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Doctrinal Pluralism and Its Impact on Shaping the Identity of the Islamic Judicial System (132–923 AH/ 750–1517 AD)

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ABSTRACT

This study explores the historical evolution of sectarian influence on the Islamic judiciary in Egypt and the Levant during the Fatimid, Zengid, Ayyubid, and Mamluk periods. It highlights how political and religious authorities systematically manipulated the judiciary to align with ruling sectarian ideologies. Under the Fatimids, judges were required to conform strictly to the state's Ismaili doctrine, overriding their original schools of thought. Similarly, Sunni dynasties such as the Ayyubids, Zengids, and Mamluks centralized judicial authority under their preferred Sunni schools while offering limited space to other sects to maintain social harmony. A key strategy involved appointing judges from families loyal to the dominant sect, leading to hereditary control of legal institutions and reinforcing sectarian dominance. The study uses descriptive, analytical, and comparative methods to examine the structure and functioning of judicial systems under each regime, shedding light on how sectarianism shaped legal appointments, procedures, and public trust. It aims to raise awareness of the historical misuse of religious authority for political gain and to promote principles of sectarian pluralism and intellectual diversity. By tracing the repercussions of sectarianism on judicial integrity, the study calls for policies that uphold justice and equality across sectarian lines in contemporary society.

Keywords: *Equality, Islamic judiciary, Islamic jurisprudence, separation of powers, Shafi'i.*

The topic of the "sectarian tendency in the Islamic judiciary: Egypt and the Levant from Fatimid to Mamluk periods" represents a rich historical window through which we can deduce the depth of interaction between the schools of jurisprudence and the judicial institution in that era. Studying this model reflects how the judiciary adapts to the challenges of sectarian and political diversity, which inspires us in the present era to establish a judicial system that respects pluralism and balances fairness and maintaining stability. History is not only a mirror of the past but also a guide that directs our present toward a deeper understanding of the nature of justice in light of the diversity of visions and interests. From this standpoint, the subject of the study was chosen,

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especially in light of the political and sectarian challenges facing the judicial institution in some Islamic countries, including Iraq, and the wide political and social controversy raised about attempts to amend the Iraqi Personal Status Law.

The study aims, in addressing this important topic, to analyze the impact of the political and sectarian interventions of the caliphs and sultans throughout history on the institution of Islamic justice and its transformation from a tool of justice into an arena for sectarian and political conflict and to highlight the role of sectarian tendencies in those eras to direct and control the judiciary in a manner consistent with the state's visions by appointing judges and obligating them to abide by the rulings of a particular sect, how the sectarian tendencies of society affected the decisions of the ruling authority in Egypt and the Levant at that time, and whether the authority's compliance with these tendencies was an expression of political flexibility or weakness in the face of public pressure and to what extent these responses can be considered a guarantee of social stability or a concession of authoritarian principles and other objectives that the study will address successively from a historical perspective.

The study is divided into five sections. The first section discusses the early subjection of the Islamic judiciary to sectarian tendencies during the early Abbasid era. The second section examines the sectarian tendencies reflected in the judiciary under the Fatimids. The third section explores the history of the judiciary during the Zengid era. The fourth section focuses on sectarian dominance over the judiciary during the Ayyubid era. Finally, the fifth section analyzes the challenges faced by the judiciary under the sectarian tendencies of rulers during the Mamluk era, which in turn overshadowed the judiciary. The study concludes by presenting key findings and offering several recommendations that should be considered.

The study employs a descriptive, analytical, and comparative methodology to examine the impact of sectarianism on the Islamic judicial system during the eras of the Islamic states that ruled Egypt and the Levant. This is achieved by presenting significant historical events that reflected the significant impact of sectarianism on the Islamic judicial system, the effects of which persisted for decades or centuries, represented by the interference of the ruling political authority, such as kings, princes, and even clerics, in adopting a specific religious doctrine when appointing judges, and obligating them to issue judicial rulings in accordance with this doctrine. Furthermore, the study analyzes the position of Egyptian and Levantine society regarding these interventions, which affected the independence of the judicial institution at the time. These interventions and positions taken by decision-makers and society are then compared according to the era of each Islamic state that ruled Egypt and the Levant, such as the Abbasid, Fatimid, Zengid, and Ayyubid dynasties, as well as the Mamluk dynasty. A comparative table is drawn up at the end of the study, summarizing the impact of sectarian tendency in the Islamic judiciary according to each state's era.

