

Similarities and Differences between Baghdad and Cordoba in the Executive and Judicial Systems

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Abstract

The research focused on addressing the judicial and executive systems in the East and the Maghreb, Baghdad and Cordoba by examining the similarities and differences in them between the cities of the two Islamic states. Administrative agents and others at various ranks and specializations. Therefore, the research section is divided into two sections, the first dealing with the judicial system, and the second dealing with the executive system.

I. Introduction

The judicial and executive powers are among the important functions in the Arab Islamic state, which is distinguished from all positions and authoritarian responsibilities in the Arab Islamic state, because the other functions are concerned with the directives of the ruler within the court of the caliphs, while the elimination of direct contact with the various classes of society, and this. She makes her feel the concerns of all people, and seeks to address these concerns and problems according to what is presented to the judiciary, trying to spread justice between individuals and security, and at the same time the judge has turned to him and the eyes of the entire community.

In order to implement justice, spread security and preserve rights among the members of the nation and the subjects of its various social and religious groups and sects, in addition to the judicial function, there was another function linked and in contact with the judicial system, which is the executive system, which is performed by the owner of the police, which is closely linked between the judiciary and the individuals who are one of the parties. The dispute or problem decided by the judge, and the judicial authority has powers that the judge has overriding. Others with authority, to the extent that allows him to sue the caliph or the guardian, as well as sue the public, and the executing authority for these judicial orders are the executive authority.

In this study focus on the judicial and executive systems, so we'll get to the judicial system because it is the highest rank and status, as well as the work context that requires the issuance of judicial orders and then their implementation. It will shed light on what went through these two systems went through in terms of development and innovation in jobs, in

the Abbasid era - Baghdad - and its equivalent in Andalusia - Cordoba - by showing the most important ranks and jobs that fall within the two systems.

The research will be divided into two sections: the first section deals with the judicial system, which contains paragraphs with titles such as: judges, judges of grievances, the Hisbah district, and the second section deals with the executive system, which contains paragraphs with titles such as: the owner of the police, the chief of the soldiers, the chief of the military.

The Judicial System

Before talking about the judiciary and judges, it is necessary to get acquainted with the concept of judicial and executive authority.

Judicial authority: It is the establishment of justice between people, the judgment in disputes, crimes and grievances, the fulfillment of rights from those who delay them, and the delivery of them to those who deserve them, and the guardianship over the incompetent, the foolish and the bankrupt, and the examination of endowments, their funds and their yields, and other things that are presented to the judiciary.

As for the executive authority and its concept: it is the authority competent to implement the provisions of the Sharia, and it works to establish and organize public facilities in a way that guarantees the satisfaction of the needs of people in the state.

The Judiciary

The judiciary is a high position that comes immediately after the caliphate, because its owner represents the law and the rulings of religion, and although the position of the ministry was the broadest authority and influence, it was one of the subordinates of the caliphate, while the judiciary was independent in its administration and did not accept any interference from the executive authority.

The development of the judiciary in the Abbasid era due to the development and expansion of social life, and the new methods that occurred in society that included the social, cultural and economic aspects, which led to the emergence of many problems that needed judges from qualified jurists to decide in accordance with Islamic law, in addition to the emergence.

The four schools of thought (Maliki, Shafi'i, Hanbali, and Hanafi) and the consequent weakness of the spirit of diligence in judgment and the commitment of judges in their rulings to one of these schools, so the judiciary in Iraq was adjudicating it according to the doctrine of Abu Hanifa Al-Numan (d.: 150AH / 767AD), while the doctrine of Imam Muhammad bin Idris prevailed Al-Shafi'i (d.: 204AH / 820 AD) in Egypt, and the doctrine of Imam Malik bin Anas (d.: 179AH / 795 AD) in the Levant and the cities of the Islamic Maghreb and Andalusia. As a result, in every state there were judges who mastered the jurisprudence of their doctrine and improved their conduct, representing the sects. The four and the most knowledgeable of the fatwa and legal rulings, each of them consider the dispute that arises between those who follow the beliefs of his school.

The importance of judges during the reign of the Abbasid caliphs was magnified and their position was strengthened after the Abbasids worked to make the appointment of the

judicial authority exclusively in the hands of the caliph in the Islamic capital Baghdad, which strengthened the position of the judge in all regions of the state and made him independent of his job from the emir and the rest of the state employees, and this is what Al-Nabahi explained⁽²⁾ on the authority of the status of the judge, they said: (Then the days of Yazid bin Abd al-Malik and his son al-Walid appeared until the sons of Abbas appeared, and they won the kingdom, so they became strong in the matter of the judiciary, and chose the legal deeds of the scholars).

The Abbasids also worked to empower judges by removing a lot of embarrassment and injustice in judicial practices, and the goal of the early Abbasid caliphs was to document the pillars of their rule and its continuity, and this was stated by the background Abu Jaafar Al-Mansur (158-138AH / 774-754AD) in his saying: (I do not need to have four people at my door, none more chaste than them, they are the pillars of the state and the king is not reformed without them. The owner of a post writes the news of these on the veracity).

Therefore, find that the judiciary developed with the preservation of its Islamic foundations followed since the noble and Rashidi era through the Umayyad era, and the preservation of its approach that it followed, and among the evidence of this is the survival of many judges of the Umayyad era in their judicial positions after the establishment of the Abbasid state and the successors of Bani Abbas took the helm of power in the year (132AH / 750AD), among them, for example, the jurist Yahya bin Saeed Al-Ansari, the judge of Medina in the Umayyad era, continued as a judge in his position in the Abbasid era, as Abu Jaafar Al-Mansur appointed him as the judge of the Hashemite city in Iraq, on the authority of (Al-Mazi) in his translation Yahya bin Saeed said: (Abu Saeed Al-Madani is the judge of Medina. The oldest was Abu Jaafar al-Mansur al-Iraq, and he appointed him as the judiciary in the Hashimites. And it was said that it is the judiciary in Baghdad).

