

Maryam's Final Word

That some people and things are absent from history, lost, as it were to the possible world of knowledge, is much less relevant to [the] historical practice than the fact that some people and things are absent in history, and that this absence itself is constitutive of the process of historical production.

Michel-Rolph Trouillot, 1995¹

All I mentioned, in whole and in part, is articulated in accordance with legal obligations of the shari'a. Whoever opposes this [the terms of my waqf endowment], the Prophet Muhammad himself, peace and blessings of Allah be upon him, will be his antagonist on the Day of Judgment.

From the waqf endowment of Maryam 'Anklis, Tripoli shari'a court, 1840²

Were it but possible to be present at the remarkable scene that unfolded in the chambers of the shari'a court qadi (judge) of Tripoli on February 5, 1840.³ Standing in front of a crowd of at least twenty distinguished male witnesses of considerable social standing, an old woman, unveiled and well-dressed, announced her intention to establish a family waqf.⁴ But what started out as a mundane process of registering a specific legal transaction turned into a passionate oral enunciation of what was effectively her last will and testament – her final word, so to speak. Maryam's performance must have been so charismatic, her delivery so finely woven, and her stance so

¹ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston, MA: Beacon Press, 1995), 48–49.

² Tripoli shari'a court registers (hereafter, TICR) 31:1103–1104, dated beginning of Dhu al-Hijja 1255. I translated the phrase "*mufassalan hukm al-farida al-sar'iyya*" as "articulated in accordance with legal obligations of the shari'a."

³ TICR 31:103–104, dated beginning of Dhu al-Hijja, 1255. The word "qadi" will be used throughout this book, because "judge" may too easily be associated with current practices and contexts in the mind of the reader. Moreover, most scholars working with Ottoman-Turkish sources commonly use the term "kadi court," which emphasizes the relationship of the qadi to the state that appointed him.

⁴ The list of witnesses is dominated by religious figures such as Sayyid 'Umar Effendi Karameh. Three of the witnesses – Hasan 'Allush, Sidi Shaykh I'rabi al-Zayla', and Sayyid 'Abd al-Qadir Qawuqji – stood to benefit financially, for Maryam 'Anklis designated part of the revenues of the waqf as an annual stipend for them.

unyielding, that the qadi and the scribe produced a text the immediacy and legal hybridity of which I have not seen in thirty years of reading shari'a court registers (s. *sijill*).

It is extremely rare to come across a case in the Ottoman shari'a court registers of the cities and towns of the Eastern Mediterranean in which the voice of a litigant is directly transmitted in the first person.⁵ Phrases that began with "I" violated the deeply entrenched protocol of rendering proceedings into a tightly structured third-person narrative. Here, however, not only does Maryam 'Anklis's voice come through, but it unsettles the entire document with unexpected verbatim statements and warnings aimed at the reader. The vocabulary meanders between formal legal language and the colorful vernacular of the local dialect, the handwriting moves in and out of the official Diwani script, and the transitions are unpredictable, sudden, and jarring.

Even more unusually, Maryam's appearance in court resulted in a hybrid document that disrupted established legal norms by combining different types of legal cases in a single narrative. Normally, each type constitutes a separate legal transaction that generates its own record (*hujja*).⁶ Determined to impose her vision of how her properties were to be devolved in whole legal cloth – who got what, how, when (before or after her death), and in what order – Maryam 'Anklis inserted within the waqf endowment (*inshā' waqf*) the legal instruments of gift (*hiba*), probate inventory (*ḥaṣr irth* or *tarikā*), will (*waṣīya*), and acknowledgment (*iqrār*). This she did by proceeding in a series of interlocked steps that matched different types of properties (immoveable and moveable) and financial obligation (loans and debts) with different legal mechanisms. All were targeted at two orders of kinship: blood (agnates, in-laws, spouse, and children) and spiritual (Sufi shaykhs and scholars). More importantly, Maryam transgressed legal bounds by combining two temporalities (before and after death) that normally authorize mutually exclusive legal options. It is precisely this

⁵ This observation is based on close reading of all the registers for Nablus and Tripoli from the seventeenth until the late nineteenth century, and an examination over several years of the registers of Jerusalem, Jaffa, Haifa, Sidon, Beirut, Damascus, Aleppo, Homs, and Hama from the eighteenth until the mid-nineteenth century. I refer to this region as the "Eastern Mediterranean" under the assumption that a geographic designation carries less baggage than other familiar appellations: Levant, Fertile Crescent, Arab East (*Mashriq*). By the "Eastern Mediterranean" I mean the areas west of the Syrian Desert and between Aleppo and Gaza in today's Syria, Lebanon, Palestine/Israel, and Jordan. I sometimes use the phrase interchangeably with "*Bilad al-Sham*" (Syrian Lands) and "Ottoman Syria." Historically, this is a highly integrated yet richly diverse economic, social, and cultural zone.

⁶ It is not so unusual to find a court document that combines a lawsuit over the legal status of a property with a legal transaction, such as a sale or rental contract. This particular combination of cases is, however, unique.

unorthodox act that makes her motivations, intentions, and desires profoundly clear.

For social historians interested in understanding the relations between and transformations of family, property, and gender regimes (in both the materialist and the discursive senses of the word), the intricate and passionate personal vision that animates the waqf endowment of Maryam 'Anklis is akin to a sudden wind that disperses the gray fog of serialized legal documents hovering between the immutable terrain of the past and the critical gaze of the historian.⁷ From this perspective, Maryam's final word is to be treasured for what it really is – a rare glimpse into the heart of a fundamental question: How did property devolution, as an accretion of conscious and strategic social acts and forms of legal practice, reproduce and transform family life during the transition from the early modern to the modern period (the seventeenth to the nineteenth century)?

For scholars of Islamic jurisprudence, and for some archival anthropologists, however, Maryam's waqf endowment is not to be treasured, but to be treated with great suspicion and perhaps dismissed for what it also is – an aberration of no weighty import. Legal historians can only shake their heads in wonder at how the qadi and scribes of the Tripoli shari'a court in 1840 could authorize and register a document that wreaks such havoc with legal norms and procedures. And they would be right to conclude that it would easily collapse if legally challenged, even in the same court. Consequently, this document cannot be considered evidence of *Kadijustiz*, the Weberian view that Islamic jurisprudence is held hostage by the arbitrary authority of the qadi, as opposed to rational adjudication based on substantive doctrine and judicial precedents, as in Western law.⁸

Archival anthropologists may find the outlier status of the document useful for providing a rare perspective from the margins. But they can point out, and justifiably so, that the waqf of Maryam 'Anklis is the exception

⁷ By this, I do not mean to imply that formulaic passages cannot be a rich source of historical analysis. The epistemological and discursive foundations of such texts, the vocabulary that haunts them, the specific structure and shape they take, and how they change over space and time are all vital lines of inquiry in sociolegal history and archival anthropology. But they are not the primary focus of this book. A pathbreaking and canonical work is Brinkley Messick, *The Calligraphic State: Textual Domination and History in a Muslim Society* (Berkeley, CA: University of California Press, 1993). For a recent work that tackles waqf in this vein, see Nada Mourtaz, "Modernizing Charity, Remaking Islamic Law" (PhD diss., City University of New York, 2012). It is important to note here that there were no dramatic changes in legal procedures, registration protocols, types of expertise brought to bear, or authorizing legal vocabularies until after 1860. Iris Agmon, *Family & Court: Legal Culture and Modernity in Late Ottoman Palestine* (Syracuse, NY: Syracuse University Press, 2006) provides a study of the changing "protocols" of lawsuits.

⁸ For a brief discussion of this issue, see David Powers, "Kadijustiz or Qadi-Justice? A Paternity Dispute from Fourteenth-Century Morocco," *Islamic Law and Society* 1, no. 3 (1994): 332–366.

that proves the rule: a mere drop in a sea of court documents that adhere far more closely to the letter and spirit, as well as the structure and scribal conventions, of the Ottoman shari'a courts. This case cannot, therefore, be seen as a vindication of the highly influential argument by the leading scholar of modern Orientalism in the twentieth century, Joseph Schacht, that an unbridgeable gap between theory and practice has plagued Islamic law from the beginning.⁹ The monolithic concept of "Islamic Law" cannot reveal much about how a deeply embedded yet historically dynamic Islamic tradition discursively constructs notions of sexual difference, kinship, and property; nor does it accurately convey how these notions are also disciplined through the bureaucratic conventions of an Ottoman state institution and the local power dynamics that shape legal practices.

The preceding contrasts between theory and practice, text and context are, of course, exaggerated binaries. They do not fully take into account that it is precisely in the encounter between kin and court that law, society, and the archives are simultaneously reproduced and transformed. After all, Maryam's choice to go to court was not born of pure free will: she felt compelled to go. As we shall see later, she was hardly alone – women routinely resorted, both willingly and reluctantly, to the shari'a court in large numbers. This phenomenon has excited the imagination of scholars, many of whom uncritically (although not entirely without reason) associate presence in the archives with social agency.¹⁰ Presence and agency are not the same thing, and their relationship is complex and often counterintuitive. Still, there is no doubt that one important reason for the court's attraction for women is that it provided their property devolution strategies with legal tools that afforded them greater protection, legitimacy, and flexibility than local customary practices.

⁹ Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1964). My views on this are influenced by the arguments of Brinkley Messick on the shari'a system and the relationship between theory and practice, especially as laid out in his yet unpublished manuscript, *The Book of Flowers*, an early version of which he shared with me. My views are also shaped by the work of the legal historian Baber Johansen. Relevant to this discussion is his article "Casuistry: Between Legal Concept and Social Praxis," *Islamic Law and Society* 2, no. 2 (1995): 135–156.

¹⁰ The literature on this topic is fairly large. Four references, each roughly a decade apart, suffice as examples. One of the earliest is Ronald 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* 18, no. 1 (1975): 53–114. A seminal work that shaped women's studies through the use of shari'a court registers is Judith Tucker, *Women in Nineteenth-Century Egypt* (Cambridge: Cambridge University Press, 1985). Annelies Moors, *Women, Property and Islam: Palestinian Experiences, 1920–1990* (Cambridge: Cambridge University Press, 1995) provides a historically informed anthropological approach based on marriage registers. Finally, Leslie Peirce, *Morality Tales: Law and Gender in the Ottoman Court of Aintab* (Berkeley, CA: University of California Press, 2003) provides a nuanced reading of women's voices and cases in the early modern period.

Maryam's performance, therefore, combines the singularity of her circumstances and desires with a legal act of property devolution embedded in a rooted and living Islamic tradition. On the one hand, it betrays a deep familiarity with Islamic law, as well as a clear determination to bend it to her purposes. On the other hand, her appearance before the qadi and her mobilization of witnesses signal a fundamental acceptance of the court as a state institution, of community members as active participants, and of the perceived divine precepts of the shari'a as framing devices for her existence both on earth and in the afterlife. In short, despite her stubborn desire to impose her choices in the form of a unitary utterance, Maryam 'Anklis's strategy presupposed and worked within the broad confines of Ottoman governance, Islamic legal tradition, and local social and power relations. To this, she applied a form of knowledge of law and procedure that, judging from the shari'a court registers, seems to have been easily available and widely shared within the community. Indeed, the confusing mix of third- and first-person narratives in the document resulting from Maryam's performance symbolizes the mutually constitutive nature of the relationship between kin and court, etching, so to speak, the dynamic interplay between structure and agency into the grammar of the historical record.

Maryam's final word, as we shall see, maps out the social, economic, legal, and cultural universe of property devolution as a set of practices in the Ottoman Eastern Mediterranean. Bucking academic conventions, this introductory chapter will postpone for the moment further discussion of the stakes involved in investigating these practices through a comparative study of propertied classes in two urban centers, Nablus and Tripoli, from 1660 to 1860; the challenges this book poses to the prestige zones of academic knowledge production in the fields of Middle East, Ottoman, and Islamic law and society studies; and the contributions it hopes to make to an understanding of the larger themes of family, gender, and property in modern times. What immediately follows, instead, is a detailed micro-study of the document recorded as a result of Maryam's court appearance, so as to open a door for the reader to enter her world, to understand her points of reference, and to feel the intimacy of her personal story. Such micro-studies, which require assembly from unforgiving sources, serve a purpose more ambitious than the illustration of empirical findings, methodological scaffolding, and theoretical insights; rather, their immediacy and texture animate the spirit of the overall narrative and serve as both the introduction to and the structural backbone of each chapter. For me – and, I hope, for the reader – they are the most rewarding and stimulating part of the book.

1.1 A Copper Pot with Its Lid

The hybrid document, which unfolded in a series of tightly choreographed steps (see Figures 1.1 through 1.4), began as a pious endowment (*waqf*) of two types of immovable properties: shares in mulberry orchards that Maryam 'Anklis inherited from her father and from her former husband; and shares in storage cellars and a small shop on the ground floor of the 'Anklis residence, which she inherited from her father.¹¹ The agricultural and commercial properties were designated for the sole benefit of her two daughters, Diba and Fatima, and their progeny, equally and in perpetuity, with each daughter in charge of managing her own half.¹² Maryam's goal was not to keep the 'Anklis family patrimony intact, but rather to make sure that everything devolved to her daughters by effectively disinheriting two men: her current husband, 'Ali Taraḥ, and her paternal cousin, Hajj Muhammad, the senior member of the 'Anklis family. Both would have otherwise been legally entitled, according to Islamic rules of inheritance (*ilm al-farā'id*), as practiced by the Hanafi school of jurisprudence at the time, to one-fourth and one-third, respectively, of Maryam's estate following her death (Figure 1.1). In other words, she ensured that her daughters would receive more than their legally stipulated share, since living daughters could receive no more than two-thirds of an estate in the absence of male heirs.¹³

Maryam's second step was to make a legal acknowledgment (*iqrār*) that a large debt owed to her by her current husband had been repaid.¹⁴ This was followed by a warning to her paternal cousin. Recorded as a transcription of spoken colloquial, beginning with a resounding first-person "I," the words leap from the text:

I have at a previous time handed over to my cousin a promissory note [which she renders in colloquial as a "paper" (*waraqā*)] I received from my husband so he [cousin] can collect this debt from him [husband]. Since then, my husband has repaid me and satisfied my legal claim; yet my cousin has kept this paper. If, after my death, my cousin sues my husband in court [in an

¹¹ Properties are classified as "*bustān*" composed of mulberry and other fruit trees (*rūt wa-ghayrihi*). The storage cellars (*qabw*) and small shop (*dukkāna*) are in two (probably adjacent and co-owned) 'Anklis residences: *dār* al-Hajj Omar 'Anklis, co-owned with Omar's paternal cousin, al-Hajj Muhammad 'Anklis, and *dār* al-Hajj Muhammad 'Anklis.

