

Husayn's and Abd al-Wahid's Designs:

The Waqf as a Family Charter

Of all the religiously sanctioned legal instruments available for use in structuring and regulating long-term property relations between kin, the family waqf is the most flexible, expressive, and historically enduring. During its golden age from the seventeenth to the late nineteenth centuries, the family waqf in Bilad al-Sham was a key component of strategies by individuals and families to secure a stable, secure, and dignified existence; to pursue power, wealth, and status; to express piety and contribute to the general welfare and social harmony of the community; and, not least, to establish a patrimony and set up mechanisms for its devolvement to one's biological descendants and nearest kin. The next two chapters will examine waqf as a social act and as a primary vehicle for gendered property devolution strategies. Through two detailed case studies, this chapter argues that the family waqf during this period can be viewed as a family charter or a mini-constitution that governs not only property relations between kin, but also the moral-disciplinary order of kinship.¹

The family waqf is a sensitive barometer of historically contingent notions of kinship, gender, and property within the larger contexts of Islamic legal traditions and modes of imperial governance. The pervasiveness of its use for "fixing" these notions through the act of endowment, is due to its built-in toolbox of options and preferences that allow individuals to custom-design each waqf, making them highly flexible and

¹ The insight that Waqf endowments can be seen as mini-constitutions or charters for gender and property relations as well as for a larger moral/disciplinary order crystallized in my mind during a conversation with Sheila Jasanoff.

expressive legal instruments. Choices include the timing and purpose of the endowment, the types and extent of properties to endow, who to include or exclude as beneficiaries of the revenues generated by the endowed properties, the particular conditions attached that govern the distribution of revenues, the setting aside of funds for annual enactments of specific pious rituals, the designation of charitable venues following the extinction of the endower's progeny, and a hierarchy of preferences in terms of who is to administer the waqf.² Taken together, these choices express, among other things, the endower's vision of what constitutes family, how it should be reproduced, and its proper place in both the material and spiritual worlds.

Each of the choices has serious ramifications on family life. The endower can decide which properties to take out of circulation and which to leave as freehold private property. This decision shapes her descendants' material and cultural patrimony in a variety of gendered ways, depending on the specific mix of endowed properties (residential, commercial, and/or agricultural), the genealogy of ownership (whether acquired through inheritance, purchase, and/or construction), and the collective memories embedded in this genealogy (who it belonged to in the past, why it changed hands, and how it was lived-in/used). The endower can decide when to endow the waqf and for what purpose(s). Timing and intent make explicit certain assumptions about family life—such as what properties are marked for “family” use, in the cultural sense of the word,

² Even after the endowment is registered and is legally binding, endowers have the flexibility to add or remove properties, reconfigure the pool of beneficiaries, and make several other changes as many times as they want during their lifetime. Available evidence suggests that endowers rarely took advantage of options usually phrased as “*lahu al-haqq fi al-idkhal wa al-ikhraj*....” Several such instances can be found in the Sharia court registers of Nablus. See, for example, No such cases were found in the Sharia court registers of Tripoli for the period under study.

so that it can exist as a corporate unit in society; the relationship between kinship and the organization of domestic space; and the expectations about rights and responsibilities embodied in one's position(s) (such as father, uncle, brother, son) within the kin network.

The endower can choose what individuals or lines of descent are to benefit from the waqf and can commit beneficiaries to follow a pre-determined formula for sharing the revenues or use of these properties.³ The power of inclusion or exclusion is an important feature of family *waqfs* because it directly influences the structure and dynamics of current and future household(s). The patterns of transmission, for instance, reveal the boundaries imposed by endowers between the conjugal and extended family worlds, between male and female children, and between natal and agnatic kin. The endower can choose who will have the right and responsibility of managing this property and attach other conditions governing the distribution of revenues that can have different consequences depending on the beneficiary's status --on whether, for example, the beneficiary is married or unmarried, young or old, and of one generation or another-- thus, creating an internal and, often, gender-specific hierarchy and lines of authority.

The endower can decide whether to set aside revenues to fund specific memorial rituals, pious works, and/or alms giving enacted on an annual basis. These *mabarrat*, (good deeds), although meant to generate rewards (*thawab*: recompense, compensation, or requital for human actions from God) in the afterlife,⁴ establish an infrastructure of obligations and performances that connects family members to each other long after the

³ Of course, and regardless of the degree of clarity, foresight, and detailed instructions by endowers, not everything can be anticipated. The social life of waqf endowments can be long or short, stable or hotly contested, depending on circumstances.

⁴ On the term and the centrality of this theme in the Qur'an see Wim Ravin. "Reward and Punishment." *Encyclopedia of the Qur'an*. General Editor: Jane Dammen McAuliffe, Georgetown University, Washington DC. Brill, 2007.

death of the endower. They also constitute a spiritual and cultural interface between the family as a whole (as represented by the waqf administrator) and the society at large, especially the religious workers (readers of the Quran, personnel associated with mosques and other religious sites, sufi leaders, religious scholars, and so on) who are entrusted with organizing and performing the annual rituals. The family waqf is further implicated in the political economy of local, regional, and imperial religious establishments, because the endower can specify the charitable sites where the revenues are to go once her line of descent is extinct. In Tripoli and Nablus, like in most other urban centers, the popular choices are local mosques, the Holy Cities of Mecca and Medina, sufi shaykhs and their progeny, and, ultimately, the “poor” of the city or neighborhood or Muslim poor in general.⁵

Constitutive waqfs, which aim at providing a substantial and diverse portfolio of properties to support a particular vision of what family is and how it ought to be organized and reproduced, are the most revealing of the ways that family waqfs can be seen as a family charter or mini-constitution. The following two cases studies of the waqf endowments of two wealthy and highly respected religious scholars who were contemporaries –Sayyid Husayn al-Husayni of Tripoli, and Shaykh Abd al-Wahid Khammash of Nablus-- elegantly illustrate how these charters can be custom designed, and they set the tone for the remarkable contrast between the two cities. The case studies are followed by a mapping of the key differences between the family waqfs of Tripoli

⁵ Poor is not a socioeconomic category only, for it also denotes those who dedicate their lives to God on earth, such as religious scholars and sufi sheikhs. Members of the religious establishment (ulama, imams, students, the judge of the Sharia Court, and so on) often become the stewards of institutions funded by waqf revenues, and they are considered to belong to the ranks of the “poor” regardless of personal wealth.

and Nablus based on patterns in the archives over a two-century period. This chapter concludes by highlighting the diverging patterns through a brief tale of two waqf lawsuits by contemporaries, one in Nablus and one in Tripoli, who faced the same quandary of the absence of male heirs.

A. Husayn's Design

The waqf endowed by sayyid hajj Husayn celebi al-Husayni on August 2, 1802 nicely illustrates numerous combinations of possibilities within this legal toolbox, the key feature that explains the historical pervasiveness of this institution.⁶ Various clues internal to the waqf document itself suggest that sayyid Husayn is a well-to-do merchant, urban landlord, and entrepreneur in the soap trade and commercial production of olive oil and citrus fruit.⁷ He has strong connections with leading political and religious figures, and seems to have been well known throughout the various quarters of the city as well as in the Zawiyah and Kura rural districts outside of it.⁸ Advanced in years, he had already

⁶ TICR 29:122-123.

⁷ In listing properties, waqf endowers in Tripoli almost always started with orchards, as they were the most important source of revenue. At the time of the endowment citrus trees were beginning to replace mulberry trees (crucial to the silk trade) as the most important cash crop of the irrigated orchards in Tripoli's green belt (see below for more details). That sayyid Husayn was engaged in the soap trade is merely an educated guess, but it is hard to imagine why else he would invest much of his resources in purchasing over a dozen olive groves considering that most of the olive oil not consumed as food was used to make soap, an important industry in Tripoli. As to being an urban landlord, the endowment included six shops and four residences, some of which were rented by other people.

⁸ Sayyid Husayn made it a point to contribute money to all the mosques of Tripoli, not just those in his neighborhood, and he favored the key ones which served as the social headquarters and soap boxes for the city's elite, including Kabir, Tawbat, Tahham, Argon Shah, and Tinal. The Mutawalli of Kabir and Tawbat mosques was one of the persons in sayyid Husayn's house when the waqf was established and, as befitting his position as head of the most important mosques, acted as official representatives of the other mutawallis. Also present was Husayn Haddad, a property landowner who had lands adjacent to those of sayyid Husayn. Those who owned adjacent properties include al-

experienced the pain of outliving his oldest son, and was committed to taking care of his deceased son's daughters, both of whom are in their legal majority at the time of the endowment. In fact, he seems to be a devoted family man determined to provide a patrimony large enough to secure comfortable lives not only for his granddaughters, but also his wife, his remaining children (a son and a daughter), as well as for his sister's son, for whom he must have felt a special affinity or responsibility. The structure of the endowment strongly suggests that Sayyid Husayn is also a deeply pious man who assiduously observed his religious duties, especially those of prayer, the pilgrimage (hajj), and charity (sadaqa).

Due to his age, status, and the fact that the process of formalizing his large and intricately designed waqf could easily consume several grueling hours, sayyid Husayn had no intention of spending what must surely have been a hot and humid August day in the normally crowded, loud, and unbecoming social space of the Shari'a court. His preparations for the event of writing and notarization of the waqf, therefore, were as elaborate as its details. He first secured the qadi's permission to hold the proceedings in his own house, located in Bani al-Sameen Street (zuqaq) of the al-Rummani Quarter at the heart of the city.⁹ He then contracted the services of the court's most senior scribe, the Pride of Respected Scribes (*fakhr al-muharririn al-kiram*) sayyid Umar *afandi*

wazir hajj Sa'd al-Din Pasha, Abd al-Qadir Azm and members of the well known Ghalati, Dhawq, Sarut, Sammani, Sameen, Nawfal, Ghareeb, Sahyuni, Jazmati, Shaka'a, `Abidi, bani Jandah, Sankari, Kamali, Karamah, Hur, and Wahbeh. Specific neighbors are not limited to a single location, but rather appear in different places, suggesting network connections and coordination whether in pooling of resources for investing in property purchases or sharing water and labor resources. Marriage strategies no doubt played an important role in creating and reinforcing these networks.

⁹ It was not unusual for court sessions to be held in private homes, and in some cases the qadi himself attended.

Tadmuri, to draw up what surely must have been the most consequential and sensitive legal, religiously, social, and economic transaction that he has concluded in his entire life.

To make sure that all the technical details and legal processes are accurately presented and scrupulously followed, Sayyid Husayn also procured the services of an aspiring young member of the city's ulama, The Pride of Students and Descendants of the Prophet (*fakhr al-talaba wa al-sada*) al-sayyid Ali celebi Mi`mari zadah, as his legal representative (*wakil*).¹⁰ He then armed sayyid Ali Mi`mari with dozens of carefully preserved court documents and official receipts as proof of his private ownership of and/or legal *hikr* (long term lease of waqf property) of twenty-one properties of various types. Most of the privately-owned properties endowed by sayyid Husayn were acquired through purchase, not inheritance; and five are long-term leases of waqf properties (*hikr*) belonging to the Kabir Mosque, Tawba Mosque, Haramayn (Holy Cities of Mecca and Medina), Qadi Ogli school, and Bani al-Mustawfi endowments.

