



Bulletin d'études orientales

LXIII | 2015

Le pluralisme judiciaire dans l'Islam prémoderne -
Année 2014

Local Judicial Authorities in Umayyad Egypt (41-132/661-750)

Lucian Reinfandt



Electronic version

URL: <http://journals.openedition.org/beo/3228>

DOI: 10.4000/beo.3228

ISSN: 2077-4079

Publisher

Presses de l'Institut français du Proche-Orient

Printed version

Date of publication: 1 April 2015

Number of pages: 127-146

ISBN: 978-2-35159-707-1

ISSN: 0253-1623

Electronic reference

Lucian Reinfandt, « Local Judicial Authorities in Umayyad Egypt (41-132/661-750) », *Bulletin d'études orientales* [Online], LXIII | 2015, Online since 01 April 2017, connection on 23 April 2019. URL : <http://journals.openedition.org/beo/3228> ; DOI : 10.4000/beo.3228

Local Judicial Authorities in Umayyad Egypt (41-132/661-750)

Lucian REINFANDT

Abstract: The first two centuries of Muslim rule over Egypt form a key period for what were to become Islamic courts under the Abbasids. This era witnessed the gradual development of a specialised judiciary that became increasingly independent of Umayyad administrators and local elites. Recent studies have dealt with such local forms of jurisdiction and the emergence of Islamic courts as institutions. The following article builds on this past work, but continues in a different direction as it aims to clarify methods of conflict resolution. These included covert processes that went beyond official rules and institutions. Arabic and Greek papyri abound in documents that were produced on behalf of, or were addressed to, heads of districts in their function as administrators of justice. The narrative parts of these documents reveal a handling of grievances that was heavily reliant on elaborate modes of communication. The documents similarly show a high degree of acceptance among the population — both literate officials and illiterate subjects — of the role of written documents in the settlement of legal conflict.

Keywords: Egypt, Palestine, legal institutions, early Islam, local elites, bureaucratic centralisation, papyrology.

Résumé : Les deux premiers siècles de la domination musulmane sur l'Égypte constituent une période clef pour comprendre l'origine des tribunaux islamiques sous les Abbassides. Cette époque vit la transformation d'une juridiction essentiellement placée sous l'autorité d'administrateurs omeyyades et d'élites locales en un système judiciaire spécialisé. Des études récentes ont traité de ces formes de juridictions locales et de l'émergence des tribunaux islamiques du point de vue institutionnel. Le présent article prolonge ces résultats dans une direction différente : il se propose de clarifier les pratiques réelles de résolution des conflits, qui incluaient des processus plus souterrains que ce que préconisent les règles officielles et les institutions. De nombreux papyrus arabes et grecs furent produits par des chefs de districts agissant en tant que responsables de la justice, ou leur furent adressés. Les éléments narratifs de ces documents montrent que le traitement des plaintes reposait sur des modes de communication élaborés. Les papyrus suggèrent par ailleurs que la population — tant les fonctionnaires lettrés que les sujets analphabètes — acceptait largement le rôle des documents écrits dans le cadre de la résolution des conflits par la voie légale.

Mots-clés : Égypte, Palestine, institutions judiciaires, débuts de l'islam, élites locales, centralisation bureaucratique, papyrologie.

المخلص : شكل القرنان الأول والثاني من الحكم الإسلامي في مصر فترة أساسية لفهم تطور المحاكم الإسلامية في العصر العباسي، إذ شهدت هذه الفترة تحول السلطات القضائية تدريجياً من سلطة تخضع بصورة أساسية لإدارة الدولة الأموية ولللخب المحلية إلى سلطة قضائية متخصصة. وقد تحدثت دراسات حديثة عن ظهور أشكال جديدة من القضاء المحلي ومن المحاكم الإسلامية التي تعتمد نظاماً مؤسسياً. ويشكل هذا المقال استكمالاً لهذه الدراسات ولكن باتجاه مختلف، إذ يتساءل كيف كان يتم على أرض الواقع حل النزاعات بطرق موارد تخبى خلف القواعد الرسمية والمؤسسات. فأصدر رؤساء المقاطعات الكثير من الرسائل والوثائق على البردي، بالعربية وبال يونانية، بصفتهم ممثلين للعدالة. وتظهر العناصر السردية في هذه الوثائق أن معالجة التظلمات كانت تعتمد طرقاً متطورة، بل أن السكان سواءً العاملين الذين يعرفون القراءة والكتابة أو العامة الأميين كانوا يتقبلون على نحو كبير دور الوثائق المكتوبة لتسوية النزاعات قانونياً.

الكلمات المحورية : مصر، فلسطين، المؤسسات القضائية، فجر الإسلام، النخبة المحلية، تمركز البيروقراطية، برديات.

The first two centuries of Muslim rule over Egypt form a key period in the development of what were to become the Islamic courts under the Abbasids. These centuries witnessed the gradual emancipation of a specialised judiciary from a judicial system that had fallen more or less under the responsibility of Umayyad administrators, among them middle-ranking heads of districts (pagarchs, gr. *pagarchós*, ar. *ṣāhib al-kūra*). In this study it is argued that mid- and even low-level administrators exercised justice more independently from the provincial centre than has hitherto been assumed, a conclusion based on a careful re-reading of documentary sources on papyrus. Research for this article was conducted under the auspices of the project “The Language of Power II: Official Epistolography in Islamic Egypt (642-969)” funded by the FWF Austrian Science Fund. The project is part of the National Research Network (NFN) “Imperium and Officium: Comparative Studies in Ancient Bureaucracy and Officialdom” <http://imperiumofficium.univie.ac.at>. The quotation of papyrus editions follows the conventions of the *Checklist of Arabic Documents* http://www.naheer-osten.uni-muenchen.de/isap/isap_checklist/index.html and the *Arabic Papyrology Bibliography of Editions and Research* <http://www.naheer-osten.lmu.de/apb> [accessed 15 May 2013]. Moreover, a comparison of the Egyptian material with contemporary papyri from Umayyad Palestine reveals a development that started in Syria and, with some delay, spread to Egypt and perhaps other parts of the empire. It was characterised by the gradual delegation of judicial competences from higher to lower levels of the administrative hierarchy, which in Egypt resulted in the emancipation, beginning in the early 2nd/8th century, of the Muslim mid- and even low-level administration from the caliphal centre. This development came to a halt only after the concerted efforts at centralisation by the Abbasids at the close of the 2nd/8th century. The judicial emancipation apparently accompanied increased Arab settlement outside the garrison towns and the establishment of Arab Muslim officials in the provincial peripheries after Umayyad administrative reforms beginning under ‘Abd al-Malik (r. 65-86/685-705).¹ Our papyrus sources indicate the important role of written documents in administrative practices, and the general acceptance at an early stage of Islamic civilisation by the general population of written documents as a means for the settlement of legal conflicts.

1. For the administrative reforms by ‘Abd al-Malik b. Marwān and his successors that substituted Arabic for Greek as the language of administration and official documents, the issuing of a new coinage, and the carrying out of cadastral surveys, see SIJPESTEIJN 2007, p. 449-450.

Sources

Émile Tyan's *Histoire de l'organisation judiciaire* (1960) is still a standard reference for the early judicial administration of Islamic lands. However, that author's restriction to literary sources has produced a depiction that is static and even ahistorical in character.² This was, however, unavoidable, given that in Tyan's day many of the documentary texts on papyrus that are available in good editions today had not yet been published. He drew on what was available to him, especially the correspondence of the Umayyad governor Qurra b. Šarīk (r. 90-96/709-714) and the material from the Cairo collection.³ He also made use of Maghrebian documents from the 6th/12th century and consulted the Arabic legal deeds on papyrus available to him.⁴ Moreover he included the copies of documents cited in Arabic chancery manuals like Qalqašandī's and took into account Arabic monumental inscriptions.⁵ Apparently he was well aware of the essential role of documents in the study of early Islamic administration. However, at that time Arabic documentary studies were insufficiently developed for research on the early Muslim judiciary. Perhaps Tyan also lacked access to text editions or even a good card file. Thus he made some irritating remarks, such as his characterisation of Abū Yūsuf's *Kitāb al-Ḥarāğ* as a historical 'document'. However, these do not compromise the value of his book for research on early Islamic judicial institutions.⁶

The following study contrasts Tyan's scenario with the documentary, especially papyrological, evidence from recent editions. From this I hope to present a balanced and accurate picture of judicial institutions and their practice in an emerging Islamic society. This study complements Mathieu Tillier's research on the Abbasid judiciary with regards to chronology and subject matter. While Tillier concentrates mainly on the period after 132/750 and the formation of the *qāḍī* proper, the following discussion will address the pre-Abbasid period and judicial practice before and just after the emergence of a specifically *qāḍī* jurisdiction.⁷ Moreover, it is based on papyrological sources rather than on literary sources of problematic historicity concerning the Umayyad period. The present study focuses on three questions: What authority was charged with the judiciary in the

2. In fact, Tyan was more interested in the institution of the magistrate itself than in historical developments and operating procedures. "Tyan's book, although an indispensable guide for the rules and regulations regarding the *mazālim* court system, lacks a thorough historical survey of these courts" (VAN BERKEL 2011, p. 714 n. 8). In a review of an earlier edition of the book Gustav von Grunebaum points out that Tyan overemphasised the relatively few cases that have been preserved in literary sources to the disadvantage of the many more missing with the lost documentary sources (in: *Journal of the American Oriental Society* 59, 1939, p. 520).