¹² The appointment of each daughter as an independent superintendent over her share of the waqf effectively made the endowment akin to devolvement of private property.

¹³ Or if there was only one living daughter, one-half. The rest was to be distributed to the nearest agnates.

¹⁴ The debt was for the amount of 1,400 piasters.

attempt to collect this money], *his lawsuit should be considered illegal and the paper null and void.*¹⁵

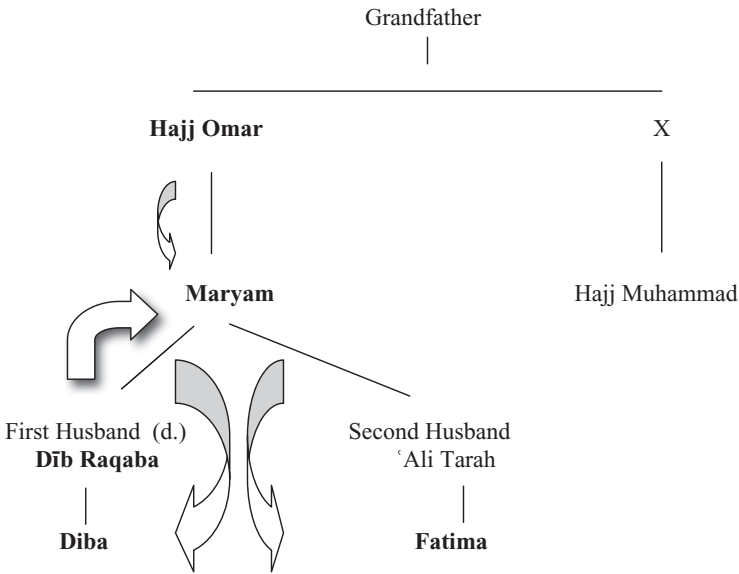
Through the legal acknowledgment and the warning, Maryam launched two pre-emptive strikes in anticipation of future challenges to the property devolution strategy privileging her daughters: one to satisfy her husband (by forgiving his debt), the other to block her paternal cousin (Figure 1.2).

Instead of returning to the endowment, Maryam continued in the court by initiating a third type of legal transaction, a legal gift (*hiba*) for the purpose of devolving her moveable properties. Of the seventeen personal items she gifted (Figure 1.3), sixteen of them – including a gold necklace and silk shirts – were to go to her younger, unmarried daughter, Fatima, most likely as a trousseau in preparation for marriage. Diba, the older daughter from her first husband, already married, was to get “a large copper pot with its lid.”¹⁶ Fatima got both a small and a large copper pot with their lids. While a copper pot may seem to be a trivial household item, the fact that Maryam made a special point of singling out this object can be read as a pointed personal message to her daughters amid the long and complicated legal maneuvering. “The copper pots,” she might have been saying to them, “embody all the intangible dimensions of my experiences that I want to pass on to you as a wife, mother, and household matriarch.” The copper pot is symbolic of a woman’s power in the engine room, so to speak, of the household. It is where the alchemy of food – combining and transforming chemical elements over a fire – meets the alchemy of childbirth and the continuity of life. And food, of course, is the supreme currency of power relations, affective ties, and economic dynamics among and between families, households, and social networks. Maryam’s gift of cookware, therefore, can be viewed as a deliberate oral and textual act designed to express the transfer of authority as mother and wife to her two daughters. Her act signaled both pride and confidence in their readiness to take on responsibilities not only for themselves and their families, but also for their mother in her old age.

At this point, the sense of anticipation permeates the text once again, as Maryam recounts all her personal moveable properties and communicates to all present what should happen to them after her death. Visual clues and procedural moves make it very clear that Maryam, ready to detach

¹⁵ My emphasis. In other words, she had authorized her cousin to collect the debt on her behalf by handing over her husband’s promissory note. The transliteration for the italicized phrase is “*fa-huwa da’wāhu ‘alayhi bāṭila lā yu’mal bi-da’wāhi wa-la bi-l-waraqā haythu annahu waṣala li-haqqī.*”

¹⁶ In Arabic: “*tanjara kabira nuḥās ma’a ghibā’bā.*”

**Property**

Type: Immoveable

- Agricultural (mulberry orchards)
- Commercial (storage cellars and small shop)

Acquired:

- Inheritance from father and husband

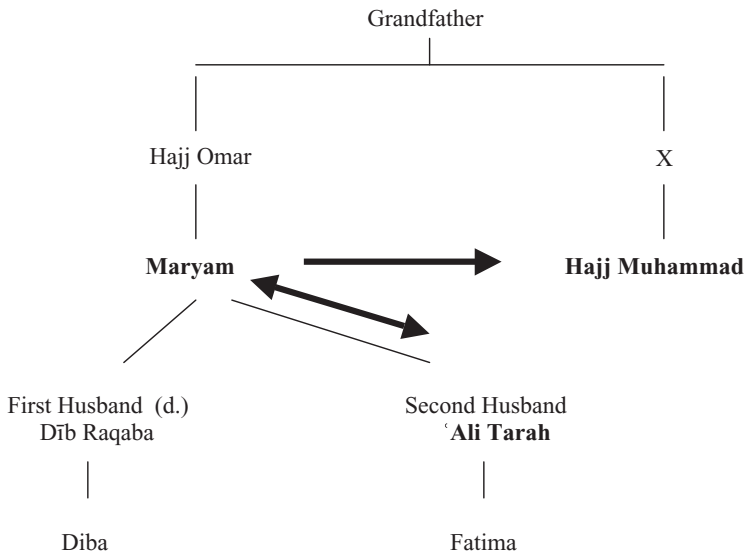
Strategy:

- Exclude husband and agnates
- Make daughters and their progeny sole beneficiaries

Figure 1.1 Property devolution strategies of Maryam 'Anklis, in order of appearance: family endowment (*waqf dhurri*)

herself from the material world, was conducting her own “auto-probate,” as if she were already dead.¹⁷ That is, she initiated from within the

¹⁷ There are other instances where individuals appear before the court to draft what is essentially an inheritance document, as if they were already dead. Having passed all their property on to their children, they ask only that they be provided with a daily stipend. For example, see Nablus shari'a court registers (hereafter, NICR) 6:198.

**Property**

- Cash loan to husband

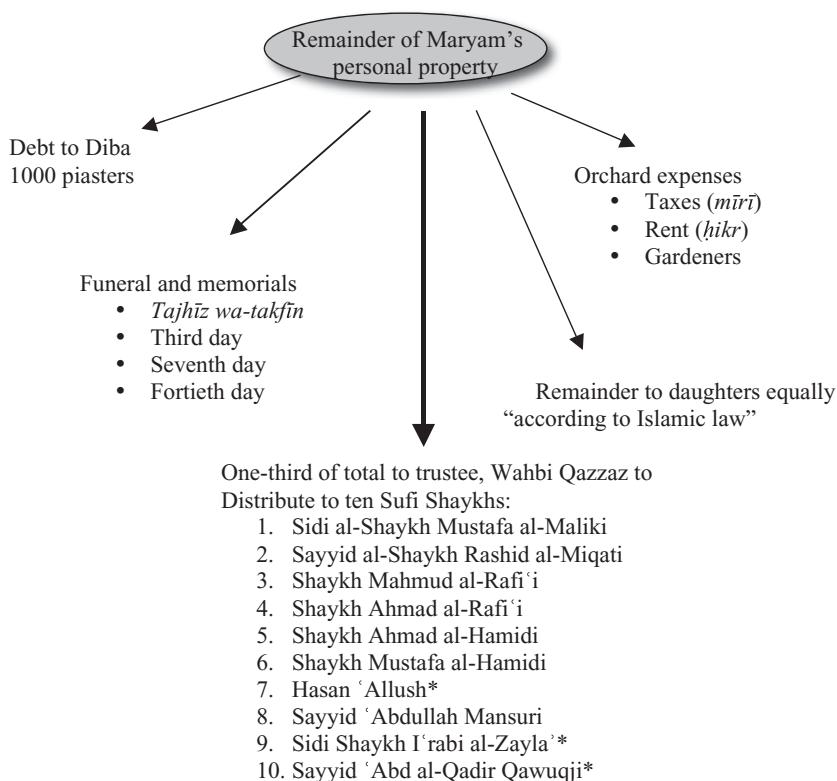
Strategy:

- Neutralize husband and uncle
- Settle with husband through acknowledging payment of debt
- Cut off uncle's intervention by invalidating promissory note

Figure 1.2 Property devolution strategies of Maryam 'Anklis, in order of appearance: acknowledgment (*Iqrār*)

waqf document a fourth legal mechanism: a probate inventory (*tarika*) (Figure 1.4).¹⁸ The probate inventory was not formally acknowledged in the document, because such an inventory could only legally be drawn up after one's death. Nevertheless, and even though the word "*tarika*" was never used, the procedure itself was enacted as Maryam transported

¹⁸ The visual feast of things and numbers typical of probate inventories never fails to attract scholars of shari'a court registers, myself included. In the mid-1980s, I abandoned a year's work of quantifying such inventories, convinced that no safe generalizations could be made from the data. The tables and figures in this book may be numerous, but they were included after careful consideration as to their veracity and usefulness.



Property: Cash

Strategy:

- Transition to afterlife
- Set example of agency, piety, and independence for daughters

Figure 1.4 Property devolution strategies of Maryam 'Anklis, in order of appearance:
“auto-probate” (*iqrar, hiba, mabarrat*)

section that lists a deceased's assets in a series of columns. Every item within each category – jewelry, textiles, kitchenware – is identified, enumerated (if there is more than one of a kind), and given a market value based on what it would sell for at auction (Figures 1.5, 1.6). The listing of moveable assets and their conversion into cash through sale by an auctioneer (*dallal*) was the first of three procedural moves that follow exactly the tripartite structure of probate inventories found in shari'a court

registers during the Ottoman era. The deduction of expenses, beginning with burial costs (*tajhiz wa-takfin*), came second. Third was the distribution of the remainder to legal inheritors.¹⁹ But whereas these moves were usually narrated in the third person, here we hear Maryam speak about herself as if she were already dead. Thus, she begins by stating “all that remains of my personal belongings are to be sold in auction.” She then instructs that the funerary (washing, dressing, burying) and commemoration expenses be deducted. In line with local custom, still practiced today, she specifies that the commemorations are to take place on the third, seventh, and fortieth days after her death.

Maryam then shifts back to another acknowledgment. Ever since her first husband, Dib Raqaba, died, she states, she has been holding in safe-keeping Diba's share of the inheritance. The amount, 1,000 piasters, is to be given to Diba upon Maryam's death. There is little doubt that this particular claim about the inheritance is fictitious, for the money was not to be released until her death, despite the acknowledgment. Thus, Maryam's promissory note can be seen as an exchange for care in old age by Diba, her firstborn, and probably her closest companion. Maryam could not count on Fatima to take on this responsibility, as Fatima was unmarried at the time, and the first few years of marriage were highly uncertain times. The risk of death during childbirth was very real, and Fatima's ability to manage a household and make it peaceful and prosperous was not yet tested.

After carefully mapping out a property devolution strategy that provided for her daughters, that settled accounts with males who had potential legal claims, that arranged for care in old age, and that prepared for funerary and other expenses associated with the disposal of her corporeal body, Maryam finally turned her attention to the afterlife. This was not a sudden concern triggered by old age, but the final installment in a lifelong investment in spiritual cultivation. Maryam had been preparing for a comfortable spot in the afterlife by financially supporting men whose religious authority and expertise could guide her soul safely to heaven. In order to continue this support after death, Maryam entered murky legal terrain by setting aside a part of her property in a manner that fell somewhere between a will (*wasīya*) and the designation of waqf revenues for annual enactments of good deeds (*mabarrāt*; see Chapters 3 and 4 for detailed analysis). She stipulated that one-third of the remainder of the revenues was to be given to a

¹⁹ For example, the moveable properties that Maryam itemizes for the gift – jewelry, textiles, kitchenware – are archetypal of probate inventories of women, which are usually limited to these three types, almost always in the order in which she lists them: precious metals and stones first and copper kitchen implements last, with textiles in the middle.

trustee, Wahbi al-Qazzaz, as cash money “to distribute equally to the following persons that I have allocated (money) to throughout my life.”²⁰ The document then listed the names of ten Sufi shaykhs who, apparently, had been the beneficiaries of her generosity for many years.²¹

Maryam concluded her lengthy testimony by emphasizing that all the revenues of her waqf, aside from what had already been pledged, were to be divided equally between her two daughters. To drive home the point that her intricate yet unorthodox property devolution design was legitimate and must be carried out, she issued a warning that affirmed the unity between her personal intent as a legal subject and the divine precepts of Islamic law:

I have acknowledged and testified unto myself that all of what I mentioned, in part and in whole, is articulated in accordance with legal obligations of the shari‘a . . . whoever opposes this, the Prophet Muhammad himself, peace and blessings of Allah be upon him, will be his antagonist on the Day of Judgment.²²

The document does not end at this point, however, as Maryam seems to suddenly have remembered (or perhaps was reminded about) the taxes and rent on the mulberry trees she endowed, as well as the salaries of the gardeners who she employed and managed. So she hurriedly (this was recorded out of place at the end of the document) added that these expenses were to be paid off from the waqf revenues on a regular basis.

