \( \text{shaykhs} \). Theoretically the excessive or illegal punishment by them was checked by the permission of the direct petition to higher authorities as is seen in Clause 42. The penalty of \text{kurb\={a}j} had a character of a kind of warning to some extent, for it is regulated in Clause 46 dealing with the punishment of the intentional conceal or overlooking of thieves by the \( \text{qa’immaq\={a}}m \) and the village \( \text{shaykhs} \) that the punishment by the \text{kurb\={a}j} is carried out in public in the day of the village fair \( \text{yawm suq al-balad} \).

Finally it is necessary to note here regarding the functions of village officials that the \( \text{h\={a}kim al-khu\={u}} \), the \( \text{qa’immaq\={a}}m \), and the village \( \text{shaykhs} \) had the responsibility of supervising the disposal of villagers’ domestic animals. The Clause 11 states that they have the duty to supervise the sale of domestic animals at the current price, and Clause 38 regulates that they are responsible for preventing villagers from slaughtering female animals or male animals such as oxen and buffalos younger than three years excepting the occasion of special festivals; they also prevent the butchers in villages from selling meats at higher price than the current one, and cheating its weight. These provisions con-
nected with domestic animals as means of cultivation indicate the government's concern with agriculture, as well as the special consideration for irrigation implements such as *sāqiya* (water-raising apparatus for irrigation) as is seen in Clauses 17 and 52.

II. The System of Landholding

G. Baer points out in his article concerning the dissolution of the Egyptian village community that under Muhammad 'Ali the peasant land was registered in the name of the village, not the individual *fallāh*; consequently, he implies that the peasant land was not fixed, but redistributed periodically in those days. To be sure in Clause 45 of *qānūn al-fīlāḥa* is found the account to the effect that the village *shaykh* often divided the peasant land as he asserts. However this provision was written for the purpose of preventing the village *shaykh* from the abuse of their function in connection with the tax division among village inhabitants, so it seems clear that Muhammad 'Ali intended to fix the peasant land, and that in fact the peasant land was fixed except in some regions in Upper Egypt where the land survey was not carried out until then and the cultivation was dependent on the traditional basin irrigation according to the customary usage. In addition the plot of each *fallāh* could be confirmed by the register of land survey, because Clause 2 of *qānūn al-fīlāḥa* explicitly states that if the dispute happens with regard to the land border among village inhabitants, the village *shaykh* are required to confirm the land border by the register of land survey (*daftar al-tārī*).

The plot of each *fallāh* was called *al-athar*. Needless to say, the *athar* was not a private property from the modern legal point of view. Until 1842 all the Egyptian agricultural land was regulated according to Islamic law as the kharājiya land, whose ownership (*haqq al-raqaba*) is in the hand of the state, and whose holder is permitted only to enjoy the usufruct (*haqq al-intifa*) on condition that he performs the duty of cultivation and land-tax payment. Thus the state reserved the right to confiscate the land of *fallāhs* who neglected their duty and to distribute by force the confiscated land to other *fallāhs*. In *qānūn al-fīlāḥa* are found Clauses 5 and 25 concerning the punishments for the negligence of land cultivation, Clauses 7, 8, 13, 15 and 26 dealing with the punishments for the negligence of land-tax payment, and Clause 43 in connection with the compulsory distribution of a village's land by the state to another...
village's inhabitants. This compulsory distribution of peasant land by the state was called tawzi‘ (pl. tawzi‘āt).

Moreover under the system of state ownership of land, Muḥammad ‘Aли tried to fix a fallāḥ to the village where his athar was located. His athar was registered in the land-tax register (daftar al-mukallafa) and the land-tax (al-māl al-mīr) was collected by the village tax-collector (ṣarrāf), assisted by the qa‘īm-maqa‘ām and the village shaykh. Originally the landholder (ṣāḥīb al-athar) meant the fallāḥ whose athar was distributed and registered in the land-tax register of a given village at the time of land survey commenced from 1813 by Muḥammad ‘Aли. To emphasize this meaning, the landholder is often referred to as the original landholder (ṣāḥīb al-athar al-asli) just as is seen in Clause 2 of qānūn al-filāḥa. The village inhabitants were prohibited to leave their village without permission of the ḥākim al-khuttāf, and it is mainly the village shaykh who were charged with searching out the fugitive fallāḥ and bringing him back to his village as is seen in Clauses 36 and 53.

However this does not mean that the fallāḥs in those days did not transfer their athar to other persons. Scholars agree unanimously that the fallāḥs inherited and disposed of their land according to the custom law (‘urf). Especially the land mortgage called gharūqa functioned as a temporary or short-term transfer of land as a legal trick for nullifying the prohibition of the transfer of the kharājiya land regulated by Islamic law. This is the reason why the gharūqa is so often referred to in the Egyptian laws in connection with land-holding in the 19th century. Certainly it seems true that in many cases the peasant land was disposed of only among the village inhabitants, for the government intended to fix the fallāḥs to the given villages and the village communal restrictions made it difficult to transfer the land belonging to a village to the person of another village. However some sources in those days report the land transactions between the villages unbound by such restrictions. In qānūn al-filāḥa dealing mainly with crimes and offences of fallāḥs and the village officials, we cannot find out the clauses in connection with the land transactions except Clause 1 which regulates the duty of fallāḥ to inform the government officials on the occasion of land transfer, and Clause 44 concerning the disputes about the contracts of sharecropping, whose provision implies that the sharecropping was done generally in those days.

At any rate the most remarkable fact under Muḥammad ‘Alī was the alienation between the object of the government policy and the actual situation
with regard to the landholding. The main reason for this alienation was the shortage of agricultural labour. In those days Egypt was not overpopulated, and this absolute shortage of agricultural labour was strengthened by recruitment of *fallâhs* for public works and the military service, in addition, by the flight of many *fallâhs* from villages for the purpose of escaping from the heavy tax burden and avoiding the recruitment for public services. The problem of the flight of *fallâhs*, which is dealt with under the subject of *mutasahhibûn* (fugitives) in Egyptian laws in the 19th century, was so acute that the government was obliged to issue a new order in a certain time of the first half of 1840’s regulating the fugitive *fallâhs*’s return to the villages where they had been registered in 1832 as tax-payers, although *qânûn al-fîlâha* repeats the prohibition of *fallâh*’s flight.\(^{27}\) Under this situation the policy of state ownership of land and that of fixing *fallâhs* to the given villages could not operate well by paucity of agricultural labour.

Apart from the population problem, the introduction of cash crops into Egyptian agriculture by Muḥammad ‘Alî was the reason by which the government policy of state ownership of land could not operate well. Muḥammad ‘Alî compelled *fallâhs* to cultivate the cash crops under the state monopoly of agriculture. In *qânûn al-fîlâha* is found Clause 5 regulating that the special attention should be paid to the flax (*kattân*), one of the cash crops introduced by Muḥammad ‘Alî in those days. Although the flax is a winter crop, most of the cash crops, especially cotton, were grown in summer, for whose cultivation the enormous expenditures were necessary for not only the digging of governmental summer canals but also the construction of irrigation implements such as *sâqiya*. For the purpose of encouraging the cultivation of cash crops, Muḥammad ‘Alî took a drastic measure to confiscate the lands of *fallâhs* who could not afford to pay for the construction of *sâqiya* and distribute them to the other who could afford.\(^{28}\) It is quite easy to attribute the introduction of cash crops to the liquidity of peasant land which led to the decline of the policy of state ownership of land.

III. The System of Taxation

According to Islamic law the holder of the *kharâjiya* land is permitted to hold his land only on condition that he performs the duty of land cultivation and land-tax payment. The main problem with which the Egyptian govern-

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ment was concerned was the duty of land-tax payment, for this duty is ultimately synonymous with that of land cultivation from the fiscal point of view. In other words Muhammad 'Ali adopted the policy of state ownership of land as a means of securing and increasing the source of revenue from agriculture. Consequently in qānūn al-fīlāḥa are found many clauses in connection with taxes.

It is the village shaykhs who carried out fiscal works in the village, such as ensuring tax payment, division of tax burden among village inhabitants, and tax collection. The Clause 8 of qānūn al-fīlāḥa regulates the punishment of the flight from village of the qa'immaqām and the village shaykhs on the occasion of tax collection, and the Clause 10 treats their function of the division of tax imposed upon their village among villagers and the duty of their presence on the occasion of tax collection by the village tax-collector. In addition the provision of Clause 13 testifies indirectly their important role in the village administration in connection with taxes, in which the punishment is specially regulated for the village shaykh who protects privately the fugitive fallāḥ with the intention of escaping from tax payment.

It is well known that Muhammad 'Ali adopted the system of village solidarity for tax payment. Under this system, if a fallāḥ could not pay taxes, his debt had to be cleared by other fallāḥs of his village. However this does not mean that the indebtedness of a village was alone calculated without the explanation of each fallāḥ's debt. The tax arrears to the state, called bawāqī in Clause 15 and dayn lil-mīrī in Clause 11, of each fallāḥ were recorded in his tax receipt (wird)(29) maintained by the village tax-collector. The Clause 15 of qānūn al-fīlāḥa explicitly states that if a fugitive fallāḥ from his village hides himself among nomads and is discovered afterward, his arrears have to be collected from the nomad who hides him.(30) With regard to the system of solidarity, it is interesting to note here that the balance sheet of each fallāḥ in the amidst was not confined to the settlement in connection with taxes. The Clause 11 of qānūn al-fīlāḥa regulates that if a village shaykh sells a fallāḥ's domestic animal without his consent, the price of this animal will be collected from the village shaykh and be sent to the tax-collector who will settle it in the amidst of the animal's possessor. This provision indicates that the system of solidarity functioned not only as an institution for tax collection, but also as a means of checking and controlling the properties of village inhabitants.