The one responsible for the installation of a judge is no different between Baghdad, the capital of the Abbasid caliphate, and Cordoba, the capital of the Umayyad state in Andalusia, as he is appointed by the Abbasid caliph in Baghdad or the Umayyad caliph in Cordoba, according to Ibn Khaldun: Between people in disputes to resolve the strife and cut off the dispute, except that it is with the legal rulings selected from the Book and the Sunnah, so this was one of the functions of the caliphate and included in its generality.

It is worth mentioning that the first Abbasid caliph and the ruler of the judges of the cities before him was the caliph Abu Jaafar al-Mansur⁽⁷⁾, but he was not alone in creation supervising the appointment of the judges of the regions and cities, but he was authorizing the governors and princes in them to appoint them, as was the case during the era of al-Mansur when he was appointed: (Muhammad bin Imran bin Ibrahim bin Muhammad bin Talha bin Ubaid Allah was a judge for Ziyad bin Ubaid Allah Al-Harithi over Medina in the days of Al-Mansur, and the princes were the ones who appointed judges, and Muhammed bin Imran was one of the people of virility and solidity in the judiciary, he was not coveted).

On the other hand, the judges were subjected to accurate and continuous control by broadcasting eyes, observing them, and knowing their public and private conditions and their relationship with society, for example, what the postmasters used to write to Al-

Mansur, while if there were some of the judges who contradicted the Sharia in its rulings with the people, then Abu Jaafar Al-Mansur wrote to On the authority of (Al-Suyuti) he mentioned one of these situations by saying: (Al-Mansur wrote to Siwar bin Abdullah, the judge of Basra: Look at the land over which so-and-so the leader and so-and-so the merchant quarreled, so give it to the leader, so Siwar wrote to him: I have evidence that it belongs to the merchant. I did not take it out of his hand except with proof, so Al-Mansur wrote to him: By Allah, besides whom there is no god, you must give it to the leader. My judges bring me back to the truth).

The caliphs were not satisfied with that much, but they were closely exploring the news of their judges through their visits to their places of work, including, for example, what happened during the reign of the Abbasid Mahdi caliph (157AH - 169AH / 774AD – 785 AD) with the judge of Basra, Khalid bin Taleeq, against whom a complaint was received before. Notables of Basra and asked Al-Mahdi to dismiss him, so Al-Mahdi brought together Khalid bin Taleeq and the notables who complained about him and asked for his removal. During the confrontation session, it became clear that the judge was ignorant of jurisprudence, so he appointed Omar Bin Othman Al-Tamimi in his place.

The position of the judge was magnified and strengthened, and it reached its peak during the reign of Caliph Harun al-Rashid (193 AH- 170 AH / 809-786AD), when the position of chief judge was created for the first time in the history of the judiciary, and Abu Yusuf was the first to fill it in Islamic history, and he contributed to organizing Judicial affairs, and chose the doctrine of its sheikh Abu Hanifa al-Numan to be the official doctrine of the Islamic State. The position of chief judge allowed Abu Yusuf to spread the doctrine and jurisprudence of his sheikh Abu Hanifa, and made it the official jurisprudence of judiciary, fatwas and codification. Hanifa postponed the Abbasid state at the time.

The era of the Abbasid caliphate was characterized by the lack of dismissal of judges, and the holders of this position became more stable, after the Abbasid successors of the governors and princes were deprived of the right to dismiss judges, and their dismissal was mostly limited to the chief judge, The Caliph, the judge is only rarely dismissed ⁽¹³⁾, and in the event that the judge is dismissed, there are important procedures that the new judge takes, the most important of which is sending two men of his trust to receive the office of the dismissed judge and revealing its contents for the new judge to receive.

As for in Cordoba, the judge was called during the era of the governors (138-92AH / 755-710AD) with the title (Judge of the Soldiers) because he used to judge between the soldiers of the Arab Islamic camp that conquered Andalusia.

As for the era of the emirate and the Umayyad caliphate in Andalusia, the judge was given the title (judge of the congregation) and his permanent headquarters was in Cordoba, which is the bank of legal rulings, and the reason for this designation dates back to the days of the approval of the pledge of allegiance in the emirate of Abd al-Rahman al-Dakhir (172-138AH / 788-755AD), As Judge Yahya bin Yazid wrote the Covenant of Safety at the request of the last governor of Andalusia, Yusuf al-Fihri (139-129AH / 756-746AD), who stipulated the presence of Judge Yahya bin Yazid, so the latter wrote the Covenant of Safety in the year (

139AH / 756AD) with his testimony in it, saying: “that was in the presence of Yahya bin Yazid, the judge of the congregation”.

It seems that what is meant by it is the group of Muslims who approved the pledge of allegiance to Abd al-Rahman ibn Muawiyah al-Dakhil, and that the approval and testimony of the judge announces the end of a historical stage and the beginning of a new stage, the stage of the state of the Islamic state in Cordoba and Andalusia, so the judge was given the title (judge of the community) and this title continued. The one who is appointed is called a judge, and the position of judges is higher and the personality of his occupant is respected.

The powers of the judge and the many powers assigned to him agreed in Baghdad and Cordoba, the most important of which is that the judge deputizes the congregational and Eid prayers on behalf of the caliph in other cities and different places in the eastern Islamic countries or Andalusian cities, since Cordoba is its metropolis.

