

COMPARISON OF POLITICAL AND SOCIAL CONTEXTS: A CAUSAL ANALYSIS OF THE DEVELOPMENT OF THE JUDICIARY

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Abstract

The aim of the research is to explain the evolution of the judicial institution and its influence on political and social issues, and the research has reached the following results:

1. The development of the political and social contexts of the Abbasid caliphate between the first two periods makes it impossible to understand the deep structural and functional changes in the judicial system without contextual analysis and providing reliable historical evidence.
2. In the first period of the Abbasid caliphate (232-132AH), which is considered the era of the first consolidation and prosperity of institutions, the concentration of political power in the person of the caliph and the central court (especially the judicial court and the court of ethics) provided a solid framework for the exercise of intellectual and executive power at the level of the judicial institution.
3. The influence of the social and class structure on the nature of the judiciary and the way of administration of justice. And the changes in the status of Iranian jurists, bureaucrats, and clerics were a reflection of the changes in the field of power.
4. The validity of the institutional structure of the judicial system in the Abbasid caliphate serves as the basic pillar for the administration of justice, and at the same time, a vital tool for exercising political power and maintaining the legitimacy of the government.
5. In the first Abbasid era, the establishment of the position of al-Qadi with the main purpose and specific structure is the establishment of a supreme authority to supervise the network of al-Qadi'a throughout the country.
6. With the beginning of the influence of the Turkish army and the worsening of the gap between the nominal authority of the caliph and the actual authority of the executive institutions, the post of al-Qadi remained within the organizational structure, but his independence and the depth of his authority were significantly reduced.

Key words: Judicial institution, social contexts, political contexts, Al-Abassi era, Turkish Army.

Introduction

The comparative study of institutions gains scientific significance and credibility when it not only describes similarities and differences but also explains these differences within their causal and historical context. Accordingly, this study employs two main approaches in its fifth chapter to comprehensively analyze the development of the Abbasid judicial system from a structural and functional perspective: First, horizontal comparison: This approach focuses on the simultaneous comparison of two units or periods within a specific historical era. Here, the structure, function, and outcomes of the Abbasid judicial system are studied in parallel during the first period (132-232 AH) and the second period (232-334 AH). This approach allows for the identification, point by point, of similarities and differences in the pattern of appointing judges, the role of the courts (particularly the Court of Injustice, which became more prominent in the second period), procedural rules, and the level of judicial independence within two contrasting contexts of central authority. This horizontal comparison provides a basis for measuring the extent of quantitative and qualitative changes in key components and allows for understanding whether the changes observed in the second period represent

a continuation of the ideal model of the first period or a departure from it. Secondly, the vertical comparison examines the historical development of a single institution from the first to the second period, focusing on the factors that caused the change. In this section, institutional trends, such as the reduction or increase of judges' powers, the changing degree of political intervention (the caliph's reliance on the army), and the shift in the social composition of judges (such as the emergence of judges more akin to civil servants than to jurists), are studied within the context of major political and social developments. This comparison is crucial for identifying "turning points"—those moments when the relationship between legal tradition and Abbasid politics underwent a fundamental qualitative shift, influenced by factors such as the growing influence of the Turkish army. The theoretical framework of this chapter rests on three main pillars: institutional functionalism, Max Weber's theory of political legitimacy, and the historical-jurisprudential method of judicial analysis. Institutional functionalism helps us understand how the judicial system functioned not only as an independent legal institution but also as an element of the caliphate's political functions, and how functional pressures led to changes in this system. Just as the expansion of customary law in the second period was a functional response to the Islamic system's inability to respond quickly (Wakaa, Beta: 3/292-295). Weber's theory uses levels of legitimacy to explain public acceptance or skepticism of judicial rulings. Finally, the historical-jurisprudential approach allows for a detailed examination of the relationship between "Islamic law" and "royal interests" and the intervention of the torture court (Hallaq, 2005: 82-85). Rather than placing the two periods at opposite ends of a purely descriptive spectrum, this analysis seeks to show how changes in the structure of political power (from the centralized authority of the early caliphs to the dominance of military-civil power in the second period), the social context, and jurisprudential and legal developments led to a fundamental reorganization of the judiciary's status and function. This introduction sets the course for the analysis in the subsequent sections of this chapter. First, the political and social contexts of the two periods are compared, and then the institutional structure and procedural rules are addressed.