At any rate, the system of taxation under Muhammad 'Ali was based on the system of village solidarity as a territorial unit. However it is doubtful that
this system operated well from the beginning of his reign, because the acute problem with which the Egyptian government was faced in those days was the increasing accumulation of tax arrears. This problem was so acute that the government was obliged to investigate the arrears of each fallāḥ accumulated until 1841, and to order to record the balance in his tax receipt (wird). The reason for the accumulation of tax arrears was the heavy tax burden on the one hand, and the shortage of agricultural labour by reason of the recruitment of fallāḥs for public works and the military service and the flight of many fallāḥs from villages for the purpose of escaping from the tax payment and avoiding the recruitment on the other. The wretched state of fallāḥs in those days could be inferred indirectly from the fact that in qānūn al-filāḥa is found Clause 37 specially dealing with fallāḥ's debt.

I have already pointed out that under the system of state ownership of land the state confiscated the land of fallāḥs who neglected the duty of tax payment and distributed it to other fallāḥs. To speak more exactly, however, the state did so, only when the indebtedness of a village became too enormous to be paid through the system of solidarity, and the state gave the village shaykhs the large authority to control the landholding of fallāḥs, so long as the village could manage to pay taxes through this system. The connection between the compulsory land distribution by the state and the tax arrears is indicated clearly by the fact that the term tawziʿ meant not only the compulsory distribution of land but also that of tax arrears on it. In summary the system of solidarity for tax payment was deeply connected with the system of state ownership of land, and when the one could not operate well, the other could not do so simultaneously and for the same reason. Moreover the process of the decline of these two systems led to that of the agricultural policy of Muḥammad ʿAlī, because his monopoly system of agriculture was based on these two systems. And this process proceeded rapidly after the publication of qānūn al-filāḥa, namely, from the latter half of 1830’s onto 1840’s.

IV. The System of the Recruitment of Fallāḥs for Public Works and the Military Service

The recruitment of fallāḥs for public works and the military service affected the basic tenor of village life under Muḥammad ʿAlī, because it deprived the Egyptian countryside of the agricultural labour. In this paragraph we will
examine the provisions of **qānūn al-filāха** in connection with this recruitment of **fallāḥs**.\(^{(35)}\)

It is well known that the Egyptian irrigation system was maintained by the supply of labour from the village communities on the basis of the cooperative principles according to the customary usage on the one hand, and the organization of labour by the powerful centralized state on the other. The situation during the period under review was not an exception from this rule. However, in those days the supply of labour for public works was organized more systematically than before in the form of the corvée. The customary usage which regulates the cooperative principles for the irrigation system was incorporated in **qānūn al-filāха** in which specific responsibilities were assigned to various officials of the government.

The qa‘immaqām and the village shaykhs were responsible for the administration of irrigation within the village, such as the supervision of the irrigation of land, the cleaning of small canals (**nilī canals**) during the winter season, the repairing of dikes, and the maintenance of irrigation implements in the village. The cost spent for these public works was distributed among village inhabitants by them. The Clause 21 of **qānūn al-filāха** regulates that if the village land is left as the **sharāqī** land without irrigation or as the submerged land without drainage,\(^{(36)}\) even though it is caused by a **fallāḥ**, the qa‘immaqām and the village shaykhs as well as the landholder will be punished for the negligence of their duty for irrigation. And the Clause 51 states that if the materials such as woods are supplied by the village for public works inside the village, the qa‘immaqām and the village shaykhs are required to make them registered by the village tax-collector, calculate their price, and distribute it among the village inhabitants.\(^{(37)}\)

Another function of the qa‘immaqām and the village shaykhs in connection with public works is the recruitment of fallāḥs for public works beyond the village, such as the digging, cleaning, and repairing of governmental summer canal. In **qānūn al-filāха** is found Clause 6 concerning the punishment of those who do not participate at all in the work for canals and dikes even after it was announced to them or flee halfway from it without completing it, in which the punishment of the qa‘immaqām and the village shaykhs is heavier than that of other fallāḥs. The recruitment of fallāḥs from villages was increased because of the introduction by Muhammad ‘Alī of systematic perennial irrigation system.

Finally we can find out the clauses connected with water division among villages, namely, Clause 29 concerning the disputes between two villages about
water division, and Clause 55 concerning the secret opening of the dam (sudd) without the order of the ḥākim al-khutt by which reason some lands are left unirrigated by scarcity of water. Especially the Clause 29 regulates explicitly that the division of water among villages has to be carried out by the order of the ḥākim al-khutt and it is the qa‘immaqām and the village shaykhs who are punished for the disputes between villages about water division.\(^{(38)}\)

Besides the recruitment of fallāḥs for public works, the soldiers were drafted from among the villagers by the qa‘immaqām and the village shaykhs. The Clause 9 regulates the punishments for the refusal by the qa‘immaqām and the village shaykhs of the recruitment of fallāḥs for the military service, and the Clause 49 dealing with the arbitrary recruitment of fallāḥs by the village shaykhs states clearly that the soldiers have to be drafted by the village shaykhs. In addition they had the responsibility of searching out the fugitive soldier who was recruited from their village as is seen in Clause 54, in which the village shaykh is called his guarantor (dāmin).\(^{(39)}\) This duty of village shaykhs corresponded with Muhammad ‘Ali’s policy of fixing the fallāḥ to the village where his land was registered.

The order of the allotment of soldiers to each village was issued through the local administrative organization from the ma‘mūr to the village shaykhs just like other administrative and fiscal orders. However unlike other orders which were dispatched from the Ministry of the Interior (al-diwan al-khidwi), the orders in connection with the military service were dispatched from the Ministry of the Army (diwan al-jihādiya) and the works were carried out by the ma‘mūr under the direct instruction of this diwan. In consequence the Clause 47 of qānūn al-filāḥa regulates that when a soldier is arrested because of a fight with fallāḥs, he has to be fetched to the ma‘mūr and judged directly by him, even if the fight happens within the market (suq) of village, and the soldier will be sent to the Ministry of the Army in Cairo along with a report (jurnāl) about this judgement.

V. The Role of Village Shaykhs

The village shaykhs played an important role in the village administration. They were responsible for the administrative functions, such as passing on government instruction and giving evidence, and the police functions, such as maintaining the security of the village, arbitrating villagers’s disputes and imposing punishments. They were also charged with the financial functions,
such as ensuring payment of taxes, distributing taxes imposed upon the village among villagers and assisting the tax-collector (ṣarrāf) to collect them, and the function for the recruitment of fallāḥs for public works and the military service.(40) In return for their carrying out these functions, the government granted them with lands known as atyān masmūḥ al-mashāykh, which were exempted from land-tax.(41) Their important role in the village administration could be explained by the strong customary usage in the village communities on the one hand, and by the fact that Muḥammad ʿAlī could not organize the local administration at the level of villages on the other.

Then it is quite easy to attribute the reason for the abuses of their functions to their important role in the village life. In fact in qānūn al-filāḥa are found many clauses with regard to the punishments for their abuses and damage to fallāḥ’s property, such as Clause 10 concerning unequal tax division among villagers, Clause 45 dealing with illegal land distribution in connection with their function of tax division, Clause 49 associated with arbitrary recruitment of soldiers, Clause 11 concerning selling fallāḥ’s domestic animal without his consent, Clause 40 dealing with their use by force of fallāḥ’s labour and camel without compensation in the harvest and transportation of their own products, Clause 50 connected with illegal seizure of fallāḥ’s house, and Clause 52 prohibiting the crime of cutting fallāḥ’s trees and using them for their own profit. It is very interesting to note that the influence of village shaykhs was exerted not only upon the villagers’s properties, but also upon their persons, for the Clause 31 regulates the punishment for their compelling a villager’s young woman to marry with them or their favorite men.

In some cases the influence of village shaykhs appeared as a form of their private protection under which villagers were defended against the government. We can find out in qānūn al-filāḥa some clauses with regard to their private protection, such as Clause 13 concerning the protection of a fallāḥ who refuses to pay land-tax, Clause 36 dealing with the setting free a fallāḥ running away from village for payment of certain amount of money, and Clause 46 associated with their intentional concealment of thieves. In qānūn al-filāḥa this private protection is called himāya in Clause 10 and jāh in Clause 13.

It is known that for the purpose of escaping from exactions of the government authorities, the fallāḥs preferred to be under the protection of tax-farmers (mūtāʿahhid) and big landholders, Egyptians or foreigners, who were so sufficiently influential that they were exempted from the public duties, especially the duty
of supplying labour for public works.(42) This private protection of the muta-
‘ahhid and the big landholder was one of the motives which led to their accumula-
tion of fallāhs’s lands. We could infer from the provisions of qānūn al-fīlāḥa that
the same affair was developing between the village shaykhs and the village in-
habitants within villages under Muḥammad ‘Alī.(43)

VI. Translation of “Qānūn al-Fīlāḥa”

Clause 1.

In the event of a person taking hold of another person’s plot of land (athar)
without any reason and cultivating it, and of the landholder (sāhib al-athar) not
informing this at the time of this act, the products in this year will come into
possession of him who cultivates the land, and the land-tax (māl) will be col-
lected from him. However the land will be given to the landholder in the next
year.

Clause 2.

In the event of a person shifting the landborder between his land and the
neighbour’s land and entering his land into the neighbor’s land, and of the
neighbor presenting himself to the qā’immaqām al-balda and the shaykh al-ḥiṣṣa
to complain of this, they are required to confirm the landborder (yuḥaqiqā
al-āṯār) by the register of land survey (daftar al-tāriʿ) and to measure the neigh-
bour’s land which the violator of landborder cultivates. And the illegally seized
land will be given to the original landholder (ṣāhib-hā al-ṇāṣīḥ) with the products
in it, and nothing will be given as punishment to the violator in exchange for
seeds (taqāwī) and works (ughrat al-ḥarth) in spite of his cultivating anything.

Clause 3.

As regards those who seize other person’s domestic animals used for mil-
ling (tāḥūn) and tilling (mihrāth) without the possessor’s permission, or use them
in their own works without the possessor’s consent, if the qā’immaqām al-balda
or the shaykh al-ḥiṣṣa comes to know such an offence, the rent of the animal is
required to be collected from the offender and to be given to the possessor with
the animal. And those who seize the animal without the possessor’s permission
or consent will be punished by 25 stripes of the kurbāj.
Clause 4.

