

Shiite Survival in Ottoman Aleppo

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

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Abstract

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

Keywords

Shiism – Aleppo – Aḥmad al-Zuhrāwī – Bahā' al-Dīn al-Zuhrāwī

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

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

1 There is of course a vast bibliography on the various juridical and socio-economic aspects of the *waqf* institution. I refer the reader to the long and detailed entry Peters, R., s.v. “Wakf”,

What follows is primarily a translation of a specific case with the hope of contributing to the well-established scholarship dealing with *waqf* documents.² But it also intends to point out the religious peculiarity of this particular *waqf* deed because it must be understood in the context of the long – albeit at times obscure – Shiite presence in what was and had been a predominantly Sunnite city. Indeed, the document is worthy of attention because it gives us evidence of the resilience of Twelver Shiism in an overwhelming Ottoman Sunni environment. Here we see that the assets and specific stipulations included in the endowment reveal the patrimonial strategies of a typical Aleppine notable clan. Additionally, the document provides a key to the biographies and personal careers of the two donors.

As the main concern of the present article is one particular *waqf* deed, the reader is directed to other sources on the history of this notable family, the Banū Zuhra/Zuhrāwī.³ Therefore only a short discussion of Shiism in Aleppo is necessary here.

*ET*², XI (2002): pp. 59-99; Baer, G., “The Waqf as a Prop for the Social System”, *Islamic Law and Society*, IV (1997): pp. 264-97.

- 2 I will limit myself to quoting a few examples from what is a rather extensive list of such contributions: Simsar, M.A., *The Waqfiyya of Ahmed Pasha* (Philadelphia: University of Philadelphia Press, 1940); Panetta, E., “Una waqfiyya hanafita del XVIII secolo”, *AIÓN*, III (1949): pp. 315-30; Munajjed, S., *L’Acte de waqf du qādī ‘Uthmān b. al-Munağğā* (Damas: IFD, 1949); Vajda, G., “Un act de waqf de Maras”, *Oriens*, V (1952): pp. 47-59; Vesely, R., “Trois certificats délivrés pour les fondations pieuses en Egypte au XVI^e siècle”, *Oriens*, XXI-XXII (1968-69): pp. 248-99; Sourdel-Thomine, J. and Sourdel, D., “Biens foncières constitués en waqf en Syrie Fatimide pour une famille de Sharifs Damasains”, *JESHO*, XV (1972): pp. 269-96; Muhammad Amin, N., “Un acte de fondation de waqf par une Chrétienne (X^e siècle h./XVI^e s. chr.)”, *JESHO*, XVIII/1 (1975): pp. 43-52; Abdel-Nour, A., *Étude sur deux actes de waqf du 16^e et 17^e siècles des wilayet de Damas et de Sayda* (Ph.D. dissertation, Paris, 1976); Abdul Tawab, A. NS Raymond, André, “La waqfiyya de Muṣṭafā Ğa’far”, *Annales Islamologiques*, xiv (1978): pp. 177-93; Creelius, D., “The waqfiyya of Muḥammad Bey Abū al-Dhahab”, *Journal of the American Research Center in Egypt*, xv (1978): pp. 83-105; Pascual, J.P., *Damas à la fin du 16^e siècles d’après trois actes de waqf ottomans* (Damas: IFEAD, 1983); Richards, D.S., “A Damascus Scroll Relating to a waqf for the Yūnusiyya”, *JRAS*, CXXII/2 (1990): pp. 267-81; Tate, J., *Une waqfiyya du XVIII^e siècle à Alep. La Waqfiyya d’al-Ḥāğğ Mūsā al-Amūrī*, (Damas: IFEAD, 1990).
- 3 For a general overview of Shiism in Aleppo see Soberheim, M., “Die Shī’a in Aleppo”, *Der Islam*, VI (1915): pp. 95-7; Khayat, H.M., “The Si’ite Rebellions in Aleppo in the 6th AH/12th AD Century”, *Rivista degli Studi Orientali*, XLVI (1971): pp. 167-95; Naṣrallāh, I. *Ḥalab wa l-Taṣayyu’* (Bayrūt: Mu’assasa al-Wafā’, 1983); Scarcia Amoretti, B., “A proposito della comunità imamita contemporanea di Siria”, *OM*, III (1984): pp. 193-201; Salati, M., *Ascesa e caduta di una famiglia di Aṣrāf sciīti di Aleppo: I Zuhrāwī o Zuhrāzāda (1600-1700)* (Roma: Istituto per l’Oriente “C.A. Nallino”, 1992): pp. 10-18, 55-65 (Arabic translation, *Āl-Zuhrāwī, Irtiqā’ wa iktifā’*

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

'ā'ila min ašrāf wa nuqabā' Ḥalab, *al-Zuhrāwīyyūn aw Zuhrāzāda, 1600-1700*, Homs: 2007); Id., "Toleration, Persecution, and Local Realities: Observations on Shiism in the Holy Places and the Bilād al-Shām", in *La Šī'a nell'Impero Ottomano* (Roma: Accademia dei Lincei, 1993): pp. 121-148; Id., "Šī'ism in Ottoman Syria: A Document from the Qādī-Court of Aleppo (963/1555)", *ES*, 1.1 (2002): pp. 77-84. On the Zuhrāwīs in particular see below footnote n. 12. See also, Douwes, D., *The Ottomans in Syria: a history of justice and oppression* (London: I.B. Tauris, 2000); Winter, S., *The Shiites of Lebanon under Ottoman Rule, 1516-1788* (Cambridge: Cambridge University Press, 2010); Id., *History of the 'Alawis from medieval Aleppo to the Turkish republic* (Princeton: Princeton University Press, 2016).