Together, these properties amount to what one can call a “full-spectrum” or “constitutive” endowment.’ That is, an endowment that consists of a diverse and rich portfolio that can generate sufficient income for a substantial long-term patrimony. The documents were ordered such that the highly profitable citrus groves in the irrigated green belt dividing Tripoli from the sea were listed first, then the residential and commercial properties inside the city, then a dozen olive groves located in the Kura and Zawiya districts. The documents describe the essential characteristics of each of the properties: his share (such as full, half, third), property type (such as house, grove, field, shop), productive assets (such as kind and number of trees), name of the property, its

¹⁰ Both the endower and his representative shared the titles of sayyid and celebi signifying descent from the Prophet and a strong engagement in trade.

location, and names of co-owners (if any). The documents also specify the amount of annual rent and/taxes due on each property and to what party they should be paid.

Finally, for each property, the documents describes the adjacent properties to the south, east, north, and west; always in that order. The names and productive assets of adjacent properties are given as well as the names of owners and/or renters.

It is important to note here that Sayyid Husayn chose not to endow his own residence. There is no way of knowing for sure if her excluded other properties as well, but the fact that the waqf endowment specifically noted that the residence is not included suggests that most of what he possessed ended up in the waqf. As we shall see in due course, an important difference between the two cities is that residences anchored family waqfs in Nablus as if a patrimony is primarily territorial in essence: the headquarters, so to speak, of the family as a corporate unit in society. In contrast, as we see in this case, most waqf endowers in Tripoli chose not to endow the houses in which they lived. They focused instead on endowing revenue-producing properties. The image that comes to mind is that of a conjugal family that floats in a sea of rent versus a larger extended family rooted in physical space like a tree, bounded and immovable.

Figure 3.1: Flow Chart of Husayni Waqf, 1802

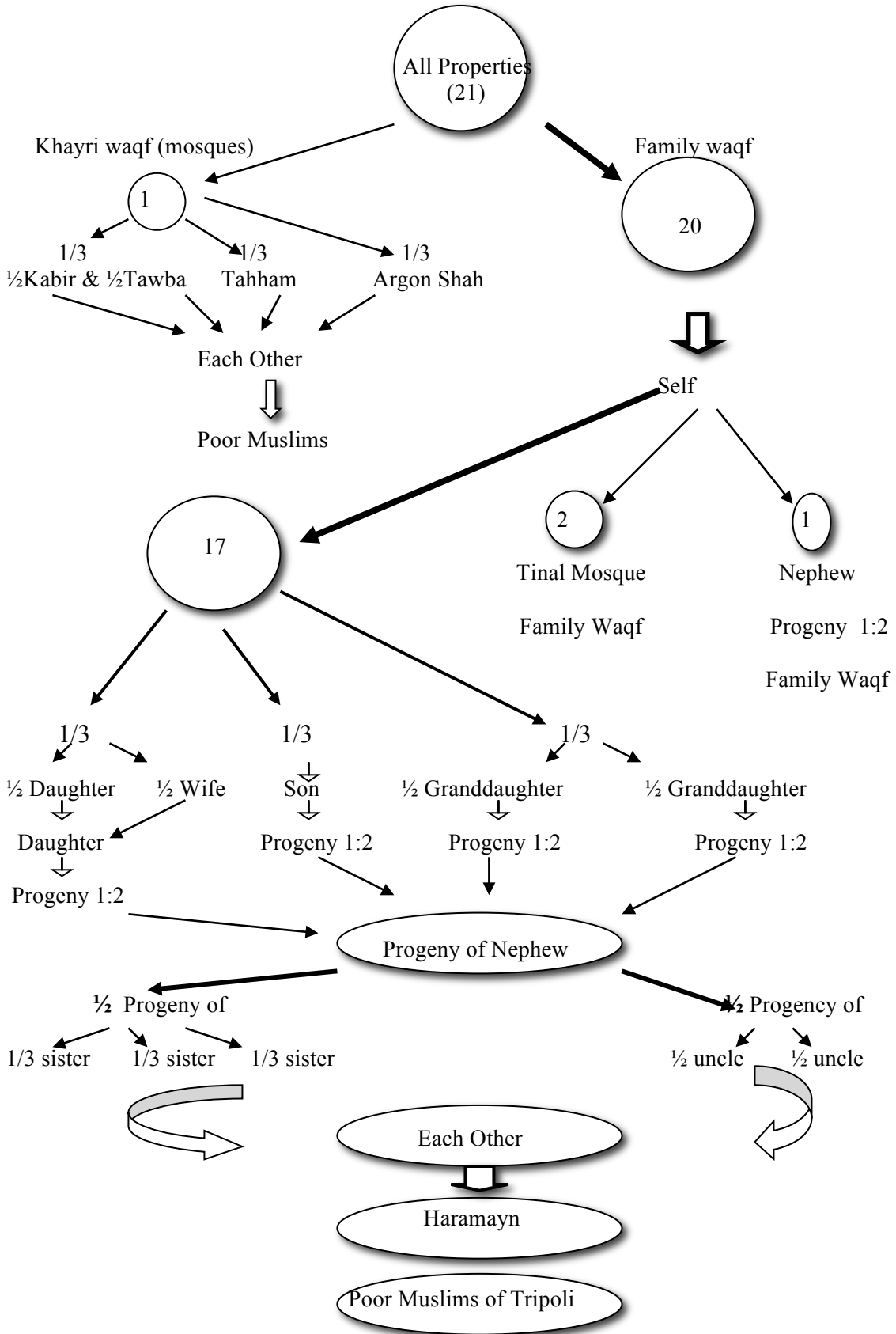
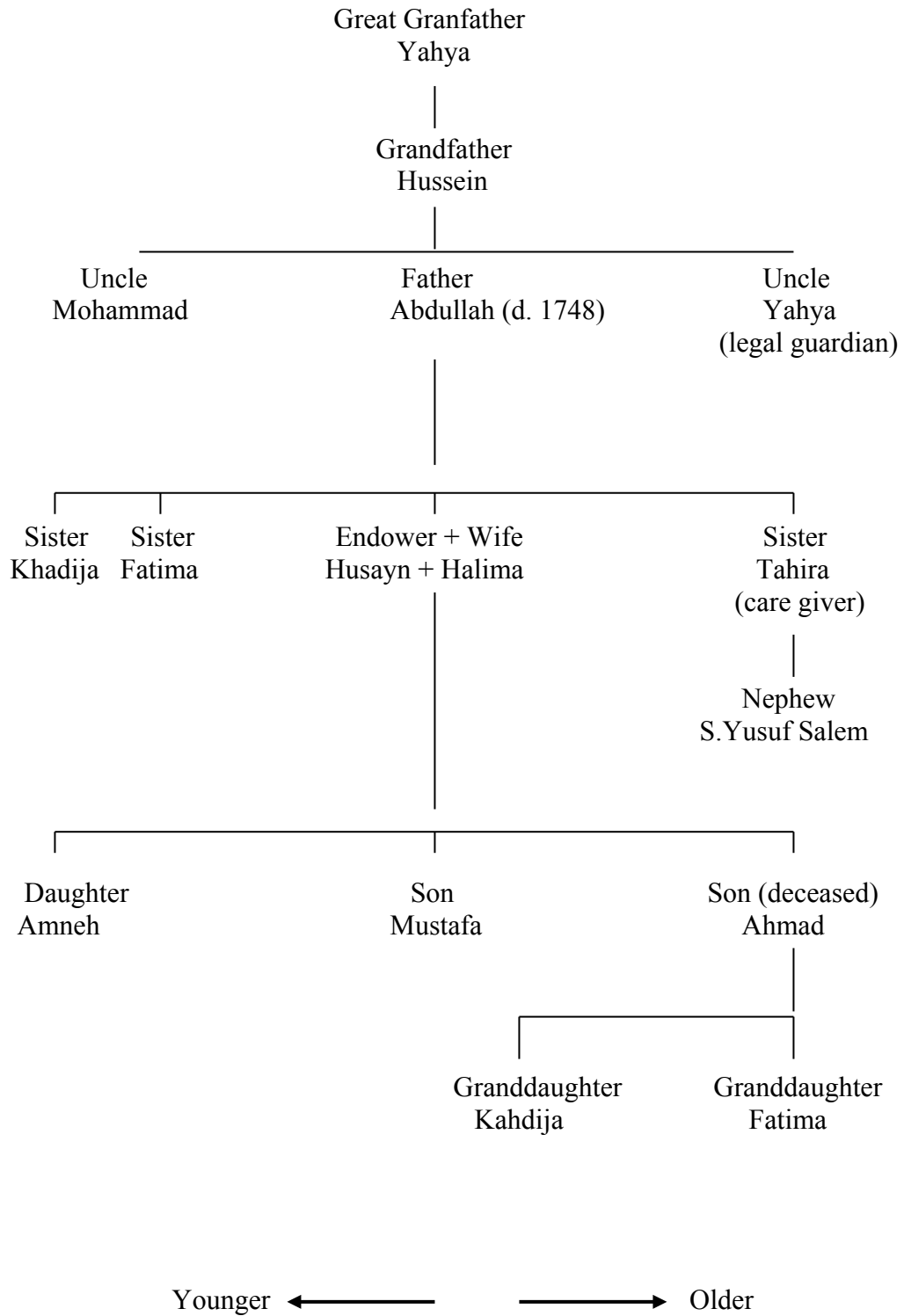


Figure 3.2: Husyani Family Tree According to Husayni Waqf, 1802*



*All had the appellation sayyid (for males) or sayyida (for females), except for the grand daughters.

It should be evident by now that this was an elaborately choreographed affair and most likely a masterful performance as well. Sayyid Husayn's house was transformed into a theater in which his legal representative and the scribe occupied the center stage. Other participants included over a dozen influential residents of Tripoli acting as legal witnesses to the official roles of sayyid Umar afandi Tadmuri and sayyid Ali celebî M'imari, as well as witnesses who put their signatures at the bottom of the finely written endowment.¹¹ The proceedings, no doubt, were punctuated by *sharab* (sweetened essence of fruit diluted with cold water), tea, and coffee services and probably capped by a sumptuous early-afternoon meal.

The pace, throughout, must have been cautious and deliberate. As the patriarch of his extended family, sayyid Husayn viewed this step as the culminating moment of a long life patient accumulation of properties and social capital, of piety, of life-changing emotional and material investments in marriage and the building of a family and household, and of moral debts he owed friends and relatives who stood by him.¹² The challenge he faced is how to integrate all of these dimensions of his life—social/material property, kinship and affective ties, and piety/spirituality—and to transform them into an institutionalized legacy that expresses his beliefs, values, and vision of family. As abundantly evident in his complex and mathematically elegant structure that flows in cascades of twos and threes, sayyid Husayn had clearly given a great deal of thought to the design of his waqf.

¹¹ As is still the practice today, the document was notarized by the qadi (through seal and sign on the upper left corner) and given to the endower after a copy is made and entered into the records of the Shari`a court.

¹² At the time of the endowment, his father and uncles were all dead and he had only female siblings.

