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The American University in Cairo
School of Humanities and Social Sciences

Farmer's Regulation by Muhammad Ali 1830

From Legal and Social Perspectives

A Thesis Submitted to

The Department of Arab and Islamic Civilizations

In Partial Fulfillment of the Requirements

For the Degree of Master of Arts

By

Enas Mostafa

Under the supervision of

Dr. Muhammad Serag

May/2017

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In the name of God, the Most Gracious, the Most Merciful.

‘Dreams Do Come True’

I have had this dream of finishing my thesis and writing the following words. I remembered the sleepless nights, long research hours in tens of books. When I look back I realize how challenging the process have been, but now here is my thesis.

So, yea ‘Dreams Do Come True.’

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Finally, this thesis is not only a kind of work for the research benefits but also it is a work I do it especially for my children Mariam, Hassan, and Yassin.

Eventually, I remember the words of the Prophet Muhammad (PBUH): ‘Whoever pursues a path diligently seeking knowledge, Allah will facilitate for him a path to paradise.’ I hope that our path to study and research is our path to paradise and our method to better change our country

Abstract

The FR played an important role in the Egyptian rural life. It shaped the relation between the farmers and the state. It mainly helped the state to impose tax, collect it and make use of it. The social and anthropological changes the FR caused helped in the formation of modern Egypt. However the FR penalties were characterised with severity, as the punishment was not compatible with the offence being committed. This cruelty made the Egyptian peasant tries to escape the land and always have a hostile relation with the system.

The thesis is to examine the various FR articles, its different parts and implications. It would be crucial to show that the penalties were not sharia based although the legislator tried to indicate otherwise. The cases examined showed that the penalties were mainly to cater for the state's benefit rather than the farmers' one. However, the legislative Egyptian body worked to make the FR as a method of standardization.

List of abbreviations

Farmer Regulation: FR

Nama Law: NL

The Ottoman Empire: OE

Public Serves: PS

Glossary of terms

/>mwAl sITAnyp wxrAj/: funds and land tax

/bdEp/: novelty

/>myr Al>mrA'/: master prince

/dfr Al>rtfA'/: record of heights

/xrAj/: land tax

/\$yx Albd/: chief of the village

/mqTEp/: collected by force

/mwAnA/: our lord / his Excellency

/Al\$Ahd/: the witness

/lA}Hp zrAEp AlflAH/:farmers' Regulation

/lA}Hp Al>TyAn Al>wly/: first Property Land Regulation

/AllA}Hp AlsEydyp/: Saeed's Regulation

/qA}m mqAm/: deputy Prince

/\$yx AlHSp/: head post of the village

/AlSrAf /: tax collector

/Alm\$Ad/: dragger

/Alxwly/: supervisor of the workers

/nA}b Al\$rAE/: deputy judge

/AlHd/: penalty

/AltEzr/: discretionary

/<jthAd/: working hard

/Almtzm/: tax collector

/Alwsyp/: private land property

Arabic Transliteration/Encoding Chart

The Buckwalter Transliteration¹ “is a transliteration system that follows the standard encoding choices made for representing Arabic characters for computers. The Buckwalter transliteration has been used in many publications in natural language processing and in resources developed at the Linguistic Data Consortium (LDC). The main advantages of the Buckwalter transliteration are that it is a strict transliteration (i.e., one-to-one) and that it is written in ASCII characters.

Throughout this thesis the Buckwalter code is used both for citing Arabic words and text in the course of the discussion.

Name	UNICODE	Buckwalter	ASMO 449
hamza-on-the-line	\u0621	'	A
madda-on-'alif	\u0622		B
hamza-on-'alif	\u0623	>	C
hamza-on-waaw	\u0624	&	D
hamza-under-'alif	\u0625	<	E
hamza-on-yaa'	\u0626	}	F
bare 'alif	\u0627	A	G
baa'	\u0628	b	H
taa' marbuuTa	\u0629	p	I
taa'	\u062A	t	J
thaa'	\u062B	v	K
jiim	\u062C	j	L
Haa'	\u062D	H	M

¹ Buckwalter code is adopted from: <http://open.xerox.com/Services/arabicmorphology/Pages/translit-chart>

khaa'	\u062E	x	N
daal	\u062F	d	O
dhaal	\u0630	*	P
raa'	\u0631	r	Q
zaay	\u0632	z	R
siin	\u0633	s	S
shiin	\u0634	\$	T
Saad	\u0635	S	U
Daad	\u0636	D	V
Taa'	\u0637	T	W
Zaa' (DHaa')	\u0638	Z	X
cayn	\u0639	E	Y
ghayn	\u063A	g	Z
faa'	\u0641	f	a
qaaf	\u0642	q	b
kaaf	\u0643	k	c
laam	\u0644	l	d
miim	\u0645	m	e
nuun	\u0646	n	f
haa'	\u0647	h	g
waaw	\u0648	w	h
'alif maqSuura	\u0649	Y	i
yaa'	\u064A	y	j
fatHatayn	\u064B	F	k

Dammatayn	\u064C	N	l
kasratayn	\u064D	K	m
fatHa	\u064E	a	n
Damma	\u064F	u	o
kasra	\u0650	i	p
shaddah	\u0651	~	q
sukuun	\u0652	o	r
dagger 'alif	\u0670	`	(missing)
waSla-on-alif	\u0671	{	(missing)

Chapter 1.Introduction

1.1 Introduction

The current thesis will explore the objectives and motives that led the Egyptian government to issue the farmer's regulations (henceforth FR) /*IA}Hp zrAEp AlfIAH/* لائحة زراعة الفلاح. The FR was issued on 25th of Rajab 1254 AH / 1830 AD during the era of Mohamed Ali. The FR aimed to organize the agricultural system. Accordingly, certain actions are incriminated with regard to agricultural, irrigational and administrative violations in rural regions. The scope of these violations was mainly murder cases, robbery, assault, trespassing on property, negligence toward agricultural land, and evasion of taxpaying as well as other violations in rural areas.

The aim of the current thesis is analyzing the contents of the FR politically, legally, socially, and economically. Previous research on the FR listed and inquired the FR sources rather than analyzing its contents. Mainly, scholars have classified the FR purely as a legal document issued during Muhammad Ali's era, hence, the main intended emphasis was directed towards laws issued and legislation developed within that era with few, to none, incorporating the historical background or textual analysis of the FR in their research. Additionally, previous research focused only on one or two of the previous mentioned perspectives. For example, a number of researchers discussed briefly the agricultural historical background in Muhammad Ali's era, among other legislations issued by him to reform the agricultural sector. On the other hand, another group of researchers examined the legal aspect solely by studying the legislative development of laws and comparing laws similar to FR.

Accordingly, the current thesis will analyze the content of the FR taking into consideration the above mentioned aspects, which could be helpful to recognize the impact of FR on 19th century

Egyptian society, and explore the environment in which the FR was issued and applied. This exploration will help identify the extent of influence the Egyptian environment had on the historical development of the Egyptian laws during the 19th century.

1.2 Research Questions:

The current thesis will attempt to analyze the content of the FR deeply in detail. Firstly, the study will deal with the factors that lead to the incrimination of a number of particular practices whether they are political, economic, legal or social factors.

The analysis starts with the FR legal content, which are the incriminated actions and penalties assigned to such offences. It is observed that some of the penalties are hard, harsh and aggressive but others are not. Therefore, it is crucial to identify the penalties and their level of being proportionate to the offense committed. Moreover, the analysis attempts to discover objectives of the legislation for issuing such regulations. It is very much needed to look to the implementation of FR by reviewing legal cases from the registry of sharia courts to discover how it was implemented.

1.3 Literature Review

It is obvious that the previous research is mainly focused on recording the legislative development during Muhammad Ali's era. Consequently, it is difficult to find any sources, studies and references concerning the topic under investigation.

The current thesis will examine the previous research and its implications on legal, political, social and economic arenas.

Regarding the legal aspect, it can be argued that Emad Helal's (2011) *Egyptian Legislation Documents /wvA}q Alt\$ryE AlmSryp mjmwE >mwr jnA}yp/* *سوثائق التشريع المصرية مجموع أمور جنائية* is the most comprehensive and up-to-date study concerning the FR legal aspect. Helal discussed the circumstances that led to the FR issuing. Helal thematically categorized the FR articles showing that each was based on previous orders from Mohamed Ali. The FR was only a step to be followed by other laws in order to regulate the agricultural as well as the economic Egyptian life at that time. Helal in his research showed that the FR was one of the bases for the modern central administration of Egypt. The FR helped in maintaining what can be called a full time peasant, as peasants were required to cultivate the land all over the year. The extra labor was not compensated justifiably, which increased the sense of hostility between the peasant and the administration.

In order to reflect a full image of the agriculture state of Egypt, a need has been raised to investigate the agricultural laws prior to the issuance of the FR. Nama Laws /qAnwn nAmA/ (henceforth NL) issued by Suleiman Qanuni (1525) were the laws governing Egypt. An authorized translated and reviewed copy is by Ahmed Fouad Mutwally (1977).

Mutwally argues that NL was issued as a state of rebellion and chaos spread among farmers and Bedouins who wanted to evade paying tax. This state of unrest was a result of applying the Ottoman laws, which did not suit the nature of life in Egypt.

The current thesis will focus on the NL agricultural part, in order to compare FR and NL articles. The comparison will show how the FR articles relied on previous laws and how new articles were introduced.

Concerning the political and social aspects Afaf Lotfy Al-Sayed Marsot's book *Egypt Under Mohamed Ali /mSr fY Ehd mHmd ELY/* عهد محمد على is considered to be an indispensable reference. Marsot discusses Muhammad

Ali's internal policies highlighted how the order of law was a key factor in policy formation and application. Moreover, Marsot discusses how the state council /mjls Alm\$wrp/ مجلس المشورة and its first decree; the FR. Marsot made use of some of the FR articles to demonstrate how Muhammad Ali's internal policy worked. Marsot for instance, highlighted the FR articles concerning legal offenses such as robbery and accepting bribes. The penalty is determined depending on the responsibility as well as status of the accused officer. The implementation of the penalties varies from 300 backlashes to imprisonment.

Marsot shows the FR significant impact as a control tool used by the central government through senior government officials /kbAr AlmwZfyn/ كبار الموظفين on rural regions. However, Marsot has discussed and analyzed a limited number of FR articles, whereas the remaining articles (65 articles) remained undiscussed.

The FR economic influence can be deduced from Muhammad Mabrouk Mohamed Qotb's MA thesis titled *Financial Administration During the Era of Mohamed Ali /Al<dArp AlmAlyp fY Ehd mHmd ELY/* الإدارة المالية فى عهد محمد على. Qotb (2006) argues that the FR was used as a financial tool for administrative and monetary control to levy tax.

Qotb states that the land tax /Drybp Al>TyAn / ضريبة الأقطان used to represent half of the national revenues with percentage varying between 45% - 55%. This is directly related to how the FR is concerned with organizing levying land tax. Hence, the discussion on tax types and modes of

collecting or the issues encountered during the levying of such funds will be beneficial. Therefore, this sheds light on articles regarding incrimination of tax evasion or non-payment.

Additionally, Qotb refers to the FR as the one of the most significant decrees in the field of financial supervision for availability of review, balance and control to avoid negligence from employees and farmers. The penalties related are going to be discussed in detail in due course.

1.4 Suggested Methodology

The thesis adopts the content analysis approach where the content of the FR will be thematically categorized i.e. agricultural land negligence, taxpaying evasion, forced labor or other social, administrative topics, etc. Content analysis is suitable to the topic that the thesis is trying to examine. It will help in elaborating the importance of the FR discourse in making it understood by peasants and villagers during Mohamed Ali's era. In addition, content analysis will reflect the level of ferociousness exercised on the Egyptian peasants by the military ruler.

On the other hand, content analysis will show how the FR incomprehensiveness was reflected on the issuing of later legislation, which tried to overcome the FR drawbacks.

In order to achieve the above-mentioned results, the thesis will review the penalty form by determining the type and extent of penalty; and the reinforcement of the penalty to identify the suitability of penalty against violation. Moreover, the sources of penalties will be drawn from either sharia or legal traditions of Egypt or the foreign sources used by the legislator to set a definite penalty for each crime. Finally, there will be a reference to legal policy and its relevance to the regulation.

Chapter Two. Historical Background

2.1 Laws governing agricultural land in Egypt “Nama law 1525”/qAnwn nAmA misr/ (henceforth NL)².

2.1.1 Introduction

This chapter aims to explore the NL issuance leading motives. Additionally, it will carry out a comparison in order to discuss the similar and disparate issues between NL and FR to track whether the origin source of some of the FR articles³. In order to carry out such comparison this chapter is mainly divided into two parts; part *A* that is to briefly discuss the NL related articles and part *B* which will discuss cases from the sharia courts.

The Ottoman Empire (henceforth OE) enacted NL in Egypt to organize the administration of the state that became part of it. Clearly, the Ottomans preserved Islamic countries' local administrative systems where they ruled; hence, enacting NL to cope with the special circumstances of individual states. Accordingly, Egyptian NL were based on customs, norms, and the Islamic legal policy including all its articles which acted accordingly with the OE's general regulations as well as benefiting from some of Mamluk laws prevailing at Sultan Qaitbay's⁴ era (Al-Sayyed ,1997:256).

² An authorized translated and reviewed copy is by Ahmed Fouad Mutwally (1977).

³ It is noteworthy that there is a significant period between the NL and FR; approximately four centuries. Hence, there is no doubt that have been many changes during that period affecting laws which necessitates that we further research to fill the gap to recognize developments and changes to laws during that period from issuance of Nama law to the FR.

⁴ "Qaitbay" is frequently referred to in the NL, nevertheless, there were not any Mamluk laws with such name. Perhaps it has referred to Mamluk laws in general, Sayed 1997.

Egyptian NL assigned certain responsibilities and tasks for senior government officials */kbAr AlmwZfyyn/الموظفين كبار* in rural areas. Additionally, NL eighth article prescribed the local governors' task as well as their mutual relationship together and with the state, as well as the rural areas management method. For example, */AlkA\$f/الكاشف* job description was included in the above mentioned article. However, later the FR carried out a system restructure where such officials and their positions were be organized.

The following part will briefly discuss some NL articles highlighting the critical discussions each provoked. The NL articles discussed are the ones related to the current research topic consequently it is not arranged numerically but discussed per topic.

The NL eighth article, tackled agricultural land based issues including rehabilitation and reclamation possible means to the extent that considering maintaining state land, as the main task of all governors since it is the key resource of state income,. Additionally, NL was concerned with */>mwAl sLTAnyp wxrAj/*⁵ (funds and land tax) *وأموال سلطانية وخراج* in accordance with Qaitbay's prevailing laws, customs and Islamic sharia.

The Ottoman law in general and NL in particular are mainly concerned with the land tax legal prescription, the Islamic sharia opinions and juristic deduction. Al-Shatby (790 AH), argues that "if a sovereign leader required funding for recruiting soldiers, securing borders and protecting wide-spread state, and he lacked funding from treasury; hence, he is entitled to impose tax on grains and crops....". The NL tried to follow the rules of Islamic sharia regarding land tax collection.

⁵ The terms */amwal sultania and kharaj sultani/* (funds and land tax) have been used in NL and have not been used in the FR. It was replaced with */al-maal al-miri/* (state funds) as a result of changing taxation system which was covered by the regulations.

However, according to the NL twenty-eighth article the collection of non-assigned *mwAl sITAnyp wxrAj/* was prohibited since it was considered non-sharia based. Ottoman legislation deemed collecting more than the assigned as *bdEp/* بدعة (novelty) thus it was considered to be invalid. However, FR regarded the issue of collecting land tax from a different perspective which will be tackled in chapters two and three.

The same article, in addition, expanded crimes' borders to include demonstration to refuse paying tax and accepting bribes. Tax evasion was considered among the most severe crimes that NL prescribed a maximum penalty; which is execution. It was clearly stated in the NL manuscript *y>mr bqtlh \$r qtlh/* (to be executed in the most severe way) *يأمر بقتله شر قتله* . Similarly, NL twenty-first article stated that official employees accused of state funds' embezzlement were to be crucified,⁶ which means execution.

Actually, the implementation of capital punishment in the above mentioned cases is considered to be disproportionate to the crimes' gravity although, it was announced and applied preceding the NL issuance. For instance, the records show that in Muharram 914 AH / 1508 AD Sultan Al Ghorri issued a punishment decree concerning three individuals, who stole gold bars from the gold treasury, since it is considered part of public property (Ammar, 89:56-57). Audah (1984:688), argued that the designated penalty is considered to be severe and has no sharia basis, as it surpasses the Islamic sharia theft penalty. Consequently, the extreme prominence of land tax collection and dispatch to the sultan treasury would account for the disproportionate non-sharia based penalties. Moreover, the NL nineteenth article obliged Bedouin sheikhs to annually pay sultani funds to proportional *myr Al>mrA'* (master prince) *أمير الأمراء*. This would

⁶Crucifying is sometime used as murder "I will have you crucified on trunks of palm-trees" Taha verse 71

explain and account for NL demanding that funds were to be centrally collected, resulting in prohibition of senior officials' continuity to ensure the efficiency of levying.

NL eight article stated that, if */AlkA\$f/* failed to prepare perfectly the land for cultivation, consequently resulting in land tax evasion he would be subjected to imprisonment and payment of due funds, as well as be expelled and replaced with another trustworthy official. On the other hand, the ninth article stated that diligent officials would be rewarded by serving under the direct care of */ameer al-umraa'* who would nominate them for sultani recognition in return of their effort in collecting prescribed tax.

It is crucial to relate article nine and thirty-one since the later reflects how NL emphasized the importance of land cultivation by considering negligence of land cultivation a crime that demands severe punishment as tax evasion. This is due to the fact that, negligence leads to not planting the land, subsequently, not collecting land tax. Therefore, NL stated that full payment of land tax would be done in order to avoid future incidents.

Concerning barren land, the judge and surveyor shall examine causes for this matter. If the reason was the injustice of */AlkA\$f/* or Bedouin sheikhs, the incident will be notified to the finance minister. The ruler will punish the guilty after collecting the due tax from them. If the reason was due to abuse of Bedouin sheikhs or because */AlkA\$f/* did not handle it properly, they were to be punished by a higher decree. Finally, NL thirteenth article assigned the judge to protect farmers' rights from the injustice of */AlkA\$f/*. For example, when the farmer is acquitted from a certain crime, */AlkA\$f/* is prohibited from punishing him twice for it.

In addition NL twenty-first article mentioned that, if an official accepts a bribe from a farmer leading to a shortage or a delay in tax payment, the official is to be punished and is obliged to pay similar amounts. Furthermore the twenty-ninth article affirmed that, if some surveyors practice biased lenience by accepting bribes from farmers in return for overlooking certain areas of land, they shall not be allowed to carry out future surveying tasks, in addition, an inspection should be conducted to identify the total number of acres in that province through *دفتر الأرتقاء* (record of heights)⁷.

Additionally, NL ensured leakage of funds would be prohibited which is clearly stated in article twenty-three. It showed that some *كاشف*s used to collect farmers' regular fees then partially embezzle them by alleging that farmers have not paid them in full by requesting a proof for payment. In most cases trustworthy witnesses supporting farmers' side was overlooked leading to the loss of funds. NL has prevented these actions by following the old laws.

Moreover, NL was basically utilized to decrease or exempt farmers from *خراج* (land tax) as a method of eliminating injustice being done to them. NL article thirty demonstrated that, there are instances of land tax reduction, when the land became barren, as a result of high tax estimation barring farmers from cultivating the land. For instance, NL considers the farmers' internal movement and migration by exempting fresh- return-farmers from land tax or any other fees due to be paid for that year. However, the exempted farmer will pay the full tax the following year. Nevertheless, no FR article has exempted or decreased land tax, as most articles of FR reinforce collecting tax without any reduction.

⁷ The records containing detailed data for all the Egyptian land (state, endowments, private...etc) [Appendix: 1:15] Sultan Suliman ordered the creation of these records to set priorities when applying NL in Egypt. This will indicate the level of fertility, volume of annual crops, land tax, fallow land as well as setting an adequate plan for reclamation to increase state income.

Moreover NL twentieth article, permitted Bedouin sheikhs to present a visiting ruler some gifts during his visit to their quarters and it is the ruler's discretion to accept or refuse the gift. Codification of presents reflects the legislator's awareness and persistence to prevent spread of bribes and corruption among senior officials, as well as appreciating customs and norms prevailing in newly conquered countries (Abdul Rahman 1974:340). However, the NL has incriminated collection of money from farmers to offer ruler's gifts, as it was one of the Egyptian society's customs prior to the NL issuance.

NL asserted, regarding the tax collection method, that it is essential for tax officials to make a complete financial reconciliation by the end of the fiscal year; otherwise they will be expelled in addition to the payment of the deficiency from their own money/property. According to NL twenty-second article, if the debt/deficiency is too big, guarantors will be demanded to pay it and if the guarantors' funds are not adequate, the official shall be imprisoned for life. However, if the official paid the due amount in full and was deemed as a good person, he shall practice his profession once more after obtaining a guarantor. It is vital to highlight that, Al-Mqarizy (845AH: 1:24) defines life imprisonment as being detained in a very narrow space. It is noticed that NL maintained the custom of using imprisonment as a penalty since it was widely adopted during and prior to the issuance of it. In most cases, imprisonment was carried out accounting for other crimes such as torture, kidnapping or confiscation.

Previous penalty has two tasks: elimination and rehabilitation, as a criminal needs to be prepared for rehabilitation, if he had received a temporary penalty otherwise he would receive life imprisonment (Audah 1984:697).

NL thirty-first article, warned farmers from the consequences of fleeing during the land tax collection time as the fugitives will be crucified. If /\$yx Albid/(chief of the village) does not impose the penalty, he will be punished as well. Hence, /\$yx Albid/ and /AlkA\$f/ were obliged to chase run-away-farmers who escape to other villages in the neighborhood by distributing their description and inform same ranked officials to chase them in order to prevent land devastation. If they do not apply this, they will be severely punished.

NL twenty-eighth article incriminated demonstrations and demanded military intervention to eliminate them. If the rebellion originated from tax evasion, farmers will be punished by collection of due tax from their land and property, followed by torture leading to death. Obviously, security and safety particularly were an integral part of /AlkA\$f/'s responsibilities and the ruler's scope direct supervision. However, the state supported such actions by warning /AlkA\$f/s who eliminate such movements would be subjected to confiscation of their possessions and death penalties. Upon occurrence of these incidents, a /kA\$f/ immediately should inform the ruler who in return needs to issue orders to terminate these movements. NL articles and act contained torture as a penalty while FR did not (Al-Sayyed 1997:256). Finally, NL incriminated Bedouin sheikhs sheltering criminal fugitives and deserted slaves by subjecting them to punishment.

Concerning irrigation, NL thirtieth article has considered repairing bridges negligence a crime because it obstructs water from reaching farmers and land, subsequently its devastation. Hence, /\$yx Albid/ would incur the damage and would be punished.

Regarding farmers' rights protection, NL fourteenth article prevented summoning, home detention and sending farmers to execute public works except after the approval of the ruler and

aiding them in case of assault. Moreover, the twenty-third article granted farmers the right to grievances if assaulted and were to file a complaint to the ruler so the assaulter is punished. For instance, *Alam*, /\$yx AlErb/, has submitted a complaint to Al-Asitana against /mnflwT kA\$f/ الكشاف منفلوط who imposed a new tax known as /mqtTEp/ (collected by force). Consequently, orders have been issued to the ruler and the judge to prevent this /bdEp/ as it was regarded as being non-sharia based as well as alien to the Egyptian customs (Al-Sayyed 1997:260). Additionally, the *Qornfol* village dwellers–*Khanka* claimed that their /kA\$f/ named *Khedr* assaults them, which is considered an issue against the sharia and law. Accordingly, orders have been issued to the ruler and the judge to prevent this and to buy his goods with his money and if repeated to be filed again (Al-Sayyed 1997:398).

The NL regarded the issue of equality as a vital matter as it banned social segregation or distinction between farmers and upper-social class members. This is manifested in NL sixteenth article, which states that the corrupt should be punished regardless of his/her class. Therefore, if the guilty belongs to the upper-social class he should be linked with another righteous person to prevent him from escaping, then he would be sent to the ruler to validate and apply the designated penalty. Additionally, NL maintained the farmers' rights after death by securing the property transition to the rightful heirs and not to the state's treasury.

Al-Sayyed (1997: 258) in *Pages from the History of Egypt* discussed how the NL legislator assigned both /AlkA\$f/s and Bedouin sheikhs to implement penalties execution except for senior officials who were sent to the ruler. However NL twenty-first article stated that the embezzlement was to be punished by the finance minister, who has a higher status than /AlkA\$f/

and Bedouin sheikhs, through a direct decree from the ruler as an indicator of the severity of the crime committed.

Consequently, fines and confiscation were considered discretionary penalties imposed by the sultan or judge prior NL issuance. Hassan (1944:490) affirmed that Sultan Mohamed the Third era witnessed various confiscation incidents; for instance, the confiscation of minister Karim Al-Deen's property as a result of his stance during clashes between Muslims and Christians also he was home detained. Likewise, office demotion was applicable and consequentially applied ahead of NL issuance (Badr 1991:117, 375-378) stated that Al-Sultan Al-Ghori in 919 AH / 1513 AD dismissed four judges who refused to substitute the adulterous Islamic verdict of stoning to hanging. Chapter 4 in the current thesis will tackle how the FR dealt with these offenses. Although, NL did not include banishing, slander or hard labor and it even did not specify whipping which is considered to be the most widely spread penalty in the FR. This indicates that the NL legislator was not mainly concerned with the punishment rather he wanted to maintain the land cultivation economical benefit.

Nevertheless, NL enclosed retributions such as torture and discipline without determining the nature or severity unlike the FR where every crime has a determined penalty. It is argued that the majority of NL articles did not identify the nature or the penalties' magnitude. NL penalties were expressed in rather general words such as disciplining and punishing. In contrast, FR penalties were clearly defined in nature and quantity.

Finally, NL terminology included terms that mandate sentence implementation or refer to the severity of committed crime; such as 'My sentence is hereby obligatory' and 'God Forbid' as

mentioned in articles 13 and 9 respectively. Consequently, the crimes against the Ottoman empire and collecting tax are considered the most severe crimes requiring the most severe punishment.

2.2 Agricultural-based cases from the registry of sharia courts under the Ottoman Empire (from 1525 Till 1805)

The second part of the current chapter is to tackle some agricultural cases from sharia courts that took place between 1525 till 1805, which covers the period from the issuance of NL till Mohamed Ali's era and issuance of FR, in order to investigate the application of NL and highlight how it differs from FR. It is noticeable that court records are largely considered an application of previous laws such as NL. The cases discussed are included in *Appendix 2*.

NL tackled two main types of crimes; first, crimes against the state such as paying sultani funds evasion, demonstrations, strikes, resistance of legal authority (articles 8, 9, 12 and 28). The second type was related to disputes among individuals which did not directly involve the state. However, NL forty-first article stated that the second type must be tackled by a shariah judge only. Accordingly, by reviewing sharia courts' records the lawsuits will be only of the second type of offenses that is disputes among farmers. This type has acknowledged the jurisdiction role of /AlkA\$/ , Bedouin sheikhs and finance minister to implement the penalty.

It is central to discuss the judges' role in courts records. To start with, his name was always followed by the word /mwlAnA/ (our lord / his Excellency). In addition, the judges' role was not restricted to disposition in cases as suggested by the records; however, it included other tasks.

It is noteworthy that NL drafted new responsibilities for judges; for instance, the supreme Egyptian judge was considered a member of the Hamayouni council⁸ and would be in charge of issuing most of legislative and judicial decrees. Moreover, NL thirty-first article added novel tasks for judges, other than adjudication, such as receiving seeds from /AlkA\$f/ and Bedouin sheikhs through a seizure report. Judges accordingly would distribute seeds among farmers through warrant in order to plant sultani land. This reflects the importance of land cultivation to the legislator and consequently tax payment to sultani treasury. Consequently, the Ottoman legislator placed this process under the supervision of shariah judge. However, in the FR this task has not been included as the judge's role has changed, which will be explained later.

Additionally, NL thirtieth article indicated that judges were responsible for agricultural land and bridges supervision which signified that a judge would be responsible for inspecting the cause for land and villages' devastation. If the reason was the officials' injustice, /AlkA\$f/'s aggression or Bedouin sheikhs' unfairness, a judge would be entitled to file a case in front of the finance minister. For instance, the first court case record indicated that judges had an administrative role (Abdul Rahman1974:344-339) including agricultural land supervision, and bridges' reparation and dredging.

The second and third cases' records show that, judges were to supervise craftsmanship, faction sheikhs' assignment and expelling them from office if any violated the conditions set when assuming office. Furthermore, the fourth case stated that judges were to be accountable for

⁸ Hamayouni council: It is the Sultan's council and was deemed as an extensive cabinet and had two important capacities: Taking financial, administrative and political decisions in accordance with the permitted framework for governor by shaira, and it was deemed as grievances council.

regional officials' supervision as they were only assigned upon approval of a judge who would be entitled to penalize violators.

According to the fifth case records, judges' mission included looking into supreme council decrees regarding farmers' grievances and complaints resulting from /AlkA\$f/ and Bedouin sheikhs' injustice. For example, the complaint filed by a woman against *Ali Turk*, governing prince of /bbnA AlkbrY/ nearby region, claiming that he confiscated her husband's property and imprisoned him. A judge was assigned to look into this matter. Furthermore, the sixth case records indicated that, a judge was assigned to investigate a complaint filed by citizens of /AlmsAEyd AIEbAyd/ *المسيد الأبيض* against prince *Mustafa AlkA\$f/ مصطفى الكاشف* ,/AlbhnAwsyp /region *البيهنساوية*.

It is stated in part A of the current chapter that, financial affairs were the most significant violations NL tackled. Records showed that a judge was to assist the province's authorities in the collection of the due state funds imposed on farmers and confiscate their property, if needed. For example, the seventh case records discussed the case of prince *Abdel Baqy*, /AlbhnAwsyp kA\$f/, who requested a court-house-efficient employee to assist him in carrying out an inventory of the livestock of tax evading farmers and estimating the number to be confiscated.

However, the eighth, ninth and tenth cases tackled security-related issues according to NL rules. The records stated that a judge played a significant role in preserving security and disciplining outlaws as well as settling village boards' disputes as well as performing external check on murdered and assaulted persons.

It is noteworthy that the aforementioned responsibility of a judge was not included within the FR. The administrative structure of the state has changed and new posts related to the agricultural sector have been drafted with definite tasks and responsibilities, therefore, the role of the judge changed.

Moreover, the role of the other officials like */AlkA\$f/s* or Bedouin sheikhs underwent a significant change as well. During Muhammad Ali's era there has been a social and a political transformation where relations between the state and individuals were direct without mediation from */AlkA\$f/* or Bedouin sheikhs. Thus, the roles of those individuals gradually faded and were replaced by main legal units: individual and state, leading to a change in laws, which will be indicated in articles of the FR.

In order to secure farmers' rights and the agricultural sector administration, the records of the thirteenth, fifteenth and seventeenth cases, disclosed other roles such as */Al\$Ahd/* (the witness), who would receive plaintiffs, prepare lawsuits, attend hearings and record them, document legal actions, witness and investigate when requested to examine facts of the case.

It is clear that the nature of the witness' duties is different from the traditional duty of testifying their knowledge of the case. Testifying was a significant source, as it is the highest ranking recognizable proof in Islamic judiciary, whereas written documents were not solely recognizable.

2.3 Conclusion

NL dealt with two kinds of crimes; disputes among individuals and crimes against the government, which are adjudicated by politicians. However, FR tackled crimes against the state or government, which have higher and more severe penalties. Politicians were not entitled to

disposition of any lawsuit or determine a penalty unless there a law with clear penalties for each crime and identifies who will implement such penalties.

Moreover, records indicated that */tEzyl/* penalties were defined and determined by officials such as */AlkA\$f/*, finance minister and the ruler. Therefore, role of judiciary was limited to adjudicate acquittal or conviction without judging a certain judgment and then refer the case to the rural officials. On the contrary, the FR consisted of specific penalties for each crime.

With regard to responsibilities of judges at the time of FR, they were concerned with court ruling aside from other tasks prescribed in the NL such as supervising agricultural land, receiving seeds and preserving security...etc

Finally, it must be pointed out that NL and cases from sharia courts were applied in the light of the particular agriculture system, but this system changed during Muhammad Ali's era, accordingly, laws changed which led to the creation of a new social and economic state.

Chapter Three. FR Offences

3.1 Introduction

This chapter is to discuss the FR offences and the objective behind incriminating these actions; attain justice, public interest, and farmers' rights. Generally, the FR incriminated some actions to impose a certain system in the agricultural sector.

3.2 Economic and political motives

Before reviewing the FR scope of offences, the study will briefly shed light on the economic and political motives that led to incrimination of specific actions in order to discuss the background leading to such result. Firstly, Al-Rafe'ie (2009) argued that, during Mohamed Ali's era the government has transformed into a more centralized system. Consequently, chaos and confusion decreased massively compared to the Mamluk's time. Moreover, Mohamed Ali sought counseling from his advisors leading to creation of bureaus and councils to consider matter of the state. Abbas (1999:18), debated that such changes took place because Mohamed Ali desired to maximize the government's financial resources and impose his sovereignty in order to achieve his goals in creating a modern civilized Egypt. By the end of the Second Syrian War, Ali was almost bankrupt, thus, he resorted to increase the public income (Rivilin 1967:192). Accordingly the agricultural sector, which was considered to be a major income resource that affected Egyptian economic life, had to undergo massive development. Thus, new regulations needed to be issued such as the FR, which aimed to efficiently manage the agricultural sector in accordance with the new requirements.

3.3 Consequences of the Mohamed Ali's new system

The newly implemented system generated some changes; changes in land-state relations with regard to ownership as well as a change in state-farmer relations, and new administrative officials revealed (Abbas 1999:53). These changes demanded what can be called a new legislation to cope with the newly introduced system. Firstly, Rivilin (1967:14), clarifies that Mohamed Ali implemented the changes by carrying out a comprehensive survey of the Egyptian land in 1814. The survey resulted in the determination /Al/vAr/ الأثر (Print) land and accordingly Ali granted farmers some rights over the cultivated land through a number of successive laws such as /lA}Hp zrAEp AlflAH/ لائحة زراعة الفلاح (Farmers' Regulation) in 1830, /lA}Hp Al>TyAn Al>wly/ لائحة الأقطان الأولى (First Property Land Regulation) in 1847, and finally /AlIA}Hp AlsEydyp/ لائحة السعيدية (Saeed's Regulation) 1858 till farmers obtained the right of complete ownership in 1891 (Al-Wakeel 2000:94). Due to the change in the agricultural system, the land was planted more than once a year, resulting in farmers working all the time which is considered a social change in the farmers' social lives.

