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## Codes of Property-Ownership, Commerce and Labour in the Arab East

A Case Study of Eastern Arabia

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### Major Publication

(a) Books (in Arabic):

- Labour Movement in Egypt 1899-1952, Dar-ul-Katib el-Arabi, Cairo 1968.
- Social change in Egypt in relation to the Large-scale Landownership 1838-1914, Dar-ul-fikr al Hadith, Cairo 1973.
- Memoires of Mohmed Farid, Alam-ul-Kutub, Cairo 1975.
- The Egyptian Labour Movement on the light of British Documents, Cairo 1975.
- Hiroshima Diary, by Hachiya Michihiko (Arabic Trans.)

(b) Articles (in Arabic):

- The Peasants Socialist Party 1938-1952 SEĒH Bulletin, Spring 1973.
- Arabic and Islamic studies in Japan, SEĒH Bulletin, Autumn 1973.

- The Constitutional Movement in Japan 1878-1890, SEĒH Bulletin, Winter 1975.
- The Intellectual Origins of Modern Japan SEĒH Bulletin, Autumn 1975.
- The Japanese Interests in the Middle East, MEB, Cairo 1975.

(c) Articles (in English):

- Large Scale Landownership in Modern Egypt 1838-1914, AJIKEN, Tokyo 1973.
- Labor Movement in Egypt 1924-1952, The Developing Economies, AJIKEN, Winter 1973.
- The Rural Gentry in Nineteenth Century Japan and Egypt, A comparative study of Gōnō and A'yān, AJIKEN, Tokyo 1973.

(d) Articles (in Japanese):

- Arab-Japanese Relations, Kokusai Mondai, Winter 1973. (Tran. by ITAGAKI Yuzo).
- Salama Musa and Secular Thought in Egypt, Shisō, Spring 1973 (Tran. by WATARU Miki).

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## Introduction

Arab countries were the breeding land of Islam and Islamic culture which had deeply impacted various aspects of life and controlled not only religion and thought, but also social and economic practices before the introduction of modern codes in the nineteenth century. Hence the precepts of property-ownership, commerce and labour were integrated into the divine Law or "Shari'a" formulated by two material sources of law; the Koran and the "Sunna" of Mohamed the Prophet.

The primary source "the Koran" does not contain a code of Law in any sense. It sets out merely to reform the existing customary law by precepts that often suggest rather than command. The Koranic legislation is a code of conduct for which succeeding generations were to supply the operative parts. The second source is the body of precedents established by the prophet and recorded in the "hadith" known collectively as the sunna of the Prophet. The function of these precedents is to explain, interpret and supplement the fundamental Koranic precepts.

Questions that are not specifically answered in these two sources and new problems and conditions that may arise are to be solved and dealt with by a disciplined form of reasoning known as ijtihad and qiyas covered by the thought of Ulema. That wide scope for the use of reason and freedom to speculate led to considerable divergence of doctrine among different localities because the thought of the Ulema was naturally influenced by the particular cultural conditions prevailing in their localities.

However administrative, criminal, civil and commercial laws had been from the beginning of the Islamic community separated from the domain of the Shari'a, though this separation was not formally codified until the nineteenth century when the secularization of the Islamic community was enforced. Majid Khadduri has outlined the initial steps leading toward the secularization of Islamic law. First, the adoption of western legal rules and principles which are either not adequately covered by the Shari'a or not mentioned at all by the Shari'a; second, the adoption of western law which is, in principle, in conformity with the Shari'a, but is not dealt with in such detail as would fit the conditions of modern life as influenced by the West; third, the adoption of western law which may take the place of certain Shari'a rules that have become obsolete; fourth, the separation of the devotional and religions of the Shari'a from those regulating daily life. We can say now that Islam, not as a polity, but as a unique and ordained pattern for politics, economics and society at large is no longer practiced anywhere in the Muslim world, except in portions of Arabia.

This study deals with the social codes of property-ownership, commerce and labour in the Arab East with special concern of the oil producing countries of eastern Arabia; Kuwait, Qatar, Bahrain and United Arab Emirates as case studies. It investigates the Islamic precepts and practice before the introduction of the modern codes to the Arab East in the nineteenth century, illustrating the prevailing situation in the area at the; level of both nation and community taken as case study.

## I. Property Ownership

Since the majority of population in most Arab countries are engaged in agriculture, agrarian land comes to the focus of property-ownership on which economic and social structure in the rural society is based. Nevertheless animals-property, mainly camels, sheep and goats, is the basis of wealth and property-ownership in beduin society. According to various estimates, a quarter to a third of the total population in Arab countries are engaged in animal raising and nomadism. In some Arab countries such as the Arabian Peninsula, Libya and Sudan nomads account for as much as one half to two thirds of the population.

### *(1) Land Tenure*

Agrarian land is of great importance in fashioning rural society and land tenure is regarded as the basis of economic and social life of the peasants. The making process of landownership code in Arab countries needed several decades to be formulated towards the end of the nineteenth century.