The Beginnings of the Islamic Judiciary's Subjection to Sectarian Tendencies

The Islamic judiciaries in Egypt and the Levant were significantly influenced by sectarian diversity among Muslims. This diversity directly shaped the identity of the Islamic judiciary over the eras of the Islamic states that ruled these two regions, most notably during the Abbasid Caliphate (132–656 AH/750–1258 AD). During this period, Sunni jurisprudential schools (Hanafi, Maliki, Shafi'i, and Hanbali) emerged and flourished from the late 1st century AH/7th century AD to the mid-3rd century AH/9th century AD. Similarly, Shiite sects (Imamiyya, Ismaili, Zaydi, among others).

The Abbasid caliphs sought to promote and consolidate Sunni jurisprudence across their dominion, imposing it on state institutions, including the judiciary, by appointing Sunni judges and instructing them to issue rulings on the basis of their respective jurisprudential schools. The first significant step in this direction occurred during the reign of Caliph Harun al-Rashid (170–193 AH/786–809 AD) (Al-Dhahabi 2006). He appointed Abu Yusuf Yaqub al-Ansari, a Hanafi scholar, as Chief Judge and granted him the authority to appoint judicial deputies across the territories under Abbasid control. Consequently, Abu Yusuf began appointing judges in Islamic

regions, including Egypt and the Levant, from the adherents of the Hanafi school (Ibn Khallikan 1994), meaning that the sectarian tendency of Caliph Harun al-Rashid is what prompted him to appoint a Sunni judge at the expense of the Shiite schools of thought, whereas the sectarian tendency of Judge Abu Yusuf prompted him to choose Hanafi judges at the expense of the other three Sunni schools of thought mentioned above, so the two tendencies contributed to giving a sectarian character to the institution of Islamic justice and defining its identity. Similarly, in Al-Andalus, sectarian tendencies played a role in shaping the Islamic judiciary through the influence of the Maliki jurist Yahya ibn Yahya al-Laythi (d. 234 AH/848 AD). Yahya nominated judges exclusively from his Maliki peers (Al-Dhahabi 2006). This time, Yahya's sectarian bias led him to recommend Maliki scholars for judicial positions to exclude candidates from other Sunni schools (Ibn Khallikan 1994). In both cases, sectarian tendencies directly contributed to defining the structure and identity of the judiciary, demonstrating a clear preference for certain jurisprudential schools over others.

The intervention of the Abbasid Caliph Harun al-Rashid in the appointment of a Hanafi judge, and the Hanafi judge's appointment of his Hanafi colleagues as his deputies, reflects the interference of the political authority (the executive authority) in the work of the legislative and judicial authorities. This violates the most important legal principle: the separation of powers. The principle of judicial independence is fundamentally based on the separation of powers, which is one of the fundamental foundations emphasized by various legislation and legal systems. Judicial independence ensures that neither the executive nor the legislative authority interferes in the work of the judiciary, thus ensuring the achievement of justice and the preservation of individual rights. Therefore, judicial independence is considered a prerequisite for establishing the principle of separation of powers and strengthening the rule of law (Zaghoul 2001). The principle of separation of powers requires that each branch operate independently and without interference from the others, while strictly adhering to its defined scope of function. This independence ensures that power is not exploited and reduces the possibility of abuse. Thus, this principle promotes a balance between powers and ensures the protection of public rights and freedoms (Al-Tamawi 1996).

The Judiciary During the Fatimid Era (297–567 AH/909–1171 AD)