- 4 The shrine (*mašhad*) dedicated to al-Ḥusayn was erected on the site where it was believed that a few drops of his blood had fallen during the passage of his body on the way to Damascus. The shrine of Muḥassin/Muḥsin commemorated the tragic, albeit obscure, event of Fatima's miscarriage. See Massignon, L., s.v. "al-Muḥassin", *EF*: VII (1995): p. 468; Sauvaget, J., "Deux sanctuaires chiites à Alep", *Syria*, IX/3 (1928): pp. 225-37, IX/4 (1928): pp. 320-7; Soberheim, M., "Das Heiligtum Šayḥ Muḥassin in Aleppo", in *Mélanges H. Deremborg* (Paris: 1940): pp. 379-90; Herzfeld, E., *Materiaux pour un Corpus Inscriptorium Arabicarum: deuxième partie: Syrie du Nord – Inscriptions et monuments d'Alep*, I-II (Le Caire: IFAO, 1954); Mulder, S., *The Architecture of Coexistence: Sunnis, Shi'is, and the Shrines of the 'Alids in the Medieval Levant* (Ph.D. dissertation, University of Pennsylvania, 2008): pp. 61-95; Id., *The Shrines of the 'Alids in Medieval Syria: Sunnis, Shi'is, and the Architecture of Coexistence* (Edinburgh: Edinburgh Series in Islamic Art, 2014); Allen, T., *Ayyubid architecture*, online publication, 2009, chap. 4-5 (<http://www.sonic.net/~tallen/palmtree/ayyarch/>; retrieved January 2017).

Up until the Mamluk era, Aleppo drew the attention of historians and chroniclers for the presence of a significant Shiite community that included a considerable number of religious scholars, among them the Banū Zuhra. This family clan, the progeny of the celebrated Shiite Imām Ja'far al-Ṣādiq descending from his son Ishāq al-Mu'tamin,⁵ had settled in Aleppo from the region of Ḥarrān in northern Mesopotamia around the second half of the 10th century. It is possible that this move had been encouraged by the pro-Shiite Aleppan rulers at the time. In a relatively short period the Banū Zuhra managed to become an essential component of the city's influential leadership. This is revealed in a number of developments: the appointment of several members of the clan to top positions in the city's administration and their virtually uninterrupted incumbency as head (*naqīb*) of the fast-growing segment of the population claiming descent from the Prophet (*al-aṣrāf*).⁶ The number of buildings and sites associated with them also attests to their eminence.⁷

The advent of the Mamluks in the second half of the 13th century heralded a marked decline for the Banū Zuhra in particular and the Aleppine Shiites in general. The diminishing number of entries for them in biographical repertoires and local chronicles, coupled with the relocation of some of them to the countryside⁸ and the realignment of several others to Sunnism of the Shafiite persuasion, is clear evidence that the times had changed for the followers of

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- 5 See Salati, *Ascesa e caduta*: p. 10. This Ishāq al-Mu'tamin was married to Nafisa bt. al-Ḥasan who eventually acquired much greater fame as one of the most venerated holy figures in Cairo.
 - 6 For the biographical entries on the Banū Zuhra see Salati, *Ascesa e caduta*: pp. 129-39. On the *niqāba al-aṣrāf* and the *aṣrāf* in general see Havemann, A., s.v. "Naḳīb al-Ashrāf", *ET*², VII (1993): pp. 926-7; Morimoto, K. (ed.), *Sayyids and Sharifs in Muslim Societies: Living Links to the Prophet* (London: Routledge, 2012); Id., "A Preliminary Study on the Diffusion of the Niqāba al-Ṭālibiyyīn: Towards an Understanding of the Early Dispersal of Sayyids", in Kuroki, H. (ed.), *The Influence of Human Mobility in Muslim Societies* (London-New York-Bahrain: Routledge, 2003): pp. 3-42; Canbakal, H., "The Ottoman State and Descendants of the Prophet in Anatolia and the Balkans", *JESHO*, LII (2009): pp. 542-78. For a list of the *naqibs al-aṣrāf* of Aleppo in the 17th century see Salati, M., "Note in margine alla storiografia musulmana su Aleppo: una lista di *naqib al-aṣrāf* del XVI e XVII secolo", *Rivista degli Studi Orientali*, LXIX/3-4 (1990): pp. 381-6.
 - 7 In particular, two *madrasas*, two *masjids*, a pavilion later converted to a Sufi *zāwiya*, a graveyard next to the shrine of al-Ḥusayn, one *ḥammām*, one orchard, a walkway (*darb*), two family residences (see Salati, *Ascesa e caduta*: pp. 12-3).
 - 8 A stronghold of Syrian Shiism to this day, the village of al-Fū'a, a few kilometers east of Idlib, became a refuge for the Shiites of Aleppo, including some branches of the Banū Zuhra, early on in the Mamluk era (see Salati, M., "I villaggi imamiti della provincia di Aleppo in epoca ottomana", *Rivista degli Studi Orientali*, LXIII/4 (1989): pp. 231-55).

‘Alī and his ever-increasing offspring.⁹ Politically and otherwise the Shiites of Aleppo were thereafter disadvantaged, but they were far from extinct. It was politic to practice *taqiyya* – that is, dissimulation of one’s faith under duress. This enabled them to conform to the prevailing religious exigencies of the day while surviving. Albeit much fewer in numbers and unacknowledged, Aleppine Shiites survived into the Ottoman era, a fact alluded to and sometimes laconically recognized in the literary historical material that covers the long Ottoman rule over Syria.¹⁰

For historians, however, research in the all-important local court records (*sijillāt al-maḥākīm al-šar‘iyya*) has made it possible for us to at least partially fill the gaps in the history of the Banū Zuhra – and consequently of Shiism in Ottoman Aleppo – at least from the mid-17th to the mid-18th century.¹¹ From these we learn that in the 1630s, the Banū Zuhra reappear in the persons of two brothers, Aḥmad, the senior, and Bahā’ al-Dīn al-Zuhrāwī, or Zuhrāzāda,

9 The shift to Sunnism of several of the Banū Zuhra is clearly detectable in the biographical entries recorded in the literary sources (see Salati, *Ascesa e caduta*: pp. 129-39). This sort of connection between Shafism and Shiism, whereby the former was used by the latter as a useful cover, is intriguing but still awaits thorough investigation. In our case, this is clear from what is recorded about the first of the Banū Zuhra allegedly to arrive in Aleppo, Abū Ibrāhīm Muḥammad famous as “the much praised” (*al-namdūh*): “The people of Aleppo were all Ḥanafites and knew no other doctrine until a man arrived from ‘Iraq. Then Shafism and Shiism began to spread among the population, because they [the Shiites] make use of the doctrine of Šāfi‘ī as a cover” (al-Ṭabbāḥ, M.R., *I’lām al-nubalā bi-ta’riḫ Ḥalab al-Šahbā’* (7 vols., Ḥalab: Dār al-Qalam al‘Arabī, 1988/1408²): I, p. 446, reporting a passage of the historian Ibn al-Ḥanbalī, d. 1563).

