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What Ibn Khaldūn Saw: The Judiciary of Mamluk Egypt*

INTRODUCTION

The career of Ibn Khaldūn is well known. He was active from the mid-fourteenth century in the political arena of North Africa and Spain, where he wrote his great work, *Al-Muqaddimah*. He then moved to Egypt where he was to become the Malikite chief judge (*qāḍī al-quḍāh*). He was appointed to the post of chief judge by the Mamluk sultan Barqūq (r. 784–91/1382–89, 792–801/1390–99) twenty months after his move to Egypt, following an unexpected summons on 19 Jumādā II 786/8 August 1384.¹ He resigned the post after about ten months, but twelve years later he was appointed chief judge for a second time. Thereafter followed a succession of resignations and reappointments, so that by the time of his death in 808/1406 he had served six times as chief judge.

Prior to his first appointment, Ibn Khaldūn had had no experience as a working judge (*qāḍī*). His only experience of working in legal administration had been while resident in Morocco, where he had served as appeal court (*maẓālim*) judge in 762/1361, concurrent with other positions under the Marinid sultan Abū Sālim. He held singular views and ideals about matters of legal administration, however, thanks to his experience in politics and his academic research.

Once appointed chief judge, he was brought into close contact with the affairs of the law courts, and the picture of the Egyptian legal administration which gradually revealed itself to him was not what he had expected. He experienced a

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¹Ibn Khaldūn, *Al-Ta'rīf bi-Ibn Khaldūn wa-Riḥlatihi Gharban wa-Sharqan*, ed. Muḥammad ibn Tāwīt al-Ṭanjī (Cairo, 1951), 254; Aḥmad ibn 'Alī al-Maqrīzī, *Kitāb al-Sulūk li-Ma'rifat Duwal al-Mulūk* (Cairo, 1939–73), 3:517; Aḥmad ibn 'Alī Ibn Ḥajar al-'Asqalānī, *Raf' al-Iṣr 'an Quḍāt Miṣr* (Cairo, 1957–1961), 2:344; Muḥammad ibn 'Abd al-Raḥmān al-Sakhāwī, *Al-Ḍaw' al-Lāmi' li-Ahl al-Qarn al-Tāsi'* (Cairo, 1934–36), 4:146; Ibn Khaldūn, *Le voyage d'Occident et d'Orient: autobiographie*, trans. Abdesselam Cheddadi (Paris, 1980), 153; Walter Joseph Fischel, *Ibn Khaldūn in Egypt: His public functions and his historical research, 1382-1406; A study in Islamic historiography* (Berkeley, 1967), 30–31.



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kind of culture shock. The state of affairs he discovered is clearly recorded in his autobiography, *Al-Taʿrīf bi-Ibn Khaldūn wa-Riḥlatihi Gharban wa-Sharqan*, along with an unmitigated account of his response to it.

Ibn Khaldūn's account of the Mamluk legal administration has been largely ignored by scholars, however. Even the relatively recent specialized work of Escovitz² does not mention it. The present paper, therefore, is intended to bridge this gap by giving an account of his observations in his autobiography, and through this account, presenting an aspect of that time which cannot be appreciated by looking only from the perspective of the history of institutions.

IBN KHALDŪN'S INAUGURATION AS CHIEF JUDGE

In Ṣafar 786/March 1384, soon after Ibn Khaldūn had begun his first public appointment in Egypt as professor at the Qamḥīyah College,³ there was an incident whereby the current Malikite chief judge, Jamāl al-Dīn ʿAbd al-Raḥmān ibn Khīr, was criticized by Malikite jurists for passing an incorrect judgment in court. As a result, Jamāl al-Dīn fell out of favor with Sultan Barqūq and was dismissed on 3 Jumādā II/23 July of the same year. Less than two weeks later, on 19 Jumādā II, Ibn Khaldūn received his summons from the sultan. He went to the Citadel and was ordered to assume the now empty post of Malikite chief judge. He declined, explaining that he did not have the experience for such a job, but the sultan was adamant and Ibn Khaldūn eventually agreed. He was invested by the sultan with the robe of honor and the honorific title of *Walī al-Dīn*, and then, with an escort of dignitaries and guards, he was led northwards up Cairo's central avenue to the district of Bayn al-Qaṣrayn. This formal procession was superintended by Alṭunbughā al-Jūbānī (d. 792/1390), the amir of the council (*amīr al-majlis*). Alṭunbughā al-Jūbānī was a Turkish general who wielded great power at the palace. He had made Ibn Khaldūn's acquaintance soon after the latter's arrival in Cairo, and it was he who had introduced Ibn Khaldūn to Sultan Barqūq. The route of the procession was in accordance with tradition, stopping first at the Nāṣirīyah College,⁴ where the proclamation appointing Ibn Khaldūn as Malikite chief judge was read out. The procession then crossed the street and went into the Ṣāliḥīyah College, where Ibn Khaldūn took the seat of the chief judge of the Malikite court.⁵

²Joseph H. Escovitz, *The office of qāḍī al-quḍāt in Cairo under the Baḥrī Mamlūks* (Berlin, 1984).

³Al-Maqrīzī, *Kitāb al-Mawāʿiẓ wa-al-Iʿtibār bi-Dhikr al-Khiṭaṭ wa-al-Āthār* (Būlāq, 1270 [1853]; repr. Baghdad, 1970) 2:364; Abū Bakr ibn Aḥmad Ibn Qāḍī Shuhbah, *Tārīkh Ibn Qāḍī Shuhbah* (Damascus, 1977), 3:131.

⁴Al-Maqrīzī, *Khiṭaṭ*, 2:382; Escovitz, *Office of qāḍī al-quḍāt*, 196–97.

⁵Ibn Khaldūn, *Taʿrīf*, 254; al-Maqrīzī, *Sulūk*, 3:480, 513, 517; Fischel, *Ibn Khaldūn in Egypt*, 31.



Since the reforms of Sultan Baybars (r. 658–76/1260–77) in 663/1265, the judicial administration of Mamluk Egypt had been entrusted to the chief judges of the four schools of law.⁶ Among these, the chief judge of the Shafi‘ite school was accorded the highest rank. This was presumably because, prior to the reforms, chief judges had always come only from the Shafi‘ite school. The Shafi‘ite chief judge thus had more power than the judges of the other schools, including sole jurisdiction over such matters as the execution of wills and the management of the property of orphans. Such details notwithstanding, while administration itself was in the hands of the four judges, the power to appoint or dismiss the chief judge belonged, by Islamic tradition, to the ruler. The appointment of Ibn Khaldūn by the sultan was thus no exception.

The Ṣālihiyah College which housed Ibn Khaldūn’s court had been founded by the Ayyubid sultan al-Malik al-Ṣāliḥ Najm al-Dīn (r. 637–46/1240–49), and was the most powerful college in Egypt. It was the educational institute for all of the four schools of law, and it housed each of their courts. Ibn Khaldūn sat in the court of the Malikite school. Court was held in a room known as an *īwān*, which was in the shape of a half-dome, open at the front. The residences of the chief judges were also located in one corner of the college.⁷

One can imagine that, on seeing the court, Ibn Khaldūn must have pondered his readiness for the job. In particular, his thoughts must surely have lit upon what he had written in *Al-Muqaddimah* on “The duties of the judge,” seven years earlier in North Africa.⁸ In that section, he cites the various basic rules for judges contained in a warning letter which the caliph ‘Umar (r. 13–23/634–644) is said to have given to Abū Mūsā al-Ash‘arī, the judge of Kūfah (the letter was in fact, apparently, a fake). He also refers to *Al-Aḥkām al-Sulṭāniyah* written by the Buwayhid jurist al-Māwardī (d. 450/1058), explaining how this book elucidates the basic laws and conditions pertaining to the judge’s profession, and how it describes judges eventually being responsible for certain out-of-court duties, as well as for knowledge of court matters.

