

Customary Laws and Social Order in Arab Society

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*Socio-Anthropological Field
Studies in Egypt*

By

Mohamed Abdo Mahgoub

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Alexandria, 20 Nov. 2013

Mohamed Abdo Mahgoub

INTRODUCTION

The aim of this book is to present the findings of eight socio-anthropological field studies in Egyptian society, plus giving a telegraphic résumé of the socio-anthropological approach in the Alexandria school of Anthropology.

The first chapter is on: "The Ethnographic Documentation of Al Awayid i.e. the customary laws of Awlad Ali tribes, and tracing changes that have occurred throughout the past forty years".

Al Awayid codifying the following:

Tribal leadership responsibilities and roles in political and economic life; "Amar Al Damm" i.e. the feudal unit and criminal responsibility; Criminal responsibility of women; "Al Barawah" or Disavowal; "Al Nazalah" i.e. harboring the accused or offender for protection from a third party until innocence is proven, or undertaking of a fair trial; Witness testimony; Oath and sponsorship to prove innocence and sincerity; Tribal judgment; "Al Deyah" i.e. restitution in the case of manslaughter; "Al Nazarah" i.e. the forensic doctor who estimates injuries and disabilities; Compensation for non-physical offenses; Orchestrated theft; Injury caused by a close relative; The crime of theft; Dispel of the credit. The crime of guiding another to seek revenge against invaders; Sexual crimes; Cases of land and real estate; Cases of wells and water sources; Cases regarding camels; Cases of damages resulting from the circulation of arms; Damages caused by horse riding; Neighbor's rights; Responsibility in assigning boys for dangerous tasks; Sanctions on the young regarding showing respect for the aged. Criminal responsibility in the attack on who call for a cease fire; the rights of cousins' to marry.

The second chapter is on: "The Customary Laws, Criminal Responsibility and Judgment in Awlad Ali Tribes - Ethnographic Assessment of Stability and Contemporary Change in the Tribal Structure". It presents the Awlad Ali customary laws articles on the following:

Individual and extended tribal criminal responsibility; Female criminal responsibility; Male responsibility for actions carried out by minors on his commands. A tribal (feudal) unit's disavowal; "Al Nazalah" i.e. the third partner mediation between two feudal fighting units; Giving testimony under oath to prove innocence or guilt; "Al Deyah" i.e. compensation in the Awlad Ali tribal laws; Individual responsibility for orchestrated murder; Interference to stop fighting between two tribal units;

Responsibility for providing others with weapons; Responsibility for fighting on a non- relatives side; Responsibility for leading a man looking for revenge to his goal; Responsibility for causing injury and handicap; Accusation of theft; Deposits and dishonesty; Sexual crime; Responsibility for accidental discharge of a weapon; Cattle cases; Land tenure cases; Neighborhood rights; Marriage between cousin's.

The third chapter is entitled: "Customary Laws and Ecological Adaptation in the Awlad Ali Tribes of the Northern Coast of the Western Desert of Egypt". It presents the impact of ecological setting on the customary laws of Awlad Ali tribes in the Western Desert of Egypt. This includes a description of the ecological systems of the Northern Coast of the Western Desert, the ethnic origins, the tribal structure and the "Al Awayid" i.e. the customary laws of Awlad Ali tribes. The customary laws of Awlad Ali tribes legalize and govern land tenure; using water resources; economic and social processes in the tribal market; seasonal migration and division of labor. It also studies how the deterioration of natural resources, sedentarization and the establishment of newly rural communities and urban centers have had a great impact on the system of values and the customary laws of the Awlad Ali tribes.

The fourth chapter is on: "Women's Rights in the Customary Laws of the Awlad Ali Tribes of the Western Desert of Egypt". It aims to give an ethnographic presentation of the status of women and their rights in the Awlad Ali tribes in the Egyptian Western Desert as follows:

First: Presenting the customary laws articles which codify women's rights in the Awlad Ali tribes in the Egyptian Western Desert.

Secondly - Tracing the impact of social change and cultural developments in the Egyptian Desert areas regarding the status of women, especially concerning education, political and economic changes, urban growth, information and new media, means of communication and the growth of the role of civil society and demographic changes.

The fifth chapter is on: "Economic Development and the Family in Arab Tribal Societies". It presents the following:

- The traditional Arab family as a unit in a tribe.
- The economic and social functions of the traditional Arab family.
- Social stratification system and endogamy in Arab families.
- The extended and compound traditional Arab family.
- Oil industry, urbanization and the structural changes in the Arab family.
- The contemporary social stratification system and its impact on the Arab family.

- The division of labor and marital choice in the contemporary Arab family.

The sixth chapter is on the Review of Published Arabic Writings regarding Homosexuality and Lesbianism in Arab Societies. The aim of this working paper is to provide an outline of Arab digitalized published texts on homosexuals and lesbians in Arab societies, in particular as they relate to the following:

The definition of homosexuality, and the possibility of scientific study of the phenomenon of homosexuals in Arab societies; Homosexuality in the Egyptian Film Industry; The phenomenon of homosexuality in the Arab communities; Homosexuality and the rules of the Islamic Sharia; The late Pope Shenouda and his view of homosexuality; The judiciary and the criminalization of homosexuality; A social and legal look towards homosexuality; The treatment of homosexuals within Islamic countries; Lesbianism in Arab societies and the opinion of jurists, and scholars of religion, about lesbianism.