3. *P.Heid.Arab.* I; *P.Cair.Arab.*

4. LÉVI-PROVENÇAL 1928; GROHMANN 1934.

5. Aḥmad b. 'Alī al-Qalqašandī, *Šubḥ al-a'šā*.

6. TYAN 1960, p. 95. TILLIER 2011b, p. 213 n. 1 cites TYAN 1960 and HALLAQ 2005 as fundamental reference works for the history of Islamic magistrates, but one certainly now has to add TILLIER 2009.

7. TILLIER 2009; TILLIER 2011a; TILLIER 2011b. But see his discussion of the pre-Abbasid judiciary in TILLIER 2009, p. 63-95; and his remarks about an Umayyad 'jurisprudence califienne' in his contribution to this volume.

pre-Abbasid period? How was the judicial machinery set in motion? And what does the evidence reveal about the character of Umayyad rule in the provinces?

Competences

Independent *qāḍī*-s, or Islamic magistrates, were a belated achievement in the societies of Islam and came into being no earlier than the early ‘Abbāsīd period — that is, the second half of the 2nd/8th century. Arabic literary sources from the 3rd/9th century date them to the Umayyad and even pre-Umayyad eras, but this seems to be a retro-projection from well-established ‘Abbāsīd institutions.⁸ Islamic tradition claims that the prophet Muḥammad himself sent *qāḍī*-s to conquered lands. The same sources, however, make it clear that these *qāḍī*-s were in fact simply provincial administrators.⁹ Documentary sources never mention *qāḍī*-s earlier than the middle of the 2nd/8th century and confirm that under Umayyad rule judicial tasks and practical legal matters were dealt with by state authorities and officials of the public executive, such as provincial governors, heads of districts, and village headmen. These matters included disputes among private parties as well as criminal offences. It is clear that the literary sources, with good reason perhaps, present a more or less ahistorical perspective. Also apparent is the arbitrary apportionments of judicial competences in the early period.¹⁰

-
8. DONNER 2012, p. xxix. The evolution of the *qāḍī*'s office and the competences of early *qāḍī*-s is discussed in TYAN 1978, p. 373; HALLAQ 2005, p. 34-39. Cf. also COULSON 1964, p. 21-35 and especially TILLIER 2009, p. 63-95. TILLIER 2013, p. 34 takes the 3rd-4th/9th-10th centuries as a starting point for the appearance of *qāḍī*-s beyond the provincial capitals. I am grateful to Mathieu Tiller for giving me insight into his article before final print.
9. HALLAQ 2005, p. 34 referring to Muḥammad b. Ḥalaf Wakī (d. 306/918), *Kitāb Aḥbār al-quḍāt*. Cf. also TILLIER 2009, p. 83-84.
10. TILLIER 2009, p. 63; 75-78; 84. The statement in REINFANDT 2010, p. 663 with reference to DONNER 1986, p. 288, suggesting that *qāḍī*-s are not mentioned in Egyptian papyri from before the 4th/10th century, has to be corrected. The earliest dated explicit mention of a *qāḍī* in the Arabic papyri is in the letter *P.HindsSakkoutNubia* from 141/758 which was sent by the governor of Egypt, Mūsā b. Ka'b, to the King of Nubia (l. 46 *fa-'amartu Ġawṭa bna Sulaymāna qāḍī 'ahli Miṣra an yanẓura fī 'amri-him* "I then instructed Ġawṭ b. Sulaymān, *qāḍī* of the people of Miṣr, to look into their affair"). The next datable papyrus mentioning a *qāḍī* is an inheritance deed from the year 195/811: *P.Cair.Arab.* 51 (l. 12 *qadār al-qāḍī 'Amri [bni Abī Bakrin]* "the decision of the Qāḍī 'Amr b. Abī Bakr"). The next earliest datable reference is in an unpublished letter from the Vienna collection, *P.Vind.inv.* A.P. 2090 (212-215/827-830): it mentions a certain Ḥasan b. Ya'qūb *ḥalīfat* Yaḥyā b. Sa'īd *ḥalīfat al-qāḍī* 'Isā b. al-Munkadir in the Fayyūm. Another papyrus referring to the office of *qāḍī*, *CPR XVI 3* (2nd/8th century or later, according to the editor) seems older but cannot be dated with certainty. *P.David-WeillLouvre* 25 (2nd/8th century), a letter about a lawsuit concerning a slave girl, does not mention a *qāḍī* but indicates that the governor of Alexandria filed the suit (l. 2-4 *fa-l-yaktub ilā Sa'īdin amīri l-iskandariyyati bi-qadā-hu fa-yaqḍī bayn-ī wa-bayna Ṣaddādi bni Sa'īdin fī ḍālīka* "that he may write to Sa'īd the governor of Alexandria concerning his judicial decision. He will decide between myself and Ṣaddād b. Sa'īd in this matter"). Even *P.Utah inv.* 341 (254-272/868-885), currently being prepared for publication by Ahmad Nabil (Minufiya University, Egypt) and containing the minutes of cases that had been brought before an early *mazālim* court, does not explicitly mention the office of a *qāḍī*. Later examples of papyri that do indeed mention *qāḍī*-s are *P.David-WeillLouvre* 22 (3rd/9th century) and *Chrest. Khoury* I 81 (4th/10th century).

“In the first Islamic century the provincial governor was judge”.¹¹ Cases were disposed of by members of the executive on the basis of pre-Islamic customary law together with personal discretion and borrowings from Qur’anic dicta. The corpus of legal texts developed for a specifically Islamic form of law and used as the nucleus of what was later to become the *šarī’a* was not elaborated before the second and third centuries of the Hiğra. But the practical needs of a growing Muslim community inside garrison towns led to the appearance of an official, the *qāḍī*, who specialised in judicial matters. According to tradition, the first *qāḍī* appointed in Egypt was ‘Amr b. al-‘Āṣ. In the following decades, *qāḍī*-s continued to be appointed mostly by the governors in Fuṣṭāṭ or the caliphs in Medina and later Damascus.¹² Umayyad *qāḍī*-s were the governors’ deputies appointed by them and as such were members of the state bureaucracy. Petra Sijpesteijn states that the *qāḍī* as a deputy of the governor in legal matters dealt with legal issues of a public nature whereas questions concerning religious law were dealt with by religious scholars.¹³ It was not before the Abbasids that public *qāḍī*-s coalesced with nascent *šarī’a* circles of a more private nature in an alliance that was to become an organized and specifically Islamic judicial system.¹⁴

Early *qāḍī*-s were entrusted with intra-Muslim conflicts within the Arab army of the garrison towns, which they handled very much in the pre-Islamic Arab tradition of arbitration (*taḥkīm*).¹⁵ Since the reign of Mu‘āwiya I (r. 41-60/661-680) they were also charged with criminal jurisdiction,¹⁶ most of which were covered by Qur’anic norms (*ḥudūd*, sg. *ḥadd*).¹⁷ Early *qāḍī*-s were also responsible for such other tasks as the superintendence of the police and control of the treasury.¹⁸ Umayyad governors were still responsible for the judiciary as well as to the collection of taxes and care for the local, especially agricultural,