Secondly, there is new state-farmer relation that affected the social structure as well as the economic one. Al-Wakeel (2000:585,572) added that the state had a direct connection with farmers and heavily interfered in all their matters. Mohamed Ali's government did not accept anyone, beside itself, to cause injustice towards farmers including state officials as it had set regulations restricting their powers, imposed strict supervision on their actions and opened dialogue channels with farmers crossing state officials. For all previous factors drafting of a new legislation like the FR was highly demanded to cater for the new circumstances.

Thirdly, rural regions administrative officials were hierarchically appointed starting with the head of the governorate on top followed by head of security, who is followed by head of police

station, followed by the section head, followed by /qA}m mqAm/ قائم مقام (Deputy Prince), followed by head of the village and finally /\$yx AlHSp/ شيخ الحصة (head post of the village). In addition, some assistants were appointed such as /AlSrAf/ الصراف (tax collector), /Alm\$Ad/ المشد (dragger), /Alxwly/ الخولى (supervisor of the workers), and /nA}b Al\$rAE/ نائب الشرع (deputy judge). FR stated in detail the tasks and duties of each position as well as the expected punishment in case of violations or negligence, which will be discussed later in the current chapter (Helal 2007:111).

However, as discussed earlier in chapter II part B, part of the FR articles were adopted from previously issued laws under the OE. Meanwhile, the FR added unprecedented crimes penalties due to the concurrent social system's changes during Mohamed Ali's era, especially in the agricultural sector, that are to be discussed in the following parts. Marsot (2004:167), argued that understanding the basis for the FR offences would be significant as it tackled the agricultural sector violations. This sector was deemed to be the main economic source during which reflected the legislator's point of view regarding farmers, cultivated land and the justice process.

3.4 Classification of crimes according to the FR

Al-Mawardi (450AH:192), defined a crime as: 'violations punishable by /AlHd/ الحد (penalty) penalty or /AltEzyr/ (discretionary). Crimes in the FR are classified into two main categories; first, crimes punishable by /AlHd/ and retribution such as murder and theft, i.e. which is shariah based. Second, crimes requiring /tEzyr/; that is of no defined penalty and the ruler is entitled to select a proper penalty and its magnitude according to nature of the committed crime and the criminal's physical condition in order to serve the public interest. Audah(1984:626), added that, since crimes' consequences vary in severity and simplicity, their due punishments are

determined by rulers /<jthAd/ (working hard)اجتهاد in order to mainly serve public interest at all times and equivalent to perpetrators status. However, other scholars unify punishments among all people regardless of place, time and status, are not aware of shariah ruling (Audah1984:615).

Therefore, FR articles in *Appendix 3* will be categorized into two groups, the first group is dedicated to murder and theft crimes, the second group is thematically subcategorized into eight topics; land cultivation negligence offences, tax evasion crimes, demonstrations and strikes, property crimes, power misuse crimes, public services abandoning, administrative violations and family disputes. Nevertheless, the current study will refer to homicide and theft if the cause is related to the aforementioned groups.

The following parts will discuss each subcategory of the second group of crimes. This is to show how FR dealt with each type and the consequences on the wider community.

3.4.1 Property crimes

This section discusses crimes, namely, trespassing or overstepping the borders drawn between land, misuse of farmer's livestock in agriculture-based works, crops' theft, murder or theft resulting from dispute among farmers.

Trespassing or overstepping the borders drawn between individual properties came to be regarded as criminal offences according to the FR. Initially, the FR did not set any penalty on farmers who are found guilty of trespassing. The twelfth article even stated that the seized piece of land should remain in the custody of the trespasser as the crop belongs to whoever planted it and he would be required to pay land tax then the land should be returned to the rightful owner. Thus, trespassing was a crime punishable only by returning the abducted piece of land.

Nevertheless, the FR had differentiated between trespassing and borders' transfer. It has set a symbolic penalty for transferring borders; borders should be restored to their previous status upon reviewing records and the trespasser shall not receive any funds he paid for this land as a punishment. Subsequent laws have not introduced any change regarding this matter; they have even approved the FR penalty which indicated that desire to possess land till 1845 was not strong enough to punish trespassers (Glad 1895: 351-352).

In addition, the FR thirteenth article also incriminated misuse of farmer's livestock in agriculture-based works. Moreover, FR fourteenth article stated that if a farmer had an animosity with another, and subsequently misshaped the other person's cattle by cutting its tongues. The perpetrator shall receive a penalty of a hundred whips and referred to the honorable shariah, if proven.

FR fifteenth article discussed Bedouins' social crimes. That if Bedouins deliberately unleashed their livestock in a farmers' land leading to crops' devastation. The devastated land would be measured and the guilty Bedouins would be obliged them to pay due compensation to the harmed farmers. In addition, a fine of hundred riyals need to paid for every acre to the concerned funds' official; i.e. /\$yx Albid/ (chief of the village). Finally, the article stated that if part of the devastated land belonged to the state, no fines shall be paid for it. The in charge officials were to publicize this article and inform the concerned parties, in order to organize the relations between Bedouins and farmers, as well as reduce assaults and tension in order to positively enhance work flow.

Helal (2007:268), argued that Bedouins inhabited agricultural land's confine areas, that are dispersed across Egypt and mainly worked in the agricultural sector. The relations between

Bedouins and farmers varied between peaceful life and assaulting farmers and trespasser of their property. It is noted here that the FR twenty-fourth article discussed the condition of tax escaping framers who resort to seek shelter on Bedouins' territories.

FR sixteenth article examines the procedures of the same offence but, if being committed among peasants. Especially, if the offence is being committed prior to the harvest season which may end up in manslaughter. FR tried to shield farmers from this problem by stating that "if the livestock were deliberately released by their owner in another farmer's land and they eat the crops and devastate it with their feet, then a penalty would be applicable."

FR paid great attention to the livestock due to its importance in the farmer's life. Helal (2007:258) stated that, at the beginning of the second half of the nineteenth century, there was a substantial increase in the livestock significance, not only for their meat, leather and dairy products, but also for its farming role within the vast agricultural land in the absence of necessary machinery. This led to an incredible increase of livestock theft that was deemed a dangerous phenomenon threatening rural areas economic stability at those times. Helal (2007:275), added that the government has spared no effort to organize matters in rural areas and establish a guarding system, as well as implementing security procedures.

Crops' theft has been embarked upon by the FR and included various methods such as; crops looting prior to its harvest, crops robbery after harvest and before being transferred and stealing crops after being transferred to warehouses. FR seventeenth article issued that, if a farmer deputize another by recording the crops at a warehouse and receive the payment instead of the other, this was considered theft.

Wheat, as well as other crops such as barley, corn, beans, sesame and others, was considered the number one crop in Egypt, over the course of its history. Hence, numerous related demanded various legislations. That is due to the fact that these crops were the main farmers' food and their livestock, thus, they were very keen on protecting them in a manner similar to that of protecting their family and dignity (Helal 2007: 280).

The FR eighteenth article was concerned particularly about debts. It differentiated between two types of in-debt farmers. The first type is, farmers who are capable of settling the debt, however, they refrain. The FR stated that this would be a punishable crime by fine payment and imprisonment. The second type is, farmers incapable of payment consequently, it is not appropriate to punish them, and the debt would be paid in installments to facilitate payment.

It is noteworthy that NL tackled the issue of debts; however, the debt was requested by the sultan not by an individual. Hence, FR twenty-second article stated that, if the debtor did not pay the due debts by the end of financial year, the debt must be paid from his property and funds. If his funds were not sufficient and he had guarantors, they would be obliged to settle his debt. If their funds were not also sufficient, the debtor should be imprisoned for life. If the debtor manages to pay the full debt, and was deemed a good person, he could start his profession after declaring his guarantor. Subsequently, debt towards the state is an unforgivable capital crime and the debt must be settled.

The following part is to deal with the group concerned with murder or theft resulting from farmers' disputes. FR sixth article discusses land disputes that often resulted in clashes and ended with injuries and wounds due to use of bamboo sticks, axes and knives as well as firearms.

This type of crimes originated from /nZAm AlAltzAm/ نظام الالتزام *that is the* tax farming system applied during the Ottoman era where /Almltzm/ الملتزم (tax collector) obtained a certain area of agricultural land exempted from tax known as /Alwsyp/ الوسيية⁹ (private land property) (Abbas 1999:14,15).

Abbas(1999:21), argued that when Mohamed Ali cancelled this system, he let the /Almltzm/s benefit from such land until their death than the land would be confiscated. However Hanin (1904:16), examined incidents where Mohamed Ali allowed the inheritance of such land conditioned that the tax would be paid in full. This resulted in crimes; death of landlords without an heir or before issuance of inheritance order, which was an excellent chance for sheikhs to take over the land and not report to authorities about /Almltzm/s death. This was revealed when a problem arose between sheikhs and relatives or partners where they reported a complaint regarding the whole matter.

The ninth FR article incriminated vegetables and fruits field theft, such as watermelon and cucumber. Criminal laws tackled such crimes since early times and divided it into two categories: field theft which resulted in issuing post-FR- laws that incriminated the action and applied the exact FR penalties. Helal(2007:233), debated that thieves were not the only threat to farmers, sheikhs used to plant vegetables and sell it for their own benefit without the knowledge of the owners.

To sum up, the FR tried to protect the farmer's properties whether it was land, crops or livestock. Accordingly, FR incriminated all actions that formed a threat for such property. Additionally,

⁹ It is the arable land which are granted to /Almltzm/in exchange for the burdens and expenses of this land (Abbas 1999:15).

saving the farmer himself is another mission that FR tried to handle by incriminating murder or theft resulting from dispute among farmers.

3.4.2 Tax evasion crimes

FR tackled several tax evasion issues including; corruption of /\$yx Abld/ (chief of the village) who would have aided farmers in evading tax payment. In addition, it dealt with farmers who refrained from tax payment by seeking shelter out of /\$yx Abld/'s scope, or tax collectors corruption who would escaped indebted farmers' names when calling indebted names.

The FR incriminated the above mentioned violations in order to enable the so called new agricultural system to efficiently work. It is noticeable that FR articles 19, 20 and 22 discussed in detail the task of /\$yx Abld/, who is to represent the government before farmers and convey its orders to them while obliging them to comply (Al-Wakeel 2000:238). Shams al Din (1988:252), added that /\$yx Abld/ had a supervising role; as keeping the farmers tax distribution records; bringing farmers to tax collectors and witness collection. Additionally, he would report tax evaders and follow up the work flow in order to respond to violation and indolence with due punishments. Nevertheless, there have some violations from numerous /\$yx Abld/s as well as other officials, that led to inefficiency in tax collection and the FR tried to provide a solution to such problems.

Concerning FR nineteenth article, it incriminated /\$yx Abld/s who would provide protection for tax evading farmers who in return would pay bribes or work freely for such /\$yx Abld/. Another violation incriminated by the article is the unfair tax distribution on poor farmers or exempting /\$yx Abld/s' relatives. In addition, article twenty incriminated another method of tax evasion by seeking shelter away from /\$yx Abld/'s physical control, and in this scenario /\$yx Abld/ is the

one who incurs all the responsibility on the farmer. It is notably noticed that, NL tackled a similar issue in its eighth article as it stated that, if farmers refrain from paying land tax, />myr Al>mrA'/أمير الأمراء would be then obliged to collect missing funds through finance minister and imprison /\$yx Albd/ and afterwards he would assign a trust-worthy replacement.

Muhammad Ali has established a monitoring system over tax collection that includes recording of indebted individuals. However, corruption of some administrative officials such as tax collectors has not prevented tax evasion, as the collector would overlook some registered names to avoid requesting them to pay due tax (Hunter,2005:44). With reference to NL twenty-second article, it has bound land tax state officials to appear before the finance minister to submit collected funds. If any official submitted insufficient funds, his property shall be confiscated and due punishment would be applied.

Al-Jabrati (1997:183) mentioned that Mohamed Ali conducted inspection tours to rural areas as well as accompanying agricultural experts to ensure that tax collection operations were performed in the maximum capacity. *Pasha* used to conduct biannual inspection tours to rural regions in order to supervise crop planting, check irrigation projects, examine records, investigate complaints and hear cases. During these tours, *Pasha* used to encourage farmers to exert their best efforts in farming and punishes careless farmers, to the point that some has said *Pasha* interfered in all matters related to agricultural economy.

As the current part tackles tax evasion crimes, then taxation system should be referred to. Marsot (2004:164), states that there was no clear tax collection system before Mohamed Ali, who carried out a general land survey of Egypt in 1813, however, whenever the government required funds it imposed new tax or increased old ones leading to substantial increase of tax on farmers. This

resulted in abandonment of agricultural land to avoid tax payment. Nevertheless, in 1839 Mohamed Ali attempted to solve this problem by imposing tax on wealthy villages to pay due tax imposed on poor ones. On the other hand, the government used to lend farmers agricultural tools, livestock and seeds as a debt to be paid with due tax. Helal(2007:276), adds that this system has enabled Mohamed Ali collect great sums of money to fund the army and other projects; however, it had a negative impact on farmers as they were obliged to pay huge amounts of annual tax.

Additionally, burning crops was a punishable crime whether in the field or after harvest and before storing. FR twenty-third article addressed this issue through incriminating farmers who commit this action to evade paying tax. The article stated that individuals, whether farmers or sheikhs, burning their crops to evade tax shall be punished and deemed this action as betrayal 'whoever betrays himself and denies tax shall be imprisoned for life.'

Regarding FR twenty-fourth article, incriminated escaping to avoid paying tax as farmers used to escape to other villages, hide in Bedouin territories or escape to big cities such as Cairo and Alexandria. The article reflected on a social aspect that was represented in the relation between farmers and Bedouins. Farmers used to escape to surrounding Bedouin territories and use their attire to disguise themselves from */Syx Albd/* and head of police. Hence, the FR stipulated punishment on Bedouins who shelter farmers and oblige them to pay due tax on the farmer in order to eliminate this crime.

Escaping was not restricted to farmers but also included */Syx Albd/* and */qA}m mqAm/* قائم مقام. The article stated that anyone of them, whether individually or collectively along with farmers,

escape when requested to pay due tax. FR stated that such action was deemed as a crime and deserves punishment.

FR did not prevent the problem of farmers escaping to avoid paying due tax. Helal (2007:168) states that after issuance of the regulations, escaping cases were plenty as well as complaints filed by farmers rejecting possession of agricultural land to the point that some farmers complained from physical assault and imprisonment inflicted by sheikhs to accept their allocated areas of agricultural land. Shalaby(1983:99,100), confirms that farmers' refusal to accept land was overwhelming that the total number of land abandoned in /Al\$rqyp/ and /Aldqhlyp/ sections reached 66866 known as 'abandoned land' versus land 'desired' by farmers. It is safe to conclude that land, to the mid of fifties of the nineteenth century, was considered as a burden.

Artine(1889:175), states that the government gradually retracted, due to the increasing escape of farmers, the concept of imposing land on farmers. This gradual retraction started with the decree issued in 1854 allowing farmers of Giza section to leave their tax land, followed by two decrees in 1272 AH / 1855 AD allowing farmer of /Al\$rqyp/ الشرقية and /Aldqhlyp/ الدقهلية to leave their assigned land. Eventually, Hanin(1904:405,223), mentions that decree have followed to amend the laws; as the decree issued in 1857 allowing farmers all over Egypt to abandon tax land they are incapable of farming.

Due to the change of laws, land has become an honor, instead of a burden. During the era of Khedive Sa'id, the *Sa'idi Regulation* was issued in 5th of August 1858 granting farmers the right to possess agricultural land which constitutes a new social aspect in farmers' life reflecting importance of laws.

Article 26 discusses other al-hemal-crimes related. Al-hemal الجمل was a profession present in rural regions and his task was to collect funds in return for a certain activity or commodity. The right to monopolize this commodity was given through a bid made by the government in return for an annual fee, for example, custodian of stamps was to monopolize stamps made by the government for an annual fee. FR has organized these activities and incriminated non-compliance with share, commodity or activity. If the violation was on a large scale, head of police was summoned to indicate that to al-hemal الجمل and if conditions were violated, al-hemal shall be punished.

Finally, these policies have reflected on Muhammad Ali's economic projects introducing a development in agriculture, ability to estimate the economic surplus and control tax collection. This reflected general revenues of the state as revenues coming from direct tax have substantially increased including and especially land tax and indirect tax represented in enormous profit from agricultural monopoly.

3.4.3 Crimes related to authority/power misuse

As mentioned earlier in chapter2, the political system in Egypt changed and the state had a direct connection with farmers via its officials. Muhammad Ali's government did not accept anyone, beside itself, to cause injustice towards farmers including state officials as it had set regulations which restricted their power and profoundly supervised their actions. The following section will discuss how the FR aided in carrying out the new system, by incriminating officials' actions against the new system.

The twenty-seventh article incriminated sheikhs or /qA}m mqAm/, who cut of palm trees and farmers' trees in order to construct their houses without compensating farmers. Helal (2007:238),

stated that due to the palm trees economic importance as well as its countless amounts, it was considered a main income source to the farmers. Therefore, Muhammad Ali has imposed tax on palm trees and the government conducted surveys to estimate palm trees numbers all over Egypt.

Regarding wood, farmers preferred planting certain types of trees such as; acacia tree, as it was used in constructing waterwheels and house ceilings. The importance of such tree can be deduced from an incident that Helal (2007: 241), mentioned when a farmer and his neighbor had a dispute concerning a leaning acacia tree that one of them demanded its removal and the answer was 'Every branch equals to one of your legs', the incident ended in murder one of them by the other.

Additionally, FR twenty-eighth and twenty-ninth articles, protected farmers from officials' illegal confiscation which took place when sheikhs or */qA}m mqAm/s* seize a farmer's house, wood, trees, funds. The thirtieth article tackled the farmers' livestock by mentioning that, if a sheikh sold a farmer's livestock for a lower price consequently, he will be punished by paying the difference. Additionally, the thirty-first article stated that, if the sheikh seized a farmer's camel and used it to transfer his crops, he will be obliged to pay the farmer a double fee for using his camel in accordance with the region norms.

Helal (2007:256) mentioned that, the frequent sheikhs and */qA}m mqAm/s* abuse of farmers' livestock to freely plant their land, the general assembly held a session on the 16th of June 1848 to tackle this matter. The session concluded by the prohibition of livestock usage even for a fee, and whoever violates this will be punished. The assembly banned any kind of usage because the officials would not pay the farmers.

State officials assaulting farmers by claiming that they had been slackening, was regarded as unlawful by the thirty-second article. Guilty officials were publically beaten double the lashes for slackening. Moreover, the thirty-third and thirty-fifth articles incriminated sheikhs who obstructed farmers from fulfilling their duties and planting their land as well as not sending them to execute public service. In addition, the thirty-six article forbidden sheiks from forcing farmers to work without being numerated except for PS and imposed fines on guilty sheikhs; that used to be equivalent to doubles of farmers' fees. Furthermore, the thirty-fourth, thirty-seventh and thirty-eighth articles, banned state officials from molesting their power to help a peasant to flee. The thirty-fourth article, for instance, argued that if a sheikh is in partnership with a farmer and he secured a method for the farmer to escape in order to get hold of the crops. An investigation would be conducted and the shamed sheikh would obliged to pay for the crop and to be disciplined by receiving three hundred whips. The same punishment was applicable if the partnership took place between two farmers or by inciting farmers to escape. Moreover, the thirty-eighth article stated that, if the sheikhs escaped or did not comply with the ruler's request to attend a meeting, therefore, regional officers and head of security forces were ordered to chase and punish him.

The FR tackled homicide caused by state officials' power abuse by regarding it as a type of injustice incurred by farmers. The second article incriminated regional officials who used to beat farmers to death, as in some cases officials responsible for applying punishment and regional supervisors or head of security would exaggerating in carrying out the punishment casing death of the punished farmer.

Consequently, the FR designated places where the punishment would be applied; heels and backside, to avoid accidental death. What is more is that the third and fourth articles, incriminated adding more whips over the specified number leading to death. Chapter fourth of the current thesis will examine how the FR had specifically described the nature and amount of whipping in order to protect farmers from state officials' power abuse.

With reference to NL, it is noticeable that the forty-second article incriminated state officials' illegal murder of farmers. The article stipulated that */AlkA\$f/*, Bedouin Sheikhs and other tax collectors are not entitled to murder farmers for personal reasons and would be punished by confiscating their funds and property. When a */>myr Al>mrA'/* receives a complaint he shall send a letter to the judge to review facts and restore farmers' rights.

3.4.4 Land cultivation negligence offences

This section is to examine agricultural-land related crimes. Mohamed Ali's administration imposed agricultural policies in accordance with its objectives and demanded farmers to comply. These policies purpose was to cultivate fertile land in order to collect related tax. Therefore, it was obligatory for capable farmers to plant their allocated areas employing the summer irrigation system, which was used to plant the land twice a year. According to Marsot (2004:183), farmers had to confront problems resulting from the Nile flooding or draught, thus, the FR punished who did not abide by the government's policies regarding such matter.

Cultivating land after flooding, through planting or discharging of water was a significant problem in rural regions. Therefore, the FR thirty-ninth article incriminated land fallowing by leaving water without discharging it to avoid paying due tax. FR incriminated this in an attempt to solve flood-related issues. Marsot (2004:179), stated that, the water flood would cover all the

agricultural areas which demanded a huge effort to fix it otherwise the floods would lead to following. Marsot (2004:174), added that the whole administrative body including governors, regional inspectors and sheikhs remained alarmed during the flood period by observing the Nile and detecting bridges' performance to facilitate irrigation under the supervision of the Khedive who used to receive a daily report */Elm Alnyl/ علم النيل* about the status of flood. The delay of submitting this report even for a few hours was punishable by the law.

Low flood levels would negatively affect the planted agricultural land because farmers would not be able to irrigate their land. In such case, farmers suffered from a double loss: non-planted land and paying due tax. In such cases, farmers were only allowed to submit a complaint to */AlmEyp Alsnyy/ المعية السنوية*¹⁰ which respectively would entourage the council to exempt them from paying tax. It was customary that the ruler would issue a decree to exempt farmers from paying such tax.

The FR first article attempted disputes over agricultural land irrigation. The article stated that, if a village assaults another by overtaking their allocated portion of water, then */qA}m mqAm/* and sheikhs would whip the assaulting village men 500 lashes. If someone got murdered as a result of the assault, then the case would be referred to a sharia court for retribution, which was supported by */AlqAnwn Almntxb/ قانون المنتخب* since the NL first article stated that.

It is worth mentioning, that the above mentioned article tackled irrigation issues in the second half of the nineteenth century as a result of a change in the agricultural policy set by Muhammad Ali. One main consequence is the agricultural area increase, which required digging up more

¹⁰ El diwan (divan) which was established during the reign of Mohammed Ali.

tunnels to deliver water to areas distant from the Nile. On the other hand, if the irrigation water has not been sufficient for the allocated areas this would cause a dispute among farmers leading to murder, at times.

The fortieth article highlighted the expected punishment for not preparing the land for cultivation; by stating that farmers who do not prepare their land and do not follow the sheiks' orders shall be punished by whipping.

Moreover, the forty-first article condemned sheikhs who do not encourage farmers to prepare their land and bounded governors to supervise such process. If governors found out that dwellers of a certain village, who are assigned areas to plant, have escaped to avoid paying land tax and returned afterwards, then they have to pay them and would be severely punished. It is vital to show that, the preparation of land was a significant matter since the flood water used to submerge all land, which necessitated rehabilitation otherwise it will become fallow. Thus, all peasants were requested to properly prepare the land. NL tackled this issue as the second chapter is this thesis stated (NL No. 8 .Appendix 1).

Farmers according to the forty-second article were given no time to rest or slack off, as it stipulated that farmers have to constantly work, because they are accustomed to laziness and must be closely supervised at all times. The current thesis disagrees with such point of view and will examine in chapter four how farmers suffered from severe cruelty, high tax and incapability to privately utilize land and were forced to participate in the public service.

This has been examined by Abbas (2011:54), who showed that the newly introduced system turned farming into a full time job which had it consequences of the farmers' social life as well

as the economic one. As a result, the farmers couldn't be able to join the political life, or to be part of the legislation process.

Regarding farmers' negligence the forty-third article indicated that, sheikhs and section heads were obliged to discipline physical capable farmers who neglect their cultivating duties. If farmers were thought to be physically unfit, the FR stipulated that they need get a partner to aid them in the land cultivation process otherwise the land allocation will be annulled and will be redistributed to others. If there were no capable individuals, sheikhs were obliged to plant such land by themselves.

In order to achieve all of the aforementioned, the law considered non-possession of *الأثر* //vAr/ land as a form of farmers' negligence as well as sheikhs' lack of responsiveness which is a punishable crime that is to be discussed in the following part.

However, this system drawbacks took place when sheikhs possessed fertile land and left less fertile ones to farmers. Sheikhs would not provide enough and proper care to the land and would replace it in the following year which negatively affected the land. Thus, the FR forty-fourth article punished sheikhs who behaved in such above-mentioned conduct.

In addition, sheikhs' lack of interest to provide land to capable farmers was incriminated; therefore the FR has ensured the application of *الآثر* /Al/vAr/ system; that assigned land to farmers and punished sheikhs who did not follow this procedure. Nevertheless, many villages did not follow this system and this is the reason why the following laws consist of the same previous crime with the corresponding penalty ,as following laws tried to prevent such crime.

The FR forty-fourth article demanded that, farmers would be assigned an area of land as part of their participation in public works. Their names would be reported to the regional head of security and police station chief and the number of acres starting with 1500 allocated to them would be determined.

Muhammad Ali applied /Al/vAr/ system when villages were unable to pay their due tax, till they accumulated and would impossible for farmers to settle. In such case, such villages would be assigned to senior officers, who are to pay and collect the tax from farmers as per Mohamed Ali's decree issued in 23rd of March 1840. The senior officers and officials could not refuse Mohamed Ali's orders; however, they tried their best to compensate through exploiting farmers to the maximum by seizing highly fertile land and assigning less fertile to farmers. FR clarified that, officials became powerful and enjoyed endless authorities in their assigned villages, which constituted injustice towards farmers. This indicates that this system was only found to guarantee collection of delayed tax.

The FR forty-fifth article incriminated and ordered punishment of non-compliance with agricultural procedures such as, inadequate preparation of land, storing in unsuitable warehouses or bad processing. It is noticeable that the central administration style of the agricultural land made farmers abide by the system, when planting a certain crop according to prescribed method and style.

3.4.5 Public service avoidance

Escaping from public service (henceforth PS) is a crime severely punished by the FR and comes in different forms: absence when requested to participate in bridge works or leaving before designated work ends, in this case farmers are warned and if not complied shall be punished. The

second form is that farmers are allowed to escape by sheikhs or /qA}m mqAm/ to avoid public service. In this case, both shall receive due penalty (Article 46 appendix:3).

Marsot (2004:177), stated that intensive work, lack of breaks and shifts led to framers' death, which resulted farmers eloping. When farmers are to be captured, they were to be returned to their assigned task(s) which led to a vicious circle of chasing and fleeing. Farmers who fail to escape tend to pay bribes to sheiks in order to be replaced with other farmers or to receive less amount of work. Officials, such as sheikhs and regional council representatives, exploit this situation and divided bribes among themselves.

Helal (2007:124) added that, despite that the state has set rules to select farmers for PS according to a certain criteria; these rules were not followed at all times. In some cases head of the regional security offices requested more numbers than the specified, which led sheikhs to compulsorily enroll without paying much attention the injustice this caused to some individuals. However, if only the desired was requested, sheikhs will send less than the requested and accepted bribes in return then share them with supervising engineers to overlook requested numbers or assigned amount of work.

Al-Raf`ei (2009) mentioned that, at the early stages of Mohamed Ali's era selection of farmers for PS was heavily related to land possession; individuals without state land possession are not requested to conduct PS. Therefore, many farmers avoided possession of state land and shifted to be day-laborers. This resulted in neglect and piling up of work on private territories, that possessed state land. Change was necessary to avoid this issue, hence, Ibrahim Pasha, when he reached the throne, ordered to reverse the situation so farmers who possess state land were to be left while day-laborers are to join the PS.

The forty-seventh article showed that, PS included compulsory recruitment and negligence of it was considered a punishable crime if requested and disregarded by sheikhs or /qA}m mqAm/. Government used to issue orders to sheikhs to gather well-built youth, however, many violations occurred including nepotism towards sheikh relatives and favored ones and replacing them with other individuals, or receiving bribes to avoid writing their names in recruitment records (Helal 2007:125). FR has tried to prevent these violations in article 47.

FR prohibited the enrollment of two brothers from the same family, which would result in obstruction of farming activities and is considered a crime. In addition, the forty-eighteenth article stated that, if a farmer has only two sons and the sheik enrolled one of them in the military, then enrolled the second as a result of enmity leaving the farmer incapable of farming and he filed a complaint of the matter, the sheikh will be punished.

Helal (2007:125), mentioned that, farmers used to abscond/ smuggle their brothers and sons from the military in all possible ways to the point where a farmer said ‘my sons’ turn for the military came, so I wrote they were as one-eyed and do not meet the standards.’ Finally, farmers used to perform body mutilation to escape from the military service, which subjected them and whoever aids them to severe punishment that can reach execution.

3.4.7 Administrative violations

3.4.7.1 Discharging duties negligence

The following part presents a review of the administrative violations related to discharging duties negligence. The FR has considered state officials negligence or indolence in discharging duties as a punishable crime. Thus, the fifty-first article incriminated sheikhs and /qA}m mqAm/ because they neglect their duties . Moreover, the fifty-second article incriminated the same issue

if committed by /\$yx AlHSp/ شيخ الحصة (head post of village) The FR specified in the fifty-third article the prescribed punishment for every official in case of negligence, regardless of their status or power including sheikhs, /qA}m mqAm/ and /Hkym AlxT/. The term /AhmAl/ indolence was also stated in the article confirmed incrimination of this issue through two different terms: negligence and indolence.

Marsot (2004:178), states that /Hkym AlxT/'s status was considered to be senior than the other positions as the person would supervise village sheiks and submit any issues they encounter to section heads. /Hkym AlxT/ would also monitor farmers' performance in paying due tax and report any complacency from sheikhs or /qA}m mqAm/ in collecting due tax. In addition to that, they would prevent farmers from escaping to other villages.

Marsot (2004:178), added that, the task of /\$yx Alblld/ was to represent the government before farmers and to convey its orders and obliged them to comply. Al-Wakeel added that, /\$yx Alblld/ possessed the power to punish careless farmers who do not follow prescribed systems in planting the land. Articles FR fifty-first, second and third confirmed that regardless of the position of the state official, they are not allowed negligence in discharging their duties and violators will receive due punishments.

Moreover, the following two articles regarded, hiding information and misinforming the government as punishable crimes if practiced by state officials or farmers.

Shalaby(1983:43), argued that, the FR structured the state officials' responsibilities in supervising Mohamed Ali's policy implementation. Village chiefs used to send periodic reports to Pasha regarding their assigned villages and Pasha used to read these reports and comment on them. As officials frequently committed such violations as overlooking credible information and

sending vague reports to achieve personal interest, the FR incriminated such actions in order to impose an efficient administrative system in rural regions (Shams Al-Din 1988:119).

The following lines will discuss some of the state officials' professional responsibilities including receiving and replying to complaints. The fifty-sixth article stated that if sheikhs or farmers submit a complaint to the higher councils and then the complaint has been referred to competent authorities in order to solve the problem. If the authorities found that the defendant does not have any right, nevertheless, submits another complaint and meant to obstruct business and avoid paying due tax, then he shall not receive any punishment. This was to encourage farmers to submit their complaints without any fear. However, the number of complaints have increased substantially leading to the amendment of article fifty-six and fifty-seven. The article 56 has also been amended in following laws *al-siastanama al-thani* (السياسة الثانية) by punishing groundless complaints.

The fifty-sixth article obliged */AlkA\$f/* to receive farmers complaints and to respond to them, and if farmers do not hear from him, they should head to the head of police station to follow-up. Farmers would be held at the police station till they reach out to */AlkA\$f/* and inquire about the complaint. If */AlkA\$f/* states that farmers have not filed any complaint, head of the police station will scrutinize the complaint and punish farmers if they did not have any rights because they left work without any valid reason.

Marsot (2004:169), stated that, government has allowed citizens to file complaints in various cases including being forced to pay bribes. For example, citizens of */AlTyb/* village in */Al\$rqyp/* filed a complaint against */\$yx Albl/* and tax collectors who forced them to pay bribes. The

government sent representatives to examine the complaint and respond accordingly by punishing bribe-takers.

Helal (2007:132) added that, the Egyptian National Library and Archives contains more than a million document (complain or lawsuit). This indicated that the Egyptian farmer positively contributed to his society and did not accept injustice and if there is a chance they would reject inappropriate status.

3.4.7.2. Judges' misconduct

A significant issue tackled by the FR has been elimination of judges' corruption to preserve the judiciary system which is the basis of applying fairly the FR articles. Therefore, the fifty-eighth article stipulated if a farmer filed a lawsuit against a judge and it was proven that the judge is corrupted by accepting more than the prescribed funds or is unfair for any reason, then a set of strict procedures shall be followed with this judge. First, the status of judge has to be determined; whether the judge is a main judge or his deputy. If the corrupt judge was a deputy, then the main judge will resolve this matter. However, if the main judge was the concerned, the lawsuit filed by the farmer shall be reviewed by senior scholars in the region. Then an official report shall be sent to the khedive bureau. A committee formed of the bureau's head and Al-Mahrosa scholars would review both rulings in order to determine the correct and just ruling, and then would end an official report to the khedive.

Additionally, NL has attempted to tackle corruption cases as the forty-second article stipulated that, if the corruption spread among judges, and if most judges aided the oppressors and did not act justly. In this case />myr Al>mrA'/ shall review facts with the aid of the finance minister who would not overlook their actions. These judges are to be removed from office and imprisoned,

and then appoint other judges in their positions in accordance with orders of the khedive. If *Al>mrA'* and the finance minister neglected their roles prescribed by shariah, they shall receive the due penalty.

3.4.8. Family Disputes

However the FR in general was concerned with the agricultural sector and organizing work in it, but it did not overlook the personal aspect as some articles included family-related crimes which reflected the concern with the social aspect in the farmer's life. For example, the fifty-ninth article banned fights between a husband and a wife leading to miscarriage. Also, the sixtieth article incriminated slander and defamation and referred such cases to a shariah judge. Moreover, the sixty-first article discussed social issues that occurred in martial disputes, or of wives deserting the family's house. It was a customary that the husband would pay a sum of money in order to return her. These cases were referred to shariah courts.

The sixty-second article prevented *Albld'* from marrying or remarrying a woman who is already concluded in a marriage contract, as regarded such conduct as an authority misuse. However, the researcher suggest that the *Albld'* was prohibited to force a woman to marry him or any other individual if under a marriage contract or engaged. Subsequently, he is not entitled to marry her and if he did not comply, he will be referred to a shariah judge for suitable punishment.

It is noteworthy that NL has not included any articles tackling family and social aspects, however, some records include family lawsuits such as the lawsuit of wife who moved with her husband to another village imagining it was safe. However, she had difficulties with her husband and suffered from the place, or caught a disease. Thus, she returned to her original village and

stayed for four months with no expenditure. The husband did communicate with her and ordered her to return, the judge ordered him to return upon her approval and that he must pay her expenses (Marzoq 2012).