The Fatimid state was established in the Islamic Maghreb in 297 AH/909 AD. It was one of the Islamic states opposing the rule of the Abbasid Caliphate in Baghdad and differing from it in sectarian affiliation. From the beginning of their state, the Fatimid caliphs sought to spread their Ismaili Shiite doctrine across the Islamic Moaghreb. They granted Ismaili scholars the highest positions in their state, particularly the position of the judiciary (Ibn Hajar al-Asqalani 1998), at the expense of other Shiite sects on the one hand and Sunni sects on the other. When Fatimid influence extended to Egypt (358 AH/968 AD) during the reign of Caliph Al-Mu'izz li-Din Allah Abu Tamim Ma`ad ibn Ismail (341–362 AH/952–972 AD), he sent his army to Egypt under the leadership of Jawhar ibn Abdallah al-Siqilli (381 AH/992 AD) (Ibn Khallikan 1994). Upon entering Egypt, the judiciary was under Abu Tahir Muhammad ibn Ahmad al-Dhahli (d. 367 AH/977 AD) (Al-Dhahabi 2003), who adhered to the Maliki Sunni School of thought. Jawhar was unable to dismiss him from his position as judge, despite being Sunni, owing to Abu Tahir's significant status among the Egyptians and the great respect he commanded. Fearing public outrage against both himself and the Fatimids, Jawhar refrained from taking such a step at the start of their rule in Egypt. When the Fatimid Caliph Al-Mu'izz li-Din Allah arrived in Egypt as well, he did not dismiss Judge Abu Tahir for fear of provoking the anger of the Egyptians, but he obliged him to rule according to the Ismaili doctrine only (Mash'an 2022). Furthermore, Al-Mu'izz appointed an Ismaili judge, Abu al-Hasan Ali ibn al-Nu`man ibn Muhammad al-Qayrawani (d. 374 AH/984 AD) (Ibn Khallikan, 1994), to serve as a co-judge alongside Abu Tahir. They jointly presided over the judiciary in Egypt until Abu Tahir stepped down due to illness during the reign of Fatimid Caliph Al-Aziz Billah Abu al-Mansur Nizar ibn Ma`ad (365–386 AH/975–996 AD) (Al-Dhahabi, 2006).

Afterward, Abu al-Hasan ibn al-Nu`man became the sole judge of Egypt and was the first to bear the title “Chief Judge” (Qadi al-Qudat) in the Fatimid era (Al-Suyuti 1967). He ruled in Egypt according to Ismaili doctrine, marking a shift from the previous Sunni jurisprudence practiced in the judiciary. Similarly, in Levant, when Fatimid influence extended there, the Fatimid Chief Judge in Egypt required his deputies in the region to rule according to the Ismaili doctrine as well (Al-Qalqashandi, n.d.). This clearly demonstrates the sectarian inclinations of the Fatimids in transforming the judicial identity of Egypt and the Levant from Sunni to Shiite after these territories came under their rule.

Nevertheless, the appointment of judges in the Fatimid era was not exclusively limited to Ismaili Shiite scholars. Sunni scholars were also appointed, although they were required to adjudicate according to the Ismaili doctrine. For example, Sheikh Abu al-Abbas Ahmad ibn Muhammad ibn Abi al-Awwam al-Sa`di al-Hanafi (d. 418 AH/1027 AD) was appointed Chief Judge in Egypt by Fatimid Caliph Al-Hakim bi-Amr Allah Abu Ali Mansur ibn Nizar (386–411 AH/996–1020 AD) in (405 AH/1014 AD). The decision surprised state officials, who remarked, “He is neither of your sect nor of the sect of your predecessors” (Ibn Hajar al-Asqalani 1998: 72). However, Caliph disregarded their concerns and approved his appointment, stipulating that he rule according to the Ismaili doctrine. Al-Hakim also required that four Ismaili jurists accompany the judge to oversee his rulings and ensure compliance with Caliph’s directives. Abu al-Abbas Ahmad al-Hanafi remained in office for more than twelve years (Ibn Hajar al-Asqalani 1998). This illustrates the persistence of sectarianism as a primary framework for judicial rulings in the Fatimid era, even when the judge belongs to Sunni doctrine.

This behavior by the ruling Fatimid authority in Egypt is expressed in the modern political term (political sectarianism), which has turned in our time into a real danger that threatens social cohesion in many countries of the world, including Islamic countries, as sectarianism in its political state is linked to weak integration into society due to groups with different affiliations elevating the value of sub-identities, which makes them, over time, unable to integrate into a single national identity that achieves harmony, stability, and peaceful coexistence under a single democratic homeland (Bakr 2022). The ruling authorities in these countries, which witnessed the tyranny of political sectarianism, should have exploited the sectarian and ethnic pluralism in those countries because this pluralism is not necessarily the opposite of national unity. On the contrary, it is possible to make this pluralism a source of strength for the country (Salim 2023).

