

THE SOCIAL AND ECONOMIC ROLE OF WOMEN
IN SEVENTEENTH CENTURY TRIPOLI
THROUGH THE RECORDS OF THE
SHAR'IYYAH COURT

BY

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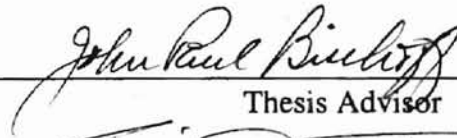
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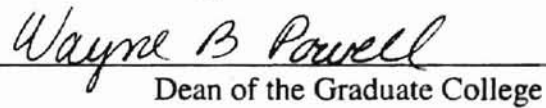
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Finally, this work is dedicated to my father, may he rest in peace. He wanted me to be a lawyer but he made me love history when he spent long hours telling me all kind of stories. Dad, you will always be in my heart.

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CHAPTER I

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1667 AD. The study seeks to elaborate on the
CHAPTER I

of the records of the period. The purpose is

INTRODUCTION

In major Arab cities under Ottoman rule, the legal system functioned through the Islamic *shari'ah* courts which followed the teachings of the *Qur'an*, the *sunnah*, and the *ḥadith*. Interpretation of law fell into four legal schools, or *madhhabs*, (Ḥanbali, Shafi'i, Maliki, and Ḥanafī).¹ Many cases brought to a court of law were tried and recorded in the *shari'ah* court, or '*al-Maḥkamah al-Shar'iyyah*'. People used the court to resolve cases of 'irth (inheritance), *ṭalaq* (divorce), *nafaqah* (alimony), *wiṣayah* (guardianship), and many other disputed matters. The court also could authenticate a variety of agreements including exchange of goods or property, donation of *waqfs* (pious endowment), or '*itq* (manumission of a slave), etc. Records from these courts are important to historians as one of the main sources for social, economic, and legal research in Ottoman and Middle Eastern history. In this context, the social and economic history of Middle Eastern women, which received in the past scant attention from scholars, can be considered.

The following study is based on the contents of the first two volumes of the record of the *shari'ah* court of the city of Tripoli, the capital of the Ottoman province of Tripoli.²

¹The Ottomans favored the Hanafi School, which was mainly followed in trials in Tripoli and other regions of the Empire. See S. W. al-Zayn, *Tarikh Ṭarablus* (Beirut: Dar al-Andalus, 1969), 182.

²The records of the *shari'ah* court or the *sijills* are currently under the supervision of the *shari'ah* court of Tripoli. The court has two copies of the records, one of them is original.

The first volume includes the records of the period from 1077 to 1078H./1666-1667, the second from 1078 to 1090H./1667-1679. The study seeks to elaborate on the role of women in Tripolitan society during the mid-seventeenth century. The purpose is to examine the status of women in a patriarchal society and their contribution to the urban economy. The study also evaluates the status of women in the courts and seeks to determine if they received equitable treatment under Islamic law.

It will be argued that contrary to the general view of women as being marginalized in a male dominating society, they were quite active in various areas in late seventeenth century Tripoli. Similar to many other parts of the Ottoman empire in the same period, they were not totally restricted to their houses and they used the court for personal as well as for business purposes. Although they were in some instances represented by a *wakil* (legal representative), this did not imply seclusion. The first part of the thesis will assess the role of women in the family and analyze the different familial ties between women and different members of their families through cases that involved conflicts over divorce, inheritance, custody, and alimony. The second part of the thesis will evaluate women's role in the household and urban economy. Women appeared in the court records as property owners and money lenders. In the third part of the thesis, some topics not substantially represented in the *sijills* (records) will be discussed. Women as witnesses, in slavery, and in petty occupations are examples of such topics. The few cases that represented these categories will not permit a thorough assessment, but it is possible to gain some insights. A background of the history of Tripoli and the region will also form a part of this study to put the subject in context.

period. While recently some historians started to use the substantial archival heritage of the Ottoman Empire for the study of social and cultural history, but the effort has yielded

CHAPTER II

REVIEW OF THE LITERATURE

The history of the Middle East in the seventeenth century is inseparable from the history of the Ottoman Empire, which dominated the region for almost four centuries. Any research about the history of Tripoli, which was a part of the Ottoman domain, should rely to a certain extent on works on the Ottoman period. Tripoli has received little attention from scholars. In his book *The Great Arab Cities in the Sixteenth-Seventeenth Centuries*, André Raymond affirmed that: "Arab cities which have been the focus of comprehensive research are rare".³ Damascus and Aleppo were the most fortunate cities in Syria to be the subject of relatively intensive and thorough research. Writing in 1982, Khalid Ziyadah affirmed that the history of Tripoli during the sixteenth and the seventeenth centuries was not yet written, and the few existing works about earlier or later periods were not written by local authors or exclusively written about Tripoli.⁴ The first problem that confronted scholarly production is the scarcity of sources, both contemporary and modern, which has made conclusive studies difficult. Social, cultural, and economic history are equally obscure. The absence of major studies on individual cities has made it difficult to elaborate on family or women's history during the Ottoman

³C. Establet and J. P. Pascual, "Damascene Probate Inventories in the Seventeenth- and Eighteenth-Centuries," *International Journal of Middle Eastern Studies* 24 (1992): 373.

⁴K. Ziyadah, *al-Şurah al-Taqlidiyyah lil-Mujtama' al-Madani* (Tripoli: Publication of the Lebanese University, 1983), 30.

period. Only recently have historians started to use the substantial archival heritage of the Ottoman Empire for research in social and cultural history, but the effort has yielded important results.⁵

Primary Sources

In addition to the *sijills* of the *shari'ah* court, which will be discussed later, the primary sources available are the accounts of Western travelers who visited Tripoli and recorded their observations. According to D. Ze'evi, the attention given to Ottoman societies and culture in the West dates back to the time when many European tourists and pilgrims, mostly Christians, were traveling to the Holy Land, a part of the Ottoman Empire.⁶ In addition to pilgrims, some travelers visited the Levant simply because they were curious about all the East and wanted to have a closer look. Among them, was the French author the Comte de Volney who traveled to Egypt and Syria between the years 1198H./1783 and 1200H./1785. In his book, he made a physical description of all the places that he visited including Tripoli.⁷ He wrote a detailed history of the varied ethnic groups and religious communities that inhabited the city. He added much information about the government, the commercial activities, and even the agrarian products. Among the subjects that Volney described was the *shari'ah* court and the *qadi* and their role in

⁵D. Ze'evi, "Women in the Seventeenth-Century Jerusalem: Western and Indigenous Perspectives," *International Journal of Middle Eastern Studies*, 27 (1995): 157.

⁶*Ibid.*, 158-159.

⁷Comte de Volney, *Voyage en Égypte et en Syrie Pendant les Années 1783, 1784, 1785* (Paris: Mouton & Co., 1959), 281-286.

the Ottoman administrative system.⁸ The author also made a comparison between the status of women in the East and the West, which was not in favor of Eastern women. Volney apparently understood little about the life of Middle Eastern women. He claimed that they were restricted to their houses and added that he found them veiled in the streets. He believed they were deprived of property and required male relatives to represent them in business, although their presence out of the house was “some times for business purposes.”⁹ The author concluded that Islamic doctrine was to be blamed for the inferior status of women. Though the work of the Comte de Volney should be utilised with caution, it established a model for women’s status, to be compared with that of other sources from the same period, namely the *shari’ah* court records.

Les Échelles de la Syrie et de Palestine is another Western work which described Tripoli in the beginning of the eighteenth century.¹⁰ In spite of this work’s helpful information about Tripoli and other coastal cities in Syria, F. C. Roux was mostly interested in cities as commercial centers. The issues that were important to him were mainly commercial activities between the Levant and Europe. However, the author reserved a part of his work to discuss laws that regulated the presence of merchants in the East (in this case the French). According to Roux, no merchant embarked from the West before guaranteeing a place for him to stay in the *khans* (inns). Initially the French government permitted merchants to take families (wives and daughters) to the East, yet the permission was soon revoked. Merchants were not allowed to marry in the East.¹¹

⁸Ibid., 369-370.

⁹Ibid., 407-410.

¹⁰F. C. Roux, *Les Échelles de Syrie et de Palestine au XVIIIème Siècle* (Paris: Librairie Orientaliste Paul Geuthner, 1928).

¹¹Ibid., 16.

Moreover, French women needed a permit signed by the king to sojourn in a *khan*. Roux did not say much about inhabitants of Tripoli, especially women. Nevertheless, he implied that the precautions taken by some Western governments prevented wide contact between the merchants' community and the inhabitants of the region. If true, opportunities for observation of the Tripolitan society were limited.

European missionaries and pilgrims were not the only travelers who moved around the Ottoman Empire and left written evidence. There were a number of Muslim travelers and scholars who visited Ottoman cities and recorded in detail their trips and the countries visited. They often were no more explicit than Europeans. They had access to the houses of influential families, and they wandered around the cities that they visited. However, they did not seem to have better knowledge of the life of women or what happened inside the houses where the families lived. At least they did not record such information. This could only be explained in terms of the period's mentality, which had a respect for customs and Islamic ethics. It would be offensive to a host at that time for a guest to write details about a house that he visited, especially if he gave descriptions of the host's family (wives, mother, sisters, daughters, etc.).

Examples of Muslim travelers who visited Tripoli include 'Abdul-Ghani al-Nabulsi, Ramaḍan ibn Musa al-'Uṭayfi, and ibn Maḥasin.¹² Their works were similar to diaries that included details of visits day by day and descriptions of the physical characteristics and landscapes of the places visited. Apparently, these travelers were

¹²A. al-Nabulsi, *al-Tuḥfah al-Nabulsiyyah fi al-Riḥlah al-Ṭarabulsiyyah* (Beirut: German Institution for Oriental Studies, 1971); R. ibn Musa al-'Uṭayfi, *Riḥlatan 'ila Lubnan* (Beirut: German Institution for Oriental Studies, 1979); and ibn Maḥasin, *al-Manazil al-Maḥasiniyyah* (Beirut: Dar al-Afaq al-Jadidah, 1981).

mostly occupied with Islamic institutions and religious matters. Al-Nabulsi, for example, mentioned some of the religious matters that were discussed during his visit to Tripoli¹³. On the other hand, ibn Maḥasin reserved a large part of his book to detail all the 'alims in the city of Tripoli in addition to some comments about the court and the *qaḍi*, which will be discussed later.¹⁴

The evidence of travelers' accounts demonstrate the difficulty in explaining the history of women in seventeenth-century Tripoli. Western works were often the result of ethnic preconceptions of the situation in the East based on concept of Western superiority. Muslim travelers were constrained from writing about women due to customs.

Secondary Sources

The modern interest in the history of Tripoli in the seventeenth and eighteenth centuries is related to the interest in the history of modern Lebanon. The emphasis was on political history of the region, especially the periods which presumably witnessed the first attempts to create a Lebanese state unified and independent from the Ottomans. Prince Fakhr al-Din of the Ma'n clan, who tried to bring Lebanon under his rule, was the focus of many works which described Tripoli only because the city was associated with the activities of the Ma'n Prince.¹⁵ As early as 1934, I. I. al Ma'luf wrote a book about

¹³A. al-Nabulsi. *Al-Tuḥfah al-Nabulsiyyah fi al-Riḥlah al-Ṭarabulsiyyah* (Beirut: German Institution for Oriental Studies, 1971), 50, 51-53.

¹⁴Ibn Maḥasin, *al-Manazil al-Maḥasiniyyah* (Beirut: Dar al-Afaq al-Jadidah, 1981), 61-80.

¹⁵For details about the Ma'n prince and his role in the history of Tripoli see below chapter III.

the history of Fakhr al-Din *Tarikh al-Amir Fakhr al-Din al-Ma'ni al-Thani*, which was limited to a description of battles and succession of governors.¹⁶ In the fifties and the sixties, new works, like the multiple volumes written by P. K. Hitti, were produced with the same focus.¹⁷ There was an almost total absence of works by Muslim scholars until 1967, when an Egyptian author wrote a book about the city. He focused on the political history of the era prior to the Ottoman rule.¹⁸ In fact, there was a scarcity of works about Ottoman Tripoli which, according to Khalid Ziyadah, was not completely accidental but a result of Arab nationalism. Scholars in the thirty or forty years after the fall of the Ottoman Empire, reacted against Turkish sovereignty. Consequently, they avoided this period and their immediate history and looked for identity in an earlier period.¹⁹

Only in the 1970s and 1980s did historians explore the Ottoman period for scholastic purposes. They no longer distanced themselves from the Turks, and were more capable of conducting academic rather than ideological research. The change in the attitude toward Ottoman history and the emergence of social history as an important field of study attracted the attention of scholars to archives found in regions under Ottoman rule.

The publication of the first volume of the records of the *shari'ah* court of Tripoli in 1982 made primary sources available for scholars.²⁰ A. Abdel-Nour was already working on other archival documents, and his book, based on the records of other cities

¹⁶I. I. al-Ma'luf, *Tarikh al-Amir Fakhr al-Din al-Ma'ni al-Thani* (Beirut: Catholic Press, 1966).

¹⁷P. K. Hitti, *A Short History of Lebanon* (London: Macmillan & Co., 1965); *Lebanon in History* (New York: St Martin's Press Inc., 1957); *History of Syria including Lebanon and Palestine* (London: Macmillan Press & Co., 1951)

¹⁸S. A. Salim, *Ṭarablus al-Sham fi al-Tarikh al-Islami* (Alexandria: Matabi' Ramsis, 1967).

¹⁹K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 11-12.

²⁰U. Tadmuri, F. Ma'tuq, K. Ziyadah, *Watha'iq al-Mahkamah al-Shar'iyyah fi Ṭarablus: al-Sijill al-'Awal* (Tripoli: Publication of the Lebanese University, 1982), introduction, passim.

beside Tripoli, appeared in 1982.²¹ The author studied the major cities of “Bilad al-Sham” in the sixteenth, seventeenth, and eighteenth centuries, and focused on the characteristics of these cities as urban centers. The author was more or less pro-Ottoman. He argued that Western sources had exaggerated negative aspects of the Ottoman period.²² In the following year, Ziyadah wrote a book described as a manual for the usage of the records.²³ The author started with a short background about the city and the major problems in writing its history. He then summarized the important subjects to be explored through the records. He gave a detailed description of the administrative and legal systems and added a description of the city (division of quarters) and its inhabitants (religions, origins, etc.). In 1986, Nahdi Ḥumsi used the first and the second volumes of the records to trace the political, social, commercial, and intellectual history of Tripoli.²⁴ He reserved a large part of his work to rewrite some of the cases to make them legible.

In all the works about Tripoli, women’s history was almost completely absent. While some of the authors did not write at all about the subject, others simply mentioned general and vague information about the status of women in the society. Ḥumsi, for example, claimed that women’s situation was better than generally assumed, but he never supported this assumption.²⁵ Ziyadah, on the other hand, mentioned the kind of cases

²¹A. Abdel-Nour, *Introduction à l'Histoire Urbaine de la Syrie Ottomane XVI-XVIII siècle* (Beirut: Librairie Orientale, 1982).

²²Ibid., xiv-xv.

²³K. Ziyadah, *al-Ṣurah al-Taqlidiyyah lil-Mujtama' al-Madani* (Tripoli: Publication of the Lebanese University, 1983).

²⁴N. Ḥumsi, *Tarikh Ṭarabulus min Khilal Watha'iq al-Maḥkamah al-Shar'iyah* (Beirut: Mu'assasat al-Risalah, 1986).

²⁵Ibid., 138-142.

involving women in the court and concluded that they received justice from the *qadis* when they used the court, again without giving evidence.²⁶

However, the general historiography of the last three decades, which used archival sources, is rich with works about women in the Middle East, especially during the Ottoman period. The work of A. Marsot is one example. The author argued that women always had an economic role within Muslim society although it is hard to know the exact size of that role from existing published works.²⁷ Marsot, who worked on archival documents in Cairo, argued that at the end of the eighteenth and beginning of the nineteenth centuries, women benefited from political circumstances, especially the weakness of the central government, to realize a prominent role, both socially and economically.²⁸ The works of Ronald Jennings are other examples. The author used the records of the court of Kayseri in Anatolia and Lefkosa in Cyprus.²⁹ His conclusions were: first, that women did in fact use the court for many purposes; and second, that when they did so, they received protection and justice.³⁰ Nevertheless, the author indicated the inadequacy of the records to present the real life of women because they represented only problems and conflicts in a small region of the empire. D. Ze'evi, who worked on the records of Jerusalem, also pointed to the limitation of the records as source for historical

²⁶K. Ziyadah, *al-Şurah al-Taqlidiyyah*, 124-125.

²⁷A. Sayyid-Marsot, *Women and Men in Late Eighteenth-Century Egypt* (Austin, University of Texas Press, 1995), 16.

²⁸Ibid.

²⁹R. Jennings, "Divorce in the Ottoman Sharia Court of Cyprus, 1589-1640," *Studia Islamica* 78 (1993): 155-167; "Women in the Early Seventeenth Century Ottoman Judicial Records: the Sharia Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient* 28 (1983): 53-114.