As for the jurisdiction of the elite of the judge, Al-Mawardi explained it saying: “As for if his jurisdiction is private, then it is convened on its specificity, and is limited to consideration of what it includes, such as someone who imitates the judiciary in some of the rulings we have presented, or in ruling with admission without evidence, or in debts without marriage, or in a predetermined quorum, so this imitation is valid and it is not permissible for the guardian to transgress it, because it is a deputation, so it is valid in general and in particular as an agency. The fact that both al-Mawardi and al-Nabahi agreed on the duties of the judge indicates that the limits of judges, in the past and in modern times, are known, and they do not oppose them, and they do not belong to other rulers in Baghdad or Cordoba alike.

His opinion includes ten rulings, which are:

The first: Settling disputes, ending quarrels and disputes, either as a settlement based on mutual consent, in which permissibility is taken into account, or by compulsion by a definitive ruling that is considered obligatory.

The second: fulfilling the rights of those who demanded them, and delivering them to those who deserve them after proving that they are due from one of two sides: approval, or evidence, and he differed in the permissibility of his ruling on them with his knowledge.

The third: the establishment of guardianship over those who were forbidden to act in insanity or insanity, and the interdiction of those who see the interdiction against him for his foolishness or bankruptcy in order to preserve the money for those who deserve it.

The fourth: Considering the times by preserving their origins and developing their branches, seizing them and spending them in their path.

The fifth: Executing the commandments according to the conditions of the testator, with regard to what the Sharia permitted and did not prohibit.

Sixth: Marriage of the days to the matched, if he is counted among the guardians.

Seventh: Establishing hudud on those who deserve it. If it is one of the rights of Allah Almighty, He is the only one to fulfill it, and if it is one of the rights of human beings, then it is dependent on the request of the one who deserves it.

Eighth: Considering the interests of his work, such as refraining from encroaching on roads and courtyards, and removing what is not deserved from the wings and buildings, and he may be alone in looking into them even if he is not attended by an opponent.

Ninth: Examination of his witnesses and trustees, choosing his deputies from among his successors in their approval, and relying on them, with the appearance of safety and integrity, dismissing them, and replacing them with the appearance of injury and betrayal.

Tenth: Equality in judgment between the strong and the weak, and justice in judiciary between the honorable and the honorable.

The judges in the first Abbasid era also granted many privileges, until their authority expanded, so the judge became combines with the adjudication of litigants, the fulfillment of some general rights of Muslims by looking at the money of the insane, orphans, bankrupt and people of fools, and looking into the interests of roads and buildings, and browsing witnesses and secretaries And the deputies, in addition to the authority of the judge over wars in fighting the people of apostasy, and fighting the people of transgression, and fighting the warriors.

That some of the caliphs entrusted some of their judges with the leadership of the armies, as happened to Yahya ibn Aktham when he was going out during the days of al-Ma'mun with armies to the land of the Romans.

Most of the tasks of the judges in Baghdad and Cordoba were similar, the most important of which was the authority of the congregational judge in Cordoba to appoint subsidiary judges in the states and small districts. At the same time, the imam is responsible for following up on the congregational judge. This is what Burhan al-Din al-Yamari ⁽²²⁾ clarified by saying: "The imam should inspect the conditions of the judges, for they are the foundation of his affairs and the head of his authority". Likewise, the congregational judge reprimands.

He should inspect his judges and deputies, and browse their districts and take into account their affairs and their way of life among the people. In return, the state or town judge called the Musaddeed should write to the congregational judge on issues that he is unable to decide on and guide him in adjudicating between the litigants ⁽²³⁾.

The judge was entrusted with the task of congregational prayer in addition to his judicial duties, for example, but not limited to Muhammad Ibn Bashir, who was known for his acumen, honesty and power of perception. He was entrusted with the task of leading the congregational prayer in Cordoba, and he was firm in his judgment even with the princes, including a narration about his return to a land that Hisham bin Al-Hakam had taken from its owner by force, and Bashir did not hesitate to recover it, and Al-Dhabi ⁽²⁵⁾ mentioned it by saying: "When he came Cordoba presented by the ruling for judgment and prayer".

The first thing Muhammad bin Bashir carried out in this judgment of his was to register the Commander of the Faithful to rule in the land of Qantara when he evaluated it in it, and the right of the plaintiff was established with him and he heard from his evidence and excused the Prince for the ruling because he did not have a defender, so he registered in it

and testified to. When a long time passed, he bought it properly, and the prince was pleased with that and said: May Allah have mercy on Muhammad bin Bashir, he did well in what he did to us against our dislike. We had something suspicious, so he corrected it for us, and it became lawful.

Among the reasons that also led to the spread of the doctrine of Imam Malik in Andalusia, is that the Andalusian scholars and jurists who deported to the East met Imam Malik in Medina, and were impressed by his person and his jurisprudence based on the Book and the Sunnah, which tends to the scientific point of view, as he sees that everything that is beneficial to Muslims and agrees with interests of their audience, it is from Islam as long as it does not contradict with its orders and prohibitions, but Imam Malik generalizes that and makes it a rule and he did not resort to opinion except in cases of extreme necessity.

Likewise, the judiciary in Cordoba had its independence and was not affected by the general policy of the state due to the desire of the Umayyad caliphs to give their work a legal character, and this is evidenced by what al-Maqri reported by saying: "As for the plan of the judiciary in Andalusia, it is the greatest plan for the private and public because of its connection to matters of religion and the fact that the Sultan would have the judgment of Hadar was addressed to him in the hands of the judge. This was put in place in the time of the Umayyads and those who followed their path. There is no way for him to be called this characteristic except for someone who is the guardian of the legal ruling in a great city, even if it is small. Its ruler is not called except for a special payment and the judge of judges is called the judge of the judges and the judge of the group.