As regards "Shari'a" agrarian land was common property owned by the public treasury "bayt-ul-mal", and peasants only can enjoy usufructory rights. However quasi-ownership of land was obtained by those who could reclaim uncultivated land and improve its productivity, but in case of neglecting to carry out their duties that land has become waste, they might lose their quasi-ownership rights. Land should be handed down to the public treasury to be given to somebody else. Tenancy was denied by "shari'a" except share-cropping "muzara'a". Nevertheless Islamic practice was rather different. In some cases full land-ownership and quasi-ownership of land were obtained and various types of tenancy were prevailing. The strict application of Islamic inheritance laws brought about the fragmentation of land leaving hundreds of heirs for each lot with little opportunity for enterprising management.

Before the establishment of private land-ownership by the end of the nineteenth century, land tenure differed from a region to another in Arab East. In Egypt and some parts of Syria land tenure took a form known as (Iltizam) whereby tax-farming rights were granted to mamluks, rural notables, Beduin shaikhs, ulema, merchants and guild masters in return for a fixed advance payment to the State. Each tax-farmer (multazim) received a village or villages as well as a private lot of land. That system was prevailing wherever a centralised authority has been existed, but in those areas where the central authorities were not in complete control such as hilly regions of Lebanon and Iraq, there was a state of landed and military feudalism.

Iltizam system was abolished in Egypt by Mohamed Ali in 1811-1813, and in the Fertile Crescent in 1831. The development was gradual and took several decades. The State took over full control of ownership rights and taxes were

collected directly from the tillers without intermediary. However the State which owned most of the agrarian land began to transfer ownership rights to private individuals. Full ownership rights (milkiyyat-ul-raqaba) remained in the State's hands, while the usufruct right was bestowed on the peasants. That was the right to cultivate the land and enjoy its produce to the extent that they could sell their rights, mortgage them and transmit them to heirs which was known as (tasarruf), but until then the State did not transfer full ownership of agrarian land (milkiyyat-ul-raqaba) to private individuals.

Tasarruf rights were gradually extended in Syria and Iraq between 1913-1932 until they included the right to sell, mortgage, hand down to heirs and bequeath by will. That development made ownership rights of the "Kharajiya" land very similar to full ownership.

In Egypt the tasarruf rights were extended over the Kharajiya land, but the development was more rapid and the area of land covered by full ownership increased. Being in financial difficulties, the State was forced, towards the end of the nineteenth century, to grant full ownership rights to the holders of Kharajiya land who made advance payment of six years' taxes. Hence those who could pay obtained full ownership rights whilst others kept enjoying tasarruf rights, but all differences between the two categories were abolished in the 1890's. Since then agrarian land of Egypt has been held with full ownership rights. Labour was completely freed from its ties to the land. This system was characterized by great inequalities; landlessness at one extreme and very large holdings at the other. Another feature was factor mobility. Factor markets which, save for capital are more flexible and competitive in this type of agriculture than is generally assumed, allocated labour to land within the framework of the usual tenure systems: share-cropping, fixed-rent tenancy, and direct cultivation with recourse to family and wage labour.

In Eastern Arabia, where agriculture is subsidiary economic activity, the situation is very different. The cultivated area is comparatively small due to the scarcity of water supply mainly from springs and wells. There are several villages in Kuwait, Bahrain and the United Arab Emirates but the agrarian land in Qatar is rather limited.

Before the discovery of oil in Eastern Arabia and the consequent economic development, all agrarian land was owned by Shaikhs or ruling dynasties. There were cases of expropriations for the benefit of Shaikhs. However more interest has been paid to agriculture after the modernization of economy. In Kuwait, the government took the responsibility of extending agriculture through land reclamation and experimental farming owned by the State. Nevertheless a number of economic and social factors contributed to the decline of agriculture in Bahrain. As far as economic factors are concerned, the growing scarcity of

water supply the absence of a proper agricultural policy, land tenure and tenancy system accelerated the agricultural decline. The distribution of landed property in Bahrain contributed to the agricultural decline. About 91.5% of the agrarian land is the Shaikhs family property. The land law promulgated on May 1937 was designed to restrict ownership of land in Bahrain to Bahrain nationals and to deprive the foreign elements in the island, mainly Iranians, of any land they possessed. The ownership of all unclaimed land passed to the State and subsequently to the rulers.

In the words of Bahrain Government Report of 1954, "the major portion of agricultural land is owned by Shaikhs and merchants who, on the whole, are not very interested in agriculture. The rent charged is relatively high and as the cost of labour has risen very appreciably in the past few years, tenants are finding it increasingly difficult to meet the rent and making living off the land".

In Qatar, the area of cultivated land is rather limited due to the scarcity of water supply and the poor quality of Qatari soil. As such as Bahrain, land ownership is restricted to Qatari nationals and the major portion of cultivated area is owned by Shaikhs and wealthy merchants. There are some farms owned by the Ministry of Agriculture as experimental fields. The prevailing types of tenancy are waged labour, share cropping and lease.

In the United Arab Emirates, agriculture made considerable achievement after the discovery of oil, the government brought vast area of land under cultivation in Abu Dhabi, Sharja, Ras-al- Khaima and Fujaira. Small parcels of reclaimed land was distributed to peasants as private property, while major area of agrarian land remained as State domain or Shaikhs property.

It is worth to mention that the Constitutions of the oil producing countries of Eastern Arabia guaranteed private ownership and stated that it might be protected against nationalization, confiscation or expropriation unless there was necessity for public utility. In such a case the government would pay reasonable compensation.

