Historical Evolution and Contemporary Implementation of Islamic Justice in Egypt: From Classical Courts to Modern Legal Pluralism

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Article Info	ABSTRACT
	The Islamic judicial system in Egypt has historically served as a central institution for the administration of justice based on Islamic law, particularly in matters of family law, inheritance, and civil dispute resolution. Over time, this system has undergone significant transformation influenced by political change, colonial intervention, and legal modernization, which reshaped its institutional structure, authority, and relationship with the modern state. Despite extensive scholarship on Islamic law and legal reform in Egypt, studies that systematically examine the historical development and institutional transformation of Islamic justice within the contemporary national legal framework remain limited. This study aims to analyze the evolution of the Islamic judicial system in Egypt by exploring its historical foundations, institutional changes, and integration into the modern state legal system. Employing a qualitative approach with historical-analytical methods, this research examines classical Islamic legal texts, Egyptian legislation, and relevant scholarly literature. The findings indicate that Islamic justice in Egypt has experienced substantial transformation through legal codification and the establishment of national courts, while maintaining the substantive role of Sharia principles, particularly in personal status law. This study highlights the ongoing negotiation between Islamic legal tradition and modern legal governance in contemporary Egypt.

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1. INTRODUCTION

Islamic law has two inseparable facets: sharia, which originates from God's revelation and is immutable, and fiqh, which arises from human ijtihad and is therefore open to change (Gultom, 2021). Sharia is believed to be absolute truth, while fiqh, the result of human ijtihad, is susceptible to changes over time and social context (Al-Farsi, 2022). Therefore, it is natural that fiqh developed in line with the expansion of Islam's territory and its interaction with other cultures.

During the time of the Prophet Muhammad, explanations of Islamic law were conveyed directly through his Sunnah. This meant that there was no separation between executive and judicial powers. He, as head of state and judge, explained legal issues in Islamic society at that time. However, after his death, the responsibility for interpretation shifted to his companions, followed by the next generation of mujtahid scholars (Anasrul et al., 2024).

During the reign of Abu Bakr, this remained the same; he himself led the state and served as a judge, just as in the time of the Prophet Muhammad. Unlike the early Islamic government model during the time of the Prophet Muhammad and Abu Bakr, in which executive and judicial authority remained unified, Umar ibn al-Khattab reformed it by separating the two functions. This pattern was directly reflected when Islam first entered Egypt. The conquest of Egypt in 641 CE under Amr ibn al-'As took place within Umar's administrative framework, so the implementation of Sharia in Egypt from the beginning was within a government system that recognized the differentiation of authority.

During Umar ibn Khattab's reign as caliph, the Islamic empire expanded, and the government faced various political, economic, and socio-cultural challenges due to the confluence of several cultures, resulting from the expanding reach of Islam. Therefore, Umar deemed it necessary to separate executive and judicial powers (Mutawali, 2017). Umar appointed qādi specifically to handle legal cases, while governors carried out executive functions, marking the institutionalization of Islamic justice in a new region like Egypt. In the context of Egyptian society with strong local legal and cultural traditions, the mechanism of ijtihad became a crucial instrument for integrating Sharia principles with local social realities. Thus, from the early phase of Islamization, the implementation of Islamic law in Egypt was not only a normative reproduction of the central caliphate, but also the result of a historical interaction between the early Islamic governance model, the needs of regional administration, and local socio-cultural dynamics. From this perspective, interpretations and ijtihad regarding Islamic law continued to develop, facing both internal and external pressures, which gave rise to a diversity of Islamic schools of thought. This diversity also emphasized that Islamic law is not merely a transcendental issue, but also the result of a long historical struggle.

In the course of Egyptian history, the arrival of Islam during the reign of Caliph Umar ibn Khattab brought Sharia into the legal system. Since the arrival of Islam in Egypt in 641 CE (7th century CE) under the leadership of Amr ibn al-'As, Sharia principles have become a crucial foundation for the formation of legal norms and practices in Egypt (Coulson, 2017). Islamic justice in Egypt, as part of the country's legal system, has a long and complex history reflecting the interaction between religious law, local traditions, and political influences (Hallaq, 2009). Islamic law plays a crucial role in regulating social, political, and religious life. Throughout the centuries, Islamic judicial practices in Egypt have evolved according to the ruling dynasties, from the Umayyads, Abbasids, Fatimids, Ayyubids, to the Ottomans. Legal practices have also transformed, adapting to the flow of power and political culture of the time (Wright, 2023).

Egypt subsequently evolved into a global center for the development of Islamic law, particularly with the establishment of Al-Azhar University in the 10th century (970 CE), which became a beacon of Islamic scholarship, fatwas, and fiqh (Islamic jurisprudence) (Rapoport, 2013). The influence of educational institutions like Al-Azhar University has also made Egypt a center for discourse on Islamic legal reform. This is where the significant debate regarding the position of Islam and the state arose: some view Islam as both a religion and a state (Gunawan, 2017), others assert that Islam is solely a religion (K.G.S. M. Khadafi. R., 2023), and still others emphasize Islam as a religion that guides state ethics (Muhammad Mukhlis, 2023).