In the event of a person stealing fruits, vegetables, crops of the garden (aşnâf min al-bustân) such as water melon, melon and the like, cereals in the fields or the ships (ghalâl min al-balad aw min al-sufan), or chicken; in the case of stealing fruits, vegetables and crops of the garden such as water melon and the like, he will be sent to the hâkim al-khuttâl for confirming his stealing and be punished by 10 stripes of the kurbâj if he steals the amount only for his eating, and by 50 stripes of the kurbâj if he steals with the intention of selling them. In the case of stealing chicken, he will be punished by 25 stripes of the kurbâj; in the case of stealing cereals on the ships, he will be punished by 100 stripes of the kurbâj; in the case of stealing sheep and goats, if he steals for the first time without stealing before he will be punished by 100 stripes of the kurbâj, for the second offence by 200 stripes of the kurbâj, for the third offence by 300 stripes of the kurbâj, and if he repeats to do it fourth time he will be sent to the Mount Fayzghulî for the period regulated in Clause 121. In the case of stealing crops from other person's house, his punishment will be the same as that in the case of sheep and goats.

Clause 5.

As regards those who do not pay attention to the cultivation of summer and winter crops (takhdir al-aşnâf wa al-shatawî), neglect the plowing or the hoeing even if the land is submerged, the weeding, the irrigation of their land, or other services for cultivation, and those who are not employed in the cultivation in such a manner as it is required, they will be warned for the first offence, and if they repeat to do it in spite of the warning, he will be punished by 50 stripes of the kurbâj for the second offence, and by the same stripes of the kurbâj for the third offence. As for the person who is unable to cultivate the flax (kattân) in such a manner as is suitable for it and does not carry out his duties of the fertilizing (tashikh), the macerating (ta'ţin), and the dusting (tanfid), the punishment which is settled as to the summer crops in this Clause will go into effect.

Clause 6.

As regards the person who does not participate in the works for canals (tura') and dikes (jusûr) after the announcement to him, flees therefrom after participating, or causes another person to flee therefrom, he is required to be punished,
because he refuses to perform the public service; if he is a *shaykh al-hiṣṣa*, he will be punished by 200 stripes of the *kurbāj*; if he is a *qā'immaqām*, he will be punished by 300 stripes of the *kurbāj*. If he is a *fallāḥ* who flees without any reason, he will be warned and advised not to flee, and if he flees again without any reason, he will be punished by 25 stripes of the *kurbāj* and be compelled to do the works like others.

Clause 7.

As regards those who do not pay the land-tax on the occasion of its collection and excuse themselves for refusing to pay it though they can pay it, if a fight happens among them for the reason of tax collection and some parts of body such as the eye, the ear, the tooth and the nose are inured in the fight, the affair will be treated according to the Sacred Law (*al-sharʿ al-sharīf*) and be judged by its provisions, then the secular official (*al-ḥākim al-'urfī*) will execute the judgement according to the decision.

Clause 8.

In the event of the *qā'immaqām al-balad* or one of the *shaykhs* fleeing on the occasion of the land-tax collection from a village, in the case of the *qā'immaqām*, he will be punished by 300 stripes of the *kurbāj* for the first offence, whether he flees alone or he flees with a *fallāḥ*, by 500 stripes of the *kurbāj* for the second offence, and for the third offence he will be dismissed from the service if there is a person who fills his place; if there is not such a person, he will be punished by 300 stripes of the *kurbāj* for each time of his flight after then, but he will continue to discharge his service. In the case of the *shaykh al-hiṣṣa*, if he flees, he will be punished by 200 stripes of the *kurbāj* for the first offence, by 300 stripes of the *kurbāj* for the second offence, and for the third offence he will be dismissed from the service if there is a person who fills his place; if not, he will be punished by the triple of 200 stripes of the *kurbāj*, but he will continue to discharge his service.

Clause 9.

In the event of any village refusing to offer the soldiers on the occasion of recruitment, if the refusal is caused by the *shaykh al-hiṣṣa* and the *qā'immaqām*, it is required that the soldier be recruited from their brothers, because the inconvenience is caused by their refusal; if they have not a brother, the soldier
is recruited from their sons; if they have not a son, the soldier is recruited from
the sons of their uncles or relatives; if they have not a relative or they have
only a relative who is not suitable for the military service (jihādiya), the soldier
is recruited from the inhabitants of the village, and the qā'immaqām will be
punished by 300 stripes of the kurbāj for the first offence, by 500 stripes of the
kurbāj for the second offence, and by 500 stripes again if he repeats the refusal,
and the shaykh will be punished by 200 stripes of the kurbāj for the first offence,
by 300 stripes of the kurbāj for the second offence, and by 300 stripes of the
kurbāj for each offence if he repeats the refusal after then. If the refusal is
caused by the village inhabitants and the above two persons are not responsible
for it, it is only enough that the soldiers are recruited from the fallāhs.

Clause 10.

On the occasion of the ma'mūr demanding from a village 10 akyās(46) imposed
upon it for example, if it becomes clear that the shaykhs divide this amount
of money among the fallāhs except themselves, their relatives and the fallāhs
under their protection (himāya), each shaykh of them will be punished by 100
stripes of the kurbāj for the first offence, and by 150 stripes of the kurbāj for the
second offence. If the tax-collector (ṣarrāf) does not count up some names of
village inhabitants on the occasion of his reading the list of tax-payers (qā'imat
al-maqbūd) in the presence of the qā'immaqām or the shaykhs, he will be punished
by 500 stripes of the kurbāj for each offence whenever he does it.

Clause 11.

In the event of the shaykh al-hiṣṣa selling the domestic animal of a fallāh
at a cheaper price than the current one (qīmat-hā) in his absence or receiving
from a person illegal money in the absence of the tax-collector (ṣarrāf), the
balance will be calculated and be collected from the qā'immaqām, the shaykh
al-hiṣṣa and the hākim al-khutt by installments in accordance with the rank, then
this balance will be sent to the tax-collector who settles it in the wīrd of the
animal's possessor, because they do not pay attention to their duty of selling the
animals at the current price (si'r al-waqt). In consequence the balance will
be given to the animal’s possessor, whether he owes arrears to the state (dayn
lil-mīrī) or not. If he has been dead, it will be given to his heirs, and if he
has no heir, it will be paid to the state Treasury (bayt al-māl).
Clause 12.

In the event of the fallāḥ not obeying the mishadd(47) who is sent for fetching him to the office (diwān) of the ma’amūr and excusing himself from presenting himself along with the mishadd, he will be punished by 10 stripes of the kurbāj. If he makes resistance and drives back the mishadd by force and arms without going along with him, he will be punished by 50 stripes of the kurbāj, however this punishment will go into effect only after investigation.

Clause 13.

When the shaykh al-hiṣṣa demands the tax payment from one of the fallāhs in his hiṣṣa, in the event of this fallāḥ going to another shaykh in order to be protected under his honour (jāh), the tax demanded from this fallāḥ will be collected from the shaykh who accepts him if he can afford to pay it, then he will be punished by 50 stripes of the kurbāj; if he cannot afford to pay it, he will be punished by 150 stripes of the kurbāj.

Clause 14.

As regards the nomads who stay in some provinces (aqālīm), if they let loose intentionally their domestic animals in the fields of fallāhs, and the animals eat products there, a investigation will be made by the ma’amūr about the products which the animals eat, then after the investigation the area of the land of which products are eaten will be calculated, and 100 riyāl(48) will be collected per one faddān(49) from the nomad who does it by the shaykh of this nomad and be given to the possessor of the products. As for the animals which are found in the fields, whether they are camels, oxen or other kinds of animals, they will be arrested and come into the possession of the Province Treasury (jānīb al-diwān) without any compensation, besides the above 100 riyāl per faddān which is collected from the nomad for the price of the products.

Clause 15.

In the event of a fallāḥ hiding himself among the nomads, wearing their clothes, and being discovered among them afterward, if he owes the state arrears (bawāqī), the arrears will be collected from the nomad who hides him. If he does not owe arrears, the nomad who hides him will be conscripted into the military service if he is a young man (shābb), if he is an older man (ikhtiyār), he will be sent to the jail (lūmān) for six months.
Clause 16.

In the event of a person violating the honour (ta‘addā ‘alā ‘ird) of another person or insulting a virgin, the affair will be treated according to the Sacred Law, because this is the matter with which the Sacred Law is concerned. And when the religious official (al-hākim al-shar‘i) passes the judgement on it, the secular official (al-hākim al-‘urfī) is required to execute this judgement according to the decision.

Clause 17.

In the event of one of the fallāḥs or the shaykhs destroying a saqiya of another person, burning it, or stealing its parts, he will be conscripted into the military service if he is a youngman; if he is an order man, he will be employed in the compulsory labour at the factories (al-abniya al-mirīya) in the ma‘mūriya for one year, with his leg in chains.

Clause 18.

In the event of a fallāḥ or a shaykh al-balad burning a jurn, crops in the field or a house of another person, or being arrested on the spot when he is about to burn them, if such an affair appears confirmed after investigation, the price of the thing which he burns will be collected from him if he can afford to pay it, and he will be sent to the Mount Fayzughli for one year in the case of his burning jurn or crops; in the case of a house, he will be sent to the jail for the same period. And if he cannot afford to pay the price, he will stay in either of the above mentioned two places for his lifetime depending on the thing which he burns.

Clause 19.

In the event of the ḥākim asking one of the shaykhs or the fallāḥs to give some information, and of his not informing the ḥākim of the truth about this, if it becomes clear that he lies, he will be punished by 50 stripes of the kurbāj if the liar is a shaykh; if he is a fallāḥ, he will be punished by 25 stripes of the kurbāj.

Clause 20.

In the event of one of the shaykhs or the fallāḥs burning his jurn or his crops with the intention of his land-tax being exempted from him, he is required to be sent to the jail for his lifetime, because he is disloyal to the duty to himself.
and the state.

Clause 21.

In the event of one of the shaykhs or the fallâhs who has bad land leaving this land without irrigation at the time of the inundation of the Nile or without drainage after irrigation, for the purpose of claiming it as the sharâqi land or the submerged land (mustâbhar), (51) with the intention of the land-tax being exempted for the reason of the impossibility of its irrigation or drainage, it is required that each of the qa'īmmaqām al-balda and the shaykh al-hiṣṣa of the village where this land is located be punished by 50 stripes of the kurbâj, and the land-holder (sâhib al-athar) will be punished by 100 stripes of the kurbâj, then the whole land-tax will be collected from him. If the area of the land concerned is large, each of the qa'īmmaqām, the shaykh al-hiṣṣa and the landholder will be punished by 100 stripes of the kurbâj, and the land-rax will be collected from the landholder.

