Shiite Survival in Ottoman Aleppo

The Endowment Deed (Waqqīyya) of Aḥmad and Bahāʾ al-Dīn al-Zuhrāwī (1066/1656) (Aleppo Court Records, III, pp. 788-790)

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Abstract

This article presents a translation of a waqf document from the Ottoman archives of Aleppo. The author’s contention is this waqqīyya bears witness to the resilience of Shiite presence in a predominantly Sunnite city.

Keywords

Shiism – Aleppo – Aḥmad al-Zuhrāwī – Bahāʾ al-Dīn al-Zuhrāwī

As anyone who has been there knows, winters in Aleppo can be quite cold and snowy. January 9, 1656 CE was probably one of those winter days that saw the recording of an important, albeit not especially unusual, legal procedure at the court of the Ottoman Ḥanafī judge. This was the establishment, of a pious endowment of the “family” type (waqf ḏurrī/ahlī). As elsewhere in the Muslim world, family endowments were common in Ottoman Aleppo. Their popularity was due to their creation of a viable and legal way of permitting the transfer of one’s property to a selected circle of heirs, as designated by the donor. The consequence would be that the strict and rather complicated rules of Islamic inheritance could be circumvented. Almost always, as in the case considered here, the male line of the donor’s descendants was given preference over the female heirs up to and including the exclusion of the latter.1

* Dedicated to the city of Aleppo and those of its people who once were.

1 There is of course a vast bibliography on the various juridical and socio-economic aspects of the waqf institution. I refer the reader to the long and detailed entry Peters, R., s.v. “Waḳf”,
What follows is primarily a translation of a specific case with the hope of contributing to the well-established scholarship dealing with waqf documents. But it also intends to point out the religious peculiarity of this particular waqf deed because it must be understood in the context of the long – albeit at times obscure – Shiite presence in what was and had been a predominantly Sunni city. Indeed, the document is worthy of attention because it gives us evidence of the resilience of Twelver Shiism in an overwhelming Ottoman Sunni environment. Here we see that the assets and specific stipulations included in the endowment reveal the patrimonial strategies of a typical Aleppine notable clan. Additionally, the document provides a key to the biographies and personal careers of the two donors.

As the main concern of the present article is one particular waqf deed, the reader is directed to other sources on the history of this notable family, the Banū Zuhra/Zuhrāwī. Therefore only a short discussion of Shiism in Aleppo is necessary here.

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Aleppo had a Shiite past which went back to the early medieval era. The local dynasties emerging in northern Syria in the course of the pro-Šī'a Buid period (10th-11th CE), namely the Ḥamdanids and the Mirdāsids, sponsored a clear, although prudent and by no means exclusionary, version of Shiism. As is often the case in the history of Islamic societies, there had been a convenient “rediscovery” of historical sites. In this case, it was those connected to the memory of the Prophet’s family which were instrumental in the propagation of the already pervasive ‘Alid sympathies within the city’s population, sympathies which were to survive the medieval era and the Shiite rulers of Aleppo well into Mamluk and Ottoman times when Sunnism dominated. There are two such shrines, both located on the Jawšan hill just outside the city walls and only a few hundred yards from each other, the shrine of al-Ḥusayn – the son of ‘Ali and martyr of Karbalā’ – and that of al-Muḥassin (better known in later times as Muḥsin) – remembered as the stillborn child of ‘Alī and Fāṭima – rapidly became points of inter-communal, non-discriminatory devotion. It is significant for the history of the city of Aleppo that these essentially Shiite shrines served, in fact, as centres of urban cohesion and identity for all Muslims.4

Up until the Mamluk era, Aleppo drew the attention of historians and chroniclers for the presence of a significant Shiite community that included a considerable number of religious scholars, among them the Banū Zuhra. This family clan, the progeny of the celebrated Shiite Imām Ja'far al-Ṣādiq descending from his son Ishāq al-Mu'tamin, had settled in Aleppo from the region of Ḥarrān in northern Mesopotamia around the second half of the 10th century. It is possible that this move had been encouraged by the pro-Shiite Aleppan rulers at the time. In a relatively short period the Banū Zuhra managed to become an essential component of the city’s influential leadership. This is revealed in a number of developments: the appointment of several members of the clan to top positions in the city’s administration and their virtually uninterrupted incumbency as head (naqīb) of the fast-growing segment of the population claiming descent from the Prophet (al-ašrāf). The number of buildings and sites associated with them also attests to their eminence.

The advent of the Mamluks in the second half of the 13th century heralded a marked decline for the Banū Zuhra in particular and the Aleppine Shiites in general. The diminishing number of entries for them in biographical repertoires and local chronicles, coupled with the relocation of some of them to the countryside and the realignment of several others to Sunnism of the Shafiite persuasion, is clear evidence that the times had changed for the followers of

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5 See Salati, Ascesa e caduta: p. 10. This Ishāq al-Mu’tamin was married to Nafisa bt. al-Ḥasan who eventually acquired much greater fame as one of the most venerated holy figures in Cairo.


7 In particular, two madrasas, two masjids, a pavilion later converted to a Sufi zāwiyā, a graveyard next to the shrine of al-Ḥusayn, one hammām, one orchard, a walkway (darb), two family residences (see Salati, Ascesa e caduta: pp. 12-3). A stronghold of Syrian Shiism to this day, the village of al-Fū’a, a few kilometers east of Idlib, became a refuge for the Shiites of Aleppo, including some branches of the Banū Zuhra, early on in the Mamluk era (see Salati, M., “I villaggi imamiti della provincia di Aleppo in epoca ottomana”, Rivista degli Studi Orientali, LXIII/4 (1989): pp. 231-55).
‘Alī and his ever-increasing offspring. Politically and otherwise the Shiites of Aleppo were thereafter disadvantaged, but they were far from extinct. It was politic to practice taqiyya – that is, dissimulation of one’s faith under duress. This enabled them to conform to the prevailing religious exigencies of the day while surviving. Albeit much fewer in numbers and unacknowledged, Aleppine Shiites survived into the Ottoman era, a fact alluded to and sometimes laconically recognized in the literary historical material that covers the long Ottoman rule over Syria.

