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THE PENAL LAW TERMINOLOGY IN *SIYĀSATNĀME*: SOME OF ITS ETYMOLOGICAL, SEMANTIC AND FUNCTIONAL PECULIARITIES

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The paper is dedicated to the examination of the legal terms attested in the text of the *Siyāsatnāme* (سياسة نامه) integrated in the *Siyāsatnāme* Law (قانون السياسة نامه), the first Organic Law (النظام الاساسي) of Egypt enacted by the decree of Egyptian Viceroy/governor (*wālī*) Muḥammad ‘Alī Pasha (1805–1848) in 1253/1837 as its third part. The adoption of the *Siyāsatnāme* was one of the early attempts of the codification of Egyptian Penal Law by Muḥammad ‘Alī Pasha. The *Siyāsatnāme* text, as an example of the formal style of Written Arabic which started to develop in the early 19th century, represents its basic linguistic features, particularly, the widespread use of words that acquired terminological meanings in the administrative and legal spheres of Written Arabic of Egypt during the reign of Muḥammad ‘Alī Pasha, the era of the formation of the administrative apparatus of the new Egyptian state and the modernization of its legal system. A number of Arabic legal terms of the *Siyāsatnāme* belong to the Penal law terminology and denote misdemeanors of civil servants (e.g. رشوه “bribe”) and their punishments (e.g. عزل “dismissal from office”). The etymological analysis of the Penal law terms found in the text of the *Siyāsatnāme* has shown that the vast majority of them are of Arabic origin (with the exception of لومان “the hard labour in Alexandria dockyards”, كرباج “flogging”) and belong to the lexical layer of Classical Arabic (with the exception of Egyptian Spoken Arabic variant اغتلاس “embezzlement” vs. Classical Arabic اختلاس). Based on the structural analysis of the given terminological units, it was concluded that they were presented as single-component terms (e.g. حبس “imprisonment”) and multi-component terminological phrases (e.g. اجرا الجزا “imposition of punishment”). In this regard, the valence of the Penal law terms of the *Siyāsatnāme* when forming terminological phrases was analyzed. The peculiarities of the functioning of criminal law terms in this legislative text were considered as well.

Keywords: Arabic language; Egypt; legal terminology; loanword; Penal law; semantics, semantic change; semantic field; term

Introduction

The paper is focused on highlighting the etymological, semantic and functional peculiarities of the Penal law terms widely attested in the *Siyāsatnāme* (hereinafter referred to as SN). The legal terminological units used in the SN to verbalize the key concepts of Egyptian Penal law and its provisions will be combined into two semantic groups of opposite conceptuality: “crime/offence” and “punishment/penalty”.

The formal style of WA (اللغة الديوانية, لغة الإدارة) that began to crystallize in the beginning of Muḥammad ‘Alī Pasha’s reign has not become a subject of the detailed linguistic

studies. This is also valid for the SN as typical representative of the formal style of Written Arabic (hereinafter referred to as WA) whose lexical features generally have not been given sufficient attention in Arabic studies. Some marginal aspects of the lexical studies of the SN were focused on functioning of the loanwords and terms of Egyptian Spoken Arabic (hereinafter referred to as ESA) origin [Sivkov 2022].

The Siyāsatnāme: Historical-Legal Context

The QSN (النظام القانوني السياسي *qānūn al-siyāsat nāme*) was the first Organic Law (النظام الأساسي) of Egypt enacted by the decree of Egyptian Viceroy Muḥammad ‘Alī Pasha in 1253/1837 and printed in Rabī‘ I 1253/1837 [Hunter 1999, 21; Zaḡlūl 1900, 179; Zaḡlūl 1900, Supplement 2, 26].

Its text was published by A. F. Zaḡlūl in his work “al-Muḥāmāt” in two separate parts. The first part is its preamble which explicates the reasons that urged Muḥammad ‘Alī Pasha to promulgate it [Zaḡlūl 1900, 171–176]. The second part representing the proper text of the QSN introduced as the Supplement 2 under the title تشكيل الدواوين وقانون السياسة نامه “Establishment of the State Departments” [Zaḡlūl 1900, Supplement 2, 4–26]. The document consists of three chapters (فصل)

The first chapter (عن بيان الترتيبات الأساسية) consisting of 9 articles (بند) [Zaḡlūl 1900, Supplement 2, 4–26] is about the basic organization of administration [Hamed 1995, 6–10].

The second chapter (عن بيان العملية) consisting of 31 articles (بند) [Zaḡlūl 1900, Supplement 2, 4–26], deals with the performance of all senior officials of both the central and provincial administration [Hamed 1995, 6–10].

The third chapter (في بيان سياسة نامه) consists of 21 articles (باب) [Zaḡlūl 1900, Supplement 2, 4–26] on the punishment of government servants who committed administrative offenses [Hamed 1995, 6–10].

The SN – Chapter 3 of the QSN printed and published in Rabī‘ II 1253/July–August 1837 was included in قانون المنتخب “The Selection of Law” published in 1261/1845 and known among Europeans in Egypt as “Code de Mehmet Ali” as its part – articles 56–75 collected under the title بيان ما انتخب من قانون السياسة الملكية “Selection from the State policy law”. The QSM was published by A. F. Zaḡlūl as the Supplement 18 of his work “al-Muḥāmāt” [Baer 1977, 142; Peters 1990, 216, 224; Zaḡlūl 1900, Supplement 18, 111–116]. The texts of the SN and the QSM are not identical as per their length (respectively 21 and 20 articles) and demonstrate noticeable dissimilarity in the wording.

The SN was issued as the Code of criminal regulations dealing with crimes and offenses committed by the Government servants. Its penal clauses lay down the kinds of punishment to be inflicted on Government servants who embezzled state funds or damaged state property, took bribes, deprived others of their property, broke laws, disobeyed orders, or neglected their work. The Government servants’ offenses were mainly punished by dismissal from office, or imprisonment at the place of the official’s work or in the *Qal‘a*, the citadel of Cairo [Baer 1963, 30].

The adoption of the SN was regarded a form of modernization of Muḥammad ‘Alī Pasha’s penal legislation. The traditional *ṣarī‘a* law was not abolished at all, however its implementation was limited to the case of intentional murder when the heirs of somebody murdered by a Government servant accepted a blood-money (دية) from the murderer, otherwise the retaliation (for the murdered person) (قصاص) was to be applied to the murderer.

