

El-Merheb, Mohamad (2019) Islamic Political Thought: Competing Conceptions of the Rule of Law in the Middle Period. PhD thesis. SOAS University of London. <http://eprints.soas.ac.uk/32307>

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*Islamic Political Thought:
Competing Conceptions of the Rule
of Law in the Middle Period*

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Thesis submitted for the degree of PhD

2019

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Abstract

This thesis argues that the rule of law, limited government, and the theory of delegation were the main concerns of the political thought of the late Ayyubid and early Mamluk period (c. 1230 to 1330). It interprets and reclassifies Islamic authors outside the prevalent scholarly focus on genre and caliphal authority as two perennial themes of the history of Islamic political thought. The thesis in particular examines the interrelatedness between the production of political thought and the competition among the four legal schools (*madhhabs*) that intensified during this period. Authors with *adabised* and administrative outlooks presented distinct Shāfiī, Ḥanafī, Sufī, Mālikī, and Ḥanbalī strains of political thought, which resembled competing proposals for an official *madhhab* of the state, or an official law, or a set of constitutional guidelines to be followed by the rulers. The thesis explains how these authors emphasised the exceptionality of their political ideals, to whom they elected to present their works, and what they expected in return both individually and as members of wider social groups.

Examining developments in intellectual history with a context of political and social histories entails the use of literary sources to understand the authors, the intellectual discourses of the period, the competition for salaried posts and patronage, and the use and misuse of theological and legal discourses in politics. This research refutes the notion that the Ayyubid and Mamluk period was one of intellectual paucity with few exceptions and argues instead that it was an opulent period with original and varied expressions of political thought. It relies on a wide corpus of manuscript sources of which many are unknown or understudied including political treatises, statecraft manuals, and mirrors for princes. It fills a significant gap in the study of the history of political thought between the classical and modern periods of Islam.

Aknowledgements

This work is dedicated to Mona and Rasheed. Thank you for being awesomely supportive.

This thesis could not have been completed without my advisor and mentor, Konrad Hirschler. I owe him an - ever increasing- debt of gratitude for the constant encouragement, guidance in developing my argument, patience in reading and commenting on my chapters, motivation in discussing, challenging, and refining my ideas. I thank him for helping me identify and obtain MS sources, participate in research forums in the UK and internationally, and publish my first article.

I am deeply grateful to my advisor Roy Fischel for all the support including listening, reading, and commenting, for his guidance and kindness, and for making the submittal stage an enjoyable experience.

The indispensable assistance and constant support of my advisor and mentor Hugh Kennedy throughout my MA and PhD studies was a real privilege. I would particularly like to thank him for giving me great opportunities to advance my teaching experience and for providing vital support to my research activities.

During the last year of my PhD studies, I was fortunate to receive the support of the Institute of Historical Research (IHR). I'm truly grateful to Jo Fox and my IHR Fellows for giving me the opportunity to present, discuss, and develop my research in such a unique and stimulating environment.

Other friends and colleagues have greatly helped in various ways including Gowaart Van Der Bush, Mehdi Berriah, and my doctoral cohort at SOAS.

I am indebted to Tayeb El-Hibri for initiating me to the history of Islamic political thought and for the important part he played in the shaping of my thesis. I am equally very grateful to John Meloy who directed my first ventures

into Mamluk history and Nadia Maria El Cheikh, both for many years of kindness, support, advice, and hospitality. I would also like to thank Bilal Orfali for his constant support.

I'm very grateful to Nathan Hofer for his valuable and encouraging feedback, Quentin Skinner for the opportunity to join his class at QMUL, and Radwan al-Sayyid for familiarising me with a treasure of medieval political treatises. I hope the influence of these three great scholars on my thesis will be discernable to the reader.

My work owes a great deal to the wonderful staff of the SOAS Library. I also thank the staff of the British Library, the Bodleian, and the Topkapi Palace directorate, especially Mrs. Esra Müyesseroglu. I'm indebted to Suzanne Ruggi who read every part of my thesis.

I benefited from feedback and discussions at the colloquia where I presented parts related to my thesis. I am thankful to the organisers and participants of the Third Annual Conference of the British Association for Islamic Studies in London, the Fourth and Fifth Conferences of the School of Mamluk Studies in Beirut and Ghent, the workshop *Ġihād et fitna* at the Sorbonne, the *Criticizing the Ruler* Conference in Bonn, the *Arabic Past*s at the Agha Khan University, and the IHR Fellows Seminar in London.

Table of Contents

DECLARATION FOR SOAS PHD THESIS	2
ABSTRACT	3
AKNOWLEDGEMENTS	4
TABLE OF CONTENTS	6
INTRODUCTION	8
EXPRESSIONS OF POLITICAL THOUGHT.....	16
IGNORED LITERARY SOURCES.....	24
CHRONIC IMPEDIMENTS IN THE HISTORY OF ISLAMIC POLITICAL THOUGHT.....	33
<i>The longue durée approach</i>	34
<i>Imposed paradigms</i>	37
<i>The fall of Baghdad watershed</i>	40
<i>The lure of the genre</i>	41
<i>The primacy of political philosophy</i>	46
A NEW VENTURE.....	48
THIS WORK.....	58
<i>Methodology and argument</i>	59
<i>The madhhabs</i>	61
<i>Synopsis of the chapters</i>	65
CHAPTER 1- REMEMBRANCE, PRESERVATION, AND PERFORMANCE OF SHĀFI'Ī	
POLITICAL THOUGHT	68
AL-SUBKĪ'S REMEMBRANCE OF IBN 'ABD AL-SALĀM.....	70
<i>The sources</i>	73
<i>A Shāfi'ī Lieu de Memoire?</i>	77
<i>Politics and madhhabs</i>	79
<i>Conventions preserved</i>	82
THE CONTOURS OF SHĀFI'Ī POLITICAL THOUGHT.....	88
(1) <i>De-legitimation of sultan Al-Şāliḥ Ismā'īl</i>	89
(2) <i>Moderating rulers: the reign of Al-Şāliḥ Ayyūb</i>	91
(3) <i>Caliph, sulṭān, umarā', and 'ulamā'</i>	95
(4) <i>Defending the populace</i>	98
(5) <i>Baybars: Legitimation and competition</i>	103
(6) <i>Clash of umarā' and 'ulamā'</i>	106
SHĀFI'Ī POLITICAL THOUGHT IN A LATER SUBKĪ WORK.....	109
SUMMARY AND CONCLUDING REMARKS.....	111
CHAPTER 2- SYNTHESIS AND PRAXIS OF SHĀFI'Ī POLITICAL THOUGHT: IBN	
JAMĀ'A	114
IBN JAMĀ'A: A BIOGRAPHY.....	118
THE POLITICAL THOUGHT OF IBN JAMĀ'A.....	127
<i>Beginnings: the Mustanad</i>	130
<i>Crystallisation: the Mukhtaṣar</i>	133
<i>Synthesis: the Tahrīr</i>	136
Political Authority: imām, caliph, and sulṭān.....	137
The Tahrīr on leading offices and administration.....	150
The codification of the rules of war.....	154
THE PRAXIS OF IBN JAMĀ'A'S POLITICAL THOUGHT.....	157
CONCLUSION.....	164

CHAPTER 3- AN EARLY ḤANAFĪ BID FOR OFFICIAL MADHHAB STATUS.....	167
AUTHOR, ḤANAFISM, AND TIME	169
BAYBARS' SECOND COUP	173
THE ḤANAFĪ LATE ACKNOWLEDGEMENT	182
THE TAḤRĪR'S INFLUENCE ON THE TUḤFA.....	195
CONCLUSION.....	206
CHAPTER 4- SUFI POLITICAL THOUGHT	210
THE SUFIS AND THE PRODUCTION OF POLITICAL THOUGHT	213
SUFISM AND POLITICS.....	218
MİŞBĀḤ AL-HIDĀYA: SUFI POLITICAL THOUGHT	224
COERCIVE AUTHORITY.....	229
THE RULE OF LAW IN THE MİŞBĀḤ	235
<i>i) Ethics and practical philosophy.....</i>	<i>237</i>
<i>ii) Ruler's conduct.....</i>	<i>239</i>
THE THEORY OF DELEGATION	243
THE PRIMACY OF SUFIS	246
CONCLUSION.....	249
CHAPTER 5- THE MĀLIKĪ, ḤANBALĪ, AND UNAFFILIATED STRAINS.....	253
THE MĀLIKĪS: THE RULE OF LAW THROUGH LEGAL DIVERSITY	256
THE POLITICAL THOUGHT OF IBN TAYMIYYA'S ḤANBALISM.....	266
UNAFFILIATED POLITICAL THOUGHT.....	272
AL-'IQD AL-FARĪD: THE FUSION OF GENRES, STYLES, AND AIMS	277
<i>Al-'lqd al-farīd: Author, genres, and aims.....</i>	<i>279</i>
<i>Al-'lqd al-farīd: The mirror.....</i>	<i>284</i>
<i>Al-'lqd al-farīd: The political treatise.....</i>	<i>286</i>
<i>Al-'lqd al-farīd: The contours of the shari'a.....</i>	<i>292</i>
<i>Concluding remarks on the unaffiliated tradition.....</i>	<i>294</i>
SUMMARY AND CONCLUDING REMARKS.....	300
BIBLIOGRAPHY	309
PRIMARY SOURCES	309
SECONDARY SOURCES	312

Introduction

This thesis is about the history of political thought of the late Ayyubid and early Mamluk period. It examines diverse expressions and manifestations of political thought in the period, which approximately stretches from 1230 to 1330. It aims to present a new approach to understanding the works of advice literature, including political treatises, statecraft and administrative manuals, and mirrors for princes authored in this period in order to highlight the development of new political ideas that were hitherto ignored by the existing scholarly works.

The thesis will in particular examine the interrelatedness between political thought and the competition among the four legal schools of Sunni Islam (*madhhabs*) that intensified during this period. Authors of political texts presented to their audiences and dedicatees competing strains of political thought representing different social and scholarly groups and *madhhabs*. I posit that authors with *adabised* and administrative outlooks presented distinct Shāfiī, Ḥanafī, Sufī, Mālikī, and Ḥanbalī versions of political thought. Their works resembled competing proposals for an 'official *madhhab*' of the state or the ruler, or a 'public law of the state', or a set of political and constitutional guidelines to be followed by the rulers. Such works often were put forward to an audience within the ruling and intellectual elite, either in stark or subtle contest with the other strains. As such, this present work attests to the agency of various individuals and groups in authoring and presenting political works that resulted in a period rich with political thought production.

Whether the efforts of these thinkers represented genuine constitutional concerns or were merely formulaic and panegyric in nature is a core question that will be addressed throughout the thesis. Furthermore, this research will explain how those authors expressed and emphasised the exceptionality of their political ideals, to whom they elected to present their

works, and what they expected in return both individually and as members of wider social groups.

In so doing, the present work will challenge existing methodologies and assumptions still prevalent in the field of study of the history of Islamic political thought. In particular, it will argue against the postulation that the high medieval period was a period of “paucity” in political thought with only “two exceptions” after al-Ghazālī (450/1058-505/1111), namely Ibn Khaldūn (732/1332- 808/1406) and Ibn Taymiyya (661/1263- 728/1328).¹ This work will also contest the prevalent scholarly fixation on the study of the literary genre of the sources instead of the political ideas they expressed. This has impeded the development of this field for too long, as will be discussed below.

The political ideas expressed in political treatises and mirrors for princes will be the main focus of this research, although other sources will be used as well. Ibn Jamā‘a’s (639/1241- 733/1333) *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām* (Drafting ordinances towards running the affairs of the people of Islām) will be discussed as the synthesis of the Shāfi‘ī strain of political thought of the period. Al-Ṭarsūsī’s (d. 758/1357) *Tuḥfat al-Turk fī-mā yajib an yu‘mal fī-al-mulk* (The guide to kingship as a gift to the Turks) will be treated as an early Ḥanafī pitch to become the official *madhhab* of the state. *Miṣbāḥ al-hidāya fī ṭarīq al-imāma* (The guiding lamp to the path of the *imāma*) is a Sufi literary expression of political thought dedicated by an unknown author probably to al-Ẓāhir Baybars (r. 658/1260- 676/1277). The Mālikī contribution will be covered through al-Qarāfī’s (626/1228- 682/1283 or 684/1285) *al-Iḥkām fī tamyīz al-fatāwā ‘an al-aḥkām wa-taṣarrufāt al-qāḍī wa- al-Imām* (The

¹ “The paucity of political writing in Mamluk Egypt and Syria stands in sharp contrast to the exorbitantly rich contemporary historiographical and secretarial literature”, in Ulrich Haarmann, “Rather the Injustice of the Turks than the Righteousness of the Arabs --Changing ‘Ulamā’ Attitudes towards Mamluk Rule in the Late Fifteenth Century,” *Studia Islamica* 68 (1988): 61; refer to p.xii of the introduction of Gerhard Böwering, Patricia Crone, and Mahan Mirza, eds., *The Princeton Encyclopedia of Islamic Political Thought*, Princeton Reference (Princeton, NJ: Princeton University Press, 2013).

book of perfection in distinguishing legal responsa from judicial decisions and the discretionary actions of judges and caliphs).² The works of Ibn Taymiyya will also be briefly examined as the most prominent Ḥanbalī expression of political thought in the period. Finally, this thesis will examine one treatise, *al-ʿIqd al-farīd li-al-malik al-saīd* (The unique necklace for a content king) by Ibn Ṭalḥa (582/1186 or 87- 652/1254) as a sample of unaffiliated works of political thought that were not concerned with *madhhab* competition.

The above sources are not randomly selected. In addition to chronological and geographical considerations, the selection of the treatises is based on the backgrounds of the authors, their intended audiences and dedicatees, their aims in writing, the literary styles they opted for, their adherence to specific legal and intellectual currents, and -most importantly- the main political ideas they treated. All selected treatises were authored in the Syro-Egyptian lands during the late Ayyubid and early Mamluk period. Their authors are known to be jurists or – as in the case of the Sufi *Miṣbāḥ* – clearly trained as jurists. Each of these authors belonged to a different intellectual or legal tradition and, with the exception of Ibn Jamāʿa, they all displayed a desire to compete with other traditions. Furthermore, the treatises' intended audiences were Ayyubid or Mamluk rulers and ruling elites of Syria and Egypt. Another relevant selection criteria is that these works were not presented to their audiences and dedicatees as mere panegyrics or works of flattery as they did not shy away from passing criticism or calling for accountability; nor were they authored for the sole purposes of critique, satire, or to threaten in any way the stability of the realm or the legitimacy of a ruler. Moreover, the selected works were not diplomatic exchanges concerned with reflecting certain images or ideologies of power. The selected works were all

² The translation of the title is from Sherman A. Jackson, *Islamic Law and the State: The Constitutional Jurisprudence of Shihāb Al-Dīn Al-Qarāfī*, Studies in Islamic Law and Society, v. 1 (Leiden ; New York: E.J. Brill, 1996), p. xix.

dedicated treatises that expressed clear political ideals using well-founded and recognizable legal and ethical languages. Most importantly for this thesis, these treatises are considered works of Islamic political thought since, as professed by their authors, they all dealt with the legitimacy of the rulers, the limit and origins of their power and authority, ideal governance, justice, taxation, and other similar themes.

In addition to the above-mentioned sources, this thesis will refer to other channels of articulating political thought that have been ignored by scholarship owing to the absence of a clear definition of medieval Islamic political thought. No comprehensive definitions were provided in existing authoritative scholarly works, which simply referred to the “theory of the caliphate”, “art of government”, “advice to rulers”, “the theory of the jurists”, “the theory of the philosophers”, “the literary theory” and the “*imāma* and *mulk*”.³ Such reduced definitions overlook a variety of important literary and non-literary expressions of political thought. As such, a prerequisite to discussing these expressions is the identification of an accommodating definition of political thought.

Defining political thought in a field as vast as the medieval Islamic world is a hazardous endeavour. With the political, religious, moral, spiritual, theological, and the practical all encroaching on my attempts to identify an existing suitable definition in the available literature, I eventually opted to construct an all-inclusive one befitting of medieval Islamic urban centres. These centres hosted a sophisticated social fabric: various ethnic groups spoke multiple languages and practised different religions with contrasting

³ “Political thought at first centres round the caliphate and is, in fact, a theory of the caliphate, its origin and purpose” in Erwin I. J. Rosenthal, *Political Thought in Medieval Islam: An Introductory Outline* (Cambridge: Cambridge University Press, 1958), p.3-5; Ann K. S. Lambton, *State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory; the Jurists*, Reprinted, London Oriental Series 36 (Oxford: Oxford University Press, 1991): refer to xiv-xvii; Patricia Crone, *Medieval Islamic Political Thought*, Paper ed, The New Edinburgh Islamic Surveys (Edinburgh: Edinburgh Univ. Press, 2005), p.7-8.

ideological affiliations amid a high literary and architectural culture, and an ever contested political sphere. As such, I propose a definition that encompasses this rich social milieu. Hereafter, political thought in the late Ayyubid and early Mamluk period refers to any idea dealing with the origins of a state or a polity, the legitimacy of the ruler and the ruling elites, the limit of their power and authority, the relations between rulers and the people they ruled, the exercise of power and governance and, accordingly, justice, individual and group rights – both religious and non-religious – the distribution of wealth, and themes of a constitutional nature. This definition applies to any channel or form of expression be it common among the intellectual and ruling elites or lay individuals, and whether it is expressed in high literary or material culture, or even spontaneously in the streets.

The term constitutional is also carefully demarcated here. So far, ‘Islamic constitutional thought’ has either been used by authors unreservedly, like Rosenthal who used it interchangeably with ‘Islamic political thought’, or surgically, like Sherman Jackson, who limited his use to the legal field by arguing for a ‘constitutional jurisprudence’ that impacted the caliph’s authority.⁴ In this research, however, constitutional simply denotes three interlocked basic concepts: the rule of law, limited government, and delegation of power. I do not suggest an ahistorical linking of those themes to the ideas of Thomas Hobbes, Samuel Rutherford, John Locke, Jean-Jacques Rousseau, John Adams, and others. The rule of law refers here simply to attempts by medieval Islamic thinkers to restrict the arbitrary exercise of power by referring to broad and recognised Islamic legal, moral, and social concepts including the *sharīʿa*, justice, and guarantee of private life and

⁴ Rosenthal, *Political Thought*: example p.5 of the introduction. Also refer to A. Jackson, “From Prophetic Actions to Constitutional Theory: A Novel Chapter in Medieval Muslim Jurisprudence,” *International Journal of Middle East Studies* 25, no. 1 (1993): 71–90 and *Islamic Law and the State*; these two works will be discussed in detail in Chapter 5.

property.⁵ Similarly, limited government refers in this research to restraining the discretionary exercise of power by implementing a division of political, judiciary, and administrative labour that was now possible owing to the sophistication of the state administration and by newly emerging priorities of juridical discourse. Delegation of power refers to careful attempts made to secure a durable and legitimate transfer of the original caliphal powers to different political, legal, and administrative authorities. The significance of this demarcation will become clearer as these three constitutional themes surface in subsequent discussions.

The above delimitation of the term “constitutional” is necessary in order not to impose ahistorical paradigms on the authors of the period. Quentin Skinner, the intellectual historian of early-modern Europe, advised focusing on “the writer's mental world, the world of his empirical beliefs” as a prerequisite to interpreting a political text.⁶ This recommendation is useful to avoid ascribing to a text or an author an idea that they could not possibly have held.⁷ This could be simply because such ideas were not known or available to them. Consequently, any interpretation of a political treatise drafted by a jurist, for example, should take into consideration what ideas were available to him every day in the souk, mosque, *madrassa*, street, citadel, tavern, and chancery, or even better in the library that he frequented.

⁵ Lambton mentioned limited government in a discussion focused on obedience and rebellion. She stated “Normally the subject owes a duty of complete and unquestioning obedience to the Imam. If, however, the Imam commands something that is contrary to God's law, then the duty of obedience lapses, and instead it is the duty of the subject to disobey-and resist-such a command. This principle is frequently cited by later writers, but it never became an effective basis for 'limited government' or 'justified revolution' because first the jurists seldom discussed, and never answered, the question of how the lawfulness or sinfulness of a command was to be tested, and secondly no legal procedures or means were devised, or set up, to enforce the law against the ruler”; in *State and Government*, p.63-64. On the other hand, the intended meaning here is simply sharing and curtailing the absolute power of the ruler by passing parts of his executive power to the judiciary and administrative apparatus independently of the question of disobedience and rebellion.

⁶ Quentin Skinner, “Motives, Intentions and the Interpretation of Texts,” *New Literary History* 3, no. 2 (1972), p. 407.

⁷ *Ibid.*, *passim*.

We can catch a better glimpse of the ‘mental world’ of a thirteenth and early fourteenth century Damascene or Cairene author by examining the catalogue of the Ashrafiyya library of Damascus. This library’s eponym is the Ayyubid sultan al-Malik al-Ashraf (d. 635/1237) and it became accessible to the public some years after his death.⁸ This catalogue boasted over seventy titles linked to political thought which is, as Konrad Hirschler noted, a strikingly high number compared to other fields of knowledge.⁹ The books available on the shelves of the library included works attributed to Aristotle, Plato, Socrates, Ibn al-Muqaffa’ (died c. 139/756 or 757), al-Jāhiz (d. 255/868–9), Ibn Qutayba (d. 276/889), al-Fārābī (d. 339/950), Miskawayh (d. 421/1030?), al-Tha’alibī (d.429/1038), al-Māwardī (d. 450/1058), Abū Ya’lā (d. 458/1066), al-Ghazālī (d. 505/1111), al-Ṭurṭūshī (d. 520/1126), and Sibṭ Ibn al-Jawzī (d. 654/1256), in addition to epistles and testaments ascribed to Abū Bakr, ‘Umar, ‘Alī, ‘Umar b. ‘Abd al-‘Azīz, Aḥmad b. Ṭūlūn, al-Ma’mūn, Ardashīr, Anūshirwān, Khusraw, and to Indian kings. Furthermore, the catalogue boasted a collection of statecraft and administrative manuals and mirrors for princes by a variety of known and unknown authors.¹⁰

⁸ The catalogue itself, however, dates from the early Mamluk period; Konrad Hirschler, *Medieval Damascus: Plurality and Diversity in an Arabic Library: The Ashrafiyya Library Catalogue*, Edinburgh Studies in Classical Islamic History and Culture (Edinburgh: Edinburgh University Press, 2016), p. 40-42.

⁹ Ibid., p.37-38.

¹⁰ The following entries figure in the catalogue: the *Siyāsa* or *Sirr al-asrār: al-siyāsa wa-al-farāsa fī tadbīr al-rī’āsa* (Politics), *Risālat Aristātālīs ilā al-Iskandar* (Aristotle’s epistle to Alexander the Great) attributed to Aristotle; *‘Ahd Adriyānūs al-Malik ilā ibnihi* (The Testament of King Hadrian to His Son) and *Risāla fī al-‘uhūd al-yūnāniya* (A Treatise on the Greek Testaments) attributed to Plato; *Risālat Suqrāṭīs fī siyāsat al-malik* (Socrates’ epistle on the ruler’s governance) attributed to Socrates; *‘Ahd Ardashīr* (The Testament of Ardashīr), *Risālat Ibn al-Muqaffa’ fī ādāb al-wuzarā’* (a Treatise on the Rules for Viziers), *Ādāb Ibn al-Muqaffa’ al-kabīr*, *al-Yatīma fī siyāsat al-mulk* (The Unique [Pearl] on the Conduct of Kingship) by Ibn al-Muqaffa’ (died c. 139/ 756 or 757); various works of al-Jāhiz (d. 255/868–9); *‘Uyūn al-akhbār* (Choicest reports) of Ibn Qutayba (d. 276 / 889); *Khidmat al-mulūk* (Service of Rulers) of al-Sarakhīsī (d. 286/899); *Majmū’ Akhlāq al-mulūk* (Multiple-Text Manuscript with The Morals of the Kings) of Muḥammad b. al-Ḥārith al-Tha’labī (fl. 3rd/9th c.) (attr. to al-Jāhiz); *al-Siyāsa* ([Communal] Governance) of al-Fārābī (d. 339/950); *Muntakhab Jāwīdhān* (Choices from The Eternal Wisdom) Miskawayh (d. 421/1030?); *Ādāb al-mulūk* (Rules for Kings) of al-Tha’alibī (d.429/1038); *Min al-Ṣāhil wa-al-shāhij* ([Parts] of The Neigher and the Brayer) of

The catalogue reflected the priorities of the ruling, administrative, and cultured religious elites.¹¹ The library was consulted by rulers, *adabised* ‘*ulamā*’ and administrators, other cultivated civilians, and some prominent military individuals.¹² The catalogue suggests that attention to the administrative arts is essential to good governance, as reflected by the multitude of administrative handbooks covering *kharāj*, chancery composition, the selection and proper conduct of viziers and secretaries, and the process of dispensing justice. The abstract themes of justice, distribution of wealth, selection of companions and high officials, and court etiquette are, likewise, present. The catalogue shows that those concerned with political thought were able to consult a variety of genres and sources from various traditions.¹³

Abū al-‘Alā’ al-Ma‘arrī (d. 449/1058); *Adab al-dīn wa-al-dunyā* (On Conduct in Religious and Worldly Matters), *Qānūn al-wizāra* (Ordinance of the Vizier’s Office) and *Tashīl al-naẓar wa-ta’jīl al-ẓafar* by al-Māwardī (d. 450/1058); *Rusul al-mulūk* (The Kings’ Envoys) and *Min al-Aḥkām al-sulṭāniya* ([Parts] of The Ordinances of Government) of Abū Ya‘lā Ibn al-Farrā’ (d. 458/1066); *Ihyā’ ‘ulūm al-dīn* (The Revival of the Religious Sciences), *Maqāsid al-falāsifa* (The Philosophers’ Intentions), the *Mustaẓhirī* in different titles by al-Ghazālī (d. 505/1111); *Sirāj al-mulūk* (The Light for Kings) of al-Ṭurtūshī (d. 520/1126); the sermons of Ibn al-Jawzī (d. 597/1200); *al-Jalīs al-ṣāliḥ* of Sibṭ Ibn al-Jawzī (d. 654/1256); various epistles and testaments attributed to Ardashīr, ‘Alī b. Abī Ṭālib, al- Ma‘mūn, Anūshirwān, and Khusraw; *Ḥadīth malik min mulūk al-hind*, a book of wisdoms attributed to an Indian King; and various other collection of titles like *Sīrat Aḥmad b. Ṭūlūn* (The Life of Aḥmad b. Ṭūlūn). The focus on the administrative arts as an essential part of good governance is reflected in the multitude of administrative handbooks covering *kharāj*, the art of chancery writing and composing letters, the proper conduct of viziers and secretaries like, for example, *Ādāb al-wuzarā’ wa-al-kuttāb* (Rules for Viziers and Secretaries) of al- Jahshiyārī (d. 331/942), the selection of viziers, military manuals, and various titles on dispensing justice like *Adab al-mazālim* (The Manual for Dispensing the Ruler’s Justice); and other intriguing titles like *Irshād ilā mā laysa li-l-salāṭīn tafwīduhu ilā al-quḍāt* (Guidance on What Rulers Cannot Delegate to Judges by unknown authors). There are likewise several titles of mirrors for princes by unknown authors.

¹¹ The library was mostly based on the two private collections of al-Ashraf and the son of al-Qādī al-Fāḍil (529/1135- 596/1200), the prominent Ayyubid administrator; Hirschler, *Medieval Damascus: Plurality and Diversity*, p.27-32.

¹² Most of the books had previously been in the private court library of al-Ashraf though we do not know exactly which.

¹³ So comprehensive is the Ashrafiya collection that my attempts to trace the sources and influences of the political treatises covered in the present study always showed the use of some material from one or more of the Ashrafiya titles (such effort will surely yield better results with the advent of digital humanities). It is also very useful to compare this list of the Ashrafiyya catalogue to second chapter, entitled “Sources and authorities: the living meaning of ancient wisdom” of the second volume of Louise Marlow’s latest work, *Counsel for Kings*:

One can visualise an author like Ibn Jamā‘a browsing the shelves of this or a similar library in Damascus and Cairo.

There are clues in the Ashrafiyya catalogue to captivate any historian of political thought. They point to a highly proficient readership that faced similar academic challenges to ours. Remarkably, one such clue is the mirror for princes wrongly attributed to al-Ghazālī, which the mystery of its authorship has since been resolved as will be discussed subsequently.¹⁴ There are two entries in the catalogue referring to this work: one is *Kitāb naṣīḥat al-mulūk* (Book of council for kings) by al-Ghazālī, while the second is *Risālat al-Ghazālī*, (al-Ghazālī’s epistle) where the medieval cataloguer noted, *fīhi naẓar* (requires further consideration). This unusual note suggests that a rather average scholar like the cataloguer questioned the attribution of this work (or parts of it) to al-Ghazālī as did later some twentieth century scholars. The likely source of this confusion seems strikingly similar: one part of the book being the mirror and another being a more likely work of an author with al-Ghazālī’s profile.¹⁵ It is captivating that scholars then and now struggled with the same issue of identifying authorship of political texts.

Expressions of political thought

Apart from the usual suspects for studying political thought – libraries and treatises of jurists which are the focus of this thesis – other hitherto ignored simple and popular expressions warrant further attention as legitimate sources of political thought. They include: poetry, shadow drama, architecture,

Wisdom and Politics in Tenth-Century Iran: The Naṣīḥat Al-Mulūk of Pseudo-Māwardī: Contexts and Themes, vol. II, 2 vols. (Edinburgh University Press, 2016), p.35-70. The comparison reflects how the author referred to a very similar corpus of advice literature.

¹⁴ For more on this refer to Carole Hillenbrand, “A Little-Known Mirror for Princes of Al-Ghazālī,” in *Words, Texts and Concepts Cruising the Mediterranean Sea: Studies on the Sources, Contents and Influences of Islamic Civilization and Arabic Philosophy and Science; Dedicated to Gerhard Endress on His Sixty-Fifth Birthday*, ed. Rüdiger Arnzen, Jörn Thielmann, and Gerhard Endreß, *Orientalia Lovaniensia Analecta* 139 (Leuven: Peeters [u.a.], 2004), 593–601.

¹⁵ Patricia Crone, “Did Al-Ghazālī Write a Mirror for Princes? On the Authorship of Naṣīḥat Al-Mulūk,” *Jerusalem Studies in Arabic and Islam* 10 (1987): p.169-170.

anecdotes, customs, and rituals. By simple, I mean uncluttered, straightforward, and able to reach wider audiences than libraries. Erecting a mausoleum, for example, is no simple architectural undertaking, but is nonetheless a forthright expression of a particular hierarchy and legitimacy since it is visible to any onlooker. By popular, I mean an expression of political thought, by one person or by a group of individuals, which is within reach of all strata of the society.¹⁶ A poem or slogan recited in the streets of Cairo, for instance, was within reach of various social groups, literate or not. Such expressions of political thought are not to be taken as a contrast to the high literary treatises and mirrors authored by jurists, administrators, and courtiers. On the contrary, members of the elites and their entourages produced much in the way of simple and popular expressions of political thought.

In what follows, I will examine six of those simple and popular expressions of political thought starting with poetry. They will not be covered in the thesis, yet I still wish to indicate their value in the study of the period's thought. A brilliant specimen from this period is the *urjūzat Niṣf al-ʿaysh fī tadbīr hādhihi al-ḥayāt* (*The metric poem [entitled] half of [one's] life is based on his proper administration*) composed by Ibn al-Waḥīd (647/1249 or 1250- 711/1311 or 1312).¹⁷ The author was an *adabised* secretary who worked in the chancery and in the Ḥākīm mosque of Cairo; in addition to being a poet and a renowned calligrapher, he was proficient in languages and excelled in decrypting

¹⁶ Here, I adopt Nathan Hoffer's meaning of popularisation of Sufism in the 13th century that permeated all levels of society, "elite and non-elite alike" and, furthermore, highlighted the agency of Sufis, both individual and collective, to complete the process of popularisation. Refer to Nathan Hofer, *The Popularisation of Sufism in Ayyubid and Mamluk Egypt, 1173-1325* (Edinburgh: Edinburgh University Press, 2015), p.6.

¹⁷ The poem's title is based on a rearrangement of the following weak *ḥadīth*, "proper administration is half of one's life". It is available as a beautiful manuscript copied in 697/1297 in Leipzig; Ibn al-Waḥīd, "Al-Urjūza al-ma'rūfa bi-Niṣf al-ʿaysh fī tadbīr hādhihi al-ḥayāt" (University Library of Leipzig, 1297), Vollers 553. It is also available in a good edition, *Niṣf Al-ʿAysh*, ed. ʿĀdil al-Bakrī (al-Mawṣil: Maṭbaʿat al-Jumhūriyya, 1969).

scripts.¹⁸ Ibn al-Waḥīd dedicated *Niṣf al-‘aysh* to the sultan al-Ashraf Khalīl Ibn Qalāwūn (r. 689-93/1290-3) and explained that it was a mere abridgement of previous wisdom. Political thought emerges as Ibn al-Waḥīd presents his poem as being useful to preserve the rule of his dedicatee. Furthermore – and despite the prevailing non-religious tone of his work of *adab* – in the strictest courtly and panegyric sense, Ibn al-Waḥīd advanced political ideas like, for instance, the necessity of consulting with the ‘*ulamā*’ in order to achieve regnal longevity:¹⁹

It [this *urjūza*] comprises the rules of magnificent kings
Who ruled according to the counsel of the ‘*ulamā*’
So they discerned the proper rule after blindness
And so they achieved perpetuity and prosperity
They marked the earth with the best of deeds

Shadow plays have been well studied as a creative artistic expression of the Mamluk period, and they should be similarly considered as a source of political thought. In Ibn Dāniyāl’s (d. 710/1310) play *Ṭayf al-khayāl* (The spectre of imagination), one can easily discern the political themes expressed

¹⁸ “Muḥammad Sharaf al-Dīn Ibn al-Waḥīd, a renowned calligrapher, knew that his Qur’āns would fetch a good sum given his reputation. He is said to have commissioned his students to mimic his writing and sell the Qur’āns as his own work to fetch higher prices. Furthermore, he was a poet whose command of poetry was the subject of some controversy. Ibn al-Waḥīd was once accused, probably by jealous peers, of unbelief and penning the Qur’āns in wine. For more on his biography refer to: ‘Ādil al-Bakrī’s edition p.9-12; Ibn Ḥajar al-‘Asqalānī, *al-Durar al-kāmina fī a’yān al-mi’a al-thāmina*, 4 vols. (Beirut: Dār al-Jīl, 1993), v.3, p.453-456; al-Kutubī, *Fawāt al-wafayāt*, ed. Iḥsān ‘Abbās, 5 vols. (Beirut: Dār Ṣādir, 1973), v.3, p.390-391; al-Ṣafadī, *al-Wāfi bi-al-wafayāt*, 29 vols. (Beirut: Dār Iḥyā’ al-Turāth al-‘Arabī, 2000), v.3, p.125-127.

¹⁹ Ibn al-Waḥīd, *Niṣf Al-‘Aysh*, ed. ‘Ādil al-Bakrī, p.51-52. For an instructive discussion on the public communication of advice via panegyric poetry refer to Louise Marlow, “Performances of Advice and Admonition in the Courts of Muslim Rulers of the Ninth to Eleventh Centuries,” in *In the Presence of Power: Court and Performance in the Pre-Modern Middle East*, ed. Maurice A. Pomerantz and Evelyn Birge Vitz (New York: New York University Press, 2017), p.66-67. Also refer to Julie Scott Meisami, *Medieval Persian Court Poetry* (Princeton, N.J: Princeton University Press, 1987), p.11-12; Meisami noted that the poet’s “panegyric preoccupations were never far removed from didactic ones” and that an important ignored function of court poetry is “moral instruction”.

by an “anti-intellectual”, as Li Guo described the author.²⁰ The play allowed the audience to associate the plot with their daily lives through an abundance of stereotypes of gender, profession, ethnicity, and religion.²¹ Furthermore, the play was motivated by Ibn Dāniyāl’s falling out with sultan Lājīn (r. 696-698/1296–99), the rival of his Qalāwūnid patrons, and it is in this context that one should interpret some of the censure of the sultan and his associates in the play.²² To get a gist of the storyline, it suffices to list some of the play’s characters: Amīr Wiṣāl (Prince of sexual union), the Coptic bureaucrat al-Tāj Bābūj (Crown of slippers), the Arab court poet Ṣurra Ba’r (Pile of dung), the Greek physician Yaqṭinūs (Dr. Squash), and *amīr* ‘Anz al-dīn (the goat of religion).²³ By mixing politics and erotic motifs, stereotypes, and Arabic paronomasia in his treatment of *amīrs* and administrators, Ibn Dāniyāl managed “to remove the aura of ethical perfection from political authority” while still calling for obedience to the ruler.²⁴

Some non-Islamic customs and rituals of succession and legitimacy that were popular amongst Mamluks are considered here as a legitimate expression of political thought. They inform about the ways Mamluks understood legitimacy, succession, and duties and rights of rulers. Throughout the rule of early Mamluk sultans, their slave origin, the continued effective Ayyubid rule in Syria, and the prospect of another Mamluk contender presented perpetual challenges. While the image of defenders of Islam provided partial legitimacy, more “heterodox notions of kingship” drawn from

²⁰ Li Guo, *The Performing Arts in Medieval Islam: Shadow Play and Popular Poetry in Ibn Dāniyāl’s Mamluk Cairo* (Leiden: Brill, 2012), p. viii,

²¹ Amila Buturović, “Truly, This Land Is Triumphant and Its Accomplishments Evident! Baybar’s Cairo in Ibn Dāniyāl’s Shadow Play,” in *Writers and Rulers: Perspectives on Their Relationship from Abbasid to Safavid Times*, ed. Beatrice Gruendler and Louise Marlow, *Literaturen Im Kontext 16* (Wiesbaden: Reichert, 2004), p.149–68 and p.15; for a detailed script of the play refer to “The Phantom: A Shadow Play” in Guo, *The Performing Arts*, p.157-220.

²² Guo *The Performing Arts*, p. ix.

²³ Buturović, “Baybar’s Cairo in Ibn Dāniyāl’s Shadow Play,” p.154-161.

²⁴ *Ibid*, p.163.

Turkic traditions were still necessary.²⁵ Such notions of kingship existed among Turkic and Mongolian peoples and were described by Willem Flinterman as “Altaic”. For instance, the early Mamluks strived to portray themselves as the legitimate successors of the Ayyubid sultan al-Şāliḥ Ayyūb, and some of them genuinely believed in this idea. Three of the early Mamluk sultans, Aybak (648-55/1250-7), Baybars (658-76/1260-77), and Qalāwūn (678-89/1279-90) served al-Şāliḥ Ayyūb and derived various political and administrative traditions from him.²⁶ However, within the “Altaic” tradition of kingship based on shared sovereignty and open succession to all capable males, they viewed al-Şāliḥ Ayyūb as the *pater familias*;²⁷ once dead, both his role and title as father of the family and were up for grabs.

I posit that such notions were reflected in various manifestations and rituals that are expressions of political thought proprietary to early Mamlūks. One notable case is the transfer of al-Şāliḥ Ayyūb’s body to al-Şāliḥiyya mausoleum in 648/1250; the Mamluks closed down Cairo, dressed in white, lamented, and cut their hair over their master’s coffin.²⁸ This did not conflict with their murder of al-Şāliḥ’s Ayyūb’s son Tūrānshāh (r. 1249-1250) since, to them, this was a customary practice for the succession of the father of the family, a family that they, like Tūrānshāh, belonged to and to which they held a legitimate and equal claim. Such an unusual funerary ritual can only be understood as a simple and popular expression of political thought that upheld

²⁵ Willem Flinterman, “Killing and Kinging: Altaic Notions of Kingship and the Legitimation of Al-Zāhir Baybars’ Usurpation of the Mamluk Sultanate, 1249-1260,” *Leidschrift* 27, no. 1 (2012), p.32.

²⁶ P.M. Holt, “The Position and Power of the Mamlūk Sultan,” *Bulletin of the School of Oriental and African Studies* 38 (1975): 238.

²⁷ Flinterman, “Killing and Kinging”, p.39.

²⁸ Ibn al-Dawādārī, *Kanz al-durar wa-jāmi‘ al-ghurar*, vol. 8, 9 vols. (Deutsches Archäologisches Institut, 1960), p.15; Ibn Wāṣil, *Die Chronik des ibn Wasil: Ğamāl ad-Dīn Muḥammad ibn Wāṣil, Mufarriġ al-Kurūb fī Aḥbār Banī Ayyūb: kritische Edition des letzten Teils (646/1248-659/1261) mit Kommentar: Untergang der Ayyubiden und Beginn der Mamlukenherrschaft*, ed. Mohamed Rahim, Arabische Studien, Bd. 6 (Wiesbaden: Harrassowitz, 2010), p.95.

legitimacy and the continuation of power from al-Ṣāliḥ Ayyūb to the Mamluks.²⁹ Another strong indication that the early Mamlūks considered themselves, collectively, as the natural successors of al-Ṣāliḥ Ayyūb is that they murdered their prisoner al-Ṣāliḥ Ismāʿīl, the uncle and arch-enemy of al-Ṣāliḥ Ayyūb.³⁰ As they passed by al-Ṣāliḥiyya with their prisoner the Mamluks shouted heartily: “Where are you o master to see your enemy [captured]!” A few days later they took him from prison and executed him. What fuelled the Mamluks to participate so passionately in their master’s Ayyubid family feuds? The only explanation for this act of revenge is that they wholeheartedly viewed al-Ṣāliḥ Ayyūb as their father of the family.³¹ That was the early Mamlūks’ conception of the origin of their state expressed through simple and popular notions and, as such, represents a source of political thought.³² Essentially, this was a drastically different approach to the constitutional concern for the delegation of power of the political treatises that will be

²⁹ The Mamluks’ self-perceived role as legitimate successors to al-Ṣāliḥ Ayyūb reflected itself in the important functions that were executed in his *madrasa* well into the late Mamluk period. Doris Behrens-Abouseif noted, “The allegiance to al-Salih is confirmed by the status his *madrasa* acquired in the early Mamluk period. Al-Muʿizz Aybak established in its premises the *mazalim* court” until it was transferred by Baybars to the Citadel, “but the *madrasa* continued to be a major tribunal where the chief judges sat, as did Ibn Khaldun when he was appointed chief qadi of the Maliki rite”; in *Cairo of the Mamluks: A History of the Architecture and Its Culture* (London ; New York : I.B. Tauris, 2007), p.114. More will be said about architecture below.

³⁰ Al-Dhahabī, *Tārīkh al-Islām wa-wafayāt al-mashāhīr wa-al-aʿlām*, ed. ʿUmar ʿAbd al-Salām Tadmurī, vol. 47, 53 vols, (Beirut: Dār al-Kitāb al-ʿArabī, 1998), p.61.

³¹ For a useful study on how the Mamluks viewed their system of succession, refer to Amalia Levanoni, “The Mamluk Conception of the Sultanate,” *International Journal of Middle East Studies* 26 (1994): 374 and 378; Levanoni mentions “although the Mamluks seemed to waver between the two extremes of dynastic rule and military oligarchy, they basically preferred the latter because it was consistent with the Mamluk nonhereditary system”.

³² The works of Jo van Steebergen on the socio-political culture and the political order of the Mamluk period are very useful albeit being focused on the later Mamluk period (c. 1341-1382) that immediately follows what this thesis considers the end of the early Mamluk period. Refer to, “Appearances of Dawla and Political Order in Late Medieval Syro-Egypt. The State, Social Theory, and the Political History of the Cairo Sultanate (thirteenth-sixteenth Centuries),” in *History and Society during the Mamluk Period (1250 - 1517)*, ed. Stephan Conermann, *Mamluk Studies* 5 (Göttingen: V&R Unipress [u.a.], 2014), 53–88; *Order out of Chaos: Patronage, Conflict and Mamluk Socio-Political Culture, 1341-1382*, *The Medieval Mediterranean*, v. 65 (Leiden ; Boston: Brill, 2006).

discussed in subsequent chapters.

An additional early Mamluk expression of political thought manifested most flagrantly following Baybars' assassination of Quṭuz. It is at this point that the "law of the Turks" (*asaṭ* or *yāsa*), which dictates that "He who kills the king will be king himself," is first mentioned.³³ The influential *atabak* Aqtāy al-Musta'rib told the Mamluks who had convened to select a successor to the slain sultan, "The *asaṭ* of the Turks dictate that he who has killed the king becomes king"; then he took Baybars by his hand and made him sit on the sultan's cushion.³⁴ This anecdote conveys that the same political ideals of shared sovereignty and open succession were understood both by the Mamluks, as adherents of this tradition, and by their contemporary literary sources and audiences.³⁵

A simple and popular expression of political thought, proprietary to early Mamlūks, is the fabulous story of the "Green City" first related by the chronicler Ibn al-Dawādārī (fl.1309-1335).³⁶ When thirteen Baḥrī Mamluks fled Cairo, God led them to wander in the wilderness of the people of Israel – *tayh banī Isra'īl* where they discovered an ancient city covered by sand.³⁷ There they found nine golden *dīnārs* that they took to a Jewish money-changer in Kerak. The latter told them that the *dīnārs* were minted during the days of Moses, thus the Jews of Kerak were blessed with this find and the Mamluks'

³³ Ulrich Haarmann, "Regicide and 'The Law of the Turks,'" in *Intellectual Studies on Islam: Essays Written in Honor of Martin B. Dickson*, ed. Michel M. Mazzaoui and Vera B. Moreen (Salt Lake City: University of Utah Press, 1990), p.127 and 129.

³⁴ The prominent secretary and chronicler Shāfi' Ibn 'Alī related an early account of this anecdote in *Ḥusn al-manāqib al-sirrīya al-muntaza'a min al-sīra al-Zāhirīya*, ed. 'Abd al-'Azīz al-Khuwayṭir (al-Riyād: Maṭba'at Safīr, 1989), p.67-69. Both Ibn Wāṣil and Ibn 'Abd al-Zāhir's versions convey the same idea although they don't mention "the law of the Turks"; Ibn Wāṣil, *Die Chronik*, p.218. Refer to Amalia Levanoni, "The Mamluk Conception", p.377.

³⁵ Refer to P.M. Holt, "The Position and Power". Holt, likewise, discusses the un-formalised election process that started with Aybak (p.239); he states that "any appearance of dynasticism is, however, specious and misleading" (p.240) and points out that competition was "not open to all" but to a small inner circle of the "Royal Mamlūks" (p.240-241).

³⁶ Ibn al-Dawādārī, *Kanz*, vol. 8, p.26-28.

³⁷ There is no mention in Ibn al-Dawādārī's account of Baybars being among these baḥrīs, unlike what Tarif Khalidi believed; *Arabic Historical Thought in the Classical Period*, Reprinted, Cambridge Studies in Islamic Civilization (Cambridge: Cambridge University Press, 1996), p.189.

presence. God led the Mamluks through this *hijra* as a cleansing process before their destined return to Cairo, the same way the early believers returned to rule Mecca. This anecdote is an attempt to shape a popular early Mamluk historical narrative that secured political legitimation through an emulation of the early models of the *hijra* and the people of Israel's wandering in the desert. Such anecdotes should be considered as sources of political thought, one proprietary to early Mamlūks.

Lastly, architecture was another expression of political thought in this period. While early Mamluk architecture is recognised as an expression of political competition and legitimacy, and as a bridge between the Mamluks and the Ayyubid state, there is still much work to be done in order to understand concurrent and interrelated developments in both architecture and political thought.³⁸ A good example is the Foundation of Baybars al-Jāshankīr (r. 708/1309 to 709/1310), whose reign, as will be discussed later in this work, represented a high point of contending strains of political thought.³⁹ This edifice offers a useful parallel between developments in literary political thought and architecture. The quarter around al-Ṣāliḥiyya was the “symbolic and visual locus for Mamluk claims to power and legitimacy”.⁴⁰ First Shajar al-Durr built a mausoleum for her dead husband al-Ṣāliḥ Ayyūb, which was completed in 1249. This dome was built by the mosque and the *madrasa* of al-Ṣāliḥ Ayyūb in the heart of Cairo (Bayn al-Qaṣrayn), which were themselves completed in the late Ayyubid period around 1243. Later in the period, early Mamluk sultans built their own edifices in the streets around al-Ṣāliḥiyya, including Baybars I's *madrasa* in 1262-63, Qalāwūn's complex in

³⁸ Doris Behrens-Abouseif considered the mausoleums of Ṣāliḥ Ayyūb and Shajar al-Durr, and the *madrasa* of al-Mu'izz Aybak as early monuments of the “Successors of the Ayyubids” and, as such, a bridge, towards later Mamluk architecture; refer to chapter 11 of Doris Behrens-Abouseif, *Cairo of the Mamluks*, p.113-117.

³⁹ Leonor Fernandes, “The Foundation of Baybars Al-Jashankir: Its Waqf, History, and Architecture,” *Muqarnas* 4 (1987): 21-42; Behrens-Abouseif, *Cairo of the Mamluks*, p.161-166.

⁴⁰ Fernandes, “The Foundation of Baybars al-Jashankir”, p.22.

1284-85, and al-‘Ādil Kītbughā’s complex, which was later bought and completed by al-Nāṣir Muḥammad Ibn Qalāwūn in 1304.⁴¹ This architectural progression found its parallel within a work of political advice entitled *Kitāb Āthār al-uwal fī tartīb al-duwal* (A manual for government founded on earlier exemplars) and dedicated to Baybars al-Jāshankīr. Its author considered the rule of his dedicatee to be the continuation of the Qalāwūnid dynasty.⁴² This parallel shows that architecture is a legitimate and useful source of political thought that complements literary works.

Ignored literary sources

Having mentioned the above forms of popular and simple – yet very effective – expressions of political thought, the focus will now turn to further ignored literary sources of political thought that warrant further attention in this thesis. Those literary sources include testaments, legal discussions on rebellion, political debates disguised in theological discourses, and sultanic/caliphal mutual appointment letters, delegations, and decrees. Though they will be covered within subsequent discussions, they should be mentioned in the introduction owing to their significance as untapped and rich mines of political thought.

The classical genre of testaments re-appears occasionally in the late Ayyubid and early Mamluk period. Typically addressed to a ruler’s son or

⁴¹ Fernandes, “The Foundation of Baybars al-Jashankir”, p.22. This space was not only of importance to the sultans but to all Mamluks. Under Aybak, “the ceremony of investiture of new emirs” took place at al-Ṣāliḥ Ayyūb’s mausoleum where manumitted Mamluks who attained the rank of *amīr*, would perform a ceremonial ride from the Citadel to the Ṣāliḥiyya and pronounce their oath of allegiance until the ceremony was transferred to Qalāwūn’s complex; in Behrens-Abouseif, *Cairo of the Mamluks*, p.114 and Fernandes, “The Foundation of Baybars al-Jashankir,”, p.40.

⁴² Al-‘Abbāsī, *Āthār al-uwal fī tartīb al-duwal* (Cairo: al-Maṭba‘a al-Maymaniyya, 1887), p.27. Al-‘Abbāsī view was that Qalāwūn’s state succeeded by “following the path of truth [justice] and upholding the law (*nuṣrat al-shar*) in the perfect conduct, and so the rule was stable for his sons and his mamlūks”; al-‘Abbāsī explained that this continuous sultanic success included Qalāwūn’s sons al-Ashraf Khalīl and al-Nāṣir Muḥammad, and then those “who ruled among the Manṣūrī Mamlūks, until it [the sultanate] reached to the lion our lord the sultan al-Muẓaffar Rukn al-Dunyā wa-al-Dīn” Baybars II.

successor, this is an early genre of advice literature that advocates traits like piety, self-control, and careful selection of companions, and may also include practical military and administrative advice.⁴³ Islamic advice literature frequently quote testaments including ‘Umar I to his successor, Mu‘āwiya to his son Yazīd, al-Manṣūr to his son and successor al-Mahdī, and Ṭāhir b. al-Ḥusayn to his son ‘Abdallāh.⁴⁴ A late Ayyubid specimen is related by al-Nuwayrī (677 / 1279- 733/1333), who mentioned that he had personally inspected the testament of al-Ṣāliḥ Ayyūb to his son al-Malik al-Mu‘azzam Tūrānshāh.⁴⁵ This testament is almost certainly a forged one as it is biased to al-Ṣāliḥ Ayyūb’s top commander Fakhr al-Dīn Ibn Shaykh al-Shuyūkh (d.647 / 1250), to his wife Shajar al-Durr, and other top-ranking servants, who together kept secret the sultan’s death. The testament bluntly urged Tūrānshāh to “listen to him [Fakhr al-Dīn], do as he says, and never contradict him”.⁴⁶ Furthermore, the language towards Tūrānshāh is demeaning and it is hard to imagine al-Ṣāliḥ Ayyūb addressing his heir in such a fashion. Despite the ostensible function of this dubious testament, which is to facilitate the coup of Fakhr al-Dīn and Shajar al-Durr, it sporadically conveys common themes addressed in classical testaments. Tūrānshāh is urged not to show anger but forbearance, and to be vigilant when passing sentences and considering grievances; furthermore, he is exhorted against sins like drinking, and reminded to give special attention to *dīwān al-jaysh* (the army’s controller

⁴³ For a comprehensive discussion on this classical and popular genre refer Louise Marlow, “Advice and Advice Literature,” ed. Kate Fleet et al., *Encyclopaedia of Islam, Three*, 2007 (in section 5, entitled “Epistles and testaments”), and to Marlow’s “Performances of Advice and Admonition”, p.65.

⁴⁴ Marlow, “Advice and Advice Literature,” *EI3*.

⁴⁵ Al-Nuwayrī, *Nihāyat al-arab fī funūn al-adab*, ed. Najīb Muṣṭafā Fawwāz and Ḥikmat Kishlī Fawwāz, vol. 29, 32 vols. (Beirut: Dar al-Kutub al-‘Ilmiyya, 2004), p.220-228. Cahen and Chabbouh considered the possibility of this being forged by Fakhr al-Dīn, but then decided that the “human tone” makes it likely that the letter is authentic; Claude Cahen and Ibrahim Chabbouh, “Le Testament D’al-Malik Aṣ-Ṣāliḥ Ayyūb,” *Bulletin D’Etudes Orientales*, no. 29 (1977): 97–114.

⁴⁶ al-Nuwayrī, *Nihāyat*, v.29, p221

office).⁴⁷ Interestingly, Ibn al-Dawādārī mentioned a similar testament of Qalāwūn to his son al-Ashraf Khalīl.⁴⁸ Like al-Nuwayrī, Ibn al-Dawādārī claimed that he inspected this testament, but did not transmit it fully.⁴⁹ This purported testament advised al-Ashraf Khalīl to follow the advice of *amīr* Shams al-Dīn Sunqur and incited him against another, Lājīn al-Ashqar.⁵⁰ Testaments in this period seem to have had immediate political ends, and they are thus particularly worthy of examination as sources of political thought.⁵¹

Legal discussions on rebellion (*fiqh* or *aḥkām al-bughāt*) should be studied not only in the realm of legal history, but as political thought expressed in the language of jurisprudence (*fiqh*). Although they are based on earlier legal discussions, they do reflect the interest during this period in treating political themes of a constitutional nature. They basically reflect an aspiration for curtailing the ruler's discretion in dealing with rebellion and extending legal protection to rebels and, in a way, remind the ruler that his power is not absolute. In his discussion on the development of a juridical response to political development, Khaled Abou el Fadl traced different juridical doctrines

⁴⁷ Ibid., p.221, 224, and 225.

⁴⁸ Ibn al-Dawādārī, *Kanz*, vol. 8, p. 344.

⁴⁹ The circumstances surrounding al-Ashraf's investiture and his father's reluctance to endorse him make this testament all the more interesting. Qalāwūn, as noted by Linda Northrup, "never signed the 'ahd or diploma of investiture which was drawn up for him [al-Asraf]"; in *From Slave to Sultan: The Career of Al-Manṣūr Qalāwūn and the Consolidation of Mamluk Rule in Egypt and Syria (678-689 A.H./1279-1290 A.D.)*, Freiburger Islamstudien, Bd. 18 (Stuttgart: Franz Steiner, 1998), p. 143.

⁵⁰ Ibn al-Dawādārī, *Kanz*, vol. 8, p. 344.

⁵¹ Marlow observed that the use of "quotations from numerous authorities of varied provenances" including the testaments of "revered figures of the early Islamic era, Sasanian kings, Aristotle and Alexander, and *akhbār* involving Abbasid caliphs" was intended to assert "universality and timeless relevance" of the political advice. Refer to "Performances of Advice and Admonition", p.74-75.

In his study focused on the 'Abbāsīd historiography of Harūn al-Rashīd, Tayeb el-Hibri highlighted the shifting nature of the intended meaning of narratives and testaments and the authorial agency in deploying and selecting material to highlight moral and political concerns. Refer to *Reinterpreting Islamic Historiography: Hārūn Al-Rashīd and the Narrative of the 'Abbasid Caliphate*, Cambridge Studies in Islamic Civilization (New York: Cambridge University Press, 1999), p.13, 29, & 34.

on rebellion (*aḥkām al-bughāt*).⁵² He identified, in the post-classical period, a revisionist trend made of jurists from all *madhhabs* who changed the existing discourse on rebellion by simply refusing to “lend support to unjust rulers”.⁵³ One notable example is al-Ṭarsūsī who stated that there was no such thing as a just ruler in his time, thus granting legitimacy to rebellion against unjust rulers. This revisionist list included Ibn Taymiyya and Ibn Jamā‘a in addition to al-Ṭarsūsī. There is a need to consider this valuable discourse as a clear literary expression of political thought in the period, in fact, one of exceptional importance. This research will explain subsequently the key constitutional and political implications of these legal discussions on Ibn Jamā‘a and al-Ṭarsūsī’s treatises.

This research will be the first to use biographies of ‘*ulamā*’, including the doctrinal debates and theological polemics they were embroiled in, as a vital source of political thought. One notable example is the biography of the renowned Shāfi‘ī jurist ‘Abd al-‘Azīz Ibn ‘Abd al-Salām (d. 660/1262). Chapter 1 will show how his biography served as an ideal model for treatises of political thought of the late Ayyubid and early Mamluk period. By analysing the doctrinal concerns of Ibn ‘Abd al-Salām as listed in his *fatwās* against anthropomorphism (referred to as *tajsīm*, *tashbīh*, and *ḥashawīyya*), I will determine the prevalent language of political discourse during the thirteenth century.⁵⁴ This will show that the biography of Ibn ‘Abd al-Salām, as

⁵² Khaled Abou El Fadl, “Ahkam Al-Bughat: Irregular Warfare and the Law of Rebellion in Islam,” in *Cross, Crescent, and Sword: The Justification and Limitation of War in Western and Islamic Tradition*, ed. James Turner Johnson and John Kelsay, Contributions to the Study of Religion, no. 27 (New York: Greenwood Press, 1990), p.149-176; *Rebellion and Violence in Islamic Law* (Cambridge; New York: Cambridge University Press, 2001).chapter 6, p. 234-294.

⁵³ Abou El Fadl, “Rebellion”, p.237 & 271.

⁵⁴ Al-Subkī, *Ṭabaqāt al-Shāfi‘īyya al-kubrā*, ed. Muṣṭafā ‘Abd al-Qādir Aḥmad ‘Aṭā, vol.4, 6 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1999), p. 360-368; supported by Ibn Wāṣil, *Mufarrij al-kurūb fī akhbār banī Ayyūb*, ed. Ḥasanayn Muḥammad Rabī and Sa‘īd ‘Abd al-Fattāḥ ‘Ashūr, vol.4, 5 vols. (Cairo: Maṭba‘at Dār al-Kutub, 1972), p.141-142.

recounted in later Shāfiʿī-Ashʿarī sources, was written as a political text and is consequently an important source for political thought.

Doctrinal debates, like the period's widespread polemics against anthropomorphism, carry a further relevance in the study of political thought as they appeared in sultanic decrees. For instance, an indication of the interrelatedness between creed and political thought can be found in the decree signed by al-Nāṣir Muḥammad in 705H regarding the renewed case against Ibn Taymiyya.⁵⁵ In 1973, Donald P. Little discussed this decree and raised one major historical question and one important methodological issue. The historical question was related to the significance of doctrinal disputes in the general political affairs of the state: whether Ibn Taymiyya's doctrines represented a direct threat to the state, whether he harboured political ambitions, or whether the rulers simply feared the "side effects" of his views on the attributes of God. What matters here is that the sultan felt compelled to draft a decree restating the proper and "lawful beliefs" (*al-ʿaqā'id al-sharʿiyya*) on which the state was founded; the decree started with a highly theological and de-anthropomorphic sentence: "*praised be God who is beyond any equivalent or counterpart*" (*al-ladhī tanazzaha ʿan al-shabīh wa al-naẓīr*).⁵⁶ As for the methodological issue that Little raised, it stresses the need to study such decrees as legitimate sources of political thought since "they provide evidence for the way in which political theory was adapted – or not adapted – to political exigencies".⁵⁷ Little raised this flag in 1973, yet the documents have still not been given the proper attention they merit.

Chronicles written by prominent secretaries are rich literary mines of political thought that this thesis will benefit from. The renowned chancery

⁵⁵ Donald P. Little, "The Historical and Historiographical Significance of the Detention of Ibn Taymiyya," *International Journal of Middle East Studies* 4 (1973): 311–27; Ibn al-Dawādārī, *Kanz*, vol. 9, p.139-143.

⁵⁶Ibn al-Dawādārī, *Kanz*, vol. 9. V9, p139.

⁵⁷ Little, "Historical and Historiographical Significance", p.320-21.

secretary Ibn ‘Abd al-Zāhir (620-1223- 692-1292) preserved an array of decrees, appointment letters, elaborate descriptions of ceremonies of oaths of allegiance (*bay‘a*), mutual letters of investiture and delegations between caliph and sultan, public sermons (*khuṭbas*), *iqṭā‘* grants, and diplomatic letters and treatises.⁵⁸ Well known among those documents is the investiture (*al-taqīd al-sharīf*) of the ‘Abbāsīd caliph al-Mustanṣir bi-Allāh in 659/1261. In modern political language, this *taqīd* resembles a political manifesto that regulates –albeit theoretically like most manifestos – the relations between Baybars and the caliph, and lists the duties of the sultan.⁵⁹ It is, no doubt, an exceptional source of medieval political thought. Ibn ‘Abd al-Zāhir, furthermore, preserved the two sermons (*khuṭbas*) of al-Ḥākim bi-amr-Allāh, who was appointed caliph in 661/1262 and sketched the ever-growing sophistication of ceremonies accompanying the decrees of appointment.⁶⁰ Those elaborate decrees and ceremonies had two main purposes: to stress the continuity with the Ayyubid system and to confirm the sultan as a lawful ruler.⁶¹ This work considers such chronicles not just mere compendiums of formulaic texts, but informative sources on the history of political thought.

This research will, for the first time, demonstrate the complex process of drafting those decrees and their relevance to Islamic political thought. This was made possible based on the previously unknown *Tārīkh al-salāṭīn wa-al-‘asākīr* (The history of sultans and military commanders) written by the

⁵⁸ Ibn ‘Abd al-Zāhir, *al-Rawḍ al-zāhir fī sirāt al-malik al-Zāhir*, ed. ‘Abd al-‘Azīz al-Khuwayṭir (al-Riyāḍ, 1976).

⁵⁹ Ibn ‘Abd al-Zāhir, *al-Rawḍ*, p.99-110; refer to Holt, “The Position and Power”, p.244 regarding al-Taghrībīrdī’s account of a later procedure at the accession of a caliph in 742/1341 and the delegation of the caliph’s jurisdiction to the sultan,

⁶⁰ Ibn ‘Abd al-Zāhir, *al-Rawḍ*, p.143-146; Holt, “The Position and Power”, p. 242-243 on the elaborate inauguration of Baybars as sultan upon his return to Cairo after the victory of ‘Ayn Jālūt and the killing of Quṭuz.

⁶¹ Holt, “The Position and Power”, p. 244-245.

prominent chancery secretary Shāfi‘ Ibn ‘Alī (649/1252- 730/1330).⁶² This valuable source will be discussed in Chapter 2 as it elucidates the relevance of such caliphal and sultanic decrees during the third return of al-Nāṣir Muḥammad and the various ‘constitutional’ efforts attempted by Baybars II to save his reign. Furthermore, this chronicle demonstrates how the meticulous use of terms like *tafwīd*, *‘ahd*, and *taqīd* in various letters of delegation and investiture was not merely the formulaic work of chancery secretaries, but the result of complex cooperative efforts between jurists, judges, secretaries, and rulers. Chapter 2 will show this significant source provides a case of the praxis of Ibn Jamā‘a’s political thought.

Finally, there is the famous genre of advice literature commonly referred to as mirrors for princes. This research shows that this genre was profuse in the Syro-Egyptian lands during the Ayyubid and Mamluk periods.⁶³ As an illustration, I will discuss five such mirrors in this thesis. Of these, one is being brought to light for the first time and another one was hitherto unpublished. The five titles are only the tip of the iceberg because mirrors for princes are proving to be a flourishing genre under the Ayyubids and the Mamluks; this is attested to by the abundance of titles that I came across.⁶⁴ Although I term them mirrors, subsequent chapters, especially chapter 5, will show that some of these texts were more complex works of political thought.

These five works are essential to this research, as they unlock important aspects related to the production of political thought in that period. They inform much about the authors, their intellectual and administrative

⁶² “*Tārīkh al-salāṭīn wa-al-‘asākīr*”, MS Bibliothèque Nationale de France, Paris, Arabe 1705. This source was brought to my attention by Gowaart Van Der Bush who successfully identified the author as Shāfi‘ Ibn ‘Alī (649/1252-730/1330). Refer to Chapter 2.

⁶³ For more on this genre and works produced in Syria in Arabic and Persian refer to A. K. S. Lambton, “Justice in the Medieval Persian Theory of Kingship,” *Studia Islamica*, no. 17 (1962): 96 and 99 and “Islamic mirrors for princes,” in *La Persia Nel Medioevo* (Rome, 1971), 419–42.

⁶⁴ At one stage of my post doc, or before, I intend to put together a list of the titles I have come across during this research.

backgrounds, their motives and intentions for writing, their literary influences and authorities, the intellectual *milieux* they sprung up in, their strategies towards their dedicatees and audiences, and the reception and solicitation of such works. Furthermore, they inform about fundamental stylistic and thematic traits and changes to the writings of political thought that emerged in Syria around the mid-thirteenth century. Some of the authors of these mirrors exemplify Thomas Bauer's process of fusion between the professional and social spheres of *adab* and the 'ulamā' that he termed the "adabization of the ulama"; I have already used this term and I argue that this process of *adabisation* is essential to grasp before approaching political texts of the period.⁶⁵ Finally, in these works one can easily discern the constitutional themes of the rule of law and limited government that can be achieved by upholding the *sharī'a*, by the proper administration of the state, and by protecting private lives and properties. These works, moreover, treat the delegation of power, often attributing a divine origin to the sultan's power.

Some of these works of political advice will be discussed in Chapters 2, 4, and 5, but I also wish to introduce some relevant aspects of each one at this early point of the thesis. The previously unknown *Al-Siyāsa al-mulūkiyya* (Royal politics) of Tāj al-Dīn Ibn Ḥamawīyya (1177-1244) is, for this research, the holy grail of mirrors.⁶⁶ The author was a member of a family that established itself as part of the Ayyubid political elite. Ibn Ḥamawīyya adhered to the Ash'arī theological creed, to the Shāfi'ī legal *madhhab*, and held the title of the chief of the Sufis (*shaykh al-shuyūkh*); this combination came to have a political connotation that will be investigated in Chapters 1, 2, 4 and 5. This mirror is central to the explanation of the intellectual *milieu* of thirteenth-

⁶⁵ Thomas Bauer, "Mamluk Literature: Misunderstandings and New Approaches," *Mamlūk Studies Review* 9, no. 2 (2005): 108.

⁶⁶ Tāj al-Dīn Ibn Ḥamawīyya, "Kitāb al-siyāsa al-mulūkiyya", Topkapi (Istanbul), TSMK A. 1116.

century Damascus in which political thought was incubated, and as such its author's profile is common to many later political works.

Al-'Iqd al-farīd li-al-malik al-saīd (The unique necklace for a content king) is, for this research, a genealogical missing link that rationalises the development of a fusion of genres approach to writing political thought; this will be explained and scrutinised in Chapter 5 of this thesis. This work was dedicated by Ibn Talḥa al-Naṣībīnī (d. 652- 1254) to al-Nāṣir Ṣalāḥ al-Dīn Yūsuf (r.634/1237 – 658/1260), the last effective Ayyubid sultan in Syria.⁶⁷ Ibn Talḥa was a Shāfiī expert in *uṣūl*, *fiqh*, and *khilāf*, a Sufi, an administrator, and was even nominated vizier at one point in his career. Moreover, *al-'Iqd al-farīd* attests to the development of a fusion genre that merged classical juristic discussions like the requirement for the sultanate with themes of mirrors for princes and administrative handbooks. Chapter 2 and especially Chapter 5 will show how *al-'Iqd al-farīd* influenced later works of political thought like Ibn Jamā'a's.

Three other mirrors will be discussed subsequently especially in Chapter 5. An unpublished mirror for princes entitled *Qadaḥ al-dirāsa fī manāhij al-siyāsa* (The goblet of instruction in the ways of government) is another source from the early Mamluk period, which was dedicated to Qalāwūn, and informs about the use of mirrors by authors to gain the favour of sultans.⁶⁸ *Kitāb Āthār al-uwal fī tartīb al-duwal* (A manual for government founded on earlier exemplars) is very informative of the author's profile and on the changes that affected the genre of mirrors during this period. Its author, al-'Abbāsī (alive in

⁶⁷ Ibn Talḥa, *al-'Iqd al-farīd li-al-malik al-saīd*, ed. Yūsuf bin 'Uthmān al-Ḥazīm (Riyadh: Ibn al-Azraq Center for Political Studies, 2013). Refer to Chapter 5 for a detailed discussion.

⁶⁸ Unknown, "Qadaḥ al-dirāsa fī manāhij al-siyāsa", MS British Library (London), Or.1534; title translation from Louise Marlow, "The Way of Viziers and Lamp of Commanders (Minhāj Al-Wuzarā' Wa Sirāj Al-Umarā') of Aḥmad Al-Iṣfahbādhī and the Literary and Political Culture of Early Fourteen-Century Iran," in *Writers and Rulers: Perspectives on Their Relationship from Abbasid to Safavid Times*, ed. Beatrice Gruendler and Louise Marlow, *Literaturen Im Kontext* 16 (Wiesbaden: Reichert, 2004), p.179.

717/1317), dedicated it to sultan Baybars al-Jāshankīr.⁶⁹ The third one is *al-Mukhtār min kitāb tadbīr al-duwal* (A selection from the book of proper ruling) is a beneficial case study for grasping the many facets of authors of mirrors and their writing strategies. It was authored by the renowned poet Ibn Nubāta al-Miṣrī (1287/8- 1366/7).⁷⁰ As his dedicatee, al-Afḍal (r.732-742), was an Ayyubid prince of Hama, Ibn Nubāta infused his mirror with anecdotes related to Ṣalāḥ al-Dīn and other Ayyubid figures.⁷¹

These mirrors serve, furthermore, as a reminder that *madhhab* competition was not the only motivation for authoring works of political thought. This thesis acknowledges the ‘unaffiliated’ tradition of writing advice literature that was unaligned or simply not concerned with this competition. Chapter 5 will refer to such unaffiliated works that were presented to Ayyubid and Mamluk sultans; Ibn Ṭalḥa’s *al-‘Iqd al-farīd* will be singled for further examination. The treatise’s aims, concerns, literary and stylistic features, and the limitations of its neutrality will be studied. As will be shown, *al-‘Iqd al-farīd* ambivalence towards *madhhab* competition did not undermine its author’s Ash‘arī, Shāfi‘ī, and Sufi characteristic concern for the rule of law, delegation of power, and limited government.

Chronic impediments in the history of Islamic political thought

Having listed the above rich and profuse expressions of political thought, there is a need to explain the disparaging scholarly treatment of the late Ayyubid and early Mamluk period. The subsequent discussion will engage mostly with the authoritative books of Rosenthal, M. Watt, Lambton, Crone, and others, and will benefit from Thomas Bauer’s recent work on Mamluk literature. Commenting on the neglect of the Arabic literature of the

⁶⁹ Al-‘Abbāsī, *Āthār al-uwal*.

⁷⁰ Ibn Nubāta, *al-Mukhtār min kitāb tadbīr al-duwal*, ed. Salwā Qindīl (Beirut: al-Abḥāth li-al-Tarjama wa-al-Nashr wa-al-Tawzī‘, 2006).

⁷¹ For more on Ibn refer to Ibn Nubāta Chapter 5.

Mamluk period, Bauer critiqued the “enormous contrast between a flourishing literary culture on the one hand and a remarkable dearth of scholarly enterprises dealing with that culture on the other”.⁷² He investigated the “prejudices and misconceptions” that shaped the field and traced some back to ideas that held that Arabic literature of the post-Saljuq period had “fulfilled” its basic contribution by preserving classical knowledge and philosophy for the West and had nothing to offer after the end of its golden age.⁷³ This research counters a similar scholarly and popular disdain for the post-classical Islamic political thought in both, West and East.⁷⁴

I will first attempt to locate the main flaws in the prevalent methodological approaches to the study of the history of political thought. Subsequently in this thesis, I will propose a contextualist reading of political texts of the period to counter these flaws. One can identify five prevalent approaches to the history of Islamic political thought in modern scholarship and they are in no way mutually exclusive:

The *longue durée* approach

This is a genealogical approach that looks at the development of political thought from the early days of Islam down to varying stages of Islamic history, as attempted by Rosenthal, Lambton, Crone and others.⁷⁵ These influential studies remain essential since they situate various political ideas

⁷² Thomas Bauer, “Mamluk Literature” *Mamlūk*, p.105.

⁷³ Ibid., p.105-106. Similarly, Dimitri Gutas raised four concerns regarding the study of Arabic philosophy, “viewing Arabic philosophy as mystical, as only an intermediary between Greek and medieval Latin philosophy, as being concerned only about the relation between religion and philosophy, and as coming to an end with Averroes, when the torch was passed on to the West”; in “The Study of Arabic Philosophy in the Twentieth Century: An Essay on the Historiography of Arabic Philosophy,” *British Journal of Middle Eastern Studies* 29, no. 1 (2002), p.8.

⁷⁴ This is not the place to engage with non-scholarly and general-readership works’ disdain for the political thought of this period. It suffices to say it is rooted in nineteenth-century anti-semitic and colonial residues in the West, and various nationalist myths and traditionalist stigmatisations in the East that occasionally find their way to academic studies.

⁷⁵ Rosenthal, *Political Thought*; Lambton, *State and Government*; Antony Black, *The History of Islamic Political Thought: From the Prophet to the Present*, 2nd ed. (Edinburgh: Edinburgh University Press, 2011); Patricia Crone, *Medieval Islamic Political Thought*.

within the broad context of Islamic history. Nevertheless, they also present an array of challenges for any study of political thought that is circumscribed chronologically or geographically. For instance, Crone's *Medieval Islamic Political Thought* reflects the *longue durée*'s emphasis on the themes of the early Islamic period, including the formation of sects and the nature of the early caliphal institution. This inevitably impacts the perceived importance of subsequent political thought, such as that of the thirteenth century when such themes ceased to capture the imagination of writers.

Some historians were aware of the limitations of the *longue durée* approach, while others were not. Lambton warned her readers that her selection of authors was "guided partly by personal choice, partly by the work of others in the field before me, and partly by the availability of texts".⁷⁶ Accordingly, she presented her seminal book as a mere "introduction to the study of the political ideas of the jurists".⁷⁷ On the other hand, Anthony Black aspired to a "complete" survey and an analysis of the history of Islamic political thought "from the beginning (c.622) to the present" while relying solely on secondary works.⁷⁸ Aspiring to offer a first "complete" history led to grave simplifications, like referring to the 'Abbāsīd caliph Hārūn al-Rashīd as "Harun al-Rashid (r781-809: he of the Arabian Nights)", and regretting that the US and UK governments had failed to benefit from Ibn Khaldūn's analysis of "less sophisticated humans" in responding to the 11 September terrorist attacks of 2001.⁷⁹

The *longue durée* is a very ambitious project that attempts to survey as many thinkers as possible, which comes at the high cost of ignoring the historical contexts of most developments in political thought. The ambitiousness of this approach impacts the granularity of the study of political

⁷⁶ Lambton, *State and Government*, p.xviii.

⁷⁷ *Ibid.*, p.xviii.

⁷⁸ Black, *The History of Islamic Political Thought*, p.xvi.

⁷⁹ *Ibid.*, p.xvii and p.25.

thought. By granularity I am referring to period-specific conditions that may or may not relate to developments in the broader Islamic history of ideas. As such, the *longue durée* perspective implies that Muslim political thinkers always dealt with a fixed set of paradigms that concerned various intellectual currents throughout the history of Islam. Moreover, it implicitly assumes that those thinkers formed a decontextualised network where the history of ideas becomes a self-referential circle of discussion among great men. With such assumptions we risk missing more concrete and pertinent factors that concerned Muslim thinkers like competition within the ruling classes or dynasties, the rise of new types of political elites (slaves for example), the Sixth and Seventh Crusades, unlawful taxation, rivalries among the four *madhhabs*, emerging juridical discourses, Sufism, competition for offices, and other parochial concerns.

The impediments of a *longue durée* perspective are evident in some conclusions that were rushed into in order to bridge developments over a wide chronological period. Black, for instance, stated that, “Nizam’s [Nizām al-Mulk] tolerant and statesmanlike approach to religious politics appears to have left its mark on later Sunni regimes, particularly the Ottoman.”⁸⁰ There is a clear need to revisit this statement. “Tolerant” and “statesmanlike” need to be defined in a medieval context. Moreover, I find “approach to religious politics” difficult to comprehend without further delineation. Finally, one struggles with what is meant by “later Sunni regimes”: the Ottomans did not view themselves primarily as a mere Sunni regime, but as a universal empire that inherited the ‘Abbāsīd caliphate, Byzantium, and more besides.⁸¹ The wide chronological

⁸⁰ *Ibid.*, p. 96.

⁸¹ The Ottoman sultan’s title included Kayser-i Rum (Caesar of the Eastern Roman Empire), *padishah* and “sultan over all the sultans of East and West and [undefeated] conqueror of the territories of the Byzanto-Roman world, Persian, and Arabia”; refer to Rhoads Murphey, *Exploring Ottoman Sovereignty: Tradition, Image and Practice in the Ottoman Imperial Household, 1400-1800* (London ; New York: Continuum, 2008), p.83, p.98 and chapter 2 of his book, p.41-75.

gap between Nizām al-Mulk and the Ottomans cannot simply be bridged with a single sentence– unless one considers the high medieval period irrelevant for studying political thought.

Imposed paradigms

The study of the history of Islamic political thought has been impaired by subjective and constant impositions of political paradigms that were hardly relevant to Muslim thinkers. It is striking that examining such an immense and diverse corpus of Islamic political, ethical, and legal texts has resulted in historians identifying a very narrow set of paradigms that supposedly consumed Muslim political thinkers throughout the past fourteen centuries. Two paradigms are often cited, the theory of the caliphate / *imāmate* and the legitimation of the usurpation of power (*imārat al-istilāʿ*). Supposedly, the ‘*ulamāʿ*’ were continuously attempting to “bring constitutional theory into line with political reality” and accommodate the authority of the wielder of power with the *sharīʿa*, as if legal discussion by jurists was ever the means to confer power and legitimacy to Mamluk sultan or an ‘Abbāsīd caliph, or remove one from his throne.⁸²

We are repeatedly told that Ibn Jamāʿa was the next stage in the development of Islamic political thought following al-Māwardī and al-Ghazālī. Lambton presented this progression eloquently: al-Māwardī established the difference between *wizāra* and *imāra* and legitimised the “amirate of usurpation (*imārat al-istilāʿ*); al-Juwaynī and al-Ghazālī established the importance of the sultanate, while al-Rāzī recognised “the dissociation of religious and temporal power”; finally, Ibn Jamāʿa (and Ibn Taymiyya) justified the “extinction of the caliphate”.⁸³ Rosenthal suggested a similar evolution.⁸⁴

⁸² Rosenthal, *Political Thought*, p. 22.

⁸³ Lambton, *State and Government*, 96, 133, and 138-151.

⁸⁴ Rosenthal, *Political Thought*, p.27-61.

I find such a progression simply too convenient; it is reliant upon the artificial imposition of the ‘justification of usurpation’ as a paradigm. The starting point of the problem formulation in the study of post-Saljuq political thought is, no doubt, al-Māwardī’s *Kitāb al-Aḥkām al-sulṭāniyya wa-al-wilāyāt al-dīniyya* (The book of ordinances of government). Scholars consider this work as a “post eventum justification” of the usurpation of the caliph’s powers by sultans.⁸⁵ Consequently, when studying later texts of different contexts, like Ibn Jamā’a’s for instance, scholarship has tended to ask similar questions: who or what was the author justifying? How crude was the justification? Unfortunately, the study of medieval Islamic political thought has thus practically been reduced into a study of the justification of usurpation.

I propose one aspect of the first imposed paradigm, the theory of the caliphate, for further dissection. *Khalīfat Allāh* (deputy of God) versus *khalīfat Rasūl Allāh* (deputy of the Prophet) has been presented as a critical discourse that concerned jurists and determined legitimation strategies of Muslim rulers and dynasties. The authors of *God’s Caliph*, Patricia Crone and Martin Hinds, ascertained,

In short, from ‘Uthmān to Numayrī, or in other words from about 644 to about 1984, Muslims of the most diverse political, religious, geographical and ethnic backgrounds had taken the title *khalīfa* to stand for *khalīfat Allāh*, ‘deputy of God’. It thus seems natural to infer that this is what the title always meant.⁸⁶

But what did political thinkers of the Mamluk period, a good 250 years of Islamic history, really make of this supposedly paradigmatic title that troubled Islam from the battle of Badr until the second Sudanese civil war of 1983?

⁸⁵ Lambton, *State and Government*, p.84; Hamilton A. R. Gibb and Stanford J. Shaw, “Al-Mawardi’s Theory of the Caliphate,” in *Studies on the Civilization of Islam* (Princeton, NJ: University Press, 1982), p.162.

⁸⁶ Patricia Crone and Martin Hinds, *God’s Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge Univ. Press, 2003), p.19.

Unsurprisingly, they did not invest much effort in pondering this issue nor did they consider the caliphal title to mean ‘deputy of God’. Ibn Jamā‘a, at the end of a section of his *Taḥrīr* dedicated to the institution of the caliphate, offered only one sentence to this issue, “the elected one can be named *khalīfa*, or *khalīfat Rasūl Allāh*, as he is a caliph among his community; *khalīfat Allāh* is not to be used because when Abū Bakr was called this way, he replied, ‘I’m not the Caliph of God but the Caliph of his Prophet.’”⁸⁷ A similar verdict came from al-Qalqashandī (756/1355 - 821/1418), whose interests lay in the secretarial art of *inshā’* and in geography and mathematics.⁸⁸ In his *Ma‘āthir al-ināfa fī ma‘ālim al-khilāfa* (Foregoing glories of the caliphate landmarks), which he presented to caliph al-Mu‘taḍid III (r. 817/1414- 845/1441), al-Qalqashandī dedicated a short discussion to the ‘God’s caliph’, in which he listed three different positions on this issue.⁸⁹ One would have expected a longer treatment, as the *Ma‘āthir al-ināfa* was focused on the caliphate and was dedicated to a caliph, yet that was not the case. The issue of God’s caliph did not seem to be of major relevance to political thinkers, at least not in this period.⁹⁰ The discussion on *Khalīfat Allāh* is therefore an imposed ‘perennial’ paradigm on Islamic political thought.

⁸⁷ Ibn Jamā‘a, *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām*, ed. Fu‘ād ‘Abd al-Mun‘im Aḥmad (Qatar: Ri‘āsat al-Maḥākīm al-Shar‘iyya wa al-Shu‘ūn al-Dīniyya, 1985), p.57; at the end of the first section titled *Fī wujūb al-imāma wa shurūṭ al-imām wa aḥkāmuhu* (regarding the necessity for the *imām*, the conditions of the *imāma*, and the *imām*’s rulings) which is clearly dedicated to discussing the *imāmate*, p.48-57.

⁸⁸ For more on al-Qalqashandī’s *Ma‘āthir al-ināfa fī ma‘ālim al-khilāfa* refer to Mona Hassan, *Longing for the Lost Caliphate: A Transregional History* (Princeton, N.J: Princeton University Press, 2017), p.126-131; C.E. Bosworth, “al-Qalqashandī”, in: *Encyclopaedia of Islam, Second Edition*.

