

Communication and Contention in ninth and tenth century Iraq

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In the late ninth and early tenth centuries the central 'Abbāsīd administration in Baghdād, which controlled an empire that stretched from the present Egypt in the West to the river Indus in the East, had become a highly bureaucratized machinery. At the core of this bureaucratic apparatus were written texts in a wide variety of types and numbers. The references in contemporary sources to official letters, surveys, registers, reports, financial accounts, internal memoranda, archives and edicts are innumerable. These texts not only indicate an intensive use and a wide production of written documents, they also suggest the presence of a literate mentality in the circles of bureaucratic employees, in the sense that these officials had confidence in and understanding of the achievements of writing. But literacy was certainly not as widespread among all groups and in all corners of the 'Abbāsīd empire as it was in the central bureaucracy. On the contrary, a substantial part of the inhabitants of the empire was illiterate or only had been introduced to some basic level of literacy, ranging from the mere recognition of the written word as an expression of communication to being able to read but not write. Then how did the state, or more precisely, its literate representatives, the officials of the central administrative departments, negotiate and communicate with the rest of society?

This is one of the main questions I have been pursuing in my research, first in my dissertation on the position and role of the civil servants (*kuttāb*) in the central departments in Baghdād and, more recently, in my analyses of various types of conflicts in which these officials got caught up. Studying the use of written documents in the settlement of conflicts forms an excellent opportunity to analyze familiarity with - and confidence in - writing among various social groups under the 'Abbāsīd caliphate. Indeed, in conflict situations the communication is of vital importance to all parties involved. The officials of the 'Abbāsīd administration in Baghdād were involved in various types of conflicts with all kinds of groups, from colleagues in the bureaucracy, tax payers and tax farmers in the provinces and members of the military to court attendants and relatives of the caliph. Sometimes they seem

to have defended the state's interests, sometimes their main motivation was the improvement of their own financial or political situation. From time to time they followed officially prescribed procedures, at other moments they settled their disputes in an informal manner. They could either use written texts both as proof for their argumentation and to document the final settlement, or they could settle disputes by means of oral agreements.

My study on the role of writing in conflict touches upon some larger discussions in which scholars of the social sciences and humanities lately have been engaged. In the first part of this paper I will discuss one of these debates: the discussions on the consequences of the introduction and dissemination of the written word. The second part of this paper will deal with writing in one specific type of conflict between the state and its subjects: the conflicts brought before the *mazālim* court, a court where subjects of the 'Abbāsid state could file petitions against official abuse.

Studies on communication

Over the last twenty-five years medievalists from a wide variety of disciplines – history, art history, literary history, palaeography and codicology – have produced a massive scholarly output on the introduction, development and extension of literacy in medieval European society.¹ Tributary to the social sciences, they started from the seventies, but mainly from the eighties onwards, to write on the consequences of the introduction and dissemination of literacy in medieval European societies. With their enormous collective output they have shown that knowledge of these processes has become indispensable for our understanding of medieval history. They concentrated on a wide variety of topics, of which some of the favourite first questions were: when did the transformation from a predominantly oral to a (partly) written culture take place? Which different social groups had access to writing? How was the teaching of reading and writing organized? And what did the differences and similarities between oral and written communication imply? From the nineties onwards new areas were developed. More often the term communication instead of literacy is used, emphasizing the growing

¹ For a review of this literature, see Marco Mostert's introductory essay 'New Approaches to Medieval Communication' and his massive 'Bibliography of Works on Medieval Communication' in M. Mostert (ed.), *New Approaches to Medieval Communication* (Utrecht Studies in Medieval Literacy 1) (Turnhout: Brepols, 1999), 15-37 and 193-318.

interest in the relation between writing and other modes of communication and the continuance of the use of these other communicative modes even after the wide dissemination of writing.

Despite the enormous output, obviously not all areas and all periods received equal attention. The early Middle Ages, for example, was a period less studied by the pioneers of oral and written culture. Fortunately, this period received worthy representatives in, among others, the members of the Utrecht research group 'Verschriftelijking' (the process of becoming literate) coordinated by Marco Mostert.² However, many areas in Europe, and indeed outside Europe still have a long way to go before they can catch up with the much more intensely studied areas such as Germany and England. Italy, the Iberian Peninsula, Central and Eastern Europe, Scandinavia, the Middle East and North-Africa, too mention but a few, have only scantily and often very recently received the attention of scholars interested in the discussions on medieval communication.³ Indeed, compared to the study of medieval Europe, the various forms of communication in Arab and Islamic societies in this period have as yet hardly been studied. Some of the basic questions such as who became, when, where and how a user (active or passive) of the written word, still remain largely unanswered. Questions on the consequences of literacy for the organization of society are hardly ever asked.

The majority of studies on communication in pre-modern Arab and Islamic societies are centred around two themes: the writing down of the Koran and the (Prophetic) traditions in early Islam and, secondly, oral and literate narrative traditions in Arabic literature. The debate on the transmission of the early Muslim traditions, started already in the nineteenth century with scholars such as Ignaz Goldziher.⁴ While there is more or less general consensus about the oral origin of the traditions, the debate since then

² For studies on communication in the Early Middle Ages, see, for example: W. van Egmond, *Conversing with the Saints: Communication in Pre-Carolingian Hagiography from Auxerre* (Utrecht Studies in Medieval Literacy 15) (Turnhout: Brepols, 2006); M. Hageman and M. Mostert (eds.), *Reading Images and Texts: Medieval Images and Texts as Forms of Communication* (Utrecht Studies in Medieval Literacy 8) (Turnhout: Brepols, 2005); R. McKitterick, *The Carolingians and the Written Word* (Cambridge: Cambridge University Press, 1989); R. McKitterick (ed.), *The Uses of Literacy in Early Medieval Europe* (Cambridge: Cambridge University Press, 1990).

