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been in charge of land tax in his city.⁶⁰ Later, however, Sulaymān ibn Bilāl received a letter in which Yahyā ibn Sa'īd complained that he could not understand some of the litigations brought before him in court and that, in such cases, he did not know which judgement to pass. He requested the secret assistance of another Medinese jurist, Rabī' al-Ra'y (d. 136/753).⁶¹ Although Wakī is silent about the nature of these problematic cases, we can suppose that Yahyā ibn Sa'īd's Medinese legal training was inapplicable to many aspects of Iraqi society.

The second example is from about 145/762, when the Egyptian jurist and qāḍī Ghawth ibn Sulaymān (d. 168/785) went to Iraq and was asked by the caliph al-Manṣūr to arbitrate on a matrimonial conflict between him and his wife, Umm Mūsā. Subsequently, the caliph proposed to appoint him qāḍī of Kufa. Ghawth ibn Sulaymān protested that he was not from that city (*balāḍ*) and that he knew nothing about its inhabitants. According to al-Kindī, Ghawth was appointed qāḍī of Kufa, but after a while people stopped attending his court, and he was dismissed.⁶² According to Ibn 'Asākir, however, al-Manṣūr accepted his excuse of not being familiar with the city and never appointed him to Kufa; this is probably closer to the truth, because Ghawth ibn Sulaymān does not appear in Wakī's list of Kufan judges.⁶³ The first 'Abbāsīd caliph supported, to a certain extent, the ancient Egyptian school of law, and several leading Egyptian scholars were attracted to Baghdad.⁶⁴ However, even though al-Manṣūr appealed to an Egyptian jurist to arbitrate his personal litigations, he could hardly appoint such a 'stranger' as a qāḍī to a major Iraqi city. If he actually did, as al-Kindī maintains, the appointment failed, because the Kufans would not accept a judge who could not understand the particularities of their society.

3.3. A question of legal doctrine: central authority versus local interests

In several instances, the delegations sent to the caliph opposed the promotion of proto-Hanafī qāḍīs, not only because they were 'strangers' unable to understand local cases, but also because of their legal doctrine. The notables were attached to their local traditions and were not ready to accept a qāḍī belonging to a different legal trend. Some feared that such a judge would seriously disrupt

60. On this scholar, see Ibn Sa'd, *al-Ṭabaqāt al-kubrā* (Beirut, 1968), 5:420; al-Mizzī, *Tahdhīb al-kamāl* (Beirut, 1980), 11:372-5; al-Dhahabī, *Siyar a'lām al-nubalā'* (Beirut, 1981-1988), 7:425-7.
61. Wakī, *Akhbār al-quḍāt*, 3:242; al-Khaṭīb, *Ta'riḥ Madīnat al-Salām*, 16:558. See also al-Nubāhī, *Ta'riḥ quḍāt al-Andalus* (Beirut, 1983), 10. On Rabī' al-Ra'y, see al-Ziriklī, *al-A'lām* (Beirut, 1997), 3:17; Ibn Khallikān, *Wafayāt al-a'yān* (Beirut, 1994), 2:288.
62. Al-Kindī, *Akhbār quḍāt Miṣr*, 376.
63. Ibn 'Asākir, *Ta'riḥ Madīnat Dimashq* (Beirut, 1995), 48:101.
64. See Tillier, 'Les premiers' cadis de Fustāt'.

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Near East. Ed. Philip Wood (Oxford UP, 2013)

the urban order and harm the people's material interests. When the caliph al-Mahdī consulted the delegation of Basrans in 167/783-4, one of them suggested the appointment of a local scholar, Muḥammad ibn 'Abd Allāh al-Anṣārī (d. 215/830),⁶⁵ and praised him for his qualities, but another member of the delegation contradicted him, saying:

'He spoke truly, and indeed he has all these qualities. However, this advice is not wise, because this man follows Abū Ḥanifa and inclines towards his opinions (*ra'yū-hu*). Yet, we have in our city rules (*ahkām*) that Abū Ḥanifa considers invalid, but which are the only ones suitable for us. If he judged our litigations on the ground of rules other than our own, our rules would become void, and our goods would be lost'—he seemed to be alluding to the pious foundations.⁶⁶

It was eventually another scholar, faithful to the Basran legal tradition, who was appointed by the caliph. This story shows that at the end of the eighth century, the representatives of the Basran people regarded the doctrine of the Kufan Abū Ḥanifa as a foreign one.⁶⁷ Despite divergences between local circles of jurists, they were all more or less united around a local common practice, especially regarding the administration of pious foundations. Abū Ḥanifa contested the validity of permanent pious foundations established for relatives (*waqf ahli*), which could be used to evade Islamic law on inheritance. According to him, a *waqf* was valid only if the founder established it as from the moment of his death,⁶⁸ moreover, only the descendants of the founder who had already been procreated by the time the founder died were entitled to a share in the revenues of the foundation. When these descendants died, their shares had to be transferred to indigent people, so that no more than two or three generations could benefit from the revenue of a pious foundation.⁶⁹ If such family foundations were a traditional practice in Basra, the prosperity and wealth of many Basrans would have been threatened by a proto-Hanafī qāḍī.⁷⁰

The elite of Fustat also rejected a proto-Hanafī qāḍī coming from Iraq, Ismā'īl ibn Alisa' (164-7/781-4). He wanted to apply the same rule in Egypt and

65. On this proto-Hanafī scholar, who became qāḍī in Basra in 191-2/806-7 and from 198/813 until 202/817-8, see Wakī, *Akhbār al-quḍāt*, 2:151, 157; al-Ṣaymarī, *Akhbār Abī Ḥanīfa* (Beirut, 1985), 164; al-Khaṭīb, *Ta'riḥ Madīnat al-Salām*, 3:405-10; Ibn Abī l-Wafā', *al-Jawāhir al-muḍīyya*, ed. 'Abd al-Fattāḥ Muḥammad al-Hulw (Cairo, 1993), 3:199-203.
66. Wakī, *Akhbār al-quḍāt*, 2:131. Cf. Ibn Hajar, *Tahdhīb al-tahdhīb* (Beirut, 1984), 7:424.
67. See Tsafir, *The History*, 34; see also Melchert, 'The Formation of the Sunnī Schools', 363.
68. R. Peters, 'Waqf', *Elz*.
69. Al-Khaṣṣāf, *Ahkām al-awqāf* (Beirut, 1999), 94.
70. Tsafir, *The History*, 34. On Abū Ḥanifa's opposition to *waqfs*, see also P. Hennigan, *The Birth of a Legal Institution: The Formation of the Waqf in Third-Century A.H. Hanafī Legal Discourse* (Läiden, 2004), xix.