Clause 22.

In the event of a shaykh al-hiṣṣa or a fallâh who presents himself to the qādî for the lawsuit doubting that the qādî deviates from the truth and follows faithlessness, or of the qādî receiving from the people more amount of money than the fixed fee (al-rasm al-muqarrar la-hu), if the judge is the representative (nâ'îb) of the qādî, the lawsuit will be submitted to the qādî at the center of the khutt (bandar); if he is the official qādî (al-qādî sahib al-mansîb), the lawsuit will be submitted to the great religious scholars in this district (kibâr al-'ulama' al-mawjudin bi-tilka al-jiha) for the retrial of the first instance, and they will write down their judgement in a paper (sahîfa). This paper will be sent to the office of the ma'mûr (al-diwan al-khidwi), then the ma'mûr will expose it to the notable religious scholars in Egypt (haḍarat 'ulama' al-mahrûsa al-kirâm) in order that they retry the first and second instances and he demands from them the letter (jawâb) of their judgement about this lawsuit.

Clause 23.

When the hâkim recalls a shaykh of any village who stays in his village, in the event of his not presenting himself to him, or fleeing from the village on the hâkim's arrival at the village and being discovered afterward, he will be punished by 500 stripes of the kurbâj.
Clause 24.

In the event of a shaykh al-balad conspiring with some of fallâhs, or of a fallâh conspiring with other fallâhs against the hâkim al-khuttî or his shaykh and threatening him to beat him or beating him in fact, if the shaykh al-balad participates with the rebels in their attacking with clubs, or the uprising is caused by one of the fallâhs who gathers the band of fallâhs, the shaykh or this fallâh who gathers his conspirators will be punished by 300 stripes of the kurbâj. If firearms are used, but no injury results from this, each of the shaykh al-balad and the person who uses firearms will be punished by 500 stripes of the kurbâj; if light injury results from this, the person who uses firearms will be sent to Fayzughli for three years after investigation; if heavy injury happens to the wounded, he will be sent to Fayzughli for five years. And if the wounded dies because of this injury before his being sent to Fayzughli, the injurer will be killed (yajrī qiṣāṣ-hu) according to the Sacred Law; if the wounded dies after his being sent to Fayzughli, he will stay in Fayzughli for his lifetime. And if the injurer can afford to pay it, the necessary money to cure the wounded will be collected from him until his recovery; if he cannot afford to pay it, the wounded will be sent to one of the near hospitals for treatment.

Clause 25.

In the event of the hâkim al-khuttî killing a person intentionally by beating him with the kurbâj more times than that regulated about his crime or by beating his fatal parts of the boy, he is required to pay the legal blood money (diya) which is 3900 qirsh to the heirs of the victim (awliyā' al-dam), and the blood money will be paid from the hâkim al-khuttî concerned to the ma'mur (al-ma'mûr al-kabîr). Thus it is required that the beating with the kurbâj be applied only to the legs and the buttocks, and within the regulated times.

Clause 26.

In the event of a band of village inhabitants attacking, beating and threatening with death one of the public servants, the qâ'îmaqâms al-qarya, the shaykhs al-bîṣṣa or the head shaykhs (al-mashâykh al-kibâr) who are diligent to perform the public service only for the reason of his demanding them to pay the land-tax, if he dies from the fatal injury and the injurers are known, all of them will be killed according to the Sacred Law after investigation. If they are not known outwardly, but some inhabitants among them are under strong
suspicion, the ḥākim is required to do his best effort to make them confess by lengthening their inprisonment (ḥabs) and beating them to such an extent as they do not die. If anyone is not under strong suspicion, or it cannot be proved that he is the killer after the above proceeding, although someone is under suspicion, the blood money (dīya) is required to be paid according to the following procedure. If the heirs of the victim (awliyā' al-dam) suspect some of the village inhabitants of his murder, but it is not proved after the above mentioned proceeding that they are the murderers, then their appeal will be rejected and nobody is required to pay the blood money. However if the heirs of the victim accuse the village inhabitants of his murder and want to put the fifty men who are selected among them to oath before them on condition that they say in the oath that they did not kill him, did not see the person who killed him, did not hear about him, and did not have any information about him, and they contend the oath, then the village inhabitants are required to pay the blood money, and the blood money will be collected from them and given to the heirs of the victim.

Clause 27.

In the event of a whole village rising in revolt in arms, and of the village inhabitants not obeying the person who is sent to them by the ma'mūr or the ḥākim, the ma'mūr is required to proceed to the village himself. If they do not obey him again, he is required to lay siege to the village, to capture its head shaykh (kibār al-mashāyikh-hā) and to send the chief instigator of this uprising to Fayzughlî for five years. And the other instigators will be sent to the jail for the same period. As for the other shaykhs and the fallāhs who revolts with them, each of them will be punished by 400 stripes of the kurbāj. If someone from another village, whether he is a shaykh or a fallāh, comes to the aid and support of this rebellious village, he will be conscripted into the military service if he is a young man; if he is an older man he will be sent to the jail at Alexandria for three years. If firearms are used and the wounded or the killed results from this, the affair will be treated as is regulated in Clause 26.

Clause 28.

In the event of a quarrel or a fight happening between the pregnant woman and her husband or other persons, and of her miscarrying by this reason, this affair will be judged according to the Sacred Law, because such an affair is the
matter with which the Sacred Law is concerned.

Clause 29.

In the event of inhabitants of a village attacking another village at the time of irrigation in order to seize water from it for their own village at night or in the daytime, and of a struggle happening between them during which a person is killed, the affair will be judged according to the provisions of the above mentioned Clause on the homicide (Clause 26). If the attack happens without a struggle and the attackers seize water without the order of the hākim, each of the qa‘īmāqām and the shaykhs al-nāhiya will be punished by 500 stripes of the kurbāj.

Clause 30.

In the event of a person killing his child intentionally, he will be judged by the provisions of the Sacred Law.

Clause 31.

In the event of the shaykh al-balda wanting to acquire a young woman who has made a marriage contract with a person or has been engaged and agreed about the giving of dower (nishān) without the consent of her father or patron (wali-hā) in order to marry her to himself or to other men by force and authority, the lawsuit will be treated according to Islamic law and be judged by its provisions.

Clause 32.

As regards a young woman who has married with a person according to the custom of the God and his Prophet, in the event of her going with angry to her father or relatives after marriage and staying with them, and of their not agreeing to send her back to her husband unless they acquire the money from him on the condition of receiving the arbitration, this affair is required to be treated according to Islamic law.

Clause 33.

As regards a person who has an enemy, in the event of his killing secretly his enemy’s domestic animals such as cows, oxen and the like, because he cannot display his hostility to him or devise a trick to him, after investigation he will
be punished by 100 stripes of the kurbâj, and after then he will be judged by the provisions of Islamic law.

Clause 34.

In the event of a person letting loose his domestic animal which eats products in a jurm or a field and damages some products with its legs, if it is confirmed after investigation that he lets it loose intentionally, he will be punished by 50 stripes of the kurbâj, and he has to pay the price of the products which this animal eats and damages. If he does it without intention, he is only required to pay the price of the products which it eats and damages.

Clause 35.

As regards a person who do not go to his land with his plow at the time of cultivation (takhdir) or neglect the cultivation of his land, he will be punished by 50 stripes of the kurbâj and be compelled to work with his plow until his land is cultivated.

Clause 36.

As regards one of the shaykhs al-qarya who goes to arrest and bring back the fugitive to his village, in the event of it being confirmed that he receives money from him and sets him free without coming back along with him to the village, although he has arrested him, he will be punished by 200 stripes of the kurbâj after investigation.

Clause 37.

In the event of one of the fallâhs who owes a debt (dayn) to one person hesitating to pay it in spite of several warnings, if he can afford to pay it, he will be imprisoned and the debt (haqq) will be collected from him. If he still resists to pay it, he will be punished by 50 stripes of the kurbâj and be imprisoned, and after the imprisonment he will be fetched and asked whether he will pay it or not. If he resists again to pay it, he will be punished by 100 stripes of the kurbâj, then if he does not pay it, he will be imprisoned again and punished heavily by 50 stripes of the kurbâj in order to pay it, and asked, "If you do not pay your debt, you will be punished everyday by the kurbâj of which stripes are increasing by 50 in each time until you pay it." If he cannot afford to pay it, his debt will be divided and be collected in installments from him.
Clause 38.

As regards the village inhabitants and the butchers who stay in villages, in the event of one of them violating the rules and slaughtering a female domestic animal, an ox or a male buffalo younger than three years without any execution, or of the butchers in villages selling the meat at a higher price than the fixed one \(\textit{al-thaman al-muqarrar}\), cheating its weight, or slaughtering domestic animals without permission on the other occasions than the following exceptions, after investigation they will be punished by 100 stripes of the \textit{kurbāj} for the first offence, and by 150 stripes of the \textit{kurbāj} for the second offence. On the festivals such as ‘Īd al-‘Aḍḥā,\(^{54}\) Mawlid al-Ṣayyid Aḥmad al-Badawi\(^{55}\) and al-Ṣayyid Ibrāhīm al-Daṣūqī,\(^{56}\) it is not prohibited to slaughter male domestic animals, even though they are younger than three years. As for the barren female animals, the old female animals which are barren, and the female animals of which some parts of the body are injured, it is not prohibited to slaughter them, provided that it is confirmed by the \textit{ma‘mūr} or the \textit{nāẓir al-qism}.

Clause 39.

Every group of \textit{fallāhs} appoints a man as their representative in the transportation of their cereals to the public stores (\textit{ashwān})\(^{57}\) at the time of harvest. In the event of this representative making the receipt (\textit{raj‘a}) issued by his name, although the cereals are not in his possession, or by the name of other person than the possessor of the cereals, the receipt is required to be returned to its possessor after investigation, because such an act is regarded as stealing, and the representative will be punished by 200 stripes of the \textit{kurbāj}.