³ For pioneering studies on peripheral areas in Europe, see, for example: A. Adamska and M. Mostert (eds.), *The Development of Literate Mentalities in East Central Europe* (Utrecht Studies in Medieval Literacy 9) (Turnhout: Brepols, 2004); A. Nedkvitne, *The Social Consequences of Literacy in Medieval Scandinavia* (Utrecht Studies in Medieval Literacy 11) (Turnhout: Brepols, 2005).

⁴ I. Goldziher, *Muhammedanische Studien* (Halle, 1889-1890).

concentrated on questions about the precise moment of the writing down of traditions, the authenticity of transmitted information, the opposition to written transmission and the continuing emphasis in Islamic societies on the memorization and oral transmission of the traditions.⁵ The second main theme in Arabic literacy studies, the research on pre-modern oral and written literatures, has a much shorter history. Here the debates are most prominent among scholars studying popular literature and poetry.⁶

Very recently, there are positive signs that scholars of Arab and Islamic societies are exploring also broader themes dealing with the dissemination of the written word and its consequences. For example, a very interesting pioneer study on 'Abbāsid book culture appeared in 2005, *Ibn Abī Tāhir Tayfūr and Arabic Writerly Culture* by Shawkat Toorawa.⁷ By focusing on one specific figure, the scholar, copyist and bookseller Ibn Abī Tāhir, Toorawa emphasizes

⁵ One of the more recent articles on the opposition against the writing down of the Prophetic traditions, in which also most of the earlier literature on the topic is discussed, is: Michael Cook, 'The Opponents of the Writing of Tradition in Early Islam', *Arabica*, 44 (1997): 438-530. On the debates about the writing down of the Koran, see, for example, Harold Motzki, 'The Collection of the Qur'ān: A Reconsideration of Western Views in Light of Recent Methodological Developments', *Der Islam*, 78 (2001): 1-34. On the continuing emphasis on oral transmission and its textual implications, see, for example, the series of articles by Gregor Schoeler in *Der Islam* in the eighties and early nineties: 'Die Frage der schriftlichen oder mündlichen Überlieferung der Wissenschaften im frühen Islam', *Der Islam*, 62 (1985): 201-230; 'Weiteres zur Frage der schriftlichen oder mündlichen Überlieferung der Wissenschaften im Islam', *Der Islam*, 66 (1989): 38-76; 'Mündliche Thora und Hadit. Überlieferung, Schreibverbot, Redaktion', *Der Islam*, 66 (1989): 213-251 and 'Schreiben und Veröffentlichen: Zu Verwendung und Funktion der Schrift in den ersten islamischen Jahrhunderten', *Der Islam*, 69 (1992): 1-43. The debate about the authenticity of the early Islamic sources is since the seventies divided between sceptics such as Wansbrough, Cook and Crone and non-sceptics or moderates such as Van Ess, Motzki, Schoeler and Serjeant. For a very useful analysis and summarization of this debate, see Herbert Berg, *The Development of Exegesis in Early Islam: The Authenticity of Muslim Literature from the Formative Period* (London: Curzon, 2000).

⁶ Two pioneers in this field were Mia Gerhardt with a study of the *Thousand and One Nights*, in which she referred extensively to the broader discussions on oral and written traditions in literature, and, secondly, Michael Zwettler who was influenced by Milman Parry's and Albert Lord's comparative and much followed oral-formulaic theories of composition and applied them for the first time to Arabic poetry. Mia Gerhardt, *The Art of Story-telling: A Literary Study of Thousand and One Nights* (Leiden: E. J. Brill, 1963) and Michael J. Zwettler, *The Oral Tradition of Classical Arabic Poetry: Its Character and Implications* (Columbia: Ohio State University Press, 1978). For two interesting analyses of contemporary poet-singers, see Dwight Fletcher Reynolds, *Heroic Poets, Poetic Heroes. The Ethnography of Performance in an Arabic Oral Epic Tradition* (Ithaca and London: Cornell University Press, 1995) on the Bani Hilāl, and Marcel Kurpershoek's series on *Oral Poetry and Narratives from Central Arabia* (Leiden: E. J. Brill, 1994-2005). For a survey of the oral-formulaic theory, see John Miles Foley, *Oral-formulaic Theory and Research: An Introduction and Annotated Bibliography* (New York: Garland, 1985).