From his writing, it seems that Ibn Khaldūn had experienced no discrepancy between what he had observed of current Islamic law in North Africa and what he

⁶Al-Maqrīzī, *Sulūk*, 1:538–39; Abū al-Maḥāsīn Yūsuf Ibn Taghrībirdī, *Al-Nujūm al-Zāhirah fī Mulūk Miṣr wa-al-Qāhirah* (Cairo, 1929–72), 7:121–22, 218; Escovitz, *Office of qāḍī al-quḍāt*, 20–28.

⁷Al-Maqrīzī, *Khiṭaṭ*, 2:374; Escovitz, *Office of qāḍī al-quḍāt*, 192–96.

⁸Ibn Khaldūn, *Al-Muqaddimah*, published by E. Quatremère as *Prolégomènes d’Ebn-Khaldoun*, Notices et extraits des manuscrits de la Bibliothèque impériale et autres bibliothèques, vols. 16–18 (Paris, 1858), 16:397–400; Ibn Khaldūn, *The Muqaddimah: an Introduction to History*, trans. Franz Rosenthal (New York, 1958), 1:452–56.



had learnt of legal traditions since the early Islamic period. The images he had in his mind of what the qualifications and duties of an Islamic judge should be, what could be expected of a justice, and so forth, were entirely theoretical, based on what he had studied. As well as this theoretical view, however, he also had his own particular view of the history of civilizations, according to which a society would tend to decay as its civilization developed, the seeds of social disintegration being incorporated within the development of civilization. Although he was still new to Egypt at this time, he must already have sensed the spiritual decay of this highly civilized society, and thus felt as if he were seeing his pet theory exemplified.

Ibn Khaldūn's image of the ideal judge thus had to remain an ideal in the reality of Egyptian society. Nonetheless, he tried to preside over legal affairs in accordance with this lofty ideal. Such an endeavor, carried out as it was with extreme circumspection, was bound to encounter tremendous problems in the Egyptian society of that time. Ibn Khaldūn was convinced, however, that precisely by undertaking this endeavor, he was fulfilling his responsibilities to the people and to his patron, the sultan, and he applied himself with great zeal to his task. The following is from his autobiography:

I made the utmost effort to enforce God's law, as I had been charged to do. I tried to conduct things fairly and in an exemplary manner: I considered the plaintiff and the accused equally, without any concern for their status or power in society; I gave assistance to any weaker party, to level out power inequalities; I refused mediation or petitions on either party's behalf. I focused on finding the truth only by attending to the evidence. I also kept a watchful eye on the conduct of the official witnesses (*al-naẓar fī 'adālat al-muntaṣibīn*) responsible for testimonies (*taḥammul al-shahādāt*). There were some among them who were dishonest or lacking in morals. Evidently the superintendents of justice (*al-ḥukkām*) had not fully investigated these people: dazzled by their connections with powerful names, the superintendents had overlooked any character flaws. The majority of the official witnesses were private tutors in the Quran, or prayer-leaders employed by amirs, so the superintendents of justice must have installed them as official witnesses in the belief that they were of impeccable character. The judges were informed that these witnesses were men of integrity (*fī tazikiyatihim 'inda al-quḍāh wa-al-tawassul lahum*). In reality, moral decay ran deep among the official witnesses, and within such a deceit-ridden, corrupt administration, the decay spread from



one person to the next. Whenever I found out about wrong-doers, I punished them and gave them a severe warning.⁹

Ibn Khaldūn tried to establish fair court procedure as quickly as he could after his investiture. Inevitably, such an endeavor required him to take a scalpel to the degenerate world of Egypt's judiciary.

PARTICIPANTS IN THE MAMLUK JUDICIAL ADMINISTRATION I

The first point to consider with respect to the passage from *Al-Ta'rīf* cited above is the phrase "the official witnesses responsible for testimonies." The title "official witness" is expressed in Arabic as *'udūl* or *shuhūd*, which often occur in the plural, or by the abstract noun *'adālah*. The presence of witnesses is a requirement of the Islamic court and the official witness system is considered to date back to the early Abbasids at the end of the eighth century, judging from the complexity of the tests (*tazkiyah*) used to measure the fair-mindedness of witnesses.¹⁰ The presence of official witnesses is understood as a system for maintaining the fairness of the court and for ensuring the smooth running of the judicial administration. The fact, as indicated in Ibn Khaldūn's writing above, that the official witnesses are appointed not by a judge but by a specialized superintendent of justice (*hākim*) is also noteworthy.

The official witness system is referred to in Ibn Khaldūn's earlier work, *Al-Muqaddimah*. In this work, he begins by describing the content of the work of official witnesses: with permission from the judge they carry out duties such as bearing witness during a trial, and recording the details pertaining to people's rights, properties, debts, and other legal transactions, as required on the certificate of judgment. He goes on to explain the essential qualifications for an official witness: utter honesty and sincerity in accordance with religious law. To check whether official witness candidates are in possession of these qualities, their lifestyles are scrutinized by a judge. A candidate deemed suitable for the position can then serve as official witness for a judge, who can send him out throughout the city to investigate the sincerity of litigants. Judges also employ these professional official witnesses to verify the authenticity of evidence. In addition, official witnesses in every city have their own shops and benches where they customarily sit, so that they can be called upon as a witness by anyone with legal business to conduct.¹¹

⁹Ibn Khaldūn, *Ta'rīf*, 254–55; Ibn Khaldūn/Cheddadi, *Voyage*, 153–54.

¹⁰Cf. Aḥmad ibn 'Umar al-Khassāf (d. 261/874), *Kitāb Adab al-Qādī*, ed. Farhat Ziadeh (Cairo, 1978), 83–84; Emile Tyan, "Adl," *The Encyclopaedia of Islam*, 2nd ed., 1:209–10; idem, *Histoire de l'organisation judiciaire en pays d'Islam* (Leiden, 1960), 236–42.

¹¹Ibn Khaldūn, *Al-Muqaddimah*, 16:404–5; Ibn Khaldūn/Rosenthal, *The Muqaddimah*, 1:461–62.



This provides a picture of what would have been assumed to be the everyday work of the official witness in the Islamic society of Ibn Khaldūn's time. The official witnesses referred to in the extract from *Al-Ta'rīf* cited above, however, do not seem to conform to this image. The majority of them were appointed by the powerful amirs and, at least in trials connected with the amirs, the official witnesses could not be expected to provide impartial witness. If corruption was not rooted out by the official witnesses, then fair trials became an impossibility. Ibn Khaldūn recognized this and tried to redress the problem which had developed over the years. It was inevitable, though, that such action would result in his making enemies. He explains some of the problems as follows:

I put a stop to the witnessing work of those official witnesses whom I knew to have guilty consciences. Among them were a number of scribes (*kuttāb*) belonging to the judges' offices (*dawāwīn al-quḍāh*), who, among other things, kept the records of public hearings. As well as being versed in the compilation of trial documents (*da'āwā*) and judgment documents (*ḥukūmāt*), these scribes were employed by the amirs to draw up a variety of contracts and certificates. Thus their status was considered higher than that of other official witnesses, and since the judges were also in awe of the power of the amirs, the amirs were able to shield their scribes from any criticism. Some of the scribes would attack even the fairest official document (*al-'uqūd al-muḥkamah*), endeavoring to claim its invalidity because of some legal problem related to a trial or some problem with the style of the document itself. When rewards of status and gifts were offered, the scribes were all too eager to apply themselves to such tasks. A case in point is that of the *waqfs* (*awqāf*: endowments). There are many *waqfs* in Cairo, including several which are hardly known to anyone. These are easy prey for corrupt deals. A corrupt scribe will join forces with someone who wants to buy a *waqf* to turn it into private property, and draw up the validating documents for him. Difficulties are compounded by differences between the legal schools (*ikhtilāf al-madhāhib*) of the superintendents of justice (*al-ḥukkām bi-al-balad*) for the areas concerned. The superintendents' attempts to prevent such usurping of *waqfs* are simply ignored. Thus the alienation of *waqfs* increases, and at the same time, other contracts (*'uqūd*) and private properties (*amlāk*) also become subject to similar risks.