During the reign of Fatimid Caliph Al-Hafiz li-Din Allah Abu al-Maimun Abd al-Majid ibn Muhammad (524–544 AH/1130–1149 AD), Minister Al-Akmal Abu Ali Ahmad ibn Shahanshah al-Jamali, known as Armies’ Prince (Amir al-Juyush) (526 AH/1131 AD) (Al-Dhahabi, 2003), seized control over Caliph and prevented him from appearing publicly. The minister intervened in judicial affairs, appointing four judges to rule according to the Sunni and Shiite schools of thought (Shafi`i, Maliki, Ismaili, and Imami). This broke with the sectarian policy of the Fatimid caliphs, who had exclusively appointed Ismaili jurists. The minister appointed Sultan ibn Ibrahim ibn Rasha al-Maqdisi (d. 535 AH/1140 AD) as judge for the Shafi`i’s, Muhammad ibn Abd al-Mawla al-Maghribi as judge for the Malikis, Hibat Allah ibn Abdallah ibn Hassan al-Ansari, known as Ibn al-Azraq, as judge for the Ismailis, and Al-Mufaddal ibn Hibat Allah ibn Abdallah ibn Hassan ibn Abi Kamil as judge for the Imamis. Each judge ruled and passed inheritance cases according to his sect. This made Minister Abu Ali the first person in Islamic history to establish a judiciary encompassing judges from both Sunni and Shiite schools of thought (Al-Maqrizi, n.d.). Al-Dhahabi explains the minister’s decision, stating, “He inclined toward Sunnism, like his father” (Al-Dhahabi 2003: 11/443), suggesting that the minister’s Sunni inclinations led him to appoint two Sunni judges alongside two Shiite ones. Another explanation could be his objection to the rigid sectarianism of the Fatimid caliphs, who imposed the Ismaili doctrine on both Shiite and Sunni schools of thought. Consequently, the minister decided to appoint four judges representing the major sects of both groups.

However, this decision angered the Ismaili emirs and missionaries in the Fatimid state, inflaming their sectarian sentiments. They assassinated the minister and released Caliph Al-Hafiz li-Din Allah from detention. The Caliph reinstated the prior sectarian policy of appointing judges

strictly according to the Ismaili doctrine (Al-Dhahabi 2003), appointing the Ismaili scholar Salih ibn Abdallah ibn Raja as Chief Judge, with the stipulation that he rule solely according to Ismaili jurisprudence (Ibn Hajar al-Asqalani 1998).

Commenting on the reform attempt undertaken by Prince Abu Ali al-Jamali, who sacrificed his life to ensure that the Islamic judiciary remains independent and free from political interference, societies today must stand up to political interference in the judiciary's work to ensure its independence and prevent it from becoming an institution that protects the interests of the country's ruling political class or the rights of a particular sect at the expense of the rights of the rest of society. This would violate another important legal principle, namely the principle of equality before the judiciary, which requires the application of justice to all citizens in legally stipulated judicial procedures. This requires that no particular group of citizens enjoy special procedures over others, except in cases that require this for objective reasons, such as in juvenile or labor cases, etc. Although this obligation falls on those who draft laws, the principle of equality also imposes on judges the necessity of treating all litigants equally (Basyouni 1983). The interference of the political (executive) authority in the nature of the work of the legislative and judicial authorities, such as imposing a particular doctrine in legal legislation at the expense of other religious doctrines existing in society, will generate a feeling of injustice among the rest of the members of society who follow other doctrines, and will lead to the loss of their rights, and not being treated equally, and they will feel that they are second-class citizens. There is no doubt that this matter will generate hatred in souls and fuel the spirit of sectarianism within a single society, and thus threaten its unity, and then this will be reflected in the security stability in that country, and consequently its weakness and collapse politically, security-wise, economically, and socially (Al-Ghout & Habbas 2018).

Notably, the basis of Ismaili judicial rulings during the Fatimid era was derived from the Qur'an and the Sunnah of the Prophet Muhammad (peace upon him). If no guidance was found in these two sources, the rulings were based on the traditions of the imams from the progeny of Imam Ali and Fatimah al-Zahra, according to the lineage of the Ismaili Imams. If no guidance could be found in these traditions, the matter was referred to the Fatimid Imam "Caliph", who acted as the ultimate authority. Judges were prohibited from ruling on the basis of personal opinion, discretion, or analogical reasoning, as practiced in Sunni jurisprudence. An example of the entrenched sectarianism of Fatimids is the hereditary nature of the judiciary, which often remains within prominent Ismaili families. For example, six judges hailed from the al-Nu'man family, five from the al-Farqi family, and two each from the al-Yazuri and al-Maliji families (Al-Wakhian 2005).