Clause 40.

In the event of the \textit{shaykh al-balad} seizing the camel of a \textit{fallāḥ} by force and using it for the transportation of his products without paying the rent, or employing a \textit{fallāḥ} for the harvest of his products without paying the wage, the money equivalent to the double rent or wage will be collected from him at the current rate (\textit{hasab\(^a\) al-jārī}) in the kingdom and be given to the \textit{fallāḥ}.

Clause 41.

In case the \textit{fallāḥ} or the \textit{shaykh al-balad} who has a lawsuit to one person and
obtains the letter of decision to the kāshīf, lets other persons send it without bringing it by himself to his office, then he claims afterward that his lawsuit is not yet executed and demands the reissue of the letter, in the case of it becoming clear that he did not bring the letter by himself and never turn his face to the hākim, if the letter is issued from the ma'mūr, the ma'mūr should detain the claimant, when he presents himself to him, and let the nāẓir al-qism identify him; if the nāẓir al-qism notifies that he did not come to him with the letter, the ma'mūr is required to investigate his lawsuit whether the justice is on him or not. If it is confirmed that the justice is not on him and he is a liar in his lawsuit, he will be punished by 50 stripes of the kurbāj because of the negligence of his duties.

Clause 42.

In case one of the fāllāhīs or shaykhs al-qarya petitions to His Majesty (al-a'tāb al-sanīya) for his lawsuit and the Imperial Ordinance (al-amr al-'ālī) is issued to investigate this lawsuit, if, although it becomes clear after the investigation that the justice is not on him and the letter to this effect is given to him, he returns to His Majesty (al-a'tāb al-'ālīya) and petitions again for the same lawsuit after some days, it is not prohibited to make petitions in such a manner, even though he is not employed in the public works of cultivation (ashghāl al-mīrī) and does not pay the land-tax imposed upon him for the reason of the expiration of time, because His Majesty (a'tāb janāb al-khidiwi) is the refuge of the poor and the protector of the weak.

Clause 43.

In case the hākim al-balda orders the inhabitants of a village to cultivate some lands in the neighboring villages according to their capacity at the time of cultivation (takhdir), if they do not cultivate the land which is allotted additionally to them, or flee from the village without cultivating it and return to the village after the termination of the cultivation’s season, the land-tax imposed upon the land concerned will be collected from the village inhabitants who commit such a crime, and each of their shaykhs will be punished by 300 stripes of the kurbāj.

Clause 44.

In the event of one of the shaykhs or the fāllāhīs who participates (shāraka)
with another person in cultivation preventing his partner (\textit{sharik}) from obtaining his share (\textit{haqq}) at the time of harvest by adopting a measure, and of the partner presenting himself and complaining about him of this, it is required that his share is collected from the partner who humiliates him and is responsible for this measure, and the offender will be punished by 300 stripes of the \textit{kurbāj}.

Clause 45.

In the event of the \textit{shaykhs al-qarya} wanting not to fix the peasant land (\textit{lā yakūn athar fī al-ātyān}) and moving the \textit{fallāhs} from a plot (\textit{ghayf}) to another every year for the purpose of allotting the good land to themselves and their favorite inhabitants, the good land would be destroyed, because the \textit{fallāhs} who know that the land will not continue to be held by them do not pay attention to his duty of cultivation and neglect it, even if the good land is allotted to them. On this ground, for preventing from such a damage, the \textit{hākim} is required to advise the \textit{shaykhs} to fix the peasant land (\textit{takūn al-ātyān atharān}). If they do not obey this advice, they will be warned for the first offence, and if they commit this offence again, each of the offenders will be punished by 300 stripes of the \textit{kurbāj}.

Clause 46.

In the event of it appearing and being confirmed that some of the \textit{qa'im-maqāms}, the head \textit{shaykhs} (\textit{al-mashāykh al-kibār}) or the \textit{shaykhs al-hiṣṣa} conceal the thieves among themselves, or overlooking their stealing, they will be punished by 500 stripes of the \textit{kurbāj} in public in the presence of the people in the day of village fair (\textit{yawm sūq al-balda}) for the first offence, and for the second offence they will be punished by the same punishment as that of the thief.

Clause 47.

As regards the soldiers (\textit{'asākir al-jihādiyya}), whether they are officers from \textit{yūzbāshi} to \textit{ūnbāshi} or they are military engineers (\textit{baṭājiyya}) and soldiers (\textit{anfār}), who turn their face to villages on holiday, whether for searching out the fugitive from the military service or for staying in their village for the given days, in the event of their being arrested and fetched to the \textit{ma'mūr} by the reason of a fight with some of the \textit{fallāhs} in the markets (\textit{aswāq}), the investigation will be made about their lawsuit; if the justice is on the \textit{fallāh}, the soldier will be punished by 30 stripes of the \textit{kurbāj} and a warning will be given to him.
not to do it again; if the justice is on the soldier, he will be sent to the Ministry of the Army (diwân al-jihâdiya) with a report (jurnal) about this judgement.

Clause 48.

In the event of one of the soldiers (jihâdiya) from nafar to yûzbâshi arresting a soldier who has fled from the military service and bringing him to the ma'mûr or the nâzîr al-gism for his temporary detention until the soldier returns to take over him after turning his face to another place, the bread equivalent to 300 dirham(86) will be given everyday to the arrested soldier. And when he returns to take over the arrest, a receipt (raj'a) on the price of bread which is given to the arrest will be drawn up by his name and be sent to the Ministry of the Army (diwân al-jihâdiya).

Clause 49.

In the event of the shaykh al-hîsâ recruiting from a fallâh one of his two sons for the first recruitment of the military service and recruiting again from the same fallâh his another son for the second recruitment because of his prejudice against this fallâh, and in the event of this fallâh who is left alone being unable to do his works and presenting himself to the hakim to complaint of this, if it becomes clear that, although there is a suitable man for the military service who is not employed in the work of cultivation, the shaykh al-hîsâ does not recruit him and applies himself to recruit the son of the above fallâh, the hakim is required to recruit a son of the guilty shaykh or one of his relatives if he has not a son, and to offer him to the military service instead of the above fallâh's son, then he will be released from the military service according to the letter which is dispatched from the ma'mûr to the Ministry of the Army (diwân al-jihâdiya) about this affair.

Clause 50.

In the event of the fallâh complaining that the shaykh al-balda or the qa'im-maqâm seizes illegally his house or something from him even if it is a piece of woods, the hâkim is required to collect its price from the person who seizes it illegally and to give it to the possessor, and the person who does this will be punished by 100 stripes of the kurbâj after the collection of the price from him.

Clause 51.

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In the event of a person complaining to the ħākim that some pieces of woods are seized from him for the purpose of strengthening the dike (jisr) at the time of the inundation of the Nile, for preventing such a complaint it is required that the qā'immaqām and the shaykhs of any village register at the tax-collector (sarrāf') the seized woods for such a public work, whether they are cut from the trees or seized from the houses, with the explanation about their kind and number, and after that they calculate their price, divide and allot it to the houses of the village (buyūt al-nāhiya), collect it completely from the heads of the houses (aṣḥāb al-buyūt), and give it to the possessors of the woods, as well as sending the list of detailed accounts to the ma'mūr.

Clause 52.

In the event of the shaykh al-balad or the qā'immaqām cutting illegally a palm tree or other kinds of trees in the possession of a fallāh and seizing it for the construction of his house or sāqiya without paying its price to its possessor, and of the possessor presenting himself to the hakim to complain of this, the hakim is required to collect the price and give it to the possessor, and the offender will be punished by 50 stripes of the kurbāj.

Clause 53.

As regards a fugitive shaykh or fallāḥ from the village who is arrested by the ħākim and asked for the reason of his flight, in the event of the fallāḥ informing that his flight is caused by the temptation of the shaykh al-balad, the investigation has to be made whether his claim is true or not; if it becomes clear that his claim is true, the person who attempt such an evil will be punished by 100 stripes of the kurbāj, whether he is the qā'immaqām or the shaykh.

Clause 54.

As regards a fugitive soldier from the military service who is discovered and arrested by his guarantor (dāmin),(61) and sent to the person who is responsible for fetching him, his hand grabbed by wood or clutched in chains, in the event of the person who is responsible for fetching him to the ħākim claiming that the fugitive flees from him again after departing along with him from the place where he was sent, the ħākim is required to look for him under the instruction of the guarantor, and to make efforts to search after him from village to village; if he is not discovered, the ħākim will write down the crime of the
person who lets him flee in the report (jurnâl), and send it with him to the Ministry of the Army (diwân al-jihâdiyya).

Clause 55.

As regards the inhabitants of a village who cut secretly one of the dams (sudd) reserving the water at the time of the inundation of the Nile in order to keep their fields safely from the submergence of water, and cannot close it afterward, in the event of some parts of land in some villages being left as the sharâqi land by this reason, or of the land of the village which is located on the height being unable to be inundated completely by lack of the arrival of water; if the damage is big, the responsible for this will be sent to the jail at Alexandria for his lifetime; if the damage is small, the period of his staying there will be three years.

Appendix I: Translation of "La'iḥat al-Jusûr", drawn up at Majlis al-Ḥaqqānîya and issued in Rajab 1258 A. H./1842 A. D., and later collected as from Clause 76 to Clause 80 of Qānūn al-Muntakhabât.

Clause 76.

In case a jisr has to be cut in any village, the shaykhs and the qa'immaqâm are required to exercise special caution for this matter and to apply themselves to close it immediately, if the necessary labour for closing it is secured from among the inhabitants of this village; if they do not close it and the damage is caused to the neighbouring villages by this reason, the responsible for this damage will be sent to the jail from six months to two years if the damage is partial; if the damage is total, he will be sent thereto from two years to three years in accordance with the scale of the damage. However the punishment will go into effect only after investigation.

Clause 77.

