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Mathieu Tillier

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# The *Qāḍī*s of Fusṭāṭ–Miṣr under the Ṭūlūnids and the Ikhshīdids: The Judiciary and Egyptian Autonomy

MATHIEU TILLIER
INSTITUT FRANÇAIS DU PROCHE-ORIENT, DAMASCUS

The second half of the third/ninth and the fourth/tenth centuries are of particular importance for the development of the judiciary in the central lands of the ʿAbbāsid caliphate. At the end of the *miḥna* and the victory of Sunnism under al-Mutawakkil (r. 232-47/847-61), the caliphate agreed not to interfere in the legal sphere, thus allowing the principal schools of law to complete their development toward their classical structure.[1] In Iraq the *qāḍī*s were allowed more judicial freedom, thanks to the growing independence of the legal system and to the political weakness of the caliphate,[2] while in Egypt the provincial rulers and two successive dynasties, the Ṭūlūnids (254-92/868-905) and the Ikhshīdids (323-58/935-69), profited from the caliphate's weakness and imposed their autonomy de facto.[3]

The role played by the judiciary in this process is still unclear, as is the impact of Egyptian autonomy on the development of the local judiciary.[4] In this article, I intend to study the relationship between the Egyptian governors and the judiciary, from the accession of Aḥmad b. Ṭūlūn in 254/868 until the arrival of the Fāṭimids in 358/969. My main source of reference is *Rafʿ al-iṣr ʿan quḍāt Miṣr*, a biographical dictionary written by Ibn Ḥajar al-ʿAsqalānī (d. 852/1449), which focuses on the history of Egyptian *qāḍī*s.[5] Although he wrote this dictionary

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[1] See J. Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964), 53ff.; C. Melchert, *The Formation of the Sunni Schools of Law, 9th-10th Centuries C.E.* (Leiden: Brill, 1997), 87ff.; W. Hallaq, "From Regional to Personal Schools of Law? A Reevaluation," *Islamic Law and Society* 8 (2001): 1-26.

[2] M. Tillier, *Les Cadis d'Iraq et l'État abbasside (132/750-334/945)* (Damascus: IFPO, 2009), 646ff.

[3] The most comprehensive studies on the Ṭūlūnids and the Ikhshīdids are: Z. M. Hassan, *Les Tulunides: Étude de l'Égypte musulmane à la fin du IXe siècle, 868-905* (Paris: Établissements Busson, 1933); G. Wiet, *L'Égypte arabe de la conquête arabe à la conquête ottomane, 642-1517 de l'ère chrétienne* (Paris: Plon, 1937); J. L. Bacharach, "The Career of Muḥammad Ibn Ṭughj al-Ikhshīd, a Tenth-Century Governor of Egypt," *Speculum* 50 (1975): 586-612; J. L. Bacharach and S. Shamma, "Les premiers dirhams ikhshidides," *Revue numismatique*, 6e série, 17 (1975): 139-44; S. I. Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn* (Cairo: al-Hayʾa al-Miṣriyya al-ʿĀmma, 1989); Th. Bianquis, "Autonomous Egypt from Ibn Ṭūlūn to Kāfūr, 868-969," in *The Cambridge History of Egypt*, vol. 1, ed. C. F. Petry (Cambridge: Cambridge Univ. Press, 1998), 86-119.

[4] The only political overview of the judgeship under the Ṭūlūnids is a short chapter in Hassan, *Les Tulunides*, 222-28. For the Ikhshīdids, see Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 205-27. S. Farrāj's chapter on judgeship in *al-Dawla al-ikhshīdiyya* (Cairo: Markaz al-Rāya, 2006), 119-25, is a rehashing of Kāshif's original work. Some preliminary reflections on the *qāḍīs* under the Ikhshīdids can be found in the introduction in M. Tillier, *Vies des cadis de Miṣr, 237/851-366/976* (Cairo: IFAO, 2002), 16-33.

[5] I will draw on the text edited by Rhuvon Guest, which he appended to his edition of al-Kindī, *Kitāb al-Wulāt wa-kitāb al-quḍāt* (Leiden: E. J. Brill, 1912), 501-614. In the following citations, the first

five centuries after the facts, Ibn Ḥajar relies heavily on contemporary works: primarily that of Ibn Zūlāq (d. 386/996), who wrote a now lost *Akhbār quḍāt Miṣr* dedicated to the *qāḍī*s of the Ṭūlūnid and the Ikhshīdid periods,[6] and secondarily that of Ibn Yūnus (d. 347/958), author of two biographical dictionaries about Egyptians and strangers who settled in Egypt.[7] Whereas another late author such as Ibn al-Mulaqqin (d. 804/1401-2), who also wrote a book on Egyptian *qāḍī*s, culled his material in order to construct a hagiographical narrative of judges whom he mostly regards as saints,[8] Ibn Ḥajar did not stray from his sources. Even if he tends to reorganize and synthesize the information provided by his predecessors, as a comparison between his *Rafʿ al-iṣr* and al-Kindī's *Akhbār quḍāt Miṣr* shows,[9] Ibn Ḥajar usually quotes them faithfully and almost in extenso, avoiding any obvious manipulation. This makes his book a fairly reliable source for the history of the Ṭūlūnid and Ikhshīdid periods.

In the below several elements will be taken into consideration: (1) the institutional relationship between political power and the judiciary (who appointed the *qāḍī*s, how were they selected, and did the government choose local scholars or did the *qāḍī*s come from outside the province?); (2) the financial ties between the governors and the *qāḍī*s, which were not only symbolic of the delegation of power, but could also denote the subservience of the judiciary to the government;[10] (3) the daily interactions between the *qāḍī*s and the governors; (4) the judicial practice of the *qāḍī*s; and (5) their reputation. Although Ibn Ḥajar omits chains of transmitters (*isnād*s), which probably appeared in Ibn Zūlāq's book, it is likely that most of the reports regarding *qāḍī*s were put into circulation and transmitted by elites who were directly concerned with political affairs.[11] Therefore, I assume that the *qāḍī*s' biographies

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number refers to the page in Guest's edition, the second to the page in my French translation in *Vies des cadis de Miṣr* (e.g., 506/55). A full edition of *Rafʿ al-iṣr* was first published in 1998: Ibn Ḥajar al-ʿAsqalānī, *Rafʿ al-iṣr ʿan quḍāt Miṣr*, ed. ʿA. M. ʿUmar (Cairo: Maktabat al-Khānjī, 1998). For a list of the *qāḍī*s and their dates of appointment, see Tillier, *Vies des cadis de Miṣr*, 11-14; a shortened list follows at the end of this article.

[6] Ibn Khallikān, *Wafayāt al-aʿyān*, ed. I. ʿAbbās, 8 vols. (Beirut: Dār Ṣādir, 1994), 2: 91; Ḥājji Khalīfa, *Kashf al-ẓunūn*, 6 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 1992), 1: 28. See also F. Sezgin, *Geschichte des arabischen Schrifttums* (Leiden: E. J. Brill, 1967–), 1: 359-60; Tillier, *Vies des cadis de Miṣr*, index. For Ibn Zūlāq, see R. Gottheil, "Al-Ḥasan ibn Ibrāhīm ibn Zūlāḳ," *JAOS* 28 (1907), 254-70.

[7] See F. Rosenthal, "Ibn Yūnus," in *Encyclopaedia of Islam*$^2$ (*EI*$^2$). These books are now lost. ʿAbd al-Fattāḥ Fatḥī ʿAbd al-Fattāḥ tried to reconstruct them by gathering all the quotations that he found in later sources: Ibn Yūnus, *Taʾrīkh Ibn Yūnus al-Miṣrī*, ed. ʿA. F. ʿAbd al-Fattāḥ, 2 vols. (Beirut: Dār al-Kutub al-ʿIlmiyya, 2000).

[8] Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār fī quḍāt al-amṣār*, ed. M. M. al-Sharqāwī (Cairo: Maktabat al-Thaqāfa al-Dīniyya), 1996. For the methodology of Ibn al-Mulaqqin, see the introduction in my forthcoming French translation of al-Kindī, *Histoire des cadis égyptiens*.

[9] See W. al-Qāḍī, "An Umayyad Papyrus in al-Kindī's *Kitāb al-Quḍāt*?" *Der Islam* 84 (2008): 202-204.

[10] See Tillier, *Les Cadis d'Iraq et l'État abbasside*, 272.

[11] This is clear in al-Kindī's *Akhbār quḍāt Miṣr*, in *Kitāb al-Wulāt*, ed. R. Guest (especially toward the end of the book), where the main informants all belong to the highest category of the *ʿulamāʾ*, who had close connections with the *qāḍī*s and/or the government.

reflect the views of their contemporaries— other scholars in particular—and the way they looked upon the relationship between the *qāḍī*s and the government.

