

Endowing Family: *Waqf*, Property Devolution, and Gender in Greater Syria, 1800 to 1860

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Unlike in Europe and the United States, where the writing of family history has become a growth industry over the past thirty years, only recently have historians of Greater Syria during the Ottoman period (1516–1917) started investigating this topic.¹ Not surprisingly, this uncharted landscape is covered by a thick fog of generalizations about the “traditional Arab family.”² Usually

I wish to thank Khaled Ziyadeh and Sa' id al-Sayyid for invaluable help in my research while in Tripoli, as well as Martha Mundy and Ken Cuno whose comments on an early draft proved very useful. This essay has been considerably shortened for reasons of space. Those interested in the full range of examples, references, and statistical data can contact the author.

¹ Also referred to as the Levant, or *Bilad al-Sham*, Greater Syria for the purposes of this article is today's Syria, Lebanon, Jordan and Palestine-Israel. As of yet, there is not a single published monograph in the English language on this topic. Two useful overviews are Haim Gerber, “Anthropology and Family History: The Ottoman and Turkish Families,” *Journal of Family History*, 14:4 (1989), 409–21; and Judith Tucker, “The Arab Family in History,” in *Arab Women: Old Boundaries, New Frontiers*, Judith Tucker, ed. (Washington, D.C.: Center for Contemporary Arab Studies, 1993), 195–207. For monographs related to family history in Greater Syria, see Linda Schatkowski-Schilcher, *Families in Politics: Damascene Factions and Estates in the 18th and 19th Centuries* (Stuttgart: Franz Steiner Verlag Wiesbaden GMBH, 1985); and Annelies Moors, *Women, Property and Islam: Palestinian Experiences: 1920–1990* (Cambridge: Cambridge University Press, 1995). Almost two years ago, Margaret L. Meriwether kindly shared with me the rough draft of her book manuscript, *The Kin Who Count: Family and Society in Ottoman Aleppo, 1770–1840* (forthcoming, University of Texas Press), which promises to be a pioneering contribution to this topic. Two important studies on family history in the Middle East outside Greater Syria—the first following the demographic approach of the Cambridge School and the second much more in the tradition of historical anthropology—are Alan Duben and Cem Behar, *Istanbul Households: Marriage, Family and Fertility, 1880–1940* (Cambridge: Cambridge University Press, 1991); and Martha Mundy, *Domestic Government: Kinship, Community and Policy in North Yemen* (London: I. B. Tauris, 1995). Of course, Jack Goody has written extensively on family history in the Middle East from a comparative perspective. See, for example, chapters one and two of his book, *The Development of the Family and Marriage in Europe* (Cambridge: Cambridge University Press, 1983). Finally, some of the issues raised in this article were subjected to careful scrutiny by Vanessa Maher, *Women and Property in Morocco: Their Changing Role in Relation to the Process of Social Stratification* (Cambridge, 1974).

² It is perhaps not a coincidence that the equally glaring absence of family history in the field of South Asian Studies is also combined with ubiquitous generalizations about the “traditional Hindu joint family.” Indeed, Indian society, like Arab society, is said to begin with the family; but the Indian family, like the Arab family, is central to novels not to histories. Nor is it surprising that

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defined as a patrilineal, patrilocal, extended social unit, this family type is assumed to have remained the norm well into the twentieth century.³

Disposing of the idealist notion of a “traditional Arab family” is not difficult. The geographical world of Arab-speaking peoples encompasses an impressively diverse array of ecological regions, modes of life, religious communities, and social classes, to name but a few factors, aside from a long history of ongoing social transformation, which have undoubtedly given rise to different patterns of family life and household organization.⁴ The very idea of a “traditional Arab family,” furthermore, is a modern construction that is the product of three related and intersecting discourses. First, an essentializing Orientalist ethnography which sees the Other (non-Western) cultures prior to Western “penetration” as ossified monolithic wholes. Second, an ahistorical Modernization paradigm that constructs an artificial divide between “traditional” and “modern.” And third, a politically driven Arab nationalist vision which assumes—indeed, insists—on a linguistic and cultural homogeneity within recently constructed political boundaries and which considers the family to be the indivisible building block of this homogeneity. The “traditional Arab family,” in other words, is a recently invented abstraction imposed on the past in order to create a static backdrop against which the lively stories of modernity can be narrated. These stories, invariably, are about how externally generated, top-down forces—structural transformations caused by an expanding world capitalist economy; encounters with secular, individual-based Western culture; and interventions by newly established states—undermined the “traditional” extended family and gave rise to the “modern” nuclear Arab family.⁵

while the number of articles on the Arab and Indian families in the last twenty-odd volumes of the *Journal of Family History* are in the single digits, there is a plethora of studies on women’s history. Perhaps, as Louise Tilly suggests, this is due to the fact that women’s history is, in many ways, a movement history; while the family has long been viewed as the fundamental site of male oppression (“Women’s History and Family History: Fruitful Collaboration or Missed Connection?,” *Journal of Family History*, 12:1–3 [1987], 303–15). That I make these comparative assertions with some confidence is due to the insightful and thorough bibliographical research of Ian Petrie, a graduate student at the University of Pennsylvania, on the Indian family.

³ Raphael Patai’s definition is the one cited most often (*Society, Culture, and Change in the Middle East*, 3rd ed. [Philadelphia: University of Pennsylvania Press, 1971], 21). For critiques of this view, see Mundy’s erudite analysis in *Domestic Governments*, 89–92. See also the articles by Gerber and Tucker cited in note 1.

⁴ William Young and Seteney Shami, in their lead paper for a UNICEF conference on the Arab family, outline variations of family forms in the contemporary Arab world and argue against the notion of an “Arab family,” which, they show, is based on a cultural assumption rather than empirical research (“Anthropological Approaches to the Arab Family: An Introduction,” in *Proceedings of a UNICEF Conference: Seminar on the Arab Family* [Amman, Jordan, May 17–18, 1993]). Ironically, one product of this seminar is an expensively produced bibliography, *The Arab Family: A Bibliography of Sources* (Amman: UNICEF, 1993) prepared by the Department of Anthropology of Yarmuk University.

⁵ For examples of this modernization-theory approach by sociologists studying the modern Arab family, see Kazem Daghestani, “The Evolution of the Moslem Family in the Middle Eastern Countries,” *International Social Science Bulletin*, 5 (1953), 681–91; Edwin Terry Prothro and

This essay does not attempt to replace the ahistorical monolith of the “traditional Arab family” by a variety of empirically substantiated “family types” which might have existed in Greater Syria during the late Ottoman period. Rather, it investigates how local political economy can shape contemporary perceptions of what family is or should be through a comparative analysis of property devolution strategies in two provincial towns: Tripoli (Lebanon) and Nablus (Palestine). Specifically, it draws on *waqf* endowments, the most flexible and expressive method of property transmission in the urban areas of Greater Syria, to show how individuals literally inscribed or endowed their vision of family and the means they chose to translate it into reality, hence the title of this article.⁶ The point of departure is the assumption that family is both the crucible for, and the historical product of, socially constructed notions of kinship, sexual difference, and property. The focus is on the similarities and differences in the ways in which propertied individuals perceived, negotiated, and drew boundaries between the conjugal and extended family worlds.⁷ These two worlds, usually represented as binary opposites in the modernization narrative, were organically intertwined in physical, social and economic spaces and, together, constituted the core of many family worlds, both kin and non-kin, to which an individual could belong.⁸

Lutfy Najib Diab, *Changing Family Patterns in the Arab East* (Beirut: American University of Beirut, 1974); Ibrahim W. Ata, *The West Bank Palestinian Family* (London: Keegan Paul International, 1986); and Halim Barakat, “The Arab Family and the Challenge of Social Transformation,” in *Women and the Family in the Middle East*, Elizabeth Fernea, ed. (Austin: University of Texas Press, 1985), 27–48. In fairness to Prothro and Diab, they explicitly criticize Patai’s formulation as being based on a cultural ideal rather than lived reality and argue the key point that degree of extended ties, not family types, is the real issue (*Changing Family Patterns*, 61–62). A typical view by historians of the Arab east is that of Yusuf Jamil Nu’aysa, who argues that the traditional family in Greater Syria remained the same from the fourth century until the Egyptian occupation in 1831, which heralded a Western economic and ideological invasion that undermined old structures and introduced new ones (*Mujtama’ madinat Dimashq fi al-fatrat ma bayn 1186–1256/1772–1840* [The Social Life of Damascus Between 1186–1256/1772–1840], vol. 2, 2nd ed. [Damascus: Tlas li al-Dirasat wa al-Tarjamat wa al-Nashr, 1994], 466–70).

⁶ To endow or dedicate a *waqf* is to withdraw privately owned property from commercial circulation and to make it inalienable as the property of God for the purpose of assigning its revenues for some charitable purpose. For an overview, see John Robert Barnes, *An Introduction to Religious Foundations in the Ottoman Empire* (Leiden: E. J. Brill, 1986).

⁷ Terminology is a difficult problem because of the many different connotations that a single term might carry, depending on the historical and cultural contexts (not just between Europe and the Middle East, for instance, but also within each of these regions) as well as on the languages of the different academic disciplines. By conjugal unit I mean the wife, husband, and their children. By extended family, I mean the lineage from a common ancestor as defined by the male line which, depending on size and wealth, may be subdivided into a number of branches and households. It is important to keep in mind, however, that biological and social kinship were intertwined. For example, branches, in the quest for greater wealth and status, sometimes adopt a new surname and represent themselves as a new “family.” Also, non-kin who were part of a patron–client relationship with a well-known family often adopted that family name.

⁸ The connections between the conjugal and extended family worlds is best illustrated by the double meanings of the words *dar* and *bayt*—the key terms used then and now to refer to either physical spaces or kinship structures depending on the context. In terms of physical structure, both the Tripoli and the Nablus court records clearly refer to a *dar* as a house consisting of a

When it comes to devolution of property in the urban areas of Greater Syria, this process of negotiation between the conjugal and extended family worlds took place within a legal environment largely defined by Islamic law. The family is a central concern in the Qur'an, and Muslim jurists, since the beginning of the Islamic period, paid an enormous amount of attention to marriage, divorce, inheritance, relations between men and women, custody of children, and a host of other family-related issues. Over the successive centuries of rule by Islamic empires over this region, the basic normative elements of Islamic inheritance law (*ilm al-fara'id*)—such as the right of a female child to inherit, albeit one-half the share of a male child—were slowly embedded into the communal consciousness of urban communities, including Christians and Jews who lived in these communities.⁹ This embedding process was accelerated during the four Ottoman centuries due to success of the central government in bureaucratizing religious institutions, especially its establishment of a tight network of government-supervised Islamic courts in all the cities and towns under its rule. The Islamic law courts were in charge, among other things, of personal status matters and constituted the central arena for formalizing and legitimizing the reconfiguration of power and property relations both within and between urban families. This Ottoman legacy is one of the reasons why family and personal status matters constitute the only arenas of Islamic law which have been codified and grafted into the otherwise secular legal systems of the new states that emerged in Greater Syria during the twentieth century. Of course, the differences between practice and theory and

number of rooms (bayt, plural: *buyut*). Usually, a conjugal family lived in a single room. Currently, the patrilineal extended family is referred to as bayt in Tripoli (and in Damascus and Northern Syria in general), while in Nablus (and southern Syria, that is, Palestine) it is referred to as dar. Both are to be distinguished from the words *bani* (literally, “sons or children of”) and *ashira* (often translated as clan), which in both cities during the nineteenth century were used to refer to the lineage, the former for urban families and the latter for rural ones. The word *a'ila*, which today can refer to either the extended or the conjugal family, rarely appeared in the court records of Nablus and Tripoli. For a discussion of the similar meanings of these terms as used in Medieval Cairo, see S. D. Goiten, *The Family*, vol. 3:425, fn. 2 of *A Mediterranean Society* (Berkeley: University of California Press, 1978). In the context of the Bedouin of Arabia, Ugo Fabietti makes the important point, applicable to rural and urban settings as well, that bayt and dar were intertwined, not independent, units. Views to the contrary, he argues, “underestimate (the nomadic household’s) character as an interconnecting hub of practices and meanings that embrace broader, or at any rate different structures and relations, to what is commonly meant by the expression ‘household’” (“Between Two Myths: Underproductivity and Development of the Bedouin Domestic Group,” *Cahiers Des Sciences Humains*, 26:1–2 [1990], 240). I am indebted to William and Fidelity Lancaster for alerting me to this reference.

