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LEGAL DOCTRINES, HISTORICAL CONTEXTS AND
MORAL VISIONS: THE CASE OF SECTARIANS IN THE
COURTS OF LAW¹

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Introduction

The Islamic legal system, like any other legal system, adjusts to political events, evolving social circumstances, and intellectual developments. Therefore, it is hardly surprising that Muslim jurists have referred to traumatic events, such as the civil strife that began during the reign of 'Uthmān b. 'Affān (r. 23-35) and reached its climax in a series of battles during the reign of 'Alī b. Abī Ṭālib (r. 35-40), in their writings. These violent clashes, as well as later theological controversies, tore the community apart and led to the establishment of several Islamic sects, such as the Khawārij, Shī'a, Qadariyya and Murji'a, each of which considered its theological vision and political agenda to be the true expression of Islam.² The evolving Islamic mainstream, the proto-Sunnīs, reacted to these political and intellectual challenges in a number of ways. Their rulers, the Umayyad and 'Abbāsīd caliphs, suppressed the rebellions of these sects, while the polemics of proto-Sunnī theologians sought to disprove their claims to truth and power, and proto-Sunnī jurists formulated legal doctrines which determined the legal and social status of the sectarians themselves.

From the first century of the Hijra onward, these religio-political sects posed a challenge to Muslim jurists. They had numerous supporters among different segments of society. Large parts of society, whether nomadic tribes or the inhabitants of different city quarters,

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² For a survey of the evolution of these movements see Watt, *The Formative Period of Islamic Thought* and, for a more focused study, Crone, *God's Rule*. For early texts of the Murji'a and Qadariyya, see Cook, *Early Muslim Dogma*.