10 Of the forty-seven entries on the Banū Zuhra recorded in the literary sources, only seven pertain to the Ottoman period. The last ones to be mentioned, with very few details, date to the first half of the 17th century (see Salati, *Ascesa e caduta*: pp. 138-139).

11 On the Ottoman Court Records, their nature and typology see Faroqhi, S., s.v. “Sidjill 3”, *EF*, IX (1997): pp. 539-45; Algunduz, A., “Shari‘ah Courts and Shari‘a Records: The Application of Islamic Law in the Ottoman Empire”, *Islamic Law & Society*, XVI (2009): pp. 202-30; Ze‘evi, D., “The Use of Ottoman Shari‘a Court Records as a Source for Middle Eastern Social History: A Reappraisal”, *Islamic Law & Society*, V (1998): pp. 35-56. For the court records of Syria see Rafeq, A.K., “The Law-Court Registers of Damascus”, in Berque, J., and Chevallier, D., (eds.), *Les Arabes par leurs Archives, XVI-XX s.* (Paris: CNRS, 1976): pp. 141-59; Marino, B., *Dalil sijillāt al-maḥākīm al-šar‘iyya/Cataloues des Registres des Tribunaux Ottomans* (Damas: IFEAD, 2000).

as they were called in these documents.¹² The list of Aḥmad's honorific titles,¹³ various administrative functions,¹⁴ diversified business activities and properties both in Aleppo and in the countryside,¹⁵ clearly qualified him a fully-fledged component of the restricted circle of urban notables.¹⁶

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- 12 See Salati, *Ascesa e caduta*: pp. 67-109; Id., "Urban Notables, Private Waqf and Capital Investment: The Case of the 17th Century Zuhrawī Family of Aleppo", *Le Waqf dans l'espace islamique. Outil de pouvoir socio-économique* (Damas: IFEAD, 1995): pp. 187-201; Id., "Nuovi documenti sui Zuhrawī/Zuhrazāda di Aleppo (1699-1710)", *Annali di Ca' Foscari*, XXXVII/3 (1998): pp. 115-53; Id., "Ancora sui Zuhrazāda/Zuhrawī di Aleppo: nuovi documenti dai tribunali sciaraitici (1706-1736)", *Annali di Ca' Foscari*, XLVI/2 (2007): pp. 73-108; Id., "Un ultimo documento sui Zuhrawīzāda di Aleppo proveniente dai registri dei tribunali sciaraitici (1169/1751)", in Bredi, D., Capezzone, L., Dahmash, W., and L. Rostagno (eds.), *Scritti in onore di Biancamaria Scarcia Amoretti* (3 vols., Roma: Edizioni Q, 2008): III, pp. 1049-55; Id., "Note in margine ai Banū Zuhra/al-Zuhrawī/Zuhrazāda di Aleppo: alcuni documenti dai tribunali sciaraitici della fine del XVII e l'inizio del XVIII secolo (1684-1701)", *Annali di Ca' Foscari*, XLIX/3 (2010 [Serie orientale, 41]): pp. 23-42; Id., "Un documento sull'uso della *ḥisba* dai registri dei tribunali sciaraitici di Aleppo (1070/1660) conservato nella Biblioteca Nazionale 'Cirillo e Metodio' di Sofia", in Papa, M., Scolart, D., and Piccinelli, G.M. (eds.), *Il Libro e la Bilancia. Scritti in memoria di Francesco Castro* (2 vols., Roma: Istituto per l'Oriente "C.A. Nallino", 2011): I, pp. 299-304; Id., "Tre documenti sull'uso della *jizya* nella Aleppo ottomana del XVII secolo", *OM*, XCIV (2014): pp. 176-85.
- 13 See for example the titles by which he is described in the *waqf* text below. The family name Zuhrawī was often translated in the Ottoman form Zuhrazāda (sometimes also Zuhrawīzāda), the Persianate *zāda* standing as *the* indicator of high status in Ottoman Syria.
- 14 As *naqīb al-ašrāf* he was entitled to manage the famous *waqf* of Ipšir Paša (established 1654), and the *waqf* for the *ašrāf* of Aleppo, which dated back to the Mamluk era. For a few years, he also held the administration of the *waqf* for the Two Holy Cities of Mecca and Medina in the province of Aleppo, and acted as *qassām 'askarī* (a court-appointed distributor of inheritance shares), two influential positions usually reserved for members of the Ottoman military class. He also received a daily salary for "reciting prayers" (*du'āji*) and was entitled to a yearly allowance from the *qāḍī*ship of Jerusalem.
- 15 See the complete list of his properties and business activities in Salati, *Ascesa e caduta*: pp. 157-8.
- 16 When dealing with the 16th and 17th centuries, as we are here, I think it is necessary to be wary of using the term *a'yān*, generally translated as either "notables" or "élite", since the term involves some ambiguity. I concur with Reilly when he points out that "the term needs to be disaggregated according to a distinction drawn by J. Clancy-Smith between "élites" and "notables" [...] Elites drew some, though not all, of their political authority from relationships with the state. Religious notables on the other hand tapped deep into other sources- sharifian descent, special piety, erudition, charity... the attributes demanded of the holy person. They wielded socio-spiritual and moral authority [...]. The respective bases of authority often were intertwined, but the basic distinction between