Initially, Islamic courts in Egypt had a broad spectrum of jurisdiction, encompassing the regulation of marriage, divorce, inheritance, transactions, criminal matters, and even disputes between individuals (Brown, 1998). After the collapse of the Ottoman Empire, Egypt entered a new era under French and British colonialism. This period significantly influenced the legal structure, as Western legal systems were introduced and influenced the judicial process, particularly French law, giving rise to a legal dualism: Islamic law on the one hand and modern civil law on the other (Cuno, 2016). Sharia courts handled family matters, while civil courts handled commercial, criminal, and administrative matters (Zeghal, 1999). However, Islamic law was not completely eliminated. It remained, particularly in the area of family law governing marriage, divorce, and inheritance. Even into the modern era, Egypt is known as one of the countries that blends Islamic law with modern positive law.

After Egypt's independence in 1955, President Gamal Abdel Nasser abolished the independent Sharia courts and integrated them into the national judicial system. Since then, the jurisdiction of Islamic law has been limited to family law (personal status law). This tension persists into the contemporary era, when the Egyptian constitution recognized Sharia as the primary source of legislation (Law & Abu-odeh, 2013). This is evident in the 2014 amendments to the Egyptian Constitution, which continue to affirm that "The principles of Islamic Sharia are the primary source of legislation" (Musyafa'ah, 2012) but in practice, civil courts play a dominant role (Talal & Asad, 2003).

The tug-of-war between Sharia and modern law in Egypt cannot be separated from political and social dynamics. For example, Islamists demand the comprehensive implementation of Sharia, while secularists emphasize the supremacy of Western-derived positive law. This struggle makes Islamic justice in Egypt not only a legal instrument but also an ideological arena (Zeghal, 1999). Therefore, it is important to systematically examine the history of Islamic justice in Egypt, its institutional mechanisms, and its relevance and application in the modern era.

This historical reality demonstrates that Islamic judicial practice in Egypt has never been static. It is constantly in a dialectic between fixed Sharia and changing Islamic jurisprudence, between classical tradition and modernity, between Islamic law and state law. This paper combines this research with a historical approach, tracing the development of Islamic justice in Egypt from classical to modern times (Jaques, 2006) and tracing the journey of Islamic justice in Egypt from the beginning of the arrival of Islam, its transformation under colonialism, to its implementation in the contemporary legal system.

Despite the extensive literature on Islamic law, the specific mechanisms of transformation of Islamic courts in Egypt during the colonial and post-colonial periods remain underexplored. Existing studies tend to focus on doctrinal debates or general legal modernization, leaving limited analysis of institutional change and judicial practice. This

study addresses this gap by examining how and why Islamic judicial institutions in Egypt evolved, the forces shaping their marginalization, and their current position within Egypt's modern legal system. Egypt is chosen due to its unique role as a global center of Islamic legal thought and a key site of legal hybridization between Sharia and modern state law. This research contributes to global scholarship by situating Egypt within debates on legal pluralism, post-colonial legal transformation, and the relationship between Islamic law and the modern state.

2. METHODS

This study employed a qualitative research method with a library research (Oktavia & Taufan, 2025) approach, supported by the theoretical framework of legal pluralism and post-colonial legal theory as the primary analytical tool (Amin et al., 2022). Data were obtained from secondary sources, including reputable scientific journals, academic books, and official publications relevant to the Islamic justice system in Egypt, particularly across the pre-colonial, colonial, and contemporary historical periods (Podungge et al., 2022). Source selection was based on criteria such as accuracy, thematic relevance, academic credibility, and the authority of the authors and publishers.

Data analysis was conducted through content analysis and historical-juridical analysis, examining the dynamics of the transformation of Islamic judicial institutions and their interaction with the modern state legal system (Samsuddin et al., 2023). To ensure the validity and reliability of the findings, this study employed critical evaluation of the sources, cross-literature comparisons, and consistency in the interpretation of concepts and data. Ethical aspects of the research were addressed through a commitment to originality, analytical transparency, and adherence to academic principles (Ibrahim, 2006). This method aims to provide a comprehensive understanding of the concept of Islamic justice in Egypt in the context of global Islamic law and contemporary socio-political historical dynamics.

3. RESULTS AND DISCUSSION

3.1 The Early History of the Emergence of the Judiciary in Islamic History

Muslims have a long history of judicial practice. This history has seen the emergence of some of the most famous judges throughout Islamic history. In the pre-Islamic era, Arabs assigned tribal elders to decide on disputes. These elders delivered decisions among the disputing members of their tribe, based on the customs and traditions prevailing at the time. A well-known judge among the Arabs in the pre-Islamic era was Aktham ibn Saif.

Then, with the arrival of Islam, the Prophet Muhammad (peace be upon him) was the first to decide on a case, and he also assigned his companions to act as judges. Several companions were sent to various regions to represent the Prophet Muhammad (peace be upon him), with the aim of ruling on cases. This continued until the reign of Abu Bakr.

The judicial system during the time of the Prophet (peace be upon him) and the subsequent caliphs was not significantly different, with leaders acting as judges directly resolving disputes within the community. However, there was a slight difference in the personal capacity of the Prophet Muhammad, who received direct revelation from Allah SWT, compared to the caliphs who did not.