**THE ṬŪLŪNIDS (254-292/868-905)**

When Aḥmad b. Ṭūlūn (r. 254-70/868-84) arrived in Fusṭāṭ as governor *(amīr*), it had been an established practice for over a century for the caliph to appoint the *qāḍī* of Fusṭāṭ.[12] The relationship between the judiciary and the central government kept the ambitions of governors in check, since they were no longer the only representatives of the caliph in the province—they had to share power with other officials such as the *qāḍī*. When Ibn Ṭūlūn sought regional autonomy, two principal problems arose: control of the finances and control of the judiciary.[13] As early as 258/871 Ibn Ṭūlūn discharged Ibn al-Mudabbir, the head of fiscal administration in Egypt, and sent him to Syria. At the same time, he discharged the *ṣāḥib al-barīd*, chief of the postal and intelligence services, whose responsibility inter alia was to keep a watch on the province on behalf of the caliphal government.[14] The *qāḍī* Bakkār b. Qutayba, however, an appointee of the caliph al-Mutawakkil (r. 246-70/860-84) and originating from Iraq, held onto his position until his death in 270/884.[15] Ibn Ṭūlūn probably realized that dismissing and replacing Bakkār would be too dangerous. Bakkār was a pious man,[16] respected by the Egyptian populace,[17] and his arbitrary dismissal would have certainly weakened the amir's position in the province. Moreover, Ibn Ṭūlūn's political designs relied largely on being able to control income from Egyptian taxes, and the *qāḍī* Bakkār does not seem to have opposed any of these ambitions. It is also probable that Bakkār was a political asset, from whom Ibn Ṭūlūn expected his government to acquire an aura of legitimacy. However it may be, he chose to keep a *qāḍī* who was the caliph's delegate and who received his instructions from Baghdad.[18] This was a risky choice, since Bakkār could easily become a dangerous opponent.

Ibn Ṭūlūn's policy vis-à-vis the judiciary evolved toward the end of his rule, when a crisis erupted upon Bakkār's refusing to curse the regent al-Muwaffaq, as requested by Ibn Ṭūlūn. The amir began to hold *maẓālim* or claims court sessions where he dispensed justice

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[12] Tillier, *Les Cadis d'Iraq et l'État abbasside*, 118-23.

[13] Many reports portray Ibn Ṭūlūn as highly respectful of the scholars, but since we modern historians cannot know whether his actions were dictated by a sincere piety, the cultural environment, and/or a political strategy, we can only consider how his behavior toward the scholars in general and the *qāḍī*s in particular makes sense in light of his political agenda. In what follows, I will therefore analyze Ibn Ṭūlūn's relationships with *qāḍī*s from a political perspective, which is not exclusive of other interpretations.

[14] Bianquis, "Autonomous Egypt," 92.

[15] See al-Dawādārī, *Kanz al-durar wa-jāmiʿ al-ghurar*, ed. D. Krawulsky (Beirut: Franz Steiner, 1992), 5: 268.

[16] Ibn Ḥajar, *Rafʿ al-iṣr*, 506/55, 507/57; Ibn Taghrībirdī, *al-Nujūm al-zāhira fī mulūk Miṣr wa-l-Qāhira*, 16 vols. (Cairo: Maṭbaʿat Dār al-Kutub al-Miṣriyya, 1932-72), 3: 47.

[17] His tomb became a place of popular pilgrimage soon after his death. Ibn Ḥajar, *Rafʿ al-iṣr*, 514/71.

[18] Ibid., 507/58.

himself.[19] As a consequence, most of the litigants abandoned Bakkār's court in the mosque, and the old *qāḍī* was left unemployed.[20] Ibn Ṭūlūn imprisoned Bakkār in 269/883, but never dismissed him officially; he only demanded that the *qāḍī* appoint a deputy who would dispense justice in his stead.[21] Egyptian judicial autonomy from the caliphate was not yet complete.

It is only after Ibn Ṭūlūn's death that his successor, his son Khumārawayh (r. 270-82/884-96), completed his work, transforming the judiciary into a provincial institution independent from Baghdad. Bakkār died in 270/884, soon after Ibn Ṭūlūn, but his position was not filled. Khumārawayh succeeded Ibn Ṭūlūn without the caliph's endorsement, and a war soon broke out between Khumārawayh and the regent al-Muwaffaq (d. 278/891), which probably prevented the ʿAbbāsid caliphate from appointing a new *qāḍī*.[22] For seven years, Fusṭāṭ remained without. Instead, Khumārawayh built up the *maẓālim* court as an important institution and appointed Muḥammad b. ʿAbda as head.[23] The *maẓālim* exemplified the administration of justice by the political ruler, and by replacing the *qāḍī* by such a court, the new amir probably intended to impose his control over the judgeship.[24] When his relationship with the central government regained a more peaceful footing,[25] Khumārawayh took the final step of restoring an official judiciary. In 278/891, Ibn ʿAbda was formally appointed by the caliph al-Muʿtamid (r. 256-79/870-92)—since he was already in charge of the *maẓālim*, it was clear that he answered to the amir.[26] The right of the Ṭūlūnid amir to appoint his own *qāḍī* was officially acknowledged two years later, in the treaty of 280/893 between Khumārawayh and the caliph al-Muʿtaḍid (r. 279-89/892-902), in which the Ṭūlūnids were given "for three decades the right to direct Friday prayer, levy the land tax, and to appoint judges and civil/fiscal administrators."[27]

With the judiciary officially linked to the caliphate during a large part of the Tūlūnid period, the amirs had to interact with it cautiously. Ibn Ṭūlūn chose not to impose his

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[19] To assert his legitimacy, Ibn Ṭūlūn wanted to appear a just ruler, which is why he ordered Abū Jaʿfar al-Marwazī to pay off all the debts of the prisoners of the *qāḍī*. Al-Balawī, *Sīrat Aḥmad b. Ṭūlūn*, ed. M. Kurd ʿAlī (Cairo: Maktabat al-Thaqāfa al-Dīniyya, n.d.), 184-85.

[20] Ibn Ḥajar, *Rafʿ al-iṣr*, 506/67; Cf. E. Tyan, *Histoire de l'organisation judiciaire en pays d'Islam*, 2nd ed. (Leiden: E. J. Brill, 1960), 476.

[21] Ibn Ḥajar, *Rafʿ al-iṣr*, 513/70; Ibn Khallikān, *Wafayāt al-aʿyān*, 1: 279; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 132. See also al-Balawī, *Sīrat Aḥmad b. Ṭūlūn*, 316-18; al-Kindī, *Wulāt*, 231. On this crisis, see Hassan, *Les Tulunides*, 88; Th. Bianquis, "Derrière qui prieras-tu, vendredi?" *Bulletin d'études orientales* 37-38 (1985-86), 18; idem, "Autonomous Egypt," 101. I disagree with Sayyida Kāshif's statement that Ibn Ṭūlūn dismissed Bakkār (Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 205).

[22] On these events, see Bianquis, "Autonomous Egypt," 104-105.

[23] Al-Kindī, *Wulāt*, 238; Ibn Ḥajar, *Rafʿ al-iṣr*, 515/72; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 52; Ibn Ṭūlūn, *al-ʿUqūd al-luʾluʾiyya fī taʾrīkh al-dawla al-ṭūlūniyya*, ed. M. Ḥ. al-Mahannā (Beirut: Dār Ibn Ḥazm, 2007), 38.

[24] See M. Tillier, "*Qāḍī*s and the Political Use of the *Maẓālim* Jurisdiction," in *Public Violence in Islamic Societies: Power, Discipline, and the Construction of the Public Sphere, 7th–18th Centuries CE*, ed. Ch. Lange and M. Fierro (Edinburgh: Edinburgh Univ. Press, 2009), 49-50.

[25] See Wiet, *L'Égypte arabe*, 104.

[26] Hassan, *Les Tulunides*, 225. Cf. Tyan, *Histoire de l'organisation judiciaire*, 145-46.

[27] Bianquis, "Autonomous Egypt," 105.

authority on Bakkār by force, but attended his *ḥadīth* circle regularly and showed considerable respect for his religious knowledge.[28] When Ibn Ṭūlūn attended a funeral, it was always he who prayed over the dead person. However, when both he and Bakkār were present, the amir let the *qāḍī* lead the prayer.[29] The prayer over the dead was not just a religious matter: it was usually the prerogative of the highest-ranking person attending the funeral.[30] It was, therefore, a symbolic recognition on Ibn Ṭūlūn's part of Bakkār's superior religious authority. Moreover, Ibn Ṭūlūn submitted willingly to the judicial process, even renouncing some financial interests in deference to Bakkār's judgment.[31] Bakkār was also able to blame a defendant who had taken an oath before God but who had refused to swear by the head of the amir: Bakkār argued that Ibn Ṭūlūn was merely a human being without suffering any consequences.[32] Although Ibn Ṭūlūn's leniency may be the outcome of his personal respect for the *qāḍī*s and the Islamic tradition they represented, it can also be read as a political posture. To establish his legitimacy, he had to show that he was supporting the judiciary and thus protecting the quotidian interests of the Egyptians.