To begin with, sayyid Husayn's endowment encompassed two separate waqfs, a small charitable waqf and a large family one. The large family waqf, in turn, morphed into and several discrete sub-waqfs overtime, in the sense that several channels from a common pool of revenues flow into different sets of beneficiaries, then flow back into the pool for yet another set of beneficiaries to emerge (see illustration of revenue flow). Thus, after all 21 properties were listed, the first one --one-third of a large and profitable orchard of citrus trees fed by the western irrigation canal-- is set aside as a charitable khayri waqf.¹³ The revenues of this waqf are subdivided into three equal shares: one-third for Tahham Mosque, one-third for Argon Shah Mosque, and one-third for the Kabir and Tawbat Mosques (to be divided evenly between them). Ten percent of each share is to go to the superintendent (mutawalli) of each mosque as salary and the rest towards the purchase of reed mats from Egypt to furnish the mosques. This khayri waqf is completely distinct and separate from the family one which follows in two ways. First, control over the citrus garden is immediately transferred over into the hands of the mutwallis of the four mosques. Second, it is stated that if and when all four mosques no longer exist, the revenues are not to return to the endowment, but rather to "poor Muslims."

The remaining twenty properties are endowed as a family waqf whose sole beneficiary is the endower himself. After his the death, three discrete sub-waqfs are designated: Two small and one large. One of the twenty properties, a large house (minus the shop on the ground floor), is to go the endower's maternal nephew, sayyid hajj Yusuf

¹³ The other two thirds were owned by the "inheritors of `Irabi al-Tabbal. The land itself is a waqf belonging to the endowments of Kabir and Tawba mosques and is leased at the rate of two-thirds of a Piaster a year.

Salim, and his progeny, male and female. Two other properties, consisting of a total of 44 olive trees, are set aside for Tinal Mosque. The revenues of the remaining seventeen properties are to be divided into three equal shares. One-third is for his wife, sayyida Halima b. Abd al-Jalil, and his daughter, sayyida Amneh, to be divided equally between them until the wife's death, after which her share would revert only to the daughter. Considering the age of the mother, the daughter is effectively receives a third of the revenues. The second third is for his son, sayyid Mustafa. The remaining third is to be divided evenly between his two grand daughters from his deceased son, Ahmad: Fatima and Khadija. In effect, sayyid Husayn designed a transmission strategy that differed significantly from the one prescribed by Islamic rules of inheritance (*ilm al-fara'id*) which would have automatically unfolded after his death. The two most important differences aside from the charitable purposes are, first, the inclusion of his granddaughters and nephew who normally would not have inherited any properties. The second is the allocation of equal shares to his daughter and son even though the normative ratio entitles a male to twice the share of a female sibling.

In the event of the extinction or end of the above lines of beneficiaries (including Tinal Mosque), the revenues are to go back into the family waqf pool, making possible the emergence of new lines of beneficiaries, beginning with the progeny of the nephew. After the extinction of the nephew's biological line, the revenues are again split into two equal parts. The first part is divided into three equal shares, one for the progeny of each of the endower's three sisters; and the second into two equal shares, one for the progeny

of each of the endower's two uncles, sayyid Yahya and sayyid Muahmmad.¹⁴ After the extinction of all bloodlines, the revenues are to go to the Haramayn waqf then to the poor Muslims of Tripoli. Although it is possible that the waqf could fall into ruins or be somehow dissolved long before the progeny of endower's sisters and uncles come to benefit from its revenues, it is nonetheless telling that sayyid Husayn once again shows no preference for males over females or for patrilineal over matrilineal lines. Sayyid Husayn equally includes his sisters, almost certainly married and with children who are now members of other families, along with his paternal uncles. Indeed, special privilege is given to the son of a sister who, as was the custom then and still is now, carries the surname of his father and is considered a member of the Salem not Husayni family.

That Sayyid Husayn took very seriously the charitable, religious, and spiritual dimensions of his waqf endowment is evident in his establishment of a separate khayri waqf for four mosques as well as the room he made within the family waqf for the benefit of a fifth, Tinal mosque. Like most waqf endowers in Tripoli (and unlike those in Nablus), sayyid Husayn took one further and very important step in that direction: He

¹⁴ Reconstructing the Husayni family tree through the court documents has revealed an inconsistency that remains unresolved. On the one hand, the waqf endowment states that the endower, sayyid Husayn Husseini, has three sisters, Tahira, Khadija, and Fatima. On the other hand, the probate inventory of his father, sayyid Abdullah, registered fifty years earlier on December 12, 1748, clearly states that only two children survived him: Sayyid Husayn who was in his legal minority at the time, and Tahira, who was in her legal majority. There is no mention of a mother, who was either dead or divorced, or of any other siblings (TICR 10:123, dated 21 Dhu al-Hijja, 1161). How the endower could have acquired two other sisters is a mystery. Since the names of these two sisters are exactly the same as those of his grand daughters, it is possible that a mistake was made in the drawing of the waqf deed. This interpretation is further bolstered by the fact that the endower's nephew, hajj sayyid Yusuf Salim, is simply referred to as "his sister's son" suggesting that there is only one sister, Tahira. Otherwise, the name of the sister would normally be mentioned. Nevertheless, I kept the family tree illustration in the exact form suggested by the waqf endowment.

stipulated that a significantly large sum of money, 155 Piasters, be annually deducted from the pool of revenues in order to finance five separate charitable purposes that, again, are arranged in a symmetrical structure.¹⁵ First, a recitation of the entire Qur'an is to be completed every Friday of the year (for a total of fifty-four Fridays) at the rate one Piaster a recitation.¹⁶ Another fifty-four Piasters are allocated for the purchase of bread to be distributed to beneficiaries every single Friday of the year. A further twenty-five Piasters are to be divided into five equal sums of five Piasters to compensate the supervisor of the waqf for preparing food for the waqf's beneficiaries on five holy nights during the year: *Mawlid al-Nabawi* (Prophet's birthday), 29 Rajab, mid-Sha`ban, and the two nights of the Eid. It is as if the soul of the endower comes to inhabit the body of whoever is serving in the post of superintendent (*mutawalli*) in any given year and through the distribution of food to the existing group of beneficiaries at the time, serve to remind them of the waqf as the source of both their physical and spiritual nourishment.

Four Piasters are also put aside for the recitation of the popular verse 36 of the Qur'an (Surat Ya Sin), once for each day of the year.¹⁷ The remaining eighteen Piasters are to be divided into three equal lots. Six Piasters for the purchase of reed mats for Attar

¹⁵ It is not clear why waqf endowments always specify amounts instead of percentages or shares when it comes to the mabarrat section. After all, endowers must have been aware of fluctuations in and general trend in rise of costs of wheat, olive oil, reed mats, and other goods that must be purchased.

¹⁶ The important place of Qur'an recitations in family life is discussed in the mabarrat section on the social uses of waqf.

¹⁷ The reason for the popularity of surat YaSin is the widely-held belief in a hadith that reports the Prophet as saying that Ya-Sin is the heart of the Qur'an and should be read on behalf of the dead and that reading it can lead to forgiveness of sins. Family waqf endowments in Tripoli routinely set aside revenues for a reader to recite surat YaSin, thus generating sinecures that constituted an important part of the material base of the educated classes. The Shari`a court judge was responsible for appointing readers to fill positions whose holders either died or voluntarily stepped down. See for example, TCR 9:44.

Mosque, and six Piasters to cover the cost lighting (olive oil) for the same mosque. The final six piasters are to be spent on all the mosques of Tripoli including Tinal Mosque that is outside of it. If one thinks of the annual distribution of revenues to the beneficiaries of sayyid Husayn's waqf as the beating heart of a living will with a theoretically infinite time line, then the dates set for recitations of the qur'an and surat Ya-Sin and those set for the distributions of bread and food represent a temporal rhythm internal to that heart, one purpose of which is to keep alive not only the memory of the endower, but also the mini-constitution or family charter that he designed.

The compassion and elegance that permeate sayyid Husayn's waqf led me, some weeks after writing the above portrait, to comb through eighteenth century registers for clues about sayyid Husayn and his family that might shed light on his background, motivations, and purposes. The findings, which required several more weeks of searching through thousands of un-indexed documents, ultimately raise more questions than answers, but they do clarify some important issues. First of all, there seem to be a good reason why sayyid Husayn took the unusual step of including the progeny of his uncles as well as his sister's son: He was orphaned at a young age and they took care of him. Sayyid Husayn's father, sayyid Abdullah, died in December, 1748, while Husayn was still in his legal minority. The probate document does not mention a mother or any younger siblings, the implication being that she probably died, like so many women did at the time, in the process of giving birth to her son. The only other survivor from the conjugal family was his older sister Tahira, who probably became his primary

caregiver.¹⁸ His uncle Yahya, in turn, became like his surrogate father, a relationship that was formalized when the Shari`a court judge appointed sayyid Yahya as sayyid Husayn's legal guardian within days of sayyid Abdullah's death.¹⁹ The appointment allowed sayyid Yahya to take control of sayyid Husayn's financial and legal affairs, which included the collection of a considerable amount of debts owed to sayyid Abdullah as well as the management of a valuable agricultural property, not to mention running a retail shop and making business investments.²⁰ It seems reasonable to argue, therefore, that the inclusion of his uncles, especially sayyid Yahya, as well as his sister, Tahira, by way of recognizing and repaying their kindness.

Second, there is a reason, at least on an abstract level, as to why the elegant geometric and mathematical rendering of beneficiary flows in the waqf (illustrated in visual form above) blends in so well with the legal logic of the document as well as with the religious text: Sayyid Husayn has seamlessly integrated the scholar/businessman/lawyer dimensions into his own life.²¹ Individuals like sayyid

¹⁸ If hajj sayyid Yusuf Salim is Tahira's son, then he would be akin to sayyid Husayn's younger brother; hence, the provision in the waqf that provides the former and his progeny with a house.

¹⁹ The probate inventory of sayyid Abdullah was registered on December 12, 1748. TCR 10:123, dated 21 Dhu al-Hijja, 1161. The appointment of sayyid Yahya as sayyid Husayn's legal guardian is registered on December 18, 1748. TCR 10:124, dated 27 Dhu al-Hijja, 1161. I could not find evidence that sayyid Yahya had male children, or any children for that matter. If that was the case, then sayyid Husayn's position as hier apparent to the leadership of the family would have been strengthened. In any case, and if sayyid Husayn's successes in life are any indication, sayyid Yahya took good care of his nephew.

²⁰ The estimated worth of the plot of land planted with trees, referred to as *bustan shajari*. Is 750 Piasters. Sayyid Abdullah was owed three large sums of money by men who most likely bought lands from him earlier. See the probate inventory, TCR 10:123.

²¹ It is pointless, except for heuristic purposes, to divide into arbitrary sociological categories the cohesive scholar/businessman/lawyer social group (well represented by sayyid Husayn) that embodies and reproduces the moral and economic order of Muslim

Husayn Husayni embodied the social and religious ideal of material comfort and moral rectitude.²²

Sayyid Husayn may have been primarily a businessman who invested in agricultural lands, soap production, and the retail trade; but he is rooted in a family of educated *ashraf* (descendants of the Prophet Muhammad) who were actively involved in the nitty-gritty of religious and legal affairs of the city.²³ Judging from the contexts in which they appeared on the pages of the Shari`a court registers, the Husaynis are educated, upright, and pious men who seem to have carefully cultivated a reputation as moral guides, as spiritual workers, and as trustworthy witnesses. In addition they played a role as authoritative repositories of local memory when it comes to the detailed knowledge of and active participation in the highly fluid relations of property holdings and access rights through *hikr* (waqf rental) in particular geographic areas of irrigated agricultural properties both inside and outside of the city.