During the Prophet's time, there was no specific place for judges to decide cases. The Prophet Muhammad, as the sole judge at that time, or a few of his companions, who

were mandated by him, decided cases not in specific locations, but anywhere based on the time and place of the incident. This contrasted with the era of the caliphs, where special venues for judicial proceedings began to be established, particularly during the reign of Caliph Umar ibn Khattab.

Case decisions in the early Islamic period relied on the Quran, the Sunnah, ijma' (consensus), and Qiyas (equivalence), both during the time of the Prophet Muhammad and during the caliphs. During the Prophet's time, there was no apparent separation of executive, judicial, and legislative powers; all these powers rested with the Prophet Muhammad, so that in addition to being head of state, he also acted as a judge and musharri (lawmaker and formulator).

This contrasts with the judiciary during the caliphate, where the principle of separation of powers began to emerge, particularly during the reign of Umar ibn al-Khattab. The caliphs of this period no longer monopolized the administration of justice, but rather appointed individuals authorized to administer justice in specific cases. This was deemed urgent by the caliphs due to the expansion of Islamic rule (Sulistiani, 2021).

In contrast to other civilizations, such as the Roman and Persian empires, which had developed formal and bureaucratic judicial institutions with codified laws and designated courthouses, early Islamic judicial practices initially operated in a more flexible and personalized manner. Roman law emphasized written codes and institutional courts, while Persian law relied heavily on royal authority and the Zoroastrian (Religio-Moral) legal tradition, which regulated individual and societal behavior based on cosmological and ethical principles. Meanwhile, Islamic justice during its formative period was closely tied to moral authority, communal values, and divine revelation. Only later, particularly during the caliphate, did Islamic justice gradually develop a formal structure comparable to that found in other established legal systems.

3.2 Early History of Islamic Justice in Egypt

3.2.1. Early Islamic Period (641–660 AD)

The arrival of Islam in Egypt in 641 CE was led by Amr ibn al-'As, who was later appointed governor by Caliph Umar ibn al-Khattab. Caliph Umar ibn Khattab was the first to appoint a judge. Umar appointed Abu Darda to take over the judiciary in Medina, then Damascus. Other companions appointed as judges were Abu Musa al-Ash'ari, stationed in Basrah, and Abu Umayyah Shuraih ibn al-Harith in Kufa. Umar ibn Khattab specifically sent instructions in the form of a letter on ethical conduct in court and the proper conduct of a judge (Lubis, 2023). This letter is known today as the Risalah al-Qadha, which serves as a reference for the code of ethics and judicial procedures in Islamic courts worldwide.

The following is the content of the Risalah al-Qadha:

أَمَّا بَعْدُ فَإِنَّ الْقَضَاءَ فَرِيضَةٌ مُحْكَمَةٌ وَسُنَّةٌ مُتَّبَعَةٌ فَافْهَمْ إِذَا أُدْلِيَ إِلَيْكَ فَإِنَّهُ لَا يَنْفَعُ تَكَلَّمٌ بِحَقٍّ لَا نَفَادَ لَهُ، وَآسِ بَيْنَ النَّاسِ فِي مَجْلِسِكَ وَفِي وَجْهِكَ وَقَضَائِكَ حَتَّى لَا يَطْمَعَ شَرِيفٌ فِي حَيْفِكَ وَلَا يَيْأَسَ ضَعِيفٌ مِنْ عَدْلِكَ، الْبَيِّنَةُ عَلَى الْمُدَّعِي وَالْيَمِينُ عَلَى مَنْ أَنْكَرَ، وَالصُّلْحُ جَائِزٌ بَيْنَ الْمُسْلِمِينَ إِلَّا صُلْحًا حَرَّمَ حَلَالًا أَوْ حَرَّمَ حَلَالًا، وَمَنْ ادَّعَى حَقًّا غَائِبًا أَوْ بَيِّنَةً فَاضْرِبْ لَهُ أَمَدًا يَنْتَهِي إِلَيْهِ فَإِنْ بَيَّنَهُ أَعْطَيْتَهُ بِحَقِّهِ وَإِنْ أَعْجَزَهُ ذَلِكَ اسْتَحْلَلْتَ عَلَيْهِ الْقَضِيَّةَ فَإِنَّ ذَلِكَ هُوَ أَبْلَغُ فِي الْعُذْرِ وَأَجْلَى لِلْعَمَاءِ وَلَا يَمْنَعَنَّكَ قَضَاءٌ قَضَيْتَ فِيهِ الْيَوْمَ فَرَاجَعْتَ فِيهِ رَأْيَكَ فَهُدِيتَ فِيهِ لِرُشْدِكَ أَنْ تُرَاجِعَ فِيهِ الْحَقَّ فَإِنَّ الْحَقَّ قَدِيمٌ لَا يُبْطِلُهُ شَيْءٌ وَمُرَاجَعَةُ الْحَقِّ خَيْرٌ مِنَ التَّمَادِي فِي الْبَاطِلِ، وَالْمُسْلِمُونَ عُدُولٌ بَعْضُهُمْ عَلَى بَعْضٍ إِلَّا مَنْ جُرِّبَ عَلَيْهِ شَهَادَةُ زُورٍ أَوْ أُقِيمَ عَلَيْهِ حَدٌّ أَوْ ظَنِينًا فِي وَلَاءٍ أَوْ قَرَابَةٍ فَإِنَّ اللهَ تَعَالَى تَوَلَّى مِنَ الْعِبَادِ السَّرَائِرَ وَسَتَرَ عَلَيْهِمُ الْحُدُودَ إِلَّا بِالْبَيِّنَاتِ وَالْأَيْمَانِ، ثُمَّ الْفَهْمَ الْفَهْمَ فِيمَا أُدْلِيَ إِلَيْكَ مِمَّا وَرَدَ عَلَيْكَ مِمَّا لَيْسَ فِي الْقُرْآنِ وَلَا سُنَّةٍ ثُمَّ قَابِسِ الْأُمُورَ عِنْدَ ذَلِكَ وَاعْرِفِ الْأَمْثَالَ ثُمَّ اعْمِدْ فِيمَا تَرَى إِلَى أَحَبِّهَا إِلَى اللهِ وَأَشْبَهِهَا بِالْحَقِّ، وَإِيَّاكَ وَالْغَضَبَ وَالْقَلِقَ وَالضَّجَرَ وَالتَّأَذِّيَ بِالنَّاسِ وَالتَّنَكُّرَ عِنْدَ الْخُصُومَةِ أَوِ الْخُصُومِ فَإِنَّ الْقَضَاءَ فِي مَوَاطِنِ الْحَقِّ مِمَّا يُوجِبُ اللهُ بِهِ الْأَجْرَ وَيُحْسِنُ بِهِ الذِّكْرَ، فَمَنْ خَلَصَتْ نِيَّتُهُ فِي الْحَقِّ وَلَوْ عَلَى نَفْسِهِ كَفَاهُ