On the occasion of a jisr being cut in one of the villages where the necessary labour for closing it immediately cannot be secured from among its inhabitants, if the help is asked of the inhabitants of the neighbouring villages in order to close it immediately, they are required to support the inhabitants of this village and to come at once to their aid from every aspect. In the event of one of
them being negligent or lazy in giving the aid and hesitant on the pretense of his saying that it has nothing to do with his village and he does not suffer from it, if it becomes confirmed that the damage results therefrom in the above village (tïlka al-jiha), whoever does such an act will be sent to the jail from six months to three years in accordance with the scale of the damage after investigation. If the jïsr could not be closed immediately, because the help was not asked of the near villages, but of the father villages from this jïsr with any intention, the person who has asked the aid of the farther villages by his personal reason (‘alâ al-nafsâniya) will be punished for his measure from which the damage results.

Clause 78.
In the event of a person causing the damage to another person around him because of his cutting a jïsr with the intention of enjoying the profit for himself and of being unable to close it immediately, if the damage is partial, he will be sent to the jail for one year to two years; if the damage is total, he will be sent to Fayzughlî for his lifetime. However the punishment will go into effect after investigation.

Clause 79.
In spite of a jïsr suffering from the increase of water, if the aid and the support are not asked for strengthening the jïsr before it is damaged and broken because of the pressure of the increasing water, it is required that the scale of the damage which is caused by the above reason be calculated, and the punishment will be executed to the responsible for this affair according to the provisions of Clauses 76 and 77.

Clause 80.
On the occasion of one of the jusûr suffering from the double pressure of water, and of it being necessary to strengthen it, it is required that a measure be taken for strengthening it and the responsible person (al-shakhs al-ma’mûr) inform this to the authority concerned (mahall al-iqtida’). In the event of his neglecting this duty of information and the situation of the jïsr not coming to be known immediately until it could be strengthened and repaired in fear that the damage results thereafter, if this jïsr is broken and the affair about this is known after its being broken, the person who is responsible for informing this
affair is required to be punished according to the provision which regulates the punishment for the person who neglects the duty of asking the aid and the support, in accordance whether the damage is big or small.

Appendix II: Translation of “Lā‘īhat al-Âṭyân”, enacted in 23 Dhu al-Hijja 1263 A. H. / 1846 A. D. and known as the First Land Law in modern Egypt.\(^\text{(62)}\)

Clause 1.

As regards the land given as the ghārūqa\(^\text{(63)}\) whose holder (arbāb-hā) claims the right to hold it, if this land has been registered as the athariya land\(^\text{(64)}\) by his name from ancient time and was given as the ghārūqa after the land survey (misāha), it is not prohibited for him to hold this land, on condition that the contract of mortgage was made based on the document (hujja) issued by the religious court and the official document (sanad), besides he can pay the debt (ghārūqa) to the occupant of this land (wādi’în al-yad) and has the capacity of cultivating it, because he is the original landholder (ṣāhib al-athar al-asli). Then it will go into effect when it is confirmed that he can afford to pay the debt and to cultivate this land by himself without sharecropping (yushārikhu) or renting (yu’ajjiru) it to other person, and in this case the length of period during which the land has been occupied does not come into question, whether he has occupied for short time or for long time. If the landholder (ṣāhib al-athar) claims that the land was given as the ghārūqa before the land survey, his claim will not be accepted, but the land will remain with the occupant (wādi’ al-yad) by whose name the land was surveyed. As for the landholder who can afford to pay the debt and wishes to hold the land in order to cultivate some portion of it by himself and to rent the remainder to other person, for he has not the capacity of cultivating the whole land, or in order to rent the whole land to other person in return for a larger amount of debt (ghārūqa), if this becomes clear, the whole land will not be delivered to him, but a part of the land will be given to him for his cultivation in accordance with his capacity, and the debt corresponding to the given land will be paid. In the case of the landholder (ṣāhib al-athar) having transferred his land (asqāta athar-hu) to a person, and now claiming the right of its holding, the land will remain with the occupant (wādi’ al-yad) without being returned to the landholder, so long as the occupant has the official document (sanad shar’î) on the transfer (isqât) of land or the
qualified persons witness (yashhaduna) this transfer to the occupant, because the transfer of land is considered as similar to the sale and the purchase of land.

Clause 2.

As regards the fugitives (musahhibin) who return to their village (bilād-hum bi al-nawāḥi al-mudirīya) and have their residence there, and claim the right of holding their land (athar-hum), and the dwellers in villages (nawāḥi al-mudirīya) who claim the right of holding their land (ātyān-hum al-athar), if the occupants of the land (wādi‘in al-yad) refuse to accept their claims for the reason of their having paid the tax arrears (baqāya) which had remained on some of the land concerned and the allotment of other person’s arrears (tawzi‘) which was assigned to the land concerned, as well as of their having spent the cost for such as the reclamation of land and the like, it is necessary that if the fugitive gave the land as the gharūqa before his flight (tasahhub), and he returns to the village after the flight and claims the right of holding the land, the land will be given to him after the payment of the debt (gharūqa) according to the provision regulated in Clause 1. On the occasion of one of the fugitives or the village dwellers claiming the right of holding his land, if it becomes confirmed that the land which had been abandoned by him came into the control of the village shaykhs in order that they hold this land and cultivate it, or give it as the gharūqa to other persons who want it although the landholder (sahib-hā) did not owe arrears on this land until the time of flight, the land will be turned back to the landholder according to the above mentioned provision, when it becomes confirmed after investigation that the village shaykhs are the cultivators of the land; if the village shaykhs gave it as the gharūqa, they are required to return the credit (gharūqa) which he obtained on the security of the land, and the land will be given to the landholder according to the before mentioned provision. As for the fugitives or the village dwellers who had owed arrears from the beginning and gave their land to other persons in order to settle the arrears, if they claim to hold their land again, they are required to pay the arrears indebted on it, because the arrears concerned should be considered as similar to the gharūqa; in case five or six years have passed until the landholder presents himself and claims the right to hold the land, the half of the land will be given to him in order that he cultivates it and acquires the revenues from it for his livelihood, and the money equivalent to the half of the arrears will be paid to the occupant of the land (wādi‘ al-yad); in case more than ten years have already
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passed, if there is the unregistered land ([atyan ziyada](#)) within the village, the
land which is necessary for his livelihood will be given from it, however, if not,
only one third of the land concerned will be given to him for his livelihood,
and the money equivalent to one third of the arrears will be paid according
to the above mentioned provision, on condition that the value of the arrears
which the landholder should pay, whether it is equivalent to its half or its one
third, is to the amount of the value of the arrears which had been indebted on
the land until the time of his flight, as well as the allotment of other person's
arrears (tawzi'at) which was assigned to the land from 1257 A.H. (1841-42
A.D.). On the occasion of the fugitive (al-nafar al-mutasahhib) who returns to
the village claiming the right to hold his land, if he cannot afford to pay the
arrears to the amount of its half or its one third, and if there is not the
unregistered land within the village which could be given to him at that time,
it is necessary that his Excellency mudir takes any measure under his direction
for his livelihood and his settlement in the village. Finally as to the cost spent
for the land concerned, it will be never charged to the account of the landholder
(sahib al-athar), because it must have been recovered by the profit which the
occupant of the land (wadi' al-yad) gained in the cultivation.

Clause 3.

As regards the land which was confiscated from the persons concerned and
distributed (tawazza'at) by the authorities to other persons, because the land-
holders (arbab-hā) could not cultivate it, in the event of the occupants of the
land (al-wādi'in al-yad) refusing to give it back to the landholders, although they
are now able to cultivate it, it is required that the mudir investigate their capac-
ity of cultivation and the condition of their livelihood, and only a part of
the land concerned which is necessary for their livelihood in their village will
be given to the person who want to hold their land which was confiscated in
the above mentioned manner because of their having been unable to cultivate
it, and was distributed by the authorities. If the tax arrears (baqāyā) or the
allotment of other person's arrears (tawzi'at) are indebted on this land, they
should pay the arrears corresponding to the scale of the land which is given
to them according to the above mentioned provision, and in this case the date
of the compulsory distribution does not come into question, whether the land
was distributed recently or long time ago. If the occupant of the land (al-
wādi' yad-hu 'alā al-țin) claims that he spent the cost for such as the reclamation
of land and the like, his demand to get the cost back from the landholder (ṣāhib al-athar) should be disregarded, because, even if his claim is true, the cost must have been recovered by the profit from the cultivation which the occupant gained during his cultivation of the land concerned according to the before mentioned provision.

Clause 4.

As regards the lands whose holders (arbāb-hā) were not able to cultivate the summer crops (aṣnāf) and to construct the sāqiya according to the orders issued from 1243 A. H. (1827–28 A. D.) to 1251 A. H. (1835–36 A. D.), and parts of which were given to the persons who had the capacity of cultivation at that time in order to make them cultivate the summer crops, because the lands concerned were neighbouring to their lands, and in compensation of which their lands or other substitutive lands were not given to the holders of the lands concerned (aštāb al-athar), and now whose holders claim the right to hold their lands and whose occupants (al-wādi‘īn al-yad) refuse it, in the event of one of the holders of the lands concerned claiming to hold his land, it is required that the mudīr investigate him and his capacity, and give him only a portion of his land in accordance with his capacity of cultivation, and in this case the time when the land was transferred does not come into question as was mentioned. If the occupant (wādi‘ al-yad) paid the tax arrears (baqāyā) which had remained on the land on the occasion of its transfer, and also paid the allotment of other person’s arrears (tawzī‘āt min al-baqāyā) which was newly assigned to the land as usual during his occupancy, it is necessary that the landholder (ṣāhib al-athar) pay them in accordance with the scale of the land which was given to him.

Clause 5.

As regards the firda(68) which was imposed on the occupant (wādi‘īn al-yad) of the land in question in above clauses, when the land was returned from him to the landholder (ṣāhib al-athar), instead of the firda being added to the landholder in return for his taking hold of the land, the firda imposed on the occupant will be exempted, because he does not now earn the income from the land concerned. At any rate the firda should be readjusted according to the income, whether it is done every year, every two years or every three years, and its taxation and collection should be done according to this readjustment, because
the income is not alone dependent on whether the cultivated land is large or small, but dependent on not only the land but also the resources and capacity of each person from which he earns the income, such as the commodities, the animals, the pensions (arzāq) and the like, and then the taxation will be done according to the readjustment as was mentioned.

Clause 6.