⁹ For example, the intertwining of Jewish and Muslim laws as well as customary practice pervade S. D. Goiten’s entire discussion of the family in Medieval Cairo (*The Family*, vol. 3 of *A Mediterranean Society*). During the Ottoman period, Christians and Jews regularly appeared in the pages of the Islamic court records of various cities in Greater Syria and their transactions, including the registration of probate inventories, followed Islamic law. John Mills, a nineteenth-century British traveler, recounts an incident in which the Christian family with whom he lived in Nablus divided up inheritance shares according to Islamic law, even in the privacy of their own home and in the presence of the religious leader of their community (Mills, *Three Months’ Residence at Nablus and an Account of the Modern Samaritans* [London, 1864], 155–9).

between text and interpretation are central to any discussion of this topic. There is also no denying the influence of other types of rooted socio-cultural and legal systems, such as customary law (*urf*), on contemporary conceptions of and attitudes towards family life, especially in the rural areas. Still, Islamic family law in general, at least in the urban areas, was and continues to be a key component of the overall cultural and legal environment within which families and individuals operate and children are socialized.

While it is true that the Islamic inheritance rules governing the transmission of property after death are quite detailed and rigidly set, the application of these rules, in reality, was often the last resort for families and individuals, that is, property transmission was often a conscious and strategic social act, not an automatic, passive, or formulaic process.¹⁰ Thus, property was devolved during the lifetime of property holders through a variety of strategies such as marriage, gifts, dowries and, most important for our purposes, the endowment of family (*dhurri* or *ahli*) waqfs, that is, mortmains for the benefit of the endower's descendants and relatives.¹¹

The institution of waqf, quite unlike Islamic inheritance laws, constituted the most flexible tool at the disposal of individuals who wished to customize, so to speak, their property transmission strategy. Family endowments were flexible because, first, the endower could alienate his or her entire estate, not just the one-third maximum allowed for gifts. The endower could also choose what properties to designate as mortmain and which to leave as freehold private property. The endower's choice redefined his or her family members' and descendants' material base by restricting their rights of access to and ability to dispose of certain properties while committing them to follow a pre-determined formula for sharing the revenues or use of these properties. Second, the endower could choose what individuals or whole lines of descent can or cannot benefit from the use and the revenue of the endowed property. The power of inclusion or exclusion is the most important feature of family waqfs because it directly influences the structure and dynamics of current and future households. The patterns of transmission, therefore, reveal the boundaries that endowers im-

¹⁰ David Powers argues strongly that this was the case during the medieval and early modern periods ("The Islamic Inheritance System: A Socio-Historical Approach," in *Islamic Family Law*, Chibli Mallat, and Jane Connors, eds., [London: 1993], 27–29.)

¹¹ All waqfs are, by definition, *khayri*, or charitable. Ideally, a waqf endowment would immediately and directly transfer the properties in question from the hands of the owner to a mortmain under the control of the waqf administrator (*nazir*) of either public institutions (such as mosques, Sufi lodges, school, shrines, monasteries, hospitals, orphanages, aqueducts, drinking fountains and bridges) or, as was often the case in Tripoli, a religious figure (such as a reciter of the Qur'an, a Sufi leader or religious scholar) and his progeny. In this essay, this is what is meant by a waqf *khayri*, or charitable endowment. The vast majority of endowments throughout the history of this institution, however, designate the endower and his or her family, descendants, and sometimes relatives as beneficiaries. Only after the extinction of the endower's line of descent were the revenues to revert to a charitable purpose. In other words, there was no direct and immediate transfer. Rather, a long, circuitous, and theoretically endless detour was imposed which must be taken before the revenues of the property endowed could reach their ultimate charitable purpose. It is this type of waqf that is designated in this article as *dhurri* or family waqf.

posed between the conjugal and extended family worlds and provide insights to contemporary meanings of family. Finally, the endower could choose who will have the right and responsibility of managing this property and attach conditions that can have different consequences depending on the beneficiary's status—on whether, for example, the beneficiary is male or female, married or unmarried, and of one generation or another—thus, creating an internal and, often, gender-specific hierarchy or lines of authority.

Since a great deal of jockeying for position no doubt took place prior to the drawing up of most waqf documents (as well as before other methods of property devolution such as choosing marriage partners), it is clear that property transmission is not only a means for reproducing the social system but also, as Goody has argued, a way in which interpersonal relationships are structured in anticipation.¹² Furthermore, as a form of *inter vivos* transmission of property, waqf endowments can be used, as Hareven put it, to “recover an internal contemporary meaning for family as opposed to social science categories.”¹³ Consequently, family waqf endowments provide clues for social historians interested in addressing the issue of agency in the reproduction of family structure and in the social construction of kinship, sexual difference, and property.

This article interrogates all the waqf endowments registered in the Islamic court records of Tripoli and Nablus during the first sixty years of the nineteenth century. The choice of this time period is driven by the desire to close the rupture between modern and traditional, pervasive in historical studies on Greater Syria, which posits the Egyptian occupation of this region (1831–40) as the dividing line. A study grounded in an equal number of decades on either side of this dividing line would place the study of the family within the context of the larger underlying processes rather than hold it hostage to a periodization driven only by events which have their origin outside the region itself.

These two provincial centers were chosen in order to tap the deep undercurrents of change from the perspective of provincial towns and their hinterlands, where the overwhelming majority of the population lived, as opposed to the vantage point of the central government in Istanbul or of the capital cities of the provinces, hitherto the two major trends in Ottoman studies. A bottom-up approach, so to speak, can be a fruitful one, since recent studies have shown that provincial regions in South Asia and the Middle East—usually represented as the periphery's periphery and the bastions of tradition and continuity—have dynamic political economies and that their inhabitants have participated actively in molding the forces of modernity.¹⁴ Of the provincial

¹² Jack Goody, Joan Thirsk, and E. P. Thompson, eds., *Family and Inheritance: Rural Society in Western Europe, 1200–1800* (Cambridge: Cambridge University Press, 1976), 1.

¹³ Tamara K. Hareven, “The History of the Family and the Complexity of Social Change,” *The American Historical Review*, 96:1 (1991), 110.

¹⁴ For examples of such studies in the Middle East, see Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700–1900* (Berkeley: University of California Press, 1995); and Ken Cuno, *The Pasha's Peasants: Land, Society, and Economy in Lower*

towns in Greater Syria that have extant Islamic court records which can form the basis for a comparative study, Nablus and Tripoli were chosen because their cultural milieus and political economies represent two discrete historical trajectories within the same general cultural zone. An in-depth comparison, therefore, can nuance our understanding of the connections between historical contingency and patterns of property transmission.¹⁵

One must immediately note here the limitations of what waqfs can tell us about property devolution strategies. The most important is that the social use of this institution is only one of many strategies possible within the overall system of property devolution, which ideally ought to be studied as an integrated whole. Of the other strategies at the disposal of propertied individuals and families, the inclusion or exclusion of potential marriage partners was perhaps the most important.¹⁶ Second, 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.¹⁷ Furthermore, the average life span of any one waqf varied considerably, some lasting for centuries and many others for only a generation or two.¹⁸ Thus, the conditions attached to waqfs cannot tell us whether contemporary preferences turned into actual arrangements.

These limitations, however, do not diminish the importance of family waqfs endowments when it comes to the exploration of contemporary visions about what constitutes a family. On the contrary, the flexibility of the institution of

Egypt, 1740–1858 (Cambridge, England: 1992). For South Asia, see, for example, David Ludden, *Peasant History in South India* (Princeton, N.J.: 1985).

¹⁵ Other urban centers with records for this period include Damascus, Aleppo, Jerusalem, Jaffa, Nablus, Hama, Tripoli, Beirut, and Sidon.

¹⁶ It is unfortunate that only a few dozen marriage contracts were registered in the Islamic 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 Kiddie and Beth Baron, eds. (New Haven: 1991), 233–53.

¹⁷ In reading the Islamic court records, one gets the strong impression that the vast majority of agricultural, commercial, and manufacturing properties in both Nablus and Tripoli were endowed as waqf. Although this was almost certainly true for prime properties, an in-depth quantitative analysis of the legal status of most other properties needs to be carried out in order to confirm this impression.

¹⁸ This could be because of a variety of factors such as misuse, neglect, or natural disaster or because of illegal reconversion 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 "consumed" by greedy individuals and that many public institutions disappeared due to the lack of revenues (*Wilayat Beirut, al-qism al-shamali: al-wiyat Tarabulus wa al-Ladhikiyya* [The Province of Beirut, Volume II: The Northern Part: the Districts of Tripoli and Lattakia], [3rd ed., Beirut: 1987, originally published in Beirut, 1916–17], pp. 158, 161, 225).

waqf created the largest space for maneuvering by individuals who wished to express their personal preferences and desires when it comes to the devolution of property; and, in this regard, the intention is certainly as important as the consequences. In addition, 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. More important, the rich variety of social uses of the institution of waqf opens that many more windows on the complicated issue of agency; and the patterns revealed by the accumulated personal decisions shed light on preferences and priorities and how they might have changed over time. It is to this variety of social uses that we now turn.

THE SOCIAL USES OF WAQF AND THE SOCIAL BASE OF WAQF ENDOWERS

Waqfs were established for a wide variety of reasons, some of which had nothing to do with family at all, at least not directly. The Ottoman Imperial Household and many of the Empire's high officials extensively used charitable (khayri) waqf endowments, particularly during the sixteenth and seventeenth centuries, to bolster the infrastructure of their rule as well as to line their own pockets. Whole villages, large tracts of agricultural land, and numerous commercial establishments were endowed to provide income for social and religious institutions and for public works projects. The goals were to increase the authority and legitimacy of Ottoman rule, to invigorate economic development, to tie the provinces closer to the center of power, and to enrich both the administrators of these waqfs in Istanbul and their local allies. Provincial notables, particularly during the eighteenth and nineteenth centuries, also used the institution of waqf for the same general ends, albeit at a smaller scale and often at the expense of the central government, especially when it came to control of the rural surplus.¹⁹ At particular historical junctures, the

¹⁹ A large number of studies on the socioeconomic, political and cultural uses of waqf have been published over the past twenty years—a welcome trend, considering that waqfs were previously studied, for the most part, from a legalistic, ahistorical perspective. Some relevant examples are, in chronological order: Muhammad M. Amin, *Al-awqaf wa al-hayat al-ijtima'iyya fi Misr, 1250–1517: dirasa tarikhyya watha'iqyya* (Waqfs and Social Life in Egypt, 1250–1517: An Historical and Documentary Study) (Cairo: Dar al-Nahda al-Arabiyya, 1980); Jean-Paul Pascual, *Damas a La Fin Du XVIe Siecle D'Après Trois Actes De Waqf Ottomans* (Damascus: 1983); Gabriel Baer, "Women and Waqf: An Analysis of the Istanbul Tahrir of 1546," *Asian and African Studies*, 17:1 (1983), 9–28; Bahaeddin Yediyildiz, *Institution Du Waqf Au XVIIIe Siecle En Turquie: Etude Socio-Historique* (Ankara: 1985); Daniel Crecelius, "The Incidence of Waqf Cases in Three Cairo Courts: 1640–1802," *Journal of the Economic and Social History of the Orient*, 29 (1986), 176–89; Ruth Roded, "The Waqf and the Social Elite of Aleppo in the Eighteenth and Nineteenth Centuries," *Turcica: Revue d'Etudes Turques*, 20 (1988), 71–91; David Powers, "Orientalism, Colonialism, and Legal History: The Attack on Muslim Family Endowments in Algeria and India," *Comparative Studies in Society and History*, 31:3 (1989), 535–71; James Reilly, "Rural Waqfs of Ottoman Damascus: Rights of Ownership, Possession and

resort to waqfs proved pivotal in altering the local political and economic landscape. In his richly detailed study, Richard van Leeuwen shows how the Christian Khazin shaykhs in Mount Lebanon used the institution of waqf in the eighteenth century to accumulate both material and cultural capital in their quest for power. He also shows how, ironically, their endowments helped lay the foundations for the emergence of a rival: the Maronite Church, which went on to become a key player in the social transformation of Mount Lebanon.²⁰

Waqfs were also used by high-ranking Ottoman officials and local ruling families as a tax shelter and as protection from political confiscation of their properties. In Tripoli, for example, Mustafa Agha Barbar—a native who ruled the city, albeit with interruptions, during the first three decades of the nineteenth century—endowed large portions of his property to his wives, relatives and slaves (*mamluks*) in the 1810s, shortly after his grip on power was seriously challenged.²¹ Around the same time, he also endowed property for the building of a canal and two water fountains in order to enhance his local image.²² In Nablus, leading members of the Abd al-Hadi family translated their rise to political stardom during the period of Egyptian rule over Greater Syria (1831–40) into large purchases of prime urban real estate which they endowed as family waqfs in the late 1830s, when it became clear that the Egyptian armies would be forced to withdraw.²³

The above two examples notwithstanding, there were no other large waqfs endowed in Tripoli and Nablus during the nineteenth century by either central or local Ottoman officials eager to pursue grand political and financial objectives. In addition, very few endowments were established for the pious purpose of supporting a public charity or religious institution, the theoretical goal of a waqf endowment.²⁴ Rather, the overwhelming majority of waqf endowers were driven by a different set of motivations which revolved around the need to address a plethora of issues relating to the material base of family life, in general, and the transmission of property to their children, in particular. Thus, roughly 79 percent of the 211 waqfs endowed in Tripoli and over 96 percent of the 138 waqfs endowed in Nablus between 1800 and 1860 are of the family

Tenancy,” *Acta Orientalia*, 51 (1990), 27–46; Muhammad Afifi, *Al-awqaf wa al-hayat al-iqtisadiyya fi Misr fi al-’asr al-’uthmani* (Waqfs and Economic Life in Egypt in the Ottoman Period), (Cairo: General Egyptian Book Organization, 1991); and Mary Ann Fay, “Women and Waqf: Toward a Reconsideration of Women’s Place in the Mamluk Household,” *International Journal of Middle East Studies*, 29:1 (1997), 33–51.