The *qāḍī*'s legal affiliation was not a major concern of the Ṭūlūnids.[33] Like Bakkār, Muḥammad b. ʿAbda was a Ḥanafī. However, the last Ṭūlūnid *qāḍī*, Abū Zurʿa, was a Shāfiʿī. Although the central government usually sent Ḥanafī *qāḍī*s from Iraq,[34] Mālikī and Shāfiʿī law had a long history within the province.[35] The Egyptians probably preferred a Mālikī or a Shāfiʿī judge, and it is possible that the Ṭūlūnids initially did not understand local expectations and continued to rely on the Ḥanafī tradition with which they were familiar. Only later did Khumārawayh understand the necessity of appointing a Shāfiʿī judge; perhaps because of his legal affiliation, Abū Zurʿa was regarded as an upright (*ʿafīf*) *qāḍī*, in contrast to his Ḥanafī predecessor.[36]

In exchange for their respect for the judiciary, the Ṭūlūnids asked for the *qāḍī*s' political cooperation. Bakkār was expected to attend Ibn Ṭūlūn's *majlis* (court) on a regular basis[37] and

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[28] Ibn Ḥajar, *Rafʿ al-iṣr*, 508/58; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19; Ibn Ṭūlūn, *al-ʿUqūd al-luʾluʾiyya*, 32. See Hassan, *Les Tulunides*, 224.

[29] Ibn Ḥajar, *Rafʿ al-iṣr*, 509/61.

[30] Tillier, *Les Cadis d'Iraq et l'État abbasside*, 473-74; and see Ibn Rushd, *The Distinguished Jurist's Primer*: Bidāyat al-Mujtahid, trans. I. A. K. Nyazee (Reading, UK: Garnet Publishing Ltd., 1994), 1: 279.

[31] After the death of one of his debtors, Ibn Ṭūlūn asked Bakkār to sell a pious foundation established by the debtor in order to recover his money. Bakkār protested and Ibn Ṭūlūn abandoned his idea. Ibn Ḥajar, *Rafʿ al-iṣr*, 508-509/59-60.

[32] Ibid., 511/65.

[33] Cf. Hassan, *Les Tulunides*, 222.

[34] N. Tsafrir, *The History of an Islamic School of Law: The Early Spread of Hanafism* (Cambridge, Mass.: The Islamic Legal Studies Program, Harvard Law School, dist. by Harvard University Press, 2004), 95-99.

[35] See J. E. Brockopp, *Early Mālikī Law: Ibn ʿAbd al-Ḥakam and His Major Compendium of Jurisprudence* (Leiden: Brill, 2000), 18-21 and passim; on the spread of Shāfiʿī law from the early third/ninth century, see al-Kindī, *Akhbār quḍāt Miṣr*, 438.

[36] Ibn Ḥajar, *Rafʿ al-iṣr*, 519/78.

[37] Ibid., 511/65. See also an anecdote about Bakkār interpreting Ibn Ṭūlūn's dreams in al-Dawādārī, *Kanz al-durar*, 5: 319.

to be seen with the amir on important occasions.[38] Both he and Ibn ʿAbda acted as mediators on behalf of the government. When Ibn Ṭūlūn's son al-ʿAbbās (d. 270/884) revolted against his father in 265/879,[39] Bakkār was ordered to go and bring him back.[40] Muḥammad b. ʿAbda helped Khumārawayh regain control of the army after the governor had an argument with high-ranking officers.[41] In addition, the amirs asked the *qāḍī*s to support them actively with their plan for autonomy. Ibn Ṭūlūn reached the height of his ambition when he invited the caliph al-Muʿtamid to join him in Egypt in 269/883. Al-Muʿtamid was ready to take refuge in Egypt—he was a figurehead in Sāmarrāʾ and effective power was exercised by his brother al-Muwaffaq.[42] The plan failed, however, whereupon Ibn Ṭūlūn convened an assembly of prominent scholars and *qāḍī*s in Damascus[43] and asked them to depose al-Muwaffaq from his role of heir-presumptive (*walī al-ʿahd*) and to curse him. The agreement of the Egyptian *qāḍī*, Bakkār, was expected to give a strong religious justification for the coup d'état. However, as mentioned above, Ibn Ṭūlūn had misjudged the *qāḍī*'s loyalty; he refused to support al-Muwaffaq's deposition and Ibn Ṭūlūn imprisoned him until he died.[44]

The *qāḍī*s' political cooperation was acquired by giving financial rewards and offering high salaries. Bakkār received his stipend from the ʿAbbāsid central administration,[45] yet Ibn Ṭūlūn tried to gain his support by offering him a bonus of 1,000 dinars a year. But the pious *qāḍī* refused to touch this money and eventually gave it back to the amir.[46] Khumārawayh is well known for his generosity, which he regarded as an important way of gaining support.[47] According to Ibn Ḥajar, he paid Muḥammad b. ʿAbda a salary of 3,000 dinars a month.[48]

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[38] See, e.g., Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 2: 311. Cf. W. Popper, *The Cairo Nilometer: Studies in Ibn Taghrî Birdî's Chronicles of Egypt I* (Berkeley and Los Angeles: Univ. of California Press, 1951), 25.

[39] Al-ʿAbbās exploited the absence of his father, who was heading a military expedition in Syria, to try a coup d'état in Fusṭāṭ. When Ibn Ṭūlūn, who had been alerted, returned to Egypt, al-ʿAbbās left for Alexandria and then for Barqa with troops and a part of the state treasury. See Wiet, *L'Égypte arabe*, 95-97; Bianquis, "Autonomous Egypt," 96.

[40] Al-Kindī, *Wulāt*, 221; Ibn Ḥajar, *Rafʿ al-iṣr*, 512/67.

[41] Ibn Ḥajar, *Rafʿ al-iṣr*, 516/74.

[42] Bianquis, "Autonomous Egypt," 101.

[43] Within the framework of his expansionist agenda, Ibn Ṭūlūn occupied Syria in 264/878. He was in Damascus, on his way to Ṭarsūs, when he heard that al-Muʿtamid had left Sāmarrāʾ and was heading to Syria. Ibn Ṭūlūn decided to wait for him in Damascus and to escort him to Egypt. See al-Kindī, *Wulāt*, 224-26; Bianquis, "Autonomous Egypt," 101.

[44] Al-Kindī, *Wulāt*, 226; Ibn Khallikān, *Wafayāt al-aʿyān*, 1: 281; al-Dawādārī, *Kanz al-durar*, 5: 282; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 129-30, 132; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19, 52; al-Nuwayrī, *Kitāb al-Ilmām*, ed. ʿA. S. ʿAṭiyya, 7 vols. (Hyderabad: Dāʾirat al-Maʿārif al-ʿUthmāniyya, 1970), 3: 285-86; Ibn Ṭūlūn, *al-ʿUqūd al-luʾluʾiyya*, 31-32. According to Ibn Ḥajar (*Rafʿ al-iṣr*, 512/66), Bakkār accepted his deposition and only refused to curse him.

[45] Ibn Ḥajar, *Rafʿ al-iṣr*, 507/57.

[46] Ibid., 512/67; Ibn Khallikān, *Wafayāt al-aʿyān*, 1: 279; Ibn al-Mulaqqin, *Nuzhat al-nuẓẓār*, 132; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 19; Ibn Ṭūlūn, *al-ʿUqūd al-luʾluʾiyya*, 32.

[47] Hassan, *Les Tulunides*, 130ff.

[48] Ibn Ḥajar, *Rafʿ al-iṣr*, 516/74.

Even if this figure is exaggerated, as suggested by Zaky Mohamed Hassan,[49] Ibn ʿAbda's salary was much higher than that of his predecessors.[50] Sixty years earlier, the *qāḍī* ʿĪṣā b. al-Munkadir earned "only" the equivalent of 200 dinars.[51] Ibn ʿAbda was, therefore, a very rich man, who could afford a luxurious house in Fusṭāṭ.[52] Although Abū Zurʿa's salary is unknown, he appeared to have been very wealthy, too. He owned large estates in Syria[53] and he threw an extremely expensive feast to celebrate the wedding of his son.[54]

Rewards and high salaries were not only a means to gain the support of the *qāḍī*s, they were probably also intended to secure the legitimacy of the rulers in an indirect way. The *qāḍī*s appointed by the Ṭūlūnids spread their wealth and thus gained popularity.[55] By the time Ibn ʿAbda was dismissed and had left Egypt, he was very well liked.[56] Abū Zurʿa was known for his generosity, acting as the benefactor of Egyptians.[57] He even circumvented normal procedures by paying the debts of poor defendants himself.[58] I would like to suggest that his example was not simply a matter of personal generosity, but rather that the Ṭūlūnids expected such behavior. Abū Zurʿa had previously lived in Damascus, where he had a bad reputation.[59] Why did his behavior change once he was appointed in Fusṭāṭ? The Egyptian rulers gave him the monetary means to carve out a new reputation, one of justice and generosity, which was clearly meant to reflect back on the dynasty itself.

The religious scholars or *ʿulamāʾ*, who looked at the rulers with a critical eye, were not fooled by such politics. After Bakkār, the willingness of some *qāḍī*s to please the governor was all too evident. When Abū Zurʿa first arrived in Egypt, he went straight to Ibn Ṭūlūn's

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[49] Hassan, *Les Tulunides*, 225.