⁸⁹ Al-Qalqashandī, *Ma‘āthir al-ināfa fī ma‘ālim al-khilāfa*, ed. ‘Abd al-Sattār Aḥmad Farrāj (Beirut: ‘Ālam al-Kutub, 2006), p.15-16.

⁹⁰ The argument in Crone and Hinds’ *God’s Caliph* is based on a contested translation of a fraction of a letter drafted by an Umayyad caliph and preserved in al-Ṭabarī; refer to Uri Rubin, “Prophets and Caliphs: The Biblical Foundations of the Umayyad Authority,” in *Method and Theory in the Study of Islamic Origins*, ed. Herbert Berg, Islamic History and Civilization 49 (Leiden: Brill, 2003), p.87-93.

The fall of Baghdad watershed

In the history of pre-modern Islamic political thought, the fall of the ‘Abbāsīd caliphate in Baghdad in 1258 is still regarded as a “*terminus ad quem*”.⁹¹ While this paradigm has been retired in other fields of Islamic history and although Lambton argued, in 1962, that the Mongol invasion did not cause a fundamental break in Islamic political theory, this paradigm still resonates in the history of political thought.⁹² In attempting to periodise centuries of intellectual activity, to include a large number of authors, and to treat a massive corpus of political thought writings, it seems that the actual *history* of political thought was lost to the biases of thinkers of the golden age and to exceptional later thinkers. For instance, in the introduction to *The Princeton Encyclopedia of Islamic Political Thought*, Gerhard Böwering segregated an Islamic political thought of the High Middle Ages (1055-1258) from one of the Late Middle Ages (1258-1500) he stated, only two writers “stand out”: Ibn Taymiyya and Ibn Khaldūn.⁹³ Crone’s *Medieval Islamic Political Thought* and *God’s Rule: Government and Islam* cover Islamic political thought from the rise of Islam and stop at the Mongol destruction of the caliphate in Baghdad in 1258.⁹⁴ Even Ibn Taymiyya and Ibn Khaldūn are outside the scope of this books, never mind al-Qarāfī, Ibn Jamā’a, al-Ṭarsūsī,

⁹¹ Sherman A. Jackson, *Islamic Law and the State*, p. xxxix; Jackson notes a “conceptualization of history” that considers this period as “an epoch that was not expected to produce much in the way of constitutional thought”. Such works consider the death of al-Ghazālī in 1111 as the end of serious intellectual activity; the political thought of authors like Ibn Jamā’a is viewed as “irrelevant”, in Marshall G. S. Hodgson and Edmund Burke, *Rethinking World History: Essays on Europe, Islam, and World History*, Studies in Comparative World History (Cambridge [England]; New York, NY, USA: Cambridge University Press, 1993), p.182-3.

⁹² “The Mongol invasion, which extinguished, in 1258, the ‘Abbasid caliphate, at first glance might be expected a major break in the theory of the ruler; but since the medieval theory had already come to ignore the historic imamate and to regard the sultan as the Shadow of God upon earth the break in political theory was not of a fundamental nature”, in Lambton, “Justice in the Medieval Persian Theory”, p.108.

⁹³ *The Princeton Encyclopedia of Islamic Political Thought*, p xi-xii.

⁹⁴ Crone, *Medieval Islamic Political Thought*; Patricia Crone, *God’s Rule: Government and Islam*; [Six Centuries of Medieval Islamic Political Thought] (New York: Columbia Univ. Press, 2004).

and the above-mentioned other sources.

This idea of 1258 being a watershed in Middle Eastern history of political thought does not tie in well with this research for several reasons. For one, the Mongols never invaded Egypt and their presence in Syria was short-lived. Saljuq, Ayyubid, and Mamluk polities were in existence before and continued to exist after 1258. This diminishes any resultant influence of the event on political writings in Egypt and Syria. Secondly, the caliphate, as a primary ideal for political thinkers living in thirteenth century Syria and Egypt, was outweighed by other considerations; this research will argue that many developments in political thought ascribed to the fall of Baghdad were already in place by the end of the Ayyubid period.⁹⁵ Such important developments are lost in this pre and post-Mongol invasion perspective and can only be redeemed by a precise study of the late Ayyubid and early Mamluk period.

The lure of the genre

Relentless attempts by scholarship to uphold a continuing genre of mirrors for princes somehow transformed the discourse on medieval Islamic political thought to one of genre as opposed to one of political ideas. In her seminal work, *State and Government in Medieval Islam*, Ann Lambton delimited three main “formulations” of political thought: “theory of the jurists”, “theory of the philosophers” and “literary theory”.⁹⁶ In this widely accepted scheme, literary theory is understood to include the genres of mirrors for princes and administrative manuals. The issue was, however, that ultimately the boundaries between formulation, theory, and genre were lost and the focus became exclusively on the genre.

So unchanging was this categorisation that, with time, it almost became sufficient for some scholars to recognise the genre of a political text in order to presume its postulated theory. Accordingly, this categorisation

⁹⁵ Refer to Chapter 2 of this research and the discussion on al-Juwaynī.

⁹⁶ Lambton, *State and Government*, p. xvi.

assumed that the first formulation was “the most truly Islamic of the three”.⁹⁷ The third formulation, on the other hand, “is concerned with the practice rather than the theory of government and seeks in some measure to assimilate Islamic norms to Sassanian traditions of kingship. Its basis is justice rather than right religion or knowledge.”⁹⁸ Although Lambton accepted that the three formulations had much in common and that the same authors wrote in their different capacities as jurists, philosophers, and advisors of rulers, the genre was still believed to dictate the content.

Post-classical texts do not fit well into this categorisation, which proved to require continuous scaffolding to be sustained. In addition to ancient Arab and Greek inspirations, Islamic mirrors were influenced by *āīn-nāma* and *andarz-nāma*, the old Persian literary genres that aimed to instruct rulers through an attractive and accessible style.⁹⁹ The genre, however, was not sufficient to comprehend post-Saljuq, Ayyubid, and Mamluk political texts, as they were more complex than mere repetitive etiquette formulas, aphorisms, and homily. I will present three cases where complications arose from assuming that the genre determines the content.

Baḥr al-fawā'id (Sea of precious virtues), a Persian anonymous mirror composed in mid-twelfth-century Syria, is the antithesis to any suggestion that the mirrors for princes genre was any less an Islamic formulation of political thought than that of treatises written by jurists.¹⁰⁰ *Baḥr al-fawā'id*, as Lambton noted, this work was “*sharī* based”.¹⁰¹ Despite the indisputable administrative background of its author, there is nothing in this mirror that supports the stigma of being less Islamic that Lambton associated with this genre. On the

⁹⁷ Ibid., p. xvi.

⁹⁸ Ibid., p. xvii.

⁹⁹ Ann K. S. Lambton, “Islamic Mirrors for Princes”, p.421; for an up to date and comprehensive discussion refer to Louise Marlow, “Advice and Advice Literature”, *EI3*.

¹⁰⁰ Lambton, “Islamic Mirrors for Princes”, p. 426-436; refer to the very useful introduction of Julie Scott Meisami, ed., *The Sea of Precious Virtues: A Medieval Islamic Mirror for Princes (Baḥr Al-Fawā'id)* (Salt Lake City: University of Utah Press, 1991), p. vii.

¹⁰¹ Lambton, “Islamic Mirrors for Princes,” p.426.

contrary, there is in *Baḥr al-Fawā'id* a great emphasis on the 'ulamā', the duty of *jihād*, the companions of the Prophet, speculative theology (*uṣūl al-dīn*), a discussion on the law of rebellion, an unembellished Sufi tone, an Islamic conception of justice, and an ostensible influence of al-Ghazālī.¹⁰² *Baḥr al-Fawā'id* contradicts the idea of a mirror genre that dictates the content of political texts.¹⁰³

The second case is *Kitāb naṣīḥat al-mulūk* (Book of council for kings), a mirror attributed wrongly to al-Ghazālī, as Crone established in 1987.¹⁰⁴ This work was in two parts: the anonymous mirror *Naṣīḥat al-mulūk* and the *Risāla* (Epistle), which may have been al-Ghazālī's.¹⁰⁵ As discussed above, the Ashrafiyya Library catalogue listed this work in two entries: *Naṣīḥat al-mulūk* and *Risālat al-Ghazālī*, where the thirteenth century cataloguer noted suspiciously *fīhi naẓar* (requires further consideration). Similar doubts were voiced in Cairo in 1924 by Zakī Mubārak, who noted that "the book was weak in the treatment of several topics", and consequently unlike al-Ghazālī.¹⁰⁶ However, in his 1938 first Persian edition of *Naṣīḥat al-mulūk*, "Humā'ī responded to Mubārak's aspersions against his national heritage with a vigorous defence of the authenticity of the work"; in the second edition of 1972, however, Humā'ī accepted that there was a part of this work that was "uncharacteristic" of al-Ghazālī.¹⁰⁷ The consensus of scholars, including Lambton and Hillenbrand, was – until 1987 – to accept the attribution to al-

¹⁰² *The Sea of Precious Virtues*, p.xii-xiv.

¹⁰³ I do not suggest this confusion was a universal trend, as many scholars did not consider the mirror genre to be less Islamic. For instance, in the introduction of his English translation of *Naṣīḥat Al-Mulūk*, F.R.C Bagley considered -what was believed to be- al-Ghazālī's contribution to the genre of mirror for princes a "complete synthesis" between "Arab-Islamic and old Persian elements"; *Counsel for Kings (Naṣīḥat Al-Mulūk)*, trans. F.R.C. Bagley (London: Oxford University Press, 1964), p.ix-x.

¹⁰⁴ Crone, "Did Al-Ghazālī Write a Mirror for Princes?"; for the first full english translation refer to *Counsel for Kings (Naṣīḥat Al-Mulūk)*.

¹⁰⁵ Crone, "Did Al-Ghazālī Write a Mirror for Princes?", p.169-170.

¹⁰⁶ Zakī Mubārak, *al-Akhlāq 'inda al-Ghazālī* (Cairo: Dār al-Sha'b), p.115.

¹⁰⁷ Patricia Crone, "Did Al-Ghazālī Write a Mirror for Princes?", p.167-168.

Ghazālī.¹⁰⁸ It took over sixty years to recognise the concern that was voiced in Cairo in 1924 and seemed rather obvious to a medieval Damascene cataloguer.¹⁰⁹

There is a simple explanation for this confusion. Scholars considered *Naṣīḥat al-mulūk* a ‘fixed’ Persian mirror for princes rather than a work that comprised political ideas that could not have been expressed by al-Ghazālī. Examining this mirror as a work of Islamic political thought would have led the same scholars to different conclusions. The attribution to al-Ghazālī, a medieval polyglot and an Ash‘arī-Shāfi‘ī-Sufi thinker ought to have immediately alarmed a historian of Islamic political thought. She or he should have concluded, *fīhi naẓar*.

A third case that reflects the complications of assuming that genre dictates content is Lambton’s attempt to argue for a distinct “Medieval Persian Theory of Kingship” in contradistinction to a “classical theory”.¹¹⁰ Lambton proposed a straightforward dichotomy: the classical theory is a “purely Islamic” one put forward by jurists like Abū Yūsuf (d.182/798), al-Māwardī (d.450/1058), al-Ghazālī (d.505/1111), Ibn Taymiyya (d.728/1328), and Ibn Jamā‘a (d. 733/1333); in contradistinction to the “classical”, there is the “medieval” theory – one influenced by Sassanian and Greek traditions – as evident in administrative handbooks, mirrors for princes, and philosophical works.¹¹¹ Lambton argued that mirrors treated “profane learning and the knowledge necessary for given offices and functions rather than of *‘ilm*, or religious learning, with which the jurists were primarily concerned”.¹¹² The

¹⁰⁸ Carole Hillenbrand, “A Little-Known Mirror for Princes of Al-Ghazālī,”; Lambton, “Justice in the Medieval Persian Theory”.

¹⁰⁹ Muzaffar Alam, likewise, attributed *Naṣīḥat al-mulūk* to al-Ghazālī and made rather important conclusions based on this, in *The Languages of Political Islam: India 1200 - 1800* (London: Hurst, 2004), p. 27-28..

¹¹⁰ Lambton, “Justice in the Medieval Persian Theory of Kingship”.

¹¹¹ Ibid, p.93-95.

¹¹² Ibid., p.95.

medieval theory “centred round the sultan” while the classical theory “developed round the imam”.¹¹³

Throughout her article, Lambton had to make concessions in order for her argument to be tenable. First came the admission that some of the authors of the “classical” theory obviously belonged to the medieval period, but still, Lambton insisted their theory was “essentially” classical.¹¹⁴ Al-Māwardī, al-Ghazālī, Ibn Taymiyya, and Ibn Jamā‘a were “classical”, while Ibn al-Muqaffa‘ – a classical author in every aspect of Islamic civilisation – was considered “medieval”. Consequently, the classification was chronologically problematic; the “classical” theory was followed by a “medieval” theory although this contradicted the chronology of the authors. Secondly, Lambton further conceded that the dichotomy was not that rigorous after all, “In the medieval theory of the ruler, especially as put forward by the administrators or statesmen, the influence of the old Persian theory of state can be clearly seen, in some respects reinforcing similar tendencies to be found in the juristic theory, and in others virtually transforming that theory.”¹¹⁵

The classical-medieval dichotomy was untenable for other reasons. It was based on an incorrect assumption that authors of mirrors treated administrative knowledge while jurists primarily focused on *‘ilm* (religious learning). That was not the case for most of the so-called “classical” authors list: Abū Yūsuf wrote a famous treatise on taxation (*kharāj*), al-Māwardī regularly treated administrative topics, and Ibn Jamā‘a dealt extensively with administrative matters in his works. Al-Māwardī can hardly be ascribed to any theory that considers the art of government profane since he dedicated several titles to this art.¹¹⁶ Furthermore, the claim that the “medieval” theory

¹¹³ Ibid., p. 99.

¹¹⁴ Ibid., p. 93-94.

¹¹⁵ Ibid., p. 96.

¹¹⁶ Refer to Louise Marlow, *The Naṣīḥat Al-Mulūk*, Vol.1, p.11-12: “Al-Māwardī’s established writings on the subjects of authority and statecraft, many of them mentioned in the accounts

centred on the sultan and the “classical” on the *imām* is again untenable. Al-Māwardī, al-Ghazālī, Ibn Jamā‘a, and Ibn Taymiyya, whom Lambton listed as “classical”, were all concerned, each in his own way, with the sultan and the proper administration of the state, both in the presence of a weak caliph or in his total absence. Their thought was simply centred on running the state.

The primacy of political philosophy

Though it is widely held that political philosophy is a higher form of discussing political ideas this view proves quite problematic for this period as some scholars have questioned the very existence of an “Islamic political philosophy”. Rosenthal, for instance, felt he had to justify “the relatively large space allotted” to the political ideas of the philosophers (almost half of his book).¹¹⁷ Furthermore, in his review of “*State and Government in Medieval Islam*”, Charles E. Butterworth accused Lambton of failing to distinguish political philosophy from the political thought expressed by jurists, theologians and authors of mirrors for princes.¹¹⁸ While a distinction between various forms of political writings is necessary, all forms of expressing political ideas are of equal relevance when studying political thought. Ovamir Anjum, a historian of theology, stated “one does not need to be a card-carrying member of a political philosophy club or state retinue for his or her thought to be politically significant”.¹¹⁹

of his biographers, include *al-Aḥkām al-sultāniyya wa-l-wilāyāt al-dīniyya* (‘Governmental Ordinances and Religious Appointments’); *Qawānīn al-wizāra (wa-siyāsāt al-mulk)* (‘Principles of the Vizierate [and the Governance of Sovereignty]’); *Tashīl al-naẓar wa-ta’jīl al-ẓafar* (‘The Facilitation of Reflection and the Hastening of Victory’). The two parts address, respectively, the moral characteristics (*akhlāq*) that the ruler should cultivate and the governance that he should pursue; and, more loosely, *Adab al-dunyā wa-l-dīn*. Al-Māwardī’s writings on these subjects reflected and were related both to his scholarly training and his professional experience”.

¹¹⁷ Rosenthal, *Political Thought*, p. 3.

¹¹⁸ Charles E. Butterworth, “*State and Government in Medieval Islam: An Introduction to the Study of Islamic Political Theory: The Jurists* . Ann K. S. Lambton,” *Speculum* 60, no. 2 (April 1985): 425.

¹¹⁹ Ovamir Anjum, *Politics, Law and Community in Islamic Thought: The Taymiyyan Moment*, Cambridge Studies in Islamic Civilization (Cambridge ; New York: Cambridge University

While some, like Anjum, question the primacy of political philosophy, others like Dimitri Gutas and Ibn Khaldūn rejected its existence altogether. Gutas emphasised a passage by Ibn Khaldūn that denied the philosophers any contribution to political thought:

“By 'government of the city' (*al-siyāsa al-madaniyya*), the philosophers mean simply the disposition of soul and character which each member of a social organization must have if, eventually, people are completely to have no need of rulers. They call the social organization that fulfills these requirements the 'virtuous city' (*al-madīna al-fāḍila*). The norms observed in this connection are called 'government of the city.' *They do not mean the kind of government that the members of a social organization are led to adopt through laws for the common interest. That is something different.* The 'virtuous city' of the philosophers is something whose realization (*wuqūʿ*) is rare and remote. They discuss it only as a hypothesis.”¹²⁰

For Gutas there is no political philosophy proper, in other words, before Ibn Khaldūn there is “no independent field of study within Arabic philosophy which investigates political agents, constituencies, and institutions as autonomous elements that operate according to their own dynamic within the structure of the society”.¹²¹ There is no definitive answer offered here for this problem although Gutas and Ibn Khaldūn, I admit, offer a very plausible argument. Be

Press, 2012), p. 20. Although Anjum critiqued limiting the production of worthy political thought to Hellenized Muslim philosophers, he still considered that authors - like Ibn Taymiyya- wrote on the caliphate as theologians and not as jurists. On the other hand, Mona Hassan argued that authors like al-Juwaynī, al-Ghazālī, Ibn Jamāʿa, and Ibn Taymiyya wrote and theorized about political thought as experts in both law and theology. She noted, “the theoretical tradition of legal methodology or *uṣūl al-fiqh*, do not allow for such simple dichotomies” between juridical and theological modes of thinking. Refer to Hassan, *Longing for the Lost Caliphate*, p. 303 and Anjum, *The Taymiyyan Moment*, p. 28-29.

¹²⁰ In Gutas, “The Study of Arabic Philosophy”, p.24. Rosenthal quoted the same observation of Ibn Khaldūn in Rosenthal, *Political Thought*, p.93-94.

¹²¹ Gutas, “The Study of Arabic Philosophy,” p.23.

that as it may, for this research any expression of political thought is worthy of consideration.

Each of these five approaches has impaired the study of Islamic political thought; the effect of the first four has been severe. Muslim political thinkers between the time of al-Ghazālī and Ibn Khaldūn were simply denied originality, the capacity to engage with the political conditions of their time, and the production of any meaningful set of reflections. They were confined to the realm of revelation, rejection of reason, and reduced to the legitimation of the oriental despot. Furthermore, the *adabised* nature of those authors was ignored and so was their agency to quote judiciously from earlier traditions and accessible repertoires of aphorisms and maxims in order to express their own arguments and ideas. They were even stripped of their administrative professional backgrounds and denied any contribution in statecraft. This led to a distorted understanding of the late Ayyubid and early Mamluk period production of political thought.

A new venture

To counter the above impediments, this thesis will propose a contextualist reading of political texts: authors should be read for their own ideas first and foremost. As a typical illustration, I offer the treatment of abstract concepts like *dawla*, *sharī'a*, and *ʿadl* in the following citation from *Āthār al-uwal*, the mirror authored by the *adabised* administrator al-ʿAbbāsī and which he dedicated to Baybars al-Jāshankīr:

The world is like an orchard whose fence is the *dawla* (state*), the state is a *sulṭān* (political authority) protected by *a sunna* (convention), the convention is *a sharī'a* (the rule of law) safeguarded by the *malik* (king or ruler), the ruler is a shepherd supported by soldiers, soldiers are collaborators maintained by money, money is gathered from the *raʿiyya* (community or subjects), and the community is made of *khuddām*

(subjects or servants) that become obedient through ‘*adl*’ (justice) [..].¹²²

This aphorism appears in numerous Islamic sources as early as the eighth or ninth century.¹²³ Al-‘Abbāsī mentioned that Aristotle crafted it on a golden sphere as a “political” wisdom (*kalima siyāsiyya*) for Alexander the Great to reflect on it.¹²⁴ Likewise, in *Asās al-siyāsa* (the foundation of politics), the Ayyubid vizier Jamāl al-Dīn al-Qifṭī (d. 646/1248) attributed the aphorism to Aristotle and mentioned that his student Alexander kept the wisdom under his pillow.¹²⁵ However, Ibn Ṭalḥa, in his *al-‘Iqd al-farīd*, ascribed this saying to ‘Alī Ibn Abī Ṭālib.¹²⁶ In his *Mustanad al-ajnād* (The soldier’s guide to war engines), Ibn Jamā’a first attributed this wisdom to “some ‘*ulamā*’”; later in his *Taḥrīr*, Ibn Jamā’a attributed it to “the sages”.¹²⁷ So what is this aphorism after all? Was it Greek, Sassanid, Pre-Islamic Arab, or Islamic wisdom? A quick answer

¹²² Al-‘Abbāsī, *Āthār al-uwal*, p.23; my translation. For a very useful reading of this text, refer to Stefan Leder, “Sultanic Rule in the Mirror of Medieval Political Literature,” in *Global Medieval: Mirrors for Princes Revisited*, ed. Nequin Yavari and Regula Forster Forster (Harvard: Harvard University Press, 2015), p. 104. Like Leder, I have translated *dawla* here as state, which should be sufficient for our immediate purposes. Yet the original usage of *dawla* meant in earlier periods “dynasty”, “turn”, paired with “*mulk*” or and even used for “political success”; refer to Rosenthal, F., “Dawla”, in: *Encyclopaedia of Islam, Second Edition*. A more relevant treatment of *dawla* in the Mamluk context was proposed by Joe Van Steebergen, which will be discussed below.

¹²³ ‘Abd al-Raḥmān Badawī, *al-Usūl al-Yūnāniyya li-al-nazarīyāt al-siyāsiyya fī-al-Islām* (Cairo: Dār al-Kutub al-Misriyya, 1954), p.127; this is based on *Sirr al-asrār* (The secret of secrets) that Aristotle purportedly wrote to Alexander, which appeared in an Arabic text attributed to the eighth and early ninth-century Yahyā Ibn al-Biṭrīq who translated various texts from Greek to Arabic. For a comprehensive study of the corpus of correspondence between Aristotle and Alexander and “the sources which were used in the formation of *Sirr al-asrār*” refer to Dimitri Gutas, *Greek Wisdom Literature in Arabic Translation. A Study of the Graeco-Arabic Gnomologia* (New Haven: American Oriental Society, 1975), p.420-423.

¹²⁴ Refer to Marlow’s discussion on the gnomologium, the “collection of aphorisms transmitted from or attributed to Greek philosophers and sages”, in “Advice and Advice Literature” *EI3* and her book *Hierarchy and Egalitarianism in Islamic Thought* (Cambridge: Cambridge University Press, 1997), p.46-47.

¹²⁵ Jamāl al-Dīn al-Qifṭī, *Asās al-siyāsa*, ed. Jalīl al-‘Aṭiyya (Beirut: Dār al-Ṭalī’a, 2008), p.109-110.

¹²⁶ Ibn Ṭalḥa, *al-‘Iqd*, p.112.

¹²⁷ Ibn Jamā’a, *Mustanad al-ajnād fī ālāt al-jihād wa-Mukhtaṣar fī faḍl al-jihād wa-faḍā’il al-ramī fī sabīl Allāh*, ed. Usāma Nāṣir al-Naqshbandī (Damascus: Dār al-Wathā’iq li-al-Dirāsāt wa-al-Ṭab’ wa-al-Nashr wa-al-Tawzī, 2008), p. 38; and in the *Taḥrīr*, p.70. Furthermore, Fakhr al-Dīn al-Rāzī and Ibn Khaldun presented their own versions of this aphorism; refer to Lambton, *State and Government*, p.137.

is that this is a futile question that does not contribute to our understanding of al-‘Abbāsī’s intended meaning.

There are two methods for interpreting such aphorisms in political treatises. There is the quick way and there is the contextualist way. The first method would have swiftly and unreservedly explained (or dismissed) this aphorism by attributing it to ancient and external concepts, as did some scholars whenever faced with the question of justice in Islamic political thought.¹²⁸ The second approach is a contextualist one that is concerned with the meaning the author intended for his own uttering. Al-‘Abbāsī’s intended meaning can only be interpreted based on first, an intimate knowledge of his biography, and second, on unlocking the political language of the author’s lifetime. This language can only be interpreted based on the moral and political ideas available to the author to reflect on and the political orders known to him and that he aspired to.

What did al-‘Abbāsī mean by *dawla*? The methodology advocated by this thesis suggests that the well-known circumstances of al-‘Abbāsī’s service in the Mamluk administration, his intellectual background, his adherence to Shāfi‘ism and Sufism, and his dedication of political and *adab* works to several sultans provide important clues to unlock his political language.¹²⁹ A

¹²⁸ This idea is best expressed by Lambton that since “it has been said that political science did not exist as an independent discipline in Islam; and so far as it existed at all it was a department of theology” and, as such, distinctly political ideas must have originated from an external source; in “Justice in the Medieval Persian Theory,” p.92 and p.100, but especially in p.107 when Lambton discussed the version of this aphorism in the *Qābūs-nāma* of Kay Kā‘ūs. On the other hand, Marlow’s *Hierarchy and Egalitarianism* provides a more focused and detailed description of the uses and adaptations of pre-Islamic social models and traditions in the Islamic civilization, their reception in Islamic thought, and their impact on taming Islamic egalitarianism, the justification of an hierarchal structure. and the social stratification within Muslim society; refer to chapter 3, p.65-90.

¹²⁹ For more on al-‘Abbāsī, refer to the editor’s introduction of *Nuzhat al-mālik wa-al-mamlūk fī mukhtaṣar sīrat man waliya miṣr min al-mulūk*, ed. ‘Umar ‘Abd al-Salām Tadmurī (Ṣaydā; Beirut: al-Maktaba al-‘Aṣriyya, 2003). Refer to the two works of Maurice A. Pomerantz: “A Maqāma Collection by a Mamlūk Historian: Al-Maqāmāt Al-Ġalāliyya by Al-Ḥasan B. Abī Muḥammad Al-Ṣafādī (fl. First Quarter of the 8th/14th C.),” *Arabica* 61, no. 6 (November 3, 2014): 631–63 and “The Play of Genre: A Maqāma of ‘Ease after Hardship’ from the

good starting point is to contrast al-‘Abbāsī’s use of *dawla* for fence with al-Qifṭī’s use of *milla* and Ibn Talḥa’s use of *sharī‘a*.¹³⁰ This choice was probably dictated by al-‘Abbāsī’s conception of the Mamluk sultanate that was forged by his service under several Mamluk sultans. For an author like al-‘Abbāsī, the Mamluk sultanate existed well before and would probably be there well after his dedicatee, Baybars II. Al-‘Abbāsī made such conception of the Mamluk *dawla* evident when he included in his list of Mamluk sultans Aybak, Aqṭāy (an early leading Baḥrī Mamluk who was never a sultan), Quṭuz, Baybars I, al-Manṣūr Qalāwūn, his two sons al-Ashraf and al-Nāṣir Muḥammad, and the “kings among the Manṣūrī mamlūks” including al-‘Ādil Kītbughā, al-Manṣūr Lājīn, Baybars II, and even mentioned mere leading Mamluk *amīrs*.¹³¹ Likewise, it is not a coincidence that the contemporaneous jurist Ibn Jamā‘a, in both his treatises the *Mustanad* and the *Taḥrīr*, opted for *dawla*. The *dawla* for these two Mamluk period authors did not denote a mere “turn” or “dynasty” but another more complex meaning, one best captured by Jo van Steenbergen’s seminal article on *Dawlat al-Atrāk*.¹³² Van Steenbergen’s conception denoted the political order and legitimate continuity of the *Dawlat al-Atrāk* including its different components like “officials, places, customs, apparel and rituals”, the “*dawla*’s memory”, its institutions and “formal manifestations”, and its different trans-regional and local types.¹³³ A similar approach can lead to interpreting al-‘Abbāsī’s intended meanings in *sultān*, *sunna*, *sharī‘a*, *malik*, *ra‘īyya*, and *‘adl*. For instance, I have translated *sharī‘a* as the rule of law, that is the moderation of the exercise of political power through legal and moral conventions; this unusual translation will become

Eighth/Fourteenth Century and Its Literary Context,” in *The Heritage of Arabo-Islamic Learning* (Brill, 2015), 461–82.

¹³⁰ “The world is like an orchard whose fence is the *milla*”, al-Qifṭī, *Asās al-siyāsa*, p109-110; “The world is like an orchard whose fence is the *sharī‘a*”, Ibn Talḥa, *al-Iqd*, p. 112.

¹³¹ Al-‘Abbāsī, *Āthār al-uwal*, p.136-137.

¹³² Jo van Steenbergen, “Appearances of Dawla”.

¹³³ *Ibid.*, p.54-57, 60, 61. 62, 66-68, and *passim*.

clearer to the reader by the end of this thesis.¹³⁴

This methodological case study challenges the existence of perennial themes in Islamic political thought. Al-‘Abbāsī’s quote should be read carefully within the context of his own life and career and, most importantly, according to moral and political concepts available to him and within the scope of the ideas that he had discussed up to this point in his treatise. This aphorism is neither a Greek or Sassanid conception of justice, nor a textual reference to the *sunna* and the *sharī‘a*. It is a part of his treatise’s call for even-handed rule and for the protection of subjects under the rule of law. Al-‘Abbāsī could not have borrowed a vague concept such as the Sassanid ‘circles of justice’, which he had neither experienced, witnessed, or even read about directly or in translation – very few probably had, if any at all, for the previous half a millennia by that time.¹³⁵ Nor did he aspire for a political order modeled against a Greek or pre-Islamic Arabian precedents. References to Alexander, Ardashīr, and Greek, ancient Arab, Persian or Indian wisdoms were just rhetorical tools. Similarly, al-‘Abbāsī’s references to the *sharī‘a* should be taken in conjunction with his treatise’s indulgent mentions of people who worshipped their kings as gods, and to the need for fortune-tellers, singers, and wine companions in court.¹³⁶ Clearly he was not calling for a Taymiyyan conception of the *sharī‘a* or for the Pharos model of kings as gods. He was

¹³⁴ What makes this interpretation harder is the scarcity of studies on political language of Islam. The two existing ones are Bernard Lewis, *The Political Language of Islam* (Chicago: University of Chicago Press, 1988) and Muḏaffar ‘Ālam, *The Languages of Political Islam*. There are however recent and more useful, albeit limited in scope, attempts that greatly help in contextualising the political language of Islam; in addition to the above-mentioned article by van Steenbergen refer to Ovamir Anjum, “Political Metaphors and Concepts in the Writings of an Eleventh-Century Sunni Scholar, Abū Al-Ma‘āli Al-Juwaynī (419 – 478/1028 – 1085),” *Journal of the Royal Asiatic Society* 26, no. 1–2 (January 2016): 7–18.

¹³⁵ Refer to section 4 “Iranian traditions and Pahlavi literature” of Louise Marlow, “Advice and Advice Literature,” *EI3*. The only possible exception may be *al-Ḥikma al-khālida* of Miskawayh (d.421/1030) whose author claimed that the first section of his book derived from an ancient Persian work of wisdom literature, the *Jāwīdān khīrad*. However, there is no proof for that whatsoever.

¹³⁶ Al-‘Abbāsī, *Āthār al-uwal*, p.16 and p.18.

simply expressing his own political ideas using anecdotes, maxims, and parables that were abundant in classical Arabic anthologies and sources, and available to him to use as an *adīb*, jurist, and author of political texts.

Fortunately, it is not all doom and gloom in the field and the above example is far from being the first call to rehabilitate the history of medieval Islamic political thought. In recent years, there have been arduous individual efforts to preserve, edit and publish, and study medieval Islamic political thought. Much of those efforts can be attributed to two individuals: Raḍwān al-Sayyid and Louise Marlow. Al-Sayyid's efforts made available a rich corpus of political texts.¹³⁷ Additionally, his writings highlighted the richness and originality of the medieval period's production of political thought and helped place its authors within their relevant intellectual and socio-political contexts. For instance, his seminal introduction of al-Ṭarsūsī's *Tuḥfat al-Turk* highlighted the interrelatedness between *madhhab* competition and the production of political thought in the Mamluk period.¹³⁸ Similarly, Marlow helped rescue the field from stagnation through her continuous rethinking of the genres, and the origins and influences of the sources beyond the prevalent biases.¹³⁹ Her works included a notable attempt to understand the motivation of authors of mirrors and a seminal article on Islamic advice literature in the Encyclopaedia of Islam.¹⁴⁰

¹³⁷ I have come across over twenty published sources in which Raḍwān al-Sayyid was involved. His recent involvement in the Ibn al-Azraq Center for Political Studies resulted in seventeen titles, in addition to previous works with different publishers. I have used or inspected the following titles in this research: Ibn al-Ḥaddād, *al-Jawhar al-nafīs fī siyāsat al-Raīs (649/1251-2)*, ed. Raḍwān al-Sayyid (Beirut: Dār al-Ṭalī'a, 1983); Ibn Nubāta, *al-Mukhtār min kitāb tadbīr al-duwa'*; al-Māwardī, *Qawānin al-wizāra wa siyāsat al-mulk*, ed. Raḍwān al-Sayyid (Beirut: Dār al-Ṭalī'a, 1979); al-Ṭarsūsī, *Tuḥfat al-Turk fī-mā yajib an yu'mal fī al-mulk*, ed. Raḍwān al-Sayyid (Beirut: Ibn Al-Azraq Center for Political Heritage Studies, 2012).

¹³⁸ Introduction to the *Tuḥfat al-Turk*.

¹³⁹ Marlow, *Hierarchy and Egalitarianism*; and "Kings, Prophets and the 'Ulamā' in Mediaeval Islamic Advice Literature," *Studia Islamica* 81 (1995): 101–20.

¹⁴⁰ Marlow, "The Way of Viziers"; and "Advice and Advice Literature", *EI3*.

Marlow's recent *Naṣīḥat Al-Mulūk of Pseudo-Māwardī* (Counsel for kings) provides an exemplary approach to the history of political thought.¹⁴¹ It is a detailed research on a tenth-century anonymous work attributed to al-Māwardī. Marlow did not limit herself to the genre to draw hasty conclusions, but strived to consider various crucial factors: the author's language of choice, his repertoire of political and ethical ideas, the language of the relevant discourses of his time, the importance of knowing his legal school – Ḥanafī in this case – the theological background of his work, the social, intellectual, and political networks within which he operated, and the different literary genres the work flirted with. She noted how the author uses “ancient wisdom to bear on recent developments” thus responding to and reflecting on the particular circumstances of his time and location.¹⁴² Marlow thus showed that the genre was not static and – most importantly – did not dictate the content of the work.

The field received an additional boost with the publication of several recent works that, though not all focused on political thought, proved to be great assets through their contextualist and thematic style. Over the last few years, a growing dissatisfaction with earlier approaches has become evident and scholarship has turned to more clearly delimited fields of studies. Recent works that have helped advance the field of medieval Islamic thought include the publications of Thomas Bauer on the literature of the Mamluk period, Sherman Jackson on law and governance, Nathan Hofer on Sufism, Hüseyin Yılmaz on Ottoman political thought, and the ever-growing corpus of writings on Ibn Taymiyya by scholars like Caterina Bori, Baber Johansen, and Ovamir Anjum. I have already discussed the contribution of Bauer, so I will focus here on the others.¹⁴³

¹⁴¹ Marlow, *The Naṣīḥat Al-Mulūk of Pseudo-Māwardī*.

¹⁴² *Ibid.*, p. 14-21.

¹⁴³ Thomas Bauer's works include: “Mamluk Literature”; “Ibn Nubātah Al-Miṣrī (686-768/1287-1366): Life and Works: Part I: The Life of Ibn Nubātah,” *Mamlūk Studies Review* 12, no. 1

Sherman Jackson's works on legal history examined the interaction between state power and *madhhab* authority in the thirteenth century. His work covers a set of innovative constitutional reflections by the Mālikī jurist Shihāb al-Dīn al-Qarāfī (626/1228- 682/1283 or 684/1285) and discusses how the Islamic legal system of the late Ayyubid and early Mamluk period was influenced by *madhhab* competition. Far from being limited to Shāfiī and Mālikī legal competition, al-Qarāfī's constitutional jurisprudence had, congruently, serious political implications on the institution of the caliphate; as such, Jackson makes a great case for juristic influence on political theory. Furthermore, his work established the link between the *uṣūlī /fiqhī* milieu of that period and the production of political thought; this was captured articulately in a single question: "what methodological tools would the *fuqahā'* employ in order to be able to interpret the Prophet model in such a way that would enable them not only to define but also limit the authority of the caliph?"¹⁴⁴ Al-Qarāfī's thought confirms the thirteenth century thinkers' attention to constitutional themes like limited government, albeit from a juridical vintage point.

Nathan Hofer studied when and how the popularisation of Sufism occurred and provided proof of the mixing of Sufism with politics in the context of thirteenth century Egypt. His monograph explained the interrelatedness between Sufism and the social and intellectual milieu within which political thought was produced. Hofer rejected the notion that Sufism was a response to the "dry legalism" of jurists and the "two-tiered model" of elite and popular culture.¹⁴⁵ On the contrary, his research promotes understanding of how some jurists engaged Sufism to disseminate their political ideas among the political

(2008): 1–35; and "Ibn Nubātah Al-Miṣrī (686-768/1287-1366): Life and Works Part II: The Dīwān of Ibn Nubātah," *Mamlūk Studies Review* 12, no. 2 (2008): 25–69.

¹⁴⁴ Jackson, "From Prophetic Actions to Constitutional Theory".

¹⁴⁵ Hofer, *The Popularisation of Sufism*, p. 8-9.

elites.¹⁴⁶ Furthermore, Hofer's work is useful for delineating the heterogeneous composition of any socio-religious group. For instance, the state-sponsored Sufis of Cairo were very different from the insubordinate Sufis of Upper Egypt. Hofer's caution, "The [Sufi] epithet only makes sense within very specific historical, social and political contexts" applies to the present research's use of Shāfiī, Mālikī, Ḥanafī, or Ḥanbalī epithets to strains of political thought; one should never assume uniformity of any *madhhab* or group.¹⁴⁷

Hüseyin Yılmaz's *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* is another valuable recent contribution.¹⁴⁸ This monograph treats the shaping of a post-ʿAbbāsī Ottoman caliphate molded by indigenous historical experiences and mystical influences. Yılmaz discussed how influential Sufis and "Sufi-minded" ʿulamāʾ legitimated the Ottoman rule by transforming the caliphate into an expression of a universal and divine authority and by adopting a "moral paradigm" while avoiding the legal abstraction of the caliphate.¹⁴⁹ *Caliphate Redefined* relied on an impressive corpus of texts of Islamic political thought that Ottoman authors benefited from.¹⁵⁰ Yılmaz navigated skillfully between these abundant Arabic, Persian, and Turkish sources that reflected juristic, sufistic, ethical, and administrative discourses of the Ottoman period.

While the competition for an official *madhhab* was never imaginable in the consistently Ḥanafī Ottoman Empire, the *Caliphate Redefined* is particularly interesting for this thesis. Similar to the Mamluk period *madhhab* competition, it provides a later-Ottoman case for the contestation between

¹⁴⁶ Ibid..

¹⁴⁷ Ibid., p. 25.

¹⁴⁸ Hüseyin Yılmaz, *Caliphate Redefined: The Mystical Turn in Ottoman Political Thought* (Princeton, NJ: Princeton University Press, 2017).

¹⁴⁹ Ibid., p. 1-2, p. 8-10, and in the introduction *passim*.

¹⁵⁰ This corpus never ceases to impress any historian of political thought who resorts to the Topkapı and Süleymaniye collections.

jurists, Sufis, and administrators to formulate “rival notions of authority” that suited their own various ideological, confessional, and professional interests.¹⁵¹ Chapter 4 of this thesis will discuss a Mamluk-period Sufi precedent where the *imāma* was repackaged in a mystical and moral language. This chapter will show the reliance on some of the same sources and influences that were identified by Yilmaz as being central to the later Ottoman mystical redefinition of the caliphate.

The vast corpus of research on Ibn Taymiyya has dominated the study of medieval political thought. Yet this academic bias has proven rather beneficial owing to the depth of some of its studies. Caterina Bori’s challenge of “the commonly accepted identification of Ibn Taymiyya with 14th century Syrian Hanbalism” is very valuable; she described the intra-*madhhab* polemics among traditionalists, jurists, judges, prominent *shaykhs* and members of the Ḥanbalī community who did not share Ibn Taymiyya’s views on Sufism, or his theological and legal doctrines.¹⁵² Likewise, Baber Johansen’s work led to a further contextualisation of Ibn Taymiyya’s political ideas; he noted that *al-Siyāsa al-shar‘iyya* “reflects Ibn Taymiyya’s concept of the Sultan’s role in conflicts between factions of religious scholars”.¹⁵³ No longer is Ibn Taymiyya seen as a unique puritan who was detached from or hostile to the political elite.¹⁵⁴ Additionally, the interest in Ibn Taymiyya has led to a better understanding of the relevance of theology to the politics of the Mamluk period. Bori raised the need to study the “missing link between

¹⁵¹ Yilmaz, *Caliphate Redefined*, p.2.

¹⁵² Caterina Bori, “Ibn Taymiyya Wa-Jamā‘atuhu: Authority, Conflict and Consensus in Ibn Taymiyya’s Circle,” in *Ibn Taymiyya and His Times*, ed. Yossef Rapoport and Shahab Ahmed, Studies in Islamic Philosophy 4 (Karachi: Oxford University Press, 2010), p.24 and p.33-36.

¹⁵³ Baber Johansen, “A Perfect Law in an Imperfect Society. Ibn Taymiyya’s Concept of ‘Governance in the Name of the Sacred Law,’” in *The Law Applied: Contextualizing the Islamic Shari‘a; a Volume in Honour of Frank E. Vogel*, ed. Peri J. Bearman et al. (London: Tauris, 2008), p. 264.

¹⁵⁴ For instance, Rosenthal considered Ibn Taymiyya “stands in marked contrast to other jurists”, an idea that will be challenged in Chapter 5 of this thesis; Rosenthal, *Political Thought*, p. 52.

theological production and its potential social and political significance”.¹⁵⁵ These contributions will be discussed in a more detailed fashion in Chapter 5.

The above-mentioned recent works are of great value to this thesis. Firstly, they consider the intellectual production of the late Ayyubid and early Mamluk period as rich, original, and valuable, and not just an afterthought to the formative periods. Secondly, they stress, intentionally or not, the interrelatedness between community, theology, Sufism, domestic politics, and law with the production of political thought of that period. Thirdly, they build on social history in order to examine the agency of groups and individuals in the political sphere. Overall, they exemplify the wider surge in scholarship on the middle period, especially the field of Mamluk studies as it moves away from the decline paradigm, which has already lost influence in most fields of historical inquiry.

This trend of recent scholarly contributions provided this present research with useful tools to challenge the prevalent erroneous conceptions in the field of Islamic political thought, hopefully for the better. While it is true that these impaired conceptions existed in older studies of political thought, the works of Rosenthal, Lambton, and Crone still dominate the field. The political thought of the Ayyubid and Mamluk period and the central region of Islam, with which this study is concerned, remains heavily under-researched apart from topics related to Ibn Taymiyya and, as such, the field still relies on these older works.

This work

The remaining part of this introduction presents the chapters of this thesis. As did Ibn Jamā‘a in the prologue and the first section of his *Taḥrīr*, entitled “Regarding the necessity (*wujūb*) of the *imāmate*, its requirements

¹⁵⁵ Caterina Bori, “Theology, Politics, Society: The Missing Link. Studying Religion in the Mamluk Period,” in *Ubi Sumus? Quo Vademus?: Mamluk Studies - State of the Art*, ed. Stephan Conermann (Goettingen: V & R Unipress; Bonn University Press, 2013), p.58.

(*shurūṭ*) and provisions (*aḥkām*)”, I wish to familiarise the readers with this thesis’ subsequent chapters.¹⁵⁶ I will first explain the need for this research and its aims (the *wujūb*). I will then explain the methodology opted for in this thesis (the *aḥkām* of this research). Following that, I will restate the main argument of the thesis and provide a synopsis of the subsequent five chapters (*tartīb al-abwāb*). In-between, and unlike Ibn Jamā‘a, I will provide a necessary contextualised summary of the state of the four legal schools by the early Mamluk period.

Methodology and argument

To this point in time, any work of post-classical Islamic political thought is at the risk of being reduced from a complex set of vivid political ideas that reflect the author’s experiences, intellectual and empirical world, and historical context into a study of its genre. Such genres could be religious or panegyric works dedicated to rulers and purportedly based on vaguely defined ancient, pre-Islamic or early-Islamic examples that invoke abstract notions such as justice, obedience, generosity, order, and restraint. However, the earlier political connotations of those notions would have probably meant nothing to an author writing in the thirteenth or fourteenth century apart from being useful as rhetorical tools and part of an available anthological repertoire of maxims, anecdotes, and homilies. In fact, it would be surprising if a medieval political thinker did not praise justice, benevolence, order, and restraint. Rather than being merely consumed with earlier and often imagined models of kingship and courtly conduct, authors of this period reflected on tangible concerns like the rise of new military elites, the impact of this rise on the populace and the administration, the increasing presence of Sufism, distribution of wealth, external threats, the various contemporary theological discourses, the growing competition among *madhhabs*, access to courtly patronage, and the competition for offices within a lucrative and powerful state administration. To

¹⁵⁶ Ibn Jamā‘a, *Taḥrīr*, p. 48-57.

argue, in 2019, for a continuity of ancient modes of political thinking or models of kingship would be scandalous to suggest or even think of in the field of history of Western political thought: so should be the case in the history of Islamic political thought.

The reader has probably discerned by now the influence of Quentin Skinner and his school on this research. In several of his works including the pivotal “Meaning and Understanding in the History of Ideas”, Skinner set down a methodology of interpreting historical political texts that have proved useful here in three ways.¹⁵⁷ The first and obvious one was to realise that a mere textual approach is not sufficient to understand a political text. For instance, and as discussed above, the literal meaning of terms and concepts employed frequently in Islamic political thought, like *dawla*, *sultān*, *sharīʿa*, *ḥukm*, *ḥākim*, *imām*, and *ʿadl* change over time; consequently, any assumption that they describe a fixed or earlier conception of modes or ruling is simply not tenable. It is in this sense that I employ Skinner’s caution that there are no “perennial problems” and “universal truths” in the history of political thought unless they are “sufficiently abstractly framed”.¹⁵⁸ Second, Skinner’s well-known “mythologies” of doctrines, coherence, prolepsis, and parochialism are useful to identify further problems that afflict the field of history of Islamic political thought.¹⁵⁹ As such, the above-mentioned five impairments can be easily re-arranged to fit Skinner’s four mythologies. Third, I used Skinner’s ‘soft’ linguistic contextual approach to retrieve the language of the political and theological discourses that were prevalent in Damascus during the thirteenth century. This will be discussed in greater detail in Chapter 1.

Based on this approach, I argue that the political thought of the late Ayyubid and early Mamluk period should be re-interpreted. It should be read

¹⁵⁷ Quentin Skinner, “Meaning and Understanding in the History of Ideas,” *History and Theory* 8, no. 1 (1969): 3–53, p.3-4.

¹⁵⁸ *Ibid.*, p.52.

¹⁵⁹ *Ibid.*, p. 7-39.

and reclassified outside the prevalent conventions of genre and according to a more nuanced historical contextualisation that considers the development of competing strains of political thought associated with the four *madhhabs* as put forward by dedicated treatises and works of political advice. Examining developments in intellectual history with a context of political and social histories entails the use of the literary sources to understand the authors, the intellectual discourses of the period, the competition for salaried posts and courtly patronage, and the use and misuse of creedal and legal discourses in political rivalries. This research refutes the notion that the Ayyubid and Mamluk period was an obscure period of intellectual paucity with few exceptions and argues instead that it was an opulent period with original expressions of political thought. The main originality of this period was that the competition among the *madhhabs* stimulated the treatment of new political themes that were of constitutional nature including the rule of law, limited government, and the theory of delegation.

The *madhhabs*

But how did the *madhhabs* develop and why did they compete against each other? By the 13th century, the control over knowledge translated into increased social power and better access to legal, administrative, and political offices by jurists of the four *madhhabs*.¹⁶⁰ It was only logical that this competition would express itself in various inter-*madhhab* legal and theological clashes and debates. Yet the context of this competition was now set in seventh/thirteenth and eighth/fourteenth century Damascus and Cairo, which differed from Richard Bulliet's fourth/tenth to the sixth/twelfth centuries

¹⁶⁰ The starting point to understand this process are the following seminal works, Michael Chamberlain, *Knowledge and Social Practice in Medieval Damascus, 1190 - 1350*, Cambridge Studies in Islamic Civilization (Cambridge: Cambridge University Press, 1995), Jonathan Porter Berkey, *The Transmission of Knowledge in Medieval Cairo: A Social History of Islamic Education*, Princeton Studies on the Near East (Princeton, N.J: Princeton University Press, 1992), and Konrad Hirschler, *The Written Word in the Medieval Arabic Lands: A Social and Cultural History of Reading Practices* (Edinburgh: Edinburgh University Press, 2012).

Nishapur.¹⁶¹ Well before the mid 13th century, the *madhhabs* had “settled down” from groups loosely gathered around broad legal and theological concepts into well-defined corporate units tied by normative legal conformity (*taqlīd*).¹⁶² Accordingly, the nature of the inter-*madhhab* competition had changed from mere partisanship over theological matters. To give one example, the competition between Ḥanafīs and Shāfi‘īs in the thirteenth century, unlike its Saljūq precedent, was no longer primarily based on theology.¹⁶³ Tāj al-Dīn al-Subkī’s (d. 771/ 1370) opinion was that Ash‘arī and Māturidī theologies were essentially identical thus ending the dogmatic rivalry between Ḥanafīs and Shāfi‘īs.¹⁶⁴ Furthermore, as will be discussed subsequently in Chapter 3, the legal rifts between the schools no longer justified serious strife between their adherents. As such, the *madhhab* competition became more focused on the accumulation of posts and influencing the public and political sphere.

Theology did not, however, vanish completely. Although no longer the main influence behind inter and intra-*madhhab* disputes, it still played a role in the religious, intellectual, and political life of the late Ayyubid and early Mamluk period.¹⁶⁵ For instance, and as will be discussed in Chapter 3, the old theological roots of the competition between Ḥanafism and Shāfi‘ism never

¹⁶¹ For a snapshot of strife among *madhhabs* in earlier periods of Islam, refer to Richard W. Bulliet, *The Patricians of Nishapur: A Study in Medieval Islamic Social History* (Cambridge, Mass.: Harvard University Press, 1972).

¹⁶² For a more detailed discussion on this process refer to Jackson, *Islamic Law and the State*, p. xx, p.xxix, p.225-227 and the introduction *passim*.

¹⁶³ Refer to Chapter 3 for a more detailed discussion on this and how the old theological roots of the competition between Ḥanafism and Shāfi‘ism never disappeared completely.

¹⁶⁴ Wilferd F. Madelung, “The Spread of Māturīdism and the Turks,” in *Religious Schools and Sects in Medieval Islam*, Variorum Collected Studies Series CS213 (Aldershot: Ashgate/Variorum, 1999), p.166-167. Al-Subkī was a Shāfi‘ī chief judge and devoted Ash‘arī author; for more on this important author refer to Chapter 1.

¹⁶⁵ For a recent study of the impact of theology on political life, refer to Bori, “The Missing Link”.

disappeared completely.¹⁶⁶ More importantly, as will be shown in Chapters 1 and 5, the theological dispute between Ash‘arīs and traditionalists continued; this dispute occasionally surfaced as inter-*madhhab* competition between the Shāfi‘ī and Ḥanbalī *madhhabs*, and in other instances as tensions within each of the two *madhhabs*, that is between Shāfi‘ī rationalists and traditionalists or between Ibn Taymiyya and his opponents within the Ḥanbalī *madhhab*.¹⁶⁷ These different nuances of inter-*madhhabs* and intra-*madhhabs* competitions will be sometimes designated simply as *madhhab* competition.

A central pillar to the argument of this research is that *madhhab* competition helped shape the production of political thought. Given the changes that affected the nature of the four *madhhabs* and the relationship between them, and given the internal tensions within every *madhhab*, the *madhhab* competition now extended from the strictly legal and theological domains into the public law and constitutional domain. The jurists, who were also the predominant authors of political texts examined by this research, were at the centre of this competition being important members of the four *madhhabs*. In such a context, the space for legal and theological competition was narrowly demarcated. Consequently, it was inevitable that such situation would stimulate a competition among the *madhhabs* not only in the classical legal and theological domains but also in the public law and constitutional domain in order to gain the status of a ‘preferred *madhhab*’. A ‘preferred’ *madhhab* by the state or a ruler could enjoy immense powers by amassing religious, judiciary, and administrative offices, by influencing political edicts,

¹⁶⁶ Ibn Ḥajar al-‘Asqalānī related that al-Ṭarsūsī authored an *urjūza* on *ikhtilāf* between Ash‘arīs and Ḥanafīs. This indicated the old theological roots of the competition between Ḥanafism and Shāfi‘ism never disappeared completely. Refer to *al-Durar*, vol. 1, p.43. Refer to Chapter 3 for a detailed discussion.

¹⁶⁷ Bori, “Ibn Taymiyya Wa-Jamā‘atuhu”, p. 24. For a detailed discussion of al-Subkī’s theological polemics embedded in inter-*madhhab* competition refer to George Makdisi, “Ash‘arī and the Ash‘arites in Islamic Religious History I,” *Studia Islamica* 17 (1962): 37–80. This will be treated in detail in Chapter 1 of this thesis.

and by conferring authority to its doctrines and legal rulings.¹⁶⁸ This in turn encouraged the production of political thought as will be evidenced by the treatises that will be examined in Chapters 2, 3, 4, and 5.¹⁶⁹

Within this *madhhab*-based conception of political thought, both authors and dedicatees of these treatises are subject to a fresh perspective in this thesis. While it is difficult to ascertain what the recipients (often sultans and members of the ruling elite) expected from those treatises, there are strong indications that some of them used the ideals of these treatises in order to uphold their legitimacy and to balance their exercise of power. This research will present cases where Baybars and, especially, the entourages of Baybars al-Jāshankīr and al-Nāṣir Muḥammad, employed the period's political thought in their struggle for and exercise of power. One can even posit that there was, furthermore, an attempt by the authors to deliver to the contestants for power a proto-official *madhhab* that secured both the smooth running of

¹⁶⁸ Jackson, *Islamic Law and the State*, p.225. The general view during the Mamluk period, as expressed by Tāj al-Dīn al-Subkī's opinion, was that Ash'arī and Māturidī theology were essentially identical thus ending any potential reason for a dogmatic rivalry between Ḥanafīs and Shāfi'īs (this dogmatic harmony did not extend itself to some Ḥanbalīs as will be discussed in Chapter 1). Furthermore, there was no legal basis to justify, for instance, al-Ṭarsūsī's bitterness towards Shāfi'ism. Juridical differences that may have existed between the two schools did not justify any serious strife between their adherents. The roots behind the competition had changed completely as will be shown in Chapter 3.

¹⁶⁹ The idea of a *madhhab* based political thought is akin to a precedent that was treated indirectly in a study of the two versions of *Kitāb al-aḥkām al-sulṭāniyya* of the Shāfi'ī and Ḥanbalī judges, al-Māwardī (d. 450/1058) and Abū Ya'lā (d. 458/1066); Nimrod Hurvitz, *Competing Texts: The Relationship Between Al-Mawardi's and Abu Ya'la's Al-Ahkam Al-Sultaniyya*, Occasional Publications 8 (Cambridge, MA: ILSP, Harvard Law School, 2007). Hurvitz showed examples of the impact of *madhhab* affiliation on both authors' vision of public law. He treated the discrepancies that appeared in the two versions of the *Aḥkām* as evident, for instance, in the emphasis on different moral topics and the different types of legal writing. Furthermore, Hurvitz highlighted the tension and competition between the two legal schools by noting al-Māwardī and Abū Ya'lā's mutual omission of the mention of each other's *madhhab* founder (p. 21). Although both authors adhered to the same 'Abbāsīd caliphal circle of scholars and officials, they did not agree on every aspect of public law. For another very useful study on the same topic refer to Muḥammad 'Abd al-Qādir Abū Fāris, *Al-Qāḍī Abū Ya'lā wa kitābuhu al-aḥkām al-sulṭāniyya* (Mu'assasat al-Risāla, 1980), especially p.497-540. Likewise, Donald P. Little briefly touched on the discrepancies between the two texts and linked them to Abū Ya'lā's Ḥanbalism and al-Māwardī's Shāfi'ism, in "A New Look at Al-Aḥkām Al-Sulṭāniyya," *The Muslim World* LXIV (1974): 14.

the state and political legitimacy; in return the authors expected patronage and the upholding of the constitutional covenants they cherished.

Synopsis of the chapters

The Shāfiī strain of political thought and its contestants are distributed unevenly among the chapters of this research. The first two chapters cover the Shāfiī dominant strain where it will be shown that such a rubric did exist and its premises explicated. The primacy given to Shāfiī thought is the result of the prevalence of Shāfiīism among the population of Egypt and Syria and the dominance of Shāfiīs over the main legal and administrative offices. In consequence, it is not surprising that in the corpus of available sources Shāfiī authors were clearly much more prolific than their counterparts of other *madhhabs*. The remaining chapters deal with the pushback reaction of Ḥanafī, Malikī, Ḥanbalī, and Sufi strains of political thought, albeit not in the same detailed way. The chapter arrangement aims to capture the essence of the competition that existed among the various strains and the political context that shaped this competition and, at times, fuelled it.¹⁷⁰

The first chapter discusses how Mamluk historiography preserved a golden age of the Shāfiī strain of political thought. The biography of the jurist ‘Abd al-‘Azīz Ibn ‘Abd al-Salām (d. 660/1262) in Tāj al-Dīn al-Subkī’s (d. 771/1370) *Ṭabaqāt al-Shāfiīyya al-kubrā* (The great Shāfiī biographical dictionary) will be studied as a political text that preserved the Shāfiī conception of an ideal rule that regulated the late Ayyubid and early Mamluk period. This chapter will present the Shāfiī strain of thought, its protagonists, and its contestants as sketched by the immediately subsequent Shāfiī generation.

¹⁷⁰ In any future effort to turn this thesis into a monograph, the chapters will be rearranged to follow a straightforward chronological order as follows: Ibn Ṭalḥa, the anonymous Sufi author, al-Qarāfī, Ibn Jamā’a, Ibn Taymiyya, and al-Ṭarsūsī. In this new arrangement, the current Chapter 1 will become the last one and will be instead presented as al-Subkī’s thought.

Chapter 2 examines the synthesis of the Shāfiī strain of political thought as expressed in Ibn Jamā‘a’s (639/1241- 733/1333) *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām* (Drafting the ordinances required for running the affairs of the people of Islām).¹⁷¹ This chapter will trace Ibn Jamā‘a’s earlier works alongside the progress of his career in administration and justice. Furthermore, I will highlight Ibn Jamā‘a’s concern for the three constitutional themes central to this thesis, the rule of law, limited government, and delegation of power, and for ensuring the functioning of government independently of political competition amongst Mamluk households. Additionally, this chapter will examine a case of praxis of Ibn Jamā‘a’s political thought.

Chapter 3 will treat a sweeping challenge to the Shāfiī political thought bluntly put forward by the Damascene Ḥanafī jurist Najm al-Dīn al-Ṭarsūsī. His *Tuḥfat al-Turk fī-mā yajib an yu‘mal fī-al-mulk* (A guide to kingship as a gift for the Turks) was a forthright contention to Shāfiī dominance and an early indication of the Ḥanafī aspiration to become the official *madhhab* of the state, which it later succeeded in achieving under the Ottomans.¹⁷² While al-Ṭarsūsī offered visible concessions to the rulers, he still displayed some intransigence towards the three constitutional themes.

Chapter 4 studies the anonymous Sufi treatise *Miṣbāḥ al-hidāya fī ṭarīq al-imāma* (A light to guide the path towards [proper] *imāma*), which was probably dedicated to Baybars.¹⁷³ Although its author clearly expressed himself in a distinctively Sufi style, his strain of political thought voiced similar constitutional worries to the Shāfiīs and Ḥanafīs. This chapter will demonstrate that despite their lack of administrative experience, some Sufis,

¹⁷¹ Ibn Jamā‘a, *Taḥrīr*.

¹⁷² Al-Ṭarsūsī, *Tuḥfat al-Turk*.

¹⁷³ Unknown, “Miṣbāḥ al-hidāya fī ṭarīq al-imāma”, MS Bodleian Library (Oxford); Wilfred Madelung, “A Treatise on the Imamate Dedicated to Sultan Baybars I,” in *Proceedings of the 14th Congress of the Union Européenne Des Arabisants et Islamisants, Pt. 1* (Budapest: Eötvös Loránd University/Csoma de Kőrös Society, 1995), 91–102.

like other groups, contested the dominant Shāfiī expression of political thought.

Chapter 5 has a tripartite interest. It investigates the Malikī and Ḥanbalī reactions, as embodied by al-Qarāfi and Ibn Taymiyya, and the unaffiliated tradition of writing works of political advice. As discussed above, al-Qarāfi's constitutional jurisprudence had significant implications on Islamic political thought. Furthermore, I will discuss the political ideals of Ibn Taymiyya, the most famous Ḥanbalī of the period. Given the scholarly attention he received, I will benefit from a vast array of secondary research to propose that Ibn Taymiyya, like others, competed to advance his own strain of political thought within his network in the political and military elites. Additionally, this chapter will study *al-'Iqd al-farīd li-al-malik al-saīd* (The unique necklace for a content king) of Ibn Ṭalḥa al-Naṣībī (582/1186 or 87- 652/1254) as a model for political treatises that were not concerned with the *madhhab* competition.

Chapter 1- Remembrance, preservation, and performance of Shāfi‘ī political thought

This present study of the history of political thought of the late Ayyubid and early Mamluk period (c.1230 to 1330) begins with the Mamluk historical writing of the fourteenth century. More specifically, it starts with the study of two works of the Shāfi‘ī jurist Tāj al-Dīn al-Subkī (d. 771/1370), *Ṭabaqāt al-Shāfi‘iyya al-kubrā* (The great Shāfi‘ī biographical dictionary) and *Mu‘īd al-ni‘am wa-mubīd al-niqam* (The restorer of favours and the restrainer of chastisements). This chapter argues that al-Subkī was memorialising the Shāfi‘ī strain of political thought of the thirteenth century by dedicating an exhaustive biography to the Shāfi‘ī jurist ‘Abd al-‘Azīz Ibn ‘Abd al-Salām (d. 660/1262) in the *Ṭabaqāt*. This biography preserved the concern within Shāfi‘ī thought for upholding the rule of law through a sequence of anecdotes that covered Ibn ‘Abd al-Salām’s activism. Additionally, and as will be discussed below, Ibn ‘Abd al-Salām’s biography underlines how *madhhab* competition was a major stimulus behind the production of political thought during the thirteenth century. Lastly, this chapter covers in brief the ideal of limited government within the Shāfi‘ī strain of political thought as preserved in the later work of al-Subkī, the *Mu‘īd*.

This unusual retrospective approach is dictated by methodological considerations. This thesis maintains that the prerequisites to interpreting thirteenth-century political treatises, like Ibn Jamā‘a’s *Taḥrīr* for instance, are to unlock: the political language of the authors’ period; the language of the prevalent intellectual discourses of their time; their repertoires of political and ethical ideas; the legal and theological backgrounds of their works; their doctrinal affiliations and loyalties; the social, intellectual, professional, and political networks within which they emerged, operated, and flourished; and the social and political concerns presented by their immediate and previous

historical contexts. This chapter will show how a meticulous study of Ibn ‘Abd al-Salām’s biography in the *Ṭabaqāt* can provide the required answers to these methodological questions.

In sum, this chapter will use the remembrance of Ibn ‘Abd al-Salām to interpret thirteenth-century Shāfiī political thought. It will first examine Ibn ‘Abd al-Salām’s intellectual background, career, and activism. The chapter will then focus on how Tāj al-Dīn al-Subkī’s aims in writing Ibn ‘Abd al-Salām’s biography in the *Ṭabaqāt* were dictated by his loyalty to the Shāfiī *madhhab* and his staunchly Ash‘arī doctrinal affiliation. As such, the chapter presents the remembrance of Ibn ‘Abd al-Salām as an archetypal Shāfiī model that al-Subkī evoked to counter perceived threats against his *madhhab*. Following that, the biography will be closely examined to unlock the political language of the thirteenth century as preserved in the *Ṭabaqāt* and by relying, in parallel, on chronicles contemporary to Ibn ‘Abd al-Salām. This endeavour can only be achieved through knowledge of the major intellectual discourse of the period between rationalists and traditionalists, which manifested in inter-*madhhab* and intra-*madhhab* competitions between Shāfiīs and Ḥanbalī-traditionalists, and between Shāfiī-Ash‘arīs and Shāfiī-traditionalists.¹⁷⁴ This in turn reflects how *madhhab* competition became entangled with the production of political thought. Moreover, this chapter will situate thirteenth-century Shāfiī political thought within a long Shāfiī and Shāfiī-Ash‘arī tradition that includes the contributions of al-Māwardī, Niẓām al-Mulk, al-Juwaynī, al-Ghazālī, al-Razī, Ibn ‘Abd al-Salām, and Ibn Jamā‘a, as skilfully portrayed by al-Subkī. Subsequently, the biography will be interpreted as a text of political thought by focusing on six selected anecdotes that highlight specific political themes including the moderation of the exercise of power, political legitimization, and protection of the populace.

¹⁷⁴ As per the introduction, my definition of *madhhab* competition includes intra and inter *madhhab* legal and theological differences.

Al-Subkī's remembrance of Ibn 'Abd al-Salām

'Abd al-'Azīz Ibn 'Abd al-Salām al-Sulamī (577 or 8/1181-2- 660/1262), Ibn 'Abd al-Salām or 'Izz al-Dīn as the sources fondly refer to him, was the leading Shāfiī authority in Egypt and the Levant of his generation and a renowned *mujtahid*.¹⁷⁵ His reputation, as “sultan of the scholars” (*sulṭān al-'ulamā'*)¹⁷⁶, was mostly the product of his activism focused on protecting the populace and his intransigence towards the ruling elites rather than his theological or legal works.¹⁷⁷ Among his most prominent teachers were the jurist Fakhr al-Dīn Ibn 'Asākir (550/1155- 620/1223) and the theologian Sayf al-Dīn al-Āmidī (551/1156 or 7- 631/1233), the leading scholar of theology (*kalām*) and speculative jurisprudence (*uṣūl al-fiqh*), who was renowned for his knowledge of the “rational sciences” (*'aqliyyāt*).¹⁷⁸ Early in his career, Ibn 'Abd al-Salām's Shāfiī-Ash'arī theological affiliation led him to clash with Ayyūbid sultan al-Ashraf Mūsā (d. 635/1237) and the Ḥanbalī-traditionalists of Damascus. Moreover, his career in Damascus is associated with abolishing what he perceived to be ritual innovations like *ṣalāt al-raghā'ib* (The prayer of

¹⁷⁵ Wael B. Hallaq defines *mujtahid* as: “a highly learned jurist who is capable of *ijtihād*, i.e., reasoning about the law through applying complex methods and principles of interpretation” in *An Introduction to Islamic Law* (Cambridge ; New York: Cambridge University Press, 2009), p.175. There is not much secondary literature on Ibn 'Abd al-Salām. For this summary, and in addition to primary sources, I used E. Chaumont, “Al-Sulamī,” in *EI2* and Jackson, *Islamic Law and the State*, pp. 9-16; Daniella Talmon-Heller and Raquel Ukeles, “The Lure of a Controversial Prayer: Ṣalāt Al-Raghā'ib (the Prayer of Great Rewards) in Medieval Arabic Texts and from a Socio-Legal Perspective,” *Der Islam* 89, no. 1–2 (2012): 141–66; Daniella Talmon-Heller, “Muslim Martyrdom and Quest for Martyrdom in the Crusading Period,” *Al-Masāq* 14, no. 2 (2002): 131–39.

¹⁷⁶ Tāj al-Dīn al-Subkī, *Ṭabaqāt al-Shāfi'iyya al-kubrā*, ed. Muṣṭafā 'Abd al-Qādir Aḥmad 'Aṭā, 6 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1999), vol.4, p. 357.

¹⁷⁷ Ibn 'Abd al-Salām's reputation is generally linked to “his militancy placed exclusively at the service of the community” and “to his independence in dealing with political authorities” rather than his works or thought; in “al-Sulamī”, *EI2 Islam*.

¹⁷⁸ Al-Subkī, *Ṭabaqāt*, vol. 4, p. 354. Refer to “'Abd al-Raḥmān b. Muḥammad Ibn 'Asākir (d. 620/1223), who became the *mufī* of Damascus and leader of the Shāfiīs in Syria and occupied several prestigious chairs for the study of *ḥadīth* and jurisprudence in Damascus and Jerusalem”, in Mourad, Suleiman A., “Ibn 'Asākir and family”, *EI3*; Weiss, Bernard G., “al-Āmidī, Sayf al-Dīn”, *EI3*.

great rewards).¹⁷⁹ Ibn ‘Abd al-Salām is eulogized in various biographical dictionaries and chronicles for opposing an alliance between Ayyūbid sultan of Damascus al-Şāliḥ Ismā‘īl (d. 648/1251) and the Franks in 638/1240, against the sultan’s own nephew, sultan al-Şāliḥ Ayyūb (d. 647 / 1249) of Cairo.¹⁸⁰ In consequence, al-Şāliḥ Ismā‘īl imprisoned Ibn ‘Abd al-Salām, who upon his release left immediately for Egypt. In Cairo, al-Şāliḥ Ayyūb appointed him as *khaṭīb* and judge. Soon Ibn ‘Abd al-Salām’s intransigence led him into all sorts of confrontations with the emerging political and military elites in Cairo. Paradoxically, when he resigned his official posts his status as a leading religious authority seems to have increased, not just amongst the ‘*ulamā*’ but also within the political elites and the wider populace. In this non-official capacity, Ibn ‘Abd al-Salām was involved in major events including preparations for war against the Mongols in 1260, the legitimation of Baybars, and the oath of allegiance (*bay‘a*) of the first ‘Abbāsīd caliph in Cairo in 659 /1261.

The eventful life and career of Ibn ‘Abd al-Salām turned him into the archetypal Shāfi‘ī champion. His biography, as written by contemporary sources and as later remembered by al-Subkī, became a repertoire of political acts and themes that served as a prototype for later Shāfi‘ī scholars’ engagement in the political sphere. As will be discussed, the biography of Ibn ‘Abd al-Salām recorded in al-Subkī’s *Ṭabaqāt* is a political text intended specifically for the remembrance and preservation of the Shāfi‘ī political thought of the late Ayyubid and early Mamluk period. In what follows, the main political themes preserved by the remembrance of Ibn ‘Abd al-Salām in the *Ṭabaqāt* will be linked to the Shāfi‘ī conception of the rule of law. Moreover, the chapter will document a case of emulation and remembrance by praxis of

¹⁷⁹ Talmon-Heller, “The Lure of a Controversial Prayer,” p. 141–66.

¹⁸⁰ R. Stephen Humphreys, *From Saladin to the Mongols: The Ayyubids of Damascus, 1193-1260* (Albany: State University of New York Press, 1977), p. 266-269.

Ibn ‘Abd al-Salām by the chief-judge of Cairo Ibn Daqīq al-‘Īd (625/1228 - 702/1302).

Mamluk historical writing and political thought treatises of the late Ayyubid and early Mamluk period are closely interrelated. The biographical dictionary of al-Subkī celebrates the participation of Ibn ‘Abd al-Salām in the political sphere, often by recounting very carefully crafted ‘anecdotes’ where the jurist seems to be ‘performing’ his duties as dictated by the Shāfiī political thought of the treatises. There is in the *Ṭabaqāt* an intentional process of remembrance and preservation of these anecdotes in an attempt to breathe more life into Shāfiī thought than political treatises allowed for. This makes the biography’s anecdotes beneficial for, and perhaps a prerequisite to, comprehending the political thought articulated in Shāfiī political treatises. Not unlike the intertextuality that characterises the study of scriptural texts, Mamluk historical writing and political treatises are very much interrelated. As such, an entry in a fourteenth-century biographical dictionary is essential to explicate a political treatise like Ibn Jamā‘a’s *Taḥrīr*, which is the synthesis the Shāfiī political thought as will be discussed in Chapter 2.¹⁸¹ Likewise, the influence of such political treatises, including Ibn Jamā‘a’s *Taḥrīr* but also other much earlier Shāfiī political texts, seem to have marked later Mamluk historical writing as will become evident below from the analysis of Ibn ‘Abd al-Salām’s biography in the *Ṭabaqāt*. In sum, one has to look beyond the political treatises and traditional texts in order to understand their meaning and influence in contemporaneous society; this is when the study of carefully selected sources like Ibn ‘Abd al-Salām’s biography in the *Ṭabaqāt* or contemporaneous chronicles becomes crucial.

¹⁸¹ Chapter 2 is dedicated to the study of Ibn Jamā‘a’s political thought.

The sources

Tāj al-Dīn ‘Abd al-Wahāb al-Subkī (727-9/1327-9- 771/1370) was a Shāfiī chief-judge and a devoted Ash‘arī author.¹⁸² Al-Subkī was educated in a staunchly Shāfiī-Ash‘arī environment that shaped his career and thought. He was the son of shaykh al-Islām Taqī al-Dīn al-Subkī (683/1284-756/1355), chief-judge and *khaṭīb* in Damascus. Taqī al-Dīn is best known for playing an important role in the main intellectual rift of the period, as he spearheaded the Shāfiī-Ash‘arī response to the traditionalism of Ibn Taymiyya and his students in both theology and jurisprudence. Taqī al-Dīn authored fierce polemical works against Ibn Taymiyya, including *al-Rasā’il al-Subkiyya fī al-radd ‘alā Ibn Taymiyya wa-tilmīdhihi Ibn Qayyim al-Jawziyya* (al-Subkī’s response to Ibn Taymiyya and his student Ibn Qayyim al-Jawziyya).¹⁸³ As for his son, Tāj al-Dīn, he studied in Cairo and Damascus, and later became teacher and *khaṭīb* in Damascus. Nominated by his father, he was appointed judge (*qāḍī*) in 756/1354. Tāj al-Dīn continued his father’s efforts against “anthropomorphists”, a pejorative description often used for anti-Ash‘arī Ḥanbalī and Shāfiī traditionalists.¹⁸⁴

All was not well for al-Subkī and his camp around the time he authored his *Ṭabaqāt*. Gone were the golden days of Nizām al-Mulk and Salāḥ al-Dīn when Shāfiī dominance went unchecked. Baybars’ legal reforms of 665/1267 may have not ended the Shāfiī pre-eminence in Syria and Egypt, but they nonetheless set a trend of slow but steady deterioration for the Shāfiī *madhhab*.¹⁸⁵ Moreover, the rise of Ḥanafism became irreversible and, more worrying for al-Subkī personally, Ḥanbalī traditionalism was making gains inside the Shāfiī *madhhab*. Since al-Subkī’s chief adversaries were the

¹⁸² Schacht and Bosworth, “al-Subkī”, *EI2*.

¹⁸³ Caterina Bori, “The Collection and Edition of Ibn Taymiyyah’s Works: Concerns of a Disciple,” *Mamlūk Studies Review* 13, no. 2 (2009): p. 48.

¹⁸⁴ Refer to Makdisi’s valuable works, “Ash‘arī and the Ash‘arites” and “Ṭabaqāt’-Biography: Law and Orthodoxy in Classical Islam,” *Islamic Studies* 32, no. 4 (1993): 371–96. Refer also to, “al-Subkī”, *EI2*.

¹⁸⁵ Refer to Chapter 3 for a detailed discussion on Baybars’ legal reforms.

Ḥanbalī-traditionalists and their Shāfiī sympathisers, he must have dreaded their success in drawing prominent Shāfiī names in Damascus into their camp, including al-Birzālī (d.739/ 1339), al-Mizzī (d.742 /1341), al-Dhahabī (d.748 / 1348) and Ibn Kathīr (d. 774 / 1373).¹⁸⁶ Indeed the heavy Ash‘arī polemic in the *Ṭabaqāt* was an indication that al-Subkī “was apparently swimming against the tide”.¹⁸⁷ The situation worsened further still and al-Subkī was dismissed from all his posts and imprisoned in 769/1368 for 80 days.¹⁸⁸ Ibn Ḥajar’s later account of this affair suggested that al-Subkī’s enemies fabricated a case of tax embezzlement, as he related that the inspector of orphans (*nāẓir al-aytām*) was “expected” to testify that some collected taxes had fallen into al-Subkī’s hands.¹⁸⁹ The Subkīs’ constant opposition to Ibn Taymiyya and his powerful faction put Tāj al-Dīn in jail; as a matter of fact, the Ḥanbalī chief-judge who sentenced him was none other than Ibn Qāḍī al-Jabal (d.771), one of Ibn Taymiyya’s students.¹⁹⁰ These turbulent times were for Tāj al-Dīn al-Subkī and his *madhhab* fundamental to the way the author set about authoring his magnum opus *Ṭabaqāt al-Shāfi‘iyya al-kubrā* (The great Shāfiī biographical dictionary).

It is within this context that Ibn ‘Abd al-Salām’s biography should be examined. The *Ṭabaqāt*’s remembrance of Ibn ‘Abd al-Salām is rooted in the main intellectual discourse of the period and constitutes an integral part of al-Subkī’s view that Shāfi‘ism and Ash‘arism were irreplaceable in the political

¹⁸⁶ Makdisi, “Ash‘arī and the Ash‘arites”, p. 59 and p.79.

¹⁸⁷ Schacht and Bosworth, “al-Subkī”, *EI2*.

¹⁸⁸ Al-Subkī’s imprisonment occurred in 769 A.H, three years after he supposedly wrote his *Ṭabaqāt*. This information is from another edition of his biographical dictionary: al-Subkī, *Ṭabaqāt al-Shāfi‘iyya al-kubrā*, ed. Maḥmūd Muḥammad al-Ṭanāḥī and ‘Abd al-Fattāḥ Muḥammad al-Ḥulū, vol. 1, 10 vols. (Cairo: Maṭba‘at ‘Īsā al-Bābī al-Ḥalabī wa-Shurakāh, 1964), p. 27; al-Ṭanāḥī and al-Ḥulū believe al-Subkī completed this work in 766 A.H based on various interesting evidence including marginal notes on an autograph manuscript of al-Subkī.

¹⁸⁹ “*urīda lahu an ya‘tarif*”; in Ibn Ḥajar, *al-Durar*, vol. 2, p. 425-428.

¹⁹⁰ al-Subkī, *Mu‘īd al-ni‘am wa-mubīd al-niqam*, ed. Muḥammad ‘Alī al-Najjār, Abū Zayd Shalabī, and Muḥammad Abū al-‘Uyūn (Cairo: Maktabat al-Khānī, 1993), p. “ج” in the editors’ introduction. The opinion of the editors is very plausible and well presented.

sphere. The *Ṭabaqāt* is thus a product of “the internecine struggle between traditionalists and rationalists within the Shafī‘ite *madhhab*” in the thirteenth and fourteenth centuries.¹⁹¹ Grasping this defining feature of the *Ṭabaqāt* is essential for any subsequent effort to unlock the language of the main intellectual discourse of the thirteenth century based on the biography of Ibn ‘Abd al-Salām. Furthermore, the *Ṭabaqāt* comprises a history of the Ash‘arī movement and the Shāfi‘ī golden age and its glorious names like al-Juwaynī, al-Ghazālī, Niẓām al-Mulk, and Salāḥ al-Dīn.¹⁹² As will become evident, the comprehensive remembrance of Ibn ‘Abd al-Salām is partly a memorial to this golden age when Shāfi‘ism and Ash‘arism played a leading role in the public sphere.

Al-Subkī provided the first comprehensive biography of Ibn ‘Abd al-Salām, but contemporary sources of the thirteenth century are also essential for this study. The chronicles of Ibn Wāṣil (604/1208- 697/1298), Abū Shāma (599/1203- 665/1268), al-Yūnīnī (640/1242 -726/1326), and Ibn ‘Abd al-Zāhir (620/1223- 692/1292) provide ample information on Ibn ‘Abd al-Salām.¹⁹³ These authors had direct contact with Ibn ‘Abd al-Salām: they either studied with him, obtained an *ijāza* (licence to teach or retransmit) from him, or witnessed key events of his life that they later reported. Such a blend of contemporary primary sources is robust enough to corroborate the historicity of al-Subkī’s later and more comprehensive account of Ibn ‘Abd al-Salām’s life. Moreover, these sources will help evaluate and understand the importance of Ibn ‘Abd al-Salām’s acts in both the religious and political

¹⁹¹ Makdisi, “Ṭabaqāt’-Biography”, p. 383.

¹⁹² Makdisi argued that the *Ṭabaqāt* commanded a universal legacy on Islamic history as it influenced the history of the Ash‘arī movement, the so-called “orthodox victory”, and the re-emergence of Ash‘arism that is commonly linked to Ghazālī and Niẓām al-Mulk; in “Ash‘arī and the Ash‘arites”, p. 38-39.

¹⁹³ Ibn Wāṣil, *Mufarrij*; Ibn Wāṣil, *Die Chronik*; Abū Shāma, *Tarājim rijāl al-qarnayn al-sādis wa-al-sābi‘ al-ma‘rūf bi-al-Dhayl ‘alā al-rawḍatayn*, ed. ‘Izzat al-‘Aṭṭār al-Ḥusaynī (Beirut: Dār al-Jīl, 1974); al-Yūnīnī, *Dhayl mir‘āt al-zamān fī tārikh al-a‘yān*, ed. ‘Abbās Hānī Al-Jarrākh (Beirut: Dār al-Kutub al-‘Ilmiyya, 2013.); Ibn ‘Abd al-Zāhir, *al-Rawḍ*.

spheres of his time.

These four contemporary authors reflected diverse backgrounds. The Damascene historian Abū Shāma (d. 665/1268) was a controversial Shāfiī jurist and an “ideal/withdrawn scholar” whose chronicle reflected his non-ruler centric and idealistic views.¹⁹⁴ A student of Ibn ‘Abd al-Salām, he was “immersed” in *madhhab* rivalry and aggravated the Ḥanbalīs of Damascus; his presumptuous character possibly led to his death.¹⁹⁵ Originally from Ḥamā, Ibn Wāṣil (d.697/1298) was a Shāfiī scholar who held various teaching posts, diplomatic roles, and judgeships in Egypt and Syria owing to his powerful network of relations.¹⁹⁶ His works on logic and astronomy and his various appointments, including a long diplomatic embassy to Sicily in 659/1261, clearly reflected the perspective of a “court historian”.¹⁹⁷ Ibn Wāṣil’s interests lay outside *madhhab* competition, but rather in administration, statecraft, and political history. He provided a first-hand account of one of Ibn ‘Abd al-Salām’s most celebrated acts on the eve of the Mongol attack on Egypt.¹⁹⁸ An equally precious contemporary source is the Syrian historian and Ḥanbalī scholar al-Yūnīnī (640/1242 - 726/1326).¹⁹⁹ He was licensed by Ibn ‘Abd al-Salām to teach *ḥadīth*. His work is considered to “contain an impressive store of materials for the history of Syria in the second half of the 7th/13th century and in the early 8th/14th century”.²⁰⁰ Finally, the apologetic secretary and official biographer of Baybars, Ibn ‘Abd al-Zāhir, will be drawn from, though

¹⁹⁴ Konrad Hirschler, *Medieval Arabic Historiography: Authors as Actors* (London: Routledge, 2006), p. 1 and p. 28-42.

¹⁹⁵ Hirschler, *Medieval Arabic Historiography*, p. 36-37; “Abū Shāmah wrote a treatise against Al-Yūnīnī’s father while the latter accused the former of slandering virtuous scholars”.

¹⁹⁶ *Ibid.*, p. 1 and p. 15-28.

¹⁹⁷ *Ibid.*, p. 15-16.