That the two brothers held on to the religious identity of their ancestors is something not immediately evident in the literary sources. Both al-Ġazzī and al-Ṭabbāḥ – the two early 20th century historians who dominate in the historiography of Aleppo – give only incidental information on the subject at best. The first observes that “around the year one thousand of the *hijra* the Shiites of Aleppo took to disguising themselves and behaving like Sunnis. By doing so they managed to obtain [both] the favour of the rulers and high positions, which they then secretly used to harm the Sunnis. However, after Muṣṭafā Tahazāda crushed them, they went into hiding again”.¹⁷

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

All in all, this is intriguing but far from complete and conclusive evidence of the survival of Shiism in Aleppo. Therefore, evidence from the court records, as mentioned above, allows us to clarify and augment the picture inasmuch as they present Aḥmad al-Zuhrāwī holding the leadership of the *ašrāf* – which was by all means a key position in Ottoman Aleppo – for many years in the

people of the military and scholarly/religious status is relevant to the social structure of Ottoman towns including Hama [...]. Elites owed their ascendancy to connections to the Ottoman state, forming a kind of aristocracy of service. Notables, in addition to their connection with the state, possessed autonomous cultural capital that flowed from their illustrious ancestry, their religious learning, and their association with mosques and Sufi lodges that they or their ancestors had founded” (Reilly, J., *A small town in Syria. Hama in the 18th century* (Oxford and Bern: Peter Lang, 2002): pp. 25-6, 135-6, brackets mine). See also the pioneering studies of Hourani, A., “Ottoman Reform and the Politics of Notables”, in Polk, W.R., Chambers, R.L., (eds.), *Beginnings of the Modernization in the Middle East: The Nineteenth Century* (Chicago and London: The University of Chicago Press, 1968), pp. 41-68; Schilcher, L., *Families in politics: Damascene factions and estates of the 18th and 19th centuries* (Stuttgart: F. Steiner Verlag, 1986). See also Masters, B., *The Arabs of the Ottoman Empire, 1516-1918: A Social and Cultural History* (Cambridge: Cambridge University Press, 2013); Meriwether, M.L., *The Kin Who Count. Family and Society in Ottoman Aleppo, 1770-1840* (Austin: University of Texas Press, 1999).

17 Al-Ġazzī, K., *Nahr al-ḡahab fi taʾrīḥ Ḥalab* (3 vols., Halab: Dār al-Qalam al-ʿArabī, 1999²): I, p. 192. On the Tahazāda family see Wilkins, Ch., *Forging Urban Solidarities. Ottoman Aleppo 1640-1700* (Leiden: Brill, 2010); Id., “The Self-Fashioning of an Ottoman Urban Notable: Ahmad Efendi Tahazāde (d. 1773)”, *JOS*, XLIV (2014): pp. 393-425.

18 Al-Ṭabbāḥ, *lʿlām al-nubalāʾ*: IV, p. 286; VI, p. 466; VII, p. 107.

mid-17th century,¹⁹ only to lose it to the very same Muṣṭafā Tahazāda mentioned by al-Ġazzī.

In Ottoman times and generally for Muslim families, the creation of a family *waqf* – being something like a private foundation – was a common practice whereby affluent families could at least hope to secure their properties and assets in perpetuity.²⁰ The two Zuhrāwī brothers are no exception here. Having succeeded in strengthening their social and political standing among the urban élite, and in consolidating the family's wealth, they proceeded to make good use of the facilities allowed by the *waqf*. So much so that we know of not just one but two nearly contemporaneous *waqf* deeds signed by the two brothers. The first, dated 1064/1654,²¹ comprises a number of properties, including two houses and several plots of land outside the city's wall, and also the ownership of some shares of a soap factory in Idlib.²² The second, as will be seen below, includes a whole soap factory and a plot of uncultivated land.

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

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

20 For Aleppo see Masters, B., *The Origins of Western Economic Dominance in the Middle East: Mercantilism and the Islamic Economy in Aleppo, 1600-1750* (New York and London: New York University Press, 1988); Marcus, A., *The Middle East on the Eve of Modernity. Aleppo in the 18th century* (New York: Columbia University Press, 1989); Meriwether, *The Kin Who Count*.

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

22 Some 60 kilometres west of Aleppo, the town of Idlib was famous for soap and oil production. See Qūsarā, F., *al-Raḥḥāla fi muḥāfaẓa Idlib* (2 vols., Dimašq: 1985-88); al-Ġazzī, *Nahr al-ḍahab*: I, pp. 517-28; al-Ṭabbāḥ, *l'lām al-nubalā'*: III, pp. 273-86; Salati, *Ascesa e caduta*: pp. 99-102.

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

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

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

The Document

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

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

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

24 According to al-Ġazzī *Nahr al-dahab*: I, p. 306, 'Abd al-Bāqī is mentioned as Ḥanafite judge for the year 1065/1654-55. Ḥusnī Paša Muṣṭafā is the judge in charge for the year 1066/1655-56.

In the name of God, the Compassionate, the Merciful, on Him we rely,

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

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

At the Court of the noble Law,

At the Assembly of the honorable religion,

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

there appeared the two full brothers, [the one] the pillar of the learned and of the noble *sayyids*, the cream of the excellent ones of the glorious *ašrāf*, the model of the mantle of Muḥammad, the fruit of the tree of Muḥammad, his Excellency and our lord, *sayyid* Aḥmad *afandī*²⁶ al-Zuhrāwī, the *naqīb al-ašrāf* of Aleppo at the time;²⁷ [the other] the cream of the noble *sayyids*, *sayyid ḥājj* Bahā' al-Dīn *jalabī*.²⁸ They both are the sons of the late noble and illustrious *sayyid*, he who passed away towards the mercy of his Lord the Compassionate, Ibrāhīm *afandī* al-Zuhrāwī, the *naqīb al-ašrāf* of Aleppo in his lifetime.²⁹ Together they established a *waqf* which is comprised of the properties listed inside this esteemed written document. They both have called

25 On Ottoman honorific titles for Pashas and judges see Bayerle, G., *Pashas, Begs and Effendis. A Historical Dictionary of Titles and Terms in the Ottoman Empire* (Istanbul: İSİS, 1997); Tülüveli, G., "Honorific titles in Ottoman parlance", *International Journal of Turkish Studies*, XI (2005): pp. 17-28.