²⁰ Richard van Leeuwen, *Notables and Clergy in Mount Lebanon: The Khazin Sheikhs and the Maronite Church (1736–1840)* (Leiden: E. J. Brill, 1994).

²¹ Tripoli Islamic Court Records (hereafter TICR), 42:70–72; 43:189–90; 45:44–46, 384–86. Barbar ruled between 1800–08, 1810–20 and 1821–35. For details, see Ignace Tannous, *Mustafa agha Barbar: hakim iyalat Tarabulus wa al-Ladhiqiyya: 1767–1834* (Mustafa Agha Barbar: Governor of Province of Tripoli and Lattakia, 1767–1834) (Tripoli: Jarrous Press, 2nd ed., 1984).

²² TICR, 42:72–73.

²³ Nablus Islamic Court Records (hereafter NICR), 9:50–51, 311–15, 385; and 10:4, 48.

²⁴ In addition, the average size of the charitable waqfs endowed in both cities is rather small.

(dhurri) type. If one counts mixed endowments in which the endower remained in effective control of the property during his or her lifetime either as administrator or sole beneficiary, the percentages are overwhelming: almost 95 percent for Tripoli and over 98 percent for Nablus.²⁵ Why did many individuals voluntarily give up their private ownership rights of some or all of their property? And what are the similarities and differences between Tripoli and Nablus in the social uses of waqf endowments and in the social base of waqf endowers?

The Social Uses of Family Waqf Endowments

Every waqf was endowed for a combination of reasons, but one can distinguish between four related sets of social uses of family waqfs. The first set has to do with the protection that this unique legal mechanism provides for the family's patrimony from the dangers of confiscation and fragmentation while allowing the founder and his or her descendants to maintain continued control of the endowed property. Waqf endowments are an excellent mechanism for safeguarding key family properties from the vagaries of frequent economic and political upheavals because, legally, endowed properties cannot be confiscated either to collect on unpaid debts or to satisfy the whims of the powers that be.²⁶ They also provide a layer of protection from attempts by other families or competitors to take over these properties through marriage, purchase, or extortion.

Waqf endowments also protect against the danger of fragmentation, which is all but inevitable if transmission takes place after the death of the property owner due to the automatic application of Islamic inheritance laws.²⁷ Establishing a family waqf, therefore, allows a head of household to transmit properties to his or her children in viable economic or residential units. At the

²⁵ For example of mixed waqfs, see TCR: 30:58; 44:32–33; 44:154–55. The term mixed is also used to include those cases where the endower endows a portion of the property to his descendants and another portion directly or semi-directly to a charitable purpose.

²⁶ For example, a merchant, Sayyid `Isa al-Dajuni, sued a villager, a certain Kana`an al-`Amir from the village of Burin near Nablus, claiming that Kana`an's dead brother was the guarantor of a unpaid debt contracted by Shaykh Khalil Jarrar (member of a powerful rural clan that controlled many of the villages in the northern part of Jabal Nablus) and that he died before paying the loan that he guaranteed. The plaintiff wanted the judge to force the defendant to hand over, as recompense, a floor of a house that the defendant's brother had built. The defendant admitted that all the plaintiff's claims were true but claimed that his brother, before he died, added this floor to a waqf he had endowed previously and, according to Islamic law, a waqf cannot be voided in order to pay debt. After securing a ruling from the current *mufiti* (juriconsultant) of Nablus, the judge ruled in favor of the villager and against the merchant (NICR 6:19, dated November 9, 1798). There were limits to this type of protection, however. For example, the Islamic court judge of Nablus ruled a certain waqf invalid because it became known that the endower's motive for establishing the waqf was to avoid confiscation of his properties due to debt (NICR 11:94–97). For the meaning of Sayyid, see note 49.

²⁷ According to Islamic inheritance laws, the spouse as well as both male and female children can legally inherit, although the son's share is twice that of the daughter's. Also, a son can inherit all of his parent's properties, but any number of daughters could only inherit two-thirds, with the rest going to the nearest agnates of the deceased.

same time, the endower can reproduce internal family hierarchies by attaching a variety of conditions, such as the stipulation that the power and authority inherent in the position of waqf administrator be reserved for the most senior beneficiary.²⁸

Viability of key properties and reproduction of hierarchical relations are intimately related. To begin with, it is technically complicated and often simply impractical to divide up a residential structure or a shop among the large number of potential inheritors, the more so since most urban properties were already jointly owned and had multiple and intricate forms of access rights. It could also be socially divisive. By clearly delineating who can have access to endowed properties and under what conditions, the head of household, looking over his or her shoulder at the shadow of death, can produce the comfortable illusion, if not the reality, that the act of establishing a waqf will keep the family itself viable by preempting the otherwise certain struggles and complications involved in the process of property division.

Of all the various types of property, houses were the primary concern in terms of viability, since the integrity of that physical space is a symbol of a family's stability, solidarity, and status and since it allowed an extended family to live within a clearly bounded physical space. The connections between place of residence, family cohesiveness, and how a family is perceived by others were of greater importance in Nablus than in Tripoli: Some 44 percent of the waqfs established in Nablus endowed solely residential properties, compared to 28 percent in Tripoli. If one were to count all waqfs endowments which contained residential property, the percentages are 92 percent and 48 percent, respectively.

The second set of social uses revolves around the fact that family waqfs allow one to customize the design of a long-term social safety net in anticipation or in the aftermath of the all-too-common family crises, such as those precipitated by sudden death or divorce. This use of waqf was more frequent in Tripoli than in Nablus: Over 22 percent of waqf endowments in Tripoli and 7 percent of those in Nablus were established to provide long-term security of access to property to family members other than the endower's own children. Orphaned grandchildren, nephews, and nieces were, not surprisingly, the most frequently mentioned beneficiaries of such waqfs because, according to Islamic law, they would not otherwise inherit.²⁹ In the case of Nablus, the percentage goes up to 18 percent, if one includes endowments which designated one's own children in addition to the above.³⁰ The key motivation here is the desire

²⁸ Almost all family waqfs in Nablus and Tripoli assigned control to the most senior beneficiary (*al-arshad min al-mustahiqqin*) among the children after the death of the endower.

²⁹ The same motivation led some re-married women to endow property to their children from a previous marriage because, one assumes, they were convinced that neither the new husband nor the children's father could be counted on to support them (TICR, 42:40, 154).

³⁰ Other family members designated include siblings and other (non-kin) family members such as slaves. For example, a number of individuals in Tripoli endowed property to their manumitted slaves so they could have a solid start on their new lives and, at the same time, be

to prevent these vulnerable members from falling through the cracks caused by the unanticipated demise or absence of their primary provider. In both cities, women were far more likely than men to dedicate what one might call supplementary or complementary waqfs as opposed to constitutive ones, that is, they acted more often than men to take care of kin and to protect the weak and the marginalized than to invest in or found branches.³¹ Thus, even though, generally speaking, women had less property than men do, they dedicated a larger percentage of their property to a greater variety of kin than men did and, in so doing, showed a greater appreciation for the power and importance of property transmission to stabilizing family life.³² Partly, this appreciation is due to the fact that, at least in Tripoli, roughly one-half of the properties endowed by females was acquired through inheritance and the other half through purchase, mostly from relatives. In contrast, the great majority of property endowed by men was acquired through purchase or actual construction.³³

The third major set of social uses takes advantage of the fact that family waqfs lay the material foundations for family as a corporate unit. The act of endowing a large residence along with key commercial and agricultural properties, usually the culmination of a lifetime of patient accumulation, announced the “arrival” of a new household or “family” on the scene. This constitutive use of a family waqf, much more frequent in Nablus than in Tripoli during the period between 1800 and 1860, was usually the last step in a longer process in which a vigorous branch, beginning with the endower, separates itself from the rest of the extended family. In return for waiving its right to private ownership of key properties, the branch establishes a corporate identity complete with residential headquarters as well as a self-sustaining source of revenues for its family members.³⁴

protected from challenges by the endower’s relatives who might be unhappy with former slaves taking control of what normally would have been part of their inheritance. There were no such waqfs registered in the Nablus Islamic Court (TICR, 29:73; 42:47; 52:118–19; 55:223–24).

³¹ Meriwether makes a similar argument in her study of waqf endowments in Aleppo, 1770–1840 (*The Kin Who Count*, ch. 5, 10–11).

³² In Tripoli and Nablus the average size of waqfs by men was considerably larger than that of women. Similarly, Baer shows that in mid-sixteenth-century Istanbul, the “percentage of women among founders of waqfs decreases as the size of the waqf grows” (Baer, “Women and Waqf,” 11). Meriwether divided her analysis of waqf documents according to size and found that most small waqfs were endowed by women for the purpose of meeting special family needs (Meriwether, *The Kin Who Count*, ch. 5:10–11).

³³ The waqf documents registered in the Islamic court of Tripoli consistently mention how a person came to own the property about to be endowed, the usual categories being purchase (often the year of the purchase deed was provided), inheritance, construction, or planting. Unfortunately, the records of Nablus rarely provide this information.

³⁴ David S. Powers makes a similar point about the “corporate” family in his analysis of waqf endowments in Muslim Spain between the eleventh and fifteenth centuries (“The Maliki Family Endowment: Legal Norms and Social Practices,” *International Journal of Middle East Studies*, 25:3 (1993), 401).

This branch becomes a “new” family both symbolically and spatially.³⁵ It was not unusual, for example, for the newly endowed branch to adopt a surname different from that of the family from which it separated.³⁶ In addition, the house, shop, garden, or soap factory, once endowed, become important markers etching both the endower and (usually) his branch into physical, political, and cultural landscape of the city. In turn, the cultural capital (such as increased status) accumulated in this process of “naming”—both reflected and reinforced by the practice in all Islamic law courts of attaching a family name to residential structures in order to define the borders of urban properties bought and sold—was an important asset in the construction and reproduction of the economic and political networks that are so vital to the survival and prosperity of families as corporate units.³⁷

The fourth set of social uses also had to do with the internal solidarity of family and its place in society, but the crucial aspects are not the types of properties endowed or even for whose benefit. Rather, they were the conditions specifying that a part of the annual waqf revenues be spent on good deeds (*mabarrat*). There is a major difference in this social use of waqf between the two cities: Almost every family waqf endowed in Tripoli had such conditions attached, compared to only 10 percent in Nablus. Indeed, this phenomenon in Nablus was limited both in temporal and social space, unlike that of Tripoli, which pervaded all social groups and was consistent throughout.³⁸ This is not to mention that, in Tripoli, the percentage of charitable and mixed waqfs is much larger than that of Nablus.

The reasons for this important difference are not clear, and it is tempting to conclude that in Tripoli establishing a waqf was seen, at least partly, as a worthy moral gesture and a religiously pious act; whereas in Nablus, it was

³⁵ In Nablus, the location and variety of endowed properties of constitutive waqfs, especially those of rich families, were such that the end result resembled a compound which contained all the provisions a large extended family would need—such as houses, shops, gardens, orchards, manufacturing establishments, bakeries, stables, wells, and warehouses—to be as self-sufficient, independent, and protected from the outside world as possible.

³⁶ For a detailed example, see Doumani, *Rediscovering Palestine*, 61–68.