3.4.9 Demonstration and strikes

Finally, this section will discuss several issues that the rural communities suffered from including individual demonstrations that took place such as shooting the sheikh or */Alm\$Ahd/*. In addition to, group or collective riots such as clashes between villages resulting in injured and murdered individuals; that even in some cases exacerbated to reach revolutions and collective disobedience (Helal 2007:65).

FR attempted to resolve such issue by incriminating demonstrations with the intent to assault others. The seventh article stated that, if a sheikh or a farmer gathered farmers to attack */Syx Albl/* or a farmer with bamboo sticks, the perpetrator shall be punished. Moreover, the following FR article banned assaulting */qA}m mqAm/* or sheikhs when collecting state funds and perpetrators shall be severely punished.

Disobedience and demonstrations occurred frequently and to suppress it battalions that are fully equipped with artillery and arms were sent to such areas. Helal(2007:133), mentioned that, upper Egyptian framers' revolution against Mohamed Ali government in April 1824, as well as the Bani Suif villages rebellion that was headed by the head of police along with sheikhs in February 1838, were all military suppressed. Mohamed Ali used to send foreign forces made of Turkish soldiers or Bedouins to suppress these movements as he did not employ tropes from rural origin soldiers in such cases.

Al-Raf'ei (1955) stated that, farmers' possession of firearms was among key factors of instability in rural regions both on the security and political levels as well as the usage of bamboo sticks and knives in the aforementioned revolutions and demonstrations. Fahmy (2011:135,134) added that, this led to emergence of armed militias, which was considered a rural phenomenon in the first place as cities have not witnessed these militias that have significantly spread during the first half of the nineteenth century.

However, Mohamed Ali applied a central administrative system to impose state sovereignty and attempted to confiscate these weapons as well as legislating laws and regulations to eliminate demonstrations such as the FR, which led to a gradual decrease of these crimes.

To conclude, after reviewing all those crimes and offences, it is noticed that most offences were incriminated to protect the government's interest. On the other hand, other incriminated actions which are against the peasant's interests are rare, and mostly serve the state at the end. For example, crimes related to others' properties seemed as if it aimed to save the peasant's rights and his proprieties as well. However, regulation aimed to organize rural work to reach the sovereignty's goals at the end. Additionally, articles related to misuse of power incriminated actions that caused injustice towards farmers. In fact, such articles imposed a strict supervision on the officials' actions in order to serve the objective of the central government not the peasant's rights.

Additionally, other articles incriminated all actions against collecting money directly, such as tax evasion crimes or indirect like cultivated land negligence, and escaping from public service, which hindered work from progressing and getting tax at the end.

Chapter Four. FR Penalties

This chapter discusses FR penalties with regard to nature, severity, recipient and executioner. It also discusses correspondence of penalty to crime and motives from imposing them.

Audah (1954 :66) defined crime as, ‘prescribed retribution for committing a violation to achieve public interest,’ and he adds that ‘the purpose of imposing penalty is to reform human beings, protect them from corruption, encourage them to take the righteous path and avoid crimes.’ Al-Mawardi (450:206), stated that a penalty would achieve the public interest when it prevents people from committing crimes. Meanwhile a penalty is prescribed with consideration to need and interest of society regarding severity and mildness of penalty.

Penalties within the regulation are divided into two main categories: the first type are defined by sharia in terms of nature, type and therefore bounding the judge to rule without addition, reduction or replacement of one another. While the second type of penalties are discretionary

punishments */tEzYr/تعزير*, where the judges were entitled to choose among various punishments with consideration to the crime's nature and the status of criminal.

Penalties are categorized according to application manner into three categories:

- a. Physical penalties: penalties applied to individual's body such as murder, whipping and imprisonment,
- b. Financial penalties: penalties applied to the individual's property such as debt settlement, fine, etc. and
- c. Psychological penalties: penalties psychologically applied such as advice, reprimands and threats.

It is fundamental for each penalty in order to be legitimate, that it should be personal, to affect the perpetrator solely and publicly condemned and applied, in the sense that it could be applied to all individuals regardless of their social class and education. It is noted that most of penalties in the regulation are discretionary; therefore, it is imperative to define */tEzYr/* and refer to its various types in the FR.

4.1/*tEzYr/* penalty

According to Audah (1984:685), */tEzYr/* is 'disciplining individuals for crimes other than */AlHd/* and there is no defined penalty in sharia. The FR includes a number of discretionary punishments starts with warning and ends with imprisonment and whipping, it could even reach murder in serious crimes.

Legal policy should be referred to as */tEzYr/*. Al-Bashry (2002:51) stated that, Islamic jurisprudence granted rulers an authority to determine the proper punishment that best achieves

public interest which is called '*legal policy*'. He added that this concept does not contradict with Islam's rulings as it is part of the Islamic sharia, therefore, Mohamed Ali would refer to laws as '*Siyasa*' سياسة policy which is a term related with jurisprudence and does not have the same connotation that was recently developed. Thus, Al-Bashry (2002:51), concluded that the FR consists of /tEzry/, commands and prohibitions that do not clash with Islamic sharia and not considered a man-made law. Hence, Mohamed Ali introduced a novelty or originated what has been known as a legal policy, i.e. the FR legislation and other laws.

Serag (2002:73) stated that, Ottoman laws used to be dependent on the legal policy, which was accepted as a part of the Islamic jurisprudence, a long time ago. Legal policy is a part of the concept which Imam Malik developed. Legal policy was only an application of the '*public interest*' rule in the field of criminal law as in the FR.

Penalty determination per crime may have had many advantages, such as preventing the imposition of excessive and inappropriate penalties by state officials, thus protecting farmers from any injustices that used to take place previously. In addition to achieving justice and equality, all people were subjected to the same punishment if they committed the same crime. However this may had some drawbacks, because restricting the judge to a certain penalty prevented the punishment to be effective as it should be in some cases. Furthermore, such standardization made the punishment unfair in particular cases, as the circumstances of crimes and criminals differ, and what may fit a particular criminal may corrupt another criminal. Thus allowing the judge to put the appropriate punishment depending on the crime and the nature of the person may better achieve the goal of the application of the penalty.

It is important to examine the various methods of applying the FR penalties by state officials such as */Syx Abld/* and others, who were responsible for implementing the penalty. It is worth mentioning that, Muhammad Ali imposed a central government system, therefore Egyptian territories only enjoyed a small degree of autonomy. Employees were allowed only a small margin of freedom, so that no employee solely can apply the specified penalty without further consultation.

The following section will review the physical penalties which were applied to an individual's body such as murder, whipping and imprisonment.

To start with, whipping articles will be examined to discuss it and its implications. Whipping was quite a popular punishment, since 35 articles out of 62 articles used it. The current thesis will categorize these articles into two main groups depending on the number of lashes; the first group ranging from 100-500 lashes, while the second group ranging from 25-100 lashes (Appendix 3). The purpose behind categorization is to determine the aggravating reason that makes sanctions increase to this number or decrease to be less than 100 lashes.

4.1.1 FR penalties ranging from 100-500 lashes

In the FR, whipping¹¹, varied from 25 lashes till 500 as stated in the FR first article. The maximum whipping penalty would have been applicable in cases of one village carrying out an assault on another in order to steal their water. In addition, the penalty is extended to state officials ruling the assaulting villages; */qA}m mqAm/* and */Syx Abld/* who would be handed 500

¹¹Islamic shariah punishes adulteress through whipping a hundred whip as per the verse: (The [unmarried] woman or [unmarried] man found guilty of sexual intercourse - lash each one of them with a hundred lashes, and do not be taken by pity for them in the religion of Allah, if you should believe in Allah and the Last Day. And let a group of the believers witness their punishment) Noor (chapter18: verse 2).

lashes. Moreover, the same would be valid in cases of disputes over irrigation water, which would have been reflected on that area agricultural system, therefore, affecting application of state policies regarding tax collection. Hence, the penalty was applicable when the crime would have led to state policies obstruction. However, the FR seventh article stated a penalty of 300 lashes to 500 to prevent demonstrations from spreading within the rural community at the time, because Mohamed Ali's government desired to achieve stability and security by application of the maximum penalty on the protesters.

It is noteworthy that the twenty second article, which includes the maximum penalty, was dedicated to the issue of collectors, who withhold the names of debtors during publicly informing them to avoid paying their dues. It stated that, collectors were to be whipped 500 lashes on the first incidence, and if the misconduct was repeated, the guilty collector would be handed another 500 lashes. What is more is the FR twenty-fifth article which applied the same penalty in case of tax evasion; however, it is applied gradually. The first time, the escaping */Syx Alblid/* or farmer was to be whipped 300 lashes, 500 for the second time and if any of the guilty could find a person to settle the dues, they were to be removed from office. In case of state officials they shall be beaten 300 lashes for every time of escape, but if they could pay the required tax they will not be beaten.

If the evader occupied a higher ranking such as */Syx AlHSp/*, he would be first handed 200 lashes, then 300, and if there is a person to settle the due tax, the official would only be removed from office otherwise he would be whipped 300 lashes. From the above mentioned discussion it is clear that, the penalty was gradually applied and correspondent to the crime. Its rate of aggravation would increase in ratio with the occupation and rank of the offender. The same

penalty was applicable when /\$yx AIHSp/ or /qA}m mqAm/ refrained from complying with government orders to recruit farmers for military purposes. /\$yx AIHSp/ or /qA}m mqAm/ would be handed a punishment of 300 lashes in the first time and 500 in the second, the same was applied to /\$yx AIHSp/, whereas in the third time /\$yx AIHSp/ would have received 300 lashes.

4.1.2 Penalties less than 300 lashes

The FR ninth article tackled less severe punishments reaching 300 lashes; it would have been applicable to individuals who stole fruits, vegetables or grains from ships. However, the article has differentiated between these crimes (Helal 2007: 234). Three months prior to issuance of the FR, the '*price law*' was issued to determine food types in order to verify the penalty according to the price as the higher the price the more severe the penalty would have been. If the thief steals for eating he would be whipped 10 lashes, if the purpose was for selling, he would be handed 50 lashes. As for the poultry thief he was punished by 25 lashes, whereas individuals stealing grain from ships were whipped 100 lashes in the first time, 200 in the second and 300 in the third. This article stipulated that, investigation should be conducted before executing the penalty and determined the person to apply the penalty as /Hkym AlxT/. Harboring a criminal was regarded also as a crime, as it was punishable by being whipping publically at the village market by 300 lashes in accordance with the eleventh article, as a type of defamation.

Moreover, the thirty-fourth article prescribed whipping if a sheikh shares a farmer's land then allows his farmer partners to escape to keep crops for himself, he would be punished by 300 lashes. Refraining from preparing the land or escaping from farming would be punishable by 300 lashes as stated in the both forty-first and forty-fourth articles.

As for the forty-sixth article, it prescribed beating evaders of public services if it was caused by */ṣyḫ AlHSp/*, he was to be handed down 200 lashes and 300 if he was */qA}m mqAm/*. As for farmers, each was to be warned against escaping then whipped 25 lashes in the second time for escaping without reason.

According to the sixteenth and twentieth articles, the tax evasion the penalty reached 150 lashes

The thirty-eighth article obliged */ṣyḫ Albl/* to be summoned at the governor's premises when needed otherwise he would be whipped 200 lashes. The whipping, in the aforementioned articles, was coupled with fines, removing from office and/or imprisonment. Audah (1984:693,692), stated that, scholars differed in the minimum and maximum amount of penalty in discretionary punishments */tEzyr/* and they concluded that whipping in */tEzyr/* should be less than adultery which is 100 lashes. However, in previous articles of the FR punishment reached 500 lashes in regular */tEzyr/* crimes, which indicated the inappropriateness with the offence being committed. In addition, these extreme penalties might have led to death, while the committed offences were that severe. This is an indicator that previous mentioned penalty were not sharia based.

4.1.3 What is the maximum amount of lashes?

Scholars had conflicting views in determining the limit of whipping. The Maliki School believed that the maximum whipping amount is mainly decided by the ruler; because */tEzyr/* is deemed according to the interest and corresponds to the crime. Hence, the Maliki permitted whipping more than 100 lashes, even though discretionary punishment should not exceed 100 lashes (Ibn Fargon 799AH:263,262).

Audah (1984:690), added that, whipping was a favorable punishment in */tEzyr/* crimes, as it is more deterring to criminals regardless of the committed offence. Moreover, whipping did not

obstruct the work flow, or cause disturbance to the state. The criminals' families as well were not to suffer as in the case of imprisonment for instance.

Helal (2007:128) mentioned that, beating farmers was a right exercised by administrative officials, regardless of their rank, as the government would not be able to collect. Whipping was the only mean to force farmers to pay due tax. Till the end of 1829, farmers were not allowed to complain about beating, for example if a farmer was whipped hundreds of lashes by officials without dying and they filed a complaint, officials would consequently justify their actions claiming that farmers were whipped for not paying tax, refusing to participate in forced labor or any other reason. However, if a farmer dies, then case would be regarded as a homicide and his family was entitled to request referral to the sharia judge, but they must support their case with evidence, and it was very rare to succeed in condemning the murder. Therefore, the FR regulation suggested a solution for this issue via fair application of whipping without surpassing the defined number and whipping method included in each article which is considered unprecedented codification. Moreover, the third FR article specified certain physical places to be whipped, such as legs and backside. This was to avoid other body parts that if whipped might have caused death. If state officials had overdone it and the farmers die, a ruler was to apply a penalty according sharia and the blood money would be paid to deceased farmer's family as per the FR second, third and fourth articles.

Nevertheless, this has not stopped violations as farmers were overbeaten and farmers rarely filed a complaint because it was difficult to provide evidence; as the number of whips could not be identified via the physical imprints and no witness would have had the courage to testify. Helal (2007:129), stated that, when Rumyh, sheikh of a village in Asyut, whipped a farmer to death

and was questioned about the accident, he responded that the farmer was whipped 'around 30 or 40 lashes' and family of the deceased could not prove otherwise.

In 1852, khedive Abbas issued an amendment stating that, individuals would not be beaten more than 200 lashes for major crimes and less than that for minor ones. In addition, whoever was to be punished must be physically and medically examined prior to application of the whipping in order to recognize his ability to endure whipping. During the era of Ismail, he issued a decree in 1863 to restore beating and applying the punishment in accordance with the Hamayouni law. Punishment of 'whipping' prevailed even after Riyad Pasha's revocation and continued even during the Lord Cromer's era, who claimed he had abolished it (Helal 2007 : 130).

It can be noticed that, the number and nature of lashes differ according to the crime and whether the punishment was prescribed by the sultan, judge or tax collector. If it was prescribed by the tax collection judge, then the number of lashes would not surpass 100 lashes. However, if the punishment was issued by the sultan then the number of lashes would be thousands. Some sultans tried to cancel whipping, as a punishment widely spread for various crimes, through many decrees, especially at the time of Al-Naser Mohamed in 1326 AD, but this was not applied (Ashur1962:100). Eventually, whipping was permitted by the Egyptian law in 1973, and then cancelled by the Egyptian legislator following the trend of most foreign laws.

4.1.4. Penalties between 25 and 100 lashes

It is crucial to highlight that the crimes in the current section are related to property of others infringement, whether it was livestock, grain or debt due to another farmer. Furthermore, agricultural land devastation by livestock releasing or having a dispute with a member of the military as stated in the fourteenth, sixteenth, seventeen, eighteen, etc articles.

For example, the thirty-fifth article prescribed the punishment for beating sheikhs or */qA}m mqAm/* who were to violate the farmers recruitment orders to join the military service according to their applicable role. At first, violators would be beaten 25 lashes, and if repeat the offence the person was to be whipped 50 lashes, and 100 lashes for the third time. Application of punishment was to take place after carrying out an investigation to make sure of the sheikh's violation. The article mitigated the punishment to 100 lashes for violating the order, whereas, evading the role responsibilities was punished by 500 lashes, as noted earlier in the forty-seventh article. This indicated the government keenness to recruit individuals for the military and to prevent any method(s) of evasion.

The FR thirty-ninth article applied a 100 lashes punishment for deliberate fallowing of land to evade tax payment, which indicated that the punishment is intensified when related to tax as well as escaping or inciting to escape was punishable by 50 lashes according to the thirty-seventh article.

Farmers' indolence was punishable by whipping as per the fortieth and forty-third articles, in case of no agricultural land damage. While the fifty-second article stated that, negligence of */Hkym AlxT/* or */Syx AlHSp/* agricultural land would be punished by reprimanding, in the first time, which was deemed defamation. If repeated the officer was to be whipped 50 hits by a stick from the section head, and the sheikh was to be disciplined by head of security by receiving 100 lashes. For the third time, they were expelled from office and replaced by efficient employees.

In section (state the section, chapter) in the current thesis it showed that some articles, such as article twenty-five and fifty-four mandated that the prescribed penalty was to aggravated if the offender occupies a higher status. However, the fifty-second article stated the opposite. This is

inexplicable contradiction as the twenty-fifth article tackled tax evasion and fifty-second and fifty-fourth articles tackled agricultural land negligence and hiding information from the state. Although, both crimes led to tax collection obstruction which is considered to be a crime towards the state, the legislator did not handle them evenly. Moreover, the fifty-seventh article prescribed punishing farmers with 50 lashes for work obstruction even if it was a groundless allegation.

Eventually, it is clear that whipping was one of the most common FR penalties to the extent it calculated for 56% of the total applied punishments. It would be applied solely or combined with other penalties such as fine payment, removing from office, reprimanding and prison. Some articles stated that the punishment was applicable only after investigation, and others indicated that whoever executed the penalty whether state officials, head of security or the ruler, were entitled to apply whipping.

It is crucial to highlight that, the nineteenth and thirty-fifth articles applied the maximum penalties, while the sixteenth article stated that the punishment would be between 25 and 100 lashes. It is noticeable that the maximum penalty was related to violation in the application of state policies with respect to irrigation, agriculture and public work. It is safe to conclude that the FR prioritized state interest over that of the farmers’.

4.2 Type two: imprisonment

The current section will examine and discuss the second FR penalty; imprisonment. Al-Maqrizi defines the penalty of imprisonment as ‘being confined in a space’ (Al-Maqrizi 845AH: 24). The FR contained two types of imprisonment: definite and indefinite. Audah (1984:697), stated that, fixed-term imprisonment is used as a punishment for ordinary */tEzr/* crimes. The minimum duration of this type of imprisonment is one day, and the maximum limit is not agreed upon.

Some scholars suggested that imprisonment cannot last more than six months, while others debated that it cannot exceed a year; others argued that it up to the governor's decision to decide. Regarding the indefinite imprisonment, it is thought that it was solely applicable to serious criminals who are accustomed to murder, beating and robbery, or offenders who keep repeating serious crimes. The perpetrator remains imprisoned until he shows repentance and then would be released, otherwise he would remain imprisoned.

Audah (1984:697), added that the imprisonment period was not determined in advance, because it was indefinite, meaning it can last until the death of the criminal or his repentance. The indefinite imprisonment was an application of the unspecified punishment theory introduced by modern law in the late nineteenth century. It is obvious that the Ottoman law was more advanced than modern law in such aspect that it stated it earlier by thirteen centuries. Italians were the first to admit this punishment, when there was need not to determine the punishment, as the legislators suggested that a penalty had two functions: eradication and reform. This meant that if the convicted showed signs of behavioral reform he was to receive temporary imprisonment, otherwise the convicted was to be imprisoned for life.

This punishment is considered one of the most common penalties in the middle ages, and it was often combined with other punishment such as exile, confiscation or fine (Kimnova1998:85).

This penalty was often used for financial crimes such as non-payment of due tax or not fulfilling the responsibility as a guarantee which was called imprisonment for guaranteeing (Badre,2005:312) . In financial crimes, prisoners were released if the debt was paid.

Occasionally, release of imprisoned convicts occurred without completing the sentence to avoid crowded prisons, and in such case the released were threatened to be re-imprisoned if they

committed new crimes. Despite the arduous labor in prison, food was a scarcity consequently many suffered hunger that led to death, such as Prince Salar bin Abdullah Al-Mansouri and Prince Saif Al-Din, deputy of the sultanate in Egypt, whose property was confiscated by King Mohamed Bin Qalawun and detained in the castle as he was starved to death (Habib,1986:214).

Prison sentence in the FR regulation differ significantly from modern law. As imprisonment in modern law is the first or basic punishment for all the crimes. While in the FR regulation, imprisonment to death is only a minor penalty used only once. Additionally, in Islamic shariah, imprisonment is optional to the judge Audah (1984:695).

According to Audah(1984:696), the result of making imprisonment a basic punishment in all crimes in modern law, the number of convicts increased substantially and prisons became crowded. Prisons become an environment for criminality, although they have been established to prevent it as prisoners gather and exchange information and experience. Whereas imprisonment in Islamic shariah does not have the same results; it is only imposed in minor offenses and on junior offenders and for short periods if the judge considers that it deters the offender. Thus, the number of prisoners is limited, as well as their stay consequently their morals are not corrupted.

4.2.1 Imprisonment articles

The seventh article discussed the imprisonment and execution penalties. According to this article, it is indispensable to punish demonstrators if they had attacked farmers or */\$yx Albl/* using weapons causing injuries. An investigation would be carried out if found guilty; offenders were to be imprisoned for three years. If the beating led to a disability, the article also added a five-year imprisonment penalty for the offender and to be fined for costs of treatment, if capable. If he does not have funds, the victim was sent to the nearest hospital for treatment. If the

wounded dies, then the killer was to be slaughtered and retribution would be applied. If the offender died after sending the culprit to prison, the offender must be punished with life imprisonment. This article emphasized the need to take measures until the culprit is handed over to the prison. The most important of these procedures is to send the chief officer to inform the governor that the culprit will serve a life imprisonment.

In addition, the eighth article discussed the same crime, namely, demonstration. This article stated that rioters who evade tax payment should be punished by prison or death if the crowds kill each other. If farmers assault */qA}m mqAm/*, */Syx AlHSp/* or */Syx Albd/* to evade tax, then execution would be applicable after referring to *shariah* judge and identifying offenders. In case the offenders were not identified, the article suggested punishing rioters by life imprisonment and obliged them to pay blood money.

Regarding the twenty-third and twenty-ninth articles, which discussing the crime of burning grain or crop and they recognized the punishment of the accused for life imprisonment. The twenty-third article was concerned with the case, if a sheikh or a farmer burned his grain or crop in order to evade tax payment . The FR considered this crime to be one of the most serious crimes and considered the culprit a traitor to himself and to the government and deserved life imprisonment and used harsh words such as; ‘to be kept in prison as long as he lives’. While the twenty-ninth article was more severe as it suggested that if a sheikh or a farmer intended to burn someone else's crop or house, deliberately, and was arrested prior to committing the crime, he must be punished with life imprisonment, in addition to paying the price of what he intended to burn.

It is noted that the FR, dealt with the crime crop burning to evade tax payment with the same intensity it gave to the murder crime. There is no doubt that such punishment was considered severe and disproportionate to the crime, however, the FR placed the interest of the state manifested in tax collection in a high regard that cannot be threatened even against the interest of individuals.

The ninth FR article stated that if a person repeatedly stole fruits and was caught more than three times. The fourth time he would imprison, but in the first three times he was to be punished by whipping, but the article did not specify the duration of the prison. In this article, the penalty of imprisonment is not the basic punishment, but it came as a heavy penalty in case of repeated theft more than once indicating that the perpetrator became a professional thief.

Moreover, the eighteenth article punished the debtor who refused to pay his debt, with imprisonment in addition to enforcing him to pay the required amounts. The article did not specify the period of imprisonment, but only mentioned that he was to be imprisoned. However, the article exempted the incapable debtor from any penalty, whether beating, fine or imprisonment and emphasized that the payment would be made through installments so that he can repay the debt.

Audah (1984:707), argued that, the Islamic law does not allow the imprisonment of a person because of a monetary debt unless the claimant is able to pay the money and is reluctant in case of spousal support. However, if the claimant is unable to pay money, he should not be imprisoned, because imprisonment in the shariah has not been legislated except to urge the debtor to pay, and if he is unable to pay then imprisonment was inapplicable because the cause for the penalty is absent. Thus, the penalty of imprisonment in such case would be a punishment

for the poor, and the basic conditions of punishment were unspecified and consequently unlawful. It is noticeable that, the eighteenth article agrees with the shariah in the penalty of imprisonment for the debtor.

The twenty-fourth article discussed the penalty of indefinite detention. It stated that, if a farmer seeks shelter at the Bedouin's, he shall be liable to the amount of late tax, at the time of arrest, and would be collected from the one who harbored him. If he did not have late tax, then the Bedouin will be punished by being sent to the military if he was young or would be punished with six months' imprisonment, if he is old.

It is clear; through some of the orders issued by Muhammad Ali, that there were problems in prisons, including the spread of epidemics and diseases (Abaas2005:556,445). As a result of the outbreak of an epidemic in a prison, Mohamed Ali ordered the prison authorities to take measures to eliminate the epidemic by following hygiene orders and to take the necessary guarantees to prevent the epidemic from spreading. In another order, Mohammed Ali demanded that each infected prisoner would be allocated a separate room and to ensure that they were not released so as not to spread the epidemic. These orders revealed the harsh life of prisoners.

To sum up, only seven FR articles applied imprisonment as a penalty, revealing that the prison sentence in the FR was not the basic punishment, but a secondary penalty that is not very reliable. It is noted that, the penalty would be aggravated if a person was found deliberately sabotaging the crops to evade tax payment therefore; he would be punished by life imprisonment

Physical punishment was included in the FR via joining the military as it was stated in three articles. The tenth article stated that, the penalty of sending farmers or sheikhs to the military as a result of breaking or burning water whirls or stealing from others conditioned that perpetrators

are young. The same article referred to a similar punishment, that is hard labor public work and it was applicable on the elderly who are not fit to be sent to the military and the article specified the duration of the sentence by one year. In addition, the twenty-fourth article punished farmers who escaped to avoid tax payment and inhabited the Bedouin territory by sending them to the military.

Moreover, the forty-seventh article covered the issue of escaping from the military service. It stated that if a request is sent to a village to recruit some of its members, and */Syx AlHSp/* or */qA}m mqAm/* denied the request, then his brothers, sons, cousins or relatives were forcefully recruited. If officials did not refrain but villagers escaped, then the requested number is doubled as a punishment.

It noteworthy that sending to the military service was not considered a punishment in all cases, but it was deemed compulsory for farmers who received state land */Al/vAr/*. Moreover, it could be applied solely or combined with other penalties such as whipping or fine in case of other crimes.

4.3 Financial Penalties: Fines, debt payment

4.3 .1 Fines

This section will discuss the financial penalties including fines and debt payment. Fining has been approved as a fine in fifteen articles, which indicates its frequent use in the FR. For example, the seventh article addressed the assault on farmers or */Syx AlblD/s* and demonstrating using weapons resulting in wounds and injuries. Therefore, it prescribed that the assaulter should incur all remedial expenses if capable, otherwise the injured are to be sent directly to the nearest public hospital. Moreover, the sixteenth article stated that the release of livestock in the

neighbors' land resulting in the devastation of crops demanding compensation from the livestock owner.

Additionally, the seventeenth article stated that, if some farmers deputize another to deliver their harvest to warehouses under each farmer's name and collect the money. However, the deputized farmer registers the harvest under his name and collects the money. Then, he shall compensate them for the same amount of money. As for the thirty-fourth article which stated that, if a sheikh partnered with a farmer in cultivating the land then ordered him to escape in order to keep the harvest for himself, then he would be fined by paying the partner's share.

Moreover, the twenty-sixth article stated that, if al-hemal الخَمَل monopolized more than the assigned commodities, he would be fined for the additional items which would be returned to their rightful owners. If this action was repeated, he was to be fined once more. However, if the action was repeated for the third time, then the person was to be removed from his position as al-hemal.

The twenty-seventh article stated that, if a sheikh or /qA}m mqAm/ eradicated a palm-tree or trees of a farmer for construction of their house without paying, then they were fined the price of the possessed land and to be given to the farmer. The twenty-eighth article stated that, if sheikh or /qA}m mqAm/ forcefully took over a farmer's house, then they were obliged to remunerate the farmer, after thorough investigation.

The thirtieth article fined /\$yx AIHSp/ who forcibly sold the farmers' cattle, in their absence, for a lower price. The article obliges officials to pay the difference in price to the owner, if he did not have any debts, but if he had, then the collector shall receive the difference in price whether the owner is present or not. This could extend to paying the debt of relatives. This indicates that

finer were paid to the owner after deducting due debts on him or his relatives which reflects the extent the FR has gone to collect state tax.

The thirty-first article mentioned that, if a sheikh employed farmers to cultivate the land or the farmers 'camels to transfer crops, he was required to pay double the fees according to the norms in that region.

A number of articles such as the sixteenth, seventeenth, twenty seventh and thirtieth demanded that, an inspection would be carried out in as trespassing cases in order to relinquish the rights of others. The articles stated that fines paid should be equivalent to the robbed items. Moreover, the thirty-first article demanded that, unpaid use of camels would be fined as double the fee. It is not clear why the fee was doubled and the punishment is more severe than devastating agricultural land, or crops revenues or palm trees' cutting.

The thirty-sixth article imposed fines on regional governors, who use farmers without them wages. The article obliged officials to pay double the fees to the farmers, taking into consideration that the state forced the farmers to perform public works without any compensation. This obstructed cultivating the farmer's land making them unable to pay land tax. Additionally, the thirty-ninth article fined owners who deliberately made the land become barren by neglecting or leaving water in it, by paying complete tax. This also applied on farmers who escaped to evade paying tax and have not cultivated the land, which is punishable by paying complete tax as per the forty-first article.

It is noticed that the FR has greatly depended on fines. Audah (1984:705) argued that, scholars considered fines as a general penalty applicable only in minor offences at the discretion of governors without imposing limitations on its amounts. Whereas man-made laws considered it

as a main penalty in most crimes, executable through two methods; confiscating property of the convicted or sentenced for a certain period. In other words, fines could end up in imprisonment of poor convicts, even though these laws considered the penalty of imprisonment as more severe than fines. The FR did not separately consider the penalty but combined with other punishments such as whipping and imprisonment.

It is notable that, shariah punished by fines in some discretionary punishments such as stealing fruits which is fined by double the price of fruit in addition to, the theft penalty. This is proven by the Prophets'(PBUH) hadith: "Whoever steals something shall be fined by double the cost and due penalty". The same applies to keeper of lost items who shall pay double its price Audah (1984:705).

4.3 .2. Debt settlement

Another penalty that could be close to fining is debt settlement. The eighteenth article mentioned, if a farmer owes a debt, he would be informed of settlement several times. In case of refusal to pay even though he is financially capable, he would be whipped. However, if the farmer was not capable of paying, then he would not be imprisoned or beaten and the debt would be divided into installment till paid. As for the twentieth article, it tackled the problem of escaping; if a farmer seeks shelter at a sheikh, then the sheikh shall pay the debt instead of the farmer. This was also prescribed in the twenty-fourth, as Bedouins would pay the farmer's debt who hid in their territory which was the custom. Moreover, the twenty-fifth has obliged escaping farmers to pay due tax.

With reference to the aforementioned, it is concluded that fines were largely used in the FR combined with other punishments such as whipping and imprisonment.

4.4. Psychological penalties: defamation, reprimanding, threatening, warning

4.4. 1. Defamation

Psychological penalties were defamation, threats and reprimands and advising. These psychological punishments are usually used before the implementation of heavier punishments, such as whipping, imprisonment or fine.

Defamation is a discretionary punishment, and is intended to announce the crime of the convicted person. It occurred in the past by calling on the criminal and his crime in markets because there was no other way to announce it. However, recently defamation is possible to declare in the newspapers or posters in public venues. Man-made laws apply the penalty of defamation, and the Egyptian law has applied it in some crimes as fraud and price gouging.

Article 11 states that if */Syx Alblld/* or */qA}m mqAm/* harbors a thief in order to have him steal, then the thief shall be punished in the market. Moreover, article 32 states that if a */qA}m mqAm/* or */Syx AlHSp/* beats farmers claiming that was due to laxity but without evidence, then he will be beaten publicly.

4.4. 2. Reprimanding

Another psychological penalty is reprimanding, which falls under the category of discretionary punishments and is applicable if a judge deems it sufficient to discipline the convicted. The fifty-first article stated that, if a person falsely claimed an issue, he was reprimanded by */qA}m mqAm/* or */Syx AlHSp/* and warned not to repeat it. If repeated, he would be punished. Whereas the fifty-fifth article stated, if a */qA}m mqAm/* or a sheikh showed negligence in performing his duties, he should be reprimanded at the first time and beaten the second.

4.4. 3. Threatening

Threatening was also a discretionary punishment condition, and the judge used to consider it sufficient to reform and discipline the offender. The judge would warn the offender that, if he repeated the offence, he would be punished with whipping, imprisonment or with the maximum punishment. Threatening also included judging a specific duration, then suspending it.

Man-made laws included the penalties of reprimand and threats, and have deemed judicial reprimand as a punishment for minor crimes and for junior offenders. The judicial threat is a punishment for those who believed that the threat is sufficient to encourage and rehabilitate them. If the offender returned, the suspended sentence could be implemented, and some suggested warning the perpetrator not to repeat his crime.

In the FR, the penalty of threat was articulated in the eighteenth article which stated that, if a farmer has a debt, he will be repeatedly warned to settle it. If he does not pay, he will be punished by beating. If he does not fulfill it, he will be beaten again and threatened. Again, if he does not pay the debt, the penalty will be increased by another fifty lashes, and intimidated till he pays. Similarly, in case of escape from public works in canals and bridges as prescribed in the forty-six article, where it stated that it is necessary to warn them first not to escape and threaten them not to repeat this act, if they escape again, they are beaten.

As for lying to the ruler, it is one of the crimes that required daunting and threatening. The fifty-fifth article obliged the */qA}m mqAm/* and the */\$yx AlHSp/* to call the perpetrator and warn him not to lie. His lying would have consequences on him if repeated. Frankly, the daunting penalty is unclear whether it is reprimanding, threatening or reproaching.

4.4. 4. Warning

Warning is also considered to be a discretionary punishment. The judge may only punish the offender if he believes that warning is sufficient to correct and deter him. In shariah, there is less than warning in discretionary punishments. Jurists considered that informing the offender is a penalty of defamation and bringing him to the judiciary council is a punishment. It is noted that, such sanctions were imposed only on those who are likely to be corrected. The twenty-sixth article stated that, if one of al-hemal **الْحَمِل** took anything more than what was prescribed, he should notify the head of security and inform him about a specific statement on which to base al-hemal and warn him not to take anything more than the prescribed. If the conditions were violated, the penalty was applied and then warned again. If repeated, he would be whipped 200 lashes.

It is noted that within this article, warning has been repeated more than once and is repeated before the punishment. The forty-second article assumed that the farmer was accustomed to laziness, and therefore he needed to be constantly alerted and scrutinized to fully cultivate his land. Finally, the forty-four article recognized the necessity of alerting farmers and sheikhs, who have taken state land not to neglect it in order not to be become barren.