It is difficult to overestimate the significance of the fact that mulberry trees began and ended this unusual shari‘a court case. Urban agriculture – specifically, privately owned and irrigated mulberry and citrus orchards for the silk industry and for commercial export, respectively – constituted the material backbone of family life among the propertied classes of Tripoli. The orchard, always the first property listed in waqf endowments, is key to the city’s gendered property devolution strategies. In Nablus at the same time, it was the family residence that lay at the core of such strategies. The house was the headquarters of family firms, so to speak, whose material backbone was a dense web of relations – primarily surplus extraction

²⁰ In Arabic: “*yufariqabu ‘ala asma’ madhkūrin ikhtāṣṣathum fi-ḥayati ya’īhim sawīya laysa ziyāda wa-lā nuqṣān.*”

²¹ They are: Sidi al-Shaykh Mustafa al-Maliki, Sayyid al-Shaykh Rashid al-Miqati, Shaykh Mahmud al-Rafi‘i and his brother Shaykh Ahmad, Shaykh Ahmad al-Hamidi and his brother Shaykh Mustafa, Hasan ‘Allush, Sayyid ‘Abdullah Mansuri, Sidi Shaykh ‘Iraḥī al-Zayla’, and Sayyid ‘Abd al-Qadir Qawuqji. ‘Allush and Qawuqji appear in the list of witnesses present at the time the document was drawn up, as does the son of al-Zayla’.

²² In Arabic: “*ḥaythu annanī qarrartu wa-ashhaddtu ‘ala nafsi fīmā dhakartuhu min kullī wa-juz’ī fa-buwa muḥaṣṣalan ḥukma al-fariḍa al-shar’iyya wa-kullu man ta’arāḍa dhalika fa-yakūn sayyiduna Muhammad, ṣalla Allāhu ‘alayhi wa-sallam, khaṣmahu yawm al-qiyāma.*”

through moneylending – with peasant communities in a dry-farming hinterland. It is between house (*dār*) and orchard (*bustān*) that the diversity and historical contingency of family life in the Ottoman Mediterranean can most clearly be seen.

1.2 Why Should We Care About Maryam 'Anklis?

No one in the 'Anklis family I interviewed in Tripoli in 2008 knew about the existence of Maryam 'Anklis, but she was much more than a forgotten name in a legal document.²³ Maryam speaks emphatically about the most fundamental issues pertaining to her existence as a living being: family as the nexus of material and affective relations, the shari'a as God's law, and spirituality as a path for salvation. Her devolution strategy reveals, in specific space and time, the mutually constitutive connections between political economy and legal practices, on the one hand, and notions of kinship, gender, and property, on the other. The initiative she took in going to court and her well-informed and carefully calibrated legal performance played an active role in producing and reproducing the society in which she lived. The accretion of such cases in the court registers of scores of towns and cities across the vast Ottoman domains, generation after generation over several centuries, constitutes a richly diverse collection of ecologies of family life whose existence and consequences are barely known and little understood today. We should care about Maryam 'Anklis, because her story (and many like it) exposes the silences of dominant perspectives on this region's past, and brings to the surface the astounding range, dynamism, and contingent historical trajectories of the provincial social spaces in the Ottoman Empire. In so doing, these registers point to new scholarly horizons, question assumptions about who we are and how we came to be, and make it possible to imagine different possibilities for the future. They can be, in the best sense of the word, subversive.

A puzzle animates this book. An examination of all waqfs established in Tripoli (present-day Lebanon) and Nablus (present-day Palestine) over a two-century period (1660–1860) produced a wholly unexpected finding: the populations of these Arab urban centers, located in the same cultural zone of Bilad al-Sham and under the same imperial umbrella of Ottoman rule, pursued remarkably divergent property devolution practices. This finding is most dramatically apparent when it comes to the ways females are included in or excluded from property transmission, how various forms

²³ For example, interview with Mohamed Fakher 'Anklis and his son Talal, July 6, 2008.

of property are gendered, and where the boundaries are drawn between and within the conjugal and extended family worlds. To give but one example, female children of waqf endowers in Tripoli were, with one or two rare exceptions, always included as beneficiaries, and in one-third of cases, males and females received equal shares. The opposite was true in Nablus during the same period: female children were most often excluded to one degree or another as beneficiaries, and this only became more severe over time, to the point that females were excluded altogether. This suggests that there existed a plurality of ways in which family life in general, and property devolution in particular, were understood, organized, and enacted. This finding calls into question the existence of the family types – Arab, Muslim, Syrian, Mediterranean – on which Orientalist, modernization-theory, nationalist, and Islamist constructions of this region's past depend so heavily. Based on voluminous collections of locally generated legal records, family papers, fatwa collections, chronicles, and Ottoman government archives, this book argues that this historically contingent diversity is intimately linked to deeply entrenched differences, symbolized by the orchard (Tripoli) and the house (Nablus), in local political and, to a lesser extent, spiritual economies.²⁴ The linkages complicate both modernization theory and Foucauldian-inspired narratives about ruptures of modernity as the frame by which to understand the transformations of the nineteenth and twentieth centuries. They also pose difficult questions about what, exactly, constitutes Islamic cultural, legal, and religious “traditions,” and about how these traditions can be historicized.

In writings about the Middle East, family is frequently invoked but rarely subjected to historical scrutiny, because that scrutiny would undermine its critical ideological role as the irreducible building block (and, along with religion, the essence) of Arab and Muslim societies.²⁵ Elsewhere,

²⁴ These claims would not surprise scholars of European and US history working on gender and family issues through legal records in the context of regional political economies and religious cultures. Indeed, the field of family history was propelled by counterintuitive findings – such as the prevalence of the nuclear family in the medieval period and the rise of extended kin relations with industrialization – that laid to rest the grand evolutionary and modernization schema that long governed European history.

²⁵ To my knowledge, this is only the second English-language monograph on the social history of family life in the Eastern Mediterranean prior to the mid-nineteenth century. The first is Margaret L. Meriwether, *The Kin Who Count: Family and Society in Ottoman Aleppo, 1770–1840* (Austin, TX: University of Texas Press, 1999). See also Colette Establet and Jean-Paul Pascual, *Familles et fortunes à Damas: 450 foyers damascains en 1700* (Damascus: Institute français d'études arabes). Works on family history for the post-1850 period include Alan Duben and Cem Behar, *Istanbul Households: Marriage, Family and Fertility, 1880–1940* (Cambridge: Cambridge University Press, 1991); Agmon, *Family & Court*; Kenneth M. Cuno, *Modernizing Marriage: Family, Ideology, and Law in Nineteenth and Early Twentieth Century Egypt* (New York: Syracuse University Press, 2015); Hanan Kholoussy, *For Better,*

I have written in some detail on the developing field of Middle East family history and how it differs from the rise of family history in Europe since the 1950s, especially in its relationship to gender studies.²⁶ I have also explored the promise and limitations of shari'a court registers and other legal records as sources for family history in Ottoman times, particularly when it comes to waqf endowments and lawsuits between kin.²⁷ Suffice it to say at this point that modernization theory and other positivist evolutionary schema still hold a commanding presence in the field of Middle Eastern studies. In this regard, the findings in this book run counter to three pervasive assumptions that deeply inform most writings on Islam, gender, and modernity – the major prestige zones of intellectual production in this field over the past two generations.²⁸ The first is that family and religion are the organizing principles of traditional Middle Eastern societies, the implication being that modernity constitutes a leap forward into societies based on secular relations between individuals. The second is that a specific family type – made evident by the commonly used qualifying term “Arab,” “Muslim,” or “Mediterranean” – captures the essence of each collectivity, and that this type constituted the bedrock of Middle Eastern societies well into the twentieth century. The third is that there is a linear evolution from the patriarchal, patrilocal, extended family type to the modern nuclear family unit. Moreover, this evolution, unless arrested or deformed, will inevitably lead to more democratic relations between husband and wife, parents and children, and the conjugal and extended family worlds.

The majority of monographs in Middle East studies concentrate on the political and intellectual elites of large cosmopolitan cities after the mid-nineteenth century. By understanding the actions of ordinary propertied individuals such as Maryam 'Anklis through deeply grounded studies of Ottoman provincial regions from the seventeenth to the mid-nineteenth century, social historians can challenge assumptions about the past shared by the big “isms” – Orientalism, nationalism, and Islamism. These “isms”

for Worse: The Marriage Crisis That Made Modern Egypt (Stanford, CA: Stanford University Press, 2010); and Lisa Pollard, *Nurturing the Nation: The Family Politics of Modernizing, Colonizing and Liberating Egypt, 1805/1923* (Berkeley, CA: University of California Press, 2005).

²⁶ Beshara Doumani, ed. *Family History in the Middle East: Household, Property, and Gender* (Albany, NY: State University of New York Press, 2003), ch. 1.

²⁷ *Ibid.*, ch. 8, “Adjudicating Family: The Islamic Court and Disputes Between Kin, 1700–1860.” See also Beshara Doumani, “Endowing Family: Waqf, Property Devolution, and Gender in Greater Syria, 1800–1860,” *Comparative Studies in Society and History* 40, no. 1 (January 1998): 3–41.

²⁸ I first encountered reference to “prestige zones” of knowledge production in Lila Abu-Lughod, “Anthropology's Orient: The Boundaries of Theory on the Arab World,” in *Theory, Politics and the Arab World: Critical Responses*, ed. Hisham Sharabi (New York and London: Routledge, 1990), 81–131.

continue to shape intellectual production in Middle East and Ottoman history despite trenchantly critical scholarship over the past generation.²⁹ The first, in the Edward Said sense of the word, views non-Western cultures prior to the encounter with Europe as ossified monoliths held together by rigidly authoritarian and misogynist religious traditions and family structures. The second assumes – indeed, insists – on a linguistic and cultural homogeneity within recently constructed political communities, and considers the family to be the indivisible building block of this homogeneity. The third claims that prior to the calamities of Western intervention, there prevailed a golden era of Islamic justice characterized by a harmonious balance in family life between cultural values and legal norms.³⁰

These assumptions, like those that undergird the notions of the traditional joint Hindu family and traditional extended Chinese family, render the past as a static backdrop against which the lively stories of modernity can be narrated.³¹ Such stories are invariably about externally generated, top-down forces: structural transformations caused by an expanding world capitalist economy, encounters with secular, individual-based Western culture, and interventions by newly established (colonial and post-independence) states. And in almost all of them, these forces come to undermine the traditional family without bringing about the rise of a genuine “modern” nuclear family, leaving behind a pathology of arrested or mutated political, economic, and social development in the “Third World.”³²

²⁹ A useful historiographical overview is Zachary Lockman, *Contending Visions of the Middle East: The History and Politics of Orientalism* (Cambridge: Cambridge University Press, 2004). A critical turning point for many in my generation was the publication of the first three issues of *Review of Middle East Studies*, in which members of the so-called “Hull Group” wrote sharp critiques of canonical works and paradigms. See, for example, Roger Owen, “The Middle East in the Eighteenth Century – An ‘Islamic’ Society in Decline? A Critique of Gibb and Bowen’s *Islamic Society and the West*,” *Review of Middle East Studies* 1, no. 1 (1975): 101–112.

³⁰ This premise concerning the era of Islamic justice, often with reference to the shari‘a court and the role of the qadi, explicitly challenged the secular Arab nationalist narrative about the Ottoman past and led to a wave of Ottoman-era research, especially in Egypt and Jordan, in the 1960s and 70s. See Beshara Doumani, “Palestinian Islamic Court Records: A Source for Socioeconomic History,” *MESA Bulletin* 19, no. 2 (1985): 155–172.

³¹ See, for example, Indrani Chatterjee, ed. *Unfamiliar Relations: Family and History in South Asia* (New Brunswick, NJ: Rutgers University Press, 2004). For further discussion and bibliography, see Doumani, *Family History in the Middle East*, ch. 1.

³² The classic argument in this regard for the Arab/Muslim world is Hisham Sharabi, *Neopatriarchy: A Theory of Distorted Change in Arab Society* (New York: Oxford University Press, 1988). This is also a major theme in prize-winning literary production about life in the non-West. Perhaps out of a guilty sense of superiority, the Nobel Prize committee seems compelled to shower its praise on non-European authors who carry it forward. One example is *The Cairo Trilogy* by Naguib Mahfouz, especially the first volume. Another is the oeuvre of Vidyadhar Surajprasad Naipaul. John Leonard put it best when he wrote that Naipaul is “downright contemptuous . . . of those ‘half-made societies’

In proposing an alternative framework, this book combines materialist analysis of local political economy with discursive approaches to reading legal texts gleaned from archival anthropology.³³ The empirical scaffolding on which it stands was laid by an increasing number of scholars over the past generation, who relied primarily on legal documents to write on the political economy of gender and legal history in Ottoman times.³⁴ The emphasis is not on the meta debates – Ottoman reform and the encounter with Europe, law and the formation of the modern state, capitalist transformation and the ruptures of modernity (be they economic, political/military, or epistemic) – but on historicizing practices that question the assumptions undergirding these debates. Why did Maryam 'Anklis and so many others choose to establish waqfs and conduct litigation in the shari'a court in order to manage their family affairs and devolve property from one generation to the next? What informed 'Anklis's understandings of property, kinship, and piety? How can we explain divergent and changing property devolution practices across the grids of time and space? What is the relationship between legal practices, regional political economies, and class?

These and other questions are explored through a comparative history of the mutually constitutive relationship between kin *and* court, as well as the social history of family life as seen in the encounters between kin *in* court. This combined materialist and discursive approach focuses on two types of legal transactions or cases (*hujja*) brought before the shari'a court: lawsuits

of the Third World, no longer traditional and never to be truly modern." John Leonard, "New Books," *Harper's Magazine* (November 2008): 84.

³³ I borrow this term from Brinkley Messick, who has paved the way for this approach in Islamic studies. In his work on mid-twentieth-century Yemeni court archives, Messick draws on a variety of theoretical and methodological sources, most prominently Bakhtin, Foucault, Derrida, and De Certeau. The impulse to pursue an "anthropology of Islam" owes a great deal to the work of Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore, MD: Johns Hopkins University Press, 1993); *Formations of the Secular: Christianity, Islam, Modernity* (Stanford, CA: Stanford University Press, 2003). The discursive approach, especially the insistence on a Foucauldian reading that assigns a singular importance to an epistemic shift in the latter half of the nineteenth century, is most forcefully argued by Wael B. Hallaq, *Shari'a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009).