³⁷ This is why the institution of waqf was extensively used to lay the basis for local autonomy by newly emerging urban notable families after the piecemeal re-conquest of Greater Syria by the Ottoman government in the second half of the seventeenth century (1640s in Tripoli and the 1670s in Nablus). The phenomenon became especially widespread during the eighteenth and early nineteenth centuries as the power of the central government waned once again. Khaled Ziyadeh makes this argument for Tripoli (“Takawwun al-`a`ilat fi Tarabulus [The Formation of Families in Tripoli,” in *Lubnan fi al-qarn al-thamin `ashar* [Lebanon in the Eighteenth Century], [First Conference of the Lebanese Society for Ottoman Studies, Beirut: Dar al-Muntakhab al-`Arabi, 1996], 318–20). For an in-depth discussion of the use of waqf as a vehicle of social mobility by local elites, see Roded, “The *Waqf* and the Social Elite of Aleppo.”

³⁸ In Nablus, all such waqfs but one were dated after 1847. That exception was a waqf by Sulayman `Abd al-Hadi, leader of this ruling family at the time and the one who probably set the pattern for the others. Almost all of the others, by the way, were allies of the `Abd al-Hadi family who became rich after the Egyptian invasion (NICR, 9:385; 11:72–74, 94–97, 104–05, 113, 121–23, 174, 176; 12:67–70, 121, 180–82, 228–29, 331–34).

strictly motivated by worldly concerns. The moral and religious acts, however, were not divorced from personal and family considerations. Many endowers were no doubt conscious of the facts that the dedication of a waqf would increase their visibility in the community and might even, especially in the case of those who endowed large charitable waqfs for the construction of mosques, immortalize their names.³⁹ In addition, many endowers were no doubt genuinely concerned with the well-being of their soul after death. Most important, the inclusion of provisions contributing to the public good lay the groundwork, even if unintended by the endower, for rituals whose enactment and re-enactment strengthen and solidify internal family ties as well as promote the status of the family in the society. The two basic forms of good deeds described in the waqf documents of Tripoli are cases in point. The first enjoins the administrator (nazir) of the waqf to hire one or more reciters of the Qur'an to come to the house of the endower after his or her death on a weekly or monthly basis, usually on a Friday when the family members did not work. Surrounded by the family, the reciter(s) would read the Qur'an, then make a gift of the accrued blessings (*yahdi thawabahu*) specifically to the soul or spirit of the endower and his or her descendants.⁴⁰ This ritual binds the family by reinforcing memory of a "founder" figure whose endowment still provides material sustenance and spiritual comfort years after his or her death. It also physically brings the family together or, more accurately, draws boundaries around the kin who counted, that is, those who live in the endowed house or are beneficiaries of the waqf.⁴¹ The second ritual involves the distribution of food to the poor on the five holy days of the Islamic calendar, also as a way of increasing one's blessings during the afterlife.⁴² One also assumes that the endowers were aware that the public act of purchasing and distributing food in the name of the family and its founding figure enhances their status and imparts a sense of social and religious discipline among the family

³⁹ The quest for immortality is best illustrated by names of mosques. Many mosques in Tripoli and Nablus are named after families or individuals such as the Beik (Tuqan), Hanbali (Hashim) and Hajj Nimr al-Nabulsi mosques in Nablus and the Tinal and Argon Shah mosques in Tripoli. During the Mamluk and early Ottoman period, many of those who established mosques or educational institutions through waqf endowments had their waqf deed and name etched into one of the walls as a permanent and indelible proof of their good works and as a reminder for pious people to carry out its specific provisions. An example is the Khatuniyya school in Tripoli established by the wife of Argon shah. Her waqf deed, etched in stone and dated March 1, 1372, included the condition that part of the waqf revenues be used to hire readers to go to her grave every Friday and recite the entire Qur'an (Tamimi and Bahjat, *Wilayat Beirut*, II:159–60).

⁴⁰ Typical examples are TICR, 42:154–56; 29:156–59. The former specifies not only the names of the reciters, but also when, where, and in what room (they were to meet every Friday in the house of the endower and to sit in the diwan located on the ground floor in the summer and in the smaller room adjacent to the diwan in the winter).

⁴¹ I am indebted for the phrase "the kin who count" to Margaret Meriwether.

⁴² These are 27 Rajab (*isra' wa mi' raj*), mid-Sha'ban (*laylat al-safa'*), 27 Ramadan, and the Feasts of Smaller and Greater Bayram (TICR, 42:154–56).

members—both of which can deepen the feeling of family identity and a common sense of purpose.

The Social Base of Waqf Endowers

Here one must begin with the major qualification that the voices of the majority of provincial inhabitants are absent from waqf documents, that is, those of peasants and the urban poor. Obviously, only those who had property and who, at the same time, could afford to surrender their option to sell part or all of their property were in a position to establish waqf endowments.⁴³ As for peasants, they rarely used the urban Islamic court of either city for purposes of property transmission prior to 1860.⁴⁴ It is impossible to gauge, therefore, the full range of differences in the meanings and actual organization of family life either within or between these two provincial regions.

As for presence, the evidence is indirect: The only consistent form of labeling is the attachment, or lack thereof, of titles of status. Rarely is the occupation of the endower mentioned, and rarer still are clues about the full range of properties actually owned. The absence of such data renders attempts at delineating social classifications imprecise at best. In addition, any analysis based on titles of status is fraught with problems because the meanings of titles changed over time and had different connotations depending on the local context. It is also doubtful whether most titles found in the Islamic court documents were actually used widely in daily life. Rather, they reflect the formal social rank of the individuals as identified by the judge and the scribe or the rank claimed by that individual in court.⁴⁵ None of the titles, moreover, necessarily said much about the actual material base of a single individual, nor could they embody the wide range of activities pursued.⁴⁶ For women, the

⁴³ An artisan would find it difficult, for example, to endow his shop or tools as waqf, since there was no guarantee that his son(s), if he had any, would follow in the same occupation.

⁴⁴ Four waqfs by villagers were registered in the Islamic court of Tripoli and only one in the Nablus court (TICR 45:131; 54:289; 55:113–14; 63:221–23, and NICR 8:272, respectively). There were also three endowments by recently urbanized villagers residing in Tripoli (TICR, 43:195–96; 46:9–10, 202–04). It is telling that most of endowers from Tripoli cited in this note had strong ties with the urban-based Kaylani Sufi Order headed by the Zu`bi family. This does not mean that peasants did not endow waqfs. Christian villagers in Tripoli's hinterland routinely endowed waqfs for their churches and monasteries during this period, and there are a number of lawsuits by villagers over waqf property registered in the Nablus Islamic law court. This suggests that peasants in Jabal Nablus endowed waqfs more frequently than would appear if one looked only at the court records (for example, NICR 9:157, 353). The former case reveals the key reason: Before coming to the Nablus court, the litigants argued their case before the rural chief of Jamma` in the sub-district of which their village was part, even though he had no legal standing as a judge. For more on peasant relations to urban legal institutions before and after 1860, see Doumani, *Rediscovering Palestine*, ch. 4.

⁴⁵ This is why, for example, the same individuals sometimes were identified with certain titles in one court case and with somewhat different titles in another case around the same time.

⁴⁶ One would be hard-pressed, for instance, to find leading political and religious figures who were not also involved in land ownership, trade, moneylending, and manufacturing. At the same

issue is still more complex because their titles were either inherited from their fathers or associated with their husbands.

Nevertheless, a number of general comparative points can be made about the social base of waqf endowers. The most important similarity is that in both cities there was wide participation among all propertied strata in the social act of endowing a waqf. Specifically, over 60 percent of waqf endowers in both cities were not established by the leading notable families (a percentage similar to that of Aleppo during the eighteenth and nineteenth centuries).⁴⁷ Also, in both cities propertied elements from the lower rungs of the social status ladder constitute roughly one-third of waqf endowers.⁴⁸ If one assumes that the numerical majority of propertied individuals would have belonged to the lowest status group, then this strata is underrepresented in both cities.

The differences become pronounced when one examines the middle and top rungs of the social status ladder. Individuals in the middle rungs were far better represented in Tripoli (around 46 percent) than in Nablus (30 percent).⁴⁹ Just as important, the general category of “middle” for Tripoli is largely composed of women who endowed mostly agricultural properties, while in Nablus, this category is composed primarily of males who endowed mostly residential structures and commercial establishments. Conversely, individuals at the top rungs are better represented in Nablus (37 percent) than in Tripoli (27.5 percent).⁵⁰ This difference would have been even greater if it were not for the considerable number of high-status women in Tripoli compared to only one in Nablus. The percentage of high-status men, therefore, is weighted heavily in favor of Nablus, especially men from wealthy merchants and *‘ulamā* (religious scholars) families who were also involved in commerce and manufacturing (the number of waqf endowers from political families is the same in both cities: almost 6 percent).

time, many merchants were trained as religious scholars and some, especially during the second half of the nineteenth century, formally entered politics when they became members of the Advisory Council (*majlis al-shura*) of both cities.

⁴⁷ Meriwether, *The Kin who Count*, ch. 5:6; Roded, “The Waqf and the Social Elite,” 76. By notables I mean leading members of families that have enjoyed a stable family name and a high degree of wealth and status as well as a modicum of local power for a number of generations.

⁴⁸ This category includes those with no titles, women introduced simply as *hurma* (woman) and men as *rajul kamil* (Complete or Mature Man), as well as artisans.

⁴⁹ This category includes those with the titles *hajj* (one who made the pilgrimage to the Holy Cities of Mecca and Medina) and *sayyid* (one who is officially recognized as a descendant of the Prophet) as well as Respected or Dignified Men (*rajul muhtaram* or *rajul mukarram*) and women introduced as *sitt* (lady). The term Sayyid came to be used in Nablus and Tripoli by the mid-nineteenth century as a title of respect for members of prominent (especially merchant) families.

⁵⁰ This category includes those with multiple titles that invariably began with the word *fakhr/iftikhar* (pride of), *‘imdat* (pillar of) or *‘ayn* (eye or center of). One can easily determine whether high-status individuals were members of leading political, religious, or merchant families because of the types of titles used for each group and because these individuals often appeared in the Islamic court, thus leaving a more complete record of their activities.

The most striking difference between the two cities in terms of the social composition of waqf endowers is the sexual divide. In Nablus, only 11.6 percent of the total number of waqfs were endowed by women; but, in Tripoli, women accounted for over 47 percent of the total.⁵¹ Judging from studies on Istanbul, Cairo, Aleppo, and Jerusalem which show a range of about 25 to 40 percent of waqfs being endowed by women, Nablus and Tripoli inhabit two opposite ends of the spectrum.⁵² The differences between the women of Nablus and those of Tripoli become even more stark, if we compare types of properties according to the sex of the endower. Of the sixteen waqfs by females in Nablus, fourteen endowed solely residential property (87.5 percent), compared to an average of 37.3 percent for males.⁵³ In contrast, more female-endowed waqfs in Tripoli were composed solely of revenue-producing agricultural property (45.5 percent) than any other type of property, including residential (34.4 percent). They even exceeded the percentage of male-endowed agricultural waqfs in Tripoli (36.4 percent).

The significance of this combination of differences in the social uses of family waqf endowments, in the social base of endowers, and in the types of property endowed will become clearer in the next two sections, which focus on the relationship between beneficiary patterns, gender, and political economy. Suffice it to say at this point (with a bit of oversimplification) that, although waqfs were endowed almost exclusively in both cities for family, not charitable purposes, those of Nablus were dominated by a male elite concerned mostly with using waqfs as cornerstones for the establishment of branches as discrete corporate structures within the social topography of the city. This partly explains the emphasis on residential spaces. The waqfs of Tripoli, on the other hand, were used more extensively but less ambitiously by a more diverse population (both in terms of class and sex) for family maintenance. The predominance of revenue-producing agricultural properties suggests a less constitutive and more supplemental strategy than the case in

⁵¹ The number for Tripoli includes four joint endowments by women: two by a mother and daughter, one by two sisters and one by co-wives.

⁵² In a random sample of 500 waqfs from mid-sixteenth-century Istanbul, over a third (36.8 percent) were founded by women (Baer, "Women and Waqf," 10). Baer also found that women endowed 25 percent of the waqfs in Jerusalem between 1805 and 1820 (*Ibid.*, 10). The average for Aleppo for the whole Ottoman period according to studies of lists provided by Kamil al-Ghazzi is 40.8 percent (*Ibid.*, 10), but the number went over 50 percent for the same city between 1770 and 1840, according to Meriwether (*The Kin Who Count*, ch. 5:6). For seventeenth- and eighteenth-century Cairo, Daniel Crececius calculated that the average number of waqfs by women registered in a number of Islamic courts ranged between 30 to 40 percent ("The Incidence of Waqf Cases"). In a sample of close to 400 waqfs in eighteenth-century Cairo, Mary Ann Fay found that close to 25 percent were endowed by women ("Women and Waqf," 38).