Comparing political and social contexts: A causal analysis of the evolution of the judiciary

The evolution of the political and social contexts of the Abbasid Caliphate between its first two periods makes it impossible to understand the profound structural and functional changes in the judicial system without contextual analysis and the presentation of documented historical evidence. These changes were not limited to individual appointments but encompassed a transformation in the theoretical and practical foundations of governmental legitimacy and its interaction with parallel authorities. The shift in the power structure, the transfer of influence from the Caliph to competent military commanders and bureaucrats, and the altered level of participation of key social groups such as jurists, Iranian bureaucrats, and mawali (non-Arab Muslims) directly impacted the nature and independence of the judiciary.

Changing the structure of power: from the centralized authority of the Caliph to the dominance of military and civil power.

In the early Abbasid Caliphate (132-232 AH), considered the era of initial consolidation and institutional flourishing, the concentration of political power in the person of the Caliph and the central court (especially the Jizya Court and the Court of Morals) provided a robust framework for the exercise of intellectual and executive authority within the judicial system. Caliphs such as Abu Ja'far al-Mansur, Harun al-Rashid, and especially al-Ma'mun, exploited the religious legitimacy based on the supremacy of

Islamic jurisprudence and absolute political power, directly appointing and dismissing chief judges (al-Tabari, 1387 AH: 8/255; Ibn al-Athir, 1965 CE: 6/117). Although this centralized structure remained under the direct supervision of the Caliph, it enabled chief judges and the network of provincial judges to coordinate their legal affairs and adapt swiftly to the overall policies of the Caliphate within the framework of Islamic law. During this period, the appointment of judges was generally based on their legal competence, as indicated in the research hypotheses (sub-hypothesis 2)

However, during the second Abbasid era (232-334 AH), this balance of power was severely disrupted, and the influence of indirect power structures increased. Beginning with the caliphate of al-Mutawakkil, and particularly with the rise and growing dominance of Turkish military leaders, this group's influence in civil and military affairs increased to the point that many decisions regarding the dismissal and appointment of judges were no longer based on legal competence, but rather on the will or personal interests of these influential leaders (al-Tabari, 1387 AH: 10/112; Ibn al-Athir, 1965 CE: 7/213). This shift in power was not merely a change in political actors, but a transformation in the very foundations of the legitimacy and independence of the judiciary. Judges were forced to choose between loyalty to legal principles and submission to political and military pressures, which in turn led to a decrease in the average length of service for judges. A prominent example of this trend is the dismissal of Judge Ahmad ibn Dawud in 251 AH, who was removed from his post for opposing a decree issued by a Turkish commander in a financial and administrative matter (al-Waki', Beta: 3/289). This event demonstrated the increasing decline in the Caliph's direct role in appointing judges and his weakening official oversight of the judiciary. Structurally, the first period was characterized by "institutional centralization," in which the jurisprudential authority played a pivotal role, while the second period was marked by "multiple centers of power," particularly in the capital, Baghdad. The simultaneous presence of several centers of influence (the Caliph, Turkish commanders, and sometimes semi-autonomous governors) imposed structural instability on the judicial system (Kennedy, 2004: 170-171). This reinforces the main hypothesis of the research: that shifting power dynamics weakened the independence of the judiciary.

Changes in the Role and Status of Major Social Groups

The social and class structure had a direct impact on the nature of judges and the administration of justice. Changes in the status of Iranian jurists, bureaucrats, and religious figures reflected shifts in the sphere of power.