Trusting in God, and fearing not the hatred and contempt which was poured on me, I took steps to root out such evil.¹²

The above passage shows how, among the official witnesses, there were scribes with responsibilities in the law courts, who, in collusion with amirs, exploited their legal knowledge and their positions so as to become accomplices of crime. In such circumstances, there was no hope of a just court. The official witnesses who were present during court sessions and the scribes of the *dīwān al-qāḍī* who carried out the court's secretarial work have generally been viewed as different types of functionaries, but Ibn Khaldūn's writing shows that the scribes who were charged with the court's secretarial work might also serve as official witnesses; and those who did so were often in the employ of the amirs, which meant that they were accorded superior status among the scribes. The main aim of these scribes was to line their own pockets, and what they preyed upon most heavily was the *waqf* property: *waqf* which, in Islamic law, should not be touched even by those in authority.

VIOLATIONS OF *WAQF* PROPERTY RIGHTS

Even before Ibn Khaldūn's time, the Mamluk period had seen repeated occurrences of *waqf* property being targeted by people in authority. Conspiring judges would find the *waqf* contracts of the property in question invalid, or they would give evidence to that effect, so that the property would then be confiscated by the state. History books record cases of such actions being perpetrated even by sultans. In 709/1310, for example, Sultan al-Nāṣir Muḥammad (r. 693/1293–94, 698–708/1299–1309, 709–41/1310–41) is said to have summoned the chief judges and had them testify that some estates (*diyā'*) and private properties (*amlāk*) which the previous sultan, Baybars II, and the regent, Sallār, had designated as *waqf*, had actually been purchased with money from the state coffers (*bayt al-māl*) and so the claim that they were *waqf* was void. This confirmed, the sultan had Āqūsh, amir and governor (*nā'ib*) of Karak, and Karīm al-Dīn, superintendent of the sultan's private property, sell off the legacy of Baybars II. The money thus raised was divided between the sultan and Baybars' daughter, who was the wife of an amir.¹³

In 717/1317, Sultan al-Nāṣir Muḥammad planned to acquire more *waqf* land by exchanging it for other land. The *waqf* land in question was in Birkat al-Fīl in Cairo, and had been bequeathed by Baybars II to his children. In this instance, the chief judge of the Hanafite school, Shams al-Dīn al-Ḥarīrī, opposed the exchange,

¹²Ibn Khaldūn, *Ta'rif*, 255–56; Ibn Khaldūn/Cheddadi, *Voyage*, 154–55.

¹³Al-Maqrīzī, *Sulūk*, 2:82; Escovitz, *Office of qāḍī al-quḍāt*, 149.



arguing that *waqf* land could not be exchanged, according to Hanafite law. Hearing of this, Sirāj al-Dīn ‘Umar ibn Maḥmūd, a judge of the same school, saw an opportunity to further his own career. He promised the sultan that, if he were made chief judge, he would pass judgment on the matter in the sultan’s favor. He became chief judge and the exchange of the *waqf* land was legitimized. This chief judge fell ill and died just two months later.¹⁴

Six years later, in 723/1323, the sultan arrested Karīm al-Dīn, the judge who had been made to conspire in illegally acquiring *waqf* land in 709/1310, and who was superintendent of sultanate private properties. The sultan tried to confiscate Karīm al-Dīn’s property, but this included *waqf* worth six million dinars. He ordered the chief judges to hand over the *waqf* land, but the Shafi‘ite chief judge, Badr al-Dīn Muḥammad ibn Jamā‘ah, opposed this, asserting that this land had become *waqf* land by fully legal procedures. At this, the sultan employed witnesses to give false testimony against Karīm al-Dīn, saying that all of the latter’s land (*‘aqar*) and property, be it *waqf* or free property (*ṭalq*; property not subject to any rules), had been acquired with the sultan’s money and not with Karīm al-Dīn’s own money. As a result, his *waqf* rights became invalid and all of Karīm al-Dīn’s property became the sultan’s. The Mamluk historian al-Maqrīzī, (d. 845/1442) writes that the sultan designated a part of the confiscated property as *waqf* and renamed it *al-waqf al-Nāṣirī*, but that he did not, in reality, accord the land proper *waqf* treatment.¹⁵

A further incident occurred some thirty years later, in 754/1353. By this time the sultan had become a mere puppet of his generals. The vizier ‘Ilm al-Dīn Ibn Zambūr had been arrested, and the powerful amir Ṣarḥitmiṣh tried to have the *waqf* rights of Ibn Zambūr’s property nullified, then sell the property. He tried to use the above-described events of 723/1323 as the legal precedent for this. Thus he summoned the chief judges of the four schools of law to the Hall of Justice (*dār al-‘adl*) in the Citadel, and he urged them to nullify Ibn Zambūr’s *waqf* rights. The Shafi‘ite chief judge, ‘Izz al-Dīn Ibn Jamā‘ah, opposed this, however, and the Hanbalite chief judge, Muwaffaq al-Dīn ‘Abd Allāh, agreed with his opposition. Ṣarḥitmiṣh flew into a rage, asking the chief judges, “Do you want to destroy this country through your wickedness?” He argued with them, citing the judgment (*qaḍīyah*) whereby Sultan al-Nāṣir Muḥammad had had the *waqf* of Karīm al-Dīn revoked. Chief Judge ‘Izz al-Dīn Ibn Jamā‘ah rebutted this, stating that the decision in the case of Karīm al-Dīn had been based on testimonies that Karīm al-Dīn’s property had all been acquired through his managing the sultan’s property and hence had been acquired not with his own money but with the sultan’s money.

¹⁴Al-Maqrīzī, *Sulūk*, 2:173–74.

¹⁵Ibid., 243–44, 888; Escovitz, *Office of qâḍī al-quḍât*, 148–49.



The revoking of Karīm al-Dīn's *waqf* could be acknowledged on this basis as legal. In the case of Ibn Zambūr, however, even though he had been vizier, his assets had all been acquired through private business dealings. To confiscate any *waqf* or property derived from these assets would be illegal. The validity of 'Izz al-Dīn Ibn Jamā'ah's argumentation was upheld, and Şarghitmish's petition rejected.¹⁶

The opposition that Şarghitmish met with from the chief judges, and his failure to have the *waqf* nullified, may have been partly due to the fragility of his power base. He had promised the sultan's widow that, if he succeeded in having Ibn Zambūr's *waqf* revoked, he would give her a portion of it. That this plan had now come to nothing was a great blow to him. He became ill and was forced by the other amirs to give up his position as chief governor (*ra's nawbah*).¹⁷