In view of the expansion of the tasks of the judges, they were assisted by assistants and deputies known as the deputies of the ruling, and the judge used to take witnesses who were known for their honesty and understanding of religion, and for this reason they were called the just witnesses, that is, those whose responsibility is not doubted. Sitting for grievances "They entered the judges if it was not a response to the ombuds, but the judgments were forced to" ⁽²⁸⁾, and the judges were famous for force, justice, fairness and unhully, even if it is related to the elimination itself.

The judge was carrying his first mosque in the mosque as a religious religion than Dennium and then he was held in the House of Judge, after mosques the university in one city, and sometimes the judge held its meeting at the Palace of Caliphat, especially if What was concerned, the Governing Council consists of the judge, the judge and the witnesses who record the minutes of the meeting and the veils who take advantage of adversaries to the Governing Council and notes that the post of judge was not affected by the political events that the judge was It continues to serve as a long time if he enjoys a decade and integrity. However, some successors of the Abbas have sometimes resorted to carrying judges on the walk according to their desires to earn their actions as legitimacy, so I declined to accept the post of judiciary, Although this is revealed by some of the Abbasid calves with some pimp and assets after they gave them safety, so by fatwas, the son of Hubban received a book that carries the light of the successor, but did not He was killed until Ibn Huby, did not shoulder Abbasids to appoint judges, as they developed the judicial

administration in a precise and organized administration, they were talking to the judge of the judges all and monitors the judges in the judiciary and was Judge Abu Yusuf Jacob Ben Abi Ibrahim, the book of the abscess, the first to take place as judge of the judges in the Abbasi Covenant from Caliph Harun Al-Rasheed, and may return to the invasion and knowledge of judicial and administrative affairs, especially, and the judge during the state El Amwei sitting council.

Without decrees, except that since the Abbasid era, he began to take for himself the symbols, such as putting the talisman on his shoulders, holding a sword in his midst, and wearing black or white according to his sect, and the first to distinguish the dress of judges and scholars, Judge Abu Yusuf, so the judge began to circulate a black turban on a long skullcap, after he was wearing Before that, people were one thing, no one was distinguished by his dress, and among the manifestations that express the increase in the status of judges in the first Abbasid era was what Abu Muhammad Yahya bin Aktham, the judge of the safe caliph, had authorized him to examine the judges whom he wanted to take over from the faces of the jurists.

Also find this matter in the judges of Cordoba, including Judge Yahya bin Abd al-Rahman bin Wafid al-Lakhmi, who was able to become independent in the judiciary when he assumed this position in the year (401AH / 1011AD) and he would have a great position, so he became independent with him, despite the strife and turmoil he was in at the time. In the internal politics of Cordoba, however, Al-Nabahi, who clarified his status and the positions he held in addition to the judiciary, said ⁽³¹⁾: “He was the last of the full-fledged judges in Andalusia in knowledge, guidance, discretion, and religion. And imitate the prayer in Al-Zahraa for a period”.

It is clear from the text that he was assigned to preside over the Shura and Prayer Council in Al-Zahra Mosque in Cordoba. This indicates his status. However, at times some caliphs tried to interfere in the affairs of the judiciary, which made some jurists refuse to assume the position of the judiciary for fear of the intervention of the caliphs or governors and their burdens. Political and doctrinal differences between the rulers and between the jurists and the wise, in addition to other reasons such as the fear of this position because of the hadiths contained in it that terrorize the world from taking over, preoccupation with knowledge, and asceticism in the world, and among these are Abu Hanifa Al-Numan (d. 150AH / 767AD), and Musa bin Suleiman (Died 200AH / 816AD), Wakee bin Al-Jarrah (died: 306AH / 919AD), and Ibn Shuraih (359AH / 970AD).

As for the powers of the judge, they varied in Baghdad and the vastness of the geographical area within the scope of his rule and his judiciary between public and private, Al-Qalqashandi clarified this by saying that: “The jurisdiction of the judiciary on behalf of the caliph is sometimes general for Baghdad and its works, and sometimes it is limited to Baghdad or one of its sides.” ⁽³³⁾, and the powers of the judge varied between the general and the specific in ruling, and the difference between them was clear: Al-Mawardi ⁽³⁴⁾ and Al-Nabahi ⁽³⁵⁾ agreed with him, which is that the general jurisdiction of the judge is absolute in all that it contains.

It can be said that the golden age of the judiciary was from the era of the Caliph Abu Jaafar al-Mansur and continued until the reign of the Abbasid caliph al-Ma'mun (218-198AH / 833-814AD), but the matter was different in the second Abbasid era, as the judiciary witnessed cases between weakness and strength that coincided with personal weakness. The Abbasid caliph or its strength and dominance in the second Abbasid era because of the Buyid and Seljuk influence in governance and their control over the caliph and the capabilities of the state, as the actual power became in the hands of the Buyid Sultan and then the Seljuk (prince of princes) or army commanders, and women entered power, but in the eastern regions of the state Al-Abbasiya, which became independent from the capital, was the judiciary under the authority of the princes of those regions suffers from many negatives that negatively affected the position of the judiciary in it.

The Muslims in Cordoba were able to give the people of the dhimmis the right to judge in order to establish justice and preserve the unity of society, among them, Abd al-Rahman al-Dakhil (Arkas al-Nasrani) appointed the first Christian qumis in Andalusia⁽³⁸⁾, and al-Hakam al-Mustansir (302- 366 AH / 915- 976 AD) appointed the priest of the Christian judge in Cordoba.