[50] The influx of gold and silver since the second/eighth century, which, according to Wadād al-Qāḍī, could explain the increase in judges' salaries during the pre-Ṭūlūnid period, could also have played a role in Ibn ʿAbda's large salary. I question, however, whether this influx alone can explain a fifteen-fold increase in less than a century. See W. al-Qāḍī, "The Salaries of Judges in Early Islam: The Evidence of the Documentary and Literary Sources," *Journal of Near Eastern Studies* 68 (2009): 28.

[51] Al-Kindī, *Akhbār quḍāt Miṣr*, 435. See Tyan, *Organisation judiciaire*, 339; R. G. Khoury, "Activités scientifiques et métiers libres dans les deux premiers siècles de l'Islam," *Res orientales* 6 (1994): 63.

[52] Ibn Ḥajar, *Rafʿ al-iṣr*, 516/74.

[53] Ibid., 519/78.

[54] Ibid., 521-22/82-83.

[55] See, e.g., ibid., 517/75.

[56] Ibid., 518/77.

[57] Ibid., 521-22/82-83.

[58] Ibid., 522/83.

[59] He was apparently regarded as having had a dissolute lifestyle. Ibid., 521/81, 522/84. It is not clear whether Abū Zurʿa was already *qāḍī* of Damascus when he cursed al-Muwaffaq. According to Ibn Taghrībirdī, he had been *qāḍī* of Damascus before being appointed in Egypt. However, Ibn Ṭūlūn asserts that he became the *qāḍī* of Damascus only after he had been dismissed from Egypt. Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 183; Ibn Ṭūlūn, *Quḍāt Dimashq*: *Al-Thaghr al-bassām fī dhikr man wulliya qaḍāʾ al-Shām*, ed. Ṣ. al-Munajjid (Damascus: al-Majmaʿ al-ʿIlmī al-ʿArabī, 1956), 22-23.

tomb, where he cried and recited the Qurʾan.[60] His alliance with the government was later sealed by the marriage of his son to a daughter of the director of finances, Abū Zunbūr al-Mādharāʾī (d. 317/929).[61] This type of behavior did not make the religious scholars think highly of many Ṭūlūnid *qāḍī*s. Despite his popularity, Ibn ʿAbda was accused of dishonesty when teaching *ḥadīth*: he was suspected of transmitting *ḥadīth*s that he did not actually hear but stole from great masters.[62] Ibn Zūlāq later tried to refute this accusation and suggested that it was due to a misunderstanding. According to him, two *ḥadīth* collections containing similar reports were circulating at the same time, and it is only by chance that Ibn ʿAbda's *ḥadīth*s were identical to those of other masters.[63] In this light it is highly possible that rumors about his teaching were spread to discredit a *qāḍī* who was regarded as being too close to the dynasty.

## THE ʿABBĀSID INTERREGNUM (292-323/905-935)

The ʿAbbāsid caliphate re-established its authority in Egypt in 292/905. During the next thirty years, the governors were all sent from central government. The *qāḍī*s were likewise appointed from Iraq. From 311/924 onward, a hierarchical system of delegation developed: the *qāḍī* of Fusṭāṭ was theoretically one of the *qāḍī*s of Baghdad, but the latter never actually came to Egypt, rather he delegated his authority to a deputy (*khalīfa*), who was in practice the head of the Egyptian judiciary.[64] Such a centralized system of delegation, which developed simultaneously in other provinces,[65] was a way of asserting the caliphate's authority while seeming to offer flexibility to the local administration of justice.

Despite this system of delegation, which in theory would have allowed the appointment of local jurists, almost all the *qāḍī*s in this period still came from outside, mostly from Iraq.[66] The only exception is Abū l-Dhikr, an Egyptian from Ikhmīm.[67] This was not a new phenomenon: the Ṭūlūnids had maintained the tradition of "importing" *qāḍī*s from outside, ever since the aftermath of the fourth *fitna* (civil war) in the early third/ninth century.[68] After

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[60] Ibn Ḥajar, *Rafʿ al-iṣr*, 519/78. During the assembly of Damascus, he had also distinguished himself by his readiness to curse al-Muwaffaq, as demanded by Ibn Ṭūlūn. Ibid., 520/79-80; Ibn Ṭūlūn, *Quḍāt Dimashq*, 23.

[61] Ibn Ḥajar, *Rafʿ al-iṣr*, 521/82. On Abū Zunbūr, see H. L. Gottschalk, "al-Mādharāʾī," in *EI*[2].

[62] Ibn Ḥajar, *Rafʿ al-iṣr*, 514/71.

[63] Ibid., 515/72.

[64] Tillier, *Vies des cadis de Miṣr*, 23.

[65] Tillier, *Les Cadis d'Iraq et l'État abbasside*, 324ff.

[66] Ibn Burd, in al-Kindī, *Wulāt*, 364; Ibn Ḥajar, *Rafʿ al-iṣr*, 534/101, 535/102, 536/103, 537/105, 539/108, 546/119, 549/122.

[67] Ibn Ḥajar, *Rafʿ al-iṣr*, 532/99. According to Qāḍī ʿIyāḍ, he was from Aswān. Al-Qāḍī ʿIyāḍ, *Tartīb al-madārik wa-taqrīb al-masālik li-maʿrifat aʿlām madhhab Mālik*, ed. A. B. Maḥmūd, 4 vols. (Beirut–Tripoli: Dār Maktabat al-ḥayāt–Dār Maktabat al-fikr, 1967), 3: 297. On Ikhmīm, a town of Upper Egypt, see G. Wiet, "Akhmīm," in *EI*[2].

[68] H. Kennedy, "Central Government and Provincial Elites in the Early ʿAbbāsid Caliphate," *Bulletin of the School of Oriental and African Studies* 44 (1981): 38. The fourth *fitna* comprised the civil war between the caliph al-Amīn and his brother al-Maʾmūn (between 195/811 and 198/813) and the thirteen-year disorder that followed.

the restoration of ʿAbbāsid rule in Egypt, however, the continuing reliance on Iraqi *qāḍī*s—even non-Ḥanafīs, since Mālikīs and Shāfiʿīs also came from Iraq—reinforced the impression that the main offices of state were held by foreigners, and that Egypt was back under the direct supervision of the caliphate.

During the first part of this interregnum, the judiciary symbolized the restoration of legitimate order. The *qāḍī* would not have been suspected of collaborating with the ruler. To prove their rectitude, the new governors were respectful to the *qāḍī*s and submitted to their authority. The governor Takīn (r. 297-302/910-15, 307-309/919-21, and 311-21/924-33)[69] sat lower than his station merited (*yajlisu dūna martabatihi*) while waiting for the *qāḍī* Abū ʿUbayd ʿAlī b. al-Ḥusayn b. Ḥarb in his court,[70] and Abū Zunbūr al-Mādharāʾī treated the latter with great honor.[71] When a man converted, and then changed his mind and rejected Islam, Takīn began hearing the case at his own court session (*majlis*), summoning the *qāḍī* Abū ʿUbayd as a mere advisor. Eventually, however, he did not adjudicate the case himself but let Abū ʿUbayd do it, suggesting that even at the governor's court the *qāḍī* was the highest judicial authority.[72] Some *qāḍī*s used the ruler's positive attitude toward them to assert their autonomy. For example, the same Abū ʿUbayd refused to call Takīn by his title of "Amir."[73] When he arrived in Fusṭāṭ, al-Kurayzī went directly to the mosque and read out his appointment diploma instead of first going to the governor's palace and greeting him, as was required by custom.[74] And Aḥmad b. Ibrāhīm b. Ḥammād, whom Takīn held in high esteem, disobeyed the governor's instructions at least once.[75]

Some of the earliest *qāḍī*s during this interregnum had close relationships with the governors, but the overall picture is that the judge was a highly independent moral referee in the province. Abū ʿUbayd was an advisor to Takīn in times of crisis,[76] but he also criticized him and reminded him of the legal consequences of his actions.[77] Thus, the *qāḍī* established himself as a representative of the people[78] rather than of the government. Abū ʿUbayd took seriously his duty of summoning high-ranking officials accused of misconduct by commoners, and he defended a woman who had complained about al-Mādharāʾī.[79] The

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[69] Al-Kindī, *Wulāt*, 267-73, 276-78, 280-81.

[70] Ibn Ḥajar, *Rafʿ al-iṣr*, 525/88. In an assembly, people sat according to their social rank. In the absence of the *qāḍī* in court, the governor could have claimed his seat. Out of respect for the *qāḍī*, however, he sat at a lower place and stood up to welcome him, as if he was just an ordinary man.

[71] Ibid., 527/90.

[72] Ibid., 530/96-97.

[73] Ibid., 528/93.

[74] Ibid., 534/102.

[75] Ibid., 537/105.

[76] Ibid., 516-17/74.

[77] Ibid., 529/94.

[78] By "people," I mean the group that was not in power. Very rarely do the sources refer to "popular classes" (even the term *al-nās* often means the notables), and what that might mean in these times can hardly be apprehended. Therefore, the word "people" refers here especially to the civilian elites (to whom belonged the transmitters of our sources) who, although they did not take part in the government, were directly affected by its policy.

[79] Ibid., 529-30/95-96.

second *qāḍī* of the interregnum, Abū l-Dhikr, was appointed in accordance with the wishes of four civil notables, among whom was the Ḥanafī jurist al-Ṭaḥāwī (d. 321/933).[80]

The re-establishment of ʿAbbāsid rule in Egypt thus gave a boost to the development of judicial autonomy. As in Iraq, the government had to show increasing deference to the law and the judiciary. At a time when the prestige of the Ṭūlūnids was still sharp in everyone's mind,[81] this was meant to please the Egyptians and to affirm the legitimacy of caliphal rule over the province. However, one may suspect that the increased freedom of the *qāḍī*s also opened the way for some of them to commit abuses. Al-Kurayzī apparently appropriated deposits (sg. *wadīʿa*) and revenue from pious foundations,[82] and, perhaps not coincidentally, had a bad reputation as a scholar.[83] Paradoxically, a higher degree of judicial autonomy facilitated greater corruption. The main purpose of allowing such autonomy—to show the ruler to be just and legitimate—was not achieved.

This situation developed toward the end of the interregnum, from 317/929—the appointment of Ibn Zabr—onward. The military unrest that roiled Egypt in the late 310s/920s—as a consequence of the perennial difficulty to pay the soldiers[84]—led the governors to build new political alliances with the *qāḍī*s, but the *qāḍī*s role in the unrest is sometimes far from clear. Ibn Zabr was apparently involved in a plot against the vizier ʿAlī b. ʿĪsā (d. 334/946).[85] Other *qāḍī*s, such as Aḥmad b. Qutayba (in office 321/933) or al-Sarakhsī (in office 322/934), took part in intrigues that opposed political factions trying to impose their authority over Egypt.[86] It seems that the *qāḍī*s no longer appeared completely impartial vis-à-vis the governing body.

As said above, most of the *qāḍī*s were not local, or even of Egyptian origin, during the interregnum. They did not know the inhabitants of Fusṭāṭ and they had to carry out investigations to find out about them and ascertain their reliability.[87] Furthermore, the *qāḍī*s themselves were unknown when they arrived in Egypt and they were probably regarded more as members of the ruling administration than as reliable scholars and jurists. To assert their authority and be accepted, they had to prove their legal skills and win over the local scholars. A *qāḍī* could hardly manage the judiciary—especially the administration of pious foundations and other properties—without any knowledge of the local area. Therefore, they usually hired an Egyptian auxiliary (*tawallā bi-amrihi*) to acquaint them with the local inhabitants and their

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[80] Ibid., 532/98; al-Qāḍī ʿIyāḍ, *Tartīb al-madārik*, 3: 298. On Abū Jaʿfar Aḥmad al-Ṭaḥāwī, see N. Calder, "al-Ṭaḥāwī," in *EI*$^2$.

[81] On the prestige of the Ṭūlūnids and the attempt of one of their last officers, Ibn al-Khalīj, to restore the dynasty, see Wiet, *L'Égypte arabe*, 113.

[82] Ibn Ḥajar, *Rafʿ al-iṣr*, 535/102.

[83] Ibid., 534/101.

[84] Wiet, *L'Égypte arabe*, 124-27. Taxes now left Egypt for Iraq, resulting in the inability to pay the military and the development of factionalism within the army. See Bianquis, "Autonomous Egypt," 109-11.

[85] Ibn Ḥajar, *Rafʿ al-iṣr*, 541/110-11.

[86] Ibid., 546/119, 550/124.

[87] For example, Abū ʿUbayd had to carry out an inquiry into the imam from his neighborhood. Ibid., 526/90.

practices, and who probably served as an intermediary between the *qāḍī* and the notables.[88] Nevertheless, *qāḍī*s faced difficulties integrating into the local society and were not easily accepted. The arrival in 293/906 of the second *qāḍī* in the interregnum period, Abū ʿUbayd ʿAlī b. al-Ḥusayn b. Ḥarb, was followed by a period of tension between him and the religious elite. He argued with the imam of the mosque where he prayed, then he quarreled with his neighbor, a secretary (*kātib*), who organized drinking parties and insinuated that Abū ʿUbayd was himself responsible for noise in the neighborhood at night.[89] The Egyptian jurist Ibn al-Ḥaddād (d. 344/955) disliked him initially and compared him (pejoratively) to the *qāḍī* Yaḥyā b. Aktham (d. 242/857), famous for his love of young men.[90] Abū ʿUbayd was still very unpopular when in 304/916-7 (or perhaps in 306/918), he was accused of being responsible for the death of a popular Shāfiʿī jurist (*faqīh*), Manṣūr b. Ismāʿīl.[91]

To be accepted, the *qāḍī*s had to establish peaceful relationships with prominent notables and with the religious leaders of Fusṭāṭ. Abū ʿUbayd eventually acquired a good reputation by showing himself to be thoroughly incorruptible, to the extent that he paid for the fire (*nār*) that he took from the baker.[92] Aḥmad b. Ibrāhīm b. Ḥammād won over the jurist al-Ṭaḥāwī by attending his lessons and showing him deep respect.[93] Ibn Zabr likewise tried to build a good relationship with al-Ṭaḥāwī.[94]

These strategies were sometimes successful. After a few years in Fusṭāṭ, Abū ʿUbayd's reputation was so good that he became a major legal authority. His written decisions (*tawqīʿāt*) were collected in books and his sayings turned into proverbs.[95] Other *qāḍī*s failed to be accepted, however. Despite his efforts, Ibn Zabr could not rid himself of his reputation as a bad scholar and was very unpopular.[96] Ismāʿīl b. ʿAbd al-Wāḥid earned the hatred of several prominent jurists such as Ibn al-Ḥaddād and al-Ṭaḥāwī after he threw them out of the great mosque. Some Mālikīs conspired against him, and during the civil war that broke out after the governor Takīn's death in 321/933, his house was plundered.[97] The unfortunate *qāḍī* had no choice but to run away.[98] Toward the end of the interregnum, the local inhabitants

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[88] Ibid., 546/119.
[89] Ibid., 526/90.
[90] Ibid., 527/91. On Yaḥyā b. Aktham, see Tillier, *Les Cadis d'Iraq et l'État abbasside*, 443ff. and index.
[91] Ibn Saʿīd, *Kitāb al-Mughrib fī ḥulā al-maghrib*, ed. K. L. Tallqvist (Leiden: E. J. Brill, 1899), 95. Manṣūr b. Ismāʿīl b. ʿUmar al-Tamīmī (d. 306/918) was both a *faqīh* and a poet. The account is that, although he was once very close to the *qāḍī* Abū ʿUbayd, they quarrelled about a legal matter. The tension between the two men escalated until which point a witness testified that Manṣūr had said heretical words. The *qāḍī* Abū ʿUbayd threatened him with the death penalty if a second witness happened to give the same testimony, and Manṣūr was so scared that he died. See Ibn Khallikān, *Wafayāt al-aʿyān*, 5: 291.
[92] Ibn Ḥajar, *Rafʿ al-iṣr*, 529/94.
[93] Ibid., 538/107.
[94] Ibid., 541/112.
[95] Ibid., 529/94.
[96] Ibid., 540/109-10.
[97] On this event, see Bianquis, "Autonomous Egypt," 110-11.
[98] Ibn Ḥajar, *Rafʿ al-iṣr*, 544-45/115-16.

(whether influenced by the leading scholars or not) were apparently fed up with these foreign *qāḍī*s, whom they saw as corrupt and in league with an incompetent government. This could explain why Aḥmad b. Qutayba was so unwelcome when he arrived in 321/933, three years before the end of the ʿAbbāsid rule, that the *ʿāmma* threw stones at him and tore his black robes, which themselves were a symbol of his political allegiance.[99]

**THE IKHSHĪDIDS (323-358/935-969)**

The position of the *qāḍī*s changed dramatically under the Ikhshīdids. The first Ikhshīd, Muḥammad b. Tughj (r. 323-34/935-46),[100] extended his authority over the judiciary in 324/936, soon after his appointment as governor.[101] From then on, most of the *qāḍī*s were recruited from among the local scholars—either native Egyptians or men who had lived in Egypt for some time—perhaps to please the discontented Egyptian elite.[102]

However, this change in recruitment had pernicious consequences, for it stirred up feelings of rivalry and competition between the jurists of Fusṭāṭ. Now, any *faqīh* of high standing could be a potential candidate. The professionalization of the judgeship, which had been well established in Iraq since the second half of the third/ninth century,[103] reached Egypt and offered new opportunities to ambitious scholars. Moreover, the appointing power was in Fusṭāṭ itself, close to the scholars who could expect to be noticed by the ruler or gain his confidence. Therefore, the number of schemes hatched so as to be appointed a judge increased dramatically during the Ikhshīdid period. Several methods were tried out.[104] One of the easiest was to eliminate a competitor by denigrating him in the eyes of the ruler. This happened to al-Ḥasan b. ʿAbd Allāh al-Jawharī, who was dismissed in 331/942-3 after Bakrān al-Ṣabbāgh—who wanted his position, and ended up getting it—complained about him to al-Ikhshīd.[105] To keep his position, ʿAbd Allāh b. Muḥammad b. al-Khaṣīb led a group who disparaged Abū Ṭāhir al-Dhuhlī before the regent Kāfūr (r. 335-57/946-68).[106] His son and successor to the

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[99] Ibid., 546/119. On black as the official color of the ʿAbbāsids, see Kh. Athamina, "Black Banners and the Socio-Political Significance of Flags and Slogans in Medieval Islam," *Arabica* 36 (1989), 317-21.

[100] On al-Ikhshīd, see Bacharach, "The Career of Muḥammad Ibn Ṭughj al-Ikhshīd," 588ff.

[101] Al-Dawādārī, *Kanz al-durar*, 5: 371; Ibn Ḥajar, *Rafʿ al-iṣr*, 552/127. See Tillier, *Vies des cadis de Miṣr*, 24; cf. Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 209-10, 214.

[102] There are some exceptions, however: Ibn Walīd was perhaps not Egyptian (Ibn Ḥajar, *Rafʿ al-iṣr*, 565/147) and al-Kishshī might have come from Palestine (ibid., 572/158). Two appointees were not native Egyptians but had settled in Egypt: ʿAbd Allāh b. Muḥammad b. al-Khaṣīb was originally from Iṣfahān (ibid., 576/164) and Abū Ṭāhir al-Dhuhlī was from Baṣra (ibid., 581/173). In stating that "some" *qāḍīs* were Egyptians and "others" foreigners, Sayyida Kāshif did not take into account the important difference between "theoretical" *qāḍī*s (who were formally appointed in Baghdad) and "actual" *qāḍī*s, nor did she notice that the majority of *qāḍī*s in this latter category were Egyptian. Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 219.

[103] Tillier, *Les Cadis d'Iraq et l'État abbasside*, 357ff.

[104] See Tyan, *Histoire de l'organisation judiciaire*, 305-307.

[105] Ibn Ḥajar, *Rafʿ al-iṣr*, 571/157. Ibn Ḥajar does not explain the nature of his complaint.

[106] Ibid., 578/166.

judgeship, if only for a year, Muḥammad b. ʿAbd Allāh b. al-Khaṣīb, laid traps (*makāyid*, sg. *makīda*) at the amir's court in order to steer his potential rivals off course.[107]

A *qāḍī* who wanted to keep his position had to join forces with the ruler. Ibn Walīd (who secured the judgeship for three separate periods, between 329/941 to 336/948) collected for al-Ikhshīd the ransom for Muslim prisoners of war held by the Byzantines, but in order to make a good impression by bringing in a large amount of money, he abused his power and was accused of extortion.[108] Later, Ibn Walīd paid Kāfūr in order to be reinstated in his position.[109] Such a practice was also entered into by ʿAbd Allāh b. Muḥammad b. al-Khaṣīb and his son Muḥammad.[110] The civilian population of Fusṭāṭ must have been aware of the competition between the jurists. The madman Sībawayh (d. 358/969), able to articulate what everyone was thinking since his madness protected him from punishment, could therefore publicly warn the *qāḍī* Ibn al-Ḥaddād of the intrigues of his colleague Ibn al-Walīd in 333/944-5.[111]

The recruitment of *qāḍī*s by the Ikhshīdids from among the local jurists deepened the gap between professional witnesses (*shuhūd*) and the Egyptian people. The witnesses, whose number fluctuated but was always limited in quantity, represented an important part of the social elite and they wanted to keep their official positions. The proximity of the appointing power allowed them to play a significant role in judicial policy. Some of them were close to the ruler and could influence him.[112] If a *qāḍī* reduced the number of witnesses even further by rejecting their integrity, the social position of the whole group could be threatened. They

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[107] Ibid., 580/169, and Tillier, *Vies des cadis de Miṣr*, 186.

[108] Ibn Ḥajar, *Rafʿ al-iṣr*, 568/151-52. On this ransom, see Wiet, *L'Égypte arabe*, 138.

[109] Ibn Ḥajar, *Rafʿ al-iṣr*, 567/151, 570/155. Ibn Ḥajar does not specify the amount of money paid to Kāfūr. The practice was seen as corruption; see Tillier, *Vies des cadis de Miṣr*, 32. Cf. Tyan, *Histoire de l'organisation judiciaire*, 302-303.

[110] Ibn Ḥajar, *Rafʿ al-iṣr*, 578/166, 579/168.

[111] Ibn Zūlāq, *Akhbār Sībawayh al-miṣrī*, ed. M. I. Saʿd and Ḥ. al-Dīb (Cairo: Maktabat al-ādāb, 1933), 37. Muḥammad b. Mūsā b. ʿAbd al-ʿAzīz al-Kindī al-Ṣayrafī Sībawayh was also a scholar and a Shāfiʿī jurist, student of Ibn al-Ḥaddād. He belonged to the category of the "wise fools" (*ʿuqalāʾ al-majānīn*) who, according to Michael Dols, "were often unofficial preachers or free-wheeling admonishers of the people, reminiscent of the Old Testament prophets." M. W. Dols, *Majnūn: The Madman in Medieval Islamic Society* (Oxford: Clarendon Press, 1992), 363; see also F. Rosenthal, *Humor in Early Islam* (Leiden: E. J. Brill, 1956), 15. His biographer, Ibn Zūlāq, was his contemporary and knew him personally. As Katia Zakharia reminds us in an article about the *Kitāb ʿuqalāʾ al-majānīn* by al-Nīsābūrī (d. 406/1016), "la voix du fou, quand elle s'élève, hors des normes et des valeurs de l'*adab* ou du *fiqh*, peut avoir dans le cœur du sage, quand il accepte de l'entendre, la grave résonance d'une ardente vérité." K. Zakharia, "Le statut du fou dans le *Kitāb ʿuqalāʾ al-maǧānīn* d'al-Nīsābūrī, modalités d'une exclusion," *Bulletin d'études orientales* 49 (1997): 286. For Sībawayh, see Yāqūt, *Muʿjam al-udabāʾ*, ed. I. ʿAbbās, 7 vols. (Beirut: Dār al-Gharb al-Islāmī, 1993), 6: 2651-652; Ibn Ḥajar al-ʿAsqalānī, *Lisān al-mīzān*, 7 vols. (Beirut: Muʾassasat al-Aʿlāmī li-l-Maṭbūʿāt, 1986), 5: 400. See also I. ʿAbbās, *Fann al-sīra* (Amman–Beirut: Dār Ṣādir–Dār al-Shurūq, 1996), 24-26; Th. Bianquis, "La Prise du pouvoir par les Fatimides en Égypte," *Annales islamologiques* 11 (1972): 56. As we will see below, Sībawayh was generally critical of the Ikhshīdids (for example, he publicly insulted al-Ikhshīd's vizier: Ibn Zūlāq, *Akhbār Sībawayh*, 26).

[112] Ibn Ḥajar, *Rafʿ al-iṣr*, 576/163.

would therefore do their best to harm that particular *qāḍī* by discrediting him with the ruler. A *qāḍī* who increased the number of witnesses, however, would gain their support. This brought about a rift between their hopes and the expectations of litigants for witnesses could be swayed in court by a *qāḍī* who supported them. Examples of both instances are the *qāḍī* ʿUmar b. al-Ḥasan al-Hāshimī, who was apparently respected for his judicial acumen but was dismissed by Kāfūr after the witnesses complained about him;[113] and Ibn Walīd, who was hated by the Egyptians for his misdeeds, but was supported by many witnesses whom he had admitted to the profession or whose social position he had strengthened.[114] The involvement of leading scholars and professional witnesses in the political hierarchy and in the competition for judgeship became so intense that they apparently no longer responded to the needs of the civilian population.

Because of the proximity between the ruler and the *qāḍī*, the latter was more than ever an important political tool in the hands of the government.[115] The *qāḍī* Ibn al-Ḥaddād was appointed to the *maẓālim* court by al-Ikhshīd, between 324/936 and 327/939, becoming thus a judicial and political rival of the Shariʿa-court *qāḍī*.[116] He was therefore heavily criticized by the inhabitants of Fusṭāṭ.[117] Ibn Badr helped al-Ikhshīd transfer the income of a *waqf* and assign it to the construction of a *qayṣāriyya*.[118] The same *qāḍī* was punished, however, when he refused to cooperate—he was put under house arrest upon his request that a political prisoner be treated with full respect for the judicial procedure.[119] When Ibn Walīd received an official appointment from Muḥammad b. al-Ḥasan al-ʿAbbāsī (*qāḍī* in Baghdad, 336-39/948-51), he supported Ikhshīdid autonomy by reading the document in the privacy of his home—and not in the public arena of the mosque, as the ʿAbbāsid power would have expected.[120] Muḥammad b. ʿAbd Allāh b. al-Khaṣīb gave all his time (*inqaṭaʿa ilā*) to Kāfūr and supervised the construction of his palace.[121] Abū Ṭāhir al-Dhuhlī was supported financially by Kāfūr, presumably in return for his political support.[122]

The mad scholar Sībawayh's repeated criticism of al-Ikhshīd and his *qāḍī*s suggests that some Egyptians were not fooled by the political use of judgeship.[123] On the whole, the *qāḍī*s

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[113] Ibid., 575/163.

[114] Ibid., 569/154, 576/163. There were still witnesses who hated him, however. See ibid., 568/152.

[115] Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 217.

[116] Tillier, "*Qāḍīs* and the Political Use of the *Maẓālim* Jurisdiction," 51.

[117] Ibn Ḥajar, *Rafʿ al-iṣr*, 556/134; Ibn Zūlāq, *Akhbār Sībawayh*, 33.

[118] Ibn Ḥajar, *Rafʿ al-iṣr*, 562/143. A *qayṣāriyya* is "a large system of public buildings laid out in the form of cloisters with shops, workshops, warehouses and frequently also living-rooms." M. Streck, "Ḳayṣāriyya," in *EI*[2].

[119] Ibn Ḥajar, *Rafʿ al-iṣr*, 560/139.

[120] Ibid., 568/152. As recounted above, he also collected ransom money for al-Ikhshīd.

[121] Ibid., 580/170.

[122] Ibid., 583/176.

[123] Ibn Zūlāq, *Akhbār Sībawayh*, 28, 32, 42, 44, 49. The fact that reports about Sībawayh were collected in a book by Ibn Zūlāq implies that his words and deeds were not considered simply anecdotal, but rather socially and/or politically significant. One of his criticisms, of the *qāḍī* Bakrān's homosexual behavior, was meant to point out his close contact with the Egyptian rulers. Sībawayh

under the Ikhshīdids had a sullied reputation. Ibn Ḥajar's biographies chronicle the many accusations of corruption made against them. Ibn Zabr, who had already been unpopular under the governorship of Takīn, was reappointed twice by al-Ikhshīd (or with his authorization)[124]—in addition to various abuses, he asked for money to accept new witnesses.[125] Ibn Walīd was corrupt (*madhkūr bi-l-irtishā'*) and abused his power.[126] He was hated by the Egyptians,[127] and so was Bakrān.[128] Even Ibn Badr, whose reputation was enhanced by his rigorous administration of the estates of orphans at the end of the ʿAbbāsid interregnum,[129] was now considered corrupt[130]: he harmed witnesses and, in a pretense of increased meticulousness, doubled the number of witnesses required to testify to the appointment of an agent (*wakīl*).[131] It is possible that the increasing professionalization of the judgeship led to an actual change in judicial practice, which was then seen as corrupt by contemporaries. But the Ikhshīdid *qāḍī*s' undeniable close association with the government and cooperation with the ruler led to a growing chasm between them and the local civilian elite, and this probably helped to damage the aura of judicial independence and impartiality.

The general anger against the *qāḍī*s led to several riots. Some unclear troubles that occurred in Fusṭāṭ in 331/942-3 might have been caused by the unpopularity of Bakrān.[132] A riot broke out when Ibn Walīd paid Kāfūr to be reappointed as a *qāḍī*.[133] When ʿAbd Allāh b. Muḥammad b. al-Khaṣīb punished the inhabitants of al-Faramā who had complained about him, the populace revolted and forced him to run away.[134] And another riot developed when his son Muḥammad b. ʿAbd Allāh was appointed *qāḍī* in 348/959—Kāfūr had to launch an investigation into the reason for the discontent this caused.[135] Frustration was sometimes so deep that the ruler had no choice but to take the populace's aspirations into account. For example, when a complaint was lodged against Bakrān, al-Ikhshīd summoned him and punished him. Eventually, he gathered the notables of Fusṭāṭ (*wujūh al-nās*) and appointed a new *qāḍī* in accordance with their wishes.[136] In 348/959, after a series of unpopular *qāḍī*s and several revolts against them, Kāfūr eventually agreed to appoint Abū Ṭāhir al-Dhuhlī, again in

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declared that, to purify him, the *qāḍī* should go down on all fours, have a funnel put up his rectum, and be flushed out with the waters of the Nile. Ibid., 42.

[124] Ibn Ḥajar, *Rafʿ al-iṣr*, 542/113, 561/141.

[125] Ibid., 559/138.

[126] For example, he asked witnesses to sign a legal document without letting them read it first. Ibid., 568/152.

[127] Ibid., 565/148, 568/152.

[128] Ibid., 545/116, 573/159.

[129] Ibid., 560/139.

[130] Ibid., 562/142.

[131] Ibid., 560/140.

[132] Ibid., 573/159.

[133] Ibid., 570/155.

[134] Ibid., 578/166.

[135] Ibid., 579/168.

[136] Ibid., 573/159.

accordance with the wishes of the notables and the judiciary staff[137] (however, he limited the *qāḍī*'s power by hearing litigants himself at the *maẓālim* court[138]).

The Ikhshīdids had to maintain a balance between their policy of judicial autonomy from the central administration (which required that they impose their authority by controlling appointments) and the gratification of local scholars (and its corollary, the satisfaction of the public's expectations). Because of the increasing complexity of the legal field, this was often problematic. Kāfūr faced more difficulties than his predecessors because he did not initially understand how necessary it was to gain the support of major scholars such as Ibn al-Ḥaddād. His appointment of ʿAbd Allāh b. Muḥammad b. al-Khaṣīb, whom Ibn al-Ḥaddād deeply disliked,[139] was a mistake that eventually led to urban riots.

On the whole, Ibn al-Ḥaddād, who was head of the Shāfiʿī school at that time,[140] represented a challenge for the dynasty. On the one hand, because of his prestige and his reputation as a scholar,[141] the Ikhshīdids could not ignore him. He was therefore appointed *qāḍī* in 324/936[142] and regularly attended the governor's court (*kāna kaṯīr al-taraddud ilayhim*).[143] On the other hand, he was to a large extent beyond the Ikhshīdids' control. Like his fellow *qāḍī* Ibn Abī Zurʿa,[144] he showed his fidelity to the ʿAbbāsids by wearing black robes.[145] Even if the Ikhshīdids were still loyal to the ʿAbbāsids, as their coinage suggested,[146] they soon claimed their autonomy in judicial matters and tried their hardest to weaken the formal links between the Egyptian judiciary and the Baghdadi *qāḍī*s.[147] Ibn al-Ḥaddād's behavior could therefore be regarded as provocative. Like Abū ʿUbayd ʿAlī b. al-Ḥusayn b. Ḥarb under Takīn, he adopted a critical attitude towards the government. He dared to criticize Kāfūr in public[148] and he was suspected of Shiʿite sympathies.[149] Moreover, he strongly maintained his judicial authority against the will of the government. He kept in prison a debtor whom al-Ikhshīd's brother and deputy (*khalīfa*), Abū l-Muẓaffar al-Ḥasan b. Ṭughj (d. 342/953),[150] wanted to release, and although the latter controlled the prison, he did not dare oppose the *qāḍī*.[151] The Ikhshīdids found themselves facing an insoluble problem: they could not do without him, but he was a thorn in their side. This is probably why Ibn al-Ḥaddād was

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[137] Ibid., 583-84/177.
[138] Ibid., 584/178.
[139] Ibid., 554/130, 576/164, 578/166.
[140] Kāshif, *Miṣr fī ʿaṣr al-ikhshīdiyyīn*, 306.
[141] See Ibn Zūlāq, *Akhbār Sībawayh*, 19.
[142] Ibn Ḥajar, *Rafʿ al-iṣr*, 552/127.
[143] Ibid., 555/131.
[144] Ibid., 562/143.
[145] Ibid., 552/127, 555/162.
[146] Bacharach, "The Career of Muḥammad Ibn Ṭughj," 604-607.
[147] Tillier, *Vies des cadis de Miṣr*, 24-25.
[148] Ibn Ḥajar, *Rafʿ al-iṣr*, 553/127, 555/131.
[149] Ibid., 555-56/133.
[150] For Abū l-Muẓaffar, see Ibn ʿAsākir, *Taʾrīkh Dimashq*, ed. ʿU. b. Gharāma al-ʿAmrawī, 80 vols. (Beirut: Dār al-Fikr, 1995), 13: 117-18; Ibn Taghrībirdī, *al-Nujūm al-zāhira*, 3: 252, 254, 310.
[151] Ibn Ḥajar, *Rafʿ al-iṣr*, 567/150-51. On the key issue of prisons in the struggle for judicial autonomy, see Tillier, *Les Cadis d'Iraq et l'État abbasside*, 492ff.

appointed *qāḍī* twice under their rule, but only for short periods.[152] Al-Ikhshīd even tried to ruin his reputation: he sent him a singer on whose behalf Ibn al-Ḥaddād had interceded, and could therefore claim that the famous jurist was secretly listening to music.[153]

## CONCLUSION

The judiciary in Egypt was of political importance for both the Ṭūlūnids and the Ikhshīdids. Nevertheless, the two dynasties adopted different attitudes toward the *qāḍī*s. The Ṭūlūnids were more interested in the legitimacy that the *qāḍī*s could offer them rather than in the direct control of their appointments, while the Ikhshīdids were more preoccupied with their authority and they tried to control the appointments of their *qāḍī*s. In between the two dynasties, after the fall of the Ṭūlūnids, the ʿAbbāsids had to re-establish their control over and legitimacy in the province and prove their ability to dispense justice according to the law. Political change and competition for legitimacy advanced the development of judicial autonomy. However, the loosening of the links between the judiciary and the ʿAbbāsid governors during the first half of the fourth/tenth century probably furthered corruption among the *qāḍī*s, and the foreign origin of most of the *qāḍī*s was also responsible for their increasing unpopularity.

The Ikhshīdids recruited their judges more and more from among the Egyptian scholars as a way to enforce their control, and perhaps also to satisfy the populace's desire for local *qāḍī*s. However, this had an unexpected and insidious effect. By creating new opportunities for the Egyptian jurists, the Ikhshīdids brought the judiciary into the political arena. As a consequence, the *qāḍī*s no longer acted as intermediaries between the people and the government. Their abuses led to several uprisings, while private scholars such as Ibn al-Ḥaddād stood up for the public's interests.[154] Ibn al-Ḥaddād (in his capacity of *muftī*[155]) was pious[156] and enjoyed judicial independence[157] and he was therefore more revered than any other *qāḍī*.[158]

To a large extent, this development limited the actual impact of the newly cultivated judicial independence. Theoretically, the legal field now enjoyed complete autonomy from government; Iraqi jurists claimed that judges were largely independent.[159] In practice, however, as the Egyptian attempt at judicial autonomy shows, involvement of the *qāḍī*s in political networks increased, and their practical independence was therefore seriously weakened. The professionalization of the judgeship, with its attractive salaries, also added to their willingness to become *qāḍī*s or to keep their judicial positions, and therefore they were more receptive to political pressure. The Fāṭimid conquest of Egypt in 358/969 changed the situation once again. Since the Fāṭimids could hardly dismiss the much-esteemed Abū Ṭāhir al-Dhuhlī, who had been appointed by the Ikhshīdid Kāfūr to agree with the wishes of the

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[152] Tillier, *Vies des cadis de Miṣr*, 12-13.
[153] Ibn Ḥajar, *Rafʿ al-iṣr*, 555/132; Ibn Saʿīd, *al-Mughrib*, 18.
[154] Ibid., 555/132.
[155] Ibn Ḥajar, *Rafʿ al-iṣr*, 553/128; Ibn Saʿīd, *al-Mughrib*, 32.
[156] Ibn Ḥajar, *Rafʿ al-iṣr*, 551/126, 552/126.
[157] Ibid., 552/126, 552/128.
[158] Ibid., 552/126-27.
[159] Tillier, *Les Cadis d'Iraq et l'État abbasside*, 631ff.

Egyptian notables — he had even changed one of his judgments to comply with the inhabitants' desires —,[160] they simply restored the *maẓālim* court and appointed a rival judge.[161] The judiciary was again, more than ever, a major political concern.

*List of Egyptian governors and* qāḍīs[162]

| **Governor** | ***Qāḍī*** |
|---|---|
| **Ṭūlūnids** | |
| Aḥmad b. Ṭūlūn (254-70/868-84) | Bakkār b. Qutayba (246-70/860-84) |
| Khumārawayh (270-82/884-96) | Muḥammad b. ʿAbda b. Ḥarb (277 or 278-83/890 or 891-96) |
| Jaysh b. Khumārawayh (282-3/896) | |
| Hārūn b. Khumārawayh (283-92/896-904) | Abū Zurʿa Muḥammad b. ʿUthmān (284-92/896-905) |
| Shaybān b. Aḥmad (292/905) | |
| **ʿAbbāsid interregnum** | |
| ʿĪsā al-Nūsharī (292–97/905-10) | Muḥammad b. ʿAbda b. Ḥarb (292/905) |
| Abū Manṣūr Takīn (297-302/910-15) | Abū ʿUbayd ʿAlī b. al-Ḥusayn b. Ḥarb (293-311/906-24) |
| Dhakā al-Aʿwar (303-307/915-19) | |
| Abū Manṣūr Takīn (307-309/919-21) | |
| Hilāl b. Badr (309-11/921-23) | |
| Aḥmad b. Kayghalagh (311/923-4) | |

[160] Abū Ṭāhir al-Ḏuhlī had ruled that the son of a Christian woman who had converted to Islam would remain Christian like his father. The caused a furor, with people arguing that it was contrary to the Shīʿite and the Šāfiʿī doctrine, and the judge finally reversed his decision. Ibn Ḥajar, *Rafʿ al-iṣr*, 586/181-82.

[161] Ibn Ḥajar, Rafʿ al-iṣr, 584/179.

[162] The following list does not take into account the "theoretical" *qāḍī*s of Fusṭāṭ who were appointed in Baghdad and never came to Egypt. For a list including these *qāḍī*s, see Tillier, *Vies des cadis de Miṣr*, 11-14.

| **Governor** | ***Qāḍī*** |
|---|---|
| Abū Manṣūr Takīn (311-21/924-33) | Abū l-Dhikr Muḥammad b. Yaḥyā al-Aswānī (311-2/924) |
| | Ibrāhīm b. Muḥammad al-Kurayzī (312-13/924-25) |
| | ʿAbd al-Raḥmān b. Isḥāq al-Jawharī (313-14/925-26) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (314-16/926-29) |
| | ʿAbd Allāh b. Aḥmad b. Zabr (317/929) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (317-20/929-32) |
| | ʿAbd Allāh b. Aḥmad b. Zabr (320-21/932-33) |
| Aḥmad b. Kayghalagh (321-22/933-34) | Ismāʿīl b. ʿAbd al-Wāḥid al-Maqdisī (321/933) |
| | Aḥmad b. ʿAbd Allāh b. Qutayba (321/933) |
| | Aḥmad b. Ibrāhīm b. Ḥammād (321-22/933-34) |
| Dispute between Muḥammad b. Takīn and Aḥmad b. Kayghalagh (322-23/934-35) | Muḥammad b. Mūsā al-Sarakhsī (322/934) |
| | Muḥammad b. Badr al-Ṣayrafī (322-24/934-36) |
| **Ikhshīdids** | |
| Muḥammad b. Ṭughj al-Ikhshīd (323-34/935-46) | Muḥammad b. Badr al-Ṣayrafī (322-24/934-36) |
| | ʿAbd Allāh b. Aḥmad b. Zabr (324/936) |
| | Muḥammad b. Aḥmad b. al-Ḥaddād (324-25/936-37) |
| | al-Ḥusayn b. Abī Zurʿa (325-27/937-39) |
| | Muḥammad b. Badr al-Ṣayrafī (327-29/939-40) |
| | ʿAbd Allāh b. Aḥmad b. Zabr (329/940-41) |
| | ʿAbd Allāh b. Aḥmad b. Shuʿayb (Ibn Walīd) (329/941) |

| **Governor** | ***Qāḍī*** |
|---|---|
| | Muḥammad b. Badr al-Ṣayrafī (329-30/941-42) |
| | Abū l-Dhikr Muḥammad b. Yaḥyā (330/942) |
| | al-Ḥasan b. ʿAbd al-Raḥmān al-Jawharī (330-31/942-43) |
| | Aḥmad b. ʿAbd Allāh al-Kishshī (331/943) |
| | ʿAtīq b. al-Ḥasan al-Ṣabbāgh, Bakrān (331/943) |
| | ʿAbd Allāh b. Aḥmad b. Shuʿayb (Ibn Walīd) (331-33/943-45) |
| | al-Ḥasan b. ʿAbd al-Raḥmān al-Jawharī (333/945) |
| | Muḥammad b. Aḥmad b. al-Ḥaddād (333-34/944-45) |
| | ʿAbd Allāh b. Aḥmad b. Shuʿayb (Ibn Walīd) (334-36/945-48) |
| Regency of Kāfūr (335-55/946-66)<br>Unūjūr b. al-Ikhshīd (335-49/946-60)<br>ʿAlī b. al-Ikhshīd (349-55/960-66) | ʿUmar b. al-Ḥasan al-Hāshimī (336-39/948-51) |
| | ʿAbd Allāh b. Muḥammad b. al-Khaṣīb (339-47/951-59) |
| | Muḥammad b. ʿAbd Allāh b. Muḥammad b. al-Khaṣīb (348/959) |
| Kāfūr (355-57/966-68) | Abū Ṭāhir al-Dhuhlī (348-66/959-76) |
| Aḥmad b. ʿAlī b. al-Ikhshīd (357-58/968-69) | |