⁷ Shawkat M. Toorawa, *Ibn Abī Tāhir Tayfūr and Arabic Writerly Culture: A ninth century Bookman in Baghdad* (London: RoutledgeCurzon, 2005).

an important shift in ninth century 'Abbāsid Baghdad from a 'predominantly oral-aural culture to an increasingly writerly, literate, and bookish one'. This 'writerly culture' did not supplant the oral culture, but complemented it. He further demonstrates how this evolution instigated a series of other social changes in, for example, the modes of transmission of learning and the nature of scholarly and professional alliances. One of the factors identified by Toorawa as largely responsible for this shift in communication is the advent of paper.⁸

Like the unequal spread of research on medieval communication over areas and periods, not all specialities and scholarly fields did equally incorporate the debates on communication into their own fields. One of the specializations which got relatively late incorporated in the discussions on medieval communication is the research on business, government and jurisdiction – fields often referred to with the generic term pragmatic literacy.⁹ The study on writing in the settlement of conflicts also belongs to this field. Obviously, scholars of pragmatic literacy – diplomatists, legal and institutional historians – had always used and intensely studied the written products of their interest: charters, letters, cartularies, royal writs, financial accounts, surveys and legal records. However, only recently some of them have shown to have been

⁸ A note-worthy study on the introduction of paper in the Middle East is Jonathan Bloom's *Paper before Print. The History and Impact of Paper in the Islamic World* (New Haven and London: Yale University Press, 2001). Of similar interest is Chase Robinson's authoritative book *Islamic Historiography* which deals extensively with the effects of the complementing and replacing of oral traditions by written history in the early Islamic historiography. Chase F. Robinson, *Islamic Historiography* (Cambridge: Cambridge University Press, 2003), especially 8-17 and 171-177. For another useful, though less extensive, analysis of the oral traditions in early Islamic historiography, see R. Stephen Humphreys, *Islamic History. A Framework for Inquiry*, revised edition (Princeton, NJ: Princeton University Press, 1991), especially 69-91.

⁹ The term pragmatic literacy was first coined by Brigitte Schlieben-Lange as *pragmatische Schriftlichkeit* and in the eighties adopted by *Sonderforschungsbereich (Special Research Unit) 231* from the Westfälische Wilhelms-Universität Münster, one of the major research projects on pragmatic literacy. The Münster research group that started in 1986 and officially ended in 1999, defined pragmatic literacy rather broad as 'all forms of literacy which directly serve functional actions, or which were meant to teach human actions and behaviour by making available knowledge'. Der Münsterer Sonderforschungsbereich 231, 'Träger, Felder, Formen pragmatischer Schriftlichkeit im Mittelalter', *Frühmittelalterliche Studien*, 24 (1990): 389. A definition which stretched out the scope of this field from writing for law and administration to include also products of the literate elites such as schoolbooks, collections of law, encyclopaedias and chronicles. On the advantages of abandoning too strict and specialized a distinction between types of records when studying the experiences of medieval people, see also Michael Clanchy, *From Memory to Written Record. England 1066-1307*, 2nd revised edn. (Oxford and Cambridge, Mass.: Blackwell Publishing, 1993), 4 and 81-113. Since the early nineties the term pragmatic literacy became also prevalent in other languages. See, for example: Richard Britnell (ed.), *Pragmatic Literacy. East and West, 1200-1300* (Woodbridge: The Boydell Press, 1997), vii.

influenced by the discussions on the consequences of the introduction and dissemination of writing and the development of a literate mentality and consequently rephrased their ideas in these terms.

One of the first scholars in this field among Western medievalists was Michael Clanchy. Already in 1970 he published a short article, entitled 'Remembering the past and the good old law', in which he was concerned with the experiencing of the past in medieval, primarily oral, society and in which he referred to the work of Jan Vansina.¹⁰ A touchstone for the research on pragmatic literacy and a source of inspiration for all later scholars in this field, was, however, his *From Memory to Written Record*.¹¹ This book, which first appeared in 1979, is very conveniently arranged in two sections: the first deals with the making, spread and preservation of all sorts of records and the second with the increasing familiarity and trust in writing, or in other words, the growth of a literate mentality in twelfth and thirteenth century England, resulting from the proliferation of documents. Clanchy's main argument is that the growth of literacy among laymen in twelfth and thirteenth century England was due to the increasing bureaucracy and its use of written documents. 'Practical business was the foundation of this new literacy.'¹²

The discussions on communication were likewise not wide-spread among scholars of pragmatic history of the Arabic and Islamic world. Papyrologists and institutional historians had since long been concerned with the literary products of this society. Except for the above-mentioned discussions on the transmission and authenticity of early Muslim traditions – which had relevance for the student of Islamic law – only few of them refer to debates on the consequences of the use of written texts for the society as a whole. One of the very interesting pioneer studies in this field is a dissertation from 2004 – yet to be published – called *Shaping a Muslim State* by papyrologist and Arabist Petra Sijpesteijn.¹³ Especially in chapter three of her book Sijpesteijn pays attention to the ways in which the written documents she studied – thirty-seven Arabic papyrus letters dating from between A.D. 730 and 750

¹⁰ Michael Clanchy, 'Remembering the good old law', *History*, 55 (1970): 166-172.

¹¹ 1st edn. London and Cambridge, Mass., 1979; 2nd revised edn.: Oxford and Cambridge, Mass., 1993.

¹² Clanchy, *From Memory*, 333. Equally groundbreaking have been the collective publications of the Münster research project. In 2006 they published a book and CD-ROM with some of their main research results: *Transforming the Medieval World. Uses of Pragmatic Literacy in the Middle Ages* (Utrecht Studies in Medieval Literacy 6) (Turnhout: Brepols, 2006).