Expulsion from employment is in another penalty in the FR. The fifty-first and fifty-second article stated that, if the official neglected his duties in the required manner, the first time he would be reprimanded among his peers. If he repeated the same offence, he would be beaten and the number of lashes would be increased in the third time. Eventually, at the fourth time he would be removed from his positions and replaced by another efficient official. It is noted that, the penalty of dismissal was not applied except after repeated negligence several times and after

applying the punishment of beatings, however officials did not refrain from negligence. This was evident that they were not fit for the job and must be dismissed from office.

Finally, it should be noted that some of the articles did not specify the penalty and referred it to shariah to determine the penalty required for each crime in */AlHd/* crimes such as murder as stated in fourth, fifth and eightieth articles for instance. The sixth article also referred to shariah the punishment of those who fight and result in injury of eye, nose or teeth to determine the appropriate punishment. Nevertheless, matters of family disputes did not have a specific punishment in the FR, but also referred it to shariah such as quarrel between husband and wife or between two women that led abortion, or the rape of a girl, or wife abandonment of husband's house and how to return her in return for a sum of money, or punishment applied to those responsible for marriage contract without consent of the girl's guardian.

4.5. Person responsible for the application of the penalty

The current section will review some of the FR content regarding the person responsible for the penalty application, distinction in determining the amount of punishment according to intent, deliberation in committing a crime as well as punishment increase as a result of repetition. Therefore, in order to verify the above stated, an inspection should be conducted which was approved by the FR and will be discussed in the following section.

FR also discussed that, the state officials such as */\$yx Abld/* and others were responsible for implementing the penalty. It is noticed that Muhammad Ali has imposed a central government system, therefore Egyptian territories have only enjoyed a small degree of autonomy. Employees were allowed a small margin of freedom, so that employees can only apply the penalty specified for each crime without exceeding.

Senior officials apply the penalty to lower ranking employees according to the hierarchal order of employment as explained earlier in the current thesis, for example, the grand sheikh and */Hkym AlxT/* apply the penalty on */qA}m mqAm/* or */\$yx AlHSp/* as in the fifty-third article. Then, */qA}m mqAm/* or */\$yx AlHSp/* applies the penalty to the farmer. If the violation of occurs from a judge, the responsible for determining the extent of the error of the judge are senior scholars in that region. Then a report of both judgments is sent to the khedive's office. Head of khedive's office summons grand scholars of Egypt to review both judgments to show the truth.

4.6. Tasks and responsibilities of state officials

This section will examine the tasks and responsibilities of state officials, who are managing the rural affairs; hence, the FR listed positions and their tasks.

/\$yx Albl/ (/qA}m mqAm/): is the person who represents the government before farmers, conveys its orders and binds them to follow it such as digging tunnels, building bridges and recruiting persons for the military (Qutb,2006:209). Moreover, */\$yx Albl/* had a supervising role since he kept a copy of tax distribution records and gathers farmers before the collector and witnessed the levying process according to the thirtieth and thirty-fifth articles. He also monitors farmers, reports those who escape, ensures smooth flow of work to punish indolence and negligence. */\$yx Albl/* enjoyed an authority to punish farmers who are doing their properly by 35 lashes then monitors the farmer's land three days after the punishment. If negligence continues, then farmer is whipped 50 lashes, then 100 lashes if this continues and finally removes possession of land due to incapability (Qutb, 2006:209).

FR has stated that, in case of homicide by a soldier in a region far from Cairo, then the matter is referred to head of security to consult scholars and shariah judge to sentence according to the

fiftieth article. FR has added that, the head of security is also entitled to investigate in negligence of */Hkym AlxT/* and */\$yx AIHSp/* as per the fifty-second article, as well as registering land with assigned land to facilitate follow-up and levying tax. Head of security is assigned to prevent assault of Bedouin over farmers' land according to the fifteenth article.

/AlkA\$f/ was only mentioned once in the FR in the fifty-seventh article, and his task was to receive complaints and claims of farmers and reply to them.

Conclusion

However, in the FR included penalties exceeding the most severe punishments in Islamic sharia; for example, the penalty for adultery is limited to 100 lashes, which is the most severe punishment. However, some articles such as; 1, 7, 9, 22, 25, 26 included punishments reaching to 300 and 500 lashes, and the crime is tax evasion or sabotage of public property. This illustrates severity of punishment, which will certainly not achieve the purpose of punishment in deterring criminals or achieving public interest, but these punishments aimed at supporting interests of the government.

It is worth noticing that, the penalties of */AIHd/* crimes in sharia have considered the crime without the criminal because these crimes are very dangerous and because they affect society. Leniency leads to the worst results while severity leads to fewer amounts of crimes. Accordingly, there was severity in those penalties. However, the FR has focused on another aspect; if the crime is against the authority, and then punishment is extended to the maximum. If the crime is against another farmer or a member of the state, then the degree of punishment is reduced indicating that the interest of the state is over the interest of individuals and society.

Al-Mawardi (450AH:206) stated that, every punishment that leads to the welfare of individuals and the protection of society is a legitimate punishment. It should not be limited to specific penalties, and the punishment of the offender is not revenge, but reformation. Some of the penalties in the FR, reached 300 lashes and 500 lashes, as well as life imprisonment, are severe penalties not corresponding to the amount of crime committed such as non-payment of tax.

Audah (1984:610), argued that, in order for the punishment to be deterrent and achieve the interest of community, it has to be based on the human nature; not doing any work except when there is an expected, and does not refrain unless there is a fear of damage. Thus, a person does not commit the crime unless there is benefit and does not refrain unless there is a fear of harm. The greater the punishment the more the people will keep away, and the mildness the punishment the more they are likely to commit it.

Chapter Five .Objectives and Achievements of the Farmer's Regulation 1830

5.1 Introduction

This chapter is to examine the hypothesis whether the FR fulfilled justice and achieved public interest or served certain agendas.

5.2 The Objective: fulfillment of justice

The prior content analysis of the FR reflected the extent of maltreatment exercised on the Egyptian farmers by the state. Thus, it is concluded that the FR comprehensively fulfilled justice, in addition to exploring the extent of that abuse. In order to enforce justice, a corresponding penalty must be implemented; determining quantity of punishment according to nature of crimes and condition of criminal as well as determining the person in charge of applying the penalty. There was also a need for a judiciary responsible for enforcing the laws, justly.

With regard to the previous analysis of penalties in the FR, it is clear that the regulations attempted to determine a specific penalty for each crime. Subsequently, this led to many benefits such as preventing imposition of excessive and inappropriate penalties by state officials. Therefore, protecting farmers from the injustices of the past was an aim of the legislator. In

addition to achieving justice, equality was considered as all citizens are subject to the same punishment if they commit the same crime.

However, lack of flexibility in imposing penalties led to drawbacks such as restricting the role of a judge to a certain penalty preventing the punishment to fulfill its desired result, in some cases, and making the punishment unjust in others, as circumstances of crimes and criminals may differ for what may be suitable for a particular criminal may cause corruption of another. Thus, giving the judge the space to sentence an appropriate punishment, with reference to the nature of crime and criminal, may better meet the goal of penalty.

Additionally, severity of punishment could help decide whether the FR focused on justice or not. FR tried to avoid problems farmers suffered from previously. For example, whipping was the only method to force farmers to pay due tax. Till the end of 1829, farmers were not allowed to complain about beating which could lead to their death, in some cases. Nevertheless, this has not stopped violations as farmers were abused and rarely filed a complaint because it was difficult to support their claim with evidence as the number of whips on the body could not be identified and there were no witnesses ready to testify.

Upon analysis of FR articles, it is obvious that the maximum penalty of 500 lashes was applicable in crimes of assaulting another village to rob their water. The penalty was enforced in case of dispute over irrigation water which reflects on the cultivating the agricultural land and the system in that region, hence, affecting enforcement of state policies on tax collection. FR stated a penalty varying from 300-500 lashes to prevent demonstrations spread in the rural community at the time because Mohamed Ali's government wished to achieve stability and

security through imposing a maximum punishment on demonstrators. Hence, the penalty was enforced when crime would lead to obstruction of state policies.

Moreover, the maximum penalty of 500 lashes was applicable with regard to collectors withholding names of debtors during public announcement in order to help them avoid paying tax and the same penalty was applied in case of tax evasion. The penalty corresponded to crime and increased the higher the ranking of officials. Similarly, it was enforced in cases of failure to execute government orders to recruit farmers for the military.

Eventually, it is noticed that 19 out of 35 articles enforce the maximum penalty and they are related to violations of state policies especially regarding irrigation, agriculture and public works. This proves that the FR prioritized state interest over farmers’.

In comparison to Islamic shariah, the maximum penalty in FR far exceeds the most severe punishments; for instance, penalty for committing adultery is 100 lashes, which is the most severe punishment. Nevertheless, we have identified penalties in the FR reaching to 300 and 500 lashes. This highlights severity of punishments, which will certainly not achieve the purpose of punishment; deterring criminals or achieving justice. But these punishments aimed at supporting interests of the government.

It is highlighted that the penalties for by */AlHd/* in shariah have taken consideration for crime without the criminal because these crimes are very dangerous and have a negative impact on society as leniency leads to the worst results while severity leads to fewer amounts of crimes. Therefore, in order for the punishment to be deterrent and achieve justice, it had to tackle the human ideology. The human nature dictates that a person does not commit a crime unless there is benefit behind it and does not refrain unless there is a fear of harm. Hence, the greater the

punishment the fewer the people will commit it, and lenient punishments are more likely to cause increase which explains severity in penalties. The FR concentrated on another aspect concerning crime against the authority. In this case, the punishment is extended to the maximum, whereas if it is against another farmer or a member of the state, then the extent of punishment is reduced which proves that the interest of the state is above the interest of individuals and society. This methodology proved an injustice system and was only in favor of the state.

Another point is that punishment should serve a higher purpose: justice. The punishment must be reasonable leading to the welfare of individuals and protection of society. Punishment of the offender is not about seeking revenge, but reformation. The majority of FR, such as life imprisonment, constitutes a severe penalty and do not correspond to crime committed. For example, FR stated that demonstrators for the purpose of evading payment of tax should be punished by life imprisonment or execution, in case of the crowd commits murder. In another article, we note that the regulations tackled the crime of burning crops to evade paying tax with the same intensity as murder. It is clear that this punishment is severe and disproportionate to the crime; however, the regulations highly regarded the interest of the state in collecting tax and has not tolerated it even against the interest of individuals.

There were problems in prisons such as spread of epidemics and diseases. Therefore, as a result of an outbreak of an epidemic in a prison, Muhammad Ali ordered the prison guardian to take the necessary measures to eliminate the epidemic by taking care of hygiene and taking the necessary guarantees for preventing its spread. In another decree issued by Mohammad Ali on the need to dedicate separate rooms for inmates infected with the epidemic and make sure not to release them so as not to spread the epidemic, which reveals the harsh life of prisoners. This indicates

that the punishments in FR are not leading to welfare for individuals or society and definitely not serving justice.

Also, FR sentenced to recruit farmers or sheikhs in the military as a result of damaging or burning water whirls or stealing from others condition that perpetrators are young. If they are elderly and are not fit to be sent to the military, the penalty will be hard labor public works after putting their feet in iron rings. It is noteworthy that penalty for a person deliberately sabotaging crops of others to evade tax was high and considered the most severe of crimes: life imprisonment.

On the other hand, the FR tried to enforce justice and comply with Islamic shariah in terms of imprisonment for the debtor. Nevertheless, the Islamic law does not permit imprisonment of a person due to a monetary debt unless the claimant is capable of paying the debt but reluctant, in case of spousal support. However, if the claimant is unable to meet the debt, he should not be imprisoned because imprisonment in shariah has been enacted to urge the debtor to pay. If he is unable to pay, then imprisonment is inapplicable due to lack of cause. Thus, the penalty of imprisonment is a punishment for the poor, and the basic conditions of punishment are unlawful.

Finally, upon reviewing the stated crimes and offences, it is discerned that the majority of offences are actions incriminated served the purpose of protecting the government's interests. On the other hands, other penalties addressing criminal activities were against farmers' interests and highly regarded the state above all. For example, crimes related to others' property had less severe penalty than those related to the state approving the sovereignty's goals. Additionally, crimes related to misuse of power leading to injustice towards farmers. In fact, those penalties

attempt to impose strict supervision on state officials' actions in order to serve the objective of Mohamed Ali's central government rather than rights of farmers.

Additionally, other penalties address collecting funds directly such tax evasion or indirectly like negligence of cultivating the land, and escaping from public services, which obstructs performing the work to cultivate agricultural land and bound to pay tax, at the end.

The FR discourse will be examined in order to comprehend the level of maltreatment. The FR considered burning grains or crops to evade payment of tax as a significant crime and deemed the culprit a traitor to himself and to the state deserving life imprisonment and stated harsh words such as: 'to be kept in prison as long as alive'. This supports the current study hypothesis regarding increase in the level of maltreatment when the crime is against the state.

Additionally, FR determined the method of applying penalty through state officials such as */\$yx Albid/* and others. It was noted that Muhammad Ali imposed a centralized government regime, thus Egyptian regions have only enjoyed a small degree of autonomy. State officials were allowed only a small margin of freedom, so that the officials can enforce only the punishment specified for each crime without exceeding, which could achieve justice. However, this didn't solve the problem and farmers suffered a great deal of injustice as they faced assault, violence, and confiscation of their properties by the officials, as explained before.

For us to complete our review of FR objectives in achieving justice, the legal FR framework needed to be examined.

The current thesis previously shed lights on judiciary at the time of issuing the FR. We noticed that lawsuits followed three basic systems: interrogation, evidence and swearing oath, as well as assistant to the judge who would aid the judge and act as a witness.

Additionally, the registry shows us that lawsuits may be submitted to judges and competent bodies; mufti, state officials, and rulings issued directly by Mohamed Ali in the form of ‘decrees’. This reflects the minute organization of judicial system under which the FR is applied.

Records indicated the actual application of FR in the Egyptian society. They contained the same topics in the FR. For example, the FR incriminated negligence in cultivating the land, tax evasion, trespassing on others’ properties, misuse of power, escaping from public services and family disputes. Therefore, the records confirmed the criminal nature of these offences through issuing punishments.

Even though records displayed that judiciary was well-established, the political environment established by Mohamed Ali and prioritized achieving public interest as well as severe punishments were in-correspondent with violations have not helped in establishing justice.

5.3 Achievement: public interest

The current study previously mentioned that economic and political motives of the state leading to incrimination of crimes in the FR. Initially, Muhammad Ali changed the government system into a centralized system and set an administrative system replacing chaos and confusion. Moreover, Muhammad Ali established, upon the advice of his advisors, councils to review state affairs in order to increase the financial resources and impose sovereignty to achieve his goals in creating a renaissance in Egypt. After the Second Syrian War, Ali almost went bankrupt, thus, resorted to generate national income resources. Accordingly, the agricultural sector, which was considered a significant field affecting economy of Egypt, had to be evolved. This led to legislation of new regulations such as the FR in order to organize the agricultural sector in accordance with the new requirements seeking to achieve the desired objective and generate

more funds. Accordingly, generating more funds is not serving the peasant or public interests as well.

Additionally, the new system during Muhammad Ali's era introduced some changes: changes in land-state relations with regard to ownership, changes in state-farmer relations, and new administrative officials' position were created. These changes require new legislations to organize and manage the new system. First, Muhammad Ali surveyed Egypt's land in 1814 and estimated al-athar land and then granted farmers some rights over these land through successive laws such as *AlfIAH* in 1830, *Al>TyAn Al>wIY* in 1847, and finally *AlsEydy* in 1858 till farmers obtained the right of comprehensive ownership in 1891. Due to change in the agricultural system, the land were cultivated more than once a year resulting in farmers working all the time which was considered a social negative change in farmers' social lives.

Moreover, new state-farmer relations were introduced. The state had a direct communication with farmers and interfered in all of their matters. Mohamed Ali's government did not accept anyone, beside itself, to cause injustice towards farmers including state officials as it had set regulations restricting their powers, imposed strict supervision on their actions and opened dialogue channels with farmers crossing state officials. Accordingly, administrative officials in rural regions were assigned in hierarchical order with head of governorate on top followed by head of security, head of police station, section head, *mqAm*, *Albld* and finally *AlHSp*. In addition to some assistant such as *AlSrAf*, *Alm\$d*, *AlxwLY* and *nA}b Al\$xAE*. For all previous factors new legislation like FR is required to face the new circumstance. FR restricted the officials power but it didn't prevent injustice toward peasant.

Eventually, there is no doubt that determining penalties for each crime is an instrumental achievement for the FR as well as preventing tax evasion, misuse of power by state officials, assault on others' property. These achievements are undeniable; however, the main objective from the FR was to establish justice and public interest, which was not applied properly. As in order to achieve public interest both people and government must be gain from the new legislation. Finally, the few benefits for the peasant and the major benefits serve the government's agenda could clarifies that FR didn't fulfill public interest or serve justice.

Chapter Six. FR Application - 1830

6.1 Introduction

This chapter is made of three sections. The first section will review cases from court registry, the second section will highlight the legal framework of cases in records at the time of FR issuance, and the third section will review the nature of implementing FR.

6.2 Introduction to the Judiciary at the time of FRs Issuance

At the time of issuing the FR, a judicial system was introduced to implement the new legislation. The traditional judicial organization of shariah courts was not qualified for the new political, social and economic developments in Egypt, so the traditional jurisdiction of the shariah courts has been retained.

It is notably mentioned that shariah courts in the Ottoman era considered many criminal cases in accordance with the provisions of Islamic law, with some jurisdictions for state officials such as the Pasha and military commander. In the era of Muhammad Ali, at the time of enactment of the regulation, all the courts, with no exception, considered criminal cases including and especially the supreme court. Also, records of the supreme council indicate hearing cases of murder in the early era of Muhammad Ali. One of those councils ‘Haqqaniyah’ which was established in 1837, it was granted the right to legislate and enact laws and regulations, regardless of jurisdiction, and hear all cases brought by the administration against individuals. Moreover, the council reviewed the cases suggested by the ruler and considered accusations against senior officials (Khanki,1937:172).

On the other hand, Muhammad Ali referred some cases to shariah judges. On this basis, the provisions of Islamic law were reliable in the early years of Muhammad Ali's rule, and therefore there was no urgent need for criminal law. Ordinary cases were brought before shariah judges, and serious cases with political impact were considered by Muhammad Ali.

With the changing economic and social conditions of the country, state officials have acquired the right to consider issues that were only presented before sharia judges such as /tEzyl/ and violation without a clear ruling known as legal policy.

Novel forms of crimes have emerged and shariah did provide adequate solutions in dealing with it, and political governors were not qualified. Muhammad Ali issued direct decrees or legislations by senior officials to deal with certain crimes and problems that occurred during discharge of duties including legislation prescribed by councils set up by Muhammad Ali such as the FR that tackles problems in the agricultural sector.

6.2.1 Cases in court registry

First, cases from the court registry can be categorized into six divisions:

1. Cases submitted to judges and competent bodies;
2. Cases referred to mufti by judicial bodies;
3. Cases submitted to state officials;
4. Rulings issued directly by Muhammad Ali in the form of 'decrees';
5. Grievances submitted to council of judgments; or officials;

As for the first category concerned with lawsuits submitted to judges and competent bodies, it includes four branches covering various cases in rural areas such as cases filed by vegetable merchants. These lawsuits will be covered to identify procedures of this category.

In the first lawsuit, Muhammad Ali referred it to shariah judge for adjudication. Under the central ruling imposed by Muhammad Ali, he enjoyed vast authorities to issue direct sentences in lawsuits filed before him or refer them to competent councils or shariah judges, as the following lawsuit. Two individuals filed a lawsuit against their */Almltzm/*partner in vegetable market, namely hajaj. He guaranteed paying half of the due funds to his three partners who, during the time of Khoirshed Pasha, have not received any funds from him for four or five months. Thus, they requested their share of profit for the stated period. After due questioning by the judge, he dismissed the case for being filed against anonymous and absence of related individuals. The judge demanded plaintiffs to provide proof for their accusations, and they expressed their incapacity for providing such. The judge requested hajaj to swear the oath against the plaintiffs' accusation which he did and therefore the case was dismissed.

It is safe to conclude, based on the aforementioned, that the case had three basic rules; interrogation, evidence submission and oath. The judge started by questioning litigants, and then asked the plaintiffs to provide evidence supporting their case. When they were unable to comply, the judge required the defendant to swear the oath in denying their accusations. The third element is presence of all defendants, which did not happen; therefore the judge dismissed hearing to anonymous.

The second lawsuit was filed by Nahya villagers in 1265 when tax increased by two-thirds which violated prevailing regulations. After filing, investigation and verification, the case was heard by

the Ruling Bureau which adjudicated by removing in office sheikhs and installing efficient others. Accordingly, the local governor held meetings with four sheikhs and head of security and amended applicable tax in Tnash and al-koum al-ahmar to cope with the newly issued decree by the council of judgments.

In the third lawsuit, a sheikh of Al-Azhar claimed that he was given five hundred acres and some carats, although he and his relatives cannot cultivate it. This was presented to the council of judgments which issued that the sheikh shall not be obliged to take the land again taking into account his inability to cultivate it and that he is a scholar who possessed the land for more than seventeen years. This lawsuit tackled one of the themes discussed in the FR; cultivating /Al/vAr/ land.

The following lawsuit tackled the issue of tax increase. Plaintiffs stated that *al-shutut* area, which reaches around five thousand acres, falls outside the territory of Damietta. When the honored decree of imposing tax on grains in Damietta area, we presented the matter before the supreme council and stated that *al-shutut* and surrounding manors are outside Damietta. Afterwards, the council decreed that the mentioned land shall not pay the tax, and tax are only imposed on grains entering Damietta which was applied. However, five days ago patrols have been assigned at the bridge outside *al-shutut* and mentioned land, and whenever farmers brought grain, beans or fodder they would forcefully take inside the borders of Damietta and ask for tax leading to obstruction of cultivating the land and caring of livestock.

Adjudication stated that we have reviewed the lawsuit and report of the supreme council indicating that grains outside Damietta are exempted from tax, and we confirm that is the right decision for the welfare of farmers, cultivation of land and caring of livestock.

Therefore, based on the above-stated, a ruling was issued in 7th of Rajab 1250 to Khalil Bik, governor of Damietta to assign supervisors from villagers to collect due tax. This lawsuit tackles misuse of power by state officials in imposing additional tax on farmers. The FR addressed this matter efficiently to protect farmers from state officials especially with regard to tax.

The following section tackles with lawsuits referred to mufti by judicial or official bodies. These cases did not receive a final sentence; therefore they were referred to the sharia judge for adjudication. Lawsuit no. 5 was a question to al-mufti about his fatwa regarding a man who allocated part of /Al/vAr/ land to be waqf and hired a manager and a supervisor. The owner stipulated that administrating body issue a record of revenues and expenses and to be stamped by the manager and supervisor.

However, the manager violated this condition so the question arises whether he deserves to be dismissed or not as the owner required submission of such records and stated that violators are to be dismissed. Mufti stated that if the manager did not issue the required record of revenues and expenses annually, he shall be dismissed.

The second lawsuit that required opinion of mufti was no. 6 and mufti was required to give his opinion regarding a man who took over a piece of state land and paid its tax for 50 years and then passed down to his two sons who continued for another 37 years without dispute. However, another man complained that the land was assigned to his grandfather. Mufti indicated that his allegation should be neglected and the land shall remain with possessors not the assigned.

As for the third part, regarding sentences issued by state official, it is found that the seventh lawsuit is not directed to a judicial body or mufti but to a state official; the governor. The lawsuit indicates a grievance filed by some wageworkers against their sheikh who, as they claim, have

repeatedly assaulted them leading to their escape and they plead for his dismissal. The governor noted that the claimants have filed a prior complaint against their sheikh which was dismissed for lack of factual crime or felony. It was noticed that the claimants compete with their sheikh, as per the governor, and both parties shall be informed to treat each other suitably.

Nevertheless, the complaint was repeated and the governor sent another notice indicating that wageworkers are still suffering injustice and unsatisfactory violations from the sheikh leading to dispatching a fact finding committee to inspect the situation. When a name sheet of wageworkers was requested it indicated that the number reached 128 persons from the previous statement which reached 46 persons wishing the removal of the current sheikh and deployment of another.

After deliberation it was decided that as long as the inauguration of the sheikhs is done by the election and satisfaction of wageworkers in achieve their rest and welfare and not complain. The wageworkers repeated their complaint about the sheikh and it became clear that majority of them wish his dismissal. Therefore, in order to facilitate matters for them and eliminate any injustice the named sheikh is removed.

Lawsuit no. 8 was submitted to governor of Beheira in 1833 AD by a villager, the name of the village is illegible in files. Records show that the village was devastated by a flood and villagers requested government representative to aid them in village rehabilitation in return for "funds" paid for crops. However, the official requested that funds to be collected twice from the same village. The governor investigated the issue and decided that the funds are to be collected only once.

Lawsuit no. 9 discussed the issue of a farmer from Menouf filed a complaint to the Governor against the Agha who forcefully ordered farmers to work in his land that reached 150 acres half

is planted clover and the other is grains. Farmers complained that they cannot work in their land due to forceful labor and the governor sent a reprimanding message to al-Agha says, 'If this was correct, we cannot allow it to happen. If you need clover to your horses, the head of security shall supply it so ask him but do not obstruct the government interest'.

The fourth part includes verdicts issued by Muhammad Ali in the form of direct decrees. Decree no. 10 by Muhammad Ali to security head of Fayoum to punish Bedouins whose livestock devastate crops of farmers by paying five-folds of the price of crops and confiscate the livestock. In addition to Muhammad Ali's prior decree to head of security to punish section heads and sheikhs who have barren land in their jurisdiction through collecting these funds directly from them. Decree no. 11 was issued by Muhammad Ali to Habieb Effendi to beat whoever has, in his house, unauthorized slaughtered animals five hundred hits with a bamboo stick as well as sending them to prison and sheikh of that area to life imprisonment. Nevertheless, the punishment was not deterrent and Muhammad Ali issued another decree ordering the execution of perpetrators of this crime.

Decree no. 12 ordered the punishment of sheikhs sheltering farmers escaping from another village without reporting them with whipping 100 lashes and a fine of 100 piasters paid to the informant reporting the fugitive.

Decree no. 13 stated that Head of Tanta police station sent to Pasha informing him that two farmers escaped and hid at Bedouin sheikh's household dressed as Bedouins. Muhammad Ali figured that the previous orders addressing village sheikhs may not be deterrent to Bedouins. Therefore, he issued an order to all head of security in the region to arrest any Bedouin sheltering a farmer and send him to prison as well as tribe sheikh, in addition to returning the farmer to his

village. Additionally, Muhammad Ali ordered head of Tanta police station to send sheikh harboring the farmer to life imprisonment.

Decree no. 14 stated that section head has offered a bribe to an "entourage" member. Hence, Muhammad Ali has ordered to conduct an investigation and punish other officials committing these actions with hard labor for period ranging from 1-3 years. Decree no. 15 is an ad hoc decree concerning negligence of engineers regarding the irrigation system and dam maintenance punishable by execution.

Decree no. 16 is related to tax collection and Muhammad Ali has ordered governor of *Sharqia* to investigate there has been a delay in collection in his jurisdiction and punishing them by whipping 150 lashes in addition to imprisonment of sheikhs as an example. Head of security in Minya received a warning from Muhammad Ali that he will be severely punish along with, section head, governors and sheikhs if they do not perform their duties appropriately.

The fifth part covers complaints submitted to council of judgments and they include grievances and complaints against state officials such as a complaint filed by a bailiff of a shariah court against the judge or a complaint of a mother whose single son was forcibly recruited in the army. At the time of FR issuance, case reviews or grievances was a key mean provided by the new government to facilitate matters. Below is a review of these complaints.

No. 17 reflects the extent of concern towards complaints by the government with regard to responding to them and restoring rights to farmers. It states that *Qalyubia* was reprimanded by Muhammad Ali for negligence in investigating several complaints submitted by farmers against their 'muta'ahed and they have filed four complaints without any response. Therefore,

Muhammad Ali issued a decree to conduct an investigation in these complaints and clarify whether farmers had any rights or not.

The following complaint was filed by farmers to the council of judgments against Muhammad Mansi, Mayor of Dahshour. In 1249, a sand island was added to his jurisdiction, and then submerged by the Nile. The sheikhs were committed to pay land tax for their land including the sand island for several years without planting. Then island has reappeared and sheikhs requested to replace submerged land. However, the directorate did not handed over by the island and the mayor of Dahshur, proved half of it under his jurisdiction and the other half to other individuals. The complainants seek to prevent those mentioned from taking the island.

As for the injustice of sheikhs in distribution of works, it was covered by complaint No. 19, where some farmers filed a complaint against their sheikhs. Sheikhs force only poor villagers to perform public works and skipping their relatives as well as taking wages of works away to themselves. Therefore, they request an investigation in this matter. Complaint No. 20 was filed by an elderly farmer against his sheikh who took his monthly stipend of 125 piasters in return for performing public work, and also he had a buffalo purchased by 1000 piasters sold by the aforementioned sheikh for 500 piasters, despite he did not have a debt to the state and requesting an investigation in his claim.

Complaint No. 21 was filed by a bailiff of a Shariah court against the judge which was tackled in the FR in article 58 on error by the judge and methods for tackling it. Abu al-waqf, the bailiff, submitted a grievance regarding hiring another bailiff without a valid reason due to his lack of approval regarding collecting more the prescribed fees from litigants. The bailiff stated that a

deputy in the region lured the judge to collect more and he clarified their wrongdoings and request further inspection in his statement.

Complaint no. 22 is about a mother suffering the forcible recruitment of her single son after refusing to bribe the sheikh who, afterwards, claimed that he is an escapee and ordered his imprisonment for three month followed by forcible recruitment in the army. Hence, the mother requested justice towards her son. This complaint covers injustice of state officials in illegal recruitment which was tackled by the FR.

The final complaint, no. 23, covers family matters where a father complains to the council of judgments the ingratitude of his son and wishes if the council could look into it.

After reviewing different kinds of cases we need to analyze different aspects in order to identify the application of the FR which is the goal of the chapter. Accordingly, we need to discuss the legal frame work and the implementation of FR and that the next two chapters will highlight.

6.3 The legal framework of the cases in records

This section will highlight the legal framework for cases in records during issuance of the FR.

It is helpful to mention that the NL enacted in Egypt in 1525 states that the governor has no judicial powers and that these functions are exclusively the responsibility of the judge¹² and that state officials, as well as Agha- the police chief of Cairo - and the accountant were subject to the jurisdiction of the judge. State officials' tasks were limited catching criminals and referring them to competent judge for the necessary punishment (Farahat, 1988:20). Therefore, the judge used

¹²NL in Egypt, translated and reviewed by Ahmed Fouad Mutwaly, Dar Hany – Cairo 1986 Ps 34, 82. Miachel Wantner: Egyptian society under the ottoman empire, translated by Ibrahim Mohamed Ibrahim, General Egyptian Book Authority, Cairo – 2001 p 340.

to hear criminal cases and issue his judgment. With regard to judicial authority for state officials, it was not more than whipping or imprisonment of farmers due to refusing to pay tax or escaping from performing the military services which is deemed a discretionary punishment¹³.

Regarding the time of FR issuance, records of shariah courts during the first period in Mohamed Ali era indicate that the judge heard criminal lawsuits and does not show any role of state officials. Even state officials were subject to sentences of shariah judges with regard to farmers' claims and grievances towards governors (Helal 2011:20).

With regards to the legal framework, some cases followed three basic rules: interrogation, evidence and swearing oath. The judge started with questioning litigants, then requested plaintiffs to provide evidence supporting their claim and in case of incapability to provide such, the defendant was ordered to swear the oath against plaintiff's claims. Another element is presence of all defendants, and in case of absence of any of them to attend sessions the judge would dismiss the case. However, some cases, like the third case, did not include investigation and the judge sufficed hearing the case filed by a sheikh from Al-Azhar.

In order to get the evidence and to carry out investigation the judge needs assistants, namely, witnesses. They used to receive litigants, prepare the case, attend trial sessions, record and document legal actions, and carry out administrative actions of testimony and investigation in proceedings of the case.

¹³ *tEzyr*: undefined penalty juristically approved addressing crimes without definite *AlHd*/or Kafara and legislated to deter and rehabilitate criminals. *tEzyr* is applicable by different penalties chosen by the ruler at his discretion such as whipping, imprisonment and exile. Some scholars permit killing of spies, novelty preacher. Islamic encyclopedia 1422 AH / 2001 AD P 395 - 396

It is clear from the aforementioned that the work of witnesses was outside the traditional framework, which usually revolves around testifying their knowledge about the facts of the case. The wide range of activities for witnesses was the fruit of developments related to the Islamic judicial system in general and the Egyptian judiciary in particular. It is known that testimony or evidence is the first evidence adopted in the Islamic justice system, and written evidence was not considered valid solely in a case as the defendant may dismiss it. In such case, evidence provided was disregarded unless supported by, at least, two witnesses verifying it. This applies to officials and private documents (Farahat, 1988:78).

With regard to lawsuits, the responsibility of a judge would start when a claimant files a lawsuit. Then the witness hears and documents his claim in minute detail to be presented to the judge, resembling a reporting judge. Lane states that in a following period the witness was authorized to arbitrate in disputes if it was an easy case regarding something simple. In this manner, the witness prevents piling of cases before the judges except for significant cases. During the course of lawsuits, witnesses aided judges in investigating the case outside courtroom in civil as well as criminal cases.

Witnesses were assigned to investigate occurrence of a violation or a crime and its perpetrator and are entitled to question the suspect as well as the authority to investigate.

Witnesses' report was always the deciding factor in disputes for courts to rely on and build its sentence whether by acquittal or conviction⁷. It was previously referred in the penalties chapter, that some articles required investigation before application of penalty.

When the court is finished examining the case and collecting the evidence to issue a sentence, this initiates a new task for the witnesses to issue a legal argument for requesting litigants. The statement begins by mentioning name of the judge who considered and adjudicated the case. Then the statements proceeds with the content, reply of defendant, testimony and sentence, concluding with a signature of two witnesses, at lease, as in (Farahat 1988:80,79). Administratively, the witness fell under head of court, supreme judge, and head of judges and the ruler of Egypt as a head of all government officials in Egypt.

In the fourth claim, the lawsuit was referred to the supreme council that depended, in its sentence, on a report submitted to it to confirm validity of the claim. Hence, judicial bodies would rely on either investigation, as in previous articles, or submitted reports.

While the cases with no final judgment, they were referred from courts and judicial bodies to mufti for adjudication. Upon reviewing these cases, we find that mufti's approach was concise and each fatwa had a separate title. We also find that the scholar stated conditional words such as 'If this was the case,...' or 'As long as the case as mentioned...' referring to the possibility that litigants could withhold information and his fatwa was issued as per available information.

Mufti is Islamic scholars specialized in giving their juristic opinion in unclear cases. Al-ifta' was known in Egypt prior to the Ottoman ruling. During the Mamluk era, there were four muftis for each of the main schools.