¹⁹⁸ Ibn Wāṣil, *Die Chronik*, p. 190.

¹⁹⁹ Jacqueline Sublet, “Al-Yūnīnī”, *EI2*. For more on this important author refer to Donald P. Little, “Historiography of the Ayyūbid and Mamlūk Epochs,” in *The Cambridge History of Egypt. Vol. 1: Islamic Egypt, 640-1517*, ed. Carl F. Petry (Cambridge: Cambridge University Press, 1998), p. 429-430.

²⁰⁰ “Al-Yūnīnī”, *EI2*.

less frequently.²⁰¹

A Shāfiī *Lieu de Memoire*?

Al-Subkī's remembrance of Ibn 'Abd al-Salām is more than a mere entry on a scholar in a Shāfiī biographical dictionary. It is unique in several ways and is intended to be relevant to the Shāfiī collective memory as a whole. It is also unique, as al-Subkī was the first author to dedicate a biographical entry to Ibn 'Abd al-Salām. Furthermore, it was a long biography written in great detail; it is one of the longest entries in the whole *Ṭabaqāt*, exceeded by a few prodigious names of the Shāfiī *madhhab* like al-Ghazālī, al-Juwaynī, and Taqī al-Dīn al-Subkī, the author's father.²⁰² It is likewise valuable because al-Subkī had access to accounts of Ibn 'Abd al-Salām's life by his son (Sharaf al-Dīn 'Abd al-Laṭīf).²⁰³ Moreover, its value is also clear in that later accounts of Ibn 'Abd al-Salām in various Shāfiī biographical dictionaries and chronicles chiefly depended on al-Subkī. Additionally, the *systematic* ascription of miracles (*karāmāt*) to Ibn 'Abd al-Salām began with al-Subkī.²⁰⁴ The relevance of this biography clearly extends to the whole *madhhab*.

I found French historian Pierre Nora's concept of *lieux de memoire* useful to understand al-Subkī's aims in preserving Ibn 'Abd al-Salām memory. Nora's collection entitled *Les Lieux de Mémoire* (published in English as

²⁰¹ Little, "Historiography of the Ayyūbid and Mamlūk Epochs," p. 421.

²⁰² The biography of Ibn 'Abd al-Salām is 32 pages in al-Subkī's, *Ṭabaqāt*, v.4, p. 354-386; al-Ghazālī's biography is 120 pages (v.3, p. 416-536) but this includes an exhaustive bibliography of his works; al-Juwaynī's entry is 41 pages (v. 3, 159-200); the entry on al-Subkī's father Taqī al-Dīn is 102 pages (v.5, p. 305-407) while al-Māwardī's entry, for example, is only 15 pages (v.3, p. 232-237).

²⁰³ Al-Subkī, *Ṭabaqāt*, v.4, p. 360 and p. 368.

²⁰⁴ Al-Subkī (d.771/1370) may have not been the first to attribute a *karāma* to Ibn 'Abd al-Salām but he was the first to do so in a systematic way. Likewise al-Yāfiī (1298-1367) wrote probably around the same time as al-Subkī; he was also a "scholar-Ṣūfī" and a "fervent Ash'arī" who "combated both Mu'tazilī rationalism and Ibn Taymiyya's anthropomorphism"; in *E12*. Al-Yāfiī attributes only one 'minor' *karāma* to Ibn 'Abd al-Salām in *Mir'āt al-jinān wa-ibrat al-yaqẓān fī ma'rifat mā yu'tabar min ḥawādith al-zamān*, vol. 4, 4 vols. (Beirut: Dār al-Kutub al-'Ilmiyya, 1997), p. 116.

Realms of Memory) shows how any entity, material or not, can become with time “a symbolic element of the memorial heritage of any community”.²⁰⁵ A *lieu de memoire* can be an archaeological site, a monument, a building, a real or imagined figure, an event, a date, or even a literary work. In this case, it is a jurist remembered through an entry, a fairly large one, in a medieval biographical dictionary. This conception enables one to contemplate how Ibn ‘Abd al-Salām’s biography fits with the aim of al-Subkī’s *Ṭabaqāt* in constructing and preserving the Shāfiī (more precisely, the Shāfiī-Ash‘arī) collective memory.

There are several features that indicate how Ibn ‘Abd al-Salām is a Shāfiī *lieu de memoire* in the *Ṭabaqāt*. These features include al-Subkī’s “self-consciousness”, his “will to remember”, and his tendency to meticulously reconstitute past events related to this Shāfiī *lieu de memoire*.²⁰⁶ Al-Subkī’s wilful intention to remember Ibn ‘Abd al-Salām in such a fashion in his *Ṭabaqāt* was intensified by the threats that his Shāfiī-Ash‘arī *madhhab* was enduring as discussed above. Expanding on this, Nora says, “We speak so much of memory because there is so little of it left.”²⁰⁷ Al-Subkī’s focus on constructing a Shāfiī *lieu de memoire* arose from his mindfulness that the Shāfiī golden age had practically come to an end. In order to guarantee historical continuity, there was a need, coupled with a will, to preserve for the Shāfiī memory what was “worthy of remembrance” in a safeguarded *lieu*.²⁰⁸ Ibn ‘Abd al-Salām’s exemplary life, career, and activism made him the ideal choice for this *lieu de memoire*. Al-Subkī essentially picked Ibn ‘Abd al-Salām to create a bastion of Shāfiī identity, which he defended with anecdotes and parables abundant with novel information up to this point in Mamluk

²⁰⁵ Pierre Nora and Lawrence D. Kritzman, eds., *Realms of Memory: Rethinking the French Past*, European Perspectives (New York: Columbia University Press, 1996).

²⁰⁶ Pierre Nora, “Between Memory and History: Les Lieux de Mémoire,” *Representations*, no. 26 (April 1989): 7–24, *passim*.

²⁰⁷ *Idid.*, p. 7 and p.19.

²⁰⁸ *Ibid.*, p. 19.

historiography; clearly there would have been no need to build and defend this Shāfiī bastion if al-Subkī had not felt that it was under threat.²⁰⁹

This *lieu de memoire* served two more critical purposes. It allowed al-Subkī to attach himself and his family to Shāfiī collective memory and, more importantly, portray a closely interweaved and uninterrupted line of Shāfiī thought. In four short consecutive anecdotes treating the merits of Ibn ‘Abd al-Salām, al-Subkī successfully projected the image of a continuous and closely interrelated scholarly milieu stretching from al-Ghazālī down to his own time and to his own family.²¹⁰ First he related an anecdote of one of Ibn ‘Abd al-Salām’s *karāmat* that he claimed he heard first-hand from his father “*al-shaykh al-imām*” Taqī al-Dīn al-Subkī. Then he narrated a similar anecdote on the authority of the chief-judge Badr al-Dīn Ibn Jamā‘a. Following that, al-Subkī mentioned that it was *shaykh al-Islām* Ibn Daqīq al-‘Īd who first named Ibn ‘Abd al-Salām “the sultan of the scholars”. Finally he stated that Ibn al-Ḥājjib, the Mālikī jurist and grammarian, considered that Ibn ‘Abd al-Salām surpassed al-Ghazālī in matters of jurisprudence. Al-Subkī hence sketched a continuous and solid milieu of Shāfiī scholars at the heart of which was Ibn ‘Abd al-Salām, from al-Ghazālī to Ibn Daqīq al-‘Īd and Ibn Jamā‘a, and ending with the Subkīs. As we will see in due course, each of these designated individuals, played an important role, one way or another, in the production of Shāfiī political thought.

Politics and *madhhabs*

In addition to depicting an unbroken line of Shāfiī thought, the biography of Ibn ‘Abd al-Salām and, more generally, the *Ṭabaqāt*, highlighted the interrelatedness between politics and *madhhabs*. There are various indications that al-Subkī saw politics as inseparable from *madhhab* loyalties

²⁰⁹ Ibid., p. 12.

²¹⁰ Al-Subkī, *Ṭabaqāt*, vol. 4, p. 357.

and doctrinal affiliations.²¹¹ For instance, *madhhab* consideration greatly influenced who did or did not make it into al-Subkī's *Ṭabaqāt*. One example is al-Subkī's lengthy biography of Ṣalāḥ al-Dīn who, as a ruler, should not have made it into a work of *Ṭabaqāt* devoted to Shāfiī scholars.²¹² Nonetheless, Ṣalāḥ al-Dīn was a devoted follower and champion of Shāfi'ism and that was sufficient to secure him an entry. On the other hand Nūr al-Dīn Zangī, despite being referred to by al-Subkī as an important champion of Islam on a par with Ṣalāḥ al-Dīn, Niẓām al-Mulk, and 'Umar II, did not secure himself an entry in the *Ṭabaqāt* owing to his adherence to Ḥanafism.²¹³ Remarkably, al-Subkī did find a place for Maḥmūd b. Sebūktigin (r. 388/998- 421/ 1030), sultan of Ghazna.²¹⁴ The main reason he earned his entry in the *Ṭabaqāt*, as al-Subkī explained on the authority of al-Juwaynī, was that sultan Maḥmūd was a Ḥanafī who converted to Shāfi'ism.²¹⁵ Furthermore, al-Subkī was impressed with Maḥmūd for receiving the high praise of Shāfiī-Ash'arī champion Niẓām al-Mulk in his treatise *Siyāsat-nāma*, where he was described as a model-ruler to be followed by the Saljuqs and other Turkish military dynasties.²¹⁶ Al-Subkī's tendency to associate politics with *madhhab* and doctrinal affiliations, his interest in treating political themes, and his predisposition to earlier Shāfiī political thinkers resurfaces in his later work, the *Muṭd*, as will be discussed in more detail at the end of this chapter.

In the *Ṭabaqāt*, al-Subkī made clear his conviction that his *madhhab* was more suitable for conducting politics. As a Shāfiī "propagandist", al-Subkī contended that any ruler who strayed away from the Shāfiī *madhhab* would

²¹¹ Al-Subkī, *Muṭd*. This book contains various indications that the author was influenced by the political thought of Ibn Jamā'a as will be discussed below and in Chapter 2.

²¹² Al-Subkī, *Ṭabaqāt* v.4, p. 217-238.

²¹³ *Ibid.*, vol. 3, p. 265.

²¹⁴ *Ibid.*, vol. 3, p. 265-273.

²¹⁵ *Ibid.*, vol. 3, p. 266.

²¹⁶ Refer to C.E. Bosworth, "Muḥammad b. Maḥmūd b. Sebūktigin", *EI2*.

simply lose power.²¹⁷ He cited the example of Quṭuz, whose sultanate was very brief, despite his illustrious victory against the Mongols, simply because he remained a follower of the Ḥanafī *madhhab*.²¹⁸ Likewise, Baybars was reprimanded in a dream by Imām al-Shāfi‘ī himself for having compromised the dominance of Shāfi‘ism by instituting the legal reform of four chief-judges.²¹⁹ Baybars later appeared in a scholar’s dream admitting that even God did not approve of this legal reform.²²⁰ Following the right *madhhab*, that is Shāfi‘ism, leads to successful politics and to the maintenance of rule; any deviation from Shāfi‘ī dominance leads to dire consequences. As such, the author presented the need for Shāfi‘ism as the official or preferred *madhhab* of the state by linking adherence to it to ideal and prolonged rule. Al-Subkī’s preferred or official *madhhab* becomes, in modern terms, the constitution of the state; the political treatises that will be examined in chapters 2, 3, 4, and 5 of this thesis propose a similar conception of the *madhhab*’s constitutional role.

As already mentioned, this interrelatedness between *madhhab* and politics in the *Ṭabaqāt* is particularly perceptible in the biography of Ibn ‘Abd al-Salām. The biography preserved a treasure trove of information related to the process of production of Shāfi‘ī political thought in the late Ayyubid and early Mamluk period, the language of its political discourse, and its themes and should, accordingly, be examined as a political text. By that I am not suggesting that the *Ṭabaqāt*’s biography of Ibn ‘Abd al-Salām is to be treated like Aristotle’s *Politics* or al-Māwardī’s *Aḥkām*. I propose rather that the biography is a political text because the intentions of al-Subkī “in writing the text” were political, since it was predominantly and consciously treating

²¹⁷ Makdisi argued that al-Subkī’s work was “Ash‘arite propaganda aimed straight at the Shafī‘ite school of law”; “Ash‘arī and the Ash‘arites”, p. 69;

²¹⁸ Jorgen S. Nielsen, “Sultan Al-Zāhir Baybars and the Appointment of Four Chief Qāḍīs, 663/1265,” *Studia Islamica* 60 (1984): p. 173.

²¹⁹ *Ibid.*, p. 173-174; al-Subkī, *Ṭabaqāt*, v.4, p. 425.

²²⁰ *Ibid.*.

political themes, and since it promoted a preferred *madhhab* of the state.²²¹ While earlier obituaries and references to Ibn ‘Abd al-Salām (including Ibn Wāṣil, Abū Shāma, al-Yūnīnī, and Ibn ‘Abd al-Zāhir) do mention key events of his life, they did so while either treating his personal merits or citing other events; as such they are not ‘political texts’. The subsequent parts of this chapter will identify the main political themes treated in the biography of Ibn ‘Abd al-Salām and link them to the main constitutional concerns of Shāfi‘ī political thought.

Conventions preserved

A prerequisite to recovering these political themes is to decode the prevalent conventions of the political discourse of the late Ayyubid and early Mamluk period. Here the linguistic contextualism of Quentin Skinner and J. G. A. Pocock offer very useful guidelines. Skinner explained:

My first suggested rule is: focus not just on the text to be interpreted, but on the prevailing conventions governing the treatment of the issues or themes with which that text is concerned. This rule derives from the fact that any writer must standardly be engaged in an intended act of communication. It follows that whatever intentions a given writer may have, they must be conventional intentions in the strong sense that they must be recognizable *as* intentions to uphold some particular position in argument, to contribute in a particular way to the treatment of some particular theme, and so on. It follows in turn that to understand what any given writer may have been *doing in* using some particular concept or argument, we need first of all to grasp the nature and range of things that could recognizably have been done by using

²²¹ Refer to the discussion on Quentin Skinner’s methodology below and in the introductory chapter of the present work.

that particular concept, in the treatment of that particular theme, at that particular time.²²²

Similarly, Pocock argued that a necessary step to understand a political text is “to identify the ‘language’ or ‘vocabulary’ with and within which the author operated”.²²³ Linguistic contextualism thus maintains that ‘reading’ a political text requires that the reader interpret the shared conventions that the author used and were recognised by its audience as the prevailing conventions that governed the political discourse of the time. I am not suggesting that the conventions preserved in the biography of Ibn ‘Abd al-Salām defined the meanings of the political text, but rather that understanding them is a necessary step that greatly facilitates the understanding of the text. In simpler terms, it is essential to determine the language of the political discourse of the thirteenth century.

Fortunately, al-Subkī made our task much easier by meticulously preserving the conventions of the period. The biography’s careful description, in painstaking detail, of Ibn ‘Abd al-Salām’s political and *madhhab* activism has both elucidated “the cultural context” of the thirteenth century and the language and vocabulary “with and within which” Ibn ‘Abd al-Salām operated.²²⁴ Al-Subkī demonstrated a superb capacity to recreate an immaculate historical context and reconstructed meticulously Ibn ‘Abd al-Salam’s thirteenth-century political and intellectual conventions, as one would expect from a Shāfi‘ī-Ash‘arī *lieu de memoire*. As such, the biography was laden with extensive coverage of political and creedal confrontations that included major disagreements with Ayyubid sultans over their political choices

²²² Quentin Skinner, “Motives, Intentions and the Interpretation of Texts”, p. 406. For the same discussion refer to *Regarding Method, Visions of Politics*, p. 101-102.

²²³ John G. A. Pocock, “Languages and Their Implications: The Transformation of the Study of Political Thought,” in *Politics, Language, and Time: Essays on Political Thought and History* (Chicago, Ill.: Univ. of Chicago Press, 1989), p. 25.

²²⁴ Pocock, “Languages and Their Implications”, p. 25; Skinner, *Regarding Method, Visions of Politics*, p. 125: “More generally, the aim is to return the specific texts we study to the precise cultural contexts in which they were originally formed.”

or dynastic disputes. Furthermore, the biography covered the clashes with the traditionalist-Ḥanbalīs of Damascus, the fierce doctrinal argument about theology (*kalām*), and Ibn ‘Abd al-Salām’s *fatwā* against *tajsīm*, *tashbīh*, and *ḥashawiyya* (derogatory terms used by rationalists when accusing traditionalists of anthropomorphism); it also dealt with the nature of the Qur’ān and endorsed the use of reason (*‘aql*).²²⁵

While the specifics of this major thirteenth-century intellectual discourse between rationalists and traditionalists are not of primary relevance to this thesis, they nevertheless emphasise the role of inter and intra-*madhhab* competition in the production of political thought and the language and conventions of political discourse. Accordingly, and in order to extract these prevailing conventions, one must first engage with large passages of the biography dedicated to Ibn ‘Abd al-Salām’s struggle against innovations, his involvement in doctrinal disputes, and the tensions with sultan al-Ashraf and the Shāfi‘ī and Ḥanbalī traditionalists of Damascus.²²⁶ For instance, al-Subkī informed us that Ibn ‘Abd al-Salām “stopped many innovations that were common among sermon-givers, like knocking the sword on the pulpit and other innovations, he invalidated the *raghā’ib* and the mid-Sha‘bān prayers”.²²⁷ When the Shāfi‘ī traditionalist-traditionist Ibn al-Ṣalāḥ Shahrāzūrī (577/1181- 643/1245) defended upholding the *raghā’ib* prayer, Ibn ‘Abd al-Salām responded by rebuking him for relying on a “fabricated *ḥadīth* and for giving legal weight to popular practice”.²²⁸ Additionally, the author related that

²²⁵ Al-Subkī, *Ṭabaqāt*, p. 360-368; supported by Ibn Wāṣil, *Mufarrij* p. 141-142. Makdisi explains, “Some of the Salaf exaggerated their affirmation of the divine attributes and thus fell into anthropomorphism, i. e., *tashbīh*, and were called the *mushabbihā*, partisans of *tashbīh* (the ascription of human characteristics to God)”; in Makdisi, “Ash‘arī and the Ash‘arites”, p. 51.

²²⁶ Al-Subkī, *Ṭabaqā*, v. 4, p.359-377.

²²⁷ Ibid., v.4, p. 355. For more on the prayer of *raghā’ib* refer to Talmon-Heller, “The Lure of a Controversial Prayer,” p. 141–66 and Konrad Hirschler, “Pre-Eighteenth-Century Traditions of Revivalism: Damascus in the Thirteenth Century,” *Bulletin of the School of Oriental and African Studies* 68, no. 2 (2005): 201,202, and 213.

²²⁸ Talmon-Heller, “The Lure of a Controversial Prayer,” p. 147.

when some “deviant Ḥanbalīs succeeded in dragging Ibn ‘Abd al-Salām into a doctrinal argument about *kalām*”, the *shaykh* willingly joined in and issued a legal opinion that al-Subkī decided to reproduce so it was “benefited from and remembered”.²²⁹ As discussed above, this *fatwā* attacked *tajsīm*, *tashbīh*, and *ḥashawīyya* or the perceived anthropomorphism of the Ḥanbalī traditionalists. This *fatwā*, most importantly for our purposes, made plenty of references to the ideal role of the ‘*ulamā*’ in complementing the rulers’ duties and the exercise of power.²³⁰ The whole affair escalated when Ayyubid sultan al-Ashraf joined in the debate and sent a letter to Ibn ‘Abd al-Salām accusing him of claiming to be a *mujtahid* and inviting him, cynically, to proclaim a fifth *madhhab*.²³¹ Ibn ‘Abd al-Salām was then ordered to remain at home and refrain from meeting people, and was no longer allowed to issue legal opinions.²³² At this point, the leading scholars of Damascus sided with him. Al-Subkī related that the *shaykh* of the Ḥanafī *madhhab* rode to the citadel on his donkey to meet the sultan. The Ḥanafī *shaykh* asked al-Ashraf:

What is the issue between you and Ibn ‘Abd al-Salām? If a man of this prominence was in India or the far side of the world, then the sultan should have strived to bring him to his land, so he can add bliss to it and so the sultan can be prouder than other rulers! ²³³

The powerful brother of al-Ashraf, sultan al-Kāmil (573/1177 or 576/1180–635/1238) “who followed the true creed” of the Ash‘arīs, as carefully noted by al-Subkī, happened to be visiting Damascus from Egypt; he sided with the Shāfi‘īs and al-Ashraf was compelled to quell this dispute.²³⁴ Al-Kāmil was

²²⁹ Al-Subkī, *Ṭabaqāt*, v. 4, p. 360.

²³⁰ Al-Subkī, *Ṭabaqāt*, v. 4, p. 360-368.

²³¹ *Ibid.*, v. 4, p. 369.

²³² *Ibid.*, v. 4, p. 372.

²³³ *Ibid.*, v. 4, p. 373; this account is confirmed in Ibn Faḍl Allāh al-‘Umarī, *Masālik al-abṣār fī mamālik al-amṣār*, ed. Kāmil Salmān Jubūrī, vol. 6, 27 vols. (in 15) vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 2010), p. 214.

²³⁴ Al-Subkī, *Ṭabaqāt*, v. 4, p. 374.

annoyed when he was informed that al-Ashraf had ordered both parties not to engage in this matter; he complained to his brother:

By God this is unheard of! What sort of politics (*siyāsa*) and rule (*salṭana*) is this? You treat the righteous and the wicked equally! You forbid and silence those who seek to enjoin the good and forbid evil! You should have allowed the people of the *sunna* to express their arguments eloquently, so that they can uphold the true religion. You should have hanged twenty of those innovators to deter the rest. You should have helped the monotheists [the righteous group] to lead the Muslims on the right path.²³⁵

This account thus linked successful and righteous politics (*siyāsa*) and rule (*salṭana*) to the intellectual and theological discourses of the period and vice versa.

The contemporary sources confirmed al-Subkī's general story although with stark variations.²³⁶ According to Ibn Wāṣil, the sultan “disliked sedition and intolerance amongst the *madhhabs*” and Ibn ‘Abd al-Salām was clearly “biased” towards the Ash‘arī creed.²³⁷ He also related that al-Ashraf wrote to Ibn ‘Abd al-Salām quoting a known *ḥadīth*: “‘Izz al-Dīn, ‘Dissent lies dormant, may God curse he who stirs it up” and included harsh verses of poetry.²³⁸ According to Ibn Wāṣil, as soon as this warning letter reached “‘Izz al-Dīn and the other pious-minded ones”, they refrained from stirring up trouble and dissension subsided.²³⁹ This account confirmed the historicity of the dispute,

²³⁵ Al-Subkī, *Ṭabaqāt*, v. 4, p. 374.

²³⁶ Ibn Wāṣil, *Mufarrij*, p. 141; Ibn Wāṣil related this story under the obituary of al-Malik al-Ashraf, in the events of the year 635. This probably suggests that he was reflecting the ruler's view, i.e. that of al-Ashraf.

²³⁷ *Ibid.*, p. 141.

²³⁸ *Ibid.*, p. 142. Ibn Wāṣil mentions that he has personally inspected this letter and the handwriting of al-Malik al-Ashraf.

²³⁹ *Ibid.*, p. 142.

the doctrinal leaning of Ibn ‘Abd al-Salām, and the customary involvement of the Ayyubid sultans in such doctrinal quarrels.²⁴⁰

In this context where intra and inter-*madhhab* rivalries played important roles in the political sphere, al-Subkī sketched the ideal political role of the ‘*ulamā*’ in guiding the ruler. He narrated the role of Ibn ‘Abd al-Salām in moderating the Ayyubid rulers’ dynastic feuds and their exercise of power in matters of taxation and justice. He related that Ibn ‘Abd al-Salām, at a later date, advised al-Ashraf not to escalate hostilities with his brother al-Kāmil.²⁴¹ Furthermore, al-Subkī claimed that al-Ashraf, now on his deathbed, asked for further guidance from Ibn ‘Abd al-Salām, who replied:

While the sultan is in such a state of poor health and his life is in danger his regents indulge in fornication, drinking, committing sins, and imposing all kinds of unlawful taxes on Muslims; it is best that you, before meeting God, end all this foulness, stop all unlawful taxes, and rectify every injustice. So he [al-Ashraf], may God have mercy on his soul, did all that in time.²⁴²

The above anecdotes illustrate the preservation of the prevalent conventions of the political discourse of the late Ayyubid and early Mamluk period in this Shāfi‘ī *lieu de memoire*. Ibn ‘Abd al-Salām’s political and creedal activism, as related in al-Subkī’s biography, reflects how inter and intra-*madhhab* competition plays a role in the political sphere, impacts the language of political discourse, and helps define the Shāfi‘ī constitutional concerns of the period. We witness sultans al-Kāmil and al-Ashraf conducting

²⁴⁰ The difference between the accounts of al-Subkī and Ibn Wāṣil are not unexpected: one narrative was that of Ibn ‘Abd al-Salām’s son as recounted by an ardent Shāfi‘ī-Ash‘arī scholar while the other was that of a court historian reflecting the ruler’s outlook on such doctrinal disputes. On the other hand, *Masālik al-abṣār* of al-‘Umarī (d.749 / 1349) attributed the clash between Ibn ‘Abd al-Salām and al-Ashraf to the manoeuvring of the Shāfi‘ī traditionalist Ibn al-Ṣalāḥ. Moreover, Al-‘Umarī accused Ibn al-Ṣalāḥ of enlisting the help of those “from outside the *madhhab*” in his conspiracies against Ibn ‘Abd al-Salām, probably referring to the Ḥanbalīs of Damascus. Refer to al-‘Umarī, *Masālik*, v. 5, p.330.

²⁴¹ Al-Subkī, *Ṭabaqāt*, v. 4, p. 376.

²⁴² *Ibid.*, v. 4, p. 376.

Ayyubid politics using the proprietary language and vocabulary of Ḥanbalīs, Shāfiīs, and Ash‘arīs while, on the other hand, the *madhhabs* seem to be engaging in the political sphere using a distinctive political language that focuses on relevant public issues like taxation, justice, appeasing intra-dynastic tensions, and protecting the populace. As mentioned above, successful and righteous politics (*siyāsa*) and rule (*salṭana*) are now interlocked with the intellectual and theological discourses of the period. These disputes and intra and inter-*madhhab* competitions between the traditionalists amongst the Ḥanbalīs and Shāfiīs on the one hand and the Shāfiī-Ash‘arīs on the other, offer a great insight into the Ayyubid dynasty’s power dynamics and the leanings of various sultans. Furthermore, they highlight the tension between the ‘*ulamā*’ and rulers and its roots. Most importantly, the above passages show the scholars’ use of legal opinions as weapons in the public sphere. On the other hand, the accounts confirm the close involvement of Ayyubid sultans in religious and doctrinal affairs. They emphasise the competition between various *madhhabs* and intellectual groups in winning over the support of rulers in doctrinal and other sorts of disputes amongst the scholars. As such, al-Subkī preserved the conventions ‘with and within which’ members of the political and religious elites conducted their debates: he captured a period of Islamic history where politics (*siyāsa* and *salṭana*) was conducted using the conventions of the *madhhabs* and vice versa.

The contours of Shāfiī political thought

With the prevalent conventions deciphered, the biography can now be read as a text of political thought. Ibn ‘Abd al-Salām’s activism, as remembered and preserved by al-Subkī, defined the contours of Shāfiī political thought during the late Ayyubid and early Mamluk period according to three main themes linked to the role of the *madhhab* in the political sphere

and threats to the primacy of Shāfi'ism in politics. Accordingly, the political role of the Shāfi'ī *madhhab* was based on the prerogative to provide political legitimation to rulers and ruling elites (theme 1) and the prerogative to moderate the exercise of power by the rulers and ruling elites and defend the populace (theme 2). The threats to this role, according to the author, came from the rising influence of other *madhhabs* in politics (theme 3). As such, it appears that the remembrance of Ibn 'Abd al-Salām as a Shāfi'ī *lieu de memoire* and his biography as a political text provide a repertoire of political acts that could resurrect the primacy of the Shāfi'ī *madhhab's* role in politics and deal with the various challenges that the *madhhab* faced. Below I will trace these three themes in six anecdotes selected from the biography while keeping a close eye on the historicity of al-Subkī's accounts by contrasting them with the contemporary chronicles. The anecdotes are spread over different reigns of the late Ayyubid and early Mamluk period.

(1) De-legitimation of sultan Al-Ṣāliḥ Ismā'īl

The first selected anecdote highlights the Shāfi'ī *madhhab's* prerogative of legitimating and de-legitimating rulers (theme 1). Ibn 'Abd al-Salām was hailed for rejecting sultan al-Ṣāliḥ Ismā'īl's above-mentioned alliance with the Franks. Ibn Wāṣil related the ceding of al-Shaqīf (Beaufort) and Ṣafad to the Franks by al-Ṣāliḥ Ismā'īl of Damascus during his struggle with his nephew, sultan al-Ṣāliḥ Ayyūb of Egypt; surrendering the two forts led to widespread indignation among Muslims.²⁴³ Ibn Wāṣil who, as discussed above, had criticised Ibn 'Abd al-Salām for taking side in doctrinal disputes in Damascus, now switched to praising him. He even became rather hagiographical:

Shaykh 'Abd al-'Azīz Ibn 'Abd al-Salām – may God have mercy on his soul – was one of the leading *imāms* of the Shāfi'ī [*madhhab*] and its exegesis, and he was unrivalled in our time. He was pious and ascetic;

²⁴³ Ibn Wāṣil, *Mufarrij*, v.5, p. 301-303; narrated under the events of year 639.

he would fear no man's reprimand if it pleased God; he was then the preacher of the mosque of Damascus.²⁴⁴

Ibn Wāṣil related that Ibn 'Abd al-Salām, aided by the Mālikī jurist Ibn al-Ḥāḥib, rejected the arrangement with the Franks, maligned it, and was outspoken in his criticism of it; both jurists had to leave Damascus as they enraged al-Ṣāliḥ Ismā'īl and ended up in Egypt.²⁴⁵

Although al-Subkī related the same general story, he celebrated the de-legitimation of the sultan. The biography stressed the constitutional prerogative of Ibn 'Abd al-Salām to publicly remove the legitimacy of al-Ṣāliḥ Ismā'īl's reign. He narrated:

*Shaykh 'Izz al-Dīn remained in Damascus until the rule of al-Ṣāliḥ Ismā'īl, known [derogatorily] as abū al-khaysh. Abū al-khaysh entered an alliance with the Franks and granted them Sidon and the Beaufort castle; as such, shaykh 'Izz al-Dīn renounced him and removed his name from the khuṭba aided by the Mālikī shaykh Abū 'Amr Ibn al-Ḥāḥib. They both left Egypt around the year 639 as they infuriated the sultan.*²⁴⁶

According to al-Subkī, the arms merchants of Damascus asked Ibn 'Abd al-Salām for his opinion before selling arms to the Franks. His answer was that such a transaction was unlawful since it was inevitable that these arms would be used to kill Muslims.²⁴⁷ Al-Subkī related that Ibn 'Abd al-Salām took this matter to the prayer at the end of the Friday sermon (*du'ā*) where he would pray, "May God assign to this community a judicious leadership that will be

²⁴⁴ Ibid., v.5, p. 302.

²⁴⁵ Ibid., v.5, p. 302-303.

²⁴⁶ Al-Subkī, *Ṭabaqāt*, v.4, p. 355; also check p. 377. Al-Subkī named Sidon as opposed to Ṣafad in Ibn Wāṣil's narrative.

²⁴⁷ Ibid., v.4, p. 378.

obedient to you and will forbid what is evil, so that your follower is valued and your enemy is disrespected” and “people would say *amen*”.²⁴⁸

That was al-Subkī’s first demonstration of Shāfiī political thought in action during the late Ayyubid period. This narrative is unmistakably devoted to portraying political legitimation as a Shāfiī prerogative. This anecdote can be considered similar to classical cases of *‘ālim*-ruler disagreement that end with the former removing the ruler’s name from the Friday sermon.²⁴⁹ In plain medieval Islamic political language, this translates as the scholar (i.e. the Shāfiī authority) exercising his prerogative to withdraw legitimacy from any ruler. Moreover, the Shāfiī authority outlined what was and was not permissible in the context of Muslim political competition in dynastical feuds between Ayyubids. Additionally, the Shāfiī jurist was the ultimate authority to the people and it is to him that they turned to validate any sultanic order. As such, the prayer (*du‘ā*) at the end of the Friday sermon (*khuṭba*) became a fearsome political weapon that was used to de-legitimize the ruler.

(2) Moderating rulers: the reign of Al-Ṣāliḥ Ayyūb

Al-Subkī used anecdotes that covered the relation between Ibn ‘Abd al-Salām and al-Ṣāliḥ Ayyūb, the last effective Ayyubid sultan of Egypt, in order to highlight the Shāfiī *madhhab*’s role in moderating rulers (theme 2). While contemporary sources did report several accounts confirming that Ibn ‘Abd al-Salām’s uncompromising attitude towards the excesses of those in power persisted during his time in Egypt, al-Subkī portrayed this personal quality within embellished anecdotes in order to emphasize the self-proclaimed Shāfiī role of moderating the exercise of power.

²⁴⁸ Ibid., v.4, p. 378.

²⁴⁹ Mentioning the name of the ruler in the Friday prayer is a convention showing obedience and legitimacy. For more on this check Patricia Crone, *Medieval Islamic Political Thought*, p. 289-290; Rosenthal, *Political Thought*, p. 43; and Norman Calder, “Friday Prayer and the Juristic Theory of Government: Sarakhsī, Shīrāzī, Māwardī,” *Bulletin of the School of Oriental and African Studies* 49, no. 01 (February 1986): 35-47; and Jackson, *Islamic Law and the State*, p.9.

Following his escape from Damascus, Ibn ‘Abd al-Salām quickly established himself as the ultimate Shāfiī authority in Cairo. That he was prominent in Egypt was a matter of consensus among the contemporary sources and al-Subkī. Abū Shāma related that when Ibn ‘Abd al-Salām reached Egypt, he was well received by al-Şāliḥ Ayyūb and was appointed the *khuṭba* and judgeship.²⁵⁰ By contrast, Ibn Wāṣil attributed this warm welcome to the earlier maligning of al-Şāliḥ Ismāīl, thus providing another indication of the intermingling of late Ayyubid politics with the *madhhabs*.²⁵¹ Al-Subkī related, “When the sultan built al-Şāliḥīya school, known in Cairo as *bayna al-qaṣrayn*, he commissioned the teaching seat of the Shāfiī *madhhab* to *shaykh* ‘Izz al-Dīn.”²⁵² Al-Subkī reported that a renowned Egyptian Shāfiī scholar declared, “We used to issue legal opinions (*fatwās*) before *shaykh* ‘Izz al-Dīn’s coming but now that he is here the *fatwā* seat is firmly taken.”²⁵³ Al-Subkī’s confirmation that Ibn ‘Abd al-Salām became the prime authority of the Shāfiī *madhhab* in Egypt was essential to what will follow in the narrative.²⁵⁴

In al-Subkī’s narrative, a showdown with the political authority was inevitable. While Ibn ‘Abd al-Salām had no reason to question the legitimacy of al-Şāliḥ Ayyūb, he nonetheless strived to exercise his prerogative, as the Shāfiī authority, to moderate the sultan’s rule (theme 2). As such, it was vital to illustrate that Ibn ‘Abd al-Salām continually commanded the upper hand in the relation with the sultan al-Şāliḥ Ayyūb. Al-Subkī related:

Shaykh ‘Izz al-Dīn went to meet the sultan in the citadel on a day of ‘Īd.²⁵⁵ As per the custom of Egyptian sultans, ‘Īd was a ceremonial day where the sultan would show his splendour to his people, and so the

²⁵⁰ Under the events of the year 639, in Abū Shāma, *al-Dhayl ‘alā al-rawḍatayn*, p. 171.

²⁵¹ Ibn Wāṣil, *Mufarrij*, p.303.

²⁵² Al-Subkī, *Ṭabaqāt*, v.4, p. 356.

²⁵³ *Ibid.*, v.4, p. 356.

²⁵⁴ Check Jackson, *Islamic Law and the State*, p. 10 on Ibn ‘Abd al-Salām being “the legitimizing authority” of Cairo.

²⁵⁵ The narrative is unclear which one of the two Muslim festive days it refers to.

soldiers were lined up along with the council of the sultanate while the *amīrs* went on kissing the ground before the sultan. The *shaykh* called the sultan, ‘Ayyūb! How shall you answer God when he asks you: Did I grant you the rule of Egypt so you sanction the sale of liquor?’ The sultan asked, ‘Is that the case?’ The *shaykh* responded, ‘So-and-so tavern sells liquor and other evils; you thus renounce the blessing of ruling this kingdom!’ So he shouted at him, in a loud voice, in front of the soldiers! To this, the sultan said, ‘Master, I am not responsible for this, as this is from my father’s reign.’ He [Ibn ‘Abd al-Salām] replied, ‘Are you one of those who say [quoting the Qur’ān], “We found our fathers following a way [and we are following their example].”’ The sultan immediately instructed the closure of the tavern.²⁵⁶

According to al-Subkī’s narrative, Ibn ‘Abd al-Salām stated, “When I saw him [the sultan] in this splendour, I intended to insult him for his own good, so he does not become too proud”; when asked “Were you not afraid, master?” Ibn ‘Abd al-Salām replied: “I evoked the greatness of God and so the sultan turned into a cat before my eyes.”²⁵⁷

Al-Subkī carefully stages this ‘performance’ of political thought by the Shāfiī authority in his account. It is not a simple piece of *adab* or hagiography employed to enrich a jurist’s biography, but a political text loaded with references to power symbolism and ceremonialism. Ibn ‘Abd al-Salām’s evocation of the greatness of God in this confrontation is al-Subkī’s way of attributing Shāfiī constitutional prerogatives to the divine. Furthermore, Ibn ‘Abd al-Salām, as per the self-proclaimed Shāfiī privilege, reminded the sultan to enforce doing what is good and forbidding what is evil, which was resonant with his previous Friday prayer *du‘ā* in Damascus. Unlike his injudicious Damascene uncle, the Egyptian sultan followed the advice of Ibn

²⁵⁶ Al-Subkī, *Ṭabaqāt*, v.4, p.356.

²⁵⁷ *Ibid.*, v.4, p. 356.

‘Abd al-Salām and closed down the tavern. Moreover, the confrontation with the fearsome sultan al-Şāliḥ Ayyūb takes place in a very evocative ceremonial setting.²⁵⁸ It is in front of soldiers and on the festive day of ‘Īd – at the heart of the symbol of Ayyubid and Mamluk political power – that Ibn ‘Abd al-Salām chooses to caution the sultan, thus highlighting the official and public nature of this confrontation. Al-Subkī carefully selected this setting to announce the Shāfiī prerogative of moderating the rulers.²⁵⁹ Given the ruthlessness of al-Şāliḥ Ayyūb, it is extremely implausible that Ibn ‘Abd al-Salām addressed him in this manner in public. However, historicity was not a major concern for al-Subkī, as what counted most to him was to underline the Shāfiī prerogative to solemnly caution the ruler and moderate his exercise of power.

Yet there are credible indications to suggest that Ibn ‘Abd al-Salām’s role of moderator of political power was indeed respected, to an extent, by the military and political elites. Al-Yūnīnī narrated on the authority of the powerful *amīr* Ḥusām al-Dīn Ibn Abī ‘Alī al-Hadhabānī (d.658 /1260) that Ibn ‘Abd al-Salām refused to accept his testimony in a legal case that involved his patron the sultan. Al-Yūnīnī related:

Amīr Ḥusām al-Dīn Ibn Abī ‘Alī, God have mercy on his soul, related, ‘I was to witness [in court] in favour of al-malik al-Şāliḥ Najm al-Dīn [Ayyūb]. The sultan instructed me to go pronounce my testimony to *shaykh* ‘Izz al-Dīn who was at the time the judge in Egypt. I said [to the sultan]: my lord, he [Ibn ‘Abd al-Salām] will not accept me as a witness. The sultan insisted, so I told him: my lord, get me the *shaykh*’s consent. He [the sultan] sent a request to *shaykh* ‘Izz al-Dīn who

²⁵⁸ “Ibn Wāṣil [*q.v.*] gives a penetrating pen-portrait, stressing Ayyūb’s mixture of forbidding authority and diffident and introspective solitariness”, in D.S. Richards, “Al-Malik Al-Şāliḥ Ayyūb”, *EI2*.

²⁵⁹ The Citadel became “both the focus and the symbol of Ayyubid and Mamluk power” in Carole Hillenbrand, *The Crusades: Islamic Perspectives* (Edinburgh: Edinburgh University Press, 1999), p. 479; for a full study refer to Nasser O. Rabbat, *The Citadel of Cairo: A New Interpretation of Royal Mamluk Architecture*, Islamic History and Civilization: Studies and Texts, v. 14 (Leiden ; New York: E.J. Brill, 1995).

replied, ‘I do not accept his testimony’ and the case was kept on hold until the judgeship came to judge Badr al-Dīn al-Sinjārī, who welcomed me at the door and accepted my testimony. When it came to upholding justice, *shaykh* ‘Izz al-Dīn, God have mercy on his soul, did not favour anyone’.²⁶⁰

This highly credible account by al-Yūnīnī showed how Ibn ‘Abd al-Salām succeeded in securing a reasonable extent of immunity for the judiciary from the interventions of the ruling military elites. As for the less plausible anecdote of the public scorning of sultan al-Şāliḥ Ayyūb, it reflects al-Subkī’s yearning for a golden age when the role of the Shāfiī political thought was publicly recognised.

(3) Caliph, sultān, umarā’, and ‘ulamā’

The following selected account treats both the legitimisation and moderation of the ruling elites (themes 1 and 2). Related by contemporary sources and retold by al-Subkī in an embellished version, the anecdote reflected the self-proclaimed constitutional duties of Shāfiī thought in a novel and complex political scene: a caliph devoid of any real power, the recurrent rise of new members of the military elites, and a sultan who was among his *amīrs* merely *primus inter pares*.²⁶¹ As such, the ‘affair of the *ṭablakhāna*’ (the military music band of an *amīr*) was an example of the ‘ulamā’ trying to restrain the power of the *amīrs*.²⁶² This incident was first reported as a matter of straightforward spitefulness between two rival *amīrs* in the entourage of al-Şāliḥ Ayyūb: Fakhr al-Dīn Ibn Shaykh al-Shuyūkh Ibn Ḥamawīyya (d.

²⁶⁰ Al-Yūnīnī, *Dhayl mir’āt al-zamān* (Beirut: Dār al-Kutub al-‘Ilmiyya), v. 17, p. 235.

²⁶¹ Robert Irwin considers that Baybars had such status while Qalāwūn’s rule was “more absolute”, in *The Middle East in the Middle Ages: The Early Mamluk Sultanate, 1250-1382* (Carbondale: Southern Illinois University Press, 1986), p. 71. For more on this refer to Levanoni, “The Mamluk Conception”, p. 374; P.M. Holt, “The Position and Power”, p. 242.

²⁶² The *ṭablakhāna* was the military band of an *amīr*; refer to Irwin, *The Middle East in the Middle Ages*, p. 40; R. Stephen Humphreys, “The Emergence of the Mamluk Army,” *Studia Islamica* 46 (1977): p. 167-73.

647/1250) and the previously mentioned Ḥusām al-Dīn Ibn Abī ‘Alī al-Hadhabānī.²⁶³ Ibn Wāṣil, a close friend of the latter, related:

Some of the servants of al-ṣāhib Mu‘īn al-Dīn Ibn Shaykh al-Shuyūkh [brother of Fakhr al-Dīn] – the *wazīr* of al-malik al-Ṣāliḥ Ayyūb – built on the roof of a mosque in Cairo a building to house Mu‘īn al-Dīn’s *ṭablakhāna*. When news of this reached *shaykh* ‘Izz al-Dīn, he rejected it and went in person with his sons to demolish the construction on the roof of the mosque. *Shaykh* ‘Izz al-Dīn knew very well that this would provoke al-malik al-Ṣāliḥ Ayyūb and al-ṣāhib Mu‘īn al-Dīn, so he proclaimed in the presence of witnesses that he no longer recognized the authority of Mu‘īn al-Dīn and removed himself from the judgeship of Cairo and its environs.²⁶⁴

Sultan al-Ṣāliḥ Ayyūb was advised by Mu‘īn al-Dīn to remove Ibn ‘Abd al-Salām from the *khuṭba* so the latter could not attack him, as he had done previously in Damascus to al-Ṣāliḥ Ismā‘īl over his alliance with the Franks; sultan al-Ṣāliḥ Ayyūb took the advice and dismissed Ibn ‘Abd al-Salām.²⁶⁵

As a matter of course, al-Subkī reported this matter in an embellished fashion.²⁶⁶ The author dragged the caliph of Baghdad into the affair to assert firstly that the caliph’s constitutional authority is transferred to Shāfi‘ī scholars and secondly, that Shāfi‘ī legitimating power was independent of holding an official office. Al-Subkī related:

²⁶³ The two were, respectively, informants to the chief contemporary Arabic historians to Louis’ Crusade, Sa‘d al-Dīn Ibn Ḥamawīyya (a cousin of Fakhr al-Dīn, whose work is known through other historians) and Ibn Wāṣil, in Peter Jackson, ed., *The Seventh Crusade, 1244 - 1254: Sources and Documents*, Reprint, Crusade Texts in Translation 16 (Farnham: Ashgate, 2009), p. 125; Hirschler, *Medieval Arabic Historiography*, p. 23; Claude Cahen, “Une Source Pour L’histoire Ayyūbide: Les Mémoires de Sa‘d Al-Dīn Ibn Ḥamawīya Djuwaynī,” in *Les Peuples Musulmans Dans L’histoire Médiévale* (Damas: Presses de l’Ifpo, 1977), 458-61; Mohamad El-Merheb, “Louis IX in Medieval Arabic Sources: The Saint, the King, and the Sicilian Connection,” *Al-Masāq* 28, no. 3 (September 1, 2016): p. 285.

²⁶⁴ Ibn Wāṣil, v.5, p. 303-304.

²⁶⁵ *Ibid.*, v.5, p. 304. Likewise, al-Yūnīnī, confirms the anecdote of the *ṭablakhāna* in *Dhayl mir‘āt al-zamān* (Beirut: Dār al-Kutub al-‘Ilmiyya), v.17, p. 234-235.

²⁶⁶ Al-Subkī, *Ṭabaqāt*, v.4, p. 355.

The sultan's *ustādār* Fakhr al-Dīn 'Uthmān Ibn Shaykh al-Shuyūkh [sic., should be Mu'īn al-Dīn], who was in charge of the affairs of the sultanate, allowed a *ṭablakhāna* to be housed and to operate on top of a mosque. Upon discovering it, *shaykh* 'Izz al-Dīn ruled that the building should be demolished and that Fakhr al-Dīn Ibn al-Shaykh's tenure in office was no longer legitimate. Moreover, he removed himself from the judgeship. Although the sultan did not re-appoint him as a judge, his standing was not affected by this ruling. As for Fakhr al-Dīn, he assumed that this ruling would not affect his own status outside Egypt; soon this proved to be incorrect when the sultan decided to send an envoy to caliph al-Musta'ṣim (r. 640-56/1247-58) in Baghdad. When the envoy reached the *dīwān* and addressed the message to the caliph, the latter asked him, 'Did you hear this message from the sultan?' The envoy replied, 'No, I have been instructed to deliver it by the sultan's *ustādār* Fakhr al-Dīn Ibn Shaykh al-Shuyūkh.' To this, the caliph responded, 'We take no message from the said person as he has been removed by Ibn 'Abd al-Salām'. The envoy returned to the sultan, who this time instructed him personally to deliver the message to the caliph, and so he did.²⁶⁷

Al-Subkī's account treated the prerogatives of legitimation and moderation of ruling elites (themes 1 and 2). It reflected how Shāfi'ī thought granted itself caliphal constitutional authority. Primarily, the caliph of Baghdad was brought into the affair in order to suggest that his legitimating authority was transmitted to the Shāfi'ī scholars personified by Ibn 'Abd al-Salām. As such the caliph would not deal with any official who had been removed by the Shāfi'ī authority of Cairo. Strikingly, the version of contemporary historian Ibn Wāṣil framed the involvement of the caliph in the entirely opposite fashion: a

²⁶⁷ Although al-Subkī confused Fakhr al-Dīn for his brother Mu'īn al-Dīn, this was of no major consequence to his interpretation of the affair; in al-Subkī, *Ṭabaqāt*, v.4, p. 355.

caliphal envoy proposed to the sultan a new suitable candidate to replace Ibn ‘Abd al-Salām.²⁶⁸ Additionally, what emerges from this account is that Shāfiī political thought envisaged a notion of legitimacy of the *umarā* independently from that of the sultan himself.²⁶⁹ The legitimacy of the *umarā* was to be decided, likewise, by the Shāfiī *‘ulamā*. Lastly, removing Ibn ‘Abd al-Salām from the judgeship did not reduce his status as the legitimating authority; this idea will recur below in the discussion of the investiture of the ‘Abbāsīd caliph of Cairo. As such, the political role of scholars rested outside official appointments and, hence, outside the power of the sultan or outside executive power altogether.

(4) Defending the populace

This anecdote primarily treats the intransigence of Shāfiī thought towards unlawful taxation and thus addresses the moderation of political power and defending the populace (theme 2). During the preparations for war against the Mongol invasion, Ibn ‘Abd al-Salām aimed to defend Egypt from invaders while, simultaneously, protecting its populace against unjust taxation. This was arguably one of the most celebrated deeds of Ibn ‘Abd al-Salām by contemporary and later sources. Ibn Wāṣil related that Quṭuz, who was not yet officially sultan in Cairo, received an envoy from the Ayyubid sultan of Aleppo al-Malik al-Nāṣir (r. 634/1237- 658/1260) asking for assistance against the Mongol threat.²⁷⁰ Quṭuz invited the jurists, judges, and notables to the citadel to deliberate and propose levying new taxes in order to finance the war

²⁶⁸ Contrary to al-Subkī’s account, Ibn Wāṣil narrates that the envoy of the caliph al-Musta‘ṣim visited al-Ṣāliḥ Ayyūb along with qāḍī Afḍal al-Dīn al-Khawanjī and praised him; based on this recommendation the latter was appointed to replace Ibn ‘Abd al-Salām; in Ibn Wāṣil, *Die Chronik*, p. 23.

²⁶⁹ This is reminiscent of contemporary European political thought that dealt with king and nobility in different ways; for a parallel, check the discussion on Thomas Aquinas’ views on monarchy versus aristocracy in Alan Ryan, *On Politics* (London: Penguin Books, 2013), p. 239.

²⁷⁰ Ibn Wāṣil, *Die Chronik*, p.189.

against the Mongols.²⁷¹ Ibn Wāṣil, who was present at this meeting, related that Ibn ‘Abd al-Salām did not attend in an official capacity.²⁷² Ibn Wāṣil provided a thorough account of the deliberations and noted, “It was a consensus among all those present at the meeting to follow the opinion of *shaykh* ‘Izz al-Dīn Ibn ‘Abd al-Salām” which was:

If the enemy threatened the lands of Islam, it is a duty for all to fight back. Levying taxes from the people to fund the preparation for war is authorised on one condition: that nothing shall remain in the treasury (*bayt al-māl*), and that you [Mamluk *amīrs*] shall sell all your golden and precious possessions, and that every soldier shall be solely equipped for his ride and his weapon, so they [Mamluks] are treated similarly to the public. As for levying money from the populace while soldiers [Mamluks] preserve their money and precious holdings, the answer is no!²⁷³

While al-Subkī’s account of Ibn ‘Abd al-Salām’s famous legal opinion is in complete agreement with the contemporary sources, his interpretation endows the account with a deeper political significance. For the author, the moderation of the ruling elites, the protection of the populace, and victory over the invading enemy were successfully achieved only because the ruling elites followed the Shāfi‘ī authority’s directives. Al-Subkī concluded, “He [Ibn ‘Abd al-Salām] was so great and prestigious among them [the Mamluks] that they could not contradict him and they always recognized his directives; so they

²⁷¹ The meeting took place in the presence of the nominal child-sultan al-Manṣūr Nūr al-Dīn ‘Alī son of his slain master al-Mu‘izz Aybak; in Ibn Wāṣil, *Die Chronik*, p. 190

²⁷² Ibn Wāṣil, *Die Chronik*, p. 190. Quṭuz and the emerging Mamluks, “felt it necessary to seek Ibn ‘Abd al-Salām’s approval, despite the fact that the latter was at the time retired from public office and serving in no official capacity”, in Jackson, *Islamic Law and the State*, p. 10.

²⁷³ Ibn Wāṣil, *Die Chronik*, p. 190; al-‘Aynī mentions al-malik al-Manṣūr the son of Aybak but not Quṭuz, in *‘Iqd al-jumān fī ta’rīkh ahl al-zamān*, ed. Muḥammad Muḥammad Amīn, vol. 1, 5 vols., (Cairo: Dār al-Kutub wa-al-Wathā’iq al-Qawmiyya, 2009), p. 218-219.

won the battle.”²⁷⁴ This was a case of successful praxis of Shāfiī political thought leading to victory.

This well-corroborated account was a founding political model. It revealed the stance of Shāfiī political thought on the duty of *jihad* and unjust taxation, and proved the partaking of the civilian elite in the political sphere led by the Shāfiī authority. Ibn Wāṣil’s account showed that the civilian elite was composed of jurists, judges, and notables and that the sultan and *amīrs* consulted with it in a forum before taking major decisions. Furthermore, Ibn ‘Abd al-Salām’s role as the leader of the civilian elite, as a mediator between the civilian and political elites, as a defender of the populace, and as a leading and indispensable counsellor for rulers was evident. As such, Ibn ‘Abd al-Salām ensured that the primacy of the duty of defending the lands of Islam against invaders was not to be taken as permission to unjustly tax the populace. The account can be considered as praxis of Shāfiī constitutional thought.

Subsequent ‘*ulamā*’ attempted to resuscitate and emulate Ibn ‘Abd al-Salām’s legal opinion. Forty years later, almost identical conditions occurred during the second reign of al-Nāṣir Muḥammad Ibn Qalāwūn. Al-‘Aynī related that following the defeat of Wādī al-Khaznadār against the Mongol Ilkhanate in 699/1299, the Mamluk *umarā* convened in the presence of the sultan and intended to impose a new tax on the merchants of Cairo to re-equip the army.²⁷⁵ The *umarā* instructed the market inspector (*nā’ib al-ḥisba* or

²⁷⁴ Al-Subkī, *Ṭabaqāt*, v.4, p. 358.

²⁷⁵ Al-‘Aynī, *‘Iqd al-jumān fī ta’rīkh ahl al-zamān*, ed. Muḥammad Muḥammad Amīn, vol. 4, 4 vols. (Cairo: Hay’a al-Miṣriyya al-‘Āmma li-al-Kitāb, 1987), p. 72. Al-‘Aynī relates on the authority of “Ṣāḥib al-Nuzha” that is al-Yūsufī (d.1358), a well-positioned witness to the reign al-Nāṣir Muḥammad and author of *Nuzhat al-nāzir*. The same account is in al-Maqrīzī, *al-Sulūk li-ma’rifat duwal al-mulūk*, ed. Muḥammad ‘Abd al-Qādir ‘Aṭā, 8 vols. (Beirut: Dār al-Kutub al-‘Ilmiyya, 1997), v.2, p. 327.

muhtasib) to secure a *fatwā* from the judges sanctioning this taxation;²⁷⁶ the market inspector claimed to possess the original copy of Ibn ‘Abd al-Salām’s above-mentioned *fatwā*.²⁷⁷ *Amīr* Sayf al-Dīn Salār, one of two main contenders for the sultanate during the second reign of al-Nāṣir Muḥammad, requested this *fatwā* be taken immediately for ratification by the Shāfi‘ī chief-judge Taqī al-Dīn Ibn Daqīq al-‘Īd (625/1228-702/1302), a renowned pupil of Ibn ‘Abd al-Salām.²⁷⁸ When the latter saw the *fatwā* he threw it away saying, “You do not need my *fatwā*. If those in charge wish for something, the people will acquiesce.”²⁷⁹ The *umarā’*, evidently not satisfied with this reply, requested to meet Ibn Daqīq al-‘Īd in order to “get his blessing”. When the judge arrived for the meeting, Salār took him by the right arm and *amīr* Baybars al-Jāshankīr, the second contender for the sultanate, by the left. They asked him sit between the two of them as a sign of honour.²⁸⁰ Eventually, Salār made clear their request, “Master, we wish to acquire this *fatwā* so we do not commit any sin in our decisions”. Ibn Daqīq al-‘Īd refused once again and said, “This *fatwā* is conditional on every *amīr* coming before me and swearing to God that he owns no silver or gold, and that his wife and children own no jewelry and things of the sort.”²⁸¹ Only after every *amīr* had brought his possessions before him would Ibn Daqīq al-‘Īd ratify Ibn ‘Abd al-

²⁷⁶ *Nā‘īb al-ḥisba* or *muhtasib* is the “market inspector whose functions ranged from auditing weights and measures in the marketplace to bringing government officials to the Sharia court for abuse of their powers”, in Hallaq, *An Introduction to Islamic Law*, p. 175.

²⁷⁷ al-‘Aynī, *‘Iqd al-jumān*, p. 72-73.

²⁷⁸ For more on the competition between the two commanders, refer to Irwin, *The Middle East in the Middle Ages*, p. 85-86. Refer to al-Subkī, *Ṭabaqāt*, v.4, p. 354. Ibn Daqīq al-‘Īd was a student of Ibn ‘Abd al-Salām. He was the first to style his professor *sultān al-‘ulamā’*. He studied in Cairo and Damascus and later taught jurisprudence according to the Mālikī and Shāfi‘ī *madhhabs* and was appointed to the judgeship in 675/1295. Ibn Daqīq al-‘Īd wrote several works on *fiqh* and *ḥadīth*. Like other *adabised* scholars treated in this research, he was also a poet and a *khaṭīb*. Like Ibn Jamā‘a’s interest in the astrolabe, Ibn Daqīq al-‘Īd was an alchemist who attempted to “transmute quicksilver and sulphur into gold, and quicksilver and arsenic into silver”; refer to Ebied, R. Y. and Young, M. J. L., “Ibn Daqīq al-‘Īd”, *EI2*.

²⁷⁹ Al-‘Aynī, v.4, p. 73.

²⁸⁰ *Ibid.*, p. 74.

²⁸¹ *Ibid.*, p. 74.

Salām's *fatwā*.²⁸² Ibn Daqīq al-ʿĪd was in many aspects the heir to what Ibn ʿAbd al-Salām signified to the Shāfiʿī *madhhab*'s collective memory. Like his teacher before him, Ibn Daqīq al-ʿĪd represented the endurance of the Shāfiʿī prerogative in conferring legitimacy to the competing military elites and protecting the populace and, as such, upholding the cherished Shāfiʿī ideal of the rule of law.

On the other hand, Salār and Baybars al-Jāshankīr were in a comparable position to sultans Quṭuz and Baybars I. While they both held the keys to political power, they nevertheless desperately needed the endorsement of the legitimating Shāfiʿī authority to maintain their grip on power. When sultan al-Manṣūr Lājīn (r. 696-698/ 1297-1299) was killed, al-Nāṣir Muḥammad, now fourteen years of age, was called up from Karak for his second reign. The two real holders of power were, however, his father's mamluks, Sayf al-Dīn Salār and Baybars al-Jāshankīr. These influential *amīrs* were rivals waiting for the right moment to seize power, yet they managed to coexist and ruled jointly for ten years. Throughout their rule, they both cooperated with Shāfiʿī *ʿulamā*' like Ibn Daqīq al-ʿĪd and Ibn Jamāʿa to legitimate and stabilize their ever precarious positions. Nevertheless, and as will be discussed subsequently in Chapters 2, 4, & 5, both Salār and Baybars al-Jāshankīr – like Baybars I before them – dreaded the dominance of the Shāfiʿīs and their political thought, and solicited contending conceptions of political thought from Sufis, in the case of Baybars al-Jāshankīr, and Ibn Taymiyya, in the case of Salār.

The Mamluk defeat at the battle of Wādī al-Khaznadār complicated the joint position of Salār and Baybars al-Jāshankīr even further. There was a pressing need to regain control of the realm and the trust of the populace by quickly re-organizing and equipping the army. People lost confidence in the rulers and mocked the soldiers and their two *amīrs* Salār and Baybars II, and

²⁸² Ibid., p. 74

at every opportunity they would say, “by God, they are but a joke!”²⁸³ The sultan increased military spending from the treasury (*bayt al-māl*) but the mission was exorbitant and there was soon a need to raise more taxes.²⁸⁴ Consequently Salār and Baybars al-Jāshankīr found themselves in the same position that Quṭuz was in around 1260: their political legitimacy was dependent on the military elite carrying out its duty to defend Islam which, in turn, demanded levying more taxes in order to recruit and equip soldiers. The case of Salār and Baybars al-Jāshankīr was even shakier after the humiliating defeat at Wādī al-Khaznadār. Once again, the Shāfiī *‘ulamā’* were in a position to exercise their prerogative of bestowing political legitimacy on the military ruling elite and protecting the populace from unlawful and excessive taxation.

(5) Baybars: Legitimation and competition

Al-Subkī’s treatment of the relation between Baybars and Ibn ‘Abd al-Salām reflects the Shāfiī prerogative of legitimating rulers, including sultan Baybars and the ‘Abbāsīd caliph of Cairo (theme 1) and the threat of the rising influence of other *madhhabs* (theme 3). He recounted, “Further proof of his great prominence among them [the Mamluks] is that al-malik al-Zāhir Baybars was sure to follow *shaykh* ‘Izz al-Dīn before swearing allegiance to both caliph al-Musta‘ṣim and caliph al-Ḥākīm. The *shaykh* would swear allegiance first, followed by the sultan, and then the judges.”²⁸⁵ Al-Subkī exaggerated this

²⁸³ Al-‘Aynī, *‘Iqd al-jumān*, vol. 4, p. 68-70. The historicity of the affair is supported by al-Yūsufī’s contemporary and well-informed chronicle.

²⁸⁴ Ibid., vol. 4, p.70-72; see also al-Maqrīzī, *Sulūk*, v.2, p.327.

²⁸⁵ Al-Subkī, *Ṭabaqāt*, v.4, p. 358; Ibn ‘Abd al-Zāhir mentions that Ibn ‘Abd al-Salām was only present at the *bay‘a* of the first caliph, in *al-Rawḍ*, p. 100; al-Qalqashandī, *Ṣubḥ al-a‘shā fī ṣinā‘at al-inshā‘*, vol. 3, 14 vols. (Cairo: al-Maṭba‘a al-Amīriyya, 1914), p. 264-265 for where it is clear he is only involved in the *bay‘a* of the first caliph; Baybars al-Manṣūrī does not mention the participation of Ibn ‘Abd al-Salām in the process, in *Zubdat al-fikra fī tārikh al-hijra*, ed. Donald Sidney Richards (Beirut: al-Ma‘had al-‘Almānī li-al-Abḥāth al-Sharqiyya, and Berlin: al-Kitāb al-‘Arabī, 1998), p. 60-61; al-Suyūfī confirms that Ibn ‘Abd al-Salām took part in the *bay‘a* of the first caliph only but with a different order of performing the *bay‘a*, in *Tārikh al-khulafā‘*, ed. Ibrāhīm Ṣāliḥ (Beirut: Dār Ṣādir, 1997), p. 562-563.

legitimizing role as he claimed that when Ibn ‘Abd al-Salām’s impressive funeral procession passed under the citadel, Baybars confided to his close advisors, “Only now is my reign is secure. If this *shaykh* had wished to incite the people against my rule, I would have lost it!”²⁸⁶ Although this sounds too dramatic to have been uttered by Baybars, there are indications that Baybars recognized Ibn ‘Abd al-Salām’s stature during his reign.

Most accounts of the ceremony of the oath of allegiance (*bay‘a*) of the first ‘Abbāsīd caliph in Egypt confirm that sultan Baybars respected Ibn ‘Abd al-Salām’s legitimating authority. The contemporaneous sources corroborate that the prerogative of Shāfi‘ī political thought to legitimate the ruler was somehow put into practice during the reign of Baybars. Several accounts reveal a specific hierarchy during the political legitimization ceremony of the ‘Abbāsīd caliph. Ibn Wāṣil narrated that Ibn ‘Abd al-Salām attended the *bay‘a* of the caliph in the citadel of Cairo with the chief-judge Ibn Bint al-A‘azz.²⁸⁷ First the chief-judge attested to the candidate’s genealogy. Subsequently, Ibn ‘Abd al-Salām was the first to perform the *bay‘a*, followed by the chief-judge, sultan Baybars, and then followed by the rest. Likewise, Ibn ‘Abd al-Zāhir’s account, being the close secretary of Baybars, was very telling. He related, “The sultan summoned the jurists (*fuqahā*), leading *imāms*, *amīrs*, Ṣūfīs, merchants, and many people to the hall of ‘Amd; *shaykh* ‘Izz al-Dīn ‘Abd al-Salām joined, so did the caliph – God be pleased with him – and the sultan.”²⁸⁸ It is noteworthy that Ibn ‘Abd al-Salām, once again attending in no official capacity, is mentioned ahead of the sultan at the ceremony.

Conversely, there are indications of an uneasy relation between Baybars and Ibn ‘Abd al-Salām. Unlike other contemporaneous sources, Ibn

²⁸⁶ Al-Subkī, *Ṭabaqāt*, v.4, p. 358; Ibn al-‘Imād, *Shadharāt al-dhahab fī akhbār man dhahab*, ed. Maḥmūd al-Arnā‘ūt and ‘Abd al-Qādir al-Arnā‘ūt, 10 vols. (Beirut; Damascus: Dār Ibn Kathīr, 1986), vol. 7, p. 524.

²⁸⁷ Ibn Wāṣil, *Die Chronik*, p. 231.

²⁸⁸ Ibn ‘Abd al-Zāhir, *al-Rawḍ*, p. 100. Also refer to Shāfi‘ī Ibn ‘Alī, *Ḥusn al-manāqib*, p. 37.

‘Abd al-Zāhir was generally silent on Ibn ‘Abd al-Salām, which is very suggestive.²⁸⁹ Considered the ‘official’ biographer of Baybars, Ibn ‘Abd al-Zāhir’s main aim was to embellish and legitimate Baybars’ rule and, as such, his silence reflected discomfort with the influential role of Ibn ‘Abd al-Salām as the legitimating authority. Furthermore, there are indications that Baybars continuously tried to appease and win over Ibn ‘Abd al-Salām. For instance, al-Yūnīnī narrated that Ibn Ḥannā, Baybars’ vizier, proposed to Ibn ‘Abd al-Salām that his son take over his post after his (Ibn ‘Abd al-Salām’s) death; the offer was swiftly declined by Ibn ‘Abd al-Salām.²⁹⁰ Some later sources were more explicit in covering the issue of legitimation by pointing out the slave origin of Baybars. Al-Kutubī (d. 1287/1363) relayed that Ibn ‘Abd al-Salām shouted out during the *bay‘a* of Baybars, “Rukn al-Dīn, I know you are the *mamlūk* of al-Bunduqdār!”²⁹¹ Ibn ‘Abd al-Salām purportedly refused to swear the oath of allegiance until it was attested that Baybars was indeed sold to al-Ṣāliḥ Ayyūb, who later manumitted him.²⁹² Such an anecdote would surely not be found in Ibn ‘Abd al-Zāhir’s biography of Baybars.

Despite such accounts, Shāfiī political thought seemed to have been functioning well and in relative agreement under the joint watch of Ibn ‘Abd al-Salām and Baybars. Although the Shāfiī self-proclaimed prerogative of legitimating rulers led to some tensions between them, contemporaneous sources corroborate the existence of a certain political arrangement between the sultan, the Shāfiī authority, and the civilian elite. Likewise, they confirm the legitimating authority of Ibn ‘Abd al-Salām and his role as leader of Cairo’s civilian elite during the *bay‘a* of the caliph. As will be discussed in Chapter 3, Baybars later attempted to tamper with this arrangement after the death of Ibn

²⁸⁹ Ibn ‘Abd al-Zāhir’s work “was known to have been commissioned by Baybars”, in Donald P. Little, “Historiography of the Ayyūbid and Mamlūk Epochs”, p. 421.

²⁹⁰ Al-Yūnīnī, *Dhayl mir’āt al-zamān* (Beirut: Dār al-Kutub al-‘Ilmiyya), v. 17, p. 242-243; al-‘Umārī, *Masālik*, v.6, p. 216

²⁹¹ Al-Kutubī, *Fawāt al-wafayāt*, vol. 2, p. 352.

²⁹² *Ibid.*, v.2, p. 352.

‘Abd al-Salām by instituting his legal reforms. This attempt only exacerbated the Shāfiī collective memory’s will to remember and preserve this arrangement that had secured the *madhhab*’s dominance. It is within this context that al-Subkī raised his warning against the rising influence of other *madhhabs* in the political sphere (theme 3). As mentioned above, al-Subkī claimed that Baybars was reprimanded in a dream by Imām al-Shāfiī for instituting the legal reform of the four chief-judges.²⁹³

(6) Clash of *umarā*’ and ‘*ulamā*’

Al-Subkī was uncompromising on the legitimation and moderation of the Mamluk *umarā* being the prerogative of the Shāfiī ‘*ulamā*’ (themes 1 and 2). Al-Subkī portrayed in his anecdotes the tension between ‘*ulamā*’ and *umarā* that ensued from Shāfiī attempts to legitimate and moderate the *amīrs* independent of the sultan. He related:

They [the Mamluk ‘Turks’] were a group of whom, it was said, the *shaykh* could not confirm as freemen. He believed they were still formally slaves owned by *bayt al-māl*. When they heard of this matter, they were extremely concerned and things escalated. The *shaykh* was however uncompromising; [because of his opinion] they could not lawfully sell, buy, or even marry and so all their affairs came to a halt. Among them was the vice-regent who was furious about this matter. So they convened and contacted him for a solution but he replied: ‘We will arrange for a public auction where you will be sold on behalf of *bayt al-māl*; so your manumission can become lawful.’²⁹⁴

There are three key ideas to be noted as they help link the above account to the themes (1 and 2). Firstly, the passage identified a particular group whose

²⁹³ Nielsen, “Sultan Al-Zāhir Baybars”, p. 173-174; al-Subkī, *Ṭabaqāt*, v.4, p. 425.

²⁹⁴ Al-Subkī, *Ṭabaqāt*, v.4, p. 359; under the section title, ‘The Matter of the Shaykh with the Turkish Amīrs’.

main two attributes were being slaves and of Turkic origin.²⁹⁵ This indicates how scholars viewed the Mamluk military elite. Secondly, the account considered the slaves to be owned by *bayt al-māl* and not by individuals like, for example, Baybars, who was originally a *mamlūk* of al-Bunduqdār. As such, they were owned by the state and by the Muslims and, consequently, expected to rule and serve in the collective interest of the populace. Thirdly, the furious Mamluks first contacted Ibn ‘Abd al-Salām and attempted to appease him, even before resorting to the sultan. They did this as they knew perfectly well that there was no way to circumscribe him as the legitimating Shāfiī authority of Cairo. Al-Subkī continued:

They took the matter to the sultan who contacted him [Ibn ‘Abd al-Salām] but the latter would not compromise. The sultan, unmannerly, told the *shaykh* that this was a grave matter and that he should not have involved himself in it. Outraged by this, the *shaykh* packed his possessions on a donkey, made his family members ride another donkey, and left Cairo for Damascus. It was not long before most Muslims had followed him: almost every woman, child, and man, and remarkably the scholars, the pious men, the merchants, and so forth. The news reached the sultan and he was warned, ‘Once he leaves, your rule is doomed.’ So the sultan rode and followed him; he appeased him so he agreed to return. It was now decided that the *amīrs* would be sold publicly.²⁹⁶

The vice-regent, the wicked character in al-Subkī’s account, would not accept this, ‘How can this *shaykh* sell us when we rule this land? By God I will strike him with my sword!’²⁹⁷ The vice-regent intended to harm Ibn ‘Abd al-Salām

²⁹⁵ Refer to the introduction chapter of this thesis for a relevant discussion of Joe van Steenbergen’s “Appearances of Dawla”, 53–88.

²⁹⁶ Al-Subkī, *Ṭabaqāt*, v.4, p. 359.

²⁹⁷ *Ibid.*.

but was prevented by a miracle (*karāma*): as soon as the *shaykh* laid eyes on him his hand withered, he dropped the sword, and his joints started shaking. The vice-regent now succumbed to the scholar's authority:

He started crying and asked the *shaykh* to pray for him. 'Master, what shall you do now?' he asked the *shaykh* who replied, 'I shall sell you.' 'And how will you spend the money?' the vice-regent asked. He responded, 'In the best interest of the Muslims.' The vice-regent asked, 'Who will collect the money?' He responded, 'I shall.' Things went as per his wish, he auctioned the *amīrs* one by one; he even exaggerated his asking price! He received the money and spent it on good deeds. No one has ever heard of anything like it. May God have mercy on his soul and be pleased with him.²⁹⁸

In this account, which comprehensibly does not feature in any of the contemporary sources, al-Subkī sketched a performance of Shāfiī political thought succeeding in legitimating and moderating the military elites, and safeguarding the interests of the populace (themes 1 and 2). Not only did Ibn 'Abd al-Salām succeed in forcing the sale of the *amīrs*, thus legitimating their power as freemen, he also had the last word on how to spend the money from their sale. That was the ultimate success – albeit imagined by al-Subkī – for Shāfiī political thought. It secured the supremacy of the '*ulamā*' over the *umarā* and guaranteed control over the treasury's spending for the benefit of the populace.²⁹⁹ Moreover, Ibn 'Abd al-Salām is now portrayed by al-Subkī as the single and most important legitimating component of the sultan's rule: if he leaves on a donkey the whole kingdom is doomed. Lastly, in this narrative the

²⁹⁸ Ibid..

²⁹⁹ Recurrently, this major point of legal difference on the supervision of *bayt al-māl* and the charitable endowments (*waqfs*), where the Shāfiīs are believed to be uncompromising, resurfaces in various accounts and treatises as will be discussed in the subsequent Chapters 2 and 3.

author clearly distinguishes between the legitimation and moderation of the sultan and the *amīrs*, a distinction that similarly features in Ibn Jamā'a's treatise as will be discussed in Chapter 2.

Shāfi'ī political thought in a later Subkī work

The political themes detected in Ibn 'Abd al-Salām's biography in the *Ṭabaqāt* re-emerge in a later work composed by al-Subkī. Although seldom viewed in this fashion, *Muṭd al-ni'am wa-mubīd al-niqam* (The restorer of favours and the restrainer of chastisements) is a source of political thought that clearly upholds Shāfi'ī constitutional concerns for of the rule of law and limited government.³⁰⁰ This work treats the conduct and duties of the holders of one hundred and thirteen public posts and professions of the Mamluk period. Most importantly, it is a political text that asserts thirteenth-century Shāfi'ī conceptions of political authority and Shāfi'ī constitutional concerns. The *Muṭd* promotes upholding them through the moderation of the exercise of power and the division of political, judicial, and administrative labour. Throughout this treatise, al-Subkī's doctrinal affiliations and loyalties were asserted over and over again, as is evident in his praise of prominent Shāfi'ī-Ash'arī figures like al-Juwaynī, al-Ghazālī, and al-Razī, and his sympathy towards Sufism.³⁰¹ Moreover, the treatment of political themes in the *Muṭd* is evident throughout the discussions of the conduct of the caliph, sultan, vice-regents, and judges using a stylistic blend that draws from administrative manuals, mirrors for princes, and Shāfi'ī juridical writings.³⁰²

A brief examination of the *Muṭd* supports the methodology of this chapter. Some anecdotes in this treatise reflect the same interpretation of

³⁰⁰ Refer to "al-Subkī" *EI2*. The title translation is from the first edition, which otherwise I did not use in this thesis: al-Subkī, *Muṭd al-ni'am wa-mubīd al-niqam [The Restorer of Favours and the Restrainer of Chastisements]*, ed. D.W. Myhrman (London, 1908).

³⁰¹ Al-Subkī, *Muṭd* (Cairo, 1993), p. 78-80 and p. 119.

³⁰² *Ibid.*, p. 13-15. For more on this stylistic blend, refer to Chapter 5's discussion of *al-'Iqd al-farīd li-al-malik al-Sa'īd*.

Shāfiī political thought that was identified in the biography of Ibn ‘Abd al-Salām in the *Ṭabaqāt*. For instance, the *Muīd*’s treatment of the function of the *umarā’* and the recollection of Ibn ‘Abd al-Salām’s legal opinion on taxation reassert the contours of the political thought of the late Ayyubid and early Mamluk period by reproducing the same above-mentioned political themes.³⁰³ First, al-Subkī cited the prerogative of the ‘*ulamā’*’ to legitimate the ruling elites (theme 1). He related the story of a sinful jurist who was flogged by an *amīr* for his drunkenness; the jurist, now sober, went to the judge and demanded that he be flogged one more time as he considered the ruling of the *amīr* unlawful.³⁰⁴ The allegory here fits (theme 1) as even a drunk jurist is capable of de-legitimizing the judicial decision (*ḥukm*) of an *amīr* and the dispensation of justice is the prerogative of Shāfiī judges. Furthermore, the author recounted Ibn ‘Abd al-Salām’s famous *fatwā* to Quṭuz on the eve of the Mongol invasion in a version rich with details that went unmentioned in the *Ṭabaqāt*.³⁰⁵ In the *Muīd*’s version, which reproduced a more detailed report of Ibn ‘Abd al-Salām’s speech, Baybars and Qalāwūn were also present when Ibn ‘Abd al-Salām pronounced his legal opinion to Quṭuz. This anecdote fits with the proclaimed prerogative of defending the populace (theme 2). Additionally, al-Subkī’s discussion of the office of the vice-regent (*nā’ib al-salṭana*) in the *Muīd* reflects the recurring Shāfiī concern with avoiding unbalanced and harsh punishments while upholding justice.³⁰⁶ Again, this fits well with the moderation of the ruling elites and accordingly with (theme 2) of Shāfiī political thought.

³⁰³ Ibid., p. 46-47. The deep influence of some familiar premises of Ibn Jamā’a’s *Taḥrīr* on the *Muīd* is evident in the discussion, for instance, on the duty of the *amīrs* to train with soldiers and keep them in form.

³⁰⁴ Al-Subkī, *Muīd*, p. 48-49. Al-Subkī, however, was careful to exonerate the vice-regent of Syria from the accusations he levels against the *umarā’*, see p. 50-51.

³⁰⁵ Ibid., p. 51.

³⁰⁶ Ibid., p. 21-23.

Yet unlike the *Ṭabaqāt*, the *Muṭd* treats Shāfiī political thought head-on. The palpable influence of Shāfiī political treatises like Ibn Jamā'a's *Taḥrīr* is difficult to miss in the treatise. For instance, al-Subkī's discussion of the office of sultan reveals how entrenched the period's Shāfiī political thought was within his work. The author started by noting that many jurists had previously written on the subjects of the *imāma* and sultanic ordinances. In complete agreement with Ibn Jamā'a's *Taḥrīr*, al-Subkī then explained that by sultan he meant the greater *imām* (*al-imām al-aẓam*).³⁰⁷ Such an interpretation of sultan encapsulated, in striking simplicity, one of Ibn Jamā'a's main contributions to political thought and his conception of the highest political authority of Islam, which will be covered in Chapter 2. Al-Subkī listed the duties of the sultan: raising armies; upholding the duty of *jihād* and protecting the abode of Islam; proper handling of land grants (*al-iqṭā'āt*); attending to the 'ulamā' and the needy by respecting the charitable endowments (*waqfs*) that support them; preserving the treasury (*bayt al-māl*); and upholding ritual prayer duties and religion. Much of this discussion echoed the writings of Ibn Jamā'a and other earlier Shāfiī political thinkers.³⁰⁸

Summary and concluding remarks

The selected anecdotes of Ibn 'Abd al-Salām's biography in the *Ṭabaqāt* highlight the contours of the Shāfiī *madhhab*'s political thought. This chapter detected three major themes: the two self-proclaimed prerogatives of political legitimation and delegitimation of rulers (theme 1), moderating the exercise of power and defending the populace (theme 2), and warning against the rising influence of other *madhhabs* in the political sphere (theme 3). In sum, the first two themes relate to the Shāfiī constitutional concerns for upholding the rule

³⁰⁷ Ibid., p.16. Refer to the detailed discussion in Chapter 3. Possibly the influence is likewise from *al-'Iqd al-farīd li-al-malik al-sa'īd*; refer to Chapter 5.

³⁰⁸ Al-Subkī, *Muṭd*, p.16-21.

of law and limited government while the third theme points to the role of *madhhab* competition in the production of political thought.

The works of Skinner and Pocock proved to be beneficial. This chapter used their guidelines to recover the prevailing conventions in the treatment of political themes of the thirteenth century. That was possible owing to al-Subkī's scrupulous preservation of the intellectual context and political language of the late Ayyubid and early Mamluk period "with and within which" Ibn 'Abd al-Salām operated.³⁰⁹ This exercise uncovered an entire repertoire of political ideas disguised in the language of doctrinal and legal disputes between the Shāfi'īs and traditionalist-Ḥanbalīs. These disputes were often conducted with the tacit or explicit involvement of Ayyubid and Mamluk rulers and members of the military elites.

Three important conclusions can be drawn from this chapter. Firstly, the remembrance of Ibn 'Abd al-Salām's life and career epitomised a model relation between rulers, civilian elite, and populace that secured the rule of law to a certain extent. As such, the sources portrayed a Shāfi'ī *madhhab* political thought that was already in praxis and well in place by the time of Ibn Jamā'a. Secondly, the evoking of the prerogatives of legitimating and moderating rulers and protecting the populace was effectively a call for the revival of this rule of law. It was a yearning for a golden age when the dominance of Shāfi'ism as the preferred *madhhab* secured the rule of law. Thirdly, the 'will to remember' Ibn 'Abd al-Salām and to preserve Shāfi'ī political thought was intended to defend the identity of the Shāfi'ī *madhhab* from threats arising from competing *madhhabs* in a period of political uncertainty. As such, the competition amongst the *madhhabs*, now spreading into the domain of constitutional and public law, stimulated the production of political thought. With these findings in mind, one can now attempt to interpret

³⁰⁹ Pocock, "Languages and Their Implications", p. 25.

the Shāfiī political thought's ultimate synthesis, Ibn Jamā'a's *Taḥrīr*.

Chapter 2- Synthesis and praxis of Shāfiī political thought: Ibn Jamā'a

This chapter examines the synthesis of the Shāfiī strain of political thought and its *praxis*. While Chapter 1 argued for a prevailing Shāfiī political thought in the late Ayyubid and early Mamluk period that was remembered and preserved in the Shāfiī collective memory, this present chapter will describe the development of this strain of political thought, its precursors, its influences, and the distinctive literary styles that were used to convey it. This will be done by examining what this thesis argues is the most developed manifestation of the Shāfiī strain of political thought as embodied in the treatise *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām* (Drafting ordinances towards running the affairs of the people of Islām) and by studying the life and career of its author, Ibn Jamā'a. This chapter shows that there are two main reasons - synthesis and *praxis*- that make the *Taḥrīr* the ultimate manifestation of Shāfiī political thought that was contested by others, as will be discussed in the following chapters of this thesis.

Several features of the *Taḥrīr* make of it a synthesis of the late Ayyubid and early Mamluk period Shāfiī political thought. For one, the *Taḥrīr* was the last of the Shāfiī political treatises of the period, and arguably the last important one ever written by a renowned Shāfiī thinker. After this period, there was only a yearning for the Shāfiī lost golden past as discussed in Chapter 1. Furthermore, layers of Shāfiī thinkers, including al-Māwardī, al-Juwaynī, al-Ghazālī, and Ibn Ṭalḥa profoundly influenced the *Taḥrīr* thematically and stylistically. There is ample evidence of this influence on Ibn Jamā'a's aims and concerns and it will be outlined throughout the following examination of the *Taḥrīr*. The influence of these and other earlier Shāfiī writings was, likewise, evident in the style and the distinctive arrangement of sections that Ibn Jamā'a opted for in his treatise. The *Taḥrīr's* arrangement,

as I will show, reflected three main clusters of topics: the *imāma* and the conception of political authority, the main offices and the administration, and the rules of war; in this organisation, the *Taḥrīr* benefited from earlier Shāfiʿī treatises.