¹³ Petra Sijpesteijn, *Shaping a Muslim State. Papyri related to a mid-eighth-century Egyptian Official*. Unpublished Ph.D diss. (Princeton, 2004).

related to a Muslim administrator and merchant from one of the oases in Egypt – ‘functioned in an environment in which not every passer-by was able to read and understand Arabic, but where government announcements and messages were nevertheless routinely conveyed in written form.’¹⁴ By analysing both external characteristics and contents of her papyrus collection and by tracing the ways in which these texts were actually used, Sijpesteijn is able to demonstrate that written documents penetrated eighth century Egyptian society at every level and how these letters represented the presence of the Muslim state in the countryside, fulfilling both practical (administrative and fiscal) and propagandistic (establishing power relations) functions.¹⁵

State officials versus state subjects

Also in ninth and tenth century Iraq the paperwork of the central bureaucratic apparatus seems to have affected many groups and areas of society. In the second part of my paper I will present one of my case studies on conflicts that involved ‘Abbāsid officials. I selected a few specific conflicts, namely those brought before a court called the *mazālim*. This court, which was the personal responsibility of the caliph and which was a kind of secular justice system next to the *sharī’a* court, seems to have been primarily concerned with the hearing and responding to complaints regarding abuses by governmental officials.

Let me start by saying that there is no doubt the subjects of the ‘Abbāsid caliphate suffered from official abuse. If we believe the chroniclers, the majority of the caliph’s officials were constantly trying to feather their own nest at the expense of the ordinary taxpayer. We can only guess at the effect of their bribes, harsh extortions and burdensome taxations on these subjects. Fortunately, the ‘Abbāsid subjects were not entirely at the mercy of cunning accountants and cruel collectors. There existed the *mazālim* institution. And although the *mazālim* seems first and foremost to have been developed as an instrument for the ruler to keep an eye on his own personnel, the aggrieved inhabitants of the ‘Abbāsid empire could use it as well. After all it was a court,

¹⁴ Sijpesteijn, *Shaping*, iv.

¹⁵ For another interesting analysis of the actual use of a state document, see Albert Arazi and ‘Amikam El’ad, ‘L’Épître à l’Armée’. Al-Ma’mun et la Seconde Da’wa’, *Studia Islamica*, 66 (1987): 27-70, continued in *Studia Arabica*, 67 (1988): 29-73. For some interesting general reflections on pragmatic literacy in the Middle East, see Richard Britnell’s introductory essay ‘Pragmatic Literacy beyond Latin Christendom’ in R. Britnell (ed.), *Pragmatic literacy East and West, 1200-1300* (Woodbridge: The Boydell Press, 1997), 167-188.

where they could file petitions, complaining about the misbehaviour of officials and the injustice caused by their actions.

Comparatively speaking there exist very few studies on the functioning of the *mazālim* court.¹⁶ The main reason for this lack of attention is undoubtedly the 'poorness' of the source material.¹⁷ This is particularly true for the formative period of Islamic history, from which no actual documents survived. The *mazālim* practice must therefore be inferred – at least for the early period – from scattered and sporadic fragments in histories. With this paper I hope to demonstrate what non-documentary sources can tell us about the every-day practice of the *mazālim* courts in the 'Abbāsīd caliphate. It goes without saying that this paper can not deal with all non-documentary sources on *mazālim* for the whole 'Abbāsīd era. Nor do I want to pretend to give some final answers about these courts and the way in which they functioned. What I will present is very much work in progress.

I will concentrate on a short period of the 'Abbāsīd era: the 25 years of caliph al-Muqtadir's reign in the early tenth century (908-932). This period is relatively rich in source material. From the large number of historical works describing al-Muqtadir's caliphate, I chose one text as my main source: Hilāl

¹⁶ Extensive work has been done by Émile Tyan in his *Histoire de l'organisation judiciaire en pays d'Islam*, which was first published in Paris, 1938-1943 and reprinted at E.J. Brill: Leiden, 1960. Although an indispensable guide for the rules and regulations regarding the *mazālim* court system, the book lacks a thorough historical survey of these courts. Fortunately, two other scholars, Samuel Stern and Jørgen Nielsen, dealt in much more detail with the relation between the theoretical expositions and the functioning of the *mazālim* courts in everyday practice. Stern wrote some very interesting articles on the petitions of the Fātimīd, Ayyūbīd and Mamlūk period, in which he tested the bureaucratic practice as shown in surviving documents against the procedures prescribed in the administrative manuals. Stern, S. M., "Three Petitions of the Fatimid Period," *Oriens*, 15 (1962): 172-209; "Petitions from the Ayyubid Period," *Bulletin of the School of Oriental and African Studies*, 27 (1964): 1-32; "Two Ayyubid Decrees from Sinai," in: S.M. Stern (ed.), *Documents from Islamic Chanceries*, (Oxford: Bruno Cassirer, 1965), 9-38 and 207-216; "Petitions from the Mamluk Period," *Bulletin of the School of Oriental and African Studies*, 29 (1966): 233-276. However, while Stern was mainly interested in the bureaucratic processes, Nielsen went further. In his *Secular Justice in an Islamic State*¹⁶ he also paid attention to the role of this institution in the state administration and its relation to other judicial institutions. Jørgen S. Nielsen, *Secular Justice in an Islamic State: Mazālim under Bahri Mamlūks 662/1264-789/1387* (Istanbul: Nederlands Historisch-Archaeologisch Instituut, 1985). Both scholars have done pioneering work for our understanding of the functioning of *mazālim* courts in Egypt from the Fātimīd period onwards. For the 'Abbāsīd era, the formative period of the *mazālim* court, no such study exists.