26 This title was generally applied to educated members of the religious class.

27 See above p. 211 and note 19

28 *Ḥājj* indicated a person who had performed the pilgrimage to Mecca. The title *jalabī* (Turkish *çelebi*), was used in Aleppo to designate merchants and educated people in general who were not religious scholars.

29 This Ibrāhīm is not mentioned in the biographical sources and I have not found any references to him in the extant court records. His alleged tenure as *naqīb al-ašrāf* of Aleppo therefore cannot be verified.

upon the witnesses mentioned below on their behalf³⁰ to the effect of declaring to have established as eternal, perpetual, and permanent *waqf*, in good intention and in sound mind, what is included in their property in equal portions, without there being any legal adversaries or opponents. [The property is as follows]:

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

Muṣṭafā *jalabī* b. [i.e. the son of] Aḥmad *beše*, who acted as his own legal agent;³¹

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

Maḥmūd *bayk*³² b. *ḥājj* Abū Zayd, the legal representative of his mother Faraḥ bint Aḥmad *beše* whose proxy on her behalf was certified according to the Law by way of legal and just proof;

and ‘Alī *bayk* b. Yildirim the janissary.

They all are residents of the above-mentioned town according to what is recorded in the legal document in their possession and produced in Court, dated the 29th of Jumādā II of the year 1065 [16 May 1655], which bears the signature of the model of Islamic judges, the treasure of the rulers of mankind, our lord Muṣṭafā *afandī* b. Muḥammad, the judge of the above-mentioned town.³³

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

30 For the expression *ašhada ‘alā nafsihi fulān*^{an} see Vesely, R., “Les requêtes en Egypte au XVI^e siècle”, *REI*, XLV (1977): p. 207; Id., “Trois certificats”: pp. 260, 298-9; Powers, D.S., “A court case from 14th century North Africa”, *JAOS*, CX/2 (1990): p. 251; Little, D.P., “Haram documents related to the Jews of the late fourteenth century Jerusalem”, *Journal of Semitic Studies*, XXX/2 (1985): pp. 227-264, here p. 259.

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

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

33 I have not been able to identify him. However, his very presence confirms the status of Idlib as a vital provincial centre in the Ottoman period. The town was divided into two sections, “the Greater” (*al-kubrā*) and “the Lesser” (*al-suğrā*), the latter being, ironically, more important.

it to the piece of land called *al-Ḥayyāra* with the authorization to build whatever they should wish on the above-mentioned piece of land to remain in their permanent ownership, free to dispose over and manage it as they wish. The authorization was granted them by the woman called *sitt* Raḥma bint Ḥusayn, the administrator with full rights from her grandfather's *waqf*, the late Ṣayḥūn al-Ṣāliḥī, of which all the said town is part.³⁴ This was done by virtue of a document of authorization produced by them, dated the 17th of Rajab 1065 [23 May 1655] and signed by the model of the meritorious scholars, our lord Ibrāhīm *afandī* famous as Ṣalāḥzāda, the judge of Aleppo.³⁵

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

The soap-factory includes two large copper cauldrons (*qidr*) weighing three *qintār ḥalabī*³⁶ which they had repaired and renovated with their own money; forty new cisterns, which they quarried and reconstructed for the storage of olive oil, four new water cisterns, one watermill, nine chambers (*awda?*),³⁷ eight iron buckets, one platform scale, the above-mentioned underground cave, an open-air courtyard, and two new ovens for the two cauldrons. It also includes conveniences, accessories, and the legal rights [to these].

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

34 Here the land upon which the town stood is probably meant. The Ṣayḥūn *waqf* included a small portion of Sarāqib, another relatively important town in the rural north-west of Syria: see Venzke, M., *The Ottoman Sanjaq of Aleppo* (Ph.D. dissertation, Columbia University, New York, 1981): p. 309.

35 Not identified. He is not mentioned in the list of Ottoman Ḥanafī judges provided by al-Ġazzī.

36 Made up of one hundred *raṭl* (one *raṭl* equals roughly two kilos) the *qintār* of Aleppo was used both for solids and liquids. The *qintār* of Idlib, weighing a little more than that designated *ḥalabī*, was specifically used for soap.

37 The text is not clear.

38 On this particular soap-factory see Salati, *Ascesa e caduta*: p. 101; Id., *Documenti giuridici aleppini*: pp. 51-2, 59.

sayyid Fathallāh *jalabī* [al-‘Arīfī],³⁹ and of the sons of Aḥmad *beše*. [The *waqf*] is also bordered completely by the soap-factory of Aḥmad *beše* which is known as the soap-factory of *ḥājj* Abū l-‘Uzz.

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

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

The *waqf* is established initially for the benefit of the two of them during their lifetime, for as long as they live, without sharing nor opposition from anyone, and equally;⁴⁰ then, after each of them, and after a long life, half of what was mentioned above will be for the benefit of their respective surviving children from their offspring, male and female, according to the prescribed legal shares.

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

39 The ‘Arīfī clan of wealthy merchants was related to the Zuhrawī. This Fathallāh in particular was the son of Aḥmad al-Zuhrāwī’s sister, and Aḥmad himself had married an ‘Arīfī woman, Raḥma. The most famous ‘Arīfī was Yūsuf b. Ṣalāḥ al-Dīn who held the office of Head of Merchants (*šāhbandar*) around 1669-1671. He had married Aḥmad’s daughter, Ḥadija (see Salati, *Ascensa e caduta*: pp. 69-71).