⁵³ The other two endowed primarily residential property with one adding a garden and a terraced plot of land (*qattan*) and the other three shops. For waqfs endowed by women see NICR 6:190, 221, 282, 284; 7:10–11, 14, 48, 186, 242, 290; 8:182, 207, 209; 9:76, 322–23; 10:126–27.

Nablus. These variations anticipate the even more striking (and totally unexpected) differences in beneficiary patterns, which we turn to next.

GENDER AND PATTERNS OF PROPERTY TRANSMISSION

The basic similarity in the property transmission patterns is that well over 80 percent of the total number of family waqf endowments in both cities designate the endower's children (present and future) as the sole or primary beneficiaries. This effectively excludes spouses, parents, and agnates who make up the largest pool of potential legal inheritors. According to Islamic law, the first two would have otherwise inherited a portion of the properties, regardless of the number and sex of the endower's children. Yet, spouses were given a share in less than 10 percent of the family waqf endowments in Tripoli and less than half of that in Nablus.⁵⁴ Only a couple of endowments (for both cities) included the parents. As for agnates, they were eligible to inherit in the not too uncommon event that the endower had only female children or no children altogether. However, not a single waqf designated agnates as primary beneficiaries. When included at all, a condition was usually attached specifying that agnates can receive a share of the waqf revenues only after the demise of the endower's direct line of descent. The pervasiveness of this overall pattern of inclusion and exclusion stands as the strongest evidence we have that the endower's line of descent within the conjugal family in both Tripoli and Nablus is the primary beneficiary of waqf endowments and not the patrilineal extended family.⁵⁵

The similarity ends here, however, for the patterns of designating beneficiaries are almost diametrically opposed between the two cities. The basic difference lay in the sharp distinction made between male and female children when it came to property transmission. It is simply startling that waqf endowments which include female children and their progeny comprise 98.3 percent of the total in Tripoli, while for Nablus the number is 12.1 percent. Conversely, waqf endowments which exclude female children and their progeny comprise only 1.2 percent for Tripoli, while for Nablus the number is 87.2 percent. Clearly, the propertied classes of Tripoli and Nablus differed greatly in their

⁵⁴ Most likely, both male and female spouses were usually excluded for two reasons. First, the endower may have wanted to make sure that, upon his or her death, the spouse will not be in a position to pass on family property to a new spouse and, in the process, deprive the existing children of a secure future. Second, it may have been assumed, as is currently the case in the present that parents will be taken care of in old age by their children.

⁵⁵ This preference for lineal, as opposed to lateral transmission, of property seems to have been shared by the populations of urban centers in Anatolia and Greater Syria during the Ottoman period. For example, a survey of 2,500 waqfs endowed in Istanbul during the sixteenth century by O. L. Barkan and E. H. Ayverdi shows that the conjugal, not the extended, family was the primary concern of the inhabitants when it came to property transmission (*Istanbul Vakıfları Tahrir Defteri 953 (1546) Tarihi* [Istanbul: Baha Matbaası, 1970]). Gerber argues the same for the city of Bursa in Anatolia during the seventeenth century (Gerber, "Anthropology and Family History"), as does Meriwether for Aleppo in the late eighteenth and early nineteenth centuries (*The Kin Who Count*, ch. 5).

social construction of property and gender. Consequently, they expressed different preferences as to where the boundaries defining the ideal family should be drawn.

The following two examples, one from each city, nicely illustrate the above points. The first is a lawsuit registered in the Tripoli Islamic Court records on July 2, 1857, between members of the `Asbiyya extended family or, as it is phrased in the title of the document, *bani `Asbiyya*, that is, the progeny, through the male line, of a common ancestor called `Asbiyya.⁵⁶ On that day Shaykh `Abd al-Ghani, the great-grandson of Safi `Asbiyya, came before the judge of the Islamic 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, which they had proved in a lawsuit concluded the previous day. They requested that the judge order Sayyida Sharifa and Sayyida Hasna (the third daughter of Shaykh Mustafa, Sayyida Badra, had died a month earlier in June, 1857) to hand over one third of the property of their father.⁵⁷ At stake was a large house (*dar*) containing many rooms (*buyut*) and shares in six small olive groves.

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

⁵⁶ TCR, 36:90–91.

⁵⁷ Shaykh Mustafa died long prior to this lawsuit, so this belated action was probably precipitated by the death of Badra, his oldest daughter.

Tripoli. The defendant's legal representative then produced the waqf document, complete with the seal of the Islamic 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 document 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, so 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.⁵⁸ 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 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

⁵⁸ NICR, 8:297.

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 undergirding the way in which 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, insofar as its material base is concerned, while his grandchildren from them are not. In other words, the property transmission 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.

Beneficiary Patterns in Tripoli

With rare exceptions, all the family waqfs of Nablus and Tripoli invoked one of four basic patterns of designating beneficiaries (see Table I). I have organized these patterns in ascending order according to the degree to which female children are excluded: Pattern One is the most inclusive, and Pattern Four the most exclusive. In Tripoli, the property transmission strategy used by the overwhelming majority of waqf endowers (70.6 percent of the total number of family waqfs) was Pattern Two, that is, to distribute the revenues among the children and their progeny exactly as set out in Islamic law, the male's share twice that of the female's. Unstated, of course, was the exclusion of most legal potential inheritors, a crucial element that drew tight boundaries around the children's access rights to the property of the conjugal family and that provided the best legal insurance available that female children will actually get their share.⁵⁹

⁵⁹ Numerous cases reinforce this interpretation. The waqf endowed by a well-to-do landowner and merchant, Sayyid Hajj `Ali, son of the deceased Sayyid Muhammad Sabbagh, is fairly typical. On February 1, 1833, sometime after his father and his only brother (Mustafa) died, `Ali Sabbagh must have taken a long hard look at his difficult situation: As the senior member of *bani* Sabbagh, he was already well on in years, but had no male heir, only four mature daughters with at least one of whom married for sometime. To make matters more difficult, his only brother left behind a number of mature sons who were jointly managing their father's properties, many of which were, in turn, jointly owned with their paternal uncle, the endower. If one is to accept the conventional wisdom about the traditional Arab family, then his choices are clear: either endow no waqf and allow his nephews a third of his properties through inheritance or endow the entire property to his nephews in order to preserve the material base of the Sabbagh extended family. Instead, `Ali Sabbagh endowed one-eighth of all of his considerable property—twenty-two

The welfare of female children was protected and enhanced even further in Tripoli by Pattern One: that is, equal shares to all children and their descendants, regardless of their sex. This pattern contradicts one of the central provisions of Islamic law in favor of female children. Having first read the Nablus Islamic court records, I was surprised when I came across such a case in the Tripoli records; and my amazement grew as I slowly realized that this case was not unique, but rather part of a pattern representing roughly one-third (27.7 percent) of all family waqf endowments. This percentage would become significantly higher if one were to include endowments which designate Pattern Two, despite the fact that the only existing children are female. In other words, Pattern One effectively applies (for the first generation) in these cases unless the endower produces male children in the future—often an unlikely possibility because many of these endowers were already well on in years and had a number of daughters in their legal majority.

The motivations behind Pattern One are not clear. A partial explanation could be the absence of male heirs, as suggested by the fact that one-half of the endowments that designated Pattern One (23 out of 46) designated only daughters as the primary beneficiaries.⁶⁰ Once it was decided that female children were to receive the entire property along with the legal protection that a waqf endowment imparts, it made sense to assign equal shares. This argument, however, does not explain the stipulation that Pattern One also applies to the daughters' descendants, regardless of sex. Nor does it explain the equally numerous cases in which sons were also designated as beneficiaries, yet daughters were given equal shares in any case. In addition, waqfs designating female children as the primary beneficiaries comprised a significant proportion of Pattern Two endowments (38 out of 117, or 32.5 percent). Finally, there is no evidence to support the argument that Pattern One is a sign of egalitarian consciousness on the part of female endowers: The difference in number of endowments between men and women following Pattern One is slight (25 women and 21 men), and 68 percent of all family waqfs endowed by women in Tripoli followed Pattern Two, not Pattern One.

It is possible that the designation of Pattern One is motivated by the desire to provide female children with the maximum material leverage possible to

orchards and olive groves, a house, a room, and two shops—to his wife and seven-eighths to daughters and any future children he might have according to Islamic law, the share of the male twice that of the female. Not only did he exclude his nephews in the process, but he made sure they could lay no claim in the future by taking two additional steps. First, he did not include his nephews as next in line after the lines of descent of his daughters ended. Rather, the considerable revenues were to revert to charitable purposes. Second, he not only appointed his oldest daughter as the administrator of the waqf after his death but also stipulated that his daughter's husband should manage the waqf on her behalf and set aside for him a considerable annual stipend for his efforts. Thus, his eldest daughter would not even have the option of asking one of her cousins to help manage the joint properties (TICR, 52:91–93).

⁶⁰ Endowments to daughters accounted for 17 of the 23, and a combination of daughters, wives, and granddaughters accounted for the other six.

TABLE I
Basic Patterns in Designating Beneficiaries in Dhurri waqfs after One's Self
 [] = Conditions Often Added to Basic Pattern

<i>Steps</i>	<i>Pattern One</i>	<i>Pattern Two</i>	<i>Pattern Three</i>	<i>Pattern Four</i>
one	male/female children 1:1	male/female children 1:2	male/female children 1:2	male children only
two	children of children	children of children	children of males only	male children of males only
three	same until extinction	same until extinction	same until extinction	same until extinction
four		[children of brother(s)]	[children of females]	[male children of females]
five		[nearest agnates]	[children of brother(s)]	[male children of brother(s)]
six			[nearest agnates]	[male children of nearest agnates]
last	charitable ends	charitable ends	charitable ends	charitable ends

SOURCES: TIGR: 29, 42–50, 30, 52, 54, 31–33, 59–63, 35, 36, 66, 69 (in chronological order); NICR: 6–13, 17.

pursue an effective marriage strategy and to lessen their vulnerability once married or divorced. This is not to mention giving them an incentive to take care of their parents in their old age. The following case illustrates these points. On February 29, 1817, the Pride of Descendants of the Prophet (*fakhr al-ashraf*), Sayyid Abdullah al-Qawwaf, decided to endow a waqf for the benefit of his daughters and their descendants sometime after his son had married and established his own separate household.⁶¹ His endowment included one-half of his deceased father's house—which he inherited along with his two sisters, who owned the other half, his share being equal to both of theirs—as well as his share (two-thirds) of another house that is adjacent to his son's house along with a vaulted cellar, both of which he purchased six years earlier. The waqf designated his two daughters, both in their legal majority, as well as any future children he might have as beneficiaries after his death, with the shares to be divided equally between them regardless of sex. The children of his daughters plus the children of any future children he might have were also to receive equal shares and so on.

Why did Sayyid Abdullah al-Qawwaf stipulate equal shares for males and females and their descendants, given the fact that he has a son and the possibility that he might produce male children in the future? Already well on in years and with his only son married and living in a separate household, he was unlikely to have more children, so he clearly sought the opportunity to provide permanent residential security for his daughters as well as to secure his own future. Even if he fathered (male) children after the endowment of the waqf, these children would probably be minors at the time of his death; hence, like the daughters, equally in need of protection and residential security from the claims of their older brother and from their agnates. Most important, since assigning his daughters equal shares made them more attractive marriage partners, he effectively gave each of them lifetime access to a separate residence. He also assured them of the maximum degree of control over this property by stipulating that they were to hold the position of administrator (*nazir*) after his death.⁶² Effective access and control over residential quarters would also bolster their position after marriage, especially if the husband lived in his wife's house. After all, for a newly married woman, a conjugal household is far more preferable to that of an extended family household, since in the former there is no hierarchy between females, while in the latter she is subordinate to her mother-in-law or the senior female. Even if the daughters relocated to their husband's house, the waqf property would be helpful to them. They could live in it if they were divorced or became widowed, rent it for income that would be theirs alone, and, in any case, use it to house their elderly father.

⁶¹ TCR 45:235–36.

⁶² With one or two possible exceptions, all waqf endowments that designated daughters as sole beneficiaries also designated them as the administrators of the property.