³⁰R. Jennings, "Women in the Early Seventeenth Century Ottoman Judicial Records: the Sharia Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient* 28 (1983): 53-114.

research.³¹ The records, according to the author, are not a source for dependable statistical study of women's status.³² He argued that many subjects (like puberty, virginity, and the murder of wives, daughters, and sisters for honor disgrace) remained beyond the domain of the court and thus difficult to study.³³ He questioned the decency of *qadis* and deputies, but rejected the image that Western travelers had of Middle Eastern women and argued that the latter, though not necessarily always treated equally to men, "were not condemned to a life of seclusion and marginality".³⁴ Other works reached the same conclusions. In the articles of *Women, the Family, and Divorce Laws in Islamic History*, the archives of Istanbul, Egypt, Syria, and Palestine were used.³⁵ The general approach in this work was that the records enable "the historian to draw a more accurate and detailed picture of the social history of Muslim women."³⁶ They allow us to "formulate certain criteria, other than the veil and the harem, by which to evaluate the position of women in the family, in the household, and in the society."³⁷ However, some authors indicated that the records could be problematic. In the Ottoman legal system, any petitioner could appeal to the Imperial Council if he or she felt that the local *qadi* was not just or that the rule was not satisfactory. Petitions from all over the Empire were

³¹D. Ze'evi, "Women in the Seventeenth Century Jerusalem: Western and Indigenous Perspectives," *International journal of Middle Eastern studies* 27 (1995): 157-173.

³²*Ibid.*, 161.

³³*Ibid.*

³⁴*Ibid.*, 171.

³⁵A. al Azhary Sonbol, ed., *Women, the Family, and Divorce Laws in Islamic History* (Syracuse: Syracuse University Press, 1996).

³⁶I. Agmon, "Muslim Women in Court According to the Sijill of Late Ottoman Jaffa and Haifa," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse University Press, 1996), 126.

³⁷N. Hanna, "Marriage Among Merchant Families," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse University Press, 1996), 146.

recorded in Istanbul in the *Sikayet Defterleri* (book of complaints).³⁸ According to Faribah Zarinbaf-Shahr, who worked on the *Sikayet Defterleri*, women petitioned against local *qadis* more than they did against any other person, as shown in the following table.

³⁸F. Zarinbaf-Shahr, "Women, Law, and, Imperial Justice in Ottoman Istanbul in the Late Seventeenth Century," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse University Press, 1996), 81.

TABLE 1
 PETITIONS MADE BY WOMEN FROM ALL THE EMPIRE TO THE SUBLIME
 PORTE IN 1675³⁹

Against	Number	Percentage
<i>Qadis</i> and <i>Mutawallis</i>	15	24.5
Relatives	9	14.7
Debtors	5	8.0
Husbands	5	8.0
Local officials	4	6.5
Creditors	2	3.2
Cowives	1	1.6
Other	20	32.7
Total	61	100.0

³⁹Ibid., 89.

These findings raise many questions about the *qādis* and their behavior in the court and the extent to which the records could be trusted as accurate.

Some works which focused on Arab cities in general and the legal system in particular during the Ottoman period are also very helpful in the study of Tripoli. In this context, André Raymond's *Le Caire* and *The Great Arab Cities in the 16th-17th Centuries* are good sources. The author discussed the important roles that the *shari'ah* court and the *qādi* played in urban centers.⁴⁰ The author's main emphasis was on big cities such as Cairo, Aleppo, and Damascus. Nevertheless, his works serve as a model for an Ottoman court which, as it will be argued later, was common to the whole empire.⁴¹

⁴⁰A. Raymond, *Le Caire* (Poitiers: Aubin Imprimeur, 1993); *The Great Arab Cities* (New York: N.Y. University Press, 1984).

⁴¹H. Gerber, *State, Society, and Law in Islam* (New York: State University of New York Press, 1994), 16.

CHAPTER III

THE CITY OF TRIPOLI: NAME, GEOGRAPHY, AND HISTORY

Name and Geography

The name 'Tripoli' was and still is associated with two cities in the Mediterranean, the one under study and another one in northern Libya. Previously, the Arab historians called the former 'Aṭarablus' to make the distinction between them, but later the 'A' was omitted from the beginning of the word.⁴² Eventually, the two cities were given respectively the names of 'Ṭarablus al-Sham' and 'Ṭarablus al-Gharb'.⁴³

The city of Tripoli or 'Ṭarablus al-Sham' is situated on the eastern coast of the Mediterranean sea, about 80 km to the north of the Lebanese capital, Beirut. In 1043H./1634, the traveler Ramaḍān ibn Musa al-'Uṭayfi visited the city and gave a very cheerful description of the landscape and the general appearance:

We entered Tripoli and we came upon a nice place. The city has a lot of water and a lot of produce; built all with stone as if it was a single piece, not a single thing built with wood. A great river passes by the city; it has on both sides mosques, schools, palaces, and windows; this river is not for use in houses and baths. Water in the city gets to the highest place in it. Tripoli has a citadel which is situated on a mount that overlooks the city.⁴⁴

⁴²K. Baba, *Ṭarablus fī al-Tarikh* (Tripoli: Jarous press, 1993), 17-18.

⁴³U. Tadmuri, *Tarikh Ṭarablus al-Siyasi wa al-Ḥadari* (Tripoli: Dar al-Bilad Press, 1978), 32.

⁴⁴R. al-'Uṭayfi, *Riḥlatan 'ila Lubnan* (Beirut: German Institution for Oriental Studies, 1979), 14-15.

The river al-'Uṭayfi mentioned in his book is the Qadisha river, which originates in the cliffs of Qanubin in Mount Lebanon and passes by the Qadisha Valley before entering Tripoli from the south east. It then flows in a northerly direction passing through the city. The western part on the left bank of the river is at the foot of a rocky hill known as Mount Pelerins, where the St. Gilles citadel is located. The eastern and smaller part on the right bank of the river is also on a small hill known as al-Qubah.⁴⁵

Tripoli, then, is situated in a lower part of land between the Mountains of Lebanon which extend to the east and south east of Tripoli and the Nuṣayriyyah Mountains which extend to the north.⁴⁶ Large fields of citrus, traversed by the river, separate the city from the seashore and the Askalah.⁴⁷

The origin and the name of the city are still controversial. It is still not clear when the city was first built and what its original name was.⁴⁸ The general opinion is that the city was originally Phoenician and it was built in the period between the eighth and the eleventh centuries B. C., when three Phoenician cities--Arwad, Tyr, and Sidon--decided to have a common place for their meetings.⁴⁹ They were continuously in dispute and needed a neutral place where they could meet and discuss problems of common interest. The site of Tripoli seemed to be a perfect place for that purpose.⁵⁰ They started to send

⁴⁵The Crusaders led siege to Tripoli for ten years before they were able to capture it. They built a fortress, which was named after the Count Raymond De Saint Gilles, to facilitate their task; see J. Gulick, *Tripoli a Modern Arab City* (Cambridge: Harvard University Press, 1967), 13; and K. Baba, *Tarablus fi al-Tarikh*, 37-39.

⁴⁶S. A. Salim, *Ṭarablus al-Sham fi al-Tarikh al-Islami* (Alexandria: Matabi' Ramsis, 1967).

⁴⁷Askalah is the part of Tripoli situated on the seashore.

⁴⁸U. Tadmuri, *Tarikh Ṭarablus al-Siyasi wa al-Ḥadari*, 36.

⁴⁹K. Baba, *Ṭarablus fi al-Tarikh*, 20-21.

⁵⁰U. Tadmuri, *Tarikh Ṭarablus al-Siyasi wa al-Ḥadari*, 26-27.

delegates who were accompanied by their families. Gradually three neighborhoods were built and formed the foundation for the city of Tripoli.⁵¹

According to many sources, the name Tripoli is originally Greek and means three cities, but it is not certain if the name originated with the Greeks. Based on the records of Ashour Nasarbal, the British scholar Brasted mentioned earlier names--Makhalat, Kayysa, and Maysa--designating the three Phoenician settlements.⁵² John Gulick also thought that the triple settlement could be an acceptable explanation for the name, though his theory is not based on specific evidence⁵³. Other historians say that the city was named after a small mountain called 'Turbil' situated to its northern border, but they did not give enough evidence to support this theory. Whether Tripoli was named after the three Phoenician settlements or after the small mountain of 'Turbil' is not known; yet the evidence showed that 'Ṭarabulus al Gharb', the city in northern Libya, was built on the site of three Phoenician cities in a place where there are no mountains nearby.⁵⁴

History

The Old City

From the Persians to the Greeks and the Romans, Tripoli fell to different states of the ancient world that controlled the Eastern Mediterranean. Finally, the Byzantine

⁵¹N. Ḥumsi, *Tarikh Ṭarabulus*, 25-29.

⁵²Ibid., 25.

⁵³J. Gulick, *A Modern Arab City*, 11-12.

⁵⁴N. Ḥumsi, *Tarikh Ṭarabulus*, 27-28.

Empire governed Tripoli prior to the Islamic conquest. At that time, Tripoli was situated on the seashore in the place of the Phoenician city. In 14H./635 the Muslim armies laid siege to Tripoli, captured it a year later, and developed their own town on the same site.⁵⁵

The Umayyads and the 'Abbasids as well as the Ṭulunids and the Faṭimids considered Tripoli the most important port on the Syrian coastal line, so the city typically had a governor and a military commander for the naval forces.⁵⁶ In 462H./1069, a local amir of the banu 'Ammar ruled Tripoli independently of the Faṭimids. This was the beginning of an era of prosperity, which ended when the Crusaders captured it and destroyed its schools and buildings, especially the famous library of the 'Ammar family.⁵⁷

The Crusaders built their city on the seashore, where the Muslim city had been. In addition, they developed a settlement on the top of Mount Pelerins, in the vicinity of the citadel.⁵⁸ In 688H./1289, the city fell to the Mamluk Sultan al-Manṣur Qalawun, who decided to destroy the old Phoenician city to prevent any future invasions. A new Tripoli in Mamluk style was built inland on the foot of the citadel, two miles away from the old urban site.⁵⁹ The larger part of the old Mamluk city, later the Ottoman city, developed on the left side of the Qadisha river in the flat land to the north and north west of Mount Pelerins.

Under the Mamluks, Tripoli rapidly regained its former commercial status and outranked any of the Lebanese towns as a Mamluk provincial capital known in the

⁵⁵J. Gulick, *A Modern Arab City*, 11-14.

⁵⁶U. Tadmuri, *Tarikh Ṭarablus al-Siyasi wa al-Ḥadari*, 49.

⁵⁷J. Gulick, *A Modern Arab City*, 13.

⁵⁸Ibid.

⁵⁹U. Tadmuri, *Tarikh Ṭarablus al-Siyasi wa al-Ḥadari*, 50.

sources as “al-Mamlakah al-Ṭarabulsiyyah” or the kingdom of Tripoli.⁶⁰ The province extended from Ladhiqiyyah in the north to the Kalb River near Beirut in the south.⁶¹ The Mamluk Sultans built *masjids*(mosques), *ḥammams*(baths), *zawiyahs*, *suqs*(markets), *madrasahs*(schools), and *mustashfahs*(hospitals), which made Tripoli the third city in Syria after Aleppo and Damascus.⁶²

Ottoman Tripoli

In 922H./1516 the Ottomans conquered Tripoli, along with all the Levant. The city remained under their governance for the next four centuries. The new conquerors did not make any major changes in the already established administration of the Mamluk state until 1004H./1595, when the Levant was divided into three provinces or *eyalahs* (later *wilayahs*): Aleppo, Damascus and Tripoli (the latter extending along the coastal line from Jubayl to Ṭartus).⁶³ Administration and finance in the province were the responsibility of the governor or the *wali*. He had to have the rank of *Pasha*, and his duties were mainly the levy of dues and taxes and the conservation of order and peace.⁶⁴ The provinces were also divided into small units called *sanjaqs*.⁶⁵ For tax purposes, the *sanjaqs* were divided into smaller units called *naḥiyahs*. The number and size of *sanjaqs*

⁶⁰Ibid.

⁶¹U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

⁶²A. Abdel-Nour, *Introduction à l'Histoire Urbaine de la Syrie Ottomane*, 308.

⁶³N. Ḥumsi, *Tarikh Ṭarabulus*, 45. Other sources included Ladhiqiyyah and Juniyah in the newly created province of Tripoli; see Volney, *Voyage en Syrie et en Égypte*, 283.

⁶⁴A. Raymond, *The Great Arab Cities in the Sixteenth-Seventeenth Centuries*, 2.

⁶⁵P. Hitti, *A Short History of Lebanon*, 144.

varied from one province to the other. The boundaries of the province of Tripoli changed many times but in general it was divided into five sanjaqs: Tripoli (the city), the inland Syrian towns of Ḥoms, Ḥamah, al-Salamiyyah, and Jablah.⁶⁶ The cities in the provinces were divided to *maḥalahs* or *ḥarahs* (quarters). In 1077 H./1666, there were 26 *maḥalah* in Tripoli; the number fell to 24 in 1152 H./1739.⁶⁷ Each *maḥalah* was self-governing, which better suited the Ottomans because it provided firm control over the whole population.⁶⁸ A person called *shaykh al-ḥarah*, often very powerful, was chosen by the *maḥalah's* inhabitants to represent them in matters related to tax collection and other obligations to the state.

According to André Raymond, the market, the great mosque, and the *shari'ah* court played a decisive role in structuring urban centers.⁶⁹ In this context, Tripoli was not an exception. All three elements were closely situated at the center of the city. Information about the population of Tripoli is not very adequate. Numbers varied greatly from one source to another. According to Antoine Abdel-Nour, the Ottoman fiscal sources yielded an estimate number of 12,000 inhabitants in the middle of the sixteenth century and 9,000 in 1033 H./1623.⁷⁰ The French traveler Volney put the number at 4,000 to 5,000 inhabitants around the year 1198 H./1783, while it was estimated at the incredible number of 80,000 inhabitants in 1127 H./1715 according to Roux.⁷¹ The population varied greatly in ethnicity and religion. Volney mentioned the presence of

⁶⁶U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

⁶⁷N. Ḥumsi, *Tarikh Ṭarablus*, 60.

⁶⁸A. Raymond, *The Great Arab Cities in the Sixteenth-Seventeenth Centuries*, 15.

⁶⁹Ibid., 13.

⁷⁰A. Abdel-Nour, *Introduction à l'Histoire Urbaine de la Syrie Ottomane*, 310.

⁷¹Comte de Volney, *Voyage en Égypte et en Syrie*, 284. Also F. C. Roux, *Les Échelles de la Syrie et de Palestine*.

Greeks and Latins close to the seashore and Turks and people of Arab origins in the center. Abdel-Nour, on the other hand, pointed that it was mostly a Muslim locality in the midst of a Sunni region where 'Akkar and Ḍaniyyah guaranteed it the supply of men.⁷² The name of certain quarters given in the court records indicates the presence of Jews and Christians, who inhabited the northwest part of the city.⁷³ The city had also different guilds or *ṭa'ifahs*. Many cases mentioned the members of specific guilds coming to the *qadi* to request dismissal of the head of the guild.

Volney described the city as being a city of peace: “no cannons, no walls, and no soldiers”.⁷⁴ However, Tripoli like most of the provincial capitals with a citadel had janissary troops stationed in the fortress who were responsible for guarding the gates. A person called the *agha* commanded the troops. The city had other police called *shurṭah* to secure internal order.⁷⁵ Seven towers along the seashore, mentioned in almost all the sources, survived from the Mamluk days, but seemed to have little military purpose.

In *al-Tuḥfah al-Nabulsiyyah fi al-Riḥlah al-Ṭarabulsiyyah*, the Damascene traveler 'Abdul-Ghani al-Nabulsi mentioned that the city had more schools than one can count.

We heard that the city had 360 *madrasahs* (Islamic schools) but most of them were abandoned or destroyed (which is a great indication of the deterioration of Tripoli during the period when al-Nabulsi visited in 1700). The mosques where the Friday prayer is held are twelve. The city has 11 *ḥammams* (baths) and there

⁷²Akkar and Ḍaniyyah are the countryside of Tripoli that extends to the north and northeast, respectively.

⁷³A. Abdel-Nour, *Introduction à l'Histoire Urbaine de la Syrie Ottomane*, 308.

⁷⁴Comte de Volney, *Voyage en Égypte et en Syrie*, 282.

⁷⁵A. Abdel-Nour, *Introduction à l'Histoire Urbaine de la Syrie Ottomane*, 206.

is an additional one in al-Mina', thus making them twelve. There were also about ten mills spread along the river.⁷⁶

The province flourished at the end of the sixteenth and the beginning of the seventeenth centuries. The city was the most important port on the Syrian coastal line for the trade between the interior Syrian cities (Aleppo, Ḥoms, Ḥamah) and the different Mediterranean regions (Egypt and some of the European states, especially France). It also provided a military base for attacks initiated by the Ottomans (in 978 H./1570 against Cyprus). The province of Tripoli provided a considerable income for the Ottoman state in the form of taxes.⁷⁷

The Ottoman Empire underwent many internal changes in the seventeenth and eighteenth centuries. In various Arab provinces, local powers called for self-government, but these movements did not lead immediately to "the idea of independence," because the ideological and religious links to the Ottoman state were strong. Nevertheless, it formed the basis for future political unities.⁷⁸ In Tripoli, the trend was reversed. Many factors contributed to the change of fortune of the province and the loss of many privileges.⁷⁹ This decline was related to changes involving the relationships of both Tripoli and the Ottoman Empire to the West.