The Siyāsatnāme: Linguistic Outline

The term سياسة نامه *siyāsatnāme* was firstly coined by Niẓām al-Mulk, vizier of the Seljuk Sultans Alp Arslan and Malik Shah as the title of his political treatise *Siyāsatnā-meh* (سياست نامه, literally “Book of Politics”) written in Persian. It was applied to a special

code of administrative regulations executed by the ruler and his officials on their discretion beyond the framework of the *šarī'a*. The Ottomans often used this term with the same meaning. In this regard, it is worth mentioning that سياسته as the head element of سياسة نامہ developed its meaning of punishment outside the *ḥadd*-penalties prescribed by the *šarī'a* in Arabic, and thence in Persian and Turkish usage. In Ottoman Turkish, *siyāset* had been almost exclusively applied to physical punishment for offenses against the state. The term سياسته, in connection with Penal Law, apparently had in Egypt a more comprehensive meaning than the Ottoman *siyāset*, which included only severe corporal and capital punishment [Baer 1963, 30, n. 1; Bosworth 1997, 693–694; Hamed 1995, 6, n. 13].

The text of the SN is written in a mixture of ungrammatical WA and ESA.

The etymological study of the Penal law terms selected from the SN allows me to conclude that all terms are of Arabic origin except

1. اللومان, denoting the Alexandria dockyards – the place where the State servants sentenced to hard labour were to serve their sentence. It is worth mentioning that the Greek λιμὴν “port” [Dozy 1881, Vol. II, 559] was borrowed to Ottoman Turkish in the form of ليمان *liman* in the same sense “lieu propre recevoir les vaisseaux, port” [Kieffer, Bianchi 1837, Vol. II, 724]. In its turn, Ottoman Turkish ليمان entered Arabic in bifurcated forms

لیمان *lymān* (plural (hereinafter referred to as pl.) ليمانات *lymanāt*) “port, harbour” [Spiro 1895, 549]; “harbour” [Hava 1899, 689].

لومان – the technical term of the Egyptian Penal law “prison (سجن) où l’on enferme les grands criminels (يسجن فيه اصحاب الجنايات الفظيعة) pour un certain nombre d’années (الى سنين معينة) ou pour la vie” (مدة حياتهم) [Dozy 1881, Vol. II, 559; al-Bustānī 1987, 832]; “jail for life, or for a long period; state-prison” [Wortabet 1888, 552]; *lumān* “hard labour, penal servitude” [Spiro 1895, 548]; “galleys, penal servitude” [Hava 1899, 689].

According to [al-Bustānī 1987, 832], اللومان is derived (ماخوذة) from Greek λιμιν “port” (اسكلة, ميناء). The Ottoman Turks also use this word in the form of ليمان [al-Bustānī 1987, 832].

2. كرباج (The detailed etymological account of كرباج is given in: [Sivkov 2022, 129–130]) “whip as an instrument of corporal punishment” > “flogging”.

Among the Penal law terms, I extracted from the SN a single non-Classical Arabic (hereinafter referred to as CA) term that belongs to ESA. It is اغتلاس *ighṭilās* “embezzlement”, a phonetic variant of the CA اختلاس. As K. Vollers points out, “some words spelt with *ḥā*’ in Classical Arabic are pronounced in the modern speech with *ḡayn*” [Vollers 1895, 16, 223].

While studying the structure of the Penal law terms I noticed that they are represented by the single lexical units (e.g. حبس “imprisonment”, اهمال “negligence” and multi-component terms (e.g. اجرا الجزا “imposition of the punishment”, يقدم الرشوة “to give a bribe”).

In the text of the *Siyāsatnāme* I found several terms of the Penal law of high valency in forming terminological phrases

1. اجرى (اجرا) الجزا (على) “to punish (him) by punishment”; جازى بالجزا – “punishment” جزا “to impose the punishment”; ترتيب واجرا الجزا “to arrange and impose the punishment”; تشديد جزاه “to increase a punishment”; تخفيف الجزا “to commute/mitigate a punishment”.

2. يخذ رشوه “to take a bribe”; يقدم (يعطى) الرشوة – “bribe” رشوه.

The Siyāsatnāme Penal Law Terminology: Semantic Fields

I classified the semantic areas of the technical terms of Penal Law collected from the SN/QSM and identified two basic domains as follows:

1. The offenses committed by the State servants.
2. The punishments applied to the State servants who perpetrated the crimes specified in the SN/QSM.

During examining the SN/QSM I found out that such offenses of the Government servants are specified therein: embezzlement (اغتلاس/اختلاس); bribe (رشوه); forgery of Government

documents and records; intentional killing (قتل بسبب الغرض / قتل لاجل اجرا الغرض); false accusation and slander (اتهم, افتري); negligence of work responsibilities (اهمال, تكاسل); any act which cause the damage to the Government (جلب ضرر الي جهة الميري / اورث ضررا الي جانب الميري); depriving others of their property; interference in the work of another Government servants (يخالفون مضمون الاوامر); breaking laws and disobeying orders (تداخل في شغل خارج عن شغله) (ومنطوق اللوائح والقوانين). Depending on the severity of malpractice and malfeasance committed by the State servants they were sentenced to such penalties as imprisonment (حبس) served in the official's work (محل خدمته / محل خدمته) and in the *Qal'a* (القلعة) – the citadel of Cairo (ربط بالقلعة / ارسل الي القلعة); hard labour served in Alexandria dockyards (اللومان) and the mines in the Sudanese district of Fayzoghlu (فيزاوغلى), dismissal from office (كرباج), flogging (تبعيد, طرد, رفت, عزل).

The Offenses of the State Servants

1. Embezzlement (of government funds)

To denote such crime as (a Government servant's) embezzlement of Government money, verbal noun (vn.) VIII اغتلاس / اختلاس "secret theft, sudden robbery" [Wortabet 1888, 147]; اختلاس *ihtilās* "embezzlement, fraud, *détournement*" [Spiro 1895, 179] < verb (vb.) VIII اختلس *ihtalas* "to embezzle, defraud" [Spiro 1895, 178]; اختلس "to cheat, to defraud; to embezzle a.th." [Hava 1899, 172]) is employed in the SN/QSM

اختلاس مبالغ من اموال [QSM 1900, article 56, 111] "embezzling of sums of money";

بحيث ان هذا عين الاغتلاس فيجرى عليه الجزا المحرر بباب الاغتلاس [SN 1900, article 9, 23],

فيجرى عليه الجزا المحرر في باب الاختلاس اذا كان هذا الفعل هو عين الاختلاس [QSM 1900, article 64, 113].