Examples like the one of Şarghitmish, where opposition by the chief judges kept *waqf* out of the clutches of those in power, are rather rare in the historical records. Much more frequent are examples of judges collaborating in the plots of the influential. Among these is the case of Amir Qawşūn. In 730/1330, Qawşūn was building a magnificent mosque outside the Zuwaylah gate near Birkat al-Fīl in Cairo. He wanted to extend the plot of the mosque so he tried to buy the public bathhouse (*ḥammām*) which neighbored his property. This public bathhouse, however, had been donated as *waqf* by the late amir Jamāl al-Dīn Āqūsh (d. 710/1310), so its sale or purchase was illegal. Qawşūn discussed the matter with the judges, with the outcome that the Hanbalite chief judge, Taqī al-Dīn Aḥmad ibn 'Umar, apparently gave his backing to a secret plan. This involved the side-wall of the public bathhouse being unexpectedly broken down—probably on the orders of the amir—at which some public witnesses (*shuhūd*), who were also conspirators in the plot, appeared before Chief Judge Taqī al-Dīn. They testified that, "This bathhouse is dilapidated and of no use. It is likely to injure someone standing near it or passing by. It would be better to sell a building which is damaged like this." Their testimony ensured that a witness's report (*maḥḍar*) had to be drawn up, and the chief judge then ordained that, in accordance with the law of the Hanbalite school, the premises could be sold. When drafting the witness's report, one of the official witnesses refused to sign it, saying, "God knows, I went into that bathhouse this morning and bathed there. There was nothing wrong with it. To testify that by sunset of this same day it has fallen into disrepair is something I cannot do." He left without signing, but another person was summoned in his place and the latter signed the document. The witnesses' report was drawn up in accordance with Hanbalite protocol, and Amir Qawşūn bought the public bathhouse from the son

¹⁶Al-Maqrīzī, *Sulūk*, 2:888–89; Escovitz, *Office of qādī al-quḍāt*, 149–50.

¹⁷Al-Maqrīzī, *Sulūk*, 2:889.



of Amir Jamāl al-Dīn Āqūsh, who owned the *waqf* rights. According to al-Maqrīzī all of those involved “used trickery and deception to get rid of a *waqf*.”¹⁸

A few years later, in 733/1333, Amir Qawṣūn bought the mansion of Amir Shams al-Dīn Baysarī (d. 698/1299) in Cairo, which had been a *waqf*. Baysarī’s *waqf* document had been drawn up with scrupulous attention to legal formalities, and it was signed by 72 witnesses, including members of the Shafī’ite chief judge class such as Taqī al-Dīn Ibn Daqīq al-Īd, Taqī al-Dīn Ibn Razīn and Taqī al-Dīn Ibn Bint al-A‘azz. Nonetheless, the Hanbalite chief judge, who was eager to conspire with Qawṣūn, allowed a valuation document (*maḥḍar bi-shuhūd al-qīmah*) to be drawn up for the mansion. The value was set at 200,000 dirhams, with the mansion value itself at 190,000 dirhams and a further 10,000 dirhams for the orphaned children of Baysarī; and an official report was drawn up to that effect. Thus the chief judge permitted the sale of the mansion and the sale of its grounds up to the approved value. This mansion was of unparalleled magnificence. Al-Maqrīzī writes that he felt sickened at having to record the incident.¹⁹

The infringements of *waqf* rights described above were no doubt the more remarkable cases, with less clear-cut infringements probably being plentiful but not significant enough to be recorded in history books. Certainly from the accounts of Ibn Khaldūn, it seems that it was nothing out of the ordinary for not only scribes, but even chief judges, to conspire with amirs in attempts to appropriate *waqfs* or the property of others. It was because of this state of affairs that, at the end of the Bahri Mamluk period, directly before Ibn Khaldūn had come to Egypt, an incident had occurred which had rocked the very existence of the *waqf* system. This was when the great amir (*amīr al-kabīr*) Barqūq, who would later become the first sultan of the Burji Mamluks, had summoned the judges and the ulama elders in 780/1379 and called for the abolition of all *waqfs* in Egypt and Syria, be they *waqf* lands supporting religious institutions such as mosques, colleges, and monasteries, or *waqf* lands constituting the livelihoods of descendants of Mamluks or amirs. The *waqf* certificates of the whole country were presented before the assembled amirs and ulama, and they were informed of how the profits from these *waqfs* amounted each year to an enormous sum. Barqūq then admonished that, “This state of affairs is causing the weakening of the Muslim armies.” The Shaykh al-Islam Sirāj al-Dīn al-Bulqīnī spoke out against this, saying that the *waqfs* for religious institutions such as mosques, colleges, and monasteries were supporting the lives of Islamic jurists and prayer-leaders: “No one can abolish these, and no Muslim has the right to compel such action. If anyone wants so badly to abolish

¹⁸Ibid., 320–21; Escovitz, *Office of qādī al-quḍāt*, 150.

¹⁹Al-Maqrīzī, *Sulūk*, 1:880, 2:362; Escovitz, *Office of qādī al-quḍāt*, 150–51. Escovitz’s record of this event as occurring in 723 must be a mistake for 733.



the *waqfs*, then let a single office (*dīwān*) be established where we can all settle our accounts, as is our right. In this way, Your Excellencies could see how we do not want huge sums of money in preference to the *waqfs* we have received. Those *waqfs* which, on the other hand, have been bought for sycophants by dishonest means using state money, those, if they have not been acquired by the correct and legal means, could be abolished." The Shafi'ite chief judge, Badr al-Dīn Ibn Abī al-Baqā', offered blandishments in response to this speech by Sirāj al-Dīn al-Bulqīnī, claiming that all land belonged to the sultan, so His Highness and Their Excellencies, the amirs, may do with it as they pleased. The military judge (*qāḍī al-askar*) Ibn al-Bulqīnī countered that even the sultan was only a man. It was just that His Highness and Their Excellencies were the ones to appoint the judges, so if the judges did not carry out orders, Their Excellencies could dismiss them. Al-Maqrīzī writes that the outcome of this investigative conference was that, although the Mamluk authorities could not abolish all *waqfs*, they did select numerous *waqfs* to be abolished, and they turned them into *iqṭā'*.²⁰

PARTICIPANTS IN THE MAMLUK JUDICIAL ADMINISTRATION II

The previous section illustrated how, under the Mamluks, *waqf* property had been an object of desire to all figures of authority from the sultan down, even before Ibn Khaldūn came to Egypt. The law in this respect was observed in name only: members of the ruling class who were covetous of the *waqfs* employed the services of judges, scribes, and official witnesses to give the appearance of abiding by Islamic law, and the judges, scribes, and official witnesses for their part had their own self-interested reasons for aiding and abetting the rulers. The following excerpt from Ibn Khaldūn's *Ta'rīf* shows how deeply rooted such practices were. He evidently felt that Mamluk society had lost the dignity, or sanctity, even of its court. This is clear from what he writes on the muftis, whose job it was to give opinions on points of law.