For historians, however, research in the all-important local court records (sijillāt al-maḥākim al-šarʿīyya) has made it possible for us to at least partially fill the gaps in the history of the Banū Zuhra – and consequently of Shiism in Ottoman Aleppo – at least from the mid-17th to the mid-18th century. From these we learn that in the 1630s, the Banū Zuhra reappear in the persons of two brothers, Ahmad, the senior, and Bahāʿ al-Dīn al-Zuhrāwī, or Zuhrāzāda,
as they were called in these documents.\(^{12}\) The list of Aḥmad’s honorific titles,\(^{13}\) various administrative functions,\(^{14}\) diversified business activities and properties both in Aleppo and in the countryside,\(^{15}\) clearly qualified him a fully-fledged component of the restricted circle of urban notables.\(^{16}\)


\(^{13}\) See for example the titles by which he is described in the *waqf* text below. The family name Zuhrāwī was often translated in the Ottoman form Zuhrazāda (sometimes also Zuhrāwīzāda), the Persianate *zāda* standing as *the* indicator of high status in Ottoman Syria.

\(^{14}\) As *naqīb al-ašrāf* he was entitled to manage the famous *waqf* of Ipšīr Paša (established 1654), and the *waqf* for the *ašrāf* of Aleppo, which dated back to the Mamluk era. For a few years, he also held the administration of the *waqf* for the Two Holy Cities of Mecca and Medina in the province of Aleppo, and acted as *qassām ‘askarī* (a court-appointed distributor of inheritance shares), two influential positions usually reserved for members of the Ottoman military class. He also received a daily salary for “reciting prayers” (*du’āji*) and was entitled to a yearly allowance from the *qāḍī* ship of Jerusalem.

\(^{15}\) See the complete list of his properties and business activities in Salati, *Ascesa e caduta*: pp. 157-8.

\(^{16}\) When dealing with the 16th and 17th centuries, as we are here, I think it is necessary to be wary of using the term *a’yān*, generally translated as either “notables” or “élite”, since the term involves some ambiguity. I concur with Reilly when he points out that “the term needs to be disaggregated according to a distinction drawn by J. Clancy-Smith between “élites” and “notables” […] Elites drew some, though not all, of their political authority from relationships with the state. Religious notables on the other hand tapped deep into other sources- sharifian descent, special piety, erudition, charity… the attributes demanded of the holy person. They wielded socio-spiritual and moral authority […] The respective bases of authority often were intertwined, but the basic distinction between
That the two brothers held on to the religious identity of their ancestors is something not immediately evident in the literary sources. Both al-Ġazzī and al-Ṭabbaḥ – the two early 20th century historians who dominate in the historiography of Aleppo – give only incidental information on the subject at best. The first observes that “around the year one thousand of the hijra the Shiites of Aleppo took to disguising themselves and behaving like Sunnis. By doing so they managed to obtain [both] the favour of the rulers and high positions, which they then secretly used to harm the Sunnis. However, after Muṣṭafā Tahazāda crushed them, they went into hiding again”.17

The second author mentions the Banū Zuhra/Zuhrāwī within the biographies of two members of the Kawākibī family, indicates that there were matrimonial links between the two families, noting also that the Banū Zuhra held the niqāba as late as the 11th / 17th century.18

All in all, this is intriguing but far from complete and conclusive evidence of the survival of Shiism in Aleppo. Therefore, evidence from the court records, as mentioned above, allows us to clarify and augment the picture inasmuch as they present Aḥmad al-Zuhrāwī holding the leadership of the ašrāf – which was by all means a key position in Ottoman Aleppo – for many years in the people of the military and scholarly/religious status is relevant to the social structure of Ottoman towns including Hama […]. Elites owed their ascendancy to connections to the Ottoman state, forming a kind of aristocracy of service. Notables, in addition to their connection with the state, possessed autonomous cultural capital that flowed from their illustrious ancestry, their religious learning, and their association with mosques and Sufi lodges that they or their ancestors had founded” (Reilly, J., A small town in Syria. Hama in the 18th century (Oxford and Bern: Peter Lang, 2002): pp. 25-6, 135-6, brackets mine). See also the pioneering studies of Hourani, A., “Ottoman Reform and the Politics of Notables”, in Polk, W.R., Chambers, R.L., (eds.), Beginnings of the Modernization in the Middle East: The Nineteenth Century (Chicago and London: The University of Chicago Press, 1968), pp. 41-68; Schilcher, L., Families in politics: Damascene factions and estates of the 18th and 19th centuries (Stuttgart: F. Steiner Verlag, 1986). See also Masters, B., The Arabs of the Ottoman Empire, 1516-1918: A Social and Cultural History (Cambridge: Cambridge University Press, 2013); Meriwether, M.L., The Kin Who Count. Family and Society in Ottoman Aleppo, 1770-1840 (Austin: University of Texas Press, 1999).

mid-17th century, only to lose it to the very same Muṣṭafā Tahazāda mentioned by al-Gazzi.

In Ottoman times and generally for Muslim families, the creation of a family *waqf* – being something like a private foundation – was a common practice whereby affluent families could at least hope to secure their properties and assets in perpetuity. The two Zuhrāwī brothers are no exception here. Having succeeded in strengthening their social and political standing among the urban élite, and in consolidating the family’s wealth, they proceeded to make good use of the facilities allowed by the *waqf*. So much so that we know of not just one but two nearly contemporaneous *waqf* deeds signed by the two brothers. The first, dated 1064/1654, comprises a number of properties, including two houses and several plots of land outside the city’s wall, and also the ownership of some shares of a soap factory in Idlib. The second, as will be seen below, includes a whole soap factory and a plot of uncultivated land.