"If this is an embezzlement, the penalty prescribed in the chapter on embezzlement shall be applied to him (a Government servant)".

2. Bribe

The Classical legal term for bribe رشوه *rašwa* < vb. I رشي *raša* "to bribe" [Spiro 1895, 226] is used in SN/QSM to denote giving (يقدم الرشوة [SN 1900, article 3, 21–22], [QSM 1900, article 58, 112]) and taking a bribe (ياخذ رشوة [QSM 1900, article 58, 112]).

3. Forgery of documents or records

To denote forgery of (Government) record (دفتر), document (سند, pl. سندات), or receipt (رجعه) using tricks (حيله) the verbs (vbs.) I قشط *qaṣaṭ* (literally "to erase, skin, remove the upper part" [Spiro 1895, 487]) / كشط "to take off (a covering) from" [Hava 1899, 648] are used in the SN/QSM

قشط دفتر او سندات بناء على حيله [SN 1900, article 4, 22],

كشط دفترا او سندا بنا على حيله [QSM 1900, article 59, 112].

The same idea of forgery of (Government) documents is also rendered by the expression literally meaning "to write (documents) contrary to original"

يكتب دفتر او رجعه او سندا بخلاف الاصول [SN 1900, article 4, 22],

يكتب دفترا او رجعه او سندا على غير الاصول [QSM 1900, article 59, 112].

4. Intentional killing

Pursuant to the provisions of *šarī'a*, the heirs of person intentionally (لاجل اجرا الغرض) [SN 1900, article 5, 22] / بسبب الغرض [QSM 1900, article 60, 112] (literally "for [personal] reason") killed (كان يقتل [SN 1900, article 5, 22] / قتل [QSM 1900, article 60, 112]) by a Government servant had the right to accept the blood-money (ديه – the compensation (a specified amount of money or goods) payable in cases of homicide [Tyan 1991, 340]: vn. I ديه "bloodwit; a fine for bloodshed, i.e. homicide" < vb. I ودى القتيل "He gave the bloodwit to the heir, or next of kin, of the slain person" [Lane 1968, Vol. 8, 3051]; ديه *dyja* "ransom" [Spiro 1895, 210]) from the murderer (كان يرتضوا بالديه) [SN 1900, article 5, 22], [QSM 1900, article 60, 112].

If the murdered person's heirs don't accept the blood money (لم يرضوا بالديه) [SN 1900, article 5, 22; QSM 1900, article 60, 112], he (the murderer) shall be retaliated (قصاص – the retaliation were to be applied in case of killing/blood-vengeance, and of wounding which do not prove fatal [Schacht 1986, 177]: vn. III قصاص < vb. III قاصه “He (the relation of a slain man, or one who has been wounded, or mutilated), retaliated upon him by slaying him, or wounding him, or mutilating him, so as to make him quit, or even, with him” [Lane 1968, Vol. 7, 2526]) according with provisions of the *šarī'a* (يصير القصاص) [SN 1900, article 5, 22]/[QSM 1900, article 60, 112].

Alternatively, he shall be sent to lifetime forced labour at the Alexandria dockyard (يرسل اللومان مدة حياته) [SN 1900, article 5, 22]/shall be sent to the mines in the Sudanese district of Fayzoghlu for life (يرسل الي فيزاو غلي مدة حياته) [QSM 1900, article 60, 112] for his education (لأجل التربية).

One can see that vb. I رضي and vb. VIII ارتضى are used in the meaning of “to accept the blood money (الديه)” (literally, “to be satisfied (with blood money)”).

5. False accusation and slander

The vbs. VIII افترى (على) and اتهم respectively used in the meaning of “to slander” and “to accuse” [SN 1900, article 14, 24; QSM 1900, article 69, 114]. To stress upon intentionality of slander and accusation expressions او نفسانيه [SN 1900, article 14, 24] بنا على غرض او نفسانيه [QSM 1900, article 69, 114] (literally “for personal reasons”) [Peters 1990, 216] are used in SN/QSM

اذا كان احد يتهم احد او يفترى عليه بناء على غرض او نفسانيه [SN 1900, article 14, 24], اذا كان احد يتهم احد بتهمة ويفترى عليه بنا على غرض او نفسانيه بينهما [QSM 1900, article 69, 114] “If someone accuses someone or slanders him for personal reasons”.

6. Negligence of work responsibilities

The vb. VI تنكسل (تنكسل) *itkâsil* “to become idle, lazy” [Spiro 1895, 519] > vn. VI تنكسل and vn. IV اهمال *ihmâl* “negligence” [Spiro 1895, 628]: اعطى اهمالا [SN 1900, article 17, 25] يحصل منه اهمال [QSM 1900, article 72, 115] “to show negligence (in work)” are employed to denote the Government Departments employees' negligence of their work

يتنكسلوا ويعطوا اهمالا في المصالح المأمورين بها [SN 1900, article 17, 25], يتنكسل او يحصل منه اهمال في المصلحة المأمور بها [QSM 1900, article 72, 115].

“The Government Departments' servants show negligence in the work in the Government Departments they are assigned to”.

7. Any act which causes the damage to the Government

The damage that a Government servant may cause to the Government (الميرى)/Government Department (المصلحة) is termed as مضره *maḍarra* [SN, article 17, 25] ضرر/ *ḍarar* [QSM 1900, article 72, 115] (literally “injury, harm, damage”) [Spiro 1895, 350].

To denote such offence as causing damage to the Government, the following expressions are adopted

يورث ضررا الى جانب الميرى (vb. IV اورث “He made him inherit the thing; He made him to be one of his heirs”) [Lane 1968, Vol. 8, VIII, 2934], (literally “To made the Government inherit damage”) [SN 1900, article 5, 22];

يجلب ضرر الي جهة الميري (vb. I جلب *galab* “to bring, import” [Spiro 1895, 104] (literally “To bring damage to the Government”)) [QSM 1900, article 60, 112].