I turned my attention next to the Malikite muftis (*[ahl] al-futyā*). Among them were arbitrators (*ḥukkām*, plural of *ḥakam*) of some experience, who were notorious for being argumentative, for giving conspiratorial advice to plaintiffs (*khuṣūm*) and for giving out post-judgment opinions on points of law (*futyā*) [counter to the judgments passed at court]. Some of these *ḥukkām* were contemptible people who had no qualifications, yet had passed themselves off as scholars of law or official witnesses (*'adālah*), then risen to the ranks of muftis or teachers, and fulfilled these offices with little care. There

²⁰Al-Maqrīzī, *Sulūk*, 3:345–47; Escovitz, *Office of qāḍī al-quḍāt*, 152–53.



are great numbers of these men, perhaps because the population of Cairo itself is so huge, and there is no one to reprimand them, evaluate their skills, or give them warnings. They can hand out their rulings freely, in this city [Cairo], without being subject to any regulation. Every plaintiff employs a mufti to help him vie with and win against his opponent, asking the mufti's advice on how to resolve the situation being contested. The muftis then give their clients advice calculated to satisfy, but since the two muftis in a case are each operating from different standpoints, the opinions (*fatāwá*) they offer simply contradict each other. Things are made even worse when muftis offer their contradictory opinions after a judgment has been passed. Such conflict occurs frequently among the four schools of law [since they each have different interpretations of the law], so [when events have come to such a pass] it becomes almost impossible for a fair judgment to be served. The general public (*'āmmī*) has no means of properly evaluating the qualifications (*ahlīyah*) of muftis, so this corruption is spreading, and there is little hope of it dying out.²¹

The muftis described in this excerpt from *Al-Ta'rīf* cut a rather different figure than that which is usually expected of a mufti. In the long history of Islam's mufti system, those appointed by the rulers as muftis were competent and decent people selected from among the brightest jurists versed in Islamic law. The opinions they gave on points of law were called *fatwá*, while the act of offering a *fatwá* itself was known as *futyā* or *iftā'*. The earliest reference to the mufti system is a record of the Umayyad governor of Egypt Ayyūb ibn Shuraḥbīl charging three men, Ja'far ibn Rabī', Yazīd ibn Abī Ḥabīb, and 'Ubayd Allāh ibn Abī Ja'far, with the job of performing Egypt's *futyā*, on the order of Caliph 'Umar II (r. 99-101/717–20).²² The system underwent certain changes during the course of history, but by the time of the Mamluks, the muftis involved in the *iftā'* of the Hall of Justice (*dār al-'adl*) were the highest-ranking, with a total of four muftis, one from each of the schools of law, being appointed to this rank.²³

²¹Ibn Khaldūn, *Ta'rīf*, 256–57; Ibn Khaldūn/Cheddadi, *Voyage*, 155.

²²Al-Maqrīzī, *Khīṭaṭ*, 2:332; Ibn Taghrībirdī, *Nujūm*, 1:238; al-Suyūṭī, *Ḥusn al-Muḥāḍarah fī Tārīkh Miṣr wa-al-Qāhirah* (Cairo, 1968), 1:299. Ja'far ibn Rabī'ah was selected from among the Arabs, Yazīd ibn Abī Ḥabīb and 'Ubayd Allāh ibn Abī Ja'far from the *mawālī*.

²³Aḥmad ibn 'Alī al-Qalqashandī, *Ṣubḥ al-A'shā fī Ṣinā'at al-Inshā'* (Cairo, 1964), 11:207–8; Tyan, *Histoire de l'organisation judiciaire*, 219–24.



In Ibn Khaldūn's *Muqaddimah*, the job of mufti is classed among the religious duties presided over by the caliph. It is described as follows:

As to the office of mufti, the caliph must examine the religious scholars and teachers and entrust this office only to those who are qualified for it. He must help them in their task, and he must prevent those who are not qualified from (becoming muftis). (The office of mufti) is one of the (public) interests of the Muslim religious community (The caliph) has to take care, lest unqualified persons undertake to act as (mufti) and so lead the people astray. Teachers have the task of teaching and spreading religious knowledge and of holding classes for that purpose in the mosques. If the mosque is one of the great mosques under the administration of the ruler, where the ruler looks after the prayer leaders, as mentioned before, teachers must ask the ruler for permission (to teach there). If it is one of the general mosques, no permission is needed. However, teachers and muftis must have some restraining influence in themselves that tells them not to undertake something for which they are not qualified, so that they may not lead astray those who ask for the right way or cause to stumble those who want to be guided. A tradition says: "Those of you who most boldly approach the task of giving *fatwās* are most directly heading toward hell." The ruler, therefore, has supervision over (muftis and teachers) and can give, or deny, them permission to exercise their functions, as may be required by the public interest.²⁴

The picture of the mufti emerging from the above citation is superficially similar to that in *Al-Ta'rif*, but in fact the two portraits are different. Perhaps Ibn Khaldūn had come to feel a kind of indignation at the judicial system of Mamluk Egypt, and indeed at the cultural degeneracy of Mamluk society as a whole, compared with the Islamic society of the Maghrib with which he had been familiar formerly. The description in *Al-Ta'rif* continues as follows:

Still, I set about reforming this [habit] by arresting the muftis who were quacks or who lacked learning (*ahl al-hawá wa-al-jahl*), and I punished them firmly. Among them, however, was a number of Maghribis who gathered together (*multaqiṭūn*) and dazzled people by rattling off jargon (*iṣṭilāḥāt*), although they themselves had neither

²⁴Ibn Khaldūn/Rosenthal, *The Muqaddimah*, 1:451–52; Ibn Khaldūn, *Al-Muqaddimah*, 16:396–97.



studied under a great master (*shaykh*) nor versed themselves in specialist texts. They trifled with people's feelings, turning the court (*al-majālis*) into a place where prominent people were slandered and those deserving of respect were insulted. They hated me because of the punishments I meted out, so they joined forces with the inhabitants of those monasteries (*zawāyā*) promoting the same kind of belief as theirs. The appearance of piety that this allegiance lent them brought them a level of prestige, which they then abused in impious ways. Good people (*ahl al-ḥuqūq*) would inevitably choose them as arbitrators, at which they would gabble their chants as if with the voice of Satan, then claim that all was solved. Being unmoved by religion, their ignorance leads them to expose the laws of God (*aḥkām Allāh*) to danger.

I broke up their malevolent circle and chastised their clients, in accordance with the laws of God. Their cronies in the monasteries became powerless, since people stopped going there, so their well [their source of funds] dried up. Having thus lost their clientele these foolish people flew into a rage. They tried to defile my honor, inventing and spreading twisted, false rumors about me. Even the sultan came to hear rumors of my wrongs. The sultan however did not listen to them; the consequences of what I had put in motion were in the hands of God. Thus I paid no heed to the ignorant and walked the path of courage and rigor. I took equality and righteousness as my guides, rebuffed temptations toward injustice, and firmly refused to be influenced by prestige or riches, even when this resulted in my name being slandered. Such a course of action was not adopted by my colleagues: they disavowed my counsel and advised me to follow their example in appeasing the government officials (*akābīr*) and showing consideration toward those with influence. In other words, in clear cut cases I should pass judgments favorable to the dignitaries (*a'yān*), and when there were difficulties I should reject the case, since when there were other judges (*ḥākim*) [within the same circle of jurisdiction] there was no obligation for one judge to pass judgment. This was their way of helping each other out.²⁵

²⁵Ibn Khaldūn, *Ta'rīf*, 257–58; Ibn Khaldūn/Cheddadi, *Voyage*, 155–56.



While not claiming to have examined every piece of historical data on the Mamluk period, the present author believes that the excerpt above must surely be one of the clearest descriptions of what the muftis of Ibn Khaldūn's time were really like. A recapitulation of Ibn Khaldūn's main points is as follows:

1. The role of the mufti at that time was to act as a kind of legal advisor to anyone wanting advice regarding lawsuits. Muftis fulfilled this role by helping their clients devise strategic answers which would enable them to win a lawsuit, and sometimes by issuing *fatwás* against judgments that had been passed, thus throwing the court into confusion.

2. The number of muftis was very large. Among them were many who had no qualifications but had managed to pass themselves off as jurists or official witnesses of adequate ability. Since such ill-qualified muftis were numerous and probably adopted a threatening air, nobody dared to chastise them or question their qualifications.

3. In Cairo, muftis could issue *fatwás* freely; there were no restrictions. The litigants on both sides would employ muftis to fight their battle, with the result that the *fatwás* issued would often contradict each other and the court would again be thrown into confusion. Conflicts of this kind were particularly numerous when each of the four law schools had differing laws concerning a certain problem. In such cases there was little hope of a fair judgment being reached.