³⁴ The list is too long to give in full. Judith Tucker has contributed most broadly to women's history and helped pioneer the use of shari'a court registers in this regard. See, especially, Tucker, *Women in Nineteenth-Century Egypt; In the House of the Law: Gender and Islamic Law in Ottoman Syria and Palestine* (Berkeley, CA: University of California Press, 1998). For the Ottoman period, I learned the most from my students Alan Mikhail, Murat Dağlı, Heather Ferguson, Faiz Ahmed, Malissa Taylor, Nora Barakat, and Zoe Griffith. The tentative steps I have taken towards gaining a deeper understanding of Islamic legal history were made possible by conversations with Baber Johansen, whose enthusiasm and guidance over the years have been crucial to the development of this book. Two of his seminal works are *Contingency in a Sacred Law: Legal and Ethical Norms in the Muslim Fiqh* (Leiden: Brill, 1999) and *The Islamic Law on Land Tax and Rent: The Peasants' Loss of Property Rights as Interpreted in the Hanafite Legal Literature of the Mamluk and Ottoman Periods* (London: Croom Helm, 1988).

(sing. *da'wa*) between relatives and pious family endowments (*waqf ahli* or *waqf dhurri*). These are analyzed through two methodologies of scale. On the meta level, patterns in the archives over time and space – such as who endowed waqfs for whom and who sued whom over what – constitute a diachronic narrative attentive to connections between family life, legal practices, and transformations in political economy. On the micro level, in-depth case studies elucidate how family can be historicized as both the crucible for and the product of socially, legally, and religiously constructed notions of sexual difference, property, and kinship.

The rest of this introduction outlines the conceptual and structural architecture of the book. Section 1.3 makes a case for property devolution as an approach to the social history of family life in general, and for the focus on waqfs and lawsuits between kin in particular. Sections 1.4 and 1.5 compare Nablus and Tripoli from a perspective critical of the coast/interior binary that pervades the historiography of the Eastern Mediterranean, then briefly map out the political and spiritual economies of difference between these two social spaces. Sections 1.6 and 1.7 theorize the use of the shari'a court and its archives as both the source for and the object of analysis, then reflect on the zones of visibility and invisibility produced by this work's specific focus on propertied urban groups in two provincial cities during the middle centuries of Ottoman rule. Finally, Section 1.8 provides an overview of the remaining chapters.

1.3 Property Devolution and Family Life

Property devolution, as a set of practices, reveals a great deal about how family is understood, organized, and reproduced. True, the science of Islamic rules of inheritance (*ilm al-farā'id*) is quite detailed, but it governs property transmission only after death. Unwilling to cede their leverage on future generations or to be constrained by a formulaic and static set of rules, most propertied individuals in Nablus and Tripoli preferred to devolve some or all of what they owned during their lifetime.³⁵ Just like Maryam 'Anklis, they did so through a variety of legal mechanisms, of which the endowment of family waqfs and litigation through lawsuits were two of the most vital.³⁶ The word “waqf” usually evokes images of large charitable foundations, and is normally framed by narratives about

³⁵ David Powers makes this argument for the medieval and early modern periods. David Powers, “The Islamic Inheritance System: A Socio-Historical Approach,” *Arab Law Quarterly* 8, no. 1 (1993): 13–29.

³⁶ Others include nominal sales, gifts, and wills. A key element of property devolution strategies is the marriage choice, the study of which is unfortunately not possible through the available sources.

the ambitions of dynasties, the formation of urban landscapes, and the material underpinnings of religious establishments. This book shifts the focus to the family waqf, which accounted for the overwhelming majority of all endowments in Nablus and Tripoli. Indeed, the period from the seventeenth to the nineteenth century was the golden age of the family waqf in the Eastern Mediterranean, if not beyond, and it is difficult to overestimate its centrality to social, economic, legal, and spiritual life in urban settings. My core argument is that the family waqf is the most flexible, expressive, and enduring legal instrument for governing long-term property relations between kin, and that it can be viewed as a charter or mini-constitution that also governs the moral-disciplinary order of kinship. Litigation in the shari'a court between family members related through blood or marriage also constituted a fundamental legal mechanism for the alignment of kinship and property relations, especially in terms of "fixing" the genealogy of a legal persona, a set of kinship ties, the status of a property, and the actual and potential forms of ownership or access rights. Kin were not shy in suing one another in court, making it possible for the historian to reconstruct internal family dynamics around property and gender.

The implications of these legal practices by kin in the shari'a court over the centuries and across the vast Ottoman domains are enormous, especially when property is understood to be neither an object nor a relationship between people and things, but rather a socially and legally fabricated relationship between people *about* things.³⁷ The rules of property – especially the legal ones that organize transmission, access, rights, obligations, and the like – are subject to contestation and negotiations. They shape and are shaped by specific local configurations of power relations and social organization. Thus, and as Jack Goody argued long ago, property devolution is a process even the anticipation of which restructures

³⁷ I first encountered this insight in David Warren Sabeen, *Property, Production and Family in Neckarhausen, 1700–1870* (Cambridge: Cambridge University Press, 1990). He, in turn, based it on a reading of Jean-Jacques Rosseau, who argued, as Sabeen writes, that society and property are constituted in the same act. Sabeen does not refer to the dimension of "legal fabrication." I came to understand the role of legal techniques in the construction of this relationship from reading Alain Pottage's chapter, "Introduction: The Fabrication of persons and Things," in Alain Pottage and Martha Mundy, *Law, Anthropology, and the Constitution of the Social: Making Persons and Things*, Cambridge Studies in Law and Society (Cambridge: Cambridge University Press, 2004). I should add here that the debate on the meanings of property has long been dominated by a focus on land and peasants, especially among historians of the family in Europe and Ottoman historians in general. For an excellent overview of the Ottoman legal history of this concept, especially in relation to land and the cultivator, see Part I of Martha Mundy and Richard Saumarez Smith, *Governing Property, Making the Modern State: Law, Administration and Production in Ottoman Syria* (London: Tauris, 2007). This book is focused on urban life, which demands a somewhat different reading of property, especially when it becomes the property of God through the mechanism of waqf.

interpersonal relationships.³⁸ The process of property devolution exposes the internal dynamics and tensions – both material and emotional – within households and between kin (blood and non-blood), especially along gender, class, and generational lines.³⁹ That is, property devolution must be seen as a system that organically links, reproduces, and transforms family and society (in the larger and inclusive sense of the word).

A close examination of property devolution strategies can help us, in the words of Tamara Hareven a generation ago, “recover an internal contemporary meaning for family as opposed to social science categories.”⁴⁰ This study is mindful of the genealogy and deployment of these categories, such as the use of “family” for the West and “kinship” for the rest.⁴¹ By way of undermining this dichotomy, I use these two terms interchangeably. In addition, this book makes use, as far as possible, of the vocabulary generated by the sources themselves, while also being mindful that they are products of fluid Islamic legal and Ottoman imperial discursive formations. Three other implications of the phrase “internal contemporary meaning” are important to this book. First, it calls for historicizing a topic that has long been and continues to be dominated by a modernization-theory perspective that presupposes a taxonomy of family forms, as well as a linear trajectory, steeped in a vocabulary of evolution and progress, from the extended to the nuclear family.⁴² Second, it puts emphasis on how propertied individuals imagined and legally constructed a gendered view of family, property, and kinship relations (unfortunately, the sources

³⁸ Jack Goody, Joan Thirsk, and E. P. Thompson, *Family and Inheritance: Rural Society in Western Europe, 1200–1800* (Cambridge: Cambridge University Press, 1976), 1.

³⁹ Goody defines devolution as the “inclusive transactions that take place between the holder of rights in property and those who have continuing interests in such rights.” *Ibid.* My use of the term is somewhat different, in that there need not be direct transactions between holders and potential beneficiaries. Waqf endowments, for example, are notarial legal transactions that are conducted between the property owner and the court without formally involving other parties who stand to benefit, either immediately or in the future.

⁴⁰ Tamara K. Hareven, “The History of the Family and the Complexity of Social Change,” *The American Historical Review* 96, no. 1 (1991): 110.

⁴¹ I owe this insight to David Sabean. For extending the concept of kinship to Europe, see David Warren Sabean, Simon Teuscher, and Jan Mathieu, eds., *Kinship in Europe: Approaches to the Long-Term Development (1300–1900)* (New York: Berghahn Books, 2007).

⁴² Studies of the construction of categories in the social sciences and positive law in the context of late Ottoman state formation and the the postcolonial state (in the discursive, not the temporal sense) is a burgeoning field in Middle East studies. Due to the very nature of the topic, however, these studies focus almost exclusively on Western educated intellectuals in post-1850s Cairo and are primarily concerned with how European positivist and liberal thought became hegemonic. See, for example, Omnia El Shakry, *The Great Social Laboratory: Subjects of Knowledge in Colonial and Post-colonial Egypt* (Stanford, CA: Stanford University Press, 2007); Samera Esmeir, *Juridical Humanity: A Colonial History* (Stanford, CA: Stanford University Press, 2012); Timothy Mitchell, *Colonising Egypt* (Berkeley, CA: University of California Press, 1988).

do not allow for a comprehensive empirical account of the structure, size, and form of family organization among the different social groups of each city). Having said that, the focus is not on a purely subjective and ethical cultivation of the self, but rather on social acts and practices embedded in property and power relations, in legal and state institutions, and in local moral and spiritual economies. Third, it encourages an artisanal nuts-and-bolts investigation of how, when, why, and to whom different types of properties were transmitted, rather than a theorization of the nature of the Ottoman governance from the perspective of family history.

1.4 The Geography of Modernity

How can we account for the dramatic differences between Tripoli and Nablus when it comes to the social composition of waqf endowers, the beneficiary patterns of family waqfs, the types of properties endowed, and other forms of difference in the social organization of family life and property devolution strategies during the 1660s–1860s period? A comprehensive explanation is difficult to find, for two obvious reasons. First, most arrangements for property devolution took place outside the court's purview. Second, and more importantly, we still know remarkably little about the peoples, economies, cultures, and social lives of provincial urban centers, especially for the middle centuries of Ottoman rule.

But why bother looking for an explanation grounded in a fine-grained history of these two regions? One powerfully influential argument about the geography of modernity runs as follows: Tripoli is a heterogeneous coastal city exposed to European influences through trade and missionary activity, and is home to a large Christian population. Nablus, in contrast, is a homogeneous and insular interior city with an overwhelmingly Sunni Muslim population clinging tenaciously to traditional customs and religious values. Coastal cities were home to capitalist economies, liberal political projects, and a secular cultural life. Interior urban centers, which ran north to south along the Great Rift Valley separating the coast from the desert, were home to local market-town economic exchange, clannish politics, and conservative worldviews. The geography of modernity was simple: the mountain against the sea.⁴³ One zone embraced modernity; the other resisted it.⁴⁴

⁴³ Despite building his arguments on the basis of this binary, Salim Tamari's essays on the pre-1948 "lost modernity" of Jaffa and Haifa and the hegemony of conservative small-town culture are nuanced and compelling. Salim Tamari, *Mountain against the Sea: Essays on Palestinian Society and Culture* (Berkeley, CA: University of California Press, 2009).

⁴⁴ For example, Charles Philip Issawi, *An Economic History of the Middle East and North Africa* (New York: Columbia University Press, 1982), 82–92.

It is but one short step from this particular spatial construct of modernity to further claims about family life. The coastal cities, it is presumed, were characterized by a modern nuclear family structure that put a premium on affective ties between husband/wife and parents/children and in which there was a clear distinction between private and public domains. Meanwhile, the interior regions were characterized by a patriarchal extended-family structure that repressed women and children and did not tolerate individualized private space. One inhabited the new-fangled three-arch house with a central hall and secluded bedrooms shaped around the desires of the Victorian bourgeois family, while the other resided in the old-fashioned Damascene-type courtyard house, whose roofless interior space was ringed by adjacent but disconnected rooms, home to hierarchical conjugal units related by blood and marriage sharing a multi-nuclear family space.⁴⁵ In a study that pioneered the field of family history in the Middle East, a similar analogy is drawn between family forms in Istanbul (nuclear) and the Anatolian hinterland (extended).⁴⁶

The coast/modern versus interior/traditional binary is a robust and enduring construct for a host of reasons, the details of which are beyond the scope of this study. Suffice it to say that most historians of the Eastern Mediterranean organize their work around the encounter with Europe during the long nineteenth century. The narrative stage is monopolized by the rising cosmopolitan coastal cities (Alexandria, Jaffa, Haifa, Beirut, Izmir), often portrayed as beachheads of modernity in contrast to the provincial urban centers of the interior and the forgotten coastal cities of earlier fame (Damiatta, Rosetta, Acre, Sidon, Tripoli).⁴⁷ In the case of Palestine, the

⁴⁵ The co-existence of “old” and “new” architectural features in an “Islamic” city is a topic of endless fascination for scholars, politicians, artists, and others. Bahjat and Tamimi, avid believers in the scientific modernization ideology of the Committee of Union and Progress (CUP), note in a 1916 report the dual nature of the built environment of Tripoli: the “old fashioned Damascene” type that reminded them of the “medieval ages” and the “modern Beiruti style.” Muhammad Rafiq Tamimi and Muhammad Bahjat, *Wilayat Beirut, al-Qism al-Shamali: al-wiyat Tarabulus wa al-Ladhiqiyya*, vol. 2 (Beirut: Lahd Khatir Press, 1987), 204. For a compelling set of studies on the three-arch or central-hall house, see Michael F. Davie, *La maison beyrouthine aux trois arcs: une architecture bourgeoise du Levant* (Beirut and Tours: Académie libanaise des beaux-arts and Centre de recherches et d'études sur l'urbanisation du monde arabe, 2003). See also Anne Mollenhauer, “The Central Hall House: Regional Commonalities and Local Specificities: A Comparison Between Beirut and Al-Salt,” in *The Empire in the City: Arab Provincial Capitals in the Late Ottoman Empire*, eds. Thomas Philipp, Jens Hanssen, and Stefan Weber (Beirut: Ergon Verlag, 2002).

⁴⁶ Duben and Behar, *Istanbul Households*.