Regardless of the motivations for Pattern One, what is clear is that waqfs that follow either patterns One or Two deplete rather than contribute to the resources of the patrilineal extended family and rule out rather than help establish the material base for a corporate household that can serve as a headquarters for an extended family in the constant struggle for power, wealth, and status. These consequences must have been obvious to the endowers of Tripoli, yet they seem disinterested in pursuing both objectives. This disinterest is expressed strongly in the fact that over 11 percent of the family waqfs in Tripoli designate “future children” as the primary beneficiaries, even though the endowers had no children at the time these endowments were registered in court. This is to be compared to only one such case (.7 percent) in Nablus. In addition, only 8 out of the 19 such endowments in Tripoli designated relatives as beneficiaries in case no children are produced; and 4 of these 8 specified relatives on the maternal, not paternal side of the family as next in line. There is no escaping the conclusion that most waqf endowers in Tripoli exhibit a strong commitment to a pluralistic and less competitive vision of family life when the ideal community is seen as one consisting of mostly conjugal families and where children—whether male, female, or even non-existing—have a priority of access to property over all others.⁶³

Beneficiary Patterns in Nablus

Such a commitment would have seemed naïve, if not alien, to most Nablusis who endowed family waqfs, males and females alike. In Nablus, Pattern Three was the most widely used strategy (60.1 percent) to make sure that upon the endower’s death, all of the daughters’ children would be excluded, although the daughters themselves would receive the share allotted to them by Islamic law. Even then, almost all waqfs which designate this pattern attach a condition that daughters are allowed access to the waqf (such as the right to live in the endowed residence) only if they were unmarried, widowed, or divorced.⁶⁴ Upon the daughters’ marriage or death, whatever came first, their shares would revert to a pool of beneficiaries composed of the surviving sons and their male descendants.

Unfortunately for Nablusi women, at least those from well-to-do families, their rights in waqf endowments were restricted even further with the passage of time. Thus, Pattern Four, which excludes the endower’s own female children by designating only sons and their direct male descendants as the sole beneficiaries, became more widely used: Of the 36 waqfs that followed this pattern, only 3 were endowed prior to 1830. Thus, unlike in Tripoli where it

⁶³ This situation may not be unique to Tripoli. In a study of a sample of 500 waqfs in mid-sixteenth-century Istanbul, Baer found that only 28 endowments contained “discriminating conditions” against women (Baer, “Women and Waqf,” 20).

⁶⁴ In Tripoli, a woman who endowed a residence applied this condition to her husband (TICR, 54:96).

was tempered by what seems to have been a genuine concern about the rights and long-term well-being of female children, the cultural ideal expressed by the prevalence of Patterns Three and Four in Nablus is that of a family in which daughters are more akin to temporary residents than permanent kin. Put differently, this ideal family is one characterized by a strong solidarity between father and son, between first paternal male cousins, and between paternal uncles and nephews. The commitment of resources is not to the full conjugal family (as in Tripoli) nor to the broad and laterally defined extended family but, rather, to the male-only lineage of the endower's branch.⁶⁵

This ideal must be seen as operating within the context of Islamic inheritance rules which constitute a partible system of inheritance. If the research on inheritance and household structure in Europe is any guide, partible inheritance systems encourage mono-nuclear households, while non-partible ones, especially if passed within the lifetime of the father, encourage multi-nuclear households.⁶⁶ The social construction of sexual difference in relation to property transmission expressed by Patterns Three and Four can be seen, therefore, as a conscious attempt to counteract the forces pulling apart the cultural ideal of a multi-nuclear household at the expense of female members. The underlying assumption here is that providing access to waqf revenues for the offspring of female children will fragment the material base of the family; reduce the total sum of revenues accruing to the male line of the endower; and allow outsiders, through marriage to the family females, a foothold in the endower's household and undue influence on the management of these properties.

Excluding females from waqf endowments should not be viewed as a result of an ingrained Arab or Islamic cultural trait. This certainly was not the case in Tripoli; and, more important, property transmission strategies changed over time, as was the case in Nablus itself. Rather, the perception that defined productive properties as male instead of family was constructed not "natural." Therefore, it had to be continuously reaffirmed and reinforced, both by males and females, across the entire grid of daily interaction between family members and between them and the society at large.

Waqf endowments that transmitted property along Patterns Three and Four actively reinforce the construction and reaffirmation of this gender-specific perception in a number of ways. First, it militates for a corporate, male-oriented vision of what a family is or should be. The very existence of revenues to be collected and distributed establishes a network among the

⁶⁵ Although this cultural ideal of what constitutes a family was a pervasive one in Nablus, limited material means and high rates of mortality both probably made it very difficult to maintain and reproduce a stable extended family household. Thus, it probably remained out of reach for all but the well-to-do strata of leading merchant, political, and religious families.

⁶⁶ Anderson, who provides a useful summary of the literature on this issue, quite rightly notes that this formula is simplistic because there are many other factors affecting property transmission besides inheritance customs and laws, such as the way it is transmitted, the point in the endower's life cycle, and the role of family members in income generating activities (*Approaches*, 66–69).

male progeny of the endower's branch, all of whom have a personal stake in remaining informed about the constantly changing division of shares due to births and deaths as well as about the fluctuating amounts of revenues that the waqf properties generate. They also have a common material interest in justifying and legitimizing a definition of property that entitles them to monopolize the revenues of waqfs to the exclusion of their female siblings and relatives. Second, these endowments carried the force and legitimacy of a legal and religiously sanctioned document which has the potential of exerting considerable influence on the dynamics of relations between family members for generations to come. Finally, it was the learned and high-status elite as well as the wealthy and powerful notable families that most frequently attached the highly exclusionary conditions. In so doing, they set an example for others.

Waqfs characterized by patterns Three and Four, in short, set up a mechanism for the allocation of family resources which operated at the expense of the wives, daughters, and their descendants, as well as the female progeny of the male descendants of waqf endowers. This created a contradiction which generated a great deal of tension. On the one hand, females were a vital part of the household economy as managers, mediators, cultural networkers, domestic laborers, and, more often than not, as generators of income through in-house textile production. They, in cooperation with the male members, helped maintain and reproduce the household and contribute to its upward mobility. On the other hand, this contribution was rewarded by a transmission strategy that excluded them and their children from the fruits of their labor. At best, wives, daughters and sisters were only given the right to live in the residential properties as long as they were unmarried, widowed, or divorced.

The theoretically indefinite and irrevocable exclusion of females in waqf endowments that followed Patterns Three and Four, therefore, must have exacerbated the already existing fault lines of tension both between the conjugal and extended family worlds and within the male and female members of the conjugal family. Usually, these tensions were tempered by a variety of social practices and common rituals; but they simmered beneath the surface as family members positioned themselves in anticipation or adjusted themselves to the consequences of the inevitable transition.⁶⁷ At unexpected junctures, such as after the sudden death of a head of household, the simmering tensions sometimes boiled over, publicly exposing a family's internal troubles and even leading to legal action, a fact attested to by the numerous lawsuits concerning the validity of, or access rights, to family waqfs. The overwhelm-

⁶⁷ An explanation of these practices is beyond the scope of this essay, as are the reasons why women themselves participated in reproducing the gender-specific process of property transition. A detailed argument about some of these issues can be found in the introduction of Annelies Moors' *Women, Property and Islam*.

ing majority of these lawsuits pitted descendants of the male line against those of the female line.

For example, on February 14, 1849, Fattum, the daughter of Salah Abi Shamat, appeared before the Nablus Islamic court in order to sue her only son, Dawud.⁶⁸ She claimed that her son had refused to hand over her and her daughters' inheritance shares after the recent death of her husband, Sayyid Muhammad al-Ashqar al-`Aqqad. She demanded that she be given her share (one-eighth). The son replied that his father endowed all his property as a waqf with the condition that females, including his wife, only have the right to live in the family home after his death as long as they remain unmarried. The mother denied the existence of such a waqf, and the judge ordered her son to provide proof of his claim. The son could not produce the waqf deed, but he brought four male witnesses to court (even though, legally, he only needed two) who testified that what he said was true. Normally, such a testimony would have sealed the case, but in an unusual turn of events, the mother went on to challenge the credibility of the witnesses. Two of the witnesses, she said, were paternal uncles of her son who have a long record of supporting their nephew against their nieces and their sister-in-law; and, she added, their testimony was also biased because they had property and other material interests in common with their nephew. This challenge—legally permissible but rare in its candor and boldness in the annals of lawsuits recorded in the Islamic court of Nablus—directly appropriated the key cultural and material pillars of patriarchal society and used them to argue that such behavior by agnates, especially paternal uncles, is common and normal. Therefore, the witnesses, she concluded, must obviously be lying to protect their own personal interests (which, of course, they claimed to be those of the `Aqqad family) by excluding her and her daughters from their rightful inheritance. As for the other two witnesses, she successfully discredited their testimony by arguing that they are disreputable persons: builders by trade who “neither pray at the appointed [daily times] nor go to the [Friday] communal prayers” (*yatrikani al-salat fi awqatiha wa kadhalika salat al-jama`a*). The judge disqualified the witnesses and ordered a re-division of the property according to Islamic inheritance law.⁶⁹

The differences in waqf beneficiary patterns between Nablus and Tripoli underscore the variations in contemporary perceptions of family that could exist even within the discrete cultural and socioeconomic zone of Greater Syria. They also point to the social construction of sexual difference as the key variable affecting property transmission patterns. If family is understood not as a social unit but, as Netting has argued, a set of understandings governing relations between kin, then property must also not be reified as an object but,

⁶⁸ NICR 11:128–29.

⁶⁹ Not all challenges were successful, but a survey of such lawsuits in Tripoli and Nablus shows that female litigants were as likely to win as they were to lose.

rather, as the product of the social relations embedded in its movement over time and space.⁷⁰ It is the complex intertwining of these understandings and embedded social relations that accounts for the differentiation in property transmission strategies. In addition, the different patterns in the social uses of the same legal institution, the waqf, raise the issue of agency as it operated on the family level, that is, how individuals actively sought to turn their vision of what constitutes a family into reality by creating a legal document that defines the rights of access to property for future generations to come. In other words, variations reveal how family relations can be restructured from below instead of just from above.

Finally, these variations challenge the veracity of comparative analyses which take as their departure point the classificatory systems and regional patterns that students of European family history have been so busy producing and refining over the past three decades. The common reference points created by taxonomies of systems of devolution, family types, and patterns of household structures are invaluable arenas for debate and cross-fertilization; but in-depth studies of property transmission strategies must begin, as Brettell has argued, from the point of the act of transmission itself (in this case the endowment of a waqf), that is, what this act tells us about the social relations and values embedded in it. This approach, one must quickly add, can only be persuasive if it takes into account the specific historical context within which family relations were configured and reproduced.⁷¹

HISTORICAL CONTEXT: FAMILY AND PROPERTY

The paucity of available sources and the wide gaps in our knowledge about the histories of Tripoli and Nablus do not allow for a comprehensive explanation for the variations in contemporary understandings of family. Aside from a brief outline of the basic features of the two cities, the following argument limits itself to the relationship between political economy and property transmission strategies. Specifically, it focuses on how differences in the key material base of propertied families shaped attitudes towards the place of females in devolution strategies, albeit with the knowledge the argument can only be a partial and tentative one.

Both Nablus and Tripoli currently have the reputation of being conservative Sunni Muslim towns—like Homs, Hama, and Hebron—which, more so than other towns in Greater Syria, have developed a strong sense of local identity, have “preserved” many of their social customs and in which family politics remains just as, if not more important than, party politics.⁷² For most of the

⁷⁰ R. Netting, R. Wilk and E. J. Arnold, eds., *Households: Comparative and Historical Studies of the Domestic Group* (Berkeley: University of California Press, 1984).

⁷¹ Caroline B. Brettell, “Kinship and Contract: Property Transmission and Family Relations in Northwestern Portugal,” *Comparative Studies in Society and History*, 13:3 (1991), 447, 460.

⁷² It is also interesting that Tripoli and Nablus are both famous as the sweets capitals of

Ottoman period, both served as the commercial, cultural, and sometimes political capitals of the hill regions of Lebanon and Palestine which were home to the majority of peasants and small-town dwellers. Both have hinterlands which include large concentrations of olive trees and are famous for the soap made out of their olive oil. Both also were important centers for textile production, and their merchant communities administered extensive regional trade networks. Their orientation towards the interior might explain why the inhabitants of both used to refer to their city as “Little Damascus” (*Dimashq al-sughra*) in order to sum up the dominant cultural environment.⁷³ Finally, both cities were increasingly marginalized over the course of the nineteenth century by the rapid growth of formerly subservient coastal towns—Jaffa, Haifa, and Beirut—into major cosmopolitan cities that became the dominant commercial and cultural centers of the region.