Although Tripoli was a commercial center that controlled trade between Damascus and Aleppo and the rest of the Mediterranean, it was also an agricultural center that depended to a large extent on the production of the cities of Ḥoms and Ḥamah, which both served the local needs and sold surplus commercially. However, the change of the

⁷⁶A. G. al-Nabulsi, *al-Tuḥfah al-Nabulsiyyah*, 72.

⁷⁷N. Ḥumsi, *Tarikh Ṭarablus*, 47.

⁷⁸K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 20.

⁷⁹*Ibid.*, 22.

West's interest in the production of the hinterland of Tripoli, especially that of Ḥoms and Ḥamah, caused severe losses to Tripoli as a regional port.⁸⁰ At that time the city lost control over the two interior Syrian cities and thus lost a great part of its agricultural supply.⁸¹ Tripoli by the end of the seventeenth century was importing some products that the city previously had in abundance.

The ambitions of the Prince Fakhr al-Din II of the Druz Ma'n clan and his continuous struggle with the local powerful families in Tripoli, especially from the Sayyfah clan, also resulted in an economic setback for Tripoli. The Ma'n clan first entered Lebanon around 514H./1120 when the Saljuk governor of Damascus ordered them to settle in the central slopes of Lebanon and harass the Crusaders. The Sayyfah were of Kurdish origin, who resided in the plain of 'Akkar to the north of Tripoli as Mamluk agents in the late 1580s.⁸²

Fakhr al-Din benefited from good relations with Western Europe, especially the family of the Medici of Florence based on trade with the European states in silk.⁸³ Gradually, Tripoli lost its importance as the most active port in the region and gave way to Beirut, Sidon, and Acre situated in the territories governed by the Ma'n prince. Another port, Ladhiqiyyah, also competed with Tripoli and gradually replaced the latter in commercial activities.

With the flourishing trade in silk, Fakhr al-Din encouraged many Maronite

⁸⁰A. Abdel-Nour, *Introduction à l'Histoire Urbaine de La Syrie Ottomane*, 312.

⁸¹K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 26.

⁸²P. K. Hitti, *A Short history of Lebanon*, 158.

⁸³The Medici family had many plans to establish their own empire in the East. They were attracted by the activities of the Druz Prince Fakhr al-Din and invited him to visit Tuscany and encouraged him to revolt against the Ottomans. See K. Salibi, *The Modern History of Lebanon*, 2nd ed., (New York: Caravan Books, 1977), 3.

Christians, who formed a part of the inhabitants of Tripoli and worked in silk production, to leave the province and migrate to Kasrawan and the Druz regions to guarantee the production of the necessary supplies. The invitation of Fakhr al-Din came at a time when Tripoli was suffering from more taxes and harshness of governors. As a result, Tripoli lost a large part of its Maronite population in a short period of time.⁸⁴ Both families tried to gain the consent of the Turks to control more territories. After many Sayyfah plots against the Ma'nids, which had Yusuf Sayyfah, the overlord of Tripoli-'Akkar-Kasrawan as the prime suspect, the Prince Fakhr al-Din II was able in the early seventeenth century to bring the regions of Shuf (the main district of the Druz in southern Lebanon), Sidon, and Beirut under his rule.⁸⁵ He then left the country because of new plots but came back more powerful in 1028 H./1618. From that time, he challenged Ottoman authority and fought the neighboring *pashas*. He attempted to capture the territories under the control of the Sayyfaqs. He entered Tripoli on several occasions and ordered the destruction of regions around the province, especially the hinterland of 'Akkar, until 1043 H./1633. He was eventually defeated by the Turks and taken to Istanbul, where he was hanged in 1045H./1635.

At a time of succession of weak sultans, the Ottoman state found itself facing a monetary crisis with the discovery of the silver mines of Peru. Silver found its way to European states, where it was widely used. Soon foreign coins, especially European,

⁸⁴The Maronites are a Christian group which settled in the northern part of Mount Lebanon and built the monastery of Qannubin on the cliffs of the Qadisha valley and the Bsharri district close to the year 1000. The maternal uncles of Fakhr al-Din who helped him in his career were the Maronite family of al-Khazin which might have had an influence on him to invite and help the Maronites of northern Lebanon. See K. Salibi, *A House of Many Mansions* (Los Angeles: University of California Press, 1988), xix.

⁸⁵*Ibid.*, 160.

were at a premium when compared with Ottoman coins.⁸⁶ Confidence in the Ottoman monetary system diminished. The Ottomans needed to increase their revenue to offset the diminished value of their coins. The state strove to overcome the new situation. New and increased taxes in the different *wilayahs*, including Tripoli, seemed the appropriate solution for the crisis. Moreover, the port of Tripoli was losing the monopoly of trade with European countries with the shift of the international trade routes that accompanied European entry into Asian trade.⁸⁷ The repeated occurrence of periods of famine and inflation in the seventeenth century was another reason for the deterioration of the economic and social situation of Tripoli.⁸⁸

As a consequence of all the problems that had an impact on Tripoli: the continuous struggle with Fakhr al-Din, the expansion of many ports on the Syrian coastal line, the shift of international trade routes, the migration of many inhabitants from Tripoli, the repeated periods of drought and famine, the increased taxes and difficult living conditions, and the loss of the more productive regions, Tripoli slipped from its position as one of the most influential coastal cities in Bilad al-Sham.

⁸⁶F. Braudel, *Civilisation Matérielle et Capitalisme* (Paris:Armand Colin, 1967), pp. 337-347.

⁸⁷N. Ħumsi, *Tarikh Ṭarablus*, 51.

⁸⁸*Ibid.*, 57. The Patriarch Estephan al-Duwayyhi confined the periods of famine and increase of prices to the years 1621, 1631, 1644, 1647, and 1663.

CHAPTER IV

THE SHARI'AH COURT, THE QADI, AND THE RECORDS

Sijillat al-Maḥkamah al-Shar'iyah represented the daily record of the legal life of residents in the Ottoman domain whether Muslim, Christian, or Jewish, though the majority were Muslims. The *sijills* illuminated many areas of life, including familial conflicts, contracts of commercial exchange, Sultanic orders or *firmans*, and penal matters. The *sijills* appeared to be an Ottoman invention, but evidentiary written testimony was accepted in Islamic law as early as the ninth century. The jurists of the Ḥanafī *madhhab* issued manuals on legal records to ensure conformity with the *shari'ah* codes. Consequently, the records became formulaic in structure and repetitive in terminology.⁸⁹

Larger Ottoman cities had more than one court situated at different parts of the city to make their access easier. In Cairo shortly after the Ottoman conquest there were about fifteen courts distributed throughout the city.⁹⁰ The city of Tripoli seems to have had only one court that served a large part of the *wilayah* and had litigants coming from distant places to present their cases. The following chapter is a presentation of the

⁸⁹N. al-Qattan, "Textual Differentiation in the Damascus Sijill," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse university press, 1996), 193.

⁹⁰N. Hanna, "Marriage Among Merchant Families in Seventeenth Century Cairo," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse University Press, 1996), 143.

shari'ah court in general with all its elements and an examination of the court of Tripoli in particular.

Ottoman *Shari'ah* Court

Contrary to the assumption of many scholars, the importance of the *shari'ah* court increased as time went by. "It was elevated in the Ottoman political-administrative system to the status of a major bureaucratic cornerstone", according to H. Gerber. The Ottoman Empire strove to have a relatively common court system to deal with different legal matters.⁹¹ The *shari'ah* court was thus available to them without making any effort and "it suited them culturally-not only because it represented Islamic ethics, but also because [it] was an antidote, both political and cultural, to the military administrator, a figure with whom the Ottoman dynasty had a well-known love-hate relationship."⁹²

It is not certain where in Tripoli the court and the trials took place. According to André Raymond, the court convened in a *madrasah* or a mosque.⁹³ The *qaḍi* sat in the main mosque, which was in the immediate vicinity of the city markets, or in an annex of that mosque called the house of the *qaḍi* or '*bayt al-qaḍi*'.⁹⁴ When he mentioned the Great *Maḥkamah*, ibn Maḥasin gave it a location different from that of the Great mosque,

⁹¹H. Gerber, *State, Society, and Law in Islam*, 16.

⁹²*Ibid.*, 22.

⁹³A. Raymond, *Le Caire*, 197.

⁹⁴*Idem*, *The Great Arab Cities*, 16.

though it was in the center of the city and close to the market.⁹⁵ According to the French author Volney, who traveled to Syria and Egypt in 1198 H./1783, the *qaḍi* worked in a place called *maḥkamah* which was sometimes the house of the *qaḍi* itself. The name '*bayt al-qaḍi*' given to the court might have confused the French author and made him think that it was the *qaḍi*'s place of residence. Volney also described a trial:

The trial took place in an empty house and on the floor on a 'bad rug'. Next to him (*qaḍi*), deputies and few servants. The door was opened to everybody. No lawyers, no translators, everybody represented his case. People argued, but the screams of deputies and the stick of the *qaḍi*, who was smoking his pipe, calmed them down.⁹⁶

K. Ziyadah also mentioned that the *qaḍi* sat in a special place known as *maḥkamah*, but he did not say where it was located. All the *qaḍi*'s deputies were housed in that same place, which also had a jail.⁹⁷ Most of the sessions took place in the *maḥkamah* but other 'respectable' and 'suitable' places were also used, sometimes the house of a litigant or even outside Tripoli. In those cases, the *qaḍi* was represented by his deputy. The *wali* could be present or he would send a representative according to the importance of the case or the litigants.⁹⁸

The *Qaḍi*

The most important figure in the court was undoubtedly the *qaḍi*, or *al-ḥakim al-shar'i* (the *shar'i* governor). In the beginning of most cases, a long introduction was

⁹⁵Ibn Maḥasin, *al-Manazil al-Maḥasiniyyah*, 82

⁹⁶Comte de Volney, *Voyage en Égypte et en Syrie*, 369.

⁹⁷K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 86.

⁹⁸Ibid., 87.

reserved to indicate his merits, wisdom, and good judgment. His duty was more than judicial. The cases that he dealt with varied in nature from civil to financial and even criminal. Among his duties were many of the administrative functions of the Ottoman government in the provinces, such as the control of prices.⁹⁹ He was the government's representative in the regulation of the guild's affairs.¹⁰⁰ His role was significant to the extent that the court was often called "the *qaḍi*'s court".¹⁰¹

According to N. Ḥumsi, the Ottoman Turks chose the *qaḍis* from among the Arab Muslim *'alims* of the different Arab cities. The *qaḍi* was appointed from Istanbul and was usually chosen from among the Ḥanafī students from outside the *wilayah*.¹⁰² However, Albert Hourani suggested that the *qaḍis*¹⁰³ were Turks who graduated from the legal schools in Istanbul (teaching in these schools was in Arabic) and were then sent to the provincial capitals.¹⁰⁴ Undoubtedly, the Ottomans were very cautious in their choice of *qaḍis* because of the important role that they played. It is more likely that they chose them from outside their assigned provinces and changed their posts regularly to prevent any local influence. It is not known though whether they were Arab or Turks.¹⁰⁵ The *qaḍi*, more than the *wali* or the governor, was the person who gave the state its Islamic aspect, because his decisions were based on the *shari'ah* laws. Technically, the *wali* did

⁹⁹H. Gerber, *State, Society, and Law in Islam*, 16.

¹⁰⁰H. Gibb and H. Bowen, *Islamic Society and the West* (Oxford: 1951 and 1957).

¹⁰¹A. Hourani, *A History of the Arab People*, 223.

¹⁰²N. Ḥumsi, *Tarikh Ṭarablus*, 100.

¹⁰³In this case they were all Ḥanafī.

¹⁰⁴A. Hourani, *A history of the Arab People*, 237. The author thought that the place of the Arabic language did not diminish but was reinforced. The Arab cities were not the only one to have important legal schools. In Istanbul also there were very good schools where students studied in Arabic and were later sent to the provinces to administer the local *shari'ah* courts.

¹⁰⁵Ibn Maḥasin mentioned the *qaḍi* of Tripoli at the time when he was visiting the city. He said that the *qaḍi* was from [ʿAnquriyyah] or Ankara and that the latter told him that he served as *qaḍi* in [Qasariyyah] or Kayseri before coming to Tripoli. See ibn Maḥasin, *al-Manazil al-Maḥasiniyyah*, 61.

not have any influence on the *qaḍi* or his decisions, because he did not have any direct authority over him. Moreover, the *wali* needed the *qaḍi*, because the decision of the appointment of the governor from Istanbul had to be registered in the court of the judge. The *qaḍi* heard some cases against the *wali* in his court.¹⁰⁶ When the *wali* needed to appoint someone to a position or he wanted to sign a contract of *iltizam* (tax-farm), he did that in the court.¹⁰⁷

In addition, the court had a body of employees to help the *qaḍi* in his work. The *na'ibs* (deputies) to the *qaḍi* in Tripoli were about ten. Their duties varied from representing the *qaḍi* in missions outside the city to recording the cases and interviewing the litigants.¹⁰⁸ In some cases where an investigation was necessary, the records showed that one of the deputies went to the site of the crime or the site of a disputed property accompanied by a number of people from the city whose judgment could be trusted. One of the employees was called the *turjuman* or translator. It is not clear what his duties were, since the *qaḍi* was supposed to understand both Turkish and Arabic. Some of the comments that ibn Maḥasin made about the court of Tripoli during his visit to the city in 1053H./1643, raised some questions about the decency of the people who worked in the court. First, he found that a number of clerks did not have the qualities of men representing law and justice. Second, he criticized the registration of marriage contracts and complained that the procedures followed in the court often led to the loss of information.¹⁰⁹

¹⁰⁶N. Ḥumsi, *Tarikh Ṭarablus*, 100.

¹⁰⁷K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 40-41.

¹⁰⁸*Ibid.*, 87.

¹⁰⁹Ibn Maḥasin, *al-Manzil al-Maḥasiniyyah*, 80.

The *mufti* was another religious figure in the city whom the *qaḍi* consulted in the more complicated cases. The *mufti*'s duty was to give a *fatwah* or legal interpretation to be used in the judgment in cases where the *shari'ah* was not clear. Another religious and highly respected figure was that of the *naqib al-ashraf* who represented every individual who lived in the city and claimed to be a descendant of the family of the Prophet Muḥammad. There were also the employees of the court who were appointed to serve in the mosques and teach in the schools linked to the mosques. Deputies, most of the *muftis*, *naqib al-ashraf*, and teachers in *madrasahs* were appointed from the body of local *'alims*.¹¹⁰ The Ottomans favored the Ḥanafī school and assigned one of the *'alims* of the Ḥanafī *madhhab* from Aleppo, Ibrahim al Ḥalabi, to write a manual on legal writing to be adopted in all the Empire.¹¹¹ However, in cities where the Muslim population belonged to more than one *madhhab* or legal school, each group had its own *qaḍi* and *mufti*.¹¹²

The importance of the *qaḍi* and his image in Ottoman society as a strong judge did not mean that his decisions were abrupt and hasty. While the Comte de Volney described the formulation of judgments as based on non-written customary law, H. Gerber claimed that there was no reason to do so, because the judge had a detailed body of laws to put in use.¹¹³ The classical code of the *shari'ah* was applied in reality, not only in theory.¹¹⁴ In the courts of the central regions of the Ottoman Empire, the *shari'ah* law and the available *shari'ah* manuals were in use in most cases of bankruptcy, personal

¹¹⁰A. Hourani, *A History of the Arab People*, 237.

¹¹¹S. al-Zayn, *Tarikh Ṭarablus*, 182.

¹¹²A. Hourani, *A History of the Arab People*, 237.

¹¹³H. Gerber, *State, Society, and Law in Islam*, 32.

¹¹⁴*Ibid.*

injuries or *diyyah*, etc.¹¹⁵ This trend and the growing importance of the penal code of the *shari'ah* were generalized in the Empire as the evidence from the courts of Cairo and Aleppo showed.¹¹⁶ This however did not prevent the use of state and customary laws. There were some sultans who felt the need to issue their own mandates, which could not contradict the *shari'ah*.¹¹⁷ Most historians tend to agree with Gerber that the legal system, even with the use of state and customary law, worked smoothly.¹¹⁸

Other elements essential in the court were witnesses. Two types of witnesses could be distinguished through the records: *shuhud al-ithbat* and *shuhud al-ḥal*. It seems likely that *shuhud al-ḥal* were witnesses who were present in the court at the time when cases were recorded to verify that the information recorded agreed with what happened in the court. *Shuhud al-ithbat* were witnesses who came to the court to give testimony. In some cases, where no written evidence existed, the verdict depended on the ability of the litigant to have a witness (*shahid ithbat*) on his side. Astonishing as it seems, some of the most important agreements were guaranteed only by the presence of witnesses. In other words, oral agreements in the presence of witnesses, especially if they were chosen from among the most prominent figures in the city, satisfied conditions for a written contract. Nevertheless, neither oral agreements nor written contracts were adopted every time in court, but parties used procedures that met the needs of the specific occasion. After the verdict was given, the court gave an authenticated document or a document of proof to the successful litigant for future use to prevent more lawsuits.

