BREACH OF TRUST: CUSTOMARY/COMMERCIAL DOCUMENTS AND PRACTICES OF PRIVATE LAW IN AN EGYPTIAN PORT

by

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Abstract

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This dissertation is an ethnography of private law in contemporary Port Said, Egypt. Based on extensive fieldwork in 2005 and 2007, it considers how Port Saidians come to possess economic and social entitlements vis-à-vis one another and how concomitant obligations get construed and actualized. As an analysis of quotidian practices of private law and surety, this dissertation is intended to contribute to broader scholarly debates about legal subjectivity and legal consciousness, and to reconsider the intersections between law, custom and morality.

The analysis of contemporary transactional and surety practices is rooted in a discussion of both Egyptian legal reform and the history and economic context of the research locale, Port Said. Legal reform in the 19th and 20th century in Egypt radically altered the scope of law and carved out a separate space for moral personhood in the private sphere. This shift to a secular modern law, in conjunction with processes of urbanization and the penetration of European capital in Egypt, can be seen as productive of new strategies by which the tenuousness of private law agreements could be mediated.

In order to better understand practices of private law as both reflective and constitutive of moral and legal personhood, this dissertation concentrates on innovative uses of customary/commercial documents. These documentary technologies, including honesty receipts, checks, and contracts, are ubiquitous in transactions and dispute resolution processes. Port Saidians deploy them to radically enhance guarantees, and to fictionalize and obscure the true subject of a dispute or agreement. This allows them to make determinations about how the law shall adjudicate their problems, to limit law's intervention, and to reinsert moral normative values into exchanges. In order to make such processes visible I analyze three important nodes through which documents and cases travel: the police, the courts, and lawyers. I argue that attention to both moments of customary/commercial document production and the circulation of these documents between people and institutions is critical. These moments of production and circulations are the processes by which documents not only determine rights and make obligations effective but also forge and redefine relationality and moral personhood.


Mediterranean Sea
al - Manakh
al - Sharq
al - 'Arab
Bur Sa'id
al - Zuhūr
al - DawaHi
Būr Fu'ād
Suez Canal Zone
PORT SAID
AL-ISMA'ILIYYAH
Contemporary Port Said
(with sections of Port Fouad shown)
2000

Notes on Transliteration

There are a number of transliteration systems in use, and at the same time there are at least two forms of Arabic to be transliterated – Egyptian colloquial and Modern Standard. Because my research deals with legal terms to some extent, there are times when standard Arabic is in use, and at other times I quote terms from the spoken colloquial Arabic of Port Said, Egypt. Some terms and pronunciations may differ from those in use in Cairo or elsewhere in Egypt; I have tried to record words as I heard them. Although many base their transliteration on that employed by IJMES (International Journal of Middle East Studies), I have sought instead to minimize the use of diacritical markings for ease of reading. As such, I employ the conventions used by Diane Singerman (1995), (with the exception of using kh instead of x). Consonants in parentheses following the transliterated English consonants (in the left column) indicate Egyptian colloquial pronunciation in reported speech throughout the dissertation.

Consonants

Transliterated English		*Arabic*
’		the glottal stop, ء
b		ب
t		ت
th (unvoiced)	(s)	ث
j	(g)	ج
H		ح
kh		خ
d		د
th	(z)	ذ
r		ر
z		ز
s		س
sh		ش
S		ص
D		ض
T		ط
TH	(z)	ظ
‘		ع
gh		غ
f		ف
q	(’)	ق
k		ك
l		ل
m		م
n		ن
h		ه
w		و
y		ي

Short Vowels

a – approximately the same *a* as in English back but never elongated
e – approximately the same *e* as in English ten
i – approximately the same *i* as in English win
o – approximately the same *o* as in standard English pop
u – approximately the same *u* as in English put

Long Vowels

ā – approximately the same sound but slightly longer than the *a* in English mad or palm
ī – approximately the same as in English seat
ū– approximately the same as in English pool

Note also that Singerman bases her conventions on the Dictionary of Spoken Arabic of Cairo (Cairo: American University Press, 1986) by Virginia Stevens and Maurice Salib, and on A Dictionary of Egyptian Arabic (Beirut: Librarie du Liban, 1986) by el-Said Badawi and Martin Hinds. Consonants therein are doubled to indicate shadda (doubling) of the consonant.

For standard Arabic, I have followed Arabic spellings in the Hans Wehr Arabic-English Dictionary, replacing diacritical markings with the simplified system above. I have retained proper names and Arabic words common in English texts in their common transliterated forms (for instance, Port Said instead of būr sa‘īd).

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This dissertation would not have come to fruition without the help of many individuals and institutions. The bulk of the field research was undertaken with support from the J. William Fulbright Foreign Scholarship Board (and U.S. Department of State) International Research Fellowship and the Social Science Research Council International Dissertation Research Fellowship. Beyond research monies, both granting agencies provided invaluable opportunities to dialogue with other scholars by hosting grantee symposia and other events. The National Science Foundation, Law and Society program awarded me a Doctoral Dissertation Improvement Award in 2007 for follow-up research and to present findings at an international conference (award number 0716100). In the early stages of the project, I was given travel funding by the CUNY Graduate Center Department of Anthropology to spend time in Cairo and Morocco in preparation for writing my research proposal. And in the writing stage I was generously supported by a CUNY/Macaulay Honors College Instructional Technology Fellowship and a Writing Across the Curriculum Fellowship. In particular, I thank the Monroe Carell Jr. Foundation for awarding me a writing fellowship for the 2006/2007 academic year.

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Mohammed E., and Mohammed S. I also thank Nevine and Abdullah, Mahmud and Wafa'a, Heba, Azza, Waleed, and Osama for their friendship and for helping our small family feel at home and welcome in Port Said, and Jessica and Chip for hosting us in Cairo and for good conversation. Deep thanks to Wael, Tarek, and Nariman for their research assistance and diligence, and to Wael and Suzanne's extended families for adopting us and teaching us how to properly eat blackened fish. Thanks to Sally and Sara for helping care for Tosca and in so doing facilitating the research. Thanks as well to Habib and Anne, whose trusting generosity allowed me to finish the dissertation in Cairo.

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Introduction

The Egyptian civil code, like other civil codes, defines and classifies status, capacity, property, obligations, modes of guarantee, and systems of proof. In its specifications the code constructs an anticipatory framework for a range of possible circumstances, and in so doing is revealing; it tells us something about Egyptian society. In its classification of types of property, for instance, the code articulates ideas about the individual and ownership. In defining the juridical person the law specifies the types of entities that can enjoy rights and have legal capacity as well as conditions under which a juridical person shall be considered to lack legal competence. This is law in its constitutive role, crafting statuses, rights and obligations, and one modality through which values are both expressed and given ideal form.

Yet we know that law is much more than what is inscribed in doctrine and that a doctrinal or formalist approach eclipses much of how law shapes social life. Doctrine outlines felicitous conditions for a valid contract, and the circumstances under which a party becomes liable and another party has a right to compensation. But it cannot tell us how citizens actually articulate claims to property, affect claims, and resolve disputes about claims. An ethnography of law, by contrast, is both a methodological shift away from doctrine and an epistemological assertion that law is made through practices. Moreover, observations of how law is used, interpreted, avoided, subverted, obeyed, and otherwise mediated shed light on the social.

This dissertation is an ethnography of private law in contemporary Egypt. It is a study of how Egyptians in a particular locale – the city of Port Said - articulate property claims and seek to make those claims effective, as well as how they resolve disputes around such claims. At the same time, it is concerned with promises, deals, and transactions not directly related to property, which come to be fictionalized or masked as property claims. As such, this study must more broadly be conceived of as concerning how stakeholders come to possess entitlements vis-a-vis one another, and about how concomitant obligations get construed and actualized.

Private, or civil, law is a framework within which private interests and obligations are delineated, and an instrumental approach allows us to concentrate on *how* rights and obligations are delineated and actualized, and on what significations might accrue in the process. As such, this study considers disputes and contractual practices as moments in which citizens make decisions about how the law might be brought into a private matter. These are moments that highlight the tension between legal and social personhood, between the constitution of rights and obligations legally or normatively; such moments also problematize the notion that such demarcations can be made. Civil law treats individuals as equal before the law and makes clear the substantive bases of legitimate property claims and the legal procedures for realizing such claims. In so doing, positive law doesn't recognize the complexity of interpersonal relationships, local and familial hierarchies, and moral-ethical concerns. By examining the processes by which stakeholders make claims and secure obligations in Port Said, it is possible to better

understand how practices at law are inflected by local discourses of custom, morality, and community.[1]

My examination of practices of private law narrows in on one particular facet of private transactions, forms of surety, and related disputes: documentary devices and their circulations. I consider the dynamic interactions between people, institutions, and the legal and semi-legal documents used in dispute processing and transactions. Commercial documents (*awraq tuGārīya*), some of which are commonly classified as customary documents (*muharrarāt 'urfīya)* are a device in popular use among Port Saidians – and among Egyptians elsewhere although perhaps in slightly different ways.[2] Among the customary/commercial documents I look at are honesty receipts (*iySālāt* amāna*;* sing. *iySāl amana*), bank-issued and non-bank-issued checks (*shīkāt* and *shīkāt ghair bankiya;* sing. *shīk*), bills of exchange or drafts (*kambiyālāt,* sing. *kambiyāla*), 'false' contracts (*'uqūd al-Sūri,* sing. *'aqd al-Sūri*), and anti-contracts (*awrāq al-Did,* sing. *waraqa al-Did*).[3] Because of their ubiquity, and the novel and creative uses to which they are put, they are devices by which we might better understand legal consciousness and legal subjectivity. As will be shown, honesty receipts in particular are used in unintended ways, in non-commercial contexts, to secure promises unrelated to cash transactions. Moreover, these and other customary/commercial documents often engender a high

[1] Although there are ways in which I link instrumental uses and avoidances of the legal system to other social phenomena in Egypt and root practices within a particular legal history, I am not interested in arguing for the existence of a legal or litigation culture. For contrasting views on the idea of legal culture, see Rosen 1989 and Blankenburg 1994).

[2] In local parlance, lawyers and non-lawyers alike tend to use the singular form exclusively, even when the plural is indicated. Sing., *muharrarāt 'urfīya.*

[3] In Colloquial Egyptian Arabic, some of these words differ from Modern Standard Arabic. An honesty receipt is known as *wasala amāna* (pl. *wasūlāt amāna*), a false contract is known as *'a'd is-Surī* (pl. '*u'ūd is-Surī*), and an anti-contract is known as a *wara'at id-Did* (pl. *awrā' id-Did*).

degree of risk for those whose names appear on them – risk of incarceration or of financial obligations far beyond the actual agreement between the parties.

It is most fruitful, I posit, to consider these commercial technologies as part of a particular legal context – to not assume, for instance, that because they look like commercial documents in other locales that they are similarly used or have a similar role in transactions. As such, we shall pay particular attention to the nodes through which they pass: from traders' shops to homes to lawyers' offices to police stations to case files to courtrooms. Taking account of the legal context, nodes of circulation, and local context offers a way to situate these objects as 'social actors', as Latour advocates. Moreover, as we begin to think of customary/commercial documents as social actors interesting questions arise about why and how my interlocutors use them. How might they constitute recognizable and effective obligations? How do novel uses and circulations of customary/commercial documents actually create 'pressure', as my interlocutors often noted. How might we understand the form they take and practices of production and exchange as processes by which social labor is being performed? What values do they convey, what ethical significations do they accrue? Answering these questions requires simultaneous attention to form, moments of production, and exchange, or circulation.

To adequately address the specificity of private law and uses of customary/commercial documents also requires reckoning with the legal historical and local context in which they operate. Port Said's history is short relative to other Egyptian cities. But it is a history fraught with dramatic economic and social shifts that have given rise to a community unbound by some of the continuities that shape life in the

Delta or Upper Egypt. Because its economy is largely based on retail trade and importation, local transactional practices can be seen to bear on other facets of quotidian life. Commercial technologies generate some of their meaning and import from the particular locality in which they are being used, Port Said, and its history.

At the same time present-day practices of private law are inextricable from the reconfigurations of law that occurred in the late 19th and early 20th centuries. This intensive period of legal reform was not simply a process of writing new codes, establishing new courts, and creating a new legal profession; it was part and parcel of a more fundamental cultural shift. The reforms ushered in a new social and legal order, an important piece of which was reformers' efforts to narrow the scope of *shari'a* jurisdiction. A new secular law for modern Egypt emerged that created distinct spaces for law and morality, shifting morality to the domain of personal responsibility. In conjunction with processes of urbanization that refracted communities and the penetration of European capital into Egypt, these transformations can be understood as producing new forms of tenuousness in matters of private law. In modern, secular Egypt, how do Port Saidians guarantee credit, make promises secure, and settle disputes in ways that are both pragmatic and moral? In an era and an urban context that complicates 'customary' modes of authority and adjudication, how might *'urf* still play a role in adjudicating disputes and making obligations binding? What has the law come to represent for contemporary Port Saidians?

Port Saidians tend to express the idea that it is neither moral nor pragmatic to pursue recourse for civil matters through the legal system in a straightforward way. They tend not to put their faith entirely in the law. Adjudicative processes are not always

considered the most appropriate by which due rights and obligations may be determined and enforced, and the impersonality of law makes it unresponsive to contingencies, social hierarchies, the necessity of mercy that normatively weight transactions and dispute resolution processes between members of the community.

Practices of private law reveal the creative responses people have to a legal system that doesn't quite fulfill their needs because it's not expedient enough. At the same time we can see creative responses to a legal system that isn't quite nuanced or merciful enough to fit with people's notions of a just solution or due process. Hence, practices of private law and innovative uses of customary/commercial documents can be a window on to how rights claims and the fulfillment of obligations are also processes intimately related to the constitution of relationality and ethical personhood. Practices of private law incorporate particular forums (courtrooms, lawyers' offices, mediation offices, office of the experts, and so forth) and moments of interaction (mediation, promise-making, negotiation, debate) between socially close and socially distant parties. These are moments and forums in which rights and obligations are articulated, through which parties seek to convey trust or a willingness to take a risk, be merciful and generous, or forcefully self-interested. The documents that are part of these interactions and that circulate through these forums do not simply reflect or refute a claim. They create new understandings, bring people together or force them to take action.

This can be seen by briefly considering two points Robert Cover makes about law. He notes, firstly, that: "Law is a resource in signification that enables us to submit, rejoice, struggle, pervert, mock, disgrace, humiliate, or dignify" (in Minow et al. 1995:100). An ethnography of law suggests that law is a resource in signification not

limited to its *textual* signifiers. Law is evoked rhetorically, feared and flaunted. In the process, it contributes to the attribution of meaning to action, as well as to the constitution of relationships and of the self. Law's capacity to signify can be related to another point Cover makes, that legal interpretation is an act of violence. Judgment in a court of law has consequences for the body and for one's property. In Port Said, businessmen and women, affianced couples, ex-spouses, family members, and neighbors leverage law's violence to hold one another to promises and to refresh interpersonal and economic obligations. By using customary/commercial documents to fictionalize the nature of disputes they redirect law's gaze, introducing more meaningful - criminal – consequences into civil disputes. Simultaneously, Port Saidians limit legally-determined outcomes, and thus actively manipulate and constrain law's violence. Taken together, these can be understood as strategies by which Port Saidians make decisions about how the law shall adjudicate their problems and whether surety practices shall marshall law's violence. In the following chapters, I am concerned with how these capacities are mobilized in a specific community and through the use of specific documentary technologies.

Law and Society and Legal Subjectivity in the Middle East

This analysis relies upon the juxtaposition of two bodies of literature – American socio-legal studies, and studies of law and state-society politics in the Middle East. Within U.S. law and society scholarship I have found work on legal pluralism and legal consciousness or 'law in everyday life' to be particularly instructive. More recent studies

of documents and documentation have provided an important avenue in to the data from Port Said; I will address this literature in a separate section.

To briefly contextualize law and society studies, which surged after the 1960's, it is important to recognize the contributions of early twentieth century anthropologists such as E.E. Evans-Pritchard (1969), Bronislaw Malinowski (1926), and E. Adamson Hoebel (1954) who made 'primitive' law an object of anthropological concern. These scholars sought to delineate a comparable unit of analysis to that of Western law in foreign contexts, studying practices of crime, retribution, and adjudication in lieu of doctrine, largely non-existent in the societies they studied. As such, early anthropological studies of law were in part a search for a universal definition of law and cross-cultural linkages, bringing about increased recognition of local specificity with regard to law.

Around the same time, American legal realists were similarly arguing that the only way to know what law does in society, and thus what it is, is to see it in action (c.f. Fisher et al. 1993). Hoebel, by insisting on the value of cases as a unit of analysis while also arguing that law needed to be studied in action and understood holistically as embedded in a cultural setting, straddled anthropological and legal realist schools of thought. As an outgrowth of both legal realism and early ethnographic studies of primitive law, by mid-century legal anthropology had moved from a 'rule-oriented' to a 'processual' approach (see Nader and Todd 1978). Legal anthropologists of this era also recognized the potential of the case methodology; cases are moments in which law becomes visible and interpretations of rights and duties are made.

There was also a growing appreciation for the complex interactions between state law and non-state law and the ways in which they mutually informed one another. These

studies were a corrective to early work on African and other non-western legal and political structures in the early part of the 20th century that did not, in fact, recognize a plurality of legal orders and rather focused on what scholars perceived as 'pure' indigenous forms unrelated to emerging state structures or colonial policies. As Merry notes, classic legal pluralism, exemplified by the work of Burman and Harrell-Bond (1979), Chanock (1985), Comaroff (1985), Fitzpatrick (1983), Geertz (1983) and others, paid attention to the unequal power relations in situations of an imposed European legal system. Legal pluralism was thus envisioned as the uneasy coexistence of European and indigenous law, although indigenous law was often depicted as static (Merry 1988:869-70). Around the same time there emerged a new focus on studies of legal pluralism in advanced industrial countries (e.g. Abel 1982; Engel 1980; Nader 1980; Moore 1973). The questions taken up concerned power relations between dominant and subordinate groups in the context of the U.S. and Europe, and alternate forms of ordering and dispute processing, questions that asserted a vision of legal pluralism as not simply a colonial phenomenon or post-colonial legacy but rather a situation found in many forms in virtually any society (Merry 1988:873).

The study of legal pluralism has done at least two things. Firstly, it has promoted the recognition that where state law is present, it is not the only form, or even the dominant form, of legality. There are inevitably other sets of legal norms that coexist with state law that must be acknowledged as playing both a constitutive role in society and a role in dispensing justice.[4] Secondly, legal pluralism studies have called attention to the fact that coexisting legalities also intersect with one another. They influence and

[4] In addition, some have examined the way that 'semi-autonomous social fields' (Moore 1973) and 'private associations' (Macaulay, 1986), whose governance is not directly determined by state law, co-opt the symbols and structures of state law.

shape one another through practices and in doctrinal production. This feature of legal pluralism is most strongly asserted by Boaventura deSousa Santos in his theory of interlegality: Santos differentiates between different spaces of legality, each of which operates on a different scale.[5] These spaces of legality, he argues, cannot simply be differentiated by their objects of regulation because there is often overlap between them. As he notes:

> The difficulty lies in that socio-legal life is constituted by different legal spaces operating simultaneously on different scales and from different interpretive standpoints. So much is this so that in phenomenological terms and as a result of interaction and intersection among legal spaces one cannot property speak of law and legality but rather of interlaw and interlegality. [288]

Similar to what Merry terms a 'dialectic between normative orders,' (1988:873) yet to some degree more concrete in defining the scale and nature of these normative orders, interlegality is the phenomenological counterpart to legal pluralism. It takes trespassing between multiple orders as integral to their operation and as constitutive and serves as a corrective to bounded conceptions of legal orders and analyses that focus overly on border crossings 'inside' and 'outside' of law, or between informal and formal milieus.

Hence, my dissertation is informed by legal pluralism debates, and yet takes up a somewhat different research agenda, along lines proposed by Paul Schiff Berman:

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[5] In Santos' theory, three broad spaces of legality predominate: national/state legality, local legality, and world/international legality. Each corresponds with a particular 'scale' of legality: local law (one example of which might be customary law, or for instance, the rules regulating a company's internal operations) is a large-scale legality in that it is capable of addressing the most minute aspects of a dispute. The same dispute in relation to a medium-scale legality such as national law brings into focus only some of the relevant details; it establishes a somewhat different network of facts because it operates on a larger scale. Beyond this lies International law, a small-scale legality. As in mapping, "since scale creates the phenomenon, the different forms of law create different legal objects upon eventually the same social objects. They use different criteria to determine the meaningful details and the relevant features of the activity to be regulated…In sum, they create different legal realities" (287).

> A pluralist framework suggests a research agenda that emphasizes the micro-interactions among different normative systems. Such a case study approach would serve as a contrast to rational choice and other forms of more abstract modeling, by focusing instead on thick description of the ways in which various procedural mechanisms, institutions, and practices actually operate as sites of contestation and creative innovation [Berman 2007:1168]

An attention to plural legalities can thus be concerned not with *whether* people move between juridical-institutional and normative spheres but with the types of mechanisms, devices and innovations are part of such movement as well as with the social significations that might accrue in the process. Port Saidians note both the presence and absence of customary law in contemporary society, and make reference to their duty as Muslims to be merciful and patient in relation to civil disputes and contractual obligations; some talked specifically of *shari'a* and the necessity for a religiously-derived law in Egypt. Without question, they situate themselves as responsive to overlapping normative and legal traditions. As Berman suggests, the important question is how do specific practices, innovations, and uses of various procedural mechanisms and institutions provide a way of reconciling or moving between these traditions?

On the other hand, there are ways in which this project is shaped by studies of legal consciousness and law in everyday life.[6] Sally Engle Merry suggests that legal consciousness is how people conceive of the 'natural' and normal way of using law and their habitual patterns of action. As such, it is the realm of both deliberate, intentional action and of habitual practice, and is embodied in practical knowledge expressed in the act of going to court as well as by talk about rights and entitlements (Merry 1990). The

[6] My original research proposal was more explicitly along these lines, articulated as a study of 'law-mindedness', which I defined as people's practical sense of the law (and their pragmatic and strategic engagement with the legal system) as well as their sense of what the law signifies and stands for, and how it thus imputes meaning to action.

position that the study of law as practice is most optimally undertaken outside the context of legal institutions in the context of everyday interactions was notably put forth in an edited volume by Austin Sarat and Thomas R. Kearns (1993).[7] Although they point out that varied interpretations of 'everyday life' construe radically different ethnographic objects,[8] the authors' primary concern with the everyday was to advocate for a shift away from law-centered studies in socio-legal scholarship. In law-centered approaches, they suggest, scholars often align their analysis with one of two principle perspectives on how law affects society: instrumentally (by imposing external sanctions and inducements) and constitutively (by shaping internal meanings and creating new statuses) (1993:21). Sarat and Kearns argue that studying law in everyday life is a way of bridging the gap between these two perspectives, because it helps illuminate law's interactive relation to society.

There have been a number of important studies undertaken in the U.S. along these lines. In a co-edited volume, Carol J. Greenhouse, Barbara Yngvesson, and David Engel (1994) consider the matrix of law, community and values in the context of three American towns. Engel's contribution, in which he compares personal injury claims and contract disputes, is concerned with decision-making in the realm of private law as a mode of moral and ethical signification. He posits that differing conceptions of individualism, falling along ethnic, economic, and religious lines, can be expressed in interpretations of personal injury litigation, and that discourse and practice surrounding such litigation play a role in reinforcing longstanding patterns of behavior in the

[7] Around the same time, there were volumes published on the 'common place' of law (Ewick and Silbey, 1998) and on law and community (Greenhouse et al, 1994; Yngvesson, 1993).

[8] The authors make note of a number of interpretations of 'everyday life,' from its juxtaposition to public life by feminist scholars, to Habermas' contrast of everyday life with instrumental reason and choice. For Blachot, the everyday is the unseen and the unsaid in contrast to the perceivable, whereas for LeFebvre, everyday life stands in opposition to the technological superhuman processes of humanity (1993:3-5).

community. This scholarship makes provocative claims for how identity and community are constituted in part by law use and avoidance, and emphasizes how exchanges in and around the edges of the courts produce legal and moral frameworks.

Work by Patricia Ewick and Susan Silbey (1998), while focused more on individual consciousness than on the making of community, also explores the ways in which law is connected to social status. They argue that conceptions of the law and its legitimate role in dispute processing mark subtle variations in class; law's authority, and one's position vis-à-vis the law, is differentially conceived. Merry (1990) also takes up the issue of law's authority in her study of a small-town court in the U.S. by considering law as simultaneously constitutive (it establishes categories and makes certain things thinkable and unthinkable) and constituted (as a product of legal consciousness). Merry points out that law is able to construct authoritative images of social relationships and actions that are symbolically powerful (8). This potentiality of law rests, she asserts, on the unwillingness of Americans generally and her participants specifically to doubt the legitimacy of the law itself, or the value of a legally ordered society.

Considerations of law's authority and legitimacy in relation to the role it may come to play in private law transactions and dispute processing were useful for my own work on Egypt. They suggested a line of inquiry related in part to the legitimacy of state law for Egyptians and its viability as a medium for recourse, and in part to the way ideas about law come to play a role in how legal recourse becomes a social signifier. Where I seek to move this scholarship forward is by reinforcing it with a focus on the production and circulation of commercial documents, to think about how documents are used to contest the authority of law to define rights, problems, and appropriate solutions as well

as to create opportunities for redefining parties' relationship to one another. Further, in light of relatively recent and radical legal reform and the particular political context of Egypt, one cannot make claims, as Merry was able to with some assurance, that Egyptians today unquestioningly accept the legitimacy of their laws and legal institutions. As such some of the questions initially raised by socio-legal scholars looking primarily at data from the U.S. may be addressed from a radically different perspective in a study focused on Egypt.

There has been important ethnographic research on state-society relations in 20th century Egypt and the Middle East. Under the rubric of gender and citizenship studies in the Middle East, we see the ways in which gender shapes access to economic and social citizenship rights (Bibars 2001; Botman 1999; Davis 2000; Joseph 2000). Others have focused on shifting class boundaries and land and property rights as part of political transformations (Cuno 1981, 1992; Mayer 1985) and local power relations in light of expanding state power and economic transformations (Gilsenen 1996; Lavie 1990; Mundy 1995). Yet much of the scholarship on law and courts in the region is not ethnographic but rather tilts toward the doctrinal and focuses on legal and constitutional reform. Studies of reform processes in the region analyze the linkages between law reform and particular religious and political movements and pressures, most notably the extension of colonial power, nationalist movements and the consolidation of state power, and the positivization of *shari'a*; I will address Egyptian legal reform in detail in chapter one. While this literature has been critical for deepening our understanding of larger ideological movements and how they become manifest in law, it has also drawn our attention away from equally important questions of law use and the pragmatic and

everyday concerns that impact the way in which law serves citizens in their interactions with one another.

At the same time, this scholarship provides a roadmap for analyzing contemporary law-in-action; it heightens our awareness of the contestations that have wrought the legal system Egyptians grapple with today as they seek resolution to their private disputes. For instance, changes to family law, or personal status law, have often been the subject of intense debate in the Muslim Middle East, where women's rights advocates have contested laws on divorce, custody, and marital maintenance based in Islamic *shari'a*. Ethnographic research on the family courts and family law throughout the region (Agrama 2005; Baron 1991; Mir-Hosseini 1993; Moors 1995) has revealed the dilemmas litigants face in claiming rights in the space between new family legislation and discourses of tradition and gendered expectations.

Baudoin Dupret is recognized as a foremost ethnographer of law in the Middle East, his research sites spanning from Morocco to Egypt to Syria, and his studies moving the field in provocative new directions. Independently and in collaboration with Jean-Noel Ferrie he has made a significant contribution to our understanding of law as practice in the region in his work on the courts, the police, and legal pluralism in Egypt. For instance, Dupret argues that during the adjudicative process judges and legal actors interpret the content of moral principles, thereby concluding moral indeterminancy; out of this process emerge new or newly articulated standards of Islamic normativity (Dupret 2001; Dupret and Ferrie 2005). In taking an ethno-methodological approach in their research, Dupret and Ferrie were interested to demonstrate how meaning is produced through interactions and exchanges. One focus has been the making of police reports; in

such processes, the authors note, the accused consistently asserts moral positions in tension with and outside of the procedural focus on recording concrete data. Moreover, in Dupret's (2007) assessment, the tension between moral and legal norms takes shape in particular ways in the Egyptian context in relation to historical reconfigurations of law; I address this in more detail in the following chapter.

Dupret's focus on specific exchanges and processes has prompted my own interest in the moments of production and circulations of customary/commercial documents and in what people say about and in those moments, what kinds of meanings and hopes are assigned to them. The data directed me to take into consideration scholarship on the Middle East concerning customary law (Ben Nefissa 1999; Drieskens 2006; Kennett 2000; Nielsen 1998, 2004; Stewart 2003), legal pluralism (Dupret et al. 1999) and social networks (Singerman 1995; Ghannam 2002) that point toward ways in which the juridical milieu is de-centered by other adjudicative and signifying processes.

To some extent, this project also responds to studies of judicial and legal activism and debates over the rule of law in the authoritarian political context of Egypt. As Amr Shalakany (2006) and Tamir Moustapha (2003) have shown, lawyers and judges have both historically and in more recent years played a very public role in advocating for the increasing liberalization and independence of the judiciary. On many fronts, they have been successful; the Supreme Constitutional Court operates largely independently from the government. Lawyers are at the forefront of battles over the renewal of the emergency laws and legislation that would expand human rights, including freedom of expression, the recognition of opposition parties, and have made public calls to end torture and unwarranted arrest. What these studies so strongly articulate is the way in

which law is a locus for the contestation of fundamental political, economic and social rights. What I aim for in this study is a consideration of the way rights come to be constituted through less public and politicized modalities. To some degree, the intensity of focus on the battles raging over human rights in the Muslim Middle East casts a large shadow over everyday practices of private law and the interpersonal and legal processes involved in how stakeholders come to possess entitlements vis-à-vis one another. Rights and obligations are legislated and come into being as political and social justice projects, but they are claimed and actualized in everyday sociality and in the politics of private interactions.

Finally, and in connection with the following section on documents and documentary practices, the attention paid by Brinkley Messick in particular to textual practices in the Middle East grounds my consideration of the types of commercial documents I ran across so often during my time in Port Said. In *The Calligraphic State* (1993), Messick points out that

> [f]rom the formal interpretation of sacred scriptures to the mundane recording of administrative acts, textual relations have underpinned diverse polities. To investigate the role of texts in a specific state, however, requires a view of writing that stresses its cultural and historical variability rather than its universal characteristics, and its implication in relations of domination rather than its neutrality or transparency as a medium. [1993:2]

Drawing on Foucault's (1977) theorization of the microphysics of disciplinary power, Messick suggests that both ethnographic methodology and a focus on print technology and texts are ways of investigating the modalities of power. Governments produce modern subjects, in part, through documentary regimes that include identification cards, censuses, birth certificates, diplomas, and licenses. These are all

processes of inscription by which citizens are brought into view and accounted for and are an important mode of subjectivization. Further, legal codification and positivization processes homogenize populations, creating abstract and equivalent subjects. Messick's work suggests several lines of inquiry related to uses of commercial documents in Port Said, including the way in which these documents serve as modalities of power between transacting parties. I consider the way the production of mundane and relatively informal commercial documents allow Port Saidians to leverage state power; at the same time, their 'customary' status means that that they derive authority from other sources. As such, I seek insight not into how documents linked to state power are innovatively deployed to produce effective obligations. Further, Port Saidians often treat commercial documents as 'open' texts, purposively absent information, in contradiction to their intended purpose of clarifying the terms of a transaction. These literal spaces create allow for the continued rearrangement of obligations and for adjacent verbal agreements; the authority of the oral is re-inserted in the text. In suggesting that verbal agreements are often embedded in these documents, my intention is not to over-emphasize the importance of oral culture in the Middle East. This has been a notable theme in scholarship on the region, and includes studies of oral culture and poetics in politics (Caton 1990) and in relation to identity and everyday forms of resistance (Abu Lughod 1986; Lavie 1990). As Messick shows, recitational practices in Islam authorize texts under specific circumstances and the oral has historically been a privileged mode of transmission in *shari'a*. My own intention in drawing on Messick's discussion of orality and textuality is to analyze how and why promises (verbal and unenforceable) become

embedded into contracts and other commercial documents among Port Saidians and to consider the social import of form.

Documents and Documentation

Documents and texts have throughout the history of anthropology been the object of the ethnographic gaze.[9] More recently, anthropologists have begun to take cues from sociologists, philosophers of science, and law scholars to think more about documentation as a technology in the service of society. Weber initiated this line of inquiry by proposing that documentation was a characteristic of modern bureaucratic development. The modern office, for instance, is based on written documents, and the labor of producing, organizing and retrieving them (Weber, 1978:957). More broadly, organized action in modernity is comprised of acts, decisions, and rules recorded in writing in combination with the continuous functioning of officials. Written records are integral to making procedures transparent and consistent, which grants them 'legal authority' according to Weber's pure types (217-218).

A number of scholars have engaged in ethnographic research on documents and documenting that seeks to reconsider Weber's understanding of bureaucracy and documentation as a characteristic of it (cf. Smith 1990; Heimer 2006; and Goody 2000). Knowledge is indeed structured by documentary forms; as Annelise Riles (2006) and Adam Reed (2006) point out, documents have constitutive effects. Yet bureaucratic protocols and documentation are supplemented by practices and actors outside the

[9] The anthropological use of historical texts, for instance, can be seen as extending from Franz Boas' argument within American anthropology for historical particularism. Although his theory was initially framed as a critical response to the theory of unilineal evolution, Boas' insight that contemporary social phenomenon can only be understood by looking at the particular historical context in which it has developed has had far-reaching impact and underlies most anthropological inquiry today (Stocking 1974).

bureaucracy. For example, Heimer posits that the ways documents come to be used and interpreted is variable. Her research on types of institutional documents such as forms, checklists, organization charts, and the like in the medical context of a neonatal unit reveals that bureaucracy and 'home' *both* play a role in the collaborative construction of biography – in other words, in the constitution of the patient. Likewise, Yngvesson and Coutin (2006) have argued that documents such as birth certificates and deportation notices are integral to the constitution of the self both legally and personally. The understanding that documents produce categories of persons and activities has been enhanced by Foucaultian critiques of constitutive power regimes, and an anthropology of documents and documentation can illuminate the ways that documentary processes can be productive forms of power.

What are the implications of making documents the object of the ethnographic gaze? Does a focus on the textual take our focus away from practice, from interaction and the spoken? In her introduction to a collected volume on documents as artifacts of modern knowledge, Annelise Riles (2006) addresses not only the form and meanings of documents in different contexts, but considers a broader methodological question: What does a specifically ethnographic encounter with documents accomplish? In drawing parallels between the works included in the volume, she notes: "only through ethnographic engagement did the authors come to appreciate the document's form" (20). She directs our attention beyond what documents contain, the 'information' they convey, to *form* as another component integral to what a document might come to mean; this recalls White's insights on the interrelationship between form and content (1987). Moreover, Riles points out that analysis of documents has the potential to be about more

than describing existing analytical categories instantiated in documents. Rather, the ethnographic gaze can illuminate the way that people make knowledge through documents and create new categories and relations. In a particularly legal context, then, the ethnographic gaze can perhaps shed light on how legal documents actually carry out the work of making individuals into holders of qualities, rights, and obligations. In addition, Sam Kaplan suggests that documents can be analyzed in terms of a "socially mediated textual performance in which there are norms of interconnectedness between texts, their authors, and readers."[10] Riles asserts that ethnographic engagements with documents can both shed light on documentary forms, practices, and their contexts and meanings, and on the ethnographic encounter itself. In line with Riles, I argue that documents are necessarily considered in relation to the processes that brought them into being, as well as in relation to their use, reception, and effects, both intended and unintended.

Bringing Latour's argument that objects are social actors into the analysis may further extend the way documents can be considered part of social processes. Latour holds that objects are actors, which he defines as "any thing that does modify a state of affairs by making a difference" (2005:71). The objects at the center of this study, customary/commercial documents, do not merely 'reflect' a state of relationship, status, complaint or obligation. They do not passively express or symbolize something, or at least not merely so. On the other hand, they don't wholly originate or determine social action, although "things might authorize, allow, afford, encourage, permit, suggest, influence, block, render possible, forbid, and so on" (72). Rejecting the attribution of

[10] Cited in Riles (2006:23). Kaplan, Sam. 2002. "Documenting History, Historicizing Documentation: French Military Officials' Ethnological Reports on Cicilia." *Comparative Studies in Society and History* 44:344-69.

both deterministic and passive roles, Latour posits that objects must be brought into the analysis as participants in the action, their participation fully considered.

Documentation as a practice or process is an integral part of how documents become meaningful and hence do things: effect an agreement, define a right, exert pressure, dismantle or construct a relationship or a status. At the same time, after they are produced documents are made to circulate between persons and between persons and institutions. Along the way they may be misused or lost, take on unintended significance and create effects disconnected to the text they contain or the formal status they hold. In the cases that I look at, documents traverse different legal and normative milieus. Most importantly, they are not passive but rather modify states of affairs as they move between people and between people and institutions.

Methodology

From January through December of 2005, I lived with my husband and our newborn daughter in Port Said in order to undertake a situated and historically informed study of private law transactions and dispute resolution in this small Mediterranean city. I later returned alone to Port Said twice in 2007 for an additional five weeks of research. Port Said interested me because of its peculiar relationship to the rest of Egypt – often described by other Egyptians as 'not really Egyptian' - and its history as a cosmopolitan trading city. Its status as a Duty Free Zone gave rise throughout the 1970's and 80's to a class of nouveau riche merchants. The stereotype of Port Saidians is that they are all well-to-do thanks to President Sadat's Open-Door economic policies that expanded its role as a center or trade and importation. Port Saidians also have a reputation for begin cutthroat

traders: as the saying goes, shake hands with a Port Saidian and you may lose your hand. By the 1990's, the city's Free Zone status was in the process of being incrementally rescinded and the local economy and its residents were beginning to feel the strain of the shift to a less privileged market. This shift offered up an intriguing framework for thinking about private law. How did Port Saidians do business with each other? How were contracts made and upheld in a trading community that had recently undergone, and was continuing to experience, marked demographic and economic transformation?

Originally, I hoped to examine practices of private law primarily outside the purview of legal institutions in the course of everyday transactions, contracting, and dispute resolution processes. This methodology, influenced by the 'law in everyday life' scholarship discussed above and by deCerteau (1984) required developing multiple and overlapping relationships in the community in a short period of time, relationships that would enable me to spend time with people in casual conversation in homes, offices, and places of business. However, early in our stay in Port Said my husband and I found ourselves in a dispute with our own landlord, which led to a visit to the police station and ultimately to making the acquaintance of Mustapha, a lawyer who became a mentor and guide during my research. As a former high-ranking police officer, from a landed family in nearby Dumyat, Mustapha had *wasta*; in local parlance, *koussa* (literally, zucchini, and metaphorically a reference to his connections and influence). Mustapha introduced me to a number of other lawyers, insisted I accompany him to court, gave me documents concerning cases he was working on to clarify claims and strategies, and most importantly introduced me to clients and allowed me to observe while he advised them on their cases. Other lawyers I came to know did the same with surprising openness.

Although a more 'law-centered' approach than I had originally envisioned, this change proved to be fortuitous in many ways. Shifting to a more case-focused methodology, and spending time at the courts and with clerks and lawyers as well as with people in their homes, allowed me to observe how cases moved in and out of the legal system. It was also through my interactions with lawyers that I first learned about alternative uses of customary commercial documents, and I was subsequently able to raise questions about their use by interlocutors I came to know outside the purview of the courts or as litigants per se.

In some ways, the cases analyzed in the following chapters form a disparate set. I discuss cases or disputes that revolve around inheritance, marital support, loan default, theft, landlord-tenant and property disputes, rape and fraud. They cross jurisdictional boundaries from commercial law to family law, and include criminal cases and civil cases. In the midst of this seeming chaos, commercial documents are a throughline. They not only serve as the mechanism by which parties leverage the power of the law and by which disputes are resolved and agreements are guaranteed in varied circumstances but also, importantly, move problems and disputes between normative and legal milieus. This movement, and its pragmatic and socio-ethical implications, became a central analytical concern.

The bulk of the research was conducted between January 2005 and December of 2005, with two follow-up trips in January and June of 2007. Between May and December of 2005, I visited the courts at least twice a week to sit in on civil sessions, meet with lawyers and clients, talk to clerks and *arDa halgī* (petition writers who work on the sidewalk in front of the court) and visit and observe in the family mediation

offices.[11] I conducted at least one hundred interviews between 2007 and 2005, most of which I was able to record but some of which I could not because the interviewee elected not to have me use my recorder. Some interviews occurred in homes, others in cafes or in chairs on the sidewalk, in offices, and the like. Along with interviewees in the juridical field as mentioned above, participants included litigants who I knew were involved in a legal case via their lawyer. They also included people I came to know who might or might not have had experience making contractual or surety types of agreements and resolving petty disputes; almost everyone I talked to had a story to tell on the topic. About half of these interviews were repeat interviews with the same people and half were individual interviews with people I did not meet with again, or met again but didn't interview more than once. Some interviews were structured, but most were unstructured conversations initiated by general questions I posed about disputes or agreements, about the courts, lawyering, and the police, and about Port Said and its history and economy.

On the topic of customary and commercial documents, I pursued questions about why specific documents were used in lieu of others, the circumstances surrounding their production, what exactly was inscribed in them, and what happened to them following their production. Who held on to particular documents, and when and how did they move into others' possession, or from one context to another? I also asked people, both litigants and lawyers, to reflect on what impact they thought particular documents had on the trajectory of the agreement or dispute being processed. I collected booklets of customary/commercial documents and obtained copies of some that were currently in use between parties. I also accepted documents from case files, which included police

[11] The transliteration of this word is likely incorrect, although it is closest to how I heard it pronounced. The word seems to have both Arabic and possibly Turkish roots and is not in any of the Arabic dictionaries I regularly use.

reports, memoranda and briefs, reports from experts, and copies of contracts, honesty receipts, checks and the like.

Despite my efforts to meet with opposing parties to the same dispute or case, I was typically only able to meet with one party; often the person I initially interviewed felt strongly that I should not talk to the other party. This denial of access was, I believe, rooted in the sense that interviewees wanted to feel like I was their ally, and perhaps in the expectation that the opposing party would refute their version of a case and make them look bad. By the same token, lawyers would sometimes discuss particular cases with me and not want to introduce me to the clients involved for a variety of reasons, including the practicalities of arranging meetings and, as some suggested, on the basis that the client could not do as good a job at explaining a case to me as could the lawyer. Other lawyers were able to see that talking to clients was an important research strategy for me and went out of their way to set up meetings. I also observed and recorded meetings between clients and lawyers and meetings at the Office of the Experts.

Ultimately, this amounted to hundreds of pages of field notes and about ninety hours of digital recordings. Because I sought to allow participants to lead the conversation in directions they felt were important, a not insignificant amount of this material was relatively superfluous to my research questions. Yet by allowing a great deal of freedom in my interactions, I also stumbled upon data that I would not have. In general, I was guided by advice from Jane Schneider, who pressed me to consider interviews a process of inviting other people to help me think through particular questions or concerns based on their experiences, rather than a process of asking people to provide me with information or data.

Wael, my primary research assistant, was indispensable and introduced me to his friends, relatives and acquaintances in the community, out of which my local network of friends and participants grew. He accompanied me to many meetings and interviews, although I also met with people alone. He translated bits of conversation I didn't understand although I soon came to rely less on him for translation assistance and more for introductions (as a sought-after tutor, he was known in many circles around town) and for assistance with textual materials. Beyond these practical components, his presence changed the dynamic of the research. Drawing on Crapanzano's (1980) discussion of interlocutors and triadic relationships in research, in a broader sense Wael served as an important 'third'[12] in my relationships with interlocutors; he put people at ease and enabled a fluidity of conversation by his very presence. There were times when his caution prevented me from asking questions I wanted to ask, and other times when his understanding of local mores and sensitivities saved me from being inadvertently rude. He thought to ask questions I hadn't thought of, yet sometimes directed the conversation away from my own concerns. At the same time, he was someone with whom I was able to reflect on particular interviews and observations.

To return briefly to the ethnographic encounter with documents, it seems important to reflect on the complications and benefits of my own access to certain documents in the field. I sought to understand document production that I was typically unable to witness because these moments of production had already passed. In addition, I sought to consider the meanings of documents that, in some instances, I never saw, and to

[12] Crapanzano draws both on Simmel's notion of the triad (1964. "The Triad" pp. 145-69 in K.H. Wolff, ed. and trans., *The Sociology of Georg Simmel*, New York: Free Press) and on Sartre's discussion of the third and triadic relationships (1964. *Saint Genet: Actor and Martyr*. Translated by Bernard Frechtman. New York: Mentor).

wrestle with one-sided interpretations of the 'real' meaning and intention of documents produced in tandem with another party not present to provide his or her own interpretation. My own distance from certain types of documents that came to play a prominent role in this analysis was to some extent a hindrance. I couldn't always see the material artifact around which a dispute or an agreement revolved and therefore had to rely upon others' depictions and evaluations. On the other hand, it forced me to deeply examine what was said about those documents, and to look for connections with other types of documents. Perhaps because of this material inaccessibility, I was compelled to look at what documents did and how they came into being, rather than at the objective information they 'contained.' More than containers of information, I considered documents as vehicles and instigators of action. As I will show, often their very existence mattered much more than what was inscribed within. This suggests that it will be important to consider how they were imagined and what contributed to their effectiveness outside of the text they contained. The fact that I was not privy to particular documents, and in other instances given easy access to legal files containing clients' personal information, was perhaps a barometer of the way I was received and perceived. Yet it also indicates different notions of what is or should be considered private, the boundaries of which were drawn and redrawn based on social norms and the individual evaluations of those with whom I interacted.