In the event of a person renting (yu'ajjiru), sharecropping (yushāriku aw yurābi'ū) his land, transferring his right to hold his land (yašīru isqāt al-ātyān athariyat-hu) to another person, or mortgaging (yarhanu) his land, if such a transaction is done from now in villages between the landholders (ašhāb al-ātyān al-athar) and the village inhabitants or other persons, it is necessary to be based on an official document (sanad madmūgh) which is issued between the person who takes hold of the land (ākhidh) and the person who gives it ('āṭī); consequently such land transactions as mentioned above will not go into effect from now, if official documents do not exist or it is based on non-official documents. This provision is regulated for the purpose of preventing the disputes between the landholders (ašhāb al-ātyān al-athariya) and the occupants (wādi'īn al-yad), even if the landholders enter a lawsuit about their land as is frequently happening at present, because so long as the documents exist, the government, namely the office of the mudirīya (diwan al-mudiriyah) could rely on them for the solution of their disputes. On this ground the official papers (waraq madmūgh) should be available at the office of every mudirīya, and when the document on the land transaction is necessary to be issued, the landholder will buy it and draw it out in accordance with the necessity. Thus in the event of the lawsuit being entered from now about such land transactions as mentioned above, even though the official document does not exist, if it is confirmed that this land transaction was done after the publication of this law and an official document was not issued about it, the appeal from a person who enters a lawsuit about it will not accepted.

Notes

(2) Rivlin, op. cit., pp. 102-103.
(4) qanun al-muntakhabāṭ is reproduced in F. Jilād, qānūn al-ṣidʿara wa al-qaḍāʾ, vol. 3, Alexandria, 1891, pp. 351-378, and Aḥmad Zāghlūl, al-muḥāmāt, Cairo, 1900, muḥāqāt, pp. 100-155. The translation of qānūn al-ṣifāḥa in this article is based on these two texts.
(5) al-mahrūsa means Egypt or Cairo. Cf. Clause 197 of qānūn al-muntakhabāṭ in which is found the expression "mīṣr al-mahrūṣa".
(6) Clause 11 of Saʿīd’s Land Law enacted in 1858 deprives the nāʿib in small villages of his qualification to issue the official documents on land transactions. This shows a process of the centralization of the Egyptian local administration. Saʿīd’s Land Law is reproduced in M. K. Mursī, al-mīlkiyya al-aʿqāriyya fī mīṣr wa tāṣawwur-hā al-tārikhī min ʿahd al-faṭāʾina hattā al-ān, Cairo, 1936, pp. 125-146, and J. Ḥūnain, al-ṣat̲yān wa al-ṣaṭrāḥ fī al-qānūn al-mīṣrī, Cairo, 1904, pp. 387-412.
(7) The mudīrīyya whose governor is the mudīr, a larger unit than the maʿmūrīyya was introduced into the local administration since 1245 A. H./1829-30 A. D.. However, the fact that the mudīr is not mentioned at all in qānūn al-ṣifāḥa indicates that this official was not get active during the period under review. Rivlin, op. cit., pp. 88 and 325n34.
(8) However, in the latter half of the 19th century the nāḥiyah was exclusively used to signify the village as an administrative unit. We could infer from this fact that the Egyptian villages (balad, qārīya) were gradually organized into the administrative units (nāḥiyah) along with the centralization of the local administration in the 19th century Egypt.
(9) Cf. Clause 121 of qānūn al-muntakhabāṭ which is translated in note (44) of this article. The village watchman was called ḡafīr (pl. ḡufāʾir) or ḥafīr (pl. ḥufāʾir).
(10) According to Rivlin al-mashāykh al-kibār assisted the ḥākim al-khuṭṭ in the local administration. Rivlin, op. cit., pp. 88, 92-94. 'Āli Barakāt says that we can trace the first appearance of the term ʿumda (pl. ʿumād) in land documents to the year 1843. 'Āli Barakāt, tāṣawwur al-mīlkiyya al-ziraʾīyya fī mīṣr 1813-1914 wa aṭhar-hu ʿalā al-baraka al-ṣiyāṣīyya, Cairo, 1977, p. 231. It is necessary to point out here that the term ʿumda is found in Clause 200 of qānūn al-muntakhabāṭ.
(11) Bowring reports that the shaykh al-balad was frequently replaced and replaced by the government. J. Bowring, Report on Egypt and Candia, London, 1840, p. 121.
(13) The maʿmūr was responsible for supervising the public factories in his maʿmūrīyya. A. B. Clot-Bey, Aperçu Général sur l’Égypte, vol. 2, Bruxelles, 1840, p. 142.
(14) Baer translates it into the hard labour in Alexandria harbour. Baer, “Submissiveness and Revolt”, p. 98, and “Tanzimat in Egypt”, p. 110. Besides lūmān al-iskandariyya (the prison at Alexandria), we can find in qānūn al-muntakhabāṭ the word qalʿa abī qir (the fortress of Abū Qīr) in Clause 104, and Clause 198 regulates ashhqāl al-tarsāna (works at the arsenal).
(17) In Clause 18 of Saʿīd’s Land Law of 1858 we can find the account to the effect that in some villages the peasant land was redistributed every year in those days. However its provision says explicitly that the yearly redistribution of land was done in the exceptional villages where the land survey had not been carried out until then, or the register of land survey (tawārī) was lost, and orders the mudīr to confirm the plot of each village inhabitant and to register it

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in the register of division (daftar al-taqsim).

(18) Under the Ottoman rule the kharajiya land held by fallâhs (ard al-filâha) was called ard al-athar in Lower Egypt and ard al-misâba in Upper Egypt, because in the latter provinces the land would be surveyed every year after the inundation of the Nile, whereas in the former provinces the land was not redistributed periodically depending on the inundation of the Nile. Cf. 'Abd al-Rahim, al-rif al-misri fi al-qarn al-thamin 'ashar, Cairo, 1977, pp. 68-69, 76-78. Needless to say, the kharajiya land (al-atyan al-kharajiya) and the athariya land (al-atyan al-athariya) were used interchangeably in the 19th century Egypt.

(19) In 1842 the complete ownership (haqq al-milkiya al-tamma aw al-kâmiîa) including the ownership (haqq al-raqaba) was granted to the atyan al-ab'adiya and the atyan al-jâfalik. Amin Sami, taqwim al-nil, vol. 2, Cairo, 1928, pp. 516-517, Y. Artin, La Propriété Foncière en Égypte, Le Caire, 1883, pp. 97, 334-336.

(20) As to tawzi', Cf. Clause 3 of la'ihat al-atyan of 1846 which is translated in Appendix II of this article.

(21) Also see Clause 1 of la'ihat al-atyan of 1846.

(22) Rivlin says, “A peasant was considered a fugitive whenever he left his village without an identity card (tadhkirah), though he could always receive one from the hâkim al-khutt and go to another nâhiyah, provided the shaykh of his village would act as his guarantor.” Rivlin, op. cit., p. 94.

(23) According to Artin, during the period under review, the village shaykhs had the authority to distribute the land of a deceased fallâh without a heir. Artin, op. cit., p. 276. And it also appears that the village shaykhs succeeded in taking over the land of the fugitives from their villages and the fallâhs who was recruited for public works and the military service and did not return to their villages. Cf. Artin, op. cit., p. 280 and also Clause 2 of la'ihat al-atyan of 1846.

(24) Cf. Clauses 1, 2 and 6 of la'ihat al-atyan of 1846. The ghârûqa was a kind of pawn. Until the enactment of the Mixed Civil Code (al-qanun al-madani li al-mahdkim al-mukhtalata) in 1875 Egypt did not know the legal notion of the mortgage in security for the ownership of land conceptually distinguished from its usufruct. Cf. Abd-el-Hamid Abou Haif, Le Droit d'Affectation sur les Immeubles en Égypte, Toulouse, 1912, pp. 29-30.

(25) Bowring reports, “But it happens often that when a village gets into difficulties (of tax payment) a capitalist will present himself, take the responsibility of discharging the debt, the peasants become labourers instead of being themselves responsible”, and in other place, “Of late many tracts of land have been transferred to capitalists who have consented to pay the arrears due, and who in consequence employ the fallâhs as day labourers”. Bowring, op. cit., pp. 16 and 45.

(26) The sharecropping was called mushâraka or murâba'a in the 19th century Egypt. Cf. Clause 6 of la'ihat al-atyan of 1846.

(27) Clause 118 of qânûn al-muntakhabât. As to the fugitives (mutasahhibûn), Cf. Clause 2 of la'ihat al-atyan of 1846 in which they are also called musahhibûn.

(28) Clause 4 of la'ihat al-atyan of 1846.

(29) The wird (pl. awrad) was the tax receipt which was made out by sarraf from the land-tax register (daftar al-mukallafa) for each fallâh on the occasion of tax collection.

(30) As to the tax arrears, Cf. Clauses 2, 3 and 4 of la'ihat al-atyan of 1846, in which they are called baqâya.

(31) Clause 2 of la'ihat al-atyan of 1846, and see also al-Hitta, op. cit., pp. 71-72.

(32) See note (23).

(33) Clause 2, 3 and 4 of la'ihat al-atyan of 1846.

(34) It is not clear whether the system of solidarity and the policy of fixing fallâhs to the given villages were revoked in theory or not, and exactly when if they were revoked in theory. However scholars agree unanimously that both of them and the monopoly system of agriculture
could not function in fact until the publication of Sa‘īd’s Land Law of 1858.

(35) It is not the aim of this article to argue the irrigation system and the military system under Muḥammad ‘Alī. As to these subjects, see Rivlin, op. cit., chapter XI and XII.

(36) The sharāqi land and the submerged (mustabhar) land were the land categories which were classified with regard to irrigation and tax collection. The former means the land remaining unirrigated after the cutting of the dams at the time of the Nile flood, and the latter the land remaining under water after the drainage. Theoretically these two lands were exempted from tax collections. Cf. ‘Ali Mubārak, kitāb nukhba al-fikr fī tadbīr nil miṣr, Cairo, 1297 A. H., p. 144, Ḥunain, op. cit., p. 175.

(37) See also Clause 97 of qānūn al-muntakhabāt.