The concept of a Government employee's destroying the things, machines, and tools (تحت ادارته وضبطه) being under his management and control (الاشيا والامتعه والالات والادوات) due to his carelessness and negligence (عدم دقته واهتمامه) is rendered by vbs IV اتلف *atlaf* (literally “to spoil, damage”) [Spiro 1895, 82], اعدم *a'dam* (literally “to destroy, put to death”) [Spiro 1895, 388], and اضاع (literally “to lose, to miss (a. th.), To squander, to waste away (o.'s goods)”) [Hava 1899, 415]

اتلف او اعدم شيا من الاشيا والامتعه والالات والادوات التي صار تسليمها له امانه والتي تحت ادارته وضبطه من عدم دقته واهتمامه

[SN 1900, article 7, 22–23],

يتلف أو يضيع شيئا من الأشياء كالامتعة والآلات والأدوات التي هي مسلمة له على وجه الأمانة أو هي تحت إدارته وضبطه وكان اتلافها أو ضياعها ناشيا عن عدم دقته واهتمامه

[QSM 1900, article 62, 113]

“(a Government employee) destroyed any of the things, machines, and tools that were entrusted to him and that were under his management and control due to his carelessness and negligence”.

To denote a situation when Government Department employees' negligence (تكاسلهم واهمالهم) caused damage to the Government Department the following expressions are used

اورث المضره / اورث الضرر (literally “to make (the Government Department) inherit damage”)

[SN 1900, article 17, 25], اهمالهم وتكاسلهم ... يورث المضره الي ذات المصلحه

[QSM 1900, article 72, 115]; حصل من اهماله او تكاسله ما يورث الضرر للمصلحه

اوجب ضرر

[QSM 1900, article 72, 115]; حصل منه ... اهمال او تكاسل اوجب ضرر المصلحه

ظهر مضره ناتجه من ...

[SN 1900, article 17, 25]. كان يظهر مضره ناتجه من تكاسله واهماله

سكوت / (literally “a single state of silence, muteness, or speechlessness”) سكته I. vn. The vn. I سكته “He was, or became, silent, mute, or speechless” [Lane 1968, Vol. IV, 1389], and خلل (literally “unsoundness” [Spiro 1895, 178]) are used to describe any disruption (of work) in the Department caused by negligence of a Government Department employee he is assigned this Department

[SN 1900, article 15, 24], كان عدم انقيادهم يصير موجب الي السكوت في المصلحه

[SN 1900, article 17, 25], من اهمالهم وتكاسلهم هذا لم يحصل سكته وخلل الي ذات المصلحه

[QSM 1900, article 72, 115]. لم يحصل من اهماله او تكاسله خلل ولا سكته في المصلحه

8. Depriving others of their property

This kind of offence is represented by

– taking (ياخذ) any of the goods (الاصناف) [SN 1900, article 11, 23; QSM 1900, article 66, 113–114], crops (الغلال) [SN 1900, article 11, 23; QSM 1900, article 66, 113–114] / (الميريات) [SN 1900, article 11, 23]), etc. from the merchants and the people (التجار والاهالي) [SN 1900, article 11, 23]) / the stores (محلات) [QSM 1900, article 66, 113–114]) by a Government servant for the purpose of trade (لاجل التجاره), other than his crops that he obtained from his lands (اطيانه) [SN 1900, article 11, 23; QSM 1900, article 66, 113–114]) that he planted by (his) property (المال) [SN 1900, article 11, 23; QSM 1900, article 66, 113–114]) and from his farm (جفلكه) [SN 1900, article 11, 23] / [QSM 1900, article 66, 113–114].

– trading (يتجر) by a Government servant with regard to his Department that he is ordered to work in (مصلحته المامور بها) [SN 1900, article 11, 23; QSM 1900, article 66, 113–114].

9. Interference of the Government servant in the work (of other Government servants) outside his work and branches of his office

To denote interfering of a Government servant belonging to the aristocracy ((بالميرى) الذوات المستخدمين) in work outside his work

متفرعات ماموريته) (SN 1900, article 16, 24] and branches of his office (فروع ماموريته) [QSM 1900, article 71, 114]

vb. VI *tadāhal* “to interfere, intercede” [Spiro 1895, 194] is used

كان احدا من الذوات المستخدمين يتداخل في شغل خارج عن شغله ومتفرعات ماموريته...

[SN 1900, article 16, 24],

يتداخل احد من الذوات المستخدمين بالميرى في شغل غير شغله او فروع ماموريته...

[QSM 1900, article 71, 114].

10. Breaking laws and disobeying orders

To denote disobeying the orders (امر, pl. أوامر), the regulations (لايحه, pl. لوائح) and laws (قانون, pl. قوانين) vb. III *ḥālif* “to disobey, disagree” [Spiro 1895, 180] / vn. III *muḥālfa* “contravention” [Spiro 1895, 180] are used

[SN 1900, article 15, 24],
[QSM 1900, article 70, 114].
تظهر منه المخالفة في اتباع الأوامر واللوائح والقوانين

The vb. IV اطاع “he was, or became, submissive to him; he was, or became, obedient; or he obeyed” [Lane 1968, Vol. V, 1891] is used in the negative form (لم يطيعوا) with deontic construct عليهم (الذي) “what they (The Government Departments servants) shall do” to describe the Government Departments servants who disobey what is required of them

“They (the servants of Government Departments) did not obey what is required of them” [SN 1900, article 15, 24].

To denote disobedience of the Government Department servant to his seniors (من فوقه, literally “somebody who is above him”) the following expression is used

[QSM 1900, article 70, 114].
لم يطع من فوقه

The disobedience of the Government Departments servants that led to the disruption in the Government Department work (السكته (السكوت) في المصلحة) is also denoted by the -negated vn. VII انقياد < vb. انقاد “He was, or became, submissive, resigned, manageable, easy, humble, or lowly” [Lane 1968, Vol. VII, 2573]

[SN 1900, article 15, 24],
كان عدم انقيادهم يصير موجب الي السكوت في المصلحة

[QSM 1900, article 70, 114].
كان عدم انقياده موجبا للسكته في المصلحة

Pps. (past participles) I مضمون *maḍmūn* “sense, object” [Spiro 1895, 353] and منطوق *manṭūq* “pronounced, spoken” [Spiro 1895, 604]; “spoken; expressed. Proper signification (of a word)” [Wortabet 1888, 601]; “uttered. Proper meaning (of a word)” [Hava 1899, 771] < nطق *naṭaq* “to pronounce, speak” [Spiro 1895, 604] denote the provisions (literally “meaning”) of the orders, the regulations, and the laws.