40 The schools of Law disagree as to whether the founder may be the beneficiary of his own trust since establishing a *waqf*“implies the transfer of the right to dispose of and the right to use the *wakf* property. Retaining (part of) the right to use it is in conflict with this principle” (Peters, R., s.v. “Wakf”, *EI*, XI (2002): p. 61). The Ḥanafis, nonetheless, approve if its validity.

benefit from what has been established together with her brothers. If one of their daughters should marry, her right to the profits of the *waqf* would fall to the benefit of her brothers. Had she been then without a husband she would get her share back, but if she should (re-)marry, her rights would again revert [to her brothers].

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

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

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

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

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

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

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

41 The wording of this passage does not seem to be consistent. "Their children" (*awlādhim*) makes more sense.

Should the male children in the male line from the progeny of both the two donors die out, then the *waqf* will go to the children of the female descendants of the two donors, according to the legal prescription of the law of inheritance that gives the male the share of two females, then to their children, male and female, then to their children's children, accordingly.

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

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

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

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

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

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

43 A reference to Qur'ān 21:89.

44 For the Ḥanafī school, and Abū Ḥanīfa in particular, it is permissible for the constituent to appoint himself as *waqf* administrator (*mutawallī*) during his lifetime.

After their (the two donors') passing, the senior-most of the children of whoever of the two [brothers] will act as administrator, the senior-most of the children of the other brother will act as supervisor. Should the *waqf* go to the children of the female descendants after the extinction of the male children, the senior-most, and so on, of the progeny of the female descendants will be the administrator, and the senior-most, and so on, of the progeny of the other [brother's] female descendants will be the supervisor.

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

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

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

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

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

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

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

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

47 That is Iḍlib "the Lesser".

Should anything remain after all this, it will be divided among the beneficiaries as heretofore established. The two founders appointed⁴⁸ [the so-and-so administrator of the said *waqf* so as to bring it to completion and make it effective on the condition of retaining the right to dismiss him at any time should they so wish. They turned the *waqf* over to him and he accepted it.

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

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

49 This procedure is typical of the Ḥanafī school as “Abū Ḥanīfa asserted that a *wakf* is only irrevocable if the founder establishes it as from the moment of his death or if it is affirmed by a *kādi*'s sentence. If a person founds a *wakf* during his lifetime, Abū Ḥanīfa holds that the *wakf* remains his property and he may revoke the *wakf* by alienating its property. After his death, the property reverts to his heirs. Establishing a *wakf* during one's lifetime is, in Abū Ḥanīfa's view, nothing else than a vow to donate the proceedings of the *wakf* property to the beneficiaries at the moment of one's death. This opinion, however, was not followed by his companions Muḥammad al-Šaybānī and Abū Yūsuf, who held, like the jurists of the other legal schools, that establishing a *wakf* is an irrevocable and binding act. In order to dispel all doubts about the binding character of a *wakf*, Ḥanafī practice was for the founder to have recourse to judicial proceedings. The standard procedure was that the founder, after having handed over the *wakf* property to the administrator, would reclaim it alleging that the *wakf* was revocable according to Abū Ḥanīfa's doctrine. The judge then would establish the irrevocability of the *wakf* by giving judgement according to the doctrine of Muḥammad al-Šaybānī and Abū Yūsuf and finding for the defendant.” (Peters, s.v. “Wakf” 3: p. 62). See also d'Emilia, A., “Il *waqf ahli* secondo la dottrina di Abū Yūsuf”, *Pubblicazione dell'Istituto di diritto romano e dei diritti dell'Oriente mediterraneo della Università di Roma*, 6 (1938): pp. 67-87.

What occurred was written and recorded upon request on the 12th day of the month of Rabī' I of the year 1066 [/9 January 1656].

ما في مطاوي هذا السفر الشرعي و محاوي... المرعي من أصل الوقف و ضوابطه و شرائطه و التسبيل و قواعده و مصارفه حسبما بين و فصل في مطاويه على النمط المقرر و المشروح فيه تحقق و تقرر بين يدي و أني قد قضيت بصحته و لزومه عالما بالخلاف الجاري في أمر الأوقاف بين الأئمة الأعلام و مراعيًا لما يجب رعايته لدى العلماء الفخام حرره أفقر الورى عبد الباقي المبتهج بخدمة الشرع المطهر قاضيًا بمدينة حلب حفت بالميمنة و السرور و حميت عن البلاء و الشرور إلى يوم البعث و النشور و عفا عنه الملك الغفور بمنه و كرمه

باسم الله الرحمن الرحيم و به تفتته

الحمد لله الذي وقفت في بيداؤه ألوهيته أفهام العلماء و تحير في تصور عظمته عقول العقلاء و دل على وحدانيته كل درة من درات الأرض و السماء و يسر لمن ارتضاه من عباده ما يختاره و يشاء من فعل الخيرات ليتفضل عليه بالرضى و الصلوة و السلام على نبيه المجتبي و رسوله المصطفى محمد، صلى الله عليه و سلم، صلوة و سلامًا دائمًا ما دام الأرض و السماء

و بعد فقد حضر بمجلس الشرع الشريف و محفل الدين المتيف لدى متوليه قدوة الموالى الكرام عمدة الأعالي الفخام محرر القضايا و الأحكام حلال مشكلات الأنام ذي الفضائل الكثيرة و البراهين المنيرة حاكم الشريعة المحمدية خادم السجادة الأحمديّة ماجي البدع الرديّة حامي الملة الإسلامية المولى الواضع اسمه الشريف بقلبه اللطيف أعلاه الأخوان الشقيقان هما عمدة العلماء و السادات الكرام نخبة الفضلاء و الأشراف الفخام طراز الحلة المحمدية ثمرة الدوخة الأحمديّة حضرة مولانا السيد أحمد أفندي الزهراوي نقيب السادة الأشراف بجلب و نخبة السادات الكرام السيد الحاج بهاء الدين جلبي ولدا المرحوم المتدرج إلى رحمة ربه الغفور السيد الحسيب النسب إبراهيم أفندي الزهراوي نقيب السادة الأشراف حال حياته بجلب رحم الله السلف و أبقى الخلف و هما الواقفان للعقارات المسطرة باطن هذا الكتاب المستطاب و أشهدا على نفسيهما شهوده المذكورين