Muftis had two types of responsibilities in their general framework of: First, general Fatwa that includes generating Islamic advice for Muslims in issues of doctrine, matters of worship and transactions and the second is judicial fatwa in matters of disputes.

We find many articles of the FR stipulate on referring the matter to shariah to issue suitable judgment, as previously stated, such as /*AlHd*/ crime including murder in article 4, 5 and 8. The same goes for family disputes such as quarrel between husband and a wife or between two women leading to abortion, rape of a girl or abandonment of marital household and method of return for a sum of money or concluding of marriage contract without consent of woman's guardian.

Courts settled judicial disputes for cases with no clear juristic opinion. In some cases, the court requests from plaintiff to ask the documented opinion of a Mufti and submit it to court. In other cases, the court requests attendance of a mufti in its session to ask him his opinions. Theoretically, mufti's opinion was advisory not binding to the judge. In fact, the court followed advices of mufti and issued sentences approving it.

Another form of judicial bodies was state officials who would receive a case and issue their sentence according to investigation and examination of the claim. If the issue repeated, then the official, governor, would seek help from a fact finding committee that would review the issue and reasons for repetition. In the fifth lawsuit, an additional mean was used to verify the claim; records and registries that indicated that the number of individuals complaining have increased in following times which urged the official to change his judgement. Consultation and deliberation between the governor and other state officials before issuing the judgement was also employed. In the ninth case, we notice that the governor conducted an investigation, issued a sentence then delivered it to plaintiff through a courier.

Eventually, we notice that state officials issue their sentence after investigation and verification of claim.

With regard to the fourth section that is concerned with sentences issued by Mohamed Ali in the form of decrees, we find that some of them came through a direct orders while others required investigation before issuing a sentence.

It is safe to conclude that judges as well as state officials depended, in their sentences, on investigation, evidence and swearing the oath as well as examining the claim before adjudication. Additionally, issuance of sentence could be carried out by Muftis, judge, officials, Mohamed Ali in the form of decrees.

6.4 Application of the FR

In the previous sections various cases were reviewed and the legal framework for cases in records during issuance of the FR. This section covers actual application of the FRs as per the records through connecting cases in records with articles of the FR. This section will investigate whether the records contained the same themes in the FR, in order to discover the actual application in the Egyptian society.

At first, the FR focused, in many of its articles, on protecting farmers from the injustice of state officials and misuse of power. Therefore, records included sentences of dismissing section heads due to collecting more tax than the assigned and installing new heads as a result of misusing their powers in imposing additional tax which constitutes injustice to farmers.

Another sentence issued by judges' council indicated replacing of sheikhs with others due to imposing more tax than the assigned and restores tax to its previous state. Moreover, a decree was issued by a governor removing /\$yx AIHSp/for his repetitive assault on farmers. In a different case, a directorate head prevented collecting tax twice from the same village, as the

government representative neglected their pleas for help in renovating the village in return for 'funds' paid for crops.

FR has incriminated the actions of sheikhs resulting in obstruction of cultivating the land. Another significant issue was sending farmers to perform public according to their turn; hence, the FR incriminated not dispatching the chosen farmers. Also, the FR incriminated hiring farmers without paying them and the records indicated this and stated that farmers had the right to file a grievance against their sheikhs for taking only the poor to public works and leaving their relatives as well as taking over their wages.

Additionally, the FR incriminated infringement of property. For example, if a sheikh sold livestock of a farmer for a lower price, he will be punished by paying the difference in price. Also, if a sheikh forcibly used a camel of farmer to transfer his crops, he shall be punished by taking double the fees according to the region and paid to the owner. Records indicate occurrence of the same issue when a farmer filed a complaint against the sheikh who sold his buffalo for 500 piasters, when he purchased it for 1000 piasters. Despite he did not owe any debts to the state. This is an indication that the FR had an influence in restoring rights of farmers in society in case of injustices through complaints.

The FR has also discussed escape of farmers from public works due to its abundance and lack of resting opportunities leading to their demise. Therefore, farmers have fled repeatedly to their villages where they were caught and sent back again and again. If farmers did not succeed in escaping, they would bribe state officials to mitigate their works and sheikhs as well as government representatives would divide the bribes among them. The FR has incriminated these actions and protected their rights which reflected on complaints before the Council of Judgments

such as the one filed by a mother whose only son has been recruited after refusing to pay a bribe for district sheikh.

The FR determined the tasks of state officials and prioritized recording to prevent fraud and forgery. A fatwa was issued to remove minister of awqaf due to not issuing an annual record of revenues and expenses, stamped by the minister, supervisor and regional scholars. Also, Muhammad Ali sentenced a hard labor imprisonment of one- three years for offering bribe to a member of the entourage.

The FR included crimes with social impact related with Bedouins deliberately releasing their livestock in farmers' land resulting in devastation of these land. FR solved this issue through measuring devastated land and compensating farmers for it. In accordance with this, Muhammad Ali issued an order to head of Fayoum police force to punish Bedouins destroying crops of farmers by paying five-times the price of crops as well as confiscating the livestock.

Records indicated how the FR tackled the issue of farmers seeking shelter in Bedouin territory to avoid paying tax and stated that Mohamed Ali issued a decree to all regional heads to arrest any Bedouin proven to be sheltering escaping farmers as well as Bedouin sheikhs and send them to Alexandria prison and return farmers to their village. Moreover, head of Tanta police station sentenced a life imprisonment of a sheikh sheltering a farmer.

Moving to another land related topic, the FR incriminated negligence of sheikhs in providing land for capable farmers. FR asserted on assigning farmers a piece of land and prescribed a penalty for sheikhs who do not comply. Therefore, the land have become a burden on farmers who had to pay excessive tax. Farmers tried to rid of assigned land in various cases such as

exemption of sheikh Al-Azhar who claimed that his relatives' inability to cultivate the land. Council of Judgments reviewed his request and adjudicated the exemption.

With regard to collecting tax, the FR greatly cared for it as some articles incriminated evading paying it. Other articles determined tasks of employees in collecting tax as per orders from the central administration and avoiding injustice or increase. For example, Muhammad Ali ordered head of Sharqia to collect tax and check if there are villages under his jurisdiction that are late in payment and punish them as well as warn section heads and local governors if they do not perform their job properly.

Due to the efforts of Muhammad Ali to change the agricultural system in Egypt by the second half of the nineteenth century, irrigation problems have arisen. There was the need to dredge more tunnels to deliver water to area distant from the Nile and the FR deemed that a main topic.

Negligence in the irrigation was a punishable crime, as per Mohamed Ali's orders, by execution of engineers responsible for irrigation and maintenance of dams.

It is useful to mention that 'The Ottoman Courts', Heath states that the penalization of crimes was codified in 1533 under the rule of Suleiman Al-Kanuni. If we look at NL of Egypt (1525) issued by Ibrahim Pasha, there are references to people of corruption, without defining them, who were spread everywhere and handled by state officials not shariah judges. The word 'politics' was commonly referred to the penalty of murder outside the framework of Islamic shariah. Killing in Islamic shariah can be as a */AlHd/* or retribution. As */AlHd/*, it is a penalty for married adultery, apostasy and retribution as in 'Whoever kills shall be killed'. Therefore, killing outside the */AlHd/* framework was called "Political Killing" and was frequently used by state official, not the shariah judge.

The FR incriminated negligence of agricultural land as Mohamed Ali ordered head of Faoyum police station to check land in his region and collect land tax for barren land from responsible sheikhs and section heads.

FR included protective measures in favor of farmers who were granted the right to file complaints and grievances. The government has permitted farmers to file complaints in case of transgression from state officials. The current study has shed lights on some of these complaints which reflect consideration towards farmers concerns. For instance, Muhammad Ali reprimanded governor of *Qalyubia* for negligence in responding to complaints, four, filed repeatedly by farmers against their muta'ahed. Therefore, Muhammad Ali ordered the need to investigate the authenticity of their allegations.

FR incriminated the actions of */Syx Abld/* in enabling some farmers to evade tax in return for a bribe or making them work in his land for no fee. Another incriminated action is sheltering of escaped farmers, from paying tax, and responsibility in this case falls on the sheikh not the farmer as he is the perpetrator. The same goes for sheltering a farmer from an escaped farmer from another village which is punishable by 100 lashes and a fine of 100 piasters paid to the informant in accordance with the regulations.

An important issue discussed in the FR is preventing corruption of judges in order to preserve the judiciary which constitutes the basis of FR application, justly. This was reflected in complaint filed by a bailiff of a shariah court against the judge indicating the judge's violations and wishes due considerations for his allegations.

FR concerned with the social aspect in farmer's life. Despite the FR was issued to regulate the agricultural sector, it also discussed the individual aspect as it included some articles addressing family disputes. Complaints confirmed that in complaint no. 23 in which a father sought help from council of judgments against ingratitude of his son.

The government determined tax on livestock; 20 piasters for buffaloes and cows for keeping and 70 piasters if they are sold to butchers condition that their leather is returned to the government. Slaughter of sick animals was incriminated and records confirmed that as Muhammad Ali ordered beating of those having unregistered slaughter by 500 hits by a bamboo stick, in addition to sending al-qassab to Alexandria prison and sheikh to life imprisonment.

In conclusion, records are indicating the actual application of the FR in the Egyptian society, as the records contained the same themes in the FR. For example, the FR incriminated negligence in cultivating the land, tax evasion, trespassing others' properties, misuse of power, escaping from public services and family disputes. Therefore, the records confirmed the criminal nature of these offences through issuing punishments.

Chapter Seven. Conclusion

Eventually, the current thesis will be concluded by attempting to fill the gap of knowledge. First, the current study attempted to discuss some agricultural cases heard by shariah courts at the time of NL issuance till Muhammad Ali's era and enacting of FR. This is to investigate the application of NLs and how they differ from FR.

The study pointed out that, NLs consisted of two categories of crimes; namely, disputes among individuals whom were to be referred to shariah courts, and crimes against the government, which were adjudicated by politicians. Moreover, records indicate that */tEzyl/* penalties were defined and determined by officials such as */AlkA\$f/*, minister of treasury and the ruler. These officials enjoyed sovereignty to determine a corresponding penalty for each crime and pursue with application. Therefore, role of judiciary was limited to adjudicating acquittal or conviction, then referring the case to rural officials.

Conversely, FR was completely different as it consisted of specific penalties for each crime. With regard to responsibilities of judges at the time of FR, they were concerned with court ruling aside from other tasks prescribed in NLs such as supervising agricultural land, receiving seeds and preserving security...etc. NLs and cases from shariah courts were applied in the light of the particular agriculture system, which changed in the era of Muhammad Ali, hence, the laws changed. This indicates the affect of economic and political factors on laws.

Second, the current thesis presented thorough analysis for the content of FR. In chapter 2, the thesis provided analysis for offences in the FR and the objective from incriminating these actions: achieving justice, public interest, and farmers' rights. In this chapter most of FR articles were analyzed to identify incriminated action and reasons for doing so. FR articles were divided

into 7 categories according to crimes. For example, FR incriminated some actions to impose a certain system in the agricultural sector and majority of offences were actions incriminated to protect the government's interests. On the other hand, other incriminated actions were not in favor of farmers' interest.

Additionally, there were crimes incriminated directly related to collecting tax such as crimes against tax evasion or indirectly like incriminating negligence of cultivating the land, and escaping from public services, which prevent cultivating the land and generating tax. The government's desire to generate huge financial resources to implement its agenda resulted in incrimination of any action leading to tax evasion. Moreover, the central government system prescribed by Muhammad Ali limited the responsibilities of state officials resulting in incrimination of abuse of power.

Third, identifying crimes in FR were not sufficient to answer the research question. Accordingly, the thesis explored the legal content in FR represented in penalties corresponding to offences. The aim of this legal analysis is to recognize whether some of the penalties were excessive and aggressive or not. Therefore, it is crucial to identify the penalties and their level of appropriateness to the offense.

Upon analyzing political, economic and social factors, we could conclude that crimes stated by the FR were social phenomenon originated in Egyptian society. Therefore, the legal analysis is not sufficient and we need to consider social and economic factors. Moreover, the analysis attempts to discover the intent and objectives of legislation for regulations issuance.

Before issuance of the FR, and at the beginning of Mohamed Ali's era, shariah courts adjudicated in criminal cases. However, new political issues including Muhammad Ali's desire to impose a

centralized state and changing the agricultural system through cultivating crops determined by the state, avoid abandoning land, paying tax and abiding by forcible military recruitment. This led to emergence of new lawsuits heard by shariah judges. Meanwhile, state officials had little knowledge of /tEzryr/ discretionary punishments leading to imposition of penalties not corresponding to crimes, however, other state officials would impose less severe punishments. This required determination of penalties for each crime and binding state officials to comply. Thus, it was necessary to issue new legislations such as FR that meets new changes.

Finally, it is imperative to review implementation of FR by considering lawsuits from the registry to discover how it was implemented. However, the current study could not reveal the extent of influence of FR on judicial sentences which could be tackled by future studies to fill the gap and respond to relevant research questions such as; have sentence after the FR differed from before? Have penalties or lawsuits submitted before courts were influenced?

Eventually, Serag stated that we have to differentiate between just and unjust policy, as the former will achieve public interest and fairness. Hence, laws and policies not achieving justice require reconsideration and amendment to avoid its negative impact on society.

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Appendix :1
“Nama law 1525” /Qanuun Naama/ (henceforth NL)¹⁴
Chosen related articles to FR

مهام الكشّاف

(8) الخدمة المطلوبة من طائفه الكشاف هذه هي ،أولاً: الترميم المناسب في موعده وموسمه للجسور وعمل "الجرافه" (تطهير القنوات) في الولاية التي في كشوفيه كل واحد منهم وذلك لكي لا يختل جسر او تترك جرافه (تطمس قناه) علي ان ينبهوا شيوخ القرى التي تحت تصرفهم واهاليها الي ترميم وتعمير جسور بلادهم كما ينبغي. وينبغي عليهم أن يسعوا ويهتموا بذلك لكي لا تكون هناك ارض شراق بسبب عدم تعمير الجسور او عمل الجرافه (تطهير القنوات) .
تابع(8) و كلما فاض النيل المبارك و بلغ الذروة ، تؤمر طائفي الفلاحين بأكملها بتخضير الأرض التي غمرتها المياه كلها بالزراعة . و ذلك لكي لا تبور أرض زراعية بسبب عدم إعداد الأراضي التي غمرتها المياه أو الإهمال فيها .
أما اذا اصيبت قريه في كشوفيه أحدهم بالخراب، فعليه ان يجد ويجتهد لتعميرها بكل الطرق الممكنه . ويجب ان تتخذ التدابير والاحتياطات الاكثر مرونة لئلا تصاب قريه عامره بالخراب
و على الكشاف جميعاً أن يحصلوا تقاسيماً للأراضي تحصيلاً كاملاً على ضوء (دفاتر الأرتفاع) ، كما كان متبعاً زمن قايتباي ويرسلوا ما بعهدتهم و إلتزامتهم بالخرينة العامرة . و ليظل هذا القانون معمولاً به على ما هو عليه حالياً . و ينبغي على الكشاف أن يأمرؤا بتجهيز كل الأراضي الجيدة التي تقع في البلاد التي تحت تصرفهم ، و يقدموا عنها التقسيط و الخراج كما هو مدون في الدفاتر مهما كان فيما عدا الأراضي الشراقي ، و إذ تعلل أحدهم بوجود نقص في هذا الشأن ، و جب على أمير الأمراء تحصيل الأموال الناقصة من أملاك الكاشف و أمواله بمعرفة ناظر الأموال و إلقائه في السجن ، و تعيين شخص موثوق فيه مكانه ، ثم عرض الأمر على باب السعادة .

(9) و عليه فإن لم تحصل الأموال السلطانية بأكملها و حدث تقصير مفاجئ أو حدث إهمال أدى إلى عدم تجهيز بعض الأراضي التي غمرتها المياه أو إصلاح الجسور أو عمل الجرافة (تطهير القنوات) و العياد بالله ، و نتج عن ذلك تشرق في الأراضي ، أو حدث خراب في بعض القرى من أثر الظلم ، لا يترك أمير الأمراء و ناظر الأموال فرصة الإفلات للكاشف الذي تحطمت لديه الجسور أو الذي تنطوى تحت كشوفيته قرية أصحاب الخراب ، و يوقعان عليه أشد العقوبات و هي الإعدام ، بعد أخذ تعويض كامل منه عن هذا الضرر أو النقص .
وإذا و جب إحلال بديل في الكشوفيه مكان أحد الكشاف لتوقيع عقوبة الاعدام عليه أو لقيامه ببعض التقصير في الخدمة أو لسبب اخر ، فعلي أمين الأمراء و ناظر الأموال ان يعينا مكانه رجلاً قادراً يتصف بالكفاءة و يتعهد بالخدمة ، ثم يعرض الامر علي عتبه السعادة لطلب براءة.

إذا سعى كل كاشف و اهتم بأداء الخدمات السلطانية التي عهد إليه بها كما ينبغي ، و إذا كان عظيم الكفاءة حسن الأقدام في تحصيل الأموال السلطانية التي في كشوفيته بأكملها ، و إذا ظهر منه الجد و الاجتهاد البالغ في تعمير الممالك المحمية ، فعلى أمير الأمراء أن يوليّه برعايته ، و يعرض الأمر على العتبه العليا لكي يكون مرعياً بأنواع العناية السلطانية و أصناف الرعاية .

(10) و في عهد قايتباي كان الكشاف يأخذون حملاً من كل واحد من طائفة الفلاحين في كل البلاد . و الآن تخطوا هذا الأسلوب و تعدوه ، فربما لم يقنع أحد منهم برأس واحد وأخذ الأغنام التي تعتبر أهم أسس الحياة لدى الفلاحين . و بسبب طلب الزيادة تظلم الرعايا و أظهر السخط و عرضوا طلب الأمر . صدر أمرى الشريف مستحيل التحريف ، في هذا الخصوص ينص علي الا يؤخذ من بعد خروف او حمل بدعوي الضيافه ، وإن لزم الامر يدفع في مقابل ذلك في كل قريه (عشر بارات) أي ما يعادل عشرين عثمانياً ولا يدفع أكثر من ذلك. ومن لم يزدجر بعد هذا التنبيه وأخذ حملاً أو خروفاً، فعلى أمير الأمراء أن يوقع على الكاشف أشد العقاب بمعرفة ناظر الأموال ، و إذا لزم الأمر يعزل من منصبه و يعرض الأمر على باب السعادة .
و تحصل رسوم الكشوفيه ايا كانت طبقاً للقانون المذكور، و يأخذ الكاشف راتبه المحدد منها بموجب البراءة، و يسلم ما بقي إلي الخزينة العامرة. و باستثناء ذلك تجمع الرسوم المحددة في القانون الذي كان معمولاً به في عهد قايتباي لترميم الجسور وعمل الجرافة. و تصرف هذه الرسوم المذكورة التي تجمع علي ترميم الجسور وعمل الجرافة. و ما يتبقي منها يسلمه الكاشف للخزينة ، علي ان يسجل ما جمعه و ما صرفه مع مفرداته في دفتر .

¹⁴ An authorized translated and reviewed copy is by Ahmed Fouad Mutwally (1977).

(11) و إذا فاض النيل العظيم و طغت الجرافة (طمست القنوات) و لم تكف الرسوم المذكورة بتطهيرها ، تحملت طائفة الفلاحين هذه الرسوم بناءً على القانون الذي كان سائداً في عهد قايتباي . و إذا كان من الضروري مساعدة الفلاحين بأموال السلطنة ، تتصرف على التطهير و الترميم من الخزينة . و بالإضافة إلى ذلك يأخذ الكشاف أجرة من المديونين من أجل لإصلاح الجسور ، و إذا لم توف بهذه الخدمة حقها كما ينبغي زادت المضرة ... و إذا أخذت تجرى الصيانة كما ينبغي لكي تكون في موضعها .

(12) و ينبغي على الكشاف أن يحفظوا البلاد و يحرسوها من شر البدو و العصاة و عدوانهم . و إذا حدث أي نوع من العصيان من الأعراب البدو أو عدوان أو طغيان على البلاد منهم ، فلا تترك لهم فرصة الأفلات ، و من يقبض عليه منهم تحز رأسه ، و تؤول ملكية حصانه و سائر أسبابه و أمتعته للشخص الذي حز رأسه . و إذا استلزم الأمر ضرب طائفة أهل الفساد الذين يثيرون الشعب ، فعلى الكاشف أن يخبر أمير الأمراء سراً ، ثم يضربهم بعد استئذانه و يقطع دابر المفسدين . و من يعثر عليه حياً منهم يسلم لأمر الأمراء ، و يسلب ماله و أغنامه و يكون غنيمة للعساكر . و إذا ظهر من طائفة الأعراب طمع في مال خاصة ، نفذ فيها القتل دون ذنب قبل أن يظهروا منها العصيان و الفساد ، و تتخذ تتدابير الحيلة و الحذر منها ، فضلاً عن سلبها مالها و أغنامها .

(13) و إذا استحق أحد من طائفة الفلاحين التجريم أو العقاب لظهور شره و فساده حكم الكاشف بعد الرجوع إلى القاضي – بتجريم مثل هؤلاء بقدر ما يستحقون .. و عليه أن يؤدي و يعاقب الذين يستحقون العقاب منهم بقدر ما اقترفت أيديهم . و إذا وجد ورثة لفلاح قتل ، لا تضم أملاكه و أمواله إلى الميرى ، بل تسلم لورثته . و لا تنسب جريمة دون وجه حق لفلاح دون الرجوع إلى القاضي و لا يعتدي أحد عليه أو يظلمه . إذا أخذت خيانه حدثت علي أنها جريمة ، فإن أمري الحالي واجب الامتثال يقتضي بأن تعد ضعف ما هو متبع في جرائم ولاية الروم . و لا يخذ بشئ أكثر من ذلك إن كانت هناك رغبة في ذلك . و تطلب صورة القانون المعمول به في ولاية الروم ، لتحفظ صورة منها في ديوان مصر ، و ترسل صورة أخرى لكل قاض . و بعد أن تدون في سجلاتهم ، يصدر الأمر بالتنبيه و التوعيه في الولاية التي تتبع مجلس القضاء لكيلا يؤخذ بأي شئ مخالف أو مغاير لهذا القانون و لا يحدث تعد أو تجاوز . و إذا وجد ورثة لفلاح قتل ، لا تضم أمواله و أملاكه إلى الميرى ، بل تسلم لورثته . و لا تنسب جريمة دون وجه حق لفلاح دون الرجوع إلى القاضي و لا يعتدي أحد عليه أو يظلمه . و عندما كان أحداً من طائفة الفلاحين قديماً يرتكب إثماً ، ثم يحكم ببراءته بعد مدة و ترفع خصومته و يزول سبب طرده ، كان الكشاف يعودون فيقبضون عليه و يوقعون عليه جميع أنواع العقوبات و الإضطهاد أخذاً بجريمته ليس إلا . و هذا ممنوع بناء على أمرى السلطاني . و ينبغي التنبيه على القضاة أيضاً بخصوص ذلك ، لكيلا يضغوا أحداً في هذا الموضع أو يظلموا الرعايا و من ثم فإن لم يتوقف ما كان يحدث بعد هذا التنبيه ، و أحيا الكاشف القضايا التي سبق أن فصل فيها و حركها مرة أخرى طمعاً في المال خاصة ، فعلى القاضي أن يعرض الأمر على أمير الأمراء لكي يوقع العقاب على الكاشف بعد رد الحقوق التي أخذت ظلماً إلى صاحبها .

(14) و محظور إرسال طائفة الفلاحين و استدعاؤها ، و ممنوع حجزها في منازلها . فينبغي أن يتوقف إرسال أحد من طائفي الفلاحين الذين تضمهم كشوفية الكشاف – و استدعاؤها أو حجزه في منزله . كلما شرع أحد في إرساله ، فعليه أن يسلمه إلى الكاشف . و إذا حدث استدعاء له ، يعرض الأمر على أمير الأمراء ، لكي يبعث بها لحراسة مخزن الأسلحة العامر . و من يرسل فلاحاً بعد هذا التنبيه ، يجرى تأديبه . أما إذا تم إرساله أو استدعاؤه أو حجزه غصباً ، فتعدى عليه أحد دون وجه حق ، تجرى الاستعدادات القصوى لكيلا تشمنز قلوب الرعايا ، و تتخذ الاحتياطات من الأوضاع التي تدعو لحدوث فتنة مفاجئة .

أحوال مشايخ العربان

(15) و مشايخ العربان كالكشاف أيضاً عليهم أن يجدوا أو يجتهدوا في تعمير البلاد و عليهم أن يأمرؤ الفلاحين جميعاً أن يخضروا الأراضي التي تغمرها المياه و المزارع التي تضمها شياخاتهم و لزاماً عليهم تعمير القرى التي يصيبها الخراب بالطريقة الممكنة في تعميرها أي كانت . و عليهم أن يتجنبوا التصرف بطريقة تؤدي إلى تخريب القرى العامرة . و يهتموا بتعمير الجسور و ترميمها و أعمال الجرافة التي تضمها شياخاتهم . فإذا وجد أرض شراق أو بور بسبب الإهمال و التكاثر ، و إذا خالفوا أو تساهلوا في أحد الأمور المذكورة ، فعلى الكشاف إذا كان الحكم مائلاً أو عقاباً

تطبيق الأحكام الصادرة وأن يوقع عليهم الجزاء دون خوف بعد الرجوع إلي أمير الأمراء وناظر الأموال. وينبغي على المشايخ أن يودوا الأموال السلطانية التي تضمنها شياخاتهم وتقاسيظهم في محلها وموسمها دون نقص.

ليكن في الحسبان بداية وجوب العمل علي تحضير أراضي الممالك المحروسة عندما يفيض النيل المبارك وتجمع الأموال السلطانية التي في ذمهم بموجب دفاتر الارتفاع بالإضافة الي المحصول الصيفي علي أن يقسم ما جمع أيا كان حجمه إلي اثني عشر قسماً. ويسلم إلي الخزينة العامرة دون انتقاص قسط الشهر في نهايته بحساب اليوم مهما كان العجز في كل شهر. ومن الجائز التأخير والتخلف يوماً واحداً في نهاية الشهر. و عدا تسليم قسط كل شهر بكامله شهراً بعد شهر، يسلم المحصول الصيفي أيضاً إلي الخزينة العامرة في موسمه بالتمام والكمال بعد الرجوع إلي ناظر الأموال والأمين.

(16) و يؤخذ بقانون قايتباي الخاص برسوم الشياخة أيضاً، و لا يصح تجاوزه. و يجب أن يصحب مشايخ العربان معهم عندما يتجولون في البلاد من تكون له ضرورة قسوى و أهمية بالغة من أفراد جماعة العربان، لعدم تحميل الفلاحين كثيراً من المأكولات و المشروبات أو إرهابهم و إزعاجهم....

وينبغي عليهم (مشايخ العربان) ألا يخفوا أحداً من المفسدين والأشقياء من طائفة الأعراب لديهم أو يوطنوه. ولا يصح أن يحتفظوا عندهم بشخص من هؤلاء علي أنه واحد من طائفة العبيد علي الإطلاق، وعليهم ألا يتركوا فرصة الإفلات لأحد من هؤلاء الاشرار وأهل الفساد الذين يقعون تحت طائنتهم، بل يقبضوا عليه ويسلموه إلي الكاشف. وإذا كان شخصاً يستحق أن يوقع عليه الجزاء، لا يخلي سبيله، بل يعاقب. وإذا اتضح أنه شخص من ذوي القدر يقيد مع (يربط مع) شخص مستقيم ويرسل إلي أمير الأمراء كي لا يترك له فرصة الإفلات أو يهمله، ويوقع عليه العقاب أيا كان.

(17) و من ثم فإن علمنا بأن أحد المشايخ أخفى عنده شخصاً مفسداً من الأعراب و قدم له الحماية أو أخبره بنية القبض عليه أو سامحه و تهاون معه، أو استجلب عنده واحداً من العبيد المعتقين أو غير المعتقين عرض للبيع، أو أخذ رسوماً من الرعاية أكثر مما كان متبعاً في عهد قايتباي، فإن أمير الأمراء في هذه الحالة لا يترك لمثل هؤلاء من مشايخ العربان فرصة الإفلات، و ينفذ عليهم الأمر السلطاني أيا كان حرصاً علي شرف السلطنة.

(19) و علي مشايخ العربان هؤلاء أن يسلموا الأموال السلطانية التي في حوزتهم إلي أمير الأمراء كل عام، و ينبغي علي الميري أن يمنح كلا منهم خلعه طبقاً للعادة والقانون المتبعين عند تقديم الحسابات. وفضلاً عن ذلك فإن المشايخ الذين لا توجد في عهدتهم تقاسيظ وقد تعودوا لبس القفطان حتي الان، بمنح الميري كل واحد منهم قفطاناً حسب العادة المتبعة. و يقدم (مشايخ العربان) لأمير الأمراء الهدايا لدي ترددهم علي المدينة في أي وقت من الأوقات، ثم يمضون علي ألا يعطي شيئاً من الميري، و يقبل أمير الأمراء ذلك إن أراد.

(20) لا يجوز البتة أن يفرض المشايخ علي الرعايا شيئاً من النقود القليلة أو الكثيرة أو العينيات كهديا لأمير الأمراء من أجل مصلحة. و من ثم فإن علمنا بأنهم أخذوا شيئاً من طائفة الفلاحين، و جب إنزال العقوبة عليهم.

أحوال العمال

(21) تستدعي طائفة العمال والمباشرين الموجودة حالياً لتمثل أمام ناظر الأموال و (أمين البلد)، وتبين ما بقي لديهم من محصول سنة 929هـ وما جمعته من محصول سنة 930 هـ، وما سلمته مما جمعته، وما بقي لديها. وإذا ظهر في حوزتهم شيء بعد تقديمهم الحسابات، يحصل منهم دون نقص، و لا تترك عليهم اقجه واحدة أو أي شيء. وإذا تعلل أحدهم وأظهر العجز، صودرت أملاكه وأمواله. وإذا لم تكف وكان له كفيل، تحصل من كفيله. وإذا لم توف (بالمطلوب)، يسام العامل سوء العذاب. وإذا ثبت أن لديه شيئاً مخيفاً ومستوراً، واعترف به، يؤخذ منه ويسلم إلي الخزينة العامرة. ويأمر أمير الأمراء بصلب العامل بمعرفة ناظر الأموال إذا تجرأ وتجاسر علي اختلاس أموال السلطنة وإخفائها. وإذا أخذ عامل رشوة من فلاح من خراج الأراضي في السنتين المذكورتين فأدي ذلك إلي تقصيره نتيجة لتأخيره أو لشيء آخر وبقي عليه ما يستوجب الدفع، عوقب بعد تعويض الأموال السلطانية. وينبغي أن يكون هناك فاصل بين سنتي 929، 930 هـ لتنتقطع العلاقة بينهما كلية.

(22) و إذا لم يف عامل بديونه في نهاية السنة أو نهاية التحويل، لا يكلفونه بعمل جديد علي الإطلاق. و يقومون باستيفاء ديونه من أمواله و أملاكه. و إذا لم تف و كان له كفلاء، حصلت منهم الديون. و إذا لم تف أموالهم بالمطلوب يوضع العامل

في السجن المؤبد . و إن أدى مال السلطنة كاملاً و كان شخصاً صالحاً ، رفعت عنه المقاطعة و كلف بمزاولة عمل جديد بعد أن يتقدم بمن يضمنه .

تكتب مذكرات تفصيلية بحسب (دفاتر الارتفاع) عما تحويه كل قرية من الأموال السلطانية ورسوم الكشوفية ورسوم الشياخة وأموال الوقف و الرزق و الاملاك، علي أن يوقع عليها أمير الأمراء ثم ناظر الأموال و الأمين و يختتمها .

(23) و تسلم إلى كل أهل قرية مذكرتها ، حتى إذا طلب شخص شيئاً من الرسوم أو المستحقات أكثر مما هو مقيد في المذكرة ، فعليهم أن يصروا على عدم إعطائه شيئاً . و إذا اعتدى عليهم أحد و أخذ شيئاً ظلماً ، فعلى الفلاحين أن يقدموا شكايتهم إلى أمير الأمراء . و بعد أن يرد كل ما أخذه إلى صاحبه ، يعاقبه لأنه لم يطع الأوامر و اعتدى على الفلاحين . و كان بعض الأمناء و الكشاف و سائر مباشرى الأموال يأخذون ما على الفلاحين من الحقوق الشرعية و الرسوم العادية كاملة ، ثم يخفون بعض من هذه الأموال مدعين أنها لا تزال في ذمم الفلاحين ، و يطلبون من الفلاحين البينة إثباتاً لتمام السداد . و لا يعترفون ما يقدمه هؤلاء من شهود ثقة . فكانوا بذلك يرهقون الرعايا و يتسببون في ضياع الأموال . صدر أمرنا الشريف بخصوص هذه المسألة متضمناً العمل بما كان جارياً من قديم الزمان في تلك الديار .

خراج الأراضي

(28) منذ سالف الأيام و سابق السنين و الأعوام و بدء حكم حكام الاسلام و حسبهم الله الملك العلام علي حساب بخمس و عشرين (باره) و كان الفلاحين يدفعون الخراج علي الوجه المذكور و كذلك كان الحال بالنسبة لسائر المقاطعات كما كان الناس جميعاً يتعاملون في بيعهم و شرائهم بنفس الأسلوب . ومع تغيير المرحوم خاير بك لعيار الاقچه التي كانت تضرب في دار الضرب بمصر ، تعذر استقرار سعر العملة و تعددت أسعاره ، و بيعت مأكولات الفلاحين المتعددة و سائر مبيعاتهم علي غير مرادهم ، و طرأ خلل شامل علي أحوال الخراج و معاملات الناس ، فصدر الأمر السلطاني بتصحيح عيار الاقچه و جعلها محددة العيار .

كان الفلاحين يدفعون الخراج علي الوجه المذكور و كان يسرى اعتباراً من العاشر من ذى القعدة سنة 931 هـ بخمس و عشرين ياره بالنسبة لخراج الأراضي كما كان معمولاً به من قديم الزمان و بناءً عليه تطلب الحساب عن كل ذهبي القيمة المذكورة . و من يتمرد أو يعاند أو يسوق الحجج و الاسانيد في هذا الخصوص ، لا يتركه أمير الأمراء بل يأمر بقتله شر قتلة .

وإن اجتمع الأشرار و أظهروا التمرد و العصيان ، جردت عليهم العساكر المنصورة تحت إمرة رجل موثوق فيه . و بعد أن تحصل الأموال السلطانية من أموالهم و أملاكهم يسامون سوء العذاب ثم ينفذ فيهم القتل . و إن كان الأشرار طغيانهم أشد و بغيهم أوفي و فسادهم أعم ، سار عليهم أمير الأمراء بنفسه . و إذا كان من الضروري (لشدة بأسهم) ، عرض الأمر علي الأبواب العالية ، ليعمل بموجب ما يصدر الأمر الشريف بمقتضاه .