Judges' Assistants

The clerk of the judge: he means the clerk of judgments, and he is the one who undertakes administrative clerical work. This position has appeared since the days of the Messenger (may Allah bless him and his family) and its importance has emerged, especially in the Judicial Council by virtue of what he does because he records all the facts of what is going on in this council. Therefore, it was stipulated that this clerk should have knowledge of the legal sciences, the profession of judiciary and record writing, and it is required that he be aware of what is permitted and forbidden, protest and congregation, jurisprudential branches and inheritance, and the clerk of the judge is one of the most famous employees of this office and what he receives from a salary of three hundred dirhams per month.

The jurists stipulated conditions for the writer, including: Islam, justice, jurisprudence, and the quality of handwriting, and they stipulated that the writer should sit so that the judge sees what he writes and what he makes. Because that is closer to precaution and he must arrange case papers and protect them from tampering.

The bailiff: It is the job that comes after the job of the clerk in terms of importance, and his job is: to block litigants from the judge and organize their entry to him. As for his salary, he was one hundred and fifty dirhams⁽⁴³⁾. Between the judge and the arrival of the owners of the darkness to him or advance or delay, and the judge to track his actions constantly.

Storekeeper of the Court of Judgment: His job is to preserve the Court of Judgment and the documents and records in it. This position appeared in the Abbasid era as a result of the development of the judiciary institution, and one of the conditions for his selection is that he be trustworthy and all good will's gather in it. He has been allocated a monthly salary of six hundred dirhams per month for him and his helpers.

Litigation bailiffs: They are also known as the police, and they are the ones who bring litigants, summon them, maintain order, prevent the submission of those who do not have a role, maintain order in the Judicial Council, and stand before the judge awaiting his order, completing the prestige of the Judicial Council.

Representatives: It is a job similar to lawyers in the present era, they plead before the judge on behalf of their clients, so each judge has a group of attorneys that he chooses himself from among the people of the Sunnah, justice and chastity, and who is safe in litigation, and has accurate and detailed knowledge of each case, and this job It has become one of the prerogatives of the judge because the litigants have the right to appoint on their behalf those whom they wish to seek help in their disputes, given that they are agents in the dispute.

Al-Jalwaz and Al-Rikabiyah: Al-Jalwaz is the one who stands with the judge and prevents people from misbehaving, meaning the policeman, and he is called the owner of the council and the corporal, and one of his duties was to evaluate the opponents if the dispute ended, and he took the patches and delivered them to the judge, and this function appeared in the late Abbasid eras, as for the stirrup. They are the ones standing in front of the police; their mission is to keep people off the road, right and left.

A translator: It is the job of her job to translate what plaintiffs or opponents who speak other than the Arabic tongue says, and this job appeared in the Abbasid era as a result of the large number of peoples who joined under the delusion of Islam and the Abbasid caliphate. His adoption of the permissibility of attending the Judicial Council of the plaintiff, defendant or witness whose language the judge does not know, and requires justice in order to be trusted in his transfer.

Al-Qassam: He is the one who undertakes the division of rights among their owners or sets the boundaries between them in real estate. The judge needs the help of people of expertise in all medical, agricultural, industrial and commercial fields, and among the experts is called (Al-Qasim) who the judge uses to verify what the opponents claim in terms of areas and quantities, in naming, defining borders, and so on.

Just Witnesses: They are employees approved by the judge when false testimony abounded, and the judges deliberately wrote down the names of the witnesses known for justice in the country in a book, and arranged for that the owner of the issues, asking them about the conditions of the witnesses, and (Ghawth bin Suleiman) was the judge of Egypt in the succession of my father Jaafar al-Mansur (157-136AH / 773-753AD) was the first to ask about witnesses in Egypt and it is stipulated that the witness of justice be chaste and did not commit major sins, and that he adheres to the congregation, performs the obligatory duties, is known for his trustworthiness, truthfulness of the tongue and his dealings, and that he be a scholar, ascetic and pious, and that he be bold And that he is of bad faith, and by virtue of his association with the judge, he necessitates some other qualities, such as legal justice and innocence from injury.

Just as there were assistants to the judges in Baghdad, there was in Cordoba a group of jurists who assisted the judge in their advice, and they were called the consulting jurists,

who were appointed by the ruler, and the judge used to meet with them in what is called the Shura Council.

Grievances

The Abbasid era witnessed the emergence of the Board of Grievances, and the caliphs supervised it themselves, and they set a time to consider the grievances of the subjects ⁽⁵⁷⁾, and consideration of grievances is one of the vital manifestations of the judiciary institution in the first Abbasid era, in addition to considering any ruling that the judge was unable to do so he considered it, and the beholder was in the grievances are more free than the judge.

The owner of the grievances: or (the head of the council, who is the guardian of the grievances or the judge of the grievances): In the Abbasid era, the position of the judge of the grievances (the overseer of the grievances) emerged, and his authority was higher than that of the judge. He prevents grievances among them, and his powers are broader than the ordinary judge and more spacious. He uses intimidation to reveal the causes of grievances with indicative signs and evidence of statutory conditions, which narrows the rulers and leads him to the emergence of the truth and the knowledge of the wrong from the right.

He may issue judgments against those against whom injustice is proven, and he may also delay the judgment until the facts are clear to him in full, such as asking the litigants about their conditions and scrutinizing them in order to reach the truth. By mutual consent, and the judge may do so only with the consent of the two litigants to respond, and he may hear from the testimonies of the concealed persons what departs from the custom of the judges in the testimony of the moderates. Witnesses swear if they are suspicious of them, unlike judges. And begins to summon the witnesses and ask them what they have in the case, other than the judges.

As for Cordoba, it knew a unique and developed judicial system that was provided with auxiliary plans for issuing judgments, which is known as (the response plan). Complaints to the prince.

The grievances' groups: They are a group of people who directly and indirectly contribute to assisting the Grievances Judge to reach a fair final judgment in the various cases that are brought before him. And he can never do without them, and his gaze is only regulated by them, and they are:

Protectors and Auxiliaries: They are a group of soldiers or police whose work is to attract the strong and correct the bold to maintain order and security in the Council of Grievances.

