been in charge of land tax in his city. Later, however, Sulaymân ibn Bilia received a letter in which Yahyâ ibn Sa‘id 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, Râbî‘ al-‘Râ‘ (d. 136/753). Although Wâkit is silent about the nature of these problematic cases, we can suppose that Yahyâ ibn Sa‘id’s Medinese legal training was inapplicable to many aspects of Iraqi society.

The second example is from about 145/762, when the Egyptian jurisprudent and qâdis Ghawth ibn Sulaymân (d. 168/785) went to Iraq and was asked by the caliph al-Manṣûr to arbitrate on a matrimonial conflict between a rich man and his relative, Umm Mûsâ. Subsequently, the caliph proposed to appoint him qâdi of Kufa. Ghawth ibn Sulaymân protested that he was not from that city (balad) and that he knew nothing about its inhabitants. According to al-Kindi, Ghawth was appointed qâdi of Kufa, but after a while stopped attending his court, and he was dismissed. According to Ibn ‘Asâkir, however, al-Manṣûr 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 Sulaymân does not appear in Wâkit’s list of Kufan judges. The first ‘Abbâsid caliphs supported, to a certain extent, the ancient Egyptian school of law, and several leading Egyptian scholars were attracted to Baghdad. However, even though al-Manṣûr appealed to an Egyptian jurisprudent to arbitrate his personal litigations, he could hardlyappoint such a ‘stranger’ as a qâdi to a major Iraqi city. If he actually did, as al-Kindi maintains, the appointment failed, because the Kufan 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–Hanafî qâdis, 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 qâdi belonging to a different legal trend. Some feared that such a judge would seriously disrupt the urban order and harm the people’s material interests. When the caliph al-Mahdi consulted the delegation of Basrans in 167/783–4, one of them suggested the appointment of a local scholar, Muḥammad ibn ‘Abd Allâh al-Anâshîrî (d. 215/830), 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 Abû Ḥanîfa and inclines towards his opinions (ra‘yahu). Yet, we have in our city rules (akhâm) that Abû Ḥanîfa 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.

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 Abû Ḥanîfa as a foreign one. 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. Abû Ḥanîfa contested the validity of permanent pious foundations established for relatives (waqf ‘âhih), 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; 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. If such family foundations were a traditional practice in Basra, the prosperity and wealth of many Basrans would have been threatened by a proto–Hanafî qâdi.

The elite of Fustat also rejected a proto–Hanafî qâdi coming from Iraq, Ismâ‘îl ibn Alisa (164–7/781–4). He wanted to apply the same rule in Egypt and...