و قد قضى حضرة السلطان – حامل الخلافة خلدت خلافته لفرط حبه للرعايا عامة و رأفته بهم – علي البدع الشائعة فأبطل بعض الرسوم المقررة و كفى الرعايا شر الظلم ، فلا تحصل من فلاح رسوم كهذه من بعد . فقد تزايدت و تضاعفت الرسوم المحصلة من الفلاحين و تجاوزت حد الاعتدال ، فألغيت و أبطلت بموجب الأمر السلطاني و كل من يتجاسر علي جمع رسوم أبطلت سواء من بين المشايخ أو الكشاف أو العمال أو الأمناء ، يقوم ناظر الأموال بتفتيشه ، و يرد الحقوق لأصحابها إن ثبت وجودها لدى أحد من هؤلاء ، ثم يعرض الأمر علي أمير الأمراء ليوقع عليه الجزاء الرادع . و لينادي في جميع أرجاء البلاد التي تدفع رسوم تزيد عما كان مقرراً بالامتناع عن دفع هذه الأموال للعمال و المباشرين . و من يتشبث بالعناد أو يتمرد يعرض أمره علي أمير الأمراء لينزل به العقاب بمعرفة ناظر الأموال .

أحوال المساحة

(29) كانت تأخذ من كل قرية أغنام و شعير عند حضور المساح إليها . و قد صدر الأمر السلطاني بإبطال ذلك . فلا تؤخذ أغنام أو شعير لهذا السبب من الرعايا ، و من به حاجة إلى ذلك اشتراه بماله ، و من يتجاوز ذلك يعرض الأمر بمعرفة أمير الأمراء علي الأبواب العالية حالته لكي يوقع عليه الجزاء الذي يستحقه . و إن لوحظ علي بعض المساحين عدم الإستقامة و ظهر طمعهم في رشوة من الفلاحين نظير تكتهم علي بعض الأراضي أثناء مسحها ، يتوقف إرسالهم و يجري التحقق من مقدار أفدنة تلك الولاية في " دفتر الإرتفاع " 29

وبناء عليه يقوم ناظر الأموال بتقدير (مساحة الأراضي) وتحديدتها ، ولا يعتمد علي أقوال العمال أو المباشرين أو الفلاحين بخصوص تحديد الشراقي . وعليه أن يحدد قدرأ صالحاً (من الأراضي) بمساعدة مسلمين عرف عنهم الحياد، ويعهد به إلي عامل ، وعلي هذا يطلب الخراج . ويعطي رسم المساحة للميري.

أحوال الشراقي

(30) عندما يأتي المساحون لمسح البلاد ، فإنهم يتركون الأراضي المرتفعة التي لا سبيل إلي وصول المياه إليها يوماً ولا يمسحونها . ولا تعد هذه الأراضي ضمن الأراضي الشراقي وقد ينبت الكلاً في بعض هذه المساحات ،فتصلح للرعي .ويأتي أهل القرى المجاورة بقطعانهم لكي ترعي ، ويدفعون عن ذلك رسوما وهذه الرسوم توؤل إلي الميري ومن المحتمل أن يغمر الماء بعض الأراضي فتصبح صالحة للزراعة .وإذا لم تغمرها المياه وبقيت فضاء وبعد البحث والاستقصاء عرف أنها ناتجة عن إهمال الجسور أو الجرافة أو التعمير ، تحمل الفلاحون نتيجة الضرر وعوقبوا مع شيوخ البلد .وإن كانت الجسور والجرافة من الخواص السلطانية عرض القاضي والمساح الأمر ، ووقعت الغرامه علي الكاشف أو شيخ العرب ونزل بهما العقاب حسبما يصدر به الأمر .

وأما الأراضي البور فيتقصد ناظر الأموال أحوالها . فإن كان ذلك نتيجة لزيادة الخراج المفروض عليها مما أدى عجز الشخص عن زرعها ، خفض مقدار الخراج و جيء بشخص يلتزم بزراعتها و دفع الرسوم المقررة . و ينبغي الاحتراس من أن يتجاوز التخفيض في الخراج حد الاعتدال لحماية الفلاح، لكيلا يلحق الضرر الفادح بالأموال السلطانية .

أحوال الخالي و البور والخراب

(31) يبنه شيخ العرب والكشاف والعمال والامناء وكل المباشرين علي فلاحى القرى بزراعة كل الأراضي التي اعتادوا زراعتها من قديم الزمان ، وعدم ترك شئ منها خالياً أو بوراً أو خراباً .ومن يتكاسل ويترك الأرض بوراً خالية، يؤخذ منها خراجها كاملاً ، ويقدم للتأديب لكي لا يهمل أو يتكاسل فيما بعد ، فيلحق بالأموال خساراً

ويعد ري الأراضي بكاملها ،تسلم التقاوي للكشاف وشيوخ العربان و عمال البلاد ، ويقوم القضاة والامناء بتوزيعها علي الفلاحين بمحضركي يتمكنوا من تخضير الاطيان السلطانية بكاملها .وبعد اخذ القضاة والامناء التقاوي كامله والغلات يقومان بتحرير محضر عند جبايتها ،ثم يودعانها شون الخاصة

وإذا فاض النيل العظيم ولم تكف التقاوي سلمت للفلاحين التقاوي اللازمة بمحضر ، و حصلت منهم بعد ذلك بمحضر أيضاً .وإن بقيت أرض بدون زراعة ، و بعد التفتيش عليها وجد أن ذلك بسبب عدم تسليم التقاوي للفلاحين وقع الجزاء على الكاشف والشيوخ و العمال .

وإذا غاب صاحب أرض عن أرضه ، بحث عنه شيخ العرب و الكشاف في القرى المجاورة فإن عثروا عليه أعادوه قسراً إلى أرضه و كلفوه بزراعتها . و ينبغي عليهم بذل الجهد لكيلا تترك الأطيان السلطانية خالية . وإن عصاهم احد يوقع عليه الجزاء . و إن لم يتمكنوا من العثور على الغائب كلفوا أحد الموسرين القادرين من أهل القرية يتخضير أرضه البور و حصلوا منه الخراج السلطاني .

وإذا لم يتيسر ذلك ، قام شيخ العرب والعمال من جانبهم بتجهيز لوازم تلك الأرض وزراعتها ، وأدوا عنها الأموال السلطانية المقررة . وإذا طلب من أهل قرية خراج أرض خالية مثل هذه وتم الضغط عليهم وتحميلهم مالا يطيقون، كان ذلك سببا في تشتيت الرعايا . فلتعد (تلك الأرض) أرضاً خالية ، ولا يطلب منهم أي شئ .

وإذا ثبت أثناء القيام المسح وجود قري أصابها الخراب ، بحث القاضي والمساح السبب الذي أدى إلي ذلك .فإن ظهر أن السبب يرجع إلي ظلم العامل أو تعدي الكشاف أو جور شيخ العرب ، عرض الأمر علي ناظر الأموال ، فيأمر أمير الأمر بانزال العقاب بهم ، بعد تحصيل النقص (في الأموال) منهم . وإذا كان سبب الخراب يرجع إلي مفاصد البدو وعصاة الأعراب وفتنهم ، وكان الكاشف أو شيوخ العرب يقدرون علي منع ذلك ثم أهملوا ، وقع عليهم الجزاء بموجب الأمر العالي . 31

ولينبه الكشاف وشيوخ الأعراب والعمال علي القرى المجاورة لكي يرد أهلها الفلاحين الذين هجروا قراهم ولجأوا إليهم ، حتي يعودوا إلي قراهم الأصلية وحصصهم التي خربت . ويقومون بإخطار الكشاف عن تمتع عن العودة إلي موطنه ، حتي يقبض عليه قسراً ويبعثه إلي مكانه الأصلي . وإذا لم ينفذ شيوخ البلاد هذا بأي طريقة من الطرق بعد هذا التنبيه ، وقع عليهم العقاب الرادع .

و عندما يقوم العمال بجمع الخراج من بعض القرى يتفرق بعض أهلها تحاشياً لسداد الخراج . و على شيوخ البلاد الذهاب للقرى التي يمكن أن يحدث بها ذلك . و ينبهوا الكاشف و شيخ العرب لمنع حدوث ذلك قبل الشروع فيه . و إذا لم يتمتع هؤلاء ، أختير من بينهم واحد أو اثنان من الأشرار لتنفيذ فيهما الصلب ، و إذا جاء شيخ البلد لهذه القرى و لم يتم بالتنبيه نفذ فيه العقاب . و إن عاد أحد من الفلاحين الذين تركوا مواطنهم ، لا يطالب بخراج أراضيهم أو الرسوم الأخرى في السنة التي عاد فيها وزع أطيانهم ، و يؤدي خراجها كاملاً في العام التالي إن قام بزراعة ما يخصه كاملاً ، وليتفقوا به و لا يكفوه مشقة دفع ما عليه مرة واحدة حتى لا يؤدي به للهرب ثانية . و إن أظهر العجز والضعف لم يستطع زراعة كل ما لديه يعرض القاضي والأمين حالته على ناظر الأموال . فإن رأى الجميع بعد استقصاء أخباره صحة قوله و عدم اقتداره على أعمال الزراعة ، نفذوا ما يترأى لهم طبقاً للعدالة.

(41) هذا وقد كان إذا تخاصم بعض عامه الناس وتنازعوا يلجأون إلي والي المدينة قبل الذهاب الي المحكمة الشرعية لكي يفصل في خصومتهم و هذا التقليد ممنوع أيضا فلا يفصل والي بعد اليوم في خصومه أو نزاع ،مالم يكن ذلك بمعرفة القاضي . فيرسل الخصوم الي القاضي الشرعي قبل كل شئ ليحكم القاضي بما يتمشي مع أحكام الشرع ، وينفذ اليوباشي الحكم ، و لا يقدم علي تنفيذ عمل دون علم القاضي ومن يصر علي مخالفه ذلك بعد هذا التنبيه ،يعزل وربما يستحق العقاب .بان من عريضه مقدمه لنا أن بعض القضاة في الديار المصريه يقدمون محاكمهم الي نواب لقاء "مقطوع " و عليك يا أمير الأمراء أن تهتم بما يقتضيه الوضع فان ظهر لديك بعد التفتيش أن أحد القضاة باع نيابه محكمته لقاء "مقطوع" فلا تترك له مجال الإفلات بل زج به في السجن وابعث لنيابه المحكمه عن واحد من اهل العلم من المسلمين .واعرض الأمر علي العتبه العاليه ،حتي يجئ اليك أمرنا فتنفذ ما يقتضيه.

(42) وبالإضافة الي ذلك فان لدي القضاة الشرعيين بعض النواب والمحضرين الأشرار يرتكبون التزوير ويلبسون الحق ثوب الباطل ويفعلون الباطل علي أنه الحق فيظلمون المسلمين ويعتدون عليهم ولا بد من ابعاد مثل هؤلاء فلا يقدم قاض بعد اليوم علي أن يلحق بخدمته نوابا ومحضرين من هذا النوع .وان لم يرض الناس عن نائب أو محضر أو يمتدحوه نتيجته لظهور شره فلا يوكل اليه القاضي عملا .ومن لم يتمتع (من القضاة) بعد هذا التنبيه ويدخل نوابا بهذه الصفات في خدمه يعزله (أمير الأمراء) من المحكمه .ثم يبحث عن بديل ينوب عنه ويعرض الأمر . ومن يظهر شره وفساده من النواب يسجل (أمير الأمراء) اسمه في دفتر ويرسل الي أبوابنا العاليه ليصدر بشأنه أمرنا جليل القدر ويعمل بموجبه . وكم من مدع مقيم بالغ و عاقل لا يحضر الجلسات الشرعيه ويوكل احدا من هؤلاء الأشرار حين نظر بعض الدعاوي الشرعيه .وعلي القاضي الشرعي أن يطلب الموكل الذي حضر الي المجلس الشرعي عن طريق الوكاله بدعوي أنه شخص كفاء ، فان صح لديه أن الوكيل لي اختاره لترويج دعوي باطله لا أساس لها في الشرع ، فعليه أن يعرض الأمر علي أمير الأمراء ،لكي يوقع الجزاء الرادع علي كل من الوكيل والموكل .وقد بلغ أبوابنا العاليه أن الكشاف والأمناء ومشايخ العربان وسائر مباشري الأموال يقدمون علي قتل بعض من طائفه الفلاحين لغرض في نفوسهم دون وجه حق أو يسلبونهم أموالهم وأمتعتهم بغير حق شرعي . وهذا ظلم واعتداء .إذا جاء الي أمير الأمراء شاك فعليه أن يرسل معه رساله بصحبه جندي الي القاضي لكي ينقضي الحقائق .وكان أكثر القضاة يعينون الظالم علي المظلوم في مثل هذه المواقف ويساندوه ، فلا تجد دعوي المظلوم لها طريقا . ويقع الظلم علي الرعايا .أما والحاله هذه ، فعلي أمير الأمراء أن يستقصي هذه الحالات بمعرفة ناظر الأموال ، و لا يترك للقاضي الذي يقدم علي اخفاء الحق مجال الإفلات ،فيعزله من عمله بالمحكمه في الحال ويحكم بحبسه ويقوم مكانه مسلما من أهل العلم ثم يعرض الأمر علي أبواب السعاده لكي يصدر بشأنه فرمان جليل القدر ويعمل بمقتضاه .وان لم يعمل أمير الأمراء وناظر الأموال بمقتضيات الشرع في مثل هذه المواطن أو يهملها في عرض الموضوع علينا ، استحقا العتاب والعقاب . أحوال الرزق والاحباسية.

(45) وإن جاء أحد يتصرف بمربعات السلاطين السابقين التي تتعلق بالرزق ، طالبا حكما من ديوان (مصر) فيما يتعلق بما بيده من رزق ،فلا يعطي له حكم ، الي أن يجري التحقق التام مما بيده من مربعات وتمسكات .فان وجدت صحيحة لا تشوبها الشبهات ، منح الحكم المطلوب . وان شابها شئ يشتم منه رائحه التزوير والتلبس ،أخذت منه عقود الملكيه أو المستندات ، وأضيف الي رزق الخواص السلطانيه . الرزقه الفضولييه: هي الرزقة التي يجعلها من لا يملكها وقفا دون أن يستأذن مالكا الحقيقي .وتعتبر فضولييه أي غير نافذه لأن صاحبها لم يعط إذنا بذلك.

وإذا مات صاحب رزقه او غاب غيابا متصلا ، وكان له شركاء أو أولاد أو أقارب يتصرفون بالرزقه فضولا أو بناء علي أنها مشروطه لهم ، وجاءوا الي ديوان (مصر) يطلبونها لهم ، فلا يجابون الي طلبهم ،ولا عمل بشروط مربعاتهم .وحضورهم الي

القاضي غير مقبول أو مستساغ. وعلي القاضي أن يطلع ناظر الأموال علي ذلك، حتي يأخذ ما بيد هؤلاء من رزق أو حصه او يضمها الي الميري .

والرزق الاحباسية تبقي علي حالها اذا كانت تصرف علي سبيل البر والصدقه، فتوجه الي مستحقيها من الصالحين . وما كان منها مشروطا لبعض البقاع أو السيل أو المساجد أو الزوايا يبقي علي حاله مادامت هذه الجهات التي يصرف لها موجوده ومعمورة

وليتفقد ناظر الأوقاف (الرزق الاحباسيه) ، فاعن وجد أنها مغايرة لشروط الواقف قام بحفظها قبل أن تتلف . واذا كانت المواضع التي تنفق عليها قد أصابها الخراب واندرست ، فعلي القاضي أن يطلع ناظر الأموال علي ذلك ، ويشترك معه في تفقد أحوالها . فاعن وجدا مكانا مجاورا لها أو في جهه أخري يستحق الاتفاق عليه منها قصرها عليه . والا أتفقاها علي شخص أمين ومتدين . وان لم يجدا وجهها علي سبيل الصدقه لمن يستحقها من الصلحاء والفقراء وأهل العلم . ثم عرضا الأمر علي الأبواب العاليه لكي يحصل علي براءة ذلك .

ولينبه علي العمال والمباشرين بالألا يدفعوا لمن يطالب بحقه في الرزق الجيشية والاحباسية ، قبل أن يعرضوا الأمر علي أمير الأمراء وناظر الأموال، ويقوموا باحضاره واستجوابه عن الرزقه :من أي نوع هي ، وما مقدار ما يتحصل منها ، ويبيد من هي . ثم يسجلوا ذلك في الدفاتر بالتفصيل . فاعن كانت التمسكات التي بيده صحيحة أبقوها علي حالها ، وأعطوه تقريرا بذلك . وإلا أخذوها منه وضموها الي الميري . وتحفظ صوره من الدفتر المذكور في ديوان مصر وترسل صورة أخري الي أبواب السعاده

Appendix (2)

Agricultural-based cases from the registry of sharia under the Ottoman Empire (from 1525 Till 1805) courts

- (1) " لدى مولانا أفندي دامت فضائله حضر الجناح العالی الأمیری الكبيری عبد الباقي كاشف ولاية البهنساوية دام عزه وأشهدا على انفسهما وطواعيتهما واختيارهما وجواز الإشهاد عليهما شرعا من غير إكراه .. أنهما جرفا الجسر المذكور أعلاه في سنة تاريخه جرفا متقنا محكما عاليا حابسا للمياة العالیه دون المياة المتوسطة في سنة تاريخه وأنهما قبضا أجرة عملهما وأجرة عمل من اتباعهما في الجسر المذكور بالتمام والكمال وعليهما الحفظ والحراسة من حين وصول المياة إليه وإلى عيد الصليب المعتاد وبعده ثلاثين يوما وأنه متى حصل في الجسر المذكور خلل أو قطع كان عليهما ما يراه ولي الأمير في ذلك وقبل ذلك منهما وصدقهما عليه الأمير عبد الباقي كاشف المشار إليه القبول والتصديق الشرعي وبه شهد وثبت الإشهاد عليه بذلك ... " (15) .
- (2) " وأظهر من يده حجة مسيطرة بهذه المحكمة مؤرخة برابع عشرين شهر رمضان المعظم سنة تسع وثلاثين وألف مضمونها تقرير الشيخ حسين المذكور شيخا ومتحدثا على طائفة الدالين على الخيول والجمال والدواب ببني سويف مشموله الحجة المذكورة بالامضاء من حضرة مولانا سليمان أفندي الحاكم الشرعي بالولاية وذلك بعد أن حضر جمع من المتسبين والسوقة وأرباب الخبرة وأختاروا أن يكون الشيخ حسين المذكور شيخا على طائفة الدالين بالوظيفة المذكورة عوضا عن صاحب الوظيفة بحكم وفاته فتمسك الشيخ حسين المذكور بالحجة المذكورة وتصرف فيها ولم يحدث حادثه تمنعه من تعاطيها ولا جنحه ترفع يده عنها¹⁶ ..)
- (3) " لدى مولانا عثمان أفندي خلافة زيدت فضائله أدعى السيد الشريف حجازي بن السيد الشريف موسى الأدمي على المعلم محمد بن يوسف الدين المصري الشيخ طائفة الأدميه ببني سويف تعدى عليه وقفل حانوته الكاين ببني سويف بسوق الناحية بغير طريق شرعي بغير سبب ولا ذنب ومنعه أن يستعمل صنعته بلا وجه شرعي وسأل سؤالة عن ذلك نسجل فلم يجب جوابا شرعيا وظهر من أمره أنه سكرانا ... فعند ذلك أمر مولانا أفندي المومي اليه بتعزيرة .. وكتب ذلك ضبطا للواقع ليراجع عند الاحتياج وليعرض على من له الامر في ذلك " (17) .
- (4) " لدى مولانا عثمان أفندي الحنفى المولى خلافة هو أنه لما ورد البير لدى الشريف الواجب القبول والتشريف ... من مضمونه الأكرم وفحواه المكرم أن السلطنة الشريفة الخاقانية أنعمة على الجناح العالی الأمير مصطفى كاشف ولاية البهنساوية في مغل سنة تسع وأربعين ألف الخراجية قوبل بضم بمزيد الإجلال والإكرام وأرسل خلف الجناح العالی الأمير عبد الباقي كاشف ولاية البهنساوية سابقا فحضر وقرىء عليه البيور لدى الشريف حرفا حرفا فأجيب بمزيد السمع والطاعة وسلم للأمير حسين المتسلم المذكور الولاية المذكورة مع الجسور ... ولما تم ذلك وتكامل التمس الأمير عبد الباقي كاشف المشار اليه كتابة ما هو الواقع فأجيب الي سؤاله ... " (18) .
- (5) " سبب تحرير الحروف وموجب تسطير الصفوف هو أنه لما ورد الأمر المطاع الواجب والأتباع على حضرة مولانا أفندي زيدت فضائله ... يتضمن أنهته الحرمة مريم زوجة ميخائيل ابن بشاي الذي من ناحية منفلوط بأن زوجها ميخائيل ابن بشاي كان عاملا تحت يد الأمير على ترك قبض الأموال الديوانية بناحية ببا الكبرا وفنیش وما وأن الأمير على المذكور قبض عليه وأخذ منه أربعة آلاف نصف فضة وأربعة عشر رأس غنم وثمانية عشر زوج وز ووضعة بالسجن الي يوم تاريخه الي آخر ما تضمنه الأمر المشار اليه وبرز بالنظر في ذلك بالشرع الشريف قوبل ما رسم به بمزيد الإجلال وأرسل خلف الأمير على وحضر ميخائيل المذكور وقرىء عليه الأمر المشار اليه حرفا حرفا فأجاب ... " (19) .
- (6) " سبب تحريره وموجب تسطيره هو أنه لما ورد الأمر المطاع الديوان العالی ... مرتب على أنها الشيخ مبارك والشريف عبد الدايم والشريف منصور الأشراف ... المسيد الأبييض مضمونه أن صليب النصراني ويوحنا ابن شحاته المباشرين بخدمة الامير مصطفى كاشف ولاية البهنساوية والخولي عمر وعوض وابو وسليمان الخوالي بخدمة الامير مصطفى المشار اليه تعدوا عليهم واخذ منهم ألف نصف فضة رأس غنم من جميع أزراهم من الأبقار والأتوار وكبسوا عليهم وضربوا نسايمهم

¹⁵ وثيقة رقم 88 ص 45 . خالد سيد مرزوق : وثائق بني سويف في العصر العثماني . سجل محكمة الباب العالی (1048- 1051هـ) . دار الكتب . 2012

¹⁶ الوثيقة رقم 87 ص 44 . نفس المصدر

¹⁷ وثيقة رقم 304 ص 154 . نفس المصدر

¹⁸ وثيقة رقم 187 . نفس المصدر

¹⁹ وثيقة رقم 2 ص 1 . نفس المصدر

وأسقطوا منهم مرتين سقطين الي آخر ماتضمنه الأمر الشريف قوبل ما رسم بمزيد السمع والطاعة وأدعوا المذكورون علي المنها في حقهم حسب الأمر الشريف سيلوا عن ذلك أجابوا ..²⁰ .

(7) " سبب تحريرة هو أنه لدى سيدنا ومولانا يحيى أفندي دامت فضايله حضر الجنا ب العالى الأميرى الكبيرى الأمير عبد الباقي كاشف ولاية البهنساوية حالا دام عزه وأخبر أن جماعة من الرعايا أصحاب أغنام يرعون أغنامهم بالولاية ولما أن يأنون قبض العشر من الأغنام يفرون بأغنامهم الى أراضى نواحي بوش وطحا و سدمنت بالولاية يحتمون بالنواحي .. وأن بين أراضى بوش وطحا وبلقا نجع مجتمع فيه الأغنام المنسحبه وسألى الأمير عبد الباقي كاشف المشار اليه مولانا أفندي المومى إليه فى أن أحدا يتوجه بصحبته من خدمة الشرع الشريف من عدول المحكمة (21).

(8) " حضر قدوة الأمجاد حاوى المحامد الأمير مصطفى كتحذا الجنا ب العالى الأمير مصير كاشف ولاية البهنساوية سابقا بأن شيخ العرب محمد ابن مذكور المتكلم على ناحية أشمنت بالبهنساوية يعارضه فى طين من سويد ويذكر أنه من طين ناحية أشمنت وبيده كشف من الديوان العالى بدل أن كامل قبالة سويد جملة أراضى بنى عدى ولم يكن لناحية أشمنت المذكورة فيها شىء من الطين المذكور وسأل الكشف على طين القبالة المذكور وتحريرها حكم السنين السابقة من قديم الزمان والوقوف حدودها فأجابة مولانا أفندي الى ذلك وتوجه معه هو ومن يثق بهم من النواب والعدول وبالمخيم السعيد بجوار الطين المذكور وأحضر شيخ العرب محمد وأدعى عليه الأمير مصطفى المشار اليه أعلاه بعدم المعارضه للطين المذكور ودفع خراج زراعتة عن سنة تاريخه وطالبه بذلك وسئل سؤاله عن ذلك فسيل فأجاب بأن ... " (22) .

(9) " لدى مولانا أفندي يحيى حضر مندوب قدوة الأمائل الأمير مراد ابن المرحوم يوسف جاويش أمين ناحية كوم الرمل بالولاية هو المحترم سيف الدين وعرف مولانا أفندي المومى اعلاه أن شخصا من أهالى ناحية كوم الرمل المذكورة وتمشى بالغيط الى الليل فطلع عليه جماعة اللصوص من الباطن فقتلوه ويسأل فى الكشف عنه فأجابة مولانا الى سؤال وندب معه من مجلس حكمه للكشف المذكور من يسمع لهم شهادته منه فتوجهوا الى ناحية كوم الرمل المذكورة وكشف عن على المذكور واذا هو ميت بلا روح فيه ولا حركة وبه ضربات متعددة ثلاث ضربات بعصى شوم على رأسه أحدهم فى الجبهة قطعت الجلد وكسرت العظم وضربه ثانية فى فقا وضربة تالته فى رأسه أيضا على أعلى أذنه قطعت الجلد وهشمت العظم وكشف عن ذلك " (23) .

(10) " لدى مولانا أفندي زيدت فضائلة سبب تحريرة القضاى المعتمدى القاضى زكريا ابن المرحوم القاضى أبو المحاسن البهنساوى الوكيل الشرعى والقيام فى تعاطى ما سيذكر فيه عن الجنا ب العالى الأمير مصطفى كاشف ولاية البهنساوية حالا دام عزه وصحبته المقدم منصور ابن شاهين البهنساوى الشهير بالخاسكى وأشهد على نفسه المقدم منصور المذكور شهودة اشهادا صحيحا شرعيا من غير إكراه عليه ذى ذلك ولا إجبار أن عليه حفظ ناحية بنى سويى وكل شىء ضاع فى الوقت المذكور من داخل الحدود المذكورة ... كان على نايب عييه المذكور القيام به لديه بالغا ما بلغ حسبما اشهد على نفسه بذلك وكذلك وحضر بحضوره كل من محمد ابن احمد ... وسليمان ابن مطاوع الشربنى المقدمين بالدرك المذكور وأشهدا على انفسهما وهما بصفة من يصح الإشهاد عليهما شرعا من غيره إكراه ولا إجبار أن عليهما حفظ الناحية المذكورة بواسطة مما ذكر أعلاه كان عليهما القيام بالغا ما بلغ حسبما أشهدا على انفسهما بذلك كذلك .. " (24)

(11) دعوى تعدى بالضرب على نائب الغيبة ومقدم الدرك بناحية بنى هارون لدى مولانا محمد أفندي حضر فخر امثاله الامير مصلى ابن عبد الله وتابعه المقدم على ابن سليمان الديرى الدرك بالناحية واخبر مولانا أفندي المومى اليه هو وتابعه على مارين بدرى الامير رضوان ملتزم ناحيه بنى هرون كانا فى الحراسه فطلع عليهما جماعه من اتباع الامير على الشهير بترك ملتزم ناحيه بنى هرون حالا هم حسن الرومى ومرجان الاغا الاسود وجر كس مجردين السيوفى وضربوهما فجات ضربه فى يده اليمنى بظاهر كفه قطعت الجلد واسالت الدم كثيرا ووصلت الى العظم وضربه على يد تابعه على المذكور قطعت الجلد واسالت الدم كثيرا وذلك كله بطريق التعدى وسال فى الكشف عن ذلك فكشف عن ايديهما وجراحاتهما فاذا هو كما ذكر وطلب حضور الامير على لمجلس الشرع الشريف فارسل خلفه فحضر وادعى الامير مصلى نايب الغيبة المذكور وتابعه

²⁰ وثيقة رقم 460 ، ص 251 ب نفس المصدر

²¹ وثيقة رقم 71 . نفس المصدر

²² وثيقة رقم 60 ، ص 29 . نفس المصدر

²³ وثيقة رقم 70 ص 34 . نفس المصدر

²⁴ الوثيقة رقم 12 ص 7 . نفس المصدر

على الديبيري المذكور بانه اغرى اتباعه هم حسن ومرجان وجرس وضربوهما بالسيوف الحديد على ايديهما الضرب المذكور اعلاه وسال سؤاله عن ذلك فسيل فاجاب بالانكار مطلقا وان يثبتا ما ادعياه وطلب منهما البيان فخرجا على ذلك وعادا واحضرا كل من الجناب العالى الامير رضوان كاشف المنقوطينه سابقا وسالاهما الشهاده عنما يعلمه من ذلك فاقام شهادته على وجه الامير على المذكور بانه عاين اتباعه المذكورين وهم مجردين سيوفهم بايديهم فى الوقت بين المغرب والعشا وحضر محمود ابن الرومى تابع الامير مصلى اغا الغلال الديوانيه وشهد بانه عاين اتباعه. وكتب ذلك ضبطا للواقع ليراجع عند الاحتياج وليعرض على من له الامر فى ذلك.

(12) دعوى من اهالى ناحيه بنى هارون ضد ملتزم الناحيه وفيه لديه حضر المحترم على الخطيب ابن المرحوم شرف الدين وعبد الجواد ابن فليف من اهالى ناحيه بنى هرون من ولايه البهنساويه واخبروا مولانا افندى المومى اليه اعلاه ان الامير على الشهير بترك ملتزم الناحيه المذكوره سنه خمسين والف الخراجيه عن فلاحين الناحيه سبعة انفار من الناحيه وسجنهم فى سجن الامير مصطفى كاشف الولايه وسبعة انفار اخر سجنهم فى سجنه فى منزله ببنى سويف وكان اذ ذلك فى اواخر تاريخه ومنعهم من صلاه الجمععه ومن صلاه عيد الفطر ولم اقيمت خطبه جامع الناحيه لا الظلم والعدوان وسالوا فى حضوره لمجلس الشرع الشريف والدعوى عليه بالسبب المذكور فارسل خلفه لمجلس الشرع المشار اليه بمحضر من قدوه الاغوات المعتمدين الامير مصلى اغا امين حمل الغلال الديوانيه بالولايه المذكوره وسالوا مولانا افندى المومى اليه عن السبب الداعى لذلك فذكر انهم نقبوا عصادته الكاينه بالناحيه واخذوا منها جانباً من الصوف ليلا ونورجين حديد وانه سجنهم بالمقتضى المذكور وعرفه مولانا افندى المومى اليه ان ذلك خلاف الشرع الشريف ظلما وعدوانا كون انه لم يثبت عليهم شىء بالشرع الشريف وان سجنه للخطيب والمذكورين وتعطيل الخطبه واقامه الشعائر انما ذلك من الظلم والعدوان ثم ذكر الامير على المذكور ثانيا ان له عليهم مالا وغلالا وارسل مولانا افندى المومى اليه خلف شاهد الناحيه هو القاضى فتح الله المقرر من جانب الشرع الشريف فحضر وساله هل على المسجونين من المال والغلال فشهد ان لم يكن عليهم مال ولا غلال فى السنه الخاليه واما سنه تاريخه فان لم يكن يستحق استخلاص المال كون ان المساحه لم مسحت الناحيه ولم يتحرر على المزارعين بالناحيه شىء معلوم يطالب ولما تم ذلك وتكامل بين يدي مولانا افندى المومى من السؤال والجواب واتضح له ذلك... التمسوا اهالى الناحيه اطلاق المسجونين فارسل خلفهم واطلقهم كون انهم انه مقبوض عليهم ظلما وعدوانا والتمسوا كتابه ما هو الواقع فاجيبوا الى سؤالهم وكتب ذلك ناطقا بسوره الحال عند الطلب والسؤال " ووجب على المدعى عليه التعزيز على ذلك بحسب ما يقتضيه الشرع الشريف شهود الحال كاتبه / شمس الدين / شهد / عبد الجواد عبد الصمد / شهد / الخطيب شعيب التزمنتى

(13) دعوى تعدى بالسرقة لدى مولانا افندى دامت فضايله ادعى محمد بن غانم والشيوخ محمد ابن الشيخ محمد الاحمدى من اهالى معصره الخليل بالولايه على شحاته الابويطى المستوطن بناحيه المعصره المذكوره بانه تعدى لهما على فرس شاتها دهما اللون القيمه عنها مايه غرش وتور ابيض اللون القيمه عنه عشره غروش وبقره شاتها حمره اللون القيمه عنها عشره غروش وثلاث جواميس اخداهن راتب وسنتين خمسه وثلاثين غرشا ودست نحاس القيمه عنه غرشين وحماره القيمه عنها غرشين وزكبتين حرير القيمه عنها اربعه غروش واخذ ذلك جميعه من منزلها الكاين بناحيه معصره الخليل المذكوره بطريق التعدى بغير طريق شرعى وسال سؤاله عن ذلك فاجاب بالانكار فى ذلك جميعه مطلقا وان يثبت ما يدعيه وطلب البيان فخرجا على ذلك وعادوا وصدق شحاته المدعى عليه المذكور على اخذ البهايم المذكوره وانها تحت يد الامير عابدين جاويش المذكور وعودها لاصحابها فالزم نفسه بذلك كذلك وعلى ما جره وقع التحرى وبه شهد وشمله ثبوت شرعى على الوجه الشرعى " وثبت ذلك ليعرض على ولاة الامور شهود الحال . كاتبه / عبد المجيد احمد / شهد / عبد الجواد عبد الصمد

(14) دعوى تعدى جماعه من عربان بنى واصل على جماعه من عربان العطيات بناحيه الشنويه ببنى سويف سبب تحريره هو انه لدى مولانا محمد افندى دامت فضايله عمده ذوى المجد والشان الامير مراد الشاد بناحيه بوش والشنويه تابع الامير حسن زعيم مصر سابقا وامين النواحي المذكور واخبره بان جماعه من عربان بنى واصل تعدوا على جماعه من عربان العطيات ضيوف له نازلين عنده تحديده الشنويه المتوصله الى الناحيه المذكوره فى الليله الاحد المباركه المسفر صباحها على يوم عيد الفطر وجرحوا منهم جماعه ونهبوا ما كان موضوع عندهم من اسباب ونحاس وحمول ومصاغ وسال فى الكشف على ذلك فاجابه مولانا افندى لذلك وندب معه جماعه من مجلس حكمه وبصحبتهم الزينى حسين الرومى فتوجهوا الى حيث الجمع المذكور فوجدوا به رجلين مجروحين هما على وسالم اولاد احمد ابن شاهين فالذى اصاب على المذكور ضربه بمزراق محدد اصابته فى مزح بطنه من الجانب الايمن قطعت الجلد واسالت الدم والذى اصاب اخيه سالم المذكور ضربه بمزراق