Judges and Rulers: Those who attend the Council of Grievances are judges and rulers such as the Khalifah, princes, and ministers, to inquire about what rights they have established, and to find out what is going on in their councils between the litigants.

Jurists: their presence is very important in the sessions of grievances, as they are the legislative authority for Islamic law and work to implement it. Therefore, the judge of grievances refers to them in the issues presented to him in which he was confused and asks them about what he suspects and makes him difficult.

Witnesses: They are the most important element in the Court of Grievances to prove what happened between the litigants, and what rights were directed to them or against them. Good discipline, distance from greed, honesty and justice.

It becomes clear to the Judge of Grievances through their testimony of what the Judge of Grievances enjoined regarding the right, and he passed it in terms of judgment, and they are witnesses to the Judge himself until the implementation is completed, and denial and ingratitude are ruled out.

The judiciary of grievances is specialized in preserving the rights of all people without considering one group over the other, to prevent grievances, to hold governors, princes, and state employees accountable, including tax collectors, and to monitor them if they exceed the limits of their authority and powers or wrong people in their work. It is general and inclusive, and it is what was practiced by the caliphs and those who have a general mandate, such as the delegated ministers, the princes of the regions, and the judges acting on their behalf.

Hisba Court

Al-Hisba in terminology: Enjoining good if his legacy appears, and forbidding evil if his action appears. The mandate of the hisba is a position assumed by a president who supervises public affairs from controlling prices and caring for etiquette and the like. The basis for the legitimacy of the hisbah is the words of Allah Almighty: {You were the best nation brought forth for mankind, enjoining what is right and forbidding what is wrong, and believing in God...}.

The hisba system is considered one of the first systems in Islam, and it had a religious character in its first foundation.

It is the competence of the ruler of the Hisbah to enjoin good and forbid evil, urge people to protect public interests, and prevent everything that may cause harassment in the streets and aggression against neighbours, and prevent teachers of boys from beating them severely. His job and within the limits of his competence and his competence is to preserve morals and morals, prevent transgression against the sanctities, prevent transgression of God's limits, take the hand of the foolish, and help fulfill rights. Which no one should contradict or deviate from, and he does not have the right to hear evidence to prove the truth, nor to take an oath to deny it. This is the competence of the general courts, and one of the conditions of the muhtasib is that he be an expert, knowledgeable, just, with opinion, rigor and fear in religion, and knowledge of apparent evils, and it can be said That: (Consideration of grievances is subject to what the judges were unable to do, and consideration of hisbah is subject to what the judges indulged in, and therefore the rank of grievances was higher than the judiciary, and the rank of hisbah was lower than the judiciary).

Since the Abbasid era, the function of the muhtasib began to take a different form, and it became known among the people since the era of the Abbasid caliph Abu Jaafar al-Mansur (136AH - 158AH / 753AD - 774AD); therefore, in order to facilitate the calculations,

and to organize the society; Al-Mansur moved the markets of Baghdad and the eastern city to other specialized areas, far from the city center and its bureaus.

They monitor its affairs and control its violations, and the function of the muhtasib has evolved under the Abbasid caliphs from monitoring scales and measures, enjoining good and forbidding evil and preventing monopoly, to monitoring employees to adhere to actions, even monitoring the muezzin to adhere to prayer times, and monitoring judges if they are late in their work, or are interrupted. from sitting in power, as well as supervising the cleanliness of markets and mosques, as he had the right to test and choose those with professions and trades; to know the extent of their mastery of the profession and craft; so that they do not take advantage of others; the Abbasid caliph al-Mu'tadid asked Allah (d. 279AH / 892CE) in Baghdad, and they were about (860) doctors, and he ordered al-Muhtaseb not to allow a doctor to practice his profession except after passing the exam of the chief physician, Sinan bin Thabit, in Baghdad.

However, those who follow the historical path of the position of the hisba, we find that it did not appear in Andalusia as an administrative position that was unique to a private employee, but rather it was merged with other positions, namely the judiciary, so on the authority of Ibn Khaldun as saying: "It is included in the general mandate of the judge, and a servant of the position of the judiciary".

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During the era of the Umayyad Emirate in Andalusia, the muhtasib was called the owner of the market, so the hisba in Andalusia is a mediating function between the judiciary and the grievances, they attract in faces and share, and they are similar in matters, so the judge of the hisba combines between legal consideration and the sultan's reprimand, depending on the extent of his authority on the body he imitates and the implementation of the rights of the recognized ⁽⁶⁶⁾, the muhtasib must be appointed from the Andalusians for his knowledge of the conditions of the country, and the ruler appoints him and his wages from the treasury, and he has the right to issue judgments.

This position did not remain within the tasks of the judge. During the reign of Abd al-Rahman al-Awsat (238-206 AH / 852-821CE), the hisba became separate from the judiciary, and a group of assistants and assistants assisted him in his duties. And his minister and successor, and if the judge apologizes, he rules in his place, in what befits him and his plan.

It concluded that, from the foregoing that the judiciary of the hisba entered all areas of life as well as the urban fields, and other areas of enjoining good and forbidding evil, and the task of judging al-Muhtaseb in Andalusia was no different from what it is in Baghdad, as well as this period of time, as the muhtasib was separate from the judge at times and at other times merged with his duties, in Baghdad as well as in Cordoba.

The Executive System

The Abbasid caliphs used to carry out the tasks of the executive authority themselves in the capital of the Islamic state and elsewhere. They sought the help of governors and workers as an executive authority entrusted by the caliphs in the regions of the Islamic state.