## II. Commercial Codes

We can scarcely say that there are certain Islamic commercial laws, though commerce had been regarded as the most graceful business since the Prophet was engaged in commerce. However Shari'a contains certain precepts concerning interest, capital formation, marketing, price and contract.

Interest in any amount is forbidden and considered as usury. Wealth must be spent with neither extravagance nor waste and , above all, with compassion for those in need, so that capital formation does not lead to the way of God and consequently banned. All types of marketing monopoly are strictly forbidden, but free competition is welcomed. Prices must be based on the rule of justice, so profits should be reasonable, but Shari'a did not fix certain limit for profits. Contract law in general, according to the views of Muslim Ulema, consists of a series of individual and strictly regulated types of contract. Once a person enters into one of these defined contractual relationships, certain rights and obligations must result, and it is in general not permissible for the parties to modify or avoid these results by mutual agreement in the form of stipulation in the contract.

Nevertheless Islamic commercial laws were, almost from the beginning of the Islamic community, separated from the precepts of Shari'a. It had been based upon local practice and influenced strongly by the former provinces of the Roman Byzantine Empire.

### *(1) The Making of Commercial Codes*

The first decades of the nineteenth century marked the transformation of the subsistence economy in the Arab East into export economy, consequently commerce made considerable development and the way had been paved for the adoption of modern commercial codes.

Egypt made the first steps in that direction by the introduction of long-staple cotton in the 1820's which led through various stages, and despite changes in political circumstances, to the emergence of an export-oriented economy. Agriculture which had been mainly but not exclusively devoted to the satisfaction of subsistence needs, became integrated through the export of a valuable primary commodity into the international economy. The Cotton Famine, a consequence of the American Civil War (1861 - 4), provided new market opportunities and Egypt was able to respond. The Agricultural, transport, and financial infrastructures of the export economy were developed, and the links between Egypt and the world economy-trade, movements of capital and foreign immigration - all strengthened. Investment outside agriculture followed the typical pattern that characterizes export economies, especially sectors that provide the necessary support for trade or supply services to the exporters. Thus the transport system was developed, cotton ginning and pressing plants were erected, foreign merchants and foreign capital established banks and

commercial firms. Foreign private enterprise found opportunities in public utilities, mortgage and land companies, and in construction.

Diversification of the productive structure through Industrial development did not take place on a significant scale. The state did not invest directly in industry except under Khedive Ismail (1863 - 79). Investment in industry needs encouragement through tariffs or promotional measures, but Egypt was deprived of her fiscal autonomy by the Capitulations until 1930 when she could acquire new tariff that opened the way for investment in industry. The transformation of economy from subsistence to the export oriented economy in the Fertile Crescent had taken place in minor and different degrees by the middle of the nineteenth century. It was carried forward through the inter-war period by Mandate authorities. Thus, the economic development of the Arab East strengthened links with the international market and provided preconditions for a modern commercial code.

Hence foreign investments protected by the Capitulations, brought the Western judiciary system to the Arab East formulated in the Consular Courts in the Fertile Crescent and Egypt, and the Mixed Courts in Egypt. While the former used their own national codes, the latter used a special code issued by the Powers. Since those Courts were created to safeguard the Western interests in the Arab East, they were mainly concerned with trade, commerce and various aspects of investment, and the Western commercial codes were then enforced. The absence of a local commercial code based on the dominating culture, Islam, obliged natives to accept that innovation. Colonial rule which had plagued the Arab East in the last decades of the nineteenth century got a free hand in fashioning the modern commercial codes of those countries on a Western style, that task has been carried forward by the national rule after gaining independence.

The making process of the commercial codes was inspired by certain resources. Swiss codes provided the original source for the Ottoman civil commercial laws which had been codified in the mid-nineteenth century and enforced in the Fertile Crescent, while Belgian and French codes were the original source of the Egyptian codes. In major cases those codes were similar to their European originals due to the fact that codification was done by European experts. Moreover the first and second generations of the Arab lawyers had been educated in either France or Switzerland and the first school of law established in Egypt in the 1890's, then later affiliated to Cairo University, has adopted the French system.

Egypt has obtained its own commercial codes through several decades. The nucleus of the Egyptian commercial codes was created in the Last decade of the nineteenth century by promulgation of several laws organizing patents in order

to control local market, laws fixing interest rates by 9% and laws organizing mortgage. Immediately after World War I another series of commercial laws were issued, laws organizing limited liability companies and joint Stock companies, laws of bank operations such as lending on mortgage and debenture, documentary credits, deposits, personal loans and revolving credits, Clearing House and exchange control regulations. Another law was specified for the stock exchange. The difficult years of the Great Depression pushed the Egyptian Government to issue a law against commercial fraud.

The growth of external trade through the inter-war period created need for laws to organize commercial agencies either by commission or contract, transport contracts and commercial bills such as bills of exchange, promissory notes and cheques. Egypt and other Arab countries joined the signatories of Geneva International Agreement on commercial bills (1930 - 31) which was signed by Japan as well, thus Arab commercial codes Adopted (the international rules regarding commercial bills; its validity, circulation and payment. A specific law dealt with bankruptcy in business; its declaration and the order of liquidation was enforced.