However, something sets the Zuhrāwī endowments apart from all the others that we know from Aleppo. Specific terms laid down by the two donors in both their *waqf* documents reveal that if the line of designated beneficiaries becomes extinct, half of the *waqf* is to be transferred to benefit the shrine of Muḥassin/Muḥsin in Aleppo. Here we see that the Zuhrāwī acknowledged and supported the long tradition which made the two ‘Alid shrines the common heritage of all the inhabitants of the city, irrespective of religious affiliations. There is nothing remarkable about this clause, except, perhaps, the fact that,

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19 His years of tenure, as can be ascertained from the court records, are 1639-1642, 1648-49, 1653-1662, 1663-64, 1665-66. His son Ḥasan Zuhrāwī succeeded him twice in 1662-63 and 1664-65, a clear indication of the extent of power and influence exercised by the family.


21 A rough draft of this document is, or was, preserved in one of the Aleppo Waqf Registers (n. 1, pp. 105-106). Until the early 90’s, at least, they were stored in the Mudīīriyya al-Awqāf of Aleppo, at that time a modern building facing the Citadel. See Salati, M., *Documenti giuridici aleppini dei secoli XIV-XVII in materia di waqf* (Roma: Istituto per l’Oriente “C.A. Nallino”, 1991): pp. 49-61.

to my knowledge a stipulation of this kind is not encountered elsewhere in the extant court records.

But what then of the other half if the *waqf* once the family is extinguished? It is here that we find something rather unique and out of the ordinary. The two brothers give clear instructions that it is to benefit the financing of the visit (*ziyāra*) to the shrine of Ḥusayn at Karbalā’. To the present writer this seems significant and revealing. Here we have a perfect piece of evidence needed to resolve the matter of the Shi‘ite presence in Ottoman Aleppo and the identification of the Shiites with the Banū Zuhra/Zuhrāwī. Nowhere in the list of the *waqfs* of Aleppo compiled by al-Ġazzī do we find anything like it, nor, in my experience, does anything in the court records so clearly confirm the link.23

The sudden rise of a powerful competitor, the Ṭahazāda clan, on the one hand – as indicated by al-Ġazzī and indirectly confirmed in the court records – and the gradual appropriation of the Zuhrāwīs’ assets by the Kawākibī family through matrimonial relationships – a process made easier by the extinction of the male line of the Zuhrāwīs around the mid-18th century – was to put an end to any significant *visible* forms of Shiite presence in Aleppo until very recent times.

The Document

*That which is within this legal volume and inside [this] lawful . . . [illegible] with regard to the foundation of the waqf, its precepts and stipulations, the dedication to charitable purposes, its provisions and expenditures, as was expounded and set forth in detail in its lines in the manner established and explained therein, was proven valid and confirmed before me. I have therefore ruled for its validity and legally binding character, well aware of the existing disagreement among the eminent masters [of the schools of Law] regarding the waqfs, and taking into account what is necessary to consider with respect to the glorious scholars.*

‘Abd al-Bāqī, most humble of all mankind, who is delighted to be serving the pure Law, the judge of the city of Aleppo24 – may it be honored with joy and good fortune and preserved from harm and misfortune until Judgment Day – recorded it. May the Lord, the much-forgiving, pardon him.

23 For this list see al-Ġazzī, *Nahr al-ḏahab*: II, pp. 535-630. Al-Ġazzī takes notice of this peculiar stipulation but does not elaborate on it.

In the name of God, the Compassionate, the Merciful, on Him we rely, Praise be o God, in Whose divinity’s vast expanse the minds of the erudite are confounded, and in imagining His might discerning intellects are confused, while every pearl of Heaven and Earth reflects his Oneness, while He makes easy for those who serve Him the accomplishment of what they choose of good deeds so as to grant them His approval.

The prayer and peace may be upon His chosen Prophet, His selected messenger Muhammad, may God pray for him and save him, in prayer and in peace for as long as Heaven and Earth will last.

At the Court of the noble Law, At the Assembly of the honorable religion, Before its protector, the model of the illustrious, the pillar of the great, the compiler of legal matters and of the ordinances, he who solves the difficult problems of mankind, the man of many virtues and enlightened proofs, the arbitrator of the Law of Muḥammad, the servant of the religion of Muḥammad, he who abolishes the false innovations, the defender of the Muslim community, he who places his noble names with his elegant script;25

there appeared the two full brothers, [the one] the pillar of the learned and of the noble sayyids, the cream of the excellent ones of the glorious ašrāf, the model of the mantle of Muḥammad, the fruit of the tree of Muḥammad, his Excellency and our lord, sayyid Aḥmad afandī al- Zuhrāwī, the naqīb al-ašrāf of Aleppo at the time;27 [the other] the cream of the noble sayyids, sayyid ḥājj Bahā’ al-Dīn jalabī.28 They both are the sons of the late noble and illustrious sayyid, who passed away towards the mercy of his Lord the Compassionate, Ibrāhīm afandī al-Zuhrāwī, the naqīb al-ašrāf of Aleppo in his lifetime. Together they established a waqf which is comprised of the properties listed inside this esteemed written document. They both have called

