The Tribal Law in South Saudi Arabia

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Understanding the nature, provisions, and the rule of law in Saudi society is an important step towards enhancing the rule of justice and peace in Saudi Arabia.

There are large numbers of Saudi societies nowadays that have nomadic tribes having their own system to settle down disputes in law of property (Land ownership), Family law, and criminal law, especially in South Saudi Arabia. The tribal law is clear in the judicial system and as a part of the State`s policy in conflict reconciliation, which is a cultural norm in the society and a part of Islamic Law (Shariaa) as well.

These customs and traditions are invoked by the tribal sheikhs (elder leaders). We are going to shed light on criminal judgments, in South Saudi Arabia in particular.

**The Tribal Law:**

Tribal law has been known since ancient times in south Saudi Arabia, and it is used by the tribal sheikhs to settle disputes in Saudi society. Tribal customs and traditions differ according to communities, times, tribes, and clans. Tribal sheikhs are the ones who control and decide in disputes between the society members, among such criminal customs are the following:

**First: Tribal Sheikhs: (judge)**

There were called the arbitrator of right or the definite of right. The arbitrator of right is just like legal judge obliges people to abide to their judgments; if the opponents attended before him, he takes promises and guarantees from them to accept the ruling before its issuance. Accordingly, he takes from the opponents their old weapons, which could be an old gun or dagger or anything precious (at the hands of the tribal sheikh). Then, he hears their complains after they take the oath, and by then he listen to their testimony of the witnesses – if found- and then issue his judges.

If one of the litigants does not accept the ruling of the tribal sheikh, the arbitrator of right (judge) becomes his opponent before another higher judge.

These judges who are known for (the right) – as aforementioned - inherited this judgment from their forefathers; they judge in the case with money, oaths, etc, and they have certain laws that they knew about from their parents, grandparents or fathers, and the ancestors of other tributes; they also have certain laws which they do not pass over or violate in the most cases.

**Second**: the extreme fanaticism to support the arbitrator of right, among their words:

1. Some say that they adheres to the customs of their fathers and ancestors, even that they went to Hell.
2. Some say: “I do not abandon the customs of my roots, whether it is halal or haram (allowed or forbidden).
3. Some say: “rather be consumed by fire than commit a shameful act”.
4. Some say: “Shariaa is not fair”.

And many other inappropriate words and these words may arouse suspicions about the Islamic Creed.

**Third**: vengeances (Al-Matharat):

The plural of vengeance derived from the word “revenge”.

It is a rehabilitate and revenge, which is done by the neighbor for this other neighbor, a friend for his friend and the owner of the house for his guest, as well as done by the protector tribe for those who belong to it against who attacks them.

**Types of vengeances:-**

1. **Relative vengeance:**

which is close to the mother`s family such as the uncle, his sons, and the aunt`s sons; so, if i were from a certain tribe and my uncle is from another tribe, i shall take the revenge for my uncle, this revenge might be a bloodshed or an amount of money to be taken from the offender or his tribe and be given to my uncle as a rehabilitate.

1. **Neighbor vengeance (Al-Jar):**

The neighbor,for example: if someone assaulted my neighbor and i could not support him with my hand by shedding blood, i must take a sum of money from that offender or his relatives, and give the money to my neighbor as a consideration, by then he has the choice to accept the conciliation with the offender or refuse it.

1. **Brotherhood vengeance (confraternity):**

For example: if i were traveling or riding with someone who got assaulted by another one and i could not support him by shedding blood, i must interfere and ask the offender and his relatives to pay a sum of money to my brother as a consideration, by then he has the choice to accept the conciliation with the offender or refuse it.

1. **The** **neighborhood** **vengeance (Al-Jirah) :**

It means the regular security and protection recognized among the tribe`s member and between other tribes. The neighborhood protects the tribe`s members and whoever resort to from the other tribes, its duration varies according to three recognized periods:

First: a year and two months “"fourteen months", and this in the case of murder.

Second: six months in cases other than murder such as fractures and large wounds.

Third: three months in the case of beatings and etc.

Rehabilitation: The assaulter and his tribe ask protection from one of the neighboring families and tribes, at the time of the case. This act is called rehabilitation.

The neighbor: the person who protects them in the name of a family or tribe, who is entitled to taking the revenge in case of any attack on the person requested the neighborhood protection.

If the assaulter and his relatives did not ask protection from one of the near tribes to settle down blood shed at the beginning of the problem until the investigation, the victim and his family sees that as an insult and underestimating for them; so, they ask to appeal to the arbitrator of right in order to get justice and rehabilitation.

Some of them say: (**neighborhood “Al -Jirah” is an absolute protection and an aspect of dignity**), it is a famous phrase that they repeat about the neighborhood and its prestige. Accordingly, Al-Jirah is considered an aspect of pride and glory.

1. **The** **tribal** **vengeance:**

The criminal`s tribe choose a man from the victim`s tribe to ensure the commitment of his relatives to the judgment, this tribe remains under his inheritors after his death. The chosen man from the victim`s tribe ensures the compliance of his relatives with the tribal rule and the criminal`s tribe fives him money called “**the tribal appointment for leadership**” as well as a weapon that symbolizes force.