اللهُ مَا بَيْنَهُ وَبَيْنَ النَّاسِ وَمَنْ تَزَيَّنَ بِمَا لَيْسَ فِي نَفْسِهِ شَانَهُ اللهُ فَإِنَّ اللهَ تَعَالَى لَا يَقْبَلُ مِنَ الْعِبَادِ إِلَّا مَا كَانَ خَالِصًّا، وَالسَّلَامُ عَلَيْكَ وَرَحْمَةُ اللهِ.

"As for what follows, justice is an obligation imposed by Allah SWT and a sunnah of the Messenger of Allah that must be followed. Understand well when a case is brought before you, for it is useless for you to speak the truth without implementation. Treat people equally in your assembly, your views, and your decisions, so that the honorable do not hope for your deceit and the weak do not despair of your justice. The burden of proof is on the plaintiff, while the oath is on the party who rejects the lawsuit. Peace can be made between Muslims except peace that makes lawful what is unlawful or forbids what is lawful. Whoever claims (states) a right that is not apparent or a right that is clear and will be presented, while the evidence has not been gathered on his side, then give him a specified opportunity (time). If he can present the evidence, then give him his right, and if he is unable, then settle the matter. Because the way of giving a specified time is the best way of delaying and it is more illuminating to unclear circumstances. There is no obstacle for you to decide again regarding the decision you have made today because you have received guidance to reach a The truth, for it has existed since the beginning, and nothing can overturn it, and returning to it is better than lingering in falsehood. Know that Muslims are just between one another, except for the one who has been flogged, or the one who has given false testimony, or the one suspected of conspiring with a relative, for Allah knows the secrets of His servants and avoids punishment for them unless there is evidence and an oath. Then understand thoroughly what is presented to you from the rulings that are not in the Qur'an and Sunnah. Then compare them with each other and recognize similar rulings. Then hold to the view that you think is best with Allah and that is closer to the truth. Keep yourself away from anger, confusion, boredom, hurting the litigant, and avoid being harsh when dealing with the litigant, for judgment in the place of truth (correct judgment) is a deed for which Allah determines reward and brings good name. Whoever is sincere in his intention to uphold the truth, even if it is for himself, Allah will suffice him. "Between oneself and between oneself and between people. And whoever acts deceitfully, Allah will humiliate him. Indeed, Allah SWT does not accept from His servants except what is sincere for Him. And what is your opinion of the rewards that are with Allah, both those that are soon given and those that are in the treasures of His mercy? And may the peace and mercy of Allah be upon you always".

During this period, Islamic justice was simple and centered on the figure of the qadi (judge) appointed directly by the governor. There was no separation of jurisdictions, as all aspects of Muslim law were subject to Sharia. However, non-Muslim communities (ahl al-dhimmah) were given the freedom to resolve their internal disputes based on their respective religious laws, except in cases of dispute with Muslims, in which case the qadi had the authority to decide (Brown, 1998). From that time on, the institution of the qadi (judge) was introduced to enforce Sharia law in newly conquered territories. Qadis are appointed to enforce Sharia law, particularly in civil matters such as marriage, divorce, inheritance, and muamalah transactions.

The Shafi'i school of thought was once dominant in Egypt until it was replaced by the Hanafi school during the Ottoman Dynasty. The first recorded qadi in Egypt was Qays ibn Abi al-'As, who handled muamalah, marriage, inheritance, and other civil disputes in accordance with Islamic legal principles (Hallaq, 2009).