The seventh chapter presents the findings of the field research project on: "Youth and Innovation in Traditional Societies, Socio – Anthropological Study in Rosetta". It is a socio anthropological study on the demographic, social, cultural and political conditions which encourage and discourage youth innovation in rural-urban, and newly established (modern), communities within Egyptian society. The study is concerned especially with the economic, family; administrative, religious and educational circumstances leading to, or discouraging, "Youth Innovation". It also aims to know who accepts and who rejects innovation, and the models of acceptance and rejection, and development of innovation.

Chapter eight is a "Working Paper on: "Violence in contemporary societies; reasons and strategies of intervention - A proposed socio – anthropological field research project - Towards Anthropology of Violence, an Urgent Discipline in Human Science". The aim of this working paper is to propose a cross-cultural, socio-anthropological intensive research based on the factors of the prevailing frequency of violent behavior in contemporary societies. The study of the socio-cultural effective factors in the prevalence of violence may provide us with scientific background for evolution and/or developing human/peaceful relations among individuals and groups, and tools to combat violence in our contemporary society.

Chapter nine is on "Egypt's 30, June 2013 revolution against the tsunami that ravaged in the Arab Springs". It is an ethnographic documentation of the following:

- First - The popular view of the achievements of President Hosni Mubarak, in the twentieth year of the initial period of his presidency.
- Secondly - The economic, political and social conditions which predisposed a revolt against Mubarak (in no order concerning of the extent of its impact).
- Thirdly - The direct reasons of January 25, 2011 revolution.
- Fourth - The events and developments that ended in the arrival of Dr. Mohamed Morsi Isa Al Ayat to the presidential palace.
- Fifth - The achievements of Mohamed Morsi Al Ayat in his presidency of Egypt.
- Sixth - The events that ended in June 30, 2013 - revolution or re-revolution - in order to put 25 January revolution on the right path, which was described as a military coup by the Muslim Brotherhood.
- Seventh - The rebel movements and the fall of the Muslim Brotherhood on July 3, 2013 in a popular revolution, or military coup, on the pretext.

These nine field studies were accomplished through the Socio-Anthropological Approach in the Alexandria school of "Anthropology". The following paragraphs present telegraphic definition of that approach as follows:

One: The foundation of social structure - which is the subject of socio-cultural anthropology - is an ecological, demographic and cultural one.

As "interaction" between man and his environment is inevitably through material, and nonmaterial, cultural ways, the ecological, demographic and cultural foundations of the social structure is reflected in the social system: the economic, kinship, political and belief system.

The nuclear unit of social structure is in social relationship. The social relationship implies an interaction between two or more people in specific statuses, in which everyone has to play their role according to the prevailing norms (Values - standards). If we fail to behave, not only according to societal but also to global norms, we are then faced with specific different types of sanctions.

Two: The "traditional" regional scope of socio-cultural anthropology - although of early concern with so called "primitive" communities - is almost confined to traditional, pre-industrial "non-Western" communities. Monitoring the contemporary anthropological field research reveals that it is interested in different "human types". For the time being it covers urban, industrial, developing and developed, modern and even post-

industrial or postmodern societies. The anthropological research is "accepted" or not refused or suspected - to some extent - in traditional societies nowadays.

The ethnographic documentation - as a background for anthropological analysis - is in recording the elements of the local or community culture. So social analysis, apart from a cultural one, looks irrational as social interaction is necessarily through cultural practices and tools.

Three: Anthropological research since World War II does not deal only with structural stability, interdependence and balance among the structural components and social systems, but different stages of change i.e. cultural, social and structural change, as matters of concern in contemporary anthropological research. Giving much room and time to "traditional communities" in anthropological field research is not mainly for historical or theoretical reasons but it's also for "applied targets".

Four: The royal methods of anthropological field research: as participant observation, informants storytelling, tribal and individual genealogies, life histories, administrative and personal unpublished documents and other verbal or qualitative techniques of data collection, may not be informative enough in classical anthropological issues such as marital choice.

The quantitative data and statistical analysis is essential in the assessment of demographic and economic change. Of course quantitative documentation was unavailable in "primitive" societies because of the prevalence of illiteracy and vocal culture, and it was difficult to study specific issues such as: feudal solidarity, belief systems and aesthetic values. In contemporary anthropological research the questionnaire and quantitative surveys is to check the validity of qualitative ethnographic data.

CHAPTER ONE

ETHNOGRAPHIC DOCUMENTATION OF “AL AWAYID”

I.E. THE CUSTOMARY LAWS OF AWLAD ALI TRIBES
IN THE WESTERN DESERT OF EGYPT, AND TRACING
THE CHANGES THAT HAVE OCCURRED THROUGHOUT
THE PAST FORTY YEARS

Introduction

“AL AWAYID” i.e. the customary laws - are an Arabic plural noun word, the singular means: a custom, habit, tradition and/or folk rule. ”AL AWAYID” which prevails amongst the different ethnic tribal groups (AL SAADI, AL MURABITEEN and AL GIMIAAT) consists of sixty seven articles. ”AL AWAYID” are the tribal laws commonly honored amongst all Awlad Ali tribes in the Desert/ semi Bedouin and rural regions.

It is not only the tribal chiefs and judges who know the rules of “AL AWAYID”, but also it is a shame to be ignored (i.e. “AL AWAYID”) amongst the aged Awlad Ali tribesmen. “AL AWAYID” is a principle component of Awlad Ali popular knowledge and their "Bedouin" culture. The sixty seven articles which constitute “Al AWAYID” are popular amongst all the different Awlad Ali ethnic and tribal groups in the Western Desert of Egypt, and it also prevails amongst their “cousins”, especially in the Al Beheira governorate of the Nile valley, and even in the Libyan Desert.