A) Jurists and Their Role in Legitimizing Power

In the early Abbasid era, prominent jurists enjoyed high status and widespread influence, not only as judges but also as political and legal advisors to the caliph. Figures like Abu Yusuf, the first judge, played a direct role in the caliphate's financial and judicial policies, particularly in the areas of jizya (poll tax) and treasury (Abu Yusuf, 2000: 65). This close presence and interaction between jurists and the government, at least outwardly, contributed to establishing a strong link between Sharia and political sovereignty and reinforced the legitimacy of the judicial institution.

However, in the later Abbasid era, with increasing military pressures and the government's need for quick and flexible solutions, the role of jurists in key decision-making diminished, and they were replaced by political appointees or individuals backed by the military. Although the legal scholars continued to theoretically emphasize adherence to Sharia, their practical authority over judicial procedures and the selection of judges diminished (al-Mawardi, 1410 AH: 1/352; Hallaq, 2005: 82).

During this period, legal authority declined in favor of political expediency (especially in the Court of Injustice), thus confirming the study's fifth sub-hypothesis.

b) The Iranians and the Legacy of Bureaucracy

In the first period, the Iranians, particularly as bureaucrats and elements of an effective administrative structure, played a vital role in organizing the judicial system. The influence of Sasanian bureaucratic traditions is clearly evident in the system of recording and codifying judgments, the organization of judicial archives, and the administrative procedures of the judiciary (discussed in Chapter 3) (al-Duri, 1978: 157). The transfer of administrative skills, consistent with the study's fourth sub-hypothesis, contributed to the coherence of the first period. In the second period, although some Iranian families remained active in the bureaucratic apparatus, direct control of the judiciary was wrested from their hands and placed under the direct control of the Turkish commanders and the central court in Baghdad. Nevertheless, in the eastern provinces, such as Khorasan, Iranians and their elected judges retained considerable influence, leading to discrepancies in the administration of justice between the center and the periphery (Ibn al-Athir, 1965: 7/297).

C) The Muwli and the Change in the Ethnic Composition of Judges

The Muwli, mostly Iranians or from non-Arab ethnic groups, wielded considerable influence in both periods, serving as a link in the administrative and judicial structure. In the first period, their appointment to judicial positions, particularly in remote provinces, was common due to their presumed loyalty to the Caliphate and their avoidance of the intense legal competition at the center. However, in the second period, the Caliphs' inclination to use the Muwli diminished, and they were replaced by individuals under the direct patronage of the Turkish military commanders. This led to a reduction in the ethnic and cultural diversity of the judges and limited the flexibility of jurisprudence in addressing new issues, as the judges' social milieu became more aligned with the Bedouin military sphere (Kron, 1987: 94-95).

A comparative summary of these data shows that the shift in the power structure from the caliph to the military effectively diminished the legal authority and political legitimacy of the judiciary. In the first period, the interaction of jurists with the court and the presence of Iranian bureaucrats provided the judicial system with institutional cohesion and continuity (confirming sub-hypothesis 1). However, in the second period, the fragmentation of power and the dominance of Turkish commanders disrupted this continuity, and jurisprudence often fell victim to political or military interests. Consequently, the first two periods of the Abbasid Caliphate can be termed, respectively, the "period of political-legal legitimacy" and the "period of political-military expediency" in the judiciary. This radical change not only altered the institutional nature of the judiciary but also paved the way for the wider acceptance of customary and circumstantial rulings alongside, or even in place of, Islamic law.

Comparing the Institutional Structure of the Judiciary: Its Evolution with Changing Function

The institutional structure of the judicial system in the Abbasid Caliphate can be considered the cornerstone of establishing justice and, simultaneously, a vital instrument for exercising political power and maintaining the legitimacy of the government. A close comparison between the first two periods of this caliphate clearly demonstrates that, despite the preservation of some formal elements and institutional names, profound changes in the level of administrative centralization, the role of the highest judicial authorities, and the degree of judicial independence and its relationship to the government, created a completely different image of this institution over time.

This structural transformation was a direct reflection of the shifting balance of power between the judiciary, the bureaucracy, and the military.