3.2.2. Umayyad Period (661-750 AD)

The Umayyad Dynasty marked the early phase of the development of Islamic judicial institutions in Egypt. During this period, governance remained heavily centralized in the hands of governors appointed directly by the caliph in Damascus. These governors wielded extensive authority, including over legal and judicial matters. The function of judges, or qadis, was well-known, but their position was not yet fully autonomous. A qadi handled only civil matters such as marriage, inheritance, and family disputes, while criminal and political matters remained the purview of the governor or local administrative officials (Reinfandt, 2015).

The judicial system during the Umayyad period in Egypt remained intertwined with the administrative structure of government. This meant that judges were often under the control of political rulers, so their decisions were not entirely free from interference. Nevertheless, the presence of qadis in Egypt provided a foundation for the application of Islamic law, albeit on a limited scale. Steven Judd emphasizes that the jurisdiction of qadis during the Umayyad period only covered aspects of private law directly related to the Muslim community, while non-Muslim cases and public issues remained handled by the civil government structure (Judd, 2015). The Umayyad period in Egypt can be described as a transitional period, when Islamic courts were beginning to be established but remained largely independent. The role of the qadi was more that of a legal advisor to the Muslim community than an autonomous judicial authority.

3.2.3. Abbasid Period (750–1258 AD, in Egypt until 969 AD before the Fatimids)

More significant changes occurred during the Abbasid Dynasty. The Abbasid Caliphs sought to strengthen the legitimacy of government by emphasizing the supremacy of Islamic law. In Egypt, the position of the qadi (Islamic judge) was elevated, and they began to enjoy greater autonomy than in previous periods. One important reform was the appointment of the qadi al-qudhat (supreme judge), who oversaw the qadis in the provinces, including Egypt. This institution emerged during the reign of Caliph al-Mahdi and grew stronger during the reign of Harun al-Rashid. Its goal was to establish a more professional and centralized judicial structure, while ensuring that Islamic law was enforced in accordance with the officially recognized schools of thought (Tillier, 2014).

Furthermore, the Abbasid period was also marked by the rapid development of Islamic jurisprudence (fiqh). Schools of law began to influence judicial practice. In Egypt, the Shafi'i and Hanafi schools of thought developed and influenced judicial decisions. Harun ar-Rasyid's policy of expanding the functions of the qadi (judge) included market supervision, public finances, and the eradication of crime, which had previously been the purview of administrative officials (Alfarisi, 2020).

With these developments, Islamic justice in Egypt during the Abbasid period was more established than during the Umayyad period. Judges enjoyed stronger legitimacy, although in practice, political intervention still occurred, particularly in the appointment and dismissal of qadis. However, at least during this period, Islamic justice in Egypt had undergone formalization and began to play a significant role in maintaining legal and social stability.

3.2.4. Fatimid Period (969–1171 AD)

When the Fatimid dynasty took over Egypt in 969 CE, they established a new capital city called "al-Qahera" (present-day Cairo), which had previously been capitalized in Fustat (Manan, 2020). They not only brought political and social changes but also laid the foundations for a distinctive judicial system. As an Ismaili Shia dynasty, the laws and judicial system implemented during this period differed from the previous, more Sunni-

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based era (Ansari & Chelongar, 2023). The judicial structure underwent significant changes, as applicable law was increasingly influenced by Shia doctrine. Nevertheless, the practice of Sunni sharia persisted within the majority community, particularly under the auspices of independent clerics.

Egyptian Islamic justice during this period remained centralized and religious, with legal authority derived directly from the Qur'an, Sunnah, consensus (ijma'), and qiyas (evidence). The judicial structure was centered on the institution of the Qadhi al-Qudhat (Supreme Judge), who not only served as a decision-maker but also served as an authoritative figure in establishing legal standards and influencing the direction of fatwas (religious decrees). This institution demonstrated a strong integration between religion, politics, and law. The Qadhi during this period also acted as an extension of the Caliph in legitimizing legal decisions that were also ideologically tinged (Yusuf, 2023).

Interestingly, although the Fatimid dynasty was Shia Ismaili, they still allowed for legal diversity. In addition to the official courts oriented towards the Ismaili school, there was also recognition of Sunni legal practices prevalent in Egyptian society (Daftary, 2007). Thus, the judiciary during this period operated within a pattern of legal pluralism; official courts adhered to Ismaili jurisprudence, but Sunni communities could still resolve their cases through Sunni scholars and judges.

Administratively, the Fatimid judiciary did not exist separately from political power but was closely connected to the center of government. This made judges function more as implementers of the caliph's vision than as independent interpreters of the law. However, in the realm of muamalah (such as civil, trade, and waqf), judges were still given discretion to decide cases based on generally accepted principles of Islamic justice (Supriadin, 2021).

The peak of the Fatimid judiciary's development was seen during the reign of Caliph al-'Aziz Billah (975–996 CE) and al-Hakim bi Amrillah (996–1021 CE). During this period, the role of the judiciary expanded, even extending to public affairs such as market supervision (hisbah), price determination, and protection of minority groups. Also during this period, Al-Azhar was founded (970 CE) as a center of Ismaili Shia education, although it later became a Sunni stronghold after the fall of the Fatimids (Zeghal, 1999). Al-Azhar played a major role in teaching Islamic jurisprudence (fiqh) and producing qadis (jurists). This demonstrates that the Fatimid judicial system served not only as a dispute resolution tool but also as an instrument of social and political control (Test, 2018).