-
11. NIELSEN 1985, p. 3 with reference to TYAN 1960, p. 95. Similarly SIJPESTEIJN 2013, p. 204: “Legal decisions and the solution of legal conflicts thus fell under the responsibility of Umayyad administrators”. Joseph Schacht characterised early *qāḍī*-s as “a sort of legal secretaries”; cf. TILLIER 2009, p. 84. According to COULSON 1964, p. 28 the Umayyad Muslim market inspector (*āmil as-sūq*), himself a subordinate of the governor, “possessed limited powers of jurisdiction concerning such things as weights and measures used in the market and petty offences committed there” and thus exercised a “market-place jurisdiction”.
 12. SIJPESTEIJN 2013, p. 86; TILLIER 2009, p. 83-84.
 13. SIJPESTEIJN 2013, p. 204 n. 467, citing Patricia Crone, *God’s Rule. Government and Islam*, New York, 2004, p. 43-44.
 14. NIELSEN 1985, p. 3 with reference to TYAN 1960, p. 120-134, here especially p. 121.
 15. TYAN 1960, p. 64. Cf. however the contribution of Steven JUDD in this volume.
 16. HALLAQ 2005, p. 38.
 17. TYAN 1978, p. 373. Similarly HALLAQ 2005, p. 38: “But since these soldiers inhabited the garrison towns together with their families and fellow tribesmen, the problems that they encountered would most often have related to family status, inheritance and crime — all of which areas were fairly well regulated either by Quranic legislation or tribal customary law” (with reference to Wakī, *Aḥbār al-quḍāt*).
 18. TYAN 1960, p. 123; TILLIER 2009, p. 84. According to HALLAQ 2005, p. 36 early appointees to judicial office were state officials with a whole range of administrative responsibilities such as the police and finances. This is especially well testified for Egypt, where several *qāḍī*-s appointed in Fuṣṭāṭ were charged not only with the task of adjudicating conflicts — the original meaning of *qāḍī* — but also with heading the police. Hallaq adds that the situation seems to have been similar in other parts of the empire (with the exception of Syria). See also the contribution of Maaike van Berkel in this volume.

infrastructure. Tyan observed that there was in fact no difference between the *qāḍī*-s and the governors in regards to their competence.¹⁹ Any real differences were from the geographical and social setting of the offices: the more peripheral the province and the more non-Muslims in it, the less the *qāḍī*-s were involved. Until the time of Hārūn al-Rašīd (r. 170-193/786-809), they seem to have been solitary officials bound and answerable to the imperial capitals (Damascus, Baghdad) and provincial centres (in Egypt: Fuṣṭāṭ, Alexandria, Aswan).²⁰ It was not until the Fatimid caliphate (358-567/969-1171) that a hierarchical apparatus of *qāḍī*-s was established in Egypt, thus spreading their presence throughout the country.²¹ As long as the *qāḍī*-s were concentrated in the provincial centres, other administrators (such as governors and the heads of districts) continued to be in charge of the administration of justice in their districts and territories.²²

However, arbitrary apportionments of judicial competences in the early period should not be understood as indifference. On the contrary, Muslim authorities gave priority to judicial matters early on. As Fred Donner observes, “the fact that the earliest designation for the Islamic era seems to have been *qaḍā’ al-mu’minīn* (‘jurisdiction of the Believers’) strongly suggests that the establishment of an overarching system of justice was in fact a key goal of the new Believers’ regime, as the traditional Islamic sources suggest”.²³ What seems to be a lack of specialisation and professionalization thus turns out to have been good sense and pragmatism on the part of the new Arab administration.²⁴ The majority of the population was still non-Muslim. Also, early Muslim leaders, as the new rulers of lands formerly dominated by the Byzantines and the Sasanians, inherited long traditions of justice in which non-Muslim subjects were accustomed to appeal to rulers directly through petitions. It was only natural to continue this established juridical culture. And appeals to Muslim rulers often were welcome alternatives for non-Muslims to the sometimes biased and corrupt administration of their own established magistrates. Muslim rulers therefore became more and more involved in appeals and increasingly had to delegate cases to their

19. TYAN 1960, p. 95: « La confusion entre les fonctions administratives de gouverneur et les fonctions judiciaires ». Cf. also *ibid.*, p. 64 for arbitrary apportionments already in the days of the prophet Muḥammad.

20. HALLAQ 2005, p. 37-38: “[Early; L.R.] *qaḍā’* was limited in nature ... in terms of both geography and jurisdiction. Geographically, it was restricted to the garrison towns and their inhabitants, and jurisdictionally, to disputes and conflicts that arose among tribal groups whose main occupation was soldiering”. The remark of FOSS 2010, p. 91 that Egypt under Mu‘āwīya’s ‘state’ “had a judiciary headed by the *qadis* for Muslims, while the Egyptian documents make manifest the judicial powers of amirs and pagarchs for the Christian population” should not be understood to imply a systematic division of competences but rather be read as a description of the specific situation of Muslims bound to garrison towns in the first decades of the empire. Also, early *qāḍī*-s were not restricted to intra-Muslim matters but could adjudicate conflicts among non-Muslims as well. Cf. moreover the remark by DONNER 2012, p. xxix: “The adjudication seems to have been carried out by provincial governors or their subordinates (village headmen, for example), not by individuals specially appointed as magistrates”.

21. TYAN 1978, p. 373.

22. SIJPESTEIJN 2013, p. 88 with reference to conflicts among the Christian population of Egypt in the *History of the Patriarchs*; TILLIER 2009, p. 76-77; 83-85.

23. DONNER 2012, p. xxix. For an in-depth discussion of the terms *qaḍā’* and *ḥakam* see TILLIER 2009, p. 79-82.

24. SIJPESTEIJN 2007, p. 455.

judges, who on their part were becoming more and more influenced by the developing private *šarī'a* circles. Governors, and later even the caliphs, increasingly drew back from personal adjudication, leaving justice in the hands of appointees, a development that culminated with Hārūn al-Rašīd's appointment of Abū Yūsuf to the new office of grand judge (*qāḍī al-quḍāt*).²⁵

Procedures

Scholarly opinion concerning the emergence of early Muslim magistrates as an institution is more or less based on, and still predominantly follows, Tyan's work. The situation is different with administrative procedures — that is, the actual machinery of government.²⁶ Because the literary sources are silent or ambiguous about the actual day-to-day working of government, administrative documents preserved on papyrus take on a special value, providing us with the procedural details necessary to supplement, correct, and clarify the obscure accounts of the Arab historians.

The official correspondence related to legal procedures documents that the administrative apparatus started working on request, either by reports from inside the apparatus or by complaints from the city or rural population. Reports and complaints were submitted in written form to higher authorities, many of them fulfilling the features of petitions. Muslim petitioning, although rudimentary in the beginnings, was based on forms that had originated in Ancient Near Eastern Mesopotamia and had continued through Hellenistic and Roman times to Byzantine and Sasanian rule and had been re-established under the Abbasids at the latest. The Egyptian historian al-Kindī (d. 350/961) states that in 135/752 the governor intervened on behalf of an imprisoned soldier. The exact circumstances of the intervention are not clear, but it seems possible that it happened on the basis of a petition or some other intervention by third parties.²⁷ The earliest known Arabic petitions preserved on papyrus in fact date back to the Umayyad period; and numerous administrative writings that describe the proceedings of Umayyad authorities in response to petitions have been preserved as well.²⁸

25. TYAN 1960, p. 120-129; COULSON 1964, p. 28; NIELSEN 1985, p. 3; TILLIER 2009, p. 75.

26. Cf. the remark of TILLIER 2011b, p. 213 that both TYAN 1960 and HALLAQ 2005 keep the reader in ignorance about the actual practice of the institution. Concerning the question of whether or not Muslim judicature, and even the office of the *qāḍī* proper, had been simply taken over from preceding Byzantine and Sasanian models, as has been suggested by Joseph Schacht, Émile Tyan, and Noel Coulson, see the discussion and negative conclusion by TILLIER 2009, p. 68-73. Khaleel Mohammed, "Revisiting Émile Tyan on the Issue of the Early Islamic Judicature", *Islamic Studies* 43 (2004), p. 447-455 came to my attention too late for inclusion in the present study.