¹⁷ *Fiqh* books refer only sporadically (and generally scattered throughout the text) to *non-qāḍī* court systems such as the *mazālim*. The actual functioning of the *qāḍī* courts has come down to us through descriptions in sources such as biographical dictionaries and - for the later period - collections of *fatwās* and manuals of legal formularies.

al-Sābi's (359/969-448/1055) *History of Viziers*. The *History of Viziers*, written a century after the reign of al-Muqtadir, but based on contemporary spokesmen and documents, contains numerous anecdotes related to the various viziers from the late ninth century onwards and their entourage. It contains quite a few reports of *mazālim* cases related to al-Muqtadir's reign.

The references to *mazālim* cases in Hilāl's *History of Viziers* are more or less incomplete reports. Sometimes they are quite comprehensive. One or two are partly documentary (they contain copies of (parts) of the decision on the petition), but most of them are restricted to a description of the case or of parts of the procedures. A large number of these cases deal with official abuse, to be exact: eight of the, so far identified, eighteen cases.¹⁸ The rest concerns miscellaneous topics such as a request for financial support, a dispute between shopkeepers, a conflict between farmers and traders on the size of a bridge and complaints on a Hanbalī mosque. Finally, a few very short references to sessions of the *mazālim* court lack precise descriptions of the cases they deal with.

The majority of the cases concerned with official abuse deal with very complicated fiscal matters. One of these cases will be discussed point by point below. Generally the complaints are about deliberate and illegal abolishment of former tax privileges by local tax collectors and provincial governors. Sometimes they discuss unintentional mistakes in the assessment of the taxes. Some petitioners complain about physical abuse by government officials. But most complain about the falsification of documents. A motley collection of cunning bureaucratic tricks passes by. Telling is for example the case in which a document can not be accepted as genuine since an erasure is discovered in the text. However, later, it turns out that the erasure had been inserted maliciously by an official with the precise intention of having the document rejected.¹⁹

The initiating party could be the caliph or one of his representatives. Generally the caliph was not present in person, but was represented by the vizier or one of the lower officials. For example, the vizier Alī b. 'Īsā is said to have started investigations on the lawfulness of additional taxes (*takmila*) paid by the farmers of Fārs, while their colleagues cultivating fruit trees did not

¹⁸ See Nielsen, *Secular Justice*, 43-47 on the subject matters of the Mamlūk *mazālim* cases.

¹⁹ Hilāl Al-Sābi', *Ta'rīkh al-wuzarā'*, in: H.F. Amedroz (ed.), *The Historical Remains of Hilāl al-Sābi* (Leiden: E.J. Brill, 1904), 66-67.

pay taxes at all. This interesting case was finally settled in a series of *mazālim* sessions in which the representatives of the two parties sent delegations to the capital to defend their case.²⁰ Yet most of the *mazālim* cases reported by Hilāl al-Sābi' it is the aggrieved party who takes the initiative. This aggrieved party could be a group such as estate-holders from Mecca complaining about the water supply in their area and the people from Bādūrayā, West of Baghdad, who complained about the way in which their governor, trying to recover arrears of taxes, had maltreated them.²¹ But also individuals found their way to the *mazālim* courts.²²

Hilāl al-Sābi' reveals us hardly any information on the identity of the petitioners. While we do have the names of some of the submitters of begging petitions, none of the petitioners of the official abuse cases are known to us by name. Many cases deal with estate-holders, people who obviously belonged to the local elites of their area. Also the farmers from Fārs were most probably represented by their local leaders. In one case, related to the reign of caliph al-Mu'tadid, I found a reference to two types of *mazālim* sessions, one called *al-mazālim al-'āmma* – which could mean something as: *mazālim* sessions for the common people – and the other *al-mazālim al-khāssa* – which could mean something as: *mazālim* sessions for the elite.²³ Since I found no similar references, I can not be certain about its exact meaning. Still, the many stories suggest that any aggrieved inhabitant of the state could file a complaint in a *mazālim* session held by the vizier and that it was the vizier's responsibility to restore justice. In one of the reports, the vizier Ibn al-Furāt, stressed out by too much work and unable to deal with all the petitioners, is said to have exclaimed: "but we can not send away the many people from our door, who walked up here from distant regions and remote districts to explain their complaints."

²⁰ Al-Sābi', *Ta'rīkh al-wuzarā'*, 339-344. Also the other famous vizier of al-Muqtadir's reign, Ibn al-Furāt, was praised for his initiatives in battling official abuses and might have initiated *mazālim* sessions in this context. See, for example, Al-Sābi', *Ta'rīkh al-wuzarā'*, 66-67, 113, 283-285, 336-337, 337-339, 345 and 346. Moreover, the numerous discharge procedures – which have been left out in this research, but might be classified as *mazālim* according to the definition of al-Māwardī – were also initiated by state officials.

²¹ Al-Sābi', *Ta'rīkh al-wuzarā'*, 346.