بذيله بأنهما قد وقفنا أيضاً و حسباً و أبداً و خلداً بنية صادقة و طوية غير فاترة ما هو منتظم في ملكهما مناصفة من غير منازع و لا مخاصم و ذلك جميع المصنبة العامرة الكائنة بأرض قصبة إدلب الصغرى المعمورة بالمحلة الشمالية من محلات القصبة المذكورة التي عمراها من مالهما لنفسهما مناصفة المنتقلة إليهما حال كونها أرضاً مشهورة بالحجارة المشتتة على مغارة و يحوطها حائط لا غير بطريق الاثراء الشرعي من مصطفى جلي بن أحمد بشه الأصيل عن نفسه و من أخيه محمد جلي الأصيل عن نفسه و الوكيل الشرعي عن أمه الحرمة ست حلب بنت الحاج عزالدين و عن أخته عابدة بنت أحمد بشه المذكور بعد إثبات و كالتة عنهما بالبينة العادلة بالطريق الشرعي و من محمود بك بن الحاج أبي زيد الوكيل الشرعي عن قبل أمه الحرمة فرح بنت أحمد بشه المذكور بعد إثبات و كالتة عنها بالبينة العادلة بالطريق الشرعي و من علي بك بن يلدرم الجندي الجميع من سكان القصبة المذكورة حسبها هو مسطر في الحجة الشريفة المخلاة بيدهما المبرزة في المجلس المؤرخة في ختام شهر جمادى الآخرة لسنة خمس و ستين و ألف المضاة بامضاء قدوة قضاة الإسلام ذكر ولاية الأناطolia مولانا مصطفى أفندي بن محمد القاضي بالقصبة المذكورة مع قطعة أرض تعرف بنصف المجلس آلت إليهما بالاثراء من علي بك بن عبد الله بحجة مخلدة بيدهما و أضافها إلى أرض الحيارة المزبورة المأذون لهما بتعمير ما شاء و اختارا على الأرض المزبورة ليكون لهما ملكاً على الدوام يتصرفان فيه كيف شاء و اختارا من الحرمة المدعوة بالسنة رحمة بنت حسين المتولية على وقف جدها المرحوم شيخون الصالحي المستحقة له الجارية جميع القصبة المذكورة في وقفه بموجب حجة الإذن لهما المبرزة بيدهما المؤرخة في اليوم السابع عشر من شهر رجب لسنة خمس و ستين و ألف المتوجة بامضاء قدوة العلماء المحققين عمدة الفضلاء المحررين مولانا إبراهيم أفندي الشهير بصلاح زاده المولي بحلب خلافة المشتتة على تصديقها بصحة البيع الصادر من البائعين و الإذن للأخوين المشار إليهما بالعمارة حسبما شرح المشتتة هذه المصنبة المذكورة الآن على قدرين من النحاس و زنهما ثلاثة قناطير حلية جداهما من مالهما و على أربعين جباً جدداً حفرها و عمراها لأجل خزن الزيت و على أربع جباب للماء جدد و على مصنع للماء و تسع أودة و ثمانية سطول من الحديد و قبان و المغارة

المذكورة و على حوش سماوي و فرنين جدد للقدرين و على منافع و لوازم و حقوق شرعية المحدودة قبله بدار عبد العزيز و دار الحاج أحمد و تمامه بيت الأشقر و شرقاً بالحوش الجاري في ملك الواقفين و بأرض اليدر و شمالاً بالطريق السالك الفاصل بعضه بين المصبنة و بين الأرض الآتي ذكرها و إليه باب المصبنة المرقومة و غرباً بالمصبنة الجارية بعضها في الوقف الذي وقفه الأخوان المذكوران باطنه المعروفة بمصبنة الطوبال الجاري بقيتها أعني مصبنة الطوبال في ملك ابن أختها عمدة المدرسين و السادات الأشراف السيد الحسين السيد فتح الله جليبي و في ملك أولاد أحمد بشه و تمامه بمصبنة أحمد بشه المعروفة بمصبنة الحاج أبي العز و جميع قطعة الأرض الساحة الخالية عن البناء المشهورة بالمراح التي هي شمالي المصبنة المنتقلة إليهما بالاشتراء الشرعي من الشاب المدعو بجبرائيل بن محمد الأصيل عن نفسه و الوكيل الشرعي عن شقيقته بأكية و إحسان بعد إثبات وكالته عنهما بالبينة العادلة بالطريق الشرعي حسبما هو مسطر في الحجة الشرعية المخلاة بيدهما المؤرخة في اليوم التاسع عشر من شهر ذي القعدة لسنة خمس و ستين و ألف المضاة بامضاء مولانا مصطفى أفندي المذكور القاضي بالقصة المذكورة المحدودة قبله بالطريق السالك بينها و بين المصبنة المذكورة و شرقاً بيد الحاج نصرالله و شمالاً بيد مصطفى الزهران و غرباً بيد البائع المذكور بجملة حدودهما و كافة حقوقهما الداخلة فيهما و الخارجة عنهما وفقاً صحيحاً شرعياً و حسباً صريحاً و مرعياً متصل الابتداء و الوسط و الانتهاء فابتدأه على نفسها مدة حيوتها أبدأ ما عاشا و دائماً ما باقيا لا يشاركما في ذلك مشارك و لا ينازعهما فيه منازع بينهما مناصفة ثم من بعد كل واحد منهما بعد العمر الطويل يكون النصف مما ذكر على أولاده لصلبه الموجودين بعده الذكور و الإناث بينهم على الفريضة الشرعية على أنه متى تزوجت أحد بنات واحد من الواقفين لصلبهما سقط حقها من ذلك دامت متزوجة و ليس لها حق في ذلك إذا كانت متزوجة و إذا كانت عازبة أو غير ذات بعل تستحق مع إخوتها ما عين لها و متى تزوج أحد بناتهما/بناتها سقط حقها من الوقف و عاد لإخوتها فإذا صارت بغير زوج عاد إليها نصيبها من ذلك فإذا تزوجت سقط حقها و أنه لا حق لأولاد بناتهما سوا كانوا ذكوراً أو إناثاً في الوقف المذكور مع وجود أولادهما الذكور و أولاد أولادهما الذكور و