The constructs الجارى بها العمل/صاير العمل على موجبهم (literally “the work shall be (ap. (active participle) I صاير < vb. I صار / ap. I جارى < vb. I جرى) carried on according to it (على موجبهم)”) are used to denote validity of the orders, regulations, and laws and their obligatory character.

[SN 1900, article 15, 24],
يخالفون مضمون الاوامر ومنطوق اللوائح والقوانين الذى صاير العمل على

موجبهم

[QSM 1900, article 70, 114].
تظهر منه المخالفة في اتباع الاوامر واللوائح والقوانين الجارى بها العمل

The Penalties for the Government Servants' Offenses

The term جزا (جزا “punishment” [Bochtor 1829, Vol. II, 216]; *jazā* “merited punishment” [Catafago 1873, 114]; *giza* “punishment” [Spiro 1895, 102]; جزاء “Criminal law”: قانون الجزاء “Penal code” [Hava 1899, 86]) is used in the SN/QSM to denote different kinds of punishment imposed upon the Government servants who commit offenses. This term is widely represented in Islamic tradition with a set of values “compensation, reward, recompense” [Catafago 1873, 114]; “requital, reward, recompense, retribution” [Wortabet 1888, 71]; “requital, compensation” [Hava 1899, 86].

The term جزا seems to acquire a legal terminological meaning in the Penal Code of Muḥammad ‘Alī Pasha under the influence of Ottoman Turkish where it is attested in both traditional Islamic and general legal signification (جزا *djèzā* “1. Compensation, rétribution. 2. Récompense. 3. Châtiment mérité” [Kieffer, Bianchi 1835, Vol. I, 375]; جزا *djéza* “recompense; châtiment mérité” [Hindoglu 1838, 182]; جزا *gezā* “retribution, recompense, châtiment mérité” [Zenker 1862, Vol. I, 355]; جزا *djèza* “retribution, recompense” [Mallouf 1863, Vol. I, 370]; جزا *djèzā* “châtiment, punishment” [Fraschery 1883, 378]).

The term جازى (vb. III) *gāza* [Spiro 1895, 102]) has both basic Classical Islamic value “to recompense, reward” [Wortabet 1888, 71]; “to requite a.o. for” [Hava 1899, 86] and general legal value “to punish” [Spiro 1895, 102].

The term مجازاة *mujāzāt* [Catafago 1873, 337] (vn. III مجازاة < vb. III جازى) that used to be employed in CA with traditional Islamic values “compensation, requital of good or evil” [Catafago 1873, 337]; “requital, reward, recompense, retribution” [Wortabet 1888, 71] appears to acquire a legal terminological value “punishment” (مجازاة *mugazā* [Spiro 1895, 102]) in the Penal Law of Muḥammad ‘Alī Pasha under the influence of Ottoman Turkish where it is attested in both traditional Islamic and general legal sense (مجازات *mudjāzāt* “compensation, retribution” [Kieffer, Bianchi 1837, Vol. II, 804]; مجازات *mudjazat* “recompense, châtiment” [Hindoglu 1838, 423]; مجازات *mudjazat* “rétribution, recompense; punishment, châtiment” [Mallouf 1867, Vol. II, 1211]; مجازات *mudjâzât* “punition, peine” [Fraschery 1883, 980]; مجازاة *mügazât* “action de récompenser; compensation, retribution, punishment, châtiment” [Zenker 1876, Vol. II, 818]).

The legal term جزا “punishment” is widely employed in the SN/QSM

جازى (مجازاة) بجزا “to punish (by certain) punishment”

يلزم ان يجازوا بجزاهم اللائق بهم “They (the employees of the Government Departments) shall be punished with the punishment that is appropriate for them” [SN 1900, article 1, 21],

يصير مجازاته بالجزا المقرر بباب الاغتلاص (He) shall be punished with the penalty stipulated in the chapter on embezzlement” [SN 1900, article 6, 22],

يجازى فاعله بالجزا المقرر فى باب الاختلاص “The perpetrator of the embezzlement shall be punished according with provisions of the Chapter of embezzlement” [QSM 1900, article 61, 112];

اجرى (اجرا) الجزا (على) “to impose punishment”

يجرى عليه الجزا المحرر بباب الاغتلاص “The penalty prescribed in the chapter on embezzlement shall be imposed on anyone who is employed by the Government Departments” [SN 1900, article 9, 23],

فليجرى عليه الجزا المحرر في باب الاختلاص “The penalty prescribed in the chapter on embezzlement shall be imposed on anyone (who is employed by the Government Departments)” [QSM 1900, article 64, 113],

الجزا الذى كان يصير اجراه على المتهم ... يصير اجراه على من افترى واتهم

“...The penalty that would have been imposed on the accused ... shall be imposed on the one who slandered and accused” [SN 1900, article 14, 24].

ترتيب واجرا الجزا “to arrange and impose punishment”

يصير ترتيب واجرا الجزا التى يستحقه من المحرر بالابواب المذكورة ... فلا يصير ترتيب جزا في حق المستحق ما لم يكن المدعى والمدعى عليه بالمواجهه

“...The penalty that he deserves shall be arranged as stipulated in the aforementioned chapters... No penalty shall be arranged in the right of the entitled person unless the plaintiff and the defendant are confronted” [SN 1900, article 18, 25].

يرتب عليه الجزا الذى يستحقه مما هو محرر بالابواب المذكورة ... ينبغى ان لا يرتب جزا من يجب عليه الجزا الا من بعد مواجهة المدعى والمدعى عليه وقت التحقيق

“...The penalty that he deserves shall be arranged as stipulated in the aforementioned chapters... No penalty shall be arranged in the right of the entitled person unless the plaintiff and the defendant are confronted during investigation” [QSM 1900, article 73, 115].