²² See, for example, the case discussed in detail in the paragraph on 'procedures' below.

²³ Al-Sābi', *Ta'rīkh al-wuzarā'*, 22.

While in the early days of the ‘Abbāsīd caliphate the caliph was said to have supervised the *mazālim* in person,²⁴ al-Muqtadir appeared only very sporadically in the *mazālim* court, if at all. At the sessions referred to as *mazālim* and studied for this paper the caliph does not seem to have been present at all. He preferred acting by deputy, generally the vizier.²⁵ Viziers set specific days for the *mazālim* court. But also the vizier’s responsibility for the *mazālim* court did not mean that he always supervised the sessions in person. Often he acted through a representative, for example, one of his personal secretaries.²⁶ Moreover, viziers were assisted by a team of subordinate officials both in discharge cases and in the *mazālim* court. In the *mazālim* court these officials prepared the petitions, conducted the necessary research, took care of the routine work and presented the vizier the complicated matters.²⁷

One of the most interesting features of the *mazālim* court system is that – at least in theory – the procedures of this secular justice system were much more flexible than those of the *qādī* court, where *sharī’a* was spoken. Of these flexible procedures the most interesting for this paper is: the greater liberty in the admission of (documentary) evidence. While the *qādī* – at least in theory – may accept written evidence only when it is supported by testimony, the *mazālim* court could allow documentary evidence on its own value.²⁸

In order to show the place written testimony occupied in the *mazālim* procedures in the days of caliph al-Muqtadir, I singled out one case from Hilāl al-Sābi’. This report informs us of the way in which the vizier Ibn al-Furāt dealt with a petition by an estate holder from the Sawād, present Iraq, who felt his land had been overtaxed:

“Abū al-Qāsim b. Zanjī²⁹ related: During the vizierate of Ibn al-Furāt a man from the Sawād complained about a revenue officer. He stated that his estate (*day’a*) was an administrative

²⁴ See, for example, Sourdel, *Vizirat*, 641-642: al-Mahdī and al-Hādī took care of the petitions themselves, while Hārūn al-Rashīd was the first to let the work be done by his vizier.

²⁵ As an exception to this rule the caliph appointed in 317/929-930 ‘Alī b. ‘Īsā as person in charge of the *mazālim* sessions next to the vizier Ibn Muqla. Cf. Sourdel, *Vizirat*, 452-453, 641.

²⁶ Ibn Muqla, for example, represented the vizier Ibn al-Furāt during the latter’s first vizierate. Al-Sābi’, *Ta’rīkh al-wuzarā’*, 107-108.

²⁷ See, for example, Al-Sābi’, *Ta’rīkh al-wuzarā’*, 52.

²⁸ Al-Māwardī, *Al-Ahkām al-sultāniyya* (Beirut: Dār al-Kutub al-‘Ilmiyya, [ca. 1980]), 105-112. See also Nielsen, *Secular Justice*, 23-26.

²⁹ One of Ibn al-Furāt’s *kātib*s, See Harold Bowen, *The life and times of ‘Alī b. ‘Īsā ‘The Good Vizier’* (Cambridge, 1975), 225, 245-246; Sourdel, *Vizirat*, 412, 426, 462.

grant (*qatī`a*)³⁰ with long-standing privileges. He had, however, received [too high] an assessment over it, since it was based on the method of *istān*.³¹ Therefore he requested that he be treated with justice, that injustice be removed from him and his privileges be recognised. To this effect he wrote a petition (*ruq`a*). Thereupon [the vizier Ibn al-Furāt] ordered an investigation in the archives (*ikhrāj al-hāl*).³² The bureau for the land tax of the Sawād issued a report (*kharaj*)³³ in which it was mentioned that [the *istān* assessment] went back to an approved account (*jamā`a*)³⁴ of the revenue officer for the previous year. In the report (*takhrīj*)³⁵ it was found that the division of the taxes of the village (*baydar*, lit. the threshing floor)³⁶, about which he had complained, had been carried out on the basis of the higher, *istān* assessment. When this was reported to Abū al-Hasan [b. al-Furāt] he informed [the petitioner] that he needed a written document as evidence against [the revenue officer] and that the revenue officer had done nothing unjust in his acting. [The petitioner] persisted, however, in his complaint and maintained that the harvest of the previous year was divided on the basis of the lower assessment of a *qatī`a*. He continued to show up on the days

³⁰ A *qatī`a* is an administrative grant made in favour of estate-holders from which not the full *kharāj*, but the lower *`ushr* (tithe) tax was due. Al-Khwārazmī, *Mafātih al-`ulūm* (Beirut, 1991), 72.

³¹ Al-Khwārazmī defined *al-istān* as *muqāsama* (a fixed percentage or share of the harvest, measured after the crops had ripened). Al-Khwārazmī, *Mafātih*, 72. Here, as in many other sources, the *istān* method of taxation is put vis-à-vis the *qatī`a*, a land grant paying the *`ushr* or tithe. Yet, also *qatī`a* estates could be assessed according to the *muqāsama* method. Cf. Sābi', *Ta'rikh al-wuzarā'*, 165; F. Løkkegaard, *Islamic taxation in the classical period* (New York, 1973), 87. As Løkkegaard suggested, the meaning of *mu`āmalat al-istān* can therefore at this place better be translated as a method of tax assessment levied upon the rural population of estates and state domains, being at least a higher percentage than the tithe and probably the full *kharāj*. See Sābi', *Ta'rikh al-wuzarā'*, 201 and Løkkegaard, *Taxation*, 87.