The aim of this paper is to present some of the findings of an anthropological field research project which was conducted in 1966/1967. At that time the author was a research assistant in The Social Research Center, AUC and by chance he succeeded in finding a hand written, but undated, document headed with the following sentence: “A copy of AWAYID Awlad Ali upon which the tribal government is formed on in the Western Desert of Egypt”. The introduction of the document clarifies

that the recoding of AL AWAYID took place at the beginning of the eighteenth century.

In 1991/1992 the author was privileged enough to receive support from the Ford Foundation to write a book documenting the stability and contemporary change in the customary laws of the Awlad Ali tribes. So it was an opportunity to follow up the stability and changes which had occurred throughout three decades.

The sixty seven articles of AL AWAYID govern all of the activities and social institutions of Awlad Ali such as: individual, family kin group's responsibilities for retribution, tribal fission and fusion, lineage and tribal responsibility in cases of physical offences, murder crimes, theft acquisitions, disputes on land tenure and water resources rights, market organization and commercial disputes, sexual crimes, neighborhood rights, holding, firing and borrowing of weapons, the privileges of aged men, political and religious chiefs statuses and roles, endogamous marriage, and joking relations amongst men of different categories in the Awlad Ali tribal stratification system.

Because of ecological, administrative, economic, political and cultural reasons: Sedentarization i.e. resettlement of the nomad's projects - and even global reasons - many structural changes occurred within the tribal social structure of Awlad Ali. Through field studies accomplished by the author, and some of his assistants, the impact of those factors on AL AWAYID have been documented, especially concerning the position of women, the status and roles of tribal chiefs and the role of state authorities in social control institutions.

First-The definition of Awayid Awlad Ali:

“Al Awayid” is what is also called the “Al darayib.” It is a set of rules or customary laws which governs kinship, economic and political relations amongst the Awlad Ali tribes in the Western Desert of Egypt. The origin of these Awayid or the agreement of them is due to a commitment that was made between the tribal groups. The agreement took place on "Al Haqvah." day. Al Haqvah is a place, which resembles a cave in the Desert land. Awlad Ali leaders met at a tribal conference in order to codify “Al Awayid” or “Al Darayib”, in addition to securing agreements on some other issues, such as defining the borders of tribal land tenure of each political unit and the division of the homeland.

The exact date of codifying Al Awayid is absolutely unknown, but it must have been later than 1299 AH. This does not mean that the customary rules did not prevail before this date amongst the tribal groups. But it is most likely, that the codifying of these rules did not occur until after a series of wars and tribal conflicts, particularly because of disputes

on the organization of economic exploitation of the rare natural resources in the home land. As evidence of this, we found that when many disputes occurred amongst members of a feudal unit, the chiefs or leaders of the group met to write documents to ensure respect of some of the specific rules involved in the regulation of certain aspects of their ways of life - for example, with regard to the exploitation of water wells and barley cultivation, or to determine how to apply the principle of solidarity in the payment of restitution.

As mentioned before, Al Awayid codified various aspects in the life of the community in the field of economic, kinship and political relations as follows:

- 1- Tribal leadership and responsibilities, and the roles in which tribal leaders had to play in political and economic life.
- 2- "Amar Al Damm" i.e. the feudal unit and the criminal responsibility in regard to vengeance amongst the tribal political unit.
- 3- Criminal responsibility of women.
- 4- "Al Barawah" or disavowal of the feudal unit members.
- 5- "Al Nazalah" and harboring the accused or offender for the protection of a third party until he proves his innocence or impairs a fair trial.
- 6- Witness testimony.
- 7- Oath and sponsorship to prove innocence and sincerity of the case.
- 8- The roles of "AL Maradi" or tribal judges in applying Al Awayid.
- 9- "Al Deyah" restitution in murder and manslaughter.
- 10- "Al Nazarah" i.e. the role of the forensic doctor in diagnosing wounds and disabilities.
- 11- "Al Kabara" i.e. compensation for non-physical offenses.
- 12- Crime and punishment in the Awayid Ali tribal society:
 - A. Orchestrated theft.
 - B. Wounding by close relatives.
 - C. The crime of theft.
 - D. DisPELLing the credit.
 - E. Crime of guiding another who seeks revenge and invaders.
 - F. Breaking Al Nazalah rules.
 - G. Sexual crimes.
 - H. Cases of disputes on land and real estate.
 - I. Cases of disputes on wells and water sources.
 - J. Cases involving camels.
 - K. Damages resulting from the development and circulation of arms.

- L. Damages caused by horse riding.
 - M. Conniving.
 - N. Neighbors rights and attacks on neighbors.
 - O. Responsibility for assigning boys to carry out dangerous tasks
 - P. Sanctions on the young regarding showing disrespect against the aged.
 - Q. Criminal responsibility in the attack on" Al Awakel" i.e. the tribal chiefs who call for a cease fire in intervening between the two fighting parties.
- 13- Codifying the rights of a cousin's to marry each other

The tribal groups of Awlad Ali were composed of a number of kinship and vengeance - feudal - units, which inhabited the North-Western coast of the Mediterranean, particularly in the area stretching from the Western borders of Egypt - the territorial limits of Egypt in "Al-Salloum", which is near "Mussid" in the Libyan border - to the city of Alexandria. They belonged to three distinct tribal/"ethnic" origins: Al Saadi, Al Murabiteen, and Al Gemiaat.