⁴⁷ More critical studies unveil complex interactions between various forces of modernity (such as Ottoman, local bourgeois, and colonial) in the production of urban space. For two examples of theoretically informed and rigorous studies that open new vistas for rethinking the question of modernity in late nineteenth- to early twentieth-century coastal cities, see Jens Hanssen, *Fin De Siècle Beirut: The Making of an Ottoman Provincial Capital* (Oxford: Oxford University Press, 2005); Mark

interior/coast distinction was important to nineteenth-century European Biblical geographers of the "Holy Land" intent on retracing the steps of Jesus Christ along the hilly spine from Nazareth to Bethlehem. It was also critical to Zionists, who made a sharp distinction between the coast and east-west plains, where they were able to secure large tracts of land, and the hill areas dominated by a small landholding peasantry, where they were unable to establish any significant colonies. In the case of Lebanon, Franco-phone Orientalists stressed the uniqueness of Mount Lebanon as a Christian space, shaped by nature, religion, and the encounter with the West.⁴⁸ Said to be difficult to rule because of its rugged terrain, it became celebrated as a stronghold of religious minorities, consisting largely of small landholders who jealously guarded their independence and tended their terraces, uncorrupted by the Muslim-dominated coast and desert regions. It was these minorities, specifically Maronite and Greek Orthodox Christians, that populated the rising coastal cities (such as Beirut and Tripoli) and pushed them towards modernity, in ways that Muslims were either external to or could only mimic. According to the historical economist Charles Issawi, whose pristine modernization perspective influenced an entire generation of scholars, "In the Middle East the development that took place before 1914 was achieved almost entirely by foreigners or members of minority groups – Armenians, Greeks, Jews, Christian Lebanese and Syrians."⁴⁹ "Until recently," he claims elsewhere, "there was practically no Muslim entrepreneurial bourgeoisie."⁵⁰

This spatial imaginary of coastal/interior and modern/traditional obfuscates more than it reveals. To begin with, Tripoli and Nablus have a great deal in common. Only 250 kilometers apart as the crow flies, they were

LeVine, *Overthrowing Geography: Jaffa, Tel Aviv, and the Struggle for Palestine, 1880–1948* (Berkeley, CA: University of California Press, 2005).

⁴⁸ Ussama Makdisi's seminal study of the modernity of sectarianism challenges this construct, while maintaining focus on the themes, groups, places, and periods that have dominated nationalist literature on Lebanon. See Ussama Samir Makdisi, *The Culture of Sectarianism: Community, History, and Violence in Nineteenth-Century Ottoman Lebanon* (Berkeley, CA: University of California Press, 2000). See also Ussama Samir Makdisi, *Artillery of Heaven: American Missionaries and the Failed Conversion of the Middle East* (Ithaca, NY: Cornell University Press, 2008). For an alternative focus on questions of sectarianism that brings in groups and places hitherto largely ignored in the scholarship, see Max Weiss, *In the Shadow of Sectarianism: Law, Shi'ism, and the Making of Modern Lebanon* (Cambridge, MA: Harvard University Press, 2010).

⁴⁹ Charles Philip Issawi, "Middle East Economic Development, 1815–1914: The General and the Specific," in *Studies in the Economic History of the Middle East from the Rise of Islam to the Present Day*, ed. M. A. Cook (London: Oxford University Press, 1970). Reprinted in Albert Hourani, Philip Khoury, and Mary Wilson, eds., *The Modern Middle East: A Reader* (Berkeley, CA: University of California Press, 1993), 187.

⁵⁰ Issawi, *Economic History of the Middle East*, 116. Beirut, in that sense, emerged as an extension of Mount Lebanon.

both enmeshed in the cultural environment of the interior of Bilad al-Sham, which Damascus has dominated since it served as the capital of the Umayyad Empire in the eighth century. It is telling that the inhabitants of Nablus and Tripoli have long referred to their respective cities as “Little Damascus” (*Dimāshq al-sughra*) in order to convey a wide-ranging cultural affinity, running from the built environment to taste in sweets.⁵¹ Like Nablus, Tripoli was primarily a nexus for urban–rural networks, serving as a capital for hundreds of villages.⁵² Olive trees dominated the hinterlands of both, and, since soap was made out of olive oil, both were famous for their soap factories. Both also were important centers of textile production, and their merchant communities administered extensive regional trade networks radiating towards Cairo to the south and Aleppo and Istanbul to the north.⁵³

Second, the economy, social organization, and cultural life of Tripoli are not usefully captured by the phrase “coastal city.” Tripoli was three to four kilometers inland from the Mediterranean coast, and its inhabitants perceived themselves as distinct from those who lived in the town of al-Mina (Arabic for “port”), which is right on the water. Fishing and the sea trade have strong purchase on al-Mina’s economy, but Tripoli, since at least Mamluk times, has looked inwards to the east, towards a fan-shaped region stretching from its immediate rural hinterland villages in the districts of Kura and ‘Akkar all the way to its key regional trade nodes: Hama and Homs to the east, and Lattakia to the north.⁵⁴ A large area of several square

⁵¹ In Nablus, this phrase is still used among the older generation today. For Tripoli, see Tamimi and Bahjat, *Wilayat Beirut*, 202, 204.

⁵² For a more detailed argument about Jabal Nablus as a social space, see Beshara Doumani, *Rediscovering Palestine: Merchants and Peasants in Jabal Nablus, 1700–1900* (Berkeley, CA: University of California Press, 1995), 1–5.

⁵³ Currently, both have the reputation of being conservative Sunni Muslim towns – like Homs, Hama, and Hebron – with a strong sense of local identity and entrenched social customs (more than other towns in Bilad al-Sham). In both, family politics remain just as important as party politics, if not more so. Both were marginalized over the course of the nineteenth century by the rapid growth of the formerly subservient coastal towns of Jerusalem, Jaffa, and Beirut. Their faded glory goes a long way towards explaining the passion with which their native sons and daughters pursue “pre-national” local history and the pride they take in their distinct dialects and cuisines and in the preservation of the “old city.” Both are also famous as the sweets capitals of Lebanon and Palestine, respectively; and both have long been the object of numerous jokes about male–male sexual relations. For Tripoli, see, for example, ‘Umar ‘Abd al-Salam Tadmuri, *Al-hayat al-thaqafiyya fi Tarabulus al-Sham khilal al-‘usur al-wusta* (Beirut: Dar Filastin lil-Ta’lif wa al-Tarjama, 1972); *Tarikh Tarabulus al-siyasi wa al-hadari ‘abr al-‘usur; al-jiz’ al-thani: ‘asr dawlat al-Mamalik* (Beirut: Al-Mu’asasa al-‘Arabiyya lil-Dirasat wa al-Nashr, 1981). See also the comprehensive website established by Ghazi ‘Omar Tadmouri: www.tripoli-city.org. For Nablus, see the four-volume work of Ihsan Nimr, *Tarikh Jabal Nablus wa-al-Balqa’: hawadith ‘abd al-iqta’* (Damascus: Matba‘at ibn Zaydun, 1938).

⁵⁴ I like to think of this densely integrated socioeconomic and cultural space as the “Kingdom of Shanklish,” after a poor person’s everyday cheese unique to this region. Shanklish is (in)famous

kilometers separated the city and its port town, which was almost entirely devoted to irrigated orchards fed by three major canals and their tributaries. Its primary orientation towards urban agriculture and the interior hinterlands partially explains why another popular appellation for Tripoli is "The Small Oasis" (*al-fayḥā' al-sughhrā*) – again, a deliberate comparison with Damascus, popularly called "The Large Oasis" (*al-fayḥā' al-kubrā*).⁵⁵

A common perception is that the relations between the city of Tripoli and the town of al-Mina were less than cordial and respectful during the early modern and modern periods. According to Khaled Ziade, a historical sociologist, essayist, and native of Tripoli:

The old town of al-Mina belongs to the Mediterranean Sea and its world teeming with ships, journeys, and pirates who descended on its shores era after era until the early nineteenth century. The city, meanwhile, was attracted to the interior and formed a tight bond with the hinterland to which it bound itself. It hosted the villagers, housed them at the edges of her metropolis, and made them her own. The two miles then, separate two enormously different worlds: that of the interior cities and their rural hinterlands; and that of the ports and the coast that are open to the languages and peoples of the sea . . . It was not until new modes of transportation became common that the city suddenly discovered the uniqueness and special usefulness of al-Mina. So it adopted it and called it its own after ignoring and despising it for ages . . . But this new relationship . . . through which the city sought to immerse itself in the goods, ideas, and destinies of the countries of the world – did not erase the sins of the past. The people of al-Mina, the sea town, emphasized the differences in attitude and in accent as if they are of a different city, and they viewed the two-mile ride to Tripoli as a journey to a faraway place.⁵⁶

for its strong and distinctive smell, a product of the mold it gathers when buried underground to mature in pottery jars. It has recently become a standard *mezze* item in Lebanon and Syria, a result partly of a nostalgic trend for peasant fare and partly of the demographic trends associated with migration from this region towards Damascus, Aleppo, and Beirut.

⁵⁵ "It is justly called *fayḥā'* due to the abundance of the sweet smell of flowers, especially in the spring when it is drowning in flowers of citrus trees." Nawfal Ni'mat Allah Tarabulusi, *Sannajat al-tarab fi taqaddumat al-'Arab*, 2nd edn. (Beirut: Dar al-Ra'id al-'Arabi, 1982), 38. See also Ahmad Ghazi Sharamand, "Dawr Tarabulus al-iqtisadi fi al-qurun al-thalatha al-ula min al-'ahd al-'uthmani," in *Al-Mu'tamar al-awwal li-tarikh wilayat Tarabulus ibbana al-haqba al-'uthmaniyya*, 1516–1918, eds. Kulliyat al-Adab wa-al-'Ulum al-Insaniyya, al-Jami'a al-Lubnaniyya, and Far' al-Thalith (Tripoli: 1995), 85. Unlike Nablus, which depends on springs for water, Tripoli and Damascus have small rivers running through them (the Abu 'Ali and Barada, respectively), which irrigate a lush green perimeter dominated by horticulture.

⁵⁶ Khaled Ziade, *Harat al-ahl, jaddat al-lahw* (Beirut: Dar al-Nahar lil-Nashr, 1995), 48. Ziade's account is premised on the very trope of coastal/modern versus interior/traditional that is being questioned in this section. But it serves as an apt reminder that there is enormous diversity within the category of "coastal city," not just in size and relations to other places, but also in historical trajectories.

There are, of course, important differences between Nablus and Tripoli, especially in terms of size, administrative status, degree of political autonomy, and demographic composition. A cursory comparison of panoramic views – one from the Citadel in Tripoli, the other from the top of Mount Jerzim in Nablus – shows that the “old city” of the former is considerably larger than that of the latter, perhaps by more than a third.⁵⁷ In Ottoman times, Tripoli had at least twice as many neighborhoods and Friday mosques as Nablus.⁵⁸ There are no reliable statistics, but a reasonable estimation is that roughly 35 000 people lived in Tripoli in the late nineteenth century, compared to about 20 000–25 000 in Nablus.⁵⁹

Tripoli had a distinguished and rich administrative history during the Fatimid, Crusader, and Mamluk periods. In 1579, it became the capital of an Ottoman province, although it later waned in significance and was attached to the province of Damascus, and then to the new province of

⁵⁷ Of course, both cities were much smaller than Damascus and Aleppo, by several orders of magnitude.

⁵⁸ Quarters were, partly, fiscal units; hence, they do not necessarily imply a specific population density. The number of quarters and mosques for Nablus remained roughly the same throughout the Ottoman period, ranging from six to eight and from four to six, respectively. In mid-eighteenth-century Tripoli, twenty-eight distinct quarter names and fifteen distinct mosques can be identified in TSCR 10, but some were not really historic quarters, and not all of the mosques were Friday mosques. See the index compiled by Ahmad Harrouk, “Tatbiq al-shari’a wa dawr al-mufti min khilal al-sijill al-’ashar min sijillat al-mahkama al-shari’iyya (1161–1162h/1748–1749): fahrasat wa tabwib,” (master’s thesis, Lebanese University, Third Branch, Tripoli, 1985), 119–123. A century earlier, Ibn Mahasin (d. 1053/1643) visited Tripoli and named eleven mosques: Al-Kabir al-Mansuri, Tinal, Tawbah, ‘Attar, Yunisiyyeh, Birtasiyye, Mahmudiyya, Tahham, Yagan Shah, Tuffah, and Qal’a. Yahya ibn Abi al-Safa Ibn Mahasin and Muhammad ‘Adnan Bakhit, *Al-manazil al-mahasiniyya fi al-rihla al-tarabulusiyya* (Beirut: Dar al-Afaq al-Jadidah, 1981), 81–84. Bahjat and Tamimi mention that in 1916–17, Tripoli had fourteen Friday mosques (although they only name twelve) and twenty regular mosques for daily prayer. They also mention eleven major quarters. Tamimi and Bahjat, *Wilayat Beirut*, 206, 208.

⁵⁹ About 20 000 people lived in Nablus around 1850. Their numbers grew very slowly after that date. See Beshara Doumani, “The Political Economy of Census Counts: Jabal Nablus, Circa 1850,” *International Journal of Middle East Studies* 26, no. 1 (1994): 1–17. The information for Tripoli includes al-Mina (located about three kilometers from the center of Tripoli proper) and is taken from the figures provided by Tamimi and Bahjat, *Wilayat Beirut*, 191–192. Also on Tripoli, see Table 1 in John Gulick, *Tripoli: A Modern Arab City* (Cambridge, MA: Harvard University Press, 1967), 31. None of the figures can be considered accurate, but they suffice as rough approximations. We cannot even begin to guess the size of the population around 1800, other than that it was probably smaller, as there was a general increase in population throughout the region during the nineteenth century. The process and pace of demographic change were not the same everywhere, however. As a general rule, the populations of hill cities were historically stable and changed at a slow pace, while those of coastal cities witnessed radical and rapid fluctuations. It is probably not a coincidence that the number of waqf endowments in Tripoli is larger than that in Nablus, in about the same proportion as the difference in population. It is not possible to project backwards with any accuracy, but a population ratio of 1.5 : 1.0 seems reasonable.