³² For translation of the term *ikhrāj al-hāl* as "a research in the archives", see Løkkegaard, *Taxation*, 151. In some cases such a research in the records was extended by the dispatch of an official to the district in question in order to investigate the local situation. See Sābi', *Ta'rikh al-wuzarā'*, 165.

³³ A *kharaj* is an administrative term for a report or opinion drawn up by the officials of the competent department on the basis of a local and/or archival investigation on the matter. See Sābi', *Ta'rikh al-wuzarā'*, 66, 163 and 166 and Løkkegaard, *Taxation*, 151.

³⁴ For a translation of the term *jamā`a* as "an account of an *`āmil* that has been approved after an audit", see Al-Khwārazmī, *Mafātih*, 70 and Løkkegaard, *Taxation*, 183.

³⁵ The term *takhrīj* is probably derived from the term *kharaj*, report or account. See above.

³⁶ The division of the taxes in case of the *muqāsama* system took place on the threshing floor (*baydar*) after the crops had ripened and been collected. Løkkegaard, *Taxation*, 181.

[the vizier] was hearing complaints (*mazālim*), continued complaining, buttonholed him in the streets and asked him over and again to examine his case and to seek the favour of God Almighty by doing him justice. Because he insisted and importuned him with his request, [Ibn al-Furāt] addressed Ahmad b. Yazīd, the *mudīr*,³⁷ asking for the approved account (*jamā`a*) of the revenue officer so as to examine it himself. He brought it to him and he [Ibn al-Furāt] looked at it attentively, studied it and calculated the amount levied on the harvest in the other administrative districts of the area on the basis of the higher *istān* assessment and the amount that would be due if it would have been assessed according to the lower *qatī`a* privilege. Thus he found that a certain enemy of the estate-holders had cheated by erasing the place where it [the estate] was mentioned among the estates with lower assessments, the *qatī`a`* estates, listing it under the heading of the estates with higher assessments, the *istān*. [Ibn al-Furāt] summoned the owner of [the estate] and acquainted him with the document and with the fact that the person who had wanted to harm him by increasing the assessment [over his estate] had not performed his act well, since he had contented himself with the correction of the passages [among the posts] of the division of the harvest and had not followed it up [among the posts] of the part that was transported to Baghdad (*haml*),³⁸ and that there was no doubt that his privilege was thus valid. [The petitioner] thanked him and asked God's blessing for him and asked him to write to the revenue officer ordering him to deal with it in accordance with his privilege of lower tax assessment of his estate as a *qatī`a*. [The vizier] gave an order to do so. Then [the petitioner] informed him that he was afraid that the record in the *dīwān al-nāhiya*³⁹ of *haml* (the tax from his harvest that was carried to Baghdad) was not entered on the basis of the valid privilege. He asked [Ibn al-Furāt] for

³⁷ A *mudīr* was an official charged with the circulation of the applications around the various *dīwāns*. See also Sābi', *Ta'rikh al-wuzarā'*, 199.

³⁸ For the translation of *haml* as "the tax carried to the capital", see Al-Khwārazmī, *Mafātih*, 74; Løkkegaard, *Taxation*, 90. For a description of the administration of the division of the taxes at the threshing floor, see Løkkegaard, *Taxation*, 181-183.

³⁹ The tax department concerned with a particular district.

an edict (*tawqī*)⁴⁰ to release⁴¹ him from it and to return the privilege to him. He gave such an order, and the man asked God's blessing for Ibn al-Furāt and said: Which vizier is so devoted to me that he studies the whole account from the beginning to the end and that he explores the assessment of the whole district until he discovers the place of the injustice done against me?⁴²

Let me analyse the procedures applied in this case:

- A petitioner personally submits a written petition (*ruq'a*) complaining about a high assessment. Also in most of the other studied cases written petitions were filed, sometimes in the absence of the petitioners.⁴³ Other reports show the possibility of submitting oral complaints to the court, subsequently put down in writing by the secretaries of the court.⁴⁴
- The vizier takes the liberty to initiate an investigation in the matter. A research in the archives is conducted by civil servants of the *dīwān al-sawād*. They collect and analyse the necessary (written) evidence. The acceptance of written evidence instead of oral testimonies is another liberty the *mazālim* court can take.
- The vizier is informed of the results of the investigation by means of a written report.
- On the basis of this report the vizier informs the petitioner – we do not know whether this is done by means of a written or oral statement – that he sees no ground in revising the assessment unless the petitioner can hand him written evidence.
- The petitioner is not satisfied with the answer and very persistently keeps on showing up at *mazālim* sessions personally arguing his case without bringing in new evidence.
- Tired of this stubborn man, the vizier decides to look into the matter himself. He studies the documents from the archives and discovers a very complicated falsification in the approved account.

⁴⁰ A signature or writing generally issued by the vizier, for the purpose of giving effect to the execution of an administrative order to which it is attached, see Løkkegaard, *Taxation*, 152-153.

⁴¹ The term *itlāq* is probably a technical term for removing an entry from the register.