The SN/QSM gives an example of usage of the expressions denoting

1. Increase of punishment (of a culprit (ap. IV مذنّب *muznib* (literally “guilty”)) [Spiro 1895, 257]

تشدّد جزاه (vn. II تشدّد *tašdyd* “severity, persistence, strictness” < vb. II شدّد *šaddid* “to urge, press, be severe, be strict” [Spiro 1895, 306])

يصير تشدّد جزاه [SN 1900, article 1, 21],

فليجب تشدّد جزاياه [QSM 1900, article 56, 111]

“His punishment shall be increased”;

ابلاغ جزاه (الى) (literally “to cause his punishment to reach...”),

(الى) ضاعف الجزا (literally “to double his punishment”/to make his punishment double/two-fold”)

[SN 1900, article 1, 21], يصير تشديد جزاه ولا يصير ابلاغه الى مثليه

[QSM 1900, article 56, 111] فليجب تشديد جزايه بحيث لا يتجاوز ضعفين

“His punishment shall be increased, although shall not be increased twice”;

[SN 1900, article 2, 21], يصير ابلاغ مدته الى خمسة سنين

[QSM 1900, article 57, 111–112] تضاعف مدته الى خمسة سنين

“His punishment shall be increased to five years”;

إذا تجاسر احد على ارتكاب الذنوب السابق ذكرها مره ثانيه فيضاعف له الجزا ضعفين

“If one dares to commit the aforementioned crimes (ذنوب (singular ذنب, literally “sin”)) again, his punishment shall be increased twice” [QSM 1900, article 67, 114].

2. Commutation/mitigation of punishment (of a culprit)

تخفيف الجزا (vn. II تخفيف *tahfyf* “act of making light or easy, relief, reduction” < vb. II خفف “to cause to be light or easy, relieve, reduce”) [Spiro 1895, 176]

[SN 1900, article 19, 25], عفو وتخفيف الجزا المحكوم به منوط الى الامر العالي

[QSM 1900, article 74, 115] العفو وتخفيف الجزا المحكوم به انما هو منوط بالمر العالي

“The pardon and commutation of a punishment to which (a culprit) was sentenced shall be enacted by the virtue of the Great Benefactor (ولى النعم المعظم) s Decree (الامر العالي)”.’

3. Giving a mercy/pardoning (of a culprit)

vns. I رحمه *rahma*, مرحمه *marhama* “pity, mercy, compassion” < vb. I رحم *raḥam* “to have pity, have mercy” [Spiro 1895, 220]

[SN 1900, article 19, 25]; تصير المرحمه الى المذنبين لدن ولى النعم المعظم

[QSM, article 74, 115] يعامل المذنب بالرحمه من لدن ولى النعم المعظم

“...Mercy shall be given to the culprits from the side of the Great Benefactor”.

vn. I عفو *afu* “forgiveness, pardon” < vb. I عفى *afa* “to forgive, pardon, exempt” [Spiro 1895, 403–404]. In MSA this term acquired technical legal meaning of amnesty.

The imprisonment, hard labour, dismissal from office were envisaged in the SN/QSM as basic punishments for the Government servants who violated the penal regulations of Muḥammad ‘Alī Pasha.

1. Imprisonment

To denote such kind of punishment as imprisonment vn. I حبس “a place of confinement, restriction, imprisonment, or the like; a prison; a jail” [Lane 1968, Vol. II, 500]; حبس *ḥabs* “imprisonment; prison” [Spiro 1895, 121] < vb. I حبس “He confined, restricted, limited, kept in, prevented from escape, kept close, kept within certain bounds or limits, shut up, imprisoned, held in custody, detained, retained, arrested, restrained, withheld, debarred, hindered, impeded, or prevented, him or it” [Lane 1968, Vol. II, 500]; حبس *ḥabas* “to imprison” [Spiro 1895, 121] is employed.

There were two places of imprisonment

– The official’s work

The Government servants who committed administrative crimes shall serve a prison sentence at their place of service (محل خدمته / محل خدماته) / Department (مصلحه)

[SN 1900, article 16, 24], يصير حبسه في محل خدمته خمسة عشر يوما

[QSM 1900, article 71, 114] يحبس في اول مره خمسة عشر يوما في محل خدمته

“(The Government servant) shall be imprisoned at his place of service for fifteen days”;

[SN 1900, article 15, 24], يصير حبسهم بالمصلحه التي هم فيها من ثمانية ايام الى خمس عشر يوما

[QSM 1900, article 70, 114] يحبس بالمصلحه التي هو فيها من ثمانية ايام الى خمسة عشر يوما

“(The Government servants) shall be imprisoned at the Department they work at from eight to fifteen days”.

In some cases they are sentenced to imprisonment at their place of service/Department without payment (معاش)

[SN 1900, article 16, 24], يصير حبسه بلا معاش في محل خدماته ثلاثة اشهر

[QSM 1900, article 71, 114] يحبس ثلاثة اشهر من غير معاش

“(The Government servant) shall be imprisoned at his place of service without a pay for three months”;

[SN 1900, article 17, 25], يصير حبسه بمحل المصلحة المأمور بها بلا معاش من ثلاثة أشهر الى ستة أشهر [QSM 1900, article 72, 115] يحبس في المصلحة المأمور بها من ثلاثة أشهر الى ستة أشهر من غير معاش

“(The Government servant) shall be imprisoned at the department he is assigned to without a pension for three to six months”.

– The Qal‘a (القلعة) – the citadel of Cairo

To denote imprisonment in the citadel of Cairo vb. I ربط *rabaṭ* “to tie, bind” > vn. I ربط *rabṭ* [Spiro 1895, 215] is employed

ربطه بالقلعة من ستة أشهر الى سنتين *yurbaṭ bi-l-qal‘a* ربطه بالقلعة *rabṭu-hu bi-l-qal‘a* (literally “to be tied/bound in the Qal‘a (the citadel of Cairo))”

إذا كان أحد الخدمه يتجر بخصوص مصلحته المأمور بها فيصير ضبط الاشيا التي يتجر فيها الى الميرى ويصير ربطه بالقلعة من ستة أشهر الى سنتين

“If a Government servant trades in (anything related to) the Department he is assigned to, the items he trades in shall be seized by the Government and he shall be bound in the Qal‘a for a period of six months to two years” [SN 1900, article 11, 23].