Further, it is worth noting the ways in which bureaucratic documents made my own research possible. In particular I possessed a letter of introduction from the Binational (Egypt-USA) Fulbright Commission, written in both English and Arabic, which stipulated that I had received express permission from the Egyptian Ministry of

Higher Education to conduct anthropological research on 'Legal Consciousness in Port Said.' Most importantly, the letter stated that my advisor on this project was Dr. Sufy Abu Talib, Professor of Law at Cairo University. Along with being a distinguished professor of law, Dr. Abu Talib had previously been head of the Egyptian Parliament (*majlis al-sha'b*). Moreover, as a result of holding this position at the time of President Anwar Sadat's assassination in 1981, as prescribed by the Egyptian constitution, he had briefly assumed the presidency until President Mubarak was sworn in 45 days later. My link to a man of such political importance in Egypt, verified in writing on a letter bearing an official seal from the Fulbright Commission, was vital for my access to both officials and ordinary citizens in Port Said. Abu Talib, now deceased, possessed a reputation as an honorable and intelligent politician. His 'presence' in my research, along with the presence of Fulbright as a known educational research-granting agency, imbued me with legitimacy. I also carried business cards from my university and business cards bearing the Fulbright logo, and a Fulbright ID card, which I passed out liberally. Such documents reinforced my stated associations and aims and helped me counteract half-joking suggestions that I might be working for the CIA.

Conclusion

This dissertation is organized in such a way as to indicate some of the linkages between the past and the present. Although the first three chapters are weighted toward Egyptian (and Port Saidian) social, economic, and legal history my intention is not to suggest a kind of teleology. Rather, I find it useful to think of how specific historical events and shifts are reflected in contemporary practices. Moreover, in discussions my

interlocutors often made reference to historical events and to ways in which Egypt had changed. Such 'rememberings' were often tinged with nostalgia and not necessarily reflective of objective transformations. Yet they served as important reminders of how the perception of reality impacts reality, and of how people anchor their life in the present to histories both imagined and real.

In discussing cases, I have generally selected to present only a portion of a more complex situation in order to stay focused on the issue at hand; cases are often in process for years and involve numerous upsets and reversals and I found it difficult to incorporate too many details while also keeping the analysis cogent. In other examples I only had access to bits and pieces of a complicated dispute; taken together with similar examples I have sought to articulate patterns. Although the vast majority of my interlocutors requested to be identified and noted that there was no reason to mask their identity in my use of the data, I have changed their identities. I did so in accordance with anthropological standards and to anticipate any issues that might arise in future if I made known the personal information of the participants and the intricacies of their private disputes, transactions, and legal cases. In some cases I conflated biographical data with other informants because certain locally well-known individuals might be recognizable despite the use of an alias.

In Chapter One, I begin with a schematic account of the Egyptian legal system and then examine how the period of major legal reform in the late 19th and early 20th centuries fundamentally shaped it. In particular, I am concerned with the processes by which jurisdictional variety was narrowed and address some of the scholarship examining the 'identity' of the new Civil Code and the logic behind the reforms. It is possible to see

that legal reforms that sought to limit the scope of Islamic and customary law were also productive of what Esmair describes as 'indefinite legalities'. In this vein, novel practices of private law observable in Port Said today may be understood as unanticipated outcomes of reconfigurations of law.

Chapter Two first examines a common phrase, *bishakl wadi‾'* (typically glossed as 'in a friendly way') used in Port Said in relation to dispute resolution and considers the types of customary and moral discourses it may variously reference. Following this, I move between three nodes of the legal system – the courts, the police, and lawyers. I address how each of these nodes plays a role in helping litigants control the trajectory of their disputes. The potential for delay in legal proceedings as they wind through the courts is useful in providing time and space for the renegotiation of disputes and acts as a temporal pressure on parties. The police, representative of both repressive state power and a more benign form of authority, are a resource for turning private problems into official complaints, which litigants can use as leverage to pressure one another. Finally, lawyering in contemporary Egypt can be understood as sets of practices and forms of expertise that defy the vision of early reformers. Lawyers advise clients across multiple registers and in so doing aid them in maintaining control over dispute processing and in producing meaningful outcomes. Documents originate and circulate through these three nodes and their circulation contributes to the meanings they come to hold.

In Chapter Three, I delve into the historical specificity of Port Said as a center of trade and a Duty Free Zone. In so doing, I am concerned not only with Port Said as a particular kind of community – one with shallow roots compared to the rest of Egypt, and recently experiencing dramatic socio-economic shifts – but as a site of intensive

transactional activity. Local crediting through installments plans, I argue, predominates over other forms of credit, and surety practices in the sphere of trade inflect other transactional and dispute resolution processes unrelated to trade.

Whereas the preceding three chapters are focused on the various frameworks related to practices of private law – legal reform, components of the contemporary legal system, and Port Said and retail trade – the following three chapters direct our attention specifically to customary/commercial documents. In Chapter Four I consider the relative legal status of different documents and from the ethnographic data provide examples of how form, content, and circulation all contribute to their transactional veracity. I show how these documents make things happen in defiance of their intended purposes as commercial documents, and analyze them as types of legal fictions by which the body is made into surety.

Chapter Five narrows in on specific moments of production in the making of customary/commercial documents and considers the relationship between gestures of trust and the form documents ultimately take. In particular, I argue that documents come to be signed *'ala buyāD* ("on the white", with important information missing) not due to carelessness but because social value is accrued in doing so. I also turn to the false contract as one type of customary/commercial document. By analyzing a recent case involving two brothers I am interested in thinking more about the conditions under which it came into being and the role the contract plays as a type of artifact in the context of a promise. This analysis addresses some of the concerns taken up by relational contract theory and reconsiders them in light of a contract intended to be fictional.

Finally, in Chapter Six, I look at the intersection between three documents in a case involving an alleged rape. Here, a police brief, an honesty receipt, and a marriage contract all intersect, one giving rise to the next in a textual chain. This textual chain generates a just solution not defined by law but rather constructed by the participants. It suggests a way to understand how documents forge relationality in nonlinear ways and proposes that documents must be viewed not as reflective of particular realities but as social actors participating in the constitution of such realities.

Chapter One

Legal Traditions and Legal Reform in Egypt

Egyptian law, since the early part of the 20th century, may be seen as largely following the continental civil law tradition. The legal reforms that began in 1882 and culminated in 1949 replaced Ottoman codes and provisional British colonial legal arrangements, and narrowed the scope of *shari'a* significantly.[13] Prior to the late 19th century, there was a large measure of fluidity between jurisdictions that allowed for disputes and crimes to be dealt with according to different legal traditions – *shari'a*, customary law, and Ottoman statute law. The reforms, including the promulgation of new law codes, the unification of the courts, and the development of formal legal training for lawyers and judicial personnel, stymied formal jurisdictional variety. A legacy of these reforms, however, is that the unification and secularization of law has been productive of dispute management and transactional practices in contemporary urban Egypt that in some ways resist the character of civil law as impersonal and secular, and as standing in opposition to custom.

My point here is not to wade into legal pluralism debates, although legal pluralism as an analytical framework has provided useful insights for understanding intersections between legal traditions in Egypt and throughout the Middle East. Rather, discussion of the colonial era legal changes allows us to reconsider the ideal – the vision of reformers

[13] There were other significant changes that occurred after 1949, including the establishment of the Supreme Constitutional Court in 1969, although the era leading up to the promulgation of the new Civil Code in 1949 is generally considered the major reform era.

to make a rigorous, unified and 'modern' legal system – alongside the real - practices of law in daily life that are inclusive of non-state normative and indefinite legalities.

In order to more fully comprehend the strategies Port Saidians use to make agreements binding and effective and resolve disputes about them, it is necessary to step back for a broader view of the legal landscape in which they occur. The doctrinal and institutional ruptures and shifts that occurred from the late 19th to the mid 20th century were not only important political processes in the making of modern Egypt. They also rearranged the legal landscape in which Egyptians operate in the 21st century, and thus have import for an analysis of contemporary practices of private law.

Law reform and the Civil Law Tradition in Egypt

Egyptian law is a civil law system, with precedent (from the British common law tradition) applicable in administrative jurisdictions and in the appeal process. The multiple branches of law are codified in, for instance, the Civil Code, Penal Code, Commercial Code, Personal Status Law, Tax Law, Company Law, Administrative Law, and so forth, to which amendments have been made throughout the twentieth and twenty-first centuries. Legislation emanates from the People's Assembly (*majlis al-sha'b*) and in the form of decree-laws from the executive branch. The Ministry of Justice oversees the various jurisdictional levels in Egypt, including Constitutional Jurisdiction (Supreme Constitutional Court), and Ordinary Jurisdications, which include Courts of First Instance (*maHākim ibtidā'iyya*) and Summary courts (*maHākim juz'iyya*, also known as partial courts and designated for minor litigation and criminal misdemeanors), the court of appeals and the court of cassation. The Courts of First Instance are presided over by

three judges, whereas the partial courts are one-judge courts; the criteria for whether civil cases go before the Courts of First Instance or the partial courts is monetary, with cases involving 10,000LE[14] or less reviewed in the partial courts. In addition, there are Administrative Jurisdictions, Exceptional Jurisdictions (including the Courts of State Security, (emergency courts), (*maHākim amn al-dawla tawāri'*) and the Courts of State Security (established by Law 105/1980)), Military jurisdictions, and administrative committees that do not provide adjudication (Bernard-Maugiron and Dupret, 2002). An example of the latter are the local administrative centers (*aHyā'*) located through out the cities and villages.

The Ordinary courts preside over civil, commercial, and criminal cases, and from 1955 until 2004, they also presided over personal status cases. However, in 2004, Law 10 created a separate jurisdiction for personal status cases as a way to alleviate the case backlog. The articles of this law provide for matters of personal status (*aHwāl al-shakhsīya*) to be separated from the general jurisdiction of the summary courts and to newly comprise a special court within that jurisdiction. Although in Port Said, for instance, these new courts are just down the corridor from the rest of the courthouse, the justices are specifically assigned to the family court and no non-family cases are presided over. Moreover, two experts, one of whom must be female, assist the courts. The experts include a social worker and a psychologist, whose work is overseen by a specialist in family law; these three work as a team in what are known as the Dispute Mediation Offices. Article five of Law 10 notes that these Dispute Mediation Offices are

[14] LE is the standard abbreviation for the Egyptian pound. The current exchange rate, which has been fairly stable since 2005, is: 1 U.S. dollar = 5.9 Egyptian pounds.

mandatory for each family court so that conciliation attempts between the parties are formalized.[15]

Criminal cases are opened and investigated by the general public prosecutor (*al-niyāba al-'āmma*), charged with protecting general and state interests. Judges, who belong to the Judges' Syndicate (union), are almost exclusively drawn from the office of the public prosecutor and trained by the National Center for Judicial Studies in Cairo. Although judicial appointments are irrevocable, judges are assigned to courts on a rotating basis to prevent local connections from inhibiting impartiality. All of the judicial personnel are state employees and the Judicial Authority Law of 1972 regulates their work (Bernard-Maugiron and Dupret 2002: xxxix). Although lawyers and lawyers training will be addressed in more detail in chapter six, I will note here that lawyers receive bachelors degrees in law, followed by a required two-year apprenticeship with a senior lawyer who has been approved by the lawyer's syndicate to present cases before the courts of cassation (appeals). Comparable to the Bar Association in the U.S., membership in the Lawyer's Syndicate is mandatory for lawyers to practice.

Although the types of disputes and transactions I study seem to be only tangentially impacted by the current state of emergency, it is important to note that Egypt has been under emergency law continuously since President Sadat's assassination in 1981. Article 148 of the Constitution (1971) authorizes the president to declare a state of

[15] Law 10 came into effect two months prior to my arrival in Egypt to begin the research, and I compiled some data on the various complications, successes and failures of its implementation by observing in the family courts and through interviews with the director in charge of training family court judges and mediators (who was based at the National Center for Judicial Studies in Cairo) one of the Port Said mediators. In particular, the first round of training and the directives for those occupying the newly created mediator positions seem to have been vague and mediators felt unprepared for their work. Although statistically the family mediation offices report successful efforts to reconcile couples, some mediators (and many lawyers) are quick to point out that there is much room for improvement. Unfortunately, there is not room in the dissertation to examine this data in more depth.

emergency, and the emergency laws were most recently renewed in 2006.[16] This means that individuals accused of offences deemed to be of a political, military, or moral nature can be tried and sentenced in State Security courts; these exceptional courts are arguably not exceptional but a permanent feature of the judicial system since military justice was instituted in 1966.

This schematic description of the Egyptian legal system hides its rather complicated history. Prior to 1882, when Egypt was under Ottoman rule, there were multiple and intersecting legal jurisdictions that legal reform sought to streamline. As Peters (1992) notes, for instance, between 1842 and 1883 there developed two parallel hierarchies, that of Islamic law and of Ottoman statute law. Mohammad 'Ali established specialized judicial councils with different competencies; to address the constraints of increasing international commerce he set up merchants councils (*majālis al-tujjār*). Certain categories of crimes (for instance H*adūd* crimes, those expressly prohibited in the Quran) were the exclusive domain of religious judges (*quDāh*; more commonly transliterated as *qadi/s*) who enjoyed a wide measure of freedom and judged according to strict codes of evidence. When *qadis* were forced to dismiss a case for lack of strong evidence, the administrative council of the governorate could hear the case. Elsewhere (1999) Peters demonstrates a number of ways in which statute and Islamic laws were interpenetrating. For instance: a victim of theft in this era could select to bring his case either to a *qadi* or to the police; criminal sentences issued by the *qadi* had to be enforced and implemented by the state; the state held the power to determine the competence of the courts to hear cases according to criteria it set, and the like.

[16] As of summer 2009 there continued to be much public and parliamentary debate over proposals to replace emergency laws with anti-terror legislation, which opposition parties have supported and the ruling party (NDP) has resisted.

By 1876 the Mixed Courts were formed, administered by European judges to oversee cases related to Europeans residing in the country, and by 1883 the role of the *qadi* in criminal cases had ended. At this time new National Courts were established for Egyptians to parallel the Mixed Courts, and a new code to determine its juridical operation was completed. As the new Mixed and National courts were granted jurisdiction over criminal and commercial cases, the particular types of fluidity Peters describes, of cases moving between jurisdictions at various points in their processing, ceased to exist. By 1956, the courts were entirely unified under Gamal Abdul Nasser's leadership.

The Civil Code, promulgated in 1948, was the work of renowned legal scholar Abdel Razzak al-Sanhuri (1895-1971), and includes components of Islamic law, Ottoman codes, and French and other European codes. As Shalakany and Hill have both pointed out, Sanhuri's project in crafting the code was both the modernization of Islamic law, and the drafting of a modern code based on European models that promoted social justice. The extent to which these aims are overlapping, and the 'identity' of the code is the subject of debate (see Shalakany 2001). In general, it is important to note that the jurisdication of Islamic *shari'a* in Egypt has been formally restricted over time to that of family law, and codified *shari'a* today primarily governs matters of inheritance, custody, marriage and divorce, and *awqāf* (religious endowments).[17] Additionally, as a result of amendments to the constitution by President Sadat, *shari'a* is noted as the source of law in Article Two of the constitution and Article One of the Civil Code.[18]

[17] In addition, for capital offenses, the Grand Mufti must approve all death penalty sentences.
[18] Article two of the Egyptian Constitution formerly articulated that *shari'a* was a source of legislation. As of Sadat's amendment of 1980 the wording was changed to: "Islamic jurisprudence is *the* principle source of legislation," the interpretation of which has spawned numerous *hisba* (the canonical injunction of

Scholars have sought to clarify the underlying logic of the legal reforms and to understand the reconfiguration of *shari'a* (see for example Asad 2001; Brown 1997; Rutherford, 2008; Skovgaard-Petersen, 1997). In particular, some scholars have been concerned to show how this emergent liberal legality was an expression of the political goals of Egyptian nationalists to achieve independence from British colonial rule. As Nathan Brown argues, fashioning a court structure and code quickly and along a European model was necessary to keep colonial administrators out of the process (Brown 1997:30). Yet it is of greater utility to consider how the reforms are expressive of and connected to larger historical reconfigurations and specifically to secularization processes. Talal Asad suggests that this period is fundamentally marked by the European project of civilizing and establishing a new order in its colonies, including Egypt. This new order required "a new conception of what law can do and how it should do it" (2003:240). Secular nationalists viewed the restriction of *shari'a* as an important component of the civilizing process and of the creation of a "modern autonomous life" (2003:253). Throughout this period the scope of *shari'a* jurisdiction was narrowed and the scope of codified secular law expanded. Codification and court reform can thus be understood as a process of separation of the spheres of law and morality, public and private. Asad further argues that the legal constitution of a new political space in which social order was to be maintained through these separate spheres is inextricable from the penetration of European capital in the country (2001:10). Morality was moved to the realm of personal responsibility.

'enjoining good and prohibiting evil') cases in recent years (see Lombardi 2006, for more on article two). Moreover, Article One of the Civil Code, under the General Provisions section, states: "Where no legislative provision is applicable, the judge shall pass his ruling according to usage and practice. In the absence of usage, his judgment shall be pronounced according to Islamic Law principles." Doctrinally speaking, *shari'a* maintains a presence in Egyptian civil law as an authoritative legal source.

In the shift to a new legal order based on European-derived codes, it is important to see as well a shift in legal personality and the correlation between cultural categories and status before the law. As Asad notes, individuals were to be equal before the law, regardless of Islamically defined 'necessary' inequalities, such as that between the genders and between Muslims and other religious minorities (2003:254). This is an example of how creating new separate spaces for both state law and Islamic religion and morality forced the latter to mold itself around the new secular order, its legal authority usurped (215). Asad is to some degree concerned with the motivations of the various reformers of the time, including Mohammad 'Ali, Husayn Fakhri, Muhammad Abduh, and Ahmad Safwat. But he is concerned to make the point that no matter how much these reformers articulated a desire to adopt the new laws in such a way as to create continuity with the past, the reforms were fundamentally forward-looking toward a vision of modernity and revolutionary.

In light of this more nuanced understanding of legal reform, how might we reconsider analysis of 'Abd al-Razzaq al-Sanhuri's efforts to promote contractual justice in Egyptian civil law? Guy Bechor (2001) argues that in writing the New Egyptian Civil Code Sanhuri sought not only to regulate private legal relations between individuals, but also to create a wider social order. This was to be carried out through judicial discretion, based on the application of Article 135 of the New Code which states: "a contract is void if its object is contrary to public policy or morality" (Bechor 2001:197 n. 78). Further, the New Code introduced the 'moral-altruistic doctrine' of unforeseen circumstances, one point upon which it clearly diverges from the French Civil Code (upon which the Egyptian code is largely based) as well as previous Egyptian codes. This doctrine

emphasizes the need to show compassion for a party to a contract facing difficulties or calamity. Although ultimately the scope of 'unforeseen circumstances' was narrowed to address only general rather than personal circumstances, Sanhuri insisted that the specifics of this doctrine should remain open to interpretation (194). Despite Bechor's claim that Sanuri's work contained a 'hidden' agenda for the civil code to limit the liberal/individualistic tendency of its predecessors and to advocate for contractual justice based on compassion, forgiveness, and fairness, the civil code must necessarily be seen as an integral part of secularization processes by which legality and morality were further demarcated and separated. This was the 'social ordering' wrought by the code: it was constituting a secular society in which compassion, forgiveness, and fairness were to become matters of private morality and self-regulation.

Moreover, it is possible to see that reform processes and the 1948 Civil Code had implications for the constitution of new meanings of legal personality and for how citizens come to relate to law as authentic and legitimate. Armando Salvatore (2004) proposes that legal reform processes in the late nineteenth century in Egypt collapsed *ijtihād* (jurisprudential method in Islam), *ihtisāb* (primary binary instruction) and the law-interpreting and activating institution of *iftā'* (non-binding legal opinions). The result was what he terms an 'imploded *shari'a*' that held more public-normative meaning than legal significance; this, he argues, is the status of *shari'a* today. Furthermore:

> *Shari'a* thus defined has provided a soft and flexible background to the notion of legal personality either by constituting an 'environmental noise' for the operation of the legal system proper or by educating Muslim citizens into forms of personhood that conform to the impersonality of rule and are able to ease up their access to the higher formalization of legal personality within the system of positive law." [Salvatore 2004:133]

He goes on to suggest that:

> What I see here is not a dualistic normative and legal landscape, but mechanisms of translation between different levels of formalization of norms legitimized by different institutions or authorities. Within these mechanisms, the same imploded view of *shari'a* plays a role in authorizing mechanisms of disputation and adjudication with varying degrees of formalization as well as of exposure to the procedures of law enforcement through state instances." [134]

Salvatore posits the implosion of *shari'a* as a meta-level phenomenon that provided the normative basis for the codification and positivization of law in Egypt generally and the emergence and acceptance of the new civil law framework in particular (127). He focuses on what he describes as 'mechanisms of translation' between "different levels of formalization of norms legitimated by different institutions or authorities" (134). One important mechanism of translation is *iftā'* (the giving of *fatwas*, or non-binding legal opinions by muftis) situated as a 'soft institution' that is socially important but formally autonomous from the state-centered legal system (132). In other words, *iftā'* is a mechanism by which the *shari'a*-related normative order is constituted in contemporary Egypt in the context of a civil law system largely unbound by Islamic principles. This is a useful way of thinking about how *shari'a* maintains a 'kernel-like' presence linked to law. At the same time, there are ways in which what Salvatore sees as the imploded *shari'a* and what might more broadly be seen as secularization processes produce new 'indefinite legalities' that reinsert moral and ethical requirements into dispute management and transacting practices. I return to this point below.

Finally, let me briefly address Jeanette Wakin's (1972) treatment of 9th-10th century Sunni Islamic jurist Tahtawi's writings on *shurūt*, model documents or formularies.[19] Her discussion of the function of documents in Islamic law provides a way

[19] See also Mallat (2004) on formularies and the *shurūt* literature.

to situate the status of commercial documents under later laws and to reflect on the innovative uses of commercial and customary documents in Port Said today. Wakin investigates the relative authoritativeness of oral and textual evidence under Islamic law and points out that although documents were robustly in use to clarify and record contractual arrangements, oral testimony was the only form of proof in the *shari'a* (1972:6). Even witnessed documents drawn up in front of the qadi himself had to meet strict requirements to serve as evidence. This strengthened the witness system, in which qadis designated men of good moral character in the community to serve as official witnesses to the court, by giving rise to the practice of witnesses serving as notaries to aid (and earn money by aiding) parties draw up contracts in the proper form and witnessing their production.[20]

Over time, Wakin notes, the technical knowledge required to make sound documents came to be inscribed in manuals; as such, the *shurūt* literature developed out of practice. Moreover, "the shurut literature grew out of the attempt by jurists to bring ideal theory and practice closer together" (10). She notes that another example of this practical literature was that addressing *Hiyal*, legal evasions or devices derived from *shari'a* by which one may legally arrive at a different result than that intended by the law. *Hiyal* served important functions in commercial transactions to avoid the appearance of interest (*riba*) on transactions while simultaneously enabling it.

Several points may be emphasized here. Firstly, under Islamic law in the early Islamic period documents were widely used and yet their evidentiary value was weak

[20] The traces of this are still seen today: *arda Halgī* sit outside the Port Said courts with, as Ibn Khaldun described for the fourtheenth century, small desks and for a small sum draw up simple documents for people to submit to court. These men (exclusively) have no formal training but generally learn their trade from their fathers.

except under certain conditions. Secondly, there were technical requirements to be heeded in the making of Islamically correct contracts that didn't contravene the prohibition on *riba*. This was true during the Ottoman era as well. However, the new civil and commercial codes of the early 20th century did not hold documents and the types of transactional arrangements inscribed in them to these same Islamic standards. Rather, documentary proof usurped the space of primary legitimacy once held by oral testimony, and interest within certain limits was authorized. Further, we can understand the tradition of Hiyal, or legal fictions, as a way of making common practice and necessity in the marketplace conform to Islamic legal theory.[21] Innovative uses of commercial and customary documents are similarly practical responses to and ways of evading legal constraints in contemporary Port Said. Yet unlike *Hiyal*, they are informal manifestations of legal fictions rather than part of a formal prescriptive literature.

'urf

What status did customary law (*'urf*) come to having following the reform period? In the legal-historical literature there is far more attention paid to the ways in which the precepts and procedures of Islamic law were sidelined through secularization processes than there is to how customary law fared in the midst of these transitions. To some extent this is unsurprising. In the early Islamic period, *shari'a*, as sacred law laid out in the Quran, the *sunna* and the *Hadīth*, was posited as the divinely ordained usurper of existing customary law. Therefore, customary law had theoretically already been replaced by *shari'a* by the time of the late 19th and early 20th century reforms. It is important to recall, however, that although not a formal source (*aSl*) in Islamic law, custom has in

[21] Legal fictions in *shari'a* are also addressed at length by Schacht 1964, and Horii 2002.

practice been relied upon as a source. Schact notes, for instance: "What little authentic evidence is available shows that the ancient Arab system of arbitration and Arab customary law in general, as modified and completed by the Koran, continued under the first successors of the Prophet, the caliphs of Medina (A.D. 632-61)" (Schacht 1964:15). Libson argues that until the 16th century there was a de facto recognition of custom among Islamic scholars. By 1877, Mohammed Ali's Mejelle (Ottoman Civil Code) included ten articles addressing rulings on custom, indicating that it's legal role had become more formalized in the context of Egypt at least. However, the Mejelle was later replaced by the 1948 Egyptian Civil Code, in which custom is listed as a source without explication. As legal traditions, customary law and *shari'a* can be seen, to some degree, as interpenetrating and mutually constitutive (Libson and Stewart 2009).

Despite idealizations of customary law as radically separate from the state and a resistance to its form of ordering, customary law and state law jurisdictions have historically run parallel to and intersected with one another.[22] For instance, during Cromer's era we find that "the British allowed local notables to serve as magistrates and apply traditional law when resolving disputes" (Rutherford 2008:36). In other words, minor officials were officially granted leeway to preside over customary law proceedings. In Austin Kennett's well-known study of '*bedou*' in the Sinai and the western desert, based on research conducted in the 1920's, he shows that by the early 20th century the

[22] As Mahmood Mamdani (1996) points out in his analysis of customary law in the era of late colonialism in Africa, the system of indirect rule created a segregated system of law of, on the one hand, 'civilized' law for the colonial population and for indigenous and urban elites, and on the other hand 'customary' law for the rural and poor indigenous masses. He points out that customary law as instituted, codified, and approved by the colonial administration was in fact only a select version of the varieties of customary law that existed, and the leaders appointed to oversee such systems were enshrined in positions that had prior to this been more flexible and the qualifications for these positions were newly determined by administrators. Customary law consolidated the non-customary power of chiefs in the colonial administration. See also Snyder (1981) on the creation of customary law.

government played a role in Bedouin judicial procedures and decisions. Criminal cases typically involved both the application of Egyptian penal law and Bedouin law, since tribesmen were also Egyptian subjects. Hence, a man who committed murder might both serve time in a government prison and, following his release, pay compensation to the family of the deceased according to the decision of a tribal court. In practice, this duality was sometimes obviated at the discretion of the local government official or police officer, who might waive the application of criminal procedure (Kennett 2000:31).

In addition, Safia Mohsen's (1970) subsequent work on the *awlād ʻalī* of the western desert follows up on Kennett's data, corroborating that criminal cases came under both state and tribal jurisdictions. Mohsen also notes the steps undertaken by the Egyptian government in the late 1960's to bring *awlād ʻalī* under government control. Projects to increase cultivated land, to promote crafts and industries, and other projects were intended to settle tribal populations more permanently; these strategies can be seen as ways to make the tribesmen more visible and subject to state law. Yet it's important to note that it was not mandatory to bring civil cases for damages or property disputes before state judges. Although generally settled according to *ʻurfī* mediation and adjudication procedures, *awlād ʻalī* could choose the forum they desired, and sometimes brought civil cases when the 'native procedures' failed to achieve a satisfactory settlement (Mohsen 1970:29).

The difficulty in tracing the impact of legal reform on customary law stems in part from the fact that *ʻurf* refers to a diverse range of practices, as well as from the fact that, unlike *shariʻa* and the *shariʻa* courts, it was not specifically targeted as in need of improvement or redress. Rather, as the state extended its control over rural and Bedouin

populations through the types of projects Mohsen describes, it was perhaps assumed that these newly modern subjects would reject traditional modes of adjudication in favor of the rule of law. It is impossible to say precisely what kind of impact legal reform had on customary law but it is certain that some procedures ascribed to customary law provide an alternative to and work in interpenetrating ways with state law.

Drawing on scholarship of customary law in contemporary Egypt I shall briefly discuss some the broad features that characterize it. The diverse nature of *'urf* is revealed in the terms used to reference it. Customary law is also referred to as *haqq al-'arab* (Arab justice), *majlis al-'arab*, (Arab customary assembly or council) or *majlis 'urfī*, (customary arbitration or customary assembly), *jalsāt al-'arab* (Arab assembly or council). These last three specifically reference particular adjudicative structures and processes, all of which are characterized by an arbitral form of adjudication. Related terms associated with '*urf* are *tahkīm* (mediation) and the desired result of *sulH* (reconciliation) (Ben-Nefissa 1999: 145).

'*Urf* is historically associated with the tribal, Bedouin groups that lived (and continue to live) in the region, and therefore also implies a legal personality in which rights are conferred upon individuals only in the context of the group, and therefore in which compensation or other obligations are collective rather than individual. As Barbara Drieskens (2006) shows, this is still a feature of '*urf* in contemporary Egypt, even in urban contexts. Further, *'urf* is often characterized by Egyptians and non-Egyptians alike as having a spatially or geographically limited domain, occurring in remote areas such as Upper Egypt, the western oases, and the Sinai, which positions it as

a rural *urfī* practice largely absent in the urban milieu.[23] Most studies of customary law in Egypt in the last half century, while excellent contributions to the field, reaffirm this conceptualization (e.g. al-Hilw 1989; Altorki and Cole 1998; Ben-Nefissa 1999; Hill 1977; Nielsen 1998; Stewart 2003; Zayed 1998).

Drieskens provides an important counterexample both to the conception of customary law as a rural phenomenon and as a stable rather than emergent phenomenon by examining the process of families in suburban Cairo negotiating reconciliation.[24] She illustrates the way they draw upon notions of honor and *haqq al-'arab* (Arab justice), and the threat of retaliation in order to achieve a resolution. Although both families involved in the dispute were *Sa'īdīya*, from Upper Egypt, they did not follow a formal course of action towards reconciliation, involving a *majlis 'urfī* (customary council) as might have occurred had the dispute occurred in an Upper Egyptian village. Rather, the parties deployed selected elements of this customary process. She notes:

> In the settlement of a specific case, Cairenes creatively construct a tradition, *'urf*, and adapt elements from more formal structures of customary law to the Cairene context…In comparison to the Upper Egyptian context, Cairene custom appears as a dynamic, unstable, and contextual form of conflict resolution. Although the Cairenes involved in this case insisted on the customary (*'urfī*) nature of their solution and presented it as based on a long-established, formal tradition, they were in fact constructing a very different and contextual form of *sulH*, one adapted to the peculiarities of suburban life. [Drieskens 2006: 23-24]

Her work is an important illustration of how ideas and practices of customary law move between urban and village locales. It is also useful for considering how disputes move between state law and customary law. The disputants in this case consider the

[23] Stewart, however, disaggregates between 'modern' customary law and a 'traditional' customary law in contemporary Egypt; the first of which describes the rules governing property relations as identified by Hernando de Soto (2000), and the second of which refers to processes of arbitration, truce, compositions, and blood feuds at work to varying degrees throughout the country (Stewart 2003:2).

[24] She makes no claims for how customary law is enacted generally in Cairo, pointing out that there is no 'typical' case of reconciliation in Cairo.

option of involving the police and pressing charges relating to physical violence yet ultimately reject this in favor of accepting a public apology and payment for the injury. The police and state law are positioned as viable options; by rejecting this course in favor of 'customary' options, the customary is given substance as, in part, opposed to and other than state law.

One can also see how contractual practices may simultaneously derive notions of validity and surety from contract law, and notions of liability and honor from customary law. Stewart (2003) describes the importance of guarantors in his discussion of customary law among the Bedouin of the Sinai, illustrating the high degree of responsibility one takes upon agreeing to act as guarantor. The guarantor pledges to take on the obligation should the obligee default. As an alternative to guarantors, or in addition to them, parties are sometimes asked by the arbitrator to sign blank promissory notes, or promissory notes with the amount of money under debate filled in, in order that if the responsible party fails to pay on the debt, this promissory note can be used to raise a legal action against him in order to obtain the money. Stewart's work on Bedouin contracts (2003) is provocative in that it disrupts assumptions about how honor and obligation underwrite transactions in customary law. In particular, he argues that unlike typical bilateral contracts, Bedouin contracts are 3-party, unilateral contracts with a principal, obligee, and guarantor. Whereas bilateral contracts are generally focused on the issue of redress in case of breach, Bedouin contracts are aimed at encouraging – even forcing – parties to keep their promises (2000:180). Such contracts, it appears, create obligations within a particular context in which, Steward argues, honor is the "quintessential pressure pledge" (181). Stewart's work emphasizes that differences in

contractual form (3-party) and content are critical, and takes into account the relational networks that make Bedouin contracts binding.

Indefinite Legalities and Mechanisms of Translation

Secularization processes have narrowed the scope of *shari'a*, and modernization processes including urbanization, migration and increased state control over geographically-isolated areas and their populations, have narrowed and continued to alter practices of customary law. Although doctrinally tangential to state law, religious and moral norms and customary law continue to shape the way Egyptians resolve disputes and enact transactions. In order to consider how this might be so, Samera Esmair's (2005) analysis of the colonial era legal reforms is particularly useful. Eschewing a political approach, Esmeir is concerned with how the legal reforms in Egypt were constitutive processes intended to reshape Egyptian society according to a particular view of humanity. She notes that legal reform occurring between 1883 and 1936 "claimed a discrete juridical sphere, constituting juridical institutions unique to it such as specialized independent institutions (courts, bar, law school), professional actors (lawyers, judges, jurists), and expert knowledge (codes, court rulings)" (4). This law 'performed itself' as standing above everyday life and the particular, as standing for and applying universal rules. As Esmair rightly suggests, these reforms were meant to produce a particular humanity, to separate law from society and human relationships, and to create dichotomous spheres: general and arbitrary, human and nonhuman, normative and factual.

By taking a constitutive approach, Esmair is better positioned to discuss cracks in the s*urf*ace of 'comprehensive' reform: the emanation of what she describes as 'indefinite legalities' that defied the new juridical field being carefully wrought. "[N]ext to the formation of an independent juridical field other non-juridical legalities continued to proliferate outside of the juridical field...these non-juridical legalities were not enacted by the codes, and were not carried out by members of the new legal profession. As such, they were left without a juridical account of their existence"(101). An example of what she describes as indefinite and non-juridical legalities is rural despotism: landlords continued to exert power over the fellahin in ways that directly contradicted liberal legality. Their local authority was part of a normative order that the new legal order was intended to override and supplant and yet persisted. Such manifestations of social inequality contradicted the argument that positivization was fundamentally a project of inclusion. Esmaeir's work is important for insisting that an examination of the formal project of comprehensive legal reform must reckon with both its intentions (for instance, the specific form of 'humanity' it sought to constitute) and its unintended and unforeseen outcomes.

This brings us back to Salvatore's conception of an imploded *shari'a*. In noting that legal reform was in part a process of educating Egyptians into new forms of personhood (by which being a good Muslim was translated into being a good citizen), we can identify a parallel with Esmair's discussion of the new 'humanity' colonizers sought to produce. These were processes that sought both to move morality to the realm of self-regulation and to authorize and legitimate the rule of law. Yet, as Esmair points out,

these processes were productive of other forms of ordering that did not derive from rule of law but rather contested it.

Salvatore also acknowledges that the implosion of *shari'a* has likely given rise to a modern legal subjectivity that is not well understood. He suggests: "[r]elocating research at this juncture on the dilemmas faced by legal actors might be highly beneficial" (133). This study of private practices is precisely concerned with the types of dilemmas faced by actors and their responses. And Salvatore's notion of 'mechanisms of translation' can fruitfully be extended to this juncture. Customary documents, their production and use, are to some degree mechanisms by which Port Saidians translate their own ethical and normative concerns and desires into contractual arrangements. I am concerned to illustrate, in the following chapters, how an ethical vocabulary expressed by the phrase *bishakl wadi¯'* (in a friendly way), the use of the courts as leverage, the role of lawyers between clients and the law, and uses of commercial documents that control the trajectory of disputes and limit state intervention in private law matters, are all 'mechanisms of translation' between these different normative and legal orders.[25]

Strategic and judicious uses of the legal system, as I shall show through the ethnographic data, are often linked to pragmatic concerns about how to leverage law and create social value for the protection or assertion of property or status rights. Strategic uses of law are also responses to the inefficiency of the courts and the possibilities introduced by such inefficiency. But mediated legal recourse is also in part a process by which ethical personhood is constituted. One way to see this more clearly is to draw a comparison with Islamic responses to capitalist penetration and the emergence of Islamic

[25] The expression 'in a friendly way' and its connotations will be discussed in depth in chapter two.

banking in Egypt and elsewhere. Debates about capitalism and its potential to weaken the fabric of society may be seen as both linked and parallel to contemporary concerns about private law as representative of a kind of individualizing justice and a potential threat to social solidarity and customary and morally-guided modes of adjudication and compensation. As Charles Tripp notes:

> Ideas of exchange form part of a complex web of imagining the world and evaluating it, producing particular business enterprises, legal systems and states to enforce the rules. This is directly relevant to Muslim responses, since rulings on fair exchange are central to all the major juristic schools of Islam. In fact, one can argue that many contemporary Islamic responses to capitalism stem from anxieties about unlicensed or unfair exchange, leading to various strategies devised to 'tame' the process and to make it authentically yet also productively part of an Islamic system, reinforcing rather than undermining, the solidarities and trust of transactions. [Tripp 2006:4].[26]

Questions about legitimate exchange practices, allowable gain and profit and the validity of various commercial documents were taken up during the reform period: Mohammed 'Abduh, who was a prominent Islamic legal scholar and eventually Grand Mufti of Egypt, and his pupil Rashi Rida issued a number of *fatāwā* on the issue of *riba* (unlawful gain) in the late 19th century, and Sanhuri was likewise concerned to clarify that some forms of intereste were legal. As Mallat (1996) points out, the *fatwa* issued in 1904 by Abduh and Rida over the legality of profit from Egyptian Savings Fund certificates marked the emergence of a new field. Quranic statements regarding commercial transactions and the prohibition of interest were brought to bear on forms of investment and commercial instruments originating in the West and newly part of the Egyptian economic sector (287).

[26] Tripp also notes that concerns about capitalist penetration and its impact on social solidarty, materialism and competition were certain present among Christian Arabs as well, as evidenced in writings by Christian Arab scholars (2006:35).

Interest continued to be an animating concern throughout the 20th century, and the issue of guaranteeing returns on investments has been a tricky one to align with Islamic prohibitions on unlawful gain.[27] The tension over what commercial law allows and Islamic principles prohibit can be seen in a case from 1985 before the Egyptian Constitutional Court. This case was brought following Sadat's amendment to the constitution, which declared that Islam was *the* principle source of law rather than simply *a* principle source of law, and on this basis the plaintiff claimed that article 226 of the Civil Code was unconstitutional. Article 226 stipulates that interest is allowed in cases of delayed payment, which is considered a form of *riba* in *shari'a*. The court rejected the complaint and ordered the plaintiff, the rector of Al Azhar University, to pay a fine and litigation fees (Tripp 2006). Perhaps in response to the failure of the courts to address perceived discrepancies between the civil code and *shari'a* on legitimate gain and profit, Islamic banking has emerged as a way to provide a structure for ethical exchange and investment practices.

In Egypt, Islamic banking began in the 1960's with the Mit Ghamr Savings Bank founded by Dr. Ahmed Al-Najjar in 1963 (Mayer 1985:36). The continued growth of Islamic banks in the 1970's and 80's through the present also coincides with, and is inextricable from, the opening of the country to foreign investment and market growth. Moreover, Islamic banking must be viewed as responsive to secularization processes more broadly. Muslim intellectuals have tackled economic issues in order to delineate an ethical scope of practices that enable Muslims to effectively engage with capitalist modernity. As a result, Islamic banking provides a clear framework, parallel to a secular

[27] Sheikh Tantawi, the Grand Mufti of Egypt for many years, has addressed this issue through fatawa and controversially declared that government savings bonds were permitted, even though they entailed guaranteed interest payments (see Tripp 2006:129-132, and Mallat 1996).

financial institutional framework, for international and smaller-scale transactions and investments to be carried out according to Islamic principles.

In contrast, what we find in examining surety and dispute processing strategies in Port Said is that a similarly clear framework for ethical engagement with the law has not been delineated for this range of practices. Instead, we find creative uses of commercial instruments to guarantee promises, delayed transactions, and non-monetary exchanges by using the body as surety. Sometimes commercial documents like checks and bills of exchange that are used to guarantee a marriage proposal will result in a marriage or the terms of a marriage contract being upheld. Or a commercial document will be secured in lieu of pursuing criminal charges for theft, as a demonstration of mercy. Sometimes commercial documents are left partially completed to express a sense of trust by introducing risk into a transaction. The repertoire of documentary practices and practices more broadly situated as mediated legal recourse can be interpreted as having multiple and interconnected meanings. Surety and dispute resolution strategies straddle the desire to protect oneself and one's property, and the desire to constitute oneself as a moral and merciful person. In the absence of a structured framework such as that in the economic sector through Islamic banking institutions and in writings on Islamic economics, practices of legal recourse and forms of surety for a range of contractual arrangements are much less uniform. This comparison illuminates a space in which secular law may provoke or give rise to indefinite legalities, creative avoidances, and ethically signified practices unaligned with an official discourse and associated institutional framework that, like in the case of Islamic banking, runs somewhat parallel to the secular institutions of the state and its laws.

Conclusion

Reconfigurations of the legal system from the late 19th through the early 20th century were significant and integral to the constitution of a modern, secular state. As Asad points out, Egyptians perceived the adoption of European codes and procedures part of becoming civilized (*mutamaddin*) (2003:252). Moreover, the new secular order separated the spheres of law and morality and made morality a largely private matter. In conjuction with Esmair's argument that this new legal order was productive of other indefinite legalities, we can begin to think about how practices of private law in contemporary Egypt include acts that aim to reinsert morality into the domain of law. We might better understand when Port Saidians ask the police or lawyers to mediate a dispute in the register of custom or morality, rather than purely in their capacity as representatives of law, as examples of the productive power and unanticipated effects of the reforms. The many cases against a husband or a debtor refusing to pay money owed that get 'dropped' by the plaintiff following the judgment, in order to show mercy, might be similarly understood. Like litigants anywhere, Port Saidians try to make law bend to their version of the facts and their image of justice. Their practices of private law are not particularly exceptional, their aims are not always moral, and they are often self-serving. But when we talk about litigants in any context desiring to use law judiciously we know nothing further about the content and the specificity of those desires unless we consider them in light of the particular legal and social history of which they are a part.

In the following chapter I begin with a discussion of the phrase *bishkl wadi¯'*, which connotes civility and customary modes of processing disputes and securing agreements. I then shift to the ethnographic data from Port Said (with some exceptions)

to examine how three nodes within the juridical field - the courts, the police, and legal professionals - structure and are structured by dispute resolution and transactional practices in the present-day context.

Chapter Two

Nodes of Circulation: The Courts, the Police, and Lawyers

Like disputants anywhere, Port Saidians are pulled between moral-ethical and pragmatic concerns when they conduct business, make agreements, and manage situations when things go awry. This chapter considers the tension between these concerns and lays out some of the strategies people employ to resolve disputes or secure agreements in ways seen as good and efficacious. Discursive practices around dispute processing and surety practices locate the moral-normative orders to which Port Saidians seek to inhere. The phrase *bishakl wadi¯'* (in a friendly way) is commonly used to describe certain strategies or approaches to private law matters, or as a contrast to what has actually occurred (for instance, a situation in which parties did not act 'in a friendly way' toward one another).[28] The phrase, although multivocal, puts certain practices within a moral framework and denies other practices moral value.

Following this, I move to a discussion of three nodes of law through which litigants' problems and the documents associated with them circulate: the courts, the police, and lawyers. In the course of my research I spent a great deal of time in lawyers' offices, at the courthouse observing in the main hall, the courtrooms, and in clerks' offices. I also observed meetings at the Office of the Experts, which is part of the Ministry of Justice. I only visited a local police station on three occasions, but I often heard from litigants and lawyers about interactions at police stations and about the

[28] This can alternatively be translated as 'in a peaceable, calm, or gentle way' (The Hans Wehr Dictionary of Modern Written Arabic)

importance of police reports for instigating or moving civil cases forward. In the course of this work I observed how the courts, the police, and lawyers all play a role in resolution strategies that prioritize mercy, patience, and the constitution of relationships and social networks. Moreover, as I discuss in more depth in chapter six, they circulation of documents between these institutional spaces and between people is critical for how they accrue meaning, make things happen, and act as mechanisms of translation. In order to situate documentary circulations, however, this chapter will focus on the courts, the police, and lawyers as specific nodes in the juridical field.