The first act by Husyan's uncle soon after Husayn was orphaned, for example, was to make sure that Husyan would inherit his father's life-time position as a Qur'an reader, funded by a waqf endowment of a house that generated a salary of eight Piasters a

urban centers in Greater Syria. The seamless integration is especially apparent in the *mabarrat* section where good deeds are enumerated, divided into specific repetitive events in time, and funded in precise quantities of capital and so on. Needless to say, waqfs are a superb textual site for a discursive analysis of the genealogical intermingling of mathematics, law, religion, and economics. But this is point the scope of this study.

²² This should not be taken to imply that sayyid Husayni was typical of the dominant element within the larger ulama or business groups, much less society as a whole.

²³ That said, Husayn's grandfather, after whom he is named, also sported the title *celebi*, which denotes a merchant. His full title in 1729 is *fakhr al-sadat sayyid Husayn celebi al-Husayni*. See TICR 5:56, 160.

year.²⁴ The appointment letter refers to sayyid Husayn as “the Pride of Students,” an appellation that sayyid Yahya himself proudly carried when he was a young man, both of which testify to value of literacy, especially the memorization of the Qur’an at an early age.²⁵ Sayyid Husayn, therefore, was hardly unfamiliar with the power and significance of daily readings of the Qur’an both as a spiritual force that aligned the temporal with the everlasting worlds, and that served as a source of income for member of ulama (educated scholars) in the community. Indeed, he used his own resources to endow positions of Qur’an readers similar to the one he inherited, thus doing his part to keep this tradition and economic resource alive. Nor was sayyid Husayn unfamiliar with the importance of the Shari’a court as fountain of legitimacy and a guardian of property and this institution was frequently the site of wealth accumulation and property devolution strategies.²⁶

For example, his mentor and legal guardian, uncle Yahya, was appointed as a scribe (katib) in the Shari’a court of Tripoli on February 25, 1747.²⁷ Fifteen years earlier,

²⁴ On the same day (December 18, 1748) that he was appointed legal guardian, sayyid Yahya secured a letter of appointment for sayyid Husayn to take over the position of Qur’an reader from his father. Due to the damaged condition of the page, I could not make out the name of endowment that created this position, but it could have been of a relative or neighbor as the house is located in his own neighborhood of Bab al-Hadid (Iron Gate). As was common at that time, these permanent positions passed from father to son. TICR 10:123, dated 27 Dhu al-Hijja, 1161.

²⁵ In 1729 for instance, almost three quarters of a century before sayyid Husayn endowed his waqf, we meet his father’s older brother as a young witness to a court case in which he is referred to as the Pride of Students (*fakhr al-Talaba*) TICR 5:55. He was already married at the time as he appears, four pages earlier, as a witness to the identity of his wife, Maryam, the daughter of a land dealer, hajj Umar b. Abdullah, known as the land dealer (al-simsar). TICR 5:51, dated 10 Dhu al-Hijja, 1141 (July 7, 1729).

²⁶ Marriage strategies also played a role in maintaining family wealth and cohesion. Sayyid Husayn’s wife, Halima b. Abd al-Jalil, is most likely the great granddaughter of the Pride of Preachers, shaykh Ahmad b. Abd al-Jalil al-Husayni, who sometimes appeared as a witness along with sayyid Husayn’s grandfather and paternal uncle. See for example, TICR 5:55.

²⁷ TICR 9:45

the same uncle Yahya, then a young man in his teens, was appointed as the prayer leader (imam), caller to prayer (mu'adhden), caretaker (khadim), and mutwalli (waqf supervisor) of Zubala Mosque on the eastern border of the old city.²⁸ Sayyid Yahya held this position for at least twenty-six years.²⁹ Moreover, the names of his grandfather, uncles, uncle's children and other relatives regularly appeared in the court records as professional witnesses to a variety of cases.³⁰ Many, if not the majority of these cases revolve around agricultural properties in al-Minyah village, whose lands were part of the al-Sadat al-Misriyyun waqf that dates back to the Mamluk period (see Chapter Six). The lands of al-Minyah became much more valuable after the governor of Tripoli invested in building a canal from the Abu Ali River to the village. As befitting a family of ulama who also speculated in irrigated agricultural lands, especially those that were part of earlier waqf endowments, the Husaynis developed intimate knowledge about property relations in al-Minyah and worked diligently to increase their holdings in that area.³¹

²⁸ TICR 6:95, dated end of Rajab, 1144 (January 28, 1732). According to the appointment letter, sayyid Yahya was appointed after the leading figures of the Tabbana quarter petitioned the qadi to remove the person in charge of the mosque, claiming that he abandoned his posts a year earlier and the mosque was falling apart from lack of maintenance.

²⁹ See facsimili of waqf report for Zubala Mosque, dated beginning of Muharram, 1169 (October 7, 1755) in Tadmuri, *wathaiq*, pp. 292-293. By that time, the title *Pride of Scribes (fakhr al-muharirin)* was added to sayyid Yahya's many appellations. See, for example, TICR 10:1.

³⁰ For sayyid Yahya see, for example TICR 5:51, 55, 9:49, 360, 10:1, 96, 184, 186, 223, 252, and 360. For sayyid Husayn's grandfather, see TICR 5:56, 106; and 10:65. For his father, Abdullah, see TICR 5:160.

³¹ One of them is sayyid Husayn al-Husayni himself. See for example, three purchase cases, the first in al-Zawihay sub-district and the two in al-Minyah village (TICR 23:86, 132, and 270, respectively). In yet another case, sayyid Husayn, along with a certain woman, Saliha b. Salih from al-Minya village, was sued by Saliha's maternal nephews who claimed that she illegally sold a garden of trees (*bustan shajari*) that is part of waqf al-Misriyyun to sayyid Husayn, because they had claim through inheritance on some shares of that garden. They lost the case. TICR 19: 208. Sayyid Husayn's other paternal

Throughout, the Husaynis worked through a network of friends and business associates whose names almost invariably appear when partners or owners of adjacent properties are identified in the description of the endowed parcels of land. And this is despite, it is important to add, the wide geographic dispersion of these properties that, aside from various locations within the irrigated green belt, also range from the Zawiyah to the Kura sub-districts. Were marriage contracts available, it would not be surprising to find out that these networks were cemented through marriage alliances. At the very least, the repetitions in groups of names suggests that different networks and alliances within Tripoli can be mapped out geographically as well as politically and socially, an important point that will be discussed in greater detail at the end of this chapter. In short, and with due deference to the internal codes of the family waqf as a religious and legal institution and the cultural traditions and ideals in the provincial town of Tripoli at the time, Husayn's waqf design deeply reflected his own specific life experiences and relationships; hence, the crucial importance of waqfs to understanding the contingent history of family life.

B. Abd al-Wahid's Design

Five successive Khammash family waqf endowments –which span a six-decade period endowments (1806, 1826, 1848, 1858, and 1869)-- nicely illustrate the Nabulsi “way” of using waqf as a family charter.³² These five waqfs are also instructive in a comparative sense, as the background of the Khammash family is very similar to that the

uncle, sayyid Muhammad b. Husayn al-Husayni, was also active as a witness in court cases relation to irrigated agricultural properties, especially in the village of Minyah the Eastern canal area. See TIGR 19:53, 148, 178, 197, 208, 237, and 243.

³² NICR 6:348; 8:287; 11:121-123; 12: 226-228; and 15:234-236, respectively.

Husaynis. Both are leading male members of scholar/businessmen families that climbed up the social pyramid during the second half of the seventeenth century and accumulated wealth and prestige during the eighteenth. The Khammash's, like the Husayni, held positions in mosques, in the Shari'a Court, and as reciters of the Qur'an, among other things. They were largely referred to as shaykhs (learned men) not sayyids (descendants of the Prophet).³³ Yet, the design of their family waqfs differed markedly on all levels, especially when it comes to the purposes of the endowment, the patterns of inclusion and exclusion of beneficiaries, and types of properties endowed. The basic goal is the same in that the endowers sought to lay the foundations for and consolidate the rise of a corporate family firm that came to play a leading role in the affairs of the city. But the nature of that firm suggests alternative models for the concept of family, how it ought to be organized, the types of properties that constitute its material foundation, and the place of charity in cultivation of cultural capital.

The large and diverse portfolio of the successive Khammash endowments, a product of two generations of intense investment and accumulation, begins with consolidating a compound-like cluster of adjacent structures in the Yasmini Quarter composed of houses, shops, and a bakery. Then, over the ensuing decades, the compound is enlarged and the range of real estate holdings --including, among other things, houses, shops, gardens, warehouses, soap factories, mills, commercial centers (wikala), pottery factory, bathhouse, and bakeries-- spreads all over the city. The

³³ For example, Husayn b. shaykh Mustafa Khammash was a regular witness in court proceedings in the 1720s (NICR 4:1). During the same period, one of his cousins, Abd al-Wahid b. Mustafa, was a preacher in a mosque (NICR 4:20); and another cousin, shaykh Muhammad b. shaykh Ala al-Din Khammash was the Hanafi Imam (prayer leader) of Nasr mosque. Others relatives also worked as preachers and prayer leaders (NICR 4:98, 168).

successive family waqfs also reveal a large household in continuous transformation that goes through the classic consolidation, fission, and reconsolidation phases. They begin with a medium-sized joint endowment by two brothers who lived with their families in their father's house. The size of the endowments grows quickly overtime, and their purpose shifts to consolidating a split between the two brothers into two separate households. They culminate six decades later with a very large waqf of an old man, the older of the two brothers that initiated the series of waqfs and now the leading member of the family, in favor of his two surviving sons who, along with their children, live with him in the (much expanded) old family house.

In Nablus, it is fairly common knowledge among elders who are reliable repositories of local memory that the Khammash, Jawhari, and Abi al-Huda families are actually closely related branches of a single family descended from a common ancestor through the male line. The Jawharis and Khammashes are in disagreement as to which one branched from whom, but there is no doubt that the Abi al-Huda branch split off from the Khammashes in the mid-eighteenth century.³⁴ Branching is usually the legacy of a

³⁴ An affidavit laying out the complicated property distribution following the death shaykh Muhammad b. Abd al-Rahim Khammash, captures a moment when a common residence housed Jawharis, Khammashes, and Abi al-Huda, son of the deceased shaykh Muhammad and destined to be the founder of the Abi al-Huda branch. The affidavit was registered on September 16, 1723 (NICR, 4:14, dated mid Dhu al-Hijja, 1135). Judging from this and other documents registered in the court records, it is likely that the Khammashes branched off the Jawharis sometime in the seventeenth century. For one thing, the Jawharis occupied the posts of judge and *mufti* (juriconsultant) of Nablus more than once during the eighteenth century, well before the Khammash rose to equal prominence at the turn of the nineteenth. Members of the Khammash family whom I interviewed argue the opposite: That the Jawharis are a branch of the Khammash family (Interview, Mukhtar Ali Khadir Shehadeh Khammash and Muhammad Sa'id Fu'ad Sa'id Muhammad Khammash, May 5, 1996. Some members of the Khammash family have produced an elaborate family tree that shows as much (see image below). Unfortunately, it contains some errors, at least if we are to believe extant court records in which the

successful member whose children and grandchildren then seek to distinguish themselves from the rest of the extended family by relocating into another residence and by adopting a different surname. Almost always, that surname is the first name of the successful member that they want to be identified with.³⁵ In this case, the Abi al-Huda family is named after sayyid Abi al-Huda b. shaykh Muhammad Khammash, who was a young man in 1725. All three branches produced scholars and religious functionaries that played a leading role among ulama in Nablus from the mid eighteenth to the early twentieth centuries. The Khammashs eventually became the most powerful *ulama* (religious scholars) family in Nablus during the from the early nineteenth to the early twentieth centuries, largely as a result of the foundations laid by a father and son team who dominated of the post of Judge of the Shari`a court: Shaykh Mustafa Khammash, then his son, shaykh Abd al-Wahid.³⁶

Not long after Mustafa's father, Abd al-Wahid (after whom he named his oldest son), died, he and his brother, shaykh Hasan, decided, sometime in December 1806, to consolidate his family's rise to power, wealth and status by endowing the key properties

Khammashs and Jawharies appear in a variety of contexts. For example, references to the Jawhari family appear well before those that mention the Khammashs. Revealing in this regard, is that whenever the name of a Khammash appears in court at the beginning of the nineteenth century, it is followed by the phrase: "whose Noble Lineage is famous as al-Khammash." Perhaps the insertion of this appellation, ostensibly to communicate the rise of the Khammash's in social status, also betrays the relatively recent debut of this family. Other elite families that have long had a stable surname --such as the most notable witness for this transaction in court, their maternal uncle and current *mufti* of Nablus, Abd al-Ghani al-Jawhari-- did not bother to represent themselves in this manner. (cite case).