26 This title was generally applied to educated members of the religious class.
27 See above p. 211 and note 19
28 Ḥājj indicated a person who had performed the pilgrimage to Mecca. The title jalabī (Turkish çelebi), was used in Aleppo to designate merchants and educated people in general who were not religious scholars.
29 This Ibrāhīm is not mentioned in the biographical sources and I have not found any references to him in the extant court records. His alleged tenure as naqīb al-ašrāf of Aleppo therefore cannot be verified.
upon the witnesses mentioned below on their behalf to the effect of declaring to have established as eternal, perpetual, and permanent waqf, in good intention and in sound mind, what is included in their property in equal portions, without there being any legal adversaries or opponents. [The property is as follows]:

All of the soap-factory, in good condition and functioning, located in the prosperous town of Idlib “the Lesser”, in its northern quarter, and which they built with their own money and for themselves in equal portions. They had purchased [the property] when it was nothing but a piece of land, known as al-Hayyāra, surrounded by a wall and with an underground space, from:

Muṣṭafā jalabi b. [i.e. the son of] Aḥmad beše, who acted as his own legal agent;

his brother Muḥammad jalabi who acted as his own legal agent and as the legal representative of his mother sitt Ḥalab bint [i.e. the daughter of] ḥājj ‘Īzz al-Dīn and of his sister ‘Ābida bint Ahmad beše, upon confirmation of his proxy on their behalf by way of legal and just evidence according to the Law;

Maḥmūd bayk b. ḥājj Abū Zayd, the legal representative of his mother Farāḥ bint Aḥmad beše whose proxy on her behalf was certified according to the Law by way of legal and just proof;

and ‘Ali bayk b. Yıldırım the janissary.

They all are residents of the above-mentioned town according to what is recorded in the legal document in their possession and produced in Court, dated the 29th of Jumādā II of the year 1065 [/6 May 1655], which bears the signature of the model of Islamic judges, the treasure of the rulers of mankind, our lord Muṣṭafā afandī b. Muḥammad, the judge of the above-mentioned town.

[The waqf is also comprised of] the piece of land known as Niṣf al-Majlis which came into their possession by way of legal purchase from ‘Ali bayk b. ‘Abdallāh, as attested by the legal document in their possession. They added

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31 A title used for rank-and-file soldiers. It has been suggested that it is the result of the contraction of bāšāġā, see Marino, B., Le faubourg du Midan (Damas: IFEAD, 2002): p. 150.

32 Beše was a title applied to middle-ranking military personnel.

33 I have not been able to identify him. However, his very presence confirms the status of Idlib as a vital provincial centre in the Ottoman period. The town was divided into two sections, “the Greater” (al-kubrā) and “the Lesser” (al-ṣuğrā), the latter being, ironically, more important.
it to the piece of land called al-Ḥayyāra with the authorization to build whatever they should wish on the above-mentioned piece of land to remain in their permanent ownership, free to dispose over and manage it as they wish. The authorization was granted them by the woman called sitt Raḥma bint Husayn, the administrator with full rights from her grandfather’s waqf, the late Šayḫūn al-Šāliḥī, of which all the said town is part.34 This was done by virtue of a document of authorization produced by them, dated the 17th of Rajab 1065 ([/23 May 1655] and signed by the model of the meritorious scholars, our lord Ibrāhīm afandī famous as Šalāhzāda, the judge of Aleppo.35

The document contains his acknowledgment of the legal nature of the selling carried out by the sellers and the building authorization given to the above-mentioned brothers in conformity with what was explained.

The soap-factory includes two large copper cauldrons (qidr) weighing three qinṭār ḥalabi36 which they had repaired and renovated with their own money; forty new cisterns, which they quarried and reconstructed for the storage of olive oil, four new water cisterns, one watermill, nine chambers (awda?),37 eight iron buckets, one platform scale, the above-mentioned underground cave, an open-air courtyard, and two new ovens for the two cauldrons. It also includes conveniences, accessories, and the legal rights [to these].

It is bordered to the south by the house of ‘Abd al-‘Azīz and the house of ḥājj Ahmad, and completely by the bayt al-Ašqar; to the east by the courtyard which is the property of the two donors, and by the al-Baydar land; to the north by the road, a part of which divides the soap-factory from the piece of land mentioned below, and that is where the entrance to the soap-factory is; to the west by the soap-factory a part of which belongs to the [other] waqf established by the above-mentioned two brothers [in the year 1064/1654]. It is known as the al-Ṭūbāl soap-factory.38 The rest of the al-Ṭūbāl soap-factory is the property of their sister’s son, the pillar of teachers and of ašrāf, the noble

34 Here the land upon which the town stood is probably meant. The Šayḫūn waqf included a small portion of Sarāqib, another relatively important town in the rural north-west of Syria: see Venzke, M., The Ottoman Sanjaq of Aleppo (Ph.D. dissertation, Columbia University, New York, 1981): p. 309.  
35 Not identified. He is not mentioned in the list of Ottoman Ḥanafi judges provided by al-Ḡazā.  
36 Made up of one hundred raṭl (one raṭl equals roughly two kilos) the qinṭār of Aleppo was used both for solids and liquids. The qinṭār of Idlib, weighing a little more than that designated ḥalabi, was specifically used for soap.  
37 The text is not clear.  
38 On this particular soap-factory see Salati, Ascesa e caduta: p. 101; Id., Documenti giuridici aleppini: pp. 51-2, 59.
sayyid Fathallah jalabi [al-'Arifi], and of the sons of Ahmadi beše. [The waqf] is also bordered completely by the soap-factory of Ahmadi beše which is known as the soap-factory of 'hajj Abu l-Uzz.

[The said waqf is also comprised of] all the piece of land, which is vacant and barren, known as al-Marāḥ to the north of the soap-factory. It was transferred to them [i.e. the founding brothers] by way of legal purchase from the young man by the name of Jibrī'īl b. Muḥammad, who acted as his own legal agent and as the legal representative of the two full-sisters Bākiya and Iḥsān, upon confirmation of his proxy on their behalf by way of legal and just evidence, in conformity with what is reported in the legal document in their possession which bears the date of the 19th of Ḏū l-Qa’dā of the year 1065 [/20 September 1655]. It was signed by our lord the above-mentioned Muṣṭafā afandī the judge of the said town. It is bordered to the south by the road that separates it from the said soap-factory; to the east by the property of 'hājj Naṣrallāh; to the north by the property of Muṣṭafā al-Zahrān; to the west by the property of the said seller.

All of this [the soap factory and the piece of land] with its borders and the whole of its rights that are within and without it, [now] constitutes a legal and legitimate waqf; it is an authentic and lawful pious donation, closely connected in its beginning, middle, and end.

The waqf is established initially for the benefit of the two of them during their lifetime, for as long as they live, without sharing nor opposition from anyone, and equally; then, after each of them, and after a long life, half of what was mentioned above will be for the benefit of their respective surviving children from their offspring, male and female, according to the prescribed legal shares.

This is so arranged on the condition that if a daughter from the offspring of one of the two founders should marry after this, she would lose her rights for as long as she is married; were she already married, she would have no rights whatsoever, whereas were she unmarried or without a husband she would

39 The 'Arifi clan of wealthy merchants was related to the Zuhrawi. This Fathallah in particular was the son of Ahmad al-Zuhrawi's sister, and Ahmad himself had married an 'Arifi woman, 'Raḥma. The most famous 'Arifi was Yūsuf b. Ṣalāh al-Dīn who held the office of Head of Merchants (šāhbandar) around 1669-1671. He had married Ahmad's daughter, Ḥadija (see Salati, Ascesa e caduta: pp. 69-71).

40 The schools of Law disagree as to whether the founder may be the beneficiary of his own trust since establishing a waqf “implies the transfer of the right to dispose of and the right to use the wakf property. Retaining (part of) the right to use it is in conflict with this principle” (Peters, R., s.v. “Wakf”, EI1, XI (2002): p. 61). The Hanafis, nonetheless, approve if its validity.
benefit from what has been established together with her brothers. If one of their daughters should marry, her right to the profits of the waqf would fall to the benefit of her brothers. Had she been then without a husband she would get her share back, but if she should (re-)marry, her rights would again revert [to her brothers].

The children of their daughters, both male and female, have no rights to the said waqf if their (the two donors’) male children, and the sons of their (the two donors’) male children and the sons of the sons of the sons of their (the two donors’) male children are still alive.

Then, following the two donors’ male children, the waqf will benefit his\textsuperscript{41} children, the males to the exclusion of the females, in equality and without favoring one over the other brother; then, their children’s children, and their children’s children’s children, the male ones, and so on, generation after generation, time after time.

The children will receive nothing as long as their father is alive. If one of the male children, from among the children of one of the two donors, should die before benefitting of the said waqf, leaving one or more sons, then this son or these sons will benefit of what his/their father would have enjoyed when alive, according to his/her share of inheritance.

If the male line of one of the two donors should die out with no one left of the constituent’s descendants solely in the male line, then half of the half [of the waqf’s proceeds], that is one-fourth, will go to the surviving sons of the females from among the descendants of the donor whose descendants in the male line had died out. This according to the legal prescription of the law of inheritance that gives the male the share of two females.

The remaining half of the half, that is one-fourth, will go to the male children and their male children from among his [one of the donor’s] brother’s children in equal shares.

Should there be no one from among the children of the females’ descendants of one of two (i.e. the donors), after the extinction of the males and of their male children, then half of the it will go his brother’s surviving children from the progeny of the males.

If one-fourth [of the waqf’s proceeds] has gone to the children of the females’ descendants of one of the two donors after the extinction of the male line, and when also the children of the females would be extinguished, then this one-fourth will also go to the male children of the brother’s male children, in addition to the rest of the waqf.

\textsuperscript{41} The wording of this passage does not seem to be consistent. “Their children” (awlādihim) makes more sense.
Should the male children in the male line from the progeny of both the two donors die out, then the waqf will go to the children of the female descendants of the two donors, according to the legal prescription of the law of inheritance that gives the male the share of two females, then to their children, male and female, then to their children's children, accordingly.

In case of the total extinction [of any progeny from the two founders], and should the earth be void of anyone related to the progeny of either of the two donors, then half of the waqf will be for the benefit of [those who] visit the shrine of the Lord of the Martyrs, the Cave of the Ṭālibīs, the Magnanimous Imām, his Excellency the Imām al-Ḥusayn, son of the Commander of the Faithful, the Magnanimous Imām, the Master Lion, the Victorious Lion of God, the Imām ‘Ali b. Abī Ṭālib – may God be pleased of them all – which is in Karbalā’. The other half will be a waqf for the benefit of the shrine of the Imām sayyid Muḥassin, may God be pleased with him, which is outside [the walls of] the city of Aleppo.

Should it not be possible to deliver the profits from the half of the waqf to the said shrine [of Karbalā’] as a result of the interruption of communications, then the whole waqf will be for the benefit of the shrine of the Imām Muḥassin in Aleppo.

Should it be impossible for the shrine of the Imām Muḥassin to benefit from this waqf, then the whole waqf will be for the benefit of the shrine of Karbalā’. But should the delivery of the profits to the advantage of the shrine of Karbalā’ be impossible, then the whole waqf will benefit the poor among the Muslims of Aleppo.42

So be it forever and ever and for all eternity, until the time that God will inherit the Earth and everything in it, since “He is the best of inheritors”.43

The two mentioned-above donors stipulate that the administration of their waqf will be the responsibility of the perfect sayyid, his Excellency Aḥmad afandī during his life, whereas the supervision will be the responsibility of his brother sayyid ḥājj Bahā’ al-Dīn jalabī. Should one of them die, the administration will fall to the remaining brother, and the most senior among the children of the deceased will act as supervisor.44

42 According to the Ḥanafi school (with the notable exception of Abū Ḥanīfa) “it is required for the validity of a waḳf that the designation of the beneficiaries should include a final class whose existence is regarded as perpetual, such as the poor”: Peters, s.v. “Waḳf”: p. 61.

43 A reference to Qur’ān 21:89.

44 For the Ḥanafī school, and Abū Ḥanīfa in particular, it is permissible for the constituent to appoint himself as waqf administrator (mutawallī) during his lifetime.
After their (the two donors’) passing, the senior-most of the children of whoever of the two [brothers] will act as administrator, the senior-most of the children of the other brother will act as supervisor. Should the waqf go to the children of the female descendants after the extinction of the male children, the senior-most, and so on, of the progeny of the female descendants will be the administrator, and the senior-most, and so on, of the progeny of the other [brother’s] female descendants will be the supervisor.

Should the waqf go to one of one the two donors’ children, the senior-most of them will be the administrator, while one of the others will act as supervisor.

Should the waqf go to the two shrines, the administrator of the shrine of the Imām Muḥassin will manage it and the administrator of the shrine of Ḥusayn will act as supervisor.

Should it go to the poor, then their qaḍī in charge at the time will be the administrator.45

They also stipulated that the administrator after them is to take care of it by making use of the waqf income and what remains of it . . . [illegible]), increase of his salary. Every year he will use ten ġirsh riyālī from the profits of the said soap-factory for the benefit of the poor of Medina the Illuminated – the best prayer and salute upon her. He will entrust this sum year after year at the departure of the Syrian pilgrimage caravan with a Muslim merchant who will distribute it there.46

Every year he (the administrator) will deliver five raṭl of pure olive oil to the administrator of the waqf of the Great Mosque erected for the mention of God’s name in the said town.47 The oil will be used to light up the mosque during the blessed month of Ramaḍān.

He will also pay every month a half ġirsh asadī for a Qur’anic reader to read every day selections of the Noble Qur’ān . . . [illegible]. He will dedicate the reward resulting from this to the soul of noblest of God’s messengers – may God pray for him and save him – to the soul of the two donors, their father and the deceased Muslims.

45 According to Islamic Law, the qaḍī was the ultimate supervisor in case of extinction of the line of administrators designated by the donor.

46 Although the aqçe (’ūtmānī, in the Arab lands) was the official Ottoman coin, two silver coins of European origin were generally used as of the 17th century, the ġirsh asadī and the ġirsh riyālī, approximately equaling 80 and 120 ’ūtmānī respectively, at least in the period under consideration. See Masters, Western Economic Dominance: pp. 150-1; Johnson, B.D., The Ottoman currency system (1687-1754) (Ph.D. dissertation, University of Washington, 1999).

47 That is Idlib “the Lesser”.
Should anything remain after all this, it will be divided among the beneficiaries as heretofore established. The two founders appointed[48] the so-and-so administrator of the said waqf so as to bring it to completion and make it effective on the condition of retaining the right to dismiss him at any time should they so wish. They turned the waqf over to him and he accepted it.

Then the said founders wished to contest their waqf adducing as evidence that according to the opinion of the Great Master Abū Ḥanīfa – may God be pleased with him – the waqf is not legally operative and effective. The administrator appointed for the registration of the waqf opposed them in this matter by stating that even if the waqf is not legally operative and effective according to the opinion of the said Master, it is so nonetheless valid according to the opinions of the two Great Masters, Abū Yūsuf and Muḥammad al-Ṣaybānī – may God have mercy on them in this world and in the hereafter. When the two parties argued and debated before the judge, the administrator requested a ruling in favor of the validity of the waqf and its permissibility according to the opinions of the said two Masters. Then the judge complied with his request, accepted his claim and ruled in favor of the waqf’s validity and irrevocability in accordance with the opinions of the two Great Masters mentioned above, his knowledge of the different opinions among the ancient Masters regarding the waqf notwithstanding].[49]

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48 The last part of the document was not available to me. For the sake of completion, I have reconstructed the following text by comparing with other similar cases found in the court records.

49 This procedure is typical of the Ḥanafī school as “Abū Ḥanīfa asserted that a wakf is only irrevocable if the founder establishes it as from the moment of his death or if it is affirmed by a kādī’s sentence. If a person founds a wakf during his lifetime, Abū Ḥanīfa holds that the wakf remains his property and he may revoke the wakf by alienating its property. After his death, the property reverts to his heirs. Establishing a wakf during one’s lifetime is, in Abū Ḥanīfa’s view, nothing else than a vow to donate the proceeds of the wakf property to the beneficiaries at the moment of one’s death. This opinion, however, was not followed by his companions Muḥammad al-Ṣaybānī and Abū Yūsuf, who held, like the jurists of the other legal schools, that establishing a wakf is an irrevocable and binding act. In order to dispel all doubts about the binding character of a wakf, Ḥanafī practice was for the founder to have recourse to judicial proceedings. The standard procedure was that the founder, after having handed over the wakf property to the administrator, would reclaim it alleging that the wakf was revocable according to Abū Ḥanīfa’s doctrine. The judge then would establish the irrevocability of the wakf by giving judgement according to the doctrine of Muḥammad al-Ṣaybānī and Abū Yūsuf and finding for the defendant.” (Peters, s.v. “Wakf” 3: p. 62). See also d’Emilia, A., “Il waqf ahli secondo la dottrina di Abū Yūsuf”, Pubblicazione dell’Istituto di diritto romano e dei diritti dell’Oriente mediterraneo della Università di Roma, 6 (1938): pp. 67-87.
ما في مطاوي هذا السفر الشرعي ومحاوي... المرمي من أصل الوقت وضوابطه وشرائطه وتشريعا وقواعد عهدا بين وفصل في مطاويه على النطق المقرر والمشروح فيه تحق وترتر بين يدي وأتي قد قضيت بصحبه واروته عالماب بالخلاف الجباري في أمر الأوقاف بين الأمة الأعلام ومراعي لما يجب رعايته لدى العبادة الفخام حرما أقر الورى عبد الباقى المتهج بمقدمة الشعاع المطهر قاضيا بمدينة حلب حفته بالسمسم والسرور وحيت عن البلاء والشرور إلى يومنا البحث والنشر وعفنا عنه الملك الفغور بمهه وكرمه باسم الله الرحمن الرحيم وبوتته الحمد لله الذي وقفت في نباهه أفراد المسلمين وحصير في تصرف عظمةه عقول العقلا ودع على وحاتته كل درة من درات الأرض وساب ويسر من ارضاه من عباده ما يختاره وبغاء من فعل الخيرات ليضمن عليه بالرضى وصلوة وسلم على نبي المجته ورسوله المصطفى محمد صلى الله عليه وسلم، صلوا وسلموا دائما دائين ما دام الأرض وسباء

وبعد ذلك حضر مجلس الشعاع الشريف ومنفعد الدين المنيف لدى متوليه قدوة الموالي الكرام عهد الأعيان الفخام عصر القضايا والأحكام كحد مشكلات الأام ذي النضال الشهير وبراهيم المثير حكما الفضالة المحمدية خادم السجاد الأقدم مفتي الدين العقلي جامع المهمة الإسلامية المولى الواقعة اسم الشريف بلقبه اللطيف أعلاه الأخوان الشقيقان هما عضاء العلماء والсадات الكرام نخبة الفضلاء والشريفين الفخام طرزة الحلة المحمدية ثمرة الدوحة الأحمدية حضرة مولانا السيد أحمد أفندي الزهراوي نقيب السادة الأشراف بلقب ونخبة السادات الكرام السيد الحاج بهاء الدين جلي ولدنا المرحم المتدرج إلى رحمة رب الفغور السيد الحبيب الشهير إبراهيم أفندي الزهراوي نقيب السادة الأشراف حال حية بلقب رحم الله السلف وأبقى الخلف وهما لوقافين للعبادات المسطورة باطن هذا الكتب المستطاب وأشهد على نفسه شهود المذكورين

What occurred was written and recorded upon request on the 12th day of the month of Rabī‘ 1 of the year 1066 [9 January 1656].
شيعة البقاء في الموصل العثمانية

يشير الألف 입اً إلى أن هناك قد وقفت أيضاً وحبباً وأبداً وخلداً بنيبة دائمة وطوية غير فاترة ما هو منتظم في ملكهم مناصفة من غير منازع ولا محاصر ولا ذلك، جميع المصنفة العامة الكائنة بأرض قصبة إدلب الصغرى المعمورة بالمحلة الشرقية من محلات المصنفة المذكورة التي غمروا من مالهما لنفسهم مناصفة المنتقلة إليهما حال كونها أرض ممشورة بالحريطة مشتيلة على مغاره ويوحها حائط لا غير طريق الاشتراء الشرعي من مصطفى جلبي بن أحمد بن الأصيل عن نفسه ومن أخيه محمد جلبي الأصيل عن نفسه والأوكال الشرعى عن أمه المرأة ست حلب بنت الحاج عزالدين وعن أخته عابدة بنت أحمد بن المذكور بعد إثاث وكالته عنهما بالبيئة العادلة بالطرق الشرعي ومحمد بن الحاج أبي زيد الوكل الشرعي عن قبقل أمر المرأة فرح بنت أحمد بن المذكور بعد إثاث وكالته عنها بالبيئة العادلة بالطرق الشرعي وم علي بن بلدام الجندو الجمع من سكان المصنفة المذكورة حسباً هو مسر في الحريطة الشرقية المخليطة بدهما المبرزة في المجلس المؤرخة في ختام شهر جمادي الآخرة لسنة خمس وستين وألف المائة بإمضاء قدوة قضاء الإسلام ذكر ولاية الأيام مولانا مصطفى أفندي بن محمد القاضي بالقصبة المذكورة مع قطعة أرض تعرف بنصف المجلس آلت إليهما بالاشترا من علي بن عبد الله بحجة مختلطة بدهما وأضافها إلى أرض الحريطة المزورة المذكورة لهما بتعبير ما شاء واختارا على الأرض المزورة يكون لهما ملكاً على الدوام يتصرفان فيه كيف شاء واختارا من الحريطة المدعية بالسياحة بنت حسين المتولية على وقف جدها المرحوم شيخون الصالحين المستحقة له الحريمة جميع القصبة المذكورة في وقت يوجب حجة الإذن لهما المبرزة بدهما المؤرخة في اليوم السابع عشر من شهر رجب لسنة خمس وستين وألف المائة بإمضاء قدوة العلماء المحققين الأذن لهما المحررين مولانا إبراهيم أفندى الشهير صلاح زادة الهوليجلب خلافة المشتيلة على تصديقها بصحة البر صادر من البائعين والإذن للأخرين المشارك إليهما بالحريمة حسباً لشرح المشتيلة هذه المصنفة المذكورة الآن على أقدار من النحاس وزنها ثلاثة قناطر حلبية جدتها من مالهما وعلي أربعين جبأً جدداً حفراً وعمرهما لأجل خزن الزيت وعلى أربع جبلاً للباء جدود وعلي مصنع للباء وتسع أودة وثمانية سطول من الحديد وقبان وغالاء
المذكورة و على حوش سباوي و فرين جدد للقدرين و على منافق و لوازم و حقوق شرعية المحدودة قبلا بدار عبد العزيز و دار الحاج أحمد و تماما بيت الأشر و شرقا بحوضي الجاري في ملك الواقفين و أرض السيد و شمالا بالطريق السالك الفاصل بعضه بين المسحبة و بين الأرض الآتي ذكرها و إله باب المكامة المرقمة و غربا بالمسحبة الجارية بعضها في الوقت الذي وقف الأخوان المذكوران بابته المعززة بمصنفة الطوابي الجاري بقيتها أعني مصنفة الطوابي في ملك ابن أختهم عمدة الدرايين و السادات الأشراف السيد الحبيس السيد فتح الله جلبي و في ملك أولاد أحمد بنه و تماما بمصنفة أحمد بنه المعرفة بمصنفة الحاج أبي العز و جميع قطعة الأرض الساحة الحالية عن البيتا المشهورة بالمارح التي هي شالي المصنفة المنتقلة إليها بالاشترا الشرعي من الشاب المدعو ميخائيل بن محمد الأصل من نفسه و الوكل الشرعي عن شقيقتها بآية و إحسان بعد إثبات و كفالة عنهما بالبيئة العادلة بالطريق الشرعي حسبا هو مسر في الحجة الشرعية المخلدة بدهم المؤرخة في اليوم التاسع عشر من شهر ذي القعدة سنة خمس و سنتين وألف المضاربة بإضافة مولانا مصطفى أفندي المذكور القاضى بالقصبة المذكورة المحدودة قبلا بالطريق السالك بينها و بين المسحبة المكامة و شرقا ببد الحاج نصار الله و شالا ببد مصطفى الزهران و غربا ببد البائع المكامة بجملة حدودهما و كافة حقوقهما الداخلية فيهما و الخارجية عنهما وقفا حسبا شرعيا و حسبا صريحا و مربعيا متصل الابتداو و الوسط و الانتهاء فانبدأء عليه نفسهما مدة حيوبهما أبدا ما عاش و دائما ما يتراوحا في ذلك مشارك و لا ينادعهما في منازع بينهما مناصفة ثم من بعد كل واحد منهما بعد العمر الطويل يكون النصف مما ذكر على أولاده لصلبه الموجودين بعده الذكور و الإبنات بينهم على الفريضة الشرعية على أنه متي تزوج أحد بنات واحد من الواقفين لصلبهما نقطتها من ذلك دامت متزوجة و ليس لها حق في ذلك إذا كانت متزوجة وإذا كانت عازبة أو غير ذات بعل تستحق مع إخونها ما عين لها و متي تزوج أحد بناتهما/بناتها نقطتها حبها من الوقت و عاد لإخونها فإذا صارت تغبر زوج عام إليها ضبيها من ذلك فإذا تزوجت نقطتها حبها و أنه لا حق لأولاد بناتهما سواء كانوا ذكورا أو إناثا في الوقت المكارة مع وجود أولادهما الذكور و أولاد أولادهما الذكور و
Shiite Survival in Ottoman Aleppo