The victim`s tribe announce the acceptance of their relative chosen man of being their leader. Then, (Al–Jirah) the neighborhood transfers from one neighbor tribe to another, under the name of **tribe leadership** and it remains under the responsibility of his successors after his death.

For example: If the case ended by conciliation or by tribal terms of conditions, the criminal`s tribe stipulates that the victim`s tribe must provide a guarantee to ensure the execution of the case performance provided that they must give it to the criminal`s tribe a sum of money called “**the tribal appointment for leadership”.**

**Tribal sheikhs/leaders: represent judges:**

**The criminal:** committed his crime for revenge (as mentioned above the types of revenge).

* He must, immediately after the crime, ask for protection from a neighboring tribe.
* The Neighborhood/ Al-Jirah duration shall be as follows:
* First: a year and two months “"fourteen months", and this in the case of murder.
* Second: six months in cases other than murder such as fractures and large wounds.
* Third: three months in the case of beatings and etc.
* The tribe that accepted (Al-Jirah) to carry arms and protect the offender and his tribe from the victim. But the youth of the tribe go to the victim and tell him that the offender and his tribe in their protection! And they will protect them until the last drop of blood.

Judgment and dispute settlement: It is the determination of rights, the estimation of disputes and the dissolution of disputes between adversaries in accordance with customs, tradition, tribal laws, and by tribal judges who knew, and mastered the articles of the tribal law.

Consultations begin and tribal sheikhs who know tradition and tribal laws, who will be adjudicated, decide on a specific date. The elders and dignitaries of the tribes, along with the tribe of the offender, shall be present, and everyone shall be in a position of submissiveness and humiliation, and in a special situation of humiliation.

The deliberations of the victim's tribe begin with their grievances, their demand to restore their mind, to dictate their demands, and to demand the faith of the victim.

Then the sheikhs of the tribes begin with the deliberations of the ruling, the special consultations between them, and then they judge by judgments, faith and money, according to their peace, and their estimates, and previous tribal provisions.

The adversaries have no choice but to accept the ruling. If none of them accepts tribal rule, the judges of the tribal government will try him at the highest right of the law.

Judgment Day: This day is called (Malfy):

The tribe, including the offender, asks the princes and dignitaries to go to the tribe of the victim in one row beside the other, and the tribal sheikhs and princes are in the middle, and the tribe(Al-Jirah) is responsible for protecting the offender with great alertness and bearing and using the weapon if necessary. And ask them to pardon their dead or negotiate in the amount of fine.

Consultations begin, tribal sheikhs who know traditions, and tribal laws, who will judge the case, and on time, attend the sheikhs and elders of the tribes, along with the tribe of the offender, and everyone is in a position of submissiveness and humiliation.

Those whom the tribe offender come, and stand in the sun, and some of them may creep on his face and some of them may restrict the person; especially if there is relative between him and the victims; besides, and some tribes are bowed their heads turbans, jealousy, humiliation, and submission. And carry with them a head of camels or more, or of cows, or sheep, and if they get to the adversaries angered them, to adjust their thoughts.

Their purpose is to appeal to the victim's family until he has mercy on them and to forgive their offender.

The deliberations begin ... and the victim's tribe makes their grievances, and demands that they rehabilitate them, dictate their demands, and ask them to believe in the guilt of the offender.

Then tribal sheikhs begin with the deliberations of the judgment, the private consultations between them, and then the judgments, the faith and the amounts of money, according to their tradition, and the estimates, and previous tribal provisions.

The adversaries have no choice but to accept the ruling. If none of them accepts the tribal rule, the judges of the tribal government will try it at the highest level of their right in this law.

1. Judgment with a heavy faith:

One of the customary provisions in southern Saudi Arabia:

Judgment with a heavy faith: Religion of the five, ten, or twenty-five, or the religion of forty, or otherwise, this is the faith ruled by the judges of tribal elders. They may make circles in the land, and assign those who have been sentenced to the right to enter these circles, and they have many formulas that differ from society to society.

If the judge rules the five religion on a tribe, and there is only one of this tribe; the judge repeats the oath five times, and say the same in the religion of ten, and twenty-five ....

It is also the faith that they rule by religion to swear that the aggressor and his relatives that if they were the victim's place to be satisfied as he pleased and do as they did.

Called section of Wasiya: as the victim shall to ask the offender and his tribe to swear by God that if they were the place of the victim to be pleased as he pleased.

And in this form of them, " If we were in your place, we will accept that”

The second formula: they swear: they did not incite this crime and did not deliberate and are not satisfied with this crime, and this act is customary rule Jahli and some of them left these words.

1. “A life for a life” vengeance:

The principle of a life for a life or "equality" is considered in an adverse interview, so that the person who harms another person is punished equally.

Among the old pictures of the vengeance:

The head is struck by the dagger (a kind of Arab daggers), and they judge the offender to hit his head with a dagger until the blood is shed, and he continues beating and blood is shed until his opponent says right word.

1. Conciliation by accepting money:

Instead of the victim punishing (a life for a life) of the offender! The offender shall ask for the ransom; he shall be exempted from him in exchange for money or camels or anything the offender does to surrender his members.