The police and lawyers mediate between the people and the law. Although closely linked to state power and legal institutions, these actors are inevitably 'of' the people, cognizant of and participating in customary strategies of dispute processing. In the historical record and in data from Port Said alike, we can observe the police and lawyers as active contributors to the strategies by which legal recourse might be infused with a sense of private morality or incorporate customary procedures.

On the other hand, the courts and the police are leveraged as sources of state power to make rights claims efficacious. The courts, inclusive of bureaucratic procedures, practices of judging, and expert review by the Ministry of Justice Office of the Experts, are both an institutional space into which my interlocutors bring their problems and a form of leverage that can be threatened and rescinded. I examine some of the scholarship on popular uses of the courts in Egypt in order to draw on these insights and consider the questions these studies raise before turning to data from Port Said.

Although the juridical field inevitably transforms problems that enter into it, as Bourdieu has noted (1987), *how* it transforms them is in focus here. For instance, my

consideration of delay illustrates both how delay as a procedural device can be a part of constituting ethical justice as well as a source of pressure to expedite rights claims by 'wearing down' the other party. Delay is a temporal strategy that both creates pressure and offers spaces for renegotiation. As cases wind their way through the courts over the course of years, litigants often seek ways to recoup debts and renegotiation solutions using alternate means; these alternate means are not simply adjacent to litigation but deeply intertwined with such litigation.

My analysis of the police and lawyering, in Port Said as well as more generally in Egypt, also takes account of some of the contradictions and tensions related to involving these actors in matters of private law. Just as the institutional spaces of the courts and the office of the experts intersect with extra-judicial modes of dispute resolution, lawyers in Port Said see their role in litigation and their relationship to clients as reaching beyond that defined in the early 20th century by law reformers. I examine legal representation in Port Said as a broad range of practices inclusive not only of litigation, the production of legal documents, and legal advising but also of mediation, advising, and representation in what are seen as customary modes. Lawyers play a critical role in moving disputes and transactions between multiple discursive and institutional milieus. This movement is integral to the production of meaningful and efficacious obligations, and in some cases for helping clients resolve their disputes

Bishakl wadī'

In matters of private law, people select moments to put the courts to work on their behalf. Many Port Saidians pointed out that it was shameful to go to court for almost any

reason because, in part, going to court makes a private matter public. At the same time, they seek to recoup debts, to get a settlement or compensation, in other words to "take one's right" (*yukhud ha'uh*). As such, the moral injunction to resolve a dispute peacefully and a belief in the appropriateness of solving a dispute *bishakl wadi‾'* is often in tension with economic need and a sense of legal right. This phrase is a distinctive phrase without distinct referents: to be 'friendly' or 'peaceable' may reference a diverse set of actions. It was simply posited as the best approach to large and small disputes over broken contracts and broken promises, unpaid debts and inheritance rights and the like, and involving parties who were socially close (family members, friends, spouses) and socially distant (strangers and acquaintances). Although what 'friendly' means is unclear outside the context of specific cases and explanations, there are some ethical discourses to which it can be linked.

The phrase *bishakl wadi‾'* is attached to ideas of civility, morality, and good upbringing. As Azza, an engineering professor at the local university, put it, it is one's duty as a Muslim to resolve problems *bishakl wadi‾'*. Moreover, she noted, Muslims believe that all those through 'the seventh house' are like family and should be dealt with as kin; it is particularly imperative to resolve all issues within the family *bishakl wadi‾'* rather than through the courts. By contrast, those who can't solve things *bishakl wadi‾'* lack *tarbi‾ya* (good upbringing), they are among the wretched who "swindle and do tricky things to get what they want," as one older fisherman described it. Abdel Kader, a neighbor, articulated the connection between *wadi‾'* resolution strategies and Islamic values by pointing out "people here don't want to go to court, they want to settle things quietly amongst themselves because that's what our religion says. The Quran is like a

manual for the VCR, it's a manual for our lives, telling us what to do in all situations, and we follow it." A good Muslim, in other words, resolves all problems with others *bishakl wadi‾'*, guided by his religion.

Nabil's description of what he does when he mediates is an example of how *bishakl wadi‾'* as an ideal moves between legal and normative orders. Nabil is a local supervisor in the Ministry of Education, a rumored secret informer for the government, and someone frequently called upon to mediate disputes in the neighborhood or in his extended family. A young woman who lived in his building pointed out that he is well-respected in the neighborhood not only because he is patient and thoughtful but also because he is pious. Nabil noted that whether or not people "solve their problems in a friendly way, a customary way" (*yiHalu‾ mashaa‾kl bishakl wadi‾', bishakl 'urfi‾)* depends on their behavior or manners (*sulu‾k*). He offered an example about two sisters and a brother who were involved in a dispute over a building they had inherited from their father. The brother did not want to give his sisters their share of the inheritance because, he argued, he had already given them their rights over the years by bringing them gifts when he would visit. Despite this poor excuse – it is expected that visitors bring gifts to those they visit – Nabil met with each sibling separately and convinced the sisters to forfeit their rights to partial ownership of the building. He described his mediation efforts as convincing them "from a religious perspective" (*min naa‾Hayyat id-dii‾n*), while also admitting that according to *shari'a* it was their right to take their share. "I told them that God will double their share in heaven, He will reward them for making peace with their brother." His attempt to help them resolve their problem *bishakl wadi‾'*, made moral claims: Nabil exhorted the sisters to be patient

and wait for reward in heaven. At the same time his recommendation directly contradicting *shari'a* in terms of the laws of inheritance. It was the sisters' right, according to *shari'a*, to inherit. But it was customary to give up this right and to do so was perceived as usual, friendly, and civil; this is not an uncommon practice.[29] Following this, the family members returned to the office of inheritance matters in the court and formally redistributed control of the property according to Nabil's recommendation.[30]

Unsurprisingly, this way of connoting good upbringing and civility is also a mechanism by which class distinctions are made amongst Port Saidians and is used to depict a kind of social geography of the city. *Al-zuhūr*, a large *sha'bī* (literally, 'popular', with the connotation of middle or lower class) neighborhood on the southwestern edge of town is often cited as a place where people don't or can't solve problems *bishakl wadī'*. This is linked to its demographics, although the specific demographic composition of the area is often sub-textual. Many people who arrived in the post-free zone waves in the late 1970's onward from small towns and villages throughout Egypt, and who are therefore not 'old' Port Saidians, live in *al-zuhūr*. For example:

> Some people make problems by hurting themselves [and blaming others]. Be we are such a kind family you won't ever find anything like this in our family. That would be in *al-zuhūr*. (Marwan)

> You'll find most crimes [in Port Said] happen in *al-zuhūr*. (CH: Why there?) Because most people who live there come from outside. (Donia)

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[29] See, for example Moors (1995). In addition, Shaham (1997) notes of Egypt in the first half of the twentieth century, "In many cases, subsequent to the death of the head of a peasant family, his male heirs arranged for the transmission of his property to their control without initiating any formal legal procedure. The deceased's sons (or, in their absence, his brothers or uncles) usually took control of his property. The deceased's female heirs – such as his mother, wife, daughters and sisters – did not initiate any legal procedure to realize their inheritance rights, and their welfare was taken care of by the men of the family. This kind of customary familial arrangement tended to break down subsequent to the death of one of the deceased's sons, which harmed the coherence of the extended family" (205).

[30] Although the phrase *bishakl wadī'* was used primarily by the many Muslims with whom I spoke, it was used by Coptic Christian interlocutors as well and is not attached to a strictly Islamically-defined morality.

To resolve a dispute *bishakl wadi‾'* means, in some instances, achieving reconciliation (*SulH*) by negotiating or through mediation with a third or additional intermediaries. In Port Said, this typically involves bringing in family members or neighbors who listen, ask questions, give opinions, and encourage the disputing parties to come to some compromise. At one end of the spectrum mediation might involve elaborate efforts to set up a meeting with a local politician to mediate a dispute between constituents; on the other end of the spectrum are spontaneous mediations that happen in the street following a car accident, as bystanders gather around the cars, calm the drivers and discuss who might be at fault and how he should compensate the other party. In addition, as will be discussed below, lawyers sometimes serve as mediators for parties to a dispute. One common thread that runs through the various manifestations of friendly strategies is talk. Talking to one another, either face-to-face or through intermediaries, is a gesture of good faith and civility. Talking problems out is a process by which morality and civility are inculcated and good relationships are built in the community; the ability and willingness to do so is evidence of these characteristics.

A middle-class trader reflected on the qualities of a good mediator, the ideal procedures of customary mediation, and how living in an urban place made it difficult for mediation to be successful.

> In the countryside people know each other because it is like one place and one family. But here, [in Port Said] people live far away from each other because the city is big…My mother's cousin is one of those people who solve problems. His word is strong. He settles disputes among people without the intervention of the police or the court. His word is like a sword (*kalāmtuh saif*). However, it is not only one person; there are usually three persons in such sessions. These persons are the best people and they are characterized by being religious, kind, highly respectful, and rich so that money cannot be a point of weakness and no one can bribe them. Before solving any problem they write two honesty receipts, one against each party. The person declared to be in the wrong pays the amount of

> money written in the receipt as a compensation for the damage he inflicted on the wronged party. The wronged person can forgive him and refuse to take the money, or he can decide to give it to the poor, or he can keep the money. The amount of money is decided by the mediators according to the scale of the problem, and only the party declared to be in the wrong will pay."

Initiating litigation disrupts the flow of non-legal strategies. At the same time, although raising an action in court seems contrary to 'friendly' strategies, crossing this line is not permanent or irrevocable. In fact, it can re-instigate efforts to resolve the problem *bishakl wadi¯'*. Often, a civil action is raised when other resolution efforts have reached a stalemate, or when the terms of a resolution have not been followed through on. In response to receiving official notification from the court that one is named in a lawsuit, the defendant may redouble his efforts within the *bishakl wadi¯'* repertoire to assuage the first party.

Yet it is also the case that sometimes pragmatic concerns, or even a desire to seek revenge on another party, trump the ideal of resolving disputes in a friendly way. The data from Port Said makes clear that my interlocutors are often juggling their personal fiscal concerns and their desire to maintain and build social ties, their property rights and the moral directive to resolve problems *bishakl wadi¯'*.

The Courts

Before moving on to my own data on the Courts of First Instance in Port Said, I shall first consider other scholarship on popular uses of the courts in Egypt. There is little legal ethnography of Egypt, and scant scholarly discussion about the perception and use of the courts in everyday life. The most prominent examples of such research are those of Hill (1979) and Brown (1997). Both scholars consistently point to the complex

strategies Egyptians employ in relation to dispute resolution, including the use of customary law, or what might broadly be considered informal dispute resolution and mediation processes, in conjunction with state law. Hill's work, *Mahkama! Studies in the Egyptian Legal System, Courts and Crime, Law and Society* (1979), describes aspects of Egyptian law and procedure, lays out the structure of the courts, and analyzes select cases. Hill provides sketches of sessions in the family court and the types of interactions occurring between lawyers, judges, clients, and other court personnel, and devotes a chapter to criminal activities and their legal processing by the public prosecutor.

Most useful for our purposes here, she addresses property law through an extensive discussion of a dispute over lease rights to a piece of property near Alexandria. She illustrates a process of alternating strategies employed during a number of 'episodes' of engagement between the parties. When the dispute arose, the original lease contract was consulted, with differing interpretations as to its implications for each of the two primary parties; registered letters were sent back and forth articulating expectations regarding the contract and the renewal of its terms, a civil case was eventually raised in court, and criminal charges were brought in relation to an attack on the property by relatives of the renters who tried to forcibly take possession of the property. Interspersed with these legal actions, the three parties (the owner, renter, and the Bedouin watchman who became involved because of the attack on the property) met multiple times to discuss options regarding a solution to the (by then multiple and interrelated) disputes; some of these meetings were presided over by a *shaykh* acting as mediator. Although Hill's data is generally under-theorized, she makes an astute observation in concluding:

> Whereas property owners may constantly have litigation in process to protect or redeem their property rights, actual settlement will, more likely than not, be by

> means of private negotiation and compromise. That is, those who have the personal relationships at their disposal by virtue of being of the same social status do this. [121]

There are some parallels with Brown's analysis of civil cases. Nathan Brown's work on popular uses of the court and business and the courts, which comprise two chapters of his book *The Rule of Law in the Arab world*, was presumably based on qualitative research and offers some detailed analysis of litigant strategies regarding sample cases. These cases, as described by his interlocutors, reveal various bargaining and mediation strategies that accompany legal action in various types of cases. Brown takes an instrumentalist approach to the study of popular uses of the courts, noting that the courts are one tool among many that Egyptians use and that "The extensive use of the courts by working- and middle-class Cairenes in marital disputes suggests that the formal legal system is hardly seen as the forum of last resort…Yet the courts are hardly seen as a forum of first resort either" (1997: 200). This is a rather broad observation, although he seems to be suggesting, based on his discussion of several marital dispute cases, that litigants' strategies involve the simultaneous use of multiple forums.

The narrowly instrumentalist approach Brown takes doesn't adequately address the social dynamics and mechanics of court usage. It is not enough to say that Egyptians use multiple forums (including formal litigation and informal mediation) in strategic ways, because this does not move us closer to seeing how differential access to power underwrites particular strategies or the way legal norms and traditions intersect in practice, but rather situates parties as equal players and forums as distinct. Moreover, Brown's argument takes for granted the idea that state law is fixed, rather than shaped by usage and interwoven with other legalities

Both of these works contribute to what we know about law 'on the ground' or as an aspect of everyday life, about how Egyptians rely upon plural legalities in seeking resolutions and making agreements, and point to the use of particular kinds of documents in relation to these processes. Yet Hill and Brown ultimately raise more questions than they answer. Neither adequately addresses the question of why people combine and layer multiple strategies in they way they do. How does the interplay between informal negotiation and litigation impact resolution? What are the social implications of making a problem into a legal case, or insisting on legal surety rather than relying on a promise? Neither do they investigate the mechanisms integral to the movement between legal and normative milieus in the process of resolving disputes and securing transactions. What role do lawyers play, if any, in what appear to be 'customary' mediation processes? How are the documents in use (contracts, commercial documents) interfacing with other legal documents (police reports, legal briefs, experts' reports)?

Documents, their production, exchange, and movement between institutions and people and between people, as well as actors that operate between the institutional and non-institutional realms such as court clerks, lawyers, court-appointed experts, and the police are all involved in these processes and yet often neglected. Litigants do not proceed alone but are accompanied in their transactions and disputes by objects and other players. I turn now to Port Said and its courts.

Egyptian state law and its courts are a particular kind of resource. As noted previously, Cover argues that law is a "resource in signification" (Cover et al. 1995:100). State law is a locus for the contestation and production of social meaning; the authority of

its institutions and discourse make it a particularly powerful arena.[31] When Port Saidians turn to the law in the context of resolving a dispute (by initiating a legal case), or preemptively obtain a commercial document to secure an agreement (and, as we shall see in later chapters, secure non-monetary agreements in this way as a form of legal fiction), they draw upon the power of the state to legitimize and back up their claims even when they don't intend to pursue a legal case through to a judgment. They deploy state law as one source of authority among others, allowing it to transform but not utterly subsume the trajectory of a resolution process. In these types of practices state law is seen not merely as a structuring agent, but also as a bargaining and regulatory endowment (Galanter 1981). Galanter shows how this is manifested in the importance of courts as "sites of administrative processing, record-keeping, ceremonial exchanges of status, settlement negotiations, mediation, arbitration, and 'warfare' (the threatening, overpowering, and disabling of opponents) as well as of adjudication" (1981).

While it seems contradictory, it may be the case that Egyptian courts are a bargaining and regulatory endowment in part because they are overburdened, viewed as inefficient, and to some extent, as corrupt. According to the Ministry of Justice Yearly Legal Statistics report, there were 1,462,897 civil and commercial cases and 124,208 criminal cases under review in 2002; this massive number of cases was presented before a total of 267 Summary and Primary courts.[32] More dramatically, Brown (1996) notes that the Ministry of Justice reported that more than twelve million cases came before the

[31] In his discussion of law, Bourdieu (1987) also posits that the juridical field is a site of contestation. Yet he is more focused on arguing that state law is not an ontological entity but rather a site of *internal* struggle for control over meaning; while a useful contribution to thinking about the legal system, he doesn't address broader issues of how law is a site of contestation and signification in society more generally.

[32] Sources: Egyptian Ministry of Justice Yearly Statistics report, 2002-2003, and Egyptian Ministry of Justice "1985 – 2005 The Egyptian Cabinet IDSC, ARE. (website, accessed September 15, 2005: http://www.idsc.gov.eg/English/MainIssues/issues-indicator-detail-xml.asp?MainIssue_id=142&issue_id=145&indicator_id=4749)

courts in 1991, although he points out that the actual numbers are likely much lower. While precise numbers may not be available from the Ministry of Justice, it is generally the case that the courts are overburdened. This situation was summed up for me one day by a lawyer who'd been practicing law for over twenty years in Port Said:

> Well, you find that in one session (*galsa*) there are about a hundred civil cases discussed. The judge will listen to a few words in each case and take any papers related to each one. After the session and before the next one, the judge reviews the papers in an attempt to understand everything about each case and then he gives his decision. In this way, *no* case is given the proper attention.

In his volume on privatization and legal reform in Egypt, Bahaa Ali El-Dean notes that, according to a Ministry of Justice report on the causes of backlog and delay, the average civil litigation requires between thirty and forty appearances before the trial judges, stretching over three years or more. Moreover, each step entails some form of postponement. El-Dean proposes that the causes of delay are rooted in a shortage of judges, poor case management, the referral of cases to the Expertise Office of the Ministry of Justice, and procedural laws governing litigation, which permit extensions that "are often abused by litigants to introduce delay" (El-Dean 2002:225). El-Dean's findings reiterate the assessment of the American Chamber of Commerce in Egypt (AMCHAM), which issued a report to the Egyptian government in 1996 on private sector development. The report addresses, among other impediments to development, rule of law issues and noted: "the court system suffers from a lack of staff, poorly trained judges, a unreliable enforcement of rulings. In addition, procedural laws allow for a plaintiff to delay proceedings for months and even years by continually extending the discovery process" (Rutherford 2008: 208). Barriers to justice such as those mentioned by Rutherford and El-Dean form the rationale for several interrelated long-term legal reform

projects funded by USAID-Egypt. The Administration of Justice I and II projects, initiated in the late 1990's and currently ongoing, were intended to implement changes in the courts throughout Egypt including building renovation, improved signage and public information, training of judges and clerks, and computerized and coordinated record-keeping. The USAID Family Justice project is focused on continued improvement of the new family courts and offices of mediation that were put in place in 2004. Despite these major projects, few improvements had been felt in the courts in Port Said by 2005, although most recently (2009) some renovation on the building had begun. Let me take up and extend El-Dean's (and AMCHAM's) assessment of delay and inefficiency using the data from Port Said.

Poor management of cases is to some extent due to practical limitations: court clerks in such important administrative positions as the notification department work without computers or adequate filing systems. Office desks and shelves are piled high with folders full of handwritten documents. Although the courts are beginning to undergo the transition to computerization and the storing and sharing of information via databases and networking, through a major project funded and directed by the United States Agency for International Development, this project was still in its initial phases during the period of my research and hadn't impacted most day-to day court operations in Egypt. One day I sat with Donia, the secretary to the *wakīl al-niyāba* (a representative of the public prosecutor's office) at the Port Said courts. In talking about her job as an *amin al-sirr* (a clerk responsible for maintaining and recording private documents), she pointed out that she wrote everything by hand, both during investigations out in the neighborhoods and in the office. I asked about the filing system and whether it was

difficult to find requested files for particular cases in amongst the stacks that surrounded us. I pointed out that the windows were always open and asked whether documents ever blew away. She and the two other clerks in the room exchanged a laugh and admitted that sometimes they did. But in general, she assured me, they knew where everything was. Donia took down one bundle, untied the string that held together dozens of thick files, and showed me that the stack was of cases originating in one neighborhood, each one labeled in neat handwriting with a case number and case numbers grouped in order. Despite the appearance of disorder, this office and others with stacks of handwritten files adhered to an internal order. A perhaps unintended benefit of socialist-era government employment policies is that civil servants like Donia continue on in the same position for decades; their institutional knowledge is integral to accessing information in an obsolete bureaucratic environment.

Yet the absence of computers and databases for storing and sharing case file information between offices also means that information can go missing more easily. Brown reports that the positions of *amin al-sirr* and *muHDir* (bailiff and process-server) are perceived as most corruptible amongst court employees. They are charged with "losing key documents, delivering papers to the wrong address, forging signatures to indicate that papers were served that actually were not, and failing to find a valid address – often in return for a bribe from one of the litigants" (1996:193). The prevalence of these types of activities was confirmed by a number of clients and lawyers in Port Said. Michael, a client of Noor's, had several stories along these lines. Michael has been involved in almost fifty legal cases with his ex-wife over the past decade. One afternoon in early 2006 he arrived at the court to attend to one case when a lawyer greeted him and

asked why he hadn't been at a session earlier that day. When Michael asked why he should have been at the session, he learned that a case in which he was a defendant regarding an honesty receipt he claimed to be forged had gone before the judge. In his absence, he'd been found liable and received a three-year prison sentence. He estimated that a clerk had been bribed so that he wouldn't receive notice to appear in court, and he and his lawyer would therefore miss the opportunity to submit evidence and a brief to the court in contradiction to his ex-wife's claim. He explained:

> The trick is as follows: I have several places where I can stay [apartments he owns or rents], and I still have them. One of these flats is on the beach and I go to stay there just in the summer every year. I don't go there a lot because it's on a high floor and there's no elevator. Yet it's written in my name [rented or owned by him]. When they went to inform me, they went to this flat. Of course they didn't find me, or anyone, there and that was it. At the court, I was informed [in the notification office] that this was my address. So the notification is correct. But I don't go there [regularly] so I didn't know.

He later discovered the notice waiting for him at this address. His assumption of how it came to be delivered there rather than his regular address is based on his experience with the courts over the years. Having suffered (and perpetrated, he indicated with a mock-innocent gesture) a similar deceit in the past, Michael assumed that his ex-wife's lawyer had bribed someone in the notification department to send the notice to this vacation apartment instead of his full-time residence. The clerk could not be accused of wrongdoing because the address was correct, but the strategy assured that Michael would not receive it on time. Because strategies involving 'losing' key documents and failing to deliver notifications from the court occur with some regularity, Brown points out, judges are often willing to delay cases if a needed document is not in the file or a party doesn't appear (1996:193). This is one of many circumstances that delay cases, often repeatedly.

Throughout 2005, the lawyers I mostly rotated between seven lawyers, Mustapha, Salma, Noor, Abdullah, Aly, Hamdy and Hossam, all of whom talked to me about their cases, introduced me to clients, gave me copies of documents from case files, and let me accompany them to court. These lawyers, and others with whom I spent less time, assured me that they were well versed in strategies for delaying cases to the advantage of their clients. These included finding ways to ensure that a case will have to be referred to the Ministry of Justice's Office of the Experts for review of a technical matter. Typically, a lawyer will submit a contestation or appeal (*Ta'n*) to protest the validity of an aspect of the action or claim against their client. Following this the judge will order a review by the expert's office. For example, a lawyer might submit an appeal on the basis of forgery (even if the defendant did actually sign the document under dispute), contesting the claimed value of an agricultural plot or the structural integrity of a building (if the case involves a dispute over property). Like the courts, the expert's offices are overburdened by cases to review; in fact, judges like to refer cases for expert evaluation because it is a quick way to remove a case temporarily from the docket.

Parties to a case and witnesses may have to visit the expert's office many times over the course of a year or longer to give testimony and provide documents and other evidence. For instance, in a dispute over property neighbors may be brought as witnesses to testify that a party has been residing at or using the property, or to testify that a certain crop has been grown on the land. Referrals to the office of the experts are a delay strategy for the benefit of the judge or one or both parties. At the same time, these mandatory meetings at the office of the experts provide a space in which litigants are forced to interact with one another and during which they can voice their claims or

willingness to renegotiate. In other words, these court-mandated meetings often provide the opportunity for 'informal' negotiation. The procedures followed in the experts' offices are far less formal than during a formal hearing.

The experiences of the el-Sayyid family illustrate both of these potentialities of expert review: their role in delay and in providing opportunities for negotiation. Nineteen members of the extended el-Sayyid family had been involved in a dispute over inherited farmland with one family member, Ramadan, for over twenty years. Attempts at resolution had initially been conducted solely through customary proceedings in the village where the property was located. But in the late 1990's a lawsuit was initiated, which ultimately gave rise to three additional lawsuits involving different sets of family members against Ramadan. According to Dr. Alaa, a nephew of Ramadan, both sides of the family were using legal cases to wear one another down. In order to do so, family members regularly introduced new evidence into ongoing cases in order to initiate more review processes through the experts' office.

On a warm day in June I rode with Mustapha and three members of the el-Sayyid family from the courthouse to the south end of town. After passing through customs we drove for another ten minutes or so to reach the south police station (*qism shurta al-janūb)*. It was a small, one story building on a dusty plot, an old building with screen doors, concrete floors. We were immediately ushered into the office of the vice inspector (*nā'ib ma'mūr)*. He sat behind a wooden regulation desk, and a low-ranking officer stood next to him greeting us. Mustapha and I sat on the couch in front of the desk, and two of the family members, Dr. Alaa and his uncle, Bashir, sat in chairs adjacent.[33]

[33] I relate this because, guided by Samer Shehata's interesting work on power relations and organizational culture in Egypt (2003), I was often keenly aware of where everyone was sitting in such meetings. The

After a fair amount of friendly chatter and the serving of soft drinks and tea – it was clear that everyone knew one another quite well - Mustapha and Bashir gave statements regarding one of the pieces of property under dispute. Bashir's report asserted that his brother Ramadan had done damage to a piece of land that was under dispute in an ongoing lawsuit. Neighbors had reported recently seeing Ramadan burn and till under the crops on this land, after which he'd covered it with hay and brought cows to graze on it. This was apparently a strategy to support his claim to the agricultural expert that the land was not usable for agriculture and therefore not as valuable; family members were claiming in this case to be owed profits from the agricultural production on the land.

Bashir's police report was intended to instigate an investigation by the agricultural engineer assigned to the case at the Office of the Experts; he wanted to make sure that the engineer promptly resurveyed the land in order to establish that it had been recently tilled under before the evidence was difficult to obtain. The police report would be added to the case file, joining other police reports and documentary evidence submitted over the years. Previously the parties to the case had been required to report to the office of the experts to give testimony and provide documents (such as deeds, maps and receipts) related to the value of the land in question it's size, what crops were being grown on it, and how much was earned yearly from the property, and this police report would result in another such meeting. A police brief is among the many types of

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seats one takes or is given in an office such as this is often an indication of the relative status of the people in the room. Most institutional offices I visited had a large desk with two chairs in front of it that faced one another, rather than the desk, with a small tea table between. Beyond this there might be any number of chairs and couches for others to be seated upon. Being called up to sit in the front-most chairs is a signal that the individual or his/her issue is important; being asked to leave these seats for ones further from the desk is a dismissal of sorts.

documents introduced as a way to create delays, in that each document instigates an additional step in the legal process.

Hence, the expert review process causes cases to drag on interminably and therefore aid litigants by putting indirect pressure on the other party to drop a lawsuit or give in and negotiate an informal settlement. At the same time, the procedures involved and the informal setting of these meetings also promote interaction among the litigants that create opportunities to put direct pressure on the other party, or conversely to re-instigate friendly negotiation. I visited the Office of the Experts four times with members of the el-Sayyid family in 2005, and once on my own to interview the supervisor of one such office. On average, the meetings I observed lasted about an hour and were attended by Ramadan and his lawyer and a handful of family members from the opposing side and their lawyer, although one meeting I attended lasted four hours and was attended by over twenty people (which included the litigants and witnesses from both sides).

In the instances I observed, members of the family, including Ramadan, sat near one another on couches and chairs in the small office as the expert asked questions and recorded responses on large sheets of paper by hand. During each of these meetings, those present made off-hand comments about the situation, joked with one another and bantered. The expert did not attempt to create a more formal atmosphere but participated in the banter while also gathering testimony. Litigants take these opportunities to show a willingness to talk, which can lead to extra-judicial negotiations that may effectively resolve the dispute. This had happened previously with the el-Sayyid family, although those negotiations fell apart and family members took their dispute back to court.

But the meetings are also a space for asserting authority. As we left the office one afternoon, two members of the family began to fight loudly with one another, screaming insults and threats with such ferociousness they had to be physically restrained by their lawyers. These arguments and off-hand insults made during the meetings with the expert display tenacity and an unwillingness to compromise or renegotiate. As Mustapha commented following one such heated argument at the experts' office, the other side needs to know that his clients will never bend and that they are prepared to fight for their inheritance.

Procedural laws ease the strategic use of delay and create spaces for extra-judicial resolution. For instance, Abdullah described a case he was working on presently involving a mother and daughter who had purchased goods on credit from a small store and then found themselves unable to pay the installments. The shop owner raised an action against them in court using the honesty receipts they had signed as surety. Abdullah planned not to attend the session, and had advised his clients not to attend either; when and if the judge passed a sentence against the mother and daughter, Abdullah would in turn raise an appeal to reject the sentence based on the fact that they hadn't been present for sentencing. The case would take a couple of months to reach the appeals court, after which it would take several more months for the case to move back to the primary court to receive a date for reinstatement of the original judgment and its validation. By this time, the two women would have had enough time to save the money they owed so that they could repay it and have the case dropped entirely. The delay is the simplest way to buy more time to repay the debt. Although this strategy wastes court

time and resources, there do not appear to be any consequences for either lawyers or their clients who elect to pursue this course of action.

Although statistical data was impossible to obtain in relation to false claims of forged evidentiary documents as a delay tactic, it is evident from my interviews with lawyers, clients, and court clerks that it is an exceedingly common strategy. Several lawyers noted that introducing forgery to delay the proceedings is so common that that the Ministry of Justice Office of Experts in charge of forgery claims has become increasingly backlogged and inefficient. Lawyers rely on forgery claims as a procedural device to interrupt the proceedings and question the merit of the primary evidence, submitting that it was wholly or partially forged in their client's name.

I often raised the question to lawyers about what legal deterrents might exist to curb the practice. There are few, it seems. If a defendant argues that a check, for instance, was forged with his signature, the plaintiff is responsible for paying the fees associated with the expert handwriting evaluation to prove otherwise. Therefore, the financial penalty lies with the plaintiff and not the defendant, who makes the false contestation. Moreover, the fee for handwriting analysis by the forgery experts' office is variable and calculated as a percentage of the amount of money at stake in the case (for instance if the forgery claim is related to a check). This means that the larger the sum stipulated in the document under review, the higher to fee for the plaintiff to prove that it is an original, unforged document. In addition, if a document or signature is found to be real after the review process, the party falsely claiming forgery can be brought up on criminal charges. However, Aly, a lawyer with a private practice as well as an appointment in the legal department of a local company, insisted that although the law

allows this, the judge rarely directs the case to the public prosecutor to pursue charges. Typically, the false accusation of forgery only results in a small fine.

Endless delays and inefficiencies in processing cases are such well known-features of the Egyptian courts that frustrations manifest themselves in well-known parables. Marwan, a young web designer and primary contributor to a web site on the history of Port Said, brought his father and sister to visit my husband and I one evening. As we sat with soft drinks chatting about the website, which also serves as a virtual community for Port Saidians, the topic of the Egyptian legal system came up. Marwan immediately laughed and, practically in unison, he and his father declared 'the donkey will die!' By way of explanation, Marwan's father told me a parable of Goha:

> Goha says he will teach a donkey to speak and give it to the king as a gift. But, the people asked, how is such a thing possible? It would take forever to teach a donkey to speak! Goha replies that it will take him forty years. By that time, the donkey will be dead, he (Goha) will be dead, and the king will be dead. So it won't matter!

In other words, Marwan pointed out, if you take a case to court, by the time the issue is resolved, everyone involved will be dead so it won't matter. In telling me the parable, Marwan and his family members expressed a sense of bemused irony about the perceived failures of the legal system. It doesn't matter, they emphasized, because it's better to work things out *bishkl wadi¯'* anyway.

Delay is a well-known feature of the Egyptian courts, due to both legal strategizing and bureaucratic inefficiency. This acts as a temporal, as well as monetary, source of pressure that litigants can put to use to redirect the course of litigation back into informally negotiated settlements in relation to litigants' pragmatic concerns as well as their ethical concerns to resolve problems *bishakl wadi¯'*.

The Police

Although the cases I observed were largely civil cases, it is critical to note the way in which the police played a role in leveraging legal authority in disputes. It is not unusual for Port Saidians to establish a property claim by making a statement at their local police station, as seen in the el-Sayyid case described above. The police embody both the coercive power of the state as well as a resource for reconciliation and access to justice. As will be shown, these two are not mutually exclusive. As representatives of state power interactions with the police can be productive, allowing people to access and marshall state power in their practices of private law.

Mahmoud's story may be a point of entry into the contradictory role the police play in matters of private law. Mahmoud is a fixer, the right-hand man to Dr. Ahmed Salama, a wealthy physician from a well-known family in Port Said. Mahmoud has worked for Dr. Ahmed since he was a teenager and helps him manage his real estate holdings in Port Said, runs errands, does plumbing work, acts as his local driver, and performs myriad other tasks complex and menial. But he and the doctor had recently gone through some difficult times and Mahmoud was no longer working for him consistently. Instead, he had begun purchasing used Hyundai cars, fixing them up, and reselling them. Most of his sales were to men who would then register the cars as taxis and rent them to other drivers for a small profit, and they typically purchased the cars from Mahmoud on credit and paid back in installments.

One evening we sat in his apartment in *al-marwa*, a neighborhood of government-subsidized apartment blocks on the southwest edge of Port Said. It's a small and neat apartment, filled with the elaborate gold furniture in the style common among young

middle-class married couples in Egypt today, and was pleasantly warm for a cool January evening. Mahmoud was relating how his father's cousin had his driver's license suspend following an argument with a police officer. Mahmoud was particularly concerned with the situation because this man owed him a significant amount of money and hadn't been able to pay it back following his run-in with the police.

> M: I wasn't there. But they say that Abu Amru was about to hit a car, so in order to avoid this car he swerved and almost hit the police officer's car. He didn't actually hit the officer's car but the officer was vain and shouted at him. So Abu Amru shouted back and they argued with each other. The officer let him go, but the following day he sent for him. He took his driver's license, and suspended the vehicle from being driven for five months. He is a family man and at this time his daughter was in high school! The officer didn't care about his situation. We even sent mediators to persuade the officer to give Abu Amru back his license so he can work for others, so that he can live and have money for his family. But the officer was so cruel. This officer didn't give him a chance, so he simply couldn't provide for his family. One day I saw him crying deeply and he told me the whole story. He also told me that he decided to stop the private lessons his daughter takes in order to graduate from high school because he doesn't have the money. I felt so sorry for him and gave him the money to pay for his daughter's private lessons. Of course, I knew he couldn't pay the installments [he owed me].

At this point, we discussed the mediation he arranged with the officer. Although Mahmoud didn't go down to the police station himself, he had convinced some of Abu Amru's friends and some other police officers to go down and talk to the man. Despite this pressure, the police officer refused to revoke the suspension of Abu Amru's license or the car, and there was nothing left to do but wait for the five months to pass. Mahmoud's experience resonates with other stories I heard in which people sought to plead with a police officer to be merciful. In such an instance the officer is viewed not strictly in his administrative or authoritative capacity, but as a moral man whose sympathies may be brought to bear on the situation.

Our discussion of attempts to mediate with the police officer led to my asking whether Mahmoud had ever gone to the police station to file a complaint in relation to his business dealings.

> M: Sure, I would go [to the police] if someone hasn't paid for 4 or 5 months.
>
> CH: What's the goal of going to the police at that point?
>
> M: Going to the police station is a kind of threat and puts pressure on the client to start paying. Otherwise, I will take the car [back].
>
> CH: Because the police call them down to the station…?"
>
> M: Well, I fill in a blank honesty receipt that they've signed and go to the police station. I inform them that this is a receipt with the amount of money the man owes me. I'm accusing the client of the crime of betraying the trust (*khiyānat il-amāna*). Of course, first the police station will call him down and ask him why he didn't want to pay and give him a warning. If he pays [at that point] everything is okay. But if not, the case goes to the public prosecutor and then to the court."
>
> CH: How do the police interact with someone in that situation?"
>
> M: They talk to him first in a good way (*bishkl wadī'*) to convince him that it's right to pay one's debts. [If this doesn't work], then they follow the procedures…Of course, I don't actually ever go to the police station myself. When there's a problem, my lawyer handles everything for me.

Mahmoud notes that the police begin by asserting what they see as a general rule – that it is right to pay one's debts. In so doing, the police are marking out the bureaucratic space of the police station, and their duties, as inclusive of moral exhortation.

Let me first address the police as a source of repressive power before moving on to consider their role as mediators. In Timothy Mitchell's analysis of peasant politics in mid-twentieth century Egypt, the violence perpetuated against peasants by both government forces and by the landowning class created an 'economy of fear' (2002).

Mitchell further argues that power imbalances were sustained through local practices of regulation, policing and coercion, and such imbalances are in turn mobilized by the 'center' (government forces) for its own purposes. These levels of coercive power and the way they interface are important for understanding the way police power is manifested in contemporary Egypt. According to some analysts, such an economy of fear persists today.

In Egypt, the police are under the administration of the ministry of the interior and as with other ministerial departments deployment and training of the police force are centered in Cairo. In 2004, President Mubarak delivered a speech on Police Day, during which he noted that: "'those in authority, and in a position to implement the law', should be 'at the forefront of these believers [in human rights]', since upholding the law and implementing it expediently to protect the citizen's rights are key prerequisites for successfully applying democracy."[34] Despite Mubarak's vision of the police as protectors of human rights, Human Rights Watch, Amnesty International, journalists and scholars continue to assert that the police rely upon intimidation and force in their interactions with the public. Torture, abuse, and illegal and unwarranted detention by Egyptian police are themes addressed periodically in the international media and in reports issued by rights groups. Moreover, the sensitivity of the state towards accusations of police abuse can be seen in censorship practices and the arrest of those who seek to

[34] As reported in Al Ahram, 29 January-4 February, issue 675, "Human Rights Message on Police Day" by Nevine Khalil, 2004.

publicize the issue.[36] More recently, police abuse has become a topic of concern among young bloggers.[37]

At the same time there is a history of the police serving more benignly as intermediaries between the state and the people in Egypt. Fahmy (1999) provides insight into how Egyptians saw the police in nineteenth century Egypt, analyzing police records to draw conclusions about whether or not the police were accessible to people and perceived as an avenue to justice or simply represented the oppressive power of the state. In the era of Mohammed Ali's khedival rule (1905-1848) the nascent police force was reordered and made into an efficient force that penetrated into most regions of the country both rural and urban. Contributing to the efficiency of this police force was the existence of levels of inspectors and spies beneath the police, such as the shaykhs discussed by Toledano (1990), who provided the police with information on local residents.[38] Although on the one hand these elaborate networks transformed police stations "from stationary government buildings into vibrant nerve centers with tentacles spreading throughout the urban and rural fabric eventually enabling the state to control and manipulate society in unprecedented ways" (Fahmy 1999:351), police stations were also a resource for dispute resolution within communities.

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[36] Among other examples, in 1998, the secretary general of the Egyptian Organization for Human Rights (EOHR) was arrested following a report published by the organization on police abuse of Coptic residents of the Upper-Egyptian village of al-Kosheh (Pratt 2000).

[37] See for example "Isolated Incidents" by Karim El-Khashab, Al Ahram Weekly, 7-13 December, 2006, Issue No. 823. Blogs include, for example, www.globalvoicesonline.org, arabist.net/arabawy, and others.

[38] Toledano (1990) examines the different kinds of shaykhs that existed in Egypt's cities in the nineteenth century. In particular, he compares the work of neighborhood, quarter, and guild shaykhs and their respective relationships to the state. In contemporary Port Said people often make reference to the shaykh al-hara, whose job it is to keep tabs on a particular neighborhood and who can then be called upon as a witness to verify accounts involving people's whereabouts, occupation, marital status, and so forth. See also Tollefson, 1999 on policing in the 19th century.

Police stations were sites not only for enforcing law but also for interpreting it (361). Fahmy notes that individuals were aware of the different jurisdictions at their disposal, including the *mahākim shari'a* (religious courts) and the *majālis* (councils or courts based on Ottoman laws), yet did not assume that the *majālis* were 'secular' and thus philosophically distinct from the *shari'a* courts. He points out that "the police with their *siyisi* [political/state] laws were often thought of as a means by which people could achieve what they understood as their *shar'* rights" (362). This is illustrated by a number of cases in which people turned to the police as a first resort in matters relating to *shari'a*-based rights of dowry (for instance, competing claims between a divorcing couple over rights to the household possessions) and inheritance. The police in such cases were approached by individuals to assess the legal basis of their claim to rights and charged with pushing the case forward.

In this vein, Fahmy argues that police stations were 'enabling' sites, where people sought refuge, and where they chose to bring conflicts out of a sense that the police would assist them in their complaint. It is easier to see why this was the case in criminal cases; the nineteenth century ushered in a new era of forensic medicine that these police had at their disposal to draw conclusions about guilt and innocence that could later be used at trial. Fahmy demonstrates that there was an increasing awareness among the public that the police station was a site for investigations that relied upon new scientific methods, and for investigations that followed procedures designed to ensure a more impartial justice.

It is possible to see from Fahmy's work that the police have historically been a resource for conciliation efforts. My own data suggest that the police continue to play a

complex intermediary role between the people and the state in relation to contemporary dispute resolution practices. Their authority is built on a connection to state power, yet they are simultaneously 'of' the people and sometimes attempt to help disputing parties reconcile and employ a moral, rather than legal or bureaucratic, language.

The police are simultaneously feared and the object of sympathy in Port Said. For instance, the police rank and file, in their ill-fitting white summer uniforms with wide black belts, and black wool winter uniforms, tend to illicit more pity than worry from local citizens. *Shurtī* who patrol the city are more visible than the less numerous and more cloistered high-ranking officers, and these officers are the poorest and least educated on the force, often from the rural areas of Egypt. Although they are civil servants and thus receive benefits and a pension, they are poorly remunerated and stand little opportunity for advancement.

Shurtī are sometimes the enforcers of laws that residents perceive as unjust and sometimes collaborators in petty illegalities. Um Rachid's interaction with a local policeman serves as one example. Um Rachid is a gregarious woman who lives a difficult life in a shantytown on the outskirts of Port Said. Her Palestinian husband brought her to Libya for many years while he worked, and then returned to Palestine leaving her and their two pre-teen daughters to fend for themselves in Egypt. In telling me about her life, Um Rachid jokingly pointed out that she was a man, holding her smoldering cigarette between thumb and forefinger as if to reinforce the image. As she described it, each day she awoke to face another day of trying to survive and raise two girls without the support of a husband or other family members. This included frequent visits to Salma's law office where she was able to fill her water bottles in the office

bathroom because her hut lacked running water. "What can I do?" she asked me one day, rhetorically, and with a hearty laugh pointed out that now she was headed for jail.

> We had an apartment, but I was trying to get a government (subsidized) apartment. So just at the time when I left the old apartment, gave it up, to show that I had no home, someone else was given the government apartment. So what could I do (*Hasl ēh*)? I built a hut (*'isha*), with these hands. I brought some materials and made a big room for sleeping, a small kitchen, a small bathroom, and that was it (*khalāS*)! A hut. No water, but a place to live. But I made it on government land, in *zir-zara*.[39] While I was building it, a policeman came along and asked what I was doing, saying it was forbidden. When I gave him 10LE, he smiled and asked if he could help! (she laughs broadly). But when I finished the hut, they came for me anyway and took me to the police, saying it was illegal. Now, I'm supposed to go to jail for a year and pay a fine of 1000LE.

In her discussion of the incident, Um Rachid conveys the idea that offering money to a policeman to induce him to overlook her illegal shanty is not particularly unusual or risky. The policeman was seemingly enthusiastic about the exchange, and there was no sense of severe consequences for bribing a low-level official. The policeman represents state authority only marginally; for the most part, he is simply a poor *shurtī* struggling like Um Rachid to make ends meet. Um Rachid and others build their huts in *zir-zara* and in other shantytowns in Port Said with the expectation that they will be able to work around official policies that prohibit informal housing in these areas, in part by bribing police officers. The police are shown to protect and assist citizens not necessarily in the course of carrying out their duties, but by neglecting such duties and 'looking the other way'. Only later, when the local administrative office becomes involved and sends policemen out to arrest her, do the police come to represent a source of repressive power.

[39] *Zir-zara* is an area on the outskirts of Port Said, near the bus station and the industrial areas, where there are a number of huts like the one she described. *Zir-Zara* runs adjacent to one of the main garbage collection areas for the city.