أولاد أولاد أولاد أولادهما الذكور ثم من بعد أولاد كل واحد منهما من الذكور على أولاده الذكور دون الإناث بينهم بالسوية لا مزية لأحد منهم على أخيه ثم على أولاد أولادهم الذكور كذلك، ثم على أولاد أولاد أولادهم الذكور مثل ذلك بطنًا بعد بطن و قرنًا بعد قرن لا يستحق الولد مع وجود أبيه شيئًا فإذا مات أحد أولاد الذكور من أولاد أحد الواقفين قبل أن يستحق في الوقف شيئًا وترك ولدًا ذكرًا وأكثر استحق الولد أو الأولاد الذكور مع طبقته ما كان يستحق أبوه لو كان حيًا فإذا انقرض أولاد الذكور من أولاد أحد الواقفين و لم يبق منهم أحد ينتسب إلى الواقف بمحض الذكورية عاد نصف النصف و هو الربع إلى أولاد البنات الموجودين من ذرية أحد الواقفين اللذين ينقرض أولادهم الذكور بينهم على الفريضة الشرعية للذكر مثل حظ الأثني و عاد نصف النصف الباقي و هو الربع إلى الذكور و أولاد الذكور الذكور من أولاد أخيه الآخر بينهما بالسوية فإذا لم يوجد أحد من أولاد الإناث من ذرية أحدهما بعد انقراض الذكور و أولادهم الذكور من أولاده يكون النصف على أولاد أخيه الموجودين من أولاد الذكور و إذا آل ربع الوقف إلى أولاد الإناث من ذرية أحدهما بعد انقراض أولاده الذكور ثم انقرض أولاد الإناث عاد الربع أيضا إلى أولاد الذكور من أولاد أخيه الذكور الموجودين ضميمة إلى باقي الوقف فإذا انقرض أولاد الذكور الذكور من ذرية الواقفين عاد إلى أولاد الإناث من ذرية الواقفين المذكورين بينهم على الفريضة الشرعية للذكر مثل حظ الأثني ثم على أولادهم الذكور و الإناث ثم على أولاد أولادهم مثل ذلك فإذا انقرضوا بأجمعهم و خلت الأرض منهم و من أنسألهم و أعقابهم و لم يبق أحد ينتسب إلى أحد من الواقفين يكون النصف من الوقف وقفًا على زيارة مشهد سيد الشهداء و كهف الطالبين الإمام الهمام حضرة الإمام الحسين ابن أمير المؤمنين الإمام الهمام و السيد الضرغام أسد الله الغالب الإمام علي بن أبي طالب رضوان الله تعالى عليهم أجمعين الكائن بأرض كربلاء و النصف الثاني يكون وقفًا على مشهد السيد الإمام محسن رضي الله عنه الكائن بظاهر مدينة حلب فإذا تعذر وصول ربع النصف الأول إلى المشهد المذكور بقطاع الطريق يكون الجميع وقفًا على مشهد الإمام محسن بحلب فإذا تعذر الانتفاع

بمشهد الإمام محسن بهذا الوقف يكون الجميع وقفاً على مشهد كربلاء فإذا تعذر الوصول إلى مشهد كربلاء و الانتفاع بهذا المشهد يكون الجميع وقفاً على فقراء المسلمين الموجودين بجلب يبقى ذلك كذلك أبد الأبدين و دهر الدهرين إلى أن يرث الله الأرض و من عليها و هو خير الوارثين و شرط الواقفان المذكوران التولية علي وقفهما هذا أيضا مدة حيوتهما للسيد الكامل حضرة أحمد أفندي و النظارة لأخيه السيد بهاء الدين جليي فإذا مات أحدهما يكون المتولي الباقي منهما و الناظر أرشد أولاد المتوفى ثم من بعد وفاتهما يكون المتولي الأرشد من أولاد أيهما كان و الناظر عليه الأرشد من أولاد الثاني فإذا آل الوقف إلى أولاد الإناث بعد انقراض أولاد الذكور يكون المتولي الأرشد فالأرشد من أولاد الإناث و الناظر الأرشد فالأرشد من أولاد إناث الثاني و إذا آل إلى أحد أولاد واحد الواقفين يكون المتولي أرشدهم و أحد الباقيين ناظراً عليه و إذا آل إلى المشهدين فيكون التولية لمتولي مشهد الإمام محسن و النظارة لمتولي مشهد الحسين و إذا آل إلى الفقراء فلحاكمهم الشرعي وقتئذٍ و أن يبدأ المتولي بعدهما من ريع الوقف بعارته و ما فيه بقاء... و زيادة أجوره و أن يصرف من ريع المصنبة المزبورة في كل سنة عشرة غروش ريالية إلى فقراء المدينة المنورة على الحال بها أفضل الصلوة و السلام يرسل ذلك سنة فسنة أيام ذهاب الركب الشامي مع رجل من تجار المسلمين يوزعها هناك و أن يدفع في كل سنة خمسة أرطال من الزيت الصافي للمتولي على وقف الجامع الكبير المعمور بذكر الله تعالى الكائن بالقصبة المذكورة ليوقد في الجامع في شهر رمضان المبارك و أن يدفع في كل شهر نصف غرش أسدي لرجل... القرآن العظيم ليقرأ في كل يوم جزء من القرآن العظيم بالمصيئة (؟) و يهدى ثواب ذلك إلى روح حضرة أشرف المرسلين، صلى الله عليه و سلم و لروح الواقفين و روح والدهما و لأموات المسلمين و ما فضل بعد ذلك يقسم بين المستحقين كما عين أعلاه و جعل الواقفان المذكوران [...]، و كتب و حرر في اليوم الثاني عشر من شهر ربيع الأول لسنة ست و ستين و ألف

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