4. Since the general public had no way of evaluating the validity of the qualifications or the *fatwás* of the muftis, the corruption spread, and the more it spread, the less there was any chance of wiping it out.

5. Among the quack muftis were a number of men from Ibn Khaldūn's homeland of the Maghrib. They banded together and spent their time making jargon-filled statements to slander and denounce those who were respected in the courts.

6. Collaborating with the Maghribis whom Ibn Khaldūn punished was a group of monastery affiliates, who should have been fervent in their faith. Like the muftis, they offered consultations for believers and litigants, and they postured as a grandiose oracle. What they received in return they used to line their pockets.

In short, the muftis were crooked lawyers. But that was not all: the issue of the band of Maghribis was significant in a way that deserves further attention. Ibn Khaldūn presided over the court as the Malikite chief judge, and in the Maghrib,



adherents of the Malikite school were numerous, so it can be assumed that, among the litigants at Ibn Khaldūn's court, there were not only Egyptians but also a lot of Maghribis. The group of muftis from the Maghrib was thus a pressure group which the court had to consider. This phenomenon was no doubt not restricted to the Malikite school, but also existed in the courts of the other schools. In a court full of ill-intentioned muftis, there could have been little hope of maintaining the *manifestation of the law at its sternest*.

The fact that Ibn Khaldūn repeatedly criticized the issuing of post-judgment *fatwās* should also not be overlooked. It goes without saying that the muftis' action of issuing *fatwās*—and thus utterly ignoring the authority of a court judgment—was just what was wanted by all the influential figures hoping to use the court to their advantage. The court must have been frequently forced into retrials, and aspects of judgments must frequently have been overturned.

The court thus ultimately lacked authority; a fact which, as Ibn Khaldūn explained, originated also in the behavior of the judges. The judges frequently used bribes to buy their positions, or they accepted bribes to pass favorable judgments. When there was no way that a favorable judgment could be passed, they would reject the case, making excuses such as not being obliged to pass judgment since there were other judges available. Thus by avoiding the court they could look after their own interest.

HOW EGYPT'S INTELLECTUALS SAW IBN KHALDŪN

Ibn Khaldūn endeavored to reform the corruption which was manifest in all levels of the Mamluk judiciary: among official witnesses and scribes, muftis and judges. Inevitably his actions caused conflict and made him unpopular, and an opposition movement grew up. His *Ta'rif* gives his version of how these events reached their conclusion.

According to this version, the Maghribi muftis who had joined forces with the monastery residents and slandered Ibn Khaldūn to the sultan went on to rally others dissatisfied with Ibn Khaldūn, such as official witnesses whom he had barred from practicing. Together they testified that Ibn Khaldūn was not passing judgment according to Islamic law, but was simply acting according to his own ideas, even in cases where a judgment reached by unanimous agreement of the community (*qaḍīyat ijmā'*) was required. False charges and slander such as this abounded. When men from among these slanderers tried to seek favorable judgment for themselves, Ibn Khaldūn temporarily suspended court business. The litigants, who belonged to the anti-Ibn Khaldūn faction, then lost no time in delivering a petition to Sultan Barqūq saying that Ibn Khaldūn should be investigated. Judges and muftis were summoned to investigate Ibn Khaldūn, probably including the chief judges of the other schools and the muftis of the Hall of Justice (*dār al-'adl*).



The result of this investigative council (*majlis ḥafl li-al-naẓar*) was not only that Ibn Khaldūn was cleared of the accusation that he had passed illegal judgments, but also that the plots against Ibn Khaldūn reached the ears of the sultan. Ibn Khaldūn was thus free to continue passing judgments according to the law of God, in spite of the claims made against him.

This angered the opposition group intensely, and they set to work on close associates of the sultan and influential amirs who were guilty of acquiring their privileges illegally and now feared they might soon lose them. They used every trick they knew to fan the flames of indignation toward Ibn Khaldūn, saying, for example, that even though Ibn Khaldūn lacked the necessary specialist knowledge, he would ignore the privileged rights of the powerful, or he would reject any mediation on their behalf. As a result, enmity toward Ibn Khaldūn grew in all quarters, and even his relations with those close to the sultan became awkward. In the midst of all this came the sad news that a ship on which Ibn Khaldūn's family was traveling from Tunis to Egypt had met with a storm near Alexandria and sunk. In such circumstances, Ibn Khaldūn felt he could no longer carry out his duties, and he made up his mind to resign the post of chief judge. His friends advised him, however, that to resign would anger the sultan, his protector, so Ibn Khaldūn remained in the post, until finally, on 7 Jumādā I 787/16 June 1385, permission came from the sultan, and Ibn Khaldūn resigned. Jamāl al-Dīn 'Abd al-Raḥmān ibn Khīr was appointed in his stead.²⁶

Thus Ibn Khaldūn's autobiography describes the circumstances of his resigning his first appointment as chief judge. He does not name his antagonists, but according to Ibn Ḥajar al-'Asqalānī (773–852/1372–1449), the well-known judge and scholar of hadīth, one of his enemies was a man named al-Rakrākī.²⁷ Al-Maqrīzī identifies this al-Rakrākī as Shams al-Dīn Muḥammad al-Rakrākī al-Maghribī, a Malikite professor at Shaykhū Monastery, *Khānqāh Shaykhū*.²⁸ Al-Rakrākī had been appointed to his position in Rabī' I 781/January or February 1379, but was dismissed in Jumādā II 786/July or August 1384—exactly the time when Ibn Khaldūn was appointed chief judge—and then reappointed two months later. Like Ibn Khaldūn, he was from the Maghrib.²⁹

In his description of how the Maghribi muftis, resentful of being punished, banded together with the inhabitants of the monasteries, Ibn Khaldūn does not give detailed information about the monasteries. He simply uses the Arabic word *zawāyā*, (s. *zāwiyah*). There is no doubt, however, that one of the monastery

²⁶Ibn Khaldūn, *Ta'rīf*, 258–60; al-Maqrīzī, *Sulūk*, 3:533; Ibn Khaldūn/Cheddadi, *Voyage*, 157–58.

²⁷Ibn Ḥajar, *Raf' al-Iṣr*, 2:345.

²⁸Al-Maqrīzī, *Khīṭaṭ*, 2:421.

²⁹Al-Maqrīzī, *Sulūk*, 3:334, 357, 517, 518, 522.



inhabitants who conspired with the muftis was al-Rakrākī of the Maghrib. Evidently he felt that Ibn Khaldūn was his rival. When asked about him on one occasion, he replied, "Ibn Khaldūn knows nothing of Islamic law scholarship; he just has some trifling knowledge of a philosophical sort (*al-'ulūm al-'aqlīyah*). His lectures in that field are designed to attract people, and they're more amusing than the lectures of [the musician] Shaykh Shams al-Dīn al-'Ammārī."³⁰

According to Ibn Ḥajar, it was the conflict that grew up between Ibn Khaldūn and al-Rakrākī that led to the investigation of Ibn Khaldūn. In Ibn Ḥajar's version, Ibn Khaldūn presented to the investigation council a written *fatwá*, which he claimed was in the hand of al-Rakrākī and was addressed to the sultan. Al-Rakrākī denied that the *fatwá* had anything to do with him. When the document was examined it was found to be a fake. Hearing of this, Sultan Barqūq dismissed Ibn Khaldūn and replaced him with 'Abd al-Raḥmān ibn Khīr in Jumādā I 787/June or July 1385.