The ancient inhabitants of the Western Desert of Egypt were the "Al Hanadi" and "Al Gemiaat" tribes. Al Gemiaat invited the Al Saadi tribes of the Libyan Desert to help them in their battle against Al Hanadi. "Al Saadi" tribes are the descendants of their mother "Soada Al Hilaliya". They fought the Al Hanadi tribes - the original inhabitants of the coastal region of the Western Desert of Egypt - and forced them to migrate to Al Fayoom in Upper Egypt. Al Saadi and their "brothers" tribes - Al Murabiteen - settled beside Al Gemiaat in the Egyptian Western Desert.

Branches of these tribal units migrated to live in some parts of the Nile Valley, especially in the governorate of Al Beheira. It seems this was because of environmental and economic reasons which had led to tribal wars and consequently tribal migration, particularly in periods of drought.

Al Awayid had governed all the different kinship, ethnic and cultural groups in the Northern coast of the Western Desert in Egypt for a long time; Al Saadi , Al Murabiteen and Al Gemiaat, besides the migrant people coming from the Nile Valley, who settled in the Desert environment, and became "Omaraa Damm" i.e. members of Awlad Ali political tribal feudal units. At the same time, because of the establishment of governmental services and administration in the "Awlad Ali tribal society", the "staff" that came with the implementation of development projects in the Western Sahara accepted - in their disputes with Awlad Ali tribe's men - arbitration according to "Al Awayid." Al Awayid is one of the most prominent elements of differentiation cherished by Awlad Ali in

their relationships with the "others". They trust in its efficiency in the settlement of all their disputes.

Second-The texts of the customary laws of the Awlad Ali tribes:

Article 1: "Awayidhom" i.e. the traditional way, in murder cases, when the murderer, and his "relatives", deliberately choose to leave their land and ask for protection in one of the Al Saadi "Houses" through "Al Nazalah". This is a privilege of the Awlad Ali "Al Saadi" only, in order to offer temporary protection to the accused murderer until receiving a just trial. It is the chiefs of that house, accompanied by a delegation from the Tribal Elders, who approaches the family of the deceased, to agree with them, the conditions and commitments necessary to prevent encroachment on the inmate, and the reservation of public security, and to grant the right of "Al Nazalah" to be fulfilled.

The delegation of tribal dignitaries does their best in working through the task of reconciliation between the two warring parties in every possible way. Usually, the murderer and his relatives have to pay the victims feudal unit the sum of three hundred pounds and "Sinaa". If murder occurs frequently, Al Awayid disproves the "Sinaa" and restitution must be paid amounting to 400 pounds - 200 pounds worth of livestock and 200 pounds in cash".

The relatives" i.e. kinship unit in Awlad Ali, are those who are descendant from specific surviving or deceased people (mostly grandfather's). They are those who all come from the same origin and have one common ancestor linked through the male line, and are thus a group of agnates, who are genetically linked.

When Awlad Ali tribesmen use the term "relatives" in political and economic contexts, it implies traditional obligations. In the area of political relations, in particular, it expresses their unity i.e. tribal political relations amongst groups of people or families which may not belong to one common predecessor.

The concept of the kinship group may expand to include members of more than one ethnic origin or cultural background, as it is a framework of political unity. For many years, belonging to a specific kin group or family unit was expressed in political unity between its members. This meant that political commitments, i.e. common tribal or political responsibility were redrafted in the form of kinship obligations. It implied an obligation to participate in the responsibility and unity of defense, protection of family rights and union in the fulfillment of the family commitment towards other tribal communities.

The distance between kinship's varies, to an extent and it causes separation between persons and small groups, and imposes specific

manifestations of solidarity and co-operation. It is the duty of the brother to be tempered with his brother against any aggression that may come from the cousins, and it is the duty of all cousins to put rivalries aside which separate them in case of the occurrence of an attack from strangers or non-cousins.

“Al Nazalah” is a social process known between tribal groups in Kuwait, for example, as “Al Dakhalh”. Al Dakhalh is an Arabic word which means the "entering". It is so that Al Nazalah or Al Dakhalh refers to a defendant entering a house under the protection of another party. It is a most important social and political process to settle disputes - or enmities resulting from blood attacks - in the killings between tribal and political units or differential settlements. Al Nazalah is accepted due to braising the tribal political delegate including “Qualaht Kheir” i.e. men of wise and right speech.

AL Awayid specifies the tribal units which have the right of offering Al Nazalah. It is restricted to specific groups, who are interested in the privileges of participation in the settlement of tribal disputes. Al Awayid defines the period of Nazalah, i.e. the time that it can be honored by disputing groups. It also identifies the duties imposed on the offending groups, and the rights of protection during the period Al Nazalah, and the sanctions put in place in case of any violation of this tribal principle.

Regarding Awlad Ali tribesmen, the term “home” is broad. It implies kinship and has political connotations within the community of Awlad Ali. The term is used to refer to kinship unity between a man and his children and grandchildren, who normally reside in one hamlet, and they constitute an economic unit in which all its members co-operate in the investment of the "common" i.e. family economic sources belonging to the father or the grandfather.

Differentiations may be made between "Al Bait" i.e. the house, as a kinship unit and family, on the grounds that the family unit includes several houses of this type, but often confusion exists in the usage of these terms. The term is sometimes used to refer to a specific kinship or a political union, to reflect the tribal unit which comprises of more than one ethnic or cultural group who are involved in a variety of common responsibilities. "Al Saadi” tribes are of a distinct tribal category besides that of their "dependent" followers “Al Murabitteen” and "AL Gemiaat". All were addressed as Awlad Ali.