¹¹⁵Ibid., 33. In the case of a murder, the family of the deceased had the right to decide whether the criminal should be executed or pay them a compensatory sum of money known as the *diyyah*.

¹¹⁶H. Gerber, *State, Society, and Law in Islam*, 76.

¹¹⁷A. Hourani, *A History of the Arab People*, 225.

¹¹⁸H. Gerber, *State, Society, and Law in Islam*, 17.

The evidence from the court of Kayseri in Anatolia indicated that some *dhimmi*s or non-Muslims voluntarily used the *shari'ah* court for various purposes, including personal matters.¹¹⁹ Procedures were similar whether the litigant was Christian or Muslim, and the Islamic laws were the ones adopted. The types of cases varied. Internal disputes, *dhimmi* claims against Muslim and vice versa, *dhimmi* seeking a legal *fatwa*, and even *dhimmi* petitioning to the Sublime Porte all appeared in the records.¹²⁰ The *dhimmi*s also witnessed in cases where litigants were both Muslims and Christians. Evidence from Damascus also showed *dhimmi* use of the *shari'ah* court.¹²¹ In Tripoli, while it was possible for non-Muslims to solve all kind of problems in their correspondent religious institutions, it occurred that some used the *shari'ah* court because it had both religious and public characteristics.¹²² The types of cases were similar to those found in the records from Kayseri.¹²³ It is worth noting here that Philip Hitti claimed that under the Ottomans, every *millah* was left under its corresponding religious jurisdiction in personal and familial matters only because Islamic laws were considered too sacred to be applicable to non-Muslims.¹²⁴ Ottomans did in fact give liberty to the different *millahs* in the personal matters, but that did not prevent non-Muslims from using the *shari'ah* court, which they definitely did as evident from the court records of many cities under the Ottomans.

¹¹⁹R. Jennings, "Women in the Early Seventeenth Century Ottoman Judicial Records: the Sharia Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient* 28 (1983): 53-114.

¹²⁰*Ibid.*, 250.

¹²¹N. al-Qattan, "Textual Differentiation in the Damascus Sijill," in *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira al Azhary Sonbol (Syracuse: Syracuse university press, 1996).

¹²²K. Ziyadah, *al-Şurah al-Taqlidiyyah*, 132-133.

¹²³*Ibid.* For further information about the use of *dhimmi* women of the *shari'ah* court, see below chapter V.

¹²⁴P. Hitti, *A Short History of Lebanon*, 147.

Sijillat al-Mahkamah al-Shar'iyah are currently housed in the *sarayah*, where the *shari'ah* court of Tripoli is currently located. The court kept the only copy of the records for almost two centuries until 1975, when a fire in the building where they were kept threatened to destroy them.¹²⁵ At that time, many scholars called for actions to protect the records from any further damage. Nothing was done until the year 1982, when the Lebanese University offered to make photocopies that could be kept in different places.

Formerly, the records did not have page numbers, although the later pagination did not help much, because many pages from the original and the photocopies are continuously exposed to theft.¹²⁶ Some individuals who use the records take a page or more from the records instead of making a copy, resulting in their permanent loss.¹²⁷ The original and the photo copies consulted and used in this study have correspondent page numbers.¹²⁸ The records of the *shari'ah* court of Tripoli (the city) belonged to the only court in the city. While Damascus and Cairo, for example, had more than one court at a time with different duties, military among others, Tripoli had only one court that served different purposes in the *wilayah*. The province of Tripoli, however, had more than one

¹²⁵U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

¹²⁶The pagination of the records was done twice but it is not known exactly when. In 1983, one of the professors at the department of history at the Lebanese University, Dr Antoine Dumit, worked on the first volume and gave it an index and page numbers.

¹²⁷U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

¹²⁸In their effort to make the records useful, some of the professors at the department of social sciences at the Lebanese University like Dr. Khalid Ziyadah and Frederick Ma'tuq work with their students to reorganize the records and put indexes that could be used in future research.

court. The cases varied from personal to military or religious, especially in the period before the nineteenth century.¹²⁹

The *shari'ah* court has about seventy volumes from the year 1077 H./1666 to the year 1300 H./1883. A volume might include the records of one or more years. In this context, the records of Tripoli are the largest in number and the oldest legal documents in Lebanon. They are almost complete with the exception of some gaps, especially the twenty-nine years between the third and the fourth volume (1098 H./1686 to 1128 H./1715).¹³⁰ The size of the record is on average of 40 to 43 cm in length and 13 to 15 cm in width. Every volume has a different number of pages. The least number is about 130 pages and the maximum is 600 pages. The records were written in a black, more or less legible, hand writing.¹³¹ It is worth noting here that the language of the text around the seventeenth century was mostly Arabic with some cases in Turkish, especially the official documents and letters exchanged between the *wali* and Istanbul. Some cases of divorce or commercial agreements were in Turkish, but by the eighteenth century, these cases were recorded only in Arabic. In the following centuries, even the Turkish cases were translated to the Arabic language. Most of the records refer to cases in the city of Tripoli in comparison with the other cities of the *wilayah*.¹³² This might be explained by the fact that the inhabitants of Tripoli had easier access to the court than the people living in distant places, who might have been unable to pay for transportation costs. In this

¹²⁹U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

¹³⁰K. Ziyadah, *al-Şurah al-Taqlidiyyah*, 14.

¹³¹U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

¹³²K. Ziyadah, *al-Şurah al-Taqlidiyyah*, 39.

context, there were regional courts in the *wilayah* other than that of Tripoli, although in some cases it was obvious that the litigants were coming from remote areas.¹³³

There is no doubt that the responsibilities of the *qaḍi* were tremendous. He sat for military cases, appointed the head of the guilds, and chose employees to perform in the mosques and the *waqfs*. Nonetheless, the changes in the administration diminished his role and his authority. Over time special offices to regulate *waqfs*, prices, etc., were created until the *shari'ah* court was only responsible for personal cases, such as divorce and inheritance disputes.¹³⁴

The creation of special bureaucratic institutions for the different administrative functions of the state influenced the declining number of cases recorded in the court. The deterioration of the *wilayah* of Tripoli at the end of the seventeenth century on the political and economical level was reflected in the records, where the virtual disappearance of *firman*s and orders sent from the 'Sublime Porte', and the cases of *iltizam* signed between the *wali* and the different *naḥiyah*s is noticeable. Consequently, it is more interesting to study the earlier period of the records because they include more varied topics.

¹³³Volume 2, folio 59, Cases 1 and 2.

¹³⁴U. Tadmuri, F. Ma'tuq, K. Ziyadah, *al-Sijill al-'Awal*, introduction, passim.

CHAPTER V

WOMEN IN THE COURT

This study is based on the records of the *shari'ah* court of Tripoli, volumes 1 and 2. The first volume is 156 pages in length with 291 cases and includes the record of cases between Shawal 1077 H./1666 and Rajab 1078 H./1667, a period of ten months. Of the 291 cases, 95 (32.6%) involve at least one woman. Volume 2 is 367 pages with 737 cases and includes the record of the cases between 26th of Sha'ban 1078 H./1667 and 18th of Rajab 1079 H./1668 (part 1) and those between the 5th of Rabi' al-'Awal 1088 H./1677 and the end of Jamad al-Thani 1090 H./1679 (part 2). The cases involving one woman at least are 277 (37.6%). The records of the cases between the 18th of Rajab 1079 H./1668 and the fifth of Rabi' al-'Awal 1088 H./1677 are missing from the original and the photo copy. It is not known whether they were lost or misplaced, but this gap passed unnoticed in all previous works on the records.

For the purpose of this study, the cases of volume 1 and the cases of part 1 of volume 2 will be considered as one segment (referred to as the first period, which is from Shawal 1077 H./1666 to Rajab 1079 H./1668) and the cases of part 2 of volume 2 will be considered as another segment (referred to as the second period which extend from Rabi' al-'Awal 1088H./1677 to Jamad al-Thani 1090 H./1679). In the first period, the total number of cases registered was 599 cases with 197 cases involving women (32.9%),

while in the second period the number of cases registered was 429 with 175 cases involving women (40.8%).

A large number of cases in both volumes were not arranged chronologically. For example, in page numbers 74, 75, and 76 of the first volume, cases dating from Rabi' al-'Awal, Muharram, and Jamad al-'Awal of the year 1078 H./1667 are found. Other examples abound. In some instance the cases recorded on the same page dated from different years. Registration of cases was not necessarily done at the time when litigants were at the court, but was done subsequently based on the memory of the clerks, raising questions about the accuracy of details and the integrity of information revealed by the records.

Women initiated a variety of cases from personal to business matters. They also went to court to express their point of view when they were accused of a wrongdoing or asked to give testimony. In his examination of the court records of Kayseri, Karaman, Ankara, and other Ottoman cities, Ronald Jennings affirmed that contrary to what Emile Tyan cited in his book *Histoire de l'Organisation Judiciaire en pays d'Islam*, women used the court at the same time in the same days as men did and the *qaḍi* did not hear the cases of women apart from those of men.¹³⁵ The records of the court in Tripoli revealed a situation similar to Jennings' findings. In a large number of cases, a woman and a man were present simultaneously.

The text of the records of the *shari'ah* court distinguished between women of different social strata. Titles indicating respect and honor preceded the name of women

¹³⁵R. Jennings, "Women in the Early Seventeenth Century Ottoman Judicial Records: the Sharia Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient* 28(1983), 58.

who belonged to high classes of the society. Examples are *al-ḥurmah al-muḥtaramah* (the respected woman) or *fakhr al-nisa' al-mukhadarat* (the pride of women). Names of women who belonged to low classes of the society were likewise preceded by nicknames which indicated their social status. Examples are *al-mad'uwah* (the so-called) or *al-mar'ah* (the woman). Women, particularly elite women, normally had their faces covered. When a woman came to the court with her face uncovered, which was uncommon, it was so striking that it was recorded at the beginning of the case. *Al-mar'ah al-mad'uwah* Laylah bint Muhammad had her face uncovered when she came to the court to resolve a case of inheritance.¹³⁶ *Al-mar'ah al-mad'uwah* Ghaliyah bint al-Zayn also had her face uncovered when she came to the court to file a claim.¹³⁷

It is worth noting here that the records of the *shari'ah* court of Tripoli did not cover all aspect of women's roles in the society of the seventeenth century. Close examination proved that many subjects remained obscure, especially daily life and activities of women inside their houses and other intimate subjects. Of course, nothing is known about women who did not use the court.

¹³⁶Volume 2, folio 89, Case 2.

¹³⁷Vol. 2, f. 147, case 1. Also vol. 2, f. 25, case 2.

Marriage

Women appeared most frequently in cases involving marriage, divorce, custody, alimony, and inheritance. Marriage contracts were not registered in the court and information comes from notes scattered here and there in different cases. For example, according to the Ḥanafi school, adults and mature girls had the right to approve their marriage and not to be forced into a marriage when they reached the age of puberty.¹³⁸

This was clearly manifested throughout the records:

Sulayman refused to marry his fiancé Baṭah, because he complained that the dowry is more than what she deserve. Her brother proposed that Sulayman pays half of the dowry. Sulayman refused. Consequently, the qaḍi permitted Baṭah to marry whom she wants. The qaḍi added that *al-bikr al-baligh* could not be forced into a marriage.¹³⁹

If a marriage contract was signed between one member of the family of an adult girl and another party without her consent, it could be annulled. An example is the following case:

Sulayman was engaged with *al-bikr al-baligh al-mad'uwah* Karimah. During the engagement, he paid for her expenses. When the husband of her sister wanted her to marry another man, she chose Sulayman. The qaḍi declared the marriage of Karimah and Sulayman as authentic. 16th of Ramaḍan 1088H.¹⁴⁰

The above cases have many implications. First, it seems that engagement implied the fiancé's financial responsibility for the bride even before marriage. Second, according to

¹³⁸S. al-Sarkhasi, *Kitab al-Mabsut* (Beirut: Dar al-Ma'rifah Press, 1978), 196.

¹³⁹Vol. 2, f. 348, case 1.

¹⁴⁰Vol. 2, f. 250, case 2.

Islamic *shari'ah*, it was not necessary to register a marriage agreement as long as the parties declared their marriage in front of witnesses (minimum two). In other regions of the Ottoman Empire, registration of marriage contracts was necessary because a fee was paid, which apparently was not the case in Tripoli.¹⁴¹ Finally, mature girls, who had reached the age of puberty, had the right to choose marriage partners even against the will of their families. However, minor girls, who were under the custody of a male member of their family, remained subject to the will of their guardian.¹⁴² In one of the cases, a guardian accepted a large sum of money from a suitor on the condition that the guardian let him marry his minor daughter. Shaykh Kamal al-Din ibn Rajab accepted the sum of 100 ghurush from shaykh 'Abd al-Jawad ibn shaykh kamal al-Din as a part of a dowry for his minor daughter. Because the father changed his mind, the court ordered him to return the money, but at no point was the girl able to express her opinion.¹⁴³

The dowry for younger girls seems to have been high. A woman of high status from one case had the same dowry as a girl in another case.¹⁴⁴ Cowives were not paid equal dowries, rather the matter was decided with regard to the social status of the woman. When Ḥasan Bayk al-Timari died, the *wakil* of one of his wives came to the court to collect her *mu'ajal*. Because she lost her marriage certificate, the marriage certificate of her cousin "who belongs to the same social strata" was brought to the court to be inspected and not the marriage certificate of the other wife of the husband. The

¹⁴¹D. Ze'evi. "Women in the Seventeenth Century Jerusalem: Western and Indigenous Perspectives," *International Journal of Middle Eastern Studies* 27 (1995): 163; J. Tucker. "Ties that Bound: Women and Family in Eighteenth- and Nineteenth- Century Nablus," in *Women in Middle Eastern History*, ed. N. Keddie and B. Baron (New Haven: Yale University Press, 1991), 237.

¹⁴²S. al-Sarkhasi, *Kitab al-Mabsut*, 196.

¹⁴³Vol. 1, f. 74, case 1.

¹⁴⁴Vol. 1, f. 89, case 2.

qaḍi found that the *mu'ajal* was put at 160 *ghurush*. As a result, the court agreed to let the woman take the 100 *ghurush* that she claimed from the inheritance of her husband.¹⁴⁵ In another case, we find the father of the other wife of Ḥasan Bayk al-Timari in the court collecting his daughter's *mu'ajal* which was only 35 *ghurush*.¹⁴⁶

In theory, the dowry was supposed to be paid to the woman, herself, and not to a member of her family. The woman could use the dowry as she wished, to buy clothes and jewelry or to save it for future uses. Actually, it was an important part of the woman's capital that she could use to lend money at interest or to invest in a property. Sometimes, this right was challenged, because the dowry was taken by a father of a minor or a brother.¹⁴⁷

The dowry of a woman usually had two components, one paid at the time of marriage and known as *mu'ajal* and another part paid in case the couple got divorced or the husband died, known as *mu'ajal*. As mentioned in chapter IV, customary laws acceptable by the court were applied on occasions. In one case, a *wakil* of a woman came to the court claiming that she was not paid her *mu'ajal* when her ex-husband, who was of Bedouin origin and belonged to a tribe, died. The son of the deceased presented the court with a document that indicated "the old customs of the Bedouins," which affirmed that they paid all the dowry at once at the time of marriage. The *qaḍi* accepted the content of the document and ruled in favor of the son of the deceased.¹⁴⁸

The records do not inform about the place where the newly wedded couples lived.

¹⁴⁵Ibid.

¹⁴⁶Vol. 1, f. 91, case 1; vol. 2, f. 348, case 1.

¹⁴⁷Vol. 1, f. 150, case 1. Also vol. 1, f. 74, case 1.

¹⁴⁸Vol. 2, f. 152, case 2.

Nevertheless, the size of the households described in many cases indicates that most of them were spatial. Many of the old houses that still exist in Tripoli are vast with multiple stories and big rooms with one common kitchen, which might suggest that children, especially males, got married and lived in the same house with their parents.¹⁴⁹ Up to the 1940s and 1950s, this was the practice in Tripoli, especially in the well-to-do families. Little is known from the documents about the relations of women with their in-laws. They were seen in the court suing each other, especially over inheritance.¹⁵⁰

When a child was born, he/she took the name of the father who was financially responsible for him. In modern Tripoli under civil laws, in all relationships between the government and children, the father serves as his/her legal *waṣi* or guardian. A mother is not allowed to buy or sell in the name of children when the father is not present, even if she is using her own money. The father can act on the behalf of the children when the mother is absent. In seventeenth-century Tripoli, mothers were seen in the court along with fathers in matters relating to children. In one case where a son needed an operation, the mother and the father came to the court to choose a doctor. They were both identified as *waṣi* for the child. In another case, the father had to have official permission from his wife to represent her in a case relating to the disappearance of their son.¹⁵¹ When a father bought or sold in the name of the children, his wife came to the court to approve the transaction.¹⁵² It could be argued that in modern Tripoli mothers lost privileges that they enjoyed under seventeenth-century Ottoman rule with regard to their children, as *shari'ah*

¹⁴⁹Vol. 1, (f. 52, case 2, and f. 87, case 1). Also vol. 1, f. 1, case 1.