Size, location, administrative status, the degree of political autonomy under the umbrella of Ottoman rule and demographic composition, however, are key differentiating characteristics. If plotted on an urban–rural spectrum, these characteristics would place Tripoli closer to a city and Nablus closer to a country town that is very much influenced by the surrounding rural area. Even a cursory comparison of panoramic views—one from the Citadel in Tripoli and the other from the top of Mount Jerzim in Nablus—show that the old city of the former is at least one-third larger than that of the latter. Of course, both cities were much smaller than Damascus and Aleppo. Still, Tripoli’s population was significantly larger than that of Nablus. There are no reliable statistics, but a reasonable estimation is that roughly 35,000 people lived in the former in the late nineteenth century, compared to about 25,000 in the latter.⁷⁴

The strategic coastal location of Tripoli helped it to become the seat of an Ottoman province during the sixteenth and seventeenth centuries, though it was later demoted and attached to the province of Damascus, then that of

Lebanon and Palestine, respectively; that in both smoking water pipes was and continues to be very popular, even among the young; and that both have long been the butt of numerous jokes about homosexual behavior.

⁷³ For Tripoli, see Tamimi and Bahjat, *Wilayat Beirut*, II:202, 204. As for Nablus, this phrase is still used among the older generation as of this writing.

⁷⁴ About 20,000 people lived in Nablus around 1850, and their numbers grew very slowly afterwards. For details, see Beshara Doumani, “The Political Economy of Census Counts: Jabal Nablus, circa 1850,” *International Journal of Middle East Studies*, 26 (1994), 1–17. The information for Tripoli includes the port district known as Mina—located about three kilometers from the center of Tripoli proper—and was taken from the figures provided by Tamimi and Bahjat, *Wilayat Beirut*, II:191–92. Also for Tripoli see Table 1 in John Gulick, *Tripoli: A Modern Arab City* (Cambridge: Harvard University Press, 1967), 31. None of the figures can be considered accurate but suffice as rough approximations. We cannot even begin to guess the size of each city’s population around 1800, other than they were probably smaller, since there was a general increase in population throughout the region during the nineteenth century. The process and pace of demographic change was not the same, however. As a general rule, the populations of hill cities are historically stable and change at a slow pace; while those of the coastal cities witness radical and rapid fluctuation. It is probably not a coincidence that the number of waqf endowments in Tripoli is larger than that of Nablus in about the same proportion as the difference in population.

Beirut. In contrast, Nablus, ensconced within the folding hills of the Palestinian interior, never achieved a political status higher than a district (*sanjaq*) throughout the Ottoman period. The administrative boundaries of Tripoli were also larger and contained more than twice as many villages as the district of Nablus.⁷⁵ Finally, both enjoyed a significant degree of autonomy; but, with few exceptions, Tripoli was usually ruled by foreign governors appointed by the central government in Istanbul. Nablus, on the other hand, was ruled by native sons until 1860.⁷⁶ Generally speaking, the political environment of Nablus was more decentralized and less stable than that of Tripoli, because its hinterland was home to a number of powerful political families who controlled peasant militias and whose support was crucial to the political fortunes of urban-based ruling families. In contrast, Tripoli was more tightly integrated into the institutions of Ottoman rule and its population as a whole was more exposed to the political practices and ideas emanating from the empire's capital.

Even more important, Tripoli's population was and still is far more heterogeneous and cosmopolitan than that of Nablus for four important reasons. First, there are the more numerous and prolonged contacts with European, Greek, Cypriote, and other non-Arab communities that either lived in or frequented this coastal city, especially the port district (Mina). Second, roughly a fifth of the population of Tripoli was Christian; Nablus, by comparison, had only several dozen non-Sunni Muslim families (Greek Orthodox Christians and a small community, roughly 200 individuals, of Samaritans).⁷⁷ In addition, the hinterland of Tripoli included dozens of Christian, Druze, Shi'ite, and Alawite villages. In contrast, the population of Nablus's hinterland, like the city, was homogeneous: almost all Sunni Muslim. Third, the Maronite church in Mount Lebanon was richly endowed and a key political player by the late eighteenth century. Its monasteries, churches, and schools controlled large swaths of the hinterland and exerted a powerful economic, religious, and cultural influence that affected all the inhabitants of this region. No similar

⁷⁵ The hinterland of Nablus contained about 250 to 300 villages, though the number fluctuated, depending on the time period in question. The hinterland of the district of Tripoli during the First World War contained 802 villages. For Tripoli, see Tamimi and Bahjat, *Wilayat Beirut*, II:184.

⁷⁶ For a discussion of the meanings of autonomy in Nablus, see Doumani, *Rediscovering Palestine*, ch. 1.

⁷⁷ According to official Ottoman figures from the year 1905, 80 percent of the Christian community of Tripoli was composed of Greek Orthodox, with about 17 percent of Maronites and the rest distributed between Latins, Greek Catholics, and Protestants. There were also 72 Jews. Details can be found in Tamimi and Bahjat, *Wilayat Beirut*, II:192. Also see Table 4 in Gulick, *Tripoli*, 45. There were only 8 waqfs by Christians (all from Tripoli), so no conclusions can be drawn about whether the Christian community followed a different pattern of property transmission from the Muslim one. It is worth noting, however, that 4 were mixed waqfs for the benefit of monasteries (TICR 29:171; 30:187; 33:252; 61:40); 3 were typical Pattern Two waqfs (TICR 46:96; 50:166; 62:233); and the last was the only one in Tripoli which designated the male line as the sole beneficiary (TICR, 47:54).

religious institution existed in the hinterlands of Nablus. Finally, European missionary activity was vigorous in the Tripoli region, especially after the 1830s, as attested to by the large number of missionary-run schools, orphanages and churches, both in the city and in the villages. In the Nablus region this activity was virtually non-existent.⁷⁸

There is no doubt that the culturally more diverse environment of the Tripoli region informed contemporary perceptions of the family. Unfortunately, the court records for this period have very little to say about how and in what ways. Until further research sheds light on these issues, there are no evident connections between exposure to a variety of world views, on the one hand, and differences in patterns of property transmission strategies, on the other. The conventional argument, for example, that the variations in these strategies are due to the more “open” and “modern” culture of Tripoli versus the “closed” and “traditional” environment of Nablus not only remains to be substantiated but is also loaded with the assumptions of Orientalist and classical Modernization narratives.

There is, however, a clear and tangible variance in the key material base of propertied families in Tripoli and Nablus which shaped their respective world views and which, in turn, partially accounts for the differences in the social composition of waqf endowers, the types of properties endowed, and for the almost opposing choices these endowers made when composing the conditions under which these waqfs were to be administered. In Tripoli, the majority of propertied families relied on ownership of, and access rights to, the mostly irrigated fruit orchards, olive and mulberry groves, vegetable gardens, and vineyards—all of which were located within the perimeter of the city and, a crucial point, had the status of private personal property (*milk*). That is, like houses, shops, and factories in the city, these agricultural properties could be bought, sold, endowed as waqf, leased, rented, and so on.

To say that the major economic activity of the propertied urban population in Tripoli revolved around agriculture—or more accurately, horticulture—might sound like a contradiction in terms. Yet every city and town in Greater Syria is virtually surrounded by what one might call the “green perimeter,” usually consisting of various trees and irrigated gardens that are privately owned by urban dwellers.⁷⁹ The most famous is the Ghuta of Damascus whose lore in recent times has increased in inverse proportion to its devastation by this capital’s rapidly growing suburbs and major thoroughfares. The

⁷⁸ For example, of the 76 schools in Tripoli at the turn of the twentieth century, only 31 were government run, the rest being privately funded, mostly by missionary organizations and local churches (Tamimi and Bahjat, *Wilayat Beirut*, II:192, 238).

⁷⁹ The complex web of ownership in the green perimeter (ownership was fragmented into thousands of small plots, most of which were jointly owned, to boot) has provided social and economic historians with valuable information about the changing power structures, family networks, and economic relations in the region as a whole. See, for example, the carefully researched article by Jim Reilly, “Rural Waqfs of Ottoman Damascus.”

green perimeter of Tripoli is composed primarily of large stretches of citrus orchards irrigated by a complex network of canals (the basic infrastructure of which is located underground and dates to the Roman period) fed by the Abu `Ali river which runs through the city into the sea.⁸⁰ Consequently, this perimeter is many times larger and much more productive and profitable than the one in Nablus. The latter consists largely of rain-fed olive groves squeezed in a narrow and fairly short valley between two steeped-sloped mountains which forced the city to take an elongated rectangular shape. Hence, the observation of Tamimi and Bahjat, made in 1916, that “the term middle [class] in Tripoli means those agriculturists (*zurra`*) who are the owners of orchards and the traders in citrus.”⁸¹ This class, they continue, constitutes the overwhelming majority of Tripoli’s population, the rest belonging to a small number of “working poor” and a few rich “merchant” families.⁸² The importance of this sector can be seen in the types of property endowed: Some 40.3 percent of the total number of waqfs established in Tripoli endowed solely agricultural properties as compared to only 4.3 percent for Nablus.

The high productivity and profitability of the green perimeter imparted a stability and continuity to the socio-economic life of the city because it constituted a material buffer from the power struggles and economic upheavals of the rural areas. Perhaps this is why, unlike the case for Nablus, no discernible change in patterns of property transmission or in the social base of endowers

⁸⁰ Fu`ad A. Bustani, ed., *Lubnan: mabahith `ilmiyya wa ijtimaiyya*, vol. 1:27 (Lebanon: Scientific and Social Studies); (Beirut: Lebanese University, 1969). This book was originally published in 1918 by a committee of scholars under the direction of the governor of Mt. Lebanon at the time, Isma`il Haqqi Beik.

⁸¹ Tamimi and Bahjat, *Wilayat Beirut*, II:227. In the early twentieth century, the citrus orchards (*basatin al-laymun*), according to Tamimi and Bahjat, occupied 2,500 *feddans* (one feddan equals one-fourth of an acre), each worth between 20,000 to 25,000 Piasters. Prior to the outbreak of the First World War, Tripoli exported an average of 400,000 boxes of citrus fruit yearly to Istanbul, Rumania, Russia, with roughly half that number going to Beirut, Hama, Homs, and other towns in Greater Syria. Olive groves occupied about the same area as citrus fruit—approximately 2,500 *feddans*, but each grove was worth about 5,000 Piasters—or one-quarter to one-fifth the value of a citrus orchard (*Wilayat Beirut*, II:217). Writing in the mid-1960s, Gulick argues that citrus orchards are far more important than the olive groves. The latter, he notes, occupy only “5.4 percent of the area and are actually merely an extension of the groves of the contiguous Zgharta and Kura plains which comprise the major olive-growing region of Lebanon” (*Tripoli*, 95). There is no doubt about the centrality of the citrus tree, but the above statistics should not be accepted at face value for two reasons. First, they rely on contemporary informers and not on a systematic land survey. Second and more important, the citrus industry entered its golden age after the mid-nineteenth century due to the changing strategies of investment precipitated by two developments: the successful marketing and commercial export of the Jaffa orange to Britain, which greatly encouraged the overseas export of citrus products from the Lebanese coast (Bustami, *Mabahith*, vol. 2:395–96); and the decline of the silk industry (based on the Mulberry tree) beginning in the 1860s. It is not clear, therefore, what the percentage of land devoted to citrus orchards was prior to late nineteenth century.

⁸² They claim that the poor number about 3,000 or 15 percent of the population, while the rich constitute only a dozen families. The very size of the middle class, they argue, gives them hope for economic future of Tripoli (*Ibid.*, II:224–27). The “rich,” they claim, make most of their profits from money lending, soap and silk manufacturing, and the trade in grains and sheep.

could be detected for the 1800–60 period. Patterns One and Two were equally likely in any given year, and the percentage of female-endowed waqfs is evenly spread: Some 62 percent of all waqfs in general and 63 percent of all waqfs by females were endowed prior to 1830.

The legal status of properties in the green perimeter and their centrality to the political economy of the city bode well for female members of propertied families. Since the fruit orchards and olive groves had the status of *milk*, or private property, a significant proportion of them literally fell into the hands of women through inheritance, marriage, and purchase (mostly from relatives). Just as important, this type of property was amenable to active management from a distance. That is, even if women did not leave their homes, all that was really required was the collection of rent and the sale of harvests to large merchants. In other words, access and ownership were supplemented by real opportunities for control. Combined, these factors help explain why women in Tripoli had the social weight to participate in almost equal numbers as men in the endowment of waqfs and, in dialectical fashion, to shape contemporary understandings of what constitutes a family.