The information on the fact that Al Saadi are the only tribes who have the right of Al Nazalah does not mean that the other tribal groups are no longer eligible for it. At the present time, we find that the tribal leaders of the Murabitteen and Gemiaat play an active role as tribal judges, as well as

integrating changes in the procedures of Al Nazalah that have coincided with the urban, architectural, professional and administrative changes developed in the communities of Awlad Ali in the Egyptian Western Desert.

There is also confusion in using the word tribe in this society; sometimes it is used to refer to a major tribal political unit, which is divided into smaller distinct political feudal units. Sometimes the term is also used to refer to one of the smaller nuclear feudal units. There is a sort of agreement to divide the tribal groups of the Awlad Ali Al Saadi into three units or large groups. The major groups of Awlad Ali tribes are: Awlad Ali "AL Abiad" tribes i.e. the white, the tribes of Awlad Ali "Al Ahmar" i.e. the red, and Awlad Ali "Al Senenah" tribes.

It is documented that branches of the Awlad Ali tribes had migrated from the Western Desert and settled in the Al Beheira Governorate along the Nile Valley. They lived there in some villages and small towns.

The tribal organization was formed on the basis of community selection of the heads of "families", who had a tribal political reputation for having a very good knowledge of Al Awayid which governed the tribal life amongst them. The tribal group selected their president "Al Aqila", to be responsible for ensuring the honor and application of Al Awayid in tribal disputes within the region.

In fact there were more than one political, tribal, status / people who were addressed - amongst Awlad Ali - by the term "tribal dignitaries," in particular with regard to the status of " Al Aqila" i.e. the old wise man, and "Al Sheikh", or "Al Omda" i.e. mayor. All of them played an honored role in the Awlad Ali social control system.

We have already pointed out that "the accused" i.e. the murderer or the aggressor resorts to the protection of a neutral third party, till the settlement of the dispute between him and the victim's feudal unit is resolved, in one way or another. The murderer's feudal unit has to be compensated for losing material and moral loss.

The principle of an extension of responsibility, and solidarity amongst the members of the kin, political group i.e. tribal feudal unit, bears the consequences of mistakes committed by any of them to all members of that unit. Their solidarity in defending their common tribal interests withdraws the stigma from the murderer and is shared by all members of the feudal unit, known in such cases as a kin political "vengeance" group. This is regardless of the place of residence or presence in the tribal homeland.

The members of the kinship political group do not always station themselves in the distinct tribal region - or are present in the tribal

homeland - throughout the whole year. They leave in the drought season in order to graze sheep in other populated areas where the land is fertile and there is a good supply of water, or they might travel to live in some small towns and work in modern institutions. All of these matters necessitate a change in the procedure and conditions of Al Nazalah.

The information on the need to maintain public security in the first article of Al Awayid shows, in fact, the kind of multi, or bilateral, relationship that exists between the traditional customary patterns on the one hand, and submitting to the authority of the central state authorities, which implies the imposing of formal laws in the region, on the other.

In order to confirm the efficiency of Al Awayid in the settlement of restitution and other disputes within the community that lack formal authority - to apply the law and carry out the sentence forcibly - Al Awayid legitimated "Al Sinaa" to formulate a specific commitment to the people of the murderer, and certain duties towards the people of the deceased, after the payment of restitution.

One example of these duties is to not carry weapons in front of the victim's family and another is to follow through an obligation to offer generous hospitality to the guest if someone, from the victim's family, came to visit them. The duration of this commitment is for one full year, beginning from the date of approval of the settlement of the conflict, and the acceptance of Deyah. But Awlad Ali moved recently to stop Al Sinaa and to compensate the deceased's feudal unit materially, because of a repeated lack of non-compliance of Al Sinaa. The value of the Deyah is now four hundred pounds, instead of three hundred pounds, which was previously set out in the article of Al Awayid.

Article 2: Awayidhom" in the case of manslaughter, the murderer has to pay Al Deyah only, without paying Al Sinaa of three hundred pounds. It is divided and paid in three installments over a period of three years. Usually the murderer's people try to demonstrate their inability to amass the value of Al Deyah and make known their plea to waive any part thereof.

Al Awayid states that Al Deyah must not be paid all at once, but over two or more installments. This is to expressly take into account the feelings of the deceased victim's people, and to emphasize the suffering caused in paying compensation in Awlad Ali tribes. Also, the murderer's feudal unit has to pay Al Deyah - some in cash and the rest in livestock. This is in order to confirm the "legitimacy" of the case, and the deceased victim's family's refusal to hear that "they sold their blood with money."

But Al Awayid does not still apply its laws in exactly the same way at the present time. During the field study, in which detailed and accurate

information was obtained on cases of restitution, and the tribal boards of peace agreements in many cases of blood enmities, in no case was it found that the murderer's people were forced to pay a part of Al Deyah in livestock. Perhaps this is due to the multiple or frequent involvement in the payment of Al Deyah by the total number of individuals in the guilty feudal unit - which sometimes consists of more than 500 people. It is just not possible to achieve this actual type of participation in paying the value of Al Deyah in livestock. However, the slaughter of animals often takes place in order to be served in traditional dinners that accompany the agreement of the peace settlement for blood hostilities and other disputes.