27. TYAN 1960, p. 97 with reference to al-Kindī, *Kitāb al-Wulāt wa-kitāb al-quḍāt*, ed. R. Guest, Leiden, 1912, p. 356, 367.

28. The earliest preserved Arabic petitions on papyrus and parchment are *P.Kratchkovski* (100/718-719, Central Asia); *P.Heid.Arab.* II 1 (1st-2nd/7th-8th century, Egypt); and perhaps *CPR XVI 3* (2nd/8th century or later, Egypt). Well-known responses to petitions are to be found among the Greek and Arabic letters of Qurra b. Šarīk (see n. 31 below). The classical source of information about the petitioning system under the Abbasids is TYAN 1960, p. 433-521, which should now be read together with VAN BERKEL 2011 and her contribution to this volume.

To judge from the papyri, it was more often than not the governor in Fustāṭ to whom complaints were directed. The governor, without local knowledge and burdened with an increasing number of cases, delegated them to the mid-level heads of districts, his pagarchs, as chiefs in the actual areas of responsibility.²⁹ Pagarchs, on their part, pursued investigations, normally with the help of subaltern village headmen, secured the complainants' rights, and reported the outcome back to the governor. The procedure is described in narrative sources and seems confirmed by texts in the standard papyrus editions.³⁰ But we have to take into account the unequal distribution of papyrus findings and the still predominant role of the Qurra-letter archive of Aphrodito, which might have been a more exceptional case but preserved to the afterworld. Already Tyan pointed out that complaints were addressed not only to the Umayyad governors, but also to their pagarchs, who, he states, up to the end of the first century of the Hiġra initiated proceedings and exercised jurisdiction independently of the governors when receiving complaints. Only in cases with unsatisfactory outcomes would the complainants launch another complaint (not an appeal!) to authorities superior to the pagarchs, i.e. the governors.³¹ Tyan's statement is consistent with the legal historian Artur Steinwenter's observation, on the basis of Coptic documents from early Islamic Egypt, that pagarchs were the addressees of petitions from the population. They initiated proceedings and exercised jurisdiction in their own regional courts of undoubtedly rustic look and feel. Appeals to supra-regional authorities (the governor), on the other hand, were more exceptional cases in which the complainants felt the regional authorities (pagarchs) had been unjustifiably unsympathetic to their cause.³²

Arabic papyri from the Umayyad period confirm this scenario. The dossier of a mid-2nd/8th century Muslim official in the Fayyūm district shows a pagarch who was not only responsible for implementing the orders of the governor in Fustāṭ on the district level, but who judged legal and other conflicts reported to him by his own subordinate personnel.³³ The reports by subordinate officials, presumably administrators on the village level, imply that even the latter could have been, informally at least, addressees of complaints from

29. Sijpesteijn 2013, p. 204: "... many complaints and conflicts were solved at the level of the pagarch or even lower in the administrative hierarchy in the mid-eighth-century Fayyūm" (with references to Diem 1983b, p. 108; Diem 1989, p. 146-147).

30. Grohmann 1963, p. 18; Diem 1989, p. 149. The documentary sources available to Tyan consist mainly of letters (Arabic only) sent by the Umayyad governor Qurra b. Šarīk to his pagarch Basilius in Upper Egyptian Aphrodito from around 91/710, such as *P.BeckerPAF* 1; 2; *P.Cair.Arab.* I 154; 155; *P.Heid.Arab.* I 10; 11; *P.Qurra* 3; *P.GrohmannQorra-Brief*. More recent editions confirming this view of the procedure are *P.DiemGouverneur* (65/684-685, al-Ušmūnayn?); *P.Mird* 19 (1st/7th century, Southern Palestine); *P.Mird* 31 (1st-2nd/7th-8th century, Southern Palestine); *P.RagibLettres* 1 (133-136/750-753, Fayyūm); *P.DiemAmtliche Schreiben* 1 (133-136/750-754, Egypt); all cited in Diem 1989, p. 148. There is also the example of the *amīr* of Alexandria who was asked to judge a matter in the 2nd/8th century in *P.David-WeillLouvre* 25 (2nd/8th century, Egypt), cited in Sijpesteijn 2013, p. 445.

31. Tyan 1960, p. 124; Tillier 2013, p. 24.

32. Steinwenter 1920, p. 15; Steinwenter 1955, p. 53. Apparently Tyan was unaware of Steinwenter's research.

33. Sijpesteijn 2013, p. 132: "While part of Nājid's (i.e. the pagarch of the Fayyūm; L.R.) responsibility lay in relaying orders from the *amīr* (i.e. the governor in Fustāṭ; L.R.) concerning taxes and other matters of administration, the pagarch also responded to questions and problems presented to him by his subordinates and colleagues".

behalf of villagers, though more often they were the cause of complaints. In one case a group of villagers, after twice vainly filing a complaint with the pagarch against one of his low-ranking officials, submitted the same complaint directly to the governor in Fuṣṭāṭ, who promptly initiated proceedings.³⁴ It becomes apparent that administrative proceedings in this period were not always top down but also in the reverse direction and often concluded with action at the mid-level by a pagarch. The latter was much closer than the governor in Fuṣṭāṭ to matters on the ground, and sufficiently more powerful than village headmen to effectively implement a decision. Direct complaints to the governors continued to be made, but pagarchs were the addressees of complaints as well.³⁵ This may have even been so in the majority of cases, if we exclude the exceptional Qurra-letter archive from Aphrodito. In all bottom-up proceedings Umayyad pagarchs acted as proto-*qādī*-s (to use Wael Hallaq's expression).³⁶ And since it was them to whom complaints were made, and who initiated lawsuits themselves without involvement from the governor, they could act rather independently. In the following, three cases will be discussed that seem to illustrate the judicial freedom of mid-level administration in Egypt under Umayyad rule.

A peasants revolt in 1st/7th century Egypt

The first papyrus, *P.Berl.Arab.* II 23, is from the Berlin collection and has been published by Werner Diem in 1997. It is not dated but ascribed by the editor to the 1st/7th century on the grounds of its script.³⁷ The complainants are Muslim tax farmers, presumably from the Fayyūm. Non-Muslim peasants had refused to pay their taxes,³⁸ and the complaint had been presented to the writer of the actual letter in the form of a written petition.³⁹ The writer, a certain Yaḥyā b. al-Ḥaḡḡāḡ, was a Muslim, as is evident from his name and the Islamic formulary used in the letter. Less clear is whether or not he was a local official; but it seems so, for he forwarded the case to yet another Muslim official who was in charge of such affairs. Yaḥyā b. al-Ḥaḡḡāḡ submitted the tax farmers' original petition together with this official letter. About the addressee nothing is known except his name, 'Abd Allāh

34. SIJPESTEIJN 2013, p. 48-49; 226-227. The relevant papyri are the nos. 6 and 12 in her edition. *P.MuslimState* 6; 12 (both ca. 730/750, Fayyūm).

35. SIJPESTEIJN 2013, p. 133: "While these papyri show that the pagarch played a much more important role in local management and judicature than has previously been assigned to him, our corpus also contains evidence that claims from locals could be brought before the highest central authority" (i.e. the governor in Fuṣṭāṭ; L.R.). Similarly TILLIER 2013, p. 24 with reference to ABBOTT 1938, 74.

36. HALLAQ 2005, p. 34.

37. DIEM 1997, p. 7-11. Cf. for this papyrus also the remarks in SIJPESTEIJN 2013, p. 204 n. 466.

38. *P.Berl.Arab.* II 23, r5-8: *fā-inna ahla [... qad šakaw] lī anna anbāṭan la-hum sukkānun bi-qaryati [... qad ankarū] llaḡī 'alay-him mina l-ḡi[zyati] wa-'am[ilū ma'āsiya]*, "Leute ... haben sich bei mir darüber beklagt, dass ihnen gehörende Eingeborene, wohnhaft in dem Dorf ..., die ihnen obliegende Kopfsteuer verweigert und sich aufsässig benommen hätten". About an early tax-payer's revolt that took place in Upper Egypt in 697 AD and may have been connected with the event at hand, cf. SIJPESTEIJN 2007, p. 450 (referring to the Greek *P.Apoll* papyri).