As for the *praxis* of this political thought, it is attested to by the life and career of Ibn Jamāʿa. In this chapter, *praxis* of political thought refers to the way the *Taḥrīr* was moulded by Ibn Jamāʿa's life and career and, at the same time, to the way his political thought was applied in a major political change of the Mamluk period. Ibn Jamāʿa's various appointments in high-ranking offices under al-Ashraf Khalīl and subsequent Mamluk sultans shaped his views on political authority and government; this will be highlighted as this chapter traces the development of Ibn Jamāʿa's ideas across his three successive political treatises. Moreover, his political ideas, including his conceptions of political authority, delegation of power, and the role of the administration, were applied in order to secure a durable and legitimate transfer of power at the start of the third reign of al-Nāṣir Muḥamad. This was a very rare case of documented *praxis* of political thought. As such, this chapter will offer a unique case in the study of the history of Islamic political thought: specific political ideas posited by an Islamic thinker being put into practice during his own life.

A prerequisite to discussing this case of *praxis* of political thought is to inspect the development of Ibn Jamāʿa's thought across his various writings in parallel with the progress of his career. This entails a detailed study of Ibn Jamāʿa's biography not just as a jurist and judge, but also as a leading administrator and a statesman who was at the centre of major political events in order to show how the ideas of the *Taḥrīr* were shaped by its author's service in various religious, judicial, and administrative posts, by his patronage by influential individuals, and by his other intellectual interests and

affiliations. Furthermore, this will help explain the roots of the various concerns that the author developed throughout his various writings.

Most importantly, this chapter argues that, so far, Ibn Jamā‘a’s political thought has been misread to a large extent. It will show, based on the study of his career, the analysis of his political writings, and the development of his ideas, that Ibn Jamā‘a was certainly not concerned with restating the so-called ‘theory of the caliphate’ to accommodate sultanic rule. Earlier authors such as Lambton believed that following the fall of the ‘Abbasid caliphate, “the problem for the jurists now was to define” the authority of the sultans who seized power and that this dictated Ibn Jamā‘a’s “restatement of the theory of the caliphate”.³¹⁰ Yet by the time of Ibn Jamā‘a, and even well before the fall of Baghdad, the caliphate was a long gone ideal. Furthermore, the accommodation of coercive power had already been incorporated in Islamic political thought since the time of al-Māwardī. Ibn Jamā‘a never aimed at reaffirming or rehabilitating the theory of the caliphate.

Ibn Jamā‘a was predominantly interested in the three abstract and interlocked notions of the rule of law, limited government, and delegation of power. The first notion comprised upholding justice and the respect for private life and property; the second intended to empower the professionalised administration and judiciary and hence curtail the absolute power of rulers and military elites; and the third meant to secure a legitimate and durable transfer of political power in the context of frequent changes at the top. In order to uphold these three constitutional notions, Ibn Jamā‘a aimed at guaranteeing the proper functioning of government irrespective of the Mamluk households and factional competition for power. Therefore, he intended, both in his writings and throughout his career, to secure a constitutional framework that guaranteed a continually functional government via its administrative and judiciary branches. In achieving this aim, Ibn Jamā‘a could advocate his three

³¹⁰ Lambton, *State and Government*, p. 138.

notions of the rule of law, limited government, and delegation of power. This is the essence of the *Taḥrīr* that has been missed so far in the few studies that have covered Ibn Jamā'a.³¹¹

There are three parts in this chapter. The first part is a biography of Ibn Jamā'a, which will identify the important milestones of his career and how they impacted his political thought. This included his service for al-Ashraf Khalīl, the roles that he played later, willingly or not, in the deposition and confirmation of three different Mamluk sultans, and the experience that he mustered within the administration and the influence that he came to exert on it. The second part and longest is dedicated to Ibn Jamā'a's political thought as articulated in his three consecutive political treatises. It will trace the evolution of his ideas and the development of new constitutional concerns; this entails extra attention to the section-arrangement and style of the *Taḥrīr*. As such, this part will show that Ibn Jamā'a's concern for the three constitutional themes of the rule of law, limited government, and delegation of power was expressed in the *Taḥrīr* under three main topics: the *imāma* or the author's conception of political authority, the main offices and the administration, and the rules of war as already mentioned. Furthermore, this second part will identify at which points in time Ibn Jamā'a's major political ideas crystallised and the various influences upon him. Finally, the third part of this chapter will present a documented case of the *praxis* of Ibn Jamā'a's political thought. It will highlight the use of his political ideas, by Ibn Jamā'a himself as well as other judges, jurists, and chancery secretaries, to complete the political transition at the start of the third reign of al-Nāṣir Muḥamad.

A brief word is warranted at this point on the importance of a contextual reading of Islamic political thought. This chapter will provide further proof that there are no perennial conceptions of political authority in Islam. To achieve

³¹¹ The two main works that included Ibn Jamā'a are: Lambton, *State and Government* and Rosenthal, *Political Thought*.

this, I have emphasized the originality of Ibn Jamā'a and highlighted his aims in upholding his constitutional concerns. Furthermore, the study of the development and crystallisation of Ibn Jamā'a's ideas was helpful to explicate the originality of his thought despite his heavy reliance on earlier authors like al-Māwardī, al-Juwaynī, and al-Ghazālī. Without this contextual reading of the *Taḥrīr*, this research would have been misled to repeat the erroneous assumption that it was another unrefined repetition of the theory of the caliphate.

Ibn Jamā'a: a biography ³¹²

Born in 639/1241 in Ḥamā to a prominent Syrian family, Badr al-Dīn Ibn Jamā'a was a latecomer to celebrity and there was nothing distinguished about his career until his forties when he was appointed in 687/1288 as *khaṭīb* of the Aqṣā mosque of Jerusalem.³¹³ His career benefited from his friendship with influential *amīr* 'Alam al-Dīn Sanjar al-Dawādārī (d. 699/1300) and with Shams al-Dīn Ibn al-Sal'ūs (d. 693/1294), who later became the vizier (*wazīr*) of al-Ashraf Khalīl Ibn Qalāwūn (c. 1260s –1293; r. 12 November 1290 – 14 December 1293).³¹⁴ Ibn Jamā'a owed the start of his career to the efforts of

³¹² This biography is biased as it focuses on Ibn Jamā'a's role in the public sphere, especially in the legitimation a de-legitimation of four Mamluk sultans, and similar events that impacted his political thought. It doesn't cover adequately other aspects of his career such as his works on teaching and other areas of his intellectual life.

³¹³ Refer to Mohamad El-Merheb, *Ibn Jamā'a and Family*, EI3 (forthcoming, 2019). At the age of seven, he received an *ijāza* for memorizing the Qur'ān; refer to 'Abd al-Jawād Khalaf, *al-Qāḍī Badr al-dīn Ibn Jamā'a: Ḥayātuh wa-āthāruh* (Karachi: Jāmi'at al-Dirāsāt al-Islāmiyya, 1988), p. 32 and p132; al-Birzālī, *Mashyakhat Ibn Jamā'a*, vol. 1, 2 vols. (Beirut: Dār al-Gharb al-Islāmī, 1988), p. 11-12 and p. 95-98; Ibn Ḥajar al-'Asqalānī, *al-Durar*, vol. 3, p. 281; Ibn Kathīr, *Bidāya* vol.15, p. 529.

³¹⁴ Refer to Ibn Kathīr, *Bidāya*, vol. 15, p. 529; Ibn Kathīr believed that Ibn Jamā'a's patron was Ibn al-Sal'ūs. Al-Maqrīzī, on the other hand, believed it was 'Alam al-Dīn Sanjar al-Dawādārī who appointed Ibn Jamā'a in Jerusalem, in *Sulūk*, vol.2, p. 208. Refer to Irwin, *Mamluk sultanate*, p. 76-85 for a similar opinion. For more on Ibn Sal'ūs, refer to Mathieu Eychenne, *Liens Personnels, Clientélisme et Réseaux de Pouvoir dans le Sultanat Mamelouk (Milieu XIIIe – Fin XIVe Siècle)* (Beirut-Damascus: Presses de l'Ifpo, 2013), chap.7, p. 341-389. Furthermore, Escowitz explained his friendship with Ibn al-Sal'ūs was the reason for his appointment; in "Patterns of Appointment to the Chief Judgeships of Cairo during the Baḥrī

his two influential friends, especially Ibn al-Sal'ūs whom he met in 687/1288 during the latter's appointment as market inspector (*wālī al-ḥisba*) of Damascus.

Ibn Jamā'a's belated fame was in large part a result of the questionable circumstances of his first appointment as chief judge in Cairo.³¹⁵ Ibn Sal'ūs, who had recently been appointed vizier by al-Ashraf Khalīl, removed the prominent judge Taqī al-Dīn Ibn Bint al-A'azz (d. 695/1296), after making scandalous accusations against him and, in 690/1291, appointed Ibn Jamā'a. Therefore, this first major appointment was the consequence of a case concocted against Ibn Jamā'a's predecessor. As Mathieu Eychenne noted, it was probably the result of a power struggle involving Ibn Jamā'a's patron, Ibn al-Sal'ūs, and other influential Mamluk *amīrs* who supported Ibn Bint al-A'azz. This political appointment baptized latecomer Ibn Jamā'a into the intrigues of power, a craft that he quickly mastered as his career will show. Ibn Jamā'a, furthermore, secured several influential positions including the *khuṭba* in al-Azhar, the Ṣālihiyya teaching post, the chief Sufi office of *shaykh al-shuyūkh*, and the *khuṭba* in the citadel mosque; the latter appointment suggested his proximity to the highest political circles of the Mamluk system.

Following the murder of al-Ashraf Khalīl in 693/1293 the rise of Ibn Jamā'a

Mamlūk Period," *Arabica* 30, no. 2 (1983): 163. There is another important source for that period, al-Yūsufī, *Nuzhat al-nāzir fī sīrat al-Malik al-Nāṣir*, ed. Aḥmad Ḥuṭayṭ (Beirut: 'Ālam al-Kutub, 1986). Later authors including al-Maqrīzī, Ibn Ḥajar, and al-'Aynī used this work. Al-Yūsufī, claims that 'Ālam al-Dīn al-Dawādārī al-Ṣāliḥī was behind the rise of Ibn Jamā'a, as he had known him in Damascus where "he witnessed his knowledge and learning" and that when he moved to Egypt he sent for Ibn Jamā'a to assume the judgeship. Refer to *Nuzhat al-nāzir*, p. 133-135.

³¹⁵ Ibn Kathīr, *Bidāya*, vol.15, p. 548; al-Maqrīzī, *Sulūk*, vol.2, p. 228; al-Ṣafadī, *al-Wāfi*, vol.2, p. 16; al-Suyūṭī, *Ḥusn al-muḥāḍara fī akhbār Miṣr wa-al-Qāhira*, ed. Muḥammad Abū Faḍl Ibrāhīm, 2 vols. (Cairo: Dār Iḥyā' al-Kutub al-'Arabiyya, 1968), vol.2, p. 168; al-'Aynī, *Iqd al-jumān*, vol.3, p. 85-88. Refer to the excellent two studies of Eychenne, *Liens Personnels*, Chapter 7, p. 341-389 and Nathan Hofer, "The Origins and Development of the Office of the 'Chief Sufi' in Egypt, 1173–1325," *Journal of Sufi Studies* 3, no. 1 (August 20, 2014): 9.

came to a temporary halt, only to resume again soon after.³¹⁶ Despite his close connection to Ibn al-Salūs, Ibn Jamā'a managed to successfully disentangle himself from the struggle for power at the top and preserve his life and career. Al-Nāṣir Muḥammad, who was a child at the time, was invested sultan as per the agreement of the powerful Mamluk *amīrs*. Consequently, and a few days after the death of Ibn al-Salūs under torture, Ibn Bint al-A'azz was reinstated as chief judge (693/1294); Ibn Jamā'a was removed, but he retained his teaching post. Ibn Jamā'a's career resumed quickly as, during the same year, he was appointed to the judgeship of Damascus and, in 694/1295, the *khuṭba* was added to his posts. This experience decisively marked his political thought as will be discussed below.

The ascension and deposition of al-Malik al-Ādil Kīṭbughā (r. 694/1294 - 696/1296) brought Ibn Jamā'a again to the centre of power struggles among Mamluk households.³¹⁷ In 694/1294, Kīṭbughā removed al-Nāṣir Muḥammad and seized the sultanate. Kīṭbughā's situation worsened, and in Muḥarram 696/ November 1296, Ibn Jamā'a was called to the citadel of Damascus along with the Ḥanafī judge, where, the Mamluk *umarā'* renewed their oath to Kīṭbughā in front of the judges. Nevertheless, this did not end Kīṭbughā's worries as his main competitor, al-Manṣūr Lājīn (r. 696/1296 - 698/1299), declared himself sultan in Ṣafar 696/ December 1296.³¹⁸ Shortly afterwards, several Mamluk *umarā'* went to the citadel of Damascus along with Ibn Jamā'a and successfully convinced Kīṭbughā to renounce the sultanate and swear allegiance to Lājīn. Later in the same year, Ibn Jamā'a was honorably

³¹⁶ Al-Maqrīzī, *Sulūk*, vol.2, p. 246-252; Ibn Kathīr, *Bidāya*, vol.15, p. 573-576; Ibn Ḥajar, *Durar*, vol.3, p. 281. For more on the death of Ibn Salūs, refer to Eychenne, *Liens Personnels*, Chapter 7, p. 341-389.

³¹⁷ Ibn Kathīr, *Bidāya*, vol.15, p. 581-602; Ibn Taghrībirdī, *al-Nujūm al-zāhira fī mulūk Miṣr wa-al-Qāhira*, ed. Muḥammad Ḥusayn Shams al-Dīn, vol. 16 (Beirut: Dār al-Kutub al-ʿIlmiyya, 1992), vol.8, p. 54-58.

³¹⁸ Ibn Kathīr, *Bidāya*, vol.15, p. 599- 602; Ibn Taghrībirdī, *Nujūm*, vol.8, p. 56-57; al-Maqrīzī, *Sulūk*, vol.2, p. 277-280; and al-ʿAynī, *ʿIqd al-jumān*, vol.3, p. 350-353. Al-ʿAynī, on the authority of *Nuzhat al-nāẓir*, mentioned that Kīṭbughā showed a lot of humility in front of the *umarā'*, wept, and begged for their clemency.

discharged from the judgeship and replaced by Imām al-Dīn al-Qazwīnī but he still held the *khuṭba* of the grand mosque and a teaching post in the Qaymariyya school in Damascus. Over the next three years, Ibn Jamā‘a consistently retained the position of *khaṭīb* of Damascus. In 698/1299 Lājīn was killed after ruling for two years and al-Nāṣir Muḥammad was brought back from Karak.

The Mamluk-Ilkhanid war brought Ibn Jamā‘a back to the centre of political events in Damascus.³¹⁹ Following the Mamluk defeat at Wādī al-Khaznadār in 699/1299 by the armies of Ghāzān (r. 694/1295 - 713/1304), chief judge al-Qazwīnī escaped Damascus leaving Ibn Jamā‘a as the leading Shāfi‘ī scholar to represent the city. Damascus was now abandoned except for its citadel, which kept up resistance under its commander Arjuwāsh. In this period of uncertainty, Ibn Jamā‘a joined a delegation of Damascene notables that went to secure an amnesty from Ghāzān.³²⁰ Furthermore, Ibn al-Dawādārī related that both Ibn Jamā‘a and Ibn Taymiyya went to the citadel and attempted to broker a peace between its commander Arjuwāsh and the Ilkhanids.³²¹ As soon as the Ilkhanid danger was over, Ibn Jamā‘a was reinstated as chief judge of Damascus along with the *khuṭba* in 699/1300. His distinguished career in Damascus continued as, in 701/1301, the Sufis the

³¹⁹ Ibn Kathīr, *Bidāya*, vol.15, p. 619-627; Ibn al-Dawādārī, *Kanz*, vol. 9, p. 19-35; al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.1, p. 253-254 and p. 299; al-‘Aynī, *‘Iqd al-jumān*, vol.4, p. 30-31 and p. 80-81; al-Maqrīzī, *Sulūk*, vol.2, p. 321 and p. 331.

³²⁰ Ibn Kathīr, *Bidāya*, vol.15, p. 620; chiefly concerned with presenting a leading role for Ibn Taymiyya, Ibn Kathīr skipped Ibn Jamā‘a’s name from the delegation, and claimed that Ibn Taymiyya uttered “strong words”. This is contradicted by Ibn al-Dawādārī who mentioned Ibn Jamā‘a’s name first in this delegation along with others including Ibn Taymiyya, that went out to meet Ghāzān “to act in the best public interest” (*li yutqinū amr ṣalāḥ al-balad*) and to save Damascus. Refer to *Kanz*, vol. 9, p. 19. Al-Yūnīnī mentions, likewise, the name of Ibn Jamā‘a in *Dhayl mir‘āt al-zamān*, vol.1, p. 253-254. This is furthermore supported by al-‘Aynī, *‘Iqd al-jumān*, vol.4, p. 30-31 and al-Maqrīzī, *Sulūk*, vol.2, p. 321.

³²¹ Ibn al-Dawādārī, *Kanz*, vol.9, p. 35; al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.1, p. 299; on the other hand, Ibn Kathīr claimed that Ibn Taymiyya incited the citadel not to surrender, “even if there is one stone left”; in *Bidāya*, vol.15, p. 621.

Sumaysāfī *khanqāh* appointed him as their *shaykh al-shuyūkh*.³²² According to Ibn Kathīr, no one had ever managed to hold the positions of chief-judge, *khaṭīb*, and *shaykh al-shuyūkh* in Damascus simultaneously except Ibn Jamā‘a.³²³

Ibn Jamā‘a’s career shifted back to Cairo, where once more he was embroiled in major events. In 702/1302, Ibn Daqīq al-‘īd died and the sultan appointed Ibn Jamā‘a as chief judge in Egypt, who - in this capacity- was dragged into the controversies surrounding Ibn Taymiyya.³²⁴ Al-Yūnīnī wrote that throughout the controversy (*fitna*) of Ibn Taymiyya of the year 703, “Ibn Jamā‘a was silent (*sākit*).”³²⁵ He succeeded in distancing himself from this affair until Ṣafar 707/ August 1307 when he met Ibn Taymiyya in the citadel and “they deliberated for a while and then they split before prayer”. Ibn Taymiyya was later released, probably through the efforts of *amīr* Salār.³²⁶ However, in 707/1308 the Sufis of Cairo complained about Ibn Taymiyya’s comments on Ibn ‘Arabī.³²⁷ The case then boiled down to Ibn Taymiyya rejecting the invocation of the Prophet for help (*lā yustaghāth bi-al-nabī*), which Ibn Jamā‘a saw as mere insolence. When pressed to be harsher, Ibn Jamā‘a replied, “I said all that has to be said” and refused to take further action against Ibn Taymiyya. However, the pressure mounted and many jurists and Sufis insisted on Ibn Jamā‘a sentencing Ibn Taymiyya to jail, which he finally did saying prison was “for his own benefit”.³²⁸ Ibn Jamā‘a possibly considered that a prison sentence was the best way to defuse the situation,

³²² Ibn Kathīr, *Bidāya*, vol.16, p. 13; al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.1, p. 662.

³²³ Ibn Kathīr, *Bidāya*, vol.16, p. 13-14. The editor mentioned that the copier of the MS added the names of others who later held the three posts together based on Ibn Jamā‘a’s precedent.

³²⁴ Ibn Kathīr, *Bidāya*, vol.16, p. 19; al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.1, p. 682-683; al-Suyūfī, *Husn al-muḥāḍara*, vol.2, p. 171.

³²⁵ Al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.2, p. 859-860.

³²⁶ Ibn Kathīr, *Bidāya*, vol.16, p. 56; al-‘Aynī, *‘Iqd al-jumān*, vol.4, p. 459-460.

³²⁷ Refer to Chapter 4.

³²⁸ Ibn Kathīr, *Bidāya*, vol.16, p. 62-63; a similar account is related in al-Yūnīnī, *Dhayl mir‘āt al-zamān*, vol.2, p. 1174; Khalaf is also of the same opinion, in *Ibn Jamā‘a: Ḥayātuh wa-āthāruh*, p. 170.

protect Ibn Taymiyya's life, and preserve public order. Throughout this controversy, Ibn Jamā'a attempted to distance himself from doctrinal debates, factionalism, and the political split between Baybars II on the one hand, who was under the influence of the powerful Sufi Naṣr al-Manbijī, and Salār and some of Ibn Taymiyya's Ḥanbalīs on the other.³²⁹

The period between the second and third reigns of al-Nāṣir Muḥammad brought Ibn Jamā'a dangerously close to power struggles between Mamluk households. Nonetheless, this period was crucial in shaping his political thought and, congruently, his thought contributed to the unfolding political events.³³⁰ When al-Nāṣir Muḥammad left Cairo for Karak, he asked secretary 'Alā' al-Dīn Ibn al-Athīr to draft his resignation letter.³³¹ On Friday 22 Shawwāl 708/ 4 April 1309, this letter was read in the citadel of Cairo to the Mamluk *amīrs*. Several accounts mentioned that upon the request of some prominent Manṣūrī *amīrs*, the judges and the caliph corroborated the authenticity of the resignation letter.³³² As chief judge, Ibn Jamā'a could not possibly have avoided taking part in this process, at the end of which Baybars al-Jāshankīr became sultan. Shortly afterwards, in 709/1309, Ibn Jamā'a assumed the *mashyakha* of Sa'īd al-Su'adā' in Cairo upon the request of the Sufis.³³³

The above-mentioned resignation letter kept on dragging Ibn Jamā'a into the centre of Mamluk politics. This letter was important for Baybars al-Jāshankīr and his loyal *amīrs* to prevent any possible return of al-Nāṣir Muḥammad to power. When his political situation became precarious, Baybars al-Jāshankīr summoned the four judges and read them al-Nāṣir's resignation letter to secure another legal ratification of his own reign; he also requested that 'Alā'

³²⁹ For a more detailed discussion on this split, refer to Chapter 4.

³³⁰ Refer to the final paragraph of this chapter.

³³¹ Al-Maqrīzī, *Sulūk*, vol.2, p. 422-23.

³³² Ibn Taghrībirdī, *Nujūm*, vol.8, p. 184; Ibn Kathīr, *Bidāya*, vol.16, p. 66.

³³³ Al-Yūnīnī, *Dhayl mir'āt al-zamān*, vol.2, p. 1264. Refer also to al-'Aynī, *'Iqd al-jumān*, vol.5, p. 81. The arrangement was that Ibn Jamā'a would visit the *khanqāh* every Tuesday afternoon to read the Sufis *ḥadīth*, converse with them, and attend to their needs. This arrangement continued until al-Nāṣir removed him from this post. *Ibn Jamā'a and Family*, EI3.

al-Dīn Ibn al-Athīr attest that al-Nāṣir personally instructed him to draft the resignation letter.³³⁴ Ibn Jamā'a, as chief judge, was the focal point of this legal and constitutional process. Ibn al-Dawādārī related:

Judge Badr al-Dīn Ibn Jamā'a asked, 'Is that your handwriting 'Alā' al-Dīn?' To this he replied, 'Yes.' He asked him, 'Do you testify that al-Malik al-Nāṣir removed himself willingly and freely?' To this the witness replied, 'No.' The *amīrs* poked him ['Alā' al-Dīn] with their swords so he screamed from pain. The witness then asked Ibn Jamā'a whether he was expected to pronounce the truth or simply lie, but Ibn Jamā'a assured him that he was after the truthful facts of the case; 'Alā' al-Dīn then confirmed that he drafted the letter at the request of the usurpers and that he never heard such words uttered by al-Nāṣir Muḥammad. [At this point] Badr al-Dīn Ibn Jamā'a's eyes were tearful.³³⁵

Yet the impartiality and professionalism displayed by Ibn Jamā'a was not sufficient to save his judgeship. When al-Nāṣir Muḥammad entered Cairo, he addressed Ibn Jamā'a, "Qāḍī! How can you issue a legal opinion [allowing] Muslims to fight me?" So he [Ibn Jamā'a] replied, 'God forbid! The *fatwā* was simply based on the content of the enquiry of the one who requested it (*al-mustaftī*).'"³³⁶ The circumstances of the *fatwā* referred to here will be discussed in detail at the end of this chapter. Suffice to say, at this point, that Ibn Jamā'a endeavoured to distance himself from this issue and attempted to present his legal opinions impartially. This was evident in his attitude towards the testimony of Ibn al-Athīr, where Ibn Jamā'a tried as much as possible to maintain a semblance of integrity for his court and assured that the witness pronounce the truth in very hostile and dangerous conditions. It is plausible that such attempts to 'professionalise' the judicial process earned him the

³³⁴ Ibn al-Dawādārī, *Kanz*, vol.9, p. 177-185.

³³⁵ Ibn al-Dawādārī, *Kanz*, vol.9, p. 184-185.

³³⁶ Al-Maqrīzī, *Sulūk*, vol.2, p. 444; see also Ibn Taghrībirdī, *Nujūm*, vol.9, p. 7-8.

clemency of the triumphant sultan. Nevertheless, a price had to be paid and in 710/1310 Ibn Jamā'a was removed from the judgeship of Egypt.³³⁷

Ibn Jamā'a was back in favour with al-Nāṣir Muḥammad and enjoyed vast powers and prominence for many remaining years of his life. In 711/1311, Ibn Jamā'a returned to the chief judgeship of Egypt, the *mashyakha* of Dār al-ḥadīth in Ibn Ṭūlūn mosque, and to teaching at al-Ṣālihiyya and al-Nāṣiriyya schools.³³⁸ In 712/1312, al-Nāṣir appointed him *khaṭīb* of a newly built mosque and he in turn appointed his son, Jamāl al-Dīn 'Abd Allāh (d.716/1316), as his deputy for this task.³³⁹ Meanwhile, Ibn Jamā'a continued to exert considerable influence on the administration and among the ruling elite. For instance, in 713/1313 he acted against a certain Ibn al-Wazīrī who had been appointed to supervise the Sulanic Hall of Justice (*dār al-'adl*) and the charitable endowments (*waqfs*).³⁴⁰ When Ibn al-Wazīrī accused some judges of malpractice, Ibn Jamā'a decided to fight back and defend his peers and, according to Maqrīzī, he "knew [the right] manoeuvres" to achieve his aim.³⁴¹ He contacted several influential individuals in the bureaucracy, powerful judges, the inspector (*naẓīr*) of the army, the head of the chancery (*kātib al-sirr*), and several of the elite Mamluks (*khaṣṣakiyya*) of the sultan, and succeeded in removing al-Wazīrī. Understandably, the wide influence of Ibn Jamā'a earned him some defamatory poems from his enemies.³⁴² Generally, the sources referred to Ibn Jamā'a throughout those

³³⁷ Al-Yūnīnī, *Dhayl mir'āt al-zamān*, vol.2, p. 1318-1319; al-Suyūṭī, *Ḥusn al-muḥāḍara*, vol.2, p. 171; al-'Aynī, *'Iqd al-jumān*, vol.5, p. 190.

³³⁸ Al-Yūnīnī, *Dhayl mir'āt al-zamān*, vol.2, p. 1434; al-Suyūṭī, *Ḥusn al-muḥāḍara*, vol.2, p. 171; and al-'Aynī, *'Iqd al-jumān*, vol.5, p. 249.

³³⁹ Al-Maqrīzī, *Sulūk*, vol.2, p. 479.

³⁴⁰ Al-Maqrīzī, *Sulūk*, vol.2, p. 487-488. For more on *dār al-'adl*, refer to Yossef Rapoport, "Royal Justice and Religious Law: Siyāsah and Sharī'ah under the Mamluks," *Mamlūk Studies Review* 16 (2012): 71–102.

³⁴¹ Al-Maqrīzī, *Sulūk*, vol.2, p. 487-488.

³⁴² Al-Shārmāsāhī was encouraged by Ibn Sayyid al-Nās to compose a defamatory poem against Ibn Jamā'a; in al-Maqrīzī, *Sulūk*, vol.2, p. 487-488. Refer also to al-Yūsufī, *Nuzhat al-nāẓir*, p. 217-218: he relates that Ibn Jamā'a's overall record in the judgeship was reputable and that he in many cases obstinately ruled against the explicit will of the sultan. He also

years as commanding a great influence that he employed to moderate the relation between the populace and the ruling elites.³⁴³ Ibn Jamā'a resigned in 727/1327 and probably focused on writing until 733/1333 when he died at the age of 94. Even after his resignation he continued to exert considerable authority as his son 'Izz al-Dīn was appointed for the teaching and supervision (*naẓar*) of Ibn Ṭūlūn's mosque and al-Nāṣiriyya at the behest of his father in 731/1330.³⁴⁴

Ibn Jamā'a's writings reflected his diverse intellectual interests. In addition to the usual attention of a jurist to grammar, jurisprudence (*fiqh*), transmission and tradition (*ḥadīth* and *sīra*), exegesis (*tafsīr*), *adab*, and poetry, his works spanned a wider array still.³⁴⁵ Although he authored three doctrinal works, Ibn Jamā'a was a firm but moderate Ash'arī and nothing in his career suggested that he was at any time primarily concerned with polemics and doctrinal debates.³⁴⁶ Furthermore, Ibn Jamā'a almost continuously held a teaching post in either Cairo or Damascus and hence was closely involved in the teaching profession.³⁴⁷ His treatise, *Tadhkirat al-sāmi' wa al-mutakallim fi adāb al-ālim wa al-muta'allim* (The guide for the listener and the speaker on the etiquette of the teacher and the pupil) reflected this vast experience.³⁴⁸

mentions that some poets praised him while others like al-Shārmāsāhī attacked him; in *Nuzhat al-nāzir*, p. 134-135.

³⁴³ Al-Maqrīzī related one such incident that took place in 714/1314; in *Sulūk*, vol.2, p. 495-496.

³⁴⁴ Ibn Kathīr, *Bidāya*, vol.16, p. 236. Refer to Ibn al-Dawādārī, *Kanz*, vol.9, p. 322 for his death date. Berkey noted, "Izz al-Dīn Ibn Jamā'a was appointed professor of the "zāwiyat al-Shāfi'i" in the mosque of 'Amr in al-Fuṣṭāt early in the year 1330, but it is clear from the rather florid language of the document of appointment that he owed his appointment to his father Badr al-Dīn" in, *The Transmission of Knowledge*, p. 108.

³⁴⁵ For a list of his books refer to Khalaf, *Ibn Jamā'a: Ḥayātuh*, p. 243-273.

³⁴⁶ The three treatises are: *al-Radd 'alā al-mushabbihā fi qawl Allāh ta'ālā al-Raḥmān 'alā al-'arsh istawā*, *al-Tanzīh fi ibṭāl ḥujaj al-tashbīh*, *Īdāḥ al-dalīl fi qaṭ' ḥujaj ahl al-ta'īl*. Refer to Khalaf, *Ibn Jamā'a: Ḥayātuh*, p. 326.

³⁴⁷ Refer to Berkey, *Transmission of Knowledge*, p. 54.

³⁴⁸ Ibn Jamā'a, *Tadhkirat al-sāmi' wa al-mutakallim fi adāb al-ālim wa al-muta'allim*, ed. Muḥammad al-'Ajāmī (Beirut: Dār al-Bashā'ir al-Islāmiyya li-al-Ṭibā'a wa-al-Nashr wa-al-Tawzī', 2008). This treatise covered the merits of learning and the learned, and the etiquette of teaching and learning covering the relation between teacher and students, among

Moreover, he may have composed a treatise on the astrolabe (*Risāla fī al-aṣṭurlāb*).³⁴⁹ Most importantly for our purposes, Ibn Jamā‘a authored three consecutive treatises of political thought in the following order, *Mustanad al-ajṅād fī ālāt al-jihād*, *Mukhtaṣar fī faḍl al-jihād*, and the - well-known- *Taḥrīr*.³⁵⁰

The Political Thought of Ibn Jamā‘a

The title *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām* (Drafting the ordinances towards running the affairs of the people of Islam) captured the essence of Ibn Jamā‘a’s synthesis of the Shāfi‘ī political thought.³⁵¹ My translation of the title encompasses two principal processes that are central to this thought: *taḥrīr* and *tadbīr*. The first is the process of reaching and issuing ordinances needed to run a government, and the second is the process of running the affairs of both populace and government. To use an anachronistic parallel, the two processes can be likened to legislative and executive powers in a modern state. Furthermore, neither sultan nor caliph was referred to in this title. The author, as will be presented, proposed a comprehensive system wherein the pristine functioning of government was assured for all eventualities: a weak or powerful sultan, or nominal or effective caliph, whether present or absent, and this was secured through the *Taḥrīr*’s two processes, *taḥrīr* and *tadbīr*.³⁵²

Accordingly, the *Taḥrīr* should be examined first and foremost as a political and constitutional text. Whilst still relying on jurisprudence and law, this treatise was not a work of *fiqh* but one intended to devise a coherent

students, the classification of knowledge, various pedagogical techniques and methods, how to handle books, hygiene, protocols of conversing, and the etiquette of residing in a *madrasa*.

³⁴⁹ Al-Ṣafadī, *al-Wāfī*, vol.2, p. 15-16.

³⁵⁰ Ibn Jamā‘a, *Mustanad*, *Mukhtaṣar*, and *Taḥrīr*.

³⁵¹ There exists another edition that I did not use, *Taḥrīr al-aḥkām fī tadbīr ahl al-Islām* (ed. and German trans by H. Kofler in *Islamica*, vi (1934), vii (1935), *Schlussheft* (1938)). Furthermore, the *Taḥrīr* was sometimes mentioned wrongly as *Tadbīr jaysh al-Islām* (The organisation of the army of Islam); this mistake was probably caused by the earlier and seemingly military treatises written by Ibn Jamā‘a; in al-‘Ulaymī, *Kitāb al-uns al-jalīl bi-tārīkh al-Quds wa-al-Khalīl*, vol. 2, 2 vols (al-Khalīl -‘Ammān, 1999), p. 228.

³⁵² Ensuring the smooth running of government did not only benefit Muslims, but likewise the wider category of the people of Islam (*ahl al-Islām*), i.e. whoever lived on Muslim territory.

constitutional framework to ensure the smooth running of government. Labelling it as a “theory of the jurists” that was only concerned with the “religious ideal in opposition to practice” inescapably leads to grave misunderstandings that will be disputed in this chapter.³⁵³ The essence of the *Taḥrīr* was in its strong constitutional flavour. Its process of *taḥrīr*, akin to the modern process of legislating, used Islamic legal reasoning and ethical precedents to set checks and balances on the ruler’s discretionary exercise of power and as such can be associated with the ideal of the rule of law. On the other hand, the process of *tadbīr*, the modern executive power, was decoupled to a great extent from the so-called “theory of the caliphate” that centred on the authorities of the caliph. The executive arm of government as conceptualized by Ibn Jamā‘a was not supposed to depend solely on the ruler but rested on the professionalized and powerful administrative and judicial bureaucracy. By distributing the executive functions of the ruler, Ibn Jamā‘a was effectively invoking the ideal of limited government.

This coherent constitutional framework differentiated the *Taḥrīr* from earlier treatises and confirmed its role as the synthesis of the Shāfi‘ī political thought. In both processes, *taḥrīr* and *tadbīr*, Ibn Jamā‘a proposed legal provisions for exercising power that were not limited to ‘sultanic ordinances’ or to caliphal authority, as was normally the case in earlier treatises such as al-Māwardī’s *Aḥkām*. On the contrary, Ibn Jamā‘a’s conception of government, the administration, the legal offices, the jurists, and the role of the military and civilian elite (*ahl al-ḥall wa al-‘aqd*) contributed vigorously to the processes of *taḥrīr* and *tadbīr* and upheld the rule of law and limited government.³⁵⁴ Furthermore, the subsequent discussion of the *praxis* of Ibn Jamā‘a’s thought

³⁵³ Lambton, *State and Government*, p. xvi-xvii

³⁵⁴ Refer to al-Māwardī, *Kitāb al-Aḥkām al-sultāniyya wa-al-wilāyāt al-dīniyya*, ed. Aḥmad Mubārak Al-Baghdādī, vol. 2, 2 vols. (Kuwait: Dār Ibn Qutayba, 1989), p. 6; al-Māwardī sees the main role of the group is in the election process of the *imām*. However, in the *Taḥrīr* their role was no longer limited to attesting to the eligibility of candidates for the *imāma* as will be discussed below.

will show how the *Taḥrīr*'s ideas on delegation of power were put in practice by jurists and chancery secretaries to legitimate the third reign of al-Nāṣir Muḥammad.

There are other crucial originalities in the *Taḥrīr* such as the concern for the rules of war. These were equally at the heart of Ibn Jamā'a's constitutional themes and warrant a treatment of their own. Probably motivated by his concern for the rule of law, Ibn Jamā'a displayed an exceptional concern for the rules of war unmatched in the Islamic legal and intellectual history. He expressed this by consolidating and rearranging earlier legal discussions of topics like the law of rebellion, the treatment of non-Muslims, taxation, and the spoils of war. While those topics had been covered in depth in earlier political and legal treatises, the novelty of the *Taḥrīr* was reflected in the way Ibn Jamā'a organized those topics as part of a unique and coherent single discussion on the topic of rules of war.

The development of Ibn Jamā'a's constitutional ideas in his political works reflected also the progress of his career. The *Taḥrīr* was the cumulative product of a chain of 'lesser' political works that were influenced by this progress. To trace this development, this study relies on two earlier works that have been left out of modern scholarship: *Mustanad al-ajṅād fī ālāt al-jihād* (The soldiers' guide to war engines) and *Mukhtaṣar fī faḍl al-jihād* (A compendium of the virtues of *jihād*).³⁵⁵ Since the life of Ibn Jamā'a is well documented, it is possible to link his writings to the progress of his career in the judiciary and the administration and argue for the cumulative development of his political thought. His first political work, the *Mustanad*, contained some seeds of his political thought expressed in the genre of a military arts manual (*furūsiyya*). Later, Ibn Jamā'a developed further his ideas on the duties and rights of the sultan, and on the resulting effects of war, in the *Mukhtaṣar*.

³⁵⁵ One of Ibn Jamā'a's political writings is missing. It is *Ḥujjat al-sulūk fī mahārat* (or *muhādāf*) *al-mulūk*; refer to the editor's introduction, p. 20.

Generally, one can claim that his basic political views on the duties and rights of the ruler had crystallised by the time he authored the *Mukhtaṣar*. Lastly, Ibn Jamā‘a conveyed in the *Taḥrīr* his profound attentiveness to the three constitutional themes of the rule of law, limited government, and delegation of power in order to ensure the smooth running of the government in any eventuality.

Before engaging in the analysis of each of the three treatises, it is important to consider the various influences upon Ibn Jamā‘a as an author. He was a teacher, and this was continuously reflected in his concise and clear style as professed in his aim for his *Taḥrīr* to be “easy to refer to”.³⁵⁶ Ibn Jamā‘a was, likewise, a Shāfi‘ī and an Ash‘arī jurist and judge, which impacted his mode of reasoning and influenced the themes that he opted to cover, as will be shown below. Finally, he was a statesman and a bureaucrat, which was reflected in the value he accorded to administrative discussions. At some points, all of these backgrounds combined in Ibn Jamā‘a’s writing.

Beginnings: the *Mustanad*

The study of the development of Ibn Jamā‘a’s political thought begins with the *Mustanad* that contained some seeds of his later writings. The examination of this treatise reveals much about his nascent political ideas, style, influences, and sources of inspiration. Already in the *Mustanad* three traits of Ibn Jamā‘a’s political writings can be identified: his use of some non-Islamic sources in conjunction with his heavy reliance on the Qur’ān and *ḥadīth*; the immaculate organization of the work’s sections; and the concurrent use of legal opinions of all four *madhhabs* often with a surprisingly neutral approach.³⁵⁷ Those traits continued in his later works and became a

³⁵⁶ Ibn Jamā‘a, *Taḥrīr*, p. 46.

³⁵⁷ Ibn Jamā‘a, *Mustanad*, p. 5-8; the editor notes that Ibn Jamā‘a’s sources in the *Mustanad* include some lost works of the third/ninth century, *Sirāj al-mulūk* of al-Ṭurtūshī, and both *Aḥkām*s of al-Māwardī and Abū Ya‘lā, the *Kharāj* of Abū Yūsuf, the main sayings of *Ḥadīth*

trademark of his writing style. Most importantly, evident in the *Mustanad* were Ibn Jamā'a's concern for just rule, his call for obedience in return of justice, and his interest in the rules of war, as I will discuss below. Despite the impressive and detailed section titles, there was practically no military value in the *Mustanad*.

At first glance a military manual seemed an uncharacteristic work for Ibn Jamā'a. Yet the *Mustanad* may have represented a continuation of the idea that the 'ulamā' have inherited some of the roles of the caliph including, in this case, the education of new military elites by instructing them in the conduct and ethics of war. The *Mustanad* was a *furūsiyya* manual largely based on 'Abbāsīd works of *adab* and *ḥadīth*, and was one of the few Mamluk treatises that dealt with arms and armour.³⁵⁸ The roots of this literary genre were in the 'Abbāsīd court concept of noble *furūsiyya* (*al-furūsiyya al-nabīla*), which was closely associated with the *futūwwa*.³⁵⁹

In the first section of this supposedly military handbook, Ibn Jamā'a treated the duties and rights of the ruler.³⁶⁰ As Ibn Jamā'a's main concern was justice ('*adl*'), there was one basic proposition in his discussion: justice in return for obedience.³⁶¹ This proposition was confirmed by his choice of various well-known maxims and sayings from within and without the Islamic religious tradition including, "A single day of just rule by a just *imām* is superior to sixty

scholars, and even, on some occasions, Ibn Ḥanbal. Furthermore, I have identified below al-Juwaynī's *Ghiyāth al-umam* as a major influence.

³⁵⁸ Refer to Shihāb al-Ṣarrāf, "Mamluk Furūsiyah Literature and Its Antecedents," *Mamlūk Studies Review* 8, no. 1 (2004): 142. Other Mamluk 'ulamā' who wrote on *furūsiyya* included Ibn Qayyim al-Jawzīya, al-Sakhāwī, and al-Suyūṭī, in p. 153.

³⁵⁹ *Ibid.*, p. 144-146.

³⁶⁰ This section is entitled, *Regarding the leaders of the community: caliphs, sulṭāns, and amīrs, their obligation [to act with] justice and their right in [commanding] obedience*; in the *Mustanad*, p. 32.

³⁶¹ As Lambton has observed, "In his emphasis on justice, Ibn Jamā'a's theory is in line with the literary theory put forward in many mirrors for princes and other literary works"; *State and Government*, p. 140. Refer to my discussion in the Introduction on the concepts of justice, where I argue that justice in Mamluk treatises was not related to pre-Islamic concepts of justice and that the use of older maxims was rhetorical and based on frequently used anthologies.

years of [ritual] worship” and “No rank is higher than that of a just *sulṭān*, except that of a Prophet or favoured angel.”³⁶² In this section Ibn Jamā‘a listed some of the duties and rights of the sultan in what was a mere bridgehead for his detailed discussions in the later two treatises, the *Mukhtaṣar* and the *Taḥrīr*.³⁶³ He argued that the sultan was in charge of attending to his subjects, protecting the lands of Islam, preserving religion, dispensing justice, and upholding legal punishments (*ḥudūd*). In return, obedience was required from his subjects, except in sin where the duty of obedience was waived, thus reflecting al-Juwaynī’s (419/1028 – 478/1085) influence on his thought.³⁶⁴

The above-mentioned nascent political ideas additionally treated the rules of combat (*aḥkām al-qitāl*). Despite resembling a piece of *adab* more than anything else, the *Mustanad* heralded Ibn Jamā‘a’s interest in the rules of war that will become later central to his call for the rule of law. His discussion of swords, bows, the participation of women in warfare, the Prophet’s horses, arms, and armour were all subjects of an *adab* work based on anecdotes of early Islamic conquests (*futūḥ*) rather than a source of practical military knowledge. Nevertheless, the *Mustanad* heralded an early appearance of Ibn Jamā‘a’s interest in the rules of war as in, for instance, section twenty-nine entitled, *In seeing off the raiders and receiving them, the imām’s directive to them, and the rules of combat*. In this section, the rules of combat (*aḥkām al-qitāl*) warrant a closer look as Ibn Jamā‘a develops a fascination for the rules of war and this will become a central theme of the *Taḥrīr*, where he dedicated several consecutive sections to the subject.³⁶⁵

³⁶² Ibn Jamā‘a, *Mustanad*, p. 33; my translation. According to the editor they are quoted from *Sirāj al-mulūk*. Ibn Jamā‘a will repeat such sayings and maxims verbatim in the *Taḥrīr*.

³⁶³ Ibn Jamā‘a, *Mustanad*, p. 33-35.

³⁶⁴ Al-Juwaynī’s is very unforgiving to the *imāmate* of the sinful and considers piety a required trait that cannot be overlooked; refer to al-Juwaynī, *Al-Ghiyāthī: Ghiyāth al-umam fī-iltiyāth al-ẓulam*, ed. ‘Abd al-‘Azīm al-Dīb (Cairo: Maṭba‘at Nahḍat Miṣr, 1401), p. 92-93 of the editor’s introduction, and p.88, p. 311 and p. 327 of the main text where al-Juwaynī clearly states, “the *imāmate* is impermissible to a sinful person”.

³⁶⁵ Ibn Jamā‘a, *Mustanad*, p. 92; my translation.

Crystallisation: the *Mukhtaṣar*

The *Mukhtaṣar fī faḍl al-jihād* (A compendium of the virtues of *jihād*) was pivotal in the elaboration of Ibn Jamā'a's political thought for several reasons. While he reiterated some of the ideas of the *Mustanad*, the *Mukhtaṣar* treatise reflected new major developments including his conceptualisation of political authority. For one, Ibn Jamā'a treated thoroughly the theme of the sultan's duties and rights towards his subjects. Moreover, he dealt with further new themes such as the legal provisions (*aḥkām shar'iyya*) related to the effects of war hitherto only briefly mentioned in the *Mustanad*. Most importantly, the *Mukhtaṣar* marked the crystallization of some of Ibn Jamā'a's principal political idea of equating the sultanate with the *imāmate*.

Identifying *imām* with sultan was one critical development in Ibn Jamā'a's political thought that emerged in the *Mukhtaṣar* and coincided with the start of his high-profile career. In this treatise dedicated to al-Malik al-Ashraf Khalīl Ibn Qalāwūn on the occasion of his decisive victories against the Frankish lordships, Ibn Jamā'a consistently equated the just *imām* (*al-'ādil*) with the sultan.³⁶⁶ In the first section of the *Mukhtaṣar* entitled, *Regarding the sultan, his benevolence, and the esteem he acquires through justice*, he argued that in the presence of a powerful and just sultan, the *imāmate* was held by the sultan.³⁶⁷ He was to expound this idea in more detail in the later *Taḥrīr* as will be shown; nonetheless, the *Mukhtaṣar* shows that this notion crystallised during the author's service under al-Ashraf Khalīl.

In this same section of the *Mukhtaṣar*, Ibn Jamā'a treated and adapted

³⁶⁶ Ibn Jamā'a, *Mukhtaṣar*, 99-100. The question of who commissioned Ibn Jamā'a to author the work is intriguing. Though the identity of the "great benefactor" who instructed (*ashāra*) Ibn Jamā'a to write is not entirely clear, it was most likely the vizier Ibn al-Sal'ūs. Ibn Jamā'a stated that he expected his work to be consulted by both, sultan and vizier. Ibn Jamā'a's said that the work is for his high consideration AND for his esteemed consideration (*bi rasmi naẓarihi al-'ālī wa naẓarihi al-sharīf*), which probably means that the work was expected to be read by both Ibn al-Sal'ūs and al-Ashraf Khalīl, otherwise he would have said *naẓarihi al-'ālī wa al-sharīf*.

³⁶⁷ Refer to Ibn Jamā'a, *Mukhtaṣar*, p. 101-103; when Ibn Jamā'a quotes a *ḥadīth* related to the justice of the *imām*, he quickly points out to the reader that he is referring to the sultan.

the familiar theme of the requirement for the sultan. The author resorted to a collection of Qur’ānic verses, *ḥadīth*, and known maxims from outside the religious tradition that were often used in classical treatises, yet he now equated the requirement for the *imāmate* with the requirement for the sultanate.³⁶⁸ Ibn Jamā‘a noted that God secured victory for rulers when four conditions were met: the preservation of ritual prayer, observing the *zakāt* and being charitable, enjoining what is good, and forbidding what is reprehensible.³⁶⁹ As order and stability were paramount to Ibn Jamā‘a, he justified the requirement for a sultan by stating, “If God hadn’t established a sultan to shelter the weak from the powerful and the oppressed from the oppressor, the unjust would have annihilated the weak, and people would have been at each other’s [throats].”³⁷⁰ Moreover, he explained that the sultan was bestowed by God on people to “manage their affairs (*siyāsatum*), protect them, uphold justice for the oppressed, deter the unjust among them, and this is why it was said ‘forty years of tyrannical rule is preferable to [the affairs of] people being neglected for a single hour’.”³⁷¹ Ibn Jamā‘a was later to echo those well-known maxims verbatim in his *Taḥrīr*.³⁷²

Similarly to the *Mustanad* and almost every work of Islamic political thought, Ibn Jamā‘a displayed in the *Mukhtaṣar* a paramount concern for justice (*‘adl*).³⁷³ He reiterated the notion of justice in return for obedience that he discussed in the *Mustanad*. Ibn Jamā‘a even used the same maxims from within and without the Islamic tradition, including, “No rank was higher than

³⁶⁸ The editor’s helpful notes identified the sources of the maxims with *Sirāj al-mulūk* being a main influence.

³⁶⁹ Ibn Jamā‘a, *Mukhtaṣar*, p. 101; based on verse 22:41 of the Qur’ān.

³⁷⁰ *Ibid.*, p. 101.

³⁷¹ My translation. The editor again identifies the source as *Sirāj al-mulūk*.

³⁷² Refer to Lambton, *State and Government*, p. 139-140. Although this discussion treats the *Taḥrīr*, it discusses the same maxims.

³⁷³ Ibn Jamā‘a, *Mukhtaṣar*, p. 103-104.

that of a just sultan, except that of a Prophet or a favoured angel.”³⁷⁴ It is important to reiterate at this point that ‘*adl*’ here was a pure Islamic conception of justice despite the use of maxims from anthologies outside the religious tradition.

In the *Mukhtaṣar*, one can clearly discern the synthesis of Shāfi‘ī political thought. For instance, Ibn Jamā‘a mentioned that rule was a blessing from God bestowed upon the sultan and that, in return, just rule was the finest way to recognize this blessing.³⁷⁵ This was reminiscent of an anecdote discussed in Chapter 1, when Ibn ‘Abd al-Salām reprimanded sultan al-Ṣāliḥ Ayyūb, “You thus renounce the blessing of ruling [...]”³⁷⁶ As such, and with other similar examples, the *Mukhtaṣar* help explicate the main themes of Shāfi‘ī political thought that were remembered later in al-Subkī’s *ṭabaqāt*. Furthermore, Ibn Jamā‘a’s discussion on the rights and duties of the sultan was proof that the fundamentals of his synthesis had crystallized by the time he authored the *Mukhtaṣar*. This was evident in the subsection entitled, *Regarding the duties and rights of the sultan*.³⁷⁷ While this discussion resembled earlier similar discussions by other Shāfi‘ī thinkers, most notably al-Māwardī and al-Juwaynī, it was distinctive and reflected Ibn Jamā‘a’s own ideas.³⁷⁸ The remaining three sections of the *Mukhtaṣar* also appeared in either the earlier *Mustanad* or the later *Taḥrīr*, or both.³⁷⁹

³⁷⁴ Ibn Jamā‘a will reiterate those ideas and maxims in his *Taḥrīr*. Refer to Lambton, *State and Government*, p. 140; her translation is used here. According to the editor of the *Mukhtaṣar* it is also found in *Sirāj al-mulūk*.

³⁷⁵ Ibn Jamā‘a, *Mukhtaṣar*, p. 104.

³⁷⁶ Refer to Chapter 1.

³⁷⁷ Ibn Jamā‘a, *Mukhtaṣar*, p. 104.

³⁷⁸ This subsection will be covered in detail in the subsequent discussion on the *Taḥrīr* where I will compare Ibn Jamā‘a’s list of duties and rights with al-Māwardī’s.

³⁷⁹ In section two of the *Mukhtaṣar* entitled, *Regarding the need for soldiers and war machines*, Ibn Jamā‘a reiterated the same arguments of the earlier *Mustanad*. There was, however, in the *Mukhtaṣar* a systematic insertion of the word sultan, in what otherwise would have been identical passages; refer chapter three of *Mustanad*, starting p. 38-39. Section three of the *Mukhtaṣar* entitled, *Regarding the soldiers’ stipends, their aims, and their description*, was similar to section seven of the *Taḥrīr*. However, the titles changed slightly

Examining the *Taḥrīr* requires first tracing the development of Ibn Jamā‘a’s political thought between the two ‘lesser’ treatises. The transformation from the *Mustanad*, a pseudo-*furūsiyya* manual that contained seeds of his political thought, into the *Mukhtaṣar* should be understood as a move towards an enhanced articulation of his political ideas and the crystallisation of his conceptualisation of political authority. Ibn Jamā‘a’s concise and well-organized style is notable in both treatises. Moreover, the consistent presentation of the opinions of other *madhhabs* in a remarkably impartial way was a feature of Ibn Jamā‘a’s works, and so was his use and synthesis of sources like al-Māwardī, Abū Ya‘lā, Abū Yūsuf and al-Ṭurṭūshī.³⁸⁰ Most importantly, Ibn Jamā‘a systematically and unequivocally referred in the *Mukhtaṣar* to the powerful and just sultan as being the *imām*. As such, he adapted earlier discussions on the requirement for the *imāmate* to argue for the requirement for the sultanate. Lastly, other notable developments were Ibn Jamā‘a’s ideas on the duties and rights of the sultan and his concern for the rules of war, which had similarly crystallised by the time he authored his *Mukhtaṣar*.

Synthesis: the *Taḥrīr*

The following discussion treats the *Taḥrīr* as the ultimate synthesis of Shāfi‘ī political thought. It highlights Ibn Jamā‘a’s novel conception of political authority, his envisioned role for the professionalized judiciary and administrative branches of government in the political sphere, and his unprecedented concern for the rules of war. Throughout this discussion, I will attempt to link these conceptions and ideas to the author’s wider concern for the rule of law and limited government, and to his theory of delegation.

from, Ibn Jamā‘a’s prologue. Section four of the *Mukhtaṣar*, *Regarding the estimation of stipends*, was based on early Islamic precedents and was very similar to a discussion in section eight of the later *Taḥrīr*. Again, the title changed slightly from Ibn Jamā‘a’s prologue.

³⁸⁰ The footnotes of the editor of the *Mustanad/Mukhtaṣar* greatly facilitated my search for Ibn Jamā‘a’s sources and influences.

In the *Taḥrīr*'s prologue, Ibn Jamā'a presented his main arguments, methodology, sources, dedicatee, and the various sections of his work. He explained that his treatise was divided into seventeen sections that covered the *imāmate*, the requirement for the sultanate, the appointment of viziers, the *amīrs* and their duties, a variety of discussions on the branches of administration, the preservation of the *sharī'a* and its related judicial and administrative offices, the revenues and spending of the treasury, the distribution of grants and stipends (*iqṭā'* and *'aṭā'*), the recruitment of and payments to soldiers, war machines and the art of war, booty and *fay'*, the rules of making a truce, the law of rebellion, the treatment of *dhimmīs*, and the rules of granting safe conduct.³⁸¹ Furthermore, he explained the *Taḥrīr* was authored in an abridged way so it was "easy to refer to" and did not bore the reader, and that he based it on the Qur'ān, the prophetic tradition, and earlier examples (*āthār*) of the companions.³⁸² Although the *Taḥrīr* was –almost certainly – completed during the third reign of al-Nāṣir Muḥammad and during Ibn Jamā'a's final years, he opted for a universal dedication to any ruler who wished to benefit from his treatise.³⁸³

Political Authority: imām, caliph, and sulṭān

The few scholars who studied the *Taḥrīr*, like Lambton and Rosenthal, misinterpreted its principal contributions to Islamic political thought. Primarily, as I will argue, this treatise upheld a tripartite conception of *imām*, caliph, and *sulṭān* in order to secure the proper functioning of government; any other interpretation of the *Taḥrīr*, whether as a legitimation of sultanic usurpation or an attempt to preserve the caliphate, is in my view an imposed paradigm.

³⁸¹ Ibn Jamā'a, *Taḥrīr*, p. 45.

³⁸² Ibid., p. 46. Refer to Rosenthal, *Political Thought*, p. 43.

³⁸³ Refer to the *Taḥrīr* p. 45, where the author dedicated it to any ruler "who was entrusted by God the affairs of the Muslims, so he arranges his ordinances in the finest manner and the best arrangement, and strives in the finest manner for the interest of his subjects..." Regarding the date of authorship, Ibn Jamā'a mentions the *Mustanad*, in the *Taḥrīr*, p.162; there are also other important clues in the *Taḥrīr* that make the date within the third reign of al-Nāṣir Muḥammad, refer to the discussion below on *praxis*.

Lambton believed that Ibn Jamā‘a accepted “the absorption of the caliphate itself into the sultanate”.³⁸⁴ However, the *Taḥrīr* was not primarily concerned with the caliphate as was, for instance, al-Māwardī’s *Aḥkām*. As will be discussed below, the *imām* in Ibn Jamā‘a’s *Taḥrīr* could be either the caliph or the sultan but the sultan could not be caliph. By contrast, Rosenthal saw in the *Taḥrīr* a “principle of acquiescence in bad rule” in order to avoid anarchy, which accordingly saw jurists compromise with the usurped power – the sultan – but insist on swearing allegiance to the *imām* – the caliph.³⁸⁵ That was also not the intention or the concern of the *Taḥrīr*. What really mattered in Ibn Jamā‘a’s definition of the *imām*, whether caliph or sultan, were the processes of *taḥrīr* and *tadbīr* and the proper functioning of government. This treatise was concerned with the delegation of power amongst the three offices for the purpose of upholding these two processes.

Ibn Jamā‘a first discussed his conception of political authority. Section one of the *Taḥrīr*, entitled *Regarding the necessity for the imāmate and its requirements*, is exactly what its title says.³⁸⁶ In this section, Ibn Jamā‘a reiterated some of the arguments on the necessity for the *imām* that he had used in the *Mukhtaṣar* solely for the sultan.³⁸⁷ Furthermore, Ibn Jamā‘a treated the investiture to the *imāma*, and mentioned that it could be acquired electively or coercively (*ikhtiyāriyya* or *qahriyya*).³⁸⁸ The eligibility for the elective *imāma* stipulated ten conditions: the candidate should be male, free, mature in age, judicious, Muslim, just, brave, of Qurashī descent, learned, and competent in running the affairs of the state.³⁸⁹ Once he was elected, his

³⁸⁴ Lambton, *State and Government*, p. 141, and p. 140-142.

³⁸⁵ Rosenthal, *Political Thought*, p. 43-44.

³⁸⁶ *Fī wujūb al-imāma, wa shurūṭ al-imām wa aḥkāmuhu*; in *Taḥrīr*, p. 48-57.

³⁸⁷ Compare Ibn Jamā‘a, *Mukhtaṣar*, p. 101-102, and *Taḥrīr*, p. 48-51. Refer to Lambton, *State and Government*, p. 139-140 and Rosenthal, *Political Thought*, p. 43-44.

³⁸⁸ Ibn Jamā‘a, *Taḥrīr*, p. 51-55. Refer to Lambton, *State and Government*, p. 140-141.

³⁸⁹ Refer to al-Juwaynī’s discussion on the required qualities of the *imām* in *Ghiyāth al-umam*, p. 76-97 of the main text. Although al-Juwaynī’s divided his discussion to “required qualities” and “acquired qualities”, the influence of the *Ghiyāth* on the *Taḥrīr* is difficult to miss.

imāmate became effective and obedience obligatory upon all. Nevertheless, obedience was not expected in sin thus again reflecting al-Juwaynī's influence on Ibn Jamā'a.³⁹⁰ It should be noted that these ten requirements only applied to the elective *imām* and not to the coercive one.³⁹¹

Ibn Jamā'a then explained that the elective *imāma* could be conferred in two methods. The first one was through the oath of allegiance (*bay'a*) of the people who loosen and bind (*ahl al-ḥall wa'l-'aqd*) who were made up of *umarā'*, *'ulamā'*, *ru'asā'*, and community leaders and prominent people (*wujūh al-nās*).³⁹² The second method was through designation by the predecessor. In this case, however, both successor and predecessor should meet the ten conditions listed above. Up to this point, there was nothing novel in this discussion.

Subsequently, Ibn Jamā'a discussed a "third method" of conferring the *imāma*, which was the self-investiture by coercive force (*al-bay'a al-qahriyya*).³⁹³ Here, Ibn Jamā'a had only to discuss the way through which such coercive *imāma* was acquired as he had already waived the ten requirements for eligibility to such investiture. Ibn Jamā'a explained that in the absence of an *imām*, the holder of military power (*ṣāhib al-shawka*) could usurp power and his *imāma* became effective without the need for *bay'a* or designation from a predecessor. He maintained that this was in the interest of the unity of the Muslims. Ibn Jamā'a explained that even if the usurper did not possess *'ilm* or happened to be immoral (*fāsiq*), his *imāma* was considered valid and obedience to him was mandatory. Moreover, if another holder of military power rose up and took over then his *imāma* became valid and

³⁹⁰ Refer to discussion above in footnote 57 on al-Juwaynī's influence.

³⁹¹ Ibn Jamā'a, *Taḥrīr*, p. 51; "*al-imāma ḍarbān, ikhtiyāriyya wa qahriyya. Ammā al-ikhtiyāriyya fa li-ahliyyatihā 'ashr shurūṭ*".

³⁹² *Ibid.*, p. 52-53. The number of electors was not specified and the process was considered valid with whoever was present at the time of the *bay'a*.

³⁹³ *Ibid.*, p. 55-56. Refer to Lambton, *State and Government*, p. 141-142 and Rosenthal, *Political Thought*, p. 45.

obedience was due from all Muslims. As discussed above in the biography, Ibn Jamā‘a was personally involved in a similar situation on three occasions.³⁹⁴

Although the discussion of the coercive *imāmate* was short, it had far-reaching repercussions. Very early on in his *Taḥrīr*, Ibn Jamā‘a practically ended the necessity for the caliphate altogether by making a clear division between *imām* and caliph and by allowing the sultan to be the *imām*. One can argue that, up to this point, there was nothing explicit in the *Taḥrīr* that suggested waiving the necessity for the caliphate and that the legitimation of the wielder of military force was not new to Islamic political thought. While this is true, there are two important distinctions to consider here. First, the legitimation of military power (i.e. the sultan) had been a long-settled question in Islamic political thought since the time of al-Māwardī and, most importantly, it was not the main paradigm for Ibn Jamā‘a’s thought. Despite any apparent language similarity with earlier texts like the *Aḥkām*, it is a severe anachronism to consider the legitimation of coercive power among the concerns of the *Taḥrīr*. Secondly, the chief aim of the *Taḥrīr* was to secure the proper running of government under any political circumstances by upholding the processes of *taḥrīr* and *tadbīr*. In pursuing this aim, Ibn Jamā‘a believed that the wielder of force, i.e. the usurper, could be the *imām*. Far from simply stating that the wielder of coercive power – under a nominal caliph – held all the authorities of the office of the *imām*, Ibn Jamā‘a unequivocally stated that the wielder of coercive power *might be* the *imām*. Equally, he did not claim that the wielder of power might be the caliph, which contradicts Lambton’s assertion that Ibn Jamā‘a believed “the sultan might be the caliph”.³⁹⁵ By

³⁹⁴ In his capacity as a judge, Ibn Jamā‘a was involved when Kītbughā was forced out of power, in attesting to the resignation of al-Nāṣir Muḥammad and the confirmation of Baybars al-Jāshankīr, and finally, in the confirmation of al-Nāṣir’s third reign.

³⁹⁵ Lambton, *State and Government*, p. 142; see discussion below on the duties of sultan and the *imām*.

waiving the ten requirements for eligibility for the coercive *imām*, including Qurashī descent, Ibn Jamā‘a made this intention very clear. Although this will be mentioned explicitly in a subsequent part of the *Taḥrīr*, one can already conclude that Ibn Jamā‘a’s contribution to the so-called theory of the caliphate was to negate the necessity for the caliphate.

For Ibn Jamā‘a, *imāmate*, caliphate, and sultanate were three distinct offices, very well demarcated, each entailing different requirements. In this conception, the sultanate and *imāmate* were necessary offices, while the caliphate was not. The powers needed to run the state were concentrated in the *imāmate*, i.e. the ‘office’ of the *imām*. The elective *imāmate* (*ikhtiyāriyya*) should be held by a caliph who must either be invested by an oath of allegiance or by designation from a preceding caliph. On the other hand, any wielder of power – with no requirement of knowledge or pedigree - could hold the coercive *imāmate* (*qahriyya*) and his *imāmate* becomes legitimate. In this scheme, the eligibility bar for the *imāmate* was very high for caliphal candidates who held the elective *imāmate* while it was almost non-existent for sultans who held the coercive *imāmate*. Furthermore, the sultan could become *imām* even if there was a caliph in place; in such an eventuality – and it did happen, as I will discuss below– the caliph would still remain caliph, but he would delegate the authorities of both his caliphate and his *imāmate* to the sultan. However, in the absence of a caliph or an *imām*, the sultan would become the legitimate *imām* without need of delegation. Consequently, sultanate and *imāmate* were necessary offices, while the caliphate was not.

With this tripartite scheme, Ibn Jamā‘a skillfully achieved three remarkable objectives simultaneously. The first was that he waived the necessity for the caliphate while preserving it as a cherished and untainted Islamic ideal. Differentiating the *imām* from the caliph solved several long-standing problems that previous prominent Shāfi‘ī thinkers, like al-Ghazālī and

al-Juwaynī, had struggled with.³⁹⁶ For one, Ibn Jamā'a's tripartite scheme succeeded in conserving the symbolic and untainted nature of the caliphate by keeping the bar of eligibility very high. Likewise, he avoided challenging the necessity for Qurashī descent as opposed to al-Juwaynī who put this requirement into question.³⁹⁷ Moreover, he devised a practical way to circumvent any discussion on the need for a caliph to justify the existence of the state, an issue that al-Ghazālī had struggled to keep a consistent opinion about.³⁹⁸ For Ibn Jamā'a, no longer was the presence of a caliph at the head of the state compulsory to justify its very existence. Secondly, and for the first time in the history of Islamic political thought, Ibn Jamā'a created a practical constitutional framework within which a sultan could rule legally even in the complete absence of a caliph. The earlier model of al-Māwardī still required an existing nominal caliph to legitimise a sultan's rule; likewise, al-Ghazālī accepted the designation of a caliph by the sultan, but still required the existence of a caliph as head of state. On the other hand, al-Juwaynī's lengthy discussion on the absence of the caliph was very theoretical and impracticable.³⁹⁹ Ibn Jamā'a's solution was ingenious, the *imāmate* was still a

³⁹⁶ Refer to Rosenthal, *Political Thought*, p. 44. Rosenthal attempted the same comparison with earlier thinkers like al-Māwardī and al-Ghazālī, and came very close when he said, "By subdividing the first method into election and designation, he arrives at three methods like Al-Ghazālī; [...] Ibn Jamā'a obviously has in mind a powerful military leader usurping the supreme authority by appointing himself to the office of *imām*." Yet Rosenthal missed two important aspects. Firstly, he missed the Shāfi'ī aspect of this discussion and hence al-Juwaynī's initial role in making the Qurashī caliphate unnecessary. Secondly, Rosenthal missed Ibn Jamā'a's distinction between caliph and *imām* and limited the latter's aims to justifying the coercive power. Nevertheless, Rosenthal was by far the most developed attempt to understand Ibn Jamā'a among earlier scholarship.

³⁹⁷ Refer to al-Juwaynī's discussion on the Qurashī lineage in *Ghiyāth al-umam*, p. 79-82 of the main text. For more on this, there are two very useful works: Wael B. Hallaq, "Caliphs, Jurists and the Saljūqs in the Political Thought of Juwaynī," *The Muslim World* 74, no. 1 (1984): 26-41 and Anjum, "Political Metaphors".

³⁹⁸ Refer to Rosenthal, *Political Thought*, p. 38-43 and especially p.42-43 for a very helpful discussion on *al-Mustazhirī* and the *Iḥyā'*; al-Ghazālī recognised that "the *imāma* in his day was really a sham" but still stressed that recognising the caliph's authority is a condition for legitimate government.

³⁹⁹ The *Giyāth* is divided into three parts: the first deals with the ideal *imāmate*, the second covers the absence of an *imām* or the existence of non-ideal one, and the third deals with the

must but the sultan could become the *imām* in the absence of a caliph or in the absence of another *imām*. Ibn Jamā‘a thus created a maintainable constitutional framework within which the practical did not conflict with the ideal, one where the exercise of power was not subject to unattainable requirements, and one where the legitimacy of the head of the state was upheld without confronting nostalgia for ideal and earlier times. In so doing, Ibn Jamā‘a secured the smooth running of government in every constitutional eventuality. Thirdly, Ibn Jamā‘a succeeded in decoupling the impact of the struggles for power at the top from the judiciary and the administration by devising a simple solution to the Mamluks’ frequent changes at the seat of the sultanate: whenever a holder of military power rose up and took power then his *imāma* became valid and obedience was due to him. As already mentioned, the author was personally in the middle of confirming or removing three different Mamluk sultans.

Ibn Jamā‘a then buttressed his conception of political authority by further outlining the scope of both sultanate and *imāmate*. The second section of the *Taḥrīr* dealt primarily with the delegations of power (*tafwīḍ*), and the rights and duties of the ruler.⁴⁰⁰ In his discussion of the delegation of the *imām*’s powers, the author confirmed his tripartite conception of caliph, sulṭān, and *imām* by describing both caliph and sultan as delegates of the *imām*’s office. This attention to *tafwīḍ* was motivated by the primacy of upholding the executive process of *tadbīr*. Ibn Jamā‘a discussed, like al-Māwardī and Abu Ya‘lā, the special and general delegations of power (*khāṣṣ* and *‘ām*).⁴⁰¹ When treating the general delegation (*tafwīḍ ‘ām*), he said “it was as per the custom of kings and sultans in his own time” (*ka-‘urf al-mulūk wa-al-salāṭīn fī zamāninā*). This reflected how, during his time, the sultan enjoyed the full

absence of experts on the *sharī‘a*; refer to Hallaq, “Political Thought of Juwaynī”, p.31.

⁴⁰⁰ Section two of the *Taḥrīr*, p. 58-74, entitled “Regarding the rights and duties of the caliph and the sultan”, encompassed Ibn Jamā‘a’s processes of *taḥrīr* and *tadbīr*.

⁴⁰¹ *Ibid.*, p. 60-61.

powers of the *imām* including appointing judges and governors, tax collection and spending, and fighting external and internal enemies.⁴⁰²

The process of *Tadbīr* was thus practically secured by two equally legitimate and effective methods that confirmed the sultan's powers: a general delegation from the caliph and/or a coercive acquisition of the *imāmate*. Consequently, Ibn Jamā'a adapted earlier discussions on the delegation of power by a caliph to the sultan, like al-Māwardī and Abu Ya'lā, in order to buttress his earlier argument on the validity of the sultan as *imām*. To this end, Ibn Jamā'a stated that the investiture of a sultan by a caliph entailed the delegation of the full caliphal authorities and even his standing except in pedigree.⁴⁰³ Following that, he reiterated that when a wielder of military power took over a province by force, the caliph should recognize him and the delegation of power became immediately effective. The fact that this usurper may not be qualified did not impact the legitimacy of his *tafwīd*, as the latter should simply appoint qualified regents so that both religious and worldly greater interests (*maṣāliḥ*) were in order and properly administered.⁴⁰⁴

This discussion on delegation provides further proof of how existing scholarship has consistently misinterpreted the *Taḥrīr*. Ibn Jamā'a aimed at guaranteeing the sultan a full delegation of powers not in the interest of legitimating coercive power but to uphold the process of *tadbīr* within a constitutional framework that suited the early Mamluk period. Rosenthal saw that Ibn Jamā'a "unashamedly and openly" made further concessions to

⁴⁰² This provides further proof that Ibn Jamā'a's political thought can only be understood within its proper context as he has personally noted, *fi zamānina*. Despite the similarities with earlier discussions like, for instance, al-Māwardī and Abu Ya'lā, he noted that the general delegation had a special use in his own time, as will be discussed in the last section of this chapter.

⁴⁰³ Ibn Jamā'a, *Taḥrīr*, p. 60. Rosenthal explained *yu'tabar* in a differently: "he must possess the same qualifications as the *imām* in whose place he rules, no doubt a purely theoretical demand in the interests of the supreme authority of the *Sharī'a*"; in *Political Thought*, p. 45-46.

⁴⁰⁴ Ibn Jamā'a, *Taḥrīr*, p. 61: "He [the usurper] should delegate authorities to a qualified individual, in order to administer matters as he [the delegatee] possesses the qualities that are lacked by the usurper, so that the religious and worldly interests are kept in order."

legalize the general delegation of authority to the usurper, “by associating it with the vizierate of delegation or the general emirate”.⁴⁰⁵ While Rosenthal astutely noted the adaptation of earlier forms of delegations by Ibn Jamā‘a, his explanation failed to account for various aspects of the early Mamluk context. The legitimation of coercive power paradigm failed to consider such factors as the growing role of the professionalized administration, the legal *madhhabs*’ role in the political and administrative spheres, the nature of Mamluk household competition, and the uses and misuses of the presence of a nominal ‘Abbāsīd caliph in Cairo in such struggles. In fact, the reason behind this adaptation of existing forms of delegation was not to legalize the usurper: this legitimation was achieved mostly through military power and, besides, that was a long-settled issue in Islamic political thought. The main purpose was ensuring *tadbīr* in every possible eventuality, including, for instance, the full delegation of the *imām*’s powers to the sultan even in the presence of a legitimate caliph. I will discuss this very scenario later in this chapter.

Equally vital in section two was Ibn Jamā‘a’s discussion of the duties and rights of the *imām* towards his community. This topic was introduced under the subtitle, *The sulṭān and the caliph have ten rights over the umma, and they have ten rights over him*.⁴⁰⁶ At this point in the discussion of the *Tahrīr* one needs to go back to the *Mukhtaṣar*, in which there was a similar section.⁴⁰⁷ Although this discussion of the rights of the *imām* over his subjects (*ra‘īyya*) was similar in both treatises, the *Mukhtaṣar* was only concerned with the sultan’s rights while the *Tahrīr* mentioned both caliph and sultan.⁴⁰⁸ Both treatises covered the mutual obligations of both community and *imām* and

⁴⁰⁵ Rosenthal, *Political Thought*, p. 45-46.

⁴⁰⁶ Ibn Jamā‘a, *Tahrīr*, p. 61-74 and *Mukhtaṣar*, p. 104-107. For other discussions on this topic refer to Rosenthal, *Political Thought*, p. 49-50 and Lambton, *State and Government*, p. 142-143.

⁴⁰⁷ Entitled, “*Regarding the duties and rights of the sultan*” in *Mukhtaṣar*, p. 104-107.

⁴⁰⁸ Ibn Jamā‘a, *Tahrīr*, p. 61-64 and *Mukhtaṣar*, p. 104-105.

there is a need to study the two in conjunction not only to understand the development of Ibn Jamā'a's thought, but also as this will help explicate his use of *imām*, sultan, and caliph.

In what follows I will present the ten rights in the order that they appear in the *Mukhtaṣar* and compare them to subsequent changes in the *Tahrīr*.

- 1- "To obey him." First right in the *Tahrīr*, where Ibn Jamā'a added that this obedience should be both in private and in public.
- 2- "To support him and give him due respect." This clause is divided between the third and fourth rights in the *Tahrīr*.
- 3- "To counsel him overtly and privately." Second right in the *Tahrīr*.
- 4- "To alert him when he is negligent." Fifth in the *Tahrīr*.
- 5- "To guide him when he regresses." Likewise, it is included in the fifth right of the *Tahrīr*.
- 6- "To defend him." Tenth right in the *Tahrīr*, where Ibn Jamā'a explained that this meant actively defending him verbally and physically, using one's soul and money, privately and overtly.
- 7- "To warn him against a mutinous enemy or an ill-wisher." Sixth in the *Tahrīr*.
- 8- "To keep him updated about the conduct of his governors and administrators." Seventh in the *Tahrīr*, where Ibn Jamā'a added that ruler was answerable for their actions.
- 9- "To help him bear his burdens." Eighth in the *Tahrīr*.
- 10- "To win back his averse subjects." Ninth in the *Tahrīr*.

In short, both treatises listed the same rights, but they were differently ordered in the *Tahrīr*. Furthermore, Ibn Jamā'a uniquely referred to the sultan in the *Mukhtaṣar*, while in the *Tahrīr* he referred to both caliph and sultan. The reason was that Ibn Jamā'a dedicated the *Mukhtaṣar* to al-Ashraf Khālīl, who was *imām* and sultan at that time. The *Tahrīr*, on the other hand, was a more universal discussion where the *imām* might have been, in theory at least, a

caliph or sultan as per the tripartite scheme of this treatise.

In what follows, I will use the same approach to compare the list of the ruler's duties in the *Mukhtaṣar* and the *Tahrīr*.⁴⁰⁹ The exercise will highlight the changing priorities of Ibn Jamā'a between the two treatises. The obligations towards the subjects are:

1- "To defend the territory of Islam and protect the people of the faith against aggressors and polytheists, to strengthen and equip the fortifications on the frontiers by providing the proper defensive machines and by raising and mobilizing soldiers as required, and by sorting out the timing and sums for their [the soldiers'] allowances." This was likewise the first duty in the *Tahrīr*, where Ibn Jamā'a further explained that this applied for all Islamic territory in the case of an *imām* who was also a caliph.⁴¹⁰

2- "Preserving Islam and its original form as per the foundations agreed upon by the early Muslims (*salaḥ*) [...] and rebutting the innovations and subduing the innovators by making clear the proper [legal] cases, disseminating the legal (*sharī*) sciences, and revering the 'ulamā', [and that he] will convene the trusted 'ulamā' and consult with them in repealing or concluding his ordinances." This is similar to duty two in the *Tahrīr*. In this clause Ibn Jamā'a tried to slip in a greater role for the 'ulamā' by involving them in repealing (*naqḍ*) the decisions and decrees of the ruler.⁴¹¹ Under the pretext of fighting

⁴⁰⁹ Ibn Jamā'a, *Tahrīr*, p. 65-69 and *Mukhtaṣar*, p. 105-107. I will also incorporate in the footnotes a comparison with the list of al-Māwardī's *Aḥkām*, vol. 2, p. 22-23. This comparison will reinforce the distinctiveness of late Ayyubid and early Mamluk from earlier 'Abbāsīd political thought, despite the use of a similar language of the family of Shāfi'ī political thought.

⁴¹⁰ This clause led Lambton to believe that Ibn Jamā'a said, "the sultan might be the caliph". Yet these ten obligations and rights of the *Tahrīr* should be read within the genesis of the treatise based on the *Mustanad* and the *Mukhtaṣar* and, furthermore, based on the author's views on *imām*, sultan, and caliph as discussed above. They relate to the *imām*, who can be either a sultan or caliph. As such when Lambton's statement, "[...] the sultan, if he was the caliph, would protect all the lands of Islam or, if he was the sultan, that area which had been delegated to him" misses the two cases of the *imām* being the sultan or the *imām* being a caliph. Refer to Lambton, *State and Government*, p. 142-143. This is the third duty outlined in al-Māwardī's *Aḥkām*, p. 22.

⁴¹¹ This was reminiscent of obligation number one in the *Aḥkām*, p. 22.

innovation and defending religion, Ibn Jamā‘a called for a constitutional right to veto the *imām’s* decree.

3- “Upholding the rituals of Islam including prayers, fasting, pilgrimage, and what is ensuing from these duties like the call for prayer, the sermons (*khuṭba*), the festive celebrations, facilitating pilgrimage (*ḥajj* and *‘umra*), tending to the Ka‘ba, the two sanctuaries, and the two mosques; these are measures related to enjoining what is good and forbidding what is reprehensible (*al-amr bi-al-ma‘rūf*.” This was the third duty in the *Tahrīr* where Ibn Jamā‘a removed any mention of *al-amr bi-al-ma‘rūf* and added the need to maintain and secure the roads to *ḥajj*.⁴¹²

4- “To render judgments and execute them (by appointing governors and judges)⁴¹³, to end the quarrels between litigants, and to be equitable between the oppressor and oppressed, for the greater interest and so that everyone is accustomed to justice; he [the *imām*] shall only appoint dependable [individuals] whose virtue, religion, and truthfulness to God, his Prophet, and the Muslims are trusted; he shall not spare any effort in examining and checking the conducts of his appointees so he is well informed about his subjects and governors, for he is accountable for that on judgment day. The Prophet said: ‘Every shepherd is accountable for his flock.’” This was similar to the fourth duty in the *Tahrīr*, but was slightly more detailed in the *Mukhtaṣar*.⁴¹⁴ The notion of accountability was more elaborate as, for Ibn Jamā‘a, the *imām* was accountable for matters of justice and appointments.

5- “To collect the *zakāt*, *fay’*, *kharāj*, and *jizya* as appropriate; to spend that

⁴¹² Nothing similar in the *Aḥkām*.

⁴¹³ The editor of the *Mukhtaṣar* mentioned that this was added at the margin of the manuscript.

⁴¹⁴ In al-Māwardī’s *Aḥkām*, p. 22-23; a similar clause could be deduced by merging clauses two and nine. Obligation two, “He must execute the judgments between the litigants and end the disputes between them so that justice prevails, and the oppressor does not transgress and the oppressed is not weakened”; and obligation nine, “He must appoint trusted persons and qualified advisors capable of assuming the duties delegated to them and preserving the [treasury] monies [..]”

[ensuing income] lawfully on the proper beneficiaries, and to build the proper controls in the provinces and delegate it to trusted administrators.”⁴¹⁵ This was similar to the seventh obligation in the *Taḥrīr*.

6- “To establish the fixed legal punishments (*ḥudūd*) in all valid circumstances, so that what is prohibited by God is not infringed upon lightly and so that the rights of the people are preserved. In this all are equal: the powerful, the weak, and the noble [...]” This was the sixth duty in the *Taḥrīr*.⁴¹⁶

7- “To undertake the duty of *jihād* personally, or by sending his armies, regiments, and agents at least once year if possible and more if needed. No year shall pass without the undertaking of this duty unless the Muslims suffer from weakness. This [duty] includes liberating what has been conquered by the polytheists, and freeing Muslim prisoners [...]” This was the fifth duty in the *Taḥrīr*.⁴¹⁷

8- “To arrange the timings and kinds of public charity and the various ends to spend it, and [to undertake] the construction of mosques, bridges, and roads.” This was the eighth duty in the *Taḥrīr*.⁴¹⁸

9- “To oversee the partition of the revenues ensuing from the *fay*’ and booty, and to partition them into five equal shares and spend every fifth on its proper beneficiary.” This was the ninth duty in *Taḥrīr*.⁴¹⁹

10- “Justice is his ruling and seeking righteousness in all his affairs.” This was the tenth in the *Taḥrīr* and reflected how justice was the ultimate requirement from an *imām*.

In the remainder of this section of the *Taḥrīr*, Ibn Jamā’a discussed the importance of justice (*’adl*) using various Qur’anic, maxims, and quotes that

⁴¹⁵ This was similar to al-Māwardī’s seventh obligation; *Aḥkām*, p. 23.

⁴¹⁶ Similar to the fourth obligation in *Aḥkām*, p. 22,

⁴¹⁷ The sixth duty in the *Aḥkām* reflected a different conception of *jihād* that was related to an earlier Islamic context of conquests, which did not seem to concern Ibn Jamā’a; refer to *Aḥkām*, p. 22.

⁴¹⁸ Nothing similar in the *Aḥkām*.

⁴¹⁹ This held some similarities to the eighth obligation in the *Aḥkām*, p. 23; “Allocating stipends and what is due from the *bayt al-māl* efficiently, equitably, and in a timely manner.”

he used in the *Mustanad* and *Mukhtaṣar*.⁴²⁰

The ten duties of the ruler in the *Taḥrīr* and the *Mukhtaṣar* are almost identical. There is one major difference, which is that in the *Taḥrīr* Ibn Jamā'a refers to both caliph and sultan while in the *Mukhtaṣar* he solely refers to the sultan. The *Taḥrīr* was more of a universally dedicated treatise that encompassed both eventualities of the *imāmate* (sultan and caliph) while the *Mukhtaṣar* was dedicated to a sultan.⁴²¹

The Taḥrīr on leading offices and administration

Having laid out his conception of political authority, Ibn Jamā'a shifted his attention to the main offices and administration. In sections three to ten, the author covered various senior offices essential to the process of *tadbīr* including the vizier, *amīrs*, judges, market inspectors, and others. In this part, the *Taḥrīr* resembles more an administrative manual than a typical juridical treatise; as mentioned in the Introduction of this thesis and as will be discussed in Chapter 5, such an amalgamation of *genres* was characteristic of Shafiī and other political works of this period.