The relative ease with which people often interact with *shurtī* on the street in the course of daily life can be contrasted to visiting a police station, the domain of higher-ranking officers. To some extent, connections (*wāsiTa*, in Egyptian colloquial, *wasta*) ease entry into this space of authority. Ahmed, a young unemployed teacher, explained his own view of the local police. He noted that some time back an acquaintance of his had stolen several hundred Egyptian pounds from him by failing to deliver a payment to an office as an agreed upon favor. Ahmed was loathe to report the incident to the police, not because he had no documentation to support his claim but primarily because he felt nervous about going to the station for fear that he would be mistreated. He said that he finally agreed to go when a friend who was friendly with the police chief promised to accompany him.

Police power as a manifestation of coercive state power inhibits people's access to rights when it prevents them from seeking rightful protection and recourse. Yet this threat, both imagined and real, can also work in one's favor as a form of pressure. Police briefs manifest police power because they enable the police to take actions such as arrest, investigate and interrogate. In chapter six, I examine police briefs in more depth as a type of document that constrains indeterminacy and allows a dispute to move between legal and normative orders.

Lawyers

As can been seen in the preceding discussion of the courts, lawyers contribute to the way that law is used as a bargaining and regulatory endowment in the way that they direct litigation. Delay is often crucial in this undertaking, in that it provides both

temporal and spatial opportunities for litigants to renegotiate, repay, or devise a new strategy. Yet delay strategies also raise questions about what it means to represent and the role of the lawyer. As sociolegal scholar David Zammit notes in his work on Maltese lawyers, "Delays must be related to the ways in which lawyers see their role in litigation and these professional understandings are in turn connected to the kinds of expectations that their clients have of them" (2009:2). In the context of Port Said, it is necessary to take heed of this sentiment by turning our attention to the way lawyers serve as intermediaries between not only the law and their clients but also between state law and the normative orders of civility, morality and *'urf*.

Wael and I typically visited Salma in her Arab district law office on Friday evenings, when she met with clients. Like most lawyers in Port Said, her small office is in a low-rise mixed-use building in the Arab district; the unkempt and dark stairwells in such buildings belie the neat and efficient order of the lawyers' offices. One Friday we dropped by just as she was settling herself behind her desk, wiping the dust off the glass top with a tissue. It was perhaps ten at night and she was just beginning work for the day. I could see several figures through the darkened glass doors forming a line in the hallway that runs the length of her office. Salma suggested Wael and I take seats further back from her desk to free up the two seats directly in front and waved in her first clients, a young man named Fawzy and his mother. Immediately, she started to berate Fawzy, complaining in a loud, aggressive tone that she was tired of the whole situation. "Neither one of you is doing right by the other! You should just get divorced because your match was wrong from the beginning." She turned to Fawzy's mother upon making this point. "The age difference is too much! They are wrong for each other, don't you think?" To

which Fawzy's mother agreed while shaking her head in a vehement show of disapproval; "It's not right that she's so much older than him!" Fawzy is only 25, yet his wife Bushra is 47, has been married before, and has children from the previous marriage.

One of the points of dispute is related to these children; Bushra is insisting on her right to stay in contact with them and Fawzy is opposed to her visiting them. Salma then looked at Fawzy sternly and reminded him that he needs to give her marital maintenance, the money he agreed to give her each week for the household upon marrying. "And you need to make sure there is food in the house for Bushra and your baby! This is your duty." Fawzy desperately tried to defend himself, moving nervously in his chair as he pointed out that he did buy cheese and milk for them. But, he argues, she is always causing a scene. "She's staying at her parents' house now, I tried to go and see her but she raised a fuss so I just left!" Salma brushed away his defense with a dismissive hand. "I'm tired of it, tired of all the stories."

Throughout the meeting, Fawzy referred to Salma repeatedly as 'mama,' in seeming effort to calm her and encourage her to take pity on him. Suddenly she seethed "Why are you calling me mama? I'm not your mother, that's not my name. I'm a lawyer, you call me Madame Salma or Ustaza Salma, don't call me mama!"

I begin with this vignette of Salma's meeting with Fawzy and his mother in order to bring into focus the way Salma interacted with clients, an interaction that wove between discursive modes. She slipped easily between a moralizing tone and one that emphasized her professional credentials and status, and when she pointed out his duty to his wife and child, the precise basis for this duty was vague. Did she mean his moral duty as a father and a husband? Or his legal duty according to the marriage contract?

This slippage between roles, and Salma's easy overlap of normative and legal discourses, suggests that the practice of lawyering in Port Said is, like lawyering in other contexts, fraught with tension between modes and objects of representation.

In the course of my research I observed male and female lawyers advising clients using moralistic discourse, and encountered lawyers serving as informal mediators between their client and the other party to a lawsuit. I also talked to advocates who had advised clients about and participated in dispute resolution processes involving customary councils and mediations. Of importance is the fact that these men (exclusively) appeared to be drawn in to a customary proceeding due to their status as lawyers, and in some instances in their capacity as lawyers, and not simply as a respected friend or relative. This suggests that lawyers may at times help clients as intermediaries between customary and codified law. Yet the notion of lawyers as *intermediaries* does not sufficiently capture the complexities of their role, and assumes that legal and normative realms are perhaps more distinct might be the case.[40]

Legal expertise in Port Said is not limited to legal doctrine and procedure but more broadly conceived as inclusive of customary law as well as Islamic norms. The history of the development of the legal profession in Egypt is an important piece of the analysis of contemporary lawyering because throughout the 20th century the professionalization of law has been a process of defining legal expertise as qualitatively different from what might be considered 'traditional' expertise. Egyptian law schools

[40] As Stewart Macaulay (1979) has noted in relation to U.S. lawyers, the classical model of lawyering, in which the lawyer 'applies' the law and represents clients in an adversarial system, does not reflect professional practice. In fact, 'Main street' and 'Wall street' lawyers alike bargain, coerce, mediate, and are sometimes unclear about the relevant legal norms that might apply in a case. They are, he suggests, influenced by their own values and self-interests, and are interested in representing clients in ways that will be satisfying and will contribute to their present and future income.

narrowed the definition of modern lawyering to correspond with the changing codes and institutions. Yet it is clear that what lawyers in Port Said do in their work as advocates is not limited to or constrained by what they learned in law school.[41]

Although the first national law school had been established by the late 19th century, graduates were few and most went on to work in the government bureaucracy instead of going into legal practice (Reid 1974:29-30). The shortage of men qualified to appear before the new courts meant that in the early years the requirements for representing clients were less clear. In fact, lawyers for both the Mixed Courts and the National Courts were initially drawn from among the *wukalā'* and the *arda Halgī*, the former being particularly disreputable paraprofessionals known for their aptitude in forging documents, and the latter more innocuous complaint writers who stationed themselves outside the courthouses (Reid 1974: 45; Ziadeh 1967: 37-38).[42]

In 1912, the National Bar association was formed exclusively for Egyptian lawyers, and the membership of the Mixed Bar association was half European and half Egyptian by 1930. From their respective inceptions, the bar associations played an important role in the life of a lawyer, and Ziadeh notes that there was a strong sense of responsibility by members to maintain a high level of professional conduct and to assert the goals and standards of the bar both in relation to the courts and to the wider public (Ziadeh 1967: 30).

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[41] In thinking about lawyers in Port Said playing particular roles in relation to *'urf* my intention is not to assert that these lawyers are somehow not fully modern. Rather, I mean to suggest that 'modern' lawyering is not uniformly linked to state law, its doctrines, institutions and procedures.

[42] There are still complaint writers ('*ard ahalgī*) who work outside the courthouse in Port Said; there are on average five who set up small desks each day and charge small fees to write up documents for people who are either illiterate or who simply don't know the necessary format for simple documents to be presented to various departments in the courthouse.

Yet the legitimacy of advocacy as a profession was still under debate in the early part of the 20th century, as there continued to be practitioners who "lacked the necessary legal knowledge and the ethical standards for a viable profession" (40). The legal profession was still absent a law by which membership rights and duties, standards defining the lawyer/client relationship and that of lawyers to the court and vice versa. The courts, rather than an independent governing body, maintained control over the issue of legal representation (40-41). This situation was partly rectified by the Advocates Law in 1893, which has been revised and updated a number of times since then.[43] But in the context of the establishment of the rule of law amidst a multiplicity of jurisdictions and courts, sweeping changes in the legal codes, and the process of narrowing the scope of Islamic legal jurisdiction, the professionalization of advocacy was gradual, hard won, and fairly recent.

Throughout these decades, a definite line was beginning to be drawn around what constituted a lawyers' work and what did not. This is revealed in the original 1893 version of the Advocates Law, which stipulated a prohibition against lawyers pursuing activities that might degrade the profession (Ziadeh 1967:42-43). While what pursuits this might specifically refer to is unclear, what is clear is that there were standards by which a lawyer need abide in order to be constituted as part of the professional cadre. These standards were implemented not only through the Bar Associations but also through legal education, and throughout the early twentieth century, legal training in the national law schools was increasingly refined as a discipline.

[43] This law included stipulations about the secrecy of clients' business, fees, and the requirement of legal diplomas, which was only overlooked in cases where *muHāmūn* (lawyers) were recognized as having status equivalent to degree holders by virtue of years of practice (43). This exception was gradually done away with as these lawyers retired.

Although there is little except journalistic attention to the movement of women into the field of law, the gradual inclusion of women in the profession was part of early twentieth century battles to expand women's economic, social and political rights. While many supported women's education as an important component of a modernizing nation – women were responsible for nurturing and educating the new generation – there was still widespread resistance to the idea of women in the workplace and particularly in such domains as law (Baron 2005). Despite this, the first Egyptian female lawyer was admitted into the syndicate in 1933, followed by handfuls of others, although the first significant cohort of female lawyers didn't emerge until after the 1960's (Rizk 2004).

Moreover, until Nasser came to power in 1952, the legal profession was primarily the domain of the upper class and exclusively reserved for men. Most lawyers hailed from well-off families, a trend that was exacerbated by the high fees for legal education throughout the first half of the 20th century that excluded qualified but poor students. But following the revolution, Nasser sought to make education more egalitarian and set in motion a merit-based educational system that enabled students from all backgrounds to pursue law. Along with other measures to facilitate women's entry into fields previously closed to them, such as politics, the Nasser era is also marked by increased access for girls and women to secondary and higher education.

In Egypt today the qualifications to enter a Faculty of Law, determined by placement in the General Secondary School examinations, are less demanding than many other faculties, such that students often enter law school not by intention but because other faculties are closed to them. This means that the sheer number of lawyers has

grown exponentially since the 1950's, that more students come from middle class and poor socio-economic backgrounds, and that academic standards have decreased.

Legal expertise, in light of these socio-educational shifts, has become accessible to more individuals who decide to enter into the legal profession. As Shalakany notes, as of 2006 there were 32,000 law students enrolled in Cairo University Law School across three sections: French, English, and Arabic. The vast majority of these students are enrolled in the Arabic section, the least prestigious, which graduates approximately 5,000 students each year (2006:851). Judging by the number of law graduates alone, (and even taking into account that some percentage of these graduates will pursue careers outside of law), many more citizens have access to the services of lawyers than was true in earlier eras.

It is likely the case that the increase in female lawyers throughout the second half of the twentieth century, in conjunction with increasing numbers of NGOs that address women's rights and access to justice, has translated into greater access to legal representation for women in particular. At the same time, based on observations at the courthouse and according to the Port Said lawyer directory, which is updated annually, there are far fewer practicing female lawyers compared with male lawyers. The large number of young female legal trainees that could be found in law offices and at the courts assisting established lawyers in 2005 and 2007 is not necessarily an indication that this is changing; female trainees seem more likely than their male counterparts to leave the profession when they marry or to pursue other careers. Finally, based on my own observations, there doesn't appear to be a clear trend in relation to the gender of clients

and the gender of their representatives; there are similar occurrences of same gender and cross gender lawyer-clients pairings.

Moving away from the development of the legal profession and broadening access to legal representation, I now move to consider the forms of knowledge that lawyers are expected to possess in order to be considered an effective advocate. To begin with, Egyptian law students take very similar courses at the different Faculties of Law, and all courses throughout the four years of enrollment are required. This means that law students do not specialize but are generalists, and the curriculum, which is also unified across French, English, and Arabic sections, includes various fields of public and private law[44] with four required courses in *shari'a* focusing on the codified laws of marriage, divorce, and inheritance (Shalakany 2006:852). At the same time, many of these students graduate with a degree in law unequipped to begin a career in the legal field because the quality of legal education suffers from the sheer number of students.

From what I observed, to be considered a good lawyer in Port Said one must move easily between common sense and legal discourse, and be both 'of' the client and 'of' the law; this, I would argue, is the case for both male and female lawyers. In Hannah Pitkin's (1967) rendering, lawyers' representational practices encompass both 'standing for' the law and 'acting for' the client. Lawyers are expected to know the law and be savvy in how they move cases through the courts. At the same time, most lawyers are small-firm and solo lawyers who develop personal relationships with clients and who operate within a very small and socially conservative local context. Most of the lawyers I spent time with in Port Said have caseloads full of petty disputes between spouses or

[44] For example, courses covers trade law, maritime law, landlord/tenant laws, laws of evidence, administrative law, tax law, arbitration, labor law, and so forth. On Egyptian legal education, see also Qashqoush 1991.

neighbors or landlords and tenants, cases in which parties have relatively weak legal grounds for a case against the other but feel a strong sense of right. They are 'acting for' their clients by virtue of taking these small cases, for which they will receive little remuneration.[45]

Their willingness to take on such petty cases can be viewed as one mechanism by which they build local credibility. By committing their time and resources to such cases, and in some instances working *pro bono* or in exchange for services or the long-term prospect of favors, lawyers acquire a good reputation. By and large, lawyers are expected to empathize with clients' difficult circumstances, and to take on their 'problem' cases because they represent deeper social and economic imbalances. For instance, in discussing the case of Um Rachid and her illegal hut, Salma noted defiantly: "Why did she get arrested, when there are others who built on government land without permission as well? She has bad luck." As she pointed this out to me, Um Rachid sat between us, listening intently. Salma's alignment with her clients' feeling of having been wronged, whether by a spouse, an official, or the imagined state, is a way of articulating a shared sense of social justice. Lawyers not only talk to clients about their problems in a moral register (as we see Salma doing) but also embrace visible symbols of piety.

[45] It was difficult to obtain information from lawyers about how much compensation they receive for different types of cases; despite standardization of fees it seems that there is a degree of flexibility in how much lawyers charge based on the ability of their clients to pay. Many clients pointed out that along with paying monthly retainer fees, lawyers were always calling to request small sums of money to cover fees assigned by the court to initiate certain proceedings. Yet all but the most successful lawyers seemed to be earning a modest wage based on their ability (or inability) to pay phone and other bills and the relative simplicity of their offices, and they pointed out that some clients cannot afford to pay except through bartered services and favors but they accept their cases in spite of this.

Prominently displayed copies of the Quran and Islamic calligraphy decorate their offices, and all of the local Muslim female lawyers wear the *hijāb*.[46]

This is not to say that lawyers in Port Said, like lawyers anywhere, aren't also sometimes considered to be untrustworthy and greedy. Mahmoud mentioned one day how difficult it is to find a good lawyer. He changes lawyers frequently, he said, because many of them are inclined to 'sell the litigant'. In other words, if the other party to the dispute were to approach Mahmoud's lawyer and offer to pay him to undermine the legal case, his lawyer might 'flip' and the case would go nowhere. Turning his palms upward in a gesture of frustration, Mahmoud asked, rhetorically, how it is possible to respect lawyers or doctors when neither of them is merciful (*raHīm*)? Mahmoud emphasizes that a lawyer's credibility is tied to his willingness to be merciful, and moral valuation.

Both male and female lawyers also take a highly personal approach to their interactions with court personnel. In the process of translating clients' problems into viable legal cases, they rely on relationships at the court to get the result they want for their client. This is aided by the fact that work in the legal profession tends to run in families in Port Said, so that one family may include both lawyers and clerks. Submitting documents to various offices within the court, negotiating with the police when a complaint is filed or a client is brought down to the station, and interacting with lawyers representing the other party in the main hall and the 'syndicate tea rooms' of the courthouse are all opportunities to gain leverage through networks.[47] While the purpose

[46] This was also the case for the Coptic Christian lawyer I spent time with, Noor. She had small religious statuettes on her desk and among the small gifts she gave me were cards depicting saints.
[47] In the Port Said courthouse, there is a series of rooms off the main hall dedicated to the lawyers' syndicate, including the president's office, and a sitting room for female lawyers and one for male lawyers. Between sessions, lawyers often gather here to talk, exchange information, strategize, and buy one another soft drinks and tea.

of client meetings is to advise, strategize, and nurture the lawyer-client relationship, visits to the court are about making things happen. Lawyers go to the court to keep a case moving forward.

When I asked lawyers directly about whether relationships with court personnel were important to what they did, most vehemently noted that this was of utmost importance. Mohammad A. noted: "A woman said she was a partner with her husband in a company, and the husband folded the company and took the profits. So I went to many different departments in the court to get information on this company. There are a lot of clerks who can help here – they can give me some documents and details I need because they like me and want to help." Mustapha also addressed this in reference to a question about how his good reputation in the local law community helps his work. He pointed out that: "Sometimes I go to the public prosecutor and ask to read the brief and often they don't want to give them to other lawyers because maybe they'll change something in the brief, forge it, or they won't even let them in the room with the client. But they let me, because of my police connections."

Hossam reiterated the importance of being able to make things happen on a case by getting in good with clerks in the various offices at the court. "They take money. And as much money as you give them, this is as much service as you will receive. So if you don't pay a bribe (*rashwa*), everything will take it's time and be official. But with money, something can take five minutes instead of hours or days or more." Along with the importance of connections amongst clerks, lawyers need to be able to build bridges with others in the justice system, including the police and the judges. Sharihan, another young lawyer, pointed out that female lawyers are known to be particularly adept at

influencing the police to release clients being held at the station. Judges as well are often 'too shy' to refuse the request of a female lawyer who wants to delay a hearing or to have certain evidence dismissed, she suggested. Although her influence over judges may be unique even among female lawyers, the underlying point is that she and others are very cognizant that their ability to 'work' the system at various levels is critical to being an effective intermediary. As such, lawyers have the ability to make things happen on a legal case not only because they understand legal procedure, but also because they have connections at the court and at the local police stations. They know the unwritten rules and have, over time, developed relationships with clerks and other gate keepers who can assist them in moving their case forward.

In client meetings, lawyers are often representing, alternately, the law and common sense. They translate legal concepts of right and obligation into a layperson's moral discourse, and explain legal procedures in shorthanded, concrete terms in order to simplify matters for clients who lack legal expertise. They also act as liaisons, shifting easily between the world of the court and the client. In court, they represent the client before the judges, deploying a legal language that displays their legitimacy and right to stand before the judge in the capacity of advocate. And in the warren of offices that surround the courtrooms, they cajole, flatter, and bribe their way through red tape to keep a client's case from getting lost among the stacks. Lawyers help a case move more efficiently through bureaucratic channels by building and maintaining close ties with court personnel.

In addition, lawyers in Port Said are expected to have a sense of customary practices of dispute resolution, to advise clients with these practices in mind, and are

sometimes requested to play a role in the proceedings. Mustapha, Hassan, and Galal are typical of most lawyers in Port Said in that they have essentially solo practices; Hassan and Galal have one or two junior lawyers in their offices, and all of them regularly have a law intern. None specialize in any particular branch of the law, but tend to take any viable case that comes through the door, civil or criminal. That being said, Mustapha is regarded as a particularly astute criminal lawyer, and Hassan represents a lot of employees in labor disputes.

I begin with Mustapha and the el-Sayyid cases mentioned previously. His primary client and representative for the family is Bashir, and the defendant is the Bashir's youngest brother Ramadan. The dispute began around 1984, upon the death of the father, but was only moved into formal litigation in the late 1990's. Prior to that it was addressed entirely through *wadi‾'* and *'urfi‾* processes such as negotiation and mediation. The dispute revolves around land plots inherited from their father, upon which Ramadan has 'laid his hand', or claims ownership of due to the fact that he was charged many years ago with managing the plots by his siblings who moved away from the village. Thus, despite the fact that the dispute now takes the form of related but separate lawsuits, family members attempts at customary arbitration in the past that failed.

At one point during one of many conversations about this dispute Mustapha pointed out to me that Bashir had come to him recently and asked his advice about whether or not he should agree to yet another attempt to work out a compromise through a *majlis 'urfi‾* in the village, which Ramadan had proposed. Mustapha and Bashir discussed the possible benefits and drawbacks of participating, and in the end, Mustapha

advised his client not to agree to the arbitration session. He argued that Ramadan might find a way to cheat and take unfair advantage in a customary session, and might attempt to 'buy' someone from their side, to pay them off in order to form an allegiance that would bias the arbitration in some way. Mustapha convinced Bashir that he and his family would have a better chance of winning their cases if they kept them in the courts.

Bashir's expectation is that Mustapha knows what a customary arbitration involves, and the risks and benefits of it, to the extent that he can offer wise advice. Because Mustapha is from the village, he is intimately familiar with customs there. As his lawyer, Mustapha also knows the history of the el-Sayyid cases, and is aware that the family members have tried customary arbitration and various kinds of informal mediation in the past. In fact, Mustapha helped arrange an informal mediation with a local politician some years prior. He also knows where the cases stand in the courts, and what potential stages of the lawsuits remain. Bashir is drawing upon Mustapha's legal expertise, and relies upon him as a legal advisor. Simultaneously, he is able to assume Mustapha's familiarity with custom and customary law because they are both originally from 'the village'.

Hassan graduated from the prestigious Faculty of Law at Cairo University in 1973 and has been in practice since then. He has been asked on a number of occasions to act as arbitrator in customary sessions in different villages in the Dakhaliya, the governorate where his family is originally from, and has agreed to do so many times. In the course of our conversation, when asked whether knowing about customary law is part of being a lawyer, Hassan shrugged and simply said, "we have to know it." He also pointed out to

me that *'urf* was "out of the law, not in the law, [and] something we do in the small towns."

Like Mustapha, Hassan is originally from the village, in his 60's, and is widely perceived as ethical, respectable, and pious. At the same time, he is locally known as a wise and successful lawyer. Unlike some, he is not rumored to employ dishonest tactics to win a case – he is often described as 'one way street', or honest. He is considered to have good relationships at the court and to know the law and how to use it well on behalf of his clients. Hassan has also been involved in politics through the lawyer's syndicate, publicly supporting candidates for the national bar, and has written articles for the local papers and at least a dozen books on social justice issues. As such, Hassan is not only a well-known legal expert, but also known as someone who is concerned with politics and issues of justice more broadly.

He has actively participated in customary arbitrations as *Hākim* on more than one occasion. And like Mustapha, those clients who asked Hassan to participate or advise on these matters did so out of a consideration for both his legal expertise and for his familiarity with customary arbitration – so again, based on the expectation that he has access to types of knowledge that set him apart from and above his clients, and types of knowledge that link him to them as someone with shared values and understandings. He also pointed out that lawyers are often asked to participate in *majālis 'urfī* in order to 'prepare documents,' which I'll discuss more in the following.

Galal graduated from the law faculty in Mansoura in the Delta region about twenty years ago. Although he is a successful lawyer, as evidenced by the dozens of phone calls regarding cases he would take during our meetings and by his new personal

computer, he is not thought of as particularly powerful or well-connected like Mr. Hassan and Mustapha. He is business-like, and unlike many lawyers doesn't tend to bring morality or religion overtly into the way he advises clients.

In 2006 a client named Ashraf asked Galal to accompany him to his home village outside of Ismailiya, to take part in a customary arbitration between he and his brother. Ashraf and the brother were in dispute over the boundaries of some inherited farmland, as well as the profits being earned from crops grown on the disputed land. Galal agreed to go, and describes the session as follows; in some of what he says, Galal appears to be speaking in the hypothetical, but upon subsequent conversations it became clear that he was specifically describing the session he participated in:

> We went to the village, and there was one man who acted as the arbitrator, and I was there too, I was the scribe, I wrote down what was said. The man who is the arbitrator must rely on religion for this (role), he must speak and rely upon the words of God in order to find the right solution. He will begin by making an initial speech – he will say this before the two sides have the chance to give their stories. And it might go something like this: You say that this man owes you money and the Quran tells us this about debt. The prophet instructs us to obey our agreements and follow through on them, etc. He will open it by quoting a specific *aya* from the Quran that deals with the problem at hand, so one dealing with marriage if the problem is marriage, etc. And then he will invite the two men to give their full sides of the story. They will first swear on their consciences, and in the name of god (*aHlif bilallah*) that what they say is true.

In discussing the proceedings, Galal noted that there are sometimes witnesses participating but in this case, there were no formal witnesses, only one arbitrator, and one guarantor for each brother. The guarantors, he noted, should be rich, so they can actually pay the debt if the party to the dispute can't; in this case, the guarantors were both men who lived in the village, rather than friends or family members brought from Port Said.

He then went on to describe how the session ended:

> So after they came to a solution, and I wrote down the agreement, we brought it back to Port Said and brought it to the court to make it official. Then, after this, if either side fails to abide by the agreement, the police can be brought in. It is now an official, legal agreement, and not just *'urfi*.[48]

Galal pointed out that he didn't actually take the document to the notarization office in the court, but rather to the judge, who signed it after verifying that both parties to the agreement had signed, and sent it on to another office in the court. Following completion of the notarization process, Galal received the document back again from a clerk at the court and gave the original copy to his client and a photocopy of the agreement to his client's brother.

Galal admitted that this was the first time he had been a participant in a customary arbitration on behalf of a client. So unlike Hassan, he was not necessarily asked to play a role based on his prior direct experience with customary arbitration. Further, he doesn't note any ties to a village, but insists that he and his grandfather's father, are urbanites, part of the original residents of Port Said. Despite the fact that he does not acknowledge a familial connection to village life, Galal's clients assumed his familiarity with *'urf* and asked him to play an important role in the proceedings. Galal was asked – and paid a fee - by his legal client to witness and document the customary arbitration.

In essence, his clients seek to use Galal's legal expertise to produce a legally binding customary agreement. In a customary arbitration there are a number of ways to guarantee implementation of an agreement, as discussed previously; ideally, the word of the participants, given in oaths taken before God and conscience, suffice. Yet verbal agreements require a level of trust in the other party that was perhaps lacking in this

[48] The agreement stipulated that the boundaries of land held by Galal's client were to be moved back to enlarge his brother's plot, but that the brother would be responsible for paying him 10,000LE, the estimated value of the crops already planted there.

instance, and in other instances where customary arbitrations are 'backed' by customary/commercial documents, by temporary trusts, or by guarantors. This suggests, first of all, that individuals don't always perceive the courts to be a particularly effective medium for adjudication and determining responsibility in the context of a dispute. However, they may still be useful for backing up resolutions reached through other means. The courts are potentially more able to force implementation of an agreement. In this case, should Ashraf's brother or the brother's guarantor fail to pay the money owed, Galal can help his client raise an action against his sibling or the guarantor. At the same time, if Ashraf does not shift the boundaries of his farm plot as agreed upon, his brother can also initiate a legal process. The original customary agreement serves as a piece of evidence usable by both parties. Notarization or legalization of the customary agreement transforms it into a piece of evidence that is legally stronger and less likely to be rejected or ignored by the judge should the need to litigate arise.

Galal bears the responsibility, imbued upon him because of his legal expertise, to have the document 'officialized', and in so doing transforms it. He says: "It is now an official, legal agreement and not just '*urfī*. An '*urfī* agreement, verbal or documented, does not bear the same weight as an 'official or legal' agreement, Galal points out, even if the agreement emerges from within a customary session that his clients and their relatives willingly participate in and agree to honor. Galal's role as scribe was critical for introducing the idea that the force of law would back the implementation of the arbitration agreement. Because his clients are constituents of their home village, as well as in the legal jurisdiction of Port Said, Galal makes sure that the agreement is binding in both contexts.

Hence, lawyers may at times help clients as intermediaries between customary and codified law, and find ways for people to use them simultaneously, in overlapping ways that make both the codified and the customary more efficacious. The *'urfī* agreement becomes more binding with the force of state law behind it, and the legalized/formalized version of the agreement is less likely to be contested because it was produced through a customary process and hence bears a legitimacy it might not otherwise have if a judge, even a family court judge, issued a decision in the case. the role they play is, in the instances described to me, related specifically to their expertise and skills as lawyers, and not, as Nielsen (2004) suggests, to the fact that they are simply well-respected men of the community.[49] This is evidenced most clearly by the situation Galal describes, but also through the examples involving Mustapha and Hassan. Rather, I posit that it is precisely because of lawyer's legal training and experience in the courts that they are sometimes asked to be present at customary assemblies. In particular, lawyers are savvy to the kind of paper trail that must be constructed, and have the ability to 'officialize' documents through the court, in order to guarantee that clients are able to 'take their right' in court should the need arise.

Conclusion

Lawyers' expertise is produced and authorized through everyday interactions with clients, in which they advise, coerce, nurture, and mediate in ways that resonate with

[49] Both Nielsen and Stewart address the issue of lawyers' participation in customary sessions, and their discussions provide a backdrop to my own data. Nielsen, for instance, notes: "…in cases where professional lawyers appear on the council, they do so on account of their personal standing and not their professional experience" (2004:364). Stewart's work in the Sinai presents a slightly different picture. Lawyers are included in customary proceedings in varying capacities; in one example, the lawyer is formally an attorney for the plaintiffs in a case of theft, having also been a plaintiff in the preliminary customary trial. In other words, his role shifted, but in one stage of the customary preceding, he was acting as a representative on behalf of the victims (Stewart 2003:248).

local values and lend credibility. At the same time, lawyers demonstrate their fluency and mastery over a specialized knowledge set largely inaccessible to average Egyptians, and link themselves with the rule of law in their depiction of resolutions and obligations.

Knowledge of the set of practices broadly encompassed within customary law, and the right to represent clients participating in such processes, were not part of the narrowing definition of advocacy throughout the 20th century. Customary law is a 'lay person's' domain rather than that of a legal specialist. In spite of the struggles to delineate and constitute the domain of legal expertise, to brand as professionals only those with mastery over this specialized knowledge, some contemporary lawyers include in their definition of lawyering the willingness to both understand and participate in customary arbitration processes.

Litigation practices are consistently inflected with extra-legal concerns to enact justice that is personal rather than impersonal. In local parlance, litigants are often concerned to resolve disputes *bishakl wadi¯'*. Although its referents are unclear, the phrase expresses the general ideal that practices of private law should exhibit moral and customary sensibilities. The courts, the police and the legal profession all have unique potentialities to inflect legal recourse with such ethical and moral gestures.

I have focused on these three components of the juridical field because they are the primary nodes through which customary/commercial documents circulate after they are produced. Although typically written, or rather filled in (most are pre-printed forms, as will be discussed in chapter four) in private space like homes and offices or in the semi-private space of retail stores, once inscribed such documents begin their movement outward through various channels. Documents are brought to, and produced in, police

stations, they pass through lawyers' offices, and they enter the courts in case files as evidence or supporting documentation. Although there are many instances in which customary/commercial documents never leave the desk drawer of a home or office and still play a role in making obligations effective, there are many other instances in which the power to effect an agreement or course of action that has stalled is contingent upon their circulation. Moreover, as I have sought to show, the bureaucratic spaces through which they move produce effects and provide opportunities for the reinsertion of private moral considerations.

In the following chapter, I move on to consider Port Said and its local specificity in more depth. The types of transactions and dispute settlement practices occurring in the juridical field as described above are also occurring in a local historical context. Taken together they situate and shed light on contemporary practices of private law and customary/commercial document use in Port Said.

Chapter Three

Port Said, Traders, and Credit

Practices of private law are historically situated and context dependent. As such, it's necessary to consider the research locale, its population and economy in more detail. Port Said has its own unique history, having undergone a number of significant transformations since the late 19th century. It is also a young city relative to other parts of Egypt and as a gateway city between Africa and Asia at the head of the Suez Canal is often described as cosmopolitan. Although it hosted a large European population in its early years, over time a large Egyptian merchant class emerged. There was one major shift in the 1950's when Europeans began to leave the city after the Suez Canal was nationalized and another in the 1970's when Port Said was designated a Duty Free zone and Egyptians migrated to Port Said in large numbers from rural towns. These demographic changes and the economic policies that produced them, I argue, have made and remade the meanings of community over the decades, with implications for the local trading practices as well as for private law and dispute resolution practices generally.

In the second half of this chapter I address local economic practices among traders and local residents. I begin by thinking about the development of different forms of credit in Egypt to contextualize local and small-scale credit. One theme that arises is the prevalent tension between impersonal and personal relationships in crediting

arrangements, a tension manifested in surety practices. I link historical trajectories with crediting and economic practices in order to think about the conditions of trust and risk.

Global/Local Imaginings of Port Said

Port Said is a cosmopolitan maritime world city of historical import. At the same time, Port Said is a smallish city in the hinterlands populated by recent migrants from the Egyptian countryside. This contradiction runs through depictions of the city and encapsulates the complications of defining what kind of place Port Said is today. As Cartier notes (1999), this is not an uncommon feature of world cities: although one might characterize such cities as Bombay, Buenos Aires, New York, and Singapore as emblematic of globalizing processes, not all areas of these cities are defined by outward-looking worldviews that exemplify humanistic cosmopolitanisms.

Port Said came into being with the Suez Canal. Before the canal, the city was not on the map in a literal sense. An early Greek immigrant to Egypt describes the area in 1862: "[I]t was a wide, sandy place, where not a single man tread, and it was in its initial form like a playing field, an unknown, uninhabited place. In the winter, the sea and lake waters flood and cover the land and you find nothing here except for shellfish coming out of the sea" (El-Kady 1997:32). After obtaining a concession from Said Pasha, the Ottoman ruler of Egypt at the time, French engineer Ferdinand de Lesseps designated this strip of coastline, hemmed in by the Mediterranean Sea and the sprawling Lake Manzalah, as the northern entrance to the canal and broke ground in April of 1859.[50]

[50] As historian Zacharay Karabell notes, at the time the feasibility of the canal was unknown since none of this size or scope, connecting two seas, had ever been built, and there were myriad engineering concerns to be addressed. Lesseps and Said both favored the direct route between the Red Sea and the Mediterranean, although others involved in the plan felt that an indirect route, which would use the Nile to bring boats

Engineers and managers were brought from England and France to oversee the excavation. Manual laborers, on the other hand, were conscripted through the *corvee* system of mandatory temporary labor from among the Egyptian fellahin (peasants, or farmers), and numbered more than 60,000 at the peak of the excavation prior to the introduction of mechanical excavators. (El-Kady 1997; Karabell 2004). Most of these laborers returned to their villages when their conscription ended. However, as the canal project neared completion, and the city of Port Said began to take shape, some remained and comprised part of the original population. Egyptian farmers came from the nearby delta areas to sell vegetables, poultry, and other supplies to the company; although they began by making short trips to sell supplies, this population gradually took up more permanent residence.

Sitting in my living room one day, with the entrance of the canal visible from our window, Mamduh, a local historian and preservationist, related a version of local history I'd heard from other Port Saidians. In the early years, he pointed out, Port Said was a city for provisioning (*tamwīn*): poultry and vegetables and fish for the canal workers, and later, when the canal was finally completed in 1869 and ships began to traverse the isthmus, coal and food supplies for the ships and their crews. Mamduh noted, "At this time (when the canal opened), new occupations emerged in Port Said for local workers to serve the boats: barbers, clothing makers, shoe makers…eventually more specializations unrelated to the port emerged, such as plumbing and teaching and carpentry." The development of these trades, Mamduh pointed out, was an indication that Port Said was

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from Alexandria to Cairo, and a canal from Cairo to the Red Sea, was more prudent both technically and politically. In the end, Lesseps' plan prevailed, in large part due to his close relationship with Said Pasha (Karabell, 2003).

evolving into a city of its own accord, outside of its role as a gateway and refueling stop between Asia and Europe.

The economic role Port Said began to play in the late 19th and early 20th centuries as a port gave rise to the cosmopolitan character of the city. Port-related occupations remained crucial to the local economy for many years, and contributed not only to the diversity of the city but also to its increasing demographic stability; people certainly passed through on their way to other places but many also made it their home because there was work available and investment opportunities. Thousands of dockworkers congregated at the docks every day to unload ships of their wares, to sell goods and provide services to the crews, and most importantly, to transport coal aboard the ships for fuel. There is a mythic Port Saidian dockworker known as Abu Araby and stories about his exploits are more plentiful in Port Said than the tales of Goha. Abu Araby, like Goha, is the archetypal shrewd naif. His interactions with international crews have made him multilingual and both his tricks and the lessons to be taken from them often attest to the ease with which he moves between cultures. In this sense, Abu Araby is the everyman of Port Said, embodying the cosmopolitan humanism that locals and non-local Egyptians often associate with the city.[51] At the same time, however, Abu Araby is sometimes used as an adjective to refer to someone who lacks good manners and speaks roughly, an unsophisticated and untrustworthy schemer.

Although Port Saidians like to describe the late 19th and early 20th centuries as eras in which Egyptians and Europeans moved together in a cosmopolitan geography, early maps and the legacy of de Lesseps' urban planning suggest a somewhat more

[51] Some insist that he was a real person, a friend of their grandfather or a great-uncle, while others argue he is a mythic figure.

tenuous coexistence. *Hayy Al-ifranjī* (the European or foreigner district, formally *Hayy al-sharq*, the Eastern district), which included *al-mina* (the port, running along the western edge of the canal) and the area from the port to Mohammed Ali street ten blocks inland, stretching north to the sea, were generally reserved for the large local European population. *Al-ifranjī* was, and to some extent still is, comprised of multi-story residential buildings in the *belle époque* style, with high ceilings and ornate balconies, and high-end stores and restaurants.[52]

By contrast, *Hayy al-'arab* and *Hayy al-manākh* districts where most of the Egyptian population lived was notably more dense, with narrow streets and dirt roads and alleys remaining years after *al-ifranjī* and Port Fouad had been paved. *Al-manākh* has historically been a fisherman's neighborhood, situated above and beside *al-'arab* close to the sea. Fishermen who had long fished this part of the coast seasonally gradually relocated more permanently and developed into a stable population. *Al-'arab* has long been populated by families who moved to the city in the early years from upper Egypt or the towns of the delta, including many from Dumyat and Manzalah, many of them part of the original 'provisioning' (*tamwīn*) class the historian Mamduh described. Except for a handful of powerful and wealthy Egyptian merchants, known as the 'sons of Port Said',[53] the local Arab population lived in *al-'arab* or in *al-manakh* and only visited *al-ifranjī* as laborers and servants. This suggests that the cosmopolitanism of early Port Said was a

[52] In 1926, a European style city with wide boulevards and free-standing homes, Port Fouad, was constructed on the eastern side of the canal as an enclave for the French and British professional classes employed by the Suez Canal company.

[53] The 'sons of Port Said' is a common descriptor both in discussions and in local history books used to describe the families who comprise the original, or near original, Egyptian families in the city. Most of these were members of the propertied class who parlayed their wealth into shipping and import interests in the early decades of the city. There are about a dozen remaining 'big' families in town, who tend to own much of the property in *al-afrang* and control most of the wholesale trade; as Zahraan (2000), 2% of the population in Port Said controls 80% of the local economy.

demarcated cosmopolitanism shaped by east-west power relations: most Egyptian Port Saidians experienced the multicultural, multilingual city in a way limited by the fact that they were non-European.

In 1952, King Farouk was exiled in the military coup that eventually brought the young military leader Gamal Abdel Nasser to power, and in 1956 Nasser defied the French and the British by nationalizing the Suez Canal. His announcement resulted in the Tripartate Aggression (*al-adwān al-thulathī*), also known as the Suez Crisis (*al-azma al-suwīsī*) or the War of 1956. Port Said was a primary battleground. Much of *al-manākh* was destroyed and swaths of *al-'arab* were bombed by British war ships, planes, and ground troops. In *The Open Door*, the Egyptian novelist Latifa al-Zayyat depicts the popular resistance in Port Said so critical to repelling British troops, as well as the destruction of the city and the scenes of inhabitants fleeing the city by boat across Lake Manzalah.

The Suez Crisis was the point at which foreigners began to depart from Port Said, Alexandria, Suez, and other port cities, as well as Cairo.[54] Suez Canal company employees were abruptly denied access to their offices by Egyptian soldiers within hours of declaration of the nationalization, and ordered to return to their countries of origin. Some foreign merchants stayed despite the tensions, but in Port Said today there are few descendents of these original European families. By 1966, almost three quarters (68.5%) of the city's 282,876 residents had been born in Port Said; the largest residential grouping after this consisted of those born in the northern coastal cities such as Dumyat and Upper Egypt (approximately 20%). There were slightly more than 20,000 foreigners living in

[54] Jewish families had already begun to emigrate in large numbers after 1948, and after 1956 Europeans found themselves out of work and at risk of losing property and investments due to new nationalization policies.

the city, comprising 7% of the total population (Al-Zogby 1970). This is in contrast to the early nineteenth century when Europeans and other foreigners comprised approximately 25% of the local population. Today, foreigners comprise a negligible percent of the total population of 529,700 (Mustapha 2004).

Between 1956 and 1967, the Egyptian elite expanded into the space left by the Europeans who had fled, both in terms of residence and in terms of control over the market and the port. However, during the wars with Israel of 1967 (the Six-Day War, known in Egypt as 'the setback', *al-naksa*) and 1973, Port Said was once again on the military frontline. The canal was closed from the 1967 war until President Sadat's victory in 1973, when Egypt regained control over the Sinai Peninsula, and the lack of maritime commercial activity severely stunted the local economy. As a result of this, and as a measure to protect the local citizens during the tense war years, Port Saidians were ordered to leave the city and temporarily relocate to other parts of Egypt. This is known locally as *al-hijra* (the migration) and lasted until families began to return to the city after 1973. Many locals told me about *al-hijra* and how they abandoned their homes and jobs and temporarily moved with their families to the Delta, with some relocating to Cairo or Upper Egypt.

Al-hijra had serious demographic and cultural implications, both in terms of integrating this new population into smaller communities in the delta, and upon return to Port Said. As Dr. Hanafy Awoud notes (1999), Port Saidians integrated with other Egyptians in the 'reception areas' in the Delta, including marrying into local families, and when people began to return to Port Said at the end of the 1973 war, these families decided to move to the city as well. Families who formerly lived on the outskirts of town

returned and squatted in apartments in *al-'arab* or *al-manākh*, while others waited to receive government housing in new neighborhoods (such as *al-salām al-jadīd*). Adil, a metal-worker who was in his twenties and newly married at the time of *al-hijra*, describes his experience of coming back to the city after the temporary migration:

> We returned to Port Said and our house was bombed and no longer standing, so we moved into a neighboring apartment. I put so much work into that place that if I'd been in America, they would have made me mayor of the town! I put in new windows, new walls, painted, new plumbing, everything. (CH: Didn't the owners of the place want it back once they returned?) No, they were waiting for a new apartment from the government and didn't mind leaving this one behind.

The three wars succeeded in altering the shape of the city and its community in a number of important ways. Firstly, the emigration of Europeans out of Port Said can be seen as giving rise to a radical re-imagining of the city as Egyptian, rather than distinctly European. This shifted the local power structure, as the local Egyptian merchant class expanded and bought up European owned businesses and moved into formerly European residential enclaves. Egyptians also inherited the jobs of the French Suez Canal Authority employees once it was nationalized. Secondly, the original local population returned to a new spatial organization of the city, disrupting former neighborhood alliances and networks. Thirdly, following *al-hijra* the population expanded exponentially as new rural families moved to Port Said for work in construction and, after 1975, in the newly reopened canal and in Free Zone related trades.

In 1974, the first of the *infitah* laws (Investment Law 43) was introduced, establishing a Duty Free Zone in Port Said and opening the country up to foreign investment. The original Free Zone laws, which included Law 24/1976 and Law 12/1977, were one component of the larger set of legal changes and economic incentives instituted

as part of the Open Door policies.[55] The late 1970's through the early 1980's was a period of private investment and rapid growth in industry, import/export, real estate, and other economic sectors. One cannot underestimate the degree to which the promulgation of Law 43 and subsequent related laws changed the economic and social climate of Port Said.

While the new policies tended to benefit the existing propertied class, the late 1970's are also the period in which an Egyptian *nouveau riche* class came into being (Abaza 2006; Amin 2000). The Free Zone laws encouraged many farmers and small businessmen from outside the city to emigrate and take advantage of the open business environment available in Port Said.[56] Relocating to Port Said to take up trading, particularly petty retailing in domestic goods, was popular in part because it was a field that seemed to required little experience or capital enter. The Free Zone policies radically contradicted the state-centered economy and protections Nasser had introduced and mark the growth of what locals term the 'capitalist parasites' (*al-Tufailīya al-r'asmālī*, or simply parasites, referencing both the rapid growth of privatization and those who flooded Port Said bent on financial gain.

Sameh, a government employee in his early thirties who works for the Port Said health inspection department, and his friend Zaki, a photographer, were the first to

[55] Law 43/1976 established five free zones: Port Said, Nasr City, Alexandria, Suez, and Ismailiya. Port Said's free zone seems to have become the most successful because it encompassed the entire city and not just a designated section.

[56] The Free Zone law also gave Port Saidians particular privileges to which other Egyptians were not privy. For instance, they were able to purchase new cars without paying taxes on them, as long as the vehicles were used in Port Said (a certain percentage) in a given year. Port Said was one of the few places in Egypt where the 'black market' did not exist, because trade that occurred outside of the legal regulations in other parts of the country was legal in Port Said. The currency market is one example, as Iliya Harik notes (1998), and the value of the U.S. dollar in 1985 in Port Said ranged between $1.60 and $1.85, as compared to $.70 through the Central Bank of Egypt.

introduce me to this term, which I subsequently heard used by others. Sameh and Zaki both live in Port Fouad, a suburb of Port Said across the canal, and note that their families are 'original' families of Port Said, with no roots elsewhere in the country. Both used the term *'al-Tufailīya* to describe the new traders who came to Port Said after 1976. These new traders were "not well-educated, but now they are rich" Sameh pointed out.