Article 3: "Awayidhom" in wounds which resulted from physical offences, the doctor was known as "Al Nazzar" i.e. the traditional Arab forensic doctor who knew how to diagnose cases of surgery and how to "examine" wounds. He also attended tribal judgment sessions to give his estimation, regarding Al Deyah, of the wounds according to Al Sharriaa, and to decide the extent of any infection that may have been present according to the classification of injuries. When the forensic doctor had given his estimation of the offence he then left the judge, or the legitimate "Mardi", to determine the value of material compensation, or restitution, that was to be paid according to the size of wound.

Measuring the extent of the injury depends on the performance of the injured organ's function according to traditional means of measurements, particularly in cases where it is more difficult to rely on the victim's sense in quantifiably estimating the extent of the infection, as perhaps in the case of an allegation that the injury had affected the strong performance of an organ, such as the eye, or sexual function.

In the case of the eye, for example, the injured person has to look at a certain object with the good eye, which has not been afflicted by the injury, then Al Nazzar measures the maximum distance from which the victim can see the object clearly, and then the victim is asked once again - using the injured eye- to look at the same object from as far away as he can. Then Al Nazzar measures the maximum distance from which the victim can clearly see the object with the injured eye, to calculate the ratio between the two distances. If the ratio is 2 : 1 or 3 : 1 for example, this means that the infection rate, and so the compensation, has reached half or two-thirds of the full Al Deyah of the complete loss of an eye, and so on.

The tribal judge is called "Al Mardi". He is the person who is trusted, and has the ability, to resolve disputes according to Al Awayid. There are "Maradi" who are well known amongst the Awlad Ali tribes for their efficiency in achieving an adjudication of certain types of disputes, such as

disputes over land, wells, livestock, or disputes about murder, theft, and other crimes.

There are no specific cases, in that society, that have to be raised by a specific "Maradi". At the same time, no one must be coerced to accept the judgment issued by a certain "Maradi". It is accepted that one could express dissatisfaction with a judgment stated by the "Al Mardi" who has been chosen by the disputing parties to settle the dispute. Either side can express a sense of injustice in the governance of the Maradi, and they may request a transfer to another Mardi to find "God's law", if they felt "God's law" was not being applied with the first Maradi judge.

As there is no specific Maradi for judging the disputes between specific tribal and political units, the disputing tribal unit may resort to using a certain Maradi that either belongs to the same feudal tribal unit, or belongs to another tribe.

The function of the Maradi is to investigate the case, hear witness statements, and review the evidence, in order to determine responsibility, for sentencing according to what is stated in Al Awayid.

Sometimes each of the two disputing feudal units insist on choosing a specific Mardi to settle the dispute. In such cases, a third Mardi may have to be invited to be present at the "council" in order to facilitate reaching a satisfactory judgment. It is also accepted that wise men may be invited for consultation purposes, or to learn of 'Al Fotyā' i.e. the Sharia rule, in order to access a satisfactory settlement.

Article 4: "Awayidhom", in cases involving surgery, when the defendant does not deny that he was responsible for the attack and the personal injury it caused the victim, the injury is estimated by the forensic physician, and the tribal judge.

The defendant has the right to deny the accusation. In such cases, the defendant has to give testimony under oath to prove that the injury, which the forensic doctor has examined, did not result from the attack committed by the defendant. The victim has to prove that the case has been sincerely and honestly tested, and that the injury happened only because of the attack carried out by the defendant on the victim.

Article 5 : "Awayidhom" in "Al Tazkia" i.e. the authentication of the victim depends on the value of Al Deyah. If the assessed value is a quarter of the full Deyah then the number of "Al Zakayah" i.e. the jury, has to be made up of thirteen men. If the value is a third of the full Deyah, the jury is made up of seventeen men. The number of Al Zakayah in giving oath to prove innocence in the accusation of murder is fifty-five men, and, a full Deyah has to be paid.

Article 6: "Awayidhom" in the cause of legitimizing Al Tazkia, is for two reasons. First, the near kin relatives are close to each other in honesty and falsehood, and the second is that owners of adequate disclosure are rare.

The system of "Al Yameen" i.e. swearing under oath in Awlad Ali's political system is of great importance for its functional significance regarding certain social aspects. It not only plays a role in the settlement of disputes in the absence of "material" evidence in a society that lacks scientific methods of investigation of accusation, but it also highlights the extent of unity and cohesion between the kinship unit members.

The system of Yameen i.e. the swearing-in of the community of Awlad Ali is legitimized on the basis that it proves the evidence in favor of the defendant and the defendant has the right to deny the accusation. It also underpins the testimony of witnesses who prove the case one way or the other.

Based on the principle of group penal responsibility, the defendant - who lacks evidence, or who wants to prove his innocence of the charges raised against himself - does not give testimony under oath individually, but rather is obliged to be accompanied by a specific number of his relatives "Omaraa Al Damm" in giving oath to prove his testimony.

The number of witnesses depends on the subject of the dispute. In Al Deyah of the spirit, i.e. to prove the innocence or guilt in a murder case, the number of witnesses has to be fifty-five men, including the defendant in the case. In cases where the convicted has to pay half of the total amount of full Deyah Al Zakayah has to be twenty-seven men. If money is the subject of the dispute - or what might be considered the equivalent of money - in each LE10 one man besides the defendant has to give testimony under oath.

In any case, the prosecutor, or the plaintiff, selects the persons who will give testimony for the defendant to prove his innocence - and the defendant chooses people who will act as witnesses, with the prosecutor, to prove *his* guilt.