(38) As to the disputes in connection with water division, see also the provisions of lāʾīhat al-jusūr which is translated in Appendix I of this article.

(39) The dāmin appearing in Clause 54 is probably the village shaykh, although I cannot affirm it is so. See Clause 154 of qānūn al-muntakhabāt dealing with the vagabondage (jahl) in which is found a provision that an arrested vagabond is required to be taken over by the shaykh of the village where he was born or the reliable dāmin.

(40) Regarding other functions of village shaykhs, Cf. Baer, “The Village Shaykh”.

(41) The atyān masmūḥ al-mashaykh was 4 percent of the peasant land belonging to a village. Besides it, the tax exempted land called atyān masmūḥ al-mafṣada was given also to the village shaykhs in return for their carrying out the hospitality of government officials and travellers who stayed in their village. According to al-Ḥitta, this kind of land was 5 percent of the village land. al-Ḥitta, op. cit., pp. 48–49.


(43) See a tale which Bowring reports about a shaykh who put fallāḥs under his protection in return for his paying their tax arrears. Bowring, op. cit., pp. 45–46. In addition, it is interesting to point out here that the above mentioned atyān masmūḥ al-mashaykh and al-mafṣada were abolished in 1858 by reason that the village shaykhs abused their function by their compelling the village inhabitants to cultivate this land. Al-Ḥukumah al-Miṣrīyyah, majmuʿ qawanin wa lāwā’il al-amwal al-muqarrara, Cairo, 1909, p. 69, Ḥunain, op. cit., p. 196.

(44) Clause 121 of qānūn al-muntakhabāt, issued from the Ministry of the Finance (diwan al-māliyyah) in 8 Jumādā II 1260 A. H./1844 A. D. as a supplementary provision in connection with robbers. “The shaykhs al-nāḥiyyah are required to make a great effort of exercising special caution every time in the guard (ghafir) of villages (nawāḥi) against thefts, and to organize the watchers who are charged with the guard of villages at night. If something is stolen in a village at night and the shaykhs of this village do not arrest the thief, they are required to compensate the price of the stolen thing; if the thief is arrested after their compensation, he will be fetched to the mudīr for the investigation of his crime by the mudīr, and the punishment will go into effect depending on his stealing. If the thief is the fallāḥ who steals for the first time without a criminal record, he will be sent to the Mudīrīyya Fayzughli from two years to five years if the stealing is unimportant; if he has criminal records and has made robberies and raids habitually, or has ventured to make the wicked crimes such as a highway robbery, he will be sent to Fayzughli for his lifetime, when his crime is confirmed by the decisive evidences and the psychological proofs. If he is the nomad, he will be punished as same as the fallāḥ of village inhabitant, after his crime and criminal records are confirmed in accordance with the above mentioned provisions. On this ground it is required that the written promise (wathā’iq bi al-ta’ahhud) is presented from the shaykh of nomads to the effect that they will keep the nomads under their control from thefts; after then if it becomes clear that a nomad of any tribe (qabīla) steals and his shaykh is under suspicion of taking part in conspiracy with him about this crime, the stolen things will be seized from the guilty shaykh and this shaykh will be sent to the Mudīrīyya Fayzughli from two years to five years after inquiry and investigation; even if the shaykh does

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not take part in conspiracy about this crime, the price of the stolen thing will be collected from him on purpose to warn him. As to the watch and guard of ships, the task is carried out by the village in whose water places or river harbours the ships are anchored, whereas the captains of ships (tā’fat al-ru’sā’) have to pay special attention and to cooperate one another about this task; if something is stolen from one of the ships or the passengers traveling on it, the price of the stolen thing will be collected from the šaykhs and village inhabitants in whose village the ship is anchored, as well as from the captin of this ship. In addition it is required that the soldiers of horsemen are arranged to be sent to every mudiriya, being charged with searching for highway robbers, chasing and arresting them, and the every arrested highway robber will be sent to the Mudiriya Fayzughli for his lifetime after the necessary investigation about his crime by the mudir of the district concerned, when it is confirmed that he is the highway robber. As for the persons who carry the arms with them with the intention of stealing, whether they are nomads or fallāhs, and venture to do it, if they are arrested and be regarded as highway robbers, each of them will be sent to Fayzughli after the investigation of his affair just as the highway robbers to whom have been referred above.” As to the nāḥiya and the mudir, see not (8) and (7) respectively.

(45) Text of qamus al-idara wa al-qada’ is “yuhmilun fi harth-ha aw ’azq-ha in kāna bil-gharīq”, however, text of al-muhamāt is “yuhmilun fi harth-ha aw gharq-ha in kāna bil-gharīq”.

(46) The kis (pl. akyās) in this period equaled 500 qirsh. The qirsh was the basic monetary unit, and it originally meant a silver coin of 1 dirham weight, however, became a coin which contained only 50 percentage of silver in those days in consequence of its frequent debasement. The dirham was an Arabian measure of weight. According to Clot-Bey, it was 3.884 g. Cf. Clot-Bey, op. cit., vol. 2, pp. 431-432.


(48) The riyāl amounted to 90 pāra (1 qirsh = 40 para) until 1808 when the official rate of the riyāl was fixed at 220 pāras. However its actual rate varied according to the debasement of the qirsh. Cf. Rivlin, op. cit., p. 331-334.

(49) The faddān was a surface measure which varied in size before 1813-14 but was fixed at 4,416.5 1/3 square meters during the reign of Muḥammad ʿAlī. It is now equal to 4,200.8 square meters (1.038 acres). Cf. Rivlin, op. cit., p. 362.

(50) The winnowing and threshing floor usually located outside the village. This floor belonged to the village community, as well as the birka (village pond) and the jabbāna (cemetery). However, in the context of this Clause the word jurn signifies the storehouse of crops or the crops gathered in this floor. See note (46).

(51) As to the sharaqī land and the submerged land, see note (35).

(52) See note (46).

(53) This word means probably mahr.

(54) “Sacrificial feast”, generally known as al-ʿĪd al-Kabīr “the major festival”. It is celebrated on 10 Dhu al-Hijja, the day on which the pilgrims sacrifice in the valley Minā, the first of the three ayyām al-tashrīk.

(55) The most popular sāfi saint of the Muslims in Egypt and the founder of the darwish order (tariqa) of the Ḥāfīdaya, who was probably born in Fez in 596/1199-1200, and went to Ṭanṭā in Egypt in 634/1236-7 and died there on 12 Rabi’ I 675/24 August 1276. The place of his veneration is the mosque at Ṭanṭā which was built over his tomb after his death. The three great festivals (mawālīd, plural of mawālid) whose dates are reckoned according to the Coptic calendar are known; (i) on the 17 or 18 January; (ii) on or about the vernal equinox; (iii) about a month after the summer solstice, when the Nile has risen considerably, but the dams of the canals are not yet cut. Cf. The Encyclopedia of Islam, New Edition, vol. I, pp. 280-281.

(56) One of the popular sāfi saint in Egypt and the founder of the Dašuqīyya order, also known
as the Burhaniya or Burhāmiya, who was born most probably at the village of Marqus in the Gharbiya distinct of Lower Egypt in the year 633/1235 (but 644/1246 or 653/1255 in other sources), and spent most of his life in the neighbouring village of Dasuq or Dusq where he died at the age of 43 and was buried. Three mawlidīs are known, which are held in the three Coptic months of Barmūda, Tūbah, and Misrā respectively, and the third is al-mawlid al-kabīr. Cf. The Encyclopaedia of Islam, New Edition, vol. II, pp. 166–167.

(57) The shūna (plu. ashwa'n) is the government warehouse that received crops and manufactured items brought from Egyptian provinces. Regarding this warehouse, Rivlin says, “Normally, a peasant met his tax commitment by bringing his crops to the government warehouse where the shuna officials deducted from the total delivery the amount demanded as taxes, giving the peasant a voucher for the balance as well as for the amount deducted for taxes. This transaction was witnessed by the shaykh al-hīṣah and the khawāli and sometimes by the qa'immaqām and the sarrāf. The canton officials were interested not only in protecting the interests of the peasant but also in ascertaining whether the quotas required of the hīṣah and nāḥiyah were being met. The peasant then brought his vouchers to the sarrāf who credited his account with their amount. The sarrāf’s records had to be maintained with strictest accuracy, for they were checked against the warehouse records and the records of the diwān of the mu'mūrīyah for discrepancies.” Rivlin, op. cit., p. 98.

(58) It is not clear who the official called al-kāshīf here was. According to Rivlin, nāzir al-qism (director of a department) was also called kāshīf al-qism. Rivlin, op. cit., p. 88.


(60) The dirham was a measure of weight, but also meant a small silver coin. See note (46).

(61) As to the 'āqāma, see note (38).

(62) This translation is based on the reproduction of this lā'īha in 'Āhmad al-Ḥitta, tārikh al-zira'a al-misriya fi 'ahd muhammad 'alī al-kabīr, pp. 359–363. al-Ḥitta determines the date of the enactment of this lā'īha at 1847, however, other scholars determine it at 1846.

(63) The ghārīqa was a kind of pawn, see note (24).

(64) The kharājiya land was also called the athariya land, see note (18).

(65) As to the relation between the balad and the nāḥiyah as the local administrative units, and the mudiriya, see note (8) and (7) respectively.

(66) The term tawzi' (pl. tawzi'at) signified not only the compulsory distribution of land by the authorities, but also that of tax arrears (bawāqī, bāqāyā). See III. The System of Taxation.

(67) The at-yān ziyāda, also called ziyādat al-at-yān or ziyādat al-misāha, was the newly discovered land including the illegally concealed land within the village, to which the land survey was not made, and in consequence whose holder was not registered in the land-tax register (daftar al-mukallafla). It was treated by the authorities as distinguished from the unregistered uncultivable land (at-yān al-ab'dalāya) which was usually located outside the village land (zimin).

(68) The fara or farū was a capitation tax imposed on everyone in Egypt regardless of religion, and the rate was based on the capacity to pay. According to Clot-Bey its amount ranged from 5 qirsh to 500, and it was imposed on individuals in cities and on houses in villages. Cf. Clot-Bey, op. cit., vol. II, pp. 156–157, Rivlin, op. cit., p. 133.

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