The term is often accompanied by the sentiment that their presence has degraded the community and given rise to increasing social ills, as expressed to me by a retired importer named Galal. Galal's family also has longevity in the city ("we're one of the old families, like the Sarhan's and the Laheta's"), and he and his family worked in pharmaceutical importing; it's an open secret that he now makes his money in high-interest personal loans. He talked about how after 1976 the population grew and there was a rise in informal housing, crime, and youth delinquency. Moreover, housing prices rose, and new apartment buildings built in the 1980's to accommodate the incoming migrants blocked views of the sea and its breezes. The children of these new wealthy traders, Galal suggested, do and sell drugs, they are known for it. He added, "Sadat should never have made the whole city a Free Zone. The only thing the Free Zone did was bring in a lot of criminals, and inspired people to abandon their traditional trades so that now they have nothing to fall back on."

The head of the lawyer's syndicate since 2005, Ahmed Qazamil has wriiten a number of monographs that address the rise in crime, youth delinquency and drug use attributed to the post-free zone consumerist climate and influx of new residents. One of these monographs, entitled "A Crime in the Powder District" (*jarīma fī Hayy al-buDra, 1997*) discusses a murder case in the mid-1990's linked to homosexuality and drug use in

one of several apartment buildings close to the head of the canal. The moniker *Hayy al-buDra* came into common parlance in relation to the wealthy residents of the building, described as part of the capitalist parasites, and their presumed drug use.

The capitalist parasite was the topic of conversation one evening at the Bank Club (*nādī banūq)*. I sat with a group of older men, most of whom worked in banking and one of whom, Kareem, was an economist who had published articles on the maritime economy. He had this to say:

> One of the main points to think about is tolerance. Egyptians are very tolerant, and kind-hearted. They are willing to sit and talk with one another and find a solution that works for everyone. Each one is not interested in simply taking his right. People have rights and they have duties towards one another in society, and they seek to find a balance between the two. This is true of everyone, it doesn't matter if you are educated or not. Especially in the Suez Canal area, people here are used to foreigners. There have always been foreigners here in Port Said, from Italy, Greece, France, Britain, and so forth. And even people of these different groups could sit down and work out a problem peacefully – in fact, they used to intermarry. And the people here are accustomed to serving foreigners and learning how to be tolerant and peaceful with them. Many men here used to carry coal and load it on the ships coming through. They served the boats and the foreigners. After a while, they stopped carrying coal when the boats began to run on petrol. But always we have served outside populations passing through, and we do this with a good heart. Port Said was always a cosmopolitan city.
>
> Now it's less so, now there are few foreigners here, and few tourists, but historically it was very mixed. Traders could call [one another] and make a deal, no papers to sign. A man would call a wholesaler and order things and say he will pay him back in a week or two, no problem. They were good for their word. Wealthy, pioneering families like Hamza and Laheta, their whole families were involved in trading and they were very experienced in how to do business in a way that looked towards the future, towards building good relations and not just getting rich quick. They dealt with people in a very good way, wisely. With the Free Zone, the capitalist parasites appeared and these traders were not good at working things out in an intelligent and fair and calm way. They thought only of themselves and wanted to get rich right away. Many did, and they lost it just as quickly. It's not just because they are from outside, not the 'Sons of Port Said ' – there are good and bad people everywhere, and some of these new traders were just not good people, not people who had good sense and a good heart.

Amin, from one of the pioneering families Kareem mentioned, was our landlord. He too worked in banking, as a loan officer, and when I asked him to tell me about his father, he described him as someone whose "word could be trusted." Amin noted that he tries hard to follow in his father's example, to always remain ethical and honest, but finds it challenging:

> It's difficult, my work at the bank sometimes, because I'm so well known in this town. I work in the loan department, and sometimes local businessmen who know me or my family come in wanting a loan. But I've spent time abroad getting training in spreadsheets and background checks and I know that if someone doesn't check out, if they have outstanding debts or if the money they want is more than they will be able to repay, than I can't approve a loan for them, even if our families are connected from years back. There's been more than one prominent businessmen who has smeared my name, talked badly about me at the Shooting Club (a local social club for sports and entertaining), my friends and I have overheard nasty comments about me, because I refused to give a loan. But this is my job, this is what I have to do. Sometimes these men can just go to another bank and get the loan anyway, but the people working in these loan departments are making a big mistake, they will cause problems for the bank, doing favors like this.

I periodically visited the bank where he worked to withdraw money and would see him at his desk poring over spreadsheets, chain smoking. Amin's lament suggests some of the complications of life in post-Free Zone Port Said. On the one hand, he is a part of a large network of local businessmen whose families count themselves among the old guard in Port Said. On the other hand, he knows that the current business climate is risky and that businessmen today are more likely to be looking for a quick deal rather than focusing on long-term business relations or slowly growing a company.

In the 1990's, structural adjustment policies were implemented, restricting the trade privileges to which Port Saidians had become accustomed. The city, and some of the other designated free zone areas, were no longer legislated as the sole areas into

which particular foreign goods could be imported. This meant that it became possible for traders in Cairo, Alexandria, and elsewhere to directly import goods such as European fabric and electronics that previously were only available in Port Said. As Al-Fadil shows, shipments entering Egypt through Free Zones like Port Said declined from 101.92 million Egyptian pounds in 1992 to 53.17 million EGP in 1997; that's a decrease of almost half in five years (2002:102). Thus began a decline in the local economy, exacerbated by the gradual phasing out of most Free Zone privileges (Law 5/2002) beginning in 2002, set to culminate in 2009.[57]

Retailers and wholesale importers, who make up the majority of business interests in Port Said, have seen their businesses decline as the government seeks to expand industrial and export sectors in the Free Zones. Most Port Saidians I talked to feel worried about the future, pointing out that residents have grown accustomed to being traders, and don't have the skills to transition into the industrial sector as anything but laborers. There are efforts underway to expand and promote tourism and manufacturing in the city, including the multi-million pound East Port Said project to expand the port and its storage and servicing capacity. But the days in which Egyptians visited the city twice yearly to spend money on household goods and imported clothing and relax on the beach have faded.

I have sought in the preceding section to describe the complex social and economic landscape of Port Said and the transitions it has undergone. Most significant, I would argue, are the imagined distinctions between the 'old' families and the post Free

[57] Law 5/2002, "Repealing the enforcement of the law on and system of transferring Port Said City into a Free Zone" was originally slated for a five-year phase out of exemptions. Under political pressure, this was extended for an additional two years and is set to culminate in 2009, although there is always a possibility that it will be further extended.

Zone migrants that have settled in Port Said. On the one hand, the sentiment that an unethical 'capitalist parasites' with short-sighted business practices has pervaded what was once a cosmopolitan city of honest traders is simply a fiction and an idealization of the past. On the other hand, this impression is fairly widespread, asserted by many of my interlocutors who inevitably considered themselves to be on the proper side of the divide, unlike the newcomers. The imaginings of the past and the realities of a more anonymous market and community both contribute to how transactions are conducted and disputes settled. Next, I turn to trade and the retail credit market in contemporary Port Said.

Shifts in Consumption and Reliance on Credit

Port Said's economy is still largely dominated by retail and wholesale trade; most families in Port Said have some connection as employees or owners to the market. This industry is the fourth largest economic sector in the city, surpassed only by employment in education, public employment (government offices) and transport (Abdel-N'aīm 2002), and many who are formally employed in these other sectors are informally working in trade as well. One of my aims is to consider how and why certain crediting arrangements have come into being and continue to be used in Port Said. Another aim is to investigate the ways in which social networks are bound up with crediting practices. Finally, surety practices originating in the commercial realm inflect agreements and disputes unrelated to trade as forms of pressure, a phenomenon I examine in later chapters.

Credit and consumption are inextricable. The extension of credit by the Egyptian state can be linked to an era in which the government was seeking to expand

consumption of state-produced goods. In 1954, when the new revolutionary government began to implement nationalization policies and companies such as the Ideal appliance company were brought under state control, the government began extending credit to consumers in order to encourage growth in its manufacturing sector. Abaza (2006:93) points out that consumers could purchase items like refrigerators, air conditioners, complete metal kitchens, beds, desks, televisions, and other household items from Ideal, and even locally manufactured cars from the newly formed Nasr Car Company, without payments for two years. The installment (*taqsiT*) system was briefly blocked in 1965 and then brought back in order to instigate consumption of expensive appliances in the stalling economy. Many of the Egyptian produced goods were not export-competitive and the government was entirely reliant on a local consumer market; when goods didn't move, that they had no choice but to extend credit. However, the new *taqsiT* system was only extended for a small range of appliances and a down payment of at least twenty percent of the purchase price was required.

Prior to the Sadat era, there were four national banks and a few specialized banks that dealt in mortgages, cooperative credit and so forth, which made opportunities to obtain formal credit quite limited (Mayer 1985:32). Only the privileged few had access to credit from banks to develop a business or for investment. But in the 1980's new banks were established as part of Open Door legislation and the availability of formal credit expanded considerably. Yet, as Mayer points out, banking criteria in Egypt, as elsewhere, still favored moneyed applicants who could use it to build on their wealth. The reverse was true for the poor, who lacked collateral and thus relied upon informal crediting arrangements. The potential for lending policies to promote upward mobility

for the poor was not seized upon during this period of expansion in crediting sources, due in part to the affect of credit policies instituted by a number of influential Islamic banks (Mayer 1985). As such, the poor continued to seek loans through what might best be classed as informal channels. Informal crediting strategies provide much needed capital and emergency funds for Egyptians. At the same time, informal credit is by nature risky for both creditor and debtor. I return to the discussion of informal and what can be classified as semi-formal credit below.

The expansion of both informal and formal lending in the 1980's is tied not only to the emergence of new investment opportunities and banking policies but also to the increased availability of consumer goods. The Open Door era is marked by increased importation of luxury and household goods from abroad, and thus also the initiation of new consumption patterns. It is possible to discern a progression towards the increased reliance on credit since the 1970's in order to afford such items. In the height of the economic boom in Port Said, locals were much more likely to be able to purchase items with cash. However, as the market slowed after 1991, which also marks the beginning of structural adjustment policies in Egypt, families who previously had a high level of liquidity from their retail or wholesale operations experienced decreasing profits and less purchasing power.

Shifts in consumption are to some extent most visible in relation to setting up a new household in preparation for marriage. According to Abdullah, a self-proclaimed Nasserist, prior to the Sadat era people bought things for the home with cash. "When people got married back then, the man bought some mattresses, a stove, a radio, and he laid his head down at night, listening to this radio, and his life was simple and he was

happy." According to Abdullah, credit was unnecessary in this imagined past. A man could pay cash for the items needed in his household in preparation for marriage and throughout his life because his needs were limited and many modern appliances were largely unknown.

In 2005, men and women in Egypt were expected to have purchased a vast array of consumer goods, from dishes to furniture to electronics prior to beginning their life together.[58] The groom must purchase or rent an apartment, and all purchases, renovations and decorations must be completed prior to the day of the wedding celebration (*faraH*) because the bride and groom will move into their fully furnished apartment that evening. Each year, the expectation for what items and housing related tasks are essential for establishing a household grows, and with it the potential debt burden on both the young bride and groom and their families.

Preparation for marriage is not the only event that gives rise to the consumption of household goods; clearly, families purchase household goods throughout their lives. But the lead-up to marriage puts particular strain on young men and women and their families and requires a significant financial outlay within a relatively short period of time. The financial strain of putting together a household is often exacerbated by low wages. Osama, a man of thirty-one who works in a relatively well-remunerated clerical position at a local Federal Express office in Port Said, saved for ten years before he had

[58] In addition to the basic set of dishes and silverware, a typical middle-class couple is expected to purchase cooking pots, linens, blankets, and towels, multiple serving trays, decorative curtains, pillows and table clothes, fake flower arrangements and vases, pictures, rugs and sets of furniture for the living room and bedrooms, and the bridegroom must purchase gifts of gold for the bride. They must also obtain household appliances and electric equipment (*agHayyza manzaliya*) such as a television, a satellite dish, a refrigerator, lamps, a washing machine, a modern stove with oven, an iron, a hairdryer, a blender, a toaster oven, an electric kettle, and for the upper middle class, perhaps a dishwasher, microwave, computer, stereo, and so forth. The financial responsibility for these items is largely the groom's although the negotiations before and after engagement regarding dower and trousseau usually require the bride-to-be and her family to purchase some portion of the household and personal items.

accumulated enough money to become engaged. And in spite of his savings, his parents still had to help with the down payment on his apartment.

While some buy household goods outright with cash, many buy on credit. Maha, a young woman from *al-zuhūr* who works as a store clerk, pointed out that it was difficult to save money to buy expensive items like blankets and dishes, because her low earnings from her job could easily be spent on daily expenses like food and transportation. Buying on credit was a strategy for ensuring that she was putting money gradually towards these items for her marriage home, while avoiding the difficulty of saving money to be spent outright.

In sum, Egypt in the last half of the twentieth century became marked by an increase in consumption of manufactured and imported household goods that constituted ubiquitous markers of middle class life. Although credit is by no means a new strategy in this era for people to obtain goods and services, it is inevitable that increased consumption becomes linked with increased credit at various levels of formality. For Port Saidians in particular, the immediate post-Infitah era was a time in which many locals were not as deeply reliant on credit because more cash was in circulation. As the local economy began to constrict in the 1980's and 90's, Port Saidians experience a loss of revenue from the duty free retail and wholesale markets and reliance on credit increased.

Retail traders and Retail Credit

Economists Mahmoud S. Mohieldin and Peter W. Wright undertook a recent study on the coexistence of formal and informal credit markets in Egypt (2000).

Classifying informal credit into five categories, including occasional lending, regular lending, interlinked credit, finance through collective agreements, and informal finance at the corporate level, they draw several conclusions. Firstly, they note that a large percentage of households (86%, based on their sample of 200 households in 24 Egyptian villages) participate in either formal or informal crediting arrangements. In relation to this, the most common form of informal credit in Egypt is rotating credit and savings associations (*jām̄i'āt̄*). Secondly, borrowing in the informal sector generally requires formal collateral as well as 'social' collateral. Thirdly, the informal sector tends to be used for consumption or to 'bridge' (to get through a temporary period of low income and high debt) rather than for investment (2000:658). Their study doesn't directly address retail credit, which might be classified as semi-formal credit, although there are important parallels between informal and semi-formal credit. Practices of retail crediting in Port Said are shaped by social networks and social collateral as well, and are used for consumption rather than investment purposes.

As scholars have shown, (c.f. Hoodfar 1997; Singerman 1995; Wikan 1996) rotating credit associations form a kind of parallel banking system by which Egyptians are able to save small and large sums of money with the aid of other trusted individuals. Through the *jām̄i'āt̄* system large amounts of money change hands outside of state control each year (Hoodfar 197:219). An individual organizes a savings club by drafting a number of friends, neighbors, co-workers, or family members who agree to contribute the same sum of money for a pre-determined cycle (100LE per month for twelve months, for example). Each member receives the total monthly amount in turn. For those who receive their share later in the cycle, the system is used to save up an amount of money

that might be otherwise difficult to save. On the other hand, it acts as a line of credit for those who take the first payments in the cycle. Moreover, an individual may be a member of more than one savings club simultaneously. Mohammed, a young lawyer, was participating in three savings clubs at the same time in order to set aside money for some larger purchases he needed to make.

Returning to Mohieldin and Wright's taxonomy, I suggest that although *jāmi'āt* are common in Port Said one of the most prevalent forms of local credit is what I consider 'semi-formal' credit. This entails the extension of credit by retail traders, or small store-owners, to customers.[59] This form of credit may be classed as 'semi-formal' because many merchants have structured crediting into their operation and keep records of some sort. Moreover, the credit is being extended in a hierarchical manner, rather than between relative equals (as in *jāmi'āt*) in which a more credit-worthy entity is lending to a less credit-worthy entity; this is parallel to the extension of bank credit yet without the oversight and standardized procedures employed with bank loans.

Why would semi-formal credit be more prevalent than, for instance, credit cards? After all, the extension of credit requires a retailer or wholesaler to assume the risk of default that might otherwise be absorbed by a multi-national corporation. As in other countries of the developing world, Egypt has in the past decades become an emerging market for international banks such as HSBC and Barclays. In 1999, Citibank entered into retail lending in Egypt by offering credit and debit cards, and by 2001 there were nearly 400,000 credits cards in the country. In turn, Egypt-based banks such as ABC bank (*bank al-mu'asasah al-'arabiyah al-masriyah*), Credit Agricole Egypt (*kredit*

[59] I use the term 'small' store owners to highlight the fact that in most cases retailers in Port Said own one store rather than retail chains. As such, their operation is of a relatively small scale.

agricole misr) and Arab Bank (*al-bank al-'arabī*) have also been advertising the advantages of credit cards and initiating new account holders. As one bank employee assured me, credit cards are widely available now in Egypt, and people have taken to buying on credit. However, the industry has been slow to convince retailers to expand the range of services and goods that can be purchased on credit. Major hotels and high end restaurants in Cairo and in tourist destinations like Sharm el Sheikh, Hurghada, and Luxor, and stores in the Cairo and Alexandria shopping malls generally accept major credit cards. Yet the majority of retail goods and services in the country cannot be purchased with them.

Owners of small shops are reluctant to set up service with an international credit company because of the service charges that come out of their profit every time they charge a customers card, and because of the delay in receiving payment. A retail trader *(al-tujjār al-ijzi'a,* sing, *al-tājir al-ijzi'a)* who lets a customer charge items using a credit card won't receive the payment from the company for between thirty and sixty days. Nadim, who manages a high-end children's clothing store near the beach, pointed out that owners are accustomed to seeing their profits immediately and in cash. In turn, the wholesalers from whom they buy in bulk also expect to receive their payments without delay and in cash. Therefore, switching to taking payment through credit cards is a transition that is generally only realistic for successful businessmen and women with enough capital to see them through the cyclical delays in receiving their profits. Further, the type of goods or services must be of fairly high value in order to justify the service fees charged by credit companies. As a result, the vast majority of medium and small-sized businesses do not accept credit cards; because they make up the majority of the

Egyptian market, most consumers have few sources for consumer goods and services that will accept the credit cards they might hold. Despite the increasing availability of retail credit from banks, Egypt is still primarily a cash economy, and credit is largely informal or extended directly by shopkeepers for purchases made in their stores.

Store-owners who extend credit take on the risks that large credit card companies and banks would absorb in other economic contexts. Yet it is possible to note two ways in which taking on the role of creditor as a small business owner doesn't just present risks but also accrues benefits. Firstly, credit extension allows retailers to add fees to purchases. In the processing of negotiating the price for purchases (typical for most purchases in the market in Port Said), the retailer will sell items that will be paid for in installments at a slightly higher price than those bought with cash. As one cynical local noted, 'in some stores, they wouldn't even take your cash if you had it. They prefer people who pay on credit because it increases their take!" A small-business owner may raise the price on the actual item when negotiating an installment plan for a customer or attach a service charge. This may be seen as a way of charging interest at a non-fixed rate, thereby avoiding the Islamic prohibition against *riba* although it is generally just described as a negotiable fee for credit servicing.[60]

The additional earnings available through the extension of credit are even higher through the more extreme 'burned goods system' (*niTHām al-maHruq*). Burning goods is a way of obtaining a quick and substantial loan from a retailer. A customer in need of such a loan purchases a substantial item such as a refrigerator on credit. The item may be 'bought' for 1000LE but the customer won't actually give the retailer cash. Rather, the

[60] As noted in chapter one, fixed interest is allowed by Egyptian commercial law, but is a subject of public concern and of *'ifta.*

customer will immediately 'sell' the item back to the retailer for a lower price, perhaps 800LE or less. The retailer gives the 800LE to the customer, who is then responsible for paying back 1000LE of the original purchase on installments. The refrigerator, it should be noted, never leaves the store. An alternative to this practice is to actually purchase an appliance on installment from one store and then sell it at a lower price to a retailer at a second store for a lower price.

Secondly, credit helps build networks. Negotiating a transaction is a subtle art for both retailer and customer and is an exchange through which the parties both work out mutually beneficial terms and build relationships that may prove useful in the future. Moreover, the type of store and its location in town also influences the tenor of negotiations and the terms. Hani, the owner along with his two brothers of two small but lucrative home goods showrooms (*mu'arad manzaliya*), sat and talked with me one January afternoon about his system. Hani's showroom is located in a *sh'abī* neighborhood known by its largest housing project, 'Five Thousand' (as Port Saidians pronounce it, *khamas t-alāf)*. Like many of these showrooms in town, Hani sells a variety of household items, from small and large appliances to bedroom furniture to dishes and cutlery. Many of the items are low-quality goods imported from China, and thus more affordable to his clients who tend to come from the popular districts. Only retailers selling expensive goods imported from Europe rather than Asia, and marketing towards a wealthier clientele, can afford to specialize. For instance, upscale ceramics stores selling toilets and sinks, or appliance stores selling mainly refrigerators, air conditioners and heaters, and stoves, can be found primarily in *Hayy al-ifrānj* and along the main roads where the more expensive housing in located. The majority of retail

household goods stores in Port Said are, like Hani's, geared towards middle and low-income families.

Hani pointed out that when a customer comes in to purchase something, they must first agree on a price, which among other factors depends on how many items the customer is buying; the more items, the bigger the discount. Moreover, there is one price for paying cash immediately, and a higher price for paying on installments. They must then negotiate about how much the customer will give as a deposit and whether he can take the items immediately or when more of the payment due is paid off. Finally, they decide how much will be paid for each installment, and how much time will elapse between payments. Some customers like to pay a small amount each day, Hani noted, whereas others like to pay larger sums each week or each month. What is important, he said, is that whatever the installment arrangement is that it be workable for the client because he, the owner, simply wants to get paid.

There is also a strong social aspect to negotiations over the terms of credit. The price, down payment, and installment amounts might be affected by a number of factors. These include whether he has a personal relationship with the buyer or if she is a stranger, if the buyer has purchased goods from the store in the past and paid back the installments on time or ahead of time, if the store owner needs a favor from the buyer, if he is low on cash that day, if he has been trying to sell the particular item for a long time without success, and so forth. Many of Hani's customers are from the neighborhood and he has known them or their family members for many years. He acknowledged that because his clients are often struggling to make ends meet he has to strike a very careful

balance between making a profit and building customer loyalty by being patient when they fall behind on their payments.

Hani's clientele, and thus his concerns as a retail creditor, can be contrasted with those of Tamer, who owns a high-end men's clothing store on one of the main boulevards in downtown Port Said. The suits and shoes Tamer sells are imported from Italy and cost more than five times what a suit would cost on Tugarry street in the Arab district. Unlike Hani's simple shop on a dusty street, his store is elegantly decorated, with hand-crafted wooden cabinets and shelving units that organize each imported Italian shirt and suit into a separate compartment for display; unlike stores crammed with racks of cheap clothes, the sparseness here is intended to communicate that the goods are prohibitively expensive. The shop assistant brings Tamer boiled coffee in a delicate cup and saucer as he shuts down his laptop. The marble floors gleam, and the sun that glints through the floor-to-ceiling shop windows. Tamer pointed out that for traders like him selling on informal credit to wealthy customers was accepted practice. His brother, who sits beside him, explained how credit works:

> The people who come here, they know Tamer, they have a relationship. So when they choose something they like, they find out the price, and they take the item but don't pay anything just then, or maybe some part of the price. And then over the following months, they'll stop in to say hello and will pay it back gradually. It's impolite to ask for the cash all at once, it's not the way it works here. It's about relationships, it's a way of being nice. And besides, Tamer knows that if he doesn't run his business this way, these men could go elsewhere and buy things, and he would lose business. In the middle-end shops, or the low-end shops, you pay cash. Or if you buy on installment, sure, you write *wasūlāt amāna.* But not here, not in this kind of store. And sometimes he loses money, it's the way it works.

Because these transactions, whether in a store like Hani's or Tamer's, are personal and face-to-face, with credit determinations being made through conversation as the sale

is being negotiated, being able to buy something on credit is hardly ever perceived as a simple transaction. There are no straightforward criteria used to determine whether, and how much, credit will be extended. Rather, an individual must convince the store-owner to trust him to repay the debt. In effect, extending credit occurs in a field of negotiated power, with the seller wielding much of the power to decide how much risk to assume, yet needing buyers in order to stay in business. The store-owner takes calculated risks, evaluating the character and the financial solvency of his customers.

Naguib, a trader who owns the shop down the street from him, also selling expensive men's clothing, weighed in on the topic on another occasion:

> Naguib: It says in the Quran…
>
> CH: In the Cow? [the *sūra* of the Cow]
>
> N: Yes, in the Cow, that you should write things down, no matter how small. But we don't. My customers come and take very expensive goods from me and we don't write it down. It's just not the way it's done. They might take their business elsewhere. If someone dies and they have debts, on the day of judgment they will be found guilty if they leave debts behind.

At the same time, store-owners use the extension of credit to accrue debts of favors and to strengthen a good reputation that will help build a clientele. In general, traders seek to become known as someone who will extend credit generously. They do so in order to attract customers, and to widen their exchange network. As Singerman (1995) argues in her study of the political economy of personal networks in Egypt, Egyptians rely on informal networks of favors and exchanges in order to accomplish any number of daily transactions and tasks. A favor for another individual, whether known to one or not, not only puts someone in another's good graces but produces a burden of debt whereby one has the right to ask for a favor from that individual in the future.

The repayment process further solidifies the personal nature of this credit system; customers come back to the store in person each week or month to repay a portion of the debt. Some months the customer may not be able to pay back the full amount, and will have to ask the store-owner to readjust the payment schedule. They must, in other words, ask the owner to be patient and to trust them. This may happen a number of times before the debt is paid, and each renegotiation, each request for patience and trust, may put a strain on the store owner's profit margin in any given month but will accrue social debts in his favor. A trader in Port Said is typically in a very good position to call upon a number of individuals in town for favors.

For example, Essam, a young math teacher, had recently purchased some items on credit from a small showroom. He and the owner knew each other, although not well, from the neighborhood where Essam had grown up. The owner, Samir, was about ten years older than Essam and had worked at a grocery store in his parents' neighborhood; Essam remembers kicking a football around with him as a kid when business was slack at the store. When he recently decided to purchase some new things for his house, including a cabinet for his computer and a bed for his growing son, he went to the showroom Samir now owns. After choosing the items, worth about 600LE, and requesting to pay on credit, he and Samir negotiated about how much he would pay each month for a set number of months. This arrangement for installment payments was verbally agreed upon and recorded in Samir's logbook. Because Essam and Samir had a relationship, although not close, Samir insisted that Essam merely give his word to repay the debt and didn't request any other form of documentary guarantee. A few weeks later

Essam also purchased more items, including a refrigerator and a dresser, for his brother-in-law and the father of his brother-in-law, under the same terms.

Essam expressed pride in the fact that Samir had extended such a large amount of credit to him and simply trusted that he would pay back the debt. At the same time he was worried because Samir had begun to ask Essam to tutor his son in math. Although Essam would ordinarily welcome new students, and expected that Samir would offer to pay for his services, he knew that he would have to refuse payment because of the generous terms of credit Samir had extended. Every time he went to Samir's shop to pay his monthly installment, he found an excuse to avoid tutoring the man's son, although he figured that his excuses would run dry at a certain point and he would have no choice but to give the boy some lessons free of charge. As such, Samir had used his generosity to garner a debt of favor from Essam. At the same time, Essam hoped that by repaying the installments fully and on time each month, he would 'repay' Samir's generosity and weaken the basis upon which he could pressure Essam into tutoring his son. Relying upon a verbal agreement was risky for Samir, but a risk he was willing to take based on the twin factors of social connections with Essam and his family (the pretext upon which he could 'trust' him), and his knowledge that Essam was a sought-after tutor who might be able to provide lessons for his son (the favor he could extract in exchange for his trust).

Along with illustrating how traders use the extension of credit on generous terms to garner social debts, Essam's example points up some the ways in which the *medium* used to guarantee transactions is critical for how the transaction functions and the level of risk it engenders.

Guaranteeing Credit Transactions: Customary/Commercial Documents

Let's turn now to take up the question of medium more directly. The expectation that one can reliably guarantee credit through social rather than contractual mechanisms is also present in crediting practices between wholesalers and retailers. As traders describe it, in pre-free zone Port Said strong bonds of trust and respect existed between wholesalers and retailers that bound them together. Wholesalers would extend credit generously, and retailers promptly repaid the advance of goods they'd received without written guarantees of any sort. As Mahmoud Hamza, in discussing how his father conducted business in mid-century Port Said, recalled: "You would just call up on the phone and request a certain amount of goods from the wholesaler, and he would send it over. You made a verbal agreement over the phone, and your reputation depended on paying for the goods." A 'man's word' had value, he noted. Many traders insist that this is still the case.

The connection between being a trader with strong connections and a good reputation and the absence of documentary surety for crediting can be seen in how Abassi describes his dealings with wholesalers. Abassi owns a small workshop for installing and repairing automobile air conditioners. The shop has several employees and is located on the ground floor of a multi-story apartment building in the 'Five Thousand' neighborhood. Abassi describes himself as having good connections, built over the many years he has run his own workshop. In particular, he stressed that as a retailer he had excellent relationships with the wholesaler who provided him with spare parts and air conditioning units. In the fifteen years that he had worked with this wholesaler, they had never used any checks or honesty receipts to guarantee the goods Abassi took on credit;

there was trust (*sikka*) between them. He points out that this is not always the case with wholesalers and retailers: "All [other] merchants write checks for him for the things they buy, except me. Because of trust." (Abassi is using the term 'checks' to refer to both bank checks and honesty receipts).

In contrast to Abassi, other traders expressed to me that the expectation of trustworthiness has begun to lead to problems as the economy worsens and credit can't be paid back. The Open Door era, and the establishment of the Free Zone are often pointed to as turning points in wholesaler-retailer relations and local business practices. The community of traders, once presumably close knit and trustworthy, is now disaggregated and weak. Moreover, interventions by other traders in the community to resolve credit disputes between wholesalers and retailers are not uniformly successful. Ideally, traders pointed out to me, the pressure of maintaining good standing within the trading community guaranteed repayment of debts. But the declining economy strains this expectation.

But traders today also recognize that the marketplace is an increasingly anonymous space, and customers' (and retailers) ability to repay is increasingly strained by the weakening economy and interrelated liquidity problems. As such, there is ample evidence of the use of commercial documents to secure repayment of credit.

In the preceding I discussed the way Hani negotiated with clients over the terms of a sale and credit. Hani is also known for his elaborate bookkeeping and for using honesty receipts to secure credit he extends. To keep track of all of his accounts, Hani not only keeps handwritten account logbooks listing each person, the amount they've taken on credit and the amount and number of installments they've agreed to pay, but he

also keeps a daily logbook to record all of the incoming payments and gives each customer their own small notebook to record the amounts they owe and have paid. In addition, he keeps all of this information double-referenced on his computer, which sits on his desk in the middle of the small shop. His business has grown over the course of ten years, during a period in which many businesses have suffered, and he has even expanded to open a second store elsewhere in the city, in part because he has been so willing to let people purchase items on credit.

Unlike Tamer and Samir, Hani typically does not rely upon verbal agreements when extending credit. He and his brothers have chosen instead to conduct their transactions more rigorously. Along with their elaborate record-keeping system, they insist on procuring what are known as honesty receipts as surety from clients. Even for those traders less rigorous with their accounts, the practice of writing honesty receipts to guarantee transactions is quite common. Honesty receipts (*iyS$\bar{a}$l am$\bar{a}$na)*, are the primary means for guaranteeing semi-formal credit in Port Said today.

An honesty receipt is a simple, mass-produced receipt purchased in local stationery stores intended to secure three party transactions (see Appendix A). The document is intended for delivering sums of cash using an intermediary; if the cash isn't delivered the person responsible for failure to deliver has misappropriated the funds and is legally liable for breach of trust. As such, nonpayment of an honesty receipt is a misdemeanor criminal offence, juridically classified between a felony and an infraction; the legal status of this customary/commercial document will be discussed in more detail in the following chapter.

Most strikingly, buyers are sometimes requested to sign such agreements *'alā buyāD*. *Muwaqqa' 'alā buyāD* can be roughly translated as 'signing on the white,' a reference both literal and metaphorical to putting one's signature on a document that is missing concrete details or terms. In other words, buyers sign their names to an honesty receipt without any sum filled in, so that the trader is able to write in any amount of money; if the original purchase was for items costing 1000LE, the trader is free to complete the honesty receipt as if the buyer owes them 5,000LE, 20,000LE, or more. A buyer who intends to spend 1000LE (approximately 150 U.S. dollars) on a microwave may soon find himself criminally liable for 50,000LE, the equivalent of about 9,000 U.S. dollars. One retailer posited a hypothetical scenario for me, based on his many years of experience dealing with clients. His comments reveal the difficulty he has faced recouping money owed:

> Suppose I gave you an honesty receipt with the amount of 500 pounds and you did not pay. Of course, I'll make a complaint against you in the court but the court will not give attention to the 500 pounds. So, when I write an honesty receipt, I write a high sum of money. I just take my money (i.e., gets from the client what he actually owes), but I have to do that to guarantee that the client will pay back. When the client knows that there is an honesty receipt with a lot of money, he responds and pays regularly. If the sum of money is little, neither the court nor the client responds to my request!

Buyers must typically sign at least one honesty receipt, either for a specified amount of money or *'ala buyāD*. Some traders insist on obtaining several such documents; a common practice is to have buyers sign one completed honesty receipt for each installment payment to be made (ten payments over the course of ten weeks, for example) and one honesty receipt *'alā buyāD* as surety for the entire debt. The creditor keeps the only copy of each honesty receipt in his or her possession until the debt is paid

and then is expected to tear up the document in the presence of the debtor, to prove that it can no longer be used against the debtor[61].

In addition, traders typically request that a buyer who wants to take something on credit have a guarantor whose name will be written in the logbook where the account is recorded, and who will also be expected to sign one or more honesty receipt, *'alā buyāD*. A guarantor might be a family member, a friend, or someone who is a relative stranger to whom the buyer will pay a small sum of money for agreeing to take the risk of guaranteeing the debt. The trader has no need to conduct a 'background' check to determine the solvency of either the debtor or her creditor and thus their ability to repay. The honesty receipt serves as the mechanism by which the loan can be recouped. If the buyer stops making installment payments, the trader can complete the for a large sum of money, file a report at the police station, and thus start criminal proceedings against the buyer and/or the guarantor.

Yet even with an honesty receipt at his disposal, it is expected that a trader will try other means to recoup the debt rather than turning immediately to the courts. Hani relate. the procedure he tends to follow when someone stops paying installments.

> CH: If you have someone who wrote an honesty receipt, and he stops paying, what do you do?
>
> Hani: I call him, after 60 days, 2 months. After 60 days we begin to act, because he didn't come (to pay his installments). We send him a warning from us. That he has 3 days to appear or we will raise an action. The warning is in the name of the lawyer, not in the name of the store. From us, but by way of (the lawyer). The lawyer sends the warnings, he has forms in his office that he created for this. After this, if he comes and pays a certain amount, according to his credit, let's say 100LE if he owes 300LE, then fine, we move on, he goes back to paying

[61] I came across a number of stories in which a creditor was accused of forging, or admitted to forging, an honesty receipt to destroy in front of the one who signed, so that in fact the creditor kept possession of the original document to use against the other party at some later point.

> installments as before, and it's fine, he pays according to his circumstances. If he doesn't pay, we wait until 5 months have passed and we file a formal complaint.

He also explains what he does when he first approaches them about failing to pay:

> First, I ask them why they've stopped paying. Is there some problem, which prevents him from paying the money back. Some people give excuses – I was ill, my wife is ill, he doesn't have work, like that. Some people are making these things up, but I can tell if they're liars or if they're telling the truth. By talking to them like this, I let them know if I believe them, and sympathize with their problems. But other times, I feel like they're lying and I'll tell them so outright. There are people who go from one store to the next, taking things on credit to get the money, burning goods. They'll come here and pay one month, and then they won't pay for three months because they're paying at the other stores they borrowed from. In situations like this, I don't have patience for their excuses because I want my money

In accordance with the *bishakl wadī'* ethic, a good trader takes people's circumstances into account when deciding how to proceed when a debt is owed. Later in the conversation, Hani emphasizes that it's important to be generous, because you will be rewarded for your generosity. Although he doesn't make explicit reference to religious teachings, he indicates through his gesture of uplifted hands and face that he refers to a spiritual form of reward. At the same time, Hani and other traders have a threshold for such generosity and are not adverse to pressuring people into repaying debts by taking things to the level of the court. The honesty receipts Hani requires his customers to sign provide him with a basis for a legal case in such instances.

Along with honesty receipts, traders may sometimes use checks (*shīkāt*), although honesty receipts appear to be more common in Port Said. Checks include both bank checks and non-bank-issued checks known as *shīkāt ghayr bankīya*. Both are generally post-dated for a debt to be recouped through the bank, or as collateral for a forthcoming cash payment; the latter are legally weaker and more easily forged; this will also be

addressed in the following chapter. Post-dating checks as a form of guarantee is found in other transactional contexts as well (c.f. Kaufmann Winn 1994; Pinheiro and Cabral 1999). There are useful parallels to be drawn from economic sociologist Kaufman Winn's work on relational practices and the marginalization of law in Taiwan (1994). She notes: "A large component of Taiwan's informal financial sector is comprised of postdated check (PDC) transactions." This was so because the Republic of China Negotiable Instruments Law made criminal charges for bouncing a check possible. Moreover, "[u]sing PDCs to document commercial transactions thus helped maintain the viability of attenuated relationships without forcing the parties to assume the expense and inconvenience of completely converting the transaction from a relational to a legal basis by drawing up a contract that fully expressed the parties' agreement" (220). The criminal basis of bouncing a check was repealed in the 1987, yet PDCs are still in use. She notes that they have been used to bolster increasingly tenuous networks of connections as consumer culture boomed in Taiwan. Businessmen could assume that most people were unwilling to risk imprisonment as a cost of doing business, and felt confident extending credit to people outside their close network of friends and family (220-221).[62]

Kaufman Winn's findings parallel to some degree the use of honesty receipts (as well as checks) in Egypt in relation to both crediting practices as well as to 'coercive' uses of honesty receipts in the context of disputes. These customary/commercial documents allow for retailers and others and make secure debts while also relying on nonlegal forms of authority that are rooted in notions of community and morality. The debt can be converted into a viable case, although it must be pointed out that through the

[62] Kaufman-Winn also demonstrates that there is a connection between, on the one hand, the prevalence of networks and an ideology rooted in Confucianism that prioritizes personal relationships over reliance on state institutions, and on the other hand the use of post-dated checks.

practice of signing *'alā buyāD*, there is leeway in how steep a penalty might result in legal action. A retailer has the option to fill in a small amount that will not be regarded as severely by the judge.

Conclusion

Clearly, one of the important differences between semi-formal and formal credit is that formal loans are considered such precisely because laws on secured transactions regulate them. El-Dean notes that the Egyptian Civil Code, principally articles 1030 through 1084 and 1096 through 1129, articulates the rules governing the taking of security, covering such issues as pledges, business charges, notification, enforcement and sale (2002:82). Although El-Dean makes clear the many weakness of the current law on secured transactions and makes recommendations for amendment of it, the regulations in place suggest that defaulting on a bank loan will be processed formally through the legal system.[63] In contrast, semi-formal loans backed by customary/commercial documents provide opportunities to lend and renegotiate based on criteria other than fiscal solvency and in so doing, to build networks and a reputation.

Port Said has undergone changes in the 20th century that have altered the community in significant ways. In particular, the economic and demographic shifts initiated by the Open Door policies of the 1970's ruptured the old social order in which the authority of local notables was uncontested. A new group of capitalist entrepreneurs,

[63] However, there is evidence to contradict this assumption. One case I learned of involved a man who had defaulted on a number of loans taken from the bank to expand his cattle farming project. To secure the loan, the bank requested – just like a store-owner would – that he sign a large number of honesty receipts. These were kept in his file to use against him should he fail to make payments. This 'informality' in securing bank loans was asserted by the man's lawyer, as well as by my landlord banker, as routine at some banks.

the ‘capitalist parasites’ as some Port Saidians classify them, rose quickly to form a *nouveau riche* class. Customary ways of conducting business, based on relationships that spanned generations, were seemingly disrupted by the influx of new traders, and later by the weakening economy following the structural adjustment period that marked the beginning of Port Said’s slow decline after the consumerist heyday of the 1970’s and 1980’s. Over time, some newer documentary practices emerged to guarantee delayed transactions, involving honesty receipts and non-bank issued checks; these documents proved to be useful for reinforcing attenuated relationships in the evolving marketplace. As we will see in the following chapters, these same documents have proven to be useful in non-commercial contexts as well.

Chapter Four

Customary/Commercial Documents: Real Debt, Fictional Crimes, and Breach of Trust

It is relatively unsurprising to find traders making use of customary/commercial documents like honesty receipts to guarantee retail credit. Yet sometimes customers are required to accept a high degree of risk as part of guaranteeing a transaction. In particular the practice of procuring at least one honesty receipt that has no sum inscribed (*'alā buyāD*) can later be used to claim that a significant sum (far beyond the original debt) is owed. As I talked to Port Saidians about disputes unrelated to retail credit, they routinely made mention of the same documents in relation to disputes they had been or were currently involved in. After hearing perhaps a dozen stories, typically involving honesty receipts as a form of 'pressure,' I came to realize that this unanticipated use of customary/commercial documents, including the risky practice of signing *'alā buyāD*, outside of trading and credit contexts was worthy of deeper investigation.

This chapter focuses on the use of customary/commercial documents (*muharrarāt 'urfiyya*) in Port Said as transactional devices among locals largely outside the context of trading. In particular, it considers how one type of customary commercial document, the honesty receipt (*iySāl amāna*), is employed to secure transactions unrelated to trade and to resolve disputes. Honesty receipts are both ubiquitous and perceived as uniquely efficacious in pressuring another party to follow through on an agreement or promise.

Their alternate uses raise questions about what this particular variety of commercial document offers in contrast to other types.

This chapter finds that there are particular social and juridical logics that undergird their popular use, in that honesty receipts allow for dispute resolution processes that have positive social value coupled with the potential for harsh legal consequences. Legally, their efficacy is related to the fact that honesty receipts can be used to press charges against the signer, designated as the party who has failed to deliver monies, who then faces a possible misdemeanor sentence. Thus, an honesty receipt is considered stronger than a contract or other type of commercial document that only offers recourse to civil action for compensation or damages. Guarantee, it will be shown, is constituted by staking the body, rather than assets, as surety.

More importantly, these practices suggest that Port Saidians make pre-emptive determinations about how the law shall adjudicate their disputes by transforming fundamentally civil disputes into possible misdemeanor charges by misrepresenting the nature of transactions. Port Saidians interpret the civil law as an inappropriate set of rules to apply to some private disputes and its courts as an ineffective context through which to process them. Through practices that deny the legal system the capacity to adjudicate the true subject matter of a dispute, Port Saidians assume the task of adjudication and use the law to make resolutions and transactions binding and to force compliance. These are a hermeneutic acts: in these instances the law is interpreted to be a productive source of violence and denied to be a source or site of fair and adequate adjudication of civil disputes. This is not to present Port Said or particular communities within it as 'interpretive communities' that "generate distinctive responses to any normative problem

of substantial complexity" as Robert Cover posits (Cover 1995:141).[64] Rather, this is simply to suggest that the use of honesty receipts is a practice through which interpretation of law's meaning, capacity, and efficacy occurs.

As such, these pre-emptive determinations are productive and multivalent. On the one hand, they are processes by which ethical or moral personhood may be constituted. Conversely, they may be processes by which one may leverage law to punish or threaten another person to achieve self-interested aims. In such examples,we see Port Saidians overriding the law in order to assert rights outside the scope of what the law might allow.

In the preceding chapters I have sought to lay out a multi-faceted social, economic, and legal framework in which these documents come to be used, a framework in which urbanization processes have complicated local transactions and dispute resolution and in which separate spaces of law and morality have been demarcated through secularization processes. In such a framework, taking one's right and fashioning a moral self are in tension. In this and the following chapters, I focus on document use in two modes, in moments of production (and the implications of such moments) and in circulation. Through these moments and circulations we can observe how documents are social actors, modifying states of affairs and relationships, and contributing to the ways in which state violence is leveraged and social value is accrued.

Customary/Commercial Documents

In any of the many stationery shops in Port Said, Egypt one will find shelves stocked with pencil sharpeners and 2-hole punches, colorful notepads for schoolchildren,

[64] His analysis of 'interpretive communities' focuses on well-defined communities like the Amish in the U.S.

and somber desk sets for professionals. One will also find inexpensive booklets of *shīkāt* (checks), *kambiyālāt* (bills of exchange or drafts), and *iySālāt amāna* (honesty receipts). Each booklet contains ten or twenty single-copy (non-carbon) printed forms on (usually) low-quality paper, and costs about two Egyptian pounds. These simple instruments are the means by which many local retail credit transactions are guaranteed. They are types of informal commercial documents, in local parlance often referred to as customary documents (*muharrarāt 'urfīya*), a term that applies to a range of commercial documents that are informally composed and sometimes legally weak.