¹⁵⁰Vol. 2, f. 18, case 2.

¹⁵¹Vol. 2, f. 225, case 1; also vol. 2, f. 204, case 1.

¹⁵²Vol. 2, f. 26, case 2.

law was no longer observed in certain matters.

Among the duties of husbands were providing for his wife and children who were entitled to decent housing, adequate food, and a stipend to buy summer and winter clothes. If he failed in meeting these expenses, the court intervened and ordered him to do so. In one of the cases, the qāḍi permitted the daughter of a wealthy butcher to borrow the sum of 8 *'uthmaniah* (kind of coins) *fiḍḍah* (silver) to pay for her food and clothes, which was her father's responsibility to repay.¹⁵³ When a husband left the city or the village where the family dwelled, his wife was allowed by the court to borrow money for herself or her children, but the husband incurred the debt:

The court permitted *al-ḥurmah* (woman) Salmah bint 'Ali to borrow the sum of five *maṣriyah* (Egyptian) *fiḍḍah* (silver) to pay for her expenses and the expenses of her minor children. Her husband, who is absent from the city, was held responsible to return the money. 9th of Jamad al-'Awal 1088.¹⁵⁴

If the husband was poor, the fiscal responsibility for the family remained his, even if the wife was wealthy. Many women who had some assets did help voluntarily with the expenditures of the family, but made sure to make this official by recording it in the court, sometimes as a loan. When the husband failed to return what he borrowed from his wife, she did not hesitate to sue him.¹⁵⁵

According to the *shari'ah*, a woman can keep, control, and invest all her property after her marriage. The following cases, emphasize this fact, but also suggest that the husband may have challenged this right in some instances:

¹⁵³Vol. 2, f. 27, case 1.

¹⁵⁴Vol. 2, f. 191, case 3; vol. 2, f. 334, case 2.

¹⁵⁵Vol. 1, f. 90, case 2.

Yusuf ibn 'Abdallah came to the court and admitted that *ḥammam al-ḥajib* is the property of his wife. She inherited it from her son and she can use it as she wishes. Beginning of Jamad al-Thani 1088.¹⁵⁶

Al-Ḥaj Ḥaydar ibn 'Abad came to the court and admitted that his wife is the real owner of the family's place of residence. Ḥaydar also admitted that he took a loan from his wife, which he should return upon request. 23rd of Ṣafar 1078.¹⁵⁷

Another reason for which a woman got a deed or proof of ownership of her properties, was to prevent any confusion with her husband's property in case he divorced her or he died. This exactly what happened in one case, where a widow did not have any proof that she was the real owner of the family's property. Barikhan bint Muṣulli Agha came to the court in an attempt to recover properties that were mistakenly considered as the inheritance of her husband.¹⁵⁸

Women, like Barikhan, who belonged to higher classes of the society (she was the daughter of an Agha), or who could guarantee the aid of influential people to witness in their favor (one of the witnesses was *naqib al-ashraf* who, as it was discussed earlier, had a certain kind of respect and religious importance) guaranteed relief. Others were less powerful and consequently were not able to protect themselves from an abusive husband. In such circumstances, the court did not intervene to help them.¹⁵⁹

Men married more than one time, although this was more common among the better-off and well-to-do. Cases that mentioned cowives were mostly inheritance cases where both wives came to the court or sent their *wakil(s)* to manage the property of their

¹⁵⁶Vol. 2, f. 206, case 3.

¹⁵⁷Vol. 1, f. 49, case 2.

¹⁵⁸Vol. 2, f. 92, case 2.

¹⁵⁹Vol. 2, f. 358, case 2.

deceased husband.¹⁶⁰ It is not possible to determine exactly what the percentage was of those who married once, twice, or more times and why they did so: death of the first wife, divorce, or a desire to have a male heir. Conflicts between stepmothers and children of deceased husbands were common.

Divorce

In Islam, although divorce is permitted according to the *shari'ah*, it is considered by God as the most hated “permitted right”, which should be limited to cases when marital life is absolutely impossible. It is a very serious matter that should not be subject to one’s mood or temper. A woman is considered divorced when her husband simply pronounce the word “*taliq*”(divorced), even if in reality it was not his intention to divorce her. Divorce could be repealed twice, after which a man could not recover his wife, unless she officially married another man called *muḥallil*. If the second marriage were dissolved, she could then remarry the original husband.

In the *sijills*, few cases of divorce were recorded, which was not reflective of the social situation. In the first period, they formed only 1% of the total number of cases and 3% of the cases that involved women. Divorces comprised 1.6% and 4% of all the cases in the second period. Practically, a man had the right to divorce his wife whenever he

¹⁶⁰Vol. 1, f. 112, case 2; vol. 1, f. 129, case 2; vol. 2, f. 9, case 1; vol. 2, f. 38, case 2; vol. 2, f. 59, case 1; vol. 2, f. 344, case 1; vol. 2, f. 55, case 3; vol. 2, f. 363, case 3.

wished on condition that he paid her *mu'ajal* and *nafaqah*.¹⁶¹ A woman could ask for divorce, if she or her representative absolved the husband from paying *mu'ajal* and *nafaqah*. This was generally known as *ḥul* or according to the records *ibra'*. Cases of *ibra'* formed the majority in this category. Out of fourteen cases of divorce recorded, there were nine cases of *ibra'*.

Aḥmad ibn Jawish came to the court as *wakil* for his daughter *al-mar'ah al-mad'uwah* Nafilah. He agreed to relieve Nafilah's husband, Muḥammad ibn Muḥammad al-Saqa, from paying *nafaqah* and other payment due to Nafilah. He also agreed to be financially responsible for Nafilah's unborn child until the age of four. Muḥammad agreed on these terms to grant Nafilah divorce. Mid of Šafar 1079.¹⁶²

In the above case, the woman and her *wakil* wanted the divorce as a result of turmoil in conjugal life. Nafilah not only renounced her right to the *mu'ajal* and *nafaqah* and the right of her child to *nafaqah*, but also left behind jewelry and other belongings. Other wives sought *ṭalaq* with *ibra'*, when the husband left home and went to live in a distant place. It could be said that wives gave *ibra'* to husbands, because they needed somebody to support them financially, like a new husband, but this was not always the case:

Ḥaj Abdallah ibn Muḥammad al-Mughrabi, *wakil* for Zaynab bint al-Ḥaj 'Abdul-Raḥman, came to the court and granted *ibra'* to Našir ibn al-Ḥaj 'Ali al-Ṭarabulsi the husband of his *muwakillah* on condition that he divorces her. Našir agreed. 11th of Rajab 1088.¹⁶³

This woman, who was able to afford a *wakil* (he is not a family member so he must have been paid to represent his client) and did not claim her *mu'ajal* or her *nafaqah*, was

¹⁶¹The *nafaqah* in case of divorce is a sum of money that the former husband pays to the divorcee during the *'iddah*, three months after divorce. According to the Islamic *shari'ah*, a woman during that period can not marry another man. This is mainly done to affirm that she was not pregnant at the time of divorce. If she was pregnant than *nafaqah* is due until delivery.

¹⁶²Vol. 2, f. 98, case 1. Also vol. 2, f. 327, case 1.

¹⁶³Vol. 2, f. 44, case 1.

undoubtedly financially secure. She did not accept the absence of her husband, so she preferred a divorce. In other cases of *ibra'*, where the woman agreed to acquit her husband from any dues, it happened that he willingly paid a compensatory sum of money to end their relationship on good terms.¹⁶⁴ Later on, it happened that divorced couples cooperated to protect their common interests.¹⁶⁵

Sometimes the divorce was implemented after the husband associated it with a certain act. One example was when a husband associated a divorce with failure to leave the city before paying a loan that his wife gave him previously. The wife was later seen in the court to annul her marriage on the basis that the husband actually left the city without paying the debt.¹⁶⁶ In similar cases, women received both divorces and guarantee to their rights: *mu'ajal* and *nafaqah*, since the husband was the initiator. In the above case, however, the woman was less concerned about her financial rights than in her right to remarry.¹⁶⁷

None of the above cases represented the more common divorce, where a man divorced his wife, declared it in front of witnesses, and paid the dues owed to the wife. It may be that only when a special agreement accompanied a divorce it was recorded. On the other hand, one of the *qađi's* duties was to encourage reconciliation and to convince the couple of the religious merits of marriage.

¹⁶⁴This was also true in Kayseri where the husband gave the wife in cases of *'ibra'* a sum of money or a property called "*bedel-i-hul'*"; see R. Jennings, "Women in Early Seventeenth Century Ottoman Judicial Records," *Journal of the Economic and Social History of the Orient* 18 (1983): 84.

¹⁶⁵Vol. 1, f. 73, case 2.

¹⁶⁶Vol. 2, f. 184, case 3. Also vol. 2, f. 273, case 1.

¹⁶⁷During his visit to Tripoli, 'Abdul Ghani al-Nabulsi was consulted by both the *qađi* and the *mufti* about similar cases of divorce which was associated with a certain act; A. G. al-Nabulsi, *al-Tuhfah al-Nabulsiyah*, 52-53.

When a couple was divorced, the mother had the right to custody of her daughters until they were nine years old and sons until they are seven, when the custody was restored to the father.¹⁶⁸ Meanwhile, the latter had the full responsibility for their expenses or what is known as *nafaqah*.¹⁶⁹ Though the mother was legally not responsible for her children, again she chose sometimes to take the responsibility instead of her ex-husband:

Karimah bint Yusuf agreed to take the financial responsibility of her minor son because his father currently has financial problems. She also absolved her ex-husband from any late payments of *nafaqah*. 16th of Jamad al-'Awal 1079.¹⁷⁰

After divorce, nothing prevented women from marrying again, even when they had children.¹⁷¹ This was also true when they became widows. In many cases women remarried almost immediately after the death of their husbands.¹⁷² In one case, the *wakil* for a woman in collecting her *mu'ajal* was her new husband.¹⁷³ In another case, the new husband acted as *wakil* for his wife to assist her in receiving her inheritance from her deceased husband.¹⁷⁴ Some women may have been attractive candidates for remarriage because of their wealth, but this was not always true. The following case indicates clearly the poverty of a mother, whose husband died and left her with four minor children, but who nevertheless found a new husband rapidly:

The qāḍi estimated 2 *ghurush* per month for the expenses of the four minor children Maḡsud, Muḡṡafah, 'Abdul-Laṡṡif, and Zalfah the orphans of Ḥaj

¹⁶⁸S. D. al-Sarkhasi, *Kitab al-Mabsut* (Beirut: Dar al-Ma'rifah, 1978).

¹⁶⁹Vol. 2, f. 109, case 1; vol. 2, f. 263, case 2; vol. 2, f. 36, case 1.

¹⁷⁰Vol. 2, f. 141, case 3. The husband sometimes forced the wife, more or less, to pay for the *nafaqah* of her children as an exchange to grant her divorce; vol. 2, f. 98, case 1.

¹⁷¹Vol. 2, f. 193, case 1. Also vol. 2, f. 201, case 3; vol. 2, f. 254, case 1.

¹⁷²In *shari'ah*, a new marriage could not be concluded before a four months and ten days period after the death of the husband which is known as *'iddah*.

¹⁷³Vol. 2, f. 152, case 2.

¹⁷⁴Vol. 2, f. 160, case 3.

Ḥussayn al-'Akari. The court permitted the husband of their mother to borrow the money. The children should return the money when they become of age.¹⁷⁵

This mother did not marry for a second time to guarantee financial security, since the husband was also poor. The questions posed here are whether women, when divorced or widowed, were forced to marry again by social pressure, whether they returned to the house of their parents or lived on their own. Although the records did not discuss these issues, evidence of remarriage for women was common in the majority of cases that involved women.¹⁷⁶

Custody and Alimony

Upon the death of a mother, the father was appointed as *waṣi* for his children. The maternal grandmother had the right, if she wished, to become *waṣi* for her daughter's children even when the father survived his wife. Only in one case was a girl seen living with her grandmother who, nevertheless, was not the legal *waṣi*. In the cases where the father died, the mother was appointed as *waṣi* more times than any of the paternal relatives. In the first period, there were 48 cases of *wiṣayah*, in 21 of them the mother was the *waṣi* (about 43.8%). In the second period, there were 42 cases of *wiṣayah*, in 12 of them the mother was the *waṣi* (28.6%).

¹⁷⁵Vol. 2, f. 278, case 1.

¹⁷⁶Vol. 1, f. 58, case 2; vol. 1, f. 147, case 1; vol. 2, f. 193, case 1; vol. 2, f. 245, case 1; vol. 1, f. 119, case 1; vol. 1, f. 90, case 2.

TABLE 2

WIŞAYAH OR CUSTODY OF CHILDREN AFTER THE DEATH OF THE FATHER

	cases from the first period	cases from the second period
total cases of <i>wiřayah</i>	48	42
cases where relative women were <i>waři</i>	24	14
cases where a mother was <i>waři</i>	21	12
cases where a brother was <i>waři</i>	13	3
Cases where paternal male relatives were <i>waři</i>	2	7
Cases where maternal male relative were <i>waři</i>	3	3
Others	6	3

In some cases, husbands were appointed as *waşi* for their wives' brothers and sisters. In others, where a woman remarried after the death of her husband, her new husband was appointed as *waşi* for her children. One awkward situation developed when a husband was not only appointed as *waşi* for the children of his wife but also for the children of her deceased husband's brother's children.¹⁷⁷

Even if a woman was trusted by the court with the *wişayah* of her children, this did not mean that the *nafaqah* was her responsibility or that of any member of her family. This was also true when she did not have the *wişayah*:

The court ordered Zaynab bint Haj Muḥammad to borrow to be spend on her minor children, Ḥusayn, Muştafah, and Aminah. Their brothers 'Ali and Murad, who are absent from the city, were held responsible to payoff the debt. Zaynab agreed. Beginning of Muḥarram 1079.¹⁷⁸

The qaḍi estimated for the *nafaqah* of the minors Hijazi and Fatimah, the orphans of Naşir the sum of 2 *ghurush* per month. The money is for their daily expenses other than clothes. The court permitted their maternal grandfather to borrow money to pay for the necessary expenses. The children should return the money. 3rd of Sha'ban 1088.¹⁷⁹

When the children inherited from their deceased father, the mother was permitted to use their inheritance for their expenses. In some instances, the court ruled on the amount of money that should be spent on the children. At other times the matter was left to be decided by the mother.¹⁸⁰ Women could be very careful in this context, for some women asked *qaḍis* to give them official documents enumerating expenses.¹⁸¹ The court was not always lenient but on occasion rather severe, when it ordered a mother to borrow

¹⁷⁷Vol. 2, f. 338, case 4.

¹⁷⁸Vol. 2, f. 151, case 3.

¹⁷⁹Vol. 2, f. 240, case 3.

¹⁸⁰Vol. 1, f. 128, case 3; vol. 1, f. 110, case 1.

¹⁸¹Vol. 1, f. 71, case 1.

money to be spent on her children, even though they had property.¹⁸² Finally, women were not only *waṣi* for their children, but also *waṣi* for brothers and sisters, cousins and nephews (children of their brothers and children of their sisters).¹⁸³

Role Of Women In The Economy

Women appeared in the court of Tripoli less frequently for involvement in commerce than for family matters. In evaluating the role of women in the economy of Tripoli in the seventeenth century, information regarding the lower classes of the society is very scarce. Ignorance applies both to poorer women in the urban center and the surrounding countryside. Evidence for women of the middle class and the well-to-do families in trade is more common, especially those involved in purchasing real estate and extending loans.

Women were involved property transactions both in the city and the countryside. A large percentage of cases registered in the court involved property transactions in which women carried a substantial part. In the first period, 141 cases of property transactions were recorded, in 71 of them a woman participated either by buying or selling (*ca.* 50%). In the second period, a woman appeared in 52 cases out of 102 (also *ca.* 50%).

Through these cases of property transactions, they appeared as businesswomen

¹⁸²Vol. 2, f. 43, case 1.