This account differs completely from Ibn Khaldūn's account of the investigative council. It leads us to be suspicious of Ibn Ḥajar. In Ibn Khaldūn's *Ta'rif*, it was after the investigative council that the activities of his detractors led to awkwardness between himself and the sultan's associates, and it was after he had heard of the misfortune striking the boat carrying his family that he made the decision himself to resign. Only on his friends' advice did he remain in the job, until finally the sultan gave permission for him to resign. According to Ibn Qāḍī Shuhbah (d. 851/1448), a ship dispatched by the Hafsid sultan was lost with the wife and five daughters of Ibn Khaldūn on board in Ramaḍān 786/October or November 1384.³¹ This is a full seven months before Ibn Khaldūn's leaving his office, so, even taking into account the time required for the news to travel, this casts doubts on the veracity of Ibn Ḥajar's account. It also makes his objectivity as a historian seem questionable with regard to Ibn Khaldūn.

How, then, did the Mamluk jurists and historians finally judge the legal administration of Chief Judge Ibn Khaldūn, this outsider come the Maghrib? The following historians all refer to Ibn Khaldūn: al-Maqrīzī (ca. 766–845/1364–1442), Muḥammad ibn 'Ammār (769–844/1367–1441), Ibn Ḥajar, Ibn Taghrībirdī (ca. 812–74/1409–70), and al-Sakhāwī (830–902/1427–97). The question of how al-Maqrīzī viewed Ibn Khaldūn's *Muqaddimah* is the topic of a previous paper by the current author which also discusses al-Maqrīzī's perspective on history, his writing style, his manner of presentation of the key arguments, and the fact that

³⁰Ibn Ḥajar, *Raf' al-Iṣr*, II, 345; al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 4:147. In each of these, al-'Ammārī appears as al-Ghammārī, but this is an error. Cf. al-Maqrīzī, *Sulūk*, 3:463.

³¹Ibn Qāḍī Shuhbah, *Tārīkh*, 3:138.



his work seems to have been influenced by Ibn Khaldūn.³² Al-Maqrīzī was indeed a kind of apprentice to Ibn Khaldūn. He had heard Ibn Khaldūn's lectures with his own ears, and he tended to write about him in glowing terms. In *Al-Khiṭaṭ* and *Al-Sulūk li-Mar'ifat Duwal al-Mulūk*, al-Maqrīzī refers to Ibn Khaldūn as "our venerable teacher (*shaykhunā*)."³³ Unfortunately, however, he does not relate anything of Ibn Khaldūn's term as chief judge or of the reactions of the Egyptians toward him at that time.

Muḥammad ibn 'Ammār, a professor of Malikite jurisprudence at the Musallamīyah College in Cairo, was a colleague of al-Maqrīzī. He studied Islamic law and history under Ibn Khaldūn, and he too sang Ibn Khaldūn's praises. Al-Sakhāwī relates of Ibn 'Ammār that "he praised Ibn Khaldūn's *Tārīkh* excessively, saying that *Al-Muqaddimah* comprises all branches of learning, and it achieves its lofty aims with a beauty of style that could not be achieved by any other. Indeed, it is one of those works whose titles are not descriptive of their contents, such as *Al-Aghānī* (Book of Songs), which was named thus [by its author, Abū al-Faraj al-Iṣbahānī]."³⁴ Like al-Maqrīzī, Ibn 'Ammār did not leave any account of Ibn Khaldūn's judicial administration.

Ibn Ḥajar lived a little later than al-Maqrīzī and Ibn 'Ammār. He grew up in a wealthy household and, on completion of his studies, worked as professor at several colleges, his main topic being study of hadith. When he was 51 he entered the judiciary, where, over a period of 21 years, he served repeatedly as chief judge, among other posts, while at the same time writing his numerous books. During his lifetime and thereafter he was considered to be the person who epitomized Egypt's scholars of religious law.³⁵ He was probably acquainted with Ibn Khaldūn during his youth, but unlike al-Maqrīzī and Ibn 'Ammār he was not under his tutelage. With regard to Ibn Ḥajar's views on Ibn Khaldūn, al-Sakhāwī writes that, while al-Maqrīzī and Ibn 'Ammār praised Ibn Khaldūn's *Muqaddimah*, Ibn Ḥajar agreed with their praise only partially and claimed that Ibn Khaldūn would

³²Morimoto Kosei, "Qarār-nomin ka, Qarrār-nomin ka: Ejiputonomin ni kansuru Maqrīzī no kijutsu no kaishaku wo megutte" (Critical remarks on modern interpretations of al-Maqrīzī's description of Egyptian farmers), *Isuramu sekai* (The world of Islam) 16 (1979):3–5.

³³Al-Maqrīzī, *Khiṭaṭ*, 1:50, 2:76, 190; al-Maqrīzī, *Sulūk*, 3:480, 517; al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 2:24; cf. Fischel, *Ibn Khaldūn in Egypt*, 28–29.

³⁴Al-Sakhāwī, *Al-I'lān bi-al-Tawbīkh li-Man Dhamma al-Tārīkh* (Damascus, 1349 [1930]), 27, 312; idem, *Al-Ḍaw' al-Lāmi'*, 8:232–34; cf. Franz Rosenthal, *A history of Muslim historiography*, 2nd ed. (Leiden, 1968), 280, 497; cf. Fischel, *Ibn Khaldūn in Egypt*, 28.

³⁵Al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 2:36–40; cf. Franz Rosenthal, "Ibn Ḥajar al-'Askalānī," *EF*², 3:776–78.



have been unable to verify the accuracy of his historical facts (*akhbār*), particularly those regarding the history of the East.³⁶

The content of Ibn Ḥajar's *Raf' al-Iṣr 'an Quḍāt Miṣr* is based predominantly on the *Kitāb al-Quḍāh* written by Jamāl al-Dīn 'Abd Allāh al-Bishbīshī (762–820/1361–1417/18), but it also reflects his own views to no inconsiderable extent. Al-Bishbīshī had worked as an assistant to al-Maqrīzī in his post concerning market supervision (*ḥisbah*).³⁷ Naturally, Ibn Ḥajar's *Raf' al-Iṣr 'an Quḍāt Miṣr* also recounts events relating to Ibn Khaldūn, including the details, cited above, of the conflict between Ibn Khaldūn and al-Rakrākī and of the council for investigating Ibn Khaldūn. Ibn Ḥajar's style of description is not uniform throughout the work, but the following is a representative example of what he wrote regarding Ibn Khaldūn's judicial administration:

When Ibn Khaldūn came to the land of Egypt, people went out to meet him and welcome him warmly. He had no end of followers and visitors. . . . [However,] when Sultan Barqūq appointed him Malikite chief judge, he carried out his duties in such a way that he brought difficulties upon himself. He upset everyone, and his method of scolding was to have people rapped on the nape of the neck, through which he earned the nickname "The Prodder." This was because, when he got into a rage, he would demand, "A prod for that fool!" at which the miscreant was jabbed on the nape of the neck until the skin turned red. . . . [In addition,] when other chief judges would come in to greet him, he would not even stand up. If accused of bad manners he would apologize. . . . [Even at court] he would not modify his Maghribi costume in the slightest, and he would not wear the garments of an Egyptian judge. In all he did, he seemed to enjoy coming into conflict with others. . . . He treated Egyptians cruelly and was violent toward many prominent personages and official witnesses. It is said that when the Maghribis heard of Ibn Khaldūn's appointment as chief judge, they were shocked and attributed it to there being a lack of Egyptians knowledgeable about law. Further condemnation came from Ibn 'Arafah [716–803/1316–1401 (a chief mufti of Tunis)] who stopped in Egypt en route to Mecca on a pilgrimage, and commented, "We thought that the position of chief judge was the most prestigious

³⁶Al-Sakhāwī, *I'lān*, 313; cf. Rosenthal, *History of Muslim Historiography*, 498.