39. *P.Berl.Arab.* II 23, r6-7: [*qad ḡukirat asmā u-hum fī*] *l-ki[t]ā[bi lla]ḡī fī [kitābī hāḡā 'ilay-ka]*, "deren Namen in dem Brief genannt sind, der diesem meinem an Dich gerichteten Brief beiliegt".

b. Qays. The context of the letter suggests that ‘Abd Allāh b. Qays must have been a mid-level official in charge of cases like the present one. Was he the head of a district, that is a pagarch? The editor leaves this question unanswered.

The formal features of the letter suggest it was going bottom-up in the hierarchy. For one thing, the address line mentions the addressee before the sender.⁴⁰ Moreover, an elaborate blessing follows the transitional formula (*ammā ba’d*).⁴¹ Both indicate that the addressee was higher in social standing than the sender. Moreover, the tone of the letter is humble polite rather than imperative or admonitory.⁴² Also, there are possible forms of *pluralis modestiae*.⁴³ Finally, an important detail is given with regards to the letter courier. The latter was ordered to wait in the proximity of the addressee until the necessary investigations had been pursued and the rights of the complaining tax farmers procured. The outcome of the lawsuit was then to be written down in a report that would be returned to the sender by the same courier.⁴⁴ It seems rather unlikely that a courier in the service of a high-ranking official would have awaited the outcome of a lawsuit, for this may have taken several days. This would have been something more likely required of the courier of a lower-ranking official, again suggesting that the letter was going bottom-up in the hierarchy.

Neither sender nor addressee are known from other papyri or from the literary sources, which is another hint that this case involved the middle and lower levels of administration. Perhaps the addressee was a pagarch, and the lawsuit initiated and executed on the district level. But even if the addressee was not a civilian pagarch but an Arab-Muslim military commander, which is also possible given the allegedly early date of this letter, it was obviously a district affair. Neither the governor nor any other high-ranking official from the central administration in Fuṣṭāṭ was involved. Most striking is the fact that it was a subaltern official, Yaḥyā b. al-Ḥaḡḡāḡ, who had been the recipient of a complaint from among the population and who had set the judicial apparatus in motion.

A case of tax evasion from 2nd/8th century Fayyūm

The second papyrus, *P.RaqibLettres 2a*, is from the Paris collection and has been published by Yūsuf Rāḡib in 1978. It is about tax evaders: a group of merchants had gone

40. *P.Berl.Arab.* II 23, r2 and v1: *li-‘Abdi llāhi bni qaysin min Yaḥyā bni l-Ḥaḡḡāḡi*, “An ‘Abd Allāh b. Qays von Yaḥyā b. al-Ḥaḡḡāḡ”.

41. *P.Berl.Arab.* II 23, r4-5: *ammā ba’d u aṣṣalaḥa-nā llāhu wa-iyyā-ka ṣa[lāḥa l-dunyā wa-l-āḥirati wa-waffaqa-nā li-mā naksibu] bi-hi riḍwāna-hu wa-l-ḡannata*, “Aber danach - Gott schenke uns und Dir Gedeihen im Diesseits und Jenseits und ermögliche uns ein Verhalten, durch das wir sein Wohlgefallen und das Paradies erwerben”.

42. *P.Berl.Arab.* II 23, r9: *fa-in rāayta*, “Sei also so freundlich (und verschaffe ihnen ihr Recht)”.

43. *P.Berl.Arab.* II 23, r4: *aṣṣalaḥa-nā llāhu wa-iyyā-ka*, “Gott schenke uns und Dir Gedeihen”; r9: *yarḥamu-nā llāhu wa-i[yyā-ka]* “Gott erbarme sich unser und Deiner”; r11: *waffaqa-nā llāhu wa-iyyā-ka* “Gott ermögliche es uns und Dir”.

44. *P.Berl.Arab.* II 23, r9-10: *fa-in rāayta ... [an tastahriḡa la-hum ḥaḡḡa-hum wa-taktuba] ki[tāb]an ‘ila[y-n]ā ma’a l-rasūli in šā’a llāhu*, “Sei also so freundlich..., ihnen ihr Recht zu verschaffen und uns durch den Boten schriftlich Bescheid zu geben, so Gott will!”.

into hiding in the Fayyūm and had taken with them five local peasants.⁴⁵ Authorities were concerned that this would weaken their control over tax-payers and diminish the revenues of the state treasury. The writer of the letter may have been a higher tax official. He had been sent by the central administration in Fuṣṭāṭ to the Fayyūm to conduct an on-site investigation, during the course of which he had become aware of the tax evaders' grievance and promptly initiated administrative measures⁴⁶ by reporting of the matter to a Fayyūm official — though, curiously, not to the central authorities in Fuṣṭāṭ — and ordering a consultation of the local archive in Madīnat al-Fayyūm to determine the justification of the complaint.⁴⁷

Who were the officials involved? Apparently the addressee was a local district official, presumably the pagarch of the Fayyūm, because he was empowered to start an investigation on a district level and at the same time was in charge of the local archive in the district capital. But who was the investigating official and sender of the present letter? The editor implicitly assumes that the sender was superior to the addressee, but this is not evident from the text itself: in fact the politeness formula after the transitional formula (*ammā ba'd*) makes the reverse more likely.⁴⁸ This seems confirmed by the fact that the addressee is listed before the sender in the address line.⁴⁹ Most striking is the fact that the sender openly admits that he may be wrong in his accusation, a modesty uncommon in a superior.⁵⁰ On the other hand, the strong imperative tone of the sender's request seems a manifestation of his superior rank;⁵¹ and the professional chancery script and the layout of the writing on recto markedly contrasts with the clumsy writing on verso. While the letter on recto is definitely the work of a skilled scribe from the centre of the province, the annotation on the back is of inferior quality and apparently written by some pagarchial office on the periphery of the Fayyūm, where the Arabization of the scribes and the professionalization of documentary practice would have been still in their early stages.⁵²

The letter on recto was definitely a product of a higher level of the hierarchy than that on verso. But what appears to be a letter from the governor's chancery in Fuṣṭāṭ turns out, upon closer examination of its features of formal politeness, to be a product of mid-level administration. Corroborating this is the fact that neither of the officials mentioned by

45. RĀĠIB 1978-1980, p. 18-22.

46. *P.RagibLettres* 2a, 4-5: *fa-innī qadimtu l-qaryata fa-wağadtu ħarağa 'alay-him ħamsatu anbāṭin ilā dumūšata wa-tuğğārun*, "Je suis venu au village, et j'ai trouvé qu'il en était sorti cinq paysans pour Dumūša, et des marchands".

47. *P.RagibLettres* 2a, 8-10: *fa-nzur fi l-kutubi 'inda--ka fa-inna-hu ya'izzu 'alay--ya 'an 'aktuba 'ilay-ka bi-ğayri ħaqqin*, "Consulte donc les documents chez toi. Il m'est pénible de t'écrire sans vérité".

48. *P.RagibLettres* 2a, 4: *'ammā ba'd 'āfāka llāhu*, "Puis : — que Dieu te donne la santé !".

49. *IP.RagibLettres* 2a, 2 and v1: *li-Ḥālidi bni Yazīda min Sawādata bni l-Ḥārīṭi*, "À Ḥālīd b. Yazīd, de la part de Sawāda b. al-Ḥārīṭi".

50. *P.RagibLettres* 2a, 9-10: *fa-inna--hu ya'izzu 'alay--ya 'an aktuba ilay--ka bi-ğayri ħaqqin*, "Il m'est pénible de t'écrire sans vérité".

51. *P.RagibLettres* 2a, 8-9: *fa-nzur fi l-kutubi 'inda-ka*, "Consulte donc les documents chez toi".

52. See plates VII A-B accompanying the text.

name can be identified in other papyri or in the narrative sources. They were not high-ranking administrators but members of mid- to low-ranking offices. It looks very much as if the sender of the letter was a travelling inspector and tax official of the central authorities who had in his entourage one of the skilled scribes from the chancery in Fustāṭ, while the local pagarch was the addressee of the letter. The travelling inspector may indeed have been superior in rank, but he was a stranger in the Fayyūm and in need of the pagarch's compliance: therefore in his letter he had to be polite. Both officials had de facto become equal in rank. What is of particular interest here is the fact that the inspector sent the order to investigate the case directly to the local pagarch rather than indirectly through the central administration in Fustāṭ.