In contrast, the key source of wealth in Nablus during this period was access to, and control of, the rural surplus (mostly olive oil, grains, legumes, and cotton). This surplus was produced in the dry belt of peasant-held lands that legally belonged to the Ottoman State (*miri* land).⁸³ These lands could not be bought and sold (though they often were among peasants themselves); and, just as important, there were few incentives for urban merchants to purchase these lands before the 1860s. Thus, the field of activity that absorbed the energies of most propertied families was the administration of, and participation in, local moneylending and trade networks which appropriated this surplus and channeled it into the city for processing and marketing.⁸⁴

Women were virtually shut out of these networks but not because of the nature of trade and commerce as such. Indeed, Nablusi women have long been involved in commercial and other economic activities. Lists of debts in inheritance estates, for example, show that women were active moneylenders—albeit within the urban sphere and mostly to relatives—and many women owned shares in houses, shops, and manufacturing establishments. Rather, they were shut out because these networks were constructed and reproduced in a decentralized political environment characterized by multiple territorially based centers of power and subject to frequent upheavals. To operate effectively, these networks necessitated a degree of personal mobility and political participation in non-kin patron–client relations that were out of reach of most

⁸³ Peasants had the right of usufruct. That is, the right to pass their lands to their children as long as they did not neglect it for a period exceeding three years. Until the early twentieth century, only male children had the right to inherit; daughters could inherit only in the absence of male heirs.

⁸⁴ For a detailed analysis of merchant access to peasant lands and of local trade networks, see Doumani, *Rediscovering Palestine*, chs. 2 and 4.

women. Merchants, for example, systematically cultivated personal connections with the male heads of peasant households located in villages near and far, often by participating in public rituals and by exchanging gifts. This involved frequent travel into the countryside by (male) merchants and their agents in order to gather information, collect debts, attend weddings, and to pay respects. It also involved a whole range of services by merchants to peasants when they visited the city such as providing them with food and shelter for the length of their stay, guaranteeing their purchases on credit from other merchants, storing their goods, intervening on their behalf with the authorities, and so on. These networks also required a constant reinforcement of alliances with powerful political families, both urban and rural, that controlled peasant militias and neighborhood strongmen.

Since merchant families were unable or unwilling to purchase and directly manage lands in the dry belt, each sought to carve a territorial sphere of influence in the countryside through the construction of a shared historical memory with particular clans and villages and through the accumulation of a reputation for honesty, trust, piety, and effective networking in the urban sphere on behalf of peasant families. Not surprisingly, these networks were highly competitive, and successful ones took generations to plant roots. All these factors encouraged the concentration of family resources and a strong emphasis on the subordination of household members into a strict and gender-determined hierarchy, often at the expense of children who were legally minors and women. Concentration and discipline were seen, it seems, as the best ways to ensure the successful transmission of a network or one's place in it from one generation to the next.

Changes in the political economy of Nablus militated for even more exclusionary and discriminatory practices against vulnerable family members. Briefly put, starting in the 1820s provincial merchants had to compete far more vigorously for access and control of the rural surplus with each other, with a rising wave of foreign merchants and their local allies in the coastal cities, and with a centralizing Ottoman state—the latter two eager to deepen their involvement in the interior regions. This put even greater pressures on merchant families to concentrate property in male hands in order to increase their operating capital.⁸⁵ Three trends in the waqf endowments of Nablus illustrate the impact of this development. First, already discussed, was the much more frequent resort to Pattern Four. Second, the number of female endowers in Nablus declined precipitously over time: Thirteen of the 16 endowments by women are dated prior to 1822, with the last one dated 1844. Third, joint endowments by brothers or close agnates, such as first paternal cousins, increased in Nablus during this period.⁸⁶ Of 19 such waqfs (14

⁸⁵ For details, see Doumani, *Rediscovering Palestine*, ch. 3.

⁸⁶ Most likely, there was also a corresponding shift in marriage strategies, something that has yet to be documented.

percent of the total number of waqfs), 15 were endowed after 1830, almost all by leading merchants and religious figures.⁸⁷ In contrast, there was only one such waqf in Tripoli (.5 percent) for the entire period.⁸⁸

Joint waqfs by agnates were clearly designed to concentrate the material base of an extended family in the hands of leading males and their male descendants. For example, one of the most impressive and relentless drives to establish a highly centralized family “firm” using joint family waqfs by agnates in Nablus took place within the Bishtawi family. It began in 1842 and played itself out over an 18-year period during which a series of 4 such waqfs were established.⁸⁹ The first 3 were jointly endowed by two brothers, As`ad and Sa`id Bishtawi, both referred to in the documents as the Pride of Dignified Merchants. In the first waqf, dated August 1842, As`ad and Sa`id endowed what must have been the entire range of property that they inherited, purchased, and built after their father’s death. These properties—a great example of the care with which merchants during this period put together a diverse portfolio—include their shares of the joint residence that was established by their grandfather and in which they now lived as joint heads of a large extended family household; a soap factory; an entire commercial center (Wiakala al-`Asaliyya); a coffee house, and dozens of warehouses, shops, gardens, fruit orchards, and olive groves. The two brothers expanded their commonly held residential space and commercial properties by the time they endowed the next two joint family waqfs. Combined, these waqfs dated July 23, 1856, and Oct. 21, 1856, respectively, were even larger than the first. They included shares of 2 more large houses, another soap factory, 6 warehouses in the best commercial district of the city, 3 mills, 7 shops, and dozens of agricultural properties, mostly olive groves, in the “green perimeter.”

The degree of concentration was such that when the older brother, As`ad, died, the probate inventory registered on July 2, 1857, shows that the two brothers jointly owned all types of property including personal property such as furniture, household items and even the clothes that they wore.⁹⁰ More important, As`ad was immediately succeeded by his oldest son, Hajj Yusuf, who, even prior to his father’s death, appeared in court and secured himself as the legal representative of his two sisters and as the guardian of his male siblings, the latter still in their legal minority. Then, without missing a beat,

⁸⁷ NICR 6:304, 348; 8:140, 287; 9:52, 107–08, 215–17, 323, 386–88; 10:48, 56, 83–85, 98; 11:72–74, 104–05; 12:162–65, 180–82, 190–92, 331–34. It is important to note, however, that this number is inflated because it includes two sets of four waqfs, each by leading members of the Jurri and Bishtawi families.

⁸⁸ TICR, 43:196. Significantly, this happens to be one of the rare waqfs that the villagers did endow and register in the Islamic courts. In this case, three brothers from Qalamon village immediately converted into a joint waqf the properties they just inherited, by right of nearest agnates (*ta`assub*) from their recently deceased paternal uncle (their father had been dead for sometime, and their uncle only had female children, so they received one-third of his properties).

⁸⁹ NICR 10:83–85; 12:162–65, 180–82, 331–34, in chronological order.

⁹⁰ NICR 12:205–06.

Hajj Yusuf and his uncle continued the program of joint purchases of properties including the shares of female siblings and poorer relatives not yet endowed.⁹¹ Three years later, on June 25, 1860, Yusuf and his uncle jointly endowed over fifty newly acquired properties, mostly olive groves used to provide raw materials for their soap factories.

Throughout this entire period, the property transmission strategy of the Bishtawi family firm never wavered. The first in line were, of course, the joint-endowers, one-half each, then, after them, their male children only, again one-half each; then to the male children of their male children and so on. The females of the family were given the right to live in the residential properties as long as they remained unmarried. After the extinction of the male line of descent, the female children of the endowers' male descendants were designated as the next level of beneficiaries and, after them, the male and female children of the endower's female children. In other words, the endowers' own female children were completely excluded; and their progeny was even superseded by the female progeny of the endowers' sons.

CONCLUSION

Although aware of important differences in the political economies and cultural environment of these two provincial urban centers in Greater Syria, I was truly surprised to discover that family waqf endowments revealed such fundamentally opposing patterns of property transmission strategies. True, there is an underlying similarity in that the basic thrust of these strategies is for lineal, as opposed to lateral, transmission, so that even those relatives—such as parents, spouses, and close agnates—who had a right to inherit according to Islamic law were effectively excluded. Beyond that, however, it is clear that the propertied strata of Nablus and Tripoli, when it comes to the social construction of property and sexual difference, endowed their families on the basis of different visions. Generally speaking, those who transmitted property through waqf endowments in Nablus excluded the female line of descent, which was included in Tripoli. When it comes to constructing the meanings of family and property, therefore, sexual difference, at least in Nablus, is the most important factor in setting the parameters within which an individual there negotiated between the worlds of conjugal and extended family relationships.

It seems that the cultural ideal of the family that waqf endowers attempted to write into reality in Nablus was that of a corporate entity whose logic puts a high premium on keeping the material base of the family within the male line or, more accurately, within the hands of the senior males of a single branch. The branch, more so than the conjugal unit, is seen to be the primary object of an individual family member's loyalty. Since females were transmitters of

⁹¹ Some examples of these purchases can be found in NICR 12:73, 208, 216, 218, 229–31, 235–36, 263.

property, they were considered transitory members of the household and seen as the Achilles Heel of this corporate unit. Unless excluded, females posed the danger of fragmenting the material base of the family, hence undermining its struggle for upward social mobility. This zero-sum logic became even more sharp edged with the passage of time: The more exclusionary Pattern Four became more widely used; joint waqfs by agnates increased; and waqfs endowed by women disappeared altogether.

In Tripoli, priority was given to the conjugal family, and the property transmission strategies were much more pluralistic, non-competitive and, to a significant extent, egalitarian than those of Nablus. The waqf endowments not only do not exclude females, but a significant proportion of them designated females as the primary beneficiaries, with close to a third of the total number of family waqfs even going beyond Islamic inheritance law by requiring that males and females receive equal shares. The emphasis on the conjugal family was such that over a tenth of the endowers named their future children as the primary beneficiaries, even though they had none at the time of the endowment.

Another way to express this difference between the two cities is to consider the opposing attitudes towards what, especially in Nablus, were perceived to be the divided loyalties and multiple commitments of women. Women, more so than men, are the linchpins that connect the many family worlds to which an individual belongs: They usually relocate to their husband's place of residence, thus becoming part of another family and a separate household; they participate in informal networks which actively manage inter- and intra-family relations; and, perhaps most important of all, they are (and have been long before their sisters in Europe) legally entitled to inherit and hold property in their name. Of course, males were also torn between competing loyalties and commitments to their conjugal and extended family worlds; and, more so than females, their situation was complicated by the many non-kin family worlds they belonged to as a consequence of their enmeshment in patron-client relations. Nevertheless, when it comes to property transmission and the inner-workings of a household economy, men and their male progeny remained, in a sense, share-holding members of the patrilineal extended family. In contrast, marriage and childbearing for women virtually ensures that the fruits of their labor (reproductive, domestic and income generating) as well as their property holdings will both flow into the coffers of another family/household. This means that they not only bring family worlds together; they also, at the same time, act as conduits for the transfer of property from one family world to the next. It is precisely this conduit that the waqf endowments of Nablus sought to close while those of Tripoli attempted to keep it open.

The political economy argument used to explain this divergence, that is, the differences in the key material base of propertied families, remains tentative and partial because it does not take into account a variety of other factors,

especially cultural ones which await further study. In addition, the institution of waqf is only one element of the overall system of property devolution. A study of other strategies—especially marriage patterns—are needed before definite conclusions can be reached regarding contemporary perceptions of family and property.⁹² Thus, the very problematic of a fundamental opposition in property transmission strategies might be overexaggerated by the sources used. Also, there is a measure of tautology, tension, and uncertainty built into these arguments—an inevitable by-product, perhaps, of any attempt to investigate and historicize the relationship between cultural ideal, agency and praxis, and legal discourse. The degree of significance that one attaches to the differences in the property transmission strategies of these two cities, therefore, depends on the degree of causal importance one assigns to the contingencies of history versus the ingrained cultural systems of meanings developed over the centuries as well as to the internal logic of an entrenched legal and cultural institution, the waqf, which has its own language and legal codes.

Keeping these qualifications in mind, I would still conclude that the very flexibility of waqf endowments as a tool for customizing property transmission strategies means that they can be relied on as sensitive barometers of the relationship between political economy and family life and of changes in that relationship over time. Therefore, perhaps the most important finding of this investigation is that Greater Syria during the Ottoman period probably contained a variety of ways in which family life was understood, organized, and reproduced. It would be a serious underestimation of the rich history of the region as well as of the agency of the population in the historical process to insist on a monolithic model of what family life must have been like and then shelve it under the category of being traditional. As we have seen, even fairly similar provincial urban centers, both called “Little Damascus” by their own populations, constructed different notions, at least during most of the nineteenth century, of kinship, property, and sexual difference.

⁹² It would be important to find out, for example, if marriage patterns differed as profoundly as waqf beneficiary patterns? I suspect that in Tripoli, unlike in Nablus, the attitude towards marriage was “what goes around comes around.” That is, if daughters and their progeny are not excluded, then what families lose through attrition when females marry and relocate (assuming that females marry within the same class) is balanced by accumulation when females from other families bring their property or access rights to waqf revenues with them. Unfortunately, marriage contracts are extremely rare in the Tripoli and Nablus Islamic court records, and a study of this issue through other sources is beyond the scope of this essay.