The Judiciary During the Zengid Era (521–577 AH/1127–1181 AD)

At the height of the Zengid dynasty's power under Sultan Nur al-Din Mahmud ibn Zangi (541–569 AH/1146–1173 AD), whose rule extended over Levant and Egypt (Bakhit 2012), efforts were directed toward promoting Sunni schools of thought, particularly the Shafi'i and Hanafi schools. To achieve this goal, Nur al-Din established Shafi'i and Hanafi schools in the Levant and Al-Jazira regions (Al-Nu'aimi, 1990). His sectarian inclinations were also reflected in the judiciary. Despite being Hanafi, he appointed Shafi'i scholars to key judicial positions in Egypt and the Levant. Notable appointees included Sheikh Kamal a-Din Muhammad ibn Abdallah al-Shahrazuri, a Shafi'i scholar (d. 572 AH/1176 AD), whom Nur al-Din appointed as Chief Judge in Damascus. Similarly, Sheikh Sharaf al-Din Abdallah ibn Muhammad ibn Abi Asrun, another Shafi'i scholar (d. 585 AH/1189 AD), was appointed Chief Judge in Egypt following the fall of the Fatimid dynasty in (567 AH/1171 AD) and the incorporation of Egypt into Nur al-Din's domain. This shift marked a significant change in the identity of the judiciary in Egypt, transitioning from the Ismaili Shi'a-based system under the Fatimids framework to a Shafi'i Sunni framework.

The reason why Sultan Nur al-Din Mahmud adopted the Shafi'i school of thought as the basis for rule in the Levant and Egypt, without the other Sunni schools of thought, was due to the widespread prevalence of this school of thought among the people. He sought to avoid public discontent and potential sectarian unrest that might arise if judges from other Sunni schools were

appointed. This sentiment was affirmed by Al-Subki, who noted, “Among them are the people of Levant and Egypt. These two regions, along with ‘Aydhāb extending from Upper Egypt to Iraq, have been the stronghold of Shafi’i rule since the emergence of the Shafi’i school. Judicial and preaching positions were held exclusively by them” (Al-Subki 1992: 1/326), the evidence for this is that when Sheikh Abu Abdullah Muhammad ibn Musa al-Turki al-Balasaguni al-Hanafi (d. 506 AH/112 AD) assumed the position of judge in Damascus, he was overcome by sectarian tendencies in an extreme way, to the point that he declared the Shafi’is to be infidels, hated the Malikis, and said: “If I had the power, I would take the jizya (tax) from the Shafi’is” (Ibn al-Safadi, 2000: 5\59). He decided to appoint a Hanafi imam in the Umayyad Mosque in Damascus because of his sectarian tendency, so the people of Damascus became angry and refused to pray behind him, closed the mosque (Al-Subki 1992), and prayed together in Dar al-Nakhil, in al-Qaysariyah opposite the Aminiya School; as a result, the Hanafi judge al-Balasaguni was dismissed after this situation occurred (Safadi 2000). This is clear evidence of people’s displeasure at the imposition of a Hanafi imam upon them, so their sectarian tendency also pushed them to express their anger and strong objection to their behavior, which explains why Sultan Nur al-Din Mahmud appointed Shafi’i judges, even though he was Hanafi. That is, the people of Damascus were dominated by sectarian tendencies, as they wanted a Shafi’i imam, not a Hanafi one. So, Sultan Nur al-Din ibn al-Zangi decided to dismiss the Hanafi judge and appoint a Shafi’i judge in his place, in response to the desire of the people of Damascus.

The Judiciary During the Ayyubid era (567–648 AH/1171–1250 AD)

The judicial system in Egypt and the Levant during the Ayyubid era followed a path similar to that of Zengids. Ayyubid rulers sought to promote Sunni schools at the expense of Shi’a schools. The Shafi’i school became the dominant legal framework, and the position of Chief Judge in Egypt, its territories, and the cities of the Levant was reserved for Shafi’i scholars. This was not only due to the widespread acceptance of the Shafi’i School but also because Salah al-Din Yusuf ibn Ayyub (567–589 AH/1171–1192 AD), the founder of the Ayyubid dynasty, who adhered to the Shafi’i School. His sectarian inclination led him to appoint Shafi’i scholars to the most prestigious state positions, including Chief Judge in Egypt and Levant. One notable appointment was Sheikh Sharaf al-Din Abdallah ibn Muhammad ibn Abi Asrun, previously mentioned, who was assigned the judiciary of Damascus. In addition, Salah al-Din entrusted the judiciary of Egypt to Sheikh Sadr al-Din Abd al-Malik ibn Darbas, another Shafi’i scholar (605 AH/1208 AD), who exclusively appointed deputies from the Shafi’i school (Al-Dhahabi 2003). However, historical accounts indicate that some judges occasionally appointed deputies from other Sunni schools, such as the Hanafi, Hanbali, and Maliki schools. Al-Subki noted, “The judge, who was Shafi’i, would appoint deputies from whichever school he preferred” (Al-Subki 1992: 8/319). It is important to note here that allowing Shafi’i judges to appoint deputies from other Sunni schools of thought reflects a breakthrough in this regard, as the judiciary is no longer limited to a single school of thought. This will facilitate judicial procedures and guarantee the rights of those who follow these schools of thought. In other words, their cases will be adjudicated according to their school of thought, and they will not be forced to follow laws that contradict their religious doctrine.