In this section I consider the legal differences between two primary commercial documents, the promissory note (*kimbiyāla*) and the honesty receipt in order to interpret their differential use in and out of commercial transacting contexts. In relation to this, I further discuss the practice of signing honesty receipts (and *shīkāt*) *'alā buyāD* (on the white, or blank), in which signatures are present but the sum of the transaction is left unspecified. This increases the risk for the debtor and enhances the document's potency for the creditor. The legal implications I point out here clarify some of the social implications discussed later in the chapter. Moreover, the honesty receipt has largely come to supplant other commercial documents that were previously used with more regularity in these types of exchanges, namely checks (*shīkāt*) and drafts or bills of exchange (*kimbiyalāt*). Through the practice of misrecognition, there are times when weaker legal documents have the same transactional veracity as a stronger document.

To some extent Egyptian *muharrarāt 'urfīya*, as these documents are generally considered, can be seen as running parallel to *mustanadāt*.[65] In the Evidentiary Law as to the Civil and Commercial Articles of Law 25/1968, a distinction is made between 'informal' and 'official' documents. In sum, official documents are legally characterized as those produced by a public employee or those 'received' by him (notarized). Informal documents, on the other hand, are characterized as follows: "If such documents do not assume official capacity, they shall merely have the value of informal documents whenever the parties concerned shall have put down their signature, their stamps or their fingerprints thereupon" (Trade Law 25/1968/Article 10). As a young, self-possessed lawyer named Hamdy informed me, customary documents can be contrasted with *mustanadāt* because the latter tend to include government or court issued forms, legal briefs and memos, contracts that are written according to recognized legal standards, or informally composed documents formalized through the process of notarization or by being witnessed. A customary document, on the other hand, may be a slip of paper, rather than a multi-page document, and is often hand-written rather than word-processed, simply composed, and not notarized or witnessed.

There are examples of customary documents that exist outside the milieu of commerce and trade (for example, an '*urfī* marriage contract is a customary contract for the non-commercial exchange of property and the definition of rights and obligations),

[65] *Mustanadāt* (*mustanad*, sing.) is translatable as documents but distinguished in practice as formal, as opposed to informal, legal documents. Each term indexes the other, although this indexing is more implicit in the term *mustanadāt*. According to the Hans Wehr Arabic-English dictionary, *mustanadāt* (from the root s-n-d) generally refers to document as well as paper, deed, voucher, record, receipt and legal instrument; it's juridical definition is more precise: documentary proof, records, data, legal evidence. *Muharrar*, on the other hand, is defined as bookings or entries; in its singular form it is a passive participle, i.e. "written, "set down in writing", and even "consecrated to God". *'urfi* (adjective; the noun form is *'urf*; custom) is commonly translated as customary and associated with customary law practices and forms in contrast to *ibadāt* (traditions), a term with little legal connotation.

although my focus here is on customary documents that are linked more directly to commercial transactions. In the course of my research, I encountered non-bank-issued checks (*shīkāt ghair bankīya*), bills of exchange or drafts (*kambiyālāt*), honesty receipts (*iySalāt amāna*), false contracts (*'uqūd al-Sūrī*) and anti-contract devices (*awrāq al-Did*), all examples of customary/commercial documents. Moreover, a contract that is handwritten and composed without the aid of a lawyer or the use of a form can be considered a type of customary/commercial document.

What does it mean to suggest that *muharrarāt 'urfīya* run 'parallel' to *mustanadāt*? The parallel might suggest a repertoire of fraudulent or counterfeit documents posing as legal documents, in circulation to serve nefarious purposes and perhaps undercutting the efficacy or validity of legal documents. On the other hand, the positioning as parallel could simply suggest that there exists a complementary set of quasi-legal devices that sometimes supplant official documents, with varying efficacy shaped by both social practices and legal status. For the most part, this latter description accords more closely with the documents I discuss in the following. This is not to say that forgery is never a feature of customary documents; forgery of and within customary documents does occur with some regularity; this will be addressed in more detail in the following.

How might form, legal status, and patterns of alternative uses bear on the classification of certain commercial documents as customary? The issue of form was noted above in pointing out that customary documents are often handwritten, not notarized, and the like. Second, the legal status of customary commercial documents is difficult to generalize because there are many different types. However, it is not accurate

to assert that customary commercial documents are always weaker than or have a quasi-legal status in comparison to formal documents (*mustanadāt*). For example, both hand-written contracts and 'false' or 'fictional' contracts (*'aqd al-Sūrī*) are often indexed as customary documents. A hand-written contract containing few details about the substance of a transaction, undated, without the signatures of witnesses and so forth may contain so many errors that if used in a civil case as evidence of an obligation it may be essentially void or unenforceable. By contrast, a contract declared by the parties to it to be false may be a well-composed contract with clear terms and conditions (and may even be a 'standard' contract of sale) and legally valid. But the legal validity of false contracts is often irrelevant because they are typically written for sham transactions to hide assets or subvert laws of inheritance; they serve as evidence of a transaction that never took place. Hence, some customary documents are likely to be found unenforceable whereas others will be found valid.

Let us dwell momentarily on a comparison of the legal status of honesty receipts and bills of exchange. A bill of exchange, also called a draft (*kambiyāla*), used historically between retailers and wholesalers, is simply an unconditional order to pay a fixed sum of money to a third party by a particular date. The 'third party' is typically a bank; there are offices within some Egyptian banks that accept *kambiyālāt* payments and disburse the funds to the designated accounts. Compensation for non-payment can be substantial; as stipulated in article 443 of Trade Law 25/1968, one who bears a draft that has gone unpaid upon maturity is entitled to claim not only the original amount of the draft but also any agreed-upon interest, additional interest at the Central Bank of Egypt

rate, and expenses of the protest, notifications, stamp duty, and others. This is a commercial document, with redress falling under civil law.

A *shīk* is a non-bank issued check that can also be bought at a bookstore. It is designed such that bank account information is filled in by hand, rather than pre-printed with the name, address, and account number of the account holder. Because such checks provide ample room for fraud (in cases where one writes down incorrect or nonexistent bank account information) they were recently deprived of legitimate status as of Banks Law 5/2005. Despite this, they are still available and are still used; while they no longer pose the legal threat of check fraud, they still can serve as surety for a delayed transaction or a promise. As noted previously, they are typically post-dated and guarantee future cash exchanges (i.e., the repayment of a loan in cash) by putting up one's bank account balance as collateral. Bank checks are non-negotiable instruments and, as in other contexts, if written without adequate funds to cover payment once submitted, the account holder can be charged with a misdemeanor for knowingly issuing a check in bad faith.[66]

Honesty receipts, on the other hand, secure three-party transactions. They are intended to document and provide surety for a transfer of assets using an intermediary, in which money or goods moves from person A to person C via person B. Such transfers are common in Egypt, where much business is transacted in cash rather than through checks, credit cards, and bank transfers. There are many varieties sold in stationary stores throughout Port Said and Egypt, each with a slight variation in the wording of the document and the information requested. In addition, some booklets include a receipt stub that can be filled out to record the names and addresses of each of the three parties to the receipt. The following is a translation of the text of one version:

[66] According to Article 534 of the 1999 Egyptian Commercial Code.

Honesty Receipt

I (space for B's name), residence (space for address), ID card number (space for number), governorate (space for governorate) have received from Mr. (space for A's name and residence) the amount (space for sum) and no more. And therefore with all honesty I will convey it and surrender the amount to Mr. (space for C's name and residence). If I do not surrender this amount it will be considered squandered and to be a breach of trust and carries a misdemeanor with it. The one who admits to what is in the receipt (space for B's signature). And this receipt from me is notification of surrender.

Failure to deliver means that the intermediary (B) can be accused of breach of trust (*khiyānah al-amāna*) in the form of embezzlement, charged with, and found guilty of a misdemeanor. It is a commercial document with potentially criminal consequences for non-delivery. In addition to the misdemeanor case the plaintiff can also raise a civil case for compensation. In sum, drafts or bills of exchange are viable but viewed as a less potent way to guarantee delivery of a payment in that a failure to pay the amount stipulated does not legally amount to a breach of faith or trust (*khiyānah al-amāna*). Non-payment of the draft allows for civil recourse only, whereas an honesty receipt carries the potential of both criminal and civil recourse.

Not only is criminal recourse more directly connected to the coercive power of the state, there is a perception that criminal cases move much more quickly through the courts, thus avoiding some of the delays involved with a civil case as noted in chapter two. This perception is validated by some of the current legal reform efforts underway in Egypt. In addition, the procedures by which debts or damages are recouped for plaintiffs are perhaps inadequate. This was not a matter I pursued in any depth, but it is worth noting that because many Egyptians are informally employed or self-employed, the option of garnishing wages that would typically be a strategy for forcibly obtaining money owed by order of the court is limited to government employees and select others

whose wages can be officially accounted for. Moreover, as will become evident in the analysis of false contracts in chapter five, Port Saidians make use of some legal and illegal strategies to hide their assets; defendants who lose a civil case may easily appear to have no assets or money to seize.

Further, the practice of signing *'alā buyāD* gives honesty receipts particular efficacy. Port Saidians are often expected to, or offer to, sign their names and leave blank the sections in which the amount of the transaction is to be stipulated. While the inclusion of spaces and blanks, and the exclusion of important terms and stipulations are relatively common practices with other types of customary documents, the practice of signing on the white (*mawqa 'alā buyāD*) with honesty receipts has particular juridical implications. A breach of faith charge based on non-delivery of monies stipulated in an honesty receipt can result in up to three years imprisonment and fines. The jail sentence is at the discretion of the judge, although lawyers I interviewed pointed out that there was usually a strong correlation between the amount of money involved and the sentence such that a higher sum resulted in a longer prison term. They argued that if the original amount of debt at stake is relatively small (for example 300LE), the judge will be more likely to grant a light sentence or fine to the party found guilty of breach. On the other hand, if the receipt purports to represent a failure to deliver tens or hundreds of thousands of pounds, a judge will tend to assign a harsher sentence. Therefore, Port Saidians extract even more leverage from this simple receipt by insisting that no sum be stipulated upon signing. The bearer of the document can subsequently inscribe a large sum, or is at least

acknowledged to have the ability to do so.[67] Judicial discretion, in this way, shapes the 'customary' usage of honesty receipts.

This is not to propose that Port Saidians who procure or sign honesty receipts *'alā buyāD* are explicitly aware of the legal implications. Some Port Saidians who talked about their experiences using honesty receipts expressed an understanding of how this made the document more powerful by noting that the judgment would be harsher. In fact the knowledge that signing *'alā buyāD* can lead to a harsher sentence is conveyed as gesture that one is willing to take a bigger risk; this suggests confidence in one's ability to repay or fulfill the terms of the agreement to which it is linked. Yet others pointed out that it was simply how it was done, or that they felt they had no choice, suggesting that they were in a weaker position relative to the other party. In the following chapter I dwell on several 'moments of production' in more detail, in order to analyze the productive nature of risk-taking through signing on the white.

Knowledge of the legal differences between these devices and of important changes in the law is not uniform. Even in discussions with lawyers it seemed that they had different information about what exactly differentiated them. In particular, the new law regarding non-bank issued checks made their legal status and efficacy unclear for many users. New laws are generally published in the papers, but this is not to say that people read or understand the changes and their implications. For example, Abassi pointed out that bank checks were used less often today, and that wholesalers primarily

[67] This is so common that some lawyers assume that a large debt inscribed in an honesty receipt is fictional even when it is real. In one case, a lawyer delayed submitting the documents to initiate a case on behalf of a client, a wholesaler dealing in tires, because he assumed that the 30,000LE inscribed in the honesty receipt was an inflated sum to strengthen the case and that the real debt under dispute was merely hundreds of pounds. He later discovered that the customer truly owed the wholesaler 30,000LE.

insist on using *iySālāt amāna* for surety, but he didn't necessarily understand the legal basis for the difference between them:

CH: Do you still use *shīkāt* (checks)?
A: Yes, but wasuulaat more [often] because they are stronger than checks.
CH: Are you talking about *shīkāt bankiya* (bank checks)?
A: Yes. But the *wasala amāna* is more powerful than the check…In the law, the *wasala amāna* is stronger. The check used to be the strong one, but nowadays, it is the *wasala amāna*.
CH: How did you know that?
A: From the *su'* (market).
CH: [From] talking with people?
A: Yes, from life despite the fact that I'm illiterate.

Bills of exchange (*kimbiyālāt)* that offer less legally potent surety can still be productive sources of pressure through a process of misrecognition. For example, Waleed, a newly-married tutor, was entrenched in a dispute with a neighbor, 'Amr, over 300LE. Waleed owed this money, which represented several months of back-rent on his government-subsidized apartment, to the local administration office (*Hayy*). He had asked Amir, who happened to be employed at the *Hayy* in the security department, to deliver the payment for him. "I was busy at that time, and it seemed easy, to just ask him to deliver it, since he was going there anyway" Waleed recalls. Amir agreed, and Waleed gave him the 300LE in cash. But in the days and weeks following this, Amir could not produce the receipt for Waleed to verify that he had paid the money; each time Waleed asked, he made excuses about why he didn't have it. Soon, Waleed progressed to approaching Amir at work:

> Waleed: I started going to the *Hayy* and I would say to him, either give me a receipt to show you paid, or give me the money. But he said that he had no receipt because the rent was late and they didn't give him one…At first, I would talk to him quietly, in the hallway, but eventually I began to deal with him in front of his co-workers.
>
> CH: How long did you do this?

Waleed: I went to see him at the *Hayy* every morning for a month! Finally, I decided to make him sign a *kambiyālā* for the amount or I would take the problem to the president of the *Hayy*. So under this pressure, he agreed to sign.

CH: Had you ever used a customary document in this way before? Where did you get the idea to do this?

Waleed: I never had, but I just knew, I'd heard of others doing this…we went and bought one receipt (from the bookstore) and filled it in…After four months, he gave me the money back. But I held on to the *kambiyālā* for a while, just to make him nervous, to punish him, and then after a while I ripped it up.

CH: Why didn't you ever go to the police and make a complaint against him for theft?

Waleed: I had no evidence, nothing to prove he took the money!

Waleed was finally able to force his neighbor to admit that he had taken the money, and because Amir was worried about his reputation, he agreed to sign a blank *kambiyālā* as a guarantee that he would repay the loan. This resulted in the return of the money and solved the problem, although Waleed has never asked the man to deliver a payment again.

However, Waleed had purchased a booklet of *kambiyālāt* from the stationary store rather than a booklet of honesty receipts, without realizing that *kambiyālāt* can only be used to raise a civil case. 'Amr was under the same mistaken impression that the document he signed for Waleed could land him in jail if he didn't repay the money. As such, the *kambiyālā* provided as much leverage as would an honesty receipt because neither party realized the difference until after the money had been returned. A lawyer friend of Waleed's informed him of the difference when he later recounted the story.

There are some reverberations here with economics and in particular alternative currencies, as Bill Maurer (2005) writes on with cogency. Maurer notes that because

alternative currencies are locally derived and have no formal connection to national economies, their transactional veracity is constituted through multiple strands (59). For instance, denominations are marked in relation to the national currency thus constituting a clear parallel to the larger economic context in which they operate, and local residents agree to honor the currency for services and goods. Alternative currencies are, on one level, false because they have no value outside of a particular local context. But yet within that context they have purchasing power. The *kambiyāla*, by comparison, is an 'alternative' customary/commercial document. It is quite legally weak in comparison with the honesty receipt. But through the mutual misunderstanding noted above, it came to represent as much of a threat as were it actually an honesty receipt.

Legal Fictions and the Body as Collateral

Although Waleed's example involves the repayment of money, it is critical to note how the writing of an honesty receipt constitutes a new debt and falsifies the nature of the actual debt. This is due in part to the form of the receipt itself, which suggests that three parties were involved rather than two. There may also be a falsification of the actual amount of debt involved, and in some instances there is no debt at all but rather a promise to do something (or not do something) for which a party wants guarantee.

Many innovative uses of customary documents occur within the context of marriages and engagements and thus bear some relationship to how people perceive the family courts. To some extent, using honesty receipts and checks suggests that they are ambivalent or unconvinced that the family courts are an effective medium of adjudication able to compel compliance with its rulings. This is related in part to some of the common

strategies men use to avoid responsibility for payments, as will be discussed in the following chapter. Salma pointed out that honesty receipts and post-dated checks are often used to compel husbands to pay the maintenance they are contractually obligated to provide for their wives but have neglected.

> Such cases (of men signing a document *'alā buyāD* to reassure the wife and her family that he will begin to pay regular household maintenance) happen a lot. What happens is when there are many problems between the two people in court we try to finish the whole thing in a friendly way (*bishakl wadi'*). In order for the wife to let go of the cases she's raised against him, he must do something to guarantee her rights. This guarantee could be a blank honesty receipt or a check so that if he does not fulfill his duties she can sue him again. Despite the fact that the woman could take her rights through the court, they prefer to solve it in a friendly way for the sake of the children. However, there must be this kind of guarantee just to ensure her rights.

Alternatively, if he continues to neglect his duty his wife can fill in a sum and submit it to the bank. Salma, unlike other lawyers, tends to counsel her female clients in particular to obtain post-dated checks rather than honesty receipts; in her opinion this provides two possibilities. Either there is money in the bank account that the wife obtains upon cashing it, or if there are insufficient funds a misdemeanor case can be initiated against him. The potential legal case, it must be emphasized, is not formally related to his failure to provide the contractually stipulated maintenance. Rather, it is a case against him for knowingly issuing a check in bad faith.

In such fictionalized transactions, there is technically no 'A', a party that has entrusted B (the customer/debtor) to deliver money to C (the retailer/creditor). However, to complete the form a name will be filled in (a co-owner, employee or other party at the creditor's discretion), although this person has no real role in the transaction.

As such, even when used to guarantee simple credit transactions, the honesty receipt falsifies or misrepresents the nature of the exchange. In other instances, the promise or claim to marry is transformed into a commercial transaction. The space between fact and law can be productive: when judges review such cases, the evidence is reviewed based on what it appears to be, not on what is might actually be.[68] Even in instances where the judge may have a clear sense that a breach of trust is a legal fiction, he must apply the laws "whatever the nature of works for which they were created" (Article 378, Egyptian Commercial Code).

The use of honesty receipts in these instances is a process by which the real subject of the transaction or agreement is masked by a legal fiction, performing an 'as-if' act. Annelise Riles' (2009) work on collateral expertise and financial markets in Japan draws our attention to Vaihinger's contribution to the idea of the legal fiction. Vaihinger's (1952) philosophy of 'as-if' proposes that fictions are an elemental feature of human thought and life; legal fictions are merely one manifestation of perpetual fictionalization. The human mind, he argues, is forever simplifying, classifying, organizing and converting experiences in ways that create 'as if' realities. We convert complex ideas into simple explanations, new experiences into familiar experiences. Lon Fuller addresses the 'as-if' act in relation to legal fictions, pointing out that one form of legal fictionalization occurs when new cases are fitted into existing categories (Fuller, 1967:114). Lawyers and judges do this with regularity, yet litigants (or parties to an agreement) also perform 'as if' acts.

[68] Because these types of legal fictions are common, it is likely that judges are aware that some commercial documents entered as evidence represent fictional debts. One judge with whom I spoke went so far as to describe instances from his own family in which family members had used post-dated checks as pressure in marital disputes.

Honesty receipts and post-dated checks construct a useful legal fiction to preempt various marital problems, and in particular to preempt problems relating to fulfillment of dower obligations. Upon coming to an agreement about the dower a woman's family may insist that her fiancé sign an honesty receipt to be held as surety by her family. This represents a source of pressure on the fiancé to save money for purchasing the array of domestic items agreed upon as a suitable reflection of her social status. It may also pressure the young man to follow through on the marriage (instead of breaking off the engagement), and can even be held following the wedding as a guarantee that the husband will provide the stipulated maintenance.[69]

Tarek, a social worker in the newly established (October, 2004) family court mediation offices, noted that he witnesses and hears about this practice with some frequency, and suggested that it was more common amongst 'villagers,' peasants who had moved to the city in recent years. He also noted that he sees cases where women, young women and new brides in particular, have been deceived into signing honesty receipts under the pretext of signing something insignificant. The husband can subsequently use these honesty receipts to threaten legal action against the wife in the event she raises a case for maintenance or to claim other rights.

The examples from Port Said can be compared to what Nathan Brown found in his research on popular uses of the courts in Egypt (1997). In particular, Brown notes the use of checks to guarantee contracts that corresponds with uses of post-date checks described to me by Port Saidians. He provides an example of an engagement on the

[69] This may be in lieu of other ways of guaranteeing the terms of the marriage contract. For example, Ron Shaham (1997:30) discusses marriage contractual practices in the first half of the 20th century in Egypt, noting that it was common in this period for a man's father to register in the official marriage contract his surety (*kafala*) for the wife's dower (*mahr*) and trousseau (*jihaz*). A wife could thus sue her father-in-law to claim unpaid maintenance, as well as her "*shar'* and other rights" (30).

verge of collapse over money and the potential of the prospective groom's migration abroad for work:

> She [the prospective bride] therefore insisted that he write her a check for the value of the household furnishings he had pledged to provide. (In Egypt checks are often used not to exchange money but as guarantees of good faith, or they are postdated and used as promissory notes). He agreed, but when the engagement finally collapsed he withdrew the money from the bank account. She then took the matter to the police, because writing a check without sufficient funds is a criminal offense punishable by a jail sentence. Her family then used the criminal case to increase their bargaining power. [Brown 1990:200]

The prospective groom had to be diligent about withdrawing his funds from this account in order to avoid having these assets disbursed upon presentation of the check.

In relation to the comparison between honesty receipts and post-dated checks we move now to consider some aspects of the juridical field that directly impact uses of honesty receipts. According to lawyers in Port Said and based on interviews with locals, checks have come to be used less frequently and are commonly substituted with honesty receipts for surety. While some still advocate for the use of post-dated checks, many people find that there are particular advantages to using honesty receipts instead. The debate often revolves around the type of risk each entails: checks, unlike honesty receipts, pose a risk to the debtor's assets which can be procured upon presentation of the check unless the funds have been withdrawn. Honesty receipts don't transform personal assets or private property into collateral. Rather, they transform the body into collateral; the body is staked as surety.

Risking incarceration, rather than assets, for a real debt or a fictional crime suggests that an individual may be highly concerned to protect her assets, confident in her ability to repay, or poor or otherwise powerless to avoid doing so. There may be some

useful parallels to be drawn with analyses of the criminal incarceration of debtors historically. As Finn (2003) points out for eighteenth century England, "By seizing men's bodies for their debts, the civil law substituted persons for things in market exchange, allowing the human body to serve as collateral for goods obtained not through productive labor and the cash nexus but rather through the operation of consumer credit" (10). This practice was supported by small-claims statues that gave creditors broad powers and by the legal challenge of seizing debtors' lands and monies. Further, completion of the prison sentence liquidated the debt, such that one could truly absolve the debt with the body (111). Mauss' (1967) classic study of gift and crediting relations in 'pre-modern' societies provides a fruitful way of thinking about the slippage between person and thing; Finn notes his observation that gift exchange can animate objects and objectify persons, "endowing goods with human characteristics and incorporating human bodies alongside material possessions in networks of circulation" (Finn 2003:10). The objectification of the body is a fundamental feature of transactions involving honesty receipts.

In contemporary Port Said, the threat of incarceration is generally enough to induce the debtor to repay. As a lawyer pointed out to me, when a breach of trust case is initiated against a defendant he typically begins to concentrate on collecting funds quickly to absolve the debt. A defendant might gather the sum by neglecting other debts, borrowing money from friends and relatives, 'burning goods', or retrieving money he might be owed. Within the span of the weeks or months it takes for the court to hand down the sentence against the defendant he will have the money paid back and the creditor will drop the charges. Typical court delays can thus be productive by defining

more clearly a space of time in which the debt must absolutely be repaid to avoid spending time in jail. However there are also stories that circulate Port Said of locals who have borrowed and spent large sums of money and have served time to avoid repayment. In such stories, the 'collateral' of the body has been seized and then returned after completion of the sentence, sometimes to begin the cycle again.

Debtors are not the only ones who stake their bodies as surety. As a former policeman, Am Ghassan, put it, honesty receipts ruin lives, and not just the lives of those who buy too much on credit. They also ruin the lives of unwitting guarantors. One might "bring anyone, a donkey-cart driver from the street, to sign receipts as well". By paying another individual, or in some cases asking a friend or relative, to act as guarantor it is possible to obtain more credit than a retailer might be willing to extend. The hired guarantor and the debtor both sign honesty receipts for the creditor, taking on equivalent risk. Thus the bodies of the poor who would be willing to serve as guarantors for compensation are also staked. Should the debt go unpaid, the 'donkey-cart driver' can also be charged, sentenced, and imprisoned.

Social Logics

In the preceding section I sought to show some of the ways in which the legal system, its procedures, processes of classification, and modes of adjudication, shape the use of honesty receipts and checks. Honesty receipts can be used as evidence in a criminal case, and the potential of imprisonment – the coercive power of the state – is a powerful source of pressure on parties to an agreement. Another angle from which to consider practices of surety involving honesty receipts is the vantage point of virtue and

morality. How might honesty receipts allow people to align themselves with socially positive value? What are the social logics, alongside the legal logics, of their use? Honesty receipts, I argue, allow Port Saidians and other Egyptians greater control over the trajectories of their disputes and transactions. Avoidance of the courts has positive value. On may forestall police involvement by procuring an honesty receipt; the receipt gives one the power to press charges for breach of trust in the future, but allows the receipt holder to offer another chance and to show mercy for the present.

For instance, one shows mercy by taking circumstances into account in someone's inability to repay a debt, and traders often discussed giving people many chances to re-instigate payment. To be merciful is also to resolve problems in a friendly way (*bishakl wadi¯'*). The desire to keep disputes out of the legal system is 'friendly' although it is certainly also pragmatic in relation to cost and time. Giving people many chances to right a wrong or repay a debt is a sign of generosity. As with Kaufman-Winn's analysis of the use of post-dated checks in Taiwan as a way for businessmen to "maintain the viability of attenuated relationships" while simultaneously avoiding the complete conversion of transactions from a relational to a legal basis, so too do honesty receipts help balance financial and relational considerations. Honesty receipts make law's interaction in a transaction rhetorical rather than certain.

This can be seen in Mahmoud's discussion of the appropriateness of procuring honesty receipts in credit transactions with friends and relatives. Mahmoud was describing how, like traders dealing in household goods, he uses honesty receipts when selling cars on credit to people, explaining that after taking a down payment he typically has buyers fill out one honesty receipt for each installment they will pay along with one

honesty receipt *'alā buyāD*. He pointed out that this was the way to 'ensure his right' if a client stopped payment on a car. Yet I wondered if he conducted business with friends and relatives in the same way he might with a stranger, and asked if he requested that family members sign honesty receipts as well.

> M: This happens a lot [doing business with friends and family]. However, life taught me. I used to not write honesty receipts for friends and the like. We are basically an Eastern society where there is respect (*iHtirām*) and fear (*khawf*) among people. So I used to respect people who I know. But in the end, I was the one who lost. In the end, I had no choice but to write honesty receipts whether this person is a relative or not. But I can't file a complaint [in court] against a relative. Nevertheless, an honesty receipt is considered a kind of threat that makes him worried and makes him want to pay. But if he didn't pay, I really couldn't raise an action.
>
> CH: What do you do at that point, what do you say to such a person to convince him to pay?
>
> M: Whether a friend or a stranger, we are in an Eastern society, so I talk from a religious perspective. This religious logic makes me feel concerned about others because in Islam we are commanded to have mercy (*raHma*) and kindness (*Hasana*) in our dealings with each other. I must also seek excuses for my Muslim brother. There are people whom I haven't gotten money from for over a year and three months. One of them came to me with his mother, she was crying and asking me not to file a complaint against her son…
>
> CH: Is this a relative you're talking about?
>
> M: No, a stranger. So they came saying that they will arrange it with me so that they can pay me on regular installments. I sympathized with him and withdrew my complaint because my principle is religion and Islam commands us to be merciful…

Mona interjected to say that not all people are like her husband. She pointed out that some people don't care about mercy or about what God ordered. Mohammed nodded and continued.

> M: I have a situation with my father's cousin Abu Amru. He hasn't been paying me back. He was going through hard times financially and besides not being able to pay me back, he was having to borrow money from me just to pay for his kids' private lessons and other stuff for the family!

CH: So not only does he not pay you back for the car, but he's borrowing more money from you?

M: The problem was that one day while he was driving his car late at night, an officer took his license and suspended it for five months. So for five months he couldn't work and didn't have any money to pay me.

Mahmoud's example reveals some of ethical and pragmatic concerns that shape practices of private law. In relation to these ethical and pragmatic concerns, Mahmoud revealed both the ways in which he seeks to control his own level of risk, and the ways in which he willingly accepts a loss. He acknowledged that one might not always 'win' or take what they deem to be their due. Rather, 'losing' or bearing the brunt of a broken promise is part of living a moral life. He may secure a deal with an honesty receipt, but that doesn't mean he will necessarily feel free to use it because he is morally required to be merciful and patient.

Yasmeen is a female lawyer in her mid-thirties with a number of relatives who also work in law, some as lawyers and others as clerks. Most of her caseload revolved around breach of trust claims resulting from honesty receipts, and the bulk of her work was as principle lawyer for two brothers who owned a busy showroom selling household appliances. The brothers required the majority of their customers to sign honesty receipts when taking credit. As such, they were regularly dealing with recouping credit payments by having Yasmeen file cases against defaulting customers using these receipts. Two weeks prior to my conversation with her, Yasmeen had received a call from one of the shop owners about a different kind of case. The brothers had an employee who was primarily in charge of receiving and recording installment payments from customers in order to free up other employees to handle sales. Payments were noted in a logbook and

cash deposited in a box to be counted at the end of the day. Over the past months the till had sometimes been short when they were cashing out at the end of the day. By undertaking their own investigation the brothers realized that this employee, Rasheed, had been skimming money from the installment payments coming into the shop. He would record the accurate amount in the logbook, but take money hoping that it wouldn't be noticed; at other times he underreported installment payments and took the difference. Over the course of perhaps six months he'd stolen approximately 1,900LE.

It was at this point that they called Yasmeen for advice about how to proceed. She recommended they wait to report Rasheed to the police until first confronting him personally about the theft. If they reported him, she reasoned, the employee would be put in jail and it would be difficult to recoup the money he'd stolen from them.

> The point is to get the money. So I recommended they let Rasheed know they had discovered the theft and could prove it in court using the logbook in which he had recorded payments on the days money was missing. And I told them to have him sign an honesty receipt to guarantee he would repay the money. Then the whole matter could be finished.

Yasmeen noted that "Mohammed (the elder brother) is a good man and wanted to handle it without involving the police." After confronting Rasheed, the young man's mother was drawn into the situation as well, coming to the store to beg Mohammed and his brother to give Rasheed the chance to pay back the theft. Instead of one honesty receipt, however, the brothers forced Rasheed to sign thirty-six, all of which were signed *'alā buyaaD*. Yasmeen felt that this was excessive, but could not dissuade the brothers who were intent on making sure Rasheed felt pressure to pay back the theft. At the time of our conversation this had just occurred, so Rasheed was at the stage of trying to gather

the money and no cases had been raised against him thus far using the blank honesty receipts.

Although Yasmeen emphasizes that this strategy was most expedient, she further pointed out that the store owners were also swayed to keep the matter out of the courts, they reported, by Rasheed's mother's plea for mercy (*raHma*) for her son. Although Yasmeen's clients took her advice farther than she intended by forcing Rasheed to sign thirty-six honesty receipts rather than one, this course of action forestalled police involvement in the crime and demonstrated the store-owners' mercy.

These two examples suggest that the use of honesty receipts can be associated with mercy, in that they are a mechanism by which police involvement in a crime can be forestalled. Mohammed demonstrated that he was a 'good man' by addressing the problem without official intervention. In Yasmeen's example, if the case against Rasheed had been brought directly to the police the brothers would have lost their ability to control its trajectory.

Likewise, in the example cited previously, Salma's female clients who agree to drop their legal cases against husbands neglecting maintenance duties do so in exchange for the security of an honesty receipt. This strategy may be a more expedient way for a woman to achieve her aim, yet it also conveys forgiveness and patience. The overt legalization of the dispute is exchanged for a more subtle legal pressure, such that the party who forfeits legal redress in the civil courts might be perceived as working the problem out 'in a friendly way'. At the same time, honesty receipts anchor moral-normative forms of pressure. Port Saidians often positioned legal and 'friendly' strategies as opposed: The law represents expensive and inexplicable legal delays, in

contrast to a mutually renegotiated timetable; loss of control over a problem due to legal intervention, in contrast to working it out personally in due time; blind justice, in contrast to merciful justice that takes circumstances and weeping mothers into account. Honesty receipts are a vehicle by which Port Saidians negotiate settlements that are 'friendly' yet binding.

On the other hand, there are many instances in which the honesty receipt is not intended to create space for mercy, for personal moral considerations. Rather, it is a device by which someone may fraudulently pressure another party to forfeit rights or give up a claim in court. Examples of this include the practice of forging honesty receipts in the name of a wife or an ex-wife (or, in some cases, a husband or ex-husband) in order to force her to drop a lawsuit against the husband. This was the case for an older woman named Amina who had filed for divorce from her husband on the basis of injury (*Darar*), which would give her financial rights as a divorcee. Her husband had forged two honesty receipts in her name for rather large sums (250,000LE each, approximately $45,000 US dollars) and initiated a case against her. Amina's lawyer suggested that he had done so in order to avoid responsibility for compensation for harm that he would owe if she won her case for judicial divorce. The case against her for breach, her lawyer reasoned, was a way to pressure her into dropping her claim of injury. Likewise Michael, an engineer and jewelry trader, had been involved in at least forty-nine lawsuits with his ex-wife, many of which were cases against him for non-delivery of money using honesty receipts forged by his ex-wife. He admitted that their divorce had been quite acrimonious, and this was her strategy for hurting him financially and emotionally.

It must be noted that honesty receipts also have a tenuous place in customary law processes. Mahmoud described a complicated business deal between family members involving the sale of a piece of property that had gone awry. The family had turned to customary mediation to resolve the issue. He noted that because the mediator was a blood relative of both parties he didn't have them sign honesty receipts as guarantees. In general, however, he argued that honesty receipts are absolutely necessary:

> M: Honesty receipts are used nowadays to guarantee that neither of the parties will default on fulfilling his promise. Because one of the parties might be from another family or even another town.
>
> CH: Were honesty receipts used like this in the past?"
>
> M: No! There was a man's word and his honor. In the past, the mediator's word would be carried out no matter what. But nowadays, society has changed along with many things in it. So if there is some one from another village or town that the mediator does not know, how can he trust that this person would listen and carry out his decision? In the past, there was a complete commitment from all the parties and everyone would do anything to prove that he is a man of his word and he has honor. So when in a session someone did not fulfill his promises, they would make him wear a [woman's] gallabaya and ride a donkey in the streets to publicly announce that he is not a man but a child. That used to happen a long time ago. So, it made it difficult for a person not to fulfill his promises. Before, people used to know each other but now the cities have expanded and people are distant from one another. Thus, honesty receipts became a way to guarantee that people will not violate their promises or the decisions handed down [by the mediator].

Mahmoud draws a correlation between increasingly attenuated social relations ("people are distant from one another") and the need to use honesty receipts to make obligations efficacious. This is posited in contrast to an imagined past in which men were concerned to prove they were honorable and good for their word. Nowadays it is necessary to secure even customary agreements with honesty receipts because society has changed and the old methods of guarantee – the threat of public humiliation – is no longer a viable option.

Conclusion

Uses of honesty receipts are indelibly marked by legal and social constraints and potentialities. With contracts, bills of exchange, and non-bank issued checks, one must rely on civil justice to compel fulfillment of agreements. Yet the Egyptian civil law courts are slow and defendents strategically hide assets to avoid having them siezed (as will be discussed more in the following chapter).

Honesty receipts override the weaknesses of civil justice. As technologies of guarantee, they rest on law's articulation of breach of trust (*khiyāna al-amāna*) as the basis for a misdemeanour charge. This charge can be pressed against the party who has taken on the fictional role of intermediary with the fictional responsibility of delivery of monies. Through the instrumentalization of criminal law and the transformation of the body into collateral, an outstanding debt may be finally repaid and a faded obligation renewed.

At the same time, the power to press charges must be delayed as long as possible in order to convey that one is merciful. The law is a bargaining power, but it must be used judiciously. It possible to see in practices of guarantee using honesty receipts the subtle, or not so subtle, ways in which people clear a path into the juridical field on their own terms.

Chapter Five

On the White and False Contracts: Accruing Social Value in Moments of Documentation

Documents such as marriage licenses, employment contracts, adoption certificates, and leases create and attest to relationships between individuals or between individuals and organizations; such documents are both constitutive and reflective. Furthermore, neither content (i.e. names and dates) nor form (adherence to local bureaucratic standards, notarization) can be neglected if the document is to effectively promulgate the relationship. Yet even these types of legal documents, which have as their primary aim the establishing of a particular association and consequent rights and duties, do more than affect or make official a relationship between parties. Legal documents are also signifiers in which multiple referents converge. A document may simultaneously symbolize access to health insurance, economic stability, future college expenses, or membership in an exclusive community or neighborhood.

An ethnographic approach to the question of how documents come to signify beyond their literal content might also fruitfully center on *moments of documentation*. Such moments involve parties coming together to negotiate, articulate and inscribe content. The conversations that occur around the document can indicate what the participants orient to and value. This is to some extent a concern with the way in which legal documents like contracts can be extraneous to how agreements are made and become binding, as relational contract theorists argue. But I argue that by reckoning with

the document as an object or an artifact in these processes allows us to further attend to the object as a social actor and as a medium of collaboration and contestation.

Moreover, in studying uses of customary/commercial documents in Port Said, I was struck by the form some documents took. Through the purposive exclusion of important information regarding the terms of an agreement, such documents appeared to increase the risk involved for the parties. In order to understand why Port Saidians might make and sign documents that put their assets or their bodies at risk, I turn to the dynamics at work in moments of documentation. It is also the case that moments of documentation are only a beginning, setting into motion a process of circulation through different hands and spaces by which its meaning and import may change radically. These circulations and how they constitute effective agreements is my focus in chapter six.

After considering some of the ways in which honesty receipts and contracts come to be purposively partial, this chapter examines the making of what are known in Egypt as false contracts (*'uqūd al-Suri,* sing. *'aqd al-Surī*). A false contract is simply a contract that the parties agree not to enact for some beneficial purpose. It engenders a high degree of risk because the stipulation that the contract should not result in an exchange or transaction is contingent on a verbal agreement. This suggests that the contract performs other types of work besides the work of exchange and raises questions about the relational and normative features that counteract the apparent legal risks.

I dwell on one example in particular involving two brothers, and posit that the mutual production of a false contract is both reflective and constitutive of their relationship. It is a process of making and remaking economic and affective ties between them. The degree of risk taken, and in relation to it the amount of trust conveyed, by this

pseudo exchange are not predetermined for either party. Rather they are part of a longitudinal familial dynamic. Of equal importance is the way in which a meaningful interpretation of property rights emerges through interactions with and around the false contract itself.

I examine how the risks inherent in a false contract are mediated (and exacerbated) both by the ongoing social relationship between the parties, and in so doing draw fruitfully on relational contract theory. Yet this example demonstrates that relational contract theory doesn't adequately address the role of the artifact. Neither does it provide a way to better understand the gestures that are part of the *event* of signing the contract as modes of accruing social value. Because the 'text' of the contract is composed across multiple planes of communication, part of this investigation involves a mapping of the understandings of oral and textual mediums that are in play.

Although the instance I primarily focus on was conveyed to me retrospectively, through descriptions of events several months prior, there is value in applying some of the principles of a praxiological analysis. Dupret (2007) outlines the praxiological study of law, noting that it:

> aims at analyzing practices concerning what people, both professional and lay, identify as law and to which they orient as such. It seeks to describe the modalities of production and reproduction, the intelligibility and the understanding, the structuring and the public character, of law and the many legal activities.[70]

There are two characteristics of such an analysis that are particularly pertinent in the following. These are the "attention to social facts as ongoing social and collaborative productions within culturally identified contexts; [and] the description of what

[70] For more on praxiological approaches to the study of law and society, see also J. Ferrie and B. Dupret (2005).

participants in particular settings are oriented to" (Dupret, 2007). Some of the 'social facts' being collaboratively produced in the making of a contract are the object or subject matter of the contract, its terms and stipulations. Yet trust or suspicion is also being produced, likewise gratitude or generosity and other virtues; the meanings of these social facts emerge within culturally identified interactions.

'alā buyāD and the Potential of Partiality

In the preceding chapter I pointed out how honesty receipts are regularly signed without a stipulated sum; this practice is known as signing on the white (*mawqa 'alā buyāD*). The legal logic behind the practice is that it strengthens the hand of the holder, who can subsequently complete the receipt for a tremendously large sum. It will be regarded by the judge as of more consequence and the sentence in such cases tends to involve a longer prison sentence than if the sum is less significant.

Signing on the white is also situated practice. It occurs within the context of, typically, ongoing relationships. As such, it can be understood as a vehicle for conveying trust and the willingness to take a risk. For instance, in disputes between and woman and her family and a husband over unpaid maintenance, an honesty receipt or check may be signed to guarantee that past and future maintenance will be paid.

In Salma's office late one night a woman arrived with her husband and some members of her natal family to deal with her husband's repeated failure to provide maintenance. Although she didn't have a case pending against him in the family courts to claim unpaid maintenance, she was threatening to initiate a claim. As they sat in Salma's office, her husband argued that he simply was not earning enough money to provide

enough maintenance but was trying his hardest. His wife's family countered that this was untrue and he was spending his earnings elsewhere. The husband insisted on his innocence and pointed out that he was willing to sign a blank check to be held against him if he failed to begin providing her the proper amount of maintenance. As the wife's lawyer, Salma was charged with holding on to it until the husband demonstrated good faith and began to provide maintenance, at which point the family could choose to tear it up.

From his jocular demeanor and his submissive gestures, I observed the husband clearly trying to make amends to his wife and her family, and to demonstrate that in future he would follow through on his promise. In offering to sign the post-dated check, he made a specific point about not writing a sum on it, insisting that it be done in this way although Salma argued that it would be better to fill it in completely. She pointed out to me later that she would have preferred if they'd written a specific sum; it's unclear whether her concern was over the potential that doing it this way might provide the opportunity for the husband to later claim that the check was forged or due to some other risk to her client. What seemed evident is that the husband's intention was to convey his willingness to increase his own level of risk as a demonstration of his trustworthiness. The parties left the office after he signed the check and the mood was far more amiable than when the meeting began.

Hassan, who co-owns a small dry-goods shop on Mohammed Aly street, offered another example. His friend Usama wanted to marry a young woman. Her family

insisted that before he marry her he sign a blank check so that if there were any problems she would be protected. According to Hassan, Usama willingly signed it because he loved her and wanted to marry her. But in Hassan's assessment, "her family was bad, it was bad to ask him to do this." After some time, Usama's new wife told him that she would sign a blank check made out to him as well, because she wanted to show him she trusted that he would care for her and that he loved her. So this was done in secret. After a couple of years, they began to have problems and she went to the court and accused him of taking and selling all of their furniture, which belonged to her. In truth, Hassan insisted, Usama didn't do this, it was a false accusation. So then they worked out the problem and she dropped the accusation and they got back together. But after a bit they had problems again and in the end she "ended up with everything" (the furniture and the household items). The tension between this couple and her family and their use of honesty receipts at various points to demonstrate trust is instructive. In particular, it's instructive to note how the bride demonstrates her faith in her new husband by using the same surety document, signed on the white, that her family used to express a lack of faith; the bride's mirrors that of her family and was initially intended to counteract it.

Honesty receipts are not the only documents that are produced as partial. It is also possible to find instances of contracting in which the parties leave details unspecified. Moreover, unlike the examples above in which two families brought together through an impending or existing marriage work out their distrust of one another through the practice of signing on the white, there are also instances in which the practice is connected to expectations of familial closeness. One of the el-Sayyid cases involved two contracts of sale composed *ʿalā buyāḌ*. Two family members, adult siblings, agreed to sell their

nephew small sections of the plots they had inherited. The aunt and uncle simply signed their names to separate contracts of sale and gave them to their nephew to complete. On the standard sale contract, there are spaces for writing in the number of *feddans* (comparable to an acre) and smaller increments of land (see Appendix D). There is also standard text in which the price per *feddan* and total amount of the sale would be written. In this instance, the uncle and aunt had agreed to sell less than two *feddans* each to their nephew, an agreement (reportedly) reached amicably. As Mustapha, their lawyer explained to me, they trusted their nephew to write in the terms they had agreed upon.

In the end, the nephew completed the contracts stipulating that his relatives had sold him twice as many *feddans* as they had verbally agreed upon. The case had gone to court, but because they had signed their names to the contracts it was difficult to prove that the contract had been forged in contradiction to the verbal agreement and was therefore a breach of trust. When I expressed surprise that his clients would be so trusting, particularly when there was already tension between family members over the inherited land and how it was divided, Mustapha shook his head and noted that he sees a lot of cases like this in his office. In his opinion, the uncle and aunt were trying to mend the relationship with this nephew by trusting him with the blank contract.

We might also consider that allowing a contract to be written by hand is an expression of trust and may occur between businessmen. Abdullah's client Wissam owned a building with commercial space on the ground floor. Wissam's father had rented this space many years ago to a man who had passed away, and whose son, Mounir Abdel Haj, had thereafter inherited the lease. Wissam was interested in repossessing this space to open his own shop and therefore offered to buy Mounir out of the lease.