¹⁸³Vol. 2, f. 326, case 1; vol. 2, f. 194, case 1; vol. 2, f. 82, case 3; vol. 1, f. 80, case 3; vol. 2, f. 192, case 1; vol. 2, f. 194, case 1; vol. 2, f. 223, case 3.

who, even when they made mistakes, were capable of reducing their losses:

Ḥafizah asked shaykh ‘Abdallah ibn ‘Abdul-Nabi to estimate the value of a property. He claimed that it is worth only 100 *ghurush*. He offered to buy it for 120 *ghurush*. Ḥafizah agreed. Three years later, she knew that he is selling part of the property for 170 *ghurush*. she complained in the court. After mediation between litigants, shaykh ‘Abdallah paid to Ḥafizah the sum of 35 *ghurush* as compensation. End of Shawal 1078.¹⁸⁴

Purchase of houses in the city by women was not necessarily for personal use, but rather for investment. Most of the women who appeared in the contracts were living either with their husbands or with their families. Most cases recording new deeds mentioned the name of the owner and the tenant, which was in many cases different. If few women lived in the houses that they purchased, none of them used the shops that they bought in this period. This did not mean that trade and manufacture was closed to women. Personal belongings traced in the documents mention utensils “used in the fabrication of silk,” one of the most important commodities in the region.¹⁸⁵ Taking into consideration that many women bought or leased cultivated land to raise silkworms, it might be suggested that they worked at home with the production of silk, which they could sell later in the market or even out of their houses. Clothes and processed food items could also be added to the list of domestic production, which could also be sold at home like silk. This practice is still common in modern Tripoli.

The city of Tripoli had all the elements of an urban center, yet some of its inhabitants worked and even owned the cultivated land at the outskirts of the city and the nearby countryside. Some women acquired land through inheritance, exactly like men.¹⁸⁶

¹⁸⁴Vol. 2, f. 33, case 1.

¹⁸⁵Especially the cases of inheritance; vol. 1, f. 147, case 1.

¹⁸⁶The share of a woman was half of that of a man with similar relation to the deceased.

All properties were divided between heirs according to their relation to the deceased, but it sometimes happened that a wealthy heir, either man or woman, offered to buy the shares of the other heirs.¹⁸⁷ According to the records, it was not clear if women worked the land that they bought or inherited. In the following case, though, one woman sold the land that she just bought because “it was neglected.”¹⁸⁸ Undoubtedly some women from the city and the countryside were engaged in farming, yet others who inherited or bought land used it only for investment. They could sell it later when prices were higher or they could rent it out for a decent revenue.

Many women sold properties acquired through purchase, inheritance, or marriage to engage in moneylending. In many cases, we find them in the court giving money “*bil-murabahah*” or “with interest.” When borrowers failed to return a loan, creditors sued them in the court. Moneylending was sometimes a risky business, especially, according to the records, with family members.¹⁸⁹ In some instances, women found ways other than taking money to collect loans. The respectable Safiy al-din al-Ḥalabi permitted his wife to take any profit from the farm that he owned in return for a loan that she gave him previously.¹⁹⁰ Loans, given to relatives as well as to strangers, were recorded in the court:

Ḥaj ‘Abdul-Raḥman ibn Ḥaj Ḥasan ibn al-Saminah admitted that he took from his daughter Fatmah, the wife of the deceased Ḥasan Bayk al-Timari, the sum of 300 *ghurush* as a loan *bil-murabahah* for one year to be returned 360 *ghursh*. Middle of Jamad al-Thani 1078¹⁹¹.

¹⁸⁷Vol. 2, f. 187, case 1; vol. 1, f. 64, case 3.

¹⁸⁸Vol. 1, f. 91, case 2.

¹⁸⁹Vol. 1, f. 90, case 3.

¹⁹⁰Vol. 1, f.133, case 1. In one case, a woman was selling a land to return a sum of money that she borrowed herself; vol. 2, f. 157, case 2.

¹⁹¹Vol. 1, f. 109, case 2.

Ḥarikah gave Ḥaj 'Uthman ibn Abi Bakr the sum of 40 *ghurush bil-murabahah* for one year to be returned 47 *ghurush*. 22nd of Jamad al-'Awal 1079.¹⁹²

Public Offices

Women were not appointed to public offices in the period under study. Numerous cases recorded the appointment of servers in mosques, teachers in schools, clerks in the court, and heads of major guilds. Those appointed were always male. Sons often replaced deceased fathers and brothers replaced brothers in vacant jobs (especially in mosques), but never daughters or sisters.¹⁹³

Mutawallis of Waqfs

While women in some Ottoman cities, such as Cairo in Egypt and Kayseri in Anatolia, were appointed as *mutawallis* for *waqfs*, this was not the case in Tripoli during this period, although women were in many instance donors of a *waqf*:

'Abdah bint Aḥmad al-Qaraqushi endowed as a *waqf* what she inherited from her father, a house in the Tabanih *maḥalah*.¹⁹⁴

Rights to benefit from *waqfs* were transferred by inheritance to both men and women. In this context, women inherited according to the degree of their relationship to the

¹⁹²Vol. 2, f.148, case 1.

¹⁹³Vol. 1(f. 137, case 2; f. 138, cases 1, 2, 3; f. 139, cases 1, 3; f. 142, case 1).

¹⁹⁴Vol. 2, f. 162, case 2. Also vol. 2, f. 351, case 2.

deceased, if not specified otherwise by the person who endowed the *waqf*.¹⁹⁵

Finally the records showed certain financial independence for women. In all cases where purchase, donation, or investment was made, the text referred to the money used as “the woman’s own money, which is hers and belongs to her and not to anybody else”:

Makiyyah bought from her father Ḥaj Naṣir ibn Ibrahim all the house in the vicinity of the Ṭaynal mosque. She paid with her own money and bought the property for herself.¹⁹⁶

Ḥafizah bint Ibrahim leased for herself with her own money, the property in the village of Mijdayyah, which belonged to Muḥammad Bayk ibn Mussa al-Timari.¹⁹⁷

Women were responsible for taxes and other payments dues to the government.¹⁹⁸

When women had financial difficulties, they were solely responsible. On some occasions, women were imprisoned for debt:

Ḥabibah bint Maḥmud was kept in the prison for a payment due to the woman called Hadiyyah. She is poor according to the testimony of Hadhim ibn Aḥmad al-Samman and ‘Ali ibn Abi Bakr al-Ṭaḥan and Muḥammad ibn Maṣṣur. She does not have any property or money. The qaḍi ordered her release until she can afford to pay the debt.¹⁹⁹

Women inherited any unpaid debts along with properties, and were responsible for their payment:

Ḥasan ibn ‘Ali Ghazal, the *wakil* for his wife and her sister came to the court to sell what the two women inherited from their father, the small shop which was previously a coffee shop. The sale was necessary to repay the debt owed by their father.²⁰⁰

¹⁹⁵Vol. 2 (f. 358, case 1; f. 359, cases 1 and 3; f. 360, case 2). In some instance the donor of the *waqf* demanded that only male descendants profit from any income from the *waqf*.

¹⁹⁶Vol. 2, f. 212, case 2.

¹⁹⁷Vol. 2, f. 229, case 3. Also vol. 2, f. 226, case 2; vol. 1, f. 9, case 1; vol. 1, f. 49, case 2.

¹⁹⁸Vol. 2, f. 93, case 3.

¹⁹⁹Vol. 2, f. 229, case 2. Example of case where a man was released for bankruptcy: see vol. 2, f. 81, case 2.

²⁰⁰Vol. 1, f. 115, case 1.

This case raises the question of whether women inherited occupations from their fathers, other than public offices. According to this case, it was highly unlikely, since the two women were selling their father's coffee shop.

Economy of the Household

As for the role of women in the domestic economy and her contribution to the expenditure of the family, it is only possible to say that she took her share of responsibility. As we saw earlier, she was not legally obliged to do so. In the following case, a woman was buying a barbershop:

The son of Zahidah came to the court as *wakil* for his mother. The husband of Zahidah was also present in the court to witness that the *wikalah* of his son is official. The *wakil* was buying a barber shop for Zahidah herself with her own money.²⁰¹

Undoubtedly the woman from the previous case was not going to work in the barbershop. However, whether she bought it to rent it out, or for her son or her husband, or even to sell it later for a higher price, she was in a way contributing to the income of the family. Another woman was willing to help her ex-husband sustain the expenses of her children, because he was having financial problems.²⁰² Other women sold properties that they inherited to spend on their children or even their brothers and sisters:

Muḥammad Jalabi is the *waṣi* for the minor daughter of his cousin *al-mad'uwah* Fakhri bint the deceased Muṣṭafah. Muḥammad is also the *wakil* for his wife called Katibah and her sister Dakhri, the sisters of Fakhri. Muḥammad was in the

²⁰¹Vol. 1, f. 148, case 2.

²⁰²Vol. 2, f. 141, case 3.

court as *waṣi* and as *wakil* to sell, what the three sisters inherited from their father, to spend on the minor.²⁰³

Burhan ibn Ḥusayn came to the court in person and as *waṣi* for his minor brother 'Ali. His mother Faṭimah bint 'Ali also came to the court representing herself. They sold what became theirs, 2/3 of the property (16 qirates) belongs to Burhan and his minor brother 'Ali through donation from their mother, which she bought from her brother and the rest is owned by the mother Faṭimah, which she inherited from her father. They are selling the property to spend on the minor.²⁰⁴

Women also paid rent in the place of their husband. They collected rent on shops, houses, and land to buy food and clothes. They pawned jewelry and other belongings in return for cash to be spent on the family. In a word, women did not hesitate to use their own assets to help in paying daily expenses:

Ḥarikah bint Ḥaj 'Abdul-Hadi admitted in the court that she is willing to take the financial responsibility of her minor children until they become of age. She also agreed to use her own money to pay any expenses if the money of the minors was not enough. She also released the step brother of her minors from any financial responsibility.²⁰⁵

Petty Occupations

Among the petty occupations of women in Tripoli, only midwives, workers in baths, and women peddlers were mentioned in the records, though indirectly. In only one case was reference found to a midwife, or *al-dayah*, whose house was situated in the center of the city and known to all the inhabitants.²⁰⁶ Unfortunately, the case does not say

²⁰³Vol. 1, f. 1, case 2.

²⁰⁴Vol. 1, f. 64, case 3.

²⁰⁵Vol. 2, f. 148, case 3. Also vol. 1 (f. 90, case 3, f. 110, case 2); vol. 2, f. 358, case 2. It is noticed that, as far as money was concerned, parents did not show mercy toward their daughters who were brought to the court on occasion to pay any debts owed to the mother or the father; vol. 2, f. 42, case 2 and vol. 2, f. 224, case 2.

²⁰⁶Vol. 1, f. 76, case 1.

much about the midwife, although her role was important. Women, up to the present time in Tripoli, visit midwives to ask about different matters related to their health and also after marriage to get the necessary "advice" to have an heir, especially male. As women, midwives replaced doctors, especially when the patient was also a woman. They were paid a fee in addition to a generous gift when the newborn was a boy.

Women of all social strata regularly visited public baths, as the records emphasized, particularly on special occasions like feasts and weddings. Only the head mistress of one bath was mentioned in the records, although public baths were spread throughout the city.²⁰⁷ Nothing is known about the number of women who worked in this domain, if they had their own guild, or what were their wages. Public baths, often called Turkish baths, had the function of a beauty center and undoubtedly needed a group of skilled girls, mostly belonging to the lower class of the society, to help the head mistress in serving customers.

Female peddler or *al-dallalah* appeared in the records through two cases only:

Zayn ibn 'Ala' al-Din petitioned against Fakhri bint [Yusuf] *al-dallalah*. He gave her a golden necklace to sell for him. She admitted taking the necklace to the house of 'Uthman Bashi to show it to his wife. She spent the night at 'Uthman Bahsi's house. In the morning, the necklace was gone. The *qaḍi* ordered Dakhri to pay the price of the necklace because she was careless and took insufficient care.²⁰⁸

Dakhri bint Yusuf *al-dallalah* accused the server in the house of the *qaḍi* Ugli al-Nakagari of taking a golden necklace. The court asked the server to take an oath. He did and the case was rejected²⁰⁹.

²⁰⁷Vol. 2, f. 316, case 1.

²⁰⁸Vol. 1, f. 13, case 1.

²⁰⁹Vol. 1, f. 16, case 1.

Al-dallalabs had an economic and social role. They were important in marketing expensive commodities, jewelry in our cases, especially among women of high status. Female peddlers had access to the houses of the most prominent families in the city. Mothers undoubtedly welcomed *al-dallalabs* because they could play the role of matchmaker and help find desirable suitors for their daughters.

Legal Representative

In a number of cases, women were represented by a *wakil* or legal representative. This however was not an indication of seclusion or an attempt to prevent women from coming to the court, because many of them appeared in court along with their *wakil* or to appoint a *wakil*.

Dhibah daughter of Ḥussayn and the daughter of her sister Faṭmah came to the court. They appointed as *wakil* the man called Ḥasan ibn Muḥammad. The latter agreed.²¹⁰

Faṭmah bint Ḥaj 'Abdul-Raḥman and Khadijah bint Ibrahim, widows of Ḥasan Bayk al-Timari, chose the holder of this official document, Kamal al-Din ibn Ḥaj 'Ali, to act on their behalf in matters related to their inheritance. Kamal al-Din agreed. Beginnings of Rabi' al-Thani 1078.²¹¹

In the first period, *wakils* represented women in 82 out of the 197 cases (41.6%) with a woman as litigant. In the second period, the number of cases with *wakils* was 63 out of 175 cases or 36%.

Reasons to appoint legal representatives were numerous. Among these reasons

²¹⁰Vol. 1, f. 73, case 1; also vol. 1, f. 142, case 1.

²¹¹Vol. 1, f. 128, case 2.

was the presence in distant places like Istanbul, Jerusalem, Anatolia, Hamah or Damascus, of women litigants, who needed a *wakil* because they apparently found it difficult to travel to Tripoli to settle legal issues related to its court:

Ḥaj Rustum ibn Aḥmad and Ḥusayn ibn Muḥammad al-‘Akari testified that the woman called Fakhri bint Dhib, who is permanently living in Jerusalem, appointed her father as *wakil*.²¹²

Even women who lived in the surrounding countryside sent a *wakil* instead of coming themselves to court.²¹³ Another reason for the use of a legal representative for women litigants who lived in Tripoli was the need to manage properties or to handle legal cases in courts outside the province.²¹⁴ Critical analysis of the records reveals that most times where a *wakil* was present, the case was either about inheritance or exchange of property (more than half of the cases were about buying, selling or renting properties of all kind). Apparently women were not compelled to use legal representatives but did so for their own convenience, especially those who were wealthy. Once the *wakil* was appointed according to the appropriate legal procedures, he was able to represent his client in all types of cases.

In cases where a purchase of a property or a payment of a debt was made, the records distinguished between the money and property of the *wakil* and that of the *muwakilah* (woman appointing a *wakil*)²¹⁵. The *wakil* had to have an official document issued from a *shari’ah* court and signed by witnesses to prove his identity. In some cases, it was clearly stated that he was paid a fee to perform his duties:

²¹²Vol. 2, f. 188, case 2; also vol. 1, f. 65, case 1; vol. 2, f. 84, case 1; vol. 2, f. 84, case 1; vol. 2, f. 188, case 1; vol. 2, f. 188, case 2; vol. 2, f. 355, case 3; vol. 2, f. 339, case 1; vol. 2, f. 351, case 1.

²¹³Vol. 2, f. 239, case 2.

²¹⁴Vol. 2, f. 59, case 1; vol. 2, f. 268, case 2.

²¹⁵Vol. 1, f. 87, case 1. Also vol. 1, f. 88, case 2; vol. 1, f. 125, case 1; vol. 2, f. 12, case 2.

Ḥaj Kamal al-Din ibn Ḥaj 'Ali, the *wakil* for Khadijah bint Ibrahim and Faṭmah bint 'Abdul-Raḥman widows of Ḥasan Bayk al-Timari, was offered the sum of a quarter of *Ghursh* per day as a salary for handling all legal matters related to the two widows. The *qaḍi* allowed the *wakil* to take his salary from the money that Ḥasan Bayk al-Timari left as inheritance. Kamal al-Din agreed. 10th of Rabi' al-'Awal 1078.²¹⁶

Women trusted male relatives to represent them, whether it was a father, brother, son, husband, or a more distant cousin, but women did not always choose the closest male family member to be her *wakil*. In one case, a woman chose her son, while her husband was present in the court. Another woman had her son-in-law as *wakil*, while her own son was present in the court. In yet another case, a woman's brother was the *wakil*, while both her husband and son were present in the court.²¹⁷ Other examples abound, which raise questions about the criteria that women followed in choosing their *wakil*. It could be said that women definitely chose the person who was better suited to represent them, regardless of the degree of his relation. Although it is not known if women were aware of their rights, they undoubtedly knew what was more beneficial for them and acted accordingly. Sometimes the choice was a matter of being practical. The brother of a woman was the *wakil* instead of her husband simply because he was present in the court for the same purpose and as a partner:

Ḥasan ibn Muḥammad came to the court in person and as *wakil* for his sister Jalla al-Khaliq. The husband of the woman is present in the court. Ḥasan sold what he and his sister inherited from their father.²¹⁸

Close ties remained between women and their families after their marriage. In

²¹⁶Vol.1, f. 150, case 2.

²¹⁷Vol. 1, f. 43, case 1; vol. 1, f. 120, case 1; vol. 1, f. 148, case 2; vol. 1, f. 144, case 2; vol. 2, f. 4, case 1; vol. 2, f. 245, case 1.