* Ruling on the so-called (Al Assiya), which is to start each incident of rule, such as: you, so five sheep, or six daggers, or the price in an incident, and tomorrow accept me such a provision.
* Al-Mansubah ": a sacrifice, or more, imposed on the sinner, and he goes to the house of the victim

Usually called "Borha", which is to impose on the owner of the biggest mistake two sheep or more, and the owner of the error of least one of the sheep. In addition, each one should slaughter what he has to do.

* "Justice" and its forms

In the event that a person is stabbed with a knife or shot, the two sides sit at the tribal chief and decide to resolve the dispute. After the parties have cleared their consent to accept his judgment, he will be sentenced to ten sheep to five hundred sheep, which will be acceptable to them.

Before the conclusion: the role of "Qabil" in the last stages of reconciliation under the rule of tribal sheikhs:

Qabil:

Is one of the reliable men "tribal", a witness to the reconciliation between the opponents, or parties to the conflict and is elected by the opponents, to be a guarantor of reconciliation on the part of the victim, and that the victim or one of his sacrifice to breach the peace revenge in the future. Qabil shall be of the tribe of the victim and shall be strong and have knowledge and authority over the victim and his brothers so that none of them will do anything, and this will result in no veto or assault. Qabil is given tribe, a sum of money, or a precious gift in front of his grandfather and may be in the late times a luxury car may cost more than three hundred thousand riyals. Especially in the cases of the murder of the mayors, and gives a gun that symbolizes the strength of his position and authorize him to use force, in the event of disobedience to the peace, judgment or objection.

If the victim’s relative becomes accustomed to one of the relatives of the offender after the appointment of Qabil and acceptance of his tribe, the case takes revenge for his tribe of the victim of the victim who is his sacrifice, and any of them, and revenge as offered blood shed, or take a lot of money given to those under his kiss , And the crime remains unrelated to this revenge.

Aqela:

The project that the Aqela of the offender is borne by the error of error, namely:

The husband, for example, and the brothers of a mother, and other relatives, do not bear anything that is lawful in sharee'ah.

The wisdom in positing the error on the reasonable, not the offender, is that the killing is a mistake, so it is permissible to pay the fatwa to the killer, and because the gang is pushing their relatives closer, and they support him until he is able to do so: their relative and their distance in the mind.

Ghoram:

It is an alliance between one tribe or one thigh, to cooperate on a level in the payment of debts.

This Ghoram is headed by the sheikh of the tribe, or vice-president, and each deputy takes responsibility for the collection of the cats (ie, the financial amounts), the share to be paid, and the income to be paid with them. , Or aid to other tribes, This contract is binding on its members, it must pay in the hands of the mayors, the friendship of error, and reconciliation, and others in the right or wrong, and do not differentiate between the relatives of the offender and others, nor the poor and the rich, nor the present and absent, but the woman does not have a cat, shall not carry the card, but members of the tribe pay the level according to the holder - the national identity card of Saudi Arabia, must be 15 years and above - and there are some tribes make it on all members of the male tribe, even the infant, and those who did not pay, and abstain is considered a defect and a disgrace, and say to him: charge with us, or boycotted in the sense do not do with him in the diaries if he got something, even if that must be legitimate as a palliative.

(One ghram), and those who want to enter into this alliance from others, "Slaughter the sheep of the clouds" and they have meetings in which they deliberate, and some as a fund in advance "to collect money."

And have laws such as: Third: It must be when some of the tribes who have felony, shall be paid a third fund group, or charger even if this money to the heirs of the deceased, its third Fund, and this is when some of the tribes, some of them canceled, and some of them mitigate.

Qoraey

The verb is called "Maqroea" and its meaning in the tongue of the Arabs any deflection of the thing you are going to. It is a word used by people for deterrence and apostasy.

The meaning of it among people is that you expose yourself to blame and abuse when you break or stay on. This word in the tribal and clan community is like the veto used in the Security Council!

Is to prevent and stop (the victim) from assaulting the applicant for protection (the offender), and by the members of the tribe (which kiss the neighbor).

If the victim retaliates against the offender before the verdict is pronounced by the tribal sheikhs, the protectionist tribe retaliates, and is called an "outraged".

One of these types of neighbors is what they call anger, or the black Jirah. Or other, and the effects are bloodshed, or taken for money paid to the aggressor, and does not enter the coffin of the crime, but this is an urgent punishment.

Conclusion:

The customs and traditions of criminal law in the south of Saudi Arabia are centuries old and are changing as the developments of human life change. The tribal sheikhs control the separation of disputes according to the type of conflict, and sometimes the settlement of disputes is a lot of injustice to the offender, the victim or their tribe.

But with the development of societies and the entry of civilization and education and the information revolution, these habits gradually began to diminish until the law of the state prevailed and it became more applicable with some issues that the state cannot resolve by force, but the policy of the state allows the tribal elders to control their knowledge and give them a seal that symbolizes the justice and integrity of the holder . Tribal sheikhs can fix the same in some disputes that can be controlled, or leave the issue to the state.

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