Marital strife in 1st/7th century Palestine

The third papyrus, *P.Mird* 18, is now in Jerusalem and has been published by Adolf Grohmann in 1963. It was found in the ruins of the settlement of Ḥirbat al-Mird in Southern Palestine near the Dead Sea.⁵³ It concerns a dispute between private parties from that place: a Muslim husband had unlawfully deprived his Muslim wife of her property and her marital maintenance.⁵⁴ The authorities had initiated an investigation in response to the woman's complaint. The writer of the present letter, who had been in charge of the investigation and the settlement of the conflict, reports the outcome of the lawsuit, which was that the woman's claim was valid and the husband had to hand his wife's property back to her. But who did the writer report to? The editor interpreted the letter as top-down.⁵⁵ In his view, the woman had sent her complaint to the highest official available, in this case the sub-governor of Gaza and head of the district, 'Umar b. 'Ubayd Allāh. The latter had charged the investigation of the case to the headman of the woman's village, a certain Dir' b. 'Abd Allāh. The village headman had heard the woman's complaint and perhaps consulted additional local witnesses. Thereupon he reported back to his superior, 'Umar b. 'Ubayd Allāh, with the request that the disputants (woman and husband) be brought face to face. The head of the district subsequently affirmed the rights to the woman, after which he sent a report of the outcome, which is the letter at hand, back to the village headman, together with the woman and her husband.

The procedure seems odd, however, with the matter going back and forth like a tennis ball. Moreover, it seems unlikely that a superior official would have had to report back to his own subordinate. Apparently the editor has confused names or facts. The sender instead

53. GROHMANN 1963, p. 15-18.

54. *P.Mird* 18, r5-7: *fa-inna-ka katabta ilay-ya ma'a ummi Iyāsa bnati Mu'ārikin fi-mā ḡakarāt la-ka min aḡḡi [za]wḡi-hā matā'a-hā wa-nafaḡata-hā wa-innī ḡama'tu bayna-humā fa-sāaltu-hu 'ani llaḡī ḡakarta fa-'tarafa bi-matā'i-hā fa-radadtū-hu 'alay-hā*, "Verily, you have written to me with Umm Iyās, daughter of Mu'ārik, about that which she has mentioned unto you concerning her husband's taking away her property and her maintenance. And I have confronted them both. I, then, asked him about that which you had mentioned. So he acknowledged her property. Therefore I handed it back to her" (with emendations by DIEM 2012, p. 33).

55. GROHMANN 1963, p. 17: "'Umar b. 'Ubaidallāh seems to be the superior of Dir'".

must have been subaltern to the addressee, in which case the letter was bottom-up.⁵⁶ Such a scenario is consistent with the letter's formal structure: the addressee is named before the sender in the address line.⁵⁷ Moreover, there is a polite phrase of considerable length following the transitional formula (*ammā ba'd*).⁵⁸ And finally, the sender had received an order from the addressee before initiating proceedings.⁵⁹ Thus Dir' b. 'Abd Allāh must have been the head of district and 'Umar b. 'Ubayd Allāh the subaltern village headman. The aggrieved woman had therefore initially complained to the head of district, who had delegated the case for further investigation to the headman of her village. The village headman confronted the conflicting parties and judged in favour of the woman, then reporting back to his superior about the outcome – which is the present letter. But the conflict had not yet come to an end, for it seems that the husband had given back only the woman's property (*matā'*) but refused to pay her maintenance (*nafaqa*).⁶⁰ At the woman's request, the village headman handed the case back to his superior, who had more judicial knowledge and authority, or at least had better means for enforcing judgements.

Conclusion: administrative structures and the character of Umayyad rule

The progress in Arabic papyrology in the form of editions of new texts and corrections of older readings allows for a better understanding of Umayyad administrative proceedings than has hitherto been possible. The situation is still tricky, though, because many texts are obscure about the institutional background of the persons involved, and even about such basic matters as the function of the texts and their hierarchical direction. They beguile into disagreement and debate. The three cases described above suggest a Muslim administration that on the peripheral middle to low levels routinely and independently adjudicated conflicts among Muslims and non-Muslims alike concerning both criminal and civil matters. Arabic papyri emphasise the differential of provincial centres and the peripheries as well as the influence of the degree of Arabization among the population. Émile Tyan's assertion that up to the end of the first century of the Hiġra it was not only the governors' offices but also the mid-ranking pagarchs who exercised jurisdiction

56. DIEM 1983a, p. 254; 1989, p. 161; 2012, p. 33 with regard to the arrangement of the address line and the imperative used in line 9.

57. *P.Mird* 18, r2 and v1: *li-Dir' i bni 'Abdi llāhi min 'Umara bni 'Ubaydi llāhi*, "To Dir' b. 'Abd Allāh from 'Umar b. 'Ubayd Allāh".

58. *P.Mird* 18, r4: *ammā ba'du atamma llāhu 'alay-ka afḍala 'āfiyati-hi fī l-dunyā wa-l-āḥirati*, "What follows – may God fulfil in you His best integrity in this world and the world to come".

59. *P.Mird* 18, r9: *wa-katabta tāmuru-nī an uqīma*, "You have written ordering me that I may execute".

60. *P.Mird* 18, r7-8: *fa-'tarafa bi-matā'i-hā fa-radadu-hu 'alay-hā wa-ankara nafaqata-hā fa-sālat-nī l-mar'atu an aġliba ilay-ka ma'a-hā fa-fa'altu amartu-humā ḡamī'an 'an yallḥaqiyā-ka* (sic), "So he acknowledged her property. Therefore I handed it back to her, while he disputed her maintenance. So the wife asked me that I might bring him with her unto you. So I did it. I ordered them both together that they both should reach you". Grohmann translates *wa-ankara nafaqata-hā* perhaps a little bit vaguely as "while he disowned her maintenance".

seems confirmed by the Arabic papyri.⁶¹ The evidence, tentative as it is at the moment, is significant for a better understanding of the character of Muslim administration in the large territories of Umayyad and early Abbasid rule.

There has been much debate about the degree of centralisation and control in the provincial administration of the Umayyad caliphate. Egypt is generally seen as a centralised province with the governors in Fustāṭ tightly controlling the provincial districts.⁶² But documentary sources instead imply a more a decentralised system that entrusted a significant portion of competences to the lower ranks of administrators.⁶³ The three documents discussed in this study do indeed support the latter view, for they show a rather autonomous mid- to low-ranking administration that, once Muslim, acted fairly independently in judicial matters as well.⁶⁴ Umayyad provincial governors acted more autonomously than their Abbasid successors, and appointed local officials as their personal delegates independently of the caliphs in Damascus.⁶⁵ But the autonomy of the officials below the governor was a characteristic of Umayyad provincial administration as well. This changed after 132/750 with Abbasid rule and the caliphs' increasing attempts to centralise control over provincial officials.⁶⁶

There has also been debate about exactly when state structures were established under the Umayyads and whether or not the Sufyanids had a bureaucratic rather than a tribal ruling structure.⁶⁷ Conclusive proof for either position has not yet been found; but the emergence of a judiciary, and the shouldering of judicial responsibility, under the Umayyads seems to be nothing less than a determination to create a state structure.⁶⁸ If the Arabic rescript *P.DiemGouverneur* to a pagarch can indeed be ascribed to the governors 'Abd al-Raḥmān b. 'Utba or 'Abd al-'Azīz b. Marwān and thus be dated as early as 65/685, it would be a strong argument for an early presence of the Muslim high state in mid-level structures of Christian background.⁶⁹ This is consistent with the repeated efforts by the Umayyad caliphs during the first half of the 2nd/8th century to assert direct control over provincial politics.⁷⁰

61. See n. 32 above.

62. BELL 1910; BECKER 1924; BELL 1928, ABBOTT 1938; BANAJI 2001.

63. SJPESTEIJN 2013, p. 200-201.

64. In the portfolio of local administrators fiscal responsibilities had been augmented with legal competences as well, as has been observed by SJPESTEIJN 2013, p. 204.

65. TYAN 1960, p. 97-98; HALLAQ 2005, p. 37.

66. TYAN 1960, p. 124; TILLIER 2013, p. 33.

67. The various positions of the debate are summarised in FOSS 2010, p. 75-76.

68. TILLIER 2009, p. 75.

69. Cf. DIEM 1983b, p. 107. I follow here the editor's assumptions about the setting and dating of the letter. Cf. however the objections by SJPESTEIJN 2013, p. 48, where she expresses her doubts about a governor and a pagarch as possible correspondence partners of the letter and apparently, yet not expressly, calls into question an early dating and seems to be inclined towards a dating into the 2nd/8th century instead.