⁴² Sābi', *Ta'riḫ al-wuzarā'*, 163-164.

⁴³ See, for example, Sābi', *Ta'riḫ al-wuzarā'*, 337-339.

⁴⁴ See, for example, Sābi', *Ta'riḫ al-wuzarā'*, 52. See also Nielsen, *Secular Justice*, 10 for the Fātimid practice.

- The petitioner is informed and the vizier writes about the matter to the relevant revenue officer. Justice prevails.

So far the procedures applied in the *mazālim* court. The extensive use of bureaucratic writing in general is striking in the report. In this one case we hear of no less than six types of specialised documents, used as proof or for the recording of the decision and meant for both internal and external correspondence on the matter.

Final remarks

My research on conflicts brought before the *mazālim* court is still in an initial phase. There are quite a few obstacles that need to be removed and a lot of questions that need to be answered:

- First of all, it is not always easy to recognise the *mazālim* cases in the sources. Not all cases are referred to as such in the sources.
- Secondly, many conflicts between subjects and state servants did not find their way to a *mazālim* court, but were dealt with elsewhere, in a wide variety of ways. We can think of violence and rebellion, mediation, or simple neglect. For an analysis of the relative importance of the *mazālim* court and the use of written documents in the settling of conflicts between state servants and subjects, it will be necessary to identify these other types of settlements as well.
- And finally, even after the collection of all the relevant cases from the sources, we have to ask ourselves the question of how representative these cases are. Why were they worth mentioning in the sources? Are they the exceptional cases or were also the routine sessions recorded. Significantly, all our cases have a happy ending and remind you of those American movies where after two hours of abuse and corruption by state or corporate officials, in the end justice prevails thanks to one or a few “good officers”. The fact that most of our `Abbāsīd cases are versions of the theme “good ruler, wicked servants” makes you wonder whether there were also less fortunate petitioners.

Still, these are the sources we have. Unfortunately, no original documents, no petitions and no decisions on petitions, have been handed down. And I hope to have shown that the scattered pieces of information from the non-

documentary source material make a promising contribution to our understanding of the use of writing in the settlement of these kind of conflicts.

What can we expect in the future from research on the development of writing in Arab and Islamic pre-modern societies in general and on the role of writing in conflicts in particular? What new lines can be followed? According to Michael Clanchy, the growth of bureaucratic writing was the main motor behind the development of a literate mentality in twelfth and thirteenth century England. For the Arab world we witness a process of bureaucratization in the ninth and tenth century 'Abbāsid empire. Next to an enormous growth in the production of written texts used for administrative and fiscal purposes, the number of literary texts largely increased during this same period. Moreover, this period witnessed the extension of a literate mentality: civil servants expressed their corporate identity in expertise in writing,⁴⁵ legal specialists edited and standardized the formulae of model legal documents to make these documents legally watertight,⁴⁶ intellectuals became to rely more and more on information taken from books,⁴⁷ and, religious experts discussed the advantages and disadvantages of the written transmission of the Prophetic traditions.⁴⁸ The reason for these developments have not yet been explained satisfactorily. Tentative clues might be found in the extension and bureaucratization of the Islamic state, which showed a notable interest in writing, in the influences of non-Arab and non-Islamic cultures upon Islamic society and in the economic prosperity during the better part of this period. Obviously, the development of literacy did not follow the same course everywhere and within each group. The culture of writing of the Baghdadi state officials was most probably far removed from the culture of the Bedouins of the Syrian desert. Moreover, writing may not

⁴⁵ See, for example, Maaike van Berkel, *Accountants and Men of Letters. Status and Position of Civil Servants in early tenth century Baghdad*. Unpublished Ph.D. diss. (University of Amsterdam, 2003); Paul Heck, *The Construction of Knowledge in Islamic Civilization. Qudāma b. Ja'far and his Kitāb al-Kharāj wa Sinā'at al-Kitāba* (Islamic History and Civilization. Studies and Texts 42) (Leiden: E. J. Brill, 2002).

⁴⁶ See, for example, W.B. Hallaq, 'Model *Shurūt* Works and the Dialectic of Doctrine and Practice', *Islamic Law and Society*, 2/2 (1995): 109-134; G. Khan, *Bills, Letters and Deeds. Arabic Papyri of the 7th to 11th centuries* (The Nasser D. Khalili Collection of Islamic Art 6) (Oxford: Oxford University Press, 1993); M. H. Thung, *Arabische juristische Urkunden aus der Papyrussammlung der österreichischen Nationalbibliothek*. Unpublished Ph.D. diss. (University of Amsterdam, 1997); Jeanette Wakin (ed.), *The Function of Documents in Islamic Law. The Chapters on Sales from Tahāwī's Kitāb al-Shurūt al-Kabīr* (Albany: State University of New York Press, 1972).

⁴⁷ See, for example, Toorawa, *Ibn Abī Tāhir Tayfūr*.

⁴⁸ See, for example, Cook, 'The opponents of the writing'.

have been the obvious means of communication in every sphere of life. A large landowner, for example, may have been more inclined to use a written document in settling a dispute with the state about the amount of taxes than in the resolution of a conflict with his neighbours about the borders of his property. With my research on the role of writing in conflicts between state servants and state subjects I hope to make a contribution to our knowledge and understanding of the development of literacy in the 'Abbāsīd world.