...
بمشهد الإمام محسن بهذا الوقف يكون الجمع وفقًا على مشهد كرية فإذا تأخر الوصول إلى مشهد كرية و الانتفاض بهذا المشهد يكون الجمع وفقًا على قراء المسلمين الموجودين بحلف يبقى ذلك أبد الأبدين و دهر الداهرين إلى أن
يرث الله الأرض و من عليها و هو خير الوارثين و شرط الواقفان المذكوران
التولية على وفقهما هذا أيضاً مدة حيوثهما للسيد الكامل حضرة أحمد فندقي و
النظرية لأخي السيد بهاء الدين جلي فذات أحمد يمنكون الموتى الباقين منهما و
الناظر أشاد أولاد المتوفر ثم من بعد وفاتهما يكون الموتى الأرشد من أولاد
أيهمكان و الناظر عليه الأرشد من أولاد الثاني فإذا آلت الوقف إلى أولاد الإناث
بعد اقتراس أولاد الذكور يكون الموتى الأرشد فالأرشد من أولاد الإناث و
الناظر الأرشد فالأرشد من أولاد إناث الثاني وإذا آلت أولاد واحد
الواقفين يكون الموتى أشدهم و أحد الباقيين ناظرًا عليه و إذا آلت أولاد وقت
فيكون التولية لموتى مشهد الإمام محسن و النظرية لموتى مشهد الحسين و إذا
آلت الوقفة فلحاكمهم الشرعي وتنزه و أن بدأ الموتى بعدها من ربع الوقف
ببارته و ما فيه بقاء... و زيادة أجوره و أن يصرف من ربع المصينة المزورة
في كل سنة عشرة غروش ريالية إلى فقراء المدينة المذورة على الحال بها أفضل
الصوبة و السلام يرسل ذلك سنة سنة فسنة أيام ذهاب الركيز الشامى مع رجل من
تجار المسلمين يوزعها هناك و أن يدفع في كل سنة خمسة أرطال من الزيت الصافي
للموتى على وقف الجامع الكبير المعمور بذكر الله تعالى الكائن بالنصبة المذكورة
ليحوق في الجامع في شهر رمضان المبارك و أن يدفع في كل شهر نصف غرش
أساسي لرجل...القرآن العظيم ليقرأ في كل يوم جزء من القرآن العظيم بالصوتة (؟)
و يهدى ثواب ذلك إلى روح حضرة أشرف المرسلين صلى الله عليه وسلم و
روح الواقفين و روح الدهما و لأمات المسلمين و ما فضل بعد ذلك يقسم
بين المستقنعين كما عين أعلاه و جعل الواقفين المذكوران [...] و كتب و حرم في
اليوم الثاني عشر من شهر ربيع الأول لسنة ست و ستين و ألف
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