Beirut in 1864.⁶⁰ Military garrisons in the Citadel and in the cannon-laden towers of al-Mina (the port) were a permanent part of Tripoli's landscape, and a Turkish-speaking military contingent symbolized the city's close connections to the central Ottoman administrative apparatus. Tripoli's sartorial fashions mimicked trends among the elite of Istanbul, rather than Paris.⁶¹ With few exceptions, non-native governors appointed and frequently rotated by the central government in Istanbul ruled Tripoli. The same was true for the position of qadi, at least until the end of the eighteenth century.⁶² In contrast, Nablus, ensconced within the folding hills of the Palestinian interior, never achieved a political status higher than that of district (*sanjaq*) throughout the Ottoman period.⁶³ It did not have a citadel or fortifications of any kind, and, remarkably, no Ottoman military garrison was stationed there until after 1860. Unlike in Tripoli, native sons practically ruled the city without interruption for almost all of the four centuries of Ottoman rule, and almost always held the position of qadi of the Islamic court.⁶⁴

The population of Nablus was almost exclusively Sunni Muslim. The city was home to a miniscule community of Christians and an equally small community of Samaritans; roughly 200 individuals in the latter case.⁶⁵ The countryside was even more homogeneous, with only a handful of Christian and mixed villages, such as Rafidiya and Sebastia. Tripoli's hinterland, in

⁶⁰ On the basis of mid-sixteenth-century Ottoman Tapu defter, the province of Tripoli stretched from Wadi Qandil, north of Latakia, to Jisr al-Mu'amalatayn, north of Beirut. This area included thirty subdistricts (*nāhiya* or clusters of villages that constitute a fiscal and administrative unit), comprising 751 villages. Sharamand, "Dawr Tarabulus al-iqtisadi," 189–190. During the First World War, the district of Tripoli contained 802 villages. Tamimi and Bahjat, *Wilayat Beirut*, 184.

⁶¹ For a detailed study of fashion in Tripoli and the close connections to the Istanbul elite culture, see Maha Kayyal, "Al-libas al-tarabulusi fi madinat Tarabulus fi al-nisf al-thani min al-qarn al-tasi' 'ashar," in *Al-Mu'tamar al-awwal li-tarikh wilayat Tarabulus ibbana al-haqba al-'uthmaniyya, 1516–1918*, eds. Kulliyat al-Adab wa-al-'Ulum al-Insaniyya, al-Jami'a al-Lubnaniyya, and Far' al-Thalith (Tripoli: 1995), 273–308.

⁶² In both cities, a native son held the important post of mufti.

⁶³ Nablus served as the capital of between 250 and 300 villages in an area that stretched from the Mediterranean in the west to the eastern bank of the Jordan River in the east, and from the districts of Acre and Nazareth in the north to those of Jerusalem in the south.

⁶⁴ Of course, relations with strongmen in rural areas and with larger regional powers like the governor of Damascus and the rulers of Acre often determined which alliances triumphed within Nablus, but the point remains that the only options available for outside manipulators were local ones. The few and very temporary exceptions during the period under study, when members of the 'Alami and Khalidi families of Jerusalem provided a few qadis, prove the rule.

⁶⁵ According to official Ottoman figures from the year 1905, eighty per cent of the Christian community of Tripoli was composed of Greek Orthodox, about seventeen per cent of Maronites, and the rest was distributed between Latins, Greek Catholics, and Protestants. There were also seventy-two Jews. Details can be found in Tamimi and Bahjat, *Wilayat Beirut*, 192. See also Table 4 in Gulick, *Tripoli*, 45.

contrast, included dozens of Christian (Maronite and Greek Orthodox) and Alawite villages, as well as several Druze and Shi'ite ones. At least a fifth of Tripoli's population in the early twentieth century was Christian (Greek Orthodox, Maronite Catholic, and, later, Armenian). It also included smaller communities of Jews and Alawites. Tripoli's inhabitants had numerous and prolonged contacts with European, Greek, Cypriot, and other non-Arab communities that either lived in or frequented the city, especially the port district.⁶⁶ Moreover, European missionary activity was vigorous in the Tripoli region, especially after the 1830s, as attested to by the large number of missionary-run schools, orphanages, and churches, both in the city and in the villages.⁶⁷ In the Nablus region, this activity was minimal.⁶⁸

As important as these differences were, they do not warrant causally linking the coastal/modern and interior/traditional binary to specific configurations of kinship, property, and gender relations. The differences in waqf beneficiary patterns between Tripoli and Nablus were deeply rooted, and were in place long before any meaningful Western influence, or the large growth in Christian population in Tripoli. And if the degree of inclusion or exclusion of women was a measure of modernity, how can one explain that the Christians of Tripoli during the period under study were more, not less, "conservative" than the Muslims, especially when it came to property devolution?⁶⁹ Indeed, the only family waqfs in Tripoli to completely exclude females were endowed by a Christian and by a recent female immigrant connected to the Ottoman military.⁷⁰ Instead, the differences in size,

⁶⁶ Al-Mina is physically separated from Tripoli by the vast irrigated orchards, and in the minds of its long-time residents, the port has its own identity, social atmosphere, and even dialect. For all intents and purposes, however, the people of al-Mina were completely integrated into the urban sphere of Tripoli and resorted to its court for their legal transactions.

⁶⁷ For example, of the seventy-six schools in Tripoli at the turn of the twentieth century, only thirty-one were government-run, while the rest were privately funded, mostly by missionary organizations and local churches. Tamimi and Bahjat, *Wilayat Beirut*, 192, 238.

⁶⁸ The Christian Missionary Society established a Protestant missionary school and St. Luke's Hospital in Nablus. For the former, see John Mill, *Three Months Residence in Nablus and an Account of the Modern Samaritans* (London: 1864). For the latter, see Philippe Bourmaud, "Public Space and Private Spheres: The Foundation of St Luke's Hospital of Nablus by the CMS (1891–1901)," in *New Faith in Ancient Lands: Western Missions in the Middle East in the Nineteenth and Early Twentieth Centuries*, ed. Heleen Murre-van den Berg (Leiden: Brill, 2006), 133–151.

⁶⁹ Based on registers kept by the Capuchin Fathers in Tripoli, Joseph Labaki notes that in the mid-eighteenth century, Christian women, young and old, were not allowed to go to church to attend mass. Joseph Labaki, "Tarabulus min khilal arshif al-aba' al-Capuchiyeen," in *Al-mu'tamar al-awwal li-tarikh wilayat Tarabulus ibbana al-haqba al-tthmaniyya, 1516–1918*, ed. Kulliyat al-Adab wa-al-'Ulum al-Insaniyya, al-Jami'a al-Lubnaniyya, and Far' al-Thalith (Tripoli: 1995), 329.

⁷⁰ For a waqf by Philip Khallat, see TICR 47:54. For waqfs by Fansa, daughter of Husayn Agha, see TICR 57:8; 57:9–10; and 57:13–14. The concentration of family patrimony in male hands among

demography, and connections to Ottoman rule are better understood when linked to property regimes, regional political economy, and local religious establishments. This is not to say that location did not matter. In fact, it is precisely the argument of this book that the divergence in contemporary perceptions of family, property, and gender between Tripoli and Nablus is directly related to how their different ecologies (such as the irrigated urban agriculture of the latter) articulated with specific historical contexts (rules of property, economic dynamics, and so on) to produce political, moral, and spiritual economies of difference.

1.5 The Political and Spiritual Economies of Difference

Drawing on the toolboxes of political economy, historical sociology, and social anthropology, this book proposes two sets of tentative explanations for these divergences and their implications for our understanding of the social history of the early modern and modern Middle East. The first set, on the level of political economy, seeks to link devolution strategies to differences in the material base of propertied families. Tripoli's propertied middle and working classes generally invested their time and energy in the vast "green zone" of irrigated orchards between the city and the coast.⁷¹ The merchant and artisanal classes of Nablus, in contrast, worked tirelessly to establish strong relations with peasant clans so as to secure consistent delivery of raw materials for industry and trade at the lowest possible prices. In Tripoli, we find a large middling class of urban "farmers" who manage through co-cultivation contracts the privately owned (*milk*) and/or leased waqf lands attached to the city and devoted primarily to irrigated horticulture. The large green zone of Tripoli was a highly commodified forest of cash-crop trees – primarily mulberry (for the silk industry), citrus (for export), and olive (for consumption and the soap industry). In Nablus, we

some Christian families could partly be the result of their strong rural roots in the mountain villages, where land was passed on only to males and where cousin marriage seems to have been exceptionally prevalent. It could also stem from their vulnerable minority position in the city prior to the large increase in numbers during the late nineteenth century, as well as the intense competition among Christian families, for they had fewer political and cultural channels for action in the wider community. All these factors, one can speculate, put a premium on concentrating power and material resources in the hands of older males, and on adopting marriage strategies and domestic arrangements that tightly controlled the female population.

⁷¹ Abdul-Karim Rafeq uses the term "green area" (*al-mintaqa al-khadra*) to refer to the agricultural areas immediately outside the city of Damascus and in nearby villages where irrigated horticulture on privately owned or waqf land was prevalent. Abdul-Karim Rafeq, "Al-'Alaqaq al-zira'iyya fi Bilad al-Sham fi al-'ahd al-'uthmani bayna al-madhahib al-fiqhiyya wa al-waqf." *Dirasat Tarikhiyya* 43–44 (1992): 120–139.

find intensely competitive surplus-extraction networks linking urban merchant families to semi-autonomous outlying villages in the folding hills of the interior, whose rain-fed lands were legally government-owned (*miri*) and devoted primarily to grains, legumes, and olive trees.

The political economy of Tripoli encouraged strategies that favored the conjugal family unit, that attached great importance to affective ties, and that allowed women much greater access to and management of commercially productive property, especially the irrigated orchards that were the main livelihood of the middling social groups in the city. The political economy of Nablus favored the formation of patrilineal, multi-nuclear, multigenerational households. The property portfolio of the patriline, the integrity of the residential compound as a male-defined social space, the geographical fixity and permanence of this space, and the hierarchical relations based on gender and age were all aggressively pursued and policed. At critical moments in the alternating life cycle of division and reconsolidation, discipline and continuity were often achieved at the expense of females and the young.⁷²

On the level of spiritual economies, the explanations propose a link between the social and cultural role of religious institutions and networks, or what one might call the local religious and legal establishment, and the formation of discrete regional traditions in how the normative family was imagined and how property devolution strategies were designed. In Tripoli, we find a large religious establishment in control of a wide range of well-funded and semi-autonomous institutions and characterized by strong imperial links. In Nablus, we find a small religious establishment confined to a few local families whose fortunes are directly connected to the internal power struggles, economic competition, and political factions within the city itself. Tripoli's religious establishment deeply influenced the spiritual and moral order of the city, inculcating a moral environment conducive to female participation in key economic sectors, gender-inclusive property devolution strategies, and waqf endowments that generously funded good deeds (*mabarrāt*) in pursuit of both earthly and heavenly rewards. Aside from the greater percentage of charitable (*khayri*) waqfs endowed in Tripoli compared to Nablus, the numerous family waqfs in the former routinely set aside considerable sums for 'ulama'-managed and -controlled activities and rituals in what amounted to a voluntary self-imposed cultural tax on the part of the population. In

⁷² There are countervailing social practices, especially in the form of ritual visits and gifts, that serve to soften the impact, at least on the symbolic level, of the disciplinary practices. See Chapter 5.

Nablus, by contrast, family waqfs ignored the funding of charitable and religious projects, with the occasional exception for narrowly defined purposes, and only ever in a tightly controlled manner. In this latter city, property devolution strategies allocated all revenues to one's own progeny, and attached conditions that transgressed the spirit – although not necessarily the letter – of Islamic rules of inheritance. These conditions were not softened, much less resisted, by the 'ulama' of Nablus in the interest of normative consistency. On the contrary, members of leading religious families often initiated the formulation of new (and ever more restrictive) practices over time. Unlike in Tripoli, where the religious establishment reinforced consistency and continuity, property devolution practices in Nablus were characterized by abrupt changes over time, which clearly corresponded to the rise of a new ruling elite, the centralization of wealth, and the rapid integration of the rural sphere under urban control.

1.6 Historicizing the Encounter between Kin and Court

The differences between Nablus and Tripoli when it comes to waqf endowments and notions of kinship, gender, and property are all the more surprising given they are revealed by the archives of the same legal and administrative institution: the shari'a court. If the role of the court, the composition of its personnel, and the protocols that it used to produce documents were fairly standardized throughout the vast Ottoman domains, why would we find such dramatically different patterns in the registers? If the encounter between kin and court is to be historicized, then the registers of the shari'a court and the institution that produced them become the objects of this study, not just its sources.⁷³ The second main concern of this book, therefore, is a study of the court's archives as constituted by discursive traditions of Islamic legal norms, imperatives of Ottoman imperial governance, and the dynamics of local political economies and cultural milieus.

Shari'a courts operated in all cities and most towns of the Ottoman Empire, from the Balkans to the Arabian Peninsula, and from North Africa to the borders of Persia (see Map 6). The registers of shari'a courts are widely recognized as the richest archival resource for the social, cultural,

⁷³ This introduction is informed by, but does not directly engage, the theoretical debates on what constitutes an "archive" or a "document." A key concern of the questions that follow is to understand the archives as a "system that governs the appearance of statements as unique events." Michel Foucault, *The Archaeology of Knowledge* (London: Tavistock Publications, 1972), 129. "Event" is the exact translation of the word (*hāditha*) that is used in the Islamic court registers to refer to the moment that gives birth to a document.

and, to a lesser extent, legal history of regions under Ottoman rule. As the state's only official legal institution in charge of matters relating to personal status and property, and as a public records office of sorts, the shari'a court was turned to daily by countless Ottoman subjects: rich and poor, man and woman, young and old, Muslim and non-Muslim, powerful and weak, and everything in between. They registered the purchase and sale of property, the endowment of waqfs, the particulars of marriage contracts, divorces, probate inventories, commercial dealings, custody of children, and so on. The court also adjudicated in civil and criminal lawsuits and made official legal settlements of all kinds, including the division of properties and payments of debts. This is but a sampling of what could often be a daily record of the extensive interactions between people, as well as the principal legal arena for negotiating property access rights, kinship relations, and lines of authority both within and between (mostly propertied) urban families. It is difficult to overestimate, therefore, the importance of the shari'a court and its archives to the history of family life in the urban centers of the Ottoman Empire.