The Status of the Judge and the Evolution of His Role as an Indicator of Institutional Independence

The Early Abbasid Era (132-232 AH): Consolidation of Jurisprudential Authority

In the early Abbasid era, the position of judge was established with a primary purpose and a specific structure: to create a supreme authority to oversee the network of judges throughout the country. This position was appointed directly by the caliph, usually from among prominent jurists trusted by the state council, thus lending the judicial structure an air of legal legitimacy and apparent independence. A clear example of this is al-Mansur Abbas's appointment of Abu Yusuf Yaqub ibn Ibrahim as judge in 150 AH, which transformed this position into a powerful force in shaping public policy. Abu Yusuf's role was not limited to issuing rulings based on the Hanafi school of thought; it extended to a significant influence on formulating tax policies and organizing the land tax bureau (Abu Yusuf, 2000: 65; al-Tabari, 1387 AH: 8/275). The powers of the Chief Justice during that period included appointing and dismissing provincial judges, overseeing the accurate recording and preservation of judgments (as mentioned in Chapter Three), implementing unified legal policies, and providing specialized legal advice to the Caliph (Al-Mawardi, 1410 AH: 1/327). This position was, in effect, considered the official link between Islamic law and the ruling authority.

The Second Abbasid Era (232-334 AH): Reduction of the Role to a Mere Actor

With the rise of Turkish military influence and the widening gap between the nominal authority of the caliph and the actual power of the executive institutions, the position of judge remained within the organizational structure, but its independence and the depth of its authority were significantly diminished. Although the official appointment was still made by decree of the caliph, the position was practically subject to increasing political pressure and the influence of powerful military groups (al-Tabari, 1387 AH: 10/112; al-Waqi', Beta: 3/289). During this period, prominent figures also held the position of judge, but the defining characteristic of the second Abbasid era was the brevity of the term and the more pronounced subordination to political orders. For example, historical data analysis shows that in Baghdad, between 242 and 334 AH, more than ten judges were replaced, with their average term of service falling to less than three years (Ibn al-Athir, 1965: 7/192; Kennedy, 2004: 170). This extreme volatility at the highest levels of the judiciary indicated sharp institutional fluctuations and a decline in the role of central oversight, as the chief justice was unable to implement long-term judicial policy.

Courts associated with the judiciary: From coordination to functional interference

In both periods, different courts worked as complements to the judiciary, with a fundamental difference being the decline in the degree of centralization of tasks, the efficiency of each court's work, and its independence in the second period. We witnessed overlap in tasks with military institutions.

The Court of Justice

In its initial phase, the Court's responsibilities consisted of effectively coordinating between provincial judges and the central office in Baghdad, accurately registering and archiving cases, and issuing executive regulations based on official legal opinions (al-Tabari, 1387 AH: 9/335). This administrative integration facilitated the administration of justice. In its second phase, although these nominal duties remained, the volume of politically motivated cases or cases based on martial law increased, and in some instances, final judgments were dictated directly by the military authorities or agents of

the Court of Taxes (al-Waqi', Beta: 3/292-295). This supports the fifth sub-hypothesis that the Court of the Oppressed, and consequently other courts, assumed a political function.

The Diwan al-Mazlum

was an institution traditionally established to address public grievances against government officials and resolve complex cases that the regular judicial system was unable to handle. In its early period, the Diwan al-Mazlum was one of the most important arenas for establishing the legitimacy of the caliphs, and it was particularly concerned with addressing local grievances and abuses of power by officials (al-Mawardi, 1410 AH: 1/352). However, in its later period, due to the increasing intervention of the army and political rivalries, this Diwan became an effective tool for eliminating political opponents, confiscating property, justifying the decisions of the ruling authority, and its role in achieving justice diminished (Ibn al-Athir, 1965 CE: 7/293)

The Diwan al-Hisbah

was responsible for overseeing the market, public morals, and monitoring weights and measures and accounting mechanisms in civil affairs. In both periods, the Diwan operated directly or indirectly under the supervision of the Chief Justice. However, in the second period, due to the increasing importance of economic and security control, the Diwan's responsibility was sometimes assigned to forces affiliated with the army or the Emir of the Hajj, reflecting a focus on immediate financial and security interests rather than general religious oversight (Kron, 1987: 95.)

