

A Wedding Gone Wrong The Rather Worldly Woes of a Rather Wealthy Qādirī Sufi Shaykh. Two 18th Century Documents from the Ottoman Court Records of Ḥamā and Aleppo

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Abstract A rather intricate legal case took place first in Ḥamā's and then in Aleppo's Ottoman Islamic courts around the middle of the 18th century. The setting, the social standing of the individuals involved, and the alleged circumstances of the case all contribute to make clear that this was not just another routine court case. Altogether, the two documents are a good example of the scope and quality of the information preserved in the archives of local courts and they both demonstrate the extent and modes of implementation of Islamic law in a specific Ottoman milieu. The long inventory of personal property in the Aleppo document gives us a good idea of the social status and affluence enjoyed by the plaintiff – a member of the Jīlānī/Qādirī family – and an interesting insight into material culture and what constituted wealth and affluence at the time.

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Keywords Ottoman Syria. Ḥamā. Aleppo. Qādiriyya. Court records.

In the course of several visits to the Center For Historical Documentation in Damascus where the Ottoman court records of Syria are located, I progressively assembled a sizeable and varied portfolio of material on one particular notable clan. From the outset this was intended to form the backbone of my research on Aleppo (cf. Salati 1990, 1992, 1995, 1998, 2007, 2010). Over the years, this venture gradually developed in a number of directions, and it became clear that many of these documents, despite their being unrelated to the original plan, were very valuable. They somehow spoke for themselves and could supply information independently on topics such as social behaviour, the economy and legal matters. They would be broadly useful in advancing our knowledge and comprehension of Aleppo in the Ottoman era.

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Among the documents I wished to transcribe from the Aleppo registers on one typically torrid summer day – a physically challenging but ultimately rewarding endeavour – one in particular, which I'll call the 'Aleppo document', