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***Qāḍīs* and the political use of the *mazālim* jurisdiction under the ʿAbbāsids**

*Mathieu Tillier**

The role of the *mazālim* jurisdiction is generally regarded as threefold by present-day historians. As ordinary courts – all grievances could in theory be brought to the caliph – the *mazālim* symbolized the discretionary authority vested in the ruler who could, at any time, exercise a power that he would ordinarily delegate to other judges. Moreover, the *mazālim* offered the possibility to claim damages for unjust acts committed by public servants, public officials or high-ranking dignitaries against whom the *qāḍīs* would find it difficult to take punitive actions. Finally, the *mazālim* emerged as a possible recourse against the judgment of *qāḍīs*, and as such, functioned as a court of appeal.¹ Although the institution goes back to the beginning of the ʿAbbāsīd era, it was only systematically theorized in the 5th/11th century, in the works of al-Māwardī and Ibn al-Farrā,² which makes it difficult to determine exactly when this type of justice was practiced in the early centuries of Islam. While the *mazālim* are often referred to as independent institutions, the texts are not always explicit: in the opinion of L. Massignon and E. Tyan, al-Ḥallāj was one of its most famous victims, although no text clearly says that his judges held a *mazālim* court.³ Indeed the *mazālim* were not recognizable only by their name or by the judges sitting in the courts; they were mainly identified by their procedures: free from the limits of ordinary jurisdictions, judges could take a case without prior accusation.⁴ In practice, the existence of such courts could be recognized when trials took place by order of the ruler, without his involvement as a litigant. Above all, the *mazālim* provided rulers with a number of ways to regain control of justice, without the *qāḍīs*' involvement.

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Initiated by sovereigns, the *mazālim* have often been analyzed exclusively in the context of caliphal court.⁵ In the same way, and in spite of the permeability – pointed out by Tyan – that existed between the ordinary judgeship and the *mazālim*,⁶ there has been little research done on the role played by *qāḍīs* in the *mazālim*, perhaps because the dividing line between the person of the *qāḍī* and the person of the *ṣāhib al-mazālim* is still considered as a general and necessary rule.⁷ The *mazālim*, however, were not at all confined to the capital city; they had been established in smaller towns or in provinces since the °Abbāsīd era. The link between the *qāḍīs* and the *mazālim*'s jurisdictions remains a mystery. Re-exploring the institution's central and provincial dealings will help us understand how the governing power managed to instrumentalize justice and impose or legalize certain forms of state violence.

Provincial mazālim and political strategies

THE MAZĀLIM IN PROVINCIAL TOWNS

In provincial towns, *mazālim* courts were held in different ways. The sovereign himself could act as a judge, but such cases occurred only under special circumstances. Most of the time, the sovereign would delegate his power to a third party, usually an officer specially appointed for this purpose or a *qāḍī* already in place. As we shall see further on, these options were anything but unbiased. The *mazālim* came across as the ultimate expression of sovereign justice, and, indeed the institution was often a major issue in the competition between contenders for legitimacy.

To the extent that they could be identified, the Table lists the names of judges sitting in *mazālim* courts in Iraq and Egypt and occasionally in Syria and Iran, and reveals the difficulty of establishing an uninterrupted list of incumbents. There is even some doubt that the institution was actually represented in provinces on a permanent basis. In addition, most *aṣḥāb al-mazālim* did not hold *mazālim* functions concurrently with their judicial functions. Some of them (such as al-Ḥasan b. °Umāra, al-Ḥasan b. °Abd Allāh b. al-Ḥasan al-°Anbarī, or °Abd Allāh b. Muḥammad b. Abī Yazīd al-Khalanjī) were also *qāḍīs* during their lifetimes, but at different points in time. Therefore, the *mazālim* appear, in most cases, as a separate judicial institution. In Iraq, some *qāḍīs* were vested with *mazālim* powers, but only on a mission basis rather than as a permanent function. °Ubayd Allāh b. al-Ḥasan was not assigned *mazālim* duties throughout the duration of his judicial duties in Baṣra: while prayers, or *khuṭba*, are mentioned as his official duty by biographers,⁸ *mazālim* are not. The only indication

Judges sitting in *maẓālīm* courts

CITY OR PROVINCE DATES	<i>QĀḌĪ</i>	NOT A <i>QĀḌĪ</i>	APPOINTED BY
Baṣra			
Sometime between 156/773 and 167/783–4 ¹	°Ubayd Allāh b. al-Ḥasan al-°Anbarī ²		al-Mahdī (caliph)
160–3/777–80 or 167–73/783–9 ³		Fazāra b. °Imrān ⁴	
ca 202–10/817–25		Iṣḥāq b. Ismā°il ⁵	
ca 223–39/837–53	Aḥmad b. Riyāḥ ⁶		Ibn Abī Du°ad (chief <i>qāḍī</i>)
ca 256/870		Ibn Qutayba	Ṣā°id b. Makhlad ⁷
Kūfa			
ca 132/750 (?)		Ibn Shubruma ⁸	°Īsā b. Mūsā (governor) / al-Manṣūr (caliph)
Under al-Manṣūr		al-Ḥasan b. °Umāra ⁹	
Fārs			
Under al-Ma°mūn		al-Ḥasan b. °Abd Allāh b. al-Ḥasan al-°Anbarī ¹⁰	
Jabal			
Before 228/842–3		°Abd Allāh b. Muḥammad b. Abī Yazīd al-Khalanjī ¹¹	
Marw			
Before 235/849–50		Aḥmad b. °Umar b. Ḥafṣ al-Wakī°ī ¹²	
Damas			
Under al-Mu°taṣim		Abū Muslim al-Naṭ°ī ¹³	Ibn Abī Du°ad (chief <i>qāḍī</i>)
Under al-Mu°taṣim		Yaḥyā b. al-Ḥasan al-Ṭabarānī ¹⁴	Ibn Abī Du°ad (chief <i>qāḍī</i>)
273/886 or 275/887		°Abd/°Ubayd Allāh b. al-Faṭḥ ¹⁵	Khumārawayh (governor)
Fustāt			
211–12/826–7		°Aṭṭāf b. Ghazwān ¹⁶	°Abd Allāh b. Ṭāhir (governor)
215/830		Iṣḥāq b. Ismā°il ¹⁷	°Abdawayh b. Jabala (governor)

Judges sitting in *mazālim* courts (cont.)

CITY OR PROVINCE DATES	QĀDĪ	NOT A QĀDĪ	APPOINTED BY
215–16/830–1		Muḥammad b. °Abbād b. Mukniif ¹⁸	Kaydar (governor)
235/850		°Īsā b. Lahī°a b. °Īsā al-Ḥaḍramī ¹⁹	Ishāq b. Yaḥyā b. Mu°adh (governor)
274–8/887–92		Muḥammad b. °Abda b. Ḥarb ²⁰	Khumārawayh (governor)
278–83/892–6	Muḥammad b. °Abda b. Ḥarb ²¹		Khumārawayh (governor)
283/896		Ibn Ṭughān ²²	
292/905	Muḥammad b. °Abda b. Ḥarb ²³		Muḥammad b. Sulaymān (governor)
324–7/936–9		Ibn al-Ḥaddād ²⁴	Al-Ikhshīd (governor)
331/943		°Atīq b. al-Ḥasan (Bakrān) ²⁵	
340/951–	°Abd Allāh b. Muḥammad b. al-Khaṣīb ²⁶		Kāfūr (governor)
362/973		°Abd Allāh b. Muḥammad b. Abī Thawbān ²⁷	Al-Mu°izz (Fāṭimid caliph)

1. M. Tillier, “Un traité politique du II°/VIII° siècle. L’épître de °Ubayd Allāh b. al-Ḥasan al-°Anbarī au calife al-Mahdī,” *AI* 40 (2006), 141.
2. Wakī°, *Akhbār al-quḍāt*, ed. °Abd al-°Azīz Muṣṭafā al-Marāghī (Cairo: Maṭba°at al-Sa°āda, 1947–50), 2:92.
3. During this period, the governor of Baṣra was Muḥammad b. Sulaymān. See Ch. Pellat, *Le milieu baṣrien et la formation de Ġāhiz* (Paris: Adrien-Maisonneuve, 1953), 281.
4. Ibn °Asākīr, *Ta°rikh madīnat Dimashq* (Damascus: Dār al-Fikr, 2000), 53:137; al-Tawḥīdī, *al-Baṣā°ir wa-l-dhakhā°ir*, ed. Wadād al-Qāḍī (Beirut: Dār Ṣādir, 1988), 4:41; Ibn al-Jawzi, *K. al-Ḥamqā wa-l-mughaffalīn* (Beirut: Dār al-Āfāq al-Jadīd, n.d.), 77, 93. It may be Fazāra b. °Imrān b. Mālik b. Bilāl, from Banū al-Jūn b. Anmār. See Ibn Durayd, *al-Ishtiqāq*, ed. °Abd al-Salām Muḥammad Hārūn (Cairo: Maktabat al-Khānjī, n.d.), 497.
5. Al-Qāḍī °Iyāq, *Tartīb al-madārik wa-taqrīb al-masālik li-ma°rifat a°lām madhhab Mālik*, ed. Aḥmad Bakīr Maḥmūd (Beirut–Tripoli: Dār Maktabat al-Ḥayāt–Dār Maktabat al-Fikr, 1967), 1:558. He was in office at the time when Yaḥyā b. Aktham was *qāḍī* of Baṣra: Ibn Ḥajar regards him as one of his *amīns*. See Ibn Ḥajar, *Lisān al-mūzān* (Beirut: Mu°assasat al-A°lāmī, 1986), 1:352.
6. Wakī°, *Akhbār al-quḍāt*, 2:175.
7. Al-Dhahabī, *Ta°rikh al-islām*, ed. °Umar °Abd al-Salām Tadmurī (Beirut: Dār al-Kitāb al-°Arabī, 1987), 20:383. Al-Dhahabī speaks of “al-Riyāsatayn” (nickname of al-Faḍl b. Sahl, who died long

(Notes continued overleaf)

Judges sitting in *mazālim* courts (cont.)

before Ibn Qutayba was born), but he probably means “[Dhū] l-Wizāratayn”, which was the nickname of the vizier Ṣāʿid b. Makhḷad. See al-Zirikli, *al-Aʿlām* (Beirut: Dār al-ʿIlm li-l-Malāyin, 1997), 3:187. See also *EI2*, s.v. Ibn Qutayba, 3:844–5 (G. Lecomte).

8. Wakīʿ, *Akhbār al-quḍāt*, 3:124.
9. al-Mizzī, *Tahdhīb al-kamāl*, ed. Bashshār ʿAwwād Maʿrūf (Beirut: Muʿassasat al-Risāla, 1980), 6:275.
10. Wakīʿ, *Akhbār al-quḍāt*, 2:173–4.
11. *Ibid.*, 3:290; al-Khaṭīb, *Taʾriḫ Baghdād*, ed. Muṣṭafā ʿAbd al-Qādir ʿAṭā (Beirut: Dār al-Kutub al-ʿIlmiyya, 1997), 10:74; Ibn ʿAsākir, *Taʾriḫ madīnat Dimashq*, 32:379.
12. Al-Khaṭīb, *Taʾriḫ Baghdād*, 4:284.
13. Ibn ʿAsākir, *Taʾriḫ madīnat Dimashq*, 67:224.
14. *Ibid.*, 64:117.
15. Ibn Ḥajar, *Rafʿ al-iṣr ʿan quḍāt Miṣr*, ed. ʿAlī Muḥammad ʿUmar (Cairo: Maktabat al-Khānjī, 1998), 388 (tr. M. Tillier, *Vies des cadis de Miṣr* (Cairo: IFAO, 2002), 79).
16. Al-Kindī, *Akhbār quḍāt Miṣr*, in *K. al-Wulāt wa-kitāb al-quḍāt*, ed. R. Guest (Leiden: Brill, 1912), 432–3; Ibn Ḥajar, *Rafʿ al-iṣr*, 267.
17. Al-Kindī, *Akhbār quḍāt Miṣr*, 189; Wakīʿ, *Akhbār al-quḍāt*, 3:280; al-Qāḍī ʿIyād, *Tartīb al-madārik*, 2:558; Tillier, *Vies des cadis*, 39.
18. Al-Kindī, *Akhbār quḍāt Miṣr*, 441; Ibn Ḥajar, *Rafʿ al-iṣr*, 299, 360.
19. Al-Kindī, *Akhbār quḍāt Miṣr*, 198.
20. Ibn Ḥajar, *Rafʿ al-iṣr*, 383 (tr. Tillier, *Vies des cadis*, 72).
21. Ibn Ḥajar, *Rafʿ al-iṣr*, 384 (tr. Tillier, *Vies des cadis*, 74).
22. Ibn Burd, in al-Kindī, *Akhbār quḍāt Miṣr*, 480.
23. *Ibid.*, 480–1.
24. Ibn Ḥajar, *Rafʿ al-iṣr*, 326 (tr. Tillier, *Vies des cadis*, 133).
25. Ibn Ḥajar, *Rafʿ al-iṣr*, 56 (tr. Tillier, *Vies des cadis*, 158). He claimed the title of *qāḍī* – officially assigned to al-Kishshī – but major witnesses refused to call him so.
26. Ibn Ḥajar, *Rafʿ al-iṣr*, 198 (tr. Tillier, *Vies des cadis*, 165).
27. Ibn Ḥajar, *Rafʿ al-iṣr*, 199, 329 (tr. Tillier, *Vies des cadis*, 179).

comes from a dialogue between the *qāḍī* and the caliph al-Mahdī, pieced together by Wakīʿ, in which the *qāḍī* explained, “I received a letter from the Commander of Believers, who ordered me to investigate unjust acts (*mazālim*) committed against the people of Baṣra, to listen to their trustees (*nuqabāʾ*) and to write him back to inform him of the facts I established. That is what I did.”⁹ A few decades later, Aḥmad b. Riyāḥ appears to be formally vested with the role, but once again, Wakīʿ says that it was entrusted to him only in the aftermath of his appointment as a *qāḍī*. His role in the *mazālim* also suggests that he was assigned the responsibility as a subsidiary duty.¹⁰ In the Iraqi *amṣār*, at least, the *mazālim* probably did not constitute a permanent institution. They were not, it seems, full-time functions,¹¹ but rather, temporary mandates, possibly assigned to *qāḍīs* by the governing power, perhaps in the event of a crisis or particularly delicate matters. To entrust a *qāḍī* with the task of “redressing wrongs”, was indeed a way for the caliph to reinforce his delegate’s authority against high-ranking public figures who could not otherwise – under normal cir-

cumstances – be summoned to hearings.¹² But if a *qāḍī* could take responsibility for *mazālim* justice in addition to his regular duties, why were the two institutions so often separated? Calling on a *ṣāhib al-mazālim* who did not hold *qāḍī* functions at the same time usually signaled a strategy to assert one power at the expense of the other.

AN INSTRUMENT OF CENTRAL AUTHORITY

In the early °Abbāsīd era, the institution of *mazālim* was regularly used by the caliphate as a means to affirm (or reaffirm) authority. In the Iraqī *amṣār*, *aṣḥāb al-mazālim* were appointed mainly in times of crisis. Initially, the *mazālim* may have helped legitimize new powers. In southern Iraq, landed property seemed to be deeply affected by the revolution: the land of the Marwānids, in particular, was confiscated and redistributed to °Abbāsīd family members.¹³ Land claims were countless in the following years – as some tried to take possession of land while others protested against expropriations that they considered to be unfair – and the establishment of local *mazālim* courts therefore likely gave the dynasty the means to control discontent and tensions which might fuel rebellion. According to Wakī°, the governor of Kūfa, °Isā b. Mūsā, appointed °Abd Allāh b. Shubruma to the town *mazālim* court, while he assigned judicial responsibilities to Ibn Abī Laylā.¹⁴ According to Ibn Qutayba, however, Ibn Shubruma’s jurisdiction extended primarily to the *sawād* of this *miṣr* (i.e. the surrounding countryside), and he acted in al-Manṣūr’s name.¹⁵ Yet, Ibn Sa°d considers that the governor entrusted him with *qaḍā’ arḍ al-kharāj*.¹⁶ Such a strange jurisdiction appears to be unique in the history of Iraq; it implies that Ibn Shubruma was in charge of dealing with specific rural conflicts at that time. A little later, in Baṣra, the caliph al-Mahdī assigned *mazālim* duties to the *qāḍī* °Ubayd Allāh b. al-Ḥasan al-°Anbarī (in office from 156/773 to ca 166/782–3¹⁷). This role is also mentioned in a rural context: under the caliph’s mandate, the *qāḍī* may have rendered several decisions on the status of nearby land parcels.¹⁸

What is more, the appointment of a *ṣāhib al-mazālim* made it possible for the caliphate to reinstate its authority when confronted with a *qāḍī*’s excessive autonomy or noncompliance with the official ideology of the ruling power. After defying al-Mahdī’s instructions, °Ubayd Allāh b. al-Ḥasan was himself subjected to *mazālim* procedures. Summoned on appeal by a plaintiff, al-Mahdī ordered the °*āmil* of Baṣra to call a meeting of the local *fuqahā’* to look into one of his decisions.¹⁹ The *qāḍī*’s excessive independence and charismatic personality left their mark on Baṣra’s memory,²⁰ and it is no coincidence that a *ṣāhib al-mazālim* was appointed

at the end of his office or early during the next one. It was to replace the image of an uncooperative justice system with one that was more dependent on central power. His successor, Fazāra b. °Imrān, is remembered as an idiot,²¹ which may reflect the fact that public opinion understood the political stakes of such a rearrangement and proceeded to discredit him.

This interpretation is confirmed by several events during the *miḥna*. The period of inquisition was particularly critical for *qāḍīs*, who had to adhere to the official dogma of the creation of the Qur°ān. The caliph, in an effort to restore his authority, weakened by the traditionalist movement, was determined to affirm his control over the judicial system and through it, over the whole of society²². The *maẓālim* played an important role in the struggle for authority. The judicial system in Damascus was at one time neglected, to the benefit of the *maẓālim* institution. Under al-Mu°taṣim (r. 218–27/833–42), the *qāḍī* Muḥammad b. Yaḥyā b. Ḥamza was dismissed, but he was not replaced by another *qāḍī* until the arrival of al-Mutawakkil. Instead, the chief *qāḍī*, Aḥmad b. Abī Du°ād – head of the *miḥna* – appointed two *ṣāḥib al-maẓālim* successively, Abū Muslim al-Naṭ°ī and Yaḥyā b. al-Ḥasan al-Ṭabarānī.²³ According to al-Dhahabī, al-Ma°mūn had ordered the governor of Damascus to impose the *miḥna* on the *qāḍī* Muḥammad b. Yaḥyā; the latter had acknowledged the dogma of the created Qur°ān and agreed to put his *shuhūd* to the test. But he was also actively involved in tribal rivalries between Yamanīs and Qaysīs in Damascus and surrounding areas, and was biased in his handling of justice.²⁴ On the other hand, despite his acknowledgment of the created Qur°ān, there may be reason to believe that he was closer to traditionalist circles than it seemed. He was indeed known as a traditionalist²⁵ and his father, who had long held judicial functions in Damascus before him, was also a well-known *muḥaddith*, a disciple of al-Awzā°ī and Makḥūl.²⁶ Indeed, the *miḥna* affected mostly scholars who were part of this movement. He may have acknowledged the doctrine in order to retain his dominant political position; since the civil war, the *ashrāf* in Damascus had reached a high level of local autonomy and, from 213/828, al-Mu°taṣim (heir apparent and later caliph) strove to restore central authority in the territory.²⁷ Replacing a *qāḍī* suspected of disloyalty by a *ṣāḥib al-maẓālim* under the direct control of the caliphate was a convenient tool to implement his policy.

The *maẓālim* institution also contributed to the restoration of central authority in Fuṣṭāṭ. It began to develop after the fourth *fitna*, when Egypt acquired de facto autonomy. In 211/826, the judicial system was first suspended for two years. The *qāḍī* Ibrāhīm b. al-Jarrāḥ, appointed in the midst of the civil war, aroused the wrath of the *amīr* °Abd Allāh b. Ṭāhir,

who had come to bring peace to Egypt on behalf of the caliph. The letter of surrender he had written on behalf the rebel governor °Ubayd Allāh b. al-Sarī was too forceful for the Ṭāhirid *amīr*, whom the letter bade to swear that he would divorce his wife and free his slaves if he broke the safe conduct he had granted °Ubayd Allāh. Ibrāhīm b. al-Jarrāḥ was dismissed, but not replaced: instead °Abd Allāh b. Ṭāhir appointed a *mazālim* judge in the person of °Aṭṭāf b. Ghazwān.²⁸ As it had done in Damascus, the *qādīs*' justice system vanished, just before the beginning of the *mihna*, in 215/830. Once again, the judicial system was a danger for the caliphate. The *qāḍī* Ibn al-Munkadir, who was close to the *aṣḥāb al-ḥadīth* and early pietists, was indeed influenced by a group of “*ṣūfiyya*” who “commanded right and forbade wrong”, to the point that he dared to write al-Ma°mūn to protest against the appointment of Abū Ishāq al-Mu°taṣim as governor of Egypt.²⁹ It was more than the ruling power was willing to bear: Ibn al-Munkadir was dismissed, imprisoned and exiled to Iraq, and the judicial system – whose unreliability was gradually confirmed – was suspended, to be replaced by the sole *mazālim* – held on behalf of the governor by Muḥammad b. °Abbād. Evidently, such ‘political’ justice, symbolically orchestrated by the sovereign, was neither popular, nor universally considered as legitimate: when he took office in 217/832, Hārūn b. °Abd Allāh al-Zuhrī revoked many of the judgments that Ibn °Abbād had rendered.³⁰

THE MAZĀLIM AND PROVINCIAL AUTONOMY

The powers that emerged following al-Mutawakkil's caliphate also used the *mazālim* to impose their authority. At the central level, al-Muwaffaq foreshadowed a transfer of power to the *amīr al-umarā°*, and then to the Sultans. In the wake of a serious crisis in Sāmarrā°, he took control of his brother, the caliph al-Mu°tamid (r. 256–79/870–92). For several decades, the appointment of the empire's *qādīs* clearly depended upon the caliphate. But the dangerous Zanj revolt, which ravaged the south of Iraq from 255/869, prompted the regent to intervene directly in the judicial system.³¹ Shortly before the takeover of the city by the rebels in 257/871,³² the renowned polygraph Ibn Qutayba was appointed *ṣāḥib al-mazālim* in Baṣra. He was not selected by the caliphal administration but by the office of al-Muwaffaq, who had his own secretaries – including Ṣā°id b. Makhlad, who almost certainly encouraged the appointment.³³ The objective was to strengthen the central authority – represented by al-Muwaffaq – to face up to growing unrest in the central territories.

The *mazālim*, however, represented primarily the autonomy of provincial powers. When Ibn Ṭūlūn settled in Egypt, a *qāḍī* appointed by the

caliphate, Bakkār b. Qutayba, was already in power. The *amīr* imposed his autonomy de facto, but never attempted to dismiss him, even at the end of his reign, when it became obvious that the *qāḍī* would not confer upon him the legitimacy that he needed. He had him imprisoned, but did not officially relieve him of his judicial duties; he simply ordered him to delegate his duties to a vicar.³⁴ Justice was an essential component of the ruling power, and Ibn Ṭūlūn developed the *mazālim* into a competing judicial institution: he frequently presided over hearings, to the point where the people of Fustāṭ completely gave up on Bakkār, who, they said, would doze off out of boredom during court sessions.³⁵ In earlier times, the *mazālim* alternative had been a reminder of the primacy of the caliph's justice; now the institution symbolized the supremacy of the *amīr*'s justice. Under Khumārawayh, who succeeded Ibn Ṭūlūn, it was no longer necessary for the ordinary judicial system to compete with the *mazālim*: for seven years, no *qāḍī* was assigned by the caliphate in Egypt; only a *ṣāhib al-mazālim* (Muḥammad b. °Abda) was appointed by Khumārawayh. When the war between the latter and al-Muwaffaq came to an end,³⁶ ordinary judgeship was given to Muḥammad b. °Abda, whose position was officially recognized by the caliphate.³⁷ Now in the hands of a single man, the ordinary judgeship and the *mazālim* became the expression of the autonomous Ṭūlūnid power. The *mazālim* also contributed to maintaining their authority in Syria: a *ṣāhib al-mazālim*, °Abd (or °Ubayd) Allāh b. al-Faṭḥ, was sent to Damascus following an episode of civil disorder.³⁸ The city's governor, Sa°d al-A°sar (or al-Aysar), winner of the Battle of the Mills,³⁹ had been assassinated in 273/886–7 or 275/888–9 by Khumārawayh (personally, some say) for having criticized him. The population of Damascus, however, were very attached to their governor and they immediately responded by revolting.⁴⁰ It was thought that the appointment of a *ṣāhib al-mazālim* alongside the *qāḍī* Abū Zur°a – who was devoted to the Ṭūlūnids – would help solve the crisis. Ultimately, the *mazālim* helped the Ṭūlūnids maintain a semblance of justice while their power was failing. After Jaysh b. Khumārawayh was deposed in 283/896,⁴¹ a civil war forced the *qāḍī* Muḥammad b. °Abda to go into hiding and the judgeship was vacant for a few months.⁴² The Ṭūlūnids therefore temporarily entrusted the *mazālim* to a Turk, Ibn Ṭughān.

The governor, Muḥammad b. Sulaymān, reappointed Muḥammad b. °Abda when the °Abbāsīd power was restored in 292/905 in Egypt, possibly in an effort to facilitate the transition between the two regimes and allow defendants to be judged by someone they knew.⁴³ But here sources cease to mention the *mazālim*, a sign that they no longer played an essential role. It was not until the Ikhshīdids came to power that the *mazālim* came

back into the spotlight: from 324/936 to 327/939, al-Ikhshīd entrusted them to a renowned jurist, Ibn al-Ḥaddād, while al-Ḥusayn b. Abī Zur°a was in charge of the ordinary judgeship. This twofold justice system was, in many respects, reminiscent of Ibn Ṭūlūn’s policy. The *qāḍī* was formally appointed by one of the leading *qāḍīs* in Baghdad⁴⁴ and he reported to the caliphate. By restoring the *mazālim* in his own name, al-Ikhshīd was preparing for new Egyptian autonomy. The following verse is part of a poem distributed with the plaintiffs’ petitions at Ibn al-Ḥaddād’s hearing: “You exercised power without any official appointment, and you rendered your decision without any deed!”⁴⁵ A number of people in Fustāt understood the scheme and blamed the jurist for his contribution to an illegitimate activity.

The two-party judicial scheme was subsequently repeated several times. In 331/943, °Atīq b. al-Ḥasan was entrusted with the *mazālim*, while al-Kishshī was supposed to practice “ordinary justice”. Though the circumstances of their assignments remain rather obscure, it is likely that, once again, al-Ikhshīd tried to compete with a justice system reporting to a *qāḍī* in Baghdad.⁴⁶ Under Kāfūr, the relationship between the ordinary and *mazālim* courts seemed to function as it had under Khumārawayh nearly a century earlier: in 340/951, the governor became the only person able to appoint *qāḍīs* in Fustāt.⁴⁷ He was therefore able to entrust the judgeship and the *mazālim* to a single man, °Abd Allāh b. Muḥammad b. al-Khaṣīb: from then on, justice came only from the *amīr*. When, a few years later, Kāfūr began to render judgments on his own – thus taking away the *mazālim* duties from his *qāḍī*, Abū Ṭāhir al-Dhuhlī – the power struggle with Baghdad was no longer an issue: Abū Ṭāhir, a prominent jurist from Baṣra, had basically been imposed on the *amīr* by the notables in Fustāt. Just as Ibn Ṭūlūn had done, Kāfūr referred most plaintiffs to the *mazālim* and kept the upper hand on justice.⁴⁸ When they arrived in Egypt, the Fāṭimids did not change the system. They sensed that it would be dangerous to revoke the popular Abū Ṭāhir al-Dhuhlī, but on the other hand, the Ismā°ilī caliphate could not apply only Sunni justice; therefore, al-Mu°izz named a *ṣāhib al-mazālim* to practice justice according to the Ismā°ilī doctrine. He competed so well with the *qāḍī* that many professional witnesses left Abū Ṭāhir and joined him, and he soon pretended to the title of “*qāḍī* of Miṣr and Alexandria”.⁴⁹

To the population, justice was the most concrete image of a regime that they usually had little contact with. As a result of their established knowledge and their role in the ‘Islamic’ management in the city, *qāḍīs* were a powerful instrument of political legitimization, but they were difficult to control. The freedom of practice claimed by some was a threat to



the interests and even to the authority of their principals. Furthermore, in the second half of the 3rd/9th century, following the development of provincial autonomy, the judicature became subject to competition between the caliphate and the governors. Different powers used the *maẓālim* to get around the ordinary judgeship when they could not control it: sometimes entrusted to the *qāḍī* as lesser duties, the *maẓālim* could become important when the rulers wanted to remind everyone that justice ultimately came from them – thus proclaiming their sovereignty. Despite the importance of the *ṣāhib al-maẓālim*, sources are relatively silent on the subject: al-Kindī mentions them in his biographies of ordinary *qāḍīs* but never describes them individually. The few paragraphs dedicated to some *ṣāhibs al-maẓālim* by Ibn Ḥajar are insignificant compared to those he wrote about *qāḍīs*.⁵⁰ The authors' deliberate oversight may reflect an intention to minimize the weight of a 'political justice' that biographers considered to be illegitimate.

Qāḍīs as instruments and victims of state violence

JUDGESHIP AS A POLITICAL TOOL

Major political strategies hid behind both the exercise of appointing *maẓālim* to provinces and the relationship they maintained with the ordinary judgeship. The careers of individual *qāḍīs* and the importance given to them in the sovereign justice of *maẓālim* are proof of the stakes at hand. In the aftermath of the °Abbāsīd revolution, *qāḍīs* became privileged instruments of the regime. The popular recognition they enjoyed as scholars and judges helped strengthen the dynasty, especially at times when political affairs hurt the ideal of justice on which relied the dynasty's legitimacy. A number of caliphs in the early °Abbāsīd era presided over *maẓālim* courts themselves and received their subjects' complaints. Even if al-Rashīd delegated *maẓālim* duties to the Barmakids Yaḥyā and Ja°far⁵¹ for a while, caliphal justice was generally entrusted to *qāḍīs*. Al-Ḥasan b. °Umara, *qāḍī* of Baghdad, also acted as a *maẓālim* judge for al-Manṣūr.⁵² Under al-Amīn, Muḥammad b. °Abd Allāh al-Anṣārī was assigned to the position in 193/809, shortly after he had practiced as an ordinary judge in Baṣra.⁵³ During the *miḥna*, the chief *qāḍī*, Aḥmad b. Abī Du°ād, was also entrusted with the *maẓālim*⁵⁴ before his son Abū l-Walīd⁵⁵ then Yaḥyā b. Aktham succeeded him.⁵⁶ In the late 3rd and early 4th centuries, while *maẓālim* were more and more in the hands of the vizierate, they were still entrusted to a number of *qāḍīs*: Yūsuf b. Ya°qūb was appointed in 277/890–1, while practicing officially as

a judge in Baṣra,⁵⁷ and Abū ʿUmar, *qāḍī* of al-Sharḳiyya and ʿAskar al-Mahdī, was appointed in 306/918–19.⁵⁸

The *ṣāhib al-mazālim*'s role was more bureaucratic than the *qāḍī*'s. Differing from the rules of ordinary hearings, the presence of both parties was not required in the *mazālim* court, and the plaintiff generally handed in a written petition (*ruqʿa* or *qiṣṣa*) which had already been processed by the administration⁵⁹. This explains why many of the early *mazālim* judges had no other experience in law. Under al-Mahdī, some were administrators, such as the *mawlā* Sallām⁶⁰ or ʿUmar b. Muṭraf, who was also responsible for the *dīwān al-kharāj*.⁶¹ They may even have written answers to petitions for minor cases. When cases were more serious however, they only examined them before handing them over to the caliph or a *qāḍī* for judgment. When an ordinary individual filed a complaint against one of al-Mahdī's *wakīls*, Sallām did no more than bring the request to the caliph, who in turn handed it over to one of the two *qāḍīs* of ʿAskar al-Mahdī, ʿĀfiya b. Yazīd and Ibn ʿUlātha.⁶² *Qāḍīs* were the image of justice, and the caliphate therefore relied on them as much as possible.

The mere act of assigning *qāḍīs* to *mazālim* courts was a form of manipulation – showing that the sovereign's justice and God's "decree" (*qaḍāʾ*) were one and the same – yet some *qāḍīs* were used even without having been officially entrusted with *mazālim* duties. Many times, it was in the interests of the state to eliminate existing or potential opponents. While many of them spent their lives in the caliphs' jails, without any form of trial, it was important that the law appear to be respected. It was therefore sometimes preferable to have opponents tried and convicted by regular *qāḍīs*. Al-Manṣūr arrested large numbers of ʿAlīds, whose rebellious intentions he feared,⁶³ but things were more complicated when the suspect was a high-ranking official. In 155/772, suspecting the ḥasanid governor of Medina, al-Ḥasan b. Zayd, of preparing a riot, the caliph ordered ʿUbayd Allāh b. Muḥammad b. Ṣafwān al-Jumaḥī, *qāḍī* in Baghdad, to bring him to trial. The governor was accused of dualistic religious beliefs when a plaintiff claimed that he believed in "a heavenly god and an earthly one", the latter of whom had vested him with the caliphate.⁶⁴ Although it cannot be formally proven, the prosecution may have been entirely fabricated, since political trials were such common practice at that time. As an example, ʿAbd Allāh b. Marwān, one of the last heirs to the Umayyad dynasty,⁶⁵ was in hiding in Yemen when governor Naṣr b. Muḥammad b. al-Ashʿath had him captured and sent to al-Manṣūr.⁶⁶ Al-Mahdī first intended to bring him to Syria and force him to officially relinquish his position of heir apparent – and therefore his

claim to the caliphate – but it was feared that the local Syrian population would support him.⁶⁷ Instead, he chose to eliminate him under the guise of legality. The caliph organized a trial presided over by the *qāḍī* °Āfiya b. Yazīd.⁶⁸ An individual named °Amr b. Sahla al-Ash°arī accused °Abd Allāh b. Marwān of killing his father. Al-Mahdī had no doubt that the *lex talionis* would be applied against the culprit, in keeping with the law. But the trial took an unexpected turn when an ordinary citizen came at the last moment before the *qāḍī* and confessed the murder.⁶⁹ °Abd Allāh b. Marwān could no longer be convicted, so al-Mahdī had him bound and shackled and sent to the Muṭbaq prison, where he eventually died.⁷⁰ Justice was not the primary objective of this trial – the man whose confession should have resulted in a conviction was acquitted because, it was said, he had acted by order of Marwān II, the last Umayyad caliph. The trial had served as legal background to a political maneuver.

Assignments to the *maẓālim* were also a way of organizing political trials. The best example is the complaint investigated by Aḥmad b. Riyāh, *qāḍī* of Baṣra from 223/837 to 239/853, against the governor, Ja°far b. al-Qāsim.⁷¹ The people of Baṣra objected to his violent temper and numerous abuses.⁷² The *qāḍī* was entrusted with the *maẓālim*⁷³ and when the *amīr* was relieved of his duties he had to stand trial. The *qāḍī* did not organize a big trial; he simply reopened the governor's file each time a complaint was lodged against him in ordinary court. The governor was summoned to appear before the court on a daily basis, to avoid the trouble of having to be fetched at each accusation. In fact, the man ended up waiting in a corner of the mosque to be called to face his accusers. This type of trial was very humiliating. The deposed *amīr* was permanently exposed to the public eye, including the lowest classes of society.⁷⁴ Were Ja°far b. al-Qāsim's crimes against his own people serious enough to warrant such a procedure? Possibly. But other governors were just as guilty, yet they were not forced to endure such disgrace. The caliph al-Wāthiq actually had other reasons to dismiss and humiliate the governor. Ja°far b. al-Qāsim was indeed guilty of a much more serious political crime: he had composed a *hiġā'* about al-Wāthiq, in which he had actually claimed the caliphate for himself.⁷⁵ Al-Wāthiq, who was perhaps the most zealous disciple of the *miḥna*,⁷⁶ could not let that go unpunished. It is no coincidence that the *maẓālim* institution officially served that purpose: the *qāḍī* was used symbolically to remind everyone of the limits of the caliph's tolerance.

QĀDĪS APPEARING BEFORE THE MAZĀLIM COURTS

While *qādīs* were the instruments of violence justified by reason of state, their reliability and cooperation were becoming increasingly uncertain. At the beginning of the 3rd/9th century, the intellectual and religious authority claimed by the *ahl al-ḥadīth*, as well as the written law established by the emerging *madhhabs*, made it easier for many of them to claim more freedom from their principals. During the *miḥna*, *qādīs* were both promoters of the official doctrine and prime suspects of insubordination. By establishing the judgeship as the crux of the caliphal policy, governing powers ran the risk of strengthening the *qādīs*' authority at their own expense. Should the *qādīs* be given too much freedom with regard to the dogma, the fragile attempt to preserve the caliphate's authority would be destroyed from within. The *mazālim* were therefore positioned as a competing institution, in an effort to isolate the *qādīs* when necessary (see above). Indeed, several people tried in *mazālim* courts were *qādīs*.

Qādīs usually went through special indictment procedures called *iqāma li-l-nās*, where individuals were ordered by the sovereign to appear before the crowd, even when no complaint had been lodged against them. In this way, their trial was made public – the sitting judge could be the sovereign, a governor, a delegate to the *mazālim* or a *qādī* – and anyone who wished to complain was invited to come forward and file suit against the accused.⁷⁷ Although sources do not always clearly associate *iqāma li-l-nās* with *mazālim* courts, their common characteristics – ex officio actions, trials held by order of political authorities, formal accusations of high-ranking officials – clearly reveal that both were expressions of a single sovereign justice. The procedure was already in use at the end of the 2nd/8th century, when the *qādī* of Fustāt, ʿAbd al-Malik b. Muḥammad al-Ḥazmī (170–74/786–91⁷⁸), was the object of a damning report from the local *ṣāhib al-barīd*, infuriated at the *qādī*'s refusal to let him intercede on behalf of a plaintiff. Hārūn al-Rashīd therefore ordered the Egyptian governor to have him publicly displayed to a vindictive crowd (*an yūqifa l-Ḥazmī li-l-nās*)⁷⁹ Saved by the favor of a cheering crowd, the *qādī*, however, was forced to resign.⁸⁰ This type of public display was also used during the *miḥna* and during the 'purge' that followed. As early as 214/829, the *qādī* of Fustāt, ʿĪsā b. al-Munkadir, was subjected to this type of procedure by order of the governor, Abū Ishāq al-Muʿtaṣim, who blamed him for his close contacts with traditionalist groups and his opposition to al-Maʿmūn's policy. People came in great numbers to lodge complaints against the *qādī*, who was jailed and replaced by a *ṣāhib al-mazālim* – perhaps the very judge who sat at his trial.⁸¹ At the end of the

miḥna, the *qāḍī* of al-Sharqiyya (al-Karkh district court in Baghdad), °Abd Allāh b. Muḥammad al-Khalanjī, was also forced to face the crowd by his successor. A disciple of Ibn Abī Du°ād, he had distinguished himself by his steadfastness during the *miḥna*, going as far as to pronounce the divorce of a woman whose husband refused the doctrine of the created Qur°ān.⁸² This *iqāma li-l-nās* aimed to help calm the crowds and symbolically marked the end of the inquisition.

Two examples show how *qāḍīs*' trials at the *mazālim* could appear as a simulacrum of justice serving the state. At the beginning of al-Mu°taṣim's reign, an individual accused the *qāḍī* of Baṣra, °Īsā b. Abān, of physically mistreating him during the hearing, to the point where he lost his eyesight. He appealed to the caliph, who ordered the *faqīh* °Ubayd Allāh b. Muḥammad b. °Ā'isha to look into the complaint – and hold de facto a one-time *mazālim* court. The hearing took place at the Great Mosque, in front of a large crowd, and °Īsā b. Abān succeeded in turning the situation to his advantage. He began by stating his requirements: he would only appear in the presence of both the governor and local *ṣāhib al-barīd*. Taking advantage of the crowd's rush into the mosque, he made everyone wait and came in discreetly through the muezzins' entrance, in an effort to set himself apart from ordinary defendants. Eventually, the presiding *faqīh* made the mistake of sitting on an ordinary seat in the mosque, instead of sitting next to the column (*sāriya*) traditionally reserved for *qāḍīs*; °Īsā b. Abān did not miss the opportunity to declare ironically that he should change places if he had indeed been appointed as a judge. In short, the *qāḍī* demonstrated publicly that he was the only real judge, and the procedure came to a dead end.⁸³ Was it a coincidence? °Īsā b. Abān was a Ḥanafīte, close to the ruling power and Mu°tazilite circles,⁸⁴ and, with the *miḥna* in progress, al-Mu°taṣim was not really eager to see him convicted. Not only did the governor of Baṣra and the *ṣāhib al-barīd* come to the hearing, but their secretaries recorded all verbal exchanges: political pressure was such that the inexperienced *faqīh* temporarily appointed as a *ṣāhib al-mazālim* could not examine the case properly. The trial was staged to demonstrate the piousness and justice of the central power. The second example is that of Bakkār b. Qutayba, *qāḍī* of Fuṣṭāṭ in the second half of the 3rd/9th century. Infuriated by the *qāḍī*'s refusal to lay a curse on the regent al-Muwaffaq as he had requested, Ibn Ṭūlūn ordered him to appear before the *mazālim* (*aqāmahu li-l-nās*),⁸⁵ and offered the people of Fuṣṭāṭ an opportunity to challenge some of the *qāḍī*'s decisions. Although he defended himself admirably and no formal charges could be made against him, he was assigned to house arrest until the *amīr*'s death.⁸⁶

THE QĀḌĪ'S WORD

The *iqāma li-l-nās* procedure used against dissident *qāḍīs* is reminiscent of the *tashhīr* used against people convicted of perjury.⁸⁷ The main objective of these humiliating episodes of ignominious parading or public exposure to vindictive crowds was to ruin a person's reputation.⁸⁸ Such procedures may have echoed the warning attributed by Islamic tradition to the caliph ʿUmar in his famous letter to Abū Mūsā al-Ashʿarī: "He who tries to embellish himself in the eyes of men, though Allāh knows he is not, Allāh shall tear his veil (*hataka llāh sitrahu*) and reveal his actions (*abdā fi'lahu*)." These words may have been said with regards to a dishonest *qāḍī*.⁸⁹ His public exposure was specifically intended to "tear off his veil" and damage his status of "*mastūr*", defined as a respectable man whose life is "hidden" from the public eye.⁹⁰ The procedure took on a special meaning during the *miḥna*, when *qāḍīs* themselves were used to harm the reputation of opponents to the doctrine of the created Qurʾān, who were excluded from ʿ*adāla*. The goal of the *miḥna* was to discredit their word, and consequently weaken their influence.⁹¹ A *qāḍī*'s words were very significant, due to the performative nature of his judgments. The *iqāma li-l-nās* therefore publicly disallowed those *qāḍīs* likely to openly oppose the regime. Bakkār b. Qutayba's trial is a prime example. His opposition to Ibn Ṭūlūn and his refusal to lay curse on al-Muwaffaq could only be curtailed by an episode of public humiliation that would symbolically discredit his statements.

The support of the *qāḍī* was necessary, but it was a double-edged sword. The authority conferred upon him by the people could undermine the ruling power. The intimidating aspect of *qāḍīs* came from the performative and binding nature of their judgments, which were very difficult to reverse. Much diplomacy was needed to take advantage of the *qāḍīs*' position and, at the same time, remain flexible enough to prevent the negative effects of their authority and challenge or ignore it. The safest way to deal with *qāḍīs* was to ask them for *fatwās* – only advice – rather than final and binding judgments. The presence of *qāḍīs* at *mazālim* hearings that they did not preside over goes back a long time. In the second half of the 2nd/8th century, al-Mahdī held court in the presence of *qāḍīs*, supposedly conferring more legitimacy on his decisions.⁹² Al-Maʾmūn also sat in the presence of his chief *qāḍī*, Yaḥyā b. Aktham.⁹³ But it was not until the beginning of the 4th/10th century that this – merely advisory – method of legitimizing decisions became widespread in *mazālim* courts. Since the latter part of the 3rd/9th century, the *mazālim* had been more and more entrusted to viziers.⁹⁴ *Qāḍīs*, however,

never ceased to play a key role, as they were the only experts in law and justice who could confer some legitimacy on the viziers' decisions. A *qāḍī*'s words were more flexible when he acted as a *muftī* in trials directly presided over by political authorities; when contrary to the interests of the ruling power, his advice was rejected; when favorable, it was regarded as decisive.

Such manipulative practices existed as early as the 3rd/9th century. In 231/846, al-Wāthiq had the traditionalist al-Khuzā'ī executed, as advised by °Abd al-Raḥmān b. Ishāq al-Ḍabbī, *qāḍī* of West Baghdad, and in spite of the chief *qāḍī* Aḥmad b. Abī Du'ād's reservations.⁹⁵ The best example, however, is that of al-Ḥallāj. Tried once for his religious views and his involvement with various dissident groups, his case was reopened in 309/922 by Ḥāmid b. °Abbās, vizier of al-Muqtadir.⁹⁶ The second trial appeared in every way as a political trial. It was the result of a conflict, within the civil administration, between the current vizier and his predecessor, °Alī b. °Īsā, who opposed Ḥāmid b. °Abbās' tax policies, among other things. Al-Ḥallāj's conviction was a way to discredit °Alī b. °Īsā, a protector of the well-known mystic.⁹⁷ Yet, to be seen as fair, the judgment had to be based on the counsel of a recognized *qāḍī*. At first, Abū Ja°far Aḥmad b. Ishāq b. al-Buhlūl al-Tanūkhī (the Ḥanafī *qāḍī* of Madīnat al-Manṣūr) was asked to cooperate: the vizier asked him to issue a *fatwā* against the accused but he refused to do so, on the grounds that no legal evidence of his guilt had been provided.⁹⁸ So the vizier turned to the Mālīkī Abū °Umar (*qāḍī* of al-Sharqiyya and East Baghdad), who agreed to speak in favor of al-Ḥallāj's death sentence.⁹⁹ By reducing the *qāḍī* to a mere adviser – whose opinion was easily manipulated – rulers again used the legal system to serve their policies.

During the reign of al-Muqtadir one more *qāḍī*, Abū °Umar, continued to practice *maẓālim* justice for a while, in 306/918–19. His role in the institution was limited, however, since that same year the *qahramāna* Thaml was also appointed to the *maẓālim* court and held hearings at al-Ruṣāfa. Like the viziers who were now frequently entrusted with such duties, she sat surrounded by *fuqahā'* and *qāḍīs*.¹⁰⁰ The role of *muftī* played in the *maẓālim* courts by some *qāḍīs* may have increased their independence by lessening the influence of their dictates; since their individual opposition to ongoing political schemes was always subject to being offset by another *fatwā*, they incurred fewer sanctions than their predecessors. In 311/923 the vizier Abū l-Ḥasan b. al-Furāt summoned the *qāḍīs* Abū °Umar and Abū Ja°far al-Tanūkhī to attend the prosecution hearing against his predecessor, °Alī b. °Īsā, whom he accused of conspiring with the Carmathians. But the vizier's arguments were too weak and the two *qāḍīs* refused to

write the requested *fatwās*.¹⁰¹ Despite such occasional setbacks, the ruling authorities never ceased to instrumentalize *qāḍīs*' statements during political trials. In 326/938, the *fatwā* given by the chief *qāḍī*, Abū l-Ḥusayn °Umar b. Abī °Umar, made it possible for the *amīr al-umarā°*, Ibn Rā°iq, to eliminate Ibn Muqla, the last of the leading °Abbāsīd viziers: the *qāḍī*'s legal opinion was enough to justify punishing the vizier-calligrapher, whose hand was cut off.¹⁰²

Conclusion

As the highest body representing sovereign justice, the *mazālim* were intended as an essential tool for the legitimation of the °Abbāsīd dynasty, whose "revolution" could only be justified by a concern for the restoration of justice, viewed as flouted by the Umayyads. It should not be doubted that they most often accomplished the purpose of "rectifying prejudices". The institution's ideological façade, however, also served to hide some forms of state violence. On the symbolic level, the institution contributed to an affirmation of a sovereign authority within provincial jurisdictions. The caliphate used the courts to resist the aspiration to independence of some *qāḍīs*, especially in the first half of the 3rd/9th century; controlled by the local authorities, the courts later contributed to the enfranchisement of autonomous dynasties such as those of the Ṭūlūnids or the Ikhshīdids. Their role in the affirmation or maintenance of a political order made the *mazālim* a privileged instrument of coercion and physical violence insofar as they represented a political justice guided by the immediate interests of the rulers or the state.

Such state violence takes on its full meaning only in light of the °Abbāsīd court system as a whole, and the justice of the *qāḍīs* in particular. To consider *mazālim* justice as 'secular' as opposed to the 'religious' justice of the *qāḍīs*¹⁰³ would be inconsistent with that time. Not only did the caliph's justice appear as religious,¹⁰⁴ but the dialectical relationship between the regular judgeship and *mazālim* reflects as much their complementarities as their interchangeability. For the authorities, only the close association of the *qāḍīs* with the *mazālim* courts could remove suspicions of political bias and vest their judgments with legitimacy, which is why *qāḍīs* were repeatedly trusted with temporary or standing *mazālim* mandates.

On the other hand, the *qāḍīs*' submissiveness was sometimes disturbed by a sense of allegiance to higher values. If *qāḍīs* somehow failed to faithfully execute the sovereign will, the *mazālim* could turn into a concurrent jurisdiction capable of circumventing or temporarily superseding the

normal judicial channels. The crisis of authority which shook the caliphate at the beginning of the 3rd/9th century and the ensuing *miḥna* even overturned the positions of several *qāḍīs*, who appeared as defendants before such tribunals and whose credibility was publicly denounced through the *iqāma li-l-nās* procedure. The example of the Egyptian *qāḍī* Ibn al-Munkadir is perhaps the most significant: by joining a group of *Ṣūfiyya* who claimed to “command right and forbid wrong”, exercise authority over the public domain and moralize the caliph, he agreed to challenge the state monopoly on coercive force. Exposure of the *qāḍī* to the crowd was not enough: a clear boundary between public and private spheres needed to be reasserted. This was done by temporarily substituting the *mazālim* for the judiciary. In the second half of the 3rd/9th century, in the context of a systematic codification of the *fiqh* and the emergence of *madhhabs*, the instrumentalization of *qāḍīs* by central authorities became too random to ensure that they should continue to administer the sovereign’s ultimate justice. The increased role played by the viziers with respect to the *mazālim* was thus linked to more than a general strengthening of the vizierate: increased attention by Sunni lawyers to judicial procedures, the status of the *qāḍīs* and their relationship to power consolidated the institution from within and made their instrumentalization much less predictable. As the *qāḍīs*’ authority was necessary to legitimize a violence which was, in fact, nothing more than reasons of state, it was necessary to incorporate them in another way in *mazālim* justice: the *muftī* function, which permitted the relativization of their authority, was the only one which offered the degree of flexibility sought by the °Abbāsīd rulers. It is precisely because the *qāḍīs* began at that time to administer justice “toward and against all”¹⁰⁵ that the post of judge in the *mazālim* durably escaped them.

Notes

1. E. Tyan, *Histoire de l’organisation judiciaire en pays d’Islam* (Leiden: Brill, 1960), 463–4. On *mazālim*, other references are: H. F. Amedroz, “The Mazalim Jurisdiction in the Ahkam Sultaniyya of Mawardi,” *JRAS*, 1911, 635–74; D. Sourdel, *Le vizirat °abbāsīde* (Damascus: IFD, 1959–60), 2:640–8; J. Schacht, *Introduction au droit musulman*, tr. P. Kempf and Abdel Magid Turki (Paris: Maisonneuve et Larose, 1983), 50; J. Nielsen, *Secular Justice in an Islamic State: Mazālim under the Bahrī Mamlūks, 662/1264–789/1387* (Leiden: Nederlands Historisch-Archaeologisch Instituut te Istanbul, 1985), 1–11; *EI2*, s.v. Mazālim, 6:933–4 (J. Nielsen); M. Shapiro, “Islam and Appeal,” *California Law Review* 68 (1980), 366–8; D. S. Powers, “On Judicial Review in Islamic Law,” *Law and Society Review* 26 (1992), 316; M. H. Kamali, “Appellate Review and Judicial Independence in Islamic



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- Law,” in *Islam and Public Law*, ed. Ch. Mallat (London: Graham and Trotman, 1993), 62.
2. Al-Māwardī, *al-Aḥkām al-sultāniyya* (Beirut: Dār al-Kutub al-ʿIlmiyya, 1985), 97–119; Ibn al-Farrāʿ, *al-Aḥkām al-sultāniyya*, ed. Muḥammad Ḥāmid al-Faqī (Beirut: Dār al-Fikr, 1986), 73–90. See Nielsen, *Secular Justice*, 17ff.
 3. L. Massignon, *La Passion de Husayn Ibn Mansūr Hallāj* (Paris: Gallimard, 1975), 1:436; Tyan, *Histoire*, 497; Sourdel, *Le vizirat ʿabbāside*, 2:646.
 4. Tyan, *Histoire*, 441, 443.
 5. Sourdel, *Le vizirat ʿabbāside*, 2:640–8; Nielsen, *Secular Justice*, 1–11. The most important exception is Tyan (*Histoire*, 491ff.), who studied this institution in pre-Fāṭimid Egypt.
 6. Tyan, *Histoire*, 489–90; Shapiro, “Islam and Appeal,” 366.
 7. Tyan, *Histoire*, 438, 464. In the 6th/12th century, al-Shayzarī did not remember that *qāḍīs* in earlier times may have held high positions in *mazālim* courts. See al-Shayzarī, *al-Minhāj al-maslūk fī siyāsat al-mulūk* (al-Zarqāʿ: Maktabat al-Manār, 1987), 562ff.
 8. Wakīʿ, *Akhbār al-quḍāt*, 2:91; al-Ṣafadī, *al-Wāfi bi-l-wafayāt*, ed. Aḥmad al-Arnāʿūṭ and Turkī Muṣṭafā (Beirut: Dār Iḥyāʿ al-Turāth, 2000), 19:244.
 9. Wakīʿ, *Akhbār al-quḍāt*, 2:92.
 10. *Ibid.*, 2:175.
 11. Under al-Muqtadir, a budget of 439,000 *dirhams* allocated to the provincial *mazālim* leads us to believe that the institution was well established at that time. See Ibn al-Jawzī, *al-Muntaẓam fī tawārīkh al-mulūk wa-l-umam*, ed. Suhayl Zakkār (Beirut: Dār al-Fikr, 1995), 7:384.
 12. See M. Tillier, “La société au miroir du tribunal. Égalité juridique et hiérarchie sociale,” *AI* 42 (2008), forthcoming.
 13. M. G. Morony, “Landholding and Social Change: Lower al-ʿIrāq in the Early Islamic Period,” in *Land Tenure and Social Transformation in the Middle East*, ed. T. Khalidi (Beirut: American University of Beirut, 1984), 216.
 14. Wakīʿ, *Akhbār al-quḍāt*, 3:124.
 15. Ibn Qutayba, *al-Maʿārif*, ed. Tharwat ʿUkāsha (Cairo: Dār al-Maʿārif, 1969), 470.
 16. Ibn Saʿd, *al-Ṭabaqāt al-kubrā* (Beirut: Dār Ṣādir, 1988), 6:350.
 17. Tillier, “Un traité politique du II^e/VIII^e siècle,” 141.
 18. Wakīʿ, *Akhbār al-quḍāt*, 2:92.
 19. *Ibid.*, 2:96. The *fuqahāʿ* finally supported the *qāḍī*. Under al-Mutawakkil, a decision rendered by the Egyptian *qāḍī* al-Ḥārith b. Miskīn was also looked into by a *fuqahāʿ* commission ordered by the caliph. See Ibn Ḥajar, *Rafʿ al-iṣr*, 124 (tr. Tillier, *Vies des cadis*, 50–1).
 20. J. van Ess, “La liberté du juge dans le milieu basrien du VIII^e siècle,” in *La notion de liberté au Moyen Age: Islam, Byzance, Occident* (Paris: Les Belles Lettres, 1985), 28ff.; Tillier, “Un traité politique du II^e/VIII^e siècle,” 144.
 21. Ibn al-Jawzī, *al-Ḥamqā*, 77, 93.

22. F. Jad[°]ān, *al-Miḥna: baḥṭh fī jadaliyyat al-dīnī wa-l-siyāsī fī l-islām* (°Ammān: Dār al-Shurūq, 1989), 279–80.
23. Ibn °Asākīr, *Ta°rīkh madīnat Dimashq*, 67:224, 64:117–18.
24. Al-Dhahabī, *Ta°rīkh al-islām*, 17:349.
25. Ibn Ḥajar, *Lisān al-mīzān*, 5:422.
26. Ibn Ṭūlūn, *Quḍāt Dimashq al-Thaghr al-bassām fī dhikr man wulliya qaḍā° al-Shām*, ed. Ṣalāḥ al-Dīn al-Munjid (Damascus: al-Majma° al-°Ilmī al-°Arabī, 1956), 13–14.
27. P. M. Cobb, *White Banners: Contention in °Abbasid Syria, 750–880* (Albany: State University of New York Press, 2001), 96–7.
28. Al-Kindī, *Akhbār quḍāt Miṣr*, 430–2. See G. Wiet, *L'Égypte arabe de la conquête arabe à la conquête ottomane* (Paris: Plon, 1937), 71; H. Kennedy, “Egypt as a Province in the Islamic Caliphate,” in *The Cambridge History of Egypt*, ed. C.F. Petry (Cambridge: Cambridge University Press, 1998), 1:81.
29. In another version, they encouraged him to complain about the *kharāj* tax collectors. Cf. al-Qāḍī °Iyād, *Tarīb al-madārik*, 2:583. See M. Cook, *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000), 384. Such was the attitude of traditionalists who protested against state authority and asserted their own authority in law enforcement. See Jad[°]ān, *al-Miḥna*, 280–1. Cf. I. Lapidus, “The Separation of State and Religion in the Development of Early Islamic Society,” *IJMES* 6 (1975), 376ff. The *ṣūfiyya* mentioned here may have been members of the *ṣūfiyyāt al-mu°tazila*, who considered that the function of Imam was not necessary to enforce the law. On this group, see Jad[°]ān, *al-Miḥna*, 268–9; P. Crone, “Ninth-Century Muslim Anarchists,” *Past and Present* 167 (2000), 12ff.
30. Al-Kindī, *Akhbār quḍāt Miṣr*, 440–1; Ibn Ḥajar, *Raf° al-iṣr*, 299.
31. M. Tillier, *Les cadis d’Iraq à l’époque °abbāsīde: organisation administrative et rapports au pouvoir (132/750–334/945)* (PhD Université Lyon 2, 2004), 108.
32. See A. Popovic, *La Révolte des esclaves en Iraq au III°/IX° siècle* (Paris: Geuthner, 1976), 99.
33. *EI2*, s.v. al-Muwaffaq, 7:820 (H. Kennedy).
34. Ibn Ḥajar, *Raf° al-iṣr*, 107 (tr. Tillier, *Vies des cadis*, 70).
35. Ibn Ḥajar, *Raf° al-iṣr*, 106 (tr. Tillier, *Vies des cadis*, 67). Cf. Tyan, *Histoire*, 476.
36. Wiet, *L’Égypte arabe*, 104.
37. Ibn Ḥajar, *Raf° al-iṣr*, 383 (tr. Tillier, *Vies des cadis*, 72).
38. Ibn Ḥajar, *Raf° al-iṣr*, 388 (tr. Tillier, *Vies des cadis*, 79); Ibn °Asākīr, *Ta°rīkh madīnat Dimashq*, 20:408; 31:399.
39. The battle, which took place in 271/885 between the armies of Khumārawayh and the future al-Mu°taḍid, made it possible for the Ṭūlūnids to recover a leading position in Syria. See Wiet, *L’Égypte arabe*, 103; *EI2*, s.v. *Khumārawayh*, 5:49 (U. Haarmann).



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40. Ibn °Asākir, *Ta°rikh madīnat Dimashq*, 20:407–8; al-Dhahabī, *Ta°rikh al-islām*, 20:354–5.
41. Z. M. Hassan, *Les Tulunides. Étude de l'Égypte musulmane à la fin du IX^e siècle, 868–905* (Paris: Établissements Busson, 1933), 136.
42. Ibn Ḥajar, *Raf° al-iṣr*, 385–6 (tr. Tillier, *Vies des cadis*, 76).
43. Justice was frequently a way to ensure a peaceful transition between two regimes. See Tillier, *Les cadis d'Iraq à l'époque °abbāsīde*, 85ff.
44. Ibn Ḥajar, *Raf° al-iṣr*, 144 (tr. Tillier, *Vies des cadis*, 143). Cf. Tillier, *Vies des cadis*, 24.
45. Ibn Ḥajar, *Raf° al-iṣr*, 336 (tr. Tillier, *Vies des cadis*, 134).
46. Tillier, *Vies des cadis*, 24.
47. *Ibid.*, 24–5.
48. Ibn Ḥajar, *Raf° al-iṣr*, 328 (tr. Tillier, *Vies des cadis*, 177).
49. Ibn Ḥajar, *Raf° al-iṣr*, 199.
50. *Ibid.*, 267, 360.
51. Sourdel, *Le vizirat °abbāsīde*, 2:442.
52. Al-Khaṭīb, *Ta°rikh Baghdād*, 14:107; Ibn °Asākir, *Ta°rikh madīnat Dimashq*, 64:260.
53. Sourdel, *Le vizirat °abbāsīde*, 2:442. See Ibn Qutayba, *al-Ma°ārif*, 384; al-Khaṭīb, *Ta°rikh Baghdād*, 5:409; Ibn al-Jawzī, *al-Muntaẓam*, 6:12.
54. Ibn Khallikān, *Wafayāt al-a°yān*, ed. Iḥsān °Abbās (Beirut: Dār Ṣādir, 1994), 1:86.
55. Al-Khaṭīb, *Ta°rikh Baghdād*, 1:314; Ibn al-Jawzī, *al-Muntaẓam*, 6:473; Ibn al-Athīr, *al-Kāmil*, 7:65.
56. Al-Ṭabarī, *Ta°rikh al-umam wa-l-mulūk* (Beirut: Dār al-Kutub al-°Ilmiyya, 1997), 5:314; Ibn Khallikān, *Wafayāt al-a°yān*, 1:85.
57. Al-Ṭabarī, *Ta°rikh*, 5:598; Ibn al-Jawzī, *al-Muntaẓam*, 7:225; al-Qāḍī °Iyāḍ, *Tarīb al-madārik*, 3:184.
58. Ibn al-Jawzī, *al-Muntaẓam*, 8:12.
59. Tyan, *Histoire*, 443, 470.
60. Wakī°, *Akhbār al-quḍāt*, 3:255; See Tyan, *Histoire*, 485.
61. Al-Khaṭīb, *Ta°rikh Baghdād*, 1:87; al-Jahshiyārī, *K. al-Wuzarā° wa-l-kuttāb* (Beirut: Dār al-Fikr al-Ḥadīth, 1988), 106. Al-Mahdī also appointed as *ṣāhib al-mazālim* °Abd al-Raḥmān b. Ṭābit b. Thawbān, well known for his ascetism (see al-Khaṭīb, *Ta°rikh Baghdād*, 10:223; Ibn °Asākir, *Ta°rikh madīnat Dimashq*, 34:250). Among those who were not *qāḍīs* at the same time, we note the following: al-Ḥusayn b. al-Ḥasan b. °Aṭīyya al-°Awfī, under al-Mahdī; he was *qāḍī* in Baghdad but later, under al-Rashīd (al-Khaṭīb, *Ta°rikh Baghdād*, 8:30); Ismā°il b. Ibrāhīm b. Muqsim Abū Bishr al-Asadī, known as Ibn °Aliyya, at the end of Hārūn al-Rashīd's reign (Ibn Sa°d, *al-Ṭabaqāt al-kubrā*, 7:325; Ibn Qutayba, *al-Ma°ārif*, 520; al-Khaṭīb, *Ta°rikh Baghdād*, 6:229–30); Muḥammad b. Ibrāhīm b. al-Rabī° al-Anbārī, appointed in 237/851–2 (al-Khaṭīb, *Ta°rikh Baghdād*, 1:299); Muḥammad b. °Imrān al-Ḍabbī, under al-Mu°tazz (al-Ṭabarī, *Ta°rikh*,