Thus, Islamic courts in Egypt during the Fatimid era were not merely legal institutions but also a symbol of the legitimacy of Ismaili Shia ideology. However, due to the pluralism of Egypt's predominantly Sunni society, the judiciary operated with a nuance of accommodation, thus maintaining the stability of the dynasty's rule for nearly two centuries (Ramadhan et al., 2025).

3.2.5. Ayyubid and Mamluk Period (1171–1517 AD)

During Saladin's rule (1171–1250 CE), Egypt returned to the Sunni school of thought. Al-Azhar was revitalized as a center for Sunni jurisprudence, particularly the Shafi'i school. Egypt's judicial system was strengthened within Sharia norms. The Ayyubid government placed great emphasis on restoring Sunni authority, particularly the Shafi'i school, as the basis for political and religious legitimacy.

After the transition to the Mamluk period (1250–1517 CE), the judiciary showed continuity and further development. Institutions such as the qadi (Sharia judge), the muhtasib (morality officer and market inspector), and the court system became more structured and bureaucratic. The role of the muhtasib in Fustat and Cairo during the early

Mamluk period (1250–1400 CE / 648–802 AH) was significant in upholding public law and morality, particularly in the marketplace and public sphere (Stilt, 2006).

Judges were tasked with handling Sharia-based legal matters: civil (marriage, inheritance), criminal, and some community matters. In the early Mamluk period, the qadi's power remained under the control of the sultan and the ulama. However, they gradually gained social legitimacy and moral authority in adjudicating disputes. Meanwhile, the muhtasib performed functions of moral scrutiny and market administration, such as reprimanding merchants for unfair weighing, regulating community norms, and addressing violations of public ethics.

The Ayyubid and Mamluk dynasties entrusted many aspects of law to the ulama. Major fiqh figures of the period, such as Shihab al-Din al-Qarafi (a legal theorist of the Maliki school) and Badr al-Din ibn Jama'ah (a Shafi'i school), both played a crucial role in establishing legal theory and judicial practice. Al-Qarafi was the figure who formulated the principles of fatwas and judicial rulings in a politically and culturally heterogeneous society. Badr al-Din even served as Chief Justice in Cairo and Damascus, strengthening the legitimacy of the Shafi'i judiciary in the government.

Institutionally, the Ayyubid period laid the foundations for a judicial structure that followed classical Sharia principles. Sultan Saladin emphasized the restoration of the Sunni school of thought and oversight of the judiciary. When the Mamluks took over, the judicial system was strengthened and expanded. The Mamluk government implemented a system of territorial divisions with local courts presided over by judges appointed by the Sultan, while also strengthening the integrity of the judiciary, especially after clashes with the Mongols and Crusader invasions.

The muhtasib remained relevant during the early Mamluk period, demonstrating that the system of public regulation and morality was not solely based on the courts, but also on social oversight. Stilt describes the muhtasib as an "inspector of markets and public spaces" to enforce "commanding right and forbidding wrong" in society.

The Islamic judicial system in Egypt during the Ayyubid and Mamluk periods was strongly influenced by Sunni Sharia norms, with an increasingly streamlined and professional institutional structure. Judges, muhtasibs, and elite ulama forged strong ties with political power to ensure stability and legitimacy. During the Mamluk period, this system not only maintained the Ayyubid legacy but also adapted and strengthened institutions to be effective in public regulation and upholding societal morality.

3.2.6. Ottoman Period (1517–1798 AD)

When the Ottoman Empire took control of Egypt from the Mamluks (1517 CE), the Hanafi school of law was made the official state school. This was in line with Ottoman legal policy throughout its empire. The Hanafi qadi was placed as the highest authority in Egypt, although the practice of fiqh from other schools of law continued. Sharia justice became increasingly bureaucratic, as judges were appointed directly by Istanbul, and laws began to be recorded in registers (sijillat) for state administration (Lombardi, 2021).

The Islamic judicial structure by this time was well established (qadis, muftis, local ulama, and the sijill court records). The position of the qadi remained the focal point for enforcing Sharia law at the local level; however, with the advent of Ottoman authority, the appointment of judges, their bureaucratic status, and their relationship with the center (Istanbul) became more formalized and centralized (Aykan & Ergene, 2019).

In the Sharia courts (qadi courts) in Cairo and other major cities, daily legal practice remained dominated by fiqh (Islamic jurisprudence), particularly Hanafi, the official school of thought of the Ottoman dynasty. However, Egypt's pluralistic social

reality meant that judges often took local customs and pragmatic decisions into account. Qadi rulings were recorded in official books called sijils; these sijils archives today serve as valuable primary sources for historians mapping how the law was applied in inheritance, contracts, waqf (endowments), land disputes, and family matters (Konrad, 2019).

The role of muftis and religious institutions (such as Al-Azhar in Cairo) remained crucial: muftis' fatwas served as supporting legal interpretations, often referred to by judges, while ulama served as bridges between normative norms and societal practices. However, politically, judges and ulama were also increasingly drawn into the dynamics of state administration; they were not merely adjudicators of cases, but agents whose legitimacy the Ottoman government interpreted through appointment and remuneration (Ince, 2016).

The 19th century witnessed a major shift: local authorities (especially under Muhammad Ali and his successors) modernized the bureaucracy and the law. Muhammad Ali centralized power, restructured the administration, and opened up space for institutional secular law (e.g., modern administrative civil courts for state affairs). In practice, this created a parallel legal system: Sharia courts continued to handle many private matters and endowments, while international commercial matters, disputes between foreigners, and state matters began to be resolved in more secular courts. This culminated in the gradual emergence of mixed courts in the late 19th century, formally adapting European law to international cases.

The long-term impact: During the Ottoman period (and especially in the 19th century), Islamic justice in Egypt underwent a process of bureaucratization, codification of some practices, and accommodation to modern courts. The old systems (qadi, sijil, fatwa) did not disappear, but their authority and scope were reduced in some areas due to the rise of secular legal institutions and international pressure, a dynamic that ultimately laid the foundation for modern Egyptian law.

3.2.7. Colonial and Modernization Period (1798–1952 AD)

In the late 18th and early 19th centuries, the French invasion (1798) and then British colonialism (1882) opened a new chapter in legal modernization in Egypt. The influx of colonial influence through Napoleon's invasion of Egypt in 1798 triggered a major surge in legal and institutional transformation, including the Islamic judicial system. Napoleon brought ideas of public rights, modern administration, and Western legal approaches, sparking a realization among local scholars and elites that the traditional Islamic judicial system needed to be reformed to be relevant in the context of a modern state shaped by administrative and legal frameworks (Saleh et al., 2025). This situation was reinforced by the enactment of the Napoleonic Code as a model for civil law.

As his Ottoman rule weakened, M. Ali Pasha (1805–1849) initiated institutional reforms in Egypt in the early 19th century. He also strengthened Islamic educational institutions such as Al-Azhar and began regulating family and inheritance law through more formal legislation, limiting the scope of traditional Sharia judges (Dewi et al., 2025). The traditional Islamic judicial system, previously heavily centered on fatwas and local qadi rulings, also experienced limitations in its competence through the implementation of Western-derived laws within the new legal system (Yakar, 2020).

During the British colonial period (de facto from 1882 and formally after 1914), British influence introduced a dual court system, in which Islamic courts (Mohammedan Courts) were permitted but limited to family law matters such as marriage, inheritance,

wills, and waqf (waqf). Western legal systems and civil law began to dominate other public affairs, including criminal and general crimes (Abbot, 2024).

Significant reforms occurred in the early 20th century, primarily through the modernization of Sharia courts. One significant achievement was the establishment of the "School of Shari'a Judges" between 1907 and 1927, which served to formally train Sharia judges and foster the publication of Sharia law journals such as Majallat al-Aḥkām al-Sharʿiyya and Majallat al-Qaḍāʾ al-Sharʿī, serving as academic platforms to strengthen Islamic legal theory and practice in line with the modern state (Nouh, 2023).

Overall, the period up to 1952 demonstrates that Islamic law in the Egyptian judicial system remained vibrant but was constantly renegotiated between religious tradition, colonial political demands, and the modern needs of the national state. These dynamics laid the foundation for the codification of family law and Sharia reform after the abolition of colonial rule, particularly in the Family Law (Personal Status Law) and the recognition of Islamic legal institutions as part of the national judicial system (Elgawhary, 2019).

Thus, from classical to colonial times, Islamic justice in Egypt experienced a shift in function: from a system that regulated all aspects of community life to an institution that was limited only to personal and family matters.

3.3 Transformation and Change of the Legal System in Egypt

Entering the 19th century, Egypt came under the influence of European colonialism. Legal reforms were implemented by Muhammad Ali Pasha and continued by subsequent rulers. One important step was the adoption of the Napoleonic Code, which introduced a secular legal system (Fadl, 2015). This led to the emergence of a dual legal system: Sharia courts handled family matters, while secular courts handled criminal, commercial, and administrative matters.

In the early 20th century, Sharia courts were further narrowed. In 1955, President Gamal Abdel Nasser officially abolished the independent Sharia courts and integrated them into the national judicial system. Since then, Islamic law has been applied exclusively to and focused on the realm of family law (personal status law).

Broadly speaking, the history of Islamic justice in Egypt demonstrates a gradual shift from a fiqh-based legal practice (legal practice based on schools of thought and fatwas) that existed within society to a more structured and bureaucratic legal system under state influence. From the Ottoman period (1517) through the era of Muhammad Ali and the introduction of European influence in the 19th century, a gradual transformation occurred: from the traditional qadhi system based on sijill (judge's records) to a codified judicial system, and finally to a modern, multi-layered network of courts with the emergence of secular/parallel legal institutions such as modern administrative courts and Mixed Courts (Hoyle, 2024). This process was not a single leap, but rather a series of administrative and intellectual changes, including the adoption of the Hanafi school of law as the official school of Ottoman administration, Muhammad Ali's bureaucratic reforms, and the establishment of mixed courts handling cross-national cases (Rapoport, 2013).

The impact was twofold: (a) the traditional functions of qadhi and mufti remained vital for personal matters (marriage, inheritance, waqf), but their scope of authority was narrowed in the commercial and international spheres due to the establishment of European-style rules and mixed courts. This transformation paved the way for the modern Egyptian legal system, in which state law incorporates some elements of Sharia, often through a process of selection, reinterpretation, and codification (Wright, 2023).