³⁵ NICR 4: 304.

³⁶ For an overview of the Khammash family during the 1800-1860 period, see Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900* (Berkeley: University of California Press, 1995). Pp. 209-211, 213. For the 1860-1914 period, see Mahmoud Yazbak, "Nabulsi Ulama in the Late Ottoman Period, 1864-1914," *International Journal of Middle East Studies* 29, no. 1 (1997). Pp. 74-76.

accumulated over the years in a joint waqf.³⁷ Joint waqfs by brothers and cousins, as we have seen, are far more common in Nablus than in Tripoli and were simultaneously the reason for and the product of the higher frequency of large extended-family households. As common with constitutive waqf, the properties endowed attest to the care taken to put together a solid and diversified material base. Unlike in Tripoli, where citrus or mulberry groves are almost always the first types of property listed in a large portfolio that contains all three types of immovable properties –Residential, commercial, and agricultural— the Khammash waqf of 1806 began, in rather typical fashion for this city, with the family house. The spatial element is important because it was designed in such a way as to literally serve as the headquarters of the branch. The idea, shared by many other families, is to create a large compound which contained all the provisions one might need --such as a bakery, water wells, stable, bathhouse and so on-- so as to be as self-sufficient and protected from the outside world as possible. The establishment of a constitutive waqf, provided the legal framework for the creation of both the financial and physical foundations for a discrete family corporation.

The cornerstone of this waqf, therefore, was a large new house (*dar*) built by the endowers on top of and next to their father's house in the Yasmina quarter, where the Khammash family had been living for at least a century prior. It was also adjacent to the soap factory they had renovated earlier and would endow in a later waqf. Ownership of a soap factory in Nablus at that time was the ticket, so to speak, into the most exclusive and powerful club in the city. In addition, they endowed another house, purchased earlier, along with three shops and shares of three more shops and a bakery. All were located

³⁷ NICR 6:348, dated Shawwal, 1221.

next to each other in the Yasmina quarter. The revenue and control over the endowment was split in half between the two brothers but two rooms and a storage space were reserved for Shaykh Mustafa alone, who was the older brother. This emphasized the lines of authority within the joint household as did the very structure of the text: Shaykh Mustafa was always mentioned first and his oldest son was always mentioned ahead of his siblings as well as ahead of his cousins.

Consistent with the preference for organizing kin and property along the model of the branch, each of the endower passed on his share to his children, male and female, plus all future children, males having twice the share of females. Thus, Shaykh Mustafa's sons, Abd al-Wahid (the oldest son, thus named after his grandfather) and Ahmad, as well as his daughters --Sarah, Salha and Hind-- would receive their father's share of the waqf revenues according the ratio of Islamic Inheritance rules. The same is true for Shaykh Hasan's children, Shehadi and Mahmud (males) and Nafisa (female).³⁸ To concentrate the this property within the male line of each branch, the endowers stipulated that the shares of their daughters and any future female children they may have cannot be passed on to their children and must revert back to their two brothers and their progeny. They further stipulated that the shares of their female children as well as the right to reside in the house are to be rescinded for any daughter that marries.³⁹ If the branch (*far'*) of either brother died out, the text further stated, then the waqf properties would revert to the other branch. Only when the male line of both branches died out would the waqf revert to the children of the females. Since there is no evidence of a previous waqf

³⁸ At the time of the waqf endowment, Shaykh Hasan was married to two women.

³⁹ The founding of this endowment was not without its difficulties due to tensions generated by the male-only path of property devolution. Mustafa and Hasan Khammash had three sisters, one of whom, Aisha sued them over family property (NICR, 6:348).

for the Khammash family, this one can be considered the key foundation announcing that they have become one of the pillars of Nabulsi society.

Twenty years later, sometime in January 1826, shaykhs Mustafa and Hasan jointly endowed another waqf and the text reveals some important developments in their shared household.⁴⁰ First, all the properties were purchased to support an expansion in both their residential space and commercial and manufacturing activities. This expansion carved out a single cohesive physical space in the Yasmina quarter which symbolized the family's wealth and power. Thus, they acquired the roof of a coffee house next to their residential headquarters and an adjacent large space for spreading, cutting and storing soap. They also purchased three more shops and shares of a bakery and two other shops. Second, they sported new appellations as did their ong-deceased father. This projection of status backwards unto the dead reflected their own increased status, hence the need to represent themselves not as a newly "arrived" family but as natural inheritors of a long and distinguished family past. The increase in status was reinforced by the titles now bestowed on the oldest son of each endower, Abd al-Wahid son of Mustafa and Shehadeh son of Hasan. In 1806, Abd al-Wahid and Shehadeh had no titles. In 1826 the first was called a Shaykh and Pride of Preachers (*fakhr al-khutaba*) and the second, the Distinguished Shaykh (*al-shaykh al-fadil*).

Third, life together in a joint household has become more complicated and some tensions are apparent. Shaykh Hasan's two younger children died in the interval and he added a second wife hoping to reinvigorate his own branch. More important, the oldest son of each was busy expanding his power base within the household as both prepared to

⁴⁰ NICR, 8:287, dated Jumada II, 1241.

take over the mantle from their aging parents (Shaykh Mustafa handed over the judgeship to his oldest son four years later in 1830 and died soon after). Consequently, there is a greater emphasis in the text on the boundaries separating the shares of the two brothers. As in the previous waqf, the revenue is to be split in half and the properties are to be managed separately; but, unlike before, it is repeated twice and quite emphatically that neither has the right to interfere in the other's share (*min ghayri musharakat al-akhar fi*). The pattern designating the beneficiaries remained the same.

The joint household that this constitutive waqf was both a product of and a cementing agent for, split apart after Shaykh Mustafa's death. This was not unusual, for the joint household reached the cousins stage. In their model of a joint household cycle, James Lee and Jon Gjerde argue that no joint household makes it past this stage.⁴¹ What was unusual is that this split also led to the dismemberment of the joint waqfs of 1806 and 1826 endowed by Mustafa and Hasan. The strongest evidence for this conclusion is that some of the properties endowed by Abd al-Wahid later on (which he claimed, in the text of the endowment, as his own private property prior to the endowment), such as his residential quarters and one of the soap factories, were actually part of the joint waqfs by his father and uncle. Most likely, the two senior cousins, Abd al-Wahid and Shehadeh, mutually agreed to (illegally) convert the joint waqfs of their parents into private property so that each separate branch/household can fully control their share of the properties that were part of the now defunct waqfs. That is, despite their social prominence and religious stature, and despite the fact that the ink on these two waqfs had not yet dried (if time is

⁴¹James Lee and Jon Gjerde, "Comparative Household Morphology of Stem, Joint and Nuclear Household Systems: Norway, China and the United States," *Continuity and Change*, 1:1 (1986), pp. 92-95.

measured in waqf scale), they did not resort to legal mechanisms of waqf dismemberment such as waqf exchange. Rather, they did so by imply behaving as if the these two waqfs never existed, driving home the point that in the end, at least in Nablus at that time, local assertion of power and will counts far more than law and even custom.⁴² Who, after all, is going to challenge Abd al-Wahid, was the judge of the Nablus Shari`a court at the time, or his cousin Shehadeh, also was trained and served in this capacity both in Nablus and in Jaffa? The complete split, as indicated by the disappearance of the joint waqfs, is probably due to the very success of the two cousins in reaching heights of wealth and influence far beyond those of their parents, hence the desire to establish their own totally independent branches.

After the death of his father in 1830, Abd al-Wahid became the senior member of the extended Khammash family, “inherited” the position of judge, and went on to become the longest reigning judge of the Shari`a court of Nablus during the nineteenth century (and probably for the entire Ottoman period) serving, albeit with interruptions, from 1830 to 1864. His power and wealth received their greatest boost during the Egyptian occupation of Greater Syria (1831-1840) due to the astute political alliances that he forged with the Abd al-Hadi family, up to then based in the village of Arrabeh, who became the Egyptian government’s right hand in southern Syria during their military occupation of Bilad al-Sham (1831-1840). He helped the Abd al-Hadi’s, who sought to establish themselves in Nablus, to take over the choicest properties in the city primarily by abusing the

⁴² The joint waqfs of Shaykh Mustafa and Shaykh Hasan have disappeared not just in reality, but also in memory. Currently living descendants I interviewed did not even know about these waqfs though very careful records were kept of Abd al-Wahid’s waqf endowments. The dismemberment process even affected the jealously guarded waqf endowments of Abd al-Wahid Khammash, detailed below, and today the number of properties in these waqfs is significantly smaller.

mechanism of waqf exchange (*istibdal*), which allowed them the Abd al-Hadi's to literally purchase these properties although they were already endowed in various family waqfs of older leading families, some of whom were out of favor from the Egyptian authorities.