- 5:419); Muḥammad b. Ya°qūb Abū Rabī°, under al-Mutawakkil (al-Ṭabarī, *Ta°rikh*, 5:314).
62. Al-Ṭabarī, *Ta°rikh*, 4:586.
63. H. Kennedy, *The Early Abbasid Caliphate: A Political History* (London-Sydney: Croom Helm, 1981), 66.
64. Wakī°, *Akhbār al-quḍāt*, 3:250. See *EI2*, s.v. al-Ḥasan b. Zayd b. al-Ḥasan, 3:244 (F. Buhl).
65. Al-Ziriklī, *al-A°lām*, 4:137.
66. Al-Balādhurī, *Ansāb al-ashrāf*, ed. Suhayl Zakkār and Riyāḍ Ziriklī (Beirut: Dār al-Fikr, 1996), 9:326; al-Ṭabarī, *Ta°rikh*, 4:354.
67. On the pro-Ummayyad unrest in Syria at the beginning of the °Abbāsīd era, see Cobb, *White Banners*, 43ff.
68. °Āfiya b. Yazīd al-Awdī was *qāḍī* of °Askar al-Mahdī beginning in 161/777–8. See Wakī°, *Akhbār al-quḍāt*, 3:251; al-Khaṭīb, *Ta°rikh Baghdād*, 12:303.
69. Al-Ṭabarī, *Ta°rikh*, 4:560.
70. Al-Balādhurī, *Ansāb al-ashrāf*, 9:326. On the Muṭbaq, the Baghdad prison where inmates were tied up at the bottom of wells, see E. Tyan, *Institutions du droit public musulman* (Paris: Sirey, 1954), 1:414.
71. Ja°far b. al-Qāsim b. Ja°far b. Sulaymān b. °Alī al-°Abbāsī was governor of Baṣra under al-Wāthiq. See al-Ṣafadī, *al-Wāfi bi-l-wafayāt*, 11:123. Some say he may have been appointed earlier as governor of Medina, in 209/824–5. See al-Basawī, *al-Ma°rifā wa-l-ta°rikh*, ed. Akram Ḍiyā° al-°Umarī (Beirut: Mu°assasat al-Risāla, n.d.), 1:197.
72. Wakī°, *Akhbār al-quḍāt*, 2:177–8.
73. *Ibid.*, 2:175.
74. *Ibid.*, 2:178, 179.
75. Al-Ṣafadī, *al-Wāfi bi-l-wafayāt*, 11:123.
76. T. El-Hibri, “The Image of the Caliph al-Wāthiq: a Riddle of Religious and Historical Significance,” *Quaderni di Studi Arabi* 19 (2001), 47.
77. Cf. Tyan, *Institutions du droit public musulman*, 1:418.
78. Ibn Ḥajar, *Raf° al-iṣr*, 254.
79. The verb *awqafa* here is a synonym of *aqāma*, mentioned in the next line. See also Wakī°, *Akhbār al-quḍāt*, 3:300: the author tells how al-Wāthiq, in the latter years of his reign, “would display to the crowd” the disciples of Ibn Abī Du°ād (*waqafa aṣḥābahu li-l-nās*).
80. Al-Kindī, *Akhbār quḍāt Miṣr*, 384; Ibn Ḥajar, *Raf° al-iṣr*, 255.
81. Al-Kindī, *Akhbār quḍāt Miṣr*, 441; al-Qāḍī °Iyāḍ, *Tartīb al-madārik*, 2:583–4.
82. Wakī°, *Akhbār al-quḍāt*, 3:290–1.
83. Al-Ṣaymarī, *Akhbār Abī Ḥanīfa wa-aṣḥābihi* (Beirut: °Ālam al-Kutub, 1985), 150–1.
84. M. Bedir, “An Early Response to Shāfi°i: °Isā b. Abān on the Prophetic Report (*khabar*),” *ILS* 9 (2002), 288–92.

85. The use of both terms in the same sentence reveals the close connection between the *iqāma li-l-nās* procedure and the *mazālim* institution.
86. Ibn Ḥajar, *Rafʿ al-iṣr*, 106–7 (tr. Tillier, *Vies des cadis*, 68–70); al-Balawī, *Sīrat Aḥmad b. Ṭūlūn*, ed. Muḥammad Kurd ʿAlī (Cairo: Maktabat al-Thaqāfa l-Dīniyya, n.d.), 316–18. On the crisis which led Ibn Ṭūlūn to lay a curse on al-Muwaffaq, in Damascus, in the spring of 269/883, see Z. M. Hassan, *Les Tulunides*, 88; Th. Bianquis, “Derrière qui prieras-tu, vendredi?,” *Bulletin d’Etudes Orientales* 37–8 (1985–6), 18; idem, “Autonomous Egypt,” in *The Cambridge History of Egypt*, ed. C. F. Petry, 1:101.
87. Ch. Lange, “Legal and Cultural Aspects of Ignominious Parading (*tashhīr*) in Islam,” *ILS* 14 (2007), 94ff.
88. At the end of the *miḥna*, al-Mutawakkil condemned the *qādī* of Fuṣṭāṭ, Ibn Abī l-Layth to such ignominious parading. See al-Kindī, *Akhbār quḍāt Miṣr*, 465.
89. Al-Jāḥiẓ, *al-Bayān wa-l-tabyīn*, ed. ʿAbd al-Salām Hārūn (Tunis: Dār Saḥnūn, 1990), 2:49.
90. Cf. Y. Lev, *Charity, Endowments, and Charitable Institutions* (Gainesville: University Press of Florida, 2005), 10–11. “Tearing up the veil” of respectability was a very serious act, as al-Sarakhsī observed in *al-Mabsūṭ* (Beirut: Dār al-Maʿrifa, n.d.), 9:85 (I owe this reference to Ch. Lange): the defamatory accusation of fornication (*qadhf*) is a crime (*jarīma*) for “it tears up in vain (*min ghayr fāʿida*) the veil of virtue (*sitr al-ʿiffa*)”.
91. Jadʿān, *al-Miḥna*, 279–80.
92. Sourdel, *Le vizirat ʿabbāsīde*, 2:641; Tyan, *Histoire*, 477.
93. Al-Bayhaqī, *al-Maḥāsīn wa-l-masāwī* (Beirut: Dār Ṣāḍir, 1970), 497ff.; Ibn al-Jawzī, *al-Muntaẓam*, 6:79–80.
94. Sourdel, *Le vizirat ʿabbāsīde*, 2:643–4.
95. Al-Ṭabarī, *Taʾrīkh*, 5:282–3; Ibn al-Jawzī, *al-Muntaẓam*, 6:393; Ibn al-Athīr, *al-Kāmil*, 7:21–2. Cf. Ibn ʿAbd Rabbih, *al-ʿIqd al-farīd*, ed. Aḥmad Amīn, Aḥmad al-Zīn and Ibrāhīm al-Abyārī (Cairo: Maktabat al-nahda al-miṣriyya, 1953), 2:465. See El-Hibri, “The Image of the Caliph al-Wāthiq,” 49ff.
96. Sourdel, *Le vizirat ʿabbāsīde*, 2:414.
97. *EI2*, s.v. al-Ḥallādjī, 3:103 (L. Massignon/L. Gardet); D. Sourdel, *L’État impérial des califes abbassides* (Paris: PUF, 1999), 195. Cf. H. Bowen, *The Life and Times of ʿAlī ibn ʿĪsā ‘The Good Vizier’* (London: Cambridge University Press, 1927), 194–5.
98. Al-Hamadhānī, *Takmilat Taʾrīkh al-Ṭabarī*, in *Dhuyūl Taʾrīkh al-Ṭabarī*, ed. Muḥammad Abū al-Faḍl Ibrāhīm (Cairo: Dār al-Maʿārif, n.d.), 219.
99. Miskawayh, *Tajārib al-umam*, ed. H.F. Amedroz (Oxford, 1920–1), 1:80–1; ʿArīb b. Saʿd al-Qurṭubī, *Ṣīlat Taʾrīkh al-Ṭabarī*, in *Dhuyūl Taʾrīkh al-Ṭabarī*, 83; Ibn al-Jawzī, *al-Muntaẓam*, 8:30.
100. Ibn al-Jawzī, *al-Muntaẓam*, 8:12; al-Dhahabī, *Siyar aʿlām al-nubalāʾ*,

ed. Shu^ʿayb al-Arnā^ʿūṭ and Muḥammad Nu^ʿaym al-^ʿArqasūsī (Beirut: Mu^ʿassasat al-Risāla, 1413/[1992–3]), 15:49. See Tyan, *Histoire*, 489. When he presided over the *mazālim* court, the vizier ^ʿAlī b. ^ʿĪsā was also surrounded by *qāḍīs*. See Hilāl al-^ʿŠābi^ʿ, *al-Wuzarā^ʿ tuḥfat al-umarā^ʿ fī tārikh al-wuzarā^ʿ*, ed. ^ʿAbd al-Sattār Aḥmad Farāj ([Cairo]: Dār Iḥyā^ʿ al-Kutub al-^ʿArabiyya, 1958), 369.

101. Hilāl al-^ʿŠābi^ʿ, *al-Wuzarā^ʿ*, 317–19. Cf. Sourdel, *Le vizirat ^ʿabbāsīde*, 2:416–17; Bowen, *The Life and Times of ^ʿAlī ibn ^ʿĪsā*, 210–11.
102. Al-Hamadhānī, *Takmilat Ta^ʿrīkh al-Ṭabarī*, 315. Cf. Sourdel, *Le vizirat ^ʿabbāsīde*, 2:556.
103. Tyan, *Histoire*, 510; Shapiro, “Islam and Appeal,” 366.
104. P. Crone and M. Hinds, *God’s Caliph: Religious Authority in the First Centuries of Islam* (Cambridge: Cambridge University Press, 1986), 80ff. Cf. Powers, “On Judicial Review in Islamic Law,” 336.
105. Tyan, *Histoire*, 493.