Ibn Jamā'a started by discussing the vizierate, but his real interest therein was the full delegation of powers to the sultan. More particularly, his attentiveness was to the vizier's full delegation (*wizārat al-tafwīḍ* / *tafwīḍ muwāzara*), which became relevant at the start of the third reign of al-Nāṣir Muḥammad. At first glance, the *Taḥrīr*'s discussion of the vizierate resembled

⁴²⁰ Ibn Jamā'a, *Taḥrīr*, p. 69-73. Refer to Rosenthal, *Political Thought*, p. 50.

⁴²¹ Comparing Ibn Jamā'a to al-Māwardī was helpful in several aspects. While the language and structure seemed similar, since both belonged to the same family of Shafiī political thinking, there were fundamental differences. For instance, al-Māwardī stipulated in his *Aḥkām* that the *imām* should personally attend to the affairs of the state and that he should not rely on the *tafwīḍ* (tenth duty in the *Aḥkām*, p. 22). Such a clause was missing from the *Taḥrīr* as Ibn Jamā'a was in favour of limited government and greater involvement of the judicial and administrative bureaucracy as part of the *tadbīr* process. Furthermore, there are major differences in the conception of the *imāmate* and others. This provides further proof of the need for a contextualized reading of Islamic political thought even within the same family.

the one in the *Aḥkām*.⁴²² Like al-Māwardī, Ibn Jamā‘a identified two types of vizierate, the one of full delegation (*tafwīḍ*) and special delegation (*tanfīdh*). The former was a general delegation that granted the vizier the full authorities of the caliph short of his Qurashī lineage (*nasab*). One wonders about the relevance of such a discussion, since under the Mamluks, with some exceptions, the vizier often held a short-term and trivial post and the senior offices of the administration were more influential and durable.⁴²³ However, in the *Taḥrīr* there was another more relevant practical purpose for this form of delegation (*tafwīḍ muwāzara*), which was to secure and legitimate the delegation of the *imām*’s full authorities to the sultan even in the presence of a legitimate caliph. This was a very particular legal case that was shaped by Ibn Jamā‘a’s personal experience when he used this type of *tafwīḍ* as the constitutional framework to complete the transition to the third reign of al-Nāṣir Muḥammad.⁴²⁴ This will be discussed in detail in the subsequent part of this chapter that deals with the *praxis* of Ibn Jamā‘a’s thought. It suffices, at this point, to note how a discussion focused seemingly on the vizierate was intended in fact to secure the sultan a full delegation of authorities.

The *Taḥrīr*’s following discussion focused on the *umarā’*.⁴²⁵ Ibn Jamā‘a treated this class as another professionalized layer attached to government. He explained the *imāra* as follows:

[It] is when one is accorded the supervision (*naẓar*) of a group of soldiers, he must be dedicated to their affairs and should not supervise other soldiers, as it is the case of the prominent *amīrs* of these days in

⁴²² Ibn Jamā‘a, *Taḥrīr*, p. 75-78 section three is entitled “*Regarding the appointment of wazīrs and their duties*”; refer to al-Māwardī, *Aḥkām*, p. 30-39.

⁴²³ For more on the vizierate under the Mamluks refer to D. Ayalon, “Studies on the Structure of the Mamluk army [III],” in *Muslims, Mongols and Crusaders: An Anthology of Articles Published in “The Bulletin of the School of Oriental and African Studies,”* ed. Gerald R Hawting (London: Routledge, 2007), p. 61.

⁴²⁴ See below.

⁴²⁵ Section four entitled, “*Regarding the appointment of umarā’ for the duty of jihād*” in *Taḥrīr*, p. 81-86; refer to *Mukhtaṣar*, p. 113.

the Egyptian and Syrian lands – may God safeguard them along with the other lands of Islam – [that is] the holders of grants dedicated to the war in the path of God where each one of them is assigned a limited group of soldiers that he should tend to their affairs and secure their subsistence.

Ibn Jamā‘a’s description of the Mamluk *amīrs* as another professionalised arm attached to the government reflected his own administrative outlook. In order to secure a comfortable life for the *amīr* and his household and, more importantly, the readiness for combat of his soldiers irrespective of the political situation, Ibn Jamā‘a explained how the *amīr* should be allocated a source of income (*rizq* and *iqṭā’*).⁴²⁶

Following that, Ibn Jamā‘a treated another important group, the ‘*ulamā’*. He listed the main offices that he associated with upholding the *sharī‘a*.⁴²⁷ In his conception, the ‘*ulamā’* were in charge of “preserving and transmitting it [the *sharī‘a*], they are the authority in [determining] what is permitted and forbidden according to it, and its application”. Accordingly, they controlled the process of *tahṛīr* and, in a modern parallel, represented the legislative power. On the other hand Ibn Jamā‘a listed five administrative offices entrusted with the preservation of the *sharī‘a*. These five posts secured the ‘*ulamā’*, as the legislating arm government, a role in the *tadbīr* or the executive government process. Within this listing, the author advocated a precise division of labour between judgeship, jurisconsult (*iftā’*), market inspection (*ḥisba*), teaching, and supervision of charitable endowments (*naẓar* of the *awqāf*); additionally, he enumerated the conditions for assuming every post, and delimited the scope of the *ḥisba* in a similar way to the earlier

⁴²⁶ This referred mostly to non-hereditary land – and other kinds-grants, which the author treated subsequently in detail in section seven.

⁴²⁷ Ibn Jamā‘a, *Tahṛīr*, p. 87-93; section 5 is entitled, “*Regarding the preservation of the rules of the sharī‘a and the procedures for proper appointments related to it.*” Refer to Rosenthal, *Political Thought*, p. 48-49 for a related discussion.

Ayyubid treatise, *al-ʿIqd al-farīd* as will be discussed in Chapter 5.⁴²⁸ Consequently, and under the rubric of upholding *sharīʿa*, Ibn Jamāʿa thus secured a further division of administrative labour and the participation of the *ʿulamāʿ* in the issuing and administering ordinances of government.

This part of the *Taḥrīr*, additionally, resembled an administrative manual of finances and taxation.⁴²⁹ The precision, abridgment, and lucidity of this discussion suggested an attempt to codify the Islamic laws and rules related to public spending and taxation. Ibn Jamāʿa started by explaining that payments to soldiers were of two kinds: stipends (*ʿaṭāʾ*) and grants (*iqṭāʾ*). Stipends (*ʿaṭāʾ*) were covered by the *fayʿ*, the land tax (*kharāj*), the one-fifth of the spoils of war (*ghanīma*), and the treasury (*bayt al-māl*). Furthermore, Ibn Jamāʿa explained the various kinds of grants (*iqṭāʾ*). The first kind was based on the alienation of property (*tamlīk*) that was of three varieties: the wasteland (*mawāṭʾ*), the one fallen out of use, and the one not yet conquered. The second kind of grants was the concession grant (*iqṭāʾ al-istighlāl*), which could include the use of a *kharāj* land for a limited period of time. The *kharāj* income could be granted in order to sustain soldiers, judges, chancery secretaries, and administrators but no such grants could be accorded on a permanent or hereditary basis. The third kind of grants was the *iqṭāʾ al-irfāq*, which included mining precious metals. What really mattered in this discussion was Ibn Jamāʿa's concise and organized style and that he consistently presented the opinions of other *madhhabs*.⁴³⁰ This section fits well with the following ones on the rules of war, and could have been easily considered part of it.

⁴²⁸ Refer to Chapter 5 detailed discussion on Ibn Ṭalḥa's *al-ʿIqd al-farīd*; in all likelihood Ibn Jamāʿa was influenced by this work's as his list of the *sharīʿa* related offices is identical to Ibn Ṭalḥa's with one difference, teaching. There is an essential difference in Ibn Jamāʿa's (and Ibn Ṭalḥa's) conception of the role of the *ḥisba* with other contending thoughts of his time, mainly Ibn Taymiyya's where the role of market inspection is all-encompassing.

⁴²⁹ Section seven of Ibn Jamāʿa, *Taḥrīr*, p. 98-117; refer to section three of the *Mukhtaṣar*.

⁴³⁰ Ibn Jamāʿa's eclectic use of legal opinions can be contrasted, for instance, with Ḥanbalī treatises that only quoted their own sources or with later Ḥanafī treatises that presented their thought in contention to other *madhhabs*. Refer to Nimrod Hurvitz, *Competing Texts*, p. 28

The codification of the rules of war

After discussing his conception of political authority, the main offices, and the administration, Ibn Jamā'a turned his focus to codify the rules of war. In the remaining seven sections of the *Taḥrīr*, he consolidated earlier discussions on war (*jihād*), booty, truce, rebellion, and the *dhimma*; such a systematic arrangement of topics was novel and there is no exaggeration in claiming that it inaugurated a new field within Islamic political thought. This codification of the rules of war should be understood within the context of Ibn Jamā'a's salient concern for the rule of law as exhibited throughout the *Taḥrīr*.

This codification covered situations that arose in wartime or its aftermath. Ibn Jamā'a intended to regulate the conduct of Muslims during and after war based on earlier precedents and in accordance with the *sharī'a*, and to treat legal issues that appeared in situations of war. This included topics such as the compartments of armies, the justification of war, the rules of collecting and distributing spoils of war, the treatment of captives and civilians, the guidelines for conducting a truce, the law of rebellion that deals with the treatment of Muslim rebels and the justification of rebellion, and the treatment of non-Muslims (*dhimmi*s).⁴³¹ As typical in his writings, Ibn Jamā'a consistently presented the opinions of other *madhhabs*. Within the context of his effort to organise every aspect of the exercise of power and his concern

where Hurvitz noted, "Al-Mawardi relies on three out of four legal schools (leaving out the Hanbali school) and aspires to present an open-ended description of legal options. Abu Ya'la, on the other hand, relies almost solely on the Hanbali school and aims to enhance the Hanbali legal tradition." Refer also to my discussion in Chapter 3 on al-Ṭarsūsī's *Tuḥfat al-Turk*. At times, Ibn Jamā'a takes a neutral stance as in his discussion on the revenues from the *fay'* where he said whether "we follow Abū Ḥanīfa and Aḥmad [Ibn Ḥanbal], or follow the Shāfi'i *madhhab* ..."; refer to the *Taḥrīr* p. 99 or p. 105. I posit this is further proof of al-Juwaynī's influence who insisted that the *imām* should not intervene in *madhhab* differences and not promote one over the other; refer to *Ghiyāth al-umam*, p.98 of the editor's introduction and p.189-190 of the main text.

⁴³¹ There is no suggestion here that the *Taḥrīr*'s rules of war resembled the modern international humanitarian law; in many respects, the *Taḥrīr*'s attitude towards various aspects of warfare was pre-modern.

for the rule of law, these last sections of the *Taḥrīr* resembled a rulebook to regulate conduct during war and its aftermath.

The discussion was based on a rich corpus of cases and precedents. These cases were not novel but ample in earlier Islamic legal works, but Ibn Jamā‘a’s original arrangement signalled his move towards the codification of the rules of war.⁴³² Section eleven dealt with the various types of war according to the *sharī‘a*, and its different rules, for instance, the need for the consent of the sultan and parents before participating in war, or the permissibility of *dhimīs*’ participation in Muslim armies.⁴³³ In section twelve, Ibn Jamā‘a referred to, “all the rules of conduct during war” (*jamī‘ ādāb al-ḥarb*).⁴³⁴ These rules included, for instance, that it was not permissible to fight people who have not been invited into Islam. Furthermore, the author reiterated the distinction between pagans and those to whom the *jizya* applied, like Christians, Jews, and Magians. Additionally, this codification included a collection of specific situations: who was a legitimate target for fighting; the case of having a non-believer father or relative; the case of a blind man who was involved in providing military advice to the enemy; women were not to be fought unless they struck first; the safety of the enemy’s envoys; the permissible means of force during a siege; the treatment of animals; and firing arrows at an enemy who used Muslim prisoners as shields.

Subsequently, Ibn Jamā‘a discussed booty and truce. Throughout sections thirteen and fourteen, he examined what was considered lawful booty (*ghanīma*), its rules, the proper ways of distributing it, and listed various

⁴³² Some are based on al-Māwardī and Abu Ya‘lā, prophetic tradition, and various works of *fiqh* as noted by the editor of the *Taḥrīr*.

⁴³³ Section eleven is entitled “*On the virtues of jihād, its preludes, and those who are talented to carry it out*” in *Taḥrīr*, p. 152-169. Ibn Jamā‘a refers on p. 162 to the *Mustanad*, thus confirming the chronological order of his works.

⁴³⁴ Section twelve is entitled, “*Regarding the proper ways to fight and to struggle against champions*”, *Taḥrīr*, p. 170-187. Ibn Jamā‘a said on p. 170 that “God has combined in this verse all the rules of conduct during war” when referring to verse (8:46).

opinions of the four *madhhabs* on these issues.⁴³⁵ Furthermore, Ibn Jamā‘a treated in section fifteen the prerogative of concluding and abrogating a truce, its lawful terms and conditions, its expiration, and what amounted to a violation of a truce.⁴³⁶ Likewise, he presented the lawful conditions, duration and terms of a safe conduct (*amān*) and even reproduced the wording of such document.⁴³⁷

The law of rebellion was, likewise, central to the rules of war in the *Taḥrīr*.⁴³⁸ Ibn Jamā‘a defined the rebels (*ahl al-baghī*) clearly and concisely as those “who break away, no longer obey or follow the *imām*, and refrain from performing their duties towards him”. He further explained that they were those who dissented against the sultan due to a different interpretation (*ta‘wīl*) and commanded military power (*shawka*); any group who lacked one of the two conditions did not qualify as rebels.⁴³⁹ Ibn Jamā‘a found himself in the middle of such a situation during the deposition of Kīṭbughā and later at the start of the third reign of al-Nāṣir Muḥammad, as will be discussed below.

Subsequently, Ibn Jamā‘a listed the proper and legal course of action in case of rebellion. First, the sultan should attempt to bring the rebels back to obedience through dialogue or by remedying their grievances. If these attempts were exhausted, he may fight them until they repent. The author noted, however, that rebels “should not be considered unbelievers but mutineers who held erroneous opinions”. He even accepted the rebels’ courts

⁴³⁵ Sections thirteen and fourteen entitled, “*Regarding the ghanīma booty and its different kinds, and its rules*” and “*Regarding the distribution of the spoils, its lawful recipients and what is expected from the ruler*”, *Taḥrīr*, p.188-215 and p. 216-230.

⁴³⁶ Section fifteen is entitled, “*On truce and safe conduct and the [lawful] rules of safe conduct*”, *Taḥrīr*, p. 231-238.

⁴³⁷ For instance, Ibn Jamā‘a noted that an *amān* could not be accorded under duress or to a spy, and that even the *imām* could not abrogate an *amān*; *Taḥrīr*, p. 237.

⁴³⁸ Section sixteen is entitled, “*Regarding fighting Muslim rebels*”, *Taḥrīr*, 239-247. For a similar discussion refer to section five of al-Māwardī, *Aḥkām*, p. 79-83.

⁴³⁹ The *Taḥrīr* contains in p.240 a thorough definition of rebels: “if a powerful group of Muslims broke away from the *imām* with the intention of overthrowing him or renouncing his authority, or rejected one of his due rights by showing a different interpretation (*ta‘wīl*), and he could only bring them back [to obey him] by fighting them, then those are the rebels (*bughāt*).”

and judges' rulings and stated that *ḥudūd*, *zakāt* and *kharāj* were upheld under rebel rule. The rule of law was not to be affected by rebellion, which made sense as rebellion in Ibn Jamā'a's time often amounted to the usual Mamluk household competition.

The *Taḥrīr* discussed the protection and treatment of rebels. Captured rebel fighters, according to the author, should be jailed until they returned to obeying the *imām* and once the threat they posed had disappeared. Similarly, their imprisoned women, children and slaves should be released at the end of the war.⁴⁴⁰ The *Taḥrīr* considered different opinions on whether flooding, fire, mangonels, and other weapons of indiscriminate destruction (*mā ya'immu atharuh*) could be used to fight rebels. Although this discussion was based on earlier legal precedents, it was more organized and coherently placed within Ibn Jamā'a's codification of the rules of war.⁴⁴¹

Finally, the *Taḥrīr* treated the *dhimma* contract.⁴⁴² Although this was not a novel topic, Ibn Jamā'a's discussion was marked by its detail and organisation within the rubric of the rules of war. This discussion, taken in the context of the *Taḥrīr*, not only stressed the obligation to the *dhimmīs*, but equally their rights under the wider concern for the rule of law.⁴⁴³

The praxis of Ibn Jamā'a's political thought

There existed a reciprocal influence between Ibn Jamā'a's thought and

⁴⁴⁰ The editor of the *Taḥrīr* makes very useful references to al-Māwardī, Abū Ya'lā, and various other sources. For instance, compare to section five of al-Māwardī, *Aḥkām*, p. 79-83 on whether rebels should be fought while retreating.

⁴⁴¹ I already mentioned Abou al-Fadl's seminal study on the law of rebellion and its repercussions; refer to the Introduction.

⁴⁴² Section seventeen is entitled "Regarding the *dhimma* contract and its provisions", *Taḥrīr*, p. 248-263.

⁴⁴³ In this section, Ibn Jamā'a explained which religious groups were eligible for the *dhimma* contract, its duration, and the value of the *jizya* payment. He dwelled on various legal cases including the conversion to Islam, payment kinds, and whether payments were due from boys, women, slaves, and madmen; he noted that the *jizya* should be collected sympathetically from the blind, the elderly, and priests. On the other hand, the contract entailed the protection of the *dhimmīs*, their possessions and places of worship; he listed the specific infringements that led to revoking the *dhimma* protection.

his career, which I will refer to here as the *praxis* of his political thought. He developed his ideas not only by synthesizing earlier works of political thought but, most significantly, throughout a career that shaped his thought; similarly, Ibn Jamā‘a’s political thought influenced political developments, as will be discussed subsequently. As mentioned above, Ibn Jamā‘a found himself involved in the removal of Kītbughā, the renewal of the oath of allegiance to Baybars al-Jāshankīr, and, more dangerously, in the events that led to the third reign of al-Nāṣir Muḥammad. As the Shāfi‘ī chief judge, Ibn Jamā‘a was expected throughout these incidents to attest or renounce oaths of allegiance, letters of confirmation, delegations, dismissals, and resignations. As will be shown below, Ibn Jamā‘a’s involvement influenced his synthesis of Shāfi‘ī thought in the *Taḥrīr*; in turn his thought influenced events in the political sphere.

A good starting point to understand this *praxis* is by examining appointment and delegation letters exchanged between caliph and sultan. These were more than formulaic exchanges, rather the result of a complex and negotiated constitutional process that highlighted the *praxis* of Ibn Jamā‘a’s political thought. This is attested to by the recently discovered chronicle *Tārīkh al-salāṭīn wa-al-‘asākīr* (The history of sultans and military commanders), authored by the prominent secretary Shāfi‘ Ibn ‘Alī (1252-1330).⁴⁴⁴ This work revealed the complex process of drafting such letters that involved a considerable contribution by the judiciary and the chancery, in which Ibn Jamā‘a, Shāfi‘ Ibn ‘Alī, and other experts participated. Furthermore, this process was negotiated among sultan, caliph, jurists, judges, secretaries, and *amīrs*, albeit with differing degrees of influence. It shows that Ibn Jamā‘a’s political thought was put into practice in early Mamluk political history.

⁴⁴⁴ I’m grateful to Gowaart Van Der Bush for bringing this important source to my attention. Refer to MS “*Tārīkh al-salāṭīn*”. Gowaart, furthermore, successfully identified the author as Shāfi‘ Ibn ‘Alī (1252-1330). I will use this title although it is not the original title of the chronicle.

Tārīkh al-salāṭīn attests to the importance of dismissal, appointment, and delegation letters during the events that surrounded the fall of Baybars al-Jāshankīr and the third reinstatement of al-Nāṣir Muḥammad. According to Shāfi‘ Ibn ‘Alī, when Baybars al-Jāshankīr felt that the return of al-Nāṣir was imminent, he “resorted to the judges seeking a legal opinion against our lord the sultan regarding his [alleged] self-dismissal from rule”, which was provided by some jurists (*fuqahā*).⁴⁴⁵ Moreover, Baybars al-Jāshankīr – at the behest of these jurists – turned to the caliph al-Mustakfī bi-Allāh who invalidated the sultanate of al-Nāṣir on the basis of a legal opinion (*fatwā*); the caliph pronounced this annulment in a public letter and from the pulpit. This letter confirmed Baybars al-Jāshankīr as the lawful sultan and announced the caliph’s intent to join him in battle against al-Nāṣir.⁴⁴⁶ However, when al-Nāṣir entered Cairo and regained the seat of the sultanate, the caliph tried to exonerate himself by claiming that he had confessed earlier to chief judge Ibn Jamā‘a that he was under duress when he first issued this letter.⁴⁴⁷ Afterwards, the caliph, witnessed by all the chief judges of Egypt and Syria, attested “willingly and voluntarily” that the rightful sultan was al-Nāṣir Muḥammad and that the earlier opinion he had uttered under duress against the sultan was invalid.⁴⁴⁸ At this point, the judges (*al-ḥukkām*) – including Ibn Jamā‘a – declared the lawfulness of the sultanate of al-Nāṣir.⁴⁴⁹ Subsequently, the judges and the jurists convened in the absence of the sultan in order to examine and confirm the latter’s appointment by the caliph

⁴⁴⁵ Shāfi‘ Ibn ‘Alī, *Tārīkh al-salāṭīn*, fol. 89 a & b. Refer to Ibn Jamā‘a’s biography above; this must have been in reference to the above-mentioned *fatwā* that al-Nāṣir Muḥammad had rebuked Ibn Jamā‘a for.

⁴⁴⁶ *Ibid.*, fol.95a. Furthermore, refer to fol. 90a, where it says that al-Nāṣir Muḥammad assured his *umarā’* and soldiers that “there will no bloodshed among Muslims”, which suggests that the caliph’s *fatwā* was a source of concern and could have provided legal ground for war against al-Nāṣir.

⁴⁴⁷ *Ibid.*, fol.95a-96b.

⁴⁴⁸ There is an interesting gloss on the margin of the MS: “By God he is not the commander of the faithful but he is as free as a chained monkey...” in fol. 95b.

⁴⁴⁹ *Ibid.*, fol.95b.

and agreed “after careful inspection and examination that [al-Nāṣir’s appointment] is confirmed in the finest manner”.⁴⁵⁰ Ibn Jamā‘a was at the centre of this process, which was carefully intended to appear transparent and impartial. Finally, Shāfi‘ Ibn ‘Alī produced the content of appointment (*taqlīd*), which included the “renewed oath (*‘ahd*) from the commander of the believers to our lord the sultan” and annulled the earlier *fatwā*.⁴⁵¹

Although military power was undoubtedly the decisive factor in appointing a new sultan, what followed was a negotiated process of confirmation in which the ‘*ulamā*’ and administrators commanded a reasonable degree of influence. This was a process of legitimation that was based on reciprocal delegations and appointments between caliph, judges, and sultan, which were drafted and orchestrated by leading judges and secretaries. Shāfi‘ Ibn ‘Alī related that the chief judges “asked our lord the sultan to confirm and renew their appointments to bring bliss upon bliss and so that they can be effective in implementing the law; the sultan confirmed their appointments in the presence of the commander of the believers in the best lawful manner and they [the judges] accepted this rightful appointment and clear delegation.”⁴⁵² Shāfi‘ Ibn ‘Alī explained that he had personally drafted the appointment letters of the judges and enclosed them within the renewed “covenant” by the caliph to the sultan.⁴⁵³ Given the efforts put into it, this procedure of reciprocal appointments and legitimation seems to have been taken relatively seriously. Although it wasn’t a case of appointment in return legitimation, the judges felt influential enough to ask the victorious sultan to confirm their jobs.

Shāfi‘ Ibn ‘Alī carefully differentiated between appointment (*taqlīd*) and delegation (*tafwīḍ*) and highlighted the complex process of drafting both. The

⁴⁵⁰ Ibid., fol. 96a.

⁴⁵¹ Ibid., fol.97.

⁴⁵² Ibid., fol. 96b.

⁴⁵³ Ibid., fol. 96b.

sultan's appointment by the caliph (*taqlīd*) was based on a special form of delegation (*tafwīḍ*), the same delegation of the vizierate (*tafwīḍ muwāzara*) that was discussed above in the *Tahrīr*. The *taqlīd* letter mentioned that both sultan and caliph acted as:

counterparts in mutual cooperation and assistance (*mutakātifīn, mutawāzinīn, muta'āḍidīn*) in the presence of the chief judges of the Muslims in Egypt and Syria, of those travelling and those present, and the prominent *amīrs* who loosen and bind (*umarā' al-ḥall wa al-'aqd*), and those experts who made this delegation impeccable, and the commander of the faithful renounced what he was forced to declare and he renewed the delegation of the vizierate (*tafwīḍ muwāzara*) to our lord the sultan[...]⁴⁵⁴

The author boasted about the role of the chancery experts in securing their sultan an "impeccable" form of delegation, one that could not be questioned in the future.

Shāfi' Ibn 'Alī explained that the authorities granted under this type of delegation of the vizierate (*muwāzara*) included "all the authorities (*wilāyāt*) that exist under the roots of piety", which means the full authorities of the *imām* but within the limitations of the *sharī'a*.⁴⁵⁵ Furthermore, the author detailed the 'constitutional' process of drafting the delegation. First, the chief judges "attested to the delegation and executed it", which means that the judiciary ratified it. In the second step of the process, as Shāfi' Ibn 'Alī explained, the caliph took the delegation to the chancery (*dīwān al-inshā' wa al-mukātabāt*) to "draft" the appointment (*taqlīd*).⁴⁵⁶ At this point, and in a sophisticated division of labour to complete this constitutional process, the

⁴⁵⁴ Ibid., fol. 103b.

⁴⁵⁵ Ibid., fol. 104a.

⁴⁵⁶ Ibid., fol. 104a & b.

experts of the administration drafted the final text of the appointment (*taqlīd*) based on the choice of delegation (*tafwīḍ*) that was ratified by the judges.

Shāfi‘ Ibn ‘Alī produced the content of the appointment (*taqlīd*):

[The commander of the believers] has delegated what falls under the duties and authorities of his caliphate and *imāmate* [in Arabic both *khilāfatuhu* and *imāmatuhu*], from attending [to his subjects], augmented acts of justice, charity, and enquiry [about the subjects' conditions], raising armies, coining his [the sultan's] magnanimous name along with the name of the commander of faithful on the *dirham* and the *dīnār*, assigning duties and dealing with the crooked, raising soldiers and sacrificing himself in fighting the enemies of God, bestowing benevolently, appointing judges and governors and selecting competent regents, raising lawful taxes and spending them on their right ends, and repossessing them from the usurper, attending to the frontiers, carrying out the prescribed punishments (*iqāmat al-ḥudūd*), protecting the lands of Islam, assisting the troubled, striving to reclaim the [corruptly] seized money whether it is one *dirham* or thousands, acting in justice equally to an *amīr* or a common person, attending to the plaintiff, following constantly in his rulings the book [Quran] and the *sunna*, appointing the proper commander to his soldiers [..]⁴⁵⁷

This constitutional process and the ensuing *taqlīd* was a case of *praxis* of Ibn Jamā‘a’s thought. There are several indications that this was indeed a case of putting into practice the *Taḥrīr*’s tripartite conception of *imām*, caliph, and sultan. Firstly, as chief judge Ibn Jamā‘a was at the heart of this process of drafting the *taqlīd*. Secondly, the duties of the sultan as listed in this delegation are reminiscent of the *imām*’s duties as stipulated in the *Taḥrīr* and the *Mukhtaṣar*. Thirdly and most importantly, Ibn Jamā‘a’s mark on this

⁴⁵⁷ Ibid., fol. 104b-105a.

delegation displayed itself in distinguishing between the authorities of caliph and *imām*: this distinction between “*khilāfatuhu*” and “*imāmatuhu*” is a trademark of the *Taḥrīr*. As per the above-mentioned tripartite conception, the coercive sultan might be *imām* in the absence or presence of a caliph. The caliph, on the other hand, was the Qurashī commander of the believers as was, in this case, the nominal ‘Abbāsīd caliph of Cairo. Once the sultan seizes power his delegation becomes effective and he becomes the *imām*. By securing for the sultan the delegation of both offices, caliph and *imām*, Ibn Jamā‘a sealed the delegation impeccably; the eventuality of the caliph al-Mustakfī issuing a future *fatwā* against al-Nāṣir Muḥammad in favour of another wielder of power (like Baybars al-Jāshankīr) was no longer possible constitutionally as he had relinquished his caliphal (i.e his legitimating) authority. As such, Ibn Jamā‘a not only secured for the sultan the full powers of the *imām*, but also any legitimating authority of the caliph. Shāfi‘ Ibn ‘Alī could boast all he wanted about his role in making this delegation impeccable, but Ibn Jamā‘a was the one person in Egypt and Syria who made the distinction between caliph and *imām* in this fashion and the only person who realized its legal consequences in a Mamluk context. Furthermore, Ibn Jamā‘a was the only qualified expert in the political, judicial, and administrative spheres who could navigate such a complex process between caliph, jurists, judges, secretaries, and influential *amīrs*.

The constitutional ideals of the rule of law, limited government, and delegation of power were reflected in the choice of the renewed delegation (*tafwīḍ muwāzara*). This type of *tafwīḍ*, which was carefully selected by Ibn Jamā‘a and other judges, jurists, and chancery secretaries, guaranteed, as explained in the *Taḥrīr*, the full delegation of the *imām*’s powers to the sultan in Egypt and Syria despite the presence of a recognized caliph. Among the various delegations mentioned in the *Taḥrīr*, this selection suited best the interests of the sultan and, concurrently, the various concerns that *ahl al-ḥall*

wa-al-‘aqd may have harboured. It allowed the judges and chancery secretaries to participate in the process of confirming the sultan. The final version of the caliphal appointment (*taqlīd*) mentioned a specific form of delegation (*tafwīḍ*) according to which the caliph, in the event that he wished to do so, could no longer revoke his appointment (*taqlīd*) to the sultan. This may have not been a unique case in the early Mamluk period, but is probably the best-documented case to be found hitherto owing to the meticulous recording of Shāfi‘ Ibn ‘Alī.⁴⁵⁸

Conclusion

Ibn Jamā‘a’s career and political thought edifies about the development of medieval Islamic practicable conceptions of the rule of law. His theory was not a mere repetition of earlier political texts but one shaped by his prominent career and extensive experience in judicial and administrative branches of government, but also one that influenced events in the political sphere. As such, this chapter provided proof that Islamic political thought was not written ‘post-mortem’ or as simple justification of established political realities; rather this thought was at the heart of unfolding political events in what is here termed *praxis* of political thought. While military force was the decisive factor in attaining political power, this thesis showed that there still existed a negotiated constitutional process that rulers seem to have respected and that regulated some aspects of public life.

Ibn Jamā‘a presented a Shāfiī strain of political thought that resembled an official *madhhab* of the state. Within his all-encompassing *Taḥrīr*, the author upheld the ideals of the rule of law, limited government, and delegation of power. Ibn Jamā‘a relied on a long Shāfiī political tradition that included names like al-Māwardī, al-Jūwaynī, al-Ghazālī, and others in order to provide

⁴⁵⁸ Other cases during the reigns of Quṭuz, Baybars, and al-Jāshankīr have already been mentioned and will be considered later in this work.

his own conception of the rule of law. He used Shāfiī legal reasoning and juristic conceptions to provide a new system of checks and balances to limit the sultan's discretionary exercise of power. As such, Ibn Jamā'a argued for a creative tripartite conception of political authorities, *imām*, caliph, and *sultān*. Furthermore and within this concern for the rule of law, he provided a novel approach to the rules of war in Islam. As for the *Taḥrīr*'s concern for limited government, it emerged in promoting the role of the professionalized judiciary and administration and the detailed treatment of various senior offices including viziers, *amīrs*, judges, market inspectors, and others. Such treatment aimed at securing, as much as possible, the interests of the populace, the smooth running of government, and the just dispensing of justice outside the discretionary power of the ruling elites and independently of their struggles. Moreover, the *Taḥrīr*'s theory of delegation aimed at guaranteeing a resilient and legitimate transfer of powers to various sultanic, political, judicial, and administrative authorities. Through this theory, Ibn Jamā'a attempted to guarantee delegation of powers and the proper functioning of government in every eventuality. This thesis showed how the *Taḥrīr*'s theory of delegation was put into praxis during the events that led to the third reign of al-Nāṣir Muḥammad Ibn Qalāwūn.

The synthesis of Ibn Jamā'a was the most articulate expression of the Shāfiī political thought that was contested by other strains of political thought. It resembled an official *madhhab* of the state, a proto-constitution that aimed to provide answers to every aspect of public life: political authority, main offices and functions, justice, administration and taxation, and even the rules of war. Later thinkers saw it in exactly this way. For instance, and as discussed in Chapter 1, subsequent Shāfiī jurists like al-Subkī understood it well and remembered it as the golden age of Shāfiī political thought.⁴⁵⁹

⁴⁵⁹ Al-Subkī, *Muīd*, p. 13-21. After mentioning the caliph, al-Subkī states that the sultan is the greatest *imām* (*al-imām al-a'zam*) (p 13). Consequently, Ibn Jamā'a's tripartite view is

Others, like the Ḥanafī Damascene jurist Najm al-Dīn al-Ṭarsūsī (d. 758/1357), saw it as an expression of political thought that acted as a *de facto* official *madhhab* or a proto-constitution of the state. This motivated al-Ṭarsūsī to propose a Ḥanafī alternative, which he argued would be more suitable for the Mamluk sultanate, as will be discussed in the next chapter.

reiterated by al-Subkī, who considers the sultan to be the most effective – but not the only – form of *imāmate* while still mentioning the caliph.

Chapter 3- An early Ḥanafī bid for official *madhhab* status

This chapter studies a blunt and sweeping Ḥanafī challenge posed to the Shāfiī political thought discussed in the first two chapters. This Ḥanafī challenge was presented by Najm al-Dīn al-Ṭarsūsī (d. 758/1357) in his *Tuḥfat al-Turk fī-mā yajib an yuʿmal fī-al-mulk* (A guide to kingship as a gift for the Turks).⁴⁶⁰ This treatise forthrightly challenged Shāfiī dominance and was an early indication of the Ḥanafī aspiration to become the official *madhhab* of the state, which it later succeeded under the Ottomans. This chapter will show, based on textual analysis, how al-Ṭarsūsī was very much influenced by Ibn Jamāʿa and how his *Tuḥfa* was first and foremost written to contend with the *Tahrīr*. Furthermore, this chapter will argue that while al-Ṭarsūsī offered some concessions to the Mamluks in order to turn them away from the Shāfiīs, he still displayed considerable intransigence towards themes of a constitutional nature like the rule of law and limited government. As I will posit, his academic integrity eventually overcame his *madhhab* factionalism and al-Ṭarsūsī ended up upholding his conception of the rule of law above the concessions that he made to the Mamluk regime. This should not detract from the key point that the *Tuḥfat al-Turk* is the earliest written challenge to Shāfiī political thought proposed in a dedicated treatise; the *Tuḥfa* is furthermore the first known open call to make Ḥanafism the official *madhhab* of the state.

This chapter is divided into four sections. The first part introduces the author and investigates the development of the relation between Ḥanafism

⁴⁶⁰ Al-Ṭarsūsī, *Tuḥfat al-Turk fī-mā yajib an yuʿmal fī-al-mulk*, ed. Riḍwān al-Sayyid (Beirut: Ibn Al-Azraq Center for Political Heritage Studies, 2012). Al-Sayyid's seminal introduction of the *Tuḥfa* was very useful to this research and to all articles published so far on Al-Ṭarsūsī. There are two very useful articles on the *Tuḥfa*: Baki Tezcan, "Hanafism and the Turks in Al-Ṭarsūsī's Gift for the Turks (1352)," *MSR* 15 (2011): 67–86 and Michael Winter, "Inter-Madhhab Competition in Mamlūk Damascus: Al-Ṭarsūsī's Counsel for the Turkish Sultans," *Jerusalem Studies in Arabic and Islam* 25 (2011): 195–211.

and Turkic military dynasties. This section will, furthermore, study the roots of the competition between Ḥanafism and Shāfi'ism and how, by the time al-Ṭarsūsī authored his *Tuḥfa*, political thought provided a better framework than creed for this competition. Finally, this section addresses the more general question of whether there is a *madhhab* that best suits each political regime or whether each *maddhab* was equally capable of collaborating with the ruling elites. The second part of this chapter proposes a new explanation for the legal reforms that Baybars started in 660/1262 by arguing that Baybars attempted to replace Shāfi'ism with Ḥanafism and make it the official *madhhab* of the state. This new postulation examines the wider constitutional implications of Baybars' judicial reform. By looking at the career of the chief judge Ibn Bint al-A'azz and the various aspects of Shāfi'ī legal and administrative dominance, this section studies how and when Syro-Egyptian Shāfi'ism started to behave as an official *madhhab* of the state. Finally, this section assesses to what extent Baybars' coup against the Shāfi'ī *madhhab* succeeded and whether or not Ḥanafism was ready to assume the role of an official *madhhab*. The third section of this chapter examines al-Ṭarsūsī's *Tuḥfa* as a late response to the opportunity that arose from Baybars' reforms. Moreover, this section highlights parallels between the *Tuḥfa* and how later Ottoman Ḥanafism operated in the non-Ḥanafī majority Arab lands. This section covers the wider political implications of al-Ṭarsūsī's legal discussions and, consequently, presents his treatise as being a challenge to the Shāfi'ī *madhhab*. It will show that, first and foremost, the dispute with Shāfi'ism was constitutional, rather than legal or doctrinal, as it focused on the roots of political authority and the various powers that derived from it. Moreover, this section examines the interrelatedness between Ibn Jamā'a's *Taḥrīr* and the *Tuḥfa*. Lastly, section four assesses how successful the *Tuḥfa* was in its bid for official *madhhab* status and the impact off al-Ṭarsūsī's concern for the rule of law and limited government within this bid.

Author, Ḥanafism, and time

There was nothing outstanding about the career of the author of *Tuḥfat al-Turk*. Najm al-Dīn Ibrāhīm Ibn ‘Alī al-Ṭarsūsī (d. 758/1357) was the son of a Ḥanafī chief judge in Damascus and became the deputy (*nā’ib*) to his father. He was later appointed chief judge when his father passed on the post to him. Al-Ṭarsūsī served in the Ḥanafī chief and deputy judgeship for a long period from 746/1346 to 758/1357; his tenure in the two posts was interrupted only once.⁴⁶¹ He served under al-Nāṣir Muḥammad Ibn Qalāwūn and probably authored the *Tuḥfa* under the reign of his son al-Nāṣir Ḥassan (755-762/1354-1361).⁴⁶² Despite the wider political implications of his work, his own personal interests tended towards parochial concerns centred on religious offices and institutions in Damascus, as is evident in his work on the great Umayyad mosque.⁴⁶³ Overall, his list of authored works was mediocre and nothing in the sources points to any exceptional achievement or deed apart from being the descendent of two prominent Ḥanafī families.⁴⁶⁴

Before diving into the textual analysis of the *Tuḥfa*, a discussion is warranted on the development of the relation between Ḥanafism, Shāfi‘ism and those populations labelled ‘Turks’ before the Mamluks.⁴⁶⁵ Since the fifth/eleventh century, the advent of the Saljuqs from the East was a new reality in the Muslim world. As is evident in the biographical dictionaries that confirm the dominance of Ḥanafī scholars throughout Turkish central Asia, the

⁴⁶¹ Refer to Ibn Ḥajar, *al-Durar*, vol. 1, p.43-44; Ibn Taghrībirdī, *al-Manhal al-ṣāfi wa-al-mustawfā ba‘da al-wāfi*, ed. Muḥammad Muḥammad Amīn, vol. 1, 7 vols. (Cairo: al-Hay’a al-Miṣriyya al-‘Āmma li-al-Kitāb, 1984), p.129-130.

⁴⁶² *Tuḥfa*, refer to the editor’s introduction p.23.

⁴⁶³ See below.

⁴⁶⁴ For a good biography of al-Ṭarsūsī refer to another edition of the *Tuḥfa*, ed. ‘Abd al-Karīm Al-Ḥamdāwī (Beirut: Dār Shahāb, 2000). Refer to p.59-60 for more information on the author as descendent of two renowned Ḥanafī families. Otherwise, this is an unused edition in this thesis.

⁴⁶⁵ This chapter uses this term throughout in inverted commas to preserve the sense that al-Ṭarsūsī was trying to convey: the ‘Turks’ here referred to the Mamluks, who were not all Turks or Turkic. Secondary sources like Madelung or Baki Tezcan have also referred to Turks when discussing Seljuqs and Mamluks respectively.

large majority of the Turks were Ḥanafīs and this had significant consequences for Islam.⁴⁶⁶ For instance, Wilferd Madelung discussed how the “militant Ḥanafism of the Turks”, amongst both ruling elites and commoners, fuelled hostility towards Ash‘arism and Shāfi‘ism and how that marked the political and religious life of the Saljuq period.⁴⁶⁷ Some of the differences with Shāfi‘ism found their roots in the early development of the Ḥanafī school. Raḍwān al-Sayyid posited that the participation of early Ḥanafīs and founders of the Ḥanafī school of jurisprudence, like Abū Yūsuf (113/731– 182/798) and Muḥammad al-Shaybānī (132/749-50– 189/805), may have shaped, early on, some trends in the Ḥanafī *madhhab* including loyalty to the sultan and adaptation to the concept of the central state or government. However, al-Sayyid also agreed with Madelung that the zealous attachment to the *madhhab* that originated from the eastern part of the Muslim world with the advent of the Saljuqs was another source of influence on the development of Ḥanafism.⁴⁶⁸

The nature of the competition between Ḥanafism and Shāfi‘ism changed with time. The competition between the two during the fifth/eleventh century was within a specific historical and theological Islamic context and should not be projected onto later periods, despite the persistence of old residue. The *madhhab* competition between Ḥanafīs and Shāfi‘īs during the late Ayyubid and the Mamluk period in the Syro-Egyptian lands, unlike its Saljuq precedent in the East, was not mere factional partisanship (*ta‘aṣṣub*) since it was no longer supported by theological divergence.⁴⁶⁹ The general view during the Mamluk period, as expressed by Tāj al-Dīn al-Subkī, was that

⁴⁶⁶ Madelung, “Spread of Māturīdism”, p.119.

⁴⁶⁷ *Ibid.*, p.126.

⁴⁶⁸ For a very useful discussion on Ḥanafism and the Turks, refer to al-Sayyid’s introduction of the *Tuḥfa*, p.9-21.

⁴⁶⁹ Ibn Ḥajar al-‘Asqalānī related that al-Ṭarsūsī authored a metric poem (*urjūza*) on divergence (*ikhtilāf*) between Ash‘arīs and Ḥanafīs. This indicated that the old theological roots of the competition between Ḥanafism and Shāfi‘ism never disappeared completely. Refer to, *al-Durar*, vol. 1, p.43.

Ash‘arī and Māturīdī theology were essentially identical, thus ending any potential reason for dogmatic rivalry between Ḥanafīs and Shāfi‘īs (this dogmatic harmony did not extend to some Ḥanbalīs as discussed in Chapter 1).⁴⁷⁰ Another difference with the eleventh century context was that there was no or little legal basis to justify, for instance, al-Ṭarsūsī’s attacks on Shāfi‘ism; as al-Sayyid noted, whenever the *Tuḥfa* attempted a legal argument against Shāfi‘ī jurisprudence (*fiqh*) to an audience that was not made of jurists it failed to convince.⁴⁷¹ Juridical differences that may have existed between the two schools did not justify any serious strife between their adherents. The roots behind the competition had changed completely.

Since theology and jurisprudence do not explain the combativeness of the *Tuḥfa* against Shāfi‘ism, *maddhab*-based political thought is a more promising line of enquiry. This chapter will show that this combativeness emanated from al-Ṭarsūsī’s attempt to present Ḥanafism not only as a suitable and friendly *madhhab* to the ruling ‘Turks’, but also as the sole official *madhhab*, and this entailed the total exclusion of others – most notably the Shāfi‘īs – from the administration of the state and the judiciary. Such calls were not novel in the history of the Ḥanafī *madhhab*. There was, for instance, the case of the Ḥanafī Muḥammad Ibn ‘Alī al-Rāwandī in the early years of the thirteenth century, who advocated the removal of all Shāfi‘ī officials and secretaries.⁴⁷² Yet such earlier calls fell within a different theological and historical context as mentioned above. The invitation that al-Ṭarsūsī advanced in his *Tuḥfa* was different for two main reasons: Firstly, it was presented in a treatise of political thought dedicated to presenting political advice and constitutional ideas on the best way to rule, as the title of the *Tuḥfa* clearly

⁴⁷⁰ Madelung, “Spread of Māturīdism”, p.167

⁴⁷¹ *Tuḥfa*, p.39; refer to the useful discussion of the editor p.31-52.

⁴⁷² Al-Rāwandī, *Rāḥat al-ṣudūr* (Cairo: al-Majlis al-A‘lā li-al-Thaqāfa, 2005), p.18 and p.74- 76; al-Rāwandī started writing his work in 599/1202. Madelung explained that in *Rāḥat al-ṣudūr* Ash‘arī and Shāfi‘ī were used interchangeably and hence confirmed the theological nature of the competition; in “Spread of Māturīdism”, p.140.

indicated (a guide to kingship - *fī-mā yajib an yu'mal fī-al-mulk*); secondly, it was an exclusivist call to the Mamluks that incited them to disregard other *madhhabs* (Shāfi'ism most notably) and to consider Ḥanafism as the sole official *madhhab* of their regime. As I will discuss in greater detail below, the *Tuḥfa's* conception of an official *madhhab* was more political than legal and was mostly linked to the exercise and maintenance of sovereignty. This is immediately clear in the *Tuḥfa*, as al-Ṭarsūsī commenced his treatise by claiming that the Ḥanafī *madhhab* was more suitable to the rule of the 'Turks' than Shāfi'ism (*awfaq, aṣlah*).⁴⁷³ Any legal or juridical aspects of the treatise were subordinate to the political challenge to Shāfi'ī dominance.

From a legal or theological perspective, asking which *madhhab* was more suitable to the rule of 'Turks' is a futile question. The question of a specific *madhhab's* suitability to a certain political regime is a matter of the willful choice of its adherents and is not a matter dictated by its jurisprudence or creed. As such, this research is not concerned with establishing whether the Ḥanafī thought of al-Ṭarsūsī was indeed more suitable to the Mamluks than the Shāfi'ī thought as expressed in the *Taḥrīr*. Nor should the later harmony between Ḥanafism and the Ottomans cloud our analysis of the relation between Ḥanafism and Mamluks, or between *madhhabs* and any Islamic sultanate for that matter. Baki Tezcan's investigation of the relation between the adopted *madhhab* of the state and the "political success of the Turks" in the case of the Mamluks is very useful here. He concluded that there was no proof that Ḥanafism was indeed more suitable to the rulers than Shāfi'ism.⁴⁷⁴ In fact Ibn Jamā'a's "constitutional theory", which was discussed in Chapter 2, simply invalidated al-Ṭarsūsī's claims that Shāfi'ism did not recognize the sultanate of the Turks.⁴⁷⁵ Tezcan lucidly concluded:

⁴⁷³ *Tuḥfa*, p.68 and 73.

⁴⁷⁴ Tezcan, "Hanafism and the Turks".

⁴⁷⁵ *Ibid.*, p. 71-72.

Thus, in Egypt under the Turkish Mamluks, we witness an ethnically Turkish rule operating quite well without engaging in an effort to make Hanafism – the legal school adhered to by most of the military establishment – the law of the state. And we see a legal school, Shafi‘ism, the foundations of which go back to the hadith movement that aimed at limiting the law-making capacity of the political authority, cooperating with and even legitimizing a political authority that did not necessarily follow the letter of the law as defined by al-Shāfi‘ī.⁴⁷⁶

That every *madhhab* was perfectly and equally capable of cooperating with the political authority is true and agrees perfectly with the arguments posited in this thesis. However, this does not mean that the Mamluks never attempted to replace Shāfi‘ism with Ḥanafism, as I shall discuss in what follows.

Baybars’ second coup

There was an early Mamluk attempt to make Ḥanafism the official *madhhab* of the state. Two years after the assassination of Quṭuz, Baybars orchestrated his second major political coup, which aimed at ending the Shāfi‘ī dominance over the judiciary and the administration and promoting Ḥanafism instead.⁴⁷⁷ This section argues that this legal reform was, in fact, political reform that was intent on dislodging Shāfi‘ism from its dominant seat and represented an invitation to the Ḥanafīs to assume the official *madhhab* of the state. The events of this coup were as follows: In 660/1262 Baybars instructed the Shāfi‘ī chief judge, Tāj al-Dīn Ibn Bint al-A‘azz, to appoint three deputy judges, a Ḥanafī, a Mālikī, and a Ḥanbalī. Three years later, in 663/1265, the sultan appointed these same three deputies as chief judges, thus ending the Shāfi‘ī dominance over the judiciary in Mamluk realms. Nonetheless, the Shāfi‘īs retained the supervision of the charitable endowments (*waqfs*), the treasury (*bayt al-māl*), and supervision of orphans’

⁴⁷⁶ Ibid., p.77.

⁴⁷⁷ The first coup was the assassination of Quṭuz by Baybars and other Baḥrī Mamluks.

inheritances. This signalled a major break with the legal system instated by Ṣalāḥ al-Dīn in Egypt and Syria. Furthermore, an equally important – yet often overlooked – act of Baybars' coup was to open a second congregational mosque in Cairo. In 664/1266, Friday prayer was held again in al-Azhar mosque under Baybars' rule. These swift and concomitant major changes could not have been based on mere legal, let alone theological, considerations. The significance of these developments will be explored later.

A new explanation for these drastic changes of the early Mamluk period is proposed here. What secondary literature has often considered legal reform was in fact, similarly, a political coup launched by Baybars against Shāfi'ism, the dominant *madhhab* of Egypt since the days of Salāḥ al-Dīn. By the reign of Baybars, as I will show, some Shāfi'īs started to perceive their school as the official *madhhab* of the state. In response to that, Baybars attempted to establish Ḥanafism as the new – or perhaps a parallel – official *madhhab* of the state. Accordingly, the reform was an attempt to curtail existing Shāfi'ī thought, which considered itself the official *madhhab* of the Ayyubid and its Mamluk successor state, and all that entailed in terms of the Shāfi'ī prerogative of political legitimation of Mamluks, maintenance of Mamluk rule, and sharing the executive power (political, judiciary, and administrative) with the ruling elites. Baybars – for mostly political reasons – and the jurists of other *madhhabs* – for legal and practical reasons – were not satisfied with this dominance. Baybars' rule presented the opportune moment for drastic change. Nevertheless, as I will discuss subsequently, this reform was a missed opportunity since Ḥanafism was not ready to seize the moment and, as such, al-Ṭarsūsī's *Tuḥfa* marked a late acknowledgment of this and a renewed bid for the status of an official *madhhab*.

This new postulation joins a range of existing explanations for Baybars' legal reforms. Wilferd Madelung, for instance, placed the reforms within a wider ideological project, arguing that “the equality and full orthodoxy of the

four Sunnite *madahib*” became an official Mamluk policy that aimed to achieve “Conformist Sunnite solidarity”.⁴⁷⁸ Likewise, Raḍwān al-Sayyid, believed Baybars’ concern for Sunnī unity motivated his judicial reform.⁴⁷⁹ On the other hand, Joseph H. Escovitz, the first scholar to dedicate works to this topic, argued the legal reform was “more evolutionary than revolutionary”.⁴⁸⁰ Escovitz traced the start of the legal reform to the establishment of the four professorships of *fiqh* under al-Ṣāliḥ Ayyūb and, later, to Baybars’ appointment of deputies (*nuwwāb*) from other *madhhabs* under Ibn Bint al-A‘azz.⁴⁸¹ Escovitz espoused Ibn ‘Abd al-Zāhir’s official narrative justifying the reform: scholars of all *madhhabs* flocked to Cairo as it had become the centre of power in Islam and since the population had been increasing owing to the influx of refugees from East and West.⁴⁸² Later, Jorgen S. Nielsen posited that Baybars’ legal reform reflected a Mamluk tendency to promote Ḥanafism at the expense of Shāfi‘ism.⁴⁸³ Nielsen, likewise, identified the start of the reform in the year 660/1262 when Baybars instructed Ibn Bint al-A‘azz to appoint three deputies and, in the following year, ordered him to appoint four deputies, one for each *madhhab*; yet this did not resolve the grievances against Ibn Bint al-A‘azz’s interference in the affairs of other schools and Baybars eventually resorted to appointing four chief judges.⁴⁸⁴ Following that, Louis Pouzet

⁴⁷⁸ Madelung, “Spread of Māturīdism”, p. 166.

⁴⁷⁹ *Tuḥfa*, p.15-20.

⁴⁸⁰ Joseph H. Escovitz, “The Establishment of Four Chief Judgeships in the Mamlūk Empire,” *Journal of the American Oriental Society* 102, no. 3 (1982). p. 531.

⁴⁸¹ *Ibid.*, p.529.

⁴⁸² *Ibid.*, p.530-531. Escovitz pointed out that even after the reform the Shāfi‘ī chief judge still enjoyed the prerogative of approving wills and retained his precedence over other chief judges, as he “sat to the right of the sultan in the sessions of the *dār al-‘adl*, followed by the Ḥanafī, Mālikī, and Ḥanbalī judges.” This order changed under al-Nāṣir Muḥammad, as the Ḥanafī chief judge, followed by the Ḥanbalī, were moved to the sultan's left. Escovitz saw this as a boost to the status of the Ḥanafī chief judge, although still inferior to the Shāfi‘ī chief judge, who sat to the right of the sultan.

⁴⁸³ Nielsen, “Appointment of Four Chief Qāḍīs”, *passim*.

⁴⁸⁴ *Ibid.*, p.169-171. Nielsen confirms that, despite the reform, the favourite status of the Shāfi‘ī chief judge was evident as he still controlled the “*waqfs*, the *bayt al-māl* and the financial trusteeship of orphans.”

argued, Baybars' aim was "*diviser pour regner*"; in addition to the direct reasons mentioned by the sources, the reform was motivated by some "*raisons d'État*" whereby Baybars aimed at breaking the extensive authority of the *qāḍī*.⁴⁸⁵ Sherman Jackson's thesis, on the other hand, maintained that Baybars needed to keep Ibn Bint al-A'azz as chief judge as he was "politically indispensable" but, equally, the sultan had to restrain the latter's intransigence and exclusivist legal policies towards the other three *madhhabs*.⁴⁸⁶ For Jackson, Baybars – being politically pragmatic – never really attempted to dislodge Shāfi'ism. Although he accepted the growing influence of the Ḥanafīs, Jackson considered that Nielsen exaggerated their sway during the early Mamluk period.⁴⁸⁷ Finally, Yossef Rapoport believed the appointment of four chief *qāḍīs* was an institutional reform to create a uniform and flexible legal system that allowed plaintiffs to select what fitted their interest from the four *madhhabs*.⁴⁸⁸

This section does not challenge any of the existing cogent postulations but builds on them to provide a new framework that captures the broader constitutional implications of this reform. The newly proposed explanation highlights the important political and constitutional implications of the reform. If anything, the new postulation accommodates various factors including domestic politics, demographical changes and practical considerations, mere attempts to reform the existing legal system, an all-inclusive sultanic gesture towards the four legal schools, the rise of Ḥanafism, the deliberate attempt to favour Ḥanafism while retaining the primacy of Shāfi'ism, and the reaction to the exclusivist policies of the Shāfi'ī chief judge and his dominant *madhhab*.

⁴⁸⁵ Louis Pouzet, *Damas au VIIe-XIIIe siècle: vie et structures religieuses d'une métropole islamique*, 2. (Beyrouth: Dar el-Machreq, 1991), p.108-110

⁴⁸⁶ Sherman A. Jackson, "The Primacy of Domestic Politics: Ibn Bint Al-A'azz and the Establishment of Four Chief Judgeships in Mamlûk Egypt," *Journal of the American Oriental Society* 115, no. 1 (1995): 54 and 65.

⁴⁸⁷ *Ibid.*, p.55.

⁴⁸⁸ Yossef Rapoport, "Legal Diversity in the Age of Taqlīd: The Four Chief Qāḍīs under the Mamluks," *Islamic Law and Society* 10, no. 2 (2003): 210 and 226.

Ibn Bint al-A‘azz embodied everything that Baybars and other *madhhabs* abhorred about Shāfi‘ī dominance. Ibn Bint al-A‘azz, started his public career as a superintendent (*nāẓir*) of a *madrasa*, he served in the treasury under al-Malik al-Kāmil (r. 615/1218 - 635/1237), he assumed the important role of superintendent of governmental offices (*nāẓir al-dawāwīn*) under al-Ṣāliḥ Ayyūb (r. 1240–49), he was even appointed *wazīr* under al-Ṣāliḥ, he later combined the vizierate and the chief judgeship in the very early Mamluk period under Aybak, Quṭuz (known to be Ḥanafī) removed him from the vizierate in 657/1259 only to be reinstated by Baybars in 659/1261, and he even became the head of the Sufis (*shaykh al-shuyūkh*), all of that is in addition to holding various prominent teaching positions.⁴⁸⁹ As such, Ibn Bint al-A‘azz’s career reflected the above-mentioned Shāfi‘ī sway over the legal, judicial, administrative, and even political leading offices of government.⁴⁹⁰ Yaacov Lev considered that Ibn Bint al-A‘azz’s career epitomized “the interdependence between the *ulama* and rulers”.⁴⁹¹ Perhaps, interdependence between Shāfi‘ī ‘*ulamā*’ and rulers would have been an even more illustrative description of what this chief judge’s career represented.

It should be noted that, prior to Ibn Bint al-A‘azz, Syro-Egyptian Shāfi‘ism started behaving as an official *madhhab*. For instance, a legal development like the principle of “adherence to established school doctrine” (*taqlīd*) required the judges to observe the dominant opinion within their *madhhab* before passing on decisions.⁴⁹² Such a principle was a practical step towards setting dominant trends within and amongst *madhhabs*; this approach later became a cornerstone in the implementation of Ḥanafism as an official *madhhab* in the Ottoman-ruled Arab lands that will be discussed in

⁴⁸⁹ Refer to Jackson, “Domestic Politics”, p.59-60 and Lev, “Symbiotic Relations: Ulama and the Mamluk Sultans,” *Mamlūk Studies Review* 13, no. 1 (2009): 15.

⁴⁹⁰ Ibn Bint al-A‘azz’s career did not differ much from that of Ibn Jamā‘a, the latter was simply more acquiescent in managing the relation with the ruling elites.

⁴⁹¹ Lev, “Symbiotic Relations”, p.15-16.

⁴⁹² Refer to Rapoport’s very useful discussion in, “Legal Diversity”, p.213-215.

detail below.⁴⁹³ Before Ibn Bint al-A‘azz, prominent Shāfiī jurists, including Ibn al-Ṣalāḥ (d. 643/1245) and Ibn ‘Abd al-Salām (d. 660/1262), maintained that rulings by a judge should adhere to his *madhhab* as did later jurists like al-Subkī.⁴⁹⁴ Furthermore, the Shāfiī prerogative of political legitimation of ruling elites had its roots in Ayyubid Damascus as discussed extensively in Chapter 1. Lastly, the dominance over administrative posts, which gave the Shāfiīs a true sense of sharing executive power with the military ruling elites, was a reality by the time of Ibn Bint al-A‘azz.⁴⁹⁵ The new sultan, however, was not the acquiescent type.

There were both antecedent and imminent factors that prompted Baybars to act swiftly against the Shāfiī tendency to operate as an official *madhhab* and to favour the Ḥanafīs. Before and during the reign of Baybars some Shāfiīs, like Ibn Bint al-A‘azz and Ibn ‘Abd al-Salām, had operated, consciously or not, as if theirs was the official *madhhab* of the state. As discussed in Chapter 1, both al-Ṣāliḥ Ayyūb and Baybars had shown signs of discomfort towards the authority of Ibn ‘Abd al-Salām. This persisted well into the reign of Baybars who had, for instance, to accept the Shāfiī prerogative to legitimate political authority when Ibn ‘Abd al-Salām and Ibn Bint al-A‘azz led the processes of investing the first two ‘Abbāsīd caliphs of Cairo.⁴⁹⁶ Another grievance against Ibn Bint al-A‘azz concerned the way he exercised the Shāfiī prerogative to control the judiciary. This grievance not only came from Mamluk *amīrs* but also from other *madhhabs*.

Yet Baybars’ main concern was the implications of the Shāfiī chief judge’s comportment on the public and political sphere. Ibn Bint al-A‘azz

⁴⁹³ Refer to Rudolph Peters, “What Does It Mean to Be an Official Madhhab: Hanafism and the Ottoman Empire,” in *The Islamic School of Law: Evolution, Devolution, and Progress*, ed. P. Bearman, R. Peters, and F. Vogel (Cambridge MA: Harvard University Press, 2005), 147–58.

⁴⁹⁴ Rapoport, “Legal Diversity”, p.214.

⁴⁹⁵ There is no secondary literature yet that focus on this rather obvious and important observation.

⁴⁹⁶ Refer to Chapter 1.

epitomized everything that Ibn ‘Abd al-Salām’s image came to represent in the Shāfiī collective memory and this was one legacy that Baybars had no good reason to cherish. After all, we are told by the sources that Ibn ‘Abd al-Salām refused to legitimize Baybars’ rule until he was persuaded that the sultan was free and no longer a slave. Still fresh were the memories of the intransigence of Ibn ‘Abd al-Salām in legal matters, taxation, and even his refusal to appoint his own son as judge at the behest of the sultan.⁴⁹⁷ Similarly, Ibn Bint al-A‘azz was a just *qāḍī* who firmly controlled all aspects of his court and of the pious endowments. Like Ibn ‘Abd al-Salām, he showed no preference whatsoever to influential individuals and defended the populace against any unjust taxation.⁴⁹⁸ As vizier, Ibn Bint al-A‘azz ended an unlawful tax that was collected to finance military preparations against the Mongols, the very tax that Ibn ‘Abd al-Salām had rejected, in his famous *fatwā*, unless the Mamluk *amīrs* succumbed to his conditions.⁴⁹⁹ Consequently, Ibn Bint al-A‘azz was often accused of being a Shāfiī “zealot” (*muta‘aṣṣib*), who consistently marginalized his peers from other *madhhabs*.⁵⁰⁰ Yet Ibn Bint al-A‘azz’s zeal was simply a contemporaneous description of his attempts to enforce Shāfi‘ism as the official *madhhab* of the Mamluk state whereby Shāfiī jurists held the prerogative to legitimize the rulers, control the judiciary, and make the laws. Baybars envisaged ending this once and for all.⁵⁰¹

⁴⁹⁷ Al-Yūnīnī narrated that Ibn Ḥannā, the vizier of Baybars proposed on behalf of the latter that Ibn ‘Abd al-Salām’s son would take over his post after his death. To this offer, Ibn ‘Abd al-Salām replied, “my son is not fit for this”; when the vizier asked, ‘how shall your son subsist?’ Ibn ‘Abd al-Salām replied, “*fa min ‘ind Allāh!*” (Leave this to God). Refer to al-Yūnīnī, *Dhayl mir‘āt al-zamān* (Beirut: Dār al-Kutub al-‘Ilmiyya), v. 17, p.242-243.

⁴⁹⁸ Refer to Chapter 1 on Shāfiī political prerogatives.

⁴⁹⁹ For more on this tax refer Lev, “Symbiotic Relations”, p.15-16; for more on Ibn ‘Abd al-Salām’s famous *fatwā* on this tax, refer to Chapter 1.

⁵⁰⁰ Lev, “Symbiotic Relations”, p.15-16.

⁵⁰¹ Some similarities with Nielsen’s thesis should be highlighted. Nielsen discussed the political implications of Baybars’ legal reform but limited it to a perceived general Mamluk strategy to favour the Ḥanafī *madhhab*. Nevertheless, he highlighted the interrelatedness between Shāfiī dominance over the judiciary and the political legitimacy of the Mamluk sultan. Furthermore, he related the refusal of Ibn ‘Abd al-Salām to swear allegiance to

Baybars dealt Shāfiī dominance another serious blow when he sanctioned the reopening of al-Azhar as a congregational mosque.⁵⁰² The affair of al-Azhar mosque warrants a closer look as it alleviates any doubt that the sultan was set on undermining the Shāfiī political, administrative, and legal influence and on promoting Ḥanafism as an alternative official *madhhab*. The re-opening of al-Azhar for Friday prayers was not a mere legal dispute between *madhhabs* or among jurists and *amīrs*, but a major challenge to Shāfiī political thought. Opening a new congregational mosque could not have contributed in any way to reforming a legal system or to countering exclusivist policies of the chief justice; it was a political act pure and simple. It was a central part of Baybars' political coup, whose chief objective was to undermine the Shāfiī prerogative of legitimation whereby any Shāfiī sermon giver (*khaṭīb*) could simply remove the name of the ruler from the *khuṭba*. As discussed in Chapter 1, there was a precursor to this in what Ibn 'Abd al-Salām had done in Ayyubid Damascus to sultan al-Ṣāliḥ Ismā'īl; in Cairo, al-Ṣāliḥ Ayyūb had specifically been warned against this and advised to remove Ibn 'Abd al-Salām from the *khuṭba* in Cairo so the latter did not attack him as he had attacked al-Ṣāliḥ Ismā'īl over his alliance with the Franks.⁵⁰³ With more than one Friday prayer in Cairo, Baybars no longer faced the threat of his name being removed from the *khuṭba* by a single sermon-giver.⁵⁰⁴ That was

Baybars until he was convinced that Baybars was freed and noted that this was an issue of legitimacy first and foremost. He also incorporated in his explanation of the reform the reopening of al-Azhar mosque for Friday prayers. Refer to "Appointment of Four Chief Qāḍīs", p. 172-173.

⁵⁰² Although Nielsen spotted the political implications of al-Azhar's reopening, he still limited its relevance to the feud between Ibn Bint al-A'azz's and the Ḥanafī *amīr* 'Izz al-Dīn Aydamur al-Ḥillī; "Appointment of Four Chief Qāḍīs", p.173.

⁵⁰³ Refer to Chapter 1 for a detailed discussion of these incidents.

⁵⁰⁴ Doris Behrens-Abuseif discussed the "decentralizing effect" that Baybars' decision had on Cairo. She also noted other important factors: the attachment of the powerful Banu Hanna family of *wazīrs* and bureaucrats to Fustat and the "urban development project" of Aybak al-Afram in the southern outskirts of Fustat. Refer to, "The Mamluk City," in *The City in the Islamic World*, ed. Salma K. Jayyusi, vol. 1, 2 vols., Handbook of Oriental Studies, Section 1, the Near and Middle East 94 (Leiden: Brill, 2008), 297–316.

the essence of the controversy of reopening al-Azhar mosque; the fact that Baybars did not attend the inauguration prayer there only confirmed the true intentions behind the re-opening.⁵⁰⁵

The later Shāfiī reactions to these changes confirmed that what was really at stake was their *madhhab's* political influence. The later historiographical responses reflected that Shāfiīs interpreted Baybars' reforms as a coup against their political, legal, and administrative dominance and as an attempt to strip them of their status of official *madhhab*. To the Shāfiīs, one Friday prayer led or sanctioned by one chief judge also meant one source of political legitimation, one source of public law, and, as such, one official *madhhab*. Accordingly, they had no doubt that their *madhhab's* dominance was directly connected to the legitimacy and longevity of the ruler's reign. For instance, al-Subkī later commented that if a sultan abandoned the Shāfiī *madhhab* his rule would rapidly end citing the case of Quṭuz, whose sultanate was very short since he remained a Ḥanafī.⁵⁰⁶ Other Shāfiī historiographical accounts related that al-Shāfiī himself reprimanded Baybars in his dream for the legal reform; moreover, Baybars appeared after his death in some dreams admitting that God had reproached him for ending Shāfiī dominance over the judiciary.⁵⁰⁷ Legitimacy and maintenance of rule were closely connected to Shāfi'ism being the official *madhhab*, as evident in the Shāfiī reactions to the Ḥanafī encroachment induced by Baybars' coup.

Yet Baybars' second coup did not fully succeed, as it was premature. Whatever plans Baybars had in mind for the Ḥanafī *madhhab*, be it a new official *madhhab* or a dual *madhhab* system, came to face the reality that the Ḥanafīs were not yet ready to assume this role.⁵⁰⁸ They were unprepared to

⁵⁰⁵ Nielsen, "Appointment of Four Chief Qāḍīs", p.173.

⁵⁰⁶ Ibid, p.173; Chapter 1 discussed how al-Subkī had a conception of politics as being intermingled with the politics of the *madhhabs*.

⁵⁰⁷ Nielsen, "Appointment of Four Chief Qāḍīs", p. 173-174.

⁵⁰⁸ The connection between Baybars and Hanafism is still unclear. Nielsen makes the good

make a full compromise whereupon Ḥanafism became the official *maddhab* of the Mamluk state in return for full and unconditional cooperation with the sultan. Baybars realised this three years later, when he failed to get his rights recognised over re-conquered lands from the Mongols in the Ghūṭa area surrounding Damascus. Many jurists refused and maintained that the lands should be returned to the original owners. Ironically, it was the Ḥanafī chief judge of Damascus who led the successful opposition to Baybars.⁵⁰⁹ The matter of Ghūṭa signalled that the Ḥanafīs of the central Islamic lands, unlike their counterparts in the East and in Anatolia, were still not ready to make the concessions to a ruler that would be expected from an official *madhhab* of the state. Indeed, that may have been what Baybars expected from the Ḥanafīs when he initiated his reforms. This may have prompted the sultan, and later ones, to look for less conventional alternatives among the Sufis (as will be discussed in Chapters 4 and 5). In the shorter term, Baybars had to re-accommodate himself with the Shāfiʿī sway. Nevertheless, Baybars' coup set in motion an irreversible trend of changes that challenged the as yet unchecked Shāfiʿī dominance.

The Ḥanafī late acknowledgement

Al-Ṭarsūsī's *Tuḥfa* was a very late Ḥanafī response to Baybars' coup and the opportunities that it presented. It should be examined as an overdue work of Ḥanafī political thought with the political and constitutional backdrop of the early Mamluk period in mind. Baybars' judicial reform signalled the start of

point that Baybars empowered Hanafism in ways unprecedented before by appointing a Ḥanafī *qāḍī* in important teaching posts and, for the first time in Cairo, to the *khutba*. He also noted Baybars' close connection to the Ḥanafī chief *qāḍī*, who accompanied Baybars on his military campaigns on his pilgrimage trip to Mecca; in "Appointment of Four Chief Qāḍīs", p.174-175. On the other hand, Jacqueline Sublet believed Baybars was a Ḥanafī; refer to Jacqueline Sublet, "Le Sequestre Sur Les Jardins de La Ghouta (Damas 666/1267)," *Studia Islamica*, no. 43 (1976): 81–86. However, there is no direct proof for that outside a generalization that the 'Turks' are generally Ḥanafī, which is an unfounded generalization especially in the context of the early Mamluk period.

⁵⁰⁹ Nielsen, "Appointment of Four Chief Qāḍīs", p.174-175. Refer to Sublet, "Le Sequestre".

a new phase of searching for an official *madhhab* with the prerogative of defining the law of the state; the *Tuḥfa* was the long-overdue Ḥanafī application for this opening. This phase of Mamluk history witnessed a growth in the production of works of political thought and a competition amongst various proposals that were presented to Mamluk sultans and *amīrs* in order to guarantee the position of the official *madhhab* or, at least, the favourite or preferred one. However, when Baybars provided the Ḥanafīs a golden opportunity, they failed to grasp it until al-Ṭarsūsī finally succeeded in articulating in his treatise a Ḥanafī strand of political thought that could have satisfied Baybars' quest for an official *madhhab*. True the *Tuḥfa* arrived sixty years too late, but it showed that al-Ṭarsūsī believed the Ḥanafīs were now ready to make the long-awaited compromise: support (albeit conditional) for the ruling regime in return for the prerogative to make the law of the state.

The *Tuḥfa* reflected a will to strike this compromise and was authored as a Ḥanafī bid to become the official *madhhab* of the Mamluk sultanate. Al-Ṭarsūsī's treatise was exactly what its title claimed: advice to the Mamluks on selecting the *madhhab* most suitable for their rule and to make it the only *madhhab* with the prerogative to determine the law of the state. Al-Ṭarsūsī outlined this process in his proposal on letters of appointment to judges, as I will discuss comprehensively below. In this proposal, which appears in section three of the *Tuḥfa*, he lays down guidelines for a process to establish an official legal system by a) ensuring an overall Ḥanafī dominance b) recognizing an authoritative set of opinions within the Ḥanafī *madhhab*, and c) attempting to set authoritative trends within other *madhhabs*. There are surprisingly profound parallels between what al-Ṭarsūsī called for in his *Tuḥfa* and how Ottoman Ḥanafism managed the conquered non-Ḥanafī majority Arab lands.

Rudolph Peters' discussion on the emergence of a distinctive Ottoman Ḥanafism between the twelfth and sixteenth centuries is very useful here.⁵¹⁰ Through close cooperation between the state and Ḥanafī jurists, the Ottoman process of creating an official *madhhab* was based on creating a body of law that did not leave much room for the “judicial discretion on points of law”.⁵¹¹ Peters explained how this was done in the Ottoman case and the roles of the jurists and the state in making it happen. Starting from the late-twelfth to the sixteenth century, Ḥanafī jurists built a “hierarchy of authority” within their *madhhab* for various questions and matters; at the end of the period they managed to produce standardized ‘textbooks’ that mentioned all opinions and trends within the *madhhab*. Clearly, the Ḥanafī jurists favoured some opinions over others and thus assigned dominant trends of opinions on various issues. The state appointed Ḥanafī judges who unequivocally endorsed the administrative structure and decisions of the state. Furthermore, the role of the state included forbidding judges from following the opinions of other *madhhabs* on specific matters up to enforcing specific opinions within the Ḥanafī *madhhab* and, in some cases, outside the Ḥanafī *madhhab*. The state thus made some opinions within the Ḥanafī *madhhab* authoritative, and Ḥanafī legal textbooks were developed based on those opinions that as such resembled a code.⁵¹² Consequently, the Ottomans preserved the existing legal diversity but placed the judges of other *madhhabs* as deputies under a Ḥanafī chief judge, thus returning to a pre-Baybars reform era. Under the new Ḥanafī dominance, decisions by other *madhhabs*' judges had to be enforced by the Ḥanafī chief judge in order to be executed.

The Ottomans' process of making Ḥanafism the official *madhhab* and their management of the conquered Arab lands resembled to a remarkable

⁵¹⁰ Peters, “What Does It Mean”, p. 147.

⁵¹¹ *Ibid.*, p.147.

⁵¹² *Ibid.*, p.158.

extent the suggestions advanced by al-Ṭarsūsī to his own ‘Turks’, the Mamluks. This is evident in section three of the *Tuḥfa* where al-Ṭarsūsī discussed the appointments of *qāḍīs* by the sultan.⁵¹³ Arguably this is one of the most noteworthy sections of the *Tuḥfa*, as it reflected a trend to ‘normalize’ law-making within each *madhhab* and among the four *madhhabs*. Al-Ṭarsūsī, in his attempt to define the proper way to appoint *qāḍīs* from various *madhhabs*, took it upon himself to define the prevailing legal trends within each of the four *madhhabs*, trends that he deemed acceptable. As mentioned above, one can easily identify parallels with the Ottoman handling of multi-*madhhab* judges in the Arab lands a century and a half later. For instance, starting with the Ḥanafī candidate for the office of judgeship, al-Ṭarsūsī proposed that the sultan’s authorization for the judge’s letter of appointment (*taqlīd*) should contain precise rules regarding matters like marriages of minors and appointment of deputy judges.⁵¹⁴ As such, the letter of appointment should instruct the Ḥanafī judge to follow the *madhhab*’s dominant views of Abū Ḥanīfa, Abū Yūsuf, and Muḥammad al-Shaybānī when passing a court ruling. This is reminiscent again of the Ottoman trend to empower specific dominant trends within the Ḥanafī *madhhab*. Furthermore, al-Ṭarsūsī demanded that the letter of appointment (*taqlīd*) of the Shāfi‘ī judge should stipulate that the *qāḍī* follows – what the author considered to be – the dominant trends within the Shāfi‘ī *madhhab*; those normative trends included al-Shāfi‘ī and al-Nawawī.⁵¹⁵ Remarkably, al-Ṭarsūsī named al-Ghazālī – an influential Shāfi‘ī political thinker – among those Shāfi‘ī thinkers that a judge should avoid following on the grounds of the accusation that they were ‘weak’, eclectic, and inconsistent. The *taqlīd* should also stipulate that no *zakāt* was to be taken from orphans as the Shāfi‘īs maintained. Likewise, the Mālikīs did

⁵¹³ *Tuḥfa*, p.85-95.

⁵¹⁴ Letters of *taqlīd* are not to be confused with the process of *taqlīd* or the “adherence to established school doctrine”.

⁵¹⁵ *Tuḥfa*, p.89-90.

not escape al-Ṭarsūsī's normative approach; they were subject to the author's prejudices and innuendoes, and their *taqlīd* was extra rigorous. The list of Mālikī jurists to avoid included al-Qarāfī, whom al-Ṭarsūsī accused of having "poor knowledge" of his own *madhhab*, and the renowned Mālikī political thinker al-Ṭurṭūshī (451/1059 – 520/1126 or 525/1131). Moreover, the *taqlīd* of the Mālikī judge, the author insisted, ought to instruct the judge on various rulings that should be prevented. One gets the impression that al-Ṭarsūsī was diffusing a sense of scandal in the whole discussion of Mālikism through his selection of topics: eating of dog-meat, sodomy, and the inclination to flippantly pass death sentences. Furthermore, the author tried to suggest that Mālikism was a fading *madhhab*. The Ḥanbalīs were next and here al-Ṭarsūsī focused on theological issues that the *taqlīd* should stipulate.⁵¹⁶ He mentioned Ibn Taymiyya among those jurists who should be shunned. Al-Ṭarsūsī finally argued that the sultan's appointment letter to a Ḥanbalī judge should forbid him from allowing marriages of minors.

Like the Ottomans, al-Ṭarsūsī attempted to provide the sultan with some control over law-making. Attempting to enforce specific juridical trends on the appointed judges of various *madhhabs* would have led ultimately to similar consequences as the appointment of jurisconsults (*muftis*) by the Ottoman state. In his seminal work, which covered the rise of Ottoman Ḥanafism as an official *madhhab* during the post-Mongol period, Guy Burak explained that with the Ottoman conquest of Syria and Egypt two fundamentally different conceptions of the relationship between the jurisconsult and political authority came into contact.⁵¹⁷ The existing model maintained that law-making was completely independent from the sultan, while the Ottoman opinion was that the sultan should appoint, and hence

⁵¹⁶ *Tuḥfa*, p.93-95.

⁵¹⁷ Guy Burak, *The Second Formation of Islamic Law: The Ḥanafi School in the Early Modern Ottoman Empire*, Cambridge Studies in Islamic Civilization (New York: Cambridge University Press, 2015), p. 22.

control, the *muffīs*.⁵¹⁸ In the Mamluk lands as in pre-Ottoman Islam in general, the judge – unlike the *muffī* – was appointed by the sultan and while the court’s decision was binding, the legal opinion of a jurisconsult was not.⁵¹⁹ On the other hand, as the office of *ṣeyhülislâm* became the “chief source of juristic authority” in the Ottoman realms, his legal opinions became binding and enforceable and had to be followed by provincial and lesser *muffīs* and judges.⁵²⁰ Yet the *ṣeyhülislâm* and the *muffīs* were appointed and removed by the sultan; the *ṣeyhülislâm* even needed the sultan’s approval of his opinions. Burak concluded that accordingly “the Ottoman sultan (and dynasty) shaped the doctrine of the school.”⁵²¹ Similarly, al-Ṭarsūsī had attempted to give the sultan and political authority sway over law-making through his suggested stipulations in appointment letters for judges.

The above legal discussion should not distract us from the fact that the *Tuḥfa* was, first and foremost, a political treatise. It treated topics of political and constitutional relevance such as legitimacy of the ruler and the validity of his appointments to the main offices of the state. Section one of the *Tuḥfa* was entitled *Regarding the legitimacy of the sultanate of the Turks*.⁵²² In this section, al-Ṭarsūsī made his main sales pitch by claiming that the Ḥanafīs, unlike the Shāfiīs, considered that the *sulṭān* need not be of Qurashī descent or a learned individual who is capable of exercising independent reasoning (*mujtahid*). In order to sustain his claim, the author quoted the pillars of the Shāfiī *madhhab*: al-Shāfiī himself, al-Māwardī, and al-Nawawī. Most cunningly, al-Ṭarsūsī reproduced al-Māwardī’s seven stipulated requirements for the candidature to the *imāmate* as listed in the latter’s *Aḥkām*, which

⁵¹⁸ Burak, *The Second Formation*, p. 22

⁵¹⁹ *Ibid.*, p. 29. Burak correctly noted that under the Mamluks, the *muffīs* were not holders of an official religious position. The only exceptions were the *muffī* of “the Hall of Justice (*Dār al-‘Adl*), the superior sultanic (*Mazālim*) court presided over by either the Mamluk sultan (in Cairo) or his deputy (in Syria)”, which were still not enforceable opinions.

⁵²⁰ *Ibid.*, p.39 and p.42 and to chapter one on the *muffīs*, *passim*.

⁵²¹ *Ibid.*, p.64.

⁵²² *Tuḥfa*, p.71-78.

included the requirement for a Qurashī descent (*nasab*), and concluded,

They all [Shāfiīs] stipulated that the sultan be a Qurashī and a *mujtahid*. This excludes Turks and ‘Ajam; as such, the sultanate of the Turks is prohibited, so is all their appointments [...] this represents a grave damage to the sultan as it averts his subjects away from him, it weakens the loyalty of the soldiers, and has many similar consequences. For this, we have stated that our *madhhab* is more suitable (*awfaq*) to the Turks, and more appropriate than the Shāfiīs.⁵²³

In this section of the *Tuḥfa*, al-Ṭarsūsī distorted Shāfiī sources by confusing the requirements of the *imām* (unequivocally meaning the caliph in this case) with those of the sultan. Al-Sayyid, and later Tezcan and Winter, noted that al-Ṭarsūsī made a “fallacious argument”, twisted the facts, and was “deliberately using a misleading argument” when he suggested that according to Shāfiī thought the sultan should be Qurashī and a *mujtahid*.⁵²⁴ Most flagrantly, he distorted the thought of al-Māwardī, who is well known for legitimating the rule of coercive power, which means the rule of the sultan as holder of military power. Needless to say, Al-Māwardī’s requirement for descent from Quraysh was reserved for the caliph. Furthermore, al-Ṭarsūsī even misrepresented Ḥanafī sources that considered descent from Quraysh as a requirement for the caliph.⁵²⁵ However, there was a deeper meaning embedded in al-Ṭarsūsī’s argument, one that was related to the contention with Ibn Jamā‘a’s *Taḥrīr* and its tripartite conception of political authority, I will come to this later in the chapter.

Al-Ṭarsūsī listed thirteen matters concerning which, he argued,

⁵²³ *Tuḥfa*, p. 73.

⁵²⁴ Refer to editor’s introduction in *Tuḥfa*, p.33; Tezcan, “Hanafism and the Turks”, p.69-70; and Winter, “Inter-Madhhab Competition”, p.197.

⁵²⁵ Tezcan, “Hanafism and the Turks”, p.69. Refer to Tezcan’s very useful footnote 8 on the issue of the misrepresentation of Ḥanafī sources; he noted, “Yet descent from Quraysh as a condition for the imam had been accepted in Hanafi circles elsewhere.”