The growing need for industry encouraged the State to issue a new tariff in 1930 and acquire fiscal autonomy. During World War II the State was forced by the decline of cotton exports to issue legislations in order to organize trade in cotton and accordingly exchange control.

The Egyptian commercial code was the major source of legislation in the Fertile Crescent due to the influence of the Egyptian law experts who were employed by those countries to formulate their codes. After the merger of Egypt and Syria in 1958 a unified commercial code was enforced, to cover; contracts, commercial bills, companies and bankruptcy. That code was the major style on which the commercial codes of the oil producing countries of Eastern Arabia were fashioned.

## ***(2) Commercial Codes in Eastern Arabia***

The discovery of oil transformed the situation in Eastern Arabia at one time pearl fishing and nomadic herding provided the primitive population with the bare means of subsistence, and the decline of the pearling industry from about 1930 reduced it to even greater poverty. The merchant trading however, continued to flourish, and the sea-going ships trading between the Gulf ports were one of the main sources of income and provided the money required for international trade and the import of foreign goods. This Trade was carried out mainly between Bahrain and India, and to a lesser extent, with the neighboring Arab States. By the end of the first quarter of the twentieth century however, the sea-going ships of Bahrain were confined to local trading with other ports of Eastern Arabia such as Kuwait, Al-Aquer on the Hasa Coast, Doha in Qatar and

the Trucial State, having been superceded on the international trade routes by the steamers of the British India Steam Navigation Company. Bahrain did not suffer because of this change as it was used as a distribution centre by the traders using the British India services for the Hasa and southern coast.

The growing influence of the British in the region brought about changes in the trade, primarily in that less business was done with India, but in its place large quantities of manufactured goods were imported from England for re-export to other countries in the region. Thus the need arose for bank credits and the first bank to be established in the region was the British-owned Eastern Bank Limited founded in Bahrain in 1920. First, it was mainly used by foreign business, but local merchants soon made use of the monetary services offered once they realised the advantages of the banking system. After two decades another bank started business in Kuwait in 1940, it was the British Bank for the Middle East. The discovery of oil and its consequences encouraged several Western banks to open branches in Eastern Arabia since the 1950's, then local banks have been established either central, commercial or industrial banks, and the trade reached its peak by the beginning of the seventies when those States became independent.

The influx of oil workers from the more developed Arab countries and from the Western countries created the initial demand for Western style consumer goods and as the revenues from oil began to filter through to the native population, the demand was naturally increased, thus creating a further demand for these goods by the natural inclination of a “nouveau riche” populace having money to spare for the first time in their lives. A rapid change in commerce and the local market has taken place, super-markets, department stores, import and export companies, automobile agencies and various types of transport companies were established.

The expansion of commerce brought about the need for a commercial code. While Saudi Arabia tried to treat the new aspects of that innovation by looking for solutions through Sharia and has fallen in contradictions, other oil producing countries of Eastern Arabia have chosen to adopt the modern commercial codes on the same lines of the Egyptian-Syrian Unified Code of 1958 with various degrees of modification to fit the social and economic conditions prevailing in those countries.

Since the beginning of the sixties Kuwait and Qatar started to formulate their commercial laws, as regarding contracts the legislator has described the contracts of oil resource as development contracts in which companies undertake to meet the demands of economic planning and accept to handle business under the State's complete control, and help developing technology. The laws of limited liability and joint-stock companies made stress on the

national identity of business. In all laws regulating companies in the countries of Eastern Arabia foreigners are not permitted to establish business unless they have native partners, all share-holders must be natives unless it is necessary to collaborate with foreign investments or foreign experience, however in any case native share must exceed 51%. In certain cases exception could be extended to the foreign investments engaged in development schemes either industrial, agricultural, mining, transport or tourism. Moreover aliens are not allowed to establish craft business or act as a retail dealer unless they have native sponsors.

The commercial codes of Eastern Arabian countries contained laws for banking and bank operations such as lending on mortgage and debenture, deposits, personal loans, documentary credits and other bank advances, various types of commercial agencies have been restricted to natives and the governmental tenders are given to foreign companies through their native agents. The laws on commercial bills were based on the principals of Geneva Agreement. Bankruptcy in business was treated by law dealt with its preconditions and the procedures of liquidation.

The legislator did not neglect the Chambers of Commerce as representative of business circles before the government, since the growth of trade made it imperative to establish a proper body for the regulation of trade and the safeguarding of traders interests. In Bahrain, the traditional "Majlis al-Urf" which was a committee nominated by the Shaikh to sit as an arbitrary body to resolve trade disputes, was gradually reformed until, in 1939, the need was seen for a more-representative body. Since then a formal Chamber of Commerce was created with traders' representatives to legislate and protect the commercial interests. It was officially recognised by the government in 1951. In other Eastern Arabian countries Chambers of Commerce were created by the government through legislation to help developing the commercial sector of economy.

As the development of commerce and industry consequent to the revolution in the economy of Eastern Arabia after the discovery of oil paved the way for introducing modern commercial codes, the influx of oil workers and various types of labour brought about a great need for labour codes.