3.4 Mechanisms and Structure of Islamic Justice in Egypt

Traditionally (pre-modern and Ottoman), the Islamic justice system in Egypt consisted of several core elements: the qadi (local judge), the mufti (fatwa issuer), the sijill (qadi diary) court record, and a network of local scholars, such as those at madrasas/Al-Azhar, as centers of religious authority. The ruling mechanism combined fiqh (normative texts), the mufti's fatwas as interpretative references, and local customs as practical factors. These were recorded in the sijill and served as primary sources for legal historians. Studies of sijill archives demonstrate how everyday practices (contracts, agrarian disputes, waqf) were highly pragmatic and sometimes deviated from classical normative formulas (Hallaq, 2009).

Under modern statehood (after the 19th century), this structure gave rise to legal pluralism: sharia/maqasidiyah courts that handle personal matters; state courts that handle criminal, commercial, and administrative matters; and mixed courts for international cases. Modern administrative mechanisms also transformed the processes of judicial appointment, remuneration, and accountability, making them more bureaucratic and integrated with the central state. In this practice, clerics and judges continued to play a role as providers of religious legitimacy, but often within a framework reconstructed by state interests (Fabbe, 2019).

The current structure of Islamic justice in Egypt can be mapped as follows:

1. Family Court (Mahakim al-Ahwal al-Shakhsiyyah) → handles matters of marriage, divorce, inheritance, and child custody.
2. Supreme Constitutional Court → has the authority to interpret the constitution, including the article stating that sharia is the primary source of legislation (Article 2 of the 2014 Constitution).
3. The role of Al-Azhar → does not have direct judicial authority, but functions as an institution for fatwas and religious legitimacy.

With this structure, it is clear that Islamic justice in Egypt is not completely independent, but rather exists within the framework of the national legal system.

3.5 The Implementation of Islamic Justice in Modern Egypt

The modern era (20th century to present) has seen three major trends: (1) the selective incorporation of sharia into state law (family law and guardianship), (2) institutional contestation between national courts and the Constitutional Court (and, to some extent, the highest court's position on sharia interpretation), and (3) political-religious dynamics that have made Islamic justice an arena for political legitimacy (such as the issue of the permissibility of hudud punishments, the limitations on the authority of ulama, or the debate over the role of Al-Azhar) (Agusti et al., 2024). Contemporary studies of the development of native courts and constitutional court decisions illustrate how the concept of sharia as a legislative source is translated into modern legal practice (El-deeb, 2024).

Practical issues today include: how modern judges employ the method of takhayyur/talfiq (selection and combination of fiqh norms) when adapting national laws to sharia principles; how historical sijil archives are used in policy research; and how judicial reform (transparency and accountability) impacts the enforcement of sharia law in the personal sphere. Modern studies also emphasize that technical solutions such as codification, judges' guidelines, legal education determine practice more than merely normative claims (Burak, 2016).

In the modern era, Egypt faces the challenge of balancing Sharia law and modernity. Some important aspects include:

1. Family law → remains entirely Sharia-based. For example, divorce (talaq) is recognized as a husband's right, although recent reforms have provided opportunities for women through khulu' (disputed divorce).
2. Inheritance law → remains based on Sharia principles, with men receiving twice the share of women.
3. Women's rights → There has been criticism from liberal groups who consider family law discriminatory, but the Egyptian government often uses Sharia as a basis for political legitimacy (Hertiana, 2024).
4. The 2014 Constitution → affirms that "The principles of Islamic Sharia are the primary source of legislation." However, in practice, many civil laws are adopted from Western systems.
5. Al-Azhar's role → as a bastion of Islamic moderation, but also criticized for its often conservative stance on gender and human rights issues.

Thus, Islamic justice in modern Egypt occupies a hybrid position: constitutionally recognized, restricted to the family sphere, and often a battleground between religious tradition and legal modernization.

4.   CONCLUSION

Islamic justice in Egypt demonstrates that legal institutions have never existed as statistical institutions, but have always moved in accordance with the political, social, and intellectual configurations of their times. From the Fatimid Dynasty, we see speculation as an instrument of legitimacy for Ismaili Shia ideology while still allowing space for Sunni legal practice. In the Ottoman era, it was integrated with the state bureaucracy through the qadi (jurist) and sijil (judge), while maintaining the authority of local ulama (Islamic scholars). Meanwhile, in the modern era, Islamic justice underwent a profound transformation with the emergence of a mixed legal system, codification, and the incorporation of Sharia into Egypt's national legal framework.

This paper focuses on reading the dynamics of Islamic trade in Egypt as a continuity whose violations are not merely about maintaining the legal regime. From this perspective, it becomes clear that Islamic trade is not merely an arena for the application of fiqh (Islamic jurisprudence) but also reflects the dialectic between Sharia, political power, and legal modernization. This approach reflects the fact that the continuity of Sharia in Egypt cannot be understood solely as a normative text, but rather as a socio-political practice that constantly negotiates with the realities of power and changing times.

Egypt is attempting to balance sharia with the demands of modernity, but still faces a number of challenges: legal dualism that sometimes gives rise to conflicting interpretations, criticism of gender discrimination in family law, and the limited role of sharia in public law.

ACKNOWLEDGEMENTS

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