The sectarian tendency of the Ayyubids toward the position of chief justice was not limited to making it a monopoly of Shafi’i scholars but rather extended to the military establishment, as no judge for the soldiers was appointed there except from among the Shafi’i scholars (Al-Qalqashandi, n.d.). The most famous person who held this position during the reign of Sultan Salah al-Din al-Ayyubi was the Shafi’i jurist Baha’ al-Din Abu al-Mahasin Yusuf ibn Rafi’ ibn Shaddad al-Halabi (d. 632 AH/1234 AD), as he was entrusted with the position of Chief Justice of the Soldiers, in addition to the position of Chief Justice of Jerusalem (Al-Dhahabi 2003).

The Judiciary in the Mamluk Era (648–923 AH/1250–1517 AD)

The Mamluk state emerged following the collapse of the Ayyubid dynasty, ruling over Egypt and the Levant (Jassim 2011). The Mamluk sultans continued the judicial policies of their Ayyubid predecessors by restricting the office of Chief Justice in Egypt and the Levant to Shafi'i scholars alone. These scholars had the freedom to appoint deputies from other schools of thought, including Hanafi, Maliki, and Hanbali scholars (Al-Subki 1992). In (663 AH/1264 AD), during the reign of Sultan al-Zahir Rukn al-Din Baybars al-Bunduqdari (658–676 AH/1260–1277 AD), significant changes were made to the judiciary as Baybars appointed Sheikh Taj al-Din Abd al-Wahhab ibn Khalaf ibn Bint al-A'az (d. 665 AH/1266 AD), a Shafi'i scholar, as Chief Judge in Egypt. Taj al-Din was known for his sternness, decisiveness, and deliberation in issuing judicial rulings. However, he notably refrained from adjudicating cases that conflict with his own Shafi'i jurisprudence, refusing to delegate such cases to judges from other schools of thought. This stance caused friction with Amir Jamal al-Din Aydghdi al-Azizi (d. 664 AH/1265 AD), who criticized him, saying: "*We leave the Shafi'i school to you, and the Sultan shall appoint judges from every other school*" (Al-Nuwayri 2002: 30/118), meaning that Prince Jamal al-Din was upset by the dominance of the sectarian tendency of Judge Taj al-Din Abd al-Wahhab al-Shafi'i, and his extreme fanaticism for his school of thought, so he advised Sultan Baybars to create new judicial positions that would judge between people according to the Hanafi, Maliki, and Hanbali schools of thought, and he convinced the Sultan of this, so the latter issued his decision to create the three judicial positions and granted their holders the authority to appoint their deputies in all the affairs of the Egyptian lands (Al-Maqrizi 1997). With this action, Baybars was considered the first person in Islamic history to make the judiciary according to the four Sunni schools of thought combined (Ibn Kathir 1986).

There is no doubt that the refusal of the Shafi'i Chief Justice Taj al-Din Abd al-Wahhab to adjudicate lawsuits that contradicted his doctrine, and his objection to the assignment of a scholar from another Sunni school of thought to consider these lawsuits, caused great harm to the people who followed other schools of thought, and they were deprived of their legal rights. This angered Prince Jamal al-Din al-Azizi. In order to guarantee the rights of these people, he persuaded Sultan Baybars to appoint three new judges from other Sunni schools of thought to consider the lawsuits of the followers of other schools of thought and ensure that they obtained their rights. In other words, Prince Jamal al-Din al-Azizi sought with this step to reform the judicial institution and free it from the shackles of sectarianism that had dominated the judicial institution.