### III. Labour Codes

Islamic Sharia had no concern with labour except some precepts that over-valuate manual labour as source of living and urge adherents to pay the wages without any delay. Thus the principles of the modern labour legislation that regularize labour contract, working hours, etc., were beyond the interest of Shari'a, however social insurance was dealt with by the Ulema through the Islamic notion of social justice. Even in this sense Shari'a had not certain integrated vision of social insurance other than the limits of social solidarity and brotherhood.

Labour legislation as a product of industrial development has not taken place in the Arab East before the first decade of the twentieth century. In this context Egypt introduced the instructive example that has been followed by most Arab countries of Eastern Arabia.

However, the early labour legislation in Egypt from the beginning of the century up to the World War II had very limited welfare objectives. A Law of 1904 subjected the use of premises for industrial activity to a license. It aimed at ensuring minimum grade of safety and sanitation. Employment of children under nine years old in cotton ginning, tobacco, and textile factories was prohibited in 1909, and the prohibition was extended to some twenty different industries in 1931. The maximum number of hours for women was fixed at nine per day in 1933. That law was applied to men in 1935, but working hours for them could be extended to eleven to include overtime. Though those first endeavours to legislate labour did not amount to very much, they were burdensome to local industry. The reports of the Egyptian Industrial Federation were complaining of those regulations as recent as 1950. Trade unions, however, were formed as early as 1899, and strikes were known especially in the 1920's, 1930's and 1940's.

In response to labour struggle, series of laws on legal liabilities in case of industrial accidents (1936), compulsory insurance (1942) and labour contracts (1944) were issued. Minimum wages were fixed at P.T 10 in 1944 and at P.T 12.5 in 1950, but these stipulations were largely irrelevant as they did not follow up the rise in the cost of living. A law of 1919 introduced an arbitration procedure for labour disputes then modified in 1948, and another law promulgated in 1950 to regularize collective agreements between employers and trade unions.

Trade unions were first given legal status in 1942 but until the Revolution effective unionism was largely confined to those facing modern foreign companies as shell, and confederation was forbidden. The automatic deduction of union dues from wages, given a certain minimum enrolment, has shortly afterwards instituted. A Trade union Confederation was legalised in 1957, but

there were still 1,300 separate trade union in Egypt until they were amalgamated, with the encouragement of the government. By 1964 there were 27 trade unions covering the whole of industry, mining, transport, etc. Because of the degree of government sponsorship unions are to some extent part of the State system. Strikes were illegal since 1952.

A new insurance scheme financed by the employers' contributions was introduced in 1956, but its application was limited to large firms. A unified labour code of 1959 was issued included a reduction of working hours to eight for adults and six to juveniles; increases in sick pay, indemnities for termination of employment and in the length of paid annual holidays; complete prohibition of child employment, reasonable minimum wages and the application of the insurance schemes to all industrial firms. This unified code which was enforced in both Egypt and Syria has become a major source for labour legislation in most Arab countries with various degrees of modification in order to fit local conditions.

The Egyptian labour code, however, achieved a significant development by the socialist laws of 1961 and 1962 which brought considerable new benefits to industrial workers especially in the newly created "public sector". Those Laws involved a 25% profit-sharing scheme in favour of workers and employees, membership of company boards was fixed at seven with two members elected by the workers, working hours were reduced to 42 per week without reduction in wages and compulsory social insurance was introduced to increase the employer's contribution from 7 to 17 per cent of salary, thus creating a large pension fund administered by the Government, the laws gave manual workers 14 days paid holidays and dismissals became almost impossible except in cases of criminal offences. Workers were also entitled to sick leave for up to 180 days a year with small reductions in basic salaries.

### ***(1) Labour Legalization in Eastern Arabia***

Manpower in Arabia is estimated at 500 thousand, that amount to 25% of the population. The percentage of alien labour in the region is estimated at 73% of the total labour force in Kuwait, 37% in Bahrain, 65% in both Qatar and United Arab Emirates. This is possibly due to the fact that the alien labour forces are composed of two main groups; those possessing technical skills and those having no skills but providing manual labour for the construction, transport and retail trades, and working in the service industries-jobs which are not attractive to the local population due to low status and pay, even essential to the economy.

This aspect had considerable influence on the labour legislation in the region. As early as 1955 a law regulating registration of the alien labour force was promulgated in Kuwait. Since then aliens would have labour card issued by the authorities before they got employment. That law was included in the Kuwait

labour code of 1959. In Bahrain, a law of 1962 was enforced to regularize employment, accordingly employment in unskilled jobs was 100% restricted to Bahraini labourers if available and medically and physically fit. In skilled jobs preference should be given to Bahrainis if available and fit. Alien labour was regulated in both Qatar and the United Arab Emirates by legislations issued in 1961 and put alien employment under the Government control, preference was given in all jobs to natives if available, then to Arab nationals then to non-Arabs. In case of having surplus man-power, firms should dismiss non-Arabs, then Arabs (if required), then nationals unless they show efficiency.