Statistical comparison and organizational structure: Indicators of instability

The slight difference in the number of judges and their term of office clearly indicates
.a difference in institutional stability between the two periods

The Early Abbasid Era:

In Baghdad, the judicial structure typically consisted of a chief judge and three or four other chief judges responsible for different districts of the city and the greater Baghdad suburbs. In important provinces such as Kufa, Basra, and Khorasan, there was a chief judge and at least one deputy or assistant to manage affairs. It is noteworthy that the average term of office for provincial judges during this period ranged between five and seven years (al-Waqi'i, Beta: 2/310; al-Tabari, 1387 AH: 9/284), indicating a degree of stability in judicial policymaking.

The Second Abbasid Era:

During this period, Baghdad sometimes had between four and six judges with similar powers at any given time. However, the frequent changes in these judges led to inconsistencies in central judicial policy. Data generally indicate that between 232 and 334 AH, more than 25 judges were appointed during the Second Abbasid Era, with their average term of service decreasing to approximately 18 to 20 months (Ibn al-Athir, 1965: 7/192; Kennedy, 2004: 170). This sharp decline was a direct reflection of political pressures, financial instability resulting from internal conflicts, and competition among military elites for positions. In the First Abbasid Era, the judicial structure was hierarchical, headed by the judge connected to the caliph, followed by provincial judges, and at a lower level, specialized courts (the judiciary, administrative courts, and the market inspectorate) that operated under the supervision of a coordinator. In contrast, this pyramid witnessed severe disintegration in the second period, as parallel centers of power (the Caliph, Turkish commanders, and influential local councils) disrupted the judicial hierarchy, weakening horizontal communication between provincial judges.

In conclusion, a comparison between the two periods reveals that, despite the apparent similarity in institutional forms, their substance and function had changed. In the first period, the concentration of power in the hands of the caliph led to the standardization of directives and the continuity of judicial policies, solidifying the judge's role as a guardian of legal authority. In the second period, however, the fragmentation of political control and unchecked military influence, coupled with a marked decline in the stability of judicial positions, made the courts more susceptible to immediate circumstances and political interests than to established Islamic principles or a predetermined institutional framework. This structural shift had a direct and devastating impact on the quality of justice and public trust, as people witnessed that the appointment of judges depended more on power dynamics and political backing than on their academic and legal competence.

Conclusion

At the end of the research, the following conclusions were reached:

1. The evolution of the political and social contexts of the Abbasid Caliphate between its first two periods makes it impossible to understand the profound structural and functional changes in the judicial system without contextual analysis and the presentation of documented historical evidence.
2. In the first period of the Abbasid Caliphate (132-232 AH), considered the era of initial consolidation and institutional flourishing, the concentration of political power in the person of the Caliph and the central court (especially the Jizya Court and the Court of Morals) provided a solid framework for the exercise of intellectual and executive authority at the level of the judicial institution.
3. The social and class structure had a direct impact on the nature of judges and the method of administering justice. Changes in the status of Iranian jurists, bureaucrats, and religious figures reflected changes in the sphere of power.
4. The institutional structure of the judicial system in the Abbasid Caliphate is considered the fundamental pillar for the administration of justice and, at the same time, a vital instrument for the exercise of political power and the maintenance of the government's legitimacy.
5. In the early Abbasid era, the position of judge was established with a primary purpose and a specific structure: to create a supreme authority to oversee the network of judges throughout the country.
6. With the rise of Turkish military influence and the widening gap between the nominal authority of the caliph and the actual power of the executive institutions, the position of judge remained within the organizational structure, but its independence and the extent of its authority were significantly diminished.

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