Ḥanafism was more appropriate for the Turks than Shāfi'ism.⁵²⁶ As the recent studies of Sayyid, Tezcan, and Winter have shown, some of the claims he made were exaggerated or simply untrue; yet what really matters here was al-Ṭarsūsī's declaration of a Ḥanafī wilfulness to increase the sultan's control over the private and public spheres. In this, I argue, the *Tuḥfa* resembled – and perhaps was a precursor to – later developments under the Ottomans. First, al-Ṭarsūsī granted the sultan the right to rent out any *kharāj* land without the consent of its owner.⁵²⁷ Second, he gave the sultan control of conquered land and the authority to make it *jizya* land without his soldiers' consent.⁵²⁸ Al-Ṭarsūsī stated, “this is a major matter and is decided according to our *madhhab*,” thus playing on the need to control the military. Third, and in the same spirit, al-Ṭarsūsī made the distribution of the booty of a killed enemy soldier a prerogative of the sultan. Fourth, according to the *Tuḥfa* the sultan was not liable in the case of death from *ta'zīr*. Fifth, al-Ṭarsūsī stated that according to Abū Ḥanīfa, the “revitalization” of wasteland (*arḍ mawāt*) was subject to the permission of the *imām*, unlike al-Shāfi'ī who allowed it without the *imām*'s consent.⁵²⁹ Sixth, any punishment of slaves by their owners required the consent of the *imām*; the *ḥudūd*, al-Ṭarsūsī maintained, were the prerogative of the rulers. Seventh, the author allowed the sultan to collect the yearly *zakāt* twice, even from people who had already paid what was due. The eighth point was a well-known point of disagreement: the Ḥanafīs, unlike

⁵²⁶ For the following part of this paragraph refer to the *Tuḥfa* p.73-76.

⁵²⁷ Refer to the *Tuḥfa* p.73 and to al-Sayyid's footnote 2; al-Ṭarsūsī's claim is incorrect.

⁵²⁸ *Tuḥfa*, p.74; refer to Ibn Jamā'a's *Taḥrīr* p.203-204 and to Chapter 2. While it is true that according to al-Shāfi'ī's opinion, the sultan should seek the accord of soldiers and compensate them, Shāfi'ī political treatises - as the *Taḥrīr* (p.203-204)- tend to present this in a neutral way by listing views of all *madhhabs* and refrain from providing a conclusive ruling. Tezcan, in “Hanafism and the Turks” p. 73, argued understandably that “Ibn Jamā'ah is ambivalent in stressing the consent of the soldiers”; this may be because Tezcan referred to a section of the *Taḥrīr* (p.103) that was dedicated to describing the *kharāj* land but section 13 of the *Taḥrīr* p.203, which was dedicated to the rules of distributing the *ghanīma* in order reflects Ibn Jamā'a's view on this matter.

⁵²⁹ *Tuḥfa*, p.74-75. Winter calls it virgin land (*aḥyā mawātan*); “Inter-Madhhab Competition”, p.198.

the Shāfiīs, prohibited performing the congregational *Ṭd* prayer without the presence of the sultan or his deputy. Ninth, according to al-Ṭarsūsī, the right to seek punishment (*qaṣās*) from the murderer of a foundling was vested in the sultan. The tenth matter, in the same spirit as the ninth, gave the sultan the right to lead a funeral prayer even in the presence of the dead person's family. Al-Ṭarsūsī's case for the eleventh matter was technical and difficult to establish as he contended that the Ḥanafī method for collecting *jizya* generated more income.⁵³⁰ The twelfth point allowed the sultan to request the substitution and spending of alms with equivalent cash payments if he deemed it in the public interest, whereas al-Shāfiī did not permit it. Finally, according to the thirteenth point, the sultan could force the wealthy (*arbāb al-amwāl*) to pay to equip the army if he deemed it necessary.⁵³¹

There are wider political implications that result from the above legal discussion. Effectively, al-Ṭarsūsī granted the sultan full control over the judiciary, enhanced his financial control by surrendering to him various concessions on the collection of alms and taxation within both the public and private spheres, and strengthened his control over the military by granting him the powers to decide on the distribution of booty. As such these thirteen points were political themes expressed in legal language and this is what should be taken from this discussion in the *Tuḥfa*. The political repercussions of this legal discussion entailed a major encroachment on the private sphere in terms of alms and taxation. As for the public sphere, and in addition to the enhanced control over the military, al-Ṭarsūsī gave the sultan the prerogative to represent what is known today as public rights or public interests. They are areas that may belong to an individual but are nevertheless vested in the state, including for example the right to prosecute on behalf of individuals or in

⁵³⁰ *Tuḥfa*, p.76; refer to Tezcan's useful comments and calculations in "Hanafism and the Turks", p.74-74 that contradict al-Ṭarsūsī's claim.

⁵³¹ *Tuḥfa*, p.76. Refer to the clash between Ibn 'Abd al-Salām and Quṭuz, discussed in Chapter 1, which is similar to the issue being treated here by the *Tuḥfa*.

various non-official cases whenever deemed necessary in the public interest.

Delegation of power was, likewise, central to al-Ṭarsūsī's political and constitutional challenge to the Shāfi'ī *madhhab*. The dispute with Shāfi'ism was centred on the origin of political authority and, accordingly, the legitimacy of the various appointments and powers that emanate from it. In section two, entitled *Regarding the lawfulness of appointments by the Turks*, the main tenet of the author's attack on the Shāfi'īs was the validity of the delegations of power and appointments that emanated from the 'Turks'. Al-Ṭarsūsī had already alluded to this point in section one, where he claimed that the Shāfi'ī *madhhab* postulated that "the sultan should be [both] *mujtahid* and Qurashī". He wondered, sarcastically, how the Shāfi'īs could accept the 'Turks' delegation to the judgeship while considering their sultanate invalid.⁵³² Subsequently, in section two, which is a heated single paragraph, al-Ṭarsūsī stated that according to the Ḥanafī requirement for the *imāmate* the sultanate of the Turks and all their appointments were considered lawful, which he pointedly noted was "unlike" Shāfi'ism. Al-Ṭarsūsī stepped up his rhetoric, "how can one be appointed if he does not recognize the sultanate of the Turks?" The sultan, he concluded, should not appoint Shāfi'īs to any office as they considered the 'Turks' to be like the Kharijites to the caliphate. This could have been viewed as a poorly construed argument had al-Ṭarsūsī's main purpose here been simply to depict the Shāfi'īs as hypocritical, but it should not be considered so. This discussion on the validity of various appointments was in fact constitutional since it focused on the roots of Mamluk political authority.

At this point, it is essential to explain the *Tuḥfa's* use of *sulṭān* and *salṭanat al-Turk*. This will elucidate further al-Ṭarsūsī's understanding of the sultanate and the *imāmate*, and will show that his use of sultan, *imām*, and

⁵³² Often, al-Ṭarsūsī used delegation and appointment interchangeably unlike Ibn Jamā'a who carefully differentiated between the two.

caliph was more than a simple twisting of terms and concepts aimed at discrediting the Shāfiīs. In the *Tuḥfa*, *sulṭān* generally referred to the holder of the office of the sultan – that is the wielder of coercive power – while *salṭanat al-Turk* mostly denoted the rightful seizure of the sultanate by Mamluk households. Nevertheless, there was in the *Tuḥfa* another important meaning for *sulṭān* and *salṭanat al-Turk* as both terms additionally signified the lawful exercise of the full powers of the office of the caliph by the Mamluk sultan. For instance, when in section two al-Ṭarsūsī accused the Shāfiīs of limiting the “sultanate to Quraysh”, this should be understood alongside a reference that he had made earlier in the *Tuḥfa* to Mu‘āwiya’s rule.⁵³³ At the start of section one, al-Ṭarsūsī had waived the Qurashī descent requirement by saying, “the origin of this [waiver] is the example of Mu‘āwiya as the companions accepted his appointment to their offices [even] after he declared his disagreement with ‘Alī’s tenure [*nawbatihī*]”.⁵³⁴ It seems that the author viewed the rule of Mu‘āwiya as based on a mere delegation of caliphal powers that was not unlike a sultan’s delegation; it was valid even if it was blemished by a quarrel with a serving caliph. Based on this reference to an early Islamic precedent, I posit that for al-Ṭarsūsī the sultanate (*al-salṭana*) was the full delegation of all the powers of the supreme political authority of Islam and the right to exercise these powers; sultanate and *imāmate* referred effectively to the same body of executive powers and, in other words, both referred to the same office that held the full authorities of the caliphate. Consequently, the holder of this office needed not be a Qurashī. This did not mean the author did not recognize the office of the caliphate but simply that he considered the sultan was the *imām* and that the latter enjoyed the full powers and standing of a caliph. For al-Ṭarsūsī, any reference to Qurashī descent was thus an attempt to weaken the legitimate authority of the existing *imām*.

⁵³³ *Tuḥfa*, p.79.

⁵³⁴ *Tuḥfa*, p.71; *nawba* means in Lisān al-‘Arab shift, rotation, or delegation.

Such a conception of the top political authority of Islam was well rooted in the historical position of the Ḥanafī *madhhab*. The Ḥanafīs believed that the caliph had no influence over the process of formulating the law and that he was not the only source of legitimate political authority. In his seminal study of the renowned Ottoman jurist Abū al-Su‘ūd Afandī (d. 982/1574), Colin Imber examined the historical position of Ḥanafī jurisprudence on the highest political authority in Islam and noted:

For most Hanafi jurists, questions of rulership and political authority are marginal. It is essential to establish who is a legitimate ruler only because it is from the ruler that judges acquire their authority to execute the law. The ruler has no powers over the formulation or the contents of the law itself, since its transmission and interpretation falls entirely within the competence of the jurists.⁵³⁵

Moreover, Imber explained that while the Ḥanafī *madhhab* did recognise the concept of the caliphate, it maintained that it had no impact on the formulation of the law; for the Ḥanafī jurists, *imām* simply meant the “*de facto* ruler or military commander” who seized power rather than head of the whole Muslim community.⁵³⁶ For the Ḥanafīs such an *imām* was still the legitimate political authority and, most importantly for al-Ṭarsūsī’s purposes, he was the source of legitimate appointments in the judiciary and lawful delegation of powers.⁵³⁷

For al-Ṭarsūsī, the problem was that, contrary to his claims, the Shāfiīs had legitimated coercive power three centuries earlier. This may explain why every Shāfiī jurist who had ever treated Islamic constitutional thought became

⁵³⁵ Colin Imber, *Ebu’s-Su’ud*, p.65.

⁵³⁶ Imber, p.65

⁵³⁷ *Ibid.*, p67; “In Hanafi theory, therefore, a ruler is a person who successfully takes and holds power, and whose unmediated authority is effective only in four areas of the law. The same highly restrictive view of the ruler’s powers is evident in the treatment of ‘the conduct of government’ (*siyar*), a topic which occupies an independent chapter in most Hanafi texts. Here, the concern of the jurists is not to establish a theory of government, but rather to erect a theory which explains the legal status of persons, land and taxation in an Islamic sovereignty.”

subject to the *Tuḥfa*'s distortion or attack. Raḍwān al-Sayyid rightly observed that al-Ṭarsūsī distorted the views of al-Māwardī who, ironically, was the pioneer in legitimating coercive power and the sultanate.⁵³⁸ Furthermore, as discussed above, there was in the *Tuḥfa* an unprovoked attack on al-Ghazālī, who was accused of being “weak” (i.e. of modest legal knowledge), eclectic, and inconsistent with the *madhhab* of al-Shāfi‘ī. Finally, in the *Tuḥfa* there was total silence on Ibn Jamā‘a’s political thought and his tripartite conception of political authority, which did after all provide a solid and practical legitimation of the coercive power of the sultan.⁵³⁹ This silence was especially strange as al-Ṭarsūsī was undoubtedly aware of Ibn Jamā‘a because they were contemporaries and, most importantly, since the *Tuḥfa* was familiar with the latter’s works and thought.

Al-Ṭarsūsī dedicated a whole section of the *Tuḥfa* to staining the academic credentials of Ibn Jamā‘a.⁵⁴⁰ Section ten, entitled *Regarding the enemy’s gift to the sultan and the amīrs, and the sultan’s gifts to the enemy*, was devoted to an attack on Ibn Jamā‘a based on an obscure legal opinion (*fatwā*) that he may or may not have issued. Al-Ṭarsūsī accused Ibn Jamā‘a, on the authority of the Shāfi‘ī jurist Taqī al-Dīn al-Subkī (d. 756/1355), of providing a wrong legal opinion by allowing the vice regent of Egypt Arghūn al-Dawādār (d.731 H.) to accept a gift from the king of the Franks.⁵⁴¹ Al-Ṭarsūsī dedicated a whole section of his treatise to this relatively trivial legal issue and explained:

Know that this section deals with what should be overseen and considered; the sultans of our time and their commanders do not follow the *shar‘*. In this matter, a multitude of judges and jurists have erred; the king of the Franks (*Ifrañj*) sent a gift to the vice regent (*nā’ib al-*

⁵³⁸ *Tuḥfa*, p.33.

⁵³⁹ *Tuḥfa*, p.54-55; Tezcan, “Hanafism and the Turks”, p. 70; refer to Chapter 2.

⁵⁴⁰ *Tuḥfa*, p.125-128.

⁵⁴¹ Arghūn al-Dawādār was a Ḥanafī; *Tuḥfa*, p.125.

salṭana) Arghūn al-Dawādār, and it was a precious gift. Arghūn asked chief judge Badr al-Dīn Ibn Jamā‘a whether it was lawful to accept it. At the time, the judge could not prepare [a legal opinion] on the matter so he replied: yes, it is lawful! He asked a group of Ḥanafīs, who also deemed it lawful. I was told by judge Taqī al-Dīn al-Subkī that the aforementioned Arghūn, likewise, consulted him so he [al-Subkī] advised him that he should not keep it as it should be the property of the treasury (*bayt al-māl*). When news of this reached Ibn Jamā‘a, he was not pleased and authored a dedicated work to advocate his opinion.

Al-Ṭarsūsī stated that al-Subkī’s legal opinion was the correct one and supported this by quoting al-Shaybānī, the known Ḥanafī authority.⁵⁴² With such a story, al-Ṭarsūsī was continuing his attempts to set authoritative trends with his own *madhhab* and within the Shāfi‘ī *madhhab*. Furthermore al-Ṭarsūsī was seeking to discredit Ibn Jamā‘a based on a legal position that the latter purportedly issued and which seemed less tenable than one offered by a fellow Shāfi‘ī.⁵⁴³

The Taḥrīr’s influence on the Tuḥfa

The abrupt criticism of Ibn Jamā‘a and the suspicious silence on his conception of the *imāmate* could not hide the *Taḥrīr’s* deep influence on the *Tuḥfa*.⁵⁴⁴ There are several indications that both treatises dealt with the same

⁵⁴² According to al-Shaybānī, if the enemy sends a gift to a Muslim commander he can accept it as *fay’*.

⁵⁴³ Al-Ṭarsūsī related this story on the authority of Taqī al-Dīn al-Subkī (d. 756 / 1355), the known Shāfi‘ī jurist. Taqī al-Dīn’s biography as written by his son Tāj al-Dīn (d. 771/ 1370) in his *Ṭabaqāt al-Shāfi‘iyya* affirms that the former did not really get along well with Arghūn and even predicted his death; *Ṭabaqāt*, v.5, p. 342-345.

⁵⁴⁴ Al-Sayyid mentioned that al-Ṭarsūsī benefited from the *Taḥrīr* but did not explain how; *Tuḥfa*, p.54-55.

themes and featured very similar sections.⁵⁴⁵ This can be noted first by comparing the sections of the *Taḥrīr* and the *Tuḥfa* that dealt with the conception of political authority. Sections one and two of Ibn Jamā'a's *Taḥrīr*, entitled *Regarding the requirement (wujūb) of the imāma* and *Regarding the rights and duties of the caliph and the sultan*, are similar to al-Ṭarsūsī's *Tuḥfa*'s first two sections, *Regarding the legitimacy (bayān) of their sultanate* and *Regarding the lawfulness (jawāz) of appointments by the Turks*. They deal with the same themes, although al-Ṭarsūsī's discussion was abridged. Likewise, there are similarities in treating the appointments of the judiciary and the administration. Sections three, four, five, and ten of the *Taḥrīr* dealt with the appointments of *wazīrs*, *umarā'* and their duties, the preservation of the rules of the *sharī'a* and the rules for judicial appointments, including the judgeship, *iftā'*, *ḥisba*, educational posts, and the supervision of the charitable endowments (*awqāf*). Similarly, al-Ṭarsūsī discussed the main offices in sections three, four, five, and six of the *Tuḥfa*, including the *nā'ib*, the *wazīr*, the judges, the *ḥisba*, the chanceries, and the *awqāf*, albeit more briefly. Finally sections seven, eight, and thirteen to seventeen of the *Taḥrīr* examined stipends, spoils of war (*ghanīma*), the rules of the distribution of the spoils, the truce and safe conduct, law of rebellion, and the *dhimma* contract. We witness a similar discussion in sections eight to twelve of the *Tuḥfa*, where al-Ṭarsūsī covered the rules and results of war including the distribution of the spoils of war and stipends, public spending, and the law of rebellion. It is difficult to prove this influence categorically, but the resemblance is remarkable. As such, the *Tuḥfa* seemed like a Ḥanafī response to the Shāfi'ī *Taḥrīr*.

⁵⁴⁵ The resemblance becomes clearer if one disregards the sections of the *Taḥrīr* that deal with pure military themes (sections 6, 9, 11, and 12), as they were residues of Ibn Jamā'a's two earlier treatises, the *Mustanad* and *Muktaṣar* as discussed on Chapter 2.

Al-Ṭarsūsī's *Tuḥfa* was primarily a challenge to Ibn Jamā'a's tripartite conception of political authority. That al-Ṭarsūsī authored his *Tuḥfa* to challenge the Shāfi'ī *madhhab* is clear since he says so throughout the treatise; section two, after all, commenced with "unlike al-Shāfi'ī". However, it was more relevant for this research to demonstrate that the *Tuḥfa* was authored as a disputation to Shāfi'ī constitutional thought. As discussed above, the fact that the *Tuḥfa* was mostly interested in political and constitutional themes, the total silence on the *Taḥrīr*, the heavy and focused attack on Ibn Jamā'a and other Shāfi'ī political thinkers, and the evident influence of the *Taḥrīr* on the *Tuḥfa* are all indications that support this hypothesis. Consequently, it is possible to posit that the *Tuḥfa* was authored to contend with and provide an alternative to Ibn Jamā'a's tripartite conception of political authority as presented in the *Taḥrīr*. This was a critical task for al-Ṭarsūsī since Ibn Jamā'a's conception of *imām*, caliph, and sultan provided practical and field-tested solutions that challenged the central accusation that al-Ṭarsūsī directed against the Shāfi'īs. For instance, and as discussed in Chapter 2, the *Taḥrīr* offered a perfectly effective solution to the problem of Qurashī descent of the caliph that could have prohibited a 'Turk' sultan from being the legitimate *imām*. Not only that, the *Taḥrīr* guaranteed the 'Turk' sultan a full delegation of caliphal authorities in all matters, including valid appointments, and even suggested legal devices to prevent the caliph from revoking such delegation. This must have presented al-Ṭarsūsī with a serious problem as the Shāfi'ī political thought of his age, as advanced by Ibn Jamā'a, left the 'Turks' with no genuine grievance with Shāfi'ism. Consequently, he decided to avoid mentioning the *Taḥrīr* altogether, propose an alternative conception of political authority, and focus on discrediting the credentials of Ibn Jamā'a. The *Tuḥfa* was, in fact, written to challenge the *Taḥrīr*.

Al-Ṭarsūsī's unrelenting attack on the Shāfi'ī *madhhab* was marked by several drawbacks. I will summarize here before discussing them in the

following paragraphs. For one, the legal arguments the author used to buttress his attack on Shāfi‘ism often betrayed him. Al-Ṭarsūsī even had to rely on the opinions of Shāfi‘ī jurists in order to support his own. Furthermore, al-Ṭarsūsī’s interests seemed, in places, very parochial and unworthy of his wider plea to make Ḥanafism the official *madhhab* of the state. Likewise, his choice of legal opinions and trends within the Ḥanafī *maddhab* sometimes seemed arbitrary. Finally, al-Ṭarsūsī’s experience and knowledge of the administration appeared to be limited compared, for instance, with that of Ibn Jamā‘a or even Ibn Ṭalḥa.⁵⁴⁶

The author’s lack of confidence in his own legal arguments manifested in his need to quote Taqī al-Dīn al-Subkī more than once. In one example, al-Ṭarsūsī quoted the Shāfi‘ī chief judge al-Subkī in section ten in a critique of one of Ibn Jamā‘a’s legal opinions. This occurrence could be justified as using the testimony of a Shāfi‘ī jurist to discredit another. However, quoting al-Subkī a second time in the *Tuḥfa*, in order to sustain a Ḥanafī legal opinion, was harmful to al-Ṭarsūsī’s efforts to present his *maddhab* as more suitable for government. Al-Ṭarsūsī referred to al-Subkī in order to refute the “prevalent idea among common folks, including the Turks, that the Shāfi‘ī *madhhab* is better suited to the treasury when it comes to the inheritance of the uterine relatives (*dhawī al-arḥām*).”⁵⁴⁷ Al-Ṭarsūsī continued,

The Shāfi‘ī *madhhab* is similar on this matter to Abū Ḥanīfa’s. I have heard it myself from the Shāfi‘ī chief judge Taqī al-Dīn al-Subkī when I asked him about it. He replied, ‘our *madhhabs* are not different on this issue’ [...] There is no longer a premise for its [the Shāfi‘ī] advantage over our *madhhab* in this matter.⁵⁴⁸

Being content with al-Subkī’s testimony that the two *madhhabs* held identical

⁵⁴⁶ Ibn Ṭalḥa will be discussed in detail in Chapter 5.

⁵⁴⁷ *Tuḥfa*, p.77. I have used the translation of *dhawū al-arḥām* as “uterine relatives” from Tezcan, “Hanafism and the Turks”, p. 75.

⁵⁴⁸ *Ibid.*.

positions on this legal and fiscal matter, al-Ṭarsūsī's justification hardly made a good case for replacing Shāfi'ism as the official *madhhab* of the state.⁵⁴⁹

Furthermore, some of al-Ṭarsūsī's interests seemed parochial and personal. For instance, the author interrupted section three's important discussion on the main administrative and legal offices of government in order to dwell on the specific issues of sermon-giving and supervision at the Umayyad mosque in Damascus.⁵⁵⁰ Al-Ṭarsūsī argued fervently that the Shāfi'ī sermon-giver (*khaṭīb*) at the mosque, whom he regarded as a representative of the sultan, should be replaced with a Ḥanafī *khaṭīb*.⁵⁵¹ In order to justify his request, al-Ṭarsūsī opted to challenge Shāfi'ī control of the *khaṭīb* post based on creed, which did not fit the *Tuḥfa*'s tendency to avoid treating theological disputes. In section six, he returned again to the issue of the supervision of the Umayyad mosque and the poor administration of its *waqf*.⁵⁵² Here it became apparent that al-Ṭarsūsī's real grievances were purely parochial and probably personal as there were no political, juridical, or theological grounds for his challenge to Shāfi'ī control over this mosque. His chief objective was simply to exclude the Shāfi'ī *qāḍī* from any role in supervising and running the *waqf* in order to replace him with a Ḥanafī judge. One can assume that al-Ṭarsūsī was putting himself forward for the post, as he reproduced a dedicated epistle that he compiled on this matter entitled, *The shining light in what should be done with the mosque*, in which he advanced his own administrative proposal to best run the *waqf*.⁵⁵³ A personal claim for office hardly qualified as a convincing motive for making Ḥanafism the official *madhhab* of the state.

⁵⁴⁹ Al-Ṭarsūsī also quoted al-Subkī in his attack on the Ḥanbalīs.

⁵⁵⁰ *Tuḥfa*, p.99-100. Refer to Winter, "Inter-Madhhab Competition", p.204-206 for a discussion and translation of al-Ṭarsūsī's treatment of the administrative positions.

⁵⁵¹ *Tuḥfa*, p.99-100; refer to Winter, "Inter-Madhhab Competition", p.204-206.

⁵⁵² *Tuḥfa*, p.111-116, in section 6 entitled.

⁵⁵³ *Al-Ḍaw' al-lāmi' fī-mā yajib an-yu'mal bi-al-jāmi'.*

The legal reasoning in the *Tuḥfa* seemed, at points, to defy al-Ṭarsūsī's own claims as they were not very well structured. Throughout the treatise there was arbitrary selection and treatment of legal opinions within the Ḥanafī and Shāfi'ī *madhhabs*. Calling for Ḥanafism to become the official *madhhab* of the state entailed, one would have presumed, a clear and systematic presentation of the prevalent trends within Ḥanafism. Yet al-Ṭarsūsī failed to present consistently such authoritative trends within his *madhhab* as noted by al-Sayyid.⁵⁵⁴ Furthermore, as observed by al-Sayyid and Tezcan, al-Ṭarsūsī's claims that Ḥanafism was more suitable for the sultan were simply untrue. As an illustration, when it came to taking *zakāt* from the orphans and the inheritance of the uterine kins the legal opinion of the Shāfi'ī *madhhab* was more beneficial to the Mamluks.⁵⁵⁵ These are issues that have already been mentioned in detail earlier in this chapter; the *Tuḥfa's* views on rebellion, however, warrant a closer inspection.

Al-Ṭarsūsī's discussion of rebellion showed that his academic integrity eventually overcame his factional bias and that, consequently, his use of the Ḥanafī legal sources did not fully support his ultimate political argument. Despite the combativeness of the *Tuḥfa* and its author's eagerness to please the sultan and the 'Turks', al-Ṭarsūsī's treatment of rebellion revealed that there was still a limit to how far the Ḥanafī *madhhab* was willing to compromise with political authority and that there was a line that the *Tuḥfa* was not yet ready to cross. In section eleven, entitled *Regarding the rulings against Muslim rebels (bughāt) and those who break away from the sultan (khawārij)*, al-Ṭarsūsī's discussion on rebellion was less developed than Ibn Jamā'a's and was mostly ordered along earlier Ḥanafī sources like Kāsānī.⁵⁵⁶

⁵⁵⁴ *Tuḥfa*, p.40-41.

⁵⁵⁵ *Tuḥfa*, p.42-43.

⁵⁵⁶ *Tuḥfa* p. 129-143; see footnote (1) of al-Sayyid in the *Tuḥfa* p. 129. Furthermore, al-Sayyid noted that there was a "relative novelty" in understanding opposition and rebellion in the *Tuḥfa*, p.55-56.

Furthermore, the author used Marghinānī, Ṭaḥāwī, and Sarakhsī, which reflected a diverse range of Ḥanafī definitions of rebels and differing opinions on whether Muslims were supposed to take sides in the case of rebellion.⁵⁵⁷

Contrary to his claim, al-Ṭarsūsī's position on rebellion was not necessarily any more favorable to the sultan than the Shāfi'ī view. For instance, when attempting to justify the discrepancies between various Ḥanafī opinions on the classification of rebels and their treatment, he mentioned, "as far as I can tell, there is no just *imām* at this time".⁵⁵⁸ Following that, al-Ṭarsūsī made a distinction between *bughāt* and those who had abandoned an unjust *imām* where he explained, "those are the oppressed" and, as such, should not be considered as *bughāt*.⁵⁵⁹ Rather unconvincingly, al-Ṭarsūsī then attempted to demonstrate that the Ḥanafī *madhhab*, unlike the Shāfi'ī, allowed the sultan to make a preemptive strike against the rebels. However, some of the Ḥanafī sources he quoted turned out to be less categorical than he first implied.⁵⁶⁰ When it came to the law of rebellion, al-Ṭarsūsī's arguments failed to reflect any Ḥanafī advantage.

This failure indicated that the academic integrity of the jurist surpassed the zeal for the *madhhab* and the eagerness to woo political authority. Al-Ṭarsūsī struggled to uphold his claim that the Ḥanafī *madhhab* was more amenable than Shāfi'īsm for two main reasons. Firstly, a close look at the complex development of the law of rebellion, based on Khaled Abou El Fadl's seminal research, shows that it was difficult to sustain any general statement that the Ḥanafī *madhhab* was more suitable for the sultan when fighting rebels.⁵⁶¹ Secondly, by the fourteenth century the situation within the Ḥanafī

⁵⁵⁷ *Tuḥfa*, p.130-133.

⁵⁵⁸ *Tuḥfa*, p.133.

⁵⁵⁹ *Ibid.*; al-Sayyid explained that this was, in fact, the opinion of Ṭaḥāwī.

⁵⁶⁰ *Tuḥfa*, p.133-135. Some advocate the unlawfulness of a first strike, like Qadūrī and Kāsanī, al-Ṭarsūsī informed us, and ruled that "the *imām* should not fight them unless they strike first"- and this is in fact in full accordance with the Shāfi'ī view.

⁵⁶¹ Refer to chapter 5, p.162-233, of Abou El Fadl, *Rebellion*, and especially the section dealing with "The Systematic objectors and the reluctant borrowers: the Ḥanafīs and Mālikīs"

madhhab became more intricate, since jurists like al-Ṭarsūsī adopted a significant degree of independence on the issue of rebellion; Abou el-Fadl categorized the different positions on rebellion into “traditional and revisionist trends”.⁵⁶² The revisionist trend included jurists from all *madhhabs*, who accepted and repeated the existing discourses on rebellion but incorporated important changes and “expanded the scope of *aḥkām al-bughāh* in significant ways and refused to lend support to unjust rulers”.⁵⁶³ By stating that there was no such thing as a just ruler in his time, al-Ṭarsūsī earned well his place within the revisionist trend. This provides a good explanation as to why al-Ṭarsūsī was so concerned with curtailing the rulers’ powers in fighting rebels. In this, the *Tuḥfa* was closer to Ibn Jamā’a than its author would admit. Both jurists were trying to achieve the same end: they would not blindly endorse the rulers’ measures and would not summarily dismiss rebels for abandoning an unjust *imām*. Nevertheless, neither of them encouraged rebellion in any way and both continuously insisted on the duty of obedience to the ruler.⁵⁶⁴ Consequently, when it came to the “moral classification of rebels”⁵⁶⁵, al-Ṭarsūsī, in contradiction to the main proposition of his work and at the risk of antagonizing the dedicatees of the *Tuḥfa*, chose to uphold his integrity as a jurist above other considerations. His concern for the rule of law

(p.189-209). Also refer to Abou El Fadl, “Aḥkam Al-Bughat”. While some distinctly Ḥanafī ideas on rebellion can be traced back to al-Shaybānī, Abū Yūsuf, and Abū Ḥanīfa, much of the *madhhab*’s position was based on “adoption or borrowing of some ideas from the Shāfi’ī school” (p.189). In fact, Abou El Fadl sees the “Ḥanafī school adopt positions that can only be unhelpful to the state. Nonetheless, compared to the Shāfi’īs, the Ḥanafī school is generally less tolerant of rebels” and attributes this to the fact that Abū Yūsuf and al-Shaybānī were judges (p.190). But Abou El Fadl, likewise, notes that there was never a consensus among Ḥanafīs on the matter of rebellion. This reflected the complexity of al-Ṭarsūsī’s task.

⁵⁶² Abou el-Fadl, *Rebellion*, p.237.

⁵⁶³ *Ibid.*, p.271. Abou el Fadl also includes Ibn Taymiyya, Ibn Jamā’a and al-Ṭarsūsī in this group. Al-Ṭarsūsī argued that “rebels are not held liable for life and property destroyed during the course of their rebellion [...], their adjudications and testimony should be accepted and validated” in p280.

⁵⁶⁴ *Ibid.*, p.280.

⁵⁶⁵ I borrowed this term from Abou el-Fadl, *Rebellion*, p.286.

surpassed any other consideration. Therefore, he failed to be as Machiavellian as much as the *Tuḥfa*'s political enterprise required him to be.

The ideal of limited government was, likewise, evident in the *Tuḥfa*. While al-Ṭarsūsī's concern for the rule of law was central to the above discussion on the law of rebellion, limited government was a noticeable theme of the *Tuḥfa*'s treatment of administrative law. When discussing the Ḥanafī "theory of rulership", Imber observed, "What is perhaps most striking about the rules for the conduct of government, apart from their general air of unreality, is the minimal role which they assign to the ruler."⁵⁶⁶ This is certainly the impression one gets from al-Ṭarsūsī's discussion in the *Tuḥfa* on the various posts of the administration and the judiciary, as I will show below. As discussed above in the Introduction and Chapter 2, limited government was also a general tendency within the political thought of the period including earlier works like Ibn Jamā'a's *Taḥrīr* and Ibn Ṭalḥa's *al-'Iqd al-farīd* (will be discussed in Chapter 5); the *Tuḥfa* did not stray from this tendency. Although limited government was one predictable consequence of the professionalization of the administration, there was also a political motive to promote it in political treatises since jurists like al-Ṭarsūsī aimed at curtailing the ruler's discretionary exercise of administrative and judiciary power.

Section three of the *Tuḥfa* treated the administration in a very similar way to earlier and later Shāfi'ī works. What was supposed to be a discussion on petitions developed into a very organized one on the procedures for appointing senior offices by the sultan, including holders of land grants (*iqṭā'*), the vice regent (*nā'ib al-salṭana*), judges (*qāḍīs*), the *wazīr*, the chancery secretaries (*kuttāb*), the public projects supervisors (*mushiddūn*), and other administrative offices.⁵⁶⁷ Accordingly, section three resembled the late Ayyubid and early Mamluk *al-'Iqd al-farīd* of Ibn Ṭalḥa, the early Mamluk

⁵⁶⁶ Imber, *Ebu's-Su'ud*, p.72.

⁵⁶⁷ Refer to Winter, "Inter-Madhhab Competition", p. 204-209.

Taḥrīr of Ibn Jamā‘a, and the later Mamluk treatise *Muṭd al-Ni‘am wa-Mubīd al-Niqam* of Tāj al-Dīn al-Subkī. Throughout his discussion, al-Ṭarsūsī tried to match Ibn Jamā‘a’s experience in the field of administration, arguably with less success. Nevertheless, the discussion led to some useful observations on the administration during the period of the author. For example, it reflected how adherents to Ḥanafism, like Shāfi‘ism, were well associated and involved with administration, governments, and ruling elites.

The concern for the rule of law and the exercise of discretionary justice re-emerged in section three.⁵⁶⁸ I reiterate here my argument that, in works of political thought of this period, the mention of the *sharī‘a* by jurists who were at the same calling for a wider implementation of discretionary or ‘secular’ courts (*maẓālim*, *siyāsa*, or *ta‘zīr*), as in the case of Ibn Ṭalḥa’s *al-‘Iqd al-farīd*, was in fact a general call for the rule of law. It was an attempt to restrain – much-needed – discretionary justice by the rulers and their regents by referring to well-known ethical guidelines including the *sharī‘a*. In this section, al-Ṭarsūsī first discussed the case of a petition regarding an act of injustice and noted that the sultan should examine every complaint of injustice that was brought to his attention. Furthermore, the sultan should summon the judges and try to handle the case according to the *sharī‘a*. If this was not possible, then the sultan should apply discretionary punishment (*ta‘zīr*) without disregarding the *sharī‘a*.⁵⁶⁹ Al-Ṭarsūsī’s predisposition to sultanic discretionary justice should not come as a surprise, as Ḥanafīs even considered that *ta‘zīr* could exceed the limits of the *ḥudūd* and allowed capital punishment “for the sake of upholding public order”.⁵⁷⁰

⁵⁶⁸ Al-Ṭarsūsī starts with a familiar quote to those in treatise *Mustanad*, *Mukhtaṣar*, the *Taḥrīr* and *Siraj al-Mulūk*, “There is no ruling (*mulk*) without soldiers, no soldiers without money, no money without justice and prosperity of the lands (*‘amārat al-bilād*), no lands without subjects, and no subjects without justice’, p.81- in the *Tuḥfa*.

⁵⁶⁹ *Tuḥfa*, p.81-82.

⁵⁷⁰ Refer to M.Y. Izzi, “Ta‘zīr”, in *EI2*.

The *Tuḥfa* reflected the ostensive Ḥanafī attention to the craft of government and its closeness to the ruling elites. Throughout this treatise, there was a clear interest in the functioning of the state and maintaining it by improving the selection of the leading administrative posts. Likewise, there was a sense of familiarity with the ruling political and administrative class. In this, al-Ṭarsūsī's work resembled the works of Shāfi'īs like Ibn Jamā'a and al-Subkī and differed, for instance, from an archetypal Mālikī treatise, as I will point out in Chapter 4. Al-Ṭarsūsī discussed first the petition for appointment to various offices including a job in the *dīwān*. Furthermore, he treated the applications for land grants (*iqṭā'*) and explained how to examine an applicant before the army inspector (*nāẓir al-jaysh*).⁵⁷¹ The author then mentioned the important office of the vice regent (*nā'ib al-salṭana*), whom he specified should not seek the sultanate.⁵⁷² Al-Ṭarsūsī covered further posts of government.

The concern for limited government and the rule of law persisted in the remaining part of section three. Al-Ṭarsūsī's discussions of various senior offices highlighted even further the political and administrative nature of the *Tuḥfa*, rather than being a mere work dedicated to juridical disagreements amongst *madhhabs* (*ikhtilāf*).⁵⁷³ Most notably, this concern revealed itself in the *Tuḥfa*'s tendency to accumulate various powers with judges (*qāḍīs*) and secure them a margin of independence. First, al-Ṭarsūsī treated the office of the chamberlain (*hājib*). He noted that the sultan should select a candidate who would not block grievances from reaching him and would not attempt to substitute the *sharī'a* rulings with those of the *siyāsa*. This stipulation should not be considered contradictory to the author's earlier call to widen the scope

⁵⁷¹ *Tuḥfa*, p.82-83; perhaps this was an effort to mimic Ibn Jamā'a's military writings of the *Mustanad* and *Mukhtaṣar*.

⁵⁷² In this section, al-Ṭarsūsī also discussed in detail the appointment of *qāḍīs*, but this has been already covered in this chapter.

⁵⁷³ *Tuḥfa* p. 95-102. Refer to Winter, "Inter-Madhhab Competition", p. 204-209. Also refer to an earlier article by the editor where he first mentioned that *ikhtilāf* was also a genre of the *Tuḥfa*; Raḍwān al-Sayyid, "Al-Fiqh wa al-fuqahā' wa al-dawla: Ṣirā' al-fuqahā' 'alā al-sulṭa wa al-sulṭān fī-al-'aṣr al-Mamlūkī," *Al-Ijtihād* 3 (1989), p. 141.

of *mazālim* or *siyāsa* justice but rather as a reminder not to exclude judges from the process of discretionary justice. Al-Ṭarsūsī discussed the requirement for candidates to the offices of superintendents and governors. Furthermore, al-Ṭarsūsī treated the three types of secretarial posts in the state finances, the chancery (*dīwān al-inshā*), and the army. The head of the state's finances (*al-ṣāhib*), also known as the chief controller (*nāzir al-mamlaka*), was covered in this section of the *Tuḥfa*. Following that, al-Ṭarsūsī discussed the functions of the secretaries of the chancery (*kuttāb al-inshā*) and the army (*kitābat al-jaysh*) and their holders' credentials. Subsequently, in perhaps one of the more convincing arguments by the author, al-Ṭarsūsī advised the sultan to appoint a Ḥanafī military judge (*qāḍī -'askar*) as, unlike a Shāfiī counterpart, he would accept the testimonies of soldiers. Al-Ṭarsūsī's view of the *ḥisba* would not have impressed Ibn Taymiyya, as the former believed the office of the market inspector (*muḥtasib*) had declined and advised that a *qāḍī* be appointed for matters of market price control. Finally, the author proposed allocating the supervision of minting coins to a judge. The drive to professionalize the administration, the remarkable attempt of the *Tuḥfa* to accumulate powers with judges (*qāḍīs*) in various aspects of the state judiciary and administration, and the insistence on the moderation of the process of discretionary justice can only be understood within the wider interest in limited government and the rule of law.

Conclusion

So what was the *Tuḥfa* all things considered? The *Tuḥfa* was a political text authored to challenge another text, the *Taḥrīr*. As such, the *Tuḥfa* resembled a proposal for a new and flexible constitution that would replace an existing one and was, accordingly, an expression of political thought that was conceived as a challenge to another. The *Tuḥfa* provided a proposal to the Mamluk ruling elites on how to better exercise and maintain their sovereignty

and an application to become the new official *madhhab* of the state. While the *Tuḥfa* resembled at points the genre of mirrors for princes and advice to kings, it also resembled the classical ordinances for government genre (*aḥkām*) and the *ikhtilāf* genre.⁵⁷⁴ Michael Winter argued the *Tuḥfa* was dedicated as a *Fürstenspiegel* for al-Nāṣir Ḥasan or his representatives in Damascus.⁵⁷⁵ On the other hand, al-Sayyid argued that al-Ṭarsūsī attempted to convince the sultan to “transform the Ḥanafī *madhhab* into a ‘law’ of the state”.⁵⁷⁶ Tezcan posited, likewise, that it was an effort to “sell” Ḥanafism as “the official law of the state”.⁵⁷⁷ While all three propositions captured valid aspects of the *Tuḥfa*, the latter two explanations are embraced wholeheartedly in this research, which posits that the *Tuḥfa* was a proposal for an official *madhhab* of the state that was advanced in order to replace the existing one, Shāfi‘ism, whose ultimate expression was articulated in Ibn Jamā‘a’s *Taḥrīr*. As for the confusion of the genre of the *Tuḥfa*, it is simply explained by the fact that the *Tuḥfa*, like its model the *Taḥrīr*, was authored in the style of the treatises of the late Ayyubid and early Mamluk period already discussed in Chapter 1 and as will be discussed in Chapter 5. This style was a blend of different genres that included mirrors for princes, statecraft and administrative manuals, and juridical treatises.

Al-Ṭarsūsī’s *Tuḥfa* provides an uncontested testimony to the existence of a dominant Shāfi‘ī political thought in the late Ayyubid and Mamluk period. This Ḥanafī political treatise not only attested to the existence of this Shāfi‘ī thought but was authored for the sole purpose of challenging it. Furthermore, it provides further proof of the competition that existed amongst various *madhhabs* to claim the status of an official *madhhab*, as evident in this case

⁵⁷⁴ As discussed in an earlier footnote, al-Sayyid initially believed that the *ikhtilāf* ranked higher among al-Ṭarsūsī’s aims.

⁵⁷⁵ Winter, “Inter-Madhhab Competition”, p.195.

⁵⁷⁶ *Tuḥfa*, editor’s intro p.20-21.

⁵⁷⁷ Tezcan, “Hanafism and the Turks”, p.68-68.

between Ḥanafism and Shāfi'ism. The competition amongst *madhhabs*, in the late Ayyubid and Mamluk period, could no longer simply be attributed to theological differences. Therefore, the study of *madhhab*-based political thought becomes an essential tool for enquiry in Islamic History that has been largely overlooked so far.

Despite being the main competitors in the race for official *madhhab*, Ḥanafism and Shāfi'ism were not so different after all. Through the expressions of their strains of political thought presented in this work, they conveyed similar political ideals and it was this resemblance that fuelled their competition even further. The similarity was reflected in the style of writing, the approach to the administration and judiciary, and in the competition for the domination of the main posts of government. Moreover, the resemblance was apparent in the closeness of the jurists and adherents of both *madhhabs* to the ruling elites and through their strong presence in the legal and administrative apparatus of the state.

Yet, I argue that a main resemblance between Shāfi'ī and Ḥanafī political thought was in the political ideals of the two treatises. The *Tuḥfa* displayed similar concern for the rule of law, limited government, and delegation of power. Notwithstanding the ostensible differences between the tripartite conception of Ibn Jamā'a and al-Ṭarsūsī's general conception of political authority, the latter too aimed at moderating the discretionary exercise of power. For instance, al-Ṭarsūsī refused in his discussion of rebellion to give the sultan a free hand in dealing with rebels who abandoned an unjust *imām*. This rather surprising position showed that al-Ṭarsūsī's concern for the rule of law contradicted the main proposition of his *Tuḥfa* to present Ḥanafism as being more advantageous to the sultan than Shāfi'ism. Similarly, limited government was an evident idea in the *Tuḥfa* and its treatment of administrative law and various posts of the administration and the judiciary that were relevant to the author's time and Damascene context. Moreover,

this thesis showed how al-Ṭarsūsī expressed his concern for the constitutional question of the delegation of power using legal reasoning that was deeply rooted in the Ḥanafī jurisprudence and its political conception of supreme authority.

This research may qualify as a starting point for a deeper understanding of later developments in Ḥanafism and its expressions of political thought under the Ottomans. Al-Ṭarsūsī's *Tuḥfa* was not just a testimony that Ḥanafism felt strong enough to openly challenge the Shāfi'īs on their own turf in the Syro-Egyptian lands, but also an indication of a deeper transformation in the *madhhab* that extended to a wider geographical and chronological context and was not limited to the eastern parts of the Muslim world. As such, it is essential to include the influence of the *Tuḥfa*'s ideas in the understanding of the development of political thought in the Ottoman Empire.

Chapter 4- Sufi political thought

Following on from the lengthy treatment of the Shāfiī and Ḥanafī strains of previous chapters, this present chapter will cover the Sufi contribution to thirteenth-century Islamic political thought. Sufi conceptions of political authority, the Sufi concern for moderating the exercise of power, and the intellectual and socio-political milieu in which these ideas emerged will be discussed. This chapter will show how the Sufis theorised for the legitimacy of the coercive power of the sultans, how they upheld the case for the rule of law using their own proprietary political language, and how they were active participants in the competition for the official law and constitution of the state with the *madhhabs*. Throughout this discussion, the caveat on the use of terms like Sufis, Shāfiīs, and Ḥanafīs still stands; 'Sufi' is only useful within very detailed historical, geographical, and sometimes individual contexts that will be defined below.

Based on the analysis of an unpublished treatise entitled *Miṣbāḥ al-hidāya fī ṭarīq al-imāma* (The guiding lamp to the path of the *imāma*), this chapter will argue that there existed a *distinctly* Sufi strain of political thought during the early Mamluk period.⁵⁷⁸ It is considered here as distinctly Sufi since it was presented by its anonymous author to his dedicatee as a uniquely Sufi conception of the *imāma*, as will be explained below. By inspecting how the author of the treatise strived to reflect this Sufi distinctiveness, the chapter will achieve several aims in parallel. These aims include tracing the roots and influences of this Sufi treatise, examining the intellectual milieu within which its author flourished, delimiting the contours of the Sufi political theory that was proposed in this treatise, and identifying its links to other *madhhabs* and intellectual currents. Furthermore, the present chapter will highlight the

⁵⁷⁸ Unknown, "*Miṣbāḥ al-hidāya fī ṭarīq al-imāma*", MS Bodleian Library (Oxford), OR. 579. First brought to light by Madelung in his "Treatise on the Imamate".

remarkable agency of the mysterious author of the treatise in moulding his work in order to achieve his aims towards the dedicatee and to present the *Miṣbāḥ* as a distinctly Sufi work.

The *Miṣbāḥ* is an early-Mamluk Sufi attempt to conceptualise political authority and make the case for the rule of law in a distinctly Sufi fashion. It was authored at a point in Islamic history when Sufi thought was burgeoning in the central, Eastern, and Western parts of the Islamic world and when the political context of the Syro-Egyptian lands stimulated the elaboration of competing strains of political thought. The disciples of great Sufi figures like Najm al-Dīn Kobrā (d. 618/1221), Ibn ‘Arabī (d. 638/1240), Abū al-Ḥasan al-Shādhīlī (d. 656/1258), Jalāl al-Dīn al-Rumī (d. 672/1273), and Aḥmad al-Badawī (d. 674/1276) spread throughout the Islamic world and permeated all social groups. It is in this flourishing world of Sufism that our mysterious author dedicated the *Miṣbāḥ* to sultan Baybars. As such, this distinctly Sufi work of political thought was the manifestation of a political context that encouraged competition among *madhhabs* for an official law of the state and, similarly, the result of a Sufi intellectual context that witnessed great advances in speculative Sufism. Accordingly, there are important conclusions that can be drawn in this chapter regarding the main tenets of the author’s political theory and his agency in using the sources he relied upon, in addition to some assumptions on his personal creed and ideology, education, and social milieu.

The general question of Sufi political ideas still warrants further investigation despite the significant advances made recently in the study of Sufism. There is still much work to be done to place Sufi conceptions of political authority within wider Islamic political thought; hopefully this chapter will offer a contribution to this end. In particular, no research has yet been done to place Sufi political ideas on a par with the political thought expressed by the jurists of the four *madhhabs* and authors of mirrors for princes and administrative manuals. Sufi political opinion has so far not been considered a

serious competitor to existing strains of Islamic political thought that existed in the pre-modern period and scholarship has thus not made an attempt so far to link treatises that are in the view of this thesis closely connected. There are two main reasons for the lack of such research and the failure to place Sufi political ideas in this wider framework. Firstly, *madhhab*-based political thought has not been studied hitherto. Secondly, until the authoritative and long-overdue work of Nathan Hofer on thirteenth century Sufism in Egypt and Huseyin Yilmaz's recent monograph on mystical influences on Ottoman political thought, Sufi political opinion –and Sufism more generally- was incorrectly regarded as a completely opposite category to that of the jurists.⁵⁷⁹ This chapter will complement Hofer's research by proposing that the production of treatises of political thought was another "Sufi thing" that contributed to the popularisation of Sufism.⁵⁸⁰ Likewise, this chapter relates to Yilmaz's work as it highlights an earlier, pre-Ottoman precedent where the *imāma* was packaged in mystical and moral language that was relevant to the early Mamluk context. More will be said about both monographs below.

This chapter will underline the commonality between Sufi and the jurists' political thought. It will show how the political theory advanced by the *Miṣbāḥ* was deeply rooted in and complementary to the successive political works of al-Mawardī, al-Juwaynī, al-Ghazālī, and others. Historically, and unlike the jurists, the Sufis did not provide much theory because, in principle, they were supposedly distant from politics and from the corruptive effects of associating with power and authority. Furthermore, many of them did not subscribe to the idea of political leaders being solely of Qurashī descent but rather adopted an idea closer to the heavenly mandate of power. Nevertheless, Sufis were visibly and consistently at the heart of Islamic political life and closely associated and involved with rulers, as is evident in

⁵⁷⁹ Nathan Hofer, *Popularisation of Sufism*; Yilmaz, *Caliphate Redefined*.

⁵⁸⁰ Hofer, *Popularisation of Sufism*, p. 10-11, 13.

the case of the ‘Abbāsīd caliph al-Nāṣir li-Dīn-Allāh (r.575/1180 -622/1225) and his close advisor al-Suhrawardī (539/1145 -632/1234). Furthermore, scholarly generalisations about the Sufis adopting Turkic notions of heavenly mandate of power to Islam are convincing and often accurate. However, as I will show below, such ideas did in many respects complement the theories of Sunni jurists. In this notion of heavenly mandate, the Sufis overlapped with al-Mawardī’s theory of *imārat al-istīlā’*, and the successive and uninterrupted line of later Shāfi’ī political ideas of al-Juwaynī, al-Ghazālī, and Ibn Jamā’a regarding the requirement for the sultan. This should not come as a surprise; these jurists were without exception, Sufis. Likewise, ‘political’ Sufis including al-Suhrawardī and Najm al-Dīn Dāya Rāzī (573/1177- 654/1256) were Ash‘arī, and Shāfi’ī (in the case of the first). This will become clearer with the textual analysis of this Sufi political text. First, the spheres of Sufis, jurists, and scholars should be demarcated to avoid any mix-up.

The Sufis and the production of political thought

The latest advances in the study of Sufism dispelled the ingrained misunderstanding of the relation between Sufis and jurists. Thanks to these advances, it is now possible to also argue for the interrelatedness between the two groups in the production of political thought and to show that both categories emerged from common intellectual and social milieus. Until recently, the study of Sufism, in the Ayyubid and Mamluk context, was blurred by a serious impediment in understanding the popularisation of Sufism. Before the publication of Hofer’s monograph, *The Popularisation of Sufism in Ayyubid and Mamluk Egypt, 1173-1325*, the advance of Sufism was often considered a spiritual or mystical popular reaction to the legalism of normative Islam as represented by the jurists. Only al-Ghazālī (d.505/1111), it was thought, succeeded in bringing the two supposedly opposite sides closer. Hofer refuted, very convincingly, three main misconceptions in this narrative,

“that the Sufis were socially and culturally distinct from the jurists; that the social formation of the jurists preceded that of the Sufis; and that non-Sufi Islam is inadequate to the religious needs of the populace”.⁵⁸¹ Indeed the popularisation of Sufism permeated all levels of society, “elite and non-elite alike”.⁵⁸² Often jurists were Sufis, as in the case of Ibn Jamā‘a, and, as I shall show, this was also often the case among authors of treatises of political thought during the thirteenth century.

In the late Ayyubid and early Mamluk context, being Sufi meant different things. The situation of Sufism in Cairo and Damascus during the thirteenth century reflected this diversity. In the case of Cairo, Hofer’s study portrayed very distinct kinds of Sufi. A simple look into the differences between the state-sponsored Sufis of Sa‘īd al-Su‘adā, the Shādhilī brotherhood patronised by Ayyubid and Mamluk rulers, and the Sufis of Upper Egypt, who were hostile to the state, reflected how complicated and diverse Egyptian Sufism was; Hofer noted, “The [Sufi] epithet only makes sense within very specific historical, social and political contexts.”⁵⁸³ Similarly, the situation of Sufism in Damascus reflected an equally diverse world of Sufi groups.⁵⁸⁴ Despite the “ascetic” and “mystical” aspects of Sufi groups, the closeness of some Damascene Sufis to the highest circles of power was perceptible. In Syria as much as in Egypt, the Sufi epithet held many different meanings.

The banū Ḥamawīyya, a renowned Sufi Damascene family, reflected this diversity. The life and career of some members of this family, the offices and political roles they assumed, and their political writings epitomised the interrelatedness between Syro-Egyptian politics, Sufism, and the production of political thought. This prominent Damascene family reflected how the two

⁵⁸¹ Hofer, *The Popularisation of Sufism*, p.7.

⁵⁸² *Ibid.*, p.6.

⁵⁸³ *Ibid.*, p.25.

⁵⁸⁴ Pouzet, *Damas*, p.207-243.

categories of Sufis and jurists were in no way mutually exclusive. Furthermore, it showed how both categories were closely entangled with the sphere of rulers, administrators, and statesmen. Most significantly, one member of the banū Ḥamawiyya provided a documented specimen of the production of political thought by Sufis, which is brought to light for the first time by this research. The treatise, entitled *Kitāb al-siyāsa al-mulūkiyya* (The book of kingly rulership), was authored by Tāj al-Dīn Abū Muḥammad ‘Abd Allāh b. ‘Umar b. ‘Alī b. Muḥammad al-Sarakhsī al-Dimashqī Ibn Ḥamawiyya (572/1177– 642/1244), whose works were considered lost until this research located a copy of his political writing. Although this text was not concerned with presenting uniquely Sufi ideas like the *Miṣbāḥ* did, it was valuable as it attested to the production of political thought by a Sufi who was also a statesman and a jurist.⁵⁸⁵

The case of the banū Ḥamawiyya showed that ‘Sufis’ operated at the heart of Syro-Egyptian political authority. This family of Sufi and Shāfi‘ī jurists played an important role in the politics of the late Ayyubid period and became central to Ayyubid dynastic life. Not all the banū Ḥamawiyya led an ascetic life, which led Pouzet to observe that the banū Ḥamawiyya, “semblait peu compatible avec les exigences d’une vie à base de renoncement et d’humilité”; they were nevertheless Sufi and represented an active and influential strain of Syro-Egyptian Sufism.⁵⁸⁶ The first member of this family to settle in Damascus from Khurāsān was ‘Imād al-Dīn Abū al-Faṭḥ ‘Umar b. ‘Alī b. Ḥamuwayh [Ḥamawiyya] al-Juwaynī (d. 577/1181) when he was appointed inspector of the Sufi institutions in Syria by Nūr al-Dīn Zangī (r. 541/1146–

⁵⁸⁵ Ibn Ḥamawiyya, “*Kitāb al-siyāsa al-mulūkiyya*”, MS Topkapi (Istanbul), TSMK A. 1116. I’m grateful to Dr. Murat Sonmez and to the staff of Topkapi Palace directorate, especially to Mrs. Esra Müyesseroglu for all the support they provide to researchers.

⁵⁸⁶ Pouzet, *Damas*, p.213; for more on the Sufism of *Awlād al-shaykh* refer to Hofer, “Office of the ‘Chief Sufi’”, p.25.

569/1174).⁵⁸⁷ He then became head of the Sufis in Damascus (*shaykh al-shuyūkh*); after his death, his family dominated this position for a century.⁵⁸⁸ ‘Imād al-Dīn ‘Umar had two sons. The first was Ṣadr al-Dīn Abū al-Ḥasan Muḥammad (543/1148 – 617/1220) who was very close to the Ayyubid sultan al-Kāmil and his sons. Ṣadr al-Dīn’s four sons, often referred to as *awlād al-shaykh*, enjoyed distinguished careers as statesmen and three of them occupied the position of *shaykh al-shuyūkh*.⁵⁸⁹ No doubt, the most distinguished of *awlād al-shaykh* was Fakhr al-Dīn Yūsuf (580/1184 – 647/1250) who served sultan al-Kāmil as an emissary to the caliph and as an ambassador to Frederick II Hohenstaufen; some sources claimed he befriended the Emperor, exchanged letters with him, and that Frederick II even complained to Fakhr al-Dīn about the Pope.⁵⁹⁰ The second son of Imād al-Dīn ‘Umar was Tāj al-Dīn Abū Muḥammad ‘Abdallāh (572/1177–642/1244) who was a bit more adventurous. He served the Almohads in Morocco and, upon his return to Damascus, succeeded his brother as *shaykh al-shuyūkh*. Tāj al-Dīn was a “scholar in law, ḥadīth, mysticism, medicine, geometry, and history, he was the author of several works”;⁵⁹¹ based on his political treatise, I add Arabic philosophy to the list.

The discovery of *al-Siyāsa al-mulūkiyya* is of great value to this research.⁵⁹² It offers desiderata of evidence related to the production of political thought by Sufis in the central lands of Islam and to its incubating intellectual and socio-political milieu. Firstly and most importantly, *al-Siyāsa al-mulūkiyya*, although unlike the *Miṣbāḥ* was not a Sufi work per se, was a

⁵⁸⁷ Anne-Marie Eddé and Hans L Gottschalk, “Awlād Al-Shaykh,” *EI3*; Hofer, “Office of the ‘Chief Sufi’”, p.12.

⁵⁸⁸ For more on the post of *shaykh al-shuyūkh* refer to Hofer, “Office of the ‘Chief Sufi’”.

⁵⁸⁹ Ibid, p.19: “Only Fakhr al-Dīn Yūsuf was not attached to any religious office, despite being trained as an ‘*ālim*’; only one of them occupied the position according to Eddé, “Awlād Al-Shaykh”.

⁵⁹⁰ El Merheb, “Louis”, p.4.

⁵⁹¹ Eddé, “Awlād Al-Shaykh”.

⁵⁹² Ibn Ḥamawīyya, “*Al-siyāsa al-mulūkiyya*”.

work of political thought authored by a statesman who was, similarly, a chief Sufi.⁵⁹³ Its author thrived before 1244, that is two or three decades before the authoring of the *Miṣbāḥ*. Consequently, it attests to a lively engagement of Sufis in writing works of political thought concurrently with the surge in Shāfiʿī political writing that characterised the thirteenth century. Secondly, *al-siyāsa al-mulūkiyya* provides, along with the *Miṣbāḥ*, proof of the importance of the central lands of Islam in the production of political thought by Sufi or “Sufi-minded” authors.⁵⁹⁴ Thirdly, it shows that the rise of political thought written by Sufis preceded the Mamluks and, as such, was pertinent to the development of Sufism within the wider context of the late ‘Abbāsīd commonwealth. Fourthly, by pinning down a work of political thought to a specific Sufi author, Tāj al-Dīn, about whom and whose family the sources spell much out, we get an unprecedented appreciation of the milieu within which the production of this thought took place. Based on what we know about Tāj al-Dīn and the banū Ḥamawīyya, one can make the following preliminary depiction: it was a staunchly Sufi, Shāfiʿī, and Ash‘arī milieu with strong personal and professional ties to the Muslim East.⁵⁹⁵ This sketch concurs with Hofer’s conclusions on the typical profile of the holder of the office of *shaykh al-shuyūkh* as originating “from the East, typically Iraq or Khurasan” and primarily “being a jurist, having trained in Shāfiʿī jurisprudence and Ash‘arī theology”.⁵⁹⁶ Fifthly and lastly, through the life of its author, *al-siyāsa al-mulūkiyya* provides direct evidence to the interrelatedness of political Ash‘arī Sufism in Morocco, Iraq, Khurāsān, Anatolia, Syria, Egypt, and beyond.

⁵⁹³ My initial study of *al-siyāsa al-mulūkiyya* shows that it is a collection of aphorisms often attributed to Plato. The content is clearly not platonic and does not contain serious philosophical discourses. This treatise will be the focus of future dedicated research.

⁵⁹⁴ Here I borrow Yilmaz’s term; *Caliphate Redefined*, p.2.

⁵⁹⁵ Interestingly, such findings fit perfectly with the profile Julie Scott Meisami proposed for the unknown author of The *Baḥr al-favāʿid* or *Sea of Precious Virtues*, an anonymous Persian treatise composed in Syria in the mid-twelfth century. Scott Meisami noted, “he was a Sunnī, an Ash‘arī, and an adherent of the Shāfiʿī legal school” and probably a religious scholar brought from the East to Syria in Meisami, *The Sea of Precious Virtues*, p. vii and xii; p. 330.

⁵⁹⁶ Hofer, “Office of the ‘Chief Sufi’”, p.1.

The banū Ḥamawiyya offer one final precious clue to the study of the history of Islamic political thought. The family's social networks demonstrate the solid links of the Sufi milieu that produced political thought during the thirteenth century back to the Ash'arī theologians and Shāfi'ī jurists Imām al-Ḥaramayn al-Juwaynī and al-Ghazālī. Although this conclusion will be confirmed subsequently by textual analysis of the *Miṣbāḥ*, I shall highlight it here in terms of social networks.⁵⁹⁷ The grandfather of 'Imād al-Dīn 'Umar b. Ḥamuwayh, the first *shaykh al-shuyūkh* in Syria, was Abū 'Abd Allāh Muḥammad al-Juwaynī (d. 530/1135), a renowned Sufi in Khurāsān and Iraq. Most importantly, he was a student of Imām al-Ḥaramayn al-Juwaynī. Furthermore, 'Imad al-Dīn's father, Najm al-Dīn Abū al-Ḥasan 'Alī (d. 539/1144), was a Sufi who studied under al-Ghazālī. These strong ties between the banū Ḥamawiyya and al-Juwaynī and al-Ghazālī may have prompted Nūr al-Dīn to appoint 'Imad al-Dīn as his chief Sufi; Hofer concluded that this "Ash'ari/Shāfi'i/Ghazālī background would become the *sine qua non* for the office of the Chief Sufi under the Ayyubids and early Mamluks".⁵⁹⁸ As such, the banū Ḥamawiyya came to epitomise the flourishing of Syro-Egyptian Ash'arī-Shāfi'ī Sufism and, moreover, highlighted the strong links between the production of Sufi political thought and both al-Juwaynī and al-Ghazālī. This conclusion will be reaffirmed below when the sources and influences of the *Miṣbāḥ* are identified.

Sufism and politics

The case of the banū Ḥamawiyya was not an isolated instance, the Sufis played important roles throughout the political history of the late 'Abbāsīd period. This family was just one of numerous cases that confirm the interrelatedness between politics and Sufism, which preceded the

⁵⁹⁷ For a detailed discussion refer to Hofer, "Office of the 'Chief Sufi'", p.12-13

⁵⁹⁸ *Ibid.*, p.13.

Ḥamawīyyas and continued well after them. I argued above for the need to analyse the rise of Sufi political thought within a wider late ‘Abbāsīd context because this period displayed striking cases of powerful Sufis defining the political ideology of the late caliphs of Baghdad and, later, exerting political influence on the Mamluk ruling elite. This seemed like a foreseeable development in ‘Abbāsīd history. Sufism had played a pivotal role in the spread of Sunnism and came to pervade all groups and strata of Islamic society. The political elites and the ‘*ulamā*’ found in Sufism a direct channel to the common people of urban centres and remote villages, to craftsmen and guilds, to slaves and destitute social groups, and most notably to soldiers. This contributed to the development of Sufi institutions like *khānqāhs*, *zāwīyas*, and *ribāṭs*, which in turn further increased the political influence of Sufis. Not only did Sufism benefit from the patronage of rulers and the elites, it also played a role in politics and, in later ‘Abbāsīd times, came to contribute to and even define the ideology of the caliphate. I will detail below two selected cases of Sufi political influence that elucidate this wider late ‘Abbāsīd context.

The most notable instance was the relationship between the ‘Abbāsīd caliph al-Nāṣir li-Dīn Allāh and the famous Sufi ‘Umar al-Suhrawardī.⁵⁹⁹ Al-Nāṣir, intent on reviving the weakened Abbāsīd caliphate by reshaping it as the spiritual and political focus of the Islamic world, found in al-Suhrawardī an able theorist and ally who could achieve this task. With this in mind, the caliph supported and personally joined a strain of *futuwwa* that was heavily infused with Sufism.⁶⁰⁰ Under this arrangement, al-Suhrawardī provided the ideological foundations for the caliph’s enterprise by envisioning a unification of *futuwwa* with Sufism (*taṣawwuf*). Additionally, al-Suhrawardī posited that the *futuwwa* was part of Sufism and, later, advanced a political theory in which

⁵⁹⁹ I rely here on Angelika Hartmann, “Al-Suhrawardī” and “al-Nāṣir Li-Dīn Allāh” in *EI2*.

⁶⁰⁰ *Ibid.*. For a related reading, refer to the two recent articles by Salah Natij, “Murū’a: Soucis et Interrogations éthiques Dans La Culture Arabe Classique (1ere Partie),” *Studia Islamica* 112 (2017): 206–63.; (2e Partie), *Studia Islamica* 113 (2018): 1–55.

he harmonised the three pillars of *futuwwa*, Sufism and the caliphate.⁶⁰¹ *Futuwwa* continued well into the Mamluk period, yet there were more visible manifestations of Sufi influence on Mamluk household politics.

Mamluk sultans, *amīrs*, and households continued to patronise Sufis and, at times, conceded to them considerable political power. Evidence for Sufi involvement in Mamluk politics and household power struggles is abundant, but I will limit my discussion to two well-studied cases that occurred under sultans Baybars, al-Nāṣir Muḥammad, and Baybars al-Jāshānkīr. The first case is the sway that the Sufi *shaykh* Khiḍr al-Mihrānī (d.676/1277) held over Baybars. The second case is the rivalry between the powerful camp of the Sufi Naṣr al-Manbijī (d. 719/1319) and Ibn Taymiyya's allies, which extended from Damascus to Cairo and reflected the active participation of Sufis in the Mamluk households' competition for power. So deep was the Sufi involvement in these Mamluk rivalries that one gets the distorted impression that the competing factions were Sufi and Ḥanbalī rather than the households of Baybars al-Jāshānkīr, *amīr* Salār and al-Nāṣir Muḥammad.⁶⁰²

I shall start with the case of *shaykh* Khiḍr al-Mihrānī (d.676/1277). The role he played during Baybars' reign was a paradigm of what was perceived to be unruly, unerudite, and dangerous Sufi influence.⁶⁰³ Before his service to Baybars, *shaykh* Khiḍr is said to have led a disreputable and scandalous life. Baybars met Khiḍr on one of his campaigns and when the *shaykh's* predictions of some of the sultan' victories materialised, the latter invited him

⁶⁰¹ *EI*, al-Nāṣir Li-Dīn Allāh

⁶⁰² As will be discussed in Chapter 5, Ibn Taymiyya did not represent all the Ḥanbalīs. Furthermore, Ḥanbalīs and Sufis were not mutually exclusive or constantly opposed groups, and Ḥanbalī Sufism existed even in the circles around Ibn Taymiyya. This contention refers to the competition between Ibn Taymiyya and certain Sufi groups and influential Sufis. Refer to Birgit Krawietz, "Ibn Qayyim Al-Jawzīyah: His Life and Works," *Mamlūk Studies Review* 10, no. 2 (2006): 19–64.

⁶⁰³ For *shaykh* Khiḍr, I relied on Peter Thorau, *The Lion of Egypt: Sultan Baybars I and the Near East in the Thirteenth Century* (London; New York: Longman, 1995) and P.M. Holt, "An Early Source on Shaykh Khaḍīr Al-Mihrānī," *Bulletin of the School of Oriental and African Studies* 46 (1983): 33–39.

to Egypt. According to another version, the two met when Baybars was still an *amīr* and Khiḍr predicted Baybars' ascent to the throne. Be it as it may, Khiḍr quickly succeeded in exercising considerable influence on the sultan who built *zāwiyas* for him in Jerusalem, Damascus, Ba'albak, Ḥamāh, and Ḥimṣ.⁶⁰⁴ While the actual extent of Khiḍr's influence on Baybars' political and administrative decisions remains unclear, it was obvious that after several successful prophecies the *shaykh* became important enough to be considered a real threat by the powerful Mamluk *amīrs* around the sultan. Furthermore, his crimes and excesses against protected Christians and Jews in the Syro-Egyptian lands antagonised the leading Muslim scholars, *amīrs*, and administrators as they resented him even more for threatening the public order of the realm. In 671/1273, the Mamluk notables struck first and *shaykh* Khiḍr was tried in Cairo in front of a special court accused of "unnatural sexual intercourse and of adultery".⁶⁰⁵ Realising that the court was about to sentence him to death, Khiḍr resorted to a last-minute and brilliant manoeuvre: he prophesied that his death would be immediately followed by that of the sultan. The trick worked as the prophecy was taken seriously, and Khiḍr was eventually sentenced to life imprisonment. Later, he was killed in prison and his final prophecy materialised as the sultan died shortly afterwards. Although most Muslim chroniclers were hostile to Khiḍr, it is possible to gauge the magnitude of his sway over the sultan from Ibn al-Dawādārī's following words, "His conduct throughout the kingdom of the sultan al-Malik al-Zāhir was as the conduct of rulers, and his writings were exemplary and incontrovertible in all the Islamic kingdoms under the rule of al-Malik al-Zāhir."⁶⁰⁶

The second case of Sufi political agency could not have been more different. In contradistinction to the first case, which was marked by

⁶⁰⁴ Holt, "Shaykh Khaḍir", p.34.

⁶⁰⁵ Thorau, *The Lion of Egypt*, p.225-229.

⁶⁰⁶ Translation from Holt, "Shaykh Khaḍir", p.35; refer to Ibn al-Dawādārī, *Kanz* vol. 8, 9 vols, p.222.

prophecies, the second instance was more complex and manifested as a hotchpotch of disputes over theology and creed, rivalries among Mamluk households, and street demonstrations. It took place during the successive trials (*miḥnas*) of Ibn Taymiyya and reflected the ability of Sufis to engage in political machinations at the heart of Mamluk political power. There is no point in repeating the chronology of the events or adding to the valuable existing studies on the *miḥnas* of Ibn Taymiyya.⁶⁰⁷ Therefore, I will limit my discussion to highlighting the impressive agency of Sufis in cooperating together and influencing the Mamluk judiciary process and political sphere. I will show how Sufis cooperated and participated in these events, albeit for different reasons, ranging from disputes on creed and theology, answering personal offences, and involvement in Mamluk household competition.

During his second reign, sultan al-Nāṣir Muḥammad Ibn Qalāwūn was still young. Two *amīrs* controlled the realm: the powerful head of the sultan's household *ustādār* Baybars al-Jāshankīr, who later acquired the throne, and the powerful *amīr* Sayf al-Dīn Salār (d. 710/1310). The latter was a patron of Ibn Taymiyya while Baybars al-Jāshankīr was close to Sufi *shaykh* Naṣr al-Manbijī (d. 719/1319). The clash started when Ibn Taymiyya offended Naṣr al-Manbijī by attacking Ibn al-ʿArabī and his famous work *Fuṣūṣ al-ḥikam* (The Bezels of Wisdom), therefore, indirectly questioning the authority and the status of al-Manbijī.⁶⁰⁸ By then, Ibn Taymiyya's continuous attacks on Sufis including Ibn al-ʿArabī, al-Shādhilī, and Naṣr al-Manbijī had already antagonised Sufi groups in Syria and Egypt.⁶⁰⁹ Al-Manbijī joined forces with Karīm al-Dīn al-Āmūlī, the chief Sufi in Cairo, and the Sufis demonstrated en

⁶⁰⁷ Although in this section I rely solely on the recent works of Caterina Bori and Nathan Hofer, there are several other valuable studies on Ibn Taymiyya that are mentioned in the Introduction and will be used in Chapter 5.

⁶⁰⁸ Caterina Bori, "The Missing Link", p.71-72. Furthermore. I have opted for the title translation of Ibn al-ʿArabī as per Binyamin Abrahamov, *Ibn Al-ʿArabi's Fuṣūṣ Al-ḥikam: An Annotated Translation of "The Bezels of Wisdom"*, Routledge Sufi Series 16 (London ; New York: Routledge, Taylor & Francis Group, 2015).

⁶⁰⁹ Refer to Chapter 2.

masse at the citadel of Cairo.⁶¹⁰ According to Hofer, Ibn ‘Aṭā’ Allāh al-Iskandarī (d. 709/1309), the Mālikī jurist and powerful Shādhilī Sufi, personally led the crowd of Sufis to demonstrate at the citadel against *amīr* Salār, the protector of Ibn Taymiyya. Under pressure, Salār passed the case to the chief judge Ibn Jamā‘a. During the trial, as discussed in Chapter 2, Ibn ‘Aṭā’ al-Iskandarī raised the issue of Ibn Taymiyya’s rejection of the invocation of the Prophet for help (*istighātha*), which Ibn Jamā‘a saw as mere insolence. The Sufis were not satisfied with this ruling. Supported by many jurists and probably by Baybars al-Jāshankīr, they insisted that Ibn Jamā‘a imprison Ibn Taymiyya since the “*dawla*” required it;⁶¹¹ Ibn Jamā‘a eventually succumbed, saying that prison was for Ibn Taymiyya’s “own good”.⁶¹² Ibn Kathīr was convinced that this machination was all the work of Naṣr al-Manbijī and noted that the latter was very influential in the state because “he captivated the mind of al-Jāshankīr” and other influential individuals while, at the same time, lamenting that sultan al-Nāṣir Muḥammad was powerless.⁶¹³

This was an unprecedented chapter in the mutual history of Sufism and Mamluk politics. Unlike the earlier case of the unruly *shaykh* Khiḍr, the Sufi role in the successive *miḥnas* of Ibn Taymiyya demonstrated impressive political sway on the Mamluk political power and judiciary system. Sufi *shaykh* Naṣr al-Manbijī exercised a considerable and indisputable personal influence on Baybars al-Jāshankīr, the real holder of power in the realm. Moreover, the strong spread of Shādhilism meant that Ibn ‘Aṭā’ Allāh al-Iskandarī could muster and lead a popular Sufi show of force at the citadel of Cairo when needed. Additionally, the cooperation between Karīm al-Dīn al-Āmūlī, the chief

⁶¹⁰ Hofer, *Popularisation of Sufism*, p.166-171.

⁶¹¹ *Dawla* possibly refers here to the sultan, or the interest of the sultan or his government, and as such holds a similar meaning to *raison d’état*.

⁶¹² Ibn Kathīr, *Bidāya*, vol.16, p.62-63; Naṣr al-Manbijī was the “personal friend and influential advisor to Baybars al-Jāshankīr” in Hofer, *Popularisation of Sufism* p.168. Refer to Chapter 2.

⁶¹³ Ibn Kathīr, *Bidāya*, vol.16, p.63; al-Yūnīnī relates a similar story in *Dhayl mir’āt al-zamān*, ed. Ḥamzah Aḥmad ‘Abbās, vol. 2, 3 vols, p.1174. As mentioned earlier, I do not suggest that Ḥanbalism was constantly opposed to Sufism.

Sufi in Cairo, and Naṣr al-Manbijī reflected how the Sufis could act and respond swiftly based on a collective sense of threat. It mattered little whether this was all triggered by a dogmatic reaction in defence of Ibn ‘Arabī’s *Fuṣūṣ al-ḥikam*, to simply to protect the egos of the Sufi *shaykhs* al-Manbijī and al-Iskandarī, or by being involved in the Mamluk households’ competition. The Sufis’ ability to chase Ibn Taymiyya across Damascus and Cairo and put him on trial more than once, and their ability to influence the Mamluk judiciary system by forcing the renowned chief judge Ibn Jamā‘a to reverse his judgement and imprison Ibn Taymiyya was striking.

Miṣbāḥ al-hidāya: Sufi political thought

It is within the above context that I am offering to re-examine *Miṣbāḥ al-hidāya fī ṭarīq al-imāma* (The guiding lamp to the path of the *imāma*) as an illustration of early Mamluk Sufi political thought. This valuable Sufi political treatise is better understood alongside four preliminary conclusions that can be drawn from the intellectual, social, and political context discussed above. A first conclusion is that the Sufis were active in the Ayyubid and Mamluk political spheres, and in some cases were engaged in open political confrontations with other religious, social, or political groups. The second conclusion relates to the characteristics of the Sufi milieu that were active in producing political thought, as evident from the case of *Kitāb al-siyāsa al-mulūkiyya*. This milieu was formed in the Sunni theological and juridical tradition of the Ash‘arīs and the Shāfi‘īs; it was strongly tied to al-Juwaynī and al-Ghazālī through social and intellectual networks; its was highly erudite and well versed in the Arabic philosophical tradition; it was close to the political power of the late Ayyubid period; and it held strong Sufi, political, professional, and ties within the Islamic East and West. Thirdly, this milieu was dissimilar in every conceivable way to the unruly - yet influential - Sufism that was epitomised by *shaykh* Khidr al-Mihrānī. A fourth and final conclusion:

this milieu was multi-faceted in the sense that it could put on a Sufi, Ash‘arī, Shāfi‘ī or even a philosophical appearance, as is evident in the style in which *al-Siyāsa al-mulūkiyya* was authored. At the risk of pre-empting the conclusion of this chapter, I will show in what follows that the analysis of *Miṣbāḥ al-hidāya* leads to similar conclusions and that this treatise was the product of the historical and intellectual context described in this paragraph.

It was in 1995 that Wilferd Madelung brought *Miṣbāḥ al-hidāya* to light and emphasised its relevance to the political thought of the Mamluk period.⁶¹⁴ He made some useful observations on the author, the supposed dedicatee, and the Sufi character of the treatise and its content. In this section, some of Madelung’s initial findings will be revisited based on new evidence. Additionally, and more importantly, this section will link the treatise to the wider tradition of Islamic political thought and will show that the *Miṣbāḥ* was not an isolated case that emerged from the abyss. The investigative work below will also identify the sources and influences of the treatise, the background and aims of its author, the likely dedicatee, and will propose new conjectures on its political theory.

A good starting point for this investigation is to revisit the identity of the *Miṣbāḥ*’s author. Madelung noted the “Ṣūfī outlook of the author” and suspected he may be no other than *shaykh* Khidr al-Mihrānī.⁶¹⁵ Nonetheless, Madelung observed that there were other Sufis in the entourage of Baybars who could have authored the treatise and that nothing in the “intellectual and literary career” of *shaykh* Khidr suggested he was capable of such writing.⁶¹⁶ In addition to Madelung’s caution against his own suggestion, the attribution of the *Miṣbāḥ* to Khidr is not tenable for several other reasons. As will be clear by the end of the chapter, the *Miṣbāḥ* was authored by a Sufi who held a

⁶¹⁴ Madelung, “A Treatise on the Imamate”.

⁶¹⁵ *Ibid.*, p. 91.

⁶¹⁶ *Ibid.*, p. 92.

jurist's concern for the rule of law as conceived throughout this this research. Moreover, the *Miṣbāḥ*'s author exhorted the modest conduct of scholars and the respect of the *sharī'a*.⁶¹⁷ Nothing in the unruly life of Khidr indicated any consideration for the rule of law or modesty, neither his treatment of the Jews and Christians in flagrant disregard to the *dhimma* code, nor his personal conduct and pursuit of personal gain and pleasure that marred his reputation before and during his service under Baybars. There are, of course, no guarantees that the authors of homiletics abide by what they preach. Accordingly, I propose a more convincing refutation, which is that Khidr's influence on his patron was grounded on legitimation by prophecies rather than by the exposition of coherent political thought. Based on all the above reasons, it is perfectly sensible to disregard Khidr as a possible author of the *Miṣbāḥ* and to disentangle "the political thought of this sultan [Baybars] and the Egyptian 'ulamā' backing him" completely from the rise and fall of the controversial Sufi *shaykh*.⁶¹⁸

There is, similarly, the chief question of the dedicatee of the *Miṣbāḥ*. The author of the treatise mentioned that he dedicated it to:

The pillar of Islam and Muslims (*Rukn al-Islām wa-al-muslimīn*), the suppressor of infidels and rebels, the one who sets the rituals of justice and benevolence, the demolisher of injustice and oppression, the one who spreads security and safety, the disseminator of generosity and beneficence, and the one who holds the support of God, the seal of his age, al-Ṣultān al-Malik al-Zāhir.⁶¹⁹

Madelung believed the treatise was dedicated to sultan Baybars as he was the only "al-Malik az-Zāhir who bore the title Rukn ad-Dīn".⁶²⁰ Although Madelung's conjecture is very plausible, it is nonetheless fundamental to

⁶¹⁷ Refer to the last section of this chapter on the Merits of the Sufis.

⁶¹⁸ Madelung, "A Treatise on the Imamate", p. 92-93.

⁶¹⁹ *Miṣbāḥ*, fol. 3a - 4b.

⁶²⁰ Madelung, "A Treatise on the Imamate", p. 91.

reflect on it carefully. While the author of the treatise used “*Rukn al-Islām wa-al-muslīmīn*”, it cannot be taken as a conclusive reference to the regnal title of Baybars, since it could simply have been a panegyric description of the dedicatee. Therefore, *Rukn al-dīn* is not a conceded rendition of “*Rukn al-Islām wa al-muslīmīn*” as Madelung suggested. A more useful clue can be found carved on a wooden memorial panel dated from 664/1265 in the National Museum of Damascus. It was completed on the orders of Baybars to commemorate his campaign in Cilicia and placed above the tomb of the Prophet’s companion Khālid Ibn al-Walīd in Homs.⁶²¹ It read the following, “*Mawlānā al-Ṣulṭān al-Malik al-Zāhir Rukn al-dunyā wa-al-dīn, wa ṣulṭān al-Islām wa-al-Muslīmīn, qātil al-kafara wa al-mushrikīn, qāhir al-khawārij wa al-mutamarridīn...*” (Our Lord al-Ṣulṭān al-Malik al-Zāhir, the pillar of the world and religion, the sultan of Islam and Muslims, the killer of unbelievers and polytheists, the suppressor of rebels and insurgents). This panel provides a better indication that the *Miṣbāḥ* was indeed dedicated to Baybars. However, it is still not conclusive evidence and, although highly unlikely, future findings may show that the dedicatee of the *Miṣbāḥ* was another one of the seven Burjī Mamluk sultans who bore the title al-Malik al-Zāhir.⁶²²

The *Miṣbāḥ* did not simply have a Sufi outlook, as Madelung suggested, but was expressed in a *distinctly* Sufi style. The author did not compose the *Miṣbāḥ* as a political work merely influenced by Sufism, but rather as a Sufi treatise that treated a *distinctly* Sufi political thought that he presented as such to his dedicatee and intended audience. The *Miṣbāḥ* was a political treatise not simply because its author described it as an epistle on the imamate (*risāla fī-al-imāma*) but since it treated predominantly themes of

⁶²¹ Source:

[http://www.discoverislamicart.org/database_item.php?id=object;ISL;sy;Mus01;36;en&cp]

⁶²² C.E. Bosworth, *The New Islamic Dynasties: A Chronological and Genealogical Manual* (Edinburgh: Edinburgh Univ. Press, 1996), p. 76-78.

rulership.⁶²³ Likewise, the *Miṣbāḥ* was a Sufi work whose content relied on Sufi texts, language, and concepts. Most importantly, the author of the *Miṣbāḥ* strived to present it as a purely and distinctly Sufi work and desired it to be read as such, as the textual analysis will demonstrate subsequently.