Bahrain was the first State in the region to formulate her own labour code in 1957. The Bahrain labour legislation was divided into five parts and appendices. It dealt specifically with three major areas of industrial relations on which the Government intended to regularize. These were the relationship between employer and employee, trade unions and labour disputes. It stated that "the employer should draw up in duplicate or triplicate a written contract of service on request of the employed person". The law provided for a maximum working day of eight hours and a maximum working week of 48 hours, with the exception of Ramadan fasting month, during which working hours would be six and 36 respectively. A law of March 1958 provided for a minimum pay for overtime working of an extra 25% pay, labours with not less than one year service should receive 14 days annual vacation on full basic pay and cost of living allowances (if any), and after five years' service this was to be increased to 28 days annual vacation.

The Bahrain labour legislation specifically excluded certain categories of labour from membership of trade union such as managing staff, teachers, students engaged in part-time labour, domestic servants and part-time workers. A membership of at least twenty persons was required to create a trade union. The right of an individual to refuse to join a trade union was safeguarded by law and employers should not refuse to employ a person on grounds that he was not a union member. The law did not directly forbid the creation of a confederation of unions.

The law gave the British Commissioner a mandate over labour disputes, he was empowered to take such steps as were necessary for promoting a settlement of the dispute. These steps included power to set up a committee under chairmanship of a nominee of the Commissioner or a person acceptable to both parties. If the dispute was not settled within 14 days, the Commissioner was empowered to refer the dispute to an arbitration board, neither strike nor a close down should be taken place within a period of 21 days following the reporting of the dispute to the Commissioner. However peaceful strikes in furtherance of labour dispute were allowed save the cases of certain public employees such as those providing gas, water, electricity, sanitary services and also those

employed in the fire and public health services. After independence in 1971 the powers of the Commissioner in that law were transferred to the Minister of Labour and Social Affairs.

Kuwait followed Bahrain in the field of labour legislation, a labour code for the private sector workers had been promulgated in 1959 then modified in 1961, another law was issued in 1960 to regularize labour in the governmental departments, and the industrial relations in oil business were treated in the law of 1968. The Bahrain labour code was among the sources of the Kuwait labour code which included the Egyptian-Syrian unified labour code of 1959, Libyan and Iraqi labour codes.

The Kuwait labour code was divided into fifteen parts such as; categories of labour covered by legislation, regulation for alien workers, employment, labour contracts, juveniles employment, women employment, wages, labour organization, labour conditions, labour security, conciliation and arbitration in labour disputes and trade-unions.

Abu Dhabi, the main Principality of the United Arab Emirates, formulated her labour code in 1961 then introduced certain modifications in 1968. The major sources of the Abu Dhabi labour code were the Egyptian-Syrian unified code of 1959 and the Sudanese labour code.

Qatar was the last State of the region to promulgate a labour code in December 1962. The Qatari labour code was based on the Bahrain labour code of 1957 and the Egyptian-Syrian unified labour code of 1959.

If we look at the labour codes of those three countries (Kuwait, Abu Dhabi, and Qatar) we may find a certain degree of similarity in the parts dealing with labour contracts, women and juveniles employment, wages, working hours, retirement compensation, trade unions, arbitration in labour disputes and legal liabilities in case of industrial accidents.

Those codes stated that labour contracts should be written except the Kuwait code which has recognized oral labour contracts as well if the employee could give an evidence. The contracted labour should not exceed a period of five years, but could be extended, with a three months test period in both Qatar and Abu Dhabi and 100 days in Kuwait at the beginning of the contract. In case of quitting job, the interested party should advise the other one two months beforehand in both Qatar and Abu Dhabi and 15 days in Kuwait.

Employment of juveniles under the age of fourteen years is strictly prohibited, and women are not allowed to work by night except in hospitals. The codes of the three countries provided for a maximum working day of eight hours and a maximum working week of 48 hours, except in Ramadan in which working hours, should be six and 36 respectively. Juveniles should not be working for

more than six hours a day and 36 hours a week. In all cases employees should not resume work for more than five hours continuously without a break. Laws provided for a minimum overtime working pay of an extra 25%, and 50% in case of night overtime working oil industry. Workers with not less than one year service should receive two weeks annual vacation. In both Qatar and Abu Dhabi annual vacation should be four weeks after three years' service, but in Kuwait it should be one month after five years' service. The oil workers get 30 and 45 days annual vacation respectively.

While the Kuwait labour code adopted the Egyptian inclusive concept of wage stating that it includes allowances, commissions and bonus, the Qatari and Abu Dhabi codes considered the basic pay only. Nevertheless the Kuwait labour code provided for the recognition of the trade unions with a minimum membership of 100 workers, regularized the trade unions registration and the formation of a confederation of unions. But the Qatari and Abu Dhabi labour codes neglected this matter, they neither admit nor forbid the creation of trade unions. As far as labour disputes are concerned, the arbitration procedure stated by the Egyptian law of 1948 and the Bahraini law of 1957 were adopted, including creation of a committee under the chairmanship of a nominee of the Minister of Social Affairs and Labour with two representatives of the employers and employees, one for each. Only peaceful strikes were allowed except in certain jobs such as gas, water supply, electricity, fire and health services. The Kuwaiti and Qatari codes created a Labour Court with certain measures to secure the judges independence. Labour disputes should be referred to the Court if the arbitration committee failed in finding a solution.