Because rental laws in Egypt provide broad protections for renters, such an arrangement is not uncommon for landlords who seek to reclaim their property from a long-term renter or inheritor of a lease.

Wissam and Mounir have known each other for most of their lives and have done business before. They had agreed previously on a buyout price of 200,000 Egyptian pounds, and Wissam had already paid 150,000 of this to Mounir and still owed him 50,000. Mounir requested that they write up a contract concerning the remaining amount. Because they had done business together over the years, Abdullah explained, when it came time to document the buyout arrangement, Wissam was not concerned enough about the risks of the transaction to have a lawyer draw up the contract. Several times during my conversations with Abdullah without Wissam present, Abdullah stressed what a 'donkey' Wissam had been to take such a casual approach to the contract. No only did Wissam not bring him (Abdullah) in to assist in writing it, he allowed Mounir to write it by hand. As will become clear, this was the aspect that made the contract so vulnerable.

The simple contract, as originally written by Mounir and signed by both he and Wissam, stated that Wissam agreed to pay Mounir 50,000LE as payment to relinquish the commercial space, of which the address was given on the document. The document in its original form contained neither a date of inscription, nor a date upon which the payment should be received. He then took the document and the pen with which it was written, and left.

Subsequent to this, Mounir sued Wissam for breach of contract. When Abdullah, as Wissam's lawyer, was given the opportunity to look at the contract as part of the case file, he saw that Mounir had altered the text of the original agreement. He had added a

'1' before the 50,000 so that it newly read that Wissam would pay 150,000. Mounir also added a "waw" (and) and the sum "27,000 U.S. dollars". In other words, Mounir internally forged the contract such that Wissam was responsible for paying a significantly higher amount of money to Mounir than they had originally agreed upon and that had been written in the original contract. To achieve this, Mounir left spaces between particular words and sums so that after the fact he could internally forge the document. Moreover, only one copy of the document was ever produced and it had remained in Mounir's possession.

Nowhere in Wissam and Mounir's contract is it noted that the total amount agreed upon for release of the rental contract was 200,000LE or that three quarters of that amount had already been paid. Abdullah pointed out that Wissam should also have asked for a receipt for that amount to have proof that he had paid it. The production of a single copy, and allowing Mounir to keep it together with the pen in his possession until the completion of the exchange, can be interpreted as ways in which the parties came to have unequal access or control over the document. Instead of insisting on writing it himself and retaining a copy, Wissam accepted this 'term' of the arrangement.

There are some indications as to why Wissam ceded control over the contract and the form it took. In our discussion of the case, Wissam pointed out that there was trust (*sikka*) between them and he didn't feel the need to worry about the writing of the agreement. His trust in Mounir is likewise evidenced in his failure to properly document the initial payment he made (150,000LE). At the same time, he explained to me that "according to Egyptian law, if the owner wants the renter to leave the shop, the owner must have the renter's approval first and then he gives him fifty percent of what was paid

to rent the shop." In Wissam's understanding of the law he was in a weak position, only having the right to buy Mounir out of the lease if Mounir agreed. This may have contributed to Wissam's casual approach to how the new contract was written; were he to demand that the documentation process be more formal (for instance, be drawn up by a lawyer rather than written by hand) he might encounter resistance from Mounir. Wissam's recollections of making the agreement were that they 'sat and wrote it together' and that he never noticed the spaces between the words that would later become so important. Abdullah pointed out to me that because they were both traders, the casualness of the agreement, even though it revolved around a relatively high sum of money, was not unusual. This resonates with the discussion in the previous chapter about reputation in the trading community and the presumed veracity of verbal agreements; this is the *wadī‘* way to make agreements.

Because Wissam and Mounir are traders, it is also possible to think of the example as a manifestation of old and new Port Said. Port Saidians and particularly traders may be nostalgic for an earlier time when their city was smaller and the trading community more close-knit than perhaps they ever were. As an older lawyer, Mr. el-Sibay, pointed out to me, such days are now gone.

> Well, people in Port Said are like one big family. For example *fulān* (a person) doesn't know me but he might have heard my name somewhere. In Cairo, it's bigger and hard to know people easily. Consequently, because people almost know each other, they tend to trust and give money to one another…But nowadays the pace of life does not allow people to know each other more.

Mr. el-Sibay articulated an idea of community in which people make decisions based on perceptions of mutual understanding and social closeness, which is contradicted by the increasing impersonality of the locale. Wissam's legal case regarding the

internally forged customary contract is an example of how customary documents can provide the opportunity for deception because their partial nature is borne of contracting practices rooted in the anticipation of trust and mutuality.

In the preceding examples parties take risks by signing their names to documents they know are incomplete, with some awareness that by doing so they might be defrauded in some way. Yet in so doing, they present themselves as trusting in order to imbue the exchange with positive sociality and to mend trust that has been broken. These can be seen as ways of transacting *bishakl wadī'* and ways in which people try to diminish the legal nature of an exchange by emphasizing the relational and 'customary' basis of trust that animates it. There are certainly many ways to make attenuated relationships more viable; I suggest that the silences embedded in these customary/commercial documents are an innovation that allows Port Saidians to achieve this aim.

False Contracts, Brotherly Love, Property Rights

A false contract (*'aqd al-Surī*) is to some extent structurally similar to an asset-protection trust. It defies categorization as a customary document because it is generally a contract drawn up by a lawyer according to legal standards outlined in the civil and commercial codes. Yet it contains the unwritten stipulation that although it appears to represent a real offer and exchange, it won't actually be honored or put into effect by either party. It is made 'false' by the two parties declaring verbally that it is false, giving rise to verbal and written contracts that contradict one another. In addition, false contracts are sometimes used in conjunction with an anti-contract document known as an

inversion, or 'against,' paper (*waraqa al-Did*), to be discussed below. As one might imagine, false contracts sometimes become the source of a dispute because one party betrays the verbal agreement that defined the terms of the contract as fictional and decides to put the contract into effect. The problem between Dr. Hesham and his oldest brother Ibrahim, which erupted in the fall of 2006, is one such instance.

Dr. Hesham is a pediatric and family doctor in Port Said. His private clinic and apartment are located adjacent to one another in a low-rise building on the main commercial street in Port Said. Both the clinic and the apartment are owned by his brother Ibrahim, who purchased the two units many years ago. Despite the fact that Dr. Hesham has inhabited and made sole use of these properties since their purchase, Ibrahim maintains official ownership of the units as his name is on the deed.

Dr. Hesham has three older brothers, all of whom are doctors living overseas in the U.K. and Canada. Ibrahim has just retired after practicing medicine for decades in London, and moved with his wife back to Egypt. Unlike his brothers, Dr. Hesham never left Egypt for work because as the youngest son it fell to him to care for their aging mother. She suffered from a number of chronic illnesses throughout the years, and Dr. Hesham continued to live with and look after her into his late 40's. He earned a small income from his private medical practice, although he emphasized to me that his brothers, and especially Ibrahim, had always been very generous in sending money back to him and his mother. He noted, "In the last 20 years, I didn't buy anything. He bought me everything from A to Zed." Along these lines, he points out that the office space and the apartment were his 'prize' for staying behind in Egypt with their mother rather than pursuing a much more lucrative medical career abroad. It's unclear whether Dr. Hesham

actually pays his brother any rent on the properties currently, although, as he points out in the following transcript, they did have a formal lease agreement with a small rental fee stipulated.

Dr. Hesham seemed embarrassed to admit that he'd recently been deceived by Ibrahim with a false contract. The gravity of the dispute was immediately clear. Throughout our conversation Dr. Hesham alternately described their close relationship and showed me photos of their vacations together, and repeatedly pointed out that Ibrahim was "no longer my brother." He describes the meeting during which his brother convinced him to sign a false contract:

> Dr. Hesham: While [Ibrahim] was making a visit, 3 or 4 months ago, he told me "Hesham, I want to take a loan over the office [with the office as collateral]… I want to get a loan on this place, a big loan, say a couple of hundred thousand, and I want to make like a…I want to sign a contract that you hire this place for a large amount, and this will enhance the loan"…He told me, "let's go to the lawyer because I want to take a loan. To take a loan. On the office and on the clinic." Because it is written in his name. It belongs to [him], it is his own.[71]
>
> CH: He wants a loan why?
>
> DH: Why? He wants a loan! Wants a loan, wants money…He told me he wants to get a loan and he wants to make a *Suri*, *'aqd il-Suri*…for a big price.
>
> CH: So he wanted to make a contract saying that he rented this clinic to you for a very high price.
>
> DH: Yes, but I didn't read the contract! He's my brother! My brother! Didn't read the contract. He deceived me, him and his lawyer, this man Metwelly. I didn't read this contract. My brother! He deceived me and he made a dirty trick on me. And I didn't read the contract…It is written in this contract that it will start from the first of August to the end of January, 5 months, for 3000LE a month [rental fee], and that it will cancel any previous contract, that means the previous contract is nil, doesn't exist, and by the end of this 5 months, by the end of January, I've got to leave. No way! I didn't read at all.

[71] The clinic had been turned into an apartment in which Hesham, his wife and daughter were currently living.

I was here (points to my chair), he was here (points to his own chair). "Hesham, sign here" (he gestures, to show how his brother indicated for him to sign). I didn't even take my wife with me, she was in the car. [Ibrahim] said [to her], "no you're not supposed to come with us to the lawyer, stay here Zizi." Because Zizi's very clever. A very clever girl, and she can…(figure out his plan). And I sign it!
CH: And it was supposed to be a false contract, not real contract? (*'aqd il-Sūrī, mish ha'ee'ee*?)

DH: Yes, of course!

A bit later, I asked Dr. Hesham if he and Ibrahim had also written a *waraqa al-Did* (in colloquial Egyptian Arabic, *warat id-Did*).

DH: No, I didn't, there isn't one (a *waraqa al-Did*)!

CH: By word only?

DH: By word only! And of course he didn't give me a copy of this contract, because I would read it and say "What are you doing? What is written here? What did I sign for?"…Just like that, all with the lawyer [present].

Dr. Hesham's brother convinced him to sign what he declared was a false contract stipulating that the rent for both units would become three thousand Egyptian pounds each month, rather than the nominal one hundred pounds stated in their current lease agreement. This new lease agreement also stated that after five months, Dr. Hesham was obliged to vacate the premises. According to these terms, Dr. Hesham was to pay his brother one hundred and fifty thousand pounds in all and would no longer be able to live or work in the units.

In Hesham's telling of the event, Ibrahim was explicit that the contract was merely intended to demonstrate to the bank that Ibrahim rented the property for a large amount, and wasn't intended to change their current arrangement in any way. Yet within a month of signing the contract Hesham discovered that his brother intended to force him out of the units so that Ibrahim could use them for his own purposes or sell them. When

Hesham didn't pay the increased rent, Ibrahim raised a case in court for non-payment and in response Hesham hired a lawyer.

Hesham stressed repeatedly that he never read the contract. In addition, he neither took a copy of the contract nor requested an inversion document (*waraqa al-Did*). A *waraqa al-Did* is an anti-contract in the form (typically) of a simple, handwritten document explicitly reversing the terms of the false contract. For instance, if a false contract stipulates that a piece of property has been 'sold' to someone, the anti-contract might state that the piece of property was re-sold to the original owner, nullifying the terms of the false contract. In some cases an honesty receipt is used as an anti-contract, rather than a document that mirrors and reverses the original contract. The honesty receipt would then serve the purpose of guaranteeing that the false contract won't be implemented. The importance of these gestures – the refusal to read the contract, to take a copy, or to request a *waraqa al-Did* - will be investigated below.

Making Sense of False Contractual Practice

In his article "The Contract as Social Artifact," (2003) Mark Suchman notes that despite the relevance of social mechanisms in transacting and securing performance, as relational contract theorists emphasize, the fact that contracts are *documents* must not be lost. According to Macaulay (1963), among the first to explicate a theory of relational contracting, contracts are surrounded by practices that actually constitute obligations. Among Midwestern businessmen, Macaulay made the important observation that contracts are most meaningful as texts that clarify the terms of an agreement. Contracts are not typically used to litigate when business deals go sour; relationships, not

documents with potential legal weight, tend to bind parties most effectively to an agreement. He pointed out that the non-contractual aspects of contract production, such as handshakes and the desire to build long-term business relationships, are far more important to producing a binding agreement; texts are in many ways tangential. In recognizing the importance of personal interactions and the expectation of future transactions, relational contract theory refutes the idea that contracts are largely discrete. Following Macaulay, Bernstein has argued that within particular business communities such as the diamond industry in the U.S. extralegal contracts are used with much more frequency than legally-enforecable contracts, with agreements made binding by internal rules of transaction, an industry-specific arbitration council, and the high value placed on reputation in the industry (Bernstein 1992).

Although relational contract theory has taken seriously the extralegal practices that hold deals together, Suchamn brings our attention back to how the contract, as an artifact, might share characteristics with other types of artifacts. In particular, he points out that the contract document contains symbolic properties that evoke normative principles and illuminate experience (100), as well as technical devices that establish frameworks to accomplish objectives (99); these can be seen as types of 'significant gestures' (Mead 1962) at work in artifacts generally.

The social facts represented by a false contract are in some ways contradictory to those in a typical contract by virtue of the fact that this type of contract is meant to be fictional and represents expectations and meanings purposely unarticulated in the document. Because the content of a false contract is supposed to be meaningless to the parties, the 'symbolic properties' and 'technical devices' contained in the document are

less relevant for the signatories than they are for the bureaucratic entity for which they are intended to prove a relationship to property. However, Suchman's suggestion that the contract document deserves closer scrutiny is relevant to the *production* of false contract documents in Egypt, encouraging attention to contract-making as an artifact-making event comprised of interactions and gestures that also forge meaning and relationality.

There are similarities in this suggestion to anthropological approaches to material culture that make material objects central to the investigation of social practices that may surround them (for example, archaeological studies of ritual objects); the form of the object is critical to its use or role in social life. I pursue this line of inquiry by positing that 1) documentary form, in contrast to the oral medium, is important, as is 2) the parties' relationships to the document. The document, despite its seemingly irrelevant content, is not an 'extraneous epiphenomenon' as the relational contract theorists might consider it to be in other contexts. Rather, it is the central vehicle through which people express values and make meaning in these types of transactions.

According to Suchman, "…to make sense of a contractual practice, one must understand both the economic and the cultural environments that give it birth. At the same time, however, one must also recognize that contracts, like any artifacts, are themselves capable of affecting these environments, both culturally and economically" (2003:92). To 'make sense' of false contractual practice there are a number of things to understand about the cultural and economic environment that brings it into being. What are the understandings and the discourses embedded in the false contract artifact type, as

well as in the inversion paper artifact type, that allowed Ibrahim to use these documents to put his strategy into effect? In particular, what are the values or virtues specifically assigned to both entextualization and spoken forms that underlie this contractual practice?

Firstly, false contracts are quite commonly used for hiding and protecting assets, not dissimilar to asset protection strategies in other legal contexts. They are most commonly used by men trying to avoid or lessen maintenance payments to their wives or ex-wives and children. By appearing to have fewer assets, a man reduces his legal responsibility to pay substantial support. Under Egyptian family laws, men bear sole responsibility for economic maintenance of the family and for paying any child support following a divorce. Here's a situation described to me by Hossam, a lawyer in Port Said:

> Yes. I had a very famous case of a quite well known hairdresser called Khaled…He has a boy and a girl [from his first wife]. He's a very rich man, and when his first wife demanded more [money, as maintenance for their two children], he started to hide his properties. He wrote everything to his friend (i.e., they created false contracts of sale) and they wrote the inversion paper (*warat id-Did*) for each other. When the *shaykh al-Hāra* investigated, [Khaled] said that he works in the hairdresser's as an employee and not as an owner of the shop anymore. After that, the maintenance was reduced from 1000LE to 300LE [per month]. This was because he wrote everything for his friend so that no one knows exactly what belongs to him.[72]

False contracts can also be used to circumvent the mandates of the laws of inheritance, which provide for family members to receive shares of an estate according to their degree of relation to the deceased. While talking with Mustapha about false contracts one evening, my assistant Wael spoke up about an example from his own

[72] A *shaykh al-Hāra* is a state employee charged with maintaining up-to-date information on residents in a particular neighborhood. This is likely an informal rather than a formal title now; the history of the *shaykh al-Hāra* as an intermediary between the police and the residents of neighborhoods in Egypt has been examined by Toledano (1990).

family: “My aunt has five daughters. Her husband wants a son badly, but it’s not God’s will. So recently he visited a lawyer and drew up *‘u’ūd is-Sūrī* selling property to his daughters and wife.” Mustapha responded that this isn’t what *shari‘a* says and that his uncle should not have done this. Wael protested, “He has five daughters, what can he do? Can he trust his brother?” In other words, according to the codified *shari‘a*, the husband’s brother would inherit more than his brother’s wife or female children. This is the mechanism by which he will be able financially to carry out his religious duty to provide for his brother’s family upon the brother’s death. But Wael’s uncle assumed, for whatever reason, that his brother would not adequately provide for his wife and daughters so he took preventative measures to make sure they would not fall into destitution should he die.

False contracts are also employed for matters outside of personal status laws. In the 1960’s, when land redistribution laws limiting landholding to fifty *feddans* per person came into effect under President Nasser, landowners sometimes used false contracts to represent false sales of land to neighbors, friends, and family members. Landowners divided up their land, Mustapha pointed out, ‘giving’ land to people who were neither offspring nor siblings so that the government wouldn’t take it. Often these arrangements were immediately, although secretly, reversed by the making of an anti-contract. The anti-contract (a second contract of sale by which the property was ‘resold’ to the landowner) was typically not notarized. After the land law was reversed through subsequent legislation, such lands were returned to their original owners, although there are certainly instances where the reversal of ownership was contested despite the fact that ownership was never intended to be other than fictional.

Port Saidians also report using *'uqūd al-Sūrī* to avoid taxes, circumvent inheritance rules, and circumvent laws prohibiting private ownership of a business by government employees, among other circumstances. Articles 328 and 329 in the Egyptian Penal Code (Appendix E) obliquely reference the illegality and fraudulent nature of some of these asset-protection practices achieved through the use of false contracts.[73] Despite the risks, their use is normalized and socially accepted.

Contractual and anti-contract device practices are another type of legal fiction. Unlike common uses of honesty receipts, however, the false contract is typically not used between disputants but between friends or family members. They allow a person who valuable property or assets to pretend 'as-if' this property belongs to someone else.

Moreover, a false contract is generally produced to perpetrate a deception in relation to an authorizing body such as the government, the bank, or the tax authorities. It embodies an attitude towards and a common way of handling formalities and bureaucratic entities, as political scientist Diane Singerman has shown in her work on Egypt. Singerman looks at how Egyptians find ways to achieve aims despite an array of excessive and complex laws that stand in their way. She notes, in reference to a *sha'bī* (popular) community where she conducted research:

> although the community may not agree on the illegality of certain acts, people may not be condemned or censured by their peers for other activities such as petty corruption, moonlighting, unlicensed construction or renovation, forging official documents, or tax evasion. The social definition of criminal behavior often contrasts with its institutional definition. [1995:214]

[73] These articles address the 'hiding' of property among traders in order to claim bankruptcy and avoid payment to creditors as grounds for penalization.

Ibrahim presented the false contract as necessary to obtain a loan, and in so doing referenced a variety of understandings about bureaucracy, banks, and necessary falsification of documents to get around regulations perceived to be overly-restrictive.

These understandings about the legitimacy of false contracts as a mechanism by which regulations and rules can be morally circumvented out of necessity are enmeshed in a broader field of understandings about entextualization and the spoken word. Dr. Hesham points out that he explicitly did not read the contract and simply signed where his brother and his brother's lawyer asked him to. He performed his trust or faith in his brother by refusing to even look at the document itself. Likewise, he didn't ask for a copy of the contract. Neither did he ask for a *waraqa il-Did*, an anti-contract. These are gestures that seem intended to convey a message to his brother about the differential value of the spoken promise and the text. The text of the false contract, he seems to be expressing, is meaningless to me by virtue of the fact that you've just promised me that the text is meaningless. To read, to request a copy, might indicate that the document did have value between them, and they had just agreed that it did not.

But, what is the significance of Dr. Hesham's failure or refusal to request that an anti-contract be written as a guarantee of the contract's falseness? Certainly, this was also intended to be a gesture of trust and faith; Dr. Hesham says repeatedly, "I trusted him, my brother!" But what is the connection between not writing it down, not inscribing the agreement in writing, and trust; what is the 'common sense' at work here? Decisions about whether to write down agreements, and in this case to spell out that the contract was false and should be considered non-binding, are complicated by the way people tend to interpret the Quranic *sura*, *il-baqarah* (The Cow). This is a verse commonly cited in

relation to contractual issues. Because the *sura* of the Cow plays a role in everyday decision-making in the community I look at the social life of this *sura*, how it gets interpreted and frames promise-making.[74] For instance, as one Port Said lawyer noted:

> People write everything down, if they make an agreement, they write it so that each side knows their right and their obligation. If two people make an agreement about money, they must write it down, it is stated in the Quran. No matter how small or large the amount, they should write it. The *aya*, in summary, says that if there is any debt between you and someone else, write it down and bring two male witnesses. If there aren't two men, bring a man and two women, or four women. The second woman may forget and the first can remind her and vice versa…This is The Cow, *Aya* 2:282…But, the prophet also says that if they have honesty (*amāna*) in their hearts, they don't have to write it but can trust one another. So sometimes they write it, sometimes they don't.

A young teacher expressed a similar construal of this *sura*:

> In the Quran, it states very clearly, and more than once, that if you make an agreement, if you sell something, first, write it down (no matter how big or small), and second, have it witnessed. This is from the second *sura*, the Cow, *aya* 282 and 283. If you take something on credit, you have to write it down…But if you trust each other do it without writing or even witnesses.

Interpretations of the *Sura* of the Cow in this vein abound and illustrate the moral ambiguity people face when making agreements. One the one hand, it is commanded in the Quran to write down agreements, no matter how big or small. Yet if there is trust in one's heart, writing isn't necessary. These Quranic verses are part of the common vernacular such that not 'writing it down' often becomes equated with demonstrating that one has trust, whereas to insist upon writing is an expression of distrust. Clearly, beyond the moral implications there are legal implications for entextualization as well, in that it represents the potential of litigation and a willingness to get the courts involved.

[74] As such, rather than cite the text of the verse itself it seems more pertinent to cite interpretations of the Cow that various people offered in discussions about the relevance of documentation and verbal agreements.

Orality, by contrast, is associated with a number of positive processes and qualities. As noted in chapter two, it is associated with *wadi‾'* strategies of resolution. It has temporal associations with a golden era of trade in Port Said when men conducted business on a large scale relying entirely on verbal agreements. These shape the sentiments that a man who is good for his word, who keeps verbal agreements, is respectable, honorable, and vice versa. The oral as an honorable medium also resonates with the spirit of *'urf*; Port Saidians often pointed out that it was customary (*'urfi‾*) practice to make and keep oral agreements.

The high value placed on a man's word can also be seen as a manifestation of the ambivalence some Egyptians feel about formalizing agreements and turning promises into contracts. As Jonathan Yovel points out in his work on contracts, promises, and speech act theory (SAT): "[P]romises are not 'skeletal' and legal language is not merely 'about' them…because (legal language) shapes and transforms (promises)" (2000:960). With formal contracts, law's language inevitably interacts with and alters normative mediums such as promises. Verbal agreements both exemplify customary norms and prevent law's language from altering a promise.

A verbal agreement can also be seen as a performative speech act that is both collaboratively and individually produced. A contract is marked as false by a declaration ("*Suree, mish ha'ee'ee*;" "false, not real") that is presumably transformative, which may bear some resemblance to other performative speech acts. The vow of falseness has the potential to have illocutionary force, if the proper conditions are met. Such force, as J.L. Austin (1962) argues, rests in part on the structural or institutional authority of the speaker and on certain felicity conditions, in particular the sincerity of the speaker. By

declaring the contract false, Ibrahim performs a type of vow. Hesham, in turn, interprets this declaration as sincere and thus as actually transformative.

The performative features or gestures that are part of the making of the false contract both reveal and enact a spectrum of evaluative ideas about the written and the oral. These gestures are not extraneous to the making of this contract, but rather integral to clarifying the relationship between the document and the oral agreement that accompanies it. Such gestures as refusing to read or take a copy of the contract express a lack of concern for the documentary aspect of the agreement and empahsize the value of the verbal agreement.

Risk and Reciprocity

Despite the fact that Hesham asserted to me: "I was willing to sign (the false contract) because I was not *afraid* to sign," signing a false contract is inevitably risky. It represents the potential forfeiture of use rights to the property according to the actual terms of the contract. Simultaneously, Hesham risks legal sanction because he perpetrates bank fraud by helping his brother misrepresent his income.

Precisely because this type of contract contains a high degree of legal and economic risk to the signatory, it can be a vehicle to perform other social-relational work. In this instance, it contributes to the generalized reciprocity between family members. Hesham's financial well-being has been connected to Ibrahim's generosity for more than twenty years. Ibrahim, along with their other brothers, supported Hesham and provided him with a comfortable life in Egypt by sending money regularly for the purchase of household items and to cover other living expenses. This economic support is tied to

familial narratives of duty towards an ailing mother and the brother who stayed behind to care for her; Ibrahim's duty to provide support to compensate Hesham for being their mother's caretaker is a familial, not a legally defined, obligation. According to Hesham's narrative, Ibrahim's economic support was also a reward for sacrifice and lost opportunities, and for what Hesham describes as 'the black days' relating to this sacrifice. Although he was proud of having cared for his ill mother and noted that it was something he wanted to do out of love for her, he was also quick to point out that it was done at the expense of his own career and independence.

Hesham made clear to me that he was owed his brothers' generosity. He described his brothers' generosity as a duty, and noted that his own sacrafice grants him particular rights within the family. Because these rights are not legally inscribed – after all, Ibrahim's name is still on the deed – and so his claims to them must be staked through reciprocal acts that nurture both their economic and affective ties. Unfortunately for Hesham, signing the false contract in this instance was a failed reciprocal act. Ibrahim used it to deceive Hesham and to claim legal rights to the property.

Hesham responded to this deception by initiating a process to resolve the dispute *bishkl wadi¯'*. His shift in strategy was in part an acknowledgement that despite his lawyer's best efforst he would most likely lose the case in court. There was no getting around the fact that his name was on the contract, and even though it was illogical that he would sign a new contract for 3000LE per month when he already had a lease for 100LE a month, he didn't anticipate that the judge would consider this strong enough evidence that he was coerced into signing. Hesham anticipated that he would lose 'at both courts' (primary and appeals). He hired Mustapha to represent him because, Hesham noted,

Mustapha was very good at using delay to his clients' advantage. Mustapha had immediately submitted a stop action (*ta'an*) on the basis of forgery; this type of action keeps the case from going forward until the status of a piece of evidence is evaluated. This meant that the contract would have to be submitted to the Ministry of Justice Office of Experts and eventually examined by a forgery expert, the process of which could take months because of bureaucratic backlog. Even though his signature on the document would most likely be found to be real and not forged, the formal delay tactic was part of a larger strategy.

Hesham had contacted his two other brothers in Canada, told them about the situation, and they were making plans to travel to Egypt to help resolve it. Hesham had asked them to step in as mediators, and to negotiate a resolution with Ibrahim. The delay tactic in court was intended to buy time until they arrived, and he fully anticipated that his brothers would resolve the issue in his favor, that they would continue to support his rights claims and somehow force Ibrahim to withdraw the case. In other words, Hesham may have responded to his brother's legal case by mounting a legal defense, but he did so only as a strategy to move the problem back into the realm of the personal and the familial. The law for him, in this case, is not necessarily a source of power, but a bureaucratic tool to deploy in his effort to delay the case against him.

Despite the fact that Ibrahim had legal ownership of the apartment and the clinic, Hesham had long ago been given clear and unbounded use rights to the apartments as a reward for his sacrifice. To rescind use rights by simply requesting that Hesham give them up willingly would involve denying the sacrificial narrative that had underwritten their dynamic over the past twenty years. Ibrahim's efforts to reclaim his property,

through the misrepresentation of a false contract's purpose as a legal maneuver are in tension with Hesham's efforts to keep 'obligation' from being legally defined and return it to the normative realm of familial reciprocity.

Conclusion

Analyzing moments of document production allows us to consider the way documents come to signify beyond their literal content. The gestures and verbal exchanges that accompany the simple act of signing one's name on the dotted line imbue the document with added value. Although this might suggest that the relational aspects of contracts or guarantry instruments make the document extraneous, I argue that the document is integral to the exchange. It must be reckoned with as a particular kind of artifact and as the object around which interactions revolve. This can be seen most clearly in the practice of signing on the white, in which the form the document takes is shaped by the desire of parties to display a willingness to increase their risk. It is also visible in the refusal to write anti-contracts that refute the terms of a false contract. Through such practices, relationships are mended and trust is re-established.

False contracts and customary/commercial documents signed on the white necessitate verbal agreements to 'fill in the blanks'. This mediates the intervention of law's language in promises and inflects transactions with the normative value of a man's word. Moreover, we can see that the making of false contracts is not simply a strategy for hiding assets but is also a medium through which reciprocal exchange is enacted and familial relationships remade.

Chapter Six

Family-To-Be: Betrothal, Broken Promises, and Documentary Interventions

Among Egyptian Muslims, a marriage is made manifest as a contract. The contract is based on Islamic *shari'a* as codified by a series of laws in the early part of the 20th century that mandated the requirements for validity. The contract articulates the distinct rights of the husband and the wife as well as their mutual rights, connotes permanence, and requires offer and acceptance of the terms.[75] Although sometimes it will be signed long before the wedding day and the parties agree to delay cohabitation until that time, the marriage contract marks a transformation by which persons are formally wed and legally recognized as bearers of specific duties and rights vis-à-vis one another.

Like other contracts, a marriage contract may be proven invalid under certain circumstances; in particular, other documents may be used to contest a contract's validity. For instance, Egyptian court records from 1984 show that a man sought to annul a marriage between a husband and wife in order to marry the wife. His annulment request was based on letters of proposal exchanged between he and this man's wife, which letters he claimed as evidence that a contract had been established between them. He maintained that this contract made the woman's present marriage contract void; his claim was rejected through to the appeals level (Dawoud, 1992:16). In the well-known 1994

[75] Couples in contemporary Egypt now use a state-issued marriage contract, which is standardized; a blank section in the contract may be used for additional stipulations.

hisba case[76] against Dr. Nasr Abu Zayd, the Quranic scholar's controversial publications prompted a Muslim lawyer to file a case in the personal status courts demanding Abu Zayd's forcible divorce from his own wife on grounds of apostasy. The case rested on the assertion that Abu Zayd was a heretic, and that a Muslim woman cannot, according to *shari'a*, be married to a non-Muslim. The appeals court ruled in the lawyer's favor and Abu Zayd and his wife were legally divorced.

In both of these annulment cases texts or documents were brought to bear on the validity of a marriage. These documents interact with the marriage contract and in so doing create effects, reveal hidden truths, and instantiate claims. These letters professing love and the offer and acceptance of marriage, and scholarly writings interpreted as heretical did not originate as legal documents but come to play a role in litigation as evidence. In so doing they intervene in a marriage and threaten its dissolution by requiring the court to judge whether their very existence invalidates the existing contract. The fact that love letters might invalidate a contract, or that Quranic exegesis unrelated even to marriage might dissolve a marriage suggests that documents may do unanticipated things; their participation in processes may be attenuated and non-linear.

In light of historical and contemporary analyses of textuality and *shari'a* subjects (Messick 1995; Messick 1998) and work that has sought to foreground documents as a particular kind of ethnographic artifact (Riles 2006) these legal cases provoke a consideration of legal documents as ethnographic subjects. In so doing documents may be analyzed not simply as bureaucratic artifacts or objects that 'contain' information or reflect realities, but as part of the action. This chapter is an attempt to go beyond a

[76] *hisba/ihtisab* is the canonical injunction to command good and prohibit evil. See Salvatore (2004) and Bernard-Maugiron (2004) for more on *hisba* cases in Egypt.

particular legal document – a marriage contract - in order to discern the relevancies that occur in the documentation and to see how legal documents participate in making social realities. It is an investigation into one case in order to observe the documentary interventions that led to the making of a marriage contract between two people who did not necessarily want to be married to one another.

To go beyond the marriage contract in contemporary Egypt is to begin with a consideration of betrothal, marriage, and family law. Through a discussion of what valuations and procedures are a part of these rites of passage for Muslim Egyptians, I suggest that the period of engagement is socially and legally perilous for women in particular. In Egypt, betrothal is often the point at which a couple will begin the process of becoming acquainted and allows the affianced to spend time together in approved contexts yet puts strict limits on intimacy. It is also the point at which the couple and their families begin to prepare for marriage by making substantial financial and time expenditures. Section one investigates what is at stake, legally and socially, in betrothal before moving to analyze some of the ways families secure a promise to marry through the deployment of various legal documents. These deployments are in contradiction to the spirit of the law designating betrothal as mutually and freely revocable.

A second coordinate – a recent case from Port Said Egypt revolving around an alleged rape and a broken betrothal – brings into focus an example of how legal documents intervene to secure an engagement. I consider the way that three documents play a role in bringing a promise to marry to fruition in this case: a police report, an honesty receipt, and a marriage contract. Each of these documents has transformative potential yet, as I show, the transformations they achieve require particular circulations

and intersections. The documents move between people and between people and institutions, they beget one another, and in so doing they come to have efficacy that is not predetermined but fashioned by the participants. The police report serves not to follow through on an accusation of rape but instead to produce a commercial document, the honesty receipt, instantiating a fictional debt. This debt in turn secures the marital pledge. By invoking the law through these devices, litigants can pressure one another to honor agreements that are not otherwise legally enforceable. As such, I excavate the way these three types of legal documents come to bear on one another both at the creative request of the litigants and at the insistence of the law.

Considering circulations of seemingly disconnected legal documents as part of betrothal and marriage – processes by which new interfamilial relationships are in flux and being formed - can help us see how they assemble and reassemble relationality. My analysis draws on Latour's position that objects are actors and can be seen to participate in action. Further, he argues (2007), they are mediators in that they achieve transformations and modify a state of affairs. A marriage contract, on one level, concretizes or formalizes marital intimacy; at the same time, the contract is intersecting with other documents that alter or modify rights, obligations, and sensibilities. As participants and mediators, objects, in this case legal documents, are inextricable from the 'social' processes they might at first seem to be merely reflecting.

Betrothal, Sexual Intimacy, and Law

Mother of the Bride (1963) is an Egyptian romantic comedy directed by Atef Salem that revolves around the complications of betrothal. In the film, Ahlam, the eldest

daughter in a middle-class family of seven children briefly encounters a handsome man, Galal, at an engagement party for her cousin. They are introduced, exchange shy looks, and privately confess instant affection for the other. Within a few days they are engaged and a small party is held to formalize the engagement, during which Galal presents Ahlam with a ring, the guests eat cake, and Galal's family members hand over a cash dowry payment to Ahlam's father Hussein. They also make a series of demands about the type and amount of furnishings Hussein must contribute to the marital home: a rosewood armoire, oak dining set with twelve chairs, six mattresses, and other requests far beyond the means of the bride's father Hussein. As the film progresses the groom's family becomes increasingly agitated by delays, insisting that the marriage must take place quickly. The necessity for a swift wedding is emphasized by scenes of Ahlam and Galal spending time together on chaperoned outings, during which Galal tries to contain his physical desire for Ahlam and Ahlam's younger brother aggressively protects her virtue. The tension in the film builds until Hussein finally decides that his only recourse to ensure his daughter's future is to steal from the office safe to purchase the necessary trousseau items. In the end, punishment for his crime is averted through the kindness of a coworker and Ahlam and Galal are transported through the wedding into a state of sanctioned intimacy.

The humor of *Mother of the Bride* draws directly on a number of real concerns in Egyptian society, trafficking extensively in the trope of engagement as fraught with economic and moral hazards. Parents and family members are charged with setting the marriage on a course of financial security while at the same time helping the young couple to control their passions. Although made in the 1960's, the film's dominant theme

of betrothal as perilous is still relevant in Egypt today. Engagement is an approved social space for couples to get to know one another prior to marriage, yet it is also a confession of desired intimacy not yet licit.

Unlike betrothal for many non-Muslims in Europe and the U.S., betrothal in Egypt typically marks the beginning of a relationship rather than the culmination of months or years of dating. Engagement is therefore an official start to the process of becoming acquainted under the watchful eyes of family members. This is less so for kin marriages between cousins and even non-kin couples may have spent time together at work or school or may have known another from their neighborhood or as the friend of a sibling. Among Egyptian Muslims, betrothal (*khutba*) is the first step in a series of publicly observed stages of marriage. It is formalized by the reading of the *fatiha* (the first *Sūra* of the Quran) and by the giving of *shabka* (gifts of gold to the female). Following this, sometimes years later, is the *katb al-kitāb*, the signing of the marriage contract, the *faraH*, the wedding celebration, and the *dukhla*, the 'entry', the first night of cohabitation and presumed consummation of the marriage. It is only upon the conclusion of all of these stages in this precise order that a marriage is conceived to be both legally and socially sanctioned. However, as noted below, there are cases of secretive or unregistered marriages that fulfill the minimum legal requirements of marriage.

Anxiety about what engagement allows and prohibits is exacerbated by the long term of many engagements. Unlike Egypt in the 1960's, it is now typical for couples to remain engaged for a year or more, and sometimes for many years, while the groom, the bride, and their families gradually procure an apartment, renovate and furnish it, purchase the trousseau, and prepare for the wedding festivities. Moreover, Singerman and Ibrahim

note that the costs of setting up a marital home are more intense for newlyweds in urban areas (such as Cairo, Alexandria and Port Said). The high costs of marriage fall primarily on the groom's family; in urban areas the groom and his family provide an average of 72% of the wedding costs. Moreover, according to statistical data from 1999, the average cost of marriage equals eleven times the annual household expenditure per capita. This suggests that families must save for years to afford a marriage (particularly if they have a son), and thus that marriage preparations are protracted in direct relation to the economic burden they represent (Singerman and Ibrahim 2003).

Although the economics of marriage typically necessitate a long engagement period, some Muslim couples in Egypt subvert this pattern by privately conducting common-law or customary (*'urfī*) marriages. Prior to 1929, when the Egyptian state incorporated Muslim marriage, all Muslim marriages were technically *'urfī* as they were unregistered yet met the requirements of *shari'a* (mutual consent, presence of a guardian for females who had not previously married, a dowry, and two male or two female and one male witnesses). But in contemporary Egypt *'urfī* marriages are commenced under a variety of circumstances, for instance as a way for a man to secretly take a second wife. On the other end of the spectrum, the 1990's saw a rise in *'urfī* marriages among young college students who sought to have a (legal) sexual relationship with one another while simultaneously avoiding the interfamily negotiations and protracted formal engagement period of a formally registered marriage (c.f. Allam 2000; Shahine 1998). *'Urfī* marriages of this type can be seen as a kind of marriage of convenience or temporary marriage. As Rashad and Osman note, "[i]ndeed, the emerging common-law (*'urfī*) marriage among young couples in Egypt, as well as other non-conventional forms of

marriage, may represent a coping strategy among youth as a compromise to the economic constraints to marriage and the cultural denial of extra-marital sexual relations" (2003:39). The presence of *'urfī* marriages alongside registered marriages points up the importance for Muslim Egyptians of limiting sexuality to the domain of marriage.

Moreover, female sexuality outside of marriage in particular may be perceived as having greater consequences for the family (Mcleod 1991; Rugh 1984) and in Islamic thought, women bear primary responsibility for maintaining the sanctity of male-female relations.[77] Muslim jurists argue for gender segregation, pointing out that "interactions between women and men who are unrelated by immediate kin ties (*ghair maHārim*) are a potential source of unvirtuous conduct and illicit relationships (Mahmood 2005:110)". Mahmood notes that modesty practices, including veiling and averting eyes, are practical strategies to deter the danger of women's sexuality to sanctity of the Muslim community (111). Even though men and women now have more opportunities to mix publicly than in the past, unsupervised interaction between unmarried men and women is normatively conceived as sexual and sends a message that a woman doesn't have *akhlāq* (good morals), threatening her chances for a finding a suitable husband (Sherif 1999: 620). Ethnographic data from a 1970's-80's-era study of family in Egypt emphasizes the particular consequences for females: "As one (Egyptian) mother noted: 'If this young man doesn't marry her nobody else will if they think he has even so much as kissed her' (Rugh1984:157). As will be seen in the case from Port Said, guardianship of female sexuality is intimately related to the consideration of marriage prospects.

[77] As Armbrust shows (1998), sexuality outside of marriage is depicted frequently in Egyptian films, yet historically it was made palatable through plots in which some terrible misfortune (death or otherwise) befalls the character. Films also illustrate the sexual double standard in Egyptian society, with male characters having greater ability to experiment sexually outside of and before marriage without consequence.

Betrothal is perilous precisely because the expectations for propriety for the affianced are strict whereas their legal rights vis-à-vis one another are weak. Rugh articulates the coexistence of fears of impropriety and weak legal rights, noting that "The [affianced] couple is considered particularly vulnerable to moral indiscretion at this time [while they are engaged], and their legal attachment is not so great that the relationship cannot be dissolved" (1984:157). I posit that the extreme effort invested in ensuring that the affianced avoid impropriety is inextricable from the fact that the laws related to betrothal are (purposively) flexible. The affianced have few legal rights or duties in relation to one another, and their status is primarily socially constituted. As Nasir notes, betrothal is merely the prelude to the marriage contract; for the marriage contract to be valid, the betrothal period is necessary to ascertain the potential spouse's character and behavior through enquiries, investigations, consultations and the meeting of the couple in the presence of a chaperon (2002).[78]

Therefore, betrothal is entered into as a preliminary step toward valid marriage and may be broken with few if any legal consequences. To illustrate this, we can consider the Egyptian court of Cassation hearing 14/12/1939, Appeal number 13, which notes that:

> Betrothal is only a preliminary step towards a marriage contract, a mere promise that is not binding on either party who are lawfully free to end it at anytime, especially as in the marriage contract the two parties must enjoy absolute liberty to enter into it, in view of its paramount importance to society, which freedom of action shall be hindered if either party is under the threat of being liable to damages. [cited in Nasir, 2002:47]

Betrothal is not a new legal status or a contractual relationship. Rather, it is legally interstitial in order to ensure the liberty and free will of the parties considering entering

[78] See also Bernard-Maugiron and Dupret (2002) on family law as regards betrothal and marriage.

into a marriage contract. Men and women alike must have the ability to break an engagement for any reason in order to avoid entering into a marriage that they may anticipate will be unsuitable and thus unsustainable. Betrothal is a promise, and there are limited circumstances under which there may be legal consequences for its withdrawal. The conclusion of Egyptian court of Cassation hearing 14/12/1939, Appeal number 13, Year 9J states:

> However, if the promise to marry and the subsequent withdrawal therefrom are accompanied by other acts entirely independent thereof, of such a nature as to cause material or moral injury to one of the parties, such acts shall give rise to a lawful suit for damages against the party from whom they emanate on the ground that such acts, apart from the mere breach of the promise, shall constitute tort that requires redress.

Despite its interstitial status, betrothal may provide, in part, the necessary grounds for civil redress under certain conditions. Moral or material injury in conjunction with withdrawal from the promise to wed (by either party) may constitute tort; breach of promise alone does not constitute tort.

Realities of Betrothal: Noha's case

A case of broken betrothal from Port Said may be analyzed as occurring within this socio-legal framework. At the same time, the strategies employed by the litigants and the values attributed to them by my interlocutor must also be seen as constitutive of this framework. In this instance, betrothal is secured following an act of sexual impropriety through the deployment of multiple legal documents. The production of surety in this case illustrates how legal documents may transform the subject of a promise, and how intersections between documents are critical to their separate performances.

I met with Noha, a nurse and divorcee, one evening at her lawyer Noor's office. Noor was out at the time but a junior lawyer working on the case was present and as Noha related her story, he confirmed and clarified certain details. In 2004, Noha's 16-year old daughter, Randa, who became engaged to a young man named Amr, and according to Noha the engagement was good. Amr was a friend of her son's as well and would often visit them at home and share meals with them. Around the same time Noha had to travel to Mansoura for a medical emergency and while she was away Noha learned from Randa that her fiancé Amr had raped her. Moreover, Amr had taken her to a doctor who performed an illegal abortion and reconstructive surgery on her hymen. When Noha returned to Port Said she attempted to track down Amr with the intention of convincing him to marry and then divorce Randa. But Amr had gone into hiding and couldn't be found so mother and daughter went to the police station. There Noha filed a report stating that her daughter had been raped, naming Amr as the perpetrator, after which Amr was quickly arrested and brought down to the station. As Noha describes it, the police initially sought to resolve the situation *bishkl wadi‾ʿ*; "as is usual, they tried to make a friendly solution. They told him he should make the marriage contract now, and the wedding party, and be done with it. He refused to do this. So they put him in jail."