On September 8, 1848 Abd al-Wahid was finally ready to formalize the ascendancy of his own branch by establishing a family waqf that was even larger and more diversified than both joint waqfs mentioned above combined.⁴³ This new waqf included most if not all the properties he acquired up until then: a newly renovated and expanded versions of the residence and the adjacent soap factory which originally belonged to his grandfather and which also served as the joint headquarters of his father and uncle, an orchard in the same compound, a bakery, ten shops, two storage rooms (s. *baykeh*), 2 residential rooms, a large warehouse in the heart of the commercial district, two mills in a nearby valley and a large plot of irrigated agricultural land. Abd al-Wahid he renovated and expanded the residential apartments of his great-great grandfather so that they ended up on on top of the high two-story soap factory building that he built. The soap factory, in turn, has a concealed stairway that leads to the stable and the houses. The soap factory and houses are also connected to bathhouse that he also built and that, in turn, is connected to the house by a long narrow private hallway. The fruit orchards, bakery and some of the shops he endowed were also part of the compound. All were separated by a narrow street from the Satun Mosque, designated in the waqfs as the charitable end to which the revenues are to revert once his and his cousin's progeny are

⁴³ NICR, 11:121-23, dated end of Shawwal, 1264.

extinct. Finally, the shops and warehouses he bought and endowed reached out like arms into the key commercial district: Khan al-Tujjar.⁴⁴

Like his father and uncle, Abd al-Wahid was partially motivated by the unstable political situation in Nablus, thus the need to protect his privately-held properties from possible confiscation by endowing them as waqf. Also like them, his primary goals were to consolidate the material base of a new branch and to prevent feuds among his children and between them and their agnates by laying out a clear property transmission mechanism within the waqf. Unlike them, however, his property transmission strategy was based on a complete exclusion of female kin. That is, only his male children (five of them) and any future male children that God may bestow on him were to receive shares and, after them, only their male children and so on. This is why we know the names of his five sons and the order of their birth, but nowhere are the names or even number of his daughters mentioned in the waqf document. The only reference we have to them is the condition which states that females --his daughters and his sons' daughters (indicating that he was already head of a multi-nuclear household) have the right to live in the residential property as long as they remain unmarried. This "right" was also extended to his wives (again, number and names are not mentioned) in the event of his death as long as they do not remarry. It was also extended to his three sisters, mentioned above, who were still living with him at the time (1848). This is significant because his sisters must have been in their mid to late 40s by then, yet they were still unmarried despite the fact that marriage was virtually universal. Most likely --and this would not have been a rare case among the elite families of Nablus-- they were "persuaded" not to marry so as not to

⁴⁴Field visits, May, 1996.

fragment the family's material base.⁴⁵ In return, they would presumably become the senior females managers of a large and wealthy household with all the privileges that often entailed, instead of relocating to and being on the margin's of their husbands' families. In other words, a (non) marriage strategy was also at work alongside the property transmission strategy through marriage and waqf. All aimed at the same goal: concentration of property in the hands of the senior male offspring.

In designing the group of beneficiaries, Abd al-Wahid did not forget about his cousin, Shehadeh. After all, their fathers shared the same household most of their lives. But he might as well have, for he stipulated that after his male line of descent ends, the revenues are to revert to the children of his females line of descent, both of which are theoretically infinite. Only after both lines become extinct were the progeny of his cousin, Shehadeh have access to the waqf revenues.⁴⁶ This order of beneficiaries reaffirms the line of demarcation between the Mustafa and Hasan branches. At the same time, the great successes of Abd al-Wahid and Shehadeh, the oldest sons of Mustafa and Hasan, and

⁴⁵ Interviews confirm that one of the sisters, Sarah, never married (for example, Interview, Muhammad Sa'id Khammash, May 5, 1996). The Abd al-Hadi and Nabulsi families, both rich and powerful at that time, were frequently mentioned in a number of interviews as examples of families which had a number of women who never married for precisely the same reason (for example, Interview, Wafiyya al-Nabulsi, January 29, 1996). The concentration of a family's resource depends on willing or at least begrudging participation of females. For an example from the period under study see the waqf endowment by three sisters from the Arafat family in favor of their brother's male children. NICR 9:322-23. It is perhaps not completely coincidental that the same Arafat family house in the old city of Nablus, was occupied a century later by three unmarried middle-aged sisters. The men, however, had long moved beyond the city walls and into new neighborhoods and countries. One was an artist and another a school inspector of some authority. The latter, Saba Arafat, kindly shared with me some of the family papers of her family.

⁴⁶ Over one hundred and fifty years later (as of this writing), the waqf revenues are still being distributed among the male progeny of Abd al-Wahid.

especially the successive waqfs of Abd al-Wahid, has turned these cousins into the founding fathers of two branches. All but one of the Khammash family members I interviewed in the 1990s introduced themselves as members of the Shehadeh or Abd al-Wahid branches, without any prompting on my part.⁴⁷

Abd al-Wahid's second waqf, endowed on September 24, 1858, is identical to the 1848.⁴⁸ The only difference is the addition of more properties: Two more floors added to the family residence in the Yasmini Quarter, a third of another bathhouses, Hammam al-Rish, a small share in a mill in the Jordan valley, a large residence near his family home, a shope, another pottery factory, more houses in Yasmini Quarter and three olive groves. His third and last waqf, dated March 1, 1869, adds further to his already considerable property holdings. It includes a new bathhouse (since then known as *Hammam al-Qadi*) that he built, a large orchard, shares in another two mills, five warehouses, two shops, a pottery factory and two houses.⁴⁹ The mix of properties is very different from that of the Husaynis. The emphasis is not on privately owned and largely

⁴⁷ A certain tension continues to exist between these two branches until this day partly because neither Shehadeh Khammash nor his children endowed waqfs. One descendent of his sounded bitter about this fact and considered it a major mistake because, he said, Shehadeh's children and their descendants squandered their considerable inheritance while the branch of Abd al-Wahid maintained its wealth and status from the revenues of the waqfs (Interview, Mukhtar al-Khammash, May 15, 1996). A member of the Abd al-Wahid branch who was present during this interview later confided that this was true, but recently the tables have turned. Now the Shehadeh branch had greater opportunities because the waqf rent revenues have not risen over the decades nor could they sell the shops, houses and lands unlike their relatives from the other branch who really benefited from the spectacular rise in real estate prices over the past three decades (Interview, Muhammad Sa'id Khammash, May 15, 1996).

⁴⁸ NICR 12:226-228, dated mid Safar, 1275.

⁴⁹ Khammash Family Papers, 1.3. Also registered in the Shari'a court records of Nablus, (NICR 15: 234-236, dated 16 Dhu al-Qa`da, 1285). The beneficiaries, therefore, included two of his sons, the male children of a third, and orphans of the fourth --all to be divided equally. The rest of the conditions were similar to the first two, which are described below.

irrigated lands devoted to horticulture, but on trade and production that is entirely based on access to the rural surplus, such as oil for the soap factor and wheat for the mills. And whereas Husayn Husayni did not endow his own house, the focal point of most waqfs by the Khammash is the family residence, continuously in a state of expansion and from which radiates their influence over the city. As will be argued later, these differences in the material foundations of their wealth are very much implicated in the markedly divergent designs of the Husyani and Khammash waqfs.

By this time he must have been close to if not well over seventy years of age, and had already outlived three of his sons, who died in the intervening period between the second and third waqfs. Thus, although the general design of the third waqf is identical to the first two, the direct beneficiaries are now listed as Muhammad and Munib, his oldest and youngest sons, respectively, as well as three grandchildren: The male child of his deceased son Raghib, and the two male children of his deceased son, Attalah. The two children of his third deceased son, Darwish, are not included as beneficiaries, because they are both female. However, Abd al-Wahid set aside an annual salary of 200 Piasters for each of his own daughters (names and number not mentioned) and for Darwish's two daughters as long as they remain unmarried. If any one of them is widowed, she can receive her share again from the waqf revenues, as long as she is not legally obliged to support a child (*wa lam yakun laha walad kalif*). The assumption, of course, is that any child by a female descendent of Abd al-Wahid, does not belong to his branch and, therefore, the mother of that child is to be excluded so that "strangers" would not have access to the revenues.

Abd al-Wahid, close to death, took special care to safeguard the endowed properties by designing a detailed set of rules and regulations to govern the management of the waqf. First, he banned his progeny from living in the endowed properties, except for the large residence in Yasminah Quarter. Both the 1858 and 1869 waqfs explicitly state that “the aforementioned places are for revenues not housing” (*al-amakin al-madhkura li al-ghillah la li al-sakan*). That is, the waqf is a source of cash income to be distributed among the beneficiaries, not a space which can be taken over by them and lived in, thus creating a layer of claims and access rights that will derail the endower’s plans and plunge his progeny into cycles of dispute and recrimination.

Abd al-Wahid strictly forbade his progeny from renting out any of the property through the *ijaratayn* (long term rental) contract. However, he went much further by detailing a stick and carrot enforcement mechanism: An escalating process of punishments and rewards. If any beneficiary even requests, much less implements, the *ijaratayn* contract, he would be forever excluded from the waqf unless he repents (*yatub*). Upon repentance, he regains his lost share after one year, during which it will be distributed equally to the other beneficiaries. If repentance is followed by a second infraction, so warns the waqf, the guilty party is to be permanently excluded.⁵⁰

Finally, it is important to note that the Khammashs did not dedicate a percentage of their waqf revenues to *mabarrat* (Good Deeds). In that respect, they are quite typical of Nablusi waqf endowers, very few of whom thought it important do so. It is not clear why this tradition of almsgiving for heavenly rewards is largely absent in the waqf

⁵⁰ Abd al-Wahid’s concern about loss of control and revenue due to long-term leases is understandable. Such leases represented a mechanism by which rising families effectively appropriated the properties of weaker or temporarily unfortunate families who had seen better days.

culture of Nablus (see below for a more detailed discussion). It is telling, in this respect, that Abd al-Wahid, at the end of his life, makes a nod in that direction in his last waqf; albeit it a small nod considering the waqf's very large size. Specifically, Abd al-Wahid dedicates one-half of the income from the new bathhouse that he built along with one half the income from the irrigated Mas`udiyya garden (*bustan*) to the maintenance of the tomb of saint Mas`ud. In addition, he instructed that one-hundred Piasters of the waqf revenues are to be set aside to purchase bread to be distributed to the poor of Nablus, the rewards of which are to be gifted to his soul (the soul of the Prophet Muhammad is not mentioned as is usually the case in Tripoli). Again, unlike the Husyani waqf which lists the specific days and amounts to be spent, no additional detail is provided in the khammash waqf, as if it is an afterthought, not a ritual-generating mechanism.

C. A Tale of Two Cities

Although only a small proportion of family waqfs are as detailed as those of Sayyid Hussein al-Husayni and shaykh Abd al-Wahid Khammash, most contain all the basic elements of both. A comparative analysis of these family charters and how they changed over space and time sheds light on the productive capacity of waqfs to shape the historically contingent notions of property, gender, and kinship --at least in so far as they were articulated in sociolegal arena of the Islamic law court and its archives. The results of this comparison are summarized in the table below.

Figure 3.3
Simplified Outline of Differences in waqfs of Nablus and Tripoli:
1660s-1730s, 1800-1860

Point of Comparison	Tripoli	Nablus
What Kinds of Waqfs?	<ul style="list-style-type: none"> • Family (75%) • Mixed • Charitable 	<ul style="list-style-type: none"> • Family (96%) • Mixed • Charitable
By Whom?	<ul style="list-style-type: none"> • Mostly middle stratum • Half by women • Joint waqfs rare 	<ul style="list-style-type: none"> • Mostly upper stratum • Very few by women • Joint waqfs common
For Whom?	<ul style="list-style-type: none"> • Primarily for conjugal family • Females Included 	<ul style="list-style-type: none"> • Primarily for Patriline • Females Excluded
Types of Property Most to Least	<ul style="list-style-type: none"> • Agricultural • Residential • Commercial 	<ul style="list-style-type: none"> • Residential • Commercial • Agricultural
Change over time	Imperceptible	Clear shifts
Good Deeds	Usual	Unusual
Charitable ends	Quarter specific	City as a whole
Small waqfs	Many	Few
Large waqfs	Few	Many

These comparisons are made with some confidence as to their accuracy and robustness for several reasons. First, there is persuasive evidence that waqfs endowed in Nablus and Tripoli are actually registered in the Shari`a court.⁵¹ This is because the institution of waqf, the only form of perpetuity in Islam, has long enjoyed a privileged place in archival production and preservation. This is not surprising considering the waqf's well-established legal status, strong moral purchase, economic and cultural importance, and its centrality to both Ottoman state policy and the society as a whole.⁵² Moreover, lawsuits concerning waqfs make it clear that for a waqf to be considered valid and complete (*munjizan*), the Shari`a court judge has to authorize it (*yahkum*, liter. "pass judgment") and it has to be handed over to waqf supervisor (*mutawalli*). It is possible, therefore, to make statistical claims that highlight patterns over time.