The way in which Al Zakayah is selected gives the Al Yameen system its effectiveness as an investigative and evidentiary platform. This is manifest, for example, when the plaintiff will often try to choose Al Zakayah persons from amongst the "religious" members of the defendants kin feudal unit, who are known for their knowledge of the Koran and for their piety, and who will not engage in a false oath, either way, in order to prove their relative's innocence - the defendant - or his condemnation. The plaintiff also chooses people, who know about the existence of the dispute

between the plaintiff and the defendant in order to guarantee the truth in the testimony of each Al Zakayah under oath.

Swearing under oath was usually carried out at the tomb of one of the "Al Awliyaa" i.e. folk saints, who were recognized for their "KARAMT" i.e. bringing about divine punishment in the case of giving testimony under a false oath. The principle of the extension of responsibility and solidarity amongst members of the feudal groups was reflected in the obligations between those members with regard to sponsorship. All members of the feudal unit were obliged to give testimony under oath when their relatives were in need of this and they were obliged to participate in the payment of Al Deyah in the case of being unable to fulfill the oath.

Article 7: Awayidhom" in the case of "Al Haggaz" i.e. a volunteer who intervenes to try to stop fighting between two parties, if they are beaten or suffer injury, or death then both parties have to give testimony under oath to prove their innocence confirming they were not responsible for harming the "Al Haggaz". The Al Deyah in this fatal mistake must be divided between both parties.

Article 8: Awayidhom" in the case of an agreement between a man, and two or three of his relatives, to attack a man for his enmity with a relative - if the attack did not cause injury, or murder, then each of them must pay ten pounds "Kabara" because they participated in the agreement to carry out an attack on the victim. Also, the consideration of Al Nazarah when surgery is involved must be paid. Whether it is the value of Al Deyah or Al Kabara has to be judged by Al Nazzar and Al Mardi. Usually half of the value of Kabara is a friendly discount for sake of the audience who are present at the court.

Article 9: Awayidhom" in the case of orchestrated murder, it is considered better to leave this heinous act to be punished by the Egyptian law.

Here we also found information on the desirability of Al Awayid to leave orchestrated murder to be punished by the laws of the central authority. This reflects the extent of the complexity and plurality of the political system in the community of Awlad Ali, in particular with regard to the existence of two types, or categories, of governing rule: the customary law and official law.

The information in this article that indicates that orchestrated murder must be criminalized officially and penalized by the State is because of "Estebshaa" i.e. it is considered a fatal crime.

The crime of murder is highly prohibited in the Awlad Ali society - except when murder is carried out for reasons of honor, or for personal or

tribal dignity. Orchestrated murder must be left to the state which has the authority of coercion in signing the death penalty if there is evidence of guilt, and because the community lacks any customary or traditional organization for the signing of the death penalty. Al Awayid leaves the implementation of the penalty to the central authority of the State.

Although whilst pointing to all the articles of customary law in this society we did not find any other crime indicated that was left to be punished by the central authority of the state. We found only a manifestation of diversity that exists in the political system of Awlad Ali, and this is in addition to other manifestations of this multiplicity, which have surfaced in other aspects, such as economic aspects in particular because of contemporary, ecological, political and cultural etc., changes.

Article 10: Awayidhom" in the amputation of the hand or hands, or a leg or legs, causing blindness, deafness, or cut lips and ears, or causing the loss of the sense of smell or taste, causing a cut tongue or tooth extraction, and other wounds, these are all investigated by the traditional forensic doctor in order to proceed with cases to be governed according to Islamic rules.

The forensic doctor's diagnosis of any wounds and the Judgment, according to Al Awayid, in estimating Al Deyah.

Article 11: "Awayidhom" the neighbors who are united in the four directions - their testimony comes before any others.

Article 12: Awayidhom" in matters of land issues the claimant must present evidence, and the defendant has to give testimony under oath, according to the rule: "the evidence is on the claimant and the oath is for the defendant". The oath without "Al Zakayah" if the disputed lands do take of the seeds only one "Ardabb". But if it took more than that, the number of Al Zakayah i.e. the witnesses should be increase from Omaraa Al Damm of the defendant whom are to be selected by the plaintiff.

Article 13: Awayidhom" in a dispute between one person and another in putting an acquisition on a Romanian well or "Sanya" water well, the plaintiff has to present evidence to support his claim. If he fails to prove his claim then the defendant has to give testimony under oath in order to be left unchallenged.

Awlad Ali differentiates between two main sources of water: the first source are the Romanian wells and the second one is Al Swani", plural of "Sanya". For Romanian wells, in which rainwater or "water of the sky" can be stored, it is not be sold, but with "Al Swani" which are dammed, or prepared and maintained, comes the rule 'no access permitted', except with the permission of the owners.

The ownership of the wells is tribal. "Al Swani" wells are those that depend on spring water. They incur significant expense in digging and maintenance. The exploitation of the "Al Swani" needs special organization. Therefore, the ownership is considered original personal property, and those who own it have the right to sell its water, which is different from the case of the water from Romanian wells, which comes from the sky.

Article 14: Awayidhom" in the case of witnesses who give evidence regarding the defendant in a specific lawsuit, they have to give testimony under oath that they are telling the whole truth.

Article 15 : Awayidhom" with regard to the plaintiff - concerning rights of real estate or land - when the dispute is going on whilst the property is under development at the hands of the defendant over a long period of time, and the plaintiff lives adjacent to the defendant who disposes of the land or real estate by demolition, construction or any action of this type for a period of fifteen years, without any opposition from the plaintiff who is not a relative of the defendant, and the plaintiff fails to prove that the seizure, or disposal, of the land was for rental purposes, or for any temporary gift, which would prove his ownership, the plaintiff has no right to dispute.