70. TILLIER 2009, p. 85 with reference to Raif Georges Khoury and Baber Johansen.

The three documents discussed earlier also provide a diachronic view of the institutions. The papyrus from Palestine shows an administrative procedure that conformed to the Egyptian one, but with differing titles and competences of officials. In Upper Egyptian Aphrodito the Greek title of *dioikētēs* was used for the mid-ranking pagarch, whereas the same title was used in Palestine in the early 2nd/8th century for the low-ranking village headman. But both had the same duties and competences: the collection of taxes, maintenance of the local infrastructure, and administration of justice. One level up the situation was similar: the Egyptian provincial governor (gr. *sýmboulos*) had his counterpart in the Palestinian district head residing in Gaza. Both received petitions and both initiated judicial procedures. Adolf Grohmann mentioned this in his commentary to his edition of the papyrus and has gone into some detail.⁷¹ The evidence can be interpreted as a general tendency in Umayyad administration to hand down judicial authority to mid- and even low-ranking administrators. This began in the Umayyad core province of Syria and quickly reached Palestine, where Arabization had started early and where officials with Arabic background were available in larger numbers. From there it spread to Egypt with some delay, leaving its mark on the administrative structures of the Delta and subsequently working its way up the Nile to more remote areas. The handing down of competences went along with a gradual replacement of local personnel with Arabic-speaking Muslims. As long as local personnel consisted exclusively or predominantly of non-Muslims, as had been the case before the reforms attributed to ‘Abd al-Malik, complaints had been addressed to authorities on the governor’s level.⁷² But after Muslim officials appeared on the district and village levels, they became the addressees of complaints instead.⁷³

Finally, the three documents discussed in this study attest to the key role of the written word in administrative procedures at an early stage.⁷⁴ In the first case, tax farmers had submitted their complaint in the form of a written petition. This written petition was sent together with the administrative letter to the next higher authority, while the outcome was reported back by means of yet another written letter. In the second case, a local archive with lists of tax-payers served for reference, while the administrative letter was forwarded to a third person for further investigation, as is evident from the endorsement on the

71. GROHMANN 1963, p. 18. Grohmann refers to titles mentioned in the texts of *P.Ness. III* from about the same time. This seems reasonable, for even if Nessana (‘Awǧā’ al-Ḥafīr) was south of Ḥirbat al-Mird and things were slightly different there, both were in the province of Gaza.

72. DIEM 1983b, p. 108 with the remark that appeals to the governors and the governors’s subsequent orders to pagarchs appear only in papyri from the earlier period, i.e. when pagarchs were not yet Muslims. For ‘Abd al-Malik’s administrative reforms, of which the ‘Arabization’ of administrative personnel formed a part of, see SIJPESTEIJN 2007, p. 449-450.

73. SIJPESTEIJN 2013, p. 203, observes that towards the end of Umayyad rule (ca. 112-132/730-750, Fayyūm) Muslim pagarchs had gained more fiscal and legal powers than had been the case before. After that time even administrators below the pagarchs seem to have been delegated with unprecedented fiscal and legal responsibilities.

74. For the role of written documents in conflict resolution in Byzantine and Islamic Egypt cf. VAN BERKEL 2007; SIJPESTEIJN 2013, p. 247-255; 248 n. 151.

verso. In the third case, both mid- and low-ranking officials relied on written documents. In all three cases, letters were key devices for facilitating the administrative process. Archives were consulted for the resolution of conflicts. Moreover, the population clearly trusted in the written word at an early stage of Muslim rule by presenting their complaints in the form of written petitions to the authorities. All this shows that written documents were in use at every level of society in Umayyad Egypt. They represented Muslim rule in the peripheral parts of the empire and thus served both administrative and political purposes.⁷⁵ The papyri demonstrate that the handing down of competences went along with the use of written documents and an increase in literacy in the middle and lower levels of administration. Judicial practice played an important part in this process.

Bibliography

Sources

- Chrest.Khoury I* = KHOURY, Raif Georges, 1993, *Chrestomathie de papyrologie arabe. Documents relatifs à la vie privée, sociale et administrative dans les premiers siècles islamiques*, Leiden, New York, Cologne, Brill (Handbuch der Orientalistik. Ergänzungsband 2. Zweiter Halbband).
- CPR XVI* = DIEM Werner, 1993, *Arabische Briefe aus dem 7. -10. Jahrhundert*, Vienna, Hollinek (Corpus Papyrorum Raineri 16).
- P.BeckerPAF* = BECKER, Carl Heinrich, 1906, "Arabische Papyri des Aphroditofundes", *Zeitschrift für Assyriologie* 20, p. 68-104.
- P.Berl.Arab. II* = DIEM, Werner, 1997, *Arabische Briefe des 7. -13. Jahrhunderts aus den Staatlichen Museen zu Berlin*, Wiesbaden, Harrassowitz (Documenta Arabica Antiqua 4).
- P.Cair.Arab.* = GROHMANN, Adolf, 1934-1962, *Arabic papyri in the Egyptian Library*. 6 vols., Cairo, Egyptian Library Press.
- P.David-WeillLouvre* = DAVID-WEILL, Jean, 1965-1971, « Papyrus arabes du Louvre », *Journal of the Economic and Social History of the Orient* 8, p. 277-311; 14, p. 1-24.
- P.DiemGouverneur* = DIEM, Werner, 1983b, "Der Gouverneur an den Pagarchen. Ein verkannter Papyrus vom Jahre 65 der Hiğra", *Der Islam* 60, p. 104-111.
- P.DiemAmtlicheSchreiben* = DIEM, Werner, 1989, "Drei amtliche Schreiben aus frühislamischer Zeit (Papyrus Erzherzog Rainer, Wien)", *Jerusalem Studies in Arabic and Islam* 12, p. 146-164.
- P.GrohmannQorra-Brief* = GROHMANN, Adolf, 1933, "Ein Qorra-Brief vom Jahre 90 H.", in Ernst F. Weidner (ed.), *Aus fünf Jahrtausenden morgenländischer Kultur. Festschrift Max Freiherr von Oppenheimer*, Berlin, Berger (Archiv für Orientforschung. Beiheft 1), p. 37-40. Reprint Osnabrück, Biblio, 1967.
- P.Heid.Arab. I* = BECKER, Carl Heinrich, 1906, *Papyri Schott-Reinhardt I*, Heidelberg, Carl Winter (Veröffentlichungen aus der Heidelberger Papyrussammlung 3).

75. VAN BERKEL 2007, p. 1667.

- P.Heid.Arab.* II = DIEM, Werner, 1991, *Arabische Briefe auf Papyrus und Papier aus der Heidelberger Papyrus-Sammlung*, Wiesbaden, Harrassowitz (Heidelberger Akademie der Wissenschaften. Philosophisch-historische Klasse. Kommission für Papyrus-Editionen).
- P.HindsSakkoutNubia* = HINDS, Martin, Hamdi SAKKOUT, 1981, "A Letter from the Governor of Egypt to the King of Nubia and Muqurra Concerning Egyptian-Nubian Relations in 141/758", in Wadād AL-QĀDĪ (ed.), *Studia Arabica et Islamica. Festschrift for Ihsan Abbas*, Beirut, American University, p. 209-229. Reprint in Jere BACHARACH, Lawrence CONRAD, Patricia CRONE (ed.), *Studies in Early Islamic History*, Princeton, Darwin, 1996, p. 160-187.
- P.Kratchkovski* = KRAČKOVSKIJ, Ignati J., Vera A. KRAČKOVSKAJA, 1934, "Drevnejšij arabskij dokument iz Srednej Azii", *Recueil Sogdien*, Leningrad, p. 52-90. Reprint in Ignati J. KRAČKOVSKIJ, *Izbrannye Sočinenija*. Vol. 1, Moscow, Leningrad, Izdatel'stvo Akademii nauk SSSR, 1955, p. 182-212.
- P.MuslimState* = SIJPESTEIJN, Petra M., 2013, *Shaping a Muslim State: The World of a Mid-Eighth-Century Egyptian Official*, Oxford, Oxford University Press.
- P.Mird* = GROHMANN, Adolf, 1963, *Arabic Papyri from Ḥirbet el-Mird*, Leuven, Publications Universitaires (Bibliothèque du Muséon 52).
- P.Ness.* III = KRAEMER, Casper J. Jr., 1958, *Excavations at Nessana*. Vol. 3: *Non Literary Papyri*, Princeton, Princeton University Press.
- P.Qurra* = ABBOTT, Nabia 1938, *The Qurrah Papyri from Aphrodito in the Oriental Institute*, Chicago, The Oriental Institute of the University of Chicago (Studies in Ancient Oriental Civilisation 15).
- P.RagibLettres* = RĀĠIB, Yūsuf, 1978-1980, « Lettres arabes », *Annales Islamologiques* 14, p. 15-35; 16, p. 1-29. [En ligne] <http://www.ifao.egnet.net/anisl/14/>
- Al-Qalqašandī, *Kitāb Ṣubḥ al-a'sā fi šinā'at al-inšā'*, ed. Muḥammad 'Abd al-Rasūl Ibrāhīm, Cairo, Dār al-Kutub al-Ḥidīwiyya, 1913-1922, 14 vols.