The encounter between kin and court was a mutually constitutive one.⁷⁴ Neither can be understood apart from the other. By routinely resorting to the shari'a court to perform legally sophisticated property devolution practices, such as the establishment of family endowments or the use of litigation to align relations between people around property, kin defined the role of the court as a social institution and thus shaped its archives. At the same time, in order to perform before the court, kin were required to compress complex and messy family circumstances into a limited number of available legal channels, which were further bound by rules of presentation and evidence. Meanwhile, the qadi could shape outcomes by deciding what issue was at stake and which party was positioned as the plaintiff and which as the defendant. Moreover, the court documents that the historian reads are but brief summaries in which a few relevant details of the case are disaggregated and plugged into templates in terms of structure and legal language.⁷⁵

⁷⁴ Of course, the relationship between kin and court is but a part of a larger legal matrix which includes the discrete fields of Ottoman legal and administrative decrees, customary law (*urf*), fatwa rulings by jurisconsults (muftis), conflict resolution through Sufi brotherhoods, and so on. For an overview of this matrix, see Tucker, *In the House of the Law*. For reasons that will be made clear, the shari'a court was by far the most important legal institution in the towns and cities of the Ottoman Empire.

⁷⁵ In using the word "template," I do not mean to make light of the legal language, which repeats itself in highly structured bundles of quotes and phrases, with each bundle specific to a particular type of document (for example, a waqf deed or a contractual agreement). A systematic historical and textual analysis of this language – the bundles, after all, are not there by accident, and they do change over time – is crucial to understanding the court registers as an archive, but that lies beyond the scope of this book.

There is no denying, therefore, the structuring discursive power of Islamic legal norms, the procedural imperatives of a state-sanctioned institution, or the active authority of the qadi in setting the parameters and the ground rules for negotiations of power and property relations between kin in court, or for the construction of kinship as a set of legal and cultural understandings. That is, notions of family, property, and sexual difference – the core set of understandings that govern relations between kin – were not simply brought in by litigants and then deposited or reflected in the archives of the shari'a courts. Rather, these notions were constituted and transformed in the very process of the encounter between kin and court. Indeed, the conceptualization of property devolution as a social act takes into account what is required legally and institutionally to make these performances possible in the first place.

Since the shari'a court is a historically contingent sociolegal and administrative institution, the form and contents of a particular court's registers are deeply influenced by the specific political economy and demographic composition (for example, class and sex) of the population that used it. A city's cultural currents and its degree of integration into the imperial center also had an effect, as did the issue of whether the qadis were native sons with local knowledge and axes to grind or foreign appointees rotated on an annual basis. Indeed, how often, by whom, and for what purpose the court was used constantly changed, as did its personnel and the way they perceived and carried out their tasks. This holds especially true during periods of intense local conflict, foreign invasion, and the successive waves of Ottoman bureaucratic, legal, and political reforms. The divergent patterns in property devolution practices are best understood, therefore, not so much as a passive reflection in the documents of external social realities, but as the product of a complex articulation of historical contingency and individual agency with the structural imperatives of an Ottoman state institution and a deeply rooted and living Islamic legal tradition, all of which are sifted and reshaped through the labor of the historian.

The analysis in this book thus constantly shifts back and forth between what court documents can tell us about family life in these two cities and what they reveal about the stories that are likely to be authorized by the shari'a court registers as a specific kind of archive. This is not to say that it is possible or even desirable to separate the two, but for our purposes it is useful to imagine them as two ends of a spectrum.⁷⁶ A fundamental

⁷⁶ This is also not to elide the role of the historian in imposing violence on the archives. There is no substitute for a critical awareness of the consequential decisions made by the historian who delves

underlying question, therefore, is how one can historicize deeply embedded tradition while at the same time crafting a narrative of social change over time, especially when these two objectives inhabit very different conceptual and temporal registers. If critical analysis is a search for beginnings, not origins – of how, for example, notions of sexual difference and kinship are historically contingent and constructed rather than a natural or timeless feature of a culture and civilization – then I think it possible to argue that both materialist and discursive approaches are profoundly subversive of the dominant discourses that have shaped the field of Middle East studies since at least the nineteenth century.⁷⁷ A difficult challenge is to find an analytical vocabulary that allows a conversation between two epistemological edifices,⁷⁸ for there is no elegant theoretical solution that I know of that seamlessly integrates materialist and discursive analytical frameworks in the construction of historical narratives. This can only be done on the level of praxis, one specific project at a time.

One of the ambitions of this book is to take seriously insights from political economy, sociolegal history, cultural anthropology, and literary textual criticism through a cohesive and multilayered set of arguments.⁷⁹ Poring over the dozens of shari‘a court registers, one becomes keenly aware of how the elaborate discursive architecture inhabiting the tens of thousands of court cases recorded inside them can channel lines of inquiry in particular directions and generally shape the historian’s knowledge of that past.

At the same time, and in the shadow of that architecture, there exists what one might call the “topography of imperfections”: scattered clues

into these voluminous sources in search of patterns and case studies. The labor of the historian is discussed in Chapter 2.

⁷⁷ The word “difference” carries enormous theoretical baggage, as it has become a key concept associated with the postmodern turn from Claude Levi-Strauss to Jacques Derrida. Discursive analyses using theories of difference are very useful in deconstructing epistemological edifices, tracing conceptual genealogies, and revealing the power relations underlying essentialist and universalist claims about, in this case, Islamic/Arab societies. But this is not my aim. Rather, I am using “difference” in a very limited sense to denote the diversity of political economies, social formations, cultural dynamics, and, ultimately, historical trajectories of discrete social spaces and regions under the overall umbrella of Ottoman imperial rule. For a succinct, albeit less than charitable, summary of the influence of the Theory of Difference in the US academy, see Masao Miyoshi, “Ivory Tower in Escrow,” in *Learning Places: The Afterlives of Area Studies*, eds. Masao Miyoshi and Harry D. Harootyan (Durham, NC: Duke University Press, 2002), 39–47.

⁷⁸ In walking this tightrope, I take heed of Joan Scott’s warning against a profoundly conservative eclecticism that abandons critique in favor of balance. See Joan Wallach Scott, “Against Eclecticism,” *Differences: A Journal of Feminist Cultural Studies* 16, no. 5 (2005): 114–137. Scott’s concern grows mostly out of an immersion in the historiography of late modern European studies and of the institutional and political forces affecting the US academy.

⁷⁹ I try to follow the example of Martha Mundy and David Sabeian in this regard – two scholars who produced seminal works characterized by empirical robustness, interdisciplinary elegance, and theoretical sophistication.

visible to those who have spent years reading the voluminous registers and closely unpacking bundles of documents involving the same people and events over a period of time. This topography consists of unexpected deviations from textual structures, unexplained omissions, and outright inconsistencies, as well as interventions in the visual field of the document or register, such as violent scratching. These anomalies, or “anxieties” as Ann Stoler might call them, betray a residue of the events that precipitated the legal performances which produced certain documents and marked each one in some unique and indelible manner.⁸⁰ The waqf of Maryam ‘Anklis is a clear, if unusual, example. Somewhat akin to arguments about how reproduction of power relations creates opportunities for resistance and transformation, the production of the court’s archives can be seen as a fraught process that betrays the signature, however slight, of the context and singular events that created it in the first place. These signatures are also clearly present in the fatwa collections that constitute an important source for the book (fatwas are juridical opinions on questions brought to the attention of muftis).⁸¹

1.7 Methodological Choices

Historical practice is imperial and expansive: it claims a monopoly over the past and insists on its right to appropriate the methodological resources of any other discipline in order to write purposeful narratives about it. At the same time, historical practice is primarily one of specialization and exclusion. How else, it is argued, can one construct purposeful narratives, given the immensity of the past and the limitations to what can be known? This question, of course, elides the relationship between narrative and power

⁸⁰ The shari’a court registers reveal a great many anxieties on the part of the court, litigants, and witnesses. For a related set of arguments about colonial archives, see Ann Laura Stoler, *Along the Archival Grain: Epistemic Anxieties and Colonial Common Sense* (Princeton, NJ: Princeton University Press, 2009).

⁸¹ In Bilad al-Sham, the two key muftis for the early modern and modern periods were Khayr al-Din Ramli (1585–1671) and Ibn ‘Abidin (1784–1836). This book is also informed by the fatwas who served as a mufti of Tripoli in the eighteenth century. See ‘Abd Allah al-Khalili, “Fatawa al-Shaykh ‘Abd Allah al-Khalili al-Tarabulusi al-Hanafi mufti Tarabulus al-Sham,” ed. Muhammad Ibn Muhammad (Tripoli: end of Sha’ban 1175 Hijri/March 26, 1762). The collection was compiled shortly before al-Khalili died. I am indebted to Sara Scalenghe for bringing this rare manuscript to my attention and for providing me with a digital copy. One of the amazing experiences of reading this collection was discovering that many of the questions al-Khalili answers are clearly products of actual cases I read in the shari’a court registers. See, for example, the discussion of the waqf dispute between the children of Hasan Husayni in Chapter 3. For a judicious and insightful discussion of what the fatwas of Ramli and Ibn ‘Abidin can tell us about what it means to be male or female, husband or wife, see Tucker, *In the House of the Law*.

that produces areas of visibility and invisibility in the fabric of the past through the three-dimensional triangulation of space, time, and agent.⁸² The specialized pinpricks of historians focus the eye on points of light, like stars in the sky, rendering everything else as areas of invisibility. Somewhat akin to the “dark matter” of physics, these areas constitute the soup in which visible units of analysis are held in place. This book explores the dark matter of the Eastern Mediterranean sky by focusing on three of the areas usually ignored in the scholarship: provincial regions, the middle centuries of Ottoman rule, and middling propertied urban groups.⁸³ With this in mind, a key decision heavily burdened this project in terms of the methodological challenges and labor involved: to make it a comparative analysis based primarily on the shari‘a court registers.

On a synchronic spatial grid, I chose provincial regions, because the notion of “region” is crucial to escaping the telos of three concepts – civilization, empire, and nation – whose dominance as spatial constructs is directly related to their usefulness for powerful political projects. It is also ethically responsive to actual self-identification of discrete communities in the Eastern Mediterranean, where “regional identities” are deeply rooted in centuries of daily practices of social reproduction. Most such regions consist of interior towns and their hinterlands along the hills and valleys of the north–south Great Rift Valley that separates the thin coastal strip in the west from the desert expanses of the east. These include Jabal al-Khalil (Hebron region), Jabal al-Quds (Jerusalem region), Jabal Nablus, Galilee, Jabal ‘Amil (or Bilad Bishara in South Lebanon), Mount Lebanon, and Jabal al-Nusayra (Alawite region). From a materialist perspective, regions can be viewed as zones of dense social relations embedded in the production and circulation of things. From a discursive perspective, they are spatial constructs of belonging that share a thin cultural cohesion, such as dialect, food, or memory. These landscapes of belonging – an amalgamation of

⁸² The rise of history as a professional academic discipline took place in a context where the Enlightenment view of time as linear and the Newtonian view of space as a neutral container dominated the perceptions of its major practitioners. World wars, genocide, the threat of nuclear annihilation, the dominance of financial capital, advances in quantum mechanics, and the time/space compression of globalization and the Information Age are some of the factors that paved the way for the cultural and spatial turns that denaturalized time and space and broke them, like Humpty Dumpty, into many co-existing synchronic fragments, all socially constructed. Linear temporality, in particular, no longer monopolized the historian’s prism, and space became multidimensional and relational. The same period also witnessed a veritable revolution, very much connected to social and anti-colonial movements, in terms of what social groups and actors qualified as historical agents.

⁸³ It would be only fair to admit that focusing on zones of invisibility is also a purposeful narrative not bereft of ethical challenges. But at least this approach does not elide the intellectual and political stakes of the question: How, why, and for whom do we construct historical knowledge?

many mini-regions and localities tied together via marriage strategies, property relations, business networks, fictive kinship, moneylending, supply and production chains, transportation routes, local political cultures, and so on – are akin to durable bedrock honed over the centuries by the waves of history. Even in the intense and rapid transformations of the modern period, they did not simply dissipate with the strong winds of Ottoman centralization and reform (*tanzimat*) or disappear upon the arrival of colonial rule and the institution of nation states.

The durability and flexibility of regional social spaces invite an analogy: they can be thought of as ancient families or kinship networks that have developed common material interests, affective relations, and deeply shared memories over the centuries. Just like families, they can be historicized in ways that do not romanticize, naturalize, or fix them in a temporal cul-de-sac like the Shire in *The Hobbit*: a place of endless repetitions that produces texture, not meaningful change. Far from idyllic, these social spaces were sites of constant power struggles and social transformation; of inequality and violence; and of class, social, religious, and ethnic hierarchies. In the Eastern Mediterranean, by the eighteenth century, they were no strangers to commercial production for overseas markets, to commoditization of land, or to large-scale circulation of capital, ideas, and people.⁸⁴ They are not easily digested by the overarching concepts of civilization, empire, and nation.

On a diachronic temporal grid, I chose a period of two centuries, because family life is best measured by generations, not decades. Notions of gender, kinship, and property have deep roots and usually change at a snail's pace. The period 1660–1860 makes possible not only a long-term view, but also one that bridges the early modern and modern periods. The dynamics of family life and property devolution strategies as revealed in legal practices do not neatly conform to the periodization schema produced during this past generation of explosive growth in Ottoman studies. The patterns in the archives insist on their own temporal rhythm.⁸⁵ The extant registers

⁸⁴ Analytical scale is malleable. See the argument by Cem Emrence that the late nineteenth-century Ottoman Empire can be thought of as consisting of three regions: coastal areas dominated by market relations, interior areas subject to imperial bureaucracy, and frontier regions in the Arabia Peninsula shaped by Islamic Trusts. Cem Emrence, *Remapping the Ottoman Middle East: Modernity, Imperial Bureaucracy, and the Islamic State* (London: Tauris, 2012).