In the prologue of the *Miṣbāḥ*, the author displayed his Sufi colours.⁶²⁴ He carefully built his case for a distinctly Sufi political thought that was on a par with the main Islamic intellectual currents. He first stated that the ultimate aim of creation was to attain the knowledge and awareness of God (*maʿrifat al-bārī*); the author explained, furthermore, that the duty of worship comes second to the *maʿrifa*. These were unmistakable distinguishing signs of the Sufiness of the treatise. Following that, when arguing for the requirement of the *imāma*, the author presented Sufism as a distinct third school of thought that was an equal alternative to Ashʿarism and Muʿtazilism. In order to reach the awareness of God, he said, the Ashʿarites resorted to scripture and revelation (*sharʿ*) and the Muʿtazilites to reason, while the Sufis advocated *taṣfiya* (often translated as spiritual purification or refinement).⁶²⁵ The author of the *Miṣbāḥ* presented the Sufi way as being equal to the investigation and deduction (*istidlāl* and *nazar*) of both the Ashʿarīs and Muʿtazilīs and as an alternative that accepted both revelation and reason. The case for a distinctly Sufi political thought was thus firmly defined.

In his attempt to present Sufism as a third alternative to Ashʿarism and Muʿtazilism, the author revealed valuable clues as to his sources and political theory. The first clue related to his sources and his agency in using them. The author, I noticed, used al-Māwardī's discussion in *Adab al-dunyā wa-al-dīn* on whether to rely on reason or revelation (*ʿaql* or *sharʿ*) in justifying the

⁶²³ *Miṣbāḥ*, fol. 2a.

⁶²⁴ *Miṣbāḥ*, fol. 4a-9a.

⁶²⁵ Refer to Madelung, "A Treatise on the Imamate", p.93 where he translates *taṣfiya* as self-purification.

requirement for an *imām*.⁶²⁶ The author of the *Miṣbāḥ* skilfully modified al-Māwardī's discussion and integrated Sufism into it. Clearly this was not a case of someone simply repeating and collating earlier texts, but rather a highly erudite and able author who was capable of selecting, rearranging, modifying, and employing earlier political discussions and texts to suit his own purposes. As for the clue concerning his political theory, the author of the *Miṣbāḥ* revealed that his distinctly Sufi treatise legitimated the forceful seizure of the sultanate as will be shown below. As such, the introduction indicated that this was to be a work of political thought, like others discussed so far in this thesis, which was interested in the question of rule under a sultan and in the absence of a 'classical' caliph.

Coercive authority

The prologue of the *Miṣbāḥ* resembled the language of the jurists. Despite the effort made by the author to project a distinctly Sufi thought, his discussion on the requirement for the *imāma* replicated familiar ideas from the juristic political treatises on forceful seizure.⁶²⁷ The author said that there was a necessity for the one who can achieve prosperity and run people's religious and mundane lives (*dīnuhum* and *dunyāhum*) to uphold the duty of worship. He said that God sent his messengers to invite people to know and worship him. Upon the expiration of the messengers, this task was entrusted to the one who resorts to investigation and deduction (*istidlāl* and *naẓar*) in order to reach the *ma'rifa*, and the one who forbids evil and enjoins what is good, brings benefit, and suppresses corruption.⁶²⁸ The author explained that the one who could achieve this was the pious *imām* (*al-mutadayyin*) and the sultan learned in religious law (*al-mutasharri'*) whose existence was a

⁶²⁶ Al-Māwardī, *Adab al-dunyā wa-al-dīn*, ed. Muḥammad Karīm Rājiḥ (Beirut: Dār Iqra', 1985), p. 150-151.

⁶²⁷ Refer to Madelung, "A Treatise on the Imamate", p. 93-94.

⁶²⁸ *Miṣbāḥ*, fol. 7a, 7b, 8a & 8b.

requirement in every land and in every time.⁶²⁹ The discussion was even more similar to the juristic treatises when the *Miṣbāḥ* noted that, in the absence of such an *imām*, the forceful ruler, the wielder of coercive power –the sultan (*imām* of *shawka* and *sulṭān* of *quwwa*), should be invested. Only then will prosperity and the duties of worship be guaranteed, and dissension (*fitna*) subside.⁶³⁰ This resemblance continues when the author states that the *imāma* can be accorded either by designation from the previous *imām* or by the consensus of the people who loosen and bind (*ahl al-ḥall wa-al-‘aqd*).⁶³¹ It cannot be accorded to two *imāms* at the same age and place. This all bore a striking resemblance to juristic treatises.

The author of the *Miṣbāḥ* argued for the legitimacy of the coercive sultan. He listed eight stipulations for the *imāmate*, which evidently referred to the sultanate.⁶³² According to the *Miṣbāḥ*'s theory, the *imām* must be (1) male (*mudhakkar*), as the author noted the *imāmate* of women was not valid; (2) judicious (*‘āqil*) and mature (*bāligh*), as madmen or boys were incapable of considering serious matters or managing the affairs of people; (3) free (*ḥurr*), as a slave was constantly occupied with his duty to serve his master; (4) just (*‘adl*) as the depraved did not reject unfairness;⁶³³ (5) knowledgeable (*‘ālim*) in religious rulings; (6) well informed in his ruling duties (*‘ārif*) and commanding independent abilities (*kāfī*) to carry out any duties he may have to assume; (7) he need not be from Quraysh; finally, (8) the condition of infallibility (*ma‘ṣūm*) as per the Shī'a belief was rejected. The author of the *Miṣbāḥ* stated that if no candidate with such requirements was available, and if a

⁶²⁹ *Miṣbāḥ*, fol. 8a – 8b.

⁶³⁰ *Miṣbāḥ*, fol. 8a - 9b.

⁶³¹ For more on the “people who loosen and bind,” refer to Muhammad Qasim Zaman, “Ahl al-ḥall wa-l-‘aqd”, in *EI3*.

⁶³² Essay one of the *Miṣbāḥ* entitled “The stipulations for the *imāmate*,” (*fī sharā’iṭiha*) in the *Miṣbāḥ*, fol. 9a-12b. Refer to Madelung, “A Treatise on the Imamate”, p. 94, where he noted that the author of the *Miṣbāḥ* equated the *imāmate* with the sultanate.

⁶³³ The notion of *‘adl* not only refers to justice but also to piety (*wara*); refer to discussion below.

Muslim who commanded military power (*shawka*) arose to assume the *imāma* then his tenure became lawful and effective by the right of necessity (*nafadhat imāmatuhu li-al-ḍarūra*) even if he lacked the quality of knowledge in religious law (*mujtahid*) and even if he displayed immoral conduct (*fāsiq*). The author explained that in his time the knowledgeable were absent and the just could rarely be found.

While Madelung was unequivocally correct in assuming that *imāmate* meant sultanate in the *Miṣbāḥ*, his explanation of the exclusion of the necessity of Qurashī or ‘Alid descent is a major point of diversion with this research. Unlike Madelung, I posit that this exclusion was rooted in the Shāfi‘ī/Ash‘arī thought of al-Juwaynī and, his student, al-Ghazālī. Madelung considered that on the point of Qurashī descent, “the author begins to deviate from the traditional positions” of the jurists. Madelung argued that among the jurists (*fuqahā*) “the requirement of the imam being of Quraysh had been a matter of consensus among Sunnite scholars until the recent overthrow of the ‘Abbāsīd caliphate in Baghdad and that the only deviants had been the Khārijites and a few aberrant Mu‘tazilites.”⁶³⁴ Madelung even rejected the idea that al-Juwaynī departed from this “consensus”.⁶³⁵ As discussed extensively in the introduction to this book, this misconception is rooted in a serious and unremitting impediment to the study of the history of Islamic political thought. Despite the academic mythology of the theory of the caliphate, the current of jurists that rejected the necessity of lineage to Quraysh had in fact been a powerful, confident, and vocal trend in Islamic political thought since the

⁶³⁴ Madelung, “A Treatise on the Imamate”, p. 95.

⁶³⁵ Ibid., p.91 & 95. Madelung mentioned that the reliance of the *Miṣbāḥ* on al-Juwaynī’s *Ghiyāth al-umam* was brought to his attention by T. Nagel (footnote 1, p.91), yet Madelung decided that the author of the *Miṣbāḥ* was not even “acquainted” with al-Juwaynī! Furthermore, Madelung confidently dismissed Wael Hallaq’s research on the *Ghiyāth* and judged that it went “far beyond what may be reasonably inferred from al-Juwaynī’s discussions”(footnote 7, p.95). Refer to the Introduction for more on this impediment; this is an entrenched belief -even when faced with compelling contradictory evidence- that the so-called jurists’ “theory of the caliphate” insisted on descent from Quraysh.

eleventh century. Islamic political thinkers had already developed strong views against the requirement for Qurashī lineage (*nasab*) and, furthermore, on the necessity of the caliphate itself - well before the fall of Baghdad and, unsurprisingly, after its fall. One notable earlier example of this was al-Juwaynī and later ones were Ibn Jamā‘a and al-Ṭarsūsī. Furthermore, Madelung’s observation that the *Miṣbāḥ* aimed to refute and discredit the Shī‘a doctrine is untenable because, by the time of Baybars, Shī‘ism did not pose any grave threat to the Syro-Egyptian centre.⁶³⁶ The author’s obsolete refutations of the necessity for any lineage to some of ‘Alī’s sons and of the Shī‘a requirement for infallibility simply pointed to the sources and influences of the *Miṣbāḥ*. As I will show, the *Miṣbāḥ*’s eight stipulations of the *imāmate*, including the refutation of ‘Alid or Qurashī descent, led straight back to al-Juwaynī and, his student, al-Ghazālī.

The *Miṣbāḥ*’s eight requirements are strikingly similar to those proposed by the prominent Sufi/Shāfi‘ī/Ash‘arī theologian and political thinker al-Juwaynī. The similarities with the conditions stipulated in al-Juwaynī’s *Ghiyāth al-umam fī-iltiyāth al-zulam* (Aid to nations shrouded in darkness) are difficult to miss and demark this treatise as an important influence on the author of the *Miṣbāḥ*.⁶³⁷ In the *Ghiyāth*, al-Juwaynī did not deem it “reasonable” to assume that the *imāmate* required a Qurashī *nasab* and cast serious doubt on a prophetic saying that “imāms are from Quraysh”.⁶³⁸ For al-Juwaynī, the required qualities of the *imām* were to be male, free, to be judicious (to possess ‘*aqī*), to be an adult, and to be brave and gallant. As for the acquired qualities, they included knowledge, which was not limited to religious knowledge as al-Juwaynī explained. While the candidate did not

⁶³⁶ Madelung, “A Treatise on the Imamate”, p. 95.

⁶³⁷ Al-Juwaynī, *Ghiyāth al-umam*, p. 76-97; chapter 4 of the *Ghiyāth* treats the qualities of the *imām*. I benefited from the translation of title from Anjum, “Political Metaphors”, p. 7.

⁶³⁸ Al-Juwaynī, *Ghiyāth al-umam*, p. 70-82.

necessarily need to be a *mujtahid*, piety was an essential acquired quality. Furthermore, al-Juwaynī refuted the need for infallibility (*ʿiṣma*).⁶³⁹

What is also striking is the resemblance of the *Miṣbāḥ* to the works of al-Ghazālī. The stipulations he outlines in his *al-Mustazhirī* (also known as *Faḍāʾih al-bāṭiniyya wa-faḍāʾil al-Mustazhiriyya*, The scandals of the esoterics and the virtues of the party of al-Mustazhir) are identical to those in the *Miṣbāḥ* if just two tweaks are made, adding *najda* (bravery and undauntedness) and descent from Quraysh to the latter.⁶⁴⁰ Carol Hillenbrand summarised the list as follows:

According to al-Ghazālī, ten qualities are necessary for an Imām if he is fit for his office; six are natural or innate (*khilqiyya*) and cannot be acquired, whilst four may be acquired. In the first category are adult status, sound intellect, freedom, maleness, descent from Quraysh and good hearing and sight [...]. In the second category are four so-called “acquired” attributes: *najda*, *kifāya*, *ʿilm* and *waraʿ*.⁶⁴¹

It is important to dwell here on al-Ghazālī’s notions of *kifāya*, *ʿilm* and *waraʿ*, as I shall show below how the author of the *Miṣbāḥ* used and re-interpreted them to suit his own aims. Hillenbrand interpreted al-Ghazālī’s *kifāya* as “competence to govern” and the ability to “order religious and temporal matters” and, furthermore, included “the need for consultation with good

⁶³⁹ Al-Juwaynī, *Ghiyāth al-umam*, p. 91.

⁶⁴⁰ Al-Ghazālī, *Al-Mustazhirī (Faḍāʾih al-bāṭiniyya)*, ed. ʿAbd al-Raḥmān Badawī (Kuwait: Dār al-Kutub al-Thaqāfiyya, n.d.), p.179-195. Al-Ghazālī’s requirements for the *imāma* are ten requirements. One is born with six and four are acquired. The candidate should be mature, rational or sane, have free status, be male, descend from Quraysh, and have good sight and hearing. The acquired qualities are *najda* (undauntedness, bravery, and command and control of the troops), *kifāya* (ability, efficiency, savviness), *waraʿ* (piety) and *ʿilm* (knowledge). Al-Ghazālī explains each one in detail.

⁶⁴¹ Carole Hillenbrand, “Islamic Orthodoxy or Realpolitik? Al-Ghazālī’s Views on Government,” *Iran* 26 (1988): 83. Refer to *Al-Mustazhirī*, p.185-187. Here *kifāya* refers to many talents, including proper counsel, judicious rule, balance between careful consideration and swift and powerful response, and fast reaction to emerging situations.

counsellors and especially the Imām's vizier.”⁶⁴² As for al-Ghazālī's *waraʿ*, it meant both piety and justice. Hillenbrand interpreted *waraʿ* as follows, “It is the very foundation of authority. It is difficult to reconcile *waraʿ* with the exercise of power, but the basis of this is strict adherence to justice. It is noteworthy that al-Ghazālī does not demand that the *imām* be sinless.”⁶⁴³ As for *ʿilm*, it was religious knowledge. Nevertheless, al-Ghazālī did not stipulate that the *imām* be a *mujtahid* as he could benefit from the finest advisors and scholars.

Recognising the above-mentioned variances and similarities are essential to understand the *Miṣbāḥ*'s theory of the sultanate. The author of the *Miṣbāḥ* advocated the requirement and legitimacy of coercive authority by working out a meticulous synthesis of al-Juwaynī's *Ghiyāth* and al-Ghazālī's *Mustaẓhiri* stipulations for the *imāmate*. There were similarities with both treatises, yet the reliance on al-Ghazālī was visibly greater. As such, the *Miṣbāḥ*'s use and explanation of the notions of *ʿadl*, *ʿārif*, and *kāfī* overlapped both textually and conceptually with al-Ghazālī's notions of *kifāya* and *waraʿ* (piety). For instance, the *Miṣbāḥ*'s explanation of the notion of *ʿadl* (justice) corresponded to a large degree to al-Ghazālī's description of *waraʿ*. Consequently, the required conditions for the *imām* were nearly identical, if one was to add *najda* to the *Miṣbāḥ*'s list. On the other hand, it was crucial for the *Miṣbāḥ* to waive the necessity of Qurashī *nasab* and uphold the coercive authority of the sultanate. Accordingly, the *Miṣbāḥ* inserted al-Juwaynī's dismissal of the necessity of descent from Quraysh and used his line of argument on this issue. This crafty synthesis was possible as both al-Juwaynī's *Ghiyāth* and al-Ghazālī's *Mustaẓhiri* displayed great similarities, though not on the issue of descent from Quraysh. The author of the *Miṣbāḥ* thus succeeded in presenting his own theory of the legitimate coercive

⁶⁴² Hillenbrand, “Realpolitik”, p. 83 -84; refer to *al-Mustaẓhiri*, p.187-190, where, in addition to piety, *waraʿ* clearly implies justice in its known and generic meaning.

⁶⁴³ Hillenbrand, “Realpolitik”, p. 85

authority by synthesising the work of al-Juwaynī and al-Ghazālī. He achieved this by using passages, summarising, and rewriting from both authors in a way that was relevant to his own time, audience, and aims.

The rule of law in the Miṣbāḥ

After making the case for coercive authority, the *Miṣbāḥ* treated the rule of law in a distinctly Sufi fashion. The second essay, entitled “On the nature of the imāmate” provided the author with the opportunity to differentiate his political theory from that of others by adopting a moral and ethical conceptualisation of the rule of law as opposed to a legal one.⁶⁴⁴ This section will investigate how the *Miṣbāḥ* distinguished its conception of the *imāma* by curtailing the arbitrary exercise of power using distinctly Sufi ideas that included, among others, a Sufi interpretation of the philosopher king.⁶⁴⁵ While the *Miṣbāḥ* still resembled al-Juwaynī and al-Ghazālī’s take on coercive authority, it described the concern for the rule of law in a mystical and moral language that was relevant to the early Mamluk context. Furthermore, this section will show how, in this second essay, the author of the *Miṣbāḥ* displayed his command of Sufi texts and the Sufi political tradition to achieve his aims.

In order to uphold concern for the rule of law, the *Miṣbāḥ* relied on two carefully selected texts. The first was al-Māwardī’s *Adab al-dunyā wa-al-dīn* (The ethics of the world and of religion); the second text was *Mirṣād al-‘ibād min al-mabdā’ ilā-al-ma’ād* (*The path of God’s bondsmen from origin to return*), a near-contemporary compendium of Sufism that was authored by Najm al-Dīn Dāya al-Rāzī (573/1177- 654/1256), the renowned thirteenth century Ash‘arī-Sufi thinker. Once more, the textual analysis of the *Miṣbāḥ* will reflect the agency of its author in using, re-arranging, and adapting earlier

⁶⁴⁴ *Fī ḥaqīqat al-imāma; Miṣbāḥ*, fol.12b-43b.

⁶⁴⁵ Refer to Lambton, “Justice in the Medieval Persian Theory” p. 110-111 and p.114-115.

texts to suit his aims. For instance, the analysis will show that *Adab al-dunyā* was a suitable choice as it treated the moderation of political power without alluding to the institution of the caliphate, which suited the *Miṣbāḥ*'s legitimation of coercive authority. On the other hand, as will be discussed below, the *Mirṣād* covered systematically the theory, practices, and ethics of Sufism, and discussed various professions, including political and judiciary offices and how their holders could achieve spiritual reward;⁶⁴⁶ therefore, the author of the *Miṣbāḥ* used it to project a Sufi conceptualisation of the rule of law. In an ethical discussion “On the nature of the *imāmate*”, there was little need for juristic opinions, legal requirements, and stipulations - here the author could now resort to moral, philosophical, and mystical ideals and presenting an innovative Sufi contribution to the theory of the *imāmate*.

It should be mentioned that the *Miṣbāḥ*'s Sufi expression of political thought was not a unique occurrence in the history of Islamic political thought. In addition to the above-mentioned case of al-Suhrawardī's caliphal ideology, the Ottoman period offered a more widespread tradition of presenting Sufi conceptions of political authority to rulers. As the persuasive recent study by Yilmaz has shown, influential Sufis and “Sufi-minded” ‘*ulamā*’ legitimated Ottoman rule by transforming the caliphate into an expression of cosmic divine power and by adopting a moral exemplary. This study discussed how “leading jurists either abstained from writing on the question of the caliphate in normative juristic language or resorted to the mystical philosophy of prominent Sufi intellectuals, such as Ibn Arabi, to reconfigure the caliphate outside the disciplinary confines of Islamic Jurisprudence”.⁶⁴⁷ Although the *Miṣbāḥ* was not concerned with establishing any form of caliphate, it still resembled these later Ottoman treatises in its reliance on Sufi language and tradition to

⁶⁴⁶ Najm al-Dīn al-Rāzī, *The Path of God's Bondsmen from Origin to Return (Merṣād al-‘ibād min al-mabdā’ ila-al-ma‘ād): A Sufi Compendium*, trans. Hamid Algar (Delmar, New York, 1982), p. 17.

⁶⁴⁷ Yilmaz, *Caliphate Redefined*, p. 2.

produce political thought. Interestingly, Yilmaz's study showed that some of the sources and influences of the *Miṣbāḥ*, including the *Mirṣād*, were central to this later Ottoman Sufi-driven political theorisation.⁶⁴⁸

i) Ethics and practical philosophy

The Sufi language of the *Miṣbāḥ* did not lessen the author's concern for the basic tenets of the rule of law. Quite on the contrary, the second essay highlighted the author's attention for the ruler's equability in matters of taxation and spending, administration of justice, public welfare, and defence. The author first outlined two types of *imāms*: *imām al-dīn* (of religion) and *imām al-dīn wa al-dunyā* (of religion and the world).⁶⁴⁹ The first was "the saint who guides along the straight path (*al-walī al-mushid ilā ṭarīq al-rushd*)", "takes the key of the *sharī'a* with the hand of the Ṣufi order (*bi-yad al-ṭarīqa*)", spends his time in worship, and is the very personification of compassion (*ṣūrat al-luṭf*).⁶⁵⁰ The second kind was, the author explained, "the highest wish and the form of the *imāma* that represents its ultimate purpose", which was only achieved by an *imām* who was capable of preserving religion and the proper running of the affairs of people.⁶⁵¹ Following the heavily Sufi-toned opening, the author of the *Miṣbāḥ* listed the *imām's* duties of repelling the

⁶⁴⁸ The *Mirṣād* was translated to English in 1982, yet Madelung in 1995 missed its heavy influence of the *Miṣbāḥ*. Furthermore, the translator of the *Mirṣād* missed its influence on the Central and African Islamic regions (p. 20-21); which is surprising since al-Rāzī was first introduced to Sufism in Egypt. Al-Rāzī also wrote in Arabic the renowned *Manārāt al-sā'irīn wa maqāmāt al-ṭā'irīn bi-Allāh* (Light towers for those voyaging to God, and the stations of those flying with God), another founding Sufi text with important political ideas (ed. Sa'īd 'Abd al-Fattāḥ, Kuwait: Dār Su'ād al-Ṣubāḥ, 1993). The translator of the *Mirṣād* to English, and following him Lambton, mistook the *Manārāt* for an Arabic translation of the *Mirṣād*. To add to these colossal confusions, an Arabic translation of the *Mirṣād* appeared in 2002, which was completely unaware of the *Miṣbāḥ* and earlier Arabic translations of the *Mirṣād* (*Falsafat al-taṣawuf wa al-da'wa ilā-Allāh fī kitāb Mirṣād al-'ibād min al-mabdā' ilā-al-ma'ād*, trans. 'Alī Ismā'īl (Cairo: Etrac Publishing, 2002)). Remarkably Yilmaz showed in 2017 that the *Mirṣād* was a popular text from "Cairo to China" (*Caliphate Redefined*, p.29).

⁶⁴⁹ This concept can be traced to al-Ghazālī and also al-Juwaynī, who mentioned "*al-imāma za'āmat al-dīn wa al-dunyā*", in *al-Ghiyāthī*, p. 85; this concept was also central to al-Māwardī's *Adab al-dunyā*.

⁶⁵⁰ Madelung, "A Treatise on the Imamate", p.96; *Miṣbāḥ*, fol. 13b, 12a, and 12b.

⁶⁵¹ *Miṣbāḥ*, fol. 13a.

enemy by *jihād*; defending the lives, properties, and sanctities of Muslims; sustaining public welfare and prosperity; ensuring the equitable administration of tax collection and spending; ensuring the impartial dispensing of justice by upholding both the discretionary sultanate courts (*maẓālim*) and religious rulings (*aḥkām*) equally (*yusawwī bayna ahlayhā*); and establishing legal punishments (*ḥudūd*) without excess or favoritism.⁶⁵² The author of the *Miṣbāḥ* mentioned that only someone who commanded the ability (*qudra*) to enforce could achieve these duties.⁶⁵³ Here, we clearly see the direct influence of al-Māwardī's *Adab al-dunyā* on the *Miṣbāḥ*, where the author used, verbatim, five of the *Adab*'s seven duties of the *imām*.⁶⁵⁴

Like previous authors, reconciling the realms of religion and the world was fundamental to the *Miṣbāḥ*'s political theory. In practical terms, this meant the necessity of just governance by the coercive sultan. Therefore, the author of the *Miṣbāḥ* stated verbatim from *Adab al-dunyā*, “the following keep this world sound: an obeyed religion, a powerful sultan (*sulṭān qāhir*), widespread justice, prevalent safety, abundant prosperity, and widespread hope”.⁶⁵⁵ Following that, the author continued based on *Adab al-dunyā*, “The awe of a coercive sultan is capable of averting dissenting aspirations and uniting divided hearts; his dominant power shall deter transgressors, put fear in insubordinate souls, and restrain those who lost their way in rebellion and corruption[.]”⁶⁵⁶ Under the coercive sultan, the religious and mundane affairs of Muslims are put in order and, subsequently, justice and fixed legal judgements are upheld, borders are protected, armies are raised, thieves and

⁶⁵² *Miṣbāḥ*, fol. 14a & b.

⁶⁵³ *Miṣbāḥ*, fol. 17a&b; refer to Madelung, “A Treatise on the Imamate”, p. 96-97.

⁶⁵⁴ Al-Māwardī, *Adab al-dunyā*, p.151; *Miṣbāḥ*, fol. 14a &b. Refer to “Advice and Advice Literature,” *EI3*, where Marlow states: “In his *Adab al-dunyā wa-l-dīn*, al-Māwardī seeks to indicate the manners appropriate to the two realms of religion and the world”.

⁶⁵⁵ *Miṣbāḥ*, fol. 18b; for a similar translation see Madelung, “A Treatise on the Imamate”, p. 97. Refer to al-Māwardī, *Adab al-dunyā*, p.148.

⁶⁵⁶ *Miṣbāḥ*, fol. 18a&b; for a useful translation refer to Madelung, “A Treatise on the Imamate,” p. 97.

highway robbers are dealt with, and Friday prayers and religious feasts are upheld.⁶⁵⁷ All that was only possible owing to the rule of a just *imām* who commanded coercive power, i.e. the sultan.

There were two main reasons behind the choice of al-Māwardī's *Adab al-dunyā* rather than, for instance, his *al-Aḥkām al-sultāniyya*. The first obvious reason was that in the *Aḥkām* the *imām* was the Qurashī caliph, which rendered it unusable for the *Miṣbāḥ*'s theory of the just coercive sultanate. The second reason was that the language and the methodological reasoning of the *Adab al-dunyā* matched the Sufi character of the *Miṣbāḥ*. Like the two other works of al-Māwardī, *Tashīl al-naẓar wa-ta'jīl al-ẓafar* and *Qawānīn al-wizāra*, the *Adab al-dunyā* treated the ethical qualities (*akhlāq*) and the governance of the ruler (the vizier in the case of the *Qawānīn*) based on a view rooted in "the sciences of ethics and practical philosophy".⁶⁵⁸ Furthermore, al-Māwardī's *Adab al-dunyā* shared with the *Miṣbāḥ*, a concern for proper governance that suited both, world (*dunyā*) and religion (*dīn*).⁶⁵⁹ Clearly, the erudite author of the *Miṣbāḥ* knew his classical political sources very well and used what best suited his theory and aims.

ii) Ruler's conduct

The author of the *Miṣbāḥ* further highlighted the rule of law in another distinctly Sufi manner. To achieve this end, he resorted to the *Mirṣād* in order to articulate a Sufi theory of moderation of the exercise of power by the coercive sultan. The *Mirṣād* was a founding Sufi text that explained the Sufi doctrine, summarised its elaboration, and demonstrated the Islamic roots of Sufism.⁶⁶⁰ Most importantly for this research, the *Mirṣād* included an important contribution to Islamic political thought "couched in distinctively Sufi terms",

⁶⁵⁷ *Miṣbāḥ*, fol.18a -19b.

⁶⁵⁸ Marlow, "Advice and Advice Literature," *EI3*.

⁶⁵⁹ *Ibid.*.

⁶⁶⁰ Al-Rāzī, *God's Bondsmen*, p. 17.

most notably in its fifth part where its author Najm al-Dīn al-Rāzī discussed the conduct of the ruler, vizier, judges, and other professions.⁶⁶¹

The second essay, the largest section of the *Miṣbāḥ*, was heavily influenced by this founding Sufi text. From the beginning to the end of this essay, the author used, and re-arranged passages from al-Rāzī's *Mirṣād* in an extraordinarily systematic and purposeful manner.⁶⁶² Madelung considered that the second essay included a lengthy moral discussion of the *imām*'s conduct in relation to himself, his subjects (*ra'īyya*) or family, and God "in a fanciful manner with a strong element of Ṣūfī concepts and terminology".⁶⁶³ Madelung was not interested in tracing the sources and influences of these Sufi concepts. Yet the near-verbatim use of the *Mirṣād* can be spotted right at the beginning of the second essay when the author of the *Miṣbāḥ* described *imām al-dīn*. The first chapter of the fifth part of the *Mirṣād* entitled, "Concerning the wayfaring of kings and the lords of command" related, "There are two classes of kings: kings of the world and kings of religion." As for those who are the kings of religion, it said:

They have opened the supreme talisman of form with the key of the Law, held in the hand of the Path, and with the eye of the Truth they have contemplated the states and attributes stored and hidden in the depths of their being, like buried treasure and gems. They have penetrated to the mystery of the treasure of "he who knows his self, knows too his Lord".⁶⁶⁴

This was, verbatim, how the *Miṣbāḥ* described *imām al-dīn*.⁶⁶⁵

As a further illustration of this verbatim usage, I will quote two more relevant passages from the *Mirṣād* that were used in the *Miṣbāḥ*. First, what

⁶⁶¹ Ibid., p. 19.

⁶⁶² *Miṣbāḥ*, fol. 12a-43b.

⁶⁶³ Madelung, "A Treatise on the Imamate," p. 98.

⁶⁶⁴ Translation from al-Rāzī, *God's Bondsmen*, p. 396.

⁶⁶⁵ *Miṣbāḥ*, fol. 12a-b; identical text.

Madelung termed as the fanciful Sufi language of the extended discussion on the *imām's* conduct in relation to himself, his subjects, and God was actually obtained from the second chapter of the fifth part of the *Mirṣād*, entitled "Concerning the state of kings and their conduct toward each group of their subjects and their solicitude for the people":

Know that the king has three states: a state with respect to his own soul; a state with respect to his subjects; and a state with respect to his God. In each of these three states, three things are enjoined on him by the Mighty Presence and three things are forbidden him [sic.]. Justice, doing good, and generosity to kinsfolk are enjoined on him; abomination, evil, and wrongdoing are forbidden him [sic.].⁶⁶⁶

Secondly, the whole discussion on the passion and anger (*al-hawā'* and *al-ghaḍab*) that ought to be avoided by the ruler was expressed in a style reminiscent of mirrors for princes; it was in fact entirely based on the sixth chapter of the third part of the *Mirṣād* entitled, "Concerning the refinement of the soul and the knowledge thereof".⁶⁶⁷

The use of the *Mirṣād* was more than just mindless or arbitrary repetition. It was based on a carefully considered inclusion/exclusion strategy that befitted the political theory proposed in the *Miṣbāḥ*. The author aimed at presenting a distinctly Sufi conception of the rule of law that was, nonetheless, in complete agreement with the political theory he had already advanced in the prologue and the first essay of his treatise. Since the *Miṣbāḥ's* theory was centred on the just sultan who commanded coercive power and whose exercise of authority was restrained by a Sufi system of morals and ethics, the author knew perfectly well what passages to include and exclude from the *Mirṣād*. For instance, the following passage of the *Mirṣād* had to be omitted as it could have indicated support to the institution of the caliphate:

⁶⁶⁶ *Miṣbāḥ*, starts fol. 16 a&b; translation from al-Rāzī, *God's Bondsmen*, starts p. 411.

⁶⁶⁷ *Miṣbāḥ*, fol. 23b-29b; translation from al-Rāzī, *God's Bondsmen*, p. 194.

Unless the king first be truly king of himself, he cannot properly exercise kingship over others in such a way as not to cause harm, although there are many people who may be truly king of themselves without being able to exercise true kingship over others. For kingship over others is the deputyship and vice-regency of God, and second only to prophethood; than it, there is no greater task.⁶⁶⁸

The above case of exclusion made perfect sense, as the passage did not fit with the *Miṣbāḥ*'s conception of political authority. Furthermore, this exclusion/inclusion strategy resembled the above-mentioned careful and selective use of the works of al-Māwardī, al-Juwaynī and al-Ghazālī.

Despite the divergence on the caliphate, the *Miṣbāḥ* and the *Mirṣād* still shared the Sufi call for justice, restraint, moderation, benevolence, and accountability. The *Miṣbāḥ*'s concern for restraining the exercise of political power was rooted in a system of morals and ethics that was exquisitely presented in the *Mirṣād*. This system was based on an eclectic use of Islamic and other concepts, like the philosopher king, which were by the thirteenth century well integrated into the Islamic intellectual tradition.⁶⁶⁹ Inevitably, parts of the second essay where the author expressed his concern for the rule of law in a Sufi mixture of moral and philosophical ideas, resembled mirrors for princes and homiletic works of political advice. For instance, throughout the discussion of the comportment of the *imām* towards his subjects, the author of the *Miṣbāḥ* stressed the importance of justice, removing oppression, fairness, aiding the oppressed and the weak, spending *zakāt* and alms on the poor and the needy, assisting travellers, honoring the '*ulamā*' by securing their

⁶⁶⁸ Translation from al-Rāzī, *God's Bondsmen*, p. 412. Yilmaz noted that "Daye [al-Rāzī] equated the sultanate with the caliphate and attributed to it the same status as prophethood..." in *Caliphate Redefined*, p.212. The author of the *Miṣbāḥ* took no chances whatsoever and omitted any reference to the caliphate.

⁶⁶⁹ Lambton noted of Najm al-Dīn al-Rāzī, "He is influenced by the conceptions of the philosopher king but interprets this in terms of Sufism" in "Justice in the Medieval Persian Theory," p. 110-111.

subsistence, and the proper treatment of ascetics and Sufis (*mashāyikh al-tarīqa*) by attending to their needs and revering their leaders.⁶⁷⁰ In achieving this, the author noted that the *imām* would secure both, “the steadiness of his rule in this world and his good rank in the afterlife”.⁶⁷¹ For the *Miṣbāḥ*, the *imām* was accountable for his deeds on judgment day. Moreover, the author warned against the sinful behavior of the sultan, which would cause strife in the realm; he explained that corrupt advisors and companions in the sultan’s service and entourage would lead to sin, oppression, and exploitation under the pretext of increasing the treasury’s revenues. Accordingly, he cautioned against unlawful taxation, unjust and corrupt confiscation, and oppression and injustice, which would lead to the corruption of the realm and even the end of the rule.⁶⁷² Finally, the *Miṣbāḥ* warned against pride and arrogance.⁶⁷³ Such was the distinctly Sufi summation of the moderation and restraint of the arbitrary exercise of power.

The theory of delegation

The epilogue of the *Miṣbāḥ* indicates how this treatise was authored in competition with other strains of political thought.⁶⁷⁴ The epilogue was essentially a call to the dedicatee of the treatise, i.e. sultan Baybars, to secure the primacy of Sufis over the ‘*ulamā*’ including judges, jurisconsults (*muffīṣ*), and sermon-givers (*khaṭīb*s). The epilogue covered three subjects: the office of the vizier (*wazīr*), the conduct of judges (*qāḍī*s), and the etiquette of the ‘*ulamā*’ and Sufi *shaykhs*.⁶⁷⁵ Throughout this tripartite discussion, which was again based on an artful reworking of some passages of the *Mirṣād*, the

⁶⁷⁰ *Miṣbāḥ*, fol. 29b-30a and fol. 31a-32b are respectively based verbatim on al-Rāzī, *God’s Bondsmen*, p. 413 and p.414-415. Refer to Lambton, “Justice in the Medieval Persian Theory,” p.110-111.

⁶⁷¹ *Miṣbāḥ*, fol. 29a, 30, 31b.

⁶⁷² *Miṣbāḥ*, fol. 33a-35b is based on al-Rāzī, *God’s Bondsmen*, p.416.

⁶⁷³ Al-Rāzī, *God’s Bondsmen*, p. 421-422 and, similarly, in the *Miṣbāḥ*, fol. 39b-40b.

⁶⁷⁴ *Miṣbāḥ*, fol. 43b- 54b.

⁶⁷⁵ *Miṣbāḥ*, fol. 42b, 44a, and 44a-46b.

author of the *Miṣbāḥ* focused on highlighting the merits of the Sufis in order to present his political thought as a superior proposal for an official constitution of the state. By addressing the first two of the three subjects, I will show how the author achieved this rather quite crudely by using, omitting, rearranging, and summarizing parts of the *Mirṣād* whenever and however it suited his end purpose.

The epilogue's discussion on the office of the *wazīr* contained an additional valuable Sufi contribution to Islamic political thought, namely the delegation of powers from the sultan.⁶⁷⁶ Although it was supposed to treat the merits and qualifications of the *wazīr*, this discussion reasserted the *Miṣbāḥ*'s views on the legitimacy of coercive authority by confirming the sultan as the source of delegation of political, legal, and administrative powers. The author first stated that the "kingdom is like a tent, and the *wazīr* is its pillar" and stressed the need for the *wazīr* to be just and judicious and that he should possess four qualities: integrity, exaltedness, steadiness, and forbearance.⁶⁷⁷ The discussion was largely based on the *Mirṣād*.⁶⁷⁸ Yet there was a major and telling difference, which can be noticed by carefully comparing the *Miṣbāḥ* with the *Mirṣād*.⁶⁷⁹ The author of the *Miṣbāḥ* started his discussion on the *wazīr* by stating, "*al-ṣalṭana talī al-nubuwwa*", that is the sultanate comes second to prophethood. By contrast, the *Mirṣād* began the discussion on the vizierate with the following substantially different statement, "Know that the position of minister [vizier] is an appurtenance of kingship and the supreme

⁶⁷⁶ *Miṣbāḥ*, fol. 44a-46a. Madelung noted the irrelevance of this discussion for the Mamluk period; "A Treatise on the Imamate", p.99.

⁶⁷⁷ "The minister must also have four qualities like the pole: straightness, loftiness, steadfastness, and endurance"; in al-Rāzī, *God's Bondsmen*, p. 434.

⁶⁷⁸ *Miṣbāḥ*, fol. 43b-44a is based on al-Rāzī, *God's Bondsmen*, p.423. The author of the *Miṣbāḥ* also benefited from the third chapter of the *Mirṣād*'s fifth part, entitled "Concerning the wayfaring of ministers, men of the pen, and deputies"; *Miṣbāḥ*, fol. 44a&b and al-Rāzī, *God's Bondsmen*, p.433-44.

⁶⁷⁹ *Miṣbāḥ*, fol. 43a; al-Rāzī, *God's Bondsmen*, p.433.

pillar of the realm.”⁶⁸⁰ In his version, the author of the *Miṣbāḥ* had ignored this sentence, adopting- and then altering- instead another line from the *Mirṣād*, “For kingship over others is the deputyship and vice-regency of God, and second only to prophethood”. The author substituted vice-regency with sultanate and with this sentence began his discussion of the vizierate.⁶⁸¹ By replacing caliphate with sultanate, and then placing the altered sentence at the start of the *Miṣbāḥ*’s discussion on the *wazīr*, the author achieved two critical aims. Firstly, he reasserted the *Miṣbāḥ*’s position that the sultanate was an all-inclusive and lawful replacement of the caliphate. Secondly, he indirectly posited that the source of delegation of powers to the *wazīr* originated from the sultan – as the lawful successor of prophethood – and not from the caliph.

With this postulation, the *Miṣbāḥ* sealed artfully its contributions to Islamic political thought. By asserting that the sultan was the lawful source of delegated authorities, the *Miṣbāḥ* thus presented a coherent and all-encompassing theory that covered the legitimacy of coercive authority- and accordingly, the dismissal of the need for Qurashī lineage (*nasab*) for the *imāmate*, and the Sufi tenets of the rule of law. Hence, the *Miṣbāḥ* reasserted firmly its conception of political authority as presented in the prologue and first essay. Most importantly, it presented its own contribution to the theory of delegation of powers, which was also a central theme of Shāfiī and Ḥanafī treatises as discussed extensively in Chapters 2 and 3. While the *Miṣbāḥ*’s contribution to the theory of delegation was not expressed in the most exquisite legal language, it nevertheless addressed successfully two important issues that were probably of major concern to Baybars: the paradigms of the caliphate, and that of the source of delegated powers to the viziers, judges, governors, and administrative posts.

⁶⁸⁰ Al-Rāzī, *God’s Bondsmen*, p.433.

⁶⁸¹ The original and unaltered sentence is in *Ibid.*, p.412.

Subsequently, the *Miṣbāḥ* treated the conduct of *qāḍīs*.⁶⁸² Here, the author merged his cherished and uncompromising concern for upholding the rule of law with his theory of delegation. He wrote that there should be one judge, second to the *imām*, in every land in order to avoid chaos and strife. He discerned three types of judges. The first kind was qualified to pass rulings and was knowledgeable in jurisprudence, judicious, virtuous, high-minded, of clear conscience, with no desire for the office, impartial in his rulings, and with no predisposition to favour the powerful. The second kind was the incompetent type who was not suitable for office and, as such, ruled according to his personal whims and accepted bribery; his rulings were not to be accepted. The third kind, while qualified for office, nevertheless opted to rule improperly, favoured some individuals over rightness, accepted bribery, abused orphans' rights, charitable endowments (*waqfs*), and mosques, did not support the righteous, hindered the implementation of the market inspection (*ḥisba*) and favoured the powerful; accordingly his judgeship was not valid and he was destined for hell. The sultan should not permit this sort of judgeship or he would be considered an accomplice (*sharīkan lahum*) and answer for it on judgment day. Accountability (*mū'ākhadha*) was a consequence of the theory of delegation of powers; as the lawful source of power, the sultan, was accountable for the excesses of his appointees. As will be discussed below, this was another instance of the uncompromising attitude of thirteenth century thinkers on upholding the rule of law, at the risk of antagonizing their dedicatees.

The primacy of Sufis

The epilogue's discussion, moreover, treated the types of knowledge, the different kinds of scholars, and their etiquette.⁶⁸³ Its main aim was to

⁶⁸² *Miṣbāḥ*, fol. 46b – 48b; Madelung, "A Treatise on the Imamate", p.99.

⁶⁸³ *Miṣbāḥ*, fol. 49L – 54b.

reaffirm the merits of Sufis over the ‘*ulamā*’. The author of the *Miṣbāḥ* first stated that knowledge (*‘ilm*) was the ultimate way to know and be closer to God and went on to discuss the conduct of ‘*ulamā*’ who were not judges. He explained in a detailed manner the two kinds of *‘ilm*: the revealed and the hidden/esoteric.⁶⁸⁴ Revealed knowledge was practical knowledge that has been disclosed to the companions of the Prophet and to the *imāms* that followed them; this included the sciences of the Quran, *sunna*, *tafsīr*, *fiqh*, and the prophetic tradition. Likewise, he explained in great detail the hidden/esoteric knowledge (*bāṭin*).⁶⁸⁵ Subsequently, the author stated that there were three kinds of ‘*ulamā*’. Some commanded revealed knowledge, some commanded esoteric knowledge, and others were in command of both.⁶⁸⁶ The existence of just a handful from the last group would have filled the world with bliss and virtue. The author reiterated the prophetic saying, “The ‘*ulamā*’ of my community are [like] the prophets of the people of Israel.” Some of the ‘*ulamā*’ who commanded the revealed knowledge of the law (*fiqh*) and *ḥadīth*, were modest and did not seek the goods of this life, the sultan’s favour, or the people’s approval; they were as such selected by God (*khawāṣṣ*). However, some amongst them sought wealth, office and approval. Their way was that of argument, controversy, harmfulness, unfairness, and falsehood and they ought to be shunned.⁶⁸⁷ With this reference to corrupt scholars, the author made his final move to promote the primacy of Sufis.

The *Miṣbāḥ* concluded in the same way it started, by promoting Sufism and Sufis. The author’s epilogue placed this Sufi treatise at the heart of the

⁶⁸⁴ In the *Miṣbāḥ*, fol. 49a-50b based al-Rāzī, *The God’s Bondsmen*, p.446. Refer to Madelung, “A Treatise on the Imamate”, p.100-101.

⁶⁸⁵ This discussion was used verbatim from the *Mirṣād*, where it was even more exhaustive. This was a valuable classification of Sufi sciences that provides an opportunity for scholars of Sufism to study a Sufi classification of their own branches of knowledge. Refer to the *Miṣbāḥ*, fol. 50b-51a based on al-Rāzī, *God’s Bondsmen*, p.446-447.

⁶⁸⁶ *Miṣbāḥ*, fol. 51a -53a.

⁶⁸⁷ *Miṣbāḥ*, fol. 51a-53a; Madelung, “A Treatise on the Imamate”, p.101. The *Miṣbāḥ*, fol. 52b-53a, is based verbatim on al-Rāzī, *God’s Bondsmen*, p.448-449 where it was more detailed.

competition between different conceptions of the rule of law and political authority, and pointed out that it was dedicated to the sultan as a proposal for an official constitution of the state. The author passed his final verdict and recommendation to his dedicatee, “As for those who command esoteric knowledge, they are the Sufi *shaykhs* (*mashāyikh al-ṭarīqa*). They choose isolation, seclusion, and remove themselves from people. They exercise self-restraint and fight the soul and the devil, and follow God and his Messenger. They are immune to hell and are the chosen ones.”⁶⁸⁸ The author was thus setting out before Baybars the outcome of the competition: the merits of the Sufis were so great that their political theory, the one that he advanced in his *Miṣbāḥ*, was superior to other strains of Islamic political thought.

The agency of the *Miṣbāḥ*'s author in benefiting from the *Mirṣād* was evident in the above postulation. In this instance, there was a central idea in the *Mirṣād* that dealt with corrupt Sufis, which the author of the *Miṣbāḥ* chose to ignore completely:

Evil scholars, hypocritical ascetics, and mendicant dervishes, who in their greed sell religion for worldly gain, constantly frequent the portals of kings in abjection, and enter the gates of princes and grandees in abasement.⁶⁸⁹

Unlike Najm al-Dīn al-Rāzī, the author of the *Miṣbāḥ* was competing with other strains of political thought and presenting his own proposal to the ruler in order to replace the dominant one as presented and practised by Shāfiī scholars, jurists, and judges. Al-Rāzī, on the other hand, was not challenging other political strains and the aim of his *Mirṣād* was not to promote distinctly Sufi political thought. The decision to exclude from the *Miṣbāḥ* a passage from a founding Sufi text like the *Mirṣād*, that critiqued corrupt Sufis highlighted the substantial efforts that the former author undertook in his

⁶⁸⁸ *Miṣbāḥ*, fol.53a-54b.

⁶⁸⁹ Al-Rāzī, *God's Bondsmen*, p.449.

selection and exclusion/inclusion strategies in order to present a distinctly Sufi political theory that was in competition with others.

Conclusion

The author of the *Miṣbāḥ* succeeded in presenting a coherent Sufi political theory. He expressed his distinctly Sufi theory of a legitimate, coercive, and just sultanate based on five tenets. The first was a conception of the highest political authority that was in harmony with the coercive sultanate argued for by al-Māwardī, al-Juwaynī and al-Ghazālī. It was also a conception that disregarded the caliphate and the lineage to Quraysh altogether. The author of the *Miṣbāḥ* achieved this first aim based on a shrewd synthesis of these three thinkers. The second tenet was upholding the rule of law, which the author expressed in a Sufi language that was rooted in the work of Najm al-Dīn Dāya al-Rāzī. This was presented to the dedicatee based on a mystical and islamised system of ethics and morals that included, among others, a Sufi conception of the philosopher king. The third tenet of the *Miṣbāḥ* was the success of its author in presenting a distinctly Sufi political theory. Although the *Miṣbāḥ* was deeply rooted in Ash‘arī-Shāfi‘ī political thought, the author succeeded in making it distinctly Sufi through a careful and artful reworking of the *Mirṣād*. The fourth tenet was that the *Miṣbāḥ* tried to accommodate the concerns of its dedicatee, sultan Baybars. In the discussion of the vizierate, the treatise presented a suitable theory of delegation that fixed the origins of political power within the sultanate as the successor of prophethood. This discussion may not have been expressed in the *Miṣbāḥ* using the finest legal language, but what mattered most was whether or not it was well received by its dedicatee. The fifth tenet was that the author of the *Miṣbāḥ* succeeded in presenting his thought as a serious competitor to other strains of thought by highlighting the merits of Sufis over corrupt scholars.

The agency of the author of the *Miṣbāḥ* was astonishing. Unfailingly, he demonstrated an informed and artful usage of the works of al-Māwardī, al-Juwaynī, al-Ghazālī, and Najm al-Dīn al-Rāzī.⁶⁹⁰ He succeeded in achieving a synthesis between the theories of the coercive sultanate in al-Ghazālī's *Mustaẓhirī* and al-Juwaynī's *Ghiyāthī* by merging the requirements for the *imām* and his duties from both works, while upholding al-Juwaynī's views on Qurashī *nasab*. Furthermore, the careful selection of his sources also served the aims of his theory. For instance, using al-Māwardī's *Adab al-dunyā* instead of *al-Aḥkām al-sulṭāniyya* meant that the author could discuss the rule of coercive authority without referring to the caliphate. Additionally, his artful usage of al-Rāzī's *Mirṣād* reflected a command of the full original text. As an illustration, omitting the mention of corrupt Sufis in order to promote Sufis as an impeccable alternative to corrupt scholars was a resourceful use of the *Mirṣād*. Consequently, the author of the *Miṣbāḥ* succeeded in presenting Sufism as a serious contestant in the competition for the official law or constitution of the state while at the same accommodating the concerns of his dedicatee and upholding the concern for the rule of law. The result of this agency was a truly distinct and coherent work of political thought.

As such, this Sufi conception of the rule of law differed from other treatises examined so far in this thesis. The *Miṣbāḥ* relied on a moral and ethical system of checks and balances to curtail the arbitrary exercise of power. This conception was detailed in the second essay, entitled "On the nature of the imāmate", using distinctly Sufi ideas that included, among others, a Sufi and Islamised interpretation of the philosopher king and relying on a mystical and moral language that was relevant to the *Miṣbāḥ*'s historical and intellectual context. To achieve his aims, the Sufi author adapted and re-arranged passages from two carefully selected texts of the Sufi political

⁶⁹⁰ And probably others; the advance in digital humanities will shed more light.

tradition: *Adab al-dunyā* and the *Mirṣād*. In his exquisite ethical discussion of the *imāmate*, the author avoided juristic and legal stipulations and presented an original and distinctly Sufi contribution using moral, philosophical, and mystical conceptualisations of the rule of law.

The *Miṣbāḥ* nevertheless did not present an all-inclusive theory. It avoided treating important aspects that were central to other strains of political thought like taxation, administrative law, and the law of rebellion. In this the *Mirṣād* was significantly lacking in comparison with the Shāfiī and Ḥanafī proposals. One explanation for this is that any discussion of the law of rebellion or taxation, for instance, would inevitably rely on the juristic arguments of the legal schools and, accordingly, dissipate the distinct and independent Sufi character of the *Miṣbāḥ* that the author was striving for.

Finally, it is now possible to make some assertions and assumptions about the mysterious author of the *Miṣbāḥ*. He was a self-professed Sufi, who was undoubtedly educated in a Ashʿarī-Shāfiī milieu given his heavy reliance on the works of al-Māwardī, al-Juwaynī, al-Ghazālī, and Najm al-Dīn al-Rāzī. Based on his use of some of the political and doctrinal concepts of the aforementioned thinkers, it is possible also to ascertain that he was personally an Ashʿarī and, in all likelihood, a Shāfiī. Furthermore, we can deduce that he was well informed about the latest works of Sufism based on his reliance on the near-contemporary *Mirṣād*. His artful use of the *Mirṣād* suggests that he had access to an Arabic version of the full original work. He was well-versed in this work and, given his chronological closeness to it, he probably studied the *Mirṣād* either with Najm al-Dīn al-Rāzī or with one of his students. A final safe assumption that can be made based on the crafty dissemination of the conceptions of the *imāmate* and the delegation of power throughout the *Miṣbāḥ* is that the author was well versed in communicating with the ruling military elites of the thirteenth century. As such, I wish to make a final inference. The author probably came from a social milieu that was very similar

or closely connected to the Banū Ḥamawiyya: a highly literate milieu that was staunchly Sufi/Ash‘arī/Shāfi‘ī; one that was capable of making an artful synthesis of the political theories of al-Māwardī, al-Juwaynī, and al-Ghazālī and yet present it in an ethical and moral language that resembled the recently discovered *Kitāb al-siyāsa al-mulūkiyya*; one that understood and accommodated the worries of the ruling military elites; and one that had strong bonds to the scholarly networks of Egypt, Syria, and the Western, and the Eastern Islamic worlds. I would not be surprised if future research shows that the author was close to Sa‘d al-Dīn Ibn Ḥamawiyya (d. 650/1252).⁶⁹¹

The author of the *Miṣbāḥ* thus achieved a distinctly Sufi expression of political thought in the early Mamluk period. Consequently, political thought should be considered part of the social and cultural output of Sufism that led to the popularisation of Sufism in the thirteenth century. As Hofer argued, this process of production included doing “Sufi” things: dressing in certain ways, dancing, chanting, writing treatises, teaching disciples, parading in the streets and so on”.⁶⁹² I propose including in Hofer’s list the production of political thought as another “Sufi thing” that contributed to the popularisation of Sufism in the thirteenth century.

⁶⁹¹ Like Najm al-Dīn al-Rāzī, he was a disciple of Najm al-Dīn Kobrā; refer to *The Path of God’s Bondsmen*, p.2. Najm al-Dīn al-Rāzī’s *madhhab* has still not been ascertained. While in *Siyar a‘lām al-nubalā’* he is mentioned by one source as a Shāfi‘ī, Encyclopedia Iranica notes that “He was a Hanafite, adhering to rationalist Ash‘arite theology”; in *Encyclopedia Iranica* Vol. VII, Fasc, 2, pp. 166-167.

⁶⁹² Hofer, *Popularisation of Sufism*, p.10-11.

Chapter 5- The Mālikī, Ḥanafī, and unaffiliated strains

So far, this thesis has focused on the Shāfiī, Ḥanafī, and Sufi strains of political thought. The previous chapters argued that the competition for the status of preferred *madhhab* and the production of political thought were interrelated. Chapter 1 proposed that the Shāfiī historiography of the fourteenth century yearned for a return to an earlier golden age when its own Shāfiī political thought was portrayed as the law of the state, a time when Shāfiī scholars regulated the relations between political elites and populace, guiding the former and protecting the latter. Shāfiīism may have never been an official *madhhab* of the Ayyubid and early Mamluk state, yet it dominated the judicial, religious, and administrative offices; it also possessed a rich literary tradition of treating political and constitutional ideas that stretched back to al-Māwardī and al-Ghazālī. Chapter 2 argued that the synthesis of this tradition of Shāfiī political thought was articulated in Ibn Jamā'a's *Taḥrīr*. Building on this confident and dominant Shāfiī tradition, Ibn Jamā'a developed clear and distinct conceptions of the rule of law and limited government, and presented a clear theory of delegation. Chapter 3 discussed a Ḥanafī challenge to the Shāfiī dominance as articulated in al-Ṭarsūsī's *Tuḥfa*. Although al-Ṭarsūsī's immediate aims were to control the mosque of Damascus and its charitable endowment, and the main offices controlled by the Shāfiīs, his treatise was a work of political thought that aimed to present Ḥanafism as the preferred *madhhab* of the state, more suitable and amenable to the sultan and the Mamluk elites. Despite its author's desire to please the Mamluks, the *Tuḥfa* upheld the *Taḥrīr*'s main constitutional concerns. The *Miṣbah*, the Sufi treatise addressed to Baybars that was treated in Chapter 4, represented a challenge to the 'ulamā' in the early Mamluk period. It attempted to highlight the merits of Sufism as a preferred constitutional, as

opposed to legalistic, path to run the state. Despite the *Miṣbah*'s divine justification of the sultanate, it still cherished constitutional concerns like the moderation of the exercise of power based on an ethical and moral system. These chapters illustrate how the competition for the status of a preferred *madhhab* made its way into public law and the constitutional domain, as is evident in the aims of these various treatises.

To complete this thesis the present chapter will tie up two loose ends. The first is the political thought of the two remaining *madhhabs* in this competition, and the second is the tradition of political writing that was unaligned or simply not concerned with the *madhhab* competition. This chapter will first treat the Mālikī and Ḥanbalī strains of political thought as expressed by two jurists, al-Qarāfī and Ibn Taymiyya. It will attempt to locate their respective contributions within the context of the competition for a preferred *madhhab*. Following that, this chapter will treat the production of the strain of political thought that is termed “unaffiliated”, that is to say, a strain that was not concerned by this competition among the *madhhabs*. It will discuss in detail this rich tradition, its aims, concerns, literary and stylistic features, and the boundaries of its neutrality. Only upon drawing these two loose ends into a conclusion can the impact of the competition among *madhhabs* on the production of political thought be fully understood.

This chapter treats the Mālikī and Ḥanbalī strains in a concise way. It focuses on two authors, al-Qarāfī and Ibn Taymiyya, and attempts to interpret their political thought within the framework of thirteenth-century *madhhab* competition. This task was rather straightforward for al-Qarāfī's thought since his constitutional ideas have been already mined and explicated by Sherman Jackson. This valuable Mālikī contribution to Islamic political thought was initially conceived within the context of the competition against Shāfi'ī legal dominance, but resulted in profound constitutional repercussions. Al-Qarāfī's intention had been to ensure diversity in interpreting the law; his important

contribution to constitutional thought was incidental. Unlike the Ḥanafī strain of political thought, the Mālikī one was not a calculated political challenge to become the preferred *madhhab* of the state – an unrealistic aim anyway considering his *madhhab*'s quantitative weakness in the Syro-Egyptian lands. Al-Qarāfī did not deliberately choose public law and the constitutional field as a battleground for such a challenge. As for Ibn Taymiyya's political thought, it proves to be a more complex case for several reasons. While his thought has been the subject of numerous studies and still is the focus of an ever-burgeoning field of research, the existing interpretations are quite contradictory. Even his biography still warrants extra efforts to revisit some widely accepted misconceptions that were largely the effort of Ibn Taymiyya's disciples. As will be discussed below, an example of such a misconception is the true nature of Ibn Taymiyya's relations with the Mamluk *amīrs*, which until recently was still acknowledged as per the narrative of his pupils. Furthermore, there is still no scholarly consensus on where to look for political thought in Ibn Taymiyya's writings. Most importantly, the nature of Ibn Taymiyya's political project is still not well understood and perhaps not even acknowledged as existing at all. For this reason, I shall limit my contribution to raising a few questions that must be answered prior to any attempt to interpret Ibn Taymiyya's political thought. These questions relate to Ibn Taymiyya's wider conflicts with all *madhhabs* (including his own) and Sufis, the nature of his Ḥanbalism, his relations with the Mamluk elites, and his wider political project.

Last but not least, this chapter will treat unaffiliated political thought. It will highlight a prolific tradition of authoring political treatises that were neither committed to the cause of a *madhhab* nor concerned with the competition for an official one. Although the competition amongst *madhhabs* was a major motive behind the production of thirteenth-century political thought, the present research never intended to suggest that it was the sole one. There

existed a rich and thriving unaffiliated tradition that articulated constitutional concerns and clear conceptions of political authority, delegation of power, the rule of law, and limited government akin to the treatises discussed in previous chapters. Far from being limited to the one mirrors for princes literary genre, this unaffiliated tradition shared common thematic and stylistic traits with juristic treatises, statecraft and administrative manuals, and homiletic writings. The final section of this chapter will examine one treatise, *al-ʿIqd al-farīd li-al-malik al-saʿīd* (The unique necklace for a content king) by Ibn Ṭalḥa (582/1186 or 87 - 652/1254), which captured best the main features of this rich tradition. Furthermore, it will investigate the impact of its author’s intricate background as an *adabised* jurist, administrator, and statesman. Consequently, this section will also critique the scholarly reliance on literary genre to interpret Islamic political thought– an issue that I already mentioned in the Introduction.

The Mālikīs: The rule of law through legal diversity

This section discusses a sweeping Mālikī challenge to the legal dominance of Shāfiʿism, which led to the development of a new strain of political thought. The attempt by thirteenth-century Mālikī jurist al-Qarāfi to contest the exclusivist legal policies of the Shāfiʿī chief judge of Cairo, Ibn Bint al-Aʿazz, resulted in far-reaching constitutional ideas about restraining the ruler’s arbitrary exercise of power. Unlike the Sufi and Ḥanafī strains discussed so far, the Mālikī one did not seek to substitute for Shāfiʿī dominance, merely to co-exist alongside it while securing a minimal level of legal independence. This main difference was owing to the conditions of the Mālikī school in the Syro-Egyptian context, as it enjoyed a weaker presence in both the state administration and demographically. In a seminal article, Sherman Jackson covered the impact of al-Qarāfi’s thought on the caliph’s

authority by formulating a novel interpretation of the Prophet's actions.⁶⁹³ This article was later followed by an authoritative monograph that treated al-Qarāfī's jurisprudence and highlighted its constitutional influence as a pioneering work in the history of Islamic political thought.⁶⁹⁴ The following discussion largely builds on both works to situate al-Qarāfī's efforts within the field of study of this thesis – the thirteenth-century competition among *madhhabs* and the constitutional concerns for the rule of law, limited government, and delegation.⁶⁹⁵

As in previous chapters, it is necessary to reiterate the caveat stated on the use of the Shāfiī, Ḥanafī, and Sufi epithets. Mālikī in this case refers to the thought of the jurist Shihāb al-Dīn Aḥmad al-Qarāfī (626/1228- 682/1283 or 684/1285) as expressed in his *al-Iḥkām fī tamyiz al-fatāwā 'an al-aḥkām wa-taṣarrufāt al-qāḍī wa-al-Imām* (The book of perfection in distinguishing legal responsa from judicial decisions and the discretionary actions of judges and caliphs). Mālikī political thought here is limited to the context of the *madhhab's* presence in the Syro-Egyptian lands during the late Ayyubid and early Mamluk period. The term does not here represent the rich and thriving Mālikī political thought tradition of Spain and the Muslim West, which regrettably cannot be covered here as it is not of direct relevance. The renowned works *Sirāj al-mulūk* and *Badā'ī' al-sulūk fī ṭabā'ī' al-mulūk* of al-Ṭurṭūshī (d.520/1126) and Ibn al-Azraq (d. 899/1491) respectively were only two titles among a thriving and prolific Western Mālikī tradition of political thought that existed in the middle period.

⁶⁹³ Jackson, "From Prophetic Actions to Constitutional Theory".

⁶⁹⁴ Jackson, *Islamic Law and the State*.

⁶⁹⁵ Mohammad Fadel recent valuable translation of the *tamyiz* regarded the treatise more as a response to fundamental issues in the legal system than a reaction to Shāfiī dominance. Fadel argued that a main aim of the *tamyiz* was to protect judicial rulings against challenges from other judges and jurisconsults. This recent addition does not affect the argument of this section as Fadel does not challenge the constitutional consequences of the *tamyiz*. Refer to *The Criterion for Distinguishing Legal Opinions from Judicial Rulings and the Administrative Acts of Judges and Rulers* (New Haven: Yale University Press, 2017).

Whereas al-Qarāfī's education was comparable to any Shāfi'ī jurist, his career differed drastically. Although a Mālikī jurist, al-Qarāfī was the product of the same intellectual milieu that produced the thirteenth-century Shāfi'ī political thought discussed in Chapters 1 and 2. An Ash'arī and a legal theoretician (*uṣūl al-fiqh*), al-Qarāfī studied with several well-known Shāfi'ī teachers and was deeply impressed by one of them, 'Izz al-Dīn Ibn 'Abd al-Salām.⁶⁹⁶ Furthermore, he studied with Shams al-Dīn al-Khusrushāhī (d. 652/1254), the prominent Shāfi'ī legal theoretician and rationalist theologian (*mutakallim*). Through him, al-Qarāfī was deeply influenced by the Shāfi'ī theologian and philosopher Fakhr al-Dīn al-Rāzī (d. 606/1209).⁶⁹⁷ On the other hand, unlike his typical Shāfi'ī peers, al-Qarāfī only held teaching posts in Cairo and never any chief or deputy judgeship or senior administrative posts.⁶⁹⁸ Al-Qarāfī's educational background and the challenges he faced in his professional career no doubt impacted his political thought.

The *Tamyīz* was authored in a period of great tension between the Mālikī and Shāfi'ī *madhhabs*. As in the case of Ḥanafī jurist al-Ṭarsūsī, al-Qarāfī's constitutional ideas show how competition amongst the *madhhabs* resulted in the production of political thought.⁶⁹⁹ The *Tamyīz*'s discourse was written at the time of sultan Baybars' legal reforms, which were covered in Chapter 3, when the policies of the Shāfi'ī chief judge antagonized the sultan, the leading Mamluk *amīrs*, and the jurists and judges of other *madhhabs*. Chief judge Tāj al-Dīn Ibn Bint al-A'azz refused to enforce the rulings of his deputy judges and, later, judges of other *madhhabs* whenever they contradicted the views of his Shāfi'ī *madhhab*. Jackson noted, "It was

⁶⁹⁶ Jackson, *Islamic Law and the State*, p.3, 6 & 9; al-Qarāfī, *al-Ihkām fī tamyīz al-fatāwā 'an al-aḥkām wa taṣarrufāt al-qādī wa-al-imām*, ed. Abū Ghudda (Aleppo: Maktab al-Maṭbū'āt al-Islāmiyya; Beirut: Dār al-Bashā'ir al-Islāmiyya, 1995), p.19; refer to the editor's useful notes, p.21-29.

⁶⁹⁷ Jackson, *Islamic Law and the State*, p.7.

⁶⁹⁸ *Ibid.*, p.14.

⁶⁹⁹ As Jackson puts it, "In a sense, it constitutes the triggering device that set off his thinking about constitutional issues overall", in *Ibid.*, p.67.

apparently during this conflict, incidentally, that al-Qarāfī wrote his *Tamyīz*, as a scholarly protest against exclusivism within the judiciary and as a legal argument affirming the inviolable status of all Sunni *madhhabs*.⁷⁰⁰ For al-Qarāfī, the *madhhab* demarcated the relationship between government and community and this idea endowed his legal protest with a constitutional significance.⁷⁰¹

During the thirteenth century, competition among *madhhabs* could easily transmute into constitutional discourses. In order to gain the advantageous inofficial status of preferred legal school or official law of the state, the *madhhabs* extended their contest from the strictly legal domain into the domains of public law and constitution. By the mid-thirteenth century, the *madhhabs* had evolved into more corporate groups that were now competing for legal authority and for judicial and administrative offices and, in due course, became influential and entangled in the political sphere.⁷⁰² Three such cases have been treated so far in this thesis: the confrontation over creed between the Shāfiʿī/ Ashʿarī jurist Ibn ʿAbd al-Salām and the Ḥanbalīs of Damascus, which turned into an intra-Ayyubid political dispute; the Ḥanafī political and legal challenge of al-Ṭarsūsī's *Tuḥfat al-Turk* against the Shāfiʿīs that was partly motivated by competition for religious offices in Damascus; and the call for Sufi political primacy over the jurists as claimed in the treatise *Miṣbāḥ al-hidāya*. Al-Ṭarsūsī's case showed how *madhhabs*, who by now have witnessed a "settling down" from groups loosely gathered around broad legal and theological concepts into better-defined corporate units held together by normative legal conformity (*taqlīd*), were competing for salaried offices and for power.⁷⁰³ Similarly, Ibn ʿAbd al-Salām's case showed how

⁷⁰⁰ Jackson, *Islamic Law and the State*, p.52-53.

⁷⁰¹ *Ibid.*, p.72.

⁷⁰² Refer to the Introduction.

⁷⁰³ For a more detailed discussion on this process refer to Jackson, *Islamic Law and the State*, p. xx, xxix and 225-227.

rulers, dynasties, and governments became more involved in *madhhab* and creedal rivalries. In such a context, the ‘preferred’ *madhhab* of a ruler or dynasty could enjoy immense powers by amassing religious, legal and administrative offices, influencing political edicts, and conferring legitimacy and authority to their doctrines and legal rulings. Thus, for lesser schools like al-Qarāfī’s, whenever a Muslim government endorsed and executed a specific interpretation of the law by one of the dominant *madhhabs* the law became an “avenue to tyranny”.⁷⁰⁴ It is within this wider legal and political context that the *Tamyīz*’s interpretation of prophetic actions should be examined.

The *Tamyīz* posed a number of questions, two of which had far-reaching constitutional consequences. Beyond their immediate legal relevance, al-Qarāfī’s answers to these questions highlighted his conceptions of the rule of law, limited government, and delegation. The first was question four of the *Tamyīz*, “[now that] the difference between jurisconsult (*muftī*) and judge (*ḥākim*) has been clarified, what is the difference between them and the *imām* in his discretionary injunctions (*taṣarrufāt*)?”⁷⁰⁵ The second was question twenty-five of the *Tamyīz*, “What is the difference between the Prophet’s acting in his capacity as mufti and conveyer of the Message (*muballigh*) and his acting in his capacity as judge, and then as head of state (*imam*)? Are his actions in each of these capacities all of equal effect on the shari‘a [...]?”⁷⁰⁶ Based on the *Tamyīz*’s answers to these questions, Jackson explained that al-Qarāfī distinguished the Prophet’s actions and utterances according to four different aspects of his function: the messenger of God (*rasūl*), the jurisconsult (*muftī*) whose *fatwās* were binding only because he was the Prophet, the judge (*ḥākim* or *qāḍī*) who issued judicial rulings (*aḥkām*), and the head of state (*imām*) who enjoined discretionary injunctions

⁷⁰⁴ Ibid., p.185.

⁷⁰⁵ My translation; al-Qarāfī, *Tamyīz*, p.46-57.

⁷⁰⁶ The translation is from Jackson, “From Prophetic Actions to Constitutional Theory”, p.73.

(*taṣarrufāt*). After the Prophet's death, these functions were passed on to, or were rather distributed among, the scholars, *mufīīs*, judges, and caliphs and rulers.⁷⁰⁷ Al-Qarāfī explained that non-prophetic *fatwās* were non-binding while rulings passed by judges were binding. As for the caliph, his functions incorporated judgeship and (non-binding) law-making, but anything outside these two areas solely fell under his discretionary injunctions (*taṣarrufāt*) and public interest (*maṣlaḥa*).⁷⁰⁸

Despite the apparent focus on the caliphate, the above-mentioned discussions were pertinent to the early Mamluk period's sultanate. Al-Qarāfī's constitutional conception of the highest political authority was equally centred on the coercive sultan being the wielder of executive power. Referring to a powerless and emblematic caliph, al-Qarāfī stated, "the *imām* who has not been conferred the general administration of the state (*al-siyāsa al-ʿamma*) was only called *imām* figuratively and the discussion here is about (*al-ḥaqāʾiq*)", that is about the core duties of the function of the *imām*.⁷⁰⁹ Later in the *Tamyīz*, al-Qarāfī explained that the *imām*'s core duties included the distribution of revenues, spending the treasury's money on public interest, upholding legal punishments (*ḥudūd*), raising armies, fighting rebels, distribution of land grants (*iqṭāʾ*) and so forth, which essentially resembled other juristic discussions of the duties of the *imām*.⁷¹⁰ According to al-Qarāfī, any caliph who was not capable of administering these core duties was only called *imām* figuratively and was no longer a true caliph or *imām*. Consequently, al-Qarāfī considered that the ruler who administered the core

⁷⁰⁷ Jackson, "From Prophetic Actions to Constitutional Theory", p.74-76.

⁷⁰⁸ Al-Qarāfī, *Tamyīz*, p.56; Jackson, "From Prophetic Actions to Constitutional Theory", p.76-77.

⁷⁰⁹ Al-Qarāfī, *Tamyīz*, p.105; "*ammā imām lam tufawwaḍ ilayhi al-siyāsa al-ʿamma fa ghayr maʿqūl illā ʿalā sabīl iṭlāq al-imāma ʿalayhi majāzan, wa al-kalām innamā huwa fī al-ḥaqāʾiq.*"

⁷¹⁰ *Ibid.*, p.108.

duties of the office of the *imāmate* (*ḥaqā'iq*) was the coercive sultan.⁷¹¹ Like the caliph, the latter had no authority over law-making.

Al-Qarāfī's discussion of these matters entailed three direct consequences. I believe these were the three main aims of the author's discourse and they all focused on securing the independence of his *madhhab* in interpreting the law. The first was that the 'Abbāsīd caliph of Cairo who was appointed by Baybars was not to be considered an effective *imām* since he held no real executive power and could not enjoin any discretionary injunctions (*taṣarrufāt*); accordingly, the Cairo-caliph had no authority in law-making and in issuing legal opinions (*fatwās*), and therefore, no legal authority whatsoever over al-Qarāfī's Mālikī *madhhab*.⁷¹² Second, within al-Qarāfī's conception of the office of the *imāmate*, any legal authority that a coercive wielder of power like sultan Baybars may have enjoyed was, likewise, not authoritative over the Mālikī *madhhab*. Third, in a post-prophetic age any legal opinion was not binding and, accordingly, other dominant schools, like the Shāfi'ī one, could not enforce their interpretation of the law or their legal opinions over others. As such, al-Qarāfī maintained that there should be no single or official interpretation of the law not by the caliph, not by the sultan, and not by any dominant *madhhab*. Al-Qarāfī's staunch resistance against the domination of the Shāfi'ī *madhhab* highlighted what was really at stake in the competition for an official law of the Mamluk state: adopting a single interpretation of the law, i.e. an official one, could lead to tyranny especially since the state was the enforcer of the law. Jackson explained,

⁷¹¹ Regarding al-Qarāfī's definition of imam, Jackson states, "Later, in *al-Furūq* he uses the term imam more explicitly to refer to the sultan", in *Islamic Law and the State*, p.195; refer to al-Qarāfī, *al-Furūq*, ed. 'Umar Ḥasan al-Qayyām (Beirut: Mu'assasat al-Risāla, 2003), vol.2, p. 403-413.

⁷¹² Jackson, *Islamic Law and the State*, p16; "From Prophetic Actions to Constitutional Theory", p. 81-82. Al-Qarāfī wrote the *Tamyīz* before 1262, motivated by the arrival of the Abbāsīd caliph in Cairo in 1260, whose authority al-Qarāfī perceived as a threat to the weaker Mālikī school.

As such, if in determining which interpretation of the law is to be imposed on the Community the state or its government is assigned or assumes the role of final arbiter, then those who disagree with government must inevitably find themselves in the position of having to acquiesce not only in the face of legal interpretations with which they disagree but also in the face of government's claim to the right to carry law and legal sanctions into whatever areas of life it sees fit.⁷¹³

Al-Qarāfī's main and immediate aims in formulating his ideas were probably limited to securing the independence of his *madhhab* in interpreting the law, yet the spirit of his discussion was, intentionally or not, constitutional.

The constitutional dimension become evident when al-Qarāfī's treatment of judicial rulings extended from law into politics and administration. His exhaustive treatment of judiciary, administrative, and political authorities that were eligible to issue legal rulings (*ḥukm*) highlighted his views on the rule of law, limited government, and delegation of authority in one single coherent discussion. Al-Qarāfī discussed fifteen public functions (*wilāya*) that had the eligibility to issue a legal ruling (*ḥukm*) to varying degrees.⁷¹⁴ The discussion ranged from the highest office, the caliphate (*al-imāma al-kubrā*), to the lowest, which was, according to al-Qarāfī, arbitration (*taḥkīm*).⁷¹⁵ The caliphate had the broad capacity to issue rulings in all matters ranging from personal status issues to the public administration of the state. Al-Qarāfī considered that a fully delegated vizier (*wazīr al-tafwīḍ*) had similar eligibility to pass such broad rulings. The third rank was the full emirate (*wilāyat al-imāra*), which al-Qarāfī explained was like "kings [serving] with caliphs" and probably referred to the sultans of the author's lifetime. Interestingly, the holder of this type of *imāra* – that is the sultan – had the capacity to judge (*ahliyat al-qaḍā*)

⁷¹³ Jackson, *Islamic Law and the State*, p. xxiii-xxiv

⁷¹⁴ In his response to question thirty-three, in al-Qarāfī, *Tamyīz*, p. 162-176.

⁷¹⁵ This discussion is reminiscent of al-Subkī's *Mu'īd al-ni'am* in terms of ranking the *wilāyāt*.

and al-Qarāfī did not stipulate a delegation from the caliph for this. On the other hand, special types of *amīrs*, in charge of a province for instance, could only issue legal rulings if they were delegated by the caliph. Furthermore, al-Qarāfī discussed the offices of army commander, chief judgeship, sultanic or non-sharī'a courts (*mazālim*), and deputy judges (*nuwwāb*) whose functions, he believed, entailed various degrees of eligibility to pass legal rulings.⁷¹⁶ Al-Qarāfī bestowed to market inspection (*ḥisba*) the eligibility to pass rulings – understood here as mere executive or administrative decisions – on specific matters related to its competence like the maintenance of roads and public spaces. According to al-Qarāfī the market inspector (*muḥtasib*) could not issue or execute legal rulings on matters of marriage or civil and criminal matters (*mu'āmalāt*).⁷¹⁷ Unlike the *qāḍī*, the market inspector was able to examine cases that had not been raised or reported to him while the former could only deal with cases that had been brought to his court. Al-Qarāfī also discussed other restricted functions (*wilāyāt juz'iyya*) that could only deal with specific matters that were delegated by judges like, for instance, following-up on marriage and divorce contracts. Other limited functions that were not eligible to issue a *ḥukm* included estimation or surveying activities requested by a judge, distribution of booty, supervision of spending, distribution of alms, secretarial tasks, translation, and others. As such, the above discussion extended from the strictly legal domain into the constitutional aims of the rule of law, limited government, and delegation of powers by deciding which authorities enjoyed what powers, and the means by which such powers were delegated. Al-Qarāfī indirectly proposed a division of religious, administrative, and judiciary powers among various authorities including political ones.

⁷¹⁶ Refer to the editor's useful notes on the difference between *mazālim* and *qaḍā'* in al-Qarāfī's thought and to *Tamyīz*, p. 168.

⁷¹⁷ For more on *mu'āmalāt* refer to Jackson, *Islamic Law and the State*, p.197.

As previously stated, the constitutional consequences of certain legal discussions were far-reaching. Effectively, al-Qarāfī split the powers of the caliph into three, executive, legislative, and judicial. The author's conception of discretionary injunctions (*taṣarrufāt*) essentially denoted the executive power of the caliph. This power included the general administration of the state (*al-siyāsa al-ʿamma*) and the *Tamyīz* detailed the *imām's* duties in distributing wealth, preserving order, attending to public interest and welfare, handling defence, and administering matters related to the ruling elites (land grants, *iqṭāʿ*). These were all executive and distinctly non-religious duties that could be transferred to the sultan as the wielder of coercive power. The law moderated the exercise of these executive powers. For that, and to avoid tyranny, a pristine legislative process was required. As such, law-making, that is the interpretation of the law, was the duty of jurisconsults (*muffīṣ*). Should they wish to, the caliph or the sultan could interpret the law alongside other *muffīṣ* of the four *madhhabs*, while conceding that all legal opinions became non-binding after the death of the Prophet. This resulted in securing the independence of the four *madhhabs* in interpreting the law, which in turn protected their role in the process of law-making. Accordingly, al-Qarāfī's conception of legislative power upheld the rule of law by guaranteeing diversity in interpreting the law. Finally, there was judicial power, which was discussed in detail in the above paragraph. Though it was only focused on the eligibility to pass legal rulings, al-Qarāfī's conception of the judiciary denoted again a division of legal, administrative, and political duties that upheld the ideal of limited government as defined in this research and touched on the delegation of power.

Being one of the “non-establishment *ʿulamaʿ*”, al-Qarāfī's works differed in some aspects from Shāfīʿī or Ḥanafī political treatises.⁷¹⁸ There were various areas of political thought that the *Tamyīz* did not cover or did so

⁷¹⁸ Ibid., p.xxii-xxiii.

incidentally, like administrative law, taxation, and the rules of war. This should not be viewed as a limitation in the *Tamyīz* since al-Qarāfi did not dedicate his work to rulers in order to gain more power and offices for his *madhhab*, or to advance Mālikism as an official law of the state. Al-Qarāfi merely hoped to maintain legal diversity in interpreting the law and the independence of his *madhhab* against the dominant Shāfiī school. The *Tamyīz* was authored in a different style and with different aims than the later *Taḥrīr al-aḥkām* of Ibn Jamā'a, *Tuḥfat al-Turk* of al-Ṭarsūsī, and, as I will argue in the following short section, the political works of Ibn Taymiyya.

The political thought of Ibn Taymiyya's Ḥanbalism

Ibn Taymiyya was and still is the focus of ever-growing academic and general interest.⁷¹⁹ Over the past decade, there have been numerous studies that have contributed to a better understanding of his political thought. These included very useful, though not necessarily conclusive, findings on the nature of his Ḥanbalism, his relations with Mamluk political power, and his contributions to law, theology, and political thought. Additionally, these studies provided valuable new information on the interrelatedness between Ibn Taymiyya's legal and theological polemics and the competition for power among the Mamluk *amīrs*. Based on these recent advances, this section will examine the role of Ibn Taymiyya within the context of the competition for an official law or constitution of the state.

This research's caveat on the use of epithets persists in the case of Ibn Taymiyya. The categorisation of his political thought as Ḥanbalī is problematic owing to the complex relation he had with his own legal school's jurisprudence, theology, and community. Ibn Taymiyya's legal thought challenged the traditional sources of Islamic legal authority and often did not

⁷¹⁹ Refer to the Introduction.

follow the dominant doctrine within his own legal school.⁷²⁰ Moreover, a recent study showed that the Ḥanbalism of the Mamluk period should not be identified with Ibn Taymiyya.⁷²¹ While Ibn Taymiyya had a loyal “circle” (*jamā‘a*) of faithful associates who transmitted his works and shaped his biography, his tangible influence on the Ḥanbalī community was rather limited.⁷²² There existed a strong opposition to Ibn Taymiyya and serious criticism of him among Ḥanbalī jurists, judges, traditionalists and prominent members of the community who did not share his views on Sufis, or his theological and legal doctrines.⁷²³ Accordingly, I opted to label his contribution as the political thought of Ibn Taymiyya’s Ḥanbalism.

These recent advances in the study of Ibn Taymiyya’s biography suggest that he was immersed in the high-level politics of the Mamluk elite. They highlight the depth of his relations with several prominent members of the Mamluk elite. There is no need to dwell on the distorted portrayal of Ibn Taymiyya in earlier secondary literature, which understood his un-institutional background as lack of interest in the Mamluk political-power dynamics; suffice to say that this distortion did influence previous interpretations of his political thought. Recently Caterina Bori challenged “the common idea that Ibn Taymīyah was at odds with the Mamluk authorities”.⁷²⁴ Ibn Taymiyya enjoyed

⁷²⁰ Yossef Rapoport, “Ibn Taymiyya’s Radical Legal Thought,” in *Ibn Taymiyya and His Times*, ed. Yossef Rapoport and Shahab Ahmed, Studies in Islamic Philosophy 4 (Karachi: Oxford University Press, 2010), p.200, p.218 and *passim*.

⁷²¹ Caterina Bori, “Ibn Taymiyya Wa-Jamā‘atuhu”, *passim*.

⁷²² *Ibid.*, p.25 and p.31. For more on the collection and transmission of Ibn Taymiyya’s works by his disciples, refer to Bori, “The Collection and Edition”.

⁷²³ Bori describes it as “fluctuating skepticism”; in “Ibn Taymiyya Wa-Jamā‘atuhu”, p.33-36.

⁷²⁴ Bori, “The Collection and Edition”, p.48. Bori’s list of influential Mamluk that he enjoyed links with included: *amīr* Sayf al-Dīn Jāghān, *mushidd al-dawāwīn* in Damascus and deputy of the vice-regent, and Jamāl al-Dīn al-Afram (d. ca. 720/1320–21), governor of Damascus whom he advised al-Nāṣir Muḥammad to appoint to the vice-regency of Tripoli. Bori noted, ‘Ibn Taymīyah himself declares his allegiance to the Mamluk regime in various instances: “[.]. I never stopped loving them (the Mamluks) and considering them as friends: their amirs, their scholars and judges”’. Moreover, Bori attributed the very composition of *al-Siyāsa al-shar‘iyya* as a dedication to al-Nāṣir Muḥammad; refer to Bori, “Théologie politique et Islam, à propos d’Ibn Taymiyya [d. 728/1328] et du sultanat mamelouk,” *Revue de l’Histoire des Religions*

very close, perhaps too close, relations with influential Mamluk *amīrs*, vice-regents, contenders for the sultanate, and in the case of al-Nāṣir Muḥammad with the sultan himself. Although, as Y.M. Michot rightly noted, these close relations with the highest Mamluk powers did not protect him from imprisonment on six occasions, one cannot but wonder to what extent and in which fashion this closeness impacted Ibn Taymiyya's political thought.⁷²⁵

Furthermore, there is continual conjecturing on where to find Ibn Taymiyya's political thought. While there is a consensus on seeking it in *al-Siyāsa al-shar'īyya* and the *Ḥisba*, some scholars have instead turned to other sources including *Minhāj al-sunna*, the anti-Mongol *fatwās*, and *Dar' ta'āruḍ*.⁷²⁶ Recently, evidence was presented at a conference that the texts of *al-Siyāsa al-shar'īyya* and the *Ḥisba* were gathered and probably studied together as one uninterrupted source of Ibn Taymiyya's political thought some 50 years (in 780 A.H) after his death.⁷²⁷ This important find may impact future interpretations as it indicates how dominant was the duty of commanding good and forbidding evil (*al-amr bi-al-ma'rūf*) in the Taymiyyan conception of government. Wherever his political thought is found, one should keep in mind that there is no guarantee whatsoever that a "coherent" Taymiyyan political theory will emerge from the study of these different works.⁷²⁸

224, no.1 (2007): 10. Eventually, it was the controversy caused by Ibn Taymiyya's views on divorce oaths that led to lost him the favour of the Mamluks; refer to Yossef Rapoport, *Marriage, Money and Divorce in Medieval Islamic Society*, Cambridge Studies in Islamic Civilisation (Cambridge ; New York: Cambridge University Press, 2005), 96–105.