²¹⁸Vol. 2, f. 25, case 3.

approximately 20% of the total number of cases in this category, women were represented by a member of their family. They could choose a completely strange person as *wakil*, sometimes for no specific reason, but in other times because the second party was a relative who took advantage of them or had mutual interests. In one case, a woman had to have a stranger as *wakil* because her father was the defendant. Kamal ibn 'Ali al-Najjar, *wakil* for Faṭmah bint Ḥaj 'Abdul-Raḥman and Khadijah bint Ibrahim, widows of Ḥasan Bayk al-Timari, represented his clients in a lawsuit against the father of Faṭmah.²¹⁹ The *wakil* for a woman in a lawsuit filed by her own sons was not a family member.²²⁰ In another case a woman, who was selling a property to her husband, used a *wakil* to conclude the transaction.²²¹ It is worth noting here that women themselves were almost never appointed as *wakils* for men, including relative males.²²² Women served as *wakils* for relative females in three cases in the whole period under study. This small number undoubtedly suggests that, after all, women were considered less capable than men and not trustworthy with other's interests, men as well as women.²²³

²¹⁹Vol. 1, f. 111, case 1.

²²⁰Vol. 2, f. 53, case 2.

²²¹Vol. 2, f. 182, case 1; also vol. 2, f. 12, case 2; vol. 1, f. 83, case 1; vol. 1, f. 46, case 1.

²²²Only in one case we found a mother *wakil* for her three sons (not specified if their were minors); vol. 1, f. 33, case 2.

²²³Vol. 2, (f. 217, case 2; f. 238, case 1; f. 319, case 1).

Dhimmi Women and The Court

The *Dhimmi* community in Tripoli had the right to use its correspondant religious institutions in legal or personal matters, but they did use the *shari'ah* court. However, cases involving *dhimmi* women were in their majority related to penal matters or exchange of properties, at least in the period under study.²²⁴ In the first period, the number of cases that involved *dhimmi* women was 12 cases, 8 of them were property transactions and 4 were lawsuits. In the second period, the number was 16 cases with only 5 cases of property transaction and 8 cases of lawsuits filed by and against women.

Slavery

The number of cases where a woman was directly involved either by being an owner of a slave or being a slave herself is very small. Men and women equally bought and sold slaves of both sexes and left them as inheritance as they did any other commodity. It is not known how the value of a slave woman was decided, but the supply and demand and the “qualities” of a slave must have been important factors:

Ḥaj Qasim ibn ‘Ali al-Buḥayri bought from about four months a white and virgin slave called Faṭimah bint ‘Abdallah for 48 *ghurush*. Now he is in the court to sell

²²⁴According to K. Ziyadah, *dhimmis* used the court in personal matters which was not very evident in the period under study; only two cases of *wiṣayah* were found in volumes 1 and 2. See K. Ziyadah, *al-Ṣurah al-Taqlidiyyah*, 132-133.

the slave for 58 *ghurush*. 18th of Muḥarram 1090.²²⁵

The records included a large number of cases of *'itq* (manumission), which was apparently practiced in accordance with the encouragement of Islamic religion. On the other hand, a slave woman who gave birth to her master's child had the right to recover her freedom, after the death of her master. Even if she miscarried, a slave was still entitled to manumission, if the fetus was fully developed at the time of miscarriage.²²⁶ What was really remarkable is when a slave woman used the court, and she did, she was treated as any other woman with the right to speak up and to win the case when the court was convinced. In the following case, a slave woman came to the court to sue her own master and the court ruled in her favor:

The slave Faṭimah bint 'Abdallah came to the court in the presence of her master Muḥammad ibn al-Ṣidawi. She claimed to have given birth to her master's son. She complained that he removed her from his house and put her in the same house with his nephew. She also complained that he did not give her expenses and provisions. The *qaḍi* informed Muḥammad that what he did is not acceptable according to the *shari'ah*. 11th of Jamad al-Thani 1079.²²⁷

More evidences about the life of slave women in the society of the seventeenth century Tripoli were found, but only for those who were in the service of members of the elite. The evidence indicated that slaves got married after the death of their masters, who sometimes left them large fortunes, especially when they gave birth to their master's children, or they acquired the fortune through inheritance from these children. The new husbands were likewise among the social elite:

²²⁵Vol. 2, f. 330, case2.

²²⁶Vol. 2, f. 344, case 1. The freedom for the slave was granted after the death of her master according to the Islamic *shari'ah*.

²²⁷Vol. 2, f. 152, case 1.

Nazikah bint 'Abdallah came to the court to sell a property that she inherited from her son 'Uthman, who was the son of her master 'Uthman Bayk ibn 'Umar Pasha. Her husband Yusuf Agha ibn 'Abdallah was present in the court.²²⁸

Women as Witnesses

As mentioned in chapter IV, women were only *shuhud ithbat* in the records under study. Their testimony was accepted by the court, but given less weight than male testimony. Two male witnesses were enough to prove or deny accusations, but one man and two women were required to rule in the same case:

'Assaf ibn Aḥmad, Badrah bint 'Abdallah, and Faṭimah bint 'Abdallah testified that the only heir of Jirjis ibn Iliyas is his son Sulayman.²²⁹

Ḥasan ibn Ḥaj Muḥammad al-Buḥayri, Karimah bint Muḥammad, Ḥarifah bint Naṣir testified that Aḥmad ibn Aḥmad was the cousin of his deceased wife.²³⁰

²²⁸Vol. 2, f. 219, case 1. Also vol. 2, f. 85, case 1; vol. 2, f. 81, case 3; vol. 2, f. 201, case 3; vol. 2, f. 206, case 2; vol. 2, f. 307, case 2.

²²⁹Vol. 2, f. 286, case 1.

²³⁰Vol. 2, f. 325, case 2.

CHAPTER VI

CONCLUSION

Upon his visit to Tripoli in 1053H./1643, the Muslim scholar ibn Maḥasin made some important comments with regard to the court of Tripoli, which raised questions about the decency of *qaḍis* and employees. On the other hand, analysis of the records of the *shari'ah* court pointed out some cases with similar circumstances where the *qaḍi* ruled differently when the litigant was a man and not a woman. Women were obliged to present the court with more than one piece of evidence or witness to prove their case, while only one evidence was often enough for men. The doubts about the registration of the cases and whether it was done at the time when litigants were in the court are also added to the list of deficiencies of the records. One might rush to conclude that charges against the *shari'ah* court and the legal system for being unfair to women are true and that the records are not trustworthy as a source for historical research.

Undoubtedly corruption might have existed among the employees of the *shari'ah* court, and the presence of a hostile *qaḍi* who antagonized women from time to time was possible. Nevertheless, evidence proved that women had the right to use the court, which they did frequently. On most occasions, they were treated fairly and justly. The fact that they continued to come to the court indicates justice, though it was evident that the court

was more lenient to those who belonged to the higher classes of the society. Women of all social strata, including slaves, came to the court and used the legal system to protect their rights from offenders, whether they were relatives or strangers.

The court heard claims of both men and women on the same days. In many cases, they were present at the same time in the court. Some women were represented by a *wakil*, which was apparently intended for their comfort and not for their seclusion. The *wakil* could be either a family member or a stranger, especially when the rival was a relative. In the period under study, women themselves were very rarely appointed as *wakil* for other women, but almost never for men. According to the records, the testimony of women was accepted by the court. In this context they were *shuhud ithbat* but not *shuhud ḥal*. Laws applied in the court were the *shari'ah* laws, in addition to the use of customary laws on occasions.

On the personal level, women chose their husbands and annulled any marriage contract that was made against their will or without their consent. Generally speaking, women had the right to their dowry and to keep control over their properties after their marriage, although this right was challenged on occasions. Mothers had the right, exactly like fathers, to be a party in matters related to her children, though legally, the father alone had the financial responsibilities. Some mothers willingly helped support children. After divorce or widowhood, women remarried almost immediately, even when they had children. Evidence of remarriage is abundant in the records. When the father died, the mother was chosen by the court on most occasions to be the *waṣi* for her children. The court granted some women power over the inheritance of their children. Women were

also chosen as *waṣi* for different members of their family: brothers and sisters, nephews and cousins.

The occupations of women in Tripoli were not clear from court records. Housemaids, artisans, and petty workers undoubtedly existed, though the records did not refer to them directly. The records were full of evidence for women involved in property transactions. They bought, sold, and rented properties of all kind. They inherited exactly like their counterpart males. A considerable part of land transaction involved women. Women had a share in trade and manufacture. They were also involved in extending loans to relatives and strangers. According to the records from the late seventeenth-century Tripoli, public offices were totally closed to women. They were never appointed as *mutawallis* for *waqfs* in this period, as in other places of the Ottoman Empire, though they were donors of *waqfs* in many instance.

Generally, women had financial independence. They did not fail to sue any person who challenged this independence, even family members. Women had also financial responsibilities for payment of debts, which led to their imprisonment when they failed to pay. They also contributed to the economy of the household and paid dues and taxes to the government. Those belonging to the better-off and the well-to-do families bought and sold slaves. Manumitted slaves, who appeared in the records, were in the service of the elite. They were wealthy themselves.

In a word, the role of women in the economy and the society of Tripoli seventeenth-century was important. Its importance arise from the fact that women enjoyed a relatively favorable status in Tripolitan society, which was patriarchy dominated. This was evident through the records of the *shari'ah* court.

GLOSSARY I

'Aqil: One who is in command of his/her mental faculties.

Baligh: Adult, one who reaches the age of puberty.

Bayt: House.

Bikr: Virgin.

Bil-Murabaḥah: With interest.

Bint: Girl.

Dallal: A male peddler; female: dallalah.

Dayah: Midwife.

Dhimmi: Non-Muslims protected under the shari'ah. Mostly refers to Christians and Jews.

Diyyah: Compensation paid to the relatives of a deceased person by the person who committed the crime.

Firman: Sultanic order.

Fatwah: Legal interpretation of the shari'ah laws.

Fiddah: Silver.

Ghurush: Singular ghursh, currency.

Ḥaj: Female Ḥajjah, title given to a man who performed the pilgrimage to Mecca.

Ḥakim al-Shar': Name given to the qadi.

Ḥammam: Public bath.

Ḥarahs: See also maḥalahs; name given to urban divisions in the cities (quarters).

Ḥul: Also khul and 'ibra'; the kind of divorce where a woman gives up her rights with regard to the alimony and to a part of her dowry.

Ḥurmah: A woman.

'Ibra': See ḥul.

'Iddah: The period following the divorce or death of a husband, in which the woman is not allowed to marry.

Iltizam: Tax-farm.

Imam: A man who leads prayers in the mosque.

'Irth: Inheritance.

'Itq: Manumission of a slave.

Jazzar: Butcher.

Khadim: Servant.

Khan: Inn.

Madhhab: Legal school of Islamic interpretation.

Madrasah: Islamic school.

Mad'uwah: The so-called.

Maḥalah: See ḥarah.

Maḥkamah: Shari'ah court.

Mar'ah: A woman, usually previously married.

Masjid: Mosque.

Maṣriyyah: Egyptian; in the records it also referred to a kind of currency.

Millah: Semi-autonomous religious communities.

Mu'ajal: a sum of money due to a woman as part of her dowry paid at the time of marriage.

Mu'ajal: A sum of money due to a woman as part of her dowry paid in case of divorce or if the woman became widowed.

Mu'allim: Female mu'allimah; master of a profession.

Mufti: A 'alim responsible for legal interpretation (fatwah).

Mutawalli: Supervisor of a waqf.

Muwakkilah: A woman who is represented by a wakil.

Na'ib: Deputy.

Nafaqah: Alimony.

Nikah: Marriage.

Pasha: A rank or a title given to the wali of a province.

Qaḍi: Judge.

Qaṣir: Minor.

Shahid: Witness.

Shaykh al-Ḥarah: Head of a quarter.

Shari'ah: Islamic doctrine or law.

Shar'iyah: Pertaining to the shari'ah.

Sijill: Record.

Ṭa'ifah: Guild or community.

Ṭalaq: Divorce.

Ṭaliq: The status of being divorced.

Turjuman: Translator.

‘Umr al-Bulugh: Age of puberty.

Wakil: Female wakilah, legal representative.

Wali: Provincial governor.

Waqf: Pious endowment.

Waşi: Guardian.

Wikalah: Power of attorney.

Wilayah: Also eyalah: province.

Wişayah: Guardianship.

GLOSSARY II

The twelve months of the Arabic lunar year:

Muḥarram

Ṣafar

Rabi' al-'Awal

Rabi' al-Thani

Jamad al-'Awal

Jamad al-Thani

Rajab

Sha'ban

Ramaḍan

Shawal

Dhi al-Qi'dah

Dhi al-Hijjah

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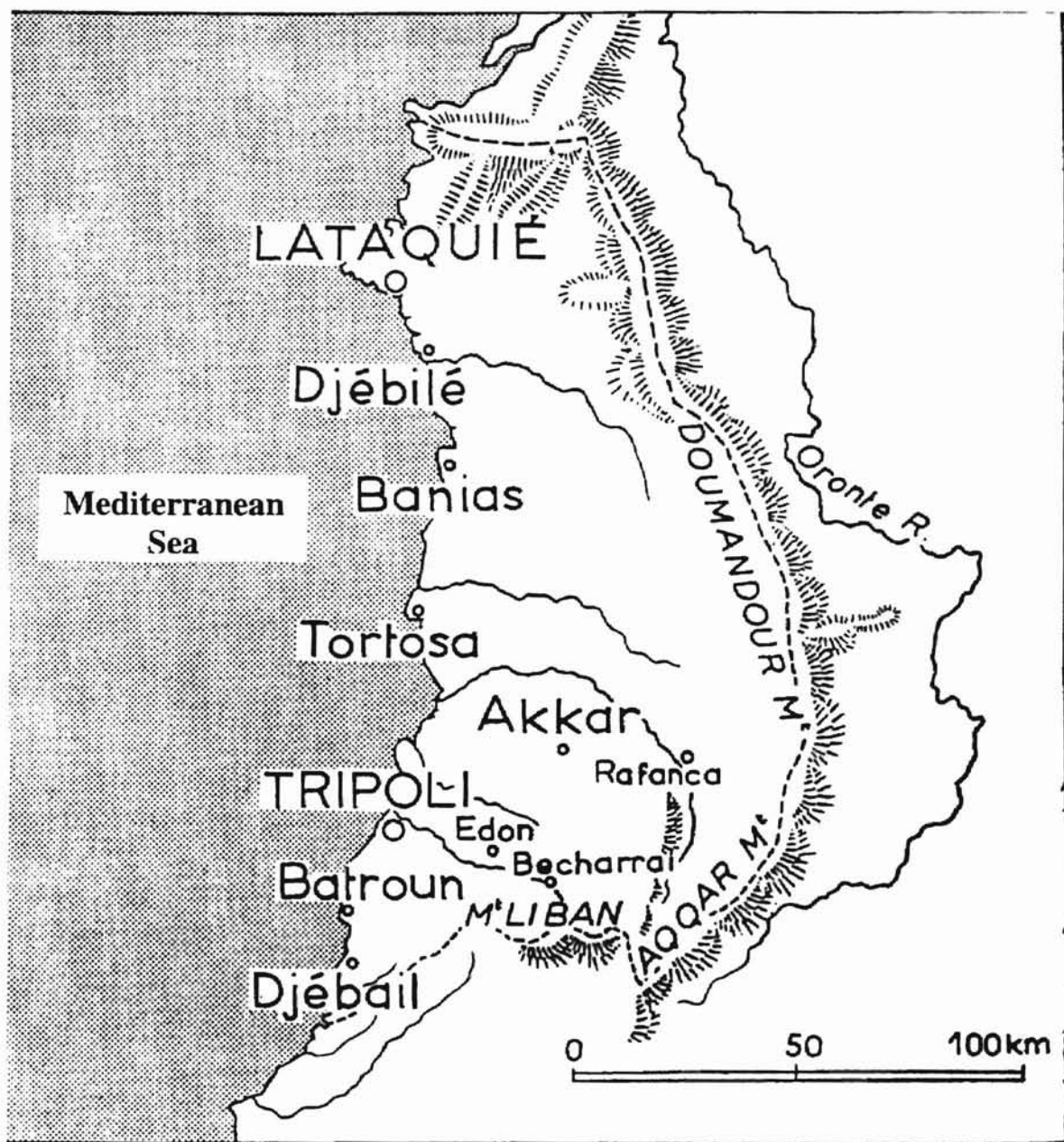
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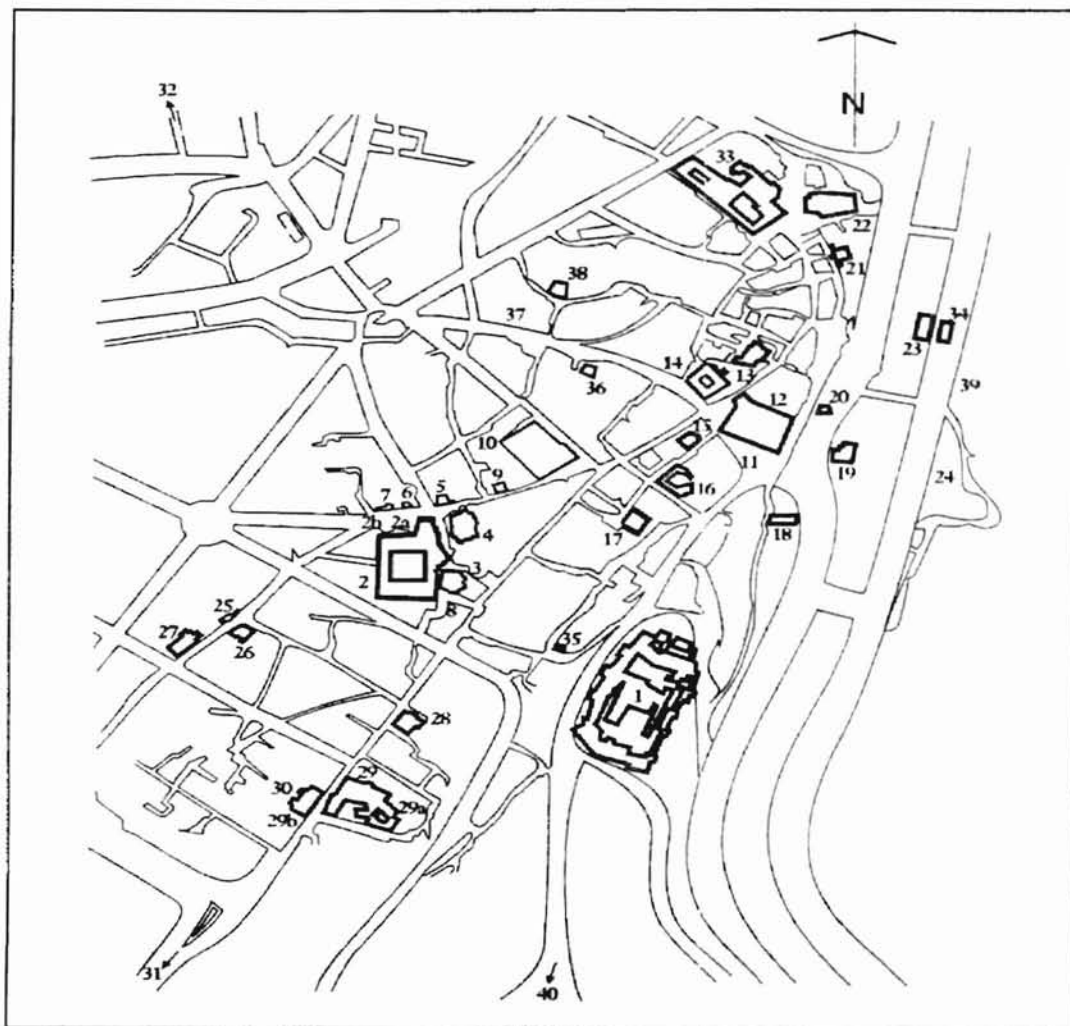
APPENDIXES