The labour codes of the oil producing countries of Eastern Arabia excluded certain categories of workers from the provision of labour codes, such as peasants, domestic servants, private drivers, Government employees, navigation workers, part-time workers, casual labour and workers in small workshops employing less than six workers and using no machines.

Though modern codes were essential for a rapidly changing economy, some of them were, to a certain extent, far from the needs of such a community and some exist only on paper. There is still not a single trade union in Bahrain and Kuwait. Of the legislations which is in force in Eastern Arabia, very little use appears to be made and the workers have never enjoyed the full benefits of these laws.

## IV. Codes and Community

There are vast differences in the degree of social and economical change in the Arab East not only among the various communities but also among the various countries. Even within the boundaries of a single country such as Syria, a modern working class has developed, while beduin tribes continue their traditional existence. Iraq, for example, has a regime based on socialist performance, while the far reaches of that country are still under a semi-feudal rule of the Shaikhs. The agrarian reform of Egypt which disrupted the economic status of the landlords did not result in the formation of an independent and solid peasantry. The old classes persist while no new group possesses the requisite power and economic backing to inherit their place. A modern Egyptian working class has grown to considerable dimensions but still struggling with the heritage of the old order.

Although agriculture remains the principle economic activity in the Arab East, the Share of industry is increasing. The urge towards industrialization depends heavily on the relation between population and agricultural resources. It is less in Syria, Sudan and Iraq where there are large areas of potentially cultivable land which are now unproductive than in Egypt where the limits of cultivation have nearly been reached and industrialization is an urgent necessity. The Egyptian manufacturing sector has expanded rapidly over the past two decades. In Lebanon light manufacturing industry is the fastest growing sector of the economy. The oil-producing countries of Eastern Arabia, with their limited agricultural potential, see in industrialization a means of diversification to reduce their present dependence on crude-oil production but they are handicapped by the lack of a local labour force and their small domestic markets.

Hence, the secularization of the State and society is proceeding inexorably even in those countries where it can scarcely be seen to have begun. The areas of human activity covered by the Islamic Shari'a have already been reduced in most countries and even in the most traditional and conservative societies, like Eastern Arabia, economic development has enforced the introduction of secular commercial codes. However, no Arab country has yet adopted a deliberate secularization policy as Islam remains the official religion of the state. The strength of Islamic feeling among the masses in both urban and rural communities can scarcely be exaggerated. Egypt gives a perfect example for such context. The Egyptian revolutionaries of 1952 were a secularizing force but many Egyptian intellectuals are impatient with the slow pace of secularization at which secular reforms have been introduced and the failure of a uniquely-powerful regime to hasten the process of secularization. The trials of the Muslim Brotherhood Society in Egypt in 1965 revealed how strong and widespread the movement remained not only among poor and illiterate masses

but among members of the new middle class which bears little resemblance to the property-owning entrepreneurial Western middle class of the nineteenth century, and consists mainly of technocrats.

The attitude of the Arab masses towards banking gives an interesting example of the influence of the Islamic precepts. Until recent time people were hesitant to accept interests on their bank deposits thinking that it might be usury or even refrain to deposit their savings in bank or accept bank advances. Since banking is essential for modern economy, some Ulema and Muslim economists called for the establishment of "Islamic banks" which handle banking on non-fixed rate of interest. Depositors in those banks are treated as partners in a commercial business and the rate of interest could be decided by the financial standing of the bank at a year-turn. Some banks of that type have been established in Saudi Arabia, Egypt and Dubai.

However, the Arabs are more loyal to traditions than to Islamic ethics. While Shari'a safeguards the inheritance rights of females, it is customary accepted in some Arab communities to deprive girls from that right on ground that the property of a family or tribe may go down to another family or tribe. Regardless Islamic rules of social justice and solidarity, the heads of the families or tribes used to register the whole property of the family on their names and hold title-deeds, such a case was common in Egypt and the Fertile Crescent when the Beduin settlement schemes were introduced. Shaikh families have become landlords and the tribesmen were tenants. The same customs could be traced in Arabia where barriers between public property and private property of the Sovereign almost have no existence. There was time when the Shaiks of Eastern Arabia considered themselves the single owners of the oil revenues of their countries.

Property ownership has taken different dimensions in Egypt and the Fertile Crescent. The process was first seen clearly in Egypt in 1956 with the take-over of the still considerable French and British interests which was followed shortly afterwards by the "Egyptianization" of the whole economy. Syria and, more recently, Iraq and Sudan have followed Egypt's example. The nationalization of banks, commercial and industrial business gave birth to a "public sector" owned by the State leading the economy. Legislations have been promulgated to regularize that sector and provide protection, while a limited share of the economy was left to a private-owned sector. However private ownership other than capitalist property was safeguarded by the institutions even in the socialist-oriented Arab countries.

The prevailing customs and traditions in the oil-producing countries of Eastern Arabia had influenced the development of commerce in the region. Before the discovery of oil, the merchants and especially retail-dealers were socially

classified as a low status stratum, manual crafts such as tailors, carpenters, etc., were socially disregarded as well. Pearl-fishing and animal herding were the only appreciated business in that society. It gave good opportunity to the Iranian immigrants who monopolized commercial business. Most of the wealthy merchants in Kuwait, Bahrain, Qatar, and the United Arab Emirates came from Iranian origin and adopted the local citizenship. Their native origins can not be traced for more than two generations. Some of them are multi-millionaires controlling business in more than one country in the region and abroad but they are still regarded inferior to the pure Arabs in social status.