Article 16: "Awayidhom" regarding the rights of a man who accuses another in a dispute about land that lies in the hands of another person, and the accusing man listens to a third party who is also in dispute about the land, and testimony under oath is given to resolve the dispute, that man has no right of objection if he does not interfere and raise his claim.

Article 17: Awayidhom" when a person submits a document in order to set the boundaries of a property which is surrounded by his relatives or others, and there are no signs of fencing to define the borders - the document is deemed to be useless for the prosecutor, who opposes the neighbors, if it is found to be without their signatures or seals, in recognizing the boundaries.

Article 18: Awayidhom" when " Al Yameen" i.e. date of swearing under oath by the defendant, is confirmed, with or without the endorsement of sponsorship, and the defendant fails to attend at the due time, he has to be given the opportunity, within three days after the original date, to specify a time to swear under oath, and if the defendant fails again, the plaintiff is considered in the right concerning any claims.

Article 19: "Awayidhom" having specified a day for swearing under oath and having given a religiously acceptable excuse for the failure to attend to one of the Al Zakayah, which prevented him from fulfilling the

oath, the defendant is obliged to declare the excuse before the deadline for swearing under oath, unless the excuse is considered unacceptable.

Article 20: "Awayidhom" if the excuse for failing to attend swearing under oath in due time is religiously acceptable, and the excuse is announced before the deadline, the defendant has to be given another opportunity for swearing.

Article 21: Awayidhom" If two conflicting neighbors of land "Al Barah" i.e. are free from a hand acquisition, and each of them claims that he has worked the land with his own hands, or his father or grandfather before him worked the land prior to a time before the other's claim, both of them are obliged to bring forward a witness to prove his work and honesty in his claim. A specific date for inception has then to be decided.

The witnesses in favor of each of the two parties have to swear in the absence of the other party, in order to authenticate which of the disputing parties had worked the disputed land first.

Regarding disputes on the precedence of the work and acquisition of land, in general, there are two types of land: the first is land located on the sea coast, the disputes about *its* ownership are not to be considered if the claimed ownership exceeds the year 1299 AH. The second type is the land away from the coast; considering disputes about ownership of *it* is not to be considered if the claimed ownership exceeds the year 1313 AH. There is no consideration for disputes beyond these dates.

Article 22: "Awayidhom" if a charge of theft is launched against a man who is "not fit to be considered honest" - and the plaintiff has no evidence, the defendant can swear under oath to prove his innocence. The number of witnesses required for Al Zakayah is according to the subject matter of the accusation. If the subject is a camel or if it is property to the value of camel, Al Zakayah would be four men.

If the defendant, or any of his chosen relatives, failed to swear under oath in order to approve vindication, they had to pay the value or the number which was appointed, if what had been stolen was appointed in cash, or weight.

The payment has to include "Al Tarbeea" , which means adding 400% onto the original amount by the defendant from his private capital without any help from his family, but if he is not able to pay, the closest relatives must complete the payment to the value of the stolen items without quartering.

Article 23: "Awayidhom""Al Tarbeea" i.e. four times the payment is required in cases where the thief is caught whilst stealing, or he is found with the stolen property in his home, or it is stored in a place to which he carries the key in his hand, or he is caught with the stolen property in his

hands, or it is seized from him at the beginning of the robbery, or whilst pocketing the property from the place where the robbery occurred.

The family of the defendant does not have to pay the "Al Tarbeea" with the thief in cases of hardship, but the family is obliged to pay with the thief only the value of the stolen items. The family is only required to pay with the thief after all his money has been used up. Then they must pay the balance, in order to cover the remaining figure.

Article 24: "Awayidhom" regarding "Al Nazeel" i.e. for defendants who come under the protection of a third party until a fair tribal trial is completed – if "Al Nazeel" whose Nazalah is accepted by one of the Awlad Ali tribes; is murdered whilst being accompanied by "Al Rafik" i.e. a family member whose Nazalah is accepted - or murdered before the passage of the "Al Nazalah" was completed - within one full year, the murderer of "Al Nazeel", and his family, are obliged to pay restitution "Deyah" plus one hundred pounds as Kabara because the Nazalah was accepted and then dishonored. Such a case is considered as treason and compensation must be paid under the existing "Board" who are considering the dispute.

The Council or Board is called "Al Miaad" i.e. the meeting. The meeting has to be held in order to discuss disputes between individuals and different feudal units. During these meetings Al Maradi are chosen by the disputing parties who are competing to secure a just settlement according to their own point of view, of course.

"Al Awakel" i.e. the wise men who belong to both the plaintiff and the defendant, are also invited to attend Al Miaad, along with other experts such as "Al Nazzar", who are assigned to assess the extent of the damage or assault.

It is usual practice that some "Murabitteen" are invited to attend the boards or judgment meetings. "Al Murabitteen" are known for their piety in trying to convince the disputing groups to give up some of their terms until the meeting reaches a point of agreement and reconciliation.

Finally, Awlad Ali are also keen to include the state central authorities, police officers and the local administration, especially in major disputes, such as murder, to be represented by these boards in order to give the customary judgment something of a formal image.

Article 25: "Awayidhom" when a family dissociates itself, as a tribal feudal unit, from some of its members - this is known as "Al Barawah" i.e. disavowal. It only exempts the family from their obligation towards the actions of any person within the tribal feudal unit if they disavowed the person prior to what he had done and prior to the trial. "Al Barawah" must