The same idea is conveyed by the expression يرسل الى القلعة (literally ‘to be sent to the Qal‘a’ (vb. IV يرسل > vn. ارسل)) attested in [QSM 1900, article 66, 113–114]

ينبغي ان خدمة الميرى على اختلاف مراتبهم لا يتجر في شى مما يتعلق بالمصلحة المأمورين بها وإذا فعل ذلك أحد منهم يؤخذ منه ما اتجر فيه ويضبط لجهة الميرى ويرسل الى القلعة من ستة أشهر الى سنتين

“The Government servants, regardless of their ranks, shall not trade in anything related to the Department they are assigned to. If one of them does that, what he traded in shall be taken from him and seized by the Government, and he shall be sent to the Qal‘a for a period of six months to two years”.

2. Hard labour

It is stated in article 198 of “The selected Law” (*Qānūn al-muntaḥab*, قانون المنتخب) regarding hard labour (اللومان) that the provision that anybody who was sentenced to hard labour (من غير التفات الى رتبته واعتباره) regardless of his rank and position (من يحكم عليه باللومان) shall be put in iron shackles on his leg (كان يوضع في رجله القيد الحديد) and perform hard labour in the arsenal (يشغل في اشغال الترسانه) was to be enacted (ينبغي اجرا العمل على موجب ذلك) (in Egypt) as it was previously implemented in European countries [QM 1900, article 198, 152]. The Government servants could be sentenced to hard labour in both Alexandria dockyards (اللومان) and the mines in the Sudanese district of Fayzoghlu (فيز اوغلى) that were the main penal institutions in Egypt at that time [Peters 1990, 214–217].

In the SN Alexandria dockyards are designated as the place where the Government servants were to perform hard labour. It is frequently stated that the Government servants are to be sent (يرسل) to the Alexandria dockyards bound (pp. مربوط *marbūṭ* “tied, bound” < vb. I ربط *rabaṭ* “to tie, bind” [Spiro 1895, 215]) in chains (بالزنجير). On the contrary, in the QSM the mines in Fayzoghlu are appointed as the place where the Government servants were to perform the same sentence. It is stated that the Government servants are to be sent (يرسل) to Fayzoghlu bound (pp. مقيد *muqayyid* “tied down, registered” < vb. II قيد *qayyid* “to tie down, register” [Spiro 1895, 505]) in chains (بالزنجير).

The term اللومان denoting the Alexandria dockyards is attested designating a place of hard labour (from one to three years) for a Government servant in the case of his taking bribes both in [SN 1900, article 2, 21] (يرسل اللومان مربوطا بالزنجير من سنة الى ثلاثة),

and [QSM 1900, article 58, 112] (يرسل الى اللومان مربوطا بالزنجير من سنة الى ثلاث سنين).

One can see that the comparative analysis of wording of articles of the SN and the QSM shows obvious discrepancies in designation of the place where hard labour as the punishment for certain crimes was to be performed, e.g. article 4 of the SN and article 59 of the QSM concerning forging of official documents

[SN 1900, article 4, 22], يرسل الى اللومان مربوطا بالزنجير من سنتين الى خمس سنين

[QSM 1900, article 59, 112]. يرسل الى فيز اوغلى مقيدا بالزنجير من سنتين الى خمس سنين

3. Dismissal from office

In article 15 of the SN such punishment for the Government servant who violated the provisions of the orders, regulations and laws and disobeyed what is required of him as his final dismissal from the Department he is assigned to is termed عزل *‘azl* “deposition” (vn. < vb. I عزل *‘azal* “to depose (an official)”) [Spiro 1895, 395–396]

يصير عزلهم من المصالح المأمورين لها “(the Government servants) shall be dismissed from the Departments they are assigned to” [SN 1900, article 15, 24].

In the same article vn. I رفت *raft* “dismissal, discharge” [Spiro 1895, 230] < vb. I رفت *rafat* “to dismiss, discharge” [Spiro 1895, 230]; رفت *rafat* “to discharge” [Vollers 1895, 203, 253]; *rafad* ((*rafat*) “dismiss” [Willmore 1905, 409]) = vb. I رفض *refuṣ* (dont c’est peut-être une altération (تصحيف)) [Dozy 1881, Vol. I, 539; al-Bustānī 1987, 342] denotes a Government servant’s dismissal from his service due to his failure to comply (to the provisions of the orders, regulations and laws) that caused disruption to the Department

يصير رفقهم من خدمتهم اول مره “(the Government servants) shall be immediately dismissed from their service” [SN 1900, article 15, 24].

In article 70 of the QSM vb. I عزل is used to denote final dismissal of a state servant from the Department he is assigned to due to his violation of the provisions of the orders, regulations and laws and disobeying to his seniors

يعزل من المصلحة المأمور بها “(the Government servants) shall be dismissed from the Departments they are assigned to” [QSM 1900, article 70, 114].

In the same article vb. I رفع *rafuʿ* “to raise, lift up, take off” [Spiro 1895, 231] denotes a Government servant’s dismissal from his service due to his failure to comply (to the provisions of the orders, regulations and laws) that caused disruption to the Department

يرفع من خدمته من اول مره “(a Government servant) shall be immediately dismissed from his service”.

In both article 16 of the SN and article 71 of the QSM vb. I عزل is employed to denote most severe punishment for a Government servant belonging to the aristocracy (الذوات المستخدمين) due to his interfering in work outside his work and branches of his office – his final dismissal (from office)

إذا كان لم ينته بصير عزله [SN 1900, article 16, 24],

ان لم ينته بعد هذا فعزل [QSM 1900, article 71, 114]

“If (a Government servant) doesn’t stop (interfering in work outside his work), he shall be dismissed”.

In article 17 of the SN the dismissal from service (الخدمة) as a punishment for the Government servant whose negligence of his duties led to the damage to the Department is denoted by vn. I طرد *ṭard*, “dismissal, discharge, expulsion” [Spiro 1895, 363] < vb. I طرد *ṭarad* “to dismiss, discharge, expel” [Spiro 1895, 363], and vn. II تبعيد *taʿayyid* < vb. II بعد *baʿad* “ad “to cause to be far” [Spiro 1895, 51]

يصير طردهم وتبعيدهم من الخدمة “They shall be dismissed and removed from (Government) service” [SN 1900, article 17, 25].

In article 72 of the QSM the same penalty (final dismissal from office) for a Government servant whose negligence caused disruption in his Department is called طرد

يطرد من خدمة الميرى بالكلية “(a Government servant) shall be completely dismissed from the (Government) service” [QSM 1900, article 72, 115].