تحت بزه الايمن قطعت الجلد واسالت الدم لم يستطع القيام من ذلك وسال من الضارب للمذكورين والمعتدى عليهما فذكرا بان الضارب لهما والمتعدى عليهما وعلى نهب النجع المذكور الحاج حمد ابن عمر والحاج عمران والحاج مزيد ووالدهما محمد ابو شنب وسلامه ابو شنب واخيه سليم وعمير ابن عمار واخيه جمعه جميعهم من عربان بنى واصل واخذوا لهم من النجع المذكور خمسة عشر زوج حلق فضه القيمه عنهم ستون غرشا وستت اطواق فضه القيمه عنهم سبعون سبعون غرشا واثني عشر حمل صوف احمر القيمه عن كل حمل عشرة غروش ودمالج فضه القيمه عنهم ثلاثون غرشا واربعه برد صوف كل ذلك بغير طريق شرعى اخبرا بذلك كذلك واخبرا ايضا حكم اخبارهم اهالى النجع المذكورين هم محمد ابن حميدان ومنصور ابو جماز وحجازى ابن عيسى وحميدان ابن بدر النازلين بجوارهم وعادو المندوبون بذلك واخبروا بذلك كذلك جرى ذلك وحرر فى ثالث شهر شوال سنه خمسين والف شهود الحال
 كاتب السجل / شمس الدين شهد / عبد الجواد شهد / الخطيب شعيب التزمنى

(15) التحقيق فى الشكوى المرفوعه الى الديوان العالى بشأن التعدى على اراضى بناحية بنى حدير سبب تحريره وموجب تسطيره وانه لما ورد البيورلدى الشريف الواجب القبول والتشريف المؤرخ بخامس عشرين القعه الحرام سنه خمسين والف على مولانا محمد افندى دامت فضائله المرتب على عرض قدوة الاماجد مستجمع المحامد الامير مصطفى كاتب حواله المتفرقه بالبحيره زيد قدره المتضمن ان بولايه الاطفيحيه قريه تدعى بنى حدير امانه الامير مصطفى لمذكور وان الامير عابدين جاويز امين ناحيه كوم ادريجه من ولايه البهنساويه الداخلة تحت قضا مولانا افندى الموما اليه اعلاه تعدى له عشرة افندى طين من جزيره بنى حدير المذكوره وزرعها وزعم انه من طين العربيه المتعلقه بعربان فضاله وبرز البيورلدى الشريف خطابا لمولانا افندى الموما اليه اعلاه والامير مصطفى كاشف ولايه البهنساويه حالا بالفحص على ذلك والسؤال من شاهد العربيه بحقيقه الامر فى ذلك قوبل ما رسم بمزيد الاجلال والاعظام وارسل خلف الشاهد المذكور هو فخر الكتاب القاضى ابو السعادات شاهد جهة العربيه المذكوره وسيل منه عن ذلك فاخبر مولانا افندى الموما اليه اعلاه بانه شاهد مده اثنتين وعشرين سنه بالعربيه المذكوره تابعنا لناحية بنى حدير من الجانب الشرقى ولم يكن لنا فى كوم ادريجه الطين المذكوره علاقه ولا عربيه حكم ما هو مقيد بدفاتره يعلم ذلك قديما اخبر بذلك كذلك ولما تم ذلك وتحقق الطين المذكور المنهى فى حقه انه تابع لبنى حدير المذكوره حكم ما شهد به الشاهد المذكور منع مولانا افندى الموما اليه اعلاه الامير عابدين المذكور من التعرض للطين المذكور ومكن الامير مصطفى الناهى المذكور امين ناحيه بنى حدير المذكور من التصرف فى الطين بالمقتضى المذكور ولم تم ذلك التمس المعين من جانب الامير مصطفى المشار اليه كتابه ما هو الواقع وكتب له ذلك ناطقا بصورة الحال غب الطلب والسؤال ليعرض على من له ولايه الامر فى ذلك ليرتب على كل امر مقتضاه جرى

(16) دعوى من ملتزم ناحيه بياض على احد اهالى ناحيه بوش لدى مولانا افندى زيد فضله ادعى فخر الامائل والاقربان عمد ذوى المجد والشان الامير يوسف من طابفه المتفرقه ملتزم ناحيه بياض من ولايه الاطفيحيه على الفتى ادريس ابن محمد البربرى المستوطن بناحية بوش المستوى معه مجلس الدعوى بانه يطالبه بتسعه واربعون زكيبه قمح تسلم منه ذلك بناحية بوش فى السنه الخاليه على وجه القرض الشرعى وانه وفى له ذلك ويريه ذمته له من القدر المذكور فلم يصدقه المدعى على ذلك وطلب من المدعى البيان فخرج على ذلك وعاد والتمس يمينه على وفا القدر المذكور فوجه عليه مولانا افندى المومى اليه اعلاه اليمين الشرعى فحلف بالله العظيم الذى لا اله الا هو الحى القيوم عالم الغيب والشهادة اليمين الشرعى الجامعه لمعنى الحلف شرعا بانه وفى له القدر المذكور بتمامه وكماله وانه لم يستحق بذمته شىء من ذلك وان ذمته بريه له مما ادعاه حلف كما استحلف فيموجب ذلك ولزومه وانبرامه شرعا منعه مولانا افندى المومى اليه اعلاه من التعرض للمدعا عليه المذكور بالمقتضى المذكور منع شرعا وبه شهد شمله ثبوت شرعى شهود الحال
 كاتبه / شمس الدين شهد / الخطيب شعيب التزمنى

(17) التحقيق فى الشكوى المرفوعه الى الديوان العالى بخصوص تعدى بعض العسكر على اغنام لشيخ ناحيه اسطال سبب تحرير الحروف وموجب تسطير الصفوف هو انه لما ورد البيورلدى الشريف الواجب القبول والتشريف على مولانا فخر قضاة الاسلام مولانا محمد افندى الحاكم الشرعى الحنفى المولى ببنى سويف الذى سيضع خطه الكريم اعلاه خطابا لمولانا افندى المومى اليه اعلاه على يد قدوة الاغوات المعتمدين الامير باكيو اغا زيد قدره المرتب على انها المحترم محمد ابن علام شيخ ناحيه سطل بانه تمثل بالديوان العالى وانها ان كلا من فخر امثاله وزين افرانه البدرى حسن والزينى حسين من العسكر المنصور والخولى ناصر تعدو له على ستين راسا ضانا ومعزا ما هو ضان ثلاثه راوس وما هو معز سبعة وخمسون راسا واخذوها بغير طريق ولا وجه شرعى وبرز البيورلدى الشريف بالنظر فى ذلك قوبل ما رسم بمزيد الاجلال والاكرام وارسل خلف الزينى حسن والزينى حسين فوجد الزينى حسين غايبا والزينى حسن مريضا فى منزله ببنى سويف لا يستطيع الحضور

لمجلس الشرع الشريف واقيم عنه قدوة الاكابر والاعيان الامير يوسف دوادار البهنساويه سابقا وكيلا باذنه فى سماع الدعوة وادعى محمد ابن علام الناهى المذكور على الامير يوسف الوكيل المذكور بان الزينى حسن الموكل المذكور تعدى له على ستين راسا ما هو ضمان ثلاثه راوس وما هو معز سبعة وخمسون راسا وطالبه بذلك وسال سؤاله عن ذلك فسيل فاجاب بالانكار فى ذلك جميعه وان يثبت ما يدعيه وطلب البيان فخرج على ذلك ثم عاد واشهد على نفسه المحترم محمد الناهى المذكور شهوده اشهادا صحيحا شرعيا فى صحته وسلامته وطواعيته واختياره وجواز الاشهاد عليه شرعا من غير اكراه ولا اجبار ات لا حق له قبل الزينى حسن ولا الزينى حسين ولا الخولى ناصر حقا مطلقا ولا استحقاقا ولا دعوى ولا طلبا بوجه ولا سبب ولا فضه ولا ذهبيا ولا فلوسا ولا نحاسا ولا اغناما ولا معزا ولا شينا قل ولا جل لما سلف من الزمان والى تاريخه حسبما اشهد نفسه بذلك كذلك وبه شمله ثبوت شرعى على الوجه الشرعى شهود الحال كاتبه / شمس الدين شهد / محمد عبد الرحمن

APPENDIX. 3 Content of the FR

First Group

Homicide

Homicide during Irrigation

1- فى وقت النيل إذا توجه أهالى بلد إلى بلد أخرى ليلاً ، قاصدين أخذ المياه منها لرى أراضيهم ، وقُتل منهم البعض ، فيصير فيهم كما هو مشروح فى مادة القاتل . و أما إذا لم يُقتل أحد ، وإنما تحقق أن بلد تعدت على بلد أخرى بقصد أخذ المياه فيُضرب القائم مقام و مشايخ تلك البلد كلاً منهما **خمسائة كراباً** .

Homicide during Chastisement " Misapplication of Whipping leading to Homicide"

2- إذا كان حاكم الخط يضرب أحد المذنبين مقدار الكرياج المحدد لذنبه ، وضربه فى محل مقتل ، ويموت المضروب من ذلك الضرب ، فيقتضى دية الشرع أن يؤخذ منه ثلاثة آلاف و ستمائة قرش و تعطى إلى أصحاب الدم . و الحكم المذكور أيضاً يجرى على حضرة المأمور الكبير . فمقتضى ذلك أن الضرب يكون فقط فى الأكعاب و محل القعاد .

3- إذا كان حاكم الخط يضرب أحد بالكرياج بناءً على غرض- زيادة عن القدر المحدد له بالنظر إلى ذنبه ، أو يضربه القدر المحدد له فى محلات قتل ، ومات المضروب بسبب ذلك ، فيجب على الضارب أن يدفع الدية الشرعية لأولياء الدم ، وهى ثلثمائة آلاف و ستمائة قرش ، و ذلك يجرى على كل من يفعل ذلك من حاكم الخط إلى المأمور الكبير . وعلى هذا ينبغي أن يكون الضرب بالكرياج على الأقدام و المقعدة فقط و أن لا يزيد الضرب عن القدر المحدد .

4- إنه إذا كان أحد الحكام أو أى شخص كان يصير منه ضرب زيادة عن الجلد المحدد ، أو يقع الضرب على المقاتل من الجسم ، و تسبب عن ذلك موت المضروب ، فيصير إحالة القضية إلى الشرع الشريف و يجرى على المقتضى بمعرفة الشرع الشريف .

"Infanticide"

5- إذا كان أحداً يقتل ولده عمداً ، فيجرى به أحكام الشرع الشريف .

"Assault resulting damage of eye or ear"

6- إن الذين يتنازعون مع بعضهم، وفى حين النزاع حدث سقط فى عين أو أنف أو أسنان أو فى نفس ، فى مثل ذلك يحال أمرهم إلى الشرع الشريف .

Demonstration and strikes

Assembly and assault leading to homicide and injury

7- إذا كان أحد المشايخ أو أحد الفلاحين يجمع كم فلاح ، وقاموا بالهجوم على شيخ الفلاح و حاكم الفلاح بالنبوت ، فيجب أن الشيخ أو الفلاح المتعدى عليه أن يضرب كل منهما **ثلثمائة كراباً** ، وأما إذا كان التعدي بالبندقية وليس بالنبوت ولم يصيب بها أحد ، فيضرب كذلك كل من الشيخ أو الفلاح المتسببين فى الفساد **خمسائة كراباً** . و أما إن نتج جرح لأحد من ضرب البندقية فيبعد الثبوت والتحقيق ، فيرسل المتعدى إلى اللومان لمدة ثلاث سنوات ، وأما إذا أدى الضرب إلى العجز ، فيقيم الضارب فى اللومان خمس سنوات . وإما إن كان المضروب توفى بجرحه قبل توجه الضارب إلى اللومان ، فمن حيث الواجب أن القاتل يقتل ، فيجرى عليه القصاص . و أما أن كان بعدما أرسل الجراح إلى اللومان مات المجروح ، فيقتضى أن يقيم الجراح فى اللومان طول حياته ، ويرسل إعلام بذلك من مأموره إلى محافظ الإسكندرية يخبره بأن يقيم الجراح فى اللومان ما دام حياً . إن كان الجراح له المقدرة أن يدفع أجرة الجرح ، فتؤخذ منه . وأما إن يكن له المقدرة ، فالمجروح يرسل إلى أحد الإسبائلية التى تكون قريبة من ذاك المحل من أجل معالجته .

8- إذا كان أحد القائم مقامات البلد أو مشايخ الحصاص أو المشايخ الكبار يكونون مخلصين فى خدمة الميرى ، ولم يكن لهم جنة فى شئ أبداً وفى طلبهم المال من أربابه ، قاموا عليهم بعضاً من أهالى البلد و ضربوا أحداً من المذكورين ، فإذا أدى الضرب إلى الموت الضاربين معروفين ، فمن بعد الثبوت الشرعى يعدمون جميعاً ، و أما إذا كان الضاربون غير معلومين وفيهم الذى غلبت عليه التهمة ، فيجب على الحاكم أن يسجنهم و يطول عليهم السجن ، و يجتهد فى إقرارهم ويضربهم ضرباً لا يترتب عليه هلاكهم حتى يقرؤا . وأما إن كان المتهم لم تغلب عليه التهمة ، أو غلبت وحُبس و ضرب ولم يقر فيلزمهم الدية...

تابع المادة 8: وإذا كان صاحب الدم يتهم عدة أشخاص من أهالي تلك الناحية ، والحاكم يجرى عليهم المعاملة المشروحة أعلاه ولم يتبين شيئاً ، فدعوى صاحب الدم تبطل ، وأما إن كان صاحب الدم يدعى على أهالي الناحية و يطلب أن يحلف خمسين نفر من أهاليها و يحلفوا أنهم لم يقتلوه و لم يسمعوا و لم يُخبروا من الذى قتله ، فيجب على اهالى تلك البلدة دفع دية المقتول . فيجب تحصيل ذلك منهم و توصيلها إلى أصحاب الدم .

Theft

Theft of Fruit and Grains

9- إذا سرق أحد فواكه او خضار أو غلال من المراكب : أما الفواكه و البطيخ و القاوون (الشمام) و الخيار وما شبه ذلك ، يُرسل سارقه إلى حاكم الخط ،ويحقق في سرقة ، فإن كان قدر أكله فقط ، فيضرب عشرة كرابيج ، وأما إن كان زائداً للبيع فيضرب خمسين كرابجاً ، وسارق الدجاج يضرب خمسة وعشرين كرابج ، و سارق الغلال من السفن يضرب مائة كرابج ، وإذا صدر منه ذلك ثانيةً يضرب مائتان ، و الثالثة يضرب **ثلثمائة** ، و إذا وقع منه ذلك رابع مرة ، فيرسل إلى اللومان . والذين يسرقون من منازل بعضهم أصناف ، يكون جزاءهم مثل سارق الماعز و الأغنام .

Theft of livestock and machinery

10- إذا كان أحد الفلاحين أو المشايخ يكسر ساقية أحد أو يحرقها أو يسرق شيئاً من آلاتها ، فمن فعلوا ذلك إن كانوا شباباً يرسلوا إلى الجهادية و أما إن كانوا كبار السن يوضع فى أرجلهم الحديد ويستخدمون فى خدمة عمارات الميرى الذى بالمأمورية لمدة سنة .

Sheltering a criminal or dispatching for theft

11- إذا كان أحد مشايخ البلاد أو القائم مقامات أو مشايخ الخطط أخفى حرامى و لم يظهره ، ووجد أنه أرسله للسرقة وظهر عليه ذلك ، فيجب فى يوم سوق البلد ويجتمع الناس فيه ، ففى وسط السوق على الملاء يضرب فاعل ذلك **ثلثمائة كرابج** .

Second Group Farming-related crimes

Crimes related to the others properties

12- إن الفلاح الذى يأخذ أثر غيره ويزرعه ، فإن كان صاحب الأثر لم يكن حاضراً و حضر بعد الزرع ، فمن حيث أن المحصول لمن زرع ، فيفضل أن الأرض لمن زرعها ، و يُطلب منه مالها ، أما بعد أخذه المحصول ترد الأرض إلى صاحبها .

Unlawful usage, selling or damaging of livestock

13- إذا أخذ احد بهيمة أحد بغير إذنه و طحنها او استخدمها فى خدمة ، وحضر صاحب البهيمة و أخبر قائم مقام الناحية أو شيخ الحصة ، فيقتضى أن يستخلص من فاعل ذلك أجرة البهيمة ، ولأجل تأديبه يضرب خمسة وعشرون كرابجاً .
14- إذا كان أحد الناس له عداوة مع أحد ، و لم يملك عمل شئ فيه ، وتوجه سراً وقطع ألسن أبقاره و أثواره ، فبعد إثبات ذلك عليه يضرب **مائة كرابج** ، ويحال امره إلى الشرع الشريف .

Damage of other person's farmlands due to release of livestock

15- العريبان المقيمين فى بعض الأقاليم إن كانوا يسيبون أجمالهم أو خيولهم أو أغنامهم فى زرع الفلاحين عنوة و أكلوا منها شيئاً ، فيقتضى ذلك يكون بمعرفة المأمور و بعد ذلك تقاس الأراضى التى أكلوها و يؤخذ من البدوى الذى فعل ذلك على يد شيخه بدل كل فدان مائة ريال .

تابع المادة 15: واما اذا انضبط في الزرع بهائم إلى العربان ، فيضبطون الجانب الميرى بدون ثمن ، خلاف ثمن كل فدان مائة ريال إلى صاحب الزرع ، و لأجل إشاعة ذلك بسائر الأقاليم يقتضى أن يشرح هذه النسيكة بعينها فى الخلاصات التى ينشرون لكافة حضرات المأمورين .

16- إذا نزل بهائم احد الناس فى زرع آخر و أكلوا منها و أنلفوا شيئاً و كان ذلك عمدا من صاحب البهائم فيضرب خمسين كراباجاً ، و يؤخذ منه قيمة ما أنلفه و يعطى لصاحب الزرع و إن كان بدون قصد و يكون ذلك بغير رضاه ، فلا يضرب يؤخذ فقط منه القيمة .

Non-delivery of yields to warehouses or registering yields under a different name

17 فى وقت وجود غلال إلى الأشوان ، إذا كانوا جماعة فلاحين وكلوا من طرفهم واحد فلاح و أعطوه غلالهم كى يوردها إلى الشونة باسمهم ، ويحضر لهم رجعة ، فإن كان ذلك الفلاح يورد الغلال المذكورة وأخذ رجعه باسمه أو باسم أحد خلاف أصحاب الغلال ، فمن حيث إن ذلك يعد من قبيل السرقة ، فيتحصل من فاعل ذلك مقدار الغلال و ترتد إلى أصحابهم ، ولأجل التأديب يضرب **مائة كراباجاً** .

18 -إذا كان لأحد الفلاحين مطلوب له شئ من أحد ، فيصير عليه التنبيه مراراً بأداء ذلك إلى صاحب الشئ ، فإذا عند ولم يوفي ما عليه ، فالذى مثل ذلك إن كان صاحب مقدرة فيحبس و يستخلص منه ذلك ، فإذا عند وتوقف فى دفع ما عليه ، فيضرب خمسين كراباجاً ، فإذا لم يفي أيضاً ، فيضرب مائة كراباج ، ويقال له إذا لم تدفع الذى عليك ففى كل مرة تزيد عليك خمسين كراباجاً ، ويخوف حتى يستخلص منه المطلوب لصاحبه . وأما إذا كان ذلك الرجل ليس له قدرة بدفع ما عليه ، فلا يضرب ولا يحبس ، فعلى حسب حالته يتم تقسيط الذى عليه و يستخلص منه .

Crimes against tax evasion

19- إذا كان المأمور يطلب من بلد عشر أكياس من المال الذى عليهم ، و حين توزيع ذلك على الأهالى يتحقق أن شيخ البلد وزع ذلك على الفقرا ، أو لم يجب المال على أقرابه ، و حمى بعض الفلاحين الذى له معهم غرض ، فأول دفعة يضرب مائة كراباج و ثانى دفعة يضرب مائة و خمسين كراباج .

20- إذا كان شيخ الحصة طلب من أحد الفلاحين الذى فى حصته أن يدفع الذى عليه لصراف الناحية ، و توجه ذلك الفلاح أحتمى فى أحد المشايخ ، فإذا كان الشيخ الذى قبل الفلاح المذكور صاحب مقدرة يؤخذ منه المال المطلوب من ذلك الفلاح ، و يضرب خمسين كراباج و إن لم يكن له مقدرة فلا يؤخذ منه شئ ، بل يضرب مائة و خمسين كراباج .
21 إذا توجه المِشْدُ²⁵ إلى أحد الفلاحين ليطلبه لأجل دفع المال ، فإذا ضرب المشد و لم حضر صحبتته ، فيضرب ذلك الفلاح خمسين كراباج . و أما إذا تغلل فى عد الحضور و لم ضرب ، فيضرب عشرة كراباج فقط .
22 الصراف حين يقرأ قائمة أسماء البواقي " أصحاب الديون" إذا تحقق أنه كتم أسماء كم شخص ولم يذكر أسماؤهم لأجل عدم طلب الذى عليهم ، فأول مرة يضرب **خمسائة كراباج** ، و كلما ظهر منه ذلك يضرب **خمسائة كراباج** المذكورة .
23- إذا كان أحد المشايخ أو الفلاحين يظن أنه إذا حرق جرنه أو أصنافه لن يدفع المال الذى عليه ، فالذى يخون نفسه أو يخون الميرى ، يرسل إلى اللومان **يخلد فيه مادام حياً** .

Escaping

24 إذا توجه أحد الفلاحين و أختفى عند العربان ، فعندما يؤخذ ذلك الفلاح ينظر إلى مقدار البواقي الذى عليه و يحصلون من الذى أخفاه عنده . و إن كان الفلاح ليس عليه بواقي ، و إن كان البدوى شاباً يصلح للجهادية فيؤخذ و يرسل ، و أما إن كان ختیاراً "كهل" يرسل إلى اللومان يقيم فيه سنة أشهر .

Escape of Shiekh el-balad or qa'em maqam when summoned or luring village members to escape

25- حين ما يطلب مال بلد إذا كانوا المشايخ و القائم مقامات يهربون ، فأما القائم مقام إن كان يهرب مع الفلاحين أو لوحده ، أول مرة يضرب **ثلثمائة كراباج** ، وإذا هرب ثانياً يضرب **خمسائة كراباج** ، ثالث مرة إذا كان يوجد من يسد عوضه ، **فيعزل** ،

²⁵ مهمته إحضار الفلاحين إلى الديوان لدفع ما عليهم من الأموال ، والتفتيش عن الأشخاص الأغراب الذين يصلون إلى القرية وضبطهم وتسليمهم للقائم مقام والتحرري عن فلاحى الناحية الذين يهربون.

وإلا ففي كل مرة يعني كلما يهرب يضرب **ثلثمائة كرباج** و يستخدم في خدمته . وأما شيخ الحصة إذا هرب أولاً: يضرب **مانتين كرباج** ، وثاني **ثلثمائة كرباج** ، وثالثاً إذا وجد من يسد عوضه ، **فيعزل** ، وإلا ففي كل مرة يضرب **ثلثمائة كرباج** ، ويستخدم كما كان .

عدم التزام الحمول²⁶ بالحصة المحددة له

Bidder non-compliance with the allocated portion

26- إذا أخذ أحد الجمليّة من البايع والشارى شيئاً زيادة عن ما هو مرخص بأخذه كما هو مشروح بالتعريف المحدد بيده ، أو أخذ صنفاً زائداً أو أخذ لمنزله شيئاً زائداً عن مؤنة ، فإذا كانت تلك المخالفة في بلاد كبيرة فيقتضى أن يستدعي المأمور ذلك الحملي ويعطيه بيان محدد يأخذ على أساسه الحملة ، ويفهمه أن لا يتجرأ على أخذ شئ زيادة عن ما هو مشروح به ، فإذا خالف الشروط ، وأخذ من البايع والمشتري مبلغ زيادة عن ما هو مقرر له ، أو أخذ صنفاً زائداً ، أو يكون الحملي قد باع الحملة إلى أحد ، والذي بايع له أخذ شيئاً زيادة عن مؤنة منزله ، فمن بعض التحقيق يضرب ذلك الحملي **مائة كرباج** ويستخلص ما أخذه منه ويرد إلى أصحاب الحق ، ويصير له التنبيه ، فإذا صدر منه ثانياً مرة أفعال مثل ذلك ، فمن بعد التحصيل كذلك يضرب **مانتان كرباجاً** ، ويصير له التفهيم بأنه إذا صدر منه شئ يضرب **الثلثمائة كرباج** ، وهكذا إلى آخر السنة ، ثم وفي آخر السنة تؤخذ منه الحملة وتعطى إلى أحد خلافه . وأما إذا كانت الحملة المذكورة في البلاد الصغيرة ، فيكون جزاء الحملي بمعرفة ناظر القسم كما هو مشروح أعلاه

Crimes related to misuse of authority/power

Cutting & Damaging of Palm trees and trees

27- إذا كان أحد المشايخ أو القائم مقام قطع نخلة أحد الفلاحين أو أشجاره ، لأجل عمارة منزله و لم يدفع له ثمنه ، فيعد التحقيق للتأكد من الفاعل ، يُأخذ الثمن ويعطى إلى صاحبه ويضرب خمسين كرباجاً .

Forceful acquisition of property or timber or money

28- إذا كان شيخ البلد أو قائم مقام أخذ منزل احد فلاحين غصباً عنه ، أو أخذ من منزله خشبة واحدة، وحضر صاحب الشئ يشتكى لأجل ذلك ، فمن بعد التحقيق يقتضى تحصيل الثمن من فاعل ذلك، ومن أجل تأديبه ، يضرب مائة كرباج .

Arson of private or non-private property

29- إذا كان أحد المشايخ أو الفلاحين حرق جرن الآخر أو أصنافه أو منزله ، وهو قاصد الحريق ، وقبل أن يبلغ مراده ظبط ، فالذى مثل ذلك إن كان صاحب قدرة يؤخذ منه ثمن الذى أحرقه ، **فيقيم مدة حياته في خدمة اللومان** .

30- إذا كان شيخ الحصة يبيع بهيمة أحد الفلاحين في غيابه بأقل من قيمتها ، فيجب على القائم مقام أو شيخ الحصة أو حاكم الخط بيعها بسعر الواقع في ذلك الوقت ، فينظر إلى الفرق الذى تبين ويُفرض على المذكورين بحسب مرتبة كل احد منهم ، ويعطى إلى صاحب البهيمة إن لم يكن عليه مال ، و إن كان عليه بواقي فيدفع إلى الصراف وتقيده ، فإن كان صاحب البهيمة لم يكن حاضر فتدفع أيضاً إلى الصراف ويخصم من بواقي أقاربه المكسورين ، فإن لم يكن له أقارب فتوضع أمانة تحت يد الصراف بإسم صاحبها ، وتعطى له حين حضوره ، و أما إن مات صاحب الحق يخصم المال من أصل أسماء المكسورين .

31- إذا كان أحد المشايخ أخذ جمل فلاح و استخدمه في نقل زرعته ، أو استخدم أحد الفلاحين في حصة زراعته ، فيستخلص منه أجره ذلك بحسب واقع تلك البلدة الطاق اثنين ، ويرد إلى صاحب الحق .

Unlawful beating of farmers - or Unjust beating of farmers

²⁶ الجمّل: هو مهمة تحصيل اموال عن نشاط ما أو إحتكار توزيع أو بيع سلعة ما ويتم الحصول علي حق الإحتكار من خلال مزاد يرسو علي من يلتزم بدفع أعلى عائد للحكومة عن ذلك النشاط وعلي سبيل المثال كان متعهد بيع ورق الدمغه يحتكر بيع كل الورق المدفوع الذي تنتجه الحكومة مقابل دفع مبلغ معين سنويا

32- إن كان قائم مقام الناحية أو شيخ الحصة يضرّبون أحد الفلاحين ، ويدعون أن ضربه نتيجة تكاسله ولكن بلا أصل ، فمن بعد التحقيق يتم ضربهم أضعاف ما ضربوه بغير ذنب ، و الجزاء لا يكون في الغيط ولا خارج البلد بل يكون على مآل العالم ، لأجل عدم تجاوزه الحدود و عبرة للغير .

Interrupting Farmers from taking care of crops or employment without payment

33- إذا كان أحد المزارعين وُجد غيطه ليس مخدوماً كالواجب ، وحينما سئل أخبر أن سبب هو أن الشيخ أو غيره أخذه وخدمة في خدمة ، وأجبره على ترك غيطه ، فالجزاء الذي يجب لذلك الفلاح يقتضى أن يطبق على الذي أخذه و تسبب في ترك غيطه

Farmers causing their partners to escape during harvest

34- إذا كان أحد المشايخ شارك مع أحداً في زراعة ، ومن صحة الزرع عمل وسيلة وهرب شركائه ، لأجل محصول الزرع يأخذه لنفسه ، وكذلك إذا كان فلاح تشارك مع فلاح وفعل به مثل ذلك ، وحضر صاحب الشئ أخير بذلك ، فمن بعد التحقيق يتحصل من ذلك الشيخ أو الفلاح مقدار استحقاقه ويغطى لأصاحبه ، ولأجل تأديب فاعل ذلك أن كان الشيخ والفلاح يضرّبوا ثلثمائة كرباج .

35- إذا طُلب أحد من الفلاحين لخدمة الميرى ، فيقتضى أن يُرسل الفلاحين بالدور ، ويتم تقييد كل دفعة عند صراف الناحية ، فإذا تحقق أن أحد المشايخ أو القائم مقام بإرسال أحد بخلاف الدور الذي عليه ، فيضرب أول دفعة خمسة وعشرين كرباجاً ، وإذا حصل منه ذلك ثانياً ، يضرّب خمسين ، وثالث دفعة مائة كرباج .

36- إذا كان أحد حكام فروع المديرية يستخدم فلاحين بغير أجر ، فيما عدا أشغال الميرى ، فتؤخذ منه الأجرة الطاق اثنين ، ويصير توصيلها لأهلها "الفلاحين" ²⁷ .

37- إذا كان شيخ البلد أو فلاح يهرب من بلده إلى الأخرى ، فيرسل المأمور أو ناظر القسم لإحضارهم ، ويسألهم : ما سبب هروبهم ، ويخبروهم أنهم هربوا بإغراء فمن بعد التحقيق إذا كان يتضح أنه بإغراء من أحد سوى مثل قائم مقام أو شيخ ، فنظراً لإفساده يضرّب كلا منهم خمسين كرباجاً .

38- إذا كان شيخ البلد موجوداً في بلده ، وحضر له طلب من الحاكم ، ويتوقف عن التوجه له ، ويعده إذا حضر الحاكم تلك البلد ، وهرب ذلك الشيخ وبعده وجد ، فيضرب **ماتنين كرباج** .

Offences related to negligence of cultivating the land

Deliberate degradation of agricultural land

39- إذا كان أحد المشايخ أو الفلاحين يوجد عندهم أطيان اثر ، وفي زمن النيل يوجد محل رى تلك الأرض ، وإنما لقصد عدم دفع المال بشرقها ، أو حين ما تروى لم يصرف عنها الماء بل يبقئها على الأرض ، ويدعى أنها مستبحرة ، فالذى مثل ذلك يقتضى أولاً أن يضرّب القائم مقام و شيخ الحصة كلا منهما خمسين كرباجاً ، ويؤخذ من صاحب الأثر مال الأرض المذكورة بتمامه ، **ويضرب مائة كرباج** . وأما إذا كانت الأراضي المذكورة كثيرة ، يضرّب القائم مقام و الشيخ كل واحد **مائة كرباج** ، وصاحب الأثر كذلك **مائة كرباج** ، ويؤخذ منه المال .

40- وقت التخضير إذا كان أحد يتكاسل على تخضير أطيانه ، ولم يأخذ محراثه وينزل - كما هو الواجب منه - إلى غيطه ، فمن حيث إن هذه خدمة القائم مقام والشيخ ، فإذا لم يكن الفلاح يمتثل لهم ، فيضربونه خمسين كرباجاً ، ويدعونه للعمل فلا بد أن يأخذ محراثه ويتوجه إلى غيطه في الحال .

²⁷ خلاصة من مجلس ملكية في 13 ربيع أول سنة 1245 سبتمبر 1829م

41- إن في وقت التخضير إذا كان أحد الحكام وجد أن بلدًا لها مقدرة في تخضير أطيان من بعض البلاد الذي ليس لهم قدرة ، وخصص لها جانب طين وامتنعوا عن تخضيره ، أو تركوا أطيانهم المسموحة عليهم و هربوا ، وبعد فوات وقت الزراعة حضروا ، فالذي مثل ذلك أولاً : يتحصل من أهالي تلك البلد مال الأطيان التي تركوها بالتمام ، ولأجل التأديب يضرب كل شيخ **ثلثمائة كراباجاً**.

non-diligence in performing agricultural duties

42- بما إن الفلاح عادته التكاسل فيما يخص براح نفسه ، فيحتاج يكون دائم الأوقات صائراً عليه التنبيه و التدقيق الكلى في تمام خدمة زراعته .

43- إن القائم مقام وشيخ الحصة يشقون كامل غيطان الناحية في كل يومين ، ولم يعطوا تكاسلاً أبداً ، والغيطان التي يمرون عليها إذا وجدوا خدمتها ناقصة ، بوقتها يحضرون صاحب الغيط ويسألون منه عن السبب ، فإذا لم يوجد له عذر ، فأول دفعة يضرب خمسة وعشرون كراباجاً ، وثاني يوم يتوجهون الغيط وينظرون أشغاله ، فإذا وجدوا صاحب الغيط لم يحصل منه همة في خدمة أطيانه ، فيضرب خمسين كراباجاً ، وفي ثالث يوم كذلك يتوجهون الغيط المذكور ، فإذا وجدوا صاحبه مهتماً في خدمته لا بأس ، وإلا إذا وجدوا أنه مهمل كالأول ، فيضرب **مائة كراباج** . وأن كان له شركاء في الغيط ، فيصير عليهم التنبيه بالإعانة له ، وأما إن كان ليس له شريك ، وصاحب الغيط ليس له قدرة لخدمة الغيط ، فيشارك مع واحد مقتدر .

44- إذا كان أحد المشايخ أو الفلاحين لا يريدوا أن يبقى لهم أثر لأجل أن يزرعوا الأطيان الطيبة ويتركوا الأطيان السيئة لغيرهم ، ومن علمهم أن ليس لهم أثر في الأطيان الطيبة التي يأخذونها ولم يخدموها كما يجب . ومن عدم استحقاق الأرض للخدمة كذلك يصير الطيب ردىء ، فيجب على الحكام إخبار مثل هؤلاء وتحديد أثراً لهم ، فإذا لم يمتثلوا ، أو خربوا الأطيان كما كان ، فأولاً : يجب أن ينبه عليهم ، فإذا لم يقبلوا النصيحة فيضرب كل منهما **ثلثمائة كراباجاً** .