⁷²⁵ Yahya M. Michot, "Ibn Taymiyya (1263-1328)," in *The Princeton Encyclopedia of Islamic Political Thought*, ed. Gerhard Böwering, Patricia Crone, and Mahan Mirza (Princeton, N.J: Princeton University Press, 2013), p.238-241.

⁷²⁶ Anjum, *Politics, Law and Community*, p. 26; Michot, "Ibn Taymiyya (1263-1328)", p. 238-241

⁷²⁷ Presented by Caterina Bori at the Fifth Conference of Mamluk studies. Refer to Bori, "One or Two Versions of Al- Siyāsa Al-Shar'īyya of Ibn Taymiyya? And What Do They Tell Us?," *ASK Working Paper*, 2018. Bori noticed two different versions of *al-Siyāsa al-shar'īyya* and argued that this discovery challenges any existing interpretation of the text.

⁷²⁸ For more on the mythology of coherence refer to Skinner, "Meaning and Understanding", p. 16-22.

Our understanding of Ibn Taymiyya’s political thought is thus still patchy. Despite recent important advances, the available interpretations are varied and often misinterpreted and contradictory. For instance, Michot showed how Ibn Taymiyya’s “theology of war” against the Mongols was wrongly construed as legitimation of rebellion against Muslim rulers.⁷²⁹ Furthermore, Mona Hassan highlighted Laoust’s misinterpretation of Ibn Taymiyya’s polemics in *Minhāj al-sunna* as a rejection of the institution of the caliphate.⁷³⁰ As for contradictory scholarly interpretations, Baber Johansen and Ovamir Anjum are at opposite poles on almost every aspect of Ibn Taymiyya’s political thought.

Anjum saw a Taymiyyan revival of the role of community as a source of political authority. He argued that Ibn Taymiyya offered a community-centred vision where “the only way to know God’s will is the will of the Community”.⁷³¹ Within this vision, commanding good and forbidding evil – that is the *Ḥisba* – was the “foundation of the state” and “all political offices in Islam are nothing but an institutionalization of this one function”.⁷³² Additionally, Anjum posited that Ibn Taymiyya attempted to bring back the political and religious lives to the purview of the *sharīʿa* by limiting legal formalism; this explained – according to Anjum- Ibn Taymiyya’s unremitting challenge to the authority of

⁷²⁹ Michot, “Ibn Taymiyya (1263-1328)”, p.239.

⁷³⁰ Mona Hassan, “Modern Interpretations and Misinterpretations of a Medieval Scholar: Apprehending the Political Thought of Ibn Taymiyya,” in *Ibn Taymiyya and His Times*, ed. Yossef Rapoport and Shahab Ahmed, Studies in Islamic Philosophy 4 (Karachi: Oxford University Press, 2010), p.345-7. Hassan explained how other prominent scholars like Gibb and Rosenthal embraced this view. Furthermore, she argued, that Ibn Taymiyya considered the caliphate “as a moral and legal necessity”; refer to p.339 and p.346. Hassan attributed the silence on the institution of the caliphate in *al-Siyāsa al-Sharīyya* as opposed to *Minhāj al-sunna* to being a question of genre as the former work is “not a legal manual, a book of jurisprudence” but a “Mirror for Princes”; refer to p.34. Later, Hassan reiterated this argument in her seminal *Longing for the Lost Caliphate*, p.114.

⁷³¹ Anjum, *The Taymiyyan Moment*, p.247.

⁷³² *Ibid.*, p.244; Anjum used *Ḥisba* with capital ḥ..

the jurists over the *sharī'a*, the Sufis over “mystical reality” (*ḥaqīqa*), and the political elite over the *siyāsa*.⁷³³

Johansen held a radically different interpretation that saw no prominent role for the community in the Taymiyyan theory. He posited that Ibn Taymiyya’s theory of governance in the name of the sacred law (*siyāsa sharīyya*) was restricted to “narrow groups of stakeholders” whereby the ‘*ulamā*’ legitimized and directed the exercise of power by political and administrative elites to the exclusion of all other social groups.⁷³⁴ The sultan had to follow only the scholar who guided him to the way of the Qur’ān and the *sunna*. Johansen noted, rather convincingly, that Ibn Taymiyya was essentially speaking about “his own relation to the Sultan”.⁷³⁵ Scholars and Sufis of different *madhhabs* and creeds were invited to accept Ibn Taymiyya’s theology and legal methods often through “campaigns of polemics and at times intimidations against others”.⁷³⁶ Johansen observed, “The text on Governance (*siyāsa*) reflects Ibn Taymiyya’s concept of the Sultan’s role in conflicts between factions of religious scholars.”⁷³⁷ As such, Johansen’s interpretation placed Ibn Taymiyya’s political thought in the context of the competition with other *madhhabs*, scholars, and Sufis for the exclusivity of providing guidance to the sultan.

Such interpretation depicts Ibn Taymiyya’s thought as being similar to others strains examined in this research. Ibn Taymiyya competed against jurists and Sufis of every *madhhab* and creed to become the exclusive source of guidance to the sultan and the ruling Mamluk elites in law, theology, and even *siyāsa*. One difference is, however, that he aimed for his own personal guidance to outline the official law and creed of the state and not necessarily

⁷³³ Ibid., p236-237 and p.244.

⁷³⁴ Johansen, “A Perfect Law”, p. 286.

⁷³⁵ Ibid., p.274-275.

⁷³⁶ Ibid., p.263.

⁷³⁷ Ibid., p.264.

that of his Ḥanbalī *madhhab*. Ibn Taymiyya's conception of an all-encompassing function of the market inspection (*ḥisba*) compensated for his non-institutional vision in which the elastic definition of commanding what is good and forbidding what is evil (*al-amr bi-al-ma'rūf*) would have secured him personally a considerable margin in exercising his guidance.

Was this quest for exclusivity part of a wider political project? This research is not the first to highlight the links between Ibn Taymiyya's theology and conceivable ambitions in the political sphere. Recently, Caterina Bori showed that during the reign of al-Nāṣir Muḥammad and his powerful counsellor Baybars al-Jāshankīr, Ibn Taymiyya's polemics may have "threatened a potential theological claim to political power".⁷³⁸ Furthermore, as noted by Donald P. Little, Mamluk *amīrs* were warned against Ibn Taymiyya's appetite for ultimate political authority (*al-imāma al-kubrā*) by accusers who likened him to Ibn Tūmart (d. 524/1130), the founder of Almohad movement.⁷³⁹ Although it did not mention Ibn Taymiyya by name, a similar warning was raised in the treatise *Āthār al-uwal fī tartīb al-duwal* (A manual for government founded on earlier exemplars).⁷⁴⁰ This warning is particularly interesting as this treatise was dedicated by its author al-'Abbāsī to none other than Baybars al-Jāshankīr. In a sub-section entitled "Regarding the conduct of the king with the ascetics and accepting their advice," al-'Abbāsī used the circumstances of Ibn Tūmart's rise as a warning to his dedicatee. First, the author cautioned against ascetics who were in reality seeking power. Subsequently, al-'Abbāsī recounted Ibn Tūmart's rise, describing him as the *Mahdī* of the Maghrib who became renowned for commanding good and forbidding evil (*al-amr bi-al-ma'rūf*). The Almoravid ruler 'Alī bin Yūsuf bin Tashfīn called for Ibn Tūmart, and arranged for a council where the latter

⁷³⁸ Bori, "The Missing Link, p.72; and p.71-72 for a second such example.

⁷³⁹ Little, "The Historical and Historiographical Significance", p. 321-322; refer to Ibn Ḥajar, *al-Durar*, p.155-156.

⁷⁴⁰ Al-'Abbāsī, *Āthār al-uwal*, p. 61-63. Refer to the subsequent discussion on this work.

debated with other jurists (*fuqahā*) and excelled in every topic of discussion.⁷⁴¹ The Almoravid ruler was advised to jail Ibn Tūmart, but ignored this vital advice. Ibn Tūmart went on preaching *al-amr bi-al-ma'rūf* among the Berbers until he eventually succeeded in destroying the rule of the Banū Tashfīn and taking over. These were serious contemporary allegations that represented a warning of danger posed by Ibn Taymiyya. Such contemporary explanations for Ibn Taymiyya's legal and theological polemics, controversies, and attachment to *al-amr bi-al-ma'rūf* and the *ḥisba* suggest the existence of a political project that further situates his activism and political thought within the early Mamluk period competition for an official law or constitution of the state.

Unaffiliated political thought

The competition among the *madhhabs* was one of several motivations for authoring works of political thought. However, just as in other periods of Islamic history, there existed in the late Ayyubid and early Mamluk a rich tradition of writing advice literature including statecraft manuals, mirrors for princes, didactic poetry, and other works of political advice that were not concerned with the competition for an official *madhhab* or law of the state.⁷⁴² This section will refer to four such works that were presented to Ayyubid and Mamluk sultans and discuss their varied aims and general stylistic features. Although each one of these four treatises merits additional attention, only one will be singled out for a comprehensive examination, for reasons that follow.

⁷⁴¹ In 514/1120, 'Alī b. Yūsuf b. Tāshfīn arranged a debate between Ibn Tūmart and a group of jurists; for the rise of Ibn Tūmart refer to J.F.P. Hopkins, "Ibn Tūmart", *EI2*.

⁷⁴² Very useful for this discussion is Louise Marlow's work on the difference between advice literature and mirrors for princes in "The Way of Viziers". On p.169, she noted, "The terms "advice literature" and "mirrors for princes," though sometimes used interchangeably, are not necessarily entirely synonymous. In the largest sense, medieval Islamic "advice literature" might refer to a number of explicitly didactic modes of writing, including legal and theological writings, philosophical treatises, epistles and more extended prose works, and panegyric poetry; whereas the "mirror" is, as already suggested, an imported term applied somewhat variously by scholars to a more restricted group of "literary" medieval prose works."

This section will attempt to draw some conclusions based on the study of the selected treatise.

This unaffiliated tradition completes this research. While the competition amongst *madhhabs* as a motive for the production of political thought is the main focus of this thesis, treating the unaffiliated tradition will provide a fuller picture of thirteenth-century Islamic political thought. As will be discussed below, such treatment will show that the concern for constitutional aims permeated various writing traditions during this period. The unaffiliated tradition displayed varied aims that ranged from ensuring the longevity of the sultan's rule to upholding constitutional ideals like the rule of law, delegation, and limited government. Furthermore, the examination of the unaffiliated tradition provides important clues as to the development of the treatment of thematic and stylistic features in Islamic political thought.

In addition to the indifference towards *madhhab* competition, these four works had other common traits. They all shared characteristics that ranged from the authors' professional and intellectual backgrounds, the aims of their writing, and the literary genres and styles they opted for. Generally, the authors of such works were *adabised* Shāfiī scholars who served in the administration. These writers were motivated by the predictable aims of authoring advice literature including securing the favour of a ruler, gaining employment by displaying their literary credentials and proficiencies in various fields of knowledge, and providing advice on statecraft in order to prolong the ruler's reign. A significant additional feature that was shared by these works was that they were authored in recognised literary genres and styles that were anticipated and comprehended by their audiences.⁷⁴³ Similarly, these

⁷⁴³ Expected modes of presentations, as argued by Louise Marlow, will be discussed in detail subsequently.

treatises covered themes that were practically mandatory in works of advice literature during that period.⁷⁴⁴

Listed in chronological order, the following are the four works that best illustrate the diverse and rich *madhhab*-independent tradition of authoring works of political advice:

1- *Al-ʿIqd al-farīd li-al-malik al-saʿīd* (The unique necklace for a content king) was authored by Ibn Ṭalḥa al-Naṣībīnī (582/1186 or 87 - 652/1254), a Shāfiʿī jurist, judge, litterateur, Sufi, diplomat, experienced administrator, and vizier.⁷⁴⁵ It was dedicated to the last effective Ayyubid sultan in Syria, al-Nāṣir Ṣalāḥ al-Dīn Yūsuf (r. 634/1237– 658/1260). This section will examine this treatise in detail and show how it displayed unique features that did not fit any of the prevalent scholarly classification based on genre.⁷⁴⁶

2- *Qadaḥ al-dirāsa fī manāhij al-siyāsa* (The goblet of instruction in the ways of government), dedicated to sultan Qalāwūn (r. 678/1279-689/1290); its unknown author mentioned that he composed his work “in the hope that he [the sultan] will accept it and it will become my means of access to him (*wasīlatī ilayhi*)”.⁷⁴⁷ The work seems to be mostly based on aphorisms, wisdom, and anecdotes from earlier texts and anthologies.

3- *Urjūzat niṣf al-ʿaysh fī tadbīr hādhihi al-ḥayāt* (The metric poem [entitled] Half of one’s life is based on his proper administration) composed by Ibn al-

⁷⁴⁴ In addition to Marlow’s work, a recent work provides an Anatolian perspective that confirms the same trend: refer to A.C.S. Peacock, “Advice for the Sultans of Rum: The ‘Mirrors for Princes’ of Early Thirteenth-Century Anatolia,” in *Turkish Language, Literature, and History: Travelers’ Tales, Sultans, and Scholars since the Eighth Century*, ed. Bill Hickman, Gary Leiser, and Robert Dankoff, Routledge Studies in the History of Iran and Turkey (London: Routledge/Taylor & Francis Group, 2016).

⁷⁴⁵ Ibn Talḥa, *al-ʿIqd al-farīd*.

⁷⁴⁶ Refer to the Introduction for a discussion of the bias towards literary genres in interpreting Islamic political thought.

⁷⁴⁷ *Qadaḥ al-dirāsa fī manāhij al-siyāsa*, MS British Library, Or.1534; the BL manuscript is possibly from the Mamluk period. For more on this treatise, refer to Marlow, “The Way of Viziers”, p.179 .

Waḥīd (647/1249 or 50 - 711/1311 or 12).⁷⁴⁸ The author was a chancery secretary who also held a post in the Ḥākīm mosque in Cairo; in addition to being a poet and a renowned calligrapher, he was proficient in languages and excelled in decrypting scripts.⁷⁴⁹ Ibn al-Waḥīd dedicated *Niṣf al-‘aysh* to sultan al-Ashraf Khaḥīl Ibn Qalāwūn (r. 689-93/1290-3) and explained that it was a mere abridgement of earlier wisdom.⁷⁵⁰

4- *Āthār al-uwal fī tartīb al-duwal* (Foregoing examples of statecraft) was authored by al-‘Abbāsī (fl. first quarter of eighth/fourteenth century). The author was a secretary in the chancery and worked in the postal service. He dedicated his work to Baybars al-Jāshankīr (r.708-709/ 1308-1309) in 709/1309.⁷⁵¹ Al-‘Abbāsī dedicated other works and poems to at least two other Mamluk sultans, al-‘Ādil Kītbughā and al-Nāṣir Muḥammad, in addition to Abū al-Fidā’, the Ayyubid ruler of Hama. Al-‘Abbāsī’s book consisted of four sections, some divided into ten sub-sections as per the common model of

⁷⁴⁸ The poem’s title is based on a rearrangement of a weak prophetic *ḥadīth*, “proper administration is half of one’s life” (*al-tadbīr niṣf al-‘aysh*). This treatise is available in Leipzig as a beautiful manuscript copied in 697/ 1297; Ibn al-Waḥīd, *Niṣf al-‘aysh*, MS. The quality of the MS suggests that it was intended for elite circulation, most likely court use. Refer to the edition of ‘Ādil al-Bakrī.

⁷⁴⁹ For more on the poet’s biography refer to *Niṣf al-‘aysh*, ed. ‘Ādil al-Bakrī, p. 9-12 ; Ibn Ḥajar, *al-Durar*, vol. 3, p. 453-456; al-Kutubī, *Fawāt al-wafayāt*, vol.3, p.390-391; al-Ṣafadī, *al-Wāfi*, vol.3, p. 125-127.

⁷⁵⁰ As the editor noted, some verses can indeed be traced back to earlier works like Ibn al-Muqaffa’s *al-Adab al-ṣaghīr* and *al-Adab al-kabīr*; in Ibn al-Waḥīd, *Niṣf al-‘aysh*, ed. ‘Ādil al-Bakrī, p. 47 , 55, 61, 79, and more so on p.81 where the evidence is indisputable. It seems to me the references to Ibn al-Muqaffa’ are even more discernable in Section 2 (Regarding the noble characters) and Section 3 (Regarding the conduct of the Sultan in his kingdom). One of the later readers of this manuscript noted in the margin of fol. 43 of the MS, “I have read this [metric] poem in one night, and found it to be similar to al-Ṭarsūsī’s (sic., referring to Ṭurṭūshī) *Sirāj al-mulūk*. In summary, it is devoid of mannerism, may God have mercy on its author.”

⁷⁵¹ Al-‘Abbāsī, *Āthār al-uwal*; the author is sometimes referred to in secondary studies as al-Ṣafadī. For more on this author check: Stefan Leder, “Sultanic Rule” where the title is translated as “Teachings of the Ancients on the Organization of Dynastic Rule”; Pomerantz, “A Maqāma Collection”; and Pomerantz, “The Play of Genre”. Refer to al-‘Abbāsī, *Nuzhat al-mālik* and the useful introduction by the editor, p. 7, 9, 10 and 172. Al-‘Abbāsī may have authored another work of political thought (refer to p.9 of Tadmuri’s edition of *Nuzhat al-mālik*), which was probably dedicated to al-‘Ādil Kītbughā (Tadmuri, p.14); however, Pomerantz believes it was the same work as *Āthār al-uwal* (“A Maqāma Collection”, p.634).

advice literature of the period.⁷⁵² Throughout his work, the author envisioned a certain “interrelation between power and morality” and relied heavily on historical precedents.⁷⁵³ In addition to the above selected four works, there existed other similar treatises that, sadly, cannot be discussed here for lack of space and because they deserve dedicated research.⁷⁵⁴

Al-ʿIqd al-farīd, Qadaḥ al-dirāsa, Urjūzat niṣf al-ʿaysh, and *Āthār al-uwal* adhered to what appears to have been a global tradition of Islamic advice literature of the thirteenth and fourteenth centuries.⁷⁵⁵ Like mirrors for princes in Anatolia and the Islamic East, the selected four works displayed the “generic features” of advice literature that were part of an expected mode of presentation by the authors to their addressees and audiences.⁷⁵⁶ Such features included the use of stylistic techniques of courtly Arabic like rhyming prose or pairing of synonymous words, the systematic gathering from earlier texts and anthologies, the inclusion by the authors of an “explicit statement of purpose”, and the common use of ten chapters divided by theme in accordance with a known literary practice of the time.⁷⁵⁷ Similarly, it was evident that these four works treated expected themes like the merits of justice over injustice, the benefits of consultation, the excellence of liberality, moderation in dispensing justice, and the proper selection of agents and entourage.⁷⁵⁸ The authors also treated a variety of topics based on their own personal aims, interests, and professional backgrounds outside the expected themes, including military arts, administrative craft such as taxation, royal

⁷⁵² This will be explained below.

⁷⁵³ Leder, “Sultanic Rule”, p.104.

⁷⁵⁴ One notable example that deserved to be included is the work of Ibn Nubāta, *al-Mukhtār min kitāb tadbīr al-duwal*. Refer to: Bauer, “Ibn Nubātah Al-Miṣrī”, Part I and Part II.

⁷⁵⁵ Marlow discussed these features extensively in her study, which I rely on here: “The Way of Viziers”, *passim*. Refer likewise to Peacock, “Advice for the Sultans”.

⁷⁵⁶ Marlow studied similar works of advice literature and observed they were “highly varied” and differed “markedly from one another in content, style, and even to some extent in function”; in “The Way of Viziers”p.170, p. 177.

⁷⁵⁷ *Ibid.*, p.179 and 177-181.

⁷⁵⁸ *Ibid.*, p.183-184.

temperament, ethical models, court etiquette, and historical precedents. Between them, these selected four works exemplified, in almost every aspect, the advice literature of the period, especially the writings commonly referred to as mirrors for princes.

Although this section has shown how works of unaffiliated political thought appeared in genres exhibiting various recognised styles and themes, the author's chosen genre was a mere vehicle to convey political thought. Genre, most certainly in the context of the thirteenth century, did not dictate the content of political texts. This argument could not be made more clearly than by studying a political thought treatise that relied on several literary genres, namely *al-'Iqd al-farīd*.

Al-'Iqd al-farīd: the fusion of genres, styles, and aims

The fusion of genres was not the only reason why this research singled out *al-'Iqd al-farīd li-al-malik al-saīd* (The unique necklace for a content king) of Ibn Ṭalḥa al-Naṣībīnī (582/1186 or 87- 652/1254).⁷⁵⁹ There are several equally important reasons behind this choice that include the intellectual, doctrinal, and professional background of Ibn Ṭalḥa, his aims in writing the treatise, the unusual period the treatise was authored in, its content and style, its significant place in the genealogy of Ayyubid and Mamluk political thought, and, naturally, its indifference towards *madhhab* competition. In this paragraph, and at the risk of pre-empting the conclusion of this section, I shall synthesise these six factors behind the choice of this treatise. First, the author was a Sufi, Shāfiī jurist, judge, litterateur, diplomat, seasoned administrator, and at one point in his career a vizier. This intricate background, as will become evident below, was reflected in the variety of subjects that were covered in the treatise. Additionally, it is yet another reminder of the need for caution in using epithets (e.g Sufis, Shāfiīs etc.) as they are rarely neatly

⁷⁵⁹ Ibn Ṭalḥa, *al-'Iqd al-farīd*.

delimited. Second, *al-ʿIqd al-farīd* was dedicated to the last effective Ayyubid sultan in Syria and, accordingly, authored shortly before the rise of the Mamluk Empire. As such, it is an ideal illustration of the tradition of written political thought of the late Ayyubid and early Mamluk period. Third, *al-ʿIqd al-farīd* attested to the elaboration, during this period, of a blended genre that merged classical legalistic discussions with other genres of advice literature, including administrative handbooks, mirrors for princes, ethical and homiletic writings, and other didactic works as will be explained below.⁷⁶⁰ As already discussed and as will be reiterated, the fusion of genres in this treatise reaffirms that genre was a mere vehicle to convey political ideas and seldom an end in itself. Fourth, the content of the treatise was influenced by Ibn Ṭalḥa’s multiple aims in writing it. While *al-ʿIqd al-farīd* aimed to educate and entertain the sultan, and display the author’s literary and administrative credentials, it also envisioned upholding some of Ibn Ṭalḥa’s ideals, including the moderation of the exercise of power in a similar way to other treatises discussed hitherto. Fifth, *al-ʿIqd al-farīd* was the genealogical missing link that rationalized the development of a distinct approach to writing political thought in the thirteenth century. Its influence on Ibn Jamā‘a’s *Taḥrīr*, which was already alluded to in Chapter 2, was evident in both style and content.⁷⁶¹ Sixth and finally, *madhhab* and creed are always discernible in this period’s treatises. Although *al-ʿIqd al-farīd* was not primarily concerned with *madhhab* competition, it nevertheless reflected some of the author’s strong doctrinal views. These preliminary findings will be explicated in what follows.

⁷⁶⁰ I use Julie Scott Meisami’s definition of “homiletic tradition”, which she attributes to works that belong “to neither the administrative nor the philosophical current of mirror literature” where the author also used, mostly, Islamic sources and authorities; refer *The Sea of Precious Virtues*, p. vii.

⁷⁶¹ Refer to Chapter 2.

Al-ʿIqd al-farīd: Author, genres, and aims

An examination of the professional, religious, and intellectual background of the author of *al-ʿIqd al-farīd* is a prerequisite to further discussion. Abū Sālim Ibn Ṭalḥa al-Naṣībīnī was a Shāfiʿī expert in jurisprudence (*fiqh*), speculative theology and jurisprudence (*uṣūl*), and the study of legal divergence between schools (*khilāf*). He was also a seasoned statesman and administrator who participated in diplomatic missions and held several posts including the judgeship of Naṣībīn (or Nuṣaybīn) and the preacher (*khaṭīb*) of the mosque of Damascus. In 648 H., Ayyubid sultan al-Nāṣir Ṣalāḥ al-Dīn Yūsuf (r.634/1237- 658/1260) entered Damascus and appointed him vizier (*wazīr*); after holding the post for two days, Ibn Ṭalḥa removed himself and disappeared.⁷⁶² It is said that Ibn Ṭalḥa wore the cotton garment of the Sufis and became an ascetic. Later, he reappeared in Aleppo where he died in 652/1254.⁷⁶³ Ibn Ṭalḥa had a passion for *ʿilm al-ḥurūf* and *ʿilm al-awfāq*, which are the occult sciences of the numerical values of letters and their use to learn the esoteric significance of creation, which eventually brings one closer to God; such sciences were often connected to the Sufi belief in the unity of creation (*waḥdat al-wujūd*), but also associated with the practice of astrology.⁷⁶⁴ Ibn Ṭalḥa is said to have renounced this interest and composed the following verses in retrospect:

⁷⁶² In 648 H. al-Nāṣir Yūsuf entered Damascus at the height of a politically fluid situation in Egypt and Syria. In addition to his awakening to Sufism, Ibn Ṭalḥa's disappearance could have been motivated by the untenable nature of this post given the rise of the Mamluks, although this is mere conjecture.

⁷⁶³ The sources say he left for pilgrimage in 652 H. and then returned to Damascus in the same year, he then "heard" (studied) the epistle of al-Qushayrī and then left for Aleppo. Refer to p.21-22 of the editor's introduction; *Ṭabaqāt al-Shāfiʿiyya al-kubrā*, vol.4, p. 272-273; al-Ṣafadī, *al-Wāfi*, vol.3, p.146; Ibn Taghrībirdī, *Nujūm*, vol. 16, p.30, where he uses *amufī* to describe the author; Abū Shāma *al-Dhayl ʿalā al-rawḍatayn* p.188; al-Yāfiʿī, *Mirʾāt al-jinān*, vol. 4, p.99-100.

⁷⁶⁴ During the Mamluk period, this "science that had formerly been the reserve of small and discreet communities of practitioners" was now being made available to a "much wider audience of literate and devout readers, as well as Turkish military-political elites" in Noah Gardiner, "The Occultist Encyclopedism of ʿAbd Al-Raḥmān Al-Biṣṭāmī" (The Middle East

Never trust the prediction of an astrologer as all matters are attributed to God

A true Muslim should not suppose that planets could influence the occurrence of events.⁷⁶⁵

Some stories claimed that Ibn Ṭalḥa predicted the date of his own death based on studying the letters of a verse that a *faqīr* uttered to him.⁷⁶⁶ As this section will show, this intricate background marked his treatise in various ways.

There seems to be unwarranted confusion regarding the identity of *al-ʿIqd al-farīd*'s dedicatee, as there is ample evidence to indicate that Ibn Ṭalḥa presented it to al-Nāṣir Ṣalāḥ al-Dīn Yūsuf, the last effective Ayyubid sultan in Damascus and Aleppo. One scholar believed the treatise was dedicated to al-Malik al-Saʿīd Nāṣir al-Dīn Baraka (1260-1280), son of Baybars.⁷⁶⁷ The confusion was due to Ibn Ṭalḥa's dedication of his treatise to "*al-mawlawī al-sulṭānī al-malakī al-saʿīdī al-najmī*", but this assumption is simply untenable chronologically as Ibn Ṭalḥa died before al-Saʿīd Baraka was even born. The identity of the dedicatee is beyond any doubt as the author mentioned, "*al-nafs al-karīma al-sulṭāniyya al-malakiyya al-Nāṣiriyya al-Ṣalāḥiyya*" and later "*al-sulṭān al-malik al-Nāṣir Ṣalāḥ al-Dīn Yūsuf*", where he interestingly discussed the merit of the sultan's first name, *Yūsuf*, using the numerical values of letters.⁷⁶⁸

Documentation Center (MEDOC), 2017), p.29; for more refer to Gardiner, "Esotericist Reading Communities and the Early Circulation of the Sufi Occultist Aḥmad Al-Būnī's Works," *Arabica* 64 (2017): 405–41 and Dorrit van Dalen, *Doubt, Scholarship and Society in 17th Century Central Sudanic Africa*, Islam in Africa, volume 20 (Leiden ; Boston: Brill, 2016), p. 62-66.

⁷⁶⁵ The editor refrained from listing Ibn Ṭalḥa's works on astrology as the latter had "repented"; *al-ʿIqd al-farīd*'s, p. 21.

⁷⁶⁶ Ibid., p.22.

⁷⁶⁷ Ibn Nubāta, *al-Mukhtār min kitāb tadbīr al-duwal*; refer to the editor's note, p.79-80. As for the editor of *al-ʿIqd al-farīd*, he did not trouble himself with identifying the dedicatee.

⁷⁶⁸ Ibn Ṭalḥa *al-ʿIqd al-farīd*'s, p.23, 328, 340, and 341. This suggests that the author repented after dedicating the book to the sultan or –probably- that he may have never repented from these sciences.

As for al-Nāṣir Ṣalāḥ al-Dīn Yūsuf, his dramatic reign(s) over Aleppo and Damascus between 634/1237- 658/1260 epitomized every characteristic of the transition from Ayyubid to Mamluk rule.⁷⁶⁹ On a political and military level, the Ayyubid sultan was embroiled in early Mamluk competitions amongst the *Baḥrīs*, and was defeated by Egyptian Mamluk armies in 648/1250, decisively in 648/1251, and his attempts to take Cairo failed again in 653/1255.⁷⁷⁰ Furthermore, he paid the ultimate price for the Mamluk victory over the Mongols at ‘Ayn Jālūt in 658/1260 since, upon hearing the news of his army’s defeat, Hulegu summarily executed him at his court in Tabriz.⁷⁷¹ This Ayyubid to Mamluk transition of al-Nāṣir Yūsuf’s reign was mirrored in artistic objects. This was evident in a glass carafe that originated in Syria and was dedicated to him; it can be found today at the Museum of Islamic Art in Cairo. Its shape and the enamel painting on glass were popular decorative styles of the late Ayyubid period and later became prevalent in the Mamluk period, as attested to by the substantial number of contemporary carafes.⁷⁷² Like this glass artifact, *al-‘Iqd al-farīd*, reflected the Ayyubid to Mamluk transition in more than one way: it originated in Syria, was dedicated to the last Ayyubid sultan, and – as I will discuss below – its stylistic and textual features mirrored the political writings of the Ayyubid period and then proliferated in Mamluk political treatises.

Al-‘Iqd al-farīd is proof of the existence of a distinctive fusion of genres of political thought that was developing by the late Ayyubid and early Mamluk period. Owing to its mixed literary genre, the variety of themes it treated, and the background of its author, *al-‘Iqd al-farīd* was both a product of the political writing tradition of the Ayyubid period and the precursor to that of the Mamluk

⁷⁶⁹ For more on this sultan, refer to Humphreys, *From Saladin to the Mongols*, p. 381-386.

⁷⁷⁰ Ibid., p.315-316, 317-319, 327-328.

⁷⁷¹ Ibid., p. 357-358.

⁷⁷² Bernard O’Kane, ed., *The Treasures of Islamic Art in the Museums of Cairo* (Cairo ; New York: The American University in Cairo Press, 2006), p115; Museum Inventory Number: 4261; Museum of Islamic Art in Cairo.

period.⁷⁷³ This made *al-ʿIqd al-farīd* the genealogical missing link between the late ʿAbbāsīd/Ayyubid and Mamluk political writings. As will be shown, *al-ʿIqd al-farīd* relied on earlier Shāfiʿī and other political treatises including those by al-Māwardī. Furthermore, *al-ʿIqd al-farīd* seemed to have marked the subsequent *Taḥrīr* of Ibn Jamāʿa: an influence that on occasion manifested verbatim, and can also be seen in the very similar mixture of juristic and administrative discussions in the *Taḥrīr*. This influence may have been partly the result of both authors sharing Sufi/Ashʿarī/Shāfiʿī affiliation, a career in the administration, a solid grounding in speculative jurisprudence (*uṣūl*), and an apparent scientific inquisitiveness, but it was also the result of the mixture of genres that characterised the political writings of this period.

The opening of *al-ʿIqd al-farīd* prepared its audience for the above-mentioned fusion of genres, themes, and styles. Here Ibn Ṭalḥa announced his intent to combine almost every ‘expected mode of presentation’ and the different generic stylistic and thematic features that characterised other works of advice literature of his age. The patterns that follow illustrate a panoply of examples that fall within the opening. For instance, he included an “explicit statement of purpose” where he acknowledged the favour bestowed upon him by the sultan and dedicated his work to the latter as a token of appreciation.⁷⁷⁴ In this statement of purpose, Ibn Ṭalḥa urged the sultan to consult this treatise frequently to benefit from its wisdom. Furthermore, the author’s use of stylistic techniques like courtly Arabic rhyming prose and pairing of synonymous words was evident in the opening of *al-ʿIqd al-farīd*. That was aided no doubt

⁷⁷³ Furthermore, *al-ʿIqd al-farīd* resembled early Ayyubid works like Ibn Naṣr al-Shayzarī’s (fl. Fourth quarter of the sixth/twelfth century) *Manhaj al-sulūk fī siyāsāt al-mulūk* or *al-Nahj al-maslūk fī siyāsāt al-mulūk*. This work was dedicated to Salāḥ al-Dīn. A preliminary analysis of this work showed that its author relied on similar sources including al-Māwardī. However, it is not possible to cover here the early Ayyubid tradition and perhaps other researchers or myself will dedicate future work to this end. Refer to al-Shayzarī, *al-Nahj al-maslūk fī siyāsāt al-mulūk*, ed. Muḥammad Ismāʿīl and Aḥmad al-Mazīdī (Beirut: Dār al-Kutub al-ʿIlmiyya, 2003).

⁷⁷⁴ Ibn Ṭalḥa, *al-ʿIqd al-farīd*, p.23-24; Marlow, “The Way of Viziers”. p. 179.

by the author's intimate knowledge of the arts of the chancery.⁷⁷⁵ As for literary genres, Ibn Ṭalḥa's opening indicated that his treatise would resemble mirrors for princes when he declared his intention to treat themes like character traits and virtues (*akhlāq*), passions (*shahawāt*), gracious and desirable qualities (*ṣifāt ḥamīda, marghūba*), and disreputable and unpleasant qualities (*ṣifāt madhmūma, qabīḥa*).⁷⁷⁶ Additionally, Ibn Ṭalḥa mentioned his reliance on the genre of historical example by investigating the *sīra* of great models and kings.⁷⁷⁷ Although Ibn Ṭalḥa was not concerned with the competition amongst *madhhabs*, he still proclaimed his attention to the importance of holding the proper creeds (*'aqā'id*) in the opening.⁷⁷⁸ Furthermore, he incorporated clear signs of his Sufism as is evident in his reference to gnostics (*ahl al-hidāya wa-al-'irfān*) when discussing the passions and virtues of men.⁷⁷⁹ The opening thus heralded the amalgamated nature of the treatise.

Al-'Iqd al-farīd's chapterisation also reflected this amalgamation of literary genres of advice literature. As is shown below, Ibn Ṭalḥa divided his work into four main "foundations" (*qawā'id*), the content of which resembled a mirror for princes, followed by a juristic political treatise, an administrative manual that spread over the second and third foundations, and finally an addendum:⁷⁸⁰

1. Noble character and qualities (*al-akhlāq wa-al-ṣifāt*)
2. Rulership and [the main] functions (*al-salṭana wa-al-wilāyāt*)

⁷⁷⁵ Refer to p.256-264 of Section 2 of *al-'Iqd al-farīd* and the discussion below on the arts of chancery prose.

⁷⁷⁶ Ibn Ṭalḥa, *al-'Iqd al-farīd*, p. 25-26.

⁷⁷⁷ In this he resembled al-'Abbāsī's *Āthār al-uwal*. The use of carefully selected precedents and anecdotes centered on the Ayyubid period was also evident in Ibn Nubāta's work who was similarly addressing an Ayyubid prince. Refer to Ibn Ṭalḥa *al-'Iqd al-farīd*, p.28.

⁷⁷⁸ Ibn Ṭalḥa, *al-'Iqd al-farīd*, p.28. The author will make later strong anti-anthropomorphism paragraph in p.53 that can be regarded as anti traditionalist-Ḥanbalī rhetoric, as per the context of Ibn 'Abd al-Salām's dispute with the Ḥanbalīs of Damascus discussed in Chapter 1.

⁷⁷⁹ This was reminiscent of *Miṣbāḥ al-hidāya* where the author displayed his Sufi colors in the prologue of the *Miṣbāḥ*, refer to "Miṣbāḥ al-hidāya", fol. 4-9 as discussed in Chapter 4; Ibn Ṭalḥa; *al-'Iqd al-farīd*, p.25.

⁷⁸⁰ Ibn Ṭalḥa, *al-'Iqd al-farīd*, p.28.

3. Law and religious matters (*al-sharī'a wa-al-diyānāt*)
4. An addendum consisting of assorted themes

This merger secured the treatment of all the expected themes of a work of advice literature including: the temperament of the ruler often found in mirrors for princes; the discussion of the constitutional, legal, and religious foundations of the sultanate typical of juridical treatises; the main administrative and religious offices found in statecraft manuals abundant in the 'Abbāsīd, Ayyubīd, and Mamluk periods; and even included anecdotes that resembled mere *adab* works that aimed to instruct and entertain the ruler and reflect the author's varied literary and administrative proficiencies. The intricate background of the author helped shape the fusion genre of the treatise. In the following discussion, I address Ibn Ṭalḥa's various aims by looking at the four thematic foundations in turn.

Al-'Iqd al-farīd: The mirror

The first section (foundation) of *al-'Iqd al-farīd* reads like a mirror for princes. This is manifest in this section's structure, content, and even in its sources and influences. In terms of structure, the first foundation was divided into ten sub-sections as per the customary literary practice of the time.⁷⁸¹ As such the first section resembled a standalone mirror featuring the following ten sub-sections:⁷⁸²

1. On reason as a basis for the right creed of monotheism and the required religious duties
2. On the praise of forbearance and caution and the disparagement of trepidation and hastiness
3. On the praise of gratitude and the disparagement of ingratitude
4. On the bliss of counsel and the dispraise of shunning it

⁷⁸¹ Marlow, "The Way of Viziers", p. 180-183; also refer to Peacock, "Advice for the Sultans of Rum", p. 285, 287, and 293.

⁷⁸² Ibn Ṭalḥa, *al-'Iqd al-farīd*, p.29.

5. On justice and equity and the dispraise of injustice and unfairness
6. On agreement and collaboration and the dispraise of divergence and disagreement
7. On trustworthiness and the dispraise of betrayal
8. On vigilance and resourcefulness and the dispraise of hesitation and negligence
9. On forgiveness, beneficence, and relief for the destitute
10. On honesty and the dispraise of deceit

The above ten sub-sections also showed that Ibn Ṭalḥa not only adhered to the expected structure of a mirror for princes, but also treated the usual themes including the merits of justice, consultation, liberality, and moderation.⁷⁸³ The similarities with the mirror genre extended to the sources and influences of *al-ʿIqd al-farīd*, as will be discussed in the following paragraph.

The first section was informative in additional ways. The mirror-like part of *al-ʿIqd al-farīd* reflects what was known from biographical dictionaries about Ibn Ṭalḥa’s sources, and his professional, theological, and intellectual background. It confirmed that he was an *adabised* jurist who relished writing in high chancery language, that he was acquainted with court interests and etiquette, and that he was an ardent Ashʿarī, Shāfiʿī and Sufi, as was evident from some parables and discussions. For example, Ibn Ṭalḥa’s Sufism and Ashʿarism was evident as he quoted al-Qushayrī (d. 465/1072) and included a creedal paragraph laden with anti-anthropomorphism and reminiscent of the anti-Ḥanbalī rhetoric of the thirteenth century.⁷⁸⁴ In terms of sources, there are several indications that Ibn Ṭalḥa used al-Māwardī’s works.⁷⁸⁵ For instance, in

⁷⁸³ For the following section refer to Marlow, “The Way of Viziers”, p.183-184; Peacock, “Advice for the Sultans of Rum”, p. 285, 287, 293.

⁷⁸⁴ For instance, he quoted al-Qushayrī in Ibn Talḥa, *al-ʿIqd al-farīd* p.71; for the creedal discussion refer to p.53-55.

⁷⁸⁵ Al-Māwardī, *Adab al-dunyā*; and *Tashīl al-naẓar wa taʿjīl al-ẓafar fī akhlāq al-malik wa*

its treatment of instinctive and acquired reason, *al-ʿIqd al-farīd*'s first sub-section on reason (*ʿaql*) relied on the first section of al-Māwardī's *Adab al-dunyā* entitled "Regarding the merits of reason and the dispraise of passion".⁷⁸⁶

Al-ʿIqd al-farīd: The political treatise

The mirror for princes embedded in *al-ʿIqd al-farīd* was followed by a section (foundation) that resembled constitutional treatises. It treated the constitutional themes of the requirement for the sultanate, the divine delegation of the sultan, the rule of law, and the main governmental appointments. Ibn Ṭalḥa divided it into two sub-sections as follows:⁷⁸⁷

- The sultanate, the qualities of the chosen sultan, and what is required to uphold its requisites
- The [principal] offices that administer the realm and control the affairs of the state, and the description of the various supervisory ranks

As per the standard of juristic and Sufi political treatises treated so far, *al-ʿIqd al-farīd* began the second section with an extensive discussion on the requirement for the sultanate. In the first sub-section, the author proposed a divine justification of the sultanate and, in return, alluded to what was expected from the sultan. Ibn Ṭalḥa's proposed formula for a constitutional delicate balance was simple: the divine legitimacy and the longevity of the sultan's coercive power was respected in exchange for upholding the right creed, tending to the interests of the populace, and moderating the exercise of power. *Al-ʿIqd al-farīd* listed several rationalizations for the sultanate that stressed the divine legitimacy of the sultan. For instance, Ibn Ṭalḥa stated that the sultanate was a divine secret (*sirr min asrār al-rubūbiyya*), the sultan was needed for "tending to the people of God, protecting the land of God, guarding

siyāsāt al-mulk, ed. Ḥasan al-Saʿāṭī and Muḥyī Hilāl al-Sarḥān (Beirut: Dar al-Nahḍa, 1981). Again, digital humanities will be a great asset to the study of influences such texts.

⁷⁸⁶ Al-Māwardī, *Adab al-dunyā*, p.35-62.

⁷⁸⁷ Ibn Talḥa, *al-ʿIqd al-farīd*, p.231-276.

the religion of God, upholding the legal punishments (*ḥudūd*) of God, and safeguarding the laws of God”, the sultan was sanctioned (*irṭaḍāhu*) by God for this task and, as such, total obedience was due to him, and he was the reflection of God on earth.⁷⁸⁸ The sultan thus became a requirement, since without him, the author explained, there was no safety, no ritual prayer, no cultivation of land, no trade, no craftsmanship and no transmission of knowledge.⁷⁸⁹ In return, God required the sultan to uphold the true creed and the rightful Sufi way (*ṭarīqa*), to maintain virtuous conduct, to achieve honorable deeds, and to be effective and dedicated in carrying out his duties.⁷⁹⁰

Ibn Ṭalḥa’s conception of supreme political authority was essentially a Sufi one. As in the Sufi *Miṣbāḥ, al-‘Iqd al-farīd*’s theory of delegation assumed that the sultan was the heir of prophethood and, as such, was fully delegated with caliphal authorities that were moderated by an eclectic ethical system partially rooted in the *sharī‘a*. The ruler’s comportment and virtues were central to this ethical system and Ibn Ṭalḥa reminded his audience that the first section of his treatise had already emphasized the need to cultivate noble traits and that he had felt compelled to reiterate some of the traits pertinent to the sultan.⁷⁹¹ Following that, Ibn Ṭalḥa treated the primacy of the rank of prophethood (*nubuwwa*) and stated that its holders commanded the highest and noblest traits. The author then mentioned that since the sultanate was, similarly, among the elevated positions, the sultan’s self-management (*siyāsat al-nafs*) was a prerequisite to running the affairs of his subjects. By making this rather blatant insinuation that the sultanate was in the same rank as prophethood, Ibn Ṭalḥa connected the two and suggested that the sultanate was second to

⁷⁸⁸Ibid., p.235-236. I use reflection instead of shadow as more meaningful translation.

⁷⁸⁹ Ibid, p.236.

⁷⁹⁰ Ibid., p.236. The author will then proclaim in subsequent sections that the sultan is the vice-regent of God.

⁷⁹¹ Ibid., p.236-238.

prophethood and its legitimate heir in a way reminiscent of the Sufi *Miṣbāḥ*.⁷⁹² As per the Sufi model of the *Miṣbāḥ*, the moderation of the exercise of power by the sultan can be achieved through an ethical system that had roots within and outside the *sharīʿa*; this will become clearer subsequently in the treatment of the ten duties of the sultan.

With such similarities between the two treatises, it is apparent that the sources and influences of *al-ʿIqd al-farīd* must have been similar to those the *Miṣbāḥ*. From Ibn Ṭalḥa's discussion of the traits that the sultan needed to avoid it is evident that al-Māwardī's works, including *Tashīl al-naẓar*, influenced the ethical system proposed by *al-ʿIqd al-farīd*.⁷⁹³ Arrogance (*kibar*), pride (*ʿajab*), vanity (*ghurūr*), avarice (*shihḥ*), and deceit (*kadhib*) were five dangerous attributes that the sultan should avoid. There were very similar discussions in al-Māwardī's *Tashīl al-naẓar*, especially on the first two traits: arrogance and pride. Furthermore Ibn Ṭalḥa mentioned the need for the sultan to be a careful listener, measure his words, avoid rage and obstinacy, be discreet, allot and manage his time efficiently, and use capable aides and deputies, in addition to further advice, all of which seemed to derive verbatim from the *Tashīl*.⁷⁹⁴

Al-ʿIqd al-farīd's treatment of the ten duties required of the ruler mirrored the author's life and career. Elements of Ibn Ṭalḥa's background as an

⁷⁹² Ibid, p.237. The *Miṣbāḥ* attempted a similar trick, albeit in a less oblique fashion, when the author of the *Miṣbāḥ* altered the words of Najm al-Dīn al-Rāzī and equated the sultanate with the caliphate, and considered it as heir to prophethood; refer to Chapter 4.

⁷⁹³ The five traits are discussed in Ibn Talḥa, *al-ʿIqd al-farīd*, p.238 -242. This resembles a similar discussion on arrogance (*kibar*) and pride (*ʿajab*) in the *Miṣbāḥ*, p.39-40. However, al-Māwardī's *Tashīl al-naẓar* seems to be the influential source. Refer to *Tashīl al-naẓar*, p.51-52 where al-Māwardī treated arrogance (*kibar*) and pride (*ʿajab*) and explained they were different traits in that the former is caused by power and the second is a personal trait; the last three traits were not in *Tashīl*. For further similar discussions refer to p.67-70 and p.112-114 of the *Tashīl al-naẓar*.

⁷⁹⁴ Ibn Talḥa, *al-ʿIqd al-farīd* p.242. For more similarities with al-Māwardī refer to *Tashīl al-naẓar* for a discussion on rage p.72-73, obstinacy p.75, and especially on the merits of being discreet p.89-93 where it was even more obvious that Ibn Talḥa benefited from the *Tashīl*. Ibn Talḥa resorted to thematic treatment and made it difficult to spot this reuse as it is not based on a verbatim reliance.

administrator, statesman, jurist, judge, Sufi, and courtier were manifest in the following list:⁷⁹⁵

- 1- To protect the lands of Islam from external threats by retaining *amīrs* and armies, and maintaining readiness and vigilance to deter the enemy.
- 2- To inspect the frontier posts and fortifications by appointing the right governors and guardians, and by maintaining and arming the frontier posts.
- 3- To uphold *siyāsa* justice in order to repel the corrupt and the aggressors so that people can safely earn their livelihood and benefit from safe travel on the road, “*al-siyāsāt li-daf‘ al-mufsidīn wa rad‘ al-mu‘tadīn*”.
- 4- To uphold fixed punishments (*ḥudūd*) as they deter criminal and unjust acts and result in protecting lives and wealth. Fixed punishments should never be susceptible to intercession.
- 5- To uphold the *sharī‘a* and abide by it. The sultan should tend to the affairs of scholars, jurists, and judges who uphold the *sharī‘a*. Furthermore, Ibn Ṭalḥa stated that the sultan should carefully appoint “righteous judges to end disagreements, preserve money and rights from loss”, and the latter can be achieved by deterring the “greedy” and setting proper contracts for each individual situation.
- 6- To arrange appropriate land grants (*iqṭā‘*) for *amīrs* and soldiers based on their service and contribution.
- 7- To manage properly various expenditures and the collection of revenues, and to achieve this efficiently and equitably by being just and fair as this is the greatest assurance against wastage.
- 8- To commission capable and trustworthy functionaries and advisors.

⁷⁹⁵ Ibn Talḥa, *al-‘Iqd al-farīd*, p. 246-248.

9- To dedicate time to sit in at *mazālim* [courts] in order to expose injustice and uphold the duties of reason (*sic.*) and justice so that grievances are resolved.⁷⁹⁶

10- To be constantly informed about various circumstances in the realm through spies and emissaries in order to be able to act swiftly.

Ibn Ṭalḥa ended this discussion by stating that the sultan was the “deputy of God” in managing his people and tending to their affairs.

Al-ʿIqd al-farīd's treatment of the sultan's ten duties was original. While the thematic and stylistic features of the above list imitated juristic works like the *Aḥkām* and the *Taḥrīr*, it nevertheless echoed the concerns of mirrors for princes and works of Sufi political ethics. This is evident in that Ibn Ṭalḥa does not refer to the elements on the list as ten “duties”, but rather as ten “matters” that required the sultan's attention as they were “pivotal” to running the realm.⁷⁹⁷ Furthermore, the longevity of the sultanate appeared to be one of the author's main concerns. Ibn Ṭalḥa stated that should the sultan observe these rules (*uṣūl*) in his various decisions, he would secure the preservation of his kingdom's domains (*ḥamā ḥawzat mamlakatih*).⁷⁹⁸ Most importantly, Ibn Ṭalḥa reinforced the divine origin of the sultan's legitimacy by mentioning that the sultan “was bequeathed by God the bliss of the sultanate”, was God's “deputy in protecting the realm and attending to the people”, and was the vice-regent of God (*inna al-sulṭān nāʾib Allāh fī khalīqatih*).⁷⁹⁹ Moreover, Ibn Ṭalḥa's discussion reflected a tendency to assert additional sultanic powers in the judicial sphere by upholding the roles of *siyāsa* and *mazālim* courts. For

⁷⁹⁶ This seems again to be a call for empowering secular justice. Further research is needed on the inclusion of the “duty of reason” in conjunction with justice while discussing the merits of sultanic and non-religious courts.

⁷⁹⁷ Ibn Ṭalḥa mentioned “*madār quṭb al-salṭana*” in *al-ʿIqd al-farīd*, p.246; the full discussion is in p.246-248. This rather over friendly tone with the sultan should not come as a surprise since *al-ʿIqd al-farīd* was after all dedicated to an Ayyubid sultan and the author did not intend to overtly shackle his patron with “duties” but rather to direct his attention to important “matters”.

⁷⁹⁸ *Ibid.*, p.248.

⁷⁹⁹ *Ibid.*, p.246 and 248.

instance, the third duty called for the need for swift sultanic justice in the realm. Similarly, the fifth duty seemed like a clear and narrow delimitation of the jurisdictions of the *sharī'a* courts. This gave the sultan further liberty to administer justice and preserve public order outside the limits of *sharī'a* courts, which were limited here to contractual disputes and matters of the sort. In summary, Ibn Ṭalḥa's treatment of the ten duties of the ruler was quite unique since it transformed a classical juristic discussion that was supposed to remind the sultan of his duties into one that reinforced his divine rights, political and judicial powers, and aimed to prolong his rule.

In the second sub-section Ibn Ṭalḥa begins the administrative manual within *al-'Iqd al-farīd*, which treated the principal functions (*wilāyāt*) of the state.⁸⁰⁰ Here the treatise resembled both the *Aḥkām* and the *Taḥrīr* and, accordingly, confirmed yet again the above-mentioned postulation that Ibn Ṭalḥa was the missing link between al-Māwardī and Ibn Jamā'a in the genealogy of juristic treatises of political thought. This is evident in Ibn Ṭalḥa's reliance on the works of the former and in the stylistic and thematic similarities with the latter. *Al-'Iqd al-farīd* proposed that any appointee for a senior public office should have four qualities: knowledge, piety, competence, and trustworthiness. Subsequently, the treatise discussed five ranks of appointments: the viziers (*wazīrs*), the chancery of the state (*al-inshā'*), the inspectorate of the army (*dīwān al-jaysh*), the state treasury (*dīwān al-amwāl*), and the rest of the sultan's retinue. Ibn Ṭalḥa's discussion of the etymology of the term *wizāra* (vizierate) pointed clearly to his use of al-Māwardī's *Qawānin al-wizāra* and, more significantly, the *Aḥkām*.⁸⁰¹ Likewise, this was manifest in the discussion of the vizierate of full delegation (*wizārat al-tafwīḍ*) and special delegation (*al-tanfīdh*), where Ibn Ṭalḥa adapted the relevant text of al-

⁸⁰⁰ Ibid., p.251; it is also reminiscent of the later work of al-Subkī, *Muṭd al-Ni'am*.

⁸⁰¹ Ibid., p.248-253. Refer to al-Māwardī, *Qawānin al-wizāra*, p.137-138; and *Al-Aḥkām al-sultāniyya*, vol. 2, p.30-31. For instance, note the commonality in relating caliph al-Ma'mūn's criteria for selecting his vizier.

Māwardī's *Aḥkām* by removing any reference to the *imām* or caliph and restricting the discussion to the sultan.⁸⁰² Similarly, Ibn Ṭalḥa's discussion of the army's *dīwān* was based on passages from al-Māwardī's *Aḥkām*.⁸⁰³ As for the author's interest in *dīwān al-inshā'*, it reflected his personal administrative background and his adherence to the writing style of the chancery, as is manifest throughout the treatise. Ibn Ṭalḥa's notable conciseness and organized style throughout his treatment of *dīwān al-amwāl*, which listed the provenances of funds coming into the treasury, resembled the style of Ibn Jamā'a's *Taḥrīr*. The similarities with Ibn Jamā'a will become starker in subsequent sections of *al-'Iqd al-farīd*.

Al-'Iqd al-farīd: The contours of the sharī'a

The third section (foundation) treated *sharī'a*-related appointments and was, accordingly, a continuation of the administrative manual within *al-'Iqd al-farīd*. Ibn Ṭalḥa delimited the scope of four religious functions: muftiship (*fityā*), judgeship (*qaḍā'*), market inspection (*ḥisba*), and the supervision of the charitable endowments (*wilāyat al-awqāf*).⁸⁰⁴ As the author explained, this section covered the necessary qualifications for appointees to the above-mentioned offices.⁸⁰⁵ Similarly, this section clarified the scope of each of these functions and Ibn Ṭalḥa even narrated, in the case of the *qaḍā'*, ten relevant anecdotes from the 'Abbāsīd era that exemplified the finest conduct of judges. For Ibn Ṭalḥa, the ruler and his regents were accountable on judgment day for appointing unqualified candidates to these offices.⁸⁰⁶ Despite its opening,

⁸⁰² Refer to *al-'Iqd al-farīd*, p.254-256 and al-Māwardī, *al-Aḥkām*, vol. 2, p.34-35. By restricting the discussion to sultan and discounting the caliph, *al-'Iqd al-farīd* differed from Ibn Jamā'a's *Taḥrīr*, which treated both *imām* and sultan within a different tripartite conception as discussed in Chapter 2.

⁸⁰³ Ibn Ṭalḥa, *al-'Iqd al-farīd*, p.264-270 and al-Māwardī's *Aḥkām*, vol. 2, p.259-284.

⁸⁰⁴ Ibn Ṭalḥa, *al-'Iqd al-farīd*, p.279-306. There are here verbatim similarities with Ibn Jamā'a's *Taḥrīr* that will be discussed subsequently.

⁸⁰⁵ *Ibid.*, p.280.

⁸⁰⁶ *Ibid.*, p.280. Similarly, in the Sufi *Miṣbāḥ* accountability (*mū'ākhatha*) came as a consequence of the theory of delegation; refer to Chapter 4.

which extolled the merits of the *sharī'a* and the vital role of scholars and rulers in preserving and upholding it, this section seemed to delimit the contours of the religious offices and the scope of the *sharī'a* in running the state. By dedicating a section to the *sharī'a* that was isolated from the preceding discussions on the sultanate and the main political and administrative offices of government, and taken within the context of the tendency to sanction sultanic justice, as is evident in the above-discussed ten duties of the sultan, Ibn Ṭalḥa was practically restricting the influence of the religious offices in the public sphere. Notwithstanding his genuine attachment to the *sharī'a* as supreme knowledge and at the core of his ethical conceptualization of the rule of law, Ibn Ṭalḥa still envisaged the exercise of administrative and political power as being relatively independent from the religious offices related to the *sharī'a*.⁸⁰⁷

This section underlines the significance of *al-ʿIqd al-farīd* in the genealogy of medieval Islamic political thought. It provides evidence as to its author's standing in the chain of political writers between al-Māwardī and Ibn Jamā'a. Ibn Ṭalḥa was influenced by al-Māwardī's works and left his mark on Ibn Jamā'a. The reliance on al-Māwardī's *Aḥkām* was evident in several passages of this section of *al-ʿIqd al-farīd* including, for instance, in the discussion of the judgeship.⁸⁰⁸ This was also manifest in Ibn Ṭalḥa's treatment of the *fiṭyā* and *ḥisba*, which was also largely based on the *Aḥkām*.⁸⁰⁹ On the other hand, there existed in this third section of *al-ʿIqd al-farīd* indisputable resemblances to the writing of Ibn Jamā'a, especially with the fifth section of the *Taḥrīr*.⁸¹⁰ Both sections discussed in almost the same words the merits of

⁸⁰⁷ For instance, Ibn Ṭalḥa mentioned that knowledge (*ʿilm*) was first and foremost the knowledge of *sharī'a*; *al-ʿIqd al-farīd*, p.309.

⁸⁰⁸ *Ibid.*, p.281–285. This discussion was based on an abridgment of al-Māwardī's discussion in the *Aḥkām*, p.88-101, which additionally resembled genre of *adab al-qāḍī*.

⁸⁰⁹ The discussion of the office of the *ḥisba* discussion was very detailed the *Aḥkām*, vol.2, p.315-339.

⁸¹⁰ Chapter 5: *Fī ḥifẓ al-awḍā' al-shar'iyya wa qawā'id manāṣibihā al-murḍiyya* – “Regarding

the *sharī'a*, the role of scholars and rulers in upholding it, and listed the functions associated with the preservation of the *sharī'a*.⁸¹¹ The similarities included the same list of *sharī'a*-related offices: judgeship, *fityā*, *ḥisba*, and supervision of *awqāf*; Ibn Jamā'a added teaching to the list, and Ibn Ṭalḥa highlighted similarly the importance of "instituting teaching positions in *madrasas* where the rulings of the *sharī'a* are preserved".⁸¹² The resemblances between the two works extended to content, themes, and even to style with both authors' tendency for abridgment and meticulous organization. *Al-ʿIqd al-farīd*'s direct influence on Ibn Jamā'a is thus too profound to dismiss.

The fourth and final section (foundation) of *al-ʿIqd al-farīd* is an *addendum* that reads like a work of *adab* designed to educate, benefit, and entertain at court. In this section, Ibn Ṭalḥa included an assortment of prayers (*duʿā*) for his dedicatee, which he introduced in the rhyming prose used by chancery secretaries.⁸¹³ The author included, moreover, an additional collection of aphorisms and parables that related to earlier caliphs on the need to be just, the need to accept and seek advice, the need to abide by the teachings of the Qurʾān, the need to fear God, and highlighted the merits of self-restraint, honesty, equability, piety, compassion, and accountability.⁸¹⁴

Concluding remarks on the unaffiliated tradition

Written at the dawn of the Mamluk period, *al-ʿIqd al-farīd* provides further confirmation that the late Ayyubid and early Mamluk period was an important junction in the history of Islamic political thought. *Al-ʿIqd al-farīd*'s intersection between earlier works like the *Aḥkām* and later ones like the

the preservation of the rules of the *Sharī'a* and the proper foundations for its related appointments" in Ibn Jamā'a, *Taḥrīr*, p.87-93.

⁸¹¹ Refer to Chapter 2, where those functions were five in the case of Ibn Jamā'a: judgeship, *iftā*, *ḥisba*, teaching, and *nazar* in *awqāf*.

⁸¹² Ibn Ṭalḥa, *al-ʿIqd al-farīd*, p. 280.

⁸¹³ *Ibid.*, p.342-346.

⁸¹⁴ *Ibid.*, p.347-365.

Taḥrīr situates the treatise as a significant work that fills another gap in the study of the development of Islamic political thought. *Al-ʿIqd al-farīd* captured the main thematic and stylistic features of the political writings of its own period, used passages of earlier texts and skillfully adapted them for its own aims, and influenced later major works of the period. Most importantly, the study of this treatise’s genre(s), literary styles, and thematic organization, and the author’s background and conceptualization of political authority provide clear insights into this period’s approach to constitutional themes, including the rule of law, delegation, and limited government.

The most notable feature of *al-ʿIqd al-farīd* was its assorted use of literary genres. In this, it shared common features with various political thought writings of the earlier ʿAbbāsīd and Ayyubīd and later Mamluk and ʿIlkhānīd traditions. For instance, the mixed thematic outline of *al-ʿIqd al-farīd* resembled the earlier Ayyubīd *al-Nahj al-maslūk* of al-Shayzarī. Some of the *al-ʿIqd al-farīd* sections that treated the requirement for the sultan and his authority looked like works of constitutional thought, including the ʿAbbāsīd *Aḥkām* by al-Māwardī and the Mamluk *Taḥrīr* by Ibn Jamāʿa. Other parts resembled the earlier *Qawānīn al-wizāra* and *Adab al-dunyā* by al-Māwardī, the *Sirāj al-Mulūk* by al-Ṭurṭūshī, the later ʿIlkhānīd *Minhāj al-umarāʾ* by al-ʿIṣfahbadhī, and a whole tradition of mirrors for princes and other didactic works that focused on teaching statecraft, highlighting the required virtues of the ruler, and a concern for the longevity of the ruler’s reign that flourished in different parts of the Islamic world. *Al-ʿIqd al-farīd* also contained sections reminiscent of previous administrative manuals and subsequent similar discussions such as the ones found in Ibn Jamāʿa’s *Taḥrīr* and al-Subkī’s *Muʿīd al-niʿam*, which treated –albeit at a more superficial level – various functions of the government administration, charitable, and educational institutions. Furthermore, *al-ʿIqd al-farīd* reflected a visible Sufi character evocative of its contemporaneous Sufi treatise, *Miṣbāḥ al-hidāya*. Although it

resembled works of *adab* and court entertainment, *al-ʿIqd al-farīd* was attentive to the *sharīʿa* and the Islamic tradition and, therefore, was reminiscent of the earlier homiletic *Baḥr al-fawāʿid* (Sea of precious virtues) authored in Zangid Syria. Interestingly, as this may help explain *al-ʿIqd al-farīd*'s overlap with such a variety of writings, Ibn Ṭalḥa shared at least one aspect of his professional, creedal, and intellectual background with every author of the above-mentioned works: Ibn Ṭalḥa was a Shāfiʿī, Ashʿarī, and a Sufi; he was a seasoned statesman and even a *wazīr*; he was an expert in *uṣūl* and a judge; he was well-versed in *adab* and poetry; and he was a scholar who showed interest in numerical sciences and astrology.

As *al-ʿIqd al-farīd* does not fit any prevalent classification of genre of Islamic political thought, the work buttresses a central argument of this research. Being itself an amalgamation of genres, this treatise is testimony to the argument that the scholarly emphasis on studying genres to interpret texts of Islamic political thought is founded on a dangerously misleading mythology. *Al-ʿIqd al-farīd* affirmed the elaboration of a mixed genre that merged classical legalistic treatises with other modes of advice literature, including mirrors for princes, administrative and statecraft manuals, Sufi and ethical writings, and homiletic works. On the one hand, it covered most expected themes of advice literature often referred to as mirrors including justice, consultation, forbearance, compassion, and generosity; it even upheld the mirrors' concern for the longevity of the reign and their entertaining *adab* style. On the other hand, *al-ʿIqd al-farīd* reflected juridical treatises and the genre's concern for constitutional themes by discussing the requirement for the sultan, his duties, the origin of his authority, and its limitations. This fusion of genres was equally apparent in the administrative themes that *al-ʿIqd al-farīd* treated, like the ranks of main offices, their jurisdiction, and the qualities required for their appointees. With such a mix of genres and themes, one wonders as to the usefulness of the classifications of scholars like Lambton and Crone, who

resorted to contrasting juristic treatises with medieval mirrors for princes and other works of political advice literature as a methodology for interpreting Islamic political thought.

Al-ʿIqd al-farīd's indifference towards *madhhab* rivalry did not contradict its ostensible Shāfiʿī traits. Although this treatise was not concerned with the competition amongst *madhhabs* for an official law of the state that motivated other treatises discussed so far, it still reflected the author's doctrinal and intellectual leanings. Ibn Ṭalḥa's Ashʿarī, Shāfiʿī, and Sufi background helped shape the treatise in several ways. His references to al-Qushayrī and al-Ghazālī, and his heavy reliance on other Shāfiʿī sources including al-Māwardī, were mere indicators of his complex chains of allegiances.⁸¹⁵ Additionally, and as already noted, Ibn Ṭalḥa expressed strong anti-anthropomorphist views that prevailed within some Ashʿarī/Shāfiʿī/Sufi circles in Syria; this was discussed in Chapter 1 in the context of Ibn ʿAbd al-Salām's interaction with some traditionalist-Ḥanbalīs in Damascus. Moreover, Ibn Ṭalḥa's Shāfiʿī background left its mark on *al-ʿIqd al-farīd*'s treatment of constitutional themes, which were a general interest of the Shāfiʿī strain of political thought, including the concern for the rule of law, delegation, and curtailing the exercise of power by the sultan.

Yet Ibn Ṭalḥa's use of al-Māwardī's material was not solely dictated by their adherence to the same *madhhab*. Ibn Ṭalḥa clearly enjoyed a profound acquaintance with al-Māwardī's various works and commanded a systematic ability to use, alter, and adapt passages from various material by al-Māwardī in order to serve *al-ʿIqd al-farīd*'s aims.⁸¹⁶ The use of al-Māwardī made perfect sense as his writings accommodated the multifaceted and varied interests of Ibn Ṭalḥa. On the one hand, the *Aḥkām*'s style and themes inspired the

⁸¹⁵ For further evidence on the influence of al-Ghazālī refer to Ibn Ṭalḥa, *al-ʿIqd al-farīd* p.356-7.

⁸¹⁶ Although he relied on al-Māwardī's political works without acknowledging them, Ibn Ṭalḥa referred to al-Māwardī directly and to one of his non-political works; *Ibid.*, p. 309.

juridical treatise within *al-'Iqd al-farīd* and its constitutional concerns. On the other hand, al-Māwardī's other works like *Qawānin al-wizāra*, *Tashīl al-naẓar*, and *Adab al-dunyā*, provided a desirable ethical and moral system to curtail the sultan's exercise of power. This was a system rooted in but in no way limited to the *sharī'a*. Such a system did not contradict *al-'Iqd al-farīd*'s other interests, including the longevity of the sultan's rule, securing extra sultanic powers in areas like justice and defence, and the ruler's practice of an archetypical statecraft. Nonetheless, as shown above, Ibn Ṭalḥa had at times to resort to reworking al-Māwardī's texts in order to avoid any reference to the caliph or *imām* as per his consistently sultanic-centred approach throughout his treatise.

Al-'Iqd al-farīd was a treatise of political thought and not simply a panegyric work or an attempt to demonstrate the literary and administrative credentials of its author. It expressed a clear theory of delegation, attempted to delimit political and administrative spheres from the religious sphere, and upheld the concern for the rule of law and limited government, which shall now be addressed in turn. Firstly, like the Sufi *Misbāḥ*, *al-'Iqd al-farīd*'s theory of delegation of power was paramount. It envisioned the sultanate as the successor of prophethood and in whom the powers of the caliphate were vested. Ibn Ṭalḥa stated unequivocally that the sultan was the vice-regent of God (*inna al-sultān nā'ib-Allāh fī khalīqatīhi*).⁸¹⁷ Secondly, one of *al-'Iqd al-farīd*'s aims was to delimit *sharī'a*-related functions to prevent their intrusion into the political and administrative spheres. This was evident in the distinction that the author made between the three categories of courts for dispensing justice: *siyāsa*, *sharī'a*, and *maẓālim*. Not only did the postulated ten duties of the ruler restrict the scope of the *sharī'a* court, they also fostered the importance of the sultan's participation in the other two non-religious courts. This tendency to delimit *sharī'a*-related functions is also evident in Ibn Ṭalḥa's

⁸¹⁷ Ibid., p.248.

rather narrow definition of the *ḥisba*'s jurisdiction. However, one should not conclude that this stance was rooted in any disapproval towards the *sharī'a* or intended to grant a free hand to the sultan. Thirdly, the ideals of the rule of law and limited government are evident as Ibn Ṭalḥa, in his own words, aimed at "taming the [sultanic] actions or injunctions".⁸¹⁸ This could be achieved through the sultan's exercise of self-control, avoiding anger, being discreet and secretive in his actions, appointing the knowledgeable, and rejecting favouritism and nepotism.⁸¹⁹ As for limited government, it was a natural ideal to an administrator and statesman of Ibn Ṭalḥa's calibre. In brief, in *al-'Iqd al-farīd* the author penned a system that envisaged the sultan's supervision as broad, holistic, and non-specific, "*naẓar kullī ijimālī ghayr tafṣīlī*", while professional and administrative posts – from low-ranking supervisory appointments to the vizierate – were best delegated.⁸²⁰

⁸¹⁸ Ibid., p.237.

⁸¹⁹ Ibid., p.243, 244, 246, 247 and 254. Similarly to Sufi treatises, the moderation of the ruler was achieved by an ethical and moral system with some of its roots in the *sharī'a*.

⁸²⁰ Ibid., p.251; "supervision of detailed matters is delegated to those appointed and invested by the sultan as per each one's expertise".

Summary and Concluding Remarks

This thesis has argued for a new approach to medieval Islamic political thought. Such a new reading of political texts is necessary to counter a variety of artificial impositions, misinterpretations, and prevailing ‘perennial’ conceptions that are still entrenched in the field. To claim that the institution of the caliphate was continuously the focus of Islamic political thought; or that “from ‘Uthmān to Numayrī, or in other words from about 644 to about 1984” Muslims consistently regarded ultimate political authority as the deputyship of God (*khalīfat Allāh*);⁸²¹ or that the Islamic conception of justice –‘*adl*’ was perennial and unchanged over 1400 years; or that pre-Islamic Greek, Arab, or Sassanian models of kingship were promoted by 13th and 14th centuries authors; or that Islamic political treatises unwaveringly posited that the Muslim state only existed to impose the law of God or –alternatively- to legitimate the usurper; or to confuse calls for the primacy of the duty of *jihād* and various representations of Sultanic power with works of political thought are all misconceptions that have been shown in this research to be untenable and against the evidence presented so far. Such impositions and simplifications should remain outside the academic discourse of Medieval Islam altogether and are only beneficial when studying various strains of nationalism in the Middle East, modern and present-day nationalist historiographies, ideological historiographies, and modern romantics, nationalists, and political Islamists.

These confusions and impositions led to dearth treatment of the political thought of the post-classical period and to serious distortions in its interpretation. The above mythologies ignore, throughout Islamic history, constantly emerging new political challenges, recurring changes in economic systems and trade patterns, evolving social conditions and demographic transformations, emerging political ideas whether based on adapted ones or

⁸²¹ Patricia Crone and Martin Hinds, *God’s Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge Univ. Press, 2003), p.19.

entirely novel, and ceaseless intellectual interactions with surrounding political cultures. Furthermore, these impositions impacted our perception of the authors of Islamic political thought. With very few exceptions, scholarly works portrayed these authors as being concerned with perennial political ideas and, accordingly, were denied any ability to creatively engage with earlier Islamic or pre-Islamic sources and adapt them according to their own political concerns. In such a narrow view, these authors were likewise denied any capacity of presenting novel and meaningful contributions to political theory; they were confined to legitimation, panegyrics, and purposeless repetition of earlier texts. These misunderstandings were compounded by a little interest – with the exception of a handful ‘great’ ones- to study the authors’ worries and aims in writing, the social and intellectual milieu they flourished within, their intellectual world, and the prevailing language of the political discourse of their time.

Such misconceptions do not fit well with the evidence presented in this thesis. In the case of every treatise discussed in this research, the authors were manifestly skilful in articulating very clear political ideas of their own. They succeeded in adapting earlier texts to suit their specific aims. Furthermore, they emerged to be impeccably capable of treating political worries related to their own historical context. These authors presented, likewise, novel political ideas and conceptions that they successfully expressed in the political language of their own time and in literary styles that belonged to their own intellectual world. For instance, while Ibn Jamā‘a benefited from al-Māwardī’s works, this thesis showed how he was not concerned with legitimating coercive power of the sultans and upholding the necessity of the caliphate. Ibn Jamā‘a practically ended the necessity for the caliphate altogether by allowing the sultan to be the *imām* using a complex tripartite conception of political authority. What this author presented was not a mere repetition of earlier texts but a comprehensive strain of political

thought that treated every aspect of public life: political authority, main functions, judiciary, taxation, and the rules of war. Ibn Jamā'a's *Taḥrīr* resembled an official *madhhab* or a proto-constitution.

As such, this thesis is first and foremost a call to revisit the methodological approach to Islamic political texts of the middle period. While the field of early modern Western political thought has already dealt with similar challenges, the study of Islamic political thought awaits an overhaul as it is still constricted to perennial political ideas. It is against this backdrop that Quentin Skinner's works and others of the contextualist school benefited this thesis. Although the field of Western political thought has already moved forward from this debate, we are still at this stage in the evolution of the study of the history of Islamic political.

This much-needed methodological overhaul, which refutes the above-mentioned perennial ideas and artificial impositions, is best achieved by examining a set of political texts from the late Ayyubid and early Mamluk period. Based on the treatment of a rich corpus of treatises, this thesis showed that the political thought of this period is part of a rich and profuse tradition that dealt with a specific set of political themes: the rule of law, limited government, and the theory of delegation. It is evident now that, within this tradition, many political sources are still unstudied, ignored or understudied, misunderstood, lost, and simply unknown to us. Furthermore, this research showed that the intellectual milieu that developed and wrote about political thought flourished in a multilingual world, across political frontiers, and permeated all legal schools and cultured social groups; in this background, authors engaged, used, altered, and adapted earlier works and concepts to suit their own aims and advance their political ideas. In addition to the abundance of sources and the period's widespread interest in political thought, the examined treatises showed that the authors were concerned with specific and important political themes that they felt necessary to treat, most

notably the rule of law, limited government, and delegation of power. These three identified themes are radically different from -and even contradictory- to what has been suggested by existing secondary research as perennial themes and artificial impositions such as the caliphate of God, *jihād*, legitimization of usurpation, or the caliphate as an institution. This new evidence suggests a dynamic and ever changing theorisation activity that engaged with its social and political context, the intellectual discourses of the middle period, and was influenced by the social and scholarly milieus within which it burgeoned.

This thesis, moreover, treated the conditions and factors that contributed to a remarkable growth in the production of political thought during this period. As major catalysts to this surge, it identified the competition amongst the four *madhhabs* for a preferred law or constitution of the state in addition to other important causes like the spread of specific strains of Sufism. The thesis provided evidence of how the competition between the legal schools of Islam shifted from the legal and theological into the constitutional sphere. This shift explains partly how themes of constitutional nature such as the rule of law, limited government, and delegation of power became the main concerns of the period's authors. As such, some political treatises looked like competing proposals for a preferred *madhhab* or an official law or constitution of the state. Furthermore, the thesis highlighted the interrelatedness between *madhhab* competition and access to posts in the administration, teaching, judiciary, and charitable endowments; it also showed how this contributed to the rise in production of political thought concerned with the above-mentioned three constitutional themes. Considering such factors while examining the treatises ties well with this research's methodological approach of contextualising the political thought of this period by accounting for political, intellectual, and social aspects prevalent in the Syro-Egyptian lands.

Methodologically, three conditions were necessary to identify and understand the main constitutional themes upheld by the treatises. The first was to unlock, as per Skinner's recommendations, the language of the political discourse that was prevalent in this period; the second was to comprehend the literary modes used by the authors to convey their ideas; and the third was to examine the patterns of reusing earlier political texts. Firstly, the thesis explored the prevalent intellectual discourses in the Syro-Egyptian lands, the role of inter and intra-*madhhab* competition and theological debates, and the language and conventions of the period's political discourse. It succeeded in extracting the prevailing conventions 'with and within which' members of the political and religious elites conducted their debates in a period when politics benefited from the conventions of the *madhhabs* and vice versa. The second condition was to avoid relying on the prevalent classification of genres in order to interpret texts of Islamic political thought. The thesis identified in several treatises an amalgamation of genres and the elaboration of merger of classical legalistic treatises with other modes of advice literature, including mirrors for princes, administrative and statecraft manuals, Sufi and ethical writings, and homiletic works. Refuting the distortion that genre dictated the ideas postulated by a political text led to a better interpretation of the period's treatises. The third condition was to appreciate the author's agency in using the repertoire of political texts available to them. The authors did not resort to thoughtless reuse of earlier sources; recognizing their agency in identifying, altering, adapting, including and excluding from available texts in order to present their own set of political ideas is an essential condition before approaching the treatises. To give one example, this thesis highlighted the astonishing agency of the Sufi author of the *Miṣbāḥ* and his informed and artful usage of the works of al-Māwardī, al-Juwaynī, al-Ghazālī, and Najm al-Dīn al-Rāzī in order to present his own distinct political ideas.

All things considered, what is the Islamic political thought in the middle period? This thesis argues that it is centred on the three themes of the rule of law, limited government, and the theory of delegation. Although there is an overlap between them, labelling these three themes as such is intended to convey, as faithfully as possible, the ideals that the authors strived to express and uphold in their treatises. They are as follows:

- The rule of law describes the authors' efforts to check the ruler's arbitrary exercise of power using Islamic legal, moral, and social concepts. Each author understood this system of checks and balances in a distinct way and opted for his own carefully selected repertoire of sources and ideas in order to uphold his call for the rule of law. Some resorted for legal and juristic reasoning and conceptions, while others used tailored ethical systems. For instance, Ibn Jamā'a benefited from a long Shāfi'i tradition of political thinkers that included al-Māwardī, al-Juwaynī, al-Ghazālī, and others. Nonetheless, Ibn Jamā'a upheld the ideal of rule of law by providing an original conception of political authority, promoting the role of the professionalized judiciary and administration based on his own experience, and treating the rules of war in a novel fashion. As such, Ibn Jamā'a adapted in the *Mukhtaṣar* and *Tahrīr* the classical Shāfi'i discussions on the ruler's ten duties and rights in order to delimit the latter's authority. Furthermore, Ibn Jamā'a's innovative codification of the rules of war in his *Tahrīr*'s systematic arrangement of topics related to war, booty, prisoners, truce, rebellion, and the treatment of non-Muslims was a major contribution to Islamic political thought based on his salient concern for the rule of law. Likewise, the Ḥanafī jurist al-Ṭarsūsī refused in his discussion of rebellion to give the sultan a free hand in dealing with rebels who abandoned an unjust *imām*. Al-Ṭarsūsī's concern for the rule of law contradicted the main proposition of his *Tuḥfa* to present Ḥanafism as being more advantageous to the sultan than Shāfi'ism. The Mālikī jurist al-Qarāfi

saw legal diversity as a guarantor for upholding the rule of law against tyranny. On the other hand, the anonymous Sufi author of the *Miṣbāḥ* avoided legal reasoning altogether. He upheld the ideal of the rule of law in a distinctly Sufi language through an artful reworking of the work of Najm al-Dīn Dāya al-Rāzī and by presenting a mystical and Islamised system of ethics and morals that aimed at moderating the exercise of power.

-Limited government refers in this thesis to restraining the discretionary exercise of power by implementing a division of political, judiciary, and administrative labor that was possible in the context of the 13th and early 14th centuries. While the overlap of this theme with the above-mentioned ideal of the rule of law is palpable, a truthful portrayal of how the authors discussed in lengthy details various administrative, military, and judiciary offices dictates the identification of a standalone theme that was termed here as limited government. Ibn Jamā‘a covered in his *Taḥrīr* various senior administrative, military, and judicial offices including viziers, *amīrs*, judges, market inspectors, and others. Such treatment aimed at securing, as much as possible, the interests of the populace, the smooth running of government, and the just dispensing of justice outside the discretionary power of the ruling elites and their struggles. Throughout this discussion, Ibn Jamā‘a’s treatise resembled an administrative manual and a handbook of finances and taxation. Likewise, limited government was a noticeable theme in al-Ṭarsūsī’s *Tuḥfa* and its treatment of administrative law and various posts of the administration and the judiciary. As for al-Qarāfī, his treatment in his *Tamyīz* of the difference between judicial rulings and discretionary injunctions extended from a mere legal discussion into public and administrative law. His exhaustive treatment of judiciary, administrative, and political authorities that were eligible to issue legal rulings (*ḥukm*) highlighted his concern for limited government by calling for a meticulous division of labor and delimiting the contours of various

competencies and levels of issuing judicial rulings, administrative decisions, and political injunctions. As previously stated, the constitutional consequences of his legal discussion were far-reaching since al-Qarāfī split the powers of the caliph into three, executive, legislative, and judicial. Finally, the thesis showed how the later Shāfiī author al-Subkī asserted the constitutional concern for limited governments in his *Muṭd* by treating one hundred and thirteen public posts and professions of the Mamluk period.

-The theory of delegation refers in this thesis to careful attempts made to secure a durable and legitimate transfer of the original caliphal powers to different sultanic, political, judicial, and administrative authorities. Like the previous two themes, the theory of delegation did not hold necessarily the same exact meaning in all the treatises. Each author presented a distinct theory and opted for his own carefully selected sources and conceptions to show the importance of the delegation of power. Nevertheless, this reflected a general drive within the political thought of this period to ensure that the exercise of power and rule is legitimate, and this is not to be confused with legitimation in the panegyric sense. For instance, Ibn Jamā'a theorised for a tripartite conception of *imām*, caliph, and *sulṭān*. He created a practical constitutional framework within which a sultan could rule legally and attempted to guarantee delegation of powers in every eventuality and secure the proper functioning of government. As demonstrated by this thesis, Ibn Jamā'a's praxis of his theory differentiated between appointment (*taqḍīd*) and delegation (*tafwīḍ*) that was based on a special form called the delegation of the vizierate (*tafwīḍ muwāzara*), which he discussed in his *Taḥrīr*. Like Ibn Jamā'a, al-Ṭarsūsī's expressed his concern for the constitutional question of delegation of power using similar juristic reasoning. On the other hand, the Sufi *Miṣbāḥ* presented a different theory of delegation that fixed the origins of political power within the sultanate as the successor of prophethood.

This thesis only treated the tip of the iceberg of a rich and profuse tradition of Islamic political thought. There is still much work to be done on identifying, editing, and even cataloguing treatises of political thought. More work is required to link this period's thought with later developments under the Ottomans. Further work is also needed to study other expressions of these constitutional themes that were presented outside the context of the competition amongst the four *madhhabs*. Hopefully this thesis is the start of a serious effort to rehabilitate the study of the history of Islamic political thought in the middle period.

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