⁸⁵ Closely following developments in European historiography, early modernist and modernist Ottoman historians constructed discrete intellectual hothouses – in terms of topics, theoretical approaches, and lines of inquiry – bounded by clearly demarcated political, institutional, economic, and epistemic moments of rupture. Some of the more common are Napoleon's invasion of Egypt in 1798 and the destruction of the Janissaries in 1826.

of Tripoli and Nablus begin in the 1660s and, for Tripoli at least, continue uninterrupted until the end of Ottoman rule. Unfortunately, there are no extant records for Nablus from the 1730s to 1798.⁸⁶ Throughout the book, therefore, diachronic arguments frequently compare two periods, sometimes using the terms “Early Period” (1660s–1730s) and “Late Period” (1800–60).⁸⁷ The Late Period has the virtue of having a before/after perspective on the seminal decade of Egyptian rule over Bilad al-Sham (1831–40), conventionally viewed as the watershed moment that ushered in the modern era, in much the same way that Napoleon’s invasion of Egypt in 1798 is seen as the rupture of modernity for the Middle East in general. I chose 1860 as the end date partly because it was only then that the wave of Ottoman reforms formally initiated in 1839 began to have a major impact on the administrative, fiscal, and legal dimensions of Ottoman governance in Greater Syria. After the 1860s, the very role of the court in the Ottoman Empire began substantively to change, as did the methods of archival production.

I chose to do a comparative study in order to make my generalizations more robust and to add to our knowledge of neglected regions that played a more prominent political and economic role before the late nineteenth century than after.⁸⁸ Of course, the primary importance of in-depth regional or local studies lies not in how typical they may or may not be, but in the new questions and insights they can lead to in terms of what it means to do history.⁸⁹ Indeed, a study of a single individual can transform an entire field, rearranging earlier puzzles and adding many new ones.⁹⁰ I needed only to select two cities to compare. Since relatively little is known about provincial history in the Ottoman domains, Nablus had to be one, for I was already well acquainted with its history and court registers.⁹¹ I had therefore

⁸⁶ The years missing for Nablus from 1516 to 1917 are: 1516–1654, 1659–84, 1693–1721, and 1730–97. For Tripoli, they are: 1516–1666, 1669–76, 1796–1800, 1811–12, 1820–22, 1828–30, 1863–64, and 1867–70.

⁸⁷ Nablus register (*sijill*) No. 1, which covers the years 1655–58, is roughly ten years earlier than Tripoli No. 1 (1667) and No. 2 (1668, 1677–79). Nablus Nos. 2 and 3 (1685–92) partially coincide with Tripoli No. 3 (1684–86). Nablus Nos. 4 and 5 (1722–30) intersect with Tripoli Nos. 4, 5, and 6 (1715–23, 1728–29, and 1730–32, respectively).

⁸⁸ I say “in part” because adding to knowledge has limited utility as an approach, for the past is not a static puzzle that historians can complete by connecting all the right pieces.

⁸⁹ David Warren Sabean strongly argues this point in his introduction to the first volume of his monumental study of a small village in Germany: “In the study of Neckarhausen,” he writes, “the search for singularity, for particular coherence, for the contextual logics of performance suggests that significance does not lie in generalization or the extension of a particular paradigm or a plea for typicality.” Sabean, *Property, Production and Family*, 12.

⁹⁰ A classic example is the rise of “micro-history” following the publication of Carlo Ginzburg, *The Cheese and the Worms: The Cosmos of a Sixteenth-Century Miller* (London: Routledge & Kegan Paul, 1980).

⁹¹ Doumani, *Rediscovering Palestine*.

to find a city with a comparable set. After a year of sampling the registers of Homs, Hama, Beirut, Sidon, and others, Tripoli emerged as the best choice, not least because its court registers cover roughly the same periods as those of Nablus. In addition, there is a substantial but very uneven body of Arabic-language scholarship on Tripoli (where there is not for Nablus), written almost exclusively by the city's native sons and daughters, much of it based on the registers of the shari'a court.⁹² When I started systematically reading the registers of Tripoli and Nablus, I had no idea that I would find dramatic differences between them.

To my knowledge, this is the first study primarily based on a comparative analysis of two collections of shari'a court registers over such an extended period of time. Unlike most methods, which focus on a single year, or a single type of case, or a sample register every so many years, this book is based on reading the approximately 15 000 documents in the dozens of unindexed and digitally unsearchable registers that have survived from the period under study.⁹³ This immersive method required years of labor-intensive research, but it is the only way to identify robust archival patterns and to locate bundles of related documents that allow for the reconstruction of the histories of specific persons, families, or properties over decades and centuries.⁹⁴ When put into a conversation, these macro- and

⁹² The following, in chronological order, are examples of such works: Samih Wajih al-Zayn, *Tarikh Tarabulus qadiman wa hadithan mundhu aqdam al-azmina hatia 'asruna al-badir* (Beirut: Dar al-Andulus lil-Tiba'a wa al-Nashr, 1969); Tadmuri, *Al-hayat al-thaqafiyya fi Tarabulus al-Sham*; Harun 'Issa al-Khoury, *Malamih min al-harakat al-thaqafiyya fi Tarabulus khilal al-qarn al-tasi' 'ashar*, 2nd edn. (Tripoli: Jarrous Press, 1983); Khaled Ziade, *Al-sura al-taqidiyya li al-mujtama' al-madini: qira'a manhaj'iyya fi sijilat mahkamat Tarabulus al-shar'iyya fi al-qarn al-sabi' 'ashar wa-bidayat al-qarn al-thamin 'ashar* (Tripoli: Lebanese University, 1983) and *Arkiyoloia al-mustalah al-watha'iqi* (Tripoli: Lebanese University, 1986); Anis al-Abyad, *Al-hayat al-'ilmiyya wa marakiz al-'ilm fi Tarabulus khilal al-qarn al-tasi' 'ashar* (Tripoli: Jarrous Press, 1985); Nahdi Subhi Homs, *Tarikh Tarabulus min khilal watha'iq al-mahkama al-shar'iyya fi al-nisf al-thani min al-qarn al-sabi' 'ashar al-miladi* (Beirut: Mu'assasat al-Risala, 1986) and *Al-tatawwur al-iqtisadi wa-al-ijtima'i fi Lubnan wa-al-bilad al-'arabiyya* (Beirut: Dar Lubnan lil-Tiba'a wa-al-Nashr, 2003); Maha Kayyal and 'Atif 'Atiyya, *Tahawwulat al-zaman al-akhir* (Beirut: Mukhtar, 2001); Hala Sulayman, *Athar al-hamla al-misriyya 'ala Bilad al-Sham (1831–1840): wilayat Tarabulus namudhajan* (Tripoli: Al-Mu'assasa al-Haditha lil-Kitab, 2001); 'Abd al-Ghani 'Imad, *Mujtama' Tarabulus fi zaman al-tahawwulat al-'uthmaniyya*, 1st edn. (Tarabulus: Dar al-Insha' lil-Sihafa wa-al-Tiba'a wa-al-Nashr). The appreciation for the importance of these registers was such that many of these scholars banded together shortly after the Israeli invasion of Lebanon in the summer of 1982 to undertake a massive project of organizing and photocopying them. This locally produced scholarship tended to be concerned with different sets of questions from the ones I had in mind, and the methodologies of research differed in some important respects as well. This has led me to constantly question why I am pursuing certain lines of historical inquiry and not others.

⁹³ For example, Peirce, *Morality Tales* and James Grehan, *Everyday Life & Consumer Culture in 18th-Century Damascus* (Seattle, WA: University of Washington Press, 2007).

⁹⁴ Reading for content, analyzing form, and indexing all at the same time requires transparent rule-making, taxonomic consistency, and ethical discipline. The chances that someone will cross-check the sources in this kind of research are nil, while the temptation to find what one is looking for is great.

micro-methodologies of scale allow for both a broad contextual and a fine-grained understanding of property devolution practices. Drawing on the tools of quantitative historical sociology and qualitative legal anthropology, we begin to see the transformative power of Maryam's performance, albeit in tiny measures that can only become apparent through repetitive encounters between kin *in* court and between kin *and* court over long periods of time.

1.8 Chapter Overview

One of the most rewarding consequences of the decision to undertake a labor-intensive and long-term comparative analysis is the unexpected finding that property devolution practices between the two cities are dramatically different, especially when it comes to which family members are included or excluded as beneficiaries of family waqf endowments. The reasons for these differences were not immediately obvious, and are still not fully clear. My pursuit of that puzzle has shaped how this book is structured.

Chapter 2 sets the stage for the rest of the book by exploring the mutually constitutive encounter between kin and court through a close reading of the structure and content of the court registers and the power relations embedded in them. By providing a fairly stable environment for the legal pursuit of property devolution strategies under its auspices, the shari'a court Ottomanized property relations in Bilad al-Sham and became the cauldron for the construction of family life. The key argument is that these registers constitute what I call the "communal textual memory" of the inhabitants (*ahālī*) of Tripoli and Nablus. Chapter 2 also historically contextualizes the two most expressive and revealing types of documents in this living archive: lawsuits between kin and family waqf endowments. Family members related by blood or marriage frequently sued one another in court in anticipation of or in response to the tensions generated by property devolution practices and unforeseen situations such as the premature death of a head of household or the lack of a male heir. In order to understand how the encounter between kin *in* court and the encounter between kin *and* court are productive of notions of kinship, gender, and property, Chapter 2 asks who sued whom, when, how, over what, and why. The seventeenth through nineteenth centuries, at least in Bilad al-Sham, can be considered the golden age of the family waqf. This chapter locates the family waqf within the overall waqf system in Ottoman times, identifies the key differences in types of waqf endowments between Tripoli and Nablus,

and examines the crucial role of the shari‘a court in the governance of waqf on the local level.

Chapters 3, 4, and 5 are devoted to a detailed comparative analysis of the family waqf, which accounted for over ninety-eight and seventy-five per cent of all waqfs established in Nablus and Tripoli, respectively, during the 1660–1860 period. As the only form of perpetuity in Islamic law and the mostly widely used *inter vivos* mechanism for property devolution in urban areas, it is difficult to overestimate the centrality of this dynamic, flexible, and capacious institution. The common use of the word “mortmain” to describe the waqf as effectively “dead” property could not be more misleading. Chapter 3 introduces the argument that the family waqf is akin to a family charter or mini-constitution that governs not only property relations between kin, but also the spiritual-disciplinary order of kinship. Case studies looking at the Husayni and Khammāsh families in Tripoli and Nablus, respectively, demonstrate how the waqf is a sensitive barometer of contemporary understandings of what family is and how it should be organized, especially when it comes to the relationship between the conjugal and extended family forms, between parents and children, and between the temporal world and the afterlife.

Chapter 4 argues that establishing a family waqf can be analyzed as a social act with grave spiritual, legal, and material implications for the endower, her kin, and the community at large. To understand this act, the chapter asks two seemingly simple questions: Who endowed waqfs? And why? Despite some fundamental similarities, there is a wide divergence between Tripoli and Nablus when it comes to what this chapter calls the “gender and agnate gaps.” In Tripoli, throughout the two centuries under study, women consistently endowed half of all waqfs. Meanwhile, in Nablus, women endowed roughly ten per cent until the 1830s, after which the number falls to zero, and only men appear as waqf endowers. Brothers and paternal cousins emerge as a major group of endowers in Nablus, compared to virtually none in Tripoli. The middle rungs of propertied individuals are well represented in Tripoli, while elite males have a stronger presence in Nablus. Chapter 4 also introduces three overarching types of motivations – constitutive, supplementary, and disciplinary – which highlight important differences between the two cities. Constitutive waqfs, the cornerstones of families as corporate units in communal life, are key to both cities, but in Tripoli we see a strong emphasis on family waqfs as a social safety net (supplemental), as well as a way to endow the performance of good deeds in order to secure heavenly rewards (disciplinary). Deepening capitalist relations in Nablus lead to a greater emphasis on the extended

family and the joint household, while in Tripoli the conjugal family is central to kinship relations throughout the entire period.

The primary focus of the family waqf is on instantiating the future in the present. Properties are endowed to provide revenues in perpetuity only to those categories of individuals and kin groups whose specific configuration is chosen by the endower. Once legally set, the customized design of “rightful beneficiaries” cannot be changed, which unleashes dynamics – some anticipated and some that cannot be – that shape current and future kin relations. Chapter 5 takes a close look at the patterns of who is included and who excluded from the waqf beneficiaries, and identifies a fundamental similarity and a dramatic difference between Tripoli and Nablus. In both cities, family waqfs focus almost exclusively on the conjugal family and/or the offspring of the endower. At the same time, it is nothing short of remarkable that in Nablus, the overwhelming majority of family waqfs (over ninety per cent) exclude females, and increasingly so over time. In Tripoli, meanwhile, over ninety-eight per cent of all family waqfs include females consistently through both periods under study. Indeed, a third of Tripoli’s family waqfs divide the distribution of revenues equally between males and females. Even more intriguing, the historical trajectories of the two cities move in opposite directions: as the restrictions on females became more severe in Nablus, the tendency in Tripoli was for more participation by women and for greater equality.

Chapter 6 offers tentative explanations for the divergence in property devolution strategies by looking closely at the political and, to a lesser extent, the spiritual economies of Tripoli and Nablus. Most of the chapter is devoted to urban agriculture (irrigated mulberry orchards and co-cultivation contracts) in Tripoli and to surplus extraction from rain-fed hinterlands (trade and moneylending networks) in Nablus. The former militates, among other things, for the inclusion of females, while the latter militates for their exclusion. Of course, it is difficult to disentangle the techniques and relationships of production from politics, law, and spiritual life. They constitute a system that shapes kinship dynamics and strategies of property devolution. This chapter therefore begins with legal debates in Bilad al-Sham, the basic thrust of which challenged the position of the central Ottoman establishment, which considered this region’s lands *mīrī* (state-owned), not *milk* (privately owned). Chapter 6 also looks at how the differences in the religious establishments in Nablus and Tripoli – in terms of composition, power, sources of funding, and relations to Istanbul – helped shape the divergent property devolution strategies in these two cities.

The fruit of years of archival and field research, and much soul searching on what it means to do social history at a time when the popular and intellectual movements that gave rise to it seem to have dissipated, this project seeks to shape the emerging field of the family history of the Middle East by suggesting new lines of inquiry into the relationship between family, Islamic law, and political economy. The diversity of and counterintuitive developments in the organization of family life deserve closer scrutiny if we are to sustain informed and grounded discussions on the Middle East and its peoples in modern times.