Forced to perform works while unassigned to farming

تابع 44 - إذا كان في بلد ، الفلاحين لم يكلفوا بزراعة أراضي أثرية ، ولم عليهم طلب للديوان ، فحين ما يتطلب أنفار من تلك البلد يزرعون الأهالي ، حيث أنهم مطالبين فيرسلوهم إلى الأشغال . والحال أن الذي مثل ذلك يقتضى أن يتوزع عليهم أطيان ويجعلون أصحاب أثر ، وإما يوجد في بعض البلاد مزارعين لهم خمسمائة وألف فدان ويمكن زيادة ، وعندهم فلاحين بالأجرة أو بالشركة ، فالذي مثل هؤلاء الفلاحين لم يعدوا بأنهم بطالين ، وإنما يقتضى أن يكون قيدهم عند المأمور وناظر القسم .

45- الذين يزرعون الكتان بغير الطريقة اللائقة ، ولم يسبخون أرضه كما هو الواجب ، أو في حين طيباه لم أدخله المعطنة ، أولم أعطاه حقه في العطين والنيفض ، أو قصر في وروده إلى الشونة ، فيقتضى أن يفعل بهم كما هو مشروح **في المادة السابقة** .

Escaping of public services

Refrain from work in public construction of bridges

46- الفلاحين الذين يطلبون للعمل في أعمال الترع والجسور ، فإذا لم يحضر ، أو يحضر ويهرب قبل تمام العمل ، أو يُهْرَب فلاح ، للامتناع من أداء خدمة الميرى : إن كان ذلك شيخ حصة ، فيضرب **مانتين كراباج** ، وإن كان القائم مقام يهرب يضرب **ثلثمائة كراباج** ، وإذا كان فلاح يهرب من غير سبب ، فيصير التنبيه أولاً بعدم هروبه و تخوفه ، فإذا هرب ثانياً مرة بلا سبب ، يضرب خمسة و عشرين كراباج ويُشغَل في العمليات كغيره .

Military Service-

Refrain from drafting persons in military service

47- إذا طلب من قرية انفار إلى الجهادية فتوقف مشايخ الحصاص أو القائم مقامات عن تنفيذ الطلب ، أو حصل منهم فساد للإمتناع عن تقديم الأنفار ، فإذا كان لهم أخوة فيؤخذوا ، وإن لم يكن لهم أخوة فيؤخذ أولادهم ، وإذا لم يكن لهم أولاد يؤخذ أولاد أعمامهم ، أو يؤخذ أقاربهم . وفي عدم وجود أقارب لهم ، أو الموجود لم يوافق إلى الجهادية ، فيؤخذ من أنفار تلك الناحية مقدار ما هو مطلوب منها . ويضرب القائم مقام أول مرة **ثلثمائة كراباج** ، وثاني مرة يضرب **خمسمائة** . وكذلك يُضرب شيخ

الحصة أول مرة **مائتين** ، وثاني مرة **ثلثمائة** ، وإذا حصل منه ثالث يضرب **ثلثمائة** كرباج ، وأما إذا لم يهرب المشايخ والقائم مقام والذي هرب منهم أهالى البلد فقط ، فيؤخذ منهم – يعنى من أهالى البلد – الطاق أثنين .

Drafting of two sons in the military service leading to interruption of work

48- إذا كان لأحد الفلاحين ولدين فقط، فأخذ شيخ حصته أول مرة ولداً منهم للجهادية وفى المرة الثانية أيضاً نتيجة عداوته مع الفلاح المذكور أخذ منه الولد الآخر وترك الأب معطلا عن أشغاله ، وحضر نفس الرجل وشكى عما صار له ، فإذا كانت تلك البلد يوجد فيها فلاحين بطالين من غير زراعة ولم يأخذ منهم أحد للجهادية، فيتضح من ذلك أن الشيخ قصد تعطيل الفلاحين ، فينبغى إن كان للشيخ المذكور ولد ، فيؤخذ وإذا لم يجد له ولد فيؤخذ من أقاربه واحد ويرسل إلى أوجاق الجهادية ، بجواب من الأمور لحضرة ناظر الجهادية بكيفية الحاصل ، لاجل الإفراج عن ولد الفلاح الثانى الذى أخذ منه ويحجز بدلاً منه ولد أو قريب الشيخ المذكور .

49- إذا كان احد من عساكر الجهادية – أعنى يوزباشى ، أو جاوش ، أو أون باشى ، أو بلطجى ، أو نفر – يكونون مأمورين بظبط الأنفار الهربانيين من عساكر الجهادية الذين بالبلاد ، أو يكونون من الذين يأخذون إنداً بالإقامة كم يوماً من بلدهم ، و يحصل منهم شجار فى الأسواق و يظبط العسكري مع الفلاح ، أعنى المتشاجرين مع بعض فيقتضى أن الفرقين يحضرون عند المأمور يسمع دعوتهم ، و يتحرر بتلك الدعوة جرنال ، فإذا ظهر العيب عند عساكر الجهادية ، فيرسله إلى ظابطه مع أحد من طرفه بالجرنال . و أما إذا ظهر العيب عند الفلاح ، فيضرب ثلاثون كراباجاً ويصير التنبيه بأنه لا يعود يفعل مثل ذلك .

Murder by a soldier in the military service

50- إذا كان أحد من طائفة العساكر قتل أحداً متعمداً ، فإذا حدث ذلك بعيد عن المحروسة " القاهرة " ، فيحال الأمر إلى حضرة المأمور الكبير ، بأنه يحضر العلماء و حاكم الشرع ، وبمواجهة الجميع ، وتعمل الدعوة ، وإن كان بالمحروسة تُعمل دعواهم بمعرفة الشرع الشريف .

Administrative Violations Negligence in discharging duties

51 - إذا حدث إهمال من المشايخ وقائم مقامات النواحي فى تمام عملياتهم ، فيلزم أول مرة العتاب وترذيلهم بين أقرانهم . وإن صار منهم ذلك ثانياً ، يضرب كل واحد منهم مائة كراباج بطرف ناظر القسم . وأن صار ثالث مرة يضرب كل واحد منهم مائتين كراباج . و أما إذا صار منهم رابع مرة ، يعزلون من وظائفهم ، ويعين مكانهم من يكون كفواً للخدمة .

52 -إذا كان حاكم الخط و شيخ الحصة يهملون فيها فرض عليهم ، فمن بعد تحقيق وإثبات إهمالهم على يد المأمور ، فأول مرة يترذلون ما بين أقرانهم ، وفى الثانية يتأدبون بالضرب : الحاكم أدبه خمسين عصاية من ناظر القسم، والشيخ أدبه مائة كراباج من المأمور ، وثالث مرة من يعزلوا من وظائفهم ويعين خلفهم بما يوافق للمصلحة .

53 -إذا حصل تكاسل من قائم مقام الناحية أو شيخ الحصة فيما هو ملزوم منهم ، فالجزاء الذى يستحقونه يكون بيد الشيخ الكبير و حاكم الخط .

Deceiving persons and lack of credibility by the governor

54 -إذا كان أحد المشايخ أو الفلاحين سأل منه الحاكم شيئاً ولم يخبره على الصحيح وتحقق كذبه ، فإن كان شيخاً يضرب خمسين كراباجاً ، وأما إذا كان فلاحاً يضرب خمسة وعشرين .

55-إذا كان أحد يتوجه إلى الحاكم ويفترى على أحد بكنب ، فالذى مثل ذلك يحضره القائم مقام و شيخ الحصة وينبهونه بأنه لا يعود يكذب على أحد ويفترى عليه من غير أصل ، وإذا صدر منه ثانياً يفهمونه أنه بصير له التكدير .

56 -إذا كان أحد المشايخ أو الفلاحين قد عرضحال إلى الأعتاب الكريمة ، وصدر الأمر بأعلى العرض خطاباً إلى من هو فى جهته ، وتوجه به صاحبه وسلمه له ، وعمل دعوته بوجه الحق وظهر أن صاحب العرض ليس له حق ، وأعطى له جواب ، ثم وبعد مدة توجه ثانياً وقدم عرضحال آخر يستدعى فيه أن دعوته لم تتم ، وقصد بذلك تعطيل شغله وعدم دفع الذى عليه ،

وتعطيل أشغال الميرى ، فما يجب على الذى مثل ذلك . فمن حيث إن جناب ولى النعم أفندينا – أدام الله تعالى أيام دولته , بابه الأعلى ملجأ إلى الفقراء والضعفاء فحاشا أن يرتد آمالهم خائباً فلذلك لايجوز تطبيق أي عقوبة على هذا الشخص مطلقاً .

57 - إذا كان أحد الفلاحين أو شيخ البلد له دعوى و توجه بجواب إلى الكاشف ولم يصله رد من الكاشف ، وبعد مدة توجه ثانياً إلى المأمور وأخبره أن دعوته لم تنظر ، فيقتضى أن المأمور يحجز ذلك الشيخ أو الفلاح عنده ، ويرسل يخاطب الكاشف : بأن فى التاريخ الفلانى أرسلنا لكم جواباً بخصوص المادة الفلانية فماذا تم فيها ؟ فإذا حضر رد الجواب ووجد فيه ان الفلاح المذكور لم يذهب إليه ، وأن الذى أحضر الجواب شخص آخر ، أو يخبر أن لم يرد إليه جوابات على الإطلاق ، فينبغى أن المأمور ينظر فى دعوى ذلك الفلاح بغاية الدقة فإن ظهر أن ليس له حق فى دعواه ، فلأجل تركه مصلحته بغير فائدة ولا سبب ، فيضرب خمسين كرابجاً .

Misconduct of Judges

58 - إذا كان أحد الفلاحين أو شيخ الحصة يتوجه إلى القاضى لعمل دعوى ، فإذا كان القاضى يميل عن الحق أو يأخذ زيادة عن رسم عوايده ، فإن كان ذلك القاضى نائبياً فيتوجه صاحب الدعوى إلى قاضى البندر ويقص عليه دعوته . وأما إن كان أصل مستمع الدعوى ، فتعرض دعوى ذلك إلى كبار العلماء الذين بتلك البلدة ، ويظبط حكم القاضى الأول وحكم العلماء بالتفصيل ، ويرسل جرنالهم إلى ديوان خديوى ، وبحضور الجرنال إلى مأمور الديوان يحضر حضرات علماء المحروسة ويعرض عليهم الحكمين ، لأجل إظهار الحق ويرسل بذلك إعلام .

Family Disputes

Abortion by beating or medication

59 - إذا كانت احد النساء حامل و تشاجرت مع زوجها أو بأمرأة و سقط حملها، فهذه دعوة منوطة بالشرع ، فيرسلون الفريقين ، وكل ما حكم به الشرع فيجرى العمل به .

Sexual abuse of a virgin

60- إن كان أحد يسبب أحد ، أو يزيل بكاره بنت فهذه دعوى منوطة بالشرع الشريف ، فيرسل المدعى و المدعى عليه إلى الحاكم الشرعى و كل ما يحكم به الشرع يحضر به إعلام إلى الحاكم العرفى ، لأجل مجبه يجرى أحكامه .

Offending the husband leading to quarrel and leaving the house (angering the wife)

61- إذا تزوج أحد من بنت أحد ، بعد دخوله عليها توجهت البنت إلى منزل والدها أو لأحد أقاربها ، وادعت انها غضبانه ، وطلبوا أنهم لم يسلموا له السيدة إلا إذا أخذوا منه دراهم بصورة المصلحة ، فمثل ذلك يحال إلى الشرع الشريف .

Marriage with woman whose marriage (contract) is being concluded

62- إذا كان أحد يعقد نكاحه على بنت أحد أو يمهرها أو يعطيها نشان ، من غير رضا ولى تلك البنت ، إذا كان شيخ البلد يريد أن يزوجه من أحد خلاف الذى عقد عليها النكاح أو الذى نشنها ، أو أراد أن يتزوج بها ، فيعرض أمرهم إلى الشرع الشريف .

Appendix: 4 Cases recorded in Judiciary Registry Related to Regulation

أولاً : أحكام القضاة والهيئات المختصة

(1) دعوى تجار الخضار ضد حجاج الخضرى ملتزم وكالة الخضار .
أحال محمد علي الدعوى المقدمة إلية إلى القاضي الشرعي للحكم فيها ففضى القاضي بمايلي :
تقرر من صاحب الفضيلة والسماحة قاضي مصر في 17 جمادى الآخرة 1223
إن عرب زادة الحاج مصطفى جوربجي وحسين عرب أوغلي أفاد بأنهما التزاما سابقاً نصف وكالة الخضار مع الشخص
المسمى حجاج ملتزم وكالة الخضار الكائنة بحارة الروم ، ومع ثلاثة أشخاص آخرين غائبين عن المجلس ، والتزم حجاج
المذكور النصف الآخر مع ثلاثة أشخاص أيضاً ، وأنهما في أيام خورشيد باشا لم يأخذوا من الالتزام المذكور شيئاً مدة أربعة أو
خمسة شهور ، وعليه طلبا ما يخصمها من الربح المقبوض في المدة المذكورة ، ثم لدى السؤال وبعد الإنكار ، صرف النظر
عن سماع دعوى ضد مجهولين ، وطلبت البيعة من المدعين المذكورين ، فاعترفا بأنهما عاجزين عن إثبات البيعة ، وقد اقتضى
تحليف اليمين إلى حجاج المدعى عليه ، فأقسم بالله العلي الأعلى ، وبناء على ذلك رفضت دعوى المدعيان المذكوران .

(2) - دعوى فلاحين ضد قيام المشايخ بتسجيلهم حرفيين وتحصيل الضرائب منهم .
دعوى من اهالي ناهيا بأنه في سنة 1265 ، لما صدر الأمر برفع ثلثي الويركو " الضريبة " الذي صار إضافته على الأطيان
بما يخالف اللوائح ، وكل من كان عنده جمل أو حمار أدخله ضمن أرباب الكارات ، ولما عرض عن ذلك وتحقق الأمر ،
وأخيرا عرض لمجلس الأحكام ، فصدر أمره بفك النواحي من عهده ، ورفع مشايخهم و تنصيب عوضهم و أولادهم . والمدير
رتب أربعة أنفار عمد وصحبتهم ناظر القسم ، وصار تعديل الويركو بنواحي طنناش والكوم الأحمر طبق الأمر ، . فبتلاوة هذا
بالمجلس روى أن يتحرر لحضرتكم ماسبق .

(3) - دعوى شيخ بالأزهر من عطائه أرض لا يقدر على زراعتها
دعوى مقدمة من حسن محمد القويسني بالأزهر يتشكى من إعطائه خمسمائة فدان وكسور مع إنه ليس مقدوره لا هو و لا أقاربه
زراعتها ، وعرض هذا الأمر لمجلس الأحكام بأن مقدم هذا الأمر السابق من أهل العلم ومتى كانت الأطيان المذكورة تركت
ووضعوا يدهم عليها أربابها من مدة نحو السبعة عشر سنة كما يدعي ، فلا يرى داعي لجبره هو وأقاربه على أخذها ثانية ،
لاسيما مع قولهم بعدم القدرة ، ويجرى الأمر حسب الأوامر الصادرة في هذا الشأن كما روى .

(4) دعوى مزارعين خط الشطوط من فرض ضريبة على غلال التقاوى و علف المواشي
إن خط الشطوط بدمياط نحو خمسة آلاف فدان منهم زراعة أرز 3500 فدان ، وهذه الشطوط غيطان وعزب خارج دمياط ،
من القنطرة البيضة لعزبة البرج ، وفيهم أثار نحو ألف وخمسمائة ثور ، فيحتاجوا للعليق فول وغلة إلى زراعة الشتوى ، وكل
ذلك نحصل عليه من الريف بسبب أن الشطوط لم تزرع فول ، والغلة التي تطلع عندهم يتم صرفها على الشغالة وقت زراعة
الأرز ، ويشترتوا تقاوى . وحين حضر الأمر الكريم بفرض ضريبة الغلال على ثغر دمياط عرضنا على المجلس العالي
بالمحروسة بأن الشطوط والعزب المذكورة خارج الثغر ، فورد الرد والقرار من المجلس العالي ومضمونها : أن الشطوط
والعزب التي خارج دمياط ليس عليها ضريبة ، بل الضريبة على الغلال التي تدخل البندر مثل باقي البنادر. فصار العمل
بمقتضى هذا القرار ، فمن مدة خمسة أيام تم تعيين غفر على القنطرة التي خارج الشطوط والعزب المذكورة خلاف الغفر الذين
على الثغر ، وكلما حضر إلى المزارعين غلال إلى التقاوى أو فول إلى عليق الأثار ، يأخذونه ويدخلوه الثغر بالقهر ، ويطلبوا
منا عليه الضريبة ، فأدى ذلك إلى تعطيل عليق البهايم والتقاوى بالشطوط ، والأمر لمن له الأمر .
وكان رد المجلس: قد اطلعنا على هذه الدعوى ، ومن حيث أنه طبق التقرير الوارد من المجلس الأعلى بالمحروسة المتضمنة
رفع الضرائب عن الغلال الواردة لأهالي الشطوط ، والغلال الخارجة عن الثغر ، قررنا بأن هذا مناسب لما فيه راحة
المزارعين ، وتشهيل زرع الأراضى بالغلال وعليق أثار الزراعة ، فالأمر لصاحب الأمر .

وبناء على الحكم السابق صدر أمر بتاريخ 7 رجب 1250 إلى خليل بك محافظ دمياط " بتعيين نظار لتجميع الضريبة على ان يكونوا من الأهالي على ان يقوم بتعيين النظار المذكورين : الحاج مصطفى جبر ، ميخائيل جرجس سرور ، ميخائيل سرور ، فرنسيس ريانة ، موسى نقولا ، محمد أغا رضوان ناظر قسم دمياط ، الحاج علي بكرى ، شيخ علي خفاجى .
ثانيا : دعاوى محالة من الهيئات القضائية الى المفتى

(5) سؤال عن عزل ناظر
سئل عن رجل اوقف جانب من الاطيان الخراجية بعد صدور الامر من الحضرة الخديوية بذلك وجعل للوقف المذكور ناظرا ومشرفا ولا بد لجهة الوقف ان يحرر في كل سنة دفتر مشتمل على الايراد والمنصرف ويختتم عليه من الناظر والمشرف ..واخل الناظر بهذا الشرط فهو يستحق العزل حيث شرط الواقف ايضا بكتاب وقفه المذكور ان من اخل بشرط من شروطه يستحق العزل. فما حكم الله في ذلك افيدوا الجواب؟؟؟
اجاب المفتى اذا لم يحرر الناظر كل سنة دفترا مشتمل على الايراد والمنصرف ويختتم عليه الناظر والمشرف وعلماء الناحية انعزل من وظيفته وانتقل المنصب لمن هو مشروط له بعبء عملا بقول الواقف ان من اخل بشرط من شروطه عزل والله اعلم
حرر في 18 رجب 1304 .

(6) سؤال المفتى عن رجل وضع يده على قطعه ارض زراعية ميرية
سئل عن رجل وضع يده على قطعه ارض زراعية ميرية ويسدد ما عليها من الاموال نحو خمسين سنة وهو يتصرف فيها بالزراعة وغيرها تلك المدة تصرف الملاك في املاكها من غير منازع ثم مات عن ابنين ووضع الابناء يدهما عليها وهما يتصرفان فيها بالزراعة وغيرها مدة نحو سبعة وثلاثين سنة من غير منازع والان ادعى عليهما رجل انه يستحقها دونهما عن جده متعلل بانها مكلفة باسم جده ..فهل يكون العبرة بوضع اليد ولا عبء بمجرد التكليف ولا تسمع دعوة المدعى المذكور على اضع اليد ويمنع عن منازعته ومعارضته فيها والحال ما ذكر... افيدوا الجواب؟؟ اجابة حيث كان الحال ما ذكر في السؤال فلا تسمع دعوة المدعى على اضع اليد ويمنع من معارضته وهذا حيث لا مانع والله اعلم .

ثالثا : الاحكام الصادرة من رجال الإدارة

(7) دعوى مقدمة للمجلس العالي من أنفار الإسكافية.
تقدم بعض انفار الإسكافية بالتظلم مما هو حاصل لهم من شيخهم من الأذية والتناول التي تودى الى هربهم ويلتمسوا عزلة وتنصيب خلافه فوردت الإفادات من المحافظ بتاريخ 14 ربيع الأول سنة 1279 نمرة 74 أنه سبق نظر دعوة المذكورين علي شيخهم وتم اصدار القرار اللازم عنه في 26 شعبان سنة 1278 برفض دعوتهم المقدمة ضد شيخهم مع الابقاء علي الشيخ المذكور بوظيفته لعدم ثبوت جنحه حقيقية تؤدي لعزله بل لوحظ من شكاوهم وجه التنافس معه لعدم إقامة أدلة جنحة حقيقية توجب عزله , وتقديم شكوى من مشايخ الطوايف بدون ثبوت دليل لا يكفي لانها من قبيل الجنايات وسيصير التنبيه عليه وعليهم بالالتزام بحسن التعامل مع بعض.
إلا انه تكررت الشكوى فوردت إفادة رقم 4 من ذي الحجة سنة 1278 نمرة 24 بأنه من كون المذكورين لازالوا ملحقين بالشكوي ومقرين بعدم أستقامة ذلك الشيخ وارتكابه المخالفات الغير مرضية فقد تحرر من المحافظه إلي الضبطية بالتاريخ المذكور بالنظر في ذلك ولما طلب كشف بأسماء ومقدار أنفار الطايفة المذكورة وورد بإفادة رقم 28 ربيع الأول سنة 1279 وسار الإطلاع عليه فوجد مندرج به 128 نفرا وهذا المقدار زياده عن الأشخاص الذين كانوا تقدوا بالدعوى سابقا وكان عددهم ستة وأربعين نفرا إلا أنه الآن تقدم عرض من الطايفة يفوق هذا العدد لعزله وتنصيب خلافه .
وبالمداوله عن ذلك تم اتخاذ قرار أنه مادام تنصيب مشايخ الحرف هو بإنتخاب ورضا أنفارها لأجل حصول الراحة لهم وعدم تشكيهم والشيخ المذكور المدعو حسين علي تكررت منه الشكوي من أنفار طايفته وقد تبين من الدعوى المقدمة ان الراغبين لعزله هم أغلب الطايفة فمادام الأنفار الراغبين في عزل الشيخ المذكور أكثر من باقي الطايفة لحصول أمنيتهم وسعيهم علي معاشهم ورفعاً للتشكي والتظلم الواقع من المذكورين يتم عزل الشيخ .

(8) دعوى ضد مسؤل الحكومة

تم تقديم دعوى إلى مدير مديرية البحيرة عام 1833 م ، تقدم بها رجل من قرية ، اسمها غير مقروء في الملف ، ذكر فيها أن القرية أصابها الدمار نتيجة الفيضان المدمر وان القرية شارفت علي الخراب وأن الفلاحيين طالبوا مسؤل الحكومة بمساعدتهم

في اصلاح القرية في مقابل "المال" الذي يدفعونه علي المحصول ، لكن المسئول طلب المال مرتين من نفس القرية . وقد حقق المدير في الشكوي وأصدر قراره بألا تجمع الضرائب مرتين من نفس القرية.

(9)دعوى ضد الأغا لاستخدام الفلاحين في السخرة
اشتكى فلاح من "منوف" إلي الوالي من أن أغا "كتائب" الدلاة " قد جمع فلاحين لتسخيرهم في العمل في أرض مساحتها مائة وخمسون فدانا كان قد زرع نصفها برسيماً وزرع النصف الآخر بالحبوب . واشتكى الفلاحون من أنه بسبب هذه السخرة فإنهم لا يستطيعون العمل في أرضهم وقد حقق الوالي في الموضوع وأرسل إلي الأغا رسالة تأنيب تقول " إن صح ذلك فإننا لانسمح بذلك ، إذا كنت في حاجة إلي البرسيم لخيلك ، فسيقوم مدير المديرية بإمدادك به فاذهب إليه إذن، لكن لا تعطل مصالح الحكومة " (26 معية تركية) .

رابعا : احكام صادرة من محمد علي في شكل اوامر مباشرة

(10)أمر خاص باعتداءات العربان على القرى
أصدر محمد علي أمر إلى مأمور الفيوم في 5 صفر 1244 هـ / 17 أغسطس 1828 م بمعاقبة العربان الذين تتلف مواشيهم مزروعات الفلاحين بدفع خمسة أضعاف ثمن المزروعات للفلاحين ، مع ضبط الحيوانات لجانب الميرى .
و كذلك أمره إلى مأمور الفيوم في التاريخ السابق بمعاقبة نظار الأقسام ومشايخ القرى الكبار الذين تظهر في أقسامهم وقراهم أراضي بور بدون زراعة، وذلك بتحصيل أموال هذه الأراضي من هؤلاء نظار الأقسام و كبار المشايخ .

(11)أمر خاص بجريمة ذبح الحيوانات بمنازل بعض الذوات و بيع لحومها بدون دفع ضرائب عنها
أمر في 7 شوال 1244 هـ / 12 إبريل 1829 م & 12 ذى القعدة 1245 هـ / إبريل 1830 م
يصدر محمد علي أمر إلى حبيب أفندي بضرب من يوجد بمنزله " ذبيح حيوانات برانية " خمسمائة نيوت ، و إرسال القصاب إلى ليتمان إسكندرية ، و كذلك إرسال الشيخ الذي يوجد بشياخته ذلك إلى الليمان مؤبداً . و لما لم تجد تلك العقوبة نفعاً فإنه لم يمض عام واحد حتى أصدر أمراً آخر 12 ذى القعدة 1245 هـ / إبريل 1830 م نصه : "مع سبوق صدور الأوامر و التأكيدات بتربية من يتجاسر على ذبح حيوانات برانية ،ومع ذلك مازال جارى الذبيح ، و عليه لابد من **إعدام** من يتجاسر على ذلك من الآن فصاعد .

(12)أمر خاص بهروب الفلاحين من قراهم
أصدر محمد علي أمر في 14 شعبان 1244 هـ / 19 فبراير 1829 م بمعاقبة شيخ القرية الذى يخفى فلاحاً متسحباً من قرية أخرى دون الإبلاغ عنه ، بالجلد مائة كرجاج ، وتغريمه مائة قرش تدفع للبصاص الذى أرشد عن الهارب .

(13) امر بمعاقبة العربان الذين يثبت انهم اخفوا فلاحا
ومن جانب آخر فإن ناظر قسم طنطا كان قد أرسل إلى الباشا يخبره بأنه وجد نفرين من الفلاحين المتسحبين مقيمين بطرف أحد مشايخ العربان " ولايسين ملبوس العربان " ، و قد وجد محمد علي أن الأوامر السابقة الخاصة بمشايخ القرى لا تكون مناسبة وراعاة للعربان ، فأصدر أمراً إلى جميع مأمورى الأقاليم في 22 محرم 1245 هـ / 24 يوليو 1829 م بالقبض على أى نفر من العربان يثبت أنه أخفى فلاحاً متسحباً ، و القبض على شيخ قبيلته أيضاً و إرسالهما إلى ليتمان الإسكندرية مع إعادة الفلاح إلى بلده ، كما أمر ناظر قسم طنطا بإرسال ذلك الشيخ الذى أخفى الفلاحين إلى الليمان مدة حياته .

(14)أمر خاص بالرشوة (1838م/1245ه)
عندما عرض رئيس قسم رشوة علي أحد أعضاء "المعية" وقد أمر محمد علي بإجراء تحقيق وقال إذا ماتأتى لواحد ممن نشأوا في الدوايين أن ينحط لمثل هذا الفعل ، فإنه من المحتمل أن يقدم الموظفون الآخرون المعتادون علي "الأخذ والعطاء" علي ارتكاب لإكتشاف ما إذا كان هناك موظفون آخرون قد اقترفوا مثل هذه الأفعال يعاقب بالأشغال الشاقة لمدة تتراوح بين سنة وثلاث سنوات .

(15)أمر خاص بالإهمال من المهندسين

تمر من محمد علي إلى المهندسين "نحن نأمركم أنتم ومرعوسيكم بأن تتأكدوا من سلامة أداء نظام الري وأن تعملوا بجد لحماية وصيانة السدود وأن تتأكدوا من أن المياه لا تضيع هباءً وإذا ماتين وجود شرح أو كسر في أحد السدود أو كان خالياً من المياه فإنه (الموظف المسئول عن المنطقة) يستحق الإعدام .

كذلك كان مهندسو الري موضع ملاحظة دقيقة ، إذ كان في أيديهم سلطة فتح أو إغلاق مياه الري ، وبالتالي يسمحون بري بعض الأراضي ويتركون الأخرى عطشى كانوا مسئولين كذلك عن صيانة السدود والخزانات وسيحل الويل بالموظف الذي ينهار سد في منطقته وكان كبير المهندسين يتلقى أوامر متكررة .

(16) أمر خاص بتحصيل الضرائب
وصدرت الأوامر إلي مدير "الشرقية" للتحقيق فيما إذا كانت مناطق داخلية في اختصاصه قد تأخرت في دفع ما عليها من ضرائب ، وإذا ما كان الأمر كذلك فيجب أن يضرب "ناظر" المنطقة 150 ضربة "بالبنوت وتحولت المساحة كلها إلي "شيفليك" ووضع "مشايخ القرية في السجن عبرة لغيرهم وتسلم مأمور "المنيا" تحذيراً بأنه سيعاقب بشدة هو والنظار "والحكام" والمشايخ إذا لم يقوموا بإداء مهامهم كما ينبغي "29 معية تركي" 16 رجب .

خامساً: شكاوى مقدمة إلى مجلس الأحكام

(17) توبيخ لمدير القلوبية لإهماله في تحقيق العرضحالات
أمر عالي منطوقه عرض "شكوى" مقدم من أهالي ناحية أكباد دجوي بالتضرر مما هو حاصل لهم من متعهدهم وحيث علم أنه تقدم منهم أربعة عرضحالات وشرح لكم عليهم من معيننا بالتحقيق وإحقاق الحق فإذا كان جري تحقيق دعاويهم وتبين ان لهم حقوق حتي أوجبت المذكورين لتكرار الشكاوي لأعتابنا وإذا كان لا ظهر لهم حقوق فلاي داعي ما أقتنعهم وأعرضت لمعينتنا بذلك مع إنه من المقضي أوامرنا السابق صدور ها لك أن الدعاوي المماثلة لذلك يجري تحقيقها بأوقاتها وإعطي الحقوق لأربابها بدون تأخير فإذا كان لا يظهر لأحد حق في دعواه يعطي الجواب وحيث سبق لك المكاتبه أربعة دفعات من معيننا فما داعي أعطي الجواب كما ذكر لزم إصدار أمرنا هذا إليك لتعطي الجواب عن ذلك وعن داعي عدم إجري منطوق أوامرنا مع الأيضاح هل للمذكورين حقوق فيما ادعوه أم لا حق ليعلم بطرفنا .

(18) شكوى من مشايخ الاخصاص لمجلس الأحكام ضد محمد منسى عمدة دهشور
عرض من مشايخ الاخصاص بأنه في 1249 استجد بالناحية قطعة جزيرة رمال أضيفت على الناحية ، وفي سنة 1251 أكلها البحر ، والتزم المشايخ بدفع أموالها لغاية سنة 1267 من دون زراعة ، خلاف مال الأطيان المتخلفة شراقي وأكل البحر وتالف الترع و الجسور ، وفي سنة 1268 ظهرت الجزيرة بالثاني ، وقدموا عرضات بشأن استبدال الأراضي التي أكلها البحر من أصل تلك الجزيرة ، أو يصير إضافتها عليهم بالمال بسعر الضريبة ، فالمديرية لم تسلمهم الجزيرة ، ومحمد منسى عمدة دهشور عمل له طريقة و أثبت نصفها لبلده و النصف إلى كفر طرخان وسعد نصار البدوي ، ويلتمس مقدموا الشكوى منع المذكورين من اخذ الجزيرة .

(19) شكوى فلاحين لمجلس الأحكام من ظلم المشايخ بتوزيع الأشغال
عرض "شكوى" من عمار عبد العال والسيد البدوي من أبو رجوان البحري بأن مشايخ الناحية بلدهم حاصل منهم تجبر زائد عن الحد في حق الأهالي، فيأخذوا الانفار للاشغال العامة من الفقراء فقط ، ويتركوا اقاربهم ، و أجرة الأشغال صرفت و أخذوها المشايخ ، ولما طلب المال للميرى فمشايخ الناحية وزعوا على كل نفر 11 قرش و 75 قرش مع إن بعض الأهالي زراعته أغلبها مع المشايخ ، ويؤخذ تبن وشعير من الأهالي للميرى ، والمشايخ لم يخصمو للاهالي شئ ، ويلتمسوا تحقيق ذلك .

(20) شكوى فلاح من ظلم شيخ الناحية
عرض مقدم من يوسف هيبه غراب من أوسيم ، وبه يتظلم من شيخ الناحية إبراهيم غراب لان له مرتب مستحق شهرى قدرة مائة وخمسة وعشرون قرش في نظير الطلوع إلى العمليات لم يحصل عليه ، مع إن معه أربع أولاد منهم اثنين كبار مستحقين الطلوع و الاثنين الصغار قصر ، وفضلاً أن مقدم الشكوى رجل طاعن في السن ، وأيضاً كان عنده جاموسة اشتراها بألف قرش باعها شيخ الناحية المذكور بخمسمائة قرش و أخذهم مع أنه لم يكن عليه ديون للمال الميرى ، ويلتمس النظر في دعواه .

(21) شكوى كاتب محكمة شرعية من القاضى الشرعى

عرض مقدم من محمد محو كاتب محكمة أبا الوقف، بالتظلم من انتخاب كاتب للمحكمة بدون وجه حق ، نظراً لعدم موافقته للقاضي في أخذ رسوم زيادة عن المنصوص باللائحة ، فقام نائب ناحية طندي بإغرا القاضي المومئ إليه ، وقد أوضح في حقهم ما هم متجارين عليه من المخالفات ، ويريد النظر فيما أوضحه ، ويجري العرض لتحقيق بكل دقة ليظهر حقائق الكيفية كلياً و بالانتهى يفاد.

(22) شكوي أم لمجلس الحكام من تجنيد ولدها الوحيد
عرض مقدم من الحرمة مباركة من دمنهور الوحش تذكر أن لها ولد وحداني كان مقيم بالمحروسة وشيخ الناحية طلب منه رشوة فرفض أعطائه إياها فما كان منه إلا ان اتهمه ظلماً بأنه مستحب " هارب" و امر بسجنه ثلاثة أشهر بالمديرية وبعدها ألحقوه بالجهاديه فيرجى الإستعلام عن الحقيقة .

(23) شكوي أب لمجلس الأحكام من عقوق ولده .
عرض مقدم من سليمان داوود من ناحية أبوات بالتظلم من أحتراف ولده داود في مخالفته وعدم طاعته علي حياة عينه ويريد النظر في ذلك بالمجلس.