References

- ABBOTT, Nabia, 1938, *The Qurrah Papyri from Aphrodito in the Oriental Institute*, Chicago, The Oriental Institute of the University of Chicago.
- BANAJI, Jairus, 2001, *Agrarian Change in Late Antiquity: Gold, Labour, and Aristocratic Dominance*, Oxford and New York, Oxford University Press.
- BAGNALL, Roger, 1993, *Egypt in Late Antiquity*, Princeton, Princeton University Press.
- BECKER, Carl Heinrich, 1924, "Historische Studien über das Londoner Aphroditowerk", in Carl Heinrich BECKER, *Islamstudien*, I, Leipzig, Quelle & Meyer, p. 248-262.
- BELL, Harold I., 1910, *The Aphrodito Papyri. With an appendix of Coptic papyri edited by W. E. Crum*, London, The British Museum.
- BELL, Harold I., 1928, "The Administration of Egypt under the Umayyad Khalifs", *Byzantinische Zeitschrift* 28, p. 278-286.
- BERKEL, Maaïke van, 2007, "Communication and Contention: The Role of Literacy in Conflicts with 'Abbasid Officials", *History Compass* 5/5, p. 1661-1676. [Online] <http://dx.doi.org/10.1111/j.1478-0542.2007.00457.x>
- BERKEL, Maaïke van, 2011, "Embezzlement and reimbursement: Disciplining Officials in 'Abbāsīd Baghdad (8th-10th centuries A.D.)", *International Journal of Public Administration* 34/11, p. 712-719. DOI: 10.1080/01900692.2011.598288
- COULSON, Noel J., 1964, *A History of Islamic Law*, Edinburgh et al., Edinburgh University Press.

- DIEM, Werner, 1983a, "Vier Dienstschriften an 'Ammār. Ein Beitrag zur arabischen Papyrologie", *Zeitschrift der Deutschen Morgenländischen Gesellschaft* 133, p. 239-262.
[Online] <http://menadoc.bibliothek.uni-halle.de/dmg/periodical/titleinfo/150153>
- DIEM, Werner, 1983b, "Der Gouverneur an den Pagarchen. Ein verkannter papyrus vom Jahre 65 der Hiğra", *Der Islam* 60, p. 104-111.
- DIEM, Werner, 1997, *Arabische Briefe des 7. -13. Jahrhunderts aus den Staatlichen Museen zu Berlin*, Wiesbaden, Harrassowitz.
- DIEM, Werner, 2012, "Philologisches zu arabischen Dokumenten. I. Dokumente aus Sammlungen in Prag, Gießen und Jerusalem", *Zeitschrift für Arabische Linguistik* 55, p. 5-43.
- DONNER, Fred, 1986, "The Formation of the Islamic State", *Journal of the American Oriental Society* 106/2, p. 283-296. Reprint in Fred M. DONNER (ed.), *The Articulation of Early Islamic State Structures*, Farnham and Burlington, Ashgate. [Online] <http://www.jstor.org/stable/601592>
- DONNER, Fred, 2012, "The Articulation of Early Islamic State Structures: Introduction", in Fred M. DONNER (ed.), *The Articulation of Early Islamic State Structures, Farnham and Burlington*, Ashgate, p. xiii-xliv.
- FOSS, Clive, 2010, "Mu'āwiyā's State", in John HALDON (ed.), *Money, Power and Politics in Early Islamic Syria: a review of current debates*, Farnham and Burlington, Ashgate, p. 75-96.
- GROHMANN, Adolf, 1934, "Die Papyrologie in ihrer Beziehung zur arabischen Urkundenlehre", in Walter OTTO and Leopold WENGER (ed.), *Papyri und Altertumswissenschaft. Vorträge des 3. Internationalen Papyrologentags in München vom 4. Bis 7. September 1933*, München, p. 327-350.
- GROHMANN, Adolf, 1963, *Arabic Papyri from Ḥirbet el-Mird*, Leuven, Publications Universitaires (Bibliothèque du Muséon 52).
- HALLAQ, Wael B., 2005, *The Origins and Evolution of Islamic Law*, Cambridge, Cambridge University Press.
- LÉVI-PROVENÇAL, Évariste, 1928, *Documents inédits d'histoire almohade. Fragments manuscrits du "Legajo" 1919 du fonds arabe de l'Escurial*, Paris.
- NIELSEN, Jørgen S., 1985, *Secular Justice in an Islamic State: Mazālim Under the Bahrī Mamlūks, 662/1264-789/1387*, Istanbul and Leiden, Nederlands Historisch-Archaeologisch Instituut.
- RĀĠIB, Yūsuf, 1978-1980, « Lettres arabes », *Annales Islamologiques* 14, p. 15-35 ; 16, p. 1-29.
[En ligne] <http://www.ifao.egnet.net/anisl/14/>
- REINFANDT, Lucian, 2010, "Law and Order in einer frühen islamischen Gesellschaft? Strafverfolgung in Ägypten und Palästina nach der arabischen Eroberung (7.-9. Jahrhundert)", in Robert ROLLINGER, Birgit GUFLER, Martin LANG and Irene MADREITER (ed.), *Interkulturalität in der Alten Welt. Vorderasien, Hellas, Ägypten und die vielfältigen Ebenen des Kontakts*, Wiesbaden, Harrassowitz, p. 655-683.
- SIJPESTEIJN, Petra M., 2007, "The Arab Conquest of Egypt and the Beginning of Muslim Rule", in Roger S. BAGNALL (ed.), *Egypt in the Byzantine World, 300-700*, Cambridge et al., Cambridge University Press, p. 437-459.
- SIJPESTEIJN, Petra M., 2013, *Shaping a Muslim State: The World of a Mid-Eighth-Century Egyptian Official*, Oxford, Oxford University Press.
- STEINWENTER, Artur, 1920, *Studien zu den koptischen Rechtsurkunden aus Oberägypten*, Leipzig, Haessel.
- STEINWENTER, Artur, 1955, *Das Recht der koptischen Urkunden*, Munich, C. H. Beck.
- TILLIER, Mathieu, 2009, *Les cadis d'Iraq et l'État abbasside (132/750-334/945)*, Damascus, Presses de l'Ifpo.
[En ligne] <http://books.openedition.org/ifpo/673>

- TILLIER, Mathieu, 2011a, « Scribes et enquêteurs. Note sur le personnel judiciaire en Égypte aux quatre premiers siècles de l'hégire », *Journal of the Economic and Social History of the Orient* 54, p. 370-404.
- TILLIER, Mathieu, 2011b, « Les 'premiers' cadis de Fustāṭ et les dynamiques régionales de l'innovation judiciaire (750-833) », *Annales islamologiques* 45, p. 213-242.
[En ligne] <http://www.ifao.egnet.net/anisl/45/>
- TILLIER, Mathieu, 2013, « Du pagarque au cadi : ruptures et continuités dans l'administration judiciaire de la Haute-Égypte (I^{er}-III^e/VII^e-IX^e siècle) », *Médiévales* 64, p. 19-36.
[En ligne] <http://medievales.revues.org/6925>
- TYAN, Émile, 1960, *Histoire de l'organisation judiciaire en pays d'Islam*, Leiden, Brill.