4. Flogging

The flogging (strokes of lashes كرباج *kurbâg*, pl. كراييج *karabyg* [Spiro 1895, 514]) was envisaged as a punishment for minor offenses/misdemeanors is mentioned both in article 18 of the SN

واما جزا الذين يرتكبون الجنج الخفاف المذكوره من ابتداء الباب الخامس عشر الي ختام الباب السابع عشر فيصير اجراه بمعرفة الكبار الذين فوقهم نظارهم ونظرا الي الجزا المحرر في الثلاثة ابواب المذكوره فيكون كبارهم ونظارهم ماذونين في التبديل من خمسة وعشرين الي خمسمائة كرباج

“As for the penalty (جزا) for those (State servants) who commit the misdemeanors (يرتكبون الجنب الخفاف) stipulated in chapters 15–17, it shall be carried out (يصير اجراه) by those State servants of higher rank (الكبار) whose Directors of the Departments (نظارهم) are senior to them (الذين فوقهم), and in view of the penalty stipulated in the three aforementioned chapters, the State servants of the rank higher than that of one of those (State servants) who perpetrate the misdemeanors (كبارهم) and the Directors of their Departments (نظارهم) shall be authorized (يكون ... ماذونين) to augment (the penalty) (تبدیل tabdyl literally ‘exchange’ [Spiro 1895, 36]) from twenty-five to five hundred lashes (التبدیل من خمسة وعشرين الى خمسمائة كرجاج) [SN 1900, article 18, 25],

and article 73 of the QSM

اما من ارتكبوا الجنب الخفيفة المذكوره من ابتدا ماده سبعين الى نهايه ماده الثانيه والسبعين فليجازوا بمعرفة نظارهم ومن فوقهم من الكبار ثم ان كبارهم ونظارهم يكونون ماذونين في التبدیل بالنظر لما هم محرر في الثلاثة ابواب المذكوره من خمسة وعشرين كرجاج الى خمسمائة كرجاج

“Those (State servants) who commit the misdemeanors (ارتكبوا الجنب الخفيفة) stipulated in chapters 70–72 shall be punished (فليجازوا) by Directors of their Departments (نظارهم) and the State servants of the rank higher than that of those (State servants) who perpetrate the misdemeanors (من فوقهم من الكبار). (Their) senior State servants (كبارهم) and Directors of their Departments (نظارهم) shall be authorized (يكونون...ماذونين) to augment (the penalty) (التبدیل), in view of what is stipulated in the three aforementioned chapters, from twenty-five to five hundred lashes

(التبدیل...من خمسة وعشرين كرجاج الى خمسمائة كرجاج) [QSM 1900, article 73, 115].

Conclusions

This paper has examined the etymological, semantic and functional peculiarities of the terms of Penal law attested in the text of the *Siyāsatnāme* (سياسة نامه) / the *Qānūn al-siyāsa al-malakiyya* (قانون السياسه الملكيه), the main source of the Egyptian viceroy Muḥammad ‘Alī Pasha’s Penal Law.

The terminological base of the Penal law was built on the materials of the texts of the *Siyāsatnāme*/the *Qānūn al-siyāsa al-malakiyya*.

The etymological analysis of the Penal law terms shows that they are generally of CA origin except لومان, كرجاج, and اغتلاس.

It was demonstrated that one can divide a set of Penal law terms onto two semantic groups: “crime/offence” and “punishment/penalty”.

The Penal law terms dealt with in the *Siyāsatnāme*/the *Qānūn al-siyāsa al-malakiyya* were analyzed structurally. It was established that they are represented by single lexical items and multi-component units. Some terms of Penal law have high valency in forming the terminological phrases.

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I. B. Сівков

Термінологія кримінального права в “Сійāсатнāме”:

деякі її етимологічні, семантичні та функціональні особливості

Робота присвячена дослідженню правничої термінології, що вживається в “Сійāсатнāме” (سياسة نامه) – третій частині Кодексу “Сійāсатнāме” (قانون السياسة نامه) – першого Органічного закону (النظام الاساسي) Єгипту, ухваленого декретом єгипетського віцекороля / губернатора (wālī) Мухаммада Алі-паші (1805–1848) у 1253/1837 р. Ухвалення “Сійāсатнāме” було однією з ранніх спроб кодифікації єгипетського кримінального права Мухаммадом Алі-пашею. Текст “Сійāсатнāме”, що може розглядатися як зразок офіційно-ділового стилю нової арабської мови, який почав вимальовуватися на початку XIX ст., чітко відбиває його основні мовні риси, зокрема широке вживання слів, що набули термінологічних значень в адміністративній та правовій сферах письмової арабської мови Єгипту часів правління

Мухаммада Алі-паші – епохи формування адміністративного апарату новоєгипетської держави та модернізації її правової системи. Низка арабських правничих термінів, функціонування яких засвідчене в тексті “Сійāсатнāме”, мають стосунок до термінології кримінального права та позначають посадові злочини державних службовців (напр., رشوه “хабар”) та покарання за них (напр., عزل “звільнення з посади”). Етимологічний аналіз термінів кримінального права, що фігурують у тексті “Сійāсатнāме”, засвідчив, що переважна їхня більшість мають генетично арабське походження (за винятком لومان “порт у м. Александрії як місце, де засуджені до каторжних робіт відбували свій вирок”, كرباج “батіг як знаряддя тілесного покарання”) та належать до пласту лексики класичної арабської мови (за винятком اغتلاص – єгипетського діалектного варіанта класичного اختلاس “протиправне привласнення (чужого) майна”). За результатами структурного аналізу згаданих термінологічних одиниць було зроблено висновок про те, що вони репрезентовані як однокомпонентними термінами (напр., حبس “ув’язнення”), так і багатокомпонентними термінами-словосполученнями (напр., اجرا الجزا “накладання покарання”). З огляду на це було проаналізовано валентність термінів кримінального права, уживаних у тексті “Сійāсатнāме”, при утворенні термінологічних словосполучень. Також розглянуто особливості функціонування термінів кримінального права у згаданому законодавчому тексті.

Ключові слова: арабська мова; Єгипет; запозичення; правничі термінологія; Кримінальний кодекс; семантика; семантична зміна; семантичне поле; термін

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