APPENDIX A
MAP OF THE PROVINCE OF TRIPOLI ACCORDING TO VOLNEY



Ref. Comte de Volney, *Voyage en Égypte et en Syrie*, 283.

APPENDIX B
PLAN OF THE OLD CITY OF TRIPOLI



- | | |
|---|---|
| 1. The Citadel of Tripoli or Qalaat Sanjil. | 20. Bakia Ghanem |
| 2. Great Mosque. | 21. Souk al-Haraj |
| One. Madrassa al-Shamsiyat | 22. Al-Tawbat Mosque |
| Two. Anonymous Madrassa | 23. Khan al-Manzil |
| 3. Madrassa al-Qartawiyat | 24. Byzantine remains and multifoil arch |
| 4. Hammam al-Nouri | 25. Madrassa al-Saqraqiyat |
| 5. Madrassa al-Nouriyat | 26. Madrassa al-Khatouniyat |
| 6. Madrassa al-Malik al-Nasir | 27. Argoun Shah Mosque |
| 7. Madrassa al-Khayriyat Hasan | 28. Al-Tahham Mosque |
| 8. Arch and vaulted passage | 29. Al-Tinat Fountain |
| 9. Madrassa al-Tuwashiyat | 30. Hammam al-Jadid |
| 10. Khan al Saboun | 31. Taynal Mosque |
| 11. Hammam 'Izz ad-Din | 32. Lion's Tower |
| 12. Khan al-Kayyati | 33. Khan al-Askar |
| 13. Mosque al-Attar | 34. Madrassa al-Zurayqiyat |
| 14. Khan al-Misriyin | 35. Madrassual-Ajamiyat |
| 15. Madrassa al-Qadriyat | 36. Madrassa al-Rifaiyat |
| 16. Mosque al-Uwaysiyat | 37. Madrassa al-Umariyat |
| 17. Mosque Abd al-Wahed | 38. Ruined Mosque |
| 18. Madrassa al-Zahriyat | 39. Hammam al-Hajib |
| 19. Madrassa al-Burtasiyat | 40. Church of Saint John of the Pilgrim Mount |

Ref: K. Ziyadah, 173

APPENDIX C
EXAMPLES AND TRANSLATIONS OF CASES FROM THE
RECORDS OF THE *SHARI'AH* COURT
OF TRIPOLI

بجمل الشرف والنفوس الكريمة بطريق العدل والحق كما كان مولانا وسيدنا عمدة العلماء
 الاعلام محمد المولى العظام خادم شريعتنا الانام عليه الصلاة والسلام كالم الشريعي الموضع
 خلقه الكريم اعلاه واهل بيته واهله ادعت الكرمه الدعوه زاهده بنت ابراهيم علي السلام سليمان اني
 الحاج شهاب الدين بن سبهون الصيداوي معتره في دعواها بان الذي علي كان متزوجا
 بابنتها فاطمه بنت الربيعي مخاطبه ماتت في عصبه وانها تسحق في متروكيها الذي
 وان وضع يده علي جميع متروكيها ولم يرفع لها حصتها من ذلك طالبت بما يحقها من ذلك علي
 الفريضة الشرعية وسالت سؤالا في ذلك فاستدلنا بان زوجة الكرمه ما توفيت
 في سنتين والفرع زوج هو الذي عليه ام واب وابن وصبت متروكيها فبلغت
 قيمتها سنتين غرشا وموخرها ما علي وجوزة غرشا المديا فقامت ان بين الوتر الكرمه
 علي الفريضة الشرعية واشهدت زوجها علي الكرمه بطلان نفسها انما حصتها من ارضها وصلها
 بالتام والحكام وقبضا القبض الشري وانها لم يقبلت حقا ولا يستوجب قبل الكرمه
 الذي علي لان جميع ارضها حقا مطلقا الا الشهاد الشري فام تصدق الدعبه علي ما اجاب به
 فطلب اليها علي ذلك من الطريق الشري فطلب اليها فامرهم حضره علي كتاب نقل شري
 صادر من افتحا وفتاة الاسلام مولانا محمد افندي ابن الحاج علي الفاضل خلافة بمدينة
 صيدا الكرمه ناطق مضمون بطرح ما اجاب به الذي علي ان ذلك ثبت لدي القاضي الموصي اليه
 بابنه الشرعية فلما اطلع مولانا كالم الشري المشار اليه علي كتاب النقل الكرمه وفتح مضمونه
 الذي بخبرها وتلك من هذا الطريق المستورين في ذيل علي وادعية وهو الحاج محمد بن محمد بن
 زين الدين البانقوييه وصدور من كالم الموصي اليه الشري وفي الدعبه الكرمه ان دعواها
 هذه لم تصادق فحلا شرعا ومنعوا من الترضي الذي علي في الخصم من ثوبا ومنعوا من ثوبا او
 بالطريق الشري بالانكسار الشري وجرى ذلك وحسب اوله شهره الفتحه الامم من شهر ربيع وسبعه
 الحاشي

مولانا مصطفى بن الشيخ عبد الوهيب	مولانا الطاهر بن عبد الله	مولانا غنابه الله عبد الحادي	مولانا عبد الوهيب عبد الوهيب
حسين بن احمد المحمدي	محمد بن منصور الحمد	محمد بن احمد المتوجان	مولانا عبد الرحمن عبد الوهيب

Summary: Zahidah bint Ibrahim came to the court. She claimed that her son-in-law Sulayman ibn al-Ḥaj Shihab al-Din al-Ṣidawi did not pay her share in the inheritance of her daughter. Sulayman replied that his wife died and left as heirs a mother, a father, a son, and a husband. Her belongings were estimated at 60 ghurush and her mu'ajal at 40 ghurush, which was distributed among heirs according to the shari'ah. Zahidah did not believe Sulayman. The latter presented the court with an official document issued from the court of Ṣayda, which confirmed what he previously claimed. The case was rejected. Mid of Dhi al-qi'dah 1077H.

Shuhud al-ḥal:

Muṣṭafah ibn al-shaykh 'Abd al-Raḥim, al-Ḥaj 'Abdallah, Muḥammad ibn Maṣṣur

Volume 1, folio 15, case 2

Summary: Kulthum bint Yusuf is the ex-wife of Ḥusayn ibn al-Ḥaj Yusuf. Ḥusayn came to the court and accused Kulthum that she is unlawfully using a house that he purchased for 65 ghurush when they were married. Muḥammad ibn Ḥasan al-Tajir and Muṣṭafah ibn 'Ala' al-Din al-Ṣayrafi and 'Abdul-Nabi ibn al-Ḥaj Maṣṣur and al-Ḥaj Muṣṭafah ibn al-Ḥaj Aḥmad came to the court to testify that Ḥusayn declared in their presence that he does not have any right to the house. The case was rejected. 19th of Jamad al-'Awal 1088.

Shuhud al-ḥal:

'Abd al-Raḥman Jalabi al-Katib, Muḥammad Jalabi al-Turjuman.....

Volume 2, folio 195, case 1

Summary: Al-ḥurmah al-mad‘uwah Faḡhah bint al-shaykh Kamal, was appointed as an official waṣī for her daughter al-qaṣīr al-mad‘uwah ‘Almah, who is the orphan of Aḡmad Jalabi ibn al-Ḥaj Jamal al-Din. The qaḡī permitted to Faḡhah to collect any money due to the orphan. Faḡhah agreed to be waṣī. 19th of Dhi al-qi‘dah 1077H.

Shuhud al-ḡal:

Al-shaykh Aḡmad, al-Ḥaj ‘Abdallah Jalabi al-katib, Muḡammad ibn Maṣṣur al-Muḡdar...

Volume 1, folio 15, case 1

Summary: The court granted al-baligh al-mad'uwah Faṭimah, who can not earn her own living, nafaqah amounting to 8 'uthmaniah fiḍḍah. The qaḍi permitted Faṭimah to borrow the necessary expenses and holded her father, the wealth butcher, responsible to repay. 23rd of Shawal 1078.

Shuhud al-ḥal:

The pride of 'alims Ṣan'alah jalabi, shaykh Muṣṭafah.....

Volume 2, folio 27, case 1

Summary: Aḥmad ibn al-Ḥaj Muḥammad known as ibn Zrayqah came to the court and willingly admitted that he divorced his wife al-sitt Ruqayyah bint al-marḥum al-shaykh Muḥammad. He also admitted that he does not have right to any payments from Ruqayyah. Ruqayyah's son-in-law is present in the court. He approved the testimony of Aḥmad as wakil for his wife and her mother. 20th of Jamad al-Thani 1078.

Shuhud al-ḥal:

Al-Ḥaj Yusuf ibn al-Ma'ṣarani, al-Ḥaj Ibrahim ibn al-Ḥaj Rajab.....

Volume 1, folio 119, case 1

بجمل الشرع الشريف ومغفل لكم ليف بط المباشرة الحجة جلاله معا لدي متوكية مولانا وسيدنا في قضاء
 الاسلام شرف ولاة الانام مختار الكواكب العظما خادم شريف سيد الانام عليه افضل الصلوة واتم السلام
 الحاكم الشرعي الموقر خطه الكريم علاه دلم فغضه وعلاه صفة الكرمه عابه بنت الحاج عمر الالاد في المعرف
 لسبوته بزيلة بتعريف صهرها الحاج ابي بكر ابن الازهر والي التعريف الشرعي وباعت ما ذكرت انزلها
 وملكها وببدها ومنتقل اليها بالاشتراء الشرعي من امها جميع بنت الحاج احمد بن محمد فملكه بيده وقبض منه
 شرعا في الرئيس علي بن الرئيس حسين وهو مشتري منها بطريق الوكالة الشرعية عن قبل منصور ابن الحاج
 عبده الصيداوي جمال المدخل له دونه مال الكوكيل وذلك جميع الدار عامه الاله سنة ثمان مائة وعشرون في محلات
 مدينة صيد المستقلة على قبوس معقودين بالمدنة والاحجار وعلما ابوان وعلما طبقة علومه بضعده
 اليها على سلم حجر من داخل الدار المذكورة وعلى فسحة سماوية وبسيرة ماء معين وعلما بوابه و
 منافع ومرفق وحقوق شرعية ويوجد الدار المذبذبة قبله الطريق السالك وفيه الباب وشرفا
 دار الشيخ شمس الدين وشمالا ملكه عزرة وجليه وفي الطريق الكون بطلت حق هو لذلك شرعا
 بيها ومشترا محيي بن شرعي بن ابي باب وقبول حريين وشليم وسلم مقبولين بشرف قدره
 فسوخه في شافعية لمديه مقبولة بيد البايعة من بيها المشتري من مال مولانا القبطي التالوا في
 حاشية ان البايعة بذلك الاعتراف الشرعي وسلمت اليه البيعة المرقوم بالتولية العسة فاعترف
 المشتري بتسم ذلك منها لجرته ملك مولانا التسم الشرعي تسم مثله مشرفا وذلك بعد الرواية
 والخيرة العاقبة الشريفة ومخانة الدرر والبيعة لانه من البايعة شرعا جبا تصادقا
 على ما فيه اماله في حالة التصديق الشرعي ومبرى ذلك في قايمة شهر ذي القعدة

عاشرا بعد الذي الحاج علا الدين
 اسلمه
 سيد احمد
 ديبوشى
 محمد الحاج المد
 البسم اوامر
 صبين سلطان علي
 علم على
 المتروك

Summary: Al-ḥurmah ‘Abdah bint al-Ḥaj ‘Omar al-Ladqi came to the court to sell what she previously purchased from her mother Jami‘ bint al-Ḥaj Aḥmad. She sold a house in the maḥalah of al-Baḥr in Ṣayda. The price is 50 ghurush paid to ‘Abdah as she herself admitted. Recorded end of Dhi al-qi‘dah 1077.

Shuhud al-ḥal:

‘Ali ibn ‘Abdul-Raḥman, Muḥammad Jalabi al-Turjuman, Ḥusayn ibn al-Ḥaj ‘Ali al-Baṣrawi.....

Volume 1, folio 19, case 2

Summary: Al-mad'uwah Shahbaz bint 'Abdallah came to the court and bought from her husband al-Ḥaj Muḥammad ibn al-Ḥaj Naṣir 2/3 (16 qirates out of 24 qirates) of the land in al-Saqi al-Sharqi. She also bought half a shop in suq al-Ṭawaqiah. The tenant of the shop is Rajab known as ibn al-Khal al-Ṭawaqi. The price is 40 gurush paid to Muḥammad. Beginning of Shawal 1077.

Shuhud al-ḥal:

Al-shaykh Aḥmad ibn Ramaḍan, al-shaykh Rajab al-'imam in the mosque of the citadel.....

Volume 1, folio 14, case 2

Summary: Ḥasan ibn ‘Ali Ghazal came to the court as wakil for his wife Faṭimah bint Bakr Bashi ibn Ṣafar and her sister al-ḥurmah Laṭifah. The wikalah is official according to the testimony of shaykh kamal ibn al-shaykh Rajab ibn Sharabah and Ali ibn Aḥmad who know the two women. The wakil came to sell what is owned by the two women through inheritance from their father. They are selling the property to pay a debt owed by their father. The property is a barber shop. The price is 32 gurush. 20th of Jamad al-Thani 1078.

Shuhud al-ḥal:

Muḥammad al-Turjuman, al-shaykh Aḥmad, Muḥammad Jalabi ibn al-Aṣfar....

Volume 1, folio 115, case 1

Summary: Al-Ḥaj 'Uthman ibn abi Bakr al-Iskaf admitted that he owed al-Ḥaj Muḥammad ibn Zughayyb, who is dead now, the sum of 100 ghurush. He previously returned 30 ghurush. He came to the court to pay a part of the debt, 40 ghurush, to the wife of Muḥammad, Ḥarikah bint al-Ḥaj 'Abdul-Hadi. Ḥarikah gave the money back to 'Uthman bil-murabahah for one year to be returned 46 ghurush. 22nd of Jamad al-'Awal 1079.

Shuhud al-ḥal:

Al-shaykh Muṣṭafah, al-Ḥaj 'Abdallah Jalabi, al-shaykh Muḥammad ibn al-shaykh Naṣir al-Din.....

Volume 2, folio 148, case 1

VITA

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