Police and Guards

The police are one of the most important jobs in the Islamic state, as it is considered one of the most prominent features in the life of people and society. The police system in Islam, Muslims were the first to create the police system, which is the oldest name for the police, and that was during the time of Caliph Umar ibn al-Khattab (may Allah be pleased with him), as he was the one who enacted the police system, and it is also said that the first to introduce the police system in Islam was Amr ibn Al-Aas, and that he is the creator and founder of the police system in the world, and that was when he took over the emirate of Egypt, and the police were organized and became one of its functions to guard the city during the era of Ali bin Abi Talib (peace be upon him), and its chief was named the owner of the police, and he is one of the pillars of the kingdom referred to by the Caliph Abu Jaafar al-Mansur, as the mouth of the owner of the police was equivalent to the position of the prince or governor in Baghdad.

In Cordoba, the police plan is part of the city plan, which included: (the community judge, the major police, the central police, then the minor police, the owner of the grievances, the owner of the response, who is the owner of the police, and he is called the owner of the response to what judgments were returned to him, the owner of the city, and the owner of the market) ⁽⁷⁰⁾, and over time, the police apparatus evolved to consist of basic elements to carry out this dangerous and vital task that affects people's lives, security, and stability, and among these elements are:

Chief of the Police: The position of chief of the police is considered one of the high positions in the state, especially after it became clear that the noble tasks entrusted to him and the difficult and dangerous work he undertakes became clear and the affairs of the state and the conditions of people could not be managed without him.

The choice of the owner of the police was the subject of patience and deliberation from the beginning, according to Ziyad bin Abih that he said: Four are not followed except by the elderly who bite on his survivors - that is, a lot of patience - (the gap, the sect, the police, and the judiciary), and among the most important conditions that must be met in the Abbasid era: that he be forbearing Majestic, always silent, long in thought, far-sighted, harsh towards people of doubt, highly discerning, pure, honest, not hasty, smiling little, not paying attention to intercession.

In view of the importance of this position, the caliphs and governors used to choose the owner of the police from among the nobles and the elite of the people, the senior leaders and the greats of the special from their loyalists, and they may have added the position of judges to his position, and he was assigned the position of the emirate over the state, and the relationship of the owner of the police was direct with the caliph, and with the governor as well.

The owner of the police is considered the executive body in civil investigations, and the police plan has emerged since the era of the Emirate in Andalusia, and the first person to take over it during the reign of Prince Abd al-Rahman al-Dakhil was al-Husayn bin al-Dajn bin Abdullah, and the owner of the police in Cordoba was called (the governor of the police), and (owner of judgments).

He is appointed by the prince or caliph at the time of the Umayyad state in Andalusia, and then by the guardian under the kings of the sects and the Almoravids, and the police apparatus was divided into three sections: the major police, the middle police and the minor police.

As for Ibn Khaldun, he clarified these designations by saying ⁽⁷⁶⁾: (As for the police, its owner is called in Africa the ruler, and in the state of Andalusia the owner of the city, and in the state of the Turks, the governor, and it is the function of his subordinate to the owner of the sword in the state, and his rule is effective in its owner sometimes). Bone and divided it into two parts: the major dash and the minor dash only ⁽⁷⁷⁾. It is divided according to the categories of society.

As for the tasks of the owner of the major police, the ruling of the major was made over the elite, and he made the ruling on the people of the royal ranks and beating at their hands in the darkness, and at the hands of their relatives and those to them of the people of prestige, and the owner of the minor was made specific to the public, and a chair was erected for the owner of the major at the door of the house. The Sultan, and men occupying the seats in his hands, so they do not leave it except in his disposal, and its mandate was for the senior men of the state until it was a nomination for the ministry and the veil, meaning that the scope of the major police extends among the dignitaries and he has the right to ask all those who occupy important positions in the state And public positions and the people of the royal ranks from whom grievances are issued to the general public, as well as their right to hold the people of the prestige accountable and their relatives, and the owner of the major police sometimes bears the title of minister.

The owner of the major police is also entitled to consider matters issued by important figures in the state; He has the right to judge and consider cases and crimes issued by members of the upper class of the people of Andalusia and private ones, and judge all those who transgress from them with all force and right, and around the owner of the supreme police were men who saw his judgment in private cases, and these may be judges of his judgments, especially if there was injustice in it, or they are among the witnesses to its ruling and helpers to implement it, and they may be from these two categories or for something else.

As for the owner of the minor police, his task is to implement the rulings issued against the general category of people.

When the Umayyad Caliph Abd al-Rahman al-Nasser (350-300AH / 961-912AD) ascended the throne, in the year (317AH / 929AD), a new system was introduced on the police plan, as a third police appeared, which was called the Middle Police.

It did not exist before Al-Nasser, then it continued after him, and its sustenance was arranged in the middle between my upper and lower sustenance, and it was appointed at that time (Saeed bin Hudir), and he was the first to imitate it at that time, after a new class of people appeared from the merchants and junior employees who carry out the work of some plans where this originated the class in the golden age in Cordoba when it reached the height of its prosperity, and with the noticeable increase in the population, the Umayyad caliph Abd al-Rahman al-Nasir saw the need to establish this type of police known as the middle class, and this corresponds to the presence of the new class of people.

In the Abbasid era, the owner of the police had assistants who carried out some tasks in the city, or completed the departments of the administrative units for the owner of the police, and some of the Abbasid statesmen had police guards. And on his guard Shabib bin Humaid bin Qahtaba.