Amr stayed in jail for four days, at which point his father came to Noha and pleaded with her to drop the case against his son. She agreed to do so only on condition that he sign an honesty receipt (*iySāl ɑmāna*) for 10,000LE (about 1,800 US dollars) to guarantee that Amr would marry her daughter. Her daughter, she argued, was "no longer a girl but a woman", and Noha wanted to have absolute certainty that Amr would follow

through on the marriage. Amr's father agreed, an honesty receipt was drawn up, signed and notarized at the court.[79]

After Amr's father signed the honesty receipt, Noha dropped the charges against Amr. But following his release Amr again refused to marry Randa. Noha hired Noor to raise a suit against Amr's father. The lawsuit was a breach of honesty case using the honesty receipt and charging that he failed to deliver 10,000LE as stipulated in the document. Noha pointed out that "because of this pressure, his son finally agreed to sign the marriage contract with my daughter and they were married".

But even after the marriage took place, Noha delayed withdrawing her civil case and it continued to wind its way through the court. Further, soon after the wedding Amr and his father convinced Randa to sign a number of blank honesty receipts and checks by suggesting they were for some other purpose. In Noha's view, they "charmed her into doing it", and "she was too naïve" to understand what they could be used for. Hence, Amr obtained his own honesty receipts to use in the future. He divorced Randa, who soon thereafter gave birth to a child, and he subsequently raised a number of actions in court against her using the honesty receipts. Again according to Noha, this was done in order to pressure her into giving up her right to child support (*nafaqa HiDāna*) for the son.[80]

Under other circumstances it might be more appropriate to focus on the alleged rape and the legal consequences – or lack thereof – for the act. Noha, however, pursues a

[79] In many cases, honesty receipts are not notarized and are considered 'informal'. Having it notarized strengthens its evidentiary value as it becomes less likely for a defendant to argue at some later point that it was forged, a common legal strategy to create delay.

[80] Most recently, Noha pointed out, the court rejected Amr's case on the basis of a false testimony by a witness, and previously one of his cases was thrown out when the forgery expertise office found a document submitted as evidence to have been internally forged.

different sort of restitution that can be seen as enacting ideas about sexuality, morality, and betrothal in Egypt. Her restorative process prioritizes her daughter's honor and marriage-ability over compensation or punishment for rape. Insisting on Amr's imprisonment would not reestablish her daughter's honor and marriage-ability. A signed marriage contract, a wedding party culminating in the *dukhla*, followed quickly by a divorce, on the other hand, preserves Randa's reputation and gives her the opportunity to remarry. Egyptian law recognizes rape as a crime and sets out procedural and substantive rules for adjudicating such cases. It does not, however, recognize forced marriage as a possible recourse for the rapist.[81] Although the police officers themselves tried to rectify the situation in line with Noha's sense of justice, their actions were technically outside the purview of the law. The legal classification of rape as a crime for which an alleged perpetrator may be found guilty and imprisoned is out of alignment with how the participants wish to handle the situation, and this is precisely where the various legal documents come to play a role. The police report converts the rape accusation into the opportunity to procure an honesty receipt, which in turn allows for the dispute to be converted from a broken promise of marriage into a debt, subsequently culminating in marriage.

Textual chains

Noha's police report is an important documentary intervention in the making of the marriage contract, as I will discuss shortly. It becomes linked to a number of honesty

[81] Egyptian Penal code, Article 267: "Whoever lies with a female without her consent shall be punished with life or aggravated imprisonment. If the felon is from the victim's ancestors, or those in charge of rearing, or having power on her, or is a paid servant to her or to the aforementioned persons, he shall be punished with life imprisonment" (translation by MELES, Middle East Library for Economic Services).

receipts. As noted in chapter four, honesty receipts and post-dated checks are often utilized within and between families involved in some form of marital, pre-marital, or post-marital dispute (relating to the conditions and terms of the divorce and custody). They are quite commonly used to compel husbands to pay the maintenance they are contractually obligated to provide for their wives but have neglected. The honesty receipt can thus be used to guarantee the terms of the marriage contract. Honesty receipts and post-dated checks are also used prior to marriage to preempt problems related to the fulfillment of dowry obligations. Upon coming to an agreement about the dowry a woman's family may insist that her fiancé sign an honesty receipt to be held as surety by her family. And finally, as Amr and his father did, signed honesty receipts may also be obtained by men after marriage to stymie a wife's claims to various types of contractually stipulated marital and post-marital maintenance.

Honesty receipts are increasingly used in lieu of, or alongside, post-dated checks in Port Said, but both of these devices serve the same purpose: to put pressure on the fiancé. This pressure may be focused on encouraging him to save money for purchasing the array of domestic items agreed upon as a suitable reflection of her social status. It may also pressure the young man to follow through on the marriage instead of breaking off the engagement. As Hoodfar notes, marriage prospects diminish more quickly for women as they age so families want to ensure that years of marriage preparations don't result in a broken betrothal (Hoodfar 1997:69). The end of an engagement means starting anew to identify a suitable mate for one's daughter and another long engagement period, further delaying marriage and motherhood.

Although honesty receipts are intended to secure three-party delayed transactions, in Noha's and other cases honesty receipts are *not* being used to do so but are legal fictions. They are used as leverage to threaten prosecution in the context of contested claims. The use of honesty receipts to transform a non-binding promise to marry into a transfer of funds secured by a commercial paper that stakes the body as collateral is an 'as if' performance. The socially derived status of fiancé is converted into a jurally derived status of agent-intermediary. In so doing, the perilous nature of betrothal becomes less perilous, more assured, through the transformative power of the commercial paper. All of this bears on the efficacy of the honesty receipt.

Another piece that bears on the efficacy of legal documents is how and why documents beget one another. Honesty receipts both create pressure and emerge under pressure. As the discussion above illustrated, honesty receipts are often used to compel offer and acceptance of the marriage contract. They can produce the conditions under which a marriage contract will be signed. At the same time, honesty receipts carry clear legal consequences for the signer, who is either compelled to sign the document to proactively preempt or retroactively dispel mistrust of the other party, or because of some type of imminent legal threat. As such, they come into being not only as part of a web of social relations but also through their interactions with other legal documents.

In Noha's case it is possible to see how the honesty receipt was beget by the threat of criminal charges based on the police report she originally made against Amr on behalf of her daughter. Following the alleged rape, after Amr was brought down to the police station, both Noha and the police officers on duty at the station sought to convince him of

his duty to follow through on the marriage.[82] The police report documents Noha and Randa's allegations and makes the charges 'official'. Yet as a bureaucratic artifact the police report does more than simply document. The making of a report entails a particular interaction between the police and the complainants, through which a messy or complicated incident is summarized, standardized, and streamlined.

For example, the following is an excerpt from a police report (see Appendix F for original handwritten version) concerning a dispute between two female neighbors. The policeman writing the report was neither using a pre-printed form nor a template on a computer, although there are particular conventions he follows that are found in other handwritten police reports.

> Security Directorate Port Said
> Police Station Al-Duwahy
> Date the Brief was Opened: April 3, 2005
> Time: 5:30pm
> By Police Agent: (Agent's name)
> It was proven that:
>
> Citizen (Magda el-Assiouty) came to the administrative police station at an hour and made a verbal report against the party (Nagwa Metwelly). That is because she (Nagwa) had assaulted on and injured her {"her" refers to Magda}. Hence, and as she is present in front of us, we (the Police Agent} asked her and she answered as follows:
>
> My name is Magda el-Assiouty, born on 23/11/1950 B.C, a house wife, and I live in El Salaam new housing, building number…, flat number… the last one, and I carry a national I.D number…, and I say:
>
> Question: What are the details of your report?

[82] This suggests that the police officers concurred with Noha's interpretation of the 'problem' as a failure to follow through with the intended marriage rather than as a crime to be prosecuted, although procedurally they were required, ultimately, to detain Amr on rape charges.

Answer: What happened is that the person I'm complaining against had beaten and injured me. So, I came to report her.

Q: When and where did that happen?

A: Today, at El Salaam New Housing

Q: In front of whom did that happen?

A: In front of all the residents of the building

Q: What is the reason behind pushing the person you are complaining against to make an assault on and injuring you?

A: Because of some neighborhood problems

Q: What is your injury? And who was the one causing the injury? And how was the injury caused?

A: I'm injured in my head and the one who did that was the person I'm complaining against and she used a wooden stick to hit me.

Q: What is the relationship between you and the one you're complaining against?

A: We are neighbors.

Q: Is there any previous disputes between you?

A: Yes, I made a report against her at el-Duwahii Suburbs Police Station last year.

This police report illustrates a number of points Ferrie and Dupret (2005) make in relation to police reports and Conley and O'Barr (1990) make in relation to court transcripts.[83] The police report as a written genre emanating from an oral exchange

[83] For instance, Conley and O'Barr discuss the formal structure of testifying and witnessing, all the rules surrounding these discourses. The note how people in their study often expressed a sense of frustration because they felt like they could not tell their whole stories within the confines of the legally structured process of testifying and witnessing (199:14). These modes of talk are outside the conventions of everyday

represents a mode of talk and narrative that is structured by legal constraints. Ferrie and Dupret suggest that legal characterization "stops the revision process through a broad restriction of indeterminancy. Indeed, it is constrained at three levels: formal, procedural, and institutional" (2005:9). In filing a police report and submitting to a predetermined series of questions, one consents to the "general economy of the legal narrative" (10). The formal constraint implies that characterization of events must be adapted to a legal taxonomy so that the police report contains 'legally relevant statements' intelligible to other legal actors," with the procedural implication that "characterization can only be embedded in a judicial sequence partly predefined and that the compliance to this sequence is sanctioned" (9).[84] This is the process by which a version of events comes to satisfy the requirements of legal bureaucratic domain and by which it is authorized.

A police report is officially a 'procedural action.' In turn it becomes part of a textual chain that may eventually include a record of the public prosecutor's findings, memoranda and briefs produced by the defense lawyer, notes on or summaries of court sessions, the judgment and so forth.

To file a police report might, in another circumstance, move the dispute irrevocably into the juridical field, whereby its resolution would henceforth be enframed by legal procedure. In constrast, Noha's case illustrates a way in which the police report reinvigorates external negotiations and effectively returns the dispute to a non-juridical milieu. To consider this in terms of a document's 'career', those administrative processes through which it moves, as Harper (1998) proposes, the career of this police report is cut

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language. Because of 'evidentiary constraints' witnesses often cannot tell many of the details of an incident in the way they would typically tell it - with commentary, speculation, hearsay, etc., all of which are not allowable.

[84] The institutional level refers to the way in which the positions of the various actors are defined within the judicial framework and shape their capacities; this is less pertinent to our focus on the police report.

short. Yet its momentary existence is productive, giving Noha leverage by marshalling state power. She exchanges prosecutorial remedy for a commercial document, the honesty receipt, signed by Amr's father. In contrast to the police report, the honesty receipt doesn't constrain indeterminacy by articulating the 'facts' cohesively. Nowhere in the honesty receipt is there any mention of the real subject matter of the agreement between the parties. Rather, the honesty receipt begets another legal document: the marriage contract.[85] These legal documents are in some sense inextricable from one another, arising in relation to one another. Perhaps more importantly, they intervene in relationships and participate in forging and reassembling relationality between the participants.

Circulations and Documents as Social Actors

The labyrinthine twists of Noha's case as she recounted it exemplify how struggles over power and relatedness may be worked out through documentation processes. Documents do more than simply document statements of reality. Rather, they are produced and circulated by and between people, provoking particular actions and making things happen. This inquiry into what documents do and how they make things happen is a response to Latour's exhortation to make objects participants in the course of action (2007: 70). As pointed out in the introduction, Latour holds that objects are actors, which he defines as "any thing that does modify a state of affairs by making a difference" (71). More specifically, the types of legal documents under discussion are arguably 'actants' in that they are in the process of being given figuration; their figuration is in flux

[85] Although I don't analyze the additional honesty receipts Randa signs for Amr and his father in depth (in part because I have less information about them) it should be noted that they are also part of the textual chain and impact Randa's rights in subsequent divorce and child maintenance cases.

as they do things. Hence, the legal documents do not merely 'reflect' a state of relationship, status, complaint or obligation. They do not passively express or symbolize something, or at least not merely so. On the other hand, they don't wholly originate or determine social action, although "things might authorize, allow, afford, encourage, permit, suggest, influence, block, render possible, forbid, and so on" (72). Rejecting the attribution of both deterministic and passive roles, Latour posits that objects must be brought into the analysis as participants in the action, their participation fully considered. In analyzing betrothal and marriage in Egypt, it is fruitful to consider how legal documents participate as key objects in the making of relationality; this line of inquiry clarifies practice and its logic. At the same time, the examples presented support Latour's argument that objects participate in social action by modifying a state of affairs and assembling (and reassembling) social relations. These are processes by which kinship ties are constructed.

The police report, the honesty receipt, and the marriage contract are all mediators in that they transform and modify the meaning that they are supposed to carry (Latour, 39). The police report, for instance, doesn't just carry a claim from spoken account to bureaucratic form. The report changes the nature of that account and transforms a narrated event into a record, and continues to transform it further through bureaucratic achievements. It modifies a private sexual encounter between two persons into a criminal charge. And it modifies the relationship between the parties from one state – affianced, among other aspects of the relationship – into an adversarial state involving a plaintiff and a defendant. The honesty receipt, as discussed previously, transforms agreements of various types into fictional debts, and in so doing modifies the nature of those

agreements. Importantly, it modifies the efficacy of an agreement; together with various forms of social pressure, the invocation of state power motivates an obligee toward fulfillment.

Perhaps one of the most critical ways in which these documents each modify a state of affairs is by altering the relative power of the participants. Each document that Noha secures makes Amr more powerless to avoid marrying Randa; this is so because the documents (the police report and the honesty receipt) marshal the violence of the state on her behalf.[86] This suggests that documents are transformative by virtue of their circulations and moments of production. Their significance is wrought through the way they are part of face-to-face encounters in which they are produced and rhetorically invoked in conversations and debates. The making of the police report brings the players together in the police station, where versions of events are articulated, their meanings and outcomes debated. The honesty receipt grows out of a conversation between Amr's father and Noha, yet after its production and notarization (for which it circulates briefly through the legal milieu), it comes to rest in Noha's possession.[87] It then moves from Noha to her lawyer to a case file to the court as evidence. These circulations, between persons and between persons and institutions, reinvest a piece of paper with meaning and create effects.

As they circulate and modify states of affairs these documents can be seen assembling relational ties. Alongside their distinct purposes as documentary types, the police report, the honesty receipt, and the marriage contract share a common purpose in

[86] As Robert Cover famously noted, legal interpretation occasions the imposition of violence. For more on this, see Chapter 5 in Minow, Ryan, and Sarat (1995).
[87] Like a check, an honesty receipt is not composed in duplicate or triplicate copies to be held by each party (as would a contract); a one-copy form is filled in and retained by the agent.

Noha's case: they re-orient the participants towards one another. Like a schoolteacher rapping her ruler on the chalkboard to get her students' attention, the documents demand the attention of the participants through the rhetorical invocation of consequences. They also reckon marital kinship in new guises – as a requirement, as temporary, as an alternative to state violence, in contrast to marriage as an expression of love or as a union of two people and their families intended to be permanent.

This is a different way of thinking about how legal documents intervene in or make relationality. A more straightforward constitutive analysis of law and relationality might posit that, for instance, law constitutes a marital relationship through legal recognition of the relationship, as concretized by a document like a marriage license (or in a Muslim context, a marriage contract). Marital status, in turn, is a determining factor in the instantiation of many economic and non-economic rights, responsibilities, and benefits for spouses. In the preceding analysis, however, I have sought to demonstrate how legal documents may forge relationality in ways external to their explicit content or to the laws they reference. By going upstream of the marriage contract between Amr and Randa it is possible to see how legal documents seemingly unrelated to the marriage are integral to its making and to the kin relationship it produces.

Reports, commercial papers, and other artifacts of bureaucratic settings seem from a distance to grant statuses or to report information in rather straightforward ways. Yet under the magnifying lens it is possible to discern their more complicated, non-linear, and unexpected movements. Not merely reflective, they are active participants in the perpetual making and unmaking of social ties.

Conclusion

My aim in analyzing practices of private law and the use of customary/commercial documents in contemporary Port Said has been to understand them as part of a particular history and locality. Legal reform in the 19th and 20th century in Egypt radically altered the scope of law and carved out a separate space for moral personhood in the private sphere. As I have demonstrated, the shift to a modern secular state has been productive of indefinite legalities. These include practices that intersect and simultaneously draw upon different legal and normative orders and which diverge from the rule of law as reformers envisioned it. In examining the three nodes through which disputes and related legal documents generally move, my aim was to make visible some of the movement back and forth between registers of law, custom, and morality.

I have argued that innovative uses of customary/commercial documents must also be seen as connected to the limits of modern secular law. Innovation may be seen as a process of invention in response to constraints. It may be that the impersonality of civil law, through which facts and law are made to be discrete and morality is demarcated as a separate sphere, does not fully respond to Port Saidian's expectations of how to meaningfully process disputes. At the same time, uses of customary/commercial documents also link back to practices of trade and the credit market in Port Said in particular and to the specific manifestation of social disaggregation that stems from economic and demongraphic shifts in the 1970's.

Checks and other forms of commercial devices are ubiquitous in any modern economic context. However this doesn't mean that they have the same value or achieve the same ends everywhere. In considering specific legal and economic reconfigurations in Egypt and Port Said, I argue that as Port Saidians make determinations about how the law shall adjudicate their problems by fictionalizing the nature of disputes, and as they seek to limit law's intervention in their problems, they are disregarding legal authority. I am less interested in linking their pursuit of alternatives to political motivations on the part of my interlocutors than I am in merely suggesting that they often seem to be asserting the right to make law fit their needs.

The Egyptian and international media often report on lawyers and judges taking to the streets of Cairo and elsewhere in support of judicial independence, in defense of free elections, and in opposition to police brutality and censorship. Such acts of public resistance are generally dedicated to structural change. The intimate transactional practices with which I am concerned, and the technologies that are part of them, are not overtly transformational. Retail traders, their customers, husbands and wives, landlords and tenants are simply making loopholes and delays work in their favor. In drawing on custom, they make law correspond to the ideal of resolving problems *bishakl wadi¯'*. Lawyers and customary/commercial documents are useful mechanisms for reinterpreting meanings of justice and redirecting law's gaze.

I have sought to respond to Baudouin Dupret's call to deepen our understanding of the relationship between law and morality in Egypt through the ethnographic endeavor. In his suggestion that morality is a contingent and context specific notion, given substance in practice but fundamentally unstable as a category of social meaning

(Dupret, 2007), Dupret insists upon a law-in-action approach. Guided as well by U.S. socio-legal scholarship on law in everyday life, I have concentrated on the kinds of interpretations people and their lawyers make as they sort through possible responses to unpaid debts and broken promises rather than on legal interpretation by judges.

My aim has also been to rethink documents as bureaucratic objects in the service of society. On the one hand, Weberian approaches to documents take most seriously their capacity to regularize and organize procedures. In emphasizing the inextricability of documentation and bureaucracy, scholarship in this vein seems to suggest that documents do what they purport to do and nothing more. Relational contract theorists, on the other hand, have turned our attention to the social interactions and gestures surrounding contracts to argue that the document itself is largely extraneous in the work of creating binding agreements. But contracts as objects, like other commercial and legal documents, are part of these interactions. Documentary objects are part of interactions because they direct the flow of talk. The inscription processes I analyze involve interface through meetings, discussions, and negotiations with the document as a focal point; certain issues are addressed and others excluded from the discussion in relation to what the document requires.

Documents also shape such interactions by virtue of the type of authority to which they are anchored. In some cases authority derives from the coercive power of the state; Noha's police report shifts the balance of power in her favor and allows her to redirect negotiations. In other cases, a document may derive authority from multiple and overlapping sources. The customary agreement drawn up by Galal in his client's village to resolve a dispute over inherited land is made authoritative because it emerged out of a

customary mediation process and because it was later notarized at the court; conversely, a determination by the court for a husband to pay child support may actually be effected through a lawyers' moralistic scolding, as we see among Salma's clients.

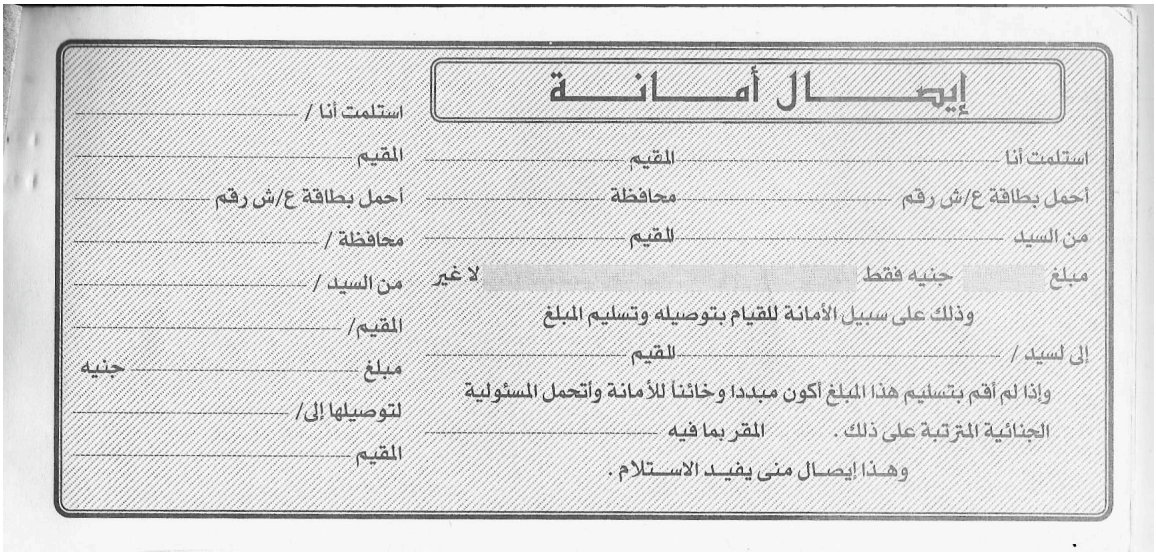
In analyzing particular moments of creation it is also clear that form creates value. Documents are not merely repositories of information but render agreements full of terms and stipulations or partial and incomplete. In the writing of documents, partiality cannot be chalked up to carelessness when it is purposive and meaningful. Matters of form may be part of conveying intention or asserting status – a willingness to take a risk, submissiveness, power. If we submit that moments of production are signifying processes, documentary form – from sloppy, handwritten contracts to pre-printed forms signed 'on the white' - is inevitably one medium through which signification occurs. Moreover, asserting or eschewing the right to view or possess the object conveys relational information, as we see in the case of Hesham and Ibrahim.

Moreover, I have posited, in line with Latour, that objects are social actors. As documents circulate between people and between people and institutions they are part of relationships and constitute new realities. A focus on the maneuvers through which documents are put, the way they produce one another, allows us to see how they actually modify states of affairs. By including objects as actors in social processes, it becomes ever clearer that they are not simply repositories of information. Rather they instigate change and constitute new realities.

There are myriad aspects of private law transactions and dispute processing in contemporary Port Said that I was not able to adequately address here. For instance, it is critical to examine the way in which gender and class status shape legal practices.

Women and men have differential access to legal services and to information about legal processes and their rights. As can be seen in some of the ethnographic data, women are often seen on the 'reactive' end of disputes, seeking to obtain what has already been legally articulated as their right to maintenance or inheritance. The same may be said for poorer clients who stake claims vis-à-vis more powerful landlords, employers, or businessmen. These power differentials and the way people use customary/commercial documents (and other strategies) to bolster their position are noted in some instances. The problematic of gendered and socioeconomic inequalities as specifically manifested through practices of private law requires further anthropological attention and theorization.

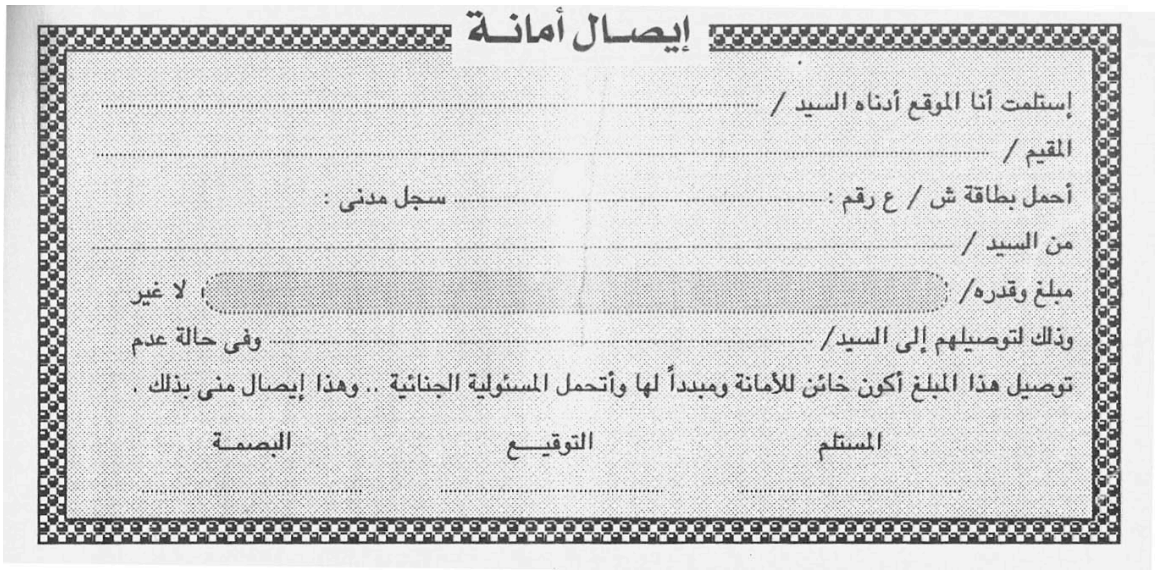
Appendix A



إيصـــال أمـــانـــة

استلمت أنا / ..... المقيم .....
أحمل بطاقة ع/ش رقم ..... محافظة .....
من السيد ..... المقيم .....
مبلغ ..... جنيه فقط ..... لا غير
وذلك على سبيل الأمانة للقيام بتوصيله وتسليم المبلغ
إلى لسيد / ..... المقيم .....
وإذا لم أقم بتسليم هذا المبلغ أكون مبددا وخائنا للأمانة وأتحمل المسئولية
الجنائية المترتبة على ذلك . المقر بما فيه .....
وهـذا إيصـال منى يفيـد الاسـتلام .

استلمت أنا / .....
المقيم .....
أحمل بطاقة ع/ش رقم .....
محافظة / .....
من السيد / .....
المقيم/ .....
مبلغ ..... جنيه
لتوصيلها إلى/ .....
المقيم .....



إيصـال أمانـة

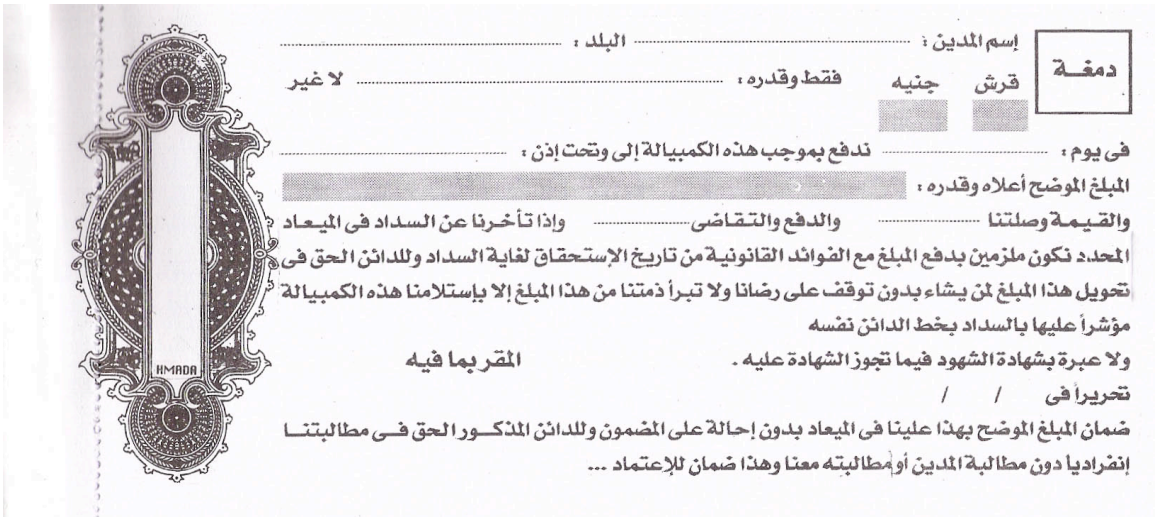
إستلمت أنا الموقع أدناه السيد / .....
المقيم / .....
أحمل بطاقة ش / ع رقم : ..... سجل مدنى :
من السيد / .....
مبلغ وقدره/ : ..... لا غير
وذلك لتوصيلهم إلى السيد/ ..... وفى حالة عدم
توصيل هذا المبلغ أكون خائن للأمانة ومبدداً لها وأتحمل المسئولية الجنائية .. وهذا إيصال منى بذلك ،

المستلم ..... التوقيـــع ..... البصمـة .....

Examples of typical blank honesty receipts (*iysāl amāna*)

Translation (Top Version): I (Spaces for Name, Residence, ID card number, governorate) have received from Mr. (space for name and residence) the amount (space for sum) and no more. And therefore with all honesty I will convey it and surrender the amount to Mr. (space for name and residence). If I do not surrender this amount it will be considered squandered and to be a breach of trust and carries a misdemeanor with it. In the vicinity of .....And this receipt from me is notification of surrender (Translation by C. Hegel).

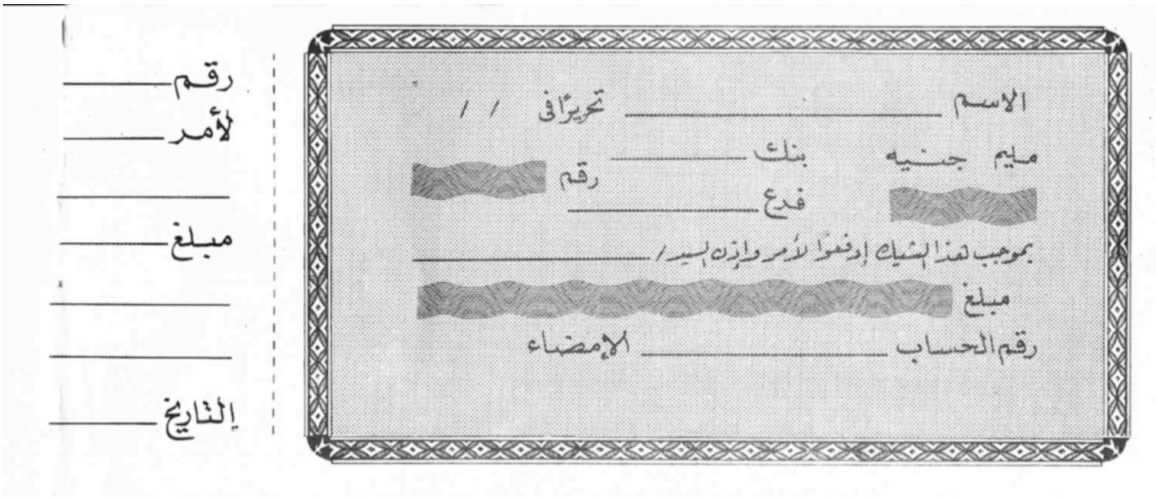
Appendix B.1



Blank *Kambiyāla* (Bill of Exchange)

stamp
Debtor: ---------- country----------
The sum ---------- ---------- only
Pound piaster
Date / / / We pay according to this bill to ---------- the sum mentioned above ---------- the amount we had---------- payment and Litigation ----------. If we exceed the payment date, we shall be obliged to pay the amount in addition to the legal interests from the payment fixed date to the payment date and the creditor has the right to transfer this amount to anyone without our consent and we shall not discharge this amount unless the debtor pay and sign under by himself.
There is no consideration of the testimony of witnesses. Signed by:
Date / /
We guarantee the amount and the creditor mentioned above has the right to demand it from us individually and we shall grant it. (Translation by Tarek Hamam)

Appendix B.2



Blank *Shīk* (Non-bank-issued check)

Translation: The Name (space for name), Recorded in writing (space for date), *Ginaayh* and *Miliim* (space for sum), Bank (space for bank name), Branch Office (space for office branch), Number (space for number, perhaps branch number?), This Check requires payment upon demand to Mr. (space for name), Amount (space for written sum), Account number (space for account number), Signature (space for signature). (Translation by C. Hegel)

Appendix C
Law No. 25/1968
Evidentiary Law as the Civil and Commercial Articles (Translation by the Middle East Library for Economic Services)

Part II

Written Evidences

Chapter: 1

Official Documents

Article 10

The Official documents are those wherein a public employee, or wherein a person assigned public service shall evidence what has been done by him, or what he has received from the parties concerned, in accordance with legal status, and within the limits of his authority and discretionary competence.

If the such documents do not assume official capacity, they shall merely have the value of informal documents whenever the parties concerned shall have put down their signature, stamps, or their fingerprints thereupon.

Article 11

Official documents shall be held against people as evidence, in as much as has been written down therein by the writer thereof, within the limits of his assignment, or in as much as they have been signed by the parties concerned, in his presence, unless their fraud and falsification is revealed and discovered by means legally stipulated.

…

Appendix D

مكتبة ومطبعة السلام

الثمن ٢٥ قرش

((عقد بيع ابتدائى))

عن [illegible] كائن [illegible] مركز [illegible] محافظة [illegible]

المسطحات			الموقع حسب المساحة ١٩٠٣			الحدود
س	ط	ف	اسم	ونمرته	نمرة	
–	–	٤	الرئيس حوض رقم ٩٦٢٩ [illegible]			[illegible] رقم ٩٦٢٩ [illegible] س ط ف ١٢ ١٨ ١٤ [illegible]

إنه فى يوم [illegible] ١٩٩٤ [illegible]

بين الموقعين أدناه [illegible]

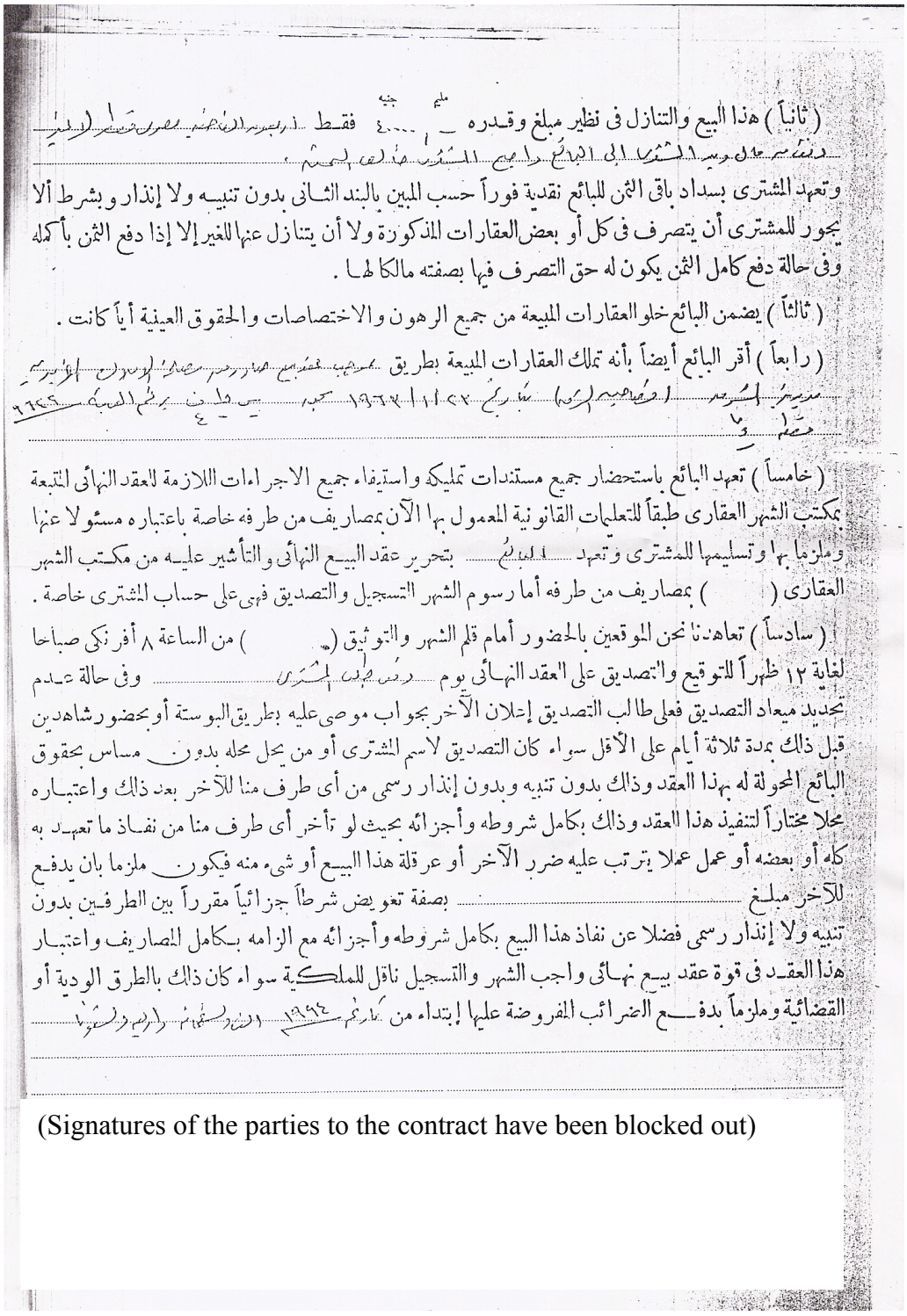
طرف أول بائع

وبين [illegible]

قد أقر الطرفان على أهليتهما واتفقا على ما يأتى :

(أولا) باع الطرف الأول إلى الطرف الثانى الذى قبل المشترى لنفسه جميع العقارات المبينة الحدود والمعالم فى الجدول باطنه ومقدارها [illegible] الواردة فى التكاليف الآتية :

Contract of Sale: Page One



(ثانياً) هذا البيع والتنازل فى نظير مبلغ وقدره ٤٠٠٠ جنيه فقط أربعة آلاف جنيه مصرى لا غير
وتعهد المشترى بسداد باقى الثمن للبائع نقدية فوراً حسب المبين بالبند الثانى بدون تنبيه ولا إنذار وبشرط ألا يجوز للمشترى أن يتصرف فى كل أو بعض العقارات المذكورة ولا أن يتنازل عنها للغير إلا إذا دفع الثمن بأكمله وفى حالة دفع كامل الثمن يكون له حق التصرف فيها بصفته مالكا لها .

(ثالثاً) يضمن البائع خلو العقارات المبيعة من جميع الرهون والاختصاصات والحقوق العينية أياً كانت .

(رابعاً) أقر البائع أيضاً بأنه تملك العقارات المبيعة بطريق [illegible]

(خامساً) تعهد البائع باستحضار جميع مستندات تمليكه واستيفاء جميع الاجراءات اللازمة للعقد النهائى المتبعة بمكتب الشهر العقارى طبقاً للتعليمات القانونية المعمول بها الآن بمصاريف من طرفه خاصة باعتباره مسئولا عنها وملزما بها وتسليمها للمشترى وتعهد البائع بتحرير عقد البيع النهائى والتأشير عليه من مكتب الشهر العقارى ( ) بمصاريف من طرفه أما رسوم الشهر التسجيل والتصديق فهى على حساب المشترى خاصة .

(سادساً) تعاهدنا نحن الموقعين بالحضور أمام قلم الشهر والتوثيق ( ) من الساعة ٨ أفرنكى صباحا لغاية ١٢ ظهراً للتوقيع والتصديق على العقد النهائى يوم [illegible] وفى حالة عدم تحديد ميعاد التصديق فعلى طالب التصديق إعلان الآخر بجواب موصى عليه بطريق البوستة أو بحضور شاهدين قبل ذلك بمدة ثلاثة أيام على الأقل سواء كان التصديق لاسم المشترى أو من يحل محله بدون مساس بحقوق البائع المخولة له بهذا العقد وذلك بدون تنبيه وبدون إنذار رسمى من أى طرف منا للآخر بعد ذلك واعتباره محلا مختاراً لتنفيذ هذا العقد وذلك بكامل شروطه وأجزائه بحيث لو تأخر أى طرف منا من نفاذ ما تعهد به كله أو بعضه أو عمل عملا يترتب عليه ضرر الآخر أو عرقلة هذا البيع أو شىء منه فيكون ملزما بان يدفع للآخر مبلغ [illegible] بصفة تعويض شرطاً جزائياً مقرراً بين الطرفين بدون تنبيه ولا إنذار رسمى فضلا عن نفاذ هذا البيع بكامل شروطه وأجزائه مع الزامه بكامل المصاريف واعتبار هذا العقد فى قوة عقد بيع نهائى واجب الشهر والتسجيل ناقل للملكية سواء كان ذلك بالطرق الودية أو القضائية وملزماً بدفع الضرائب المفروضة عليها إبتداء من [illegible]

(Signatures of the parties to the contract have been blocked out)

Contract of Sale: Page Two

Appendix E

Egyptian Penal Code (Translation by the Middle East Library for Economic Services)

Law 58/1937

Part 9: Criminal Bankruptcy

Article 328

Any trader who discontinues the settlement of his debts shall be considered in a case of criminal bankruptcy in the following cases: First: If he hides, destroys, or changes his books; Second: If he embezzles or hides part of his property to the detrminent of his creditors; Third: If he admits or renders himself debtor, by defraudation, of amounts he does not owe in fact, whether this ensuing from his writings or his budget, or other papers, his verbal declaration, or his refrain from submitting papers or explanations, although he is aware of the consequences of such refrain.

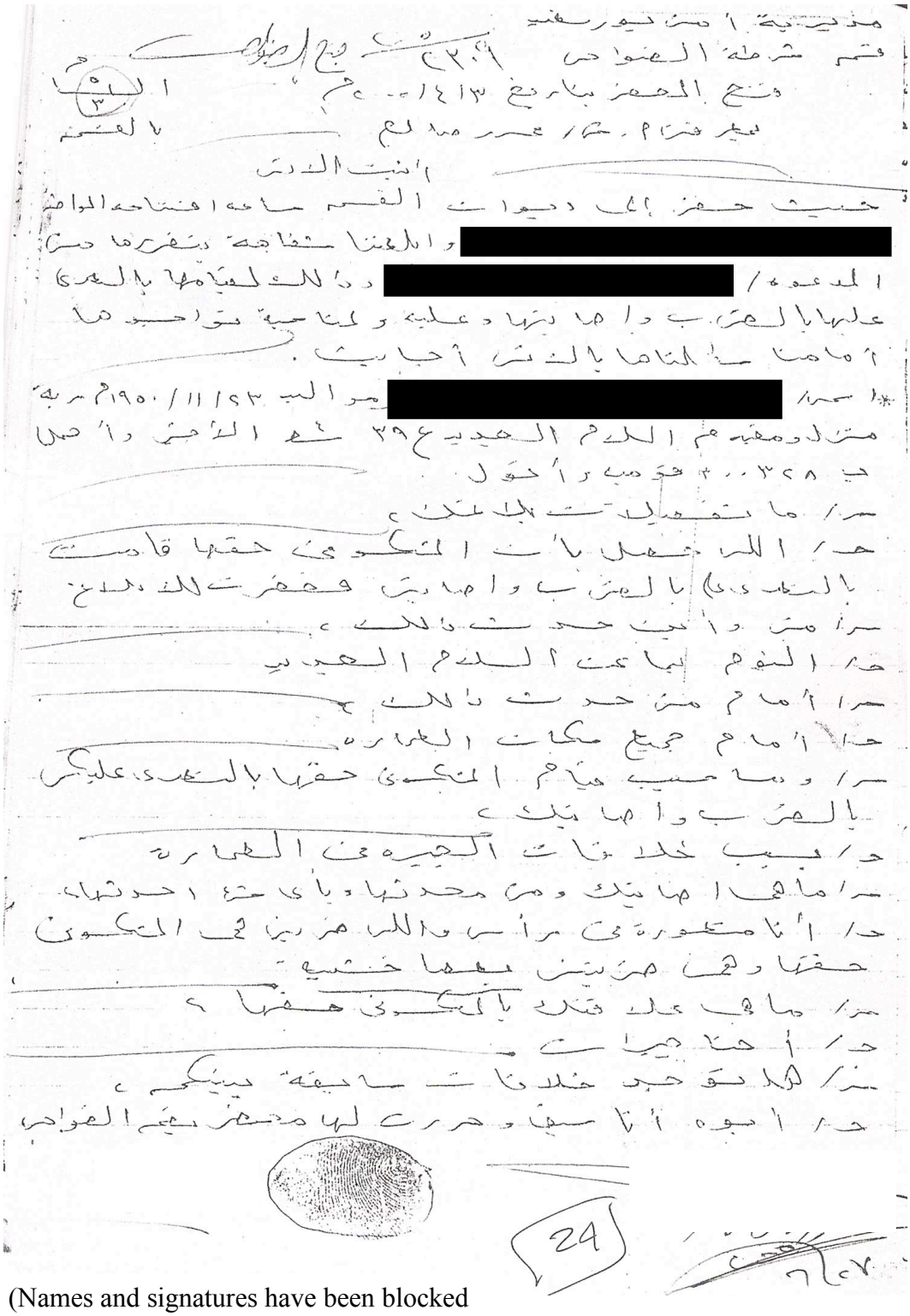
Article 329

A criminal bankrupt and his accomplice shall be punished with imprisonment for a period of three to five years.

…

Appendix F

Police Report, Duwā-Hī- police station



(Names and signatures have been blocked out)

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