³⁷Al-Sakhāwī, *I'lān*, 206; idem, *Al-Ḍaw' al-Lāmi'*, 5:7; cf. Rosenthal, *History of Muslim Historiography*, 428.



office, but when we heard that Ibn Khaldūn now held the position, we realized that we had been wrong." . . . [Thus, Ibn Khaldūn] was conducting the affairs of chief judge in a manner which the Egyptians were not accustomed to, and this eventually resulted in the outbreak of conflict between Ibn Khaldūn and al-Rakrākī. . . . In 787/[1385] when Ibn Khaldūn was dismissed and the former chief judge, 'Abd al-Rahmān ibn Khīr, was reinstated, people rejoiced. This reaction is a measure of their hatred for Ibn Khaldūn.³⁸

Thus Ibn Ḥajar portrays Ibn Khaldūn as an ungrateful, coarse, and ill-mannered character who resolutely refused to adapt to Egyptian customs. By contrast, however, he also says, quoting from al-Bishbīshī's *Kitāb al-Qudāh*, "[Ibn Khaldūn] was a brilliant speaker and his behavior was impeccable. This was all very evident after he stopped working as chief judge, but while appointed chief judge he had not mixed with others, preferring to avoid contact."³⁹ In addition, Ibn Ḥajar himself writes, "Once Ibn Khaldūn was released from his judge's duties, he attracted numerous followers by virtue of his fine character, he was seen in amiable discussion with people, he was welcomed everywhere with smiles, he paid visits to amirs and he conducted himself with humility."⁴⁰ This shows that it was not the case that Ibn Ḥajar did not know Ibn Khaldūn's character. Nonetheless, judging from the descriptions cited above, it seems clear that Ibn Ḥajar had no conception of what Ibn Khaldūn knew of Egypt's judiciary, nor did he know the fundamental reasons behind Ibn Khaldūn's harsh measures at court.

This seems all the more evident when one notes how Ibn Ḥajar believed and passed on the words of Ibn 'Arafah, the chief mufti of Tunis, who was senior in years to Ibn Khaldūn, and who was, for years, the latter's rival.⁴¹ The inclusion of Ibn 'Arafah's words seems to indicate that Ibn Ḥajar stood in the same camp as al-Rakrākī and others who were against Ibn Khaldūn. Such a stance cannot have been unrelated to the fact that Ibn Ḥajar belonged to the upper echelons of society: he was a blood relation of the Kārimī merchants who had built up a fortune through long-distance trade, and he had married one of his daughters into the Mamluks. In marked contrast to Ibn Khaldūn, he had experienced only the favor of the Mamluk system, and had no understanding of its harsher realities. This lack of understanding of society was mirrored in his flawed perception of history,

³⁸Ibn Ḥajar, *Raf' al-Iṣr*, 2:342–43, 344–45.

³⁹Ibid., 344.

⁴⁰Ibid., 345.

⁴¹Ibn Khaldūn, *Ta'rīf*, 232, 244. Muḥammad ibn 'Arafah went to Egypt in either 793/1391 or 796/1394. Cf. al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 9:240–42.



evident from his contributions to the debate on the question of the genealogy of the Fatimids. In light of such views, it is not surprising that he claimed to be unable to understand the high praise of his colleague, al-Maqrīzī, for Ibn Khaldūn.⁴²

Ibn Ḥajar also writes about the second time Ibn Khaldūn was appointed as chief judge, in 801/1399. He reports on how Ibn Khaldūn presided over the court with the same attitude as on the first occasion, and how, regrettably, he was drawn into a trial because of dismissing his assistant, Nūr al-Dīn Ibn Khallāl. Ibn Khaldūn's desire to reform Egypt's corrupt judiciary had not abated during those thirteen years, nor would it thereafter.⁴³ Ibn Khaldūn himself did not write much about his second appointment as chief judge, or about any of the appointments thereafter, but it is clear that he did not change his methods. Judges and other members of the judiciary who were against him, such as Nūr al-Dīn Ibn Khallāl, plagued him by slandering him at the sultan's court, or by bribing people to turn against him, but still, he "continued to try to fulfill his duties properly, as before, avoiding any self-interest, and focusing on seeing the defendants judged fairly."⁴⁴ He never made any move to alter his policies. This description clearly tallies with Ibn Ḥajar's account.

The historian Ibn Taghrībirdī was active after Ibn Khaldūn's death. On Ibn Khaldūn as a judge, he writes, "Ibn Khaldūn was extremely strict, and he considered the office of judge to be a position of great honor which he executed with the deepest respect. This attitude won him praise. He turned down the requests of government officials, and he refused to lend his ear to the petitions of the wealthy. As a result of this, such people began to slander Ibn Khaldūn to the sultan, and the sultan eventually dismissed him. . . ."⁴⁵ Ibn Taghrībirdī's viewpoint is evidently quite different from that of Ibn Ḥajar.

Coming finally to al-Sakhāwī, he, in contrast to Ibn Taghrībirdī, looked up to Ibn Ḥajar as "our venerable teacher," and greatly revered him. He writes a detailed biography of Ibn Khaldūn, but most of this is based on what Ibn Ḥajar wrote. In other words, al-Sakhāwī's viewpoint was the same as that of Ibn Ḥajar. He does not, however, follow up Ibn Ḥajar's passages addressing the issues of the conflict between Ibn Khaldūn and al-Rakrākī, and the council to investigate Ibn Khaldūn.⁴⁶

⁴²Ibn Ḥajar, *Raf' al-Iṣr*, 2:347–48.

⁴³Ibid., 345–46.

⁴⁴Ibn Khaldūn, *Ta'rīf*, 350, 383.

⁴⁵Ibn Taghrībirdī, "Al-Manhal al-Ṣāfī," Paris Ms. Arabe 2071, fols. 49–50. Cf. Fischel, *Ibn Khaldūn in Egypt*, 34.

⁴⁶Al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 4:145–49.



CONCLUSION

This article has presented a picture of Mamluk Egypt's judiciary, based primarily on Ibn Khaldūn's *Ta'rif*. Almost all of the people who made up the judiciary, from the judges to the scribes and official witnesses, to the muftis and the teachers at the colleges and monasteries, had some kind of connection to the powerful amirs, with whom they co-operated for profits instead of for the upholding of the law and for governance by law. By fulfilling the wishes of the influential and the wealthy, they could gain status and wealth themselves. To this end, the role of those working in the judiciary came to be one of making use of their knowledge and experience to find loopholes in the law. The practice of fighting court cases with false interpretations of the law obviously led to the destruction of legal order and the decline of respect for the law. By the end of the 14th century, these habits had become so entrenched in Egyptian society that they seemed like traditions of long-standing, provoking not the slightest surprise. Into such a society came Ibn Khaldūn, a foreigner with his own particular view of the history of civilizations. Egyptian intellectuals were divided as to whether they supported his administration of justice or were against it. It is significant that Ibn Khaldūn's supporters included men like Ibn 'Ammār, who is given special mention in histories for the fact that he never once accepted gifts of money or goods, even though he was a judge.⁴⁷ As a judge who did not take bribes, he was an exception to the rule, and those judges who accepted bribes as a matter of course could hardly have passed fair judgment on Ibn Khaldūn. Against such a background, there is no doubt that the goal which Ibn Khaldūn had set himself—the reformation of a judiciary dependent on and ineluctably bound into the Mamluk system of rule—was, try as he might, unattainable.

⁴⁷Cf. al-Sakhāwī, *Al-Ḍaw' al-Lāmi'*, 8:234.