In spite of the measures taken by these States to encourage their natives to engage in commerce by enforcing laws that require a native partner in any commercial business, local people show little interest in commerce and a considerable numbers of the native partners are nationals from Iranian or even Pakistani origin. Natives of pure Arab origin are more likely engaged in the government service. There has been a tremendous growth in the number employed in the government service, which at the present time is the largest single employer of labour, due to an expansion of the government administration machinery.

The social behaviours traditionally stratify women in a low status in that region. It was considered shameful to even mention the name of any of one's female relatives while in male company. Men never addressed their wives by their first names, but referred to them as "mother of..." or "daughter of...". This situation handicapped women participation in the labour force for a long time. However women are increasingly taking their places in jobs due to the expansion of education. Women are taking employment in offices and schools in Bahrain, Kuwait and, to a certain extent, in Qatar and the United Emirates. In some cases women are engaged in various forms of skilled and semi-skilled labour. Nevertheless the percentage of women labour is estimated at 0.9% in Kuwait, 3.2% in Bahrain out of the total labour force in 1971.

Despite the introduction of the modern property-ownership, commercial and labour codes in the oil producing countries of Eastern Arabia, very little use appears to be made of the powers contained in these laws. Most of them exist only on paper, even in Courts judges are not strictly bound to those codes. Some times they utilize Islamic Shari'a instead of modern codes not only in the cases related to "personal status" (family affairs), but also in civil and commercial cases. Due to the fact that the judges are borrowed from other Arab countries, (the majority are Egyptian besides some Sudanese and Jordanians) they often utilize their own national codes whenever they see possibility.

## BIBLIOGRAPHY

- Abu Dhabi: Qanūn al-'Amal, 1966.
- Baer, G: Population and society in the Arab East, London 1964.
- Badr, Amin: al-Awraq al-Tijariyya, Cairo n.d.
- al- Barudi, Ali: al-Qanūn al-Tijari , Cairo 1961.
- al- Binali, J. Mohamed: Educational Planning for Manpower Development in Bahrain, Kuwait Institute of Economic and Social Planning 1969.
- al Farra, M. Ali: al- Tanmiya al- Iqtisadiyya fi Dowlat el-Kuwait, Kuwait 1973.
- al-Fawwal, Salah: al-Badawa wal-Tanmiya, Cairo 1967.
- Fenelon, K.G: The United Arab-Emirates, An Economic and Social Survey, London.1973.
- al-Ghatrifi, Ibrahim: Tatawur Tashri al-Amal fi Misr, Cairo 1965.
- Government of Qatar: Majmu at al-Qawanin al-Mamulbiha fi Qatar, Doha 1966.
- Government of Qatar: Qatar in the Seventies, Doha 1973.
- Hamada, Said: al- Nizam al- Iqtisadi fil-Iraq, Beirut 1938.
- Hanifi, M. Jamal: Islam and the Transformation of Culture, London 1974.
- Hijazi, Abdul-Hay: al- Uqūd al-Tijariyya, Cairo n.d.
- Khadduri, Majid: Independent Iraq, London 1951.
- al- Khatib, Abdul-Hamid: al-Islam wal Mudhilat-ul-Ijtimaiyya al- Haditha, Beirut n.d.
- al-Khuli, Aktham: Sanadat-ul-Itiman-ul-Masrafiyya, Cairo n.d.
- Kuwait Ministry of Trade & Industry: Dirasa Hawla Duwal wa Emarat al-Khalij al-Arabi, Kuwait 1972.
- Kuwait Ministry of Trade &. Industry: al-Iqtisad al-Kuwaiti, Tatawwuruh wa Numuwwuh, Kuwait 1967.
- Mabro, R : The Egyptian Economy 1952 - 1972, Oxford 1974.
- al-Mulla, Ahmed : Industry in Bahrain, Kuwait Institute of Economic and social Planning, 1970.
- Rabitat ul-Ijtimaiyyin: al-Khalij al-Arabi fi Muwajahat al-Tahaddiyat, Kuwait 1975.
- Radwan & Mabro: The Industrialization of Egypt 1939 - 1973, Policy and Performance, Oxford 1976.
- Rashid, al-Junaidi: The Banking System in Bahrain, Kuwait Institute of Economic and Social Planning 1973.

- al-Rumaihi, Mohamed: al-Petrol wal-Taghayyur al-Ijtima i fil-Khalij al-Arabi, Cairo 1975.
- al-Rumaihi, Mohamed: Bahrain, Social and Political Change, Kuwait 1975.
- Shafiq, Muhsin: al-Qanūn al-Tijari al-Kuwaiti, Kuwait 1972.
- al-Tahir, Abdul-Jalil: al-Badw wal-Ashair fil-Bilad al-Arabi Yla, Cairo 1955.
- Zaki , Jamal-Eddin: Aqd-ul- Amal fi al-Qanūn al-Misri, Cairo 1956.
- Zaki , Jamal-Eddin: Qanūn al-Amal al-Kuwaiti, Kuwait 1972.