Chief of the Soldiers: His job was to monitor the soldiers and motivate them to fight, as is the case with the military police today. And he is appointed by the owner of the police, and among his tasks is also the transfer of orders to the sheriffs in various responsibilities, and the pursuit of taxpayers, and the major police during the era of Al-Mustansir Billah (366-350AH / 976-961AD) was Ahmed bin Nasr, and the central police was Muhammad bin Abi Amer and in the year (360AH / 970AD), the position of the owner of the supreme police, Abd al-Rahman bin Muhammad bin Hashim, was assumed. The allegiance of the police of all three types and its subordinates is to the caliph and that they are responsible for security and order in the country ⁽⁸³⁾, so the police was a servant of the judiciary or it originated with the judiciary, but it was not unique by itself and distinguished from him except in the days of the Umayyad state, and the owner of the police in Cordoba used to take the opinion of the community judge in personal status issues that needed a jurisprudential solution that he could not rule on, and here we find that the authority of the police owner and the authority of the judge overlapped with each other, to the extent that Sometimes it is not possible to separate them, but these two positions are entrusted to one person sometimes, for example, Ahmed bin Abdullah bin Musa assumed the position of the owner of the police and the position of judge in the year (367 AH / 977AD) at the same time.

The chief of the guards: the guards are the owners of ambushes who surprise the thieves, and this word is taken from the Holy Qur'an: {And by the night as it departs;} ⁽⁸⁵⁾, called the owner of the city, and in ancient Morocco he was called the ruler, and in Andalusia the owner of the city and (guards of the country) and in Tunisia and Kairouan by the corporal, or by the presenters of the lanes, as well.

One of his names is the police or the owner of the prison. And Al-Asas: circumambulation at night to follow the people of doubt, he says: May it be, may it be, or the circumambulation.

The Al-Asas system in Andalusia does not differ from it in the East except in the name, as the Al-Asas system in Andalusia was known as the Drabeen, because the countries of Andalusia have closed paths that close after dark, and every alley has a hanging lamp and

a prepared weapon, due to the cunning of its people and the abundance of their wickedness.

They supervise the police to implement judicial rulings.

Just as the function of the security guards in the Abbasid state and Cordoba was similar, the work of the night guards was roaming the roads and streets checking the doors of the houses, making sure that they were closed, and also making sure of the safety of the shutters of the doors of the shops, shops, and stores. Their mission and duties did not go beyond being a night police force, because the crime does not happen at night, as the policeman undertakes the news about it, provides the incident information, and arrests the criminals and the accused, and the police undertakes its comments and procedures during the day.

They are therefore a group that helps the owner of the police in his work to control security and maintain order, and whose mission was to guard the houses, markets, and the gates of the city from thieves in order not to steal them and to establish security and comfort for the residents of the city. He takes it off so that people know him.

These bastards had salaries disbursed from the treasury. Likewise, they had specific working hours, and whoever among them worked at other than those scheduled times, his own wage was calculated for him. Likewise, the agents who went out to the desert had a higher wage than those who work inside the city and the jurists determined that. All types of police (major, minor and middle), are agents who help him, and have in their person traits and qualities that distinguish them from other state employees.

One of the most important features of the owner of the police is that he does not assume this position from those who have bad manners or talk a lot or are impolite, because these are immoral, and it is not possible for a helper to speak to a woman unless he is known to be chaste and chaste, and he is an old man, because he is the subject of bribery, suspicion and debauchery. Because if he was a young man, the first thing he would do was to woo her, wish her, and deceive her. Then he made matters worse: to anticipate this matter, and to prevent it in one sentence.

Sometimes there is interference by the caliph with the work of the guards, including the narration that mentions the mediation of Abu Hanifa al-Numan to his cobbler neighbor to the prince to order his release from prison after he was arrested by the guards: So he asked about him, and it was said that the groom took him nights ago while he was imprisoned. So Abu Hanifa prayed at dawn and rode his mule and asked permission for the prince. When he entered, a neighbor of a cobbler told me that the groom took him nights ago, ordering the prince to release him.

It is clear that the police system in the Abbasid state or the city of Cordoba was not established with its powers and specializations at once. Rather, his competencies evolved from the police to the hisbah to what is called the police and its chief who is called the owner of the police, and what was closely linked to this plan, such as the plan of circling at night or the security, and whatever the names of the police owner differed from time to

time and the development of its functions, but his job was it is based on the establishment of security and order in the state.

II. Conclusion

The research showed the fundamental difference between the position of the chief judge in the East and the position of the congregational judge in Andalusia, so the chief judge in Baghdad is the judge of the entire state, and other judges in the regions are his deputies, who are appointed and dismissed by his order, while the judge of the congregation in Andalusia, his authority was limited Over the capital, Cordoba, and its environs only, and this means that he had no authority over the rest of the judges in the Andalusian provinces or provinces, as they are independent by themselves and are not his deputies.

Thus, it was finding that the judiciary in the East was characterized by a central character, while in Andalusia it is decentralized.

The judiciary in Cordoba is distinguished by the existence of the right of appeal, so the opponent who is not satisfied with the judge's ruling can complain before another judge who is called the respondent. The matter was unique to Cordoba and not to the East - Baghdad - and for this reason; Al-Mawardi did not mention it in his book (Al-Ahkam Al-Sultaniyyah).

The executive system in the Levant - Baghdad - did not distinguish between all classes of society from the background to the simple citizen, for everyone would attend the judiciary if summoned by the judges' assistants, but we found in Andalusia - Cordoba - that the executive system in it is stratified according to the classes of society, so there was the police There is no doubt that this class division of the police is inconsistent with the teachings of Islam, which do not differentiate between one Muslim and another.

Thus, we saw the independence of the judiciary from the executive authority in both Baghdad and Cordoba.

The term al-Muhtasib was widespread in the East for those who monitor markets, public order and interests, and in contrast to him in Andalusia he was called the owner of the market, and the term al-Muhtasib was transmitted to Andalusia in a late period in the sixth century AH.

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Footnote

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