Second, and in addition to consistency and dependability of the documentation of endowments, a great many documents related to waqfs were generated in the Shari`a courts, providing additional layers of information. In fact, cases related to waqfs --rent, lease, lawsuits, reports on income and expenses, exchange, and appointment of administrators-- are second only to sale/purchase of immovable property in frequency (see Figure 2.5 in Chapter Two). There is also evidence of an unusually high rate of

⁵¹ I reached this conclusion as a result of an investigation using the following method: Whenever a previously endowed waqf is mentioned in court cases, such as lawsuits and waqf exchange (*istibdal*), I would go back to the register (*sijill*) for that year and look for it. Almost always, I would find the endowment in question. For example, NICR 17:774, 11:72-74, 104-05. There are some exceptions. For example, there is a reference in TCR: 30:147 about a waqf endowed in 1229, but I could not find it though that year is not missing. Based on extensive readings of the court records of other cities in Greater Syria, I think it safe to generalize this observation to most of them, especially provincial capitals (Damascus and Aleppo) as well as Jerusalem.

⁵² Waqf was a key concern of the Ottoman state from the very beginning of the Ottoman conquest of Arab lands. (Abouseif story on waqf reason for attack on Mamluks). See chapter 2 for details.

preservation: At least in Nablus and Tripoli, it was not uncommon for the judge to consult past registers (*sijills*) to compare waqf texts for accuracy and/or to read the waqf word for word in court.⁵³ The importance of a written record was such that it was not uncommon for waqfs to be re-registered and notarized at the Shari`a court, especially if the original had been lost or destroyed.⁵⁴ The bureaucratic imperative emanating from the state seems to have been matched in urgency by individuals and families who had their own reasons for conscientious record keeping. Concern with preservation is evident, for example, in a condition attached by Hajj Ahmad Jawish to his rather large endowment, registered in the Shari`a court of Tripoli on January 13, 1729. The condition states that the registration of the waqf deed should be renewed every ten years by the serving judge in Tripoli at the time. The judge, he instructed, is to sign the deed before trustworthy Muslim witnesses, and is to be paid two Piasters for his signature. One Piaster is also set aside for the scribe, in recompense for copying it.⁵⁵ In a similar vein, The Pride of Protected

⁵³ For examples, see Chapter Two.

⁵⁴ An example of the continuing concern with physical recording and preservation of waqf endowments is the project undertaken in the Nablus Shari`a Court in 1991 to go through all extant sijills, identify all waqf endowments, notarize a photocopy of each one with cross references to sijill number and page. Each notarized copy is signed by the head scribe (*ra'is al-kuttab*) and by the Nablus qadi at the time with an official stamp under each. The first notarized copy is dated December 22, 1991. All were put in a folder containing three sub-folders (*idbara*), one each for sijills 1-9, 10-19, 20-44, 45-317. Each file (*idbara*) was prefaced with an index titled "Index of all waqf cases registered in the Shari`a court of Nablus (*Fahras bi-hijaj al-waqfiyyah al-musajjala bi-mahkamat Nablus al-shar'iya*).” The index is a simple one containing the name of the endower (no titles), sijill, page number, and year of endowment (not the full date). A handful of the cases indexed are listed as waqf lawsuits. Considering that there are hundreds of such *dawas* in the sijills, it is not clear why the dozen or so ones in the index are included.

⁵⁵ (*kul `ashir sinin yujaddad kitab waqfhi hadha wa yunafidhahu al-qadi hina`idh bi-Tarablus wa yamdih wa yashad `alyhi thiqat al-muslimin wa yudfa` lil-qadi ujrati imdayihi ghirshayn wa lil-katib ujrati kitabatihi ghirsh wahad...*). TCR, 5:4-7, dated 12 Jamadi II, 1141 (January 13, 1729). For another example of a stipulation that the waqf be “renewed” every ten years, see the waqf of sayyid Abdullah Qawwaf: TCR 45:235-236,

Women of the Veil, sayyida Hawwa daughter of the deceased sayyid hajj Ahmad Abd al-Wahid, made re-registration one of the important conditions of her rather larger waqf endowment. Specifically, she instruction that prior to the distribution of revenues to the beneficiaries, the supervisor must meet all the expenses for the “upkeep and enhancement of the waqf (*amaratahu*: literally, building up); plowing (of orchards), inspection, re-registration (of the waqf deed in the Shari`a court of Tripoli) once every three years, and payment of taxes and long-term lease rent.”⁵⁶

Waqf endowments were also jealously guarded at home for generations and prized for what they are: Consequential texts that embody the will of ancestors and that have tangible impact on daily life. In the all too frequent disputes relating to waqf endowments, for example, and although the oral testimony of credible witnesses was legally sufficient, litigants routinely submitted waqfs deeds as corroborating if not as decisive evidence of a specific configuration of rights and/or intent. Indeed, waqf documents were sometimes illegally established, altered, destroyed, or hidden as a result of internal conflicts within families as to how resources are distributed and accessed.⁵⁷

Third, waqfs deeds are unusually informative documents. True, like all other types of court cases, they are tightly structured formulaic narratives occasionally

dated Feb 20, 1817 (11 Rabi II, 1232). A similar condition is attached to a waqf endowed by three siblings (two brothers and a sister) from the Tabikh family in which it is stipulated that the judge is to be paid three Piasters annually to protect and preserve the waqf (*li-himayatihi wa siyanatihi*). TCR, 10:205, dated 7 Safar, 1162 (January 27, 1749).

⁵⁶ TCR 42:40-41, dated 24 Jammadi II, 1228.

⁵⁷ There are several cases of fraud and alteration, one of which is discussed in Chapter Two. For another example, see NICR 6: 181-184.

interrupted by “fill-in-the-blank” fields.⁵⁸ Still, and with the exception of probate inventories, waqf deeds have more such fields than most and, just as important, allow for a broader range of qualitative difference between them and within each field. The combination of quantity, variety, and texture allows for a multiplicity of analytical angles and for stronger claims about the two-ways relationship between these waqfs and the larger socioeconomic, political, and cultural contexts in which they are embedded. The combination also makes it possible to identify complex statistical patterns that are highly conducive to comparative analysis over time and space.⁵⁹ One can pose, for example, relational queries that link in multiple ways discrete categories of information such as who established waqfs, for what purposes, the kinds of properties endowed, the configuration of the pool of beneficiaries, and the conditions attached.⁶⁰

A thorough examination of every *waqf* endowment registered in the Shari`a court records of Tripoli and Nablus during two periods: 1660s-1730s and 1800s-1860s reveals dramatic and unexpected differences in the configuration of these family charters in these two cities. As can be quickly gleaned from the simplified comparison in Table 3.1, the differences are systematic, enduring, and revolve around the relationship between gender

⁵⁸ This is not to diminish the importance of closely studying the formulaic structure and content of legal text, nor to imply that it is desirable or even possible to analyze the specifics inserted into the blank spaces from the text which makes these spaces possible in the first place. For a more detailed discussion see chapters two on the Shari`a court and its archives, and chapter four on *da`was*.

⁵⁹ This difference becomes clearer, for example, when one compares waqf deeds to sales/purchase transactions of immovable property or even probate inventories. They may have much more quantitative information, but the relationships between the bits of information are narrowly and tightly bound.

⁶⁰ This statement applies only to urban areas. Most waqfs endowed by peasants and villagers were not registered in the Shari`a courts of Nablus and Tripoli prior to the 1860s, mostly because they did not resort to the court in any appreciable numbers before that time.

and property. The most striking difference is in the key component in property devolution strategies: The pattern of inclusion/exclusion of beneficiaries. It is simply startling that in Tripoli virtually all family *waqf* endowments include female children and their progeny in the pool of beneficiaries, while in Nablus, female children and/or the progeny of female children are usually excluded. Clearly, the waqf endowers of Tripoli and Nablus were almost diametrically opposed in how they conceived of the relationship between property and gender and expressed different preferences as to where the boundaries defining the ideal family ought to be drawn. This issue is discussed in detail in Chapter Five. The following two examples, one from each city, briefly illustrate some of the above points.

D. A Tale Of Two Waqfs

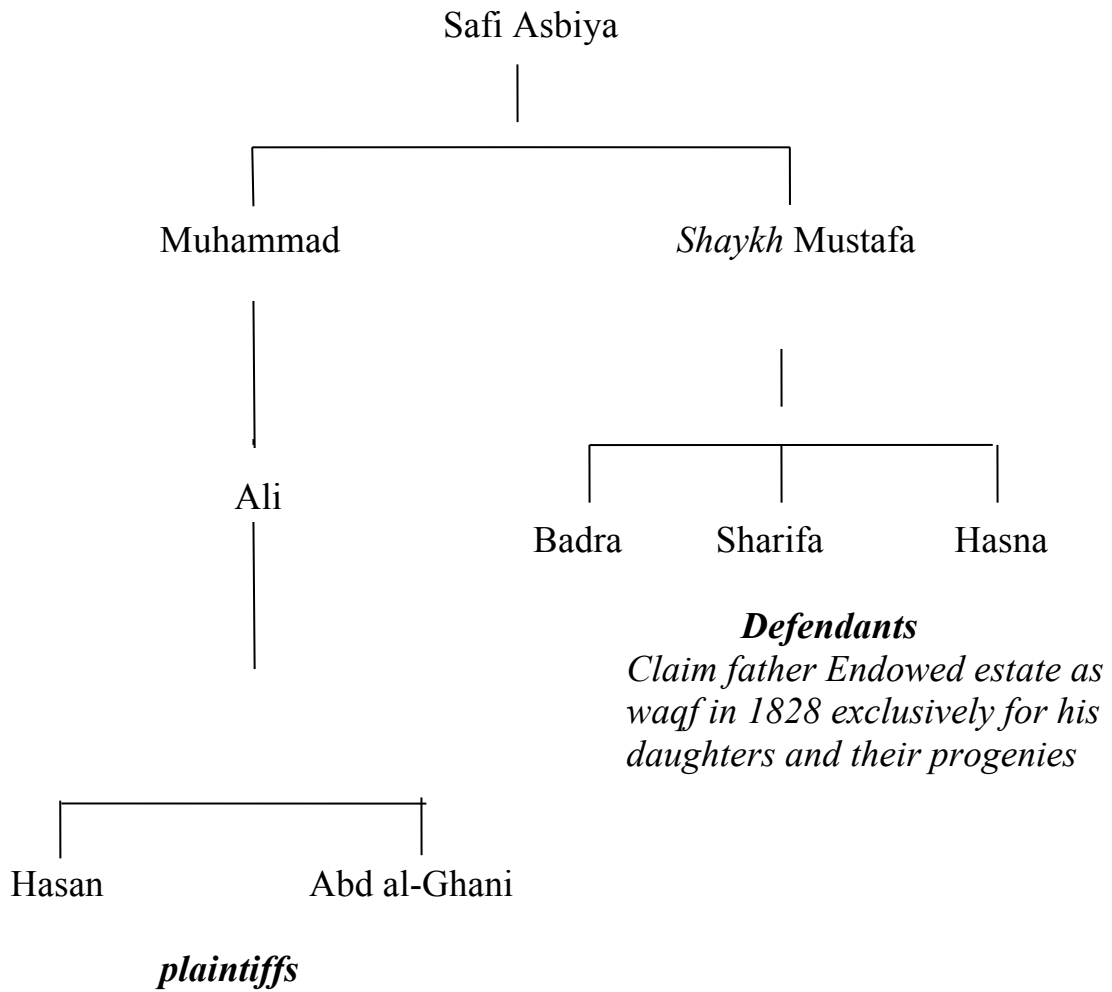
The first is a lawsuit registered in the Tripoli Shari`a Court records on July 2, 1857 between members of the `Asbiyya extended family; or, as phrased in the title of the document, *bani `Asbiyya*: i.e., the progeny, through the male line, of a common ancestor called `Asbiyya.⁶¹ On that day Shaykh `Abd al-Ghani, the great grandson of Safi `Asbiyya came before the judge of the Shari`a court and claimed that the two living daughters of his father's paternal uncle, Shaykh Mustafa son of Safi `Asbiyya, have taken possession of the property that he and his brother Hasan should have inherited by right of *ta`assub* (nearest agnates) because Shaykh Mustafa fathered three daughters and no sons. Furthermore, they argued, they are the only living agnates of Shaykh Mustafa as they proved in a lawsuit concluded the day previous. They requested that the judge order *Sayyida Sharifa* and *Sayyida Hasna* (the third daughter of Shaykh Mustafa, *Sayyida*

⁶¹ TCR, 36:90-91.

Badra, died a month earlier in June, 1857) to hand over one-third of the property of their father.⁶² At stake was a large house (*dar*) containing many rooms (*buyut*) and shares in six small olive groves.

⁶² Shaykh Mustafa died long prior to this lawsuit and this belated action was probably precipitated by the death of Badra, the oldest daughter.

Lawsuit in Tripoli, 1857



Claim 1/3 of estate by right of closest living aganates to a man with only female heirs

Ruling: In favor of defendants on basis of witnesses and a legal waqf deed.

When asked to respond, *Sayyid* `Abd al-Qadir al-Kharbutli, husband of *Sayyida* Hasna and the legal representative (*wakil*) of the defendants, admitted that the plaintiff's claims, including those specifying the types and amounts of property as well as their relation to the defendants, were all true. However, he added, on February 22, 1828, Shaykh Mustafa, while still in sound mind and body, endowed all this property as a family *waqf*. The designated beneficiaries of this *waqf* were his current children (then the three daughters) and any future children that God might bestow on him (*awladahu al-mawjudin wa mann sayahdithuhu* Allah), the male child entitled to the share of two females (*lil-dhakar mithlu hazz al-unthayayn*), plus his wife *Sayyida* Amina daughter of Mustafa Fahd. His wife's share was to be equal to that of one female child and she was to receive it after her husband's death and for as long as she lived. After his children and wife, the revenues of the *waqf* were to pass to his children's children, again the male having the share of two females, then to his children's children's children and so on. Only after the extinction of his direct line of descent were the revenues of the *waqf* to pass to Shaykh Mustafa's brother, Hajj Muhammad (the grandfather of the plaintiff), then to his brother's progeny according to the same conditions. After the end of his and his brother's lines of descent the revenues were to be allocated first to the Holy Sanctuaries in Mecca and Medina and, after their demise, to the poor of Tripoli. The defendant's legal representative then produced the *waqf* document complete with the seal of the Shari'a court judge at that time. After inspecting the document and listening to the testimony of two credible witnesses produced by the defendants' representative, the judge ruled in the daughters' favor and against their agnates.

The use of the appellation “*bani*” in front of the family name, `Asbiyya, at the top of the documents indicates that the litigants were seen by the court to possess or at least represented themselves as possessing a certain solidarity (*‘asabiyya*) through the male line. A strong *asabiyya*, theoretically speaking, enhanced an extended family’s status in the community, gave its leaders political clout based on the number of adult males and the strength of their networks and gave all the male members an incentive to consolidate and protect the patrimony of this extended family group within their hands. It is clear, however, that shaykh Mustafa, forced to choose between providing for his daughters and wife or keeping his property within the `Asbiyya family as defined by the male line, decided to take the former course. That is, he favored his conjugal family, despite the absence of sons, and excluded his closest agnates for the foreseeable future. In so doing, he most certainly knew that this property will eventually pass into hands of non-family members --usually called “outsiders” (*ajanib*, s. *ajnabi*: literally “strangers” or “foreigners”) in the court records-- when his daughters married and had children. In fact, this was exactly what happened and it is no coincidence that the husband of one of the daughters was their legal representative in this lawsuit.

In Nablus, however, the same situation provoked a different property transmission strategy. On November 19, 1827, Ahmad son of Hajj Isma`il Fatayir, faced with the quandary of having two daughters and no sons and with the fact that his brother recently died leaving behind male children, decided to endow his residential property plus a storage room (*makhzan*) to his two daughters but not to his daughter’s children.⁶³ Rather, the daughters would have the right to live in this property but their shares, after death, would revert to his deceased brother’s male children, then to their male children and so

⁶³ NICR, 8:297.

on. Clearly, Ahmad Fatayir divided his loyalties between the conjugal and extended family worlds in the way he thought best. He provided for his daughters until their death but, by excluding his daughters' children in favor of his brother's children, he made sure that his property remained within the Fatayir family as defined by the male line. True, it is conceivable that if his brother had not died before him, he would not have felt responsible for his nephews and he might have chosen to include his daughter's line of descent as beneficiaries in the *waqf*. But if Ahmad Fatayir had actually taken this alternate course, his case would have gone against the grain because the vast majority of the family *waqfs* established in Nablus during this period specifically excluded the descendants of the female children of the endower from benefiting from revenues of the *waqf* in favor of including only the male children's line of descent.

Judging from this case, the key assumption under-girding how an individual in Nablus negotiated between the conjugal and extended family worlds is that anything less than the social construction of family property as primarily a male domain undermines the wealth, status and power of the family as a whole. Indeed, the fear was that the family would cease to exist as a corporate unit in the larger society. The rules of inclusion and exclusion into the material base of a family, however, were not absolute. In the above example, Ahmad Fatayir allowed his daughters access and control of the property until their death, thus delaying the transfer to his brother's children. In so doing, he affirmed that his daughters are full members of the Fatayir family in as far as its material base is concerned, while his grandchildren from them are not. In other words, the property devolution strategy of Ahmad Fatayir drew both temporal and kinship boundaries in the social construction of family property. Rights of access to property

changed over time and depended very much on the sex and status of the individual involved.

F. Conclusion

The family waqf is peerless as a window into the material and discursive forces that shape kinship, gender, and property. Its flexibility provided the largest space for maneuver by individuals who wished to express their personal preferences and desires. But there are limitations as to what *waqfs* can tell us about the full range of actual practices when it comes to the distribution flows of resources between kin and over time. As discussed in Chapter One, the institution of *waqf* is only one element in the overall system of property devolution. Of the other options available to propertied individuals and families, for instance, the inclusion or exclusion of potential marriage partners is perhaps the most important.⁶⁴ Were it possible, a study of marriage strategies may not exhibit such a fundamental opposition between the two cities. Unfortunately, the nature of available sources does not allow a study of this system as an integrated whole. It is also important to recognize that the endowment of *waqfs* should not be viewed as a widely used alternative to the application of Islamic inheritance laws. This is because only a part of the population, albeit a substantial one, endowed *waqfs* and most *waqfs* did not transmit the entire property of the endower. Furthermore, the average life span of any one *waqf* varied considerably, some lasting for centuries and many others for only a

⁶⁴ It is unfortunate that only a few dozen marriage contracts were registered in the Shari'a court records of Nablus during the Ottoman period, and almost none in those of Tripoli. For a preliminary analysis of the former, see Judith Tucker, "Marriage and Family in Nablus, 1720-1856: Towards a History of Arab Muslim Marriage," *Journal of Family History*, 13 (1988): 165-79; and "Ties That Bound: Women and Family in Late Eighteenth- and Nineteenth-Century Nablus," in *Women in Middle Eastern History: Shifting boundaries in Sex and Gender*, Nikkie Keddie and Beth Baron, eds. (New Haven, Conn., and London: 1991): 233-53.

generation or two.⁶⁵ In addition, one cannot assume that the conditions attached to *waqfs* were always respected much less were transformed into lasting arrangements, although the numerous lawsuits between kin over *waqfs* demonstrates the extent to which these very conditions became the key arena for organizing and reproducing gendered kinship and property relations.

With these caveats in mind, and as we shall see over the next two chapters, the dramatic differences between the two cities when it comes to property devolution strategies as indicated by the divergent patterns in the uses of family *waqf* endowments cannot be easily dismissed. They are persistent, robust, and highly indicative of different visions of family life. More to the point, the conditions attached to *waqfs* reveal intentions and perceptions that do have consequences. Indeed, the conditions and clauses of inclusion and exclusion attached to *waqf* documents constituted the terrain over which family members contested and re-negotiated their internal power and property relations, a fact attested to by the large numbers of lawsuits revolving around *waqf* endowments. The accumulation of personal decisions over the centuries reveal unmistakable and contrasting patterns that allow historians to explore contemporary visions about what constitutes a family over space and time. The next chapter argues that two distinct traditions in the social use of *waqf* endowments developed in Nablus and Tripoli

⁶⁵ This could be due to a variety of factors such as misuse, neglect or natural disaster, or because they were reconverted illegally to private property. For more on this issue, see Gabriel Baer, "The Dismemberment of *awqaf* in 19th-Century Jerusalem," *Asian and African Studies*, 13:3 (1979): 220-41. Muhammad Rafiq Tamimi and Muhammad Bahjat, two keen observers who toured the Province of Beirut during the First World War frequently lament the fact that most of the charitable *waqfs* of Tripoli were "swallowed" by greedy individuals and that many public institutions disappeared due to the lack of revenues (*Wilayat Beirut, al-qism al-shamali: al-wiyat Tarablus wa al-Ladhikiyya* [The Province of Beirut, Volume II: the Northern Part: the Districts of Tripoli and Lattakia], [Third Edition, Beirut: 1987, originally published in Beirut, 1916-17]: pp. 158, 161, 225).

overtime, illustrating how the establishment of a family waqfs can serve a wide range of needs and desires. It is important, therefore, to look closely at the social composition of waqf endowers, their motivations, and the ways they constructed their waqfs in to achieve their goals both in this world and the world after death. It is to the question of the waqf as a social act that we now turn.

Doumani, Beshara. Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700-1900. Berkeley: University of California Press, 1995.
Yazbak, Mahmoud. "Nabulsi Ulama in the Late Ottoman Period, 1864-1914." International Journal of Middle East Studies 29, no. 1 (February, 1997 1997): 71-91.