Baybars appointed Sheikh Sharaf al-Din Abu Hafs Umar ibn Abd Allah al-Subki (d. 669 AH/1270 AD) as the Maliki judge, Sheikh Shams al-Din Muhammad ibn Ibrahim al-Maqdisi (d. 676 AH/1277 AD) as the Hanbali judge, and Sheikh Sadr al-Din Sulayman ibn Abi al-Izz ibn Wahib al-Adhra'i (d. 677 AH/1278 AD) as the Hanafi judge, alongside Taj al-Din Abd al-Wahhab, who remained the Shafi'i Chief Judge (Al-Maqrizi 1997), and this decision was also applied in the Levant, including in Damascus in the year (664 AH/1265 AD), as Sheikh Shams al-Din Ahmad Ibn Khallikan al-Irbili al-Shafi'i (d. 681 AH/1282 AD) was the chief judge of the Shafi'i judges in Damascus (Al-Dhahabi 2003), so three judges were appointed with him according to the other schools of jurisprudence, namely Sheikh Zain al-Din Abd al-Salam Ibn Ali al-Zawawi al-Maliki (d. 681 AH/1282 AD) as a Maliki judge, Sheikh Shams al-Din Abd Allah Ibn Muhammad al-Adhra'i al-Hanafi (d. 673 AH/1274 AD) as a Hanafi judge (Al-Dhahabi 2003), and Sheikh Shams al-Din Abd al-Rahman Ibn Muhammad al-Maqdisi al-Hanbali (d. 682 AH/1283 AD) as a Hanbali judge (Ibn Kathir 1986); the judicial change also included the military institution, which contained one military judge from the Shafi'i school of thought, so two military judges were appointed with him according to the Hanafi and Maliki schools of thought, noting that the rank of the Shafi'i judge remained the highest rank in the newly created judicial positions due to the widespread prevalence of this school of thought among the people in Egypt and the Levant, as previously mentioned (Al-Qalqashandi n.d.), and this system continued to be used in the judicial institution until the end of the Mamluk era.

Sultan Baybars' decision to introduce judges from the four Sunni schools of thought led to an increase in sectarian tendencies among Shafi'i scholars, who strongly opposed this measure. They argued that its implementation caused widespread discord among scholars and society, fostering sectarianism and ideological conflict (Al-Subki 1992). Sheikh Taj al-Din Abd al-Wahhab ibn Ali al-Subki (d. 727 AH/1370 AD) noted in his book *Tabaqat al-Shafi'iyyah al-Kubra* that Sultan Baybars regretted this decision. Al-Subki even attributed the fall of Baybars' dynasty and the rise of the Qalawunid dynasty to this decision, claiming that Baybars' inclusion of judges from other schools undermined Shafi'i School, which he regarded as the leading school of jurisprudence in Egypt and the Levant. Al-Subki wrote, "These Egyptian, Levantine, and Hijazi regions, whenever they are ruled by non-Shafi'is, fall into ruin. Whenever their ruler elevates someone other than Shafi'i scholars, his rule ends quickly. This is a secret that God has placed in these lands" (Al-Subki 1992: 8/320). This statement highlights the sectarian bias of Taj al-Din al-Subki, who viewed the Shafi'i's school as superior to other Sunni schools.

To ensure the continuation of judicial appointments according to the four Sunni schools, Mamluk sultans adopted a policy of hereditary judicial appointments within prominent scholarly families. This was similar to the Fatimid practice of entrusting judicial positions to Ismaili Shi'i families. For example, nine members of the Ibn Ayn al-Dawla family held Shafi'i judicial positions in Egypt and the Levant (Ibn Hajar al-Asqalani, 1998). Similarly, eleven members of the Barizy family served as Shafi'i judges in Levantine cities (Al-Dhahabi 2003). Four members of the Ibn Fazara al-Kafri family held Hanafi judicial positions in Damascus and later in Egypt (Al-Maqrizi 1997). The Sharif Abu Bakr al-Hamdani family contributed two Maliki judges in Cairo and Damascus (Al-Safadi 2000). Finally, ten members of the Abu Umar ibn Qudama family served as Hanbali judges in Damascus (Al-Dhahabi 2003).

It is worth noting that the practice of hereditary succession to positions became an institutionalized administrative feature during the Zangid, Ayyubid, and Mamluk periods. This phenomenon extended beyond judicial offices to encompass other prominent positions, such as teaching and supervisory roles (*Al-Nazir*), and others. As a result, these positions were monopolized by specific families within the social fabric of the Levant and Egypt, contributing to the hereditary nature of many administrative and scholarly roles during that era (Awad 2018; 2024; 2025). In order to simplify the picture for the reader about the sectarian tendency in Islamic judiciary according to each Islamic state that ruled Egypt and the Levant, see (Table 1) for comparison.

Table 1 Comparison of Sectarian Tendency in the Islamic Judiciary During the Islamic Periods

Period	Role of Political Power	Role of Judges	Role of Clergy	Community Role	Reform Efforts
ABBASID	Caliph Harun al-Rashid appointed a Sunni Hanafi chief judge, Abu Yusuf.	Chief Justice Abu Yusuf al-Sunni al-Hanafi was keen to appoint his deputies from among the Hanafi scholars only.	The Maliki jurist Yahya bin Yahya al-Laythi only nominated his Maliki companions for the position of judge in Andalusia.	-	-
FATIMID	The Fatimid caliphs appointed a chief judge from the Shiite Ismaili sect only, and if they appointed a judge from a different sect, they ordered	Chief Justice Abu Numan ordered his deputies to rule only according to the Ismaili Shiite doctrine.	-	The Fatimid Caliph Al-Mu'izz li-Din Allah was unable to dismiss the Sunni judge of Egypt, because he feared the anger of the people of Egypt,	Minister Abu Ali al-Jamali tried to reform the Fatimid judicial system, so he appointed four judges from Sunni and Shiite sects. The Fatimids

	him to rule exclusively according to the Ismaili sect.			but he ordered him to rule exclusively according to the Ismaili Shiite doctrine.	assassinated him because he violated their policy in appointing judges.
ZENGID	Sultan Nur al-Din Mahmud ibn Zangi imposed the Sunni Shafi'i school of thought on the judiciary because it was the prevailing school of thought at that time.	-	-	When the Hanafi judge in Damascus decided to appoint a Hanafi imam for the Umayyad Mosque, the people of Damascus became angry. Sultan Nur al-Din dismissed the Hanafi judge and appointed a Shafi'i in his place, in accordance with the wishes of the people of Damascus.	-
AYYUBID	The Ayyubid sultans imposed the Shafi'i Sunni doctrine on the judicial institution, as it was their doctrine and the doctrine of most of the people.	The Shafi'i Chief Justice allowed the appointment of his deputies from the other Sunni schools (Hanafi, Maliki, and Hanbali).	-	-	The appointment of judges' deputies from the remaining Sunni sects is a reform measure to guarantee the rights of followers of these sects.
MAMLUK	At first, the Shafi'i Chief Justice held the highest position in the judicial institution, then three judges were appointed with him from the remaining Sunni schools of thought.	The Shafi'i Chief Justice Taj al-Din Abd al-Wahhab refrained from examining lawsuits that contradicted his school of thought, and did not authorize any scholar from other schools of thought to rule on them.	The Shafi'i clerics strongly opposed Sultan Baibars' decision to appoint three new judges from other Sunni schools.	-	Prince Jamal al-Din al-Azizi sought to reform the judicial institution, so he persuaded Sultan Baybars to appoint three judges from other Sunni sects, in order to free the judicial institution from the shackles of the sectarian tendency of the Shafi'i Chief Justice.

To conclude, this historical study highlights the persistent sectarian interference in the judicial systems of Egypt and the Levant from the Fatimid to the Mamluk eras. Across these periods, rulers exploited the judiciary to reinforce their sectarian ideologies, compromising judicial impartiality. During the Fatimid era, judges were appointed with the condition of adhering to Ismaili doctrine, aligning the judiciary with the caliphs' religious vision. Later, under the Zengid,

Ayyubid, and Mamluk dynasties, the judiciary was dominated by the Shafi'i school, though deputies from other Sunni schools were sometimes included to reflect societal diversity. Despite state control, public pressure occasionally forced rulers to appoint or dismiss judges, revealing popular resistance to sectarian exclusivity. Reformists like Vizier Al-Jamali and Prince Idaghdi challenged sectarian monopolies by promoting inclusivity within judicial appointments. Additionally, all regimes favoured hereditary judicial appointments within loyal scholarly families to maintain sectarian dominance and secure political-religious control. Ultimately, the judiciary evolved into a political instrument, manipulated by rulers to impose doctrinal authority and extend influence over public life. The study thus underscores how political power and sectarianism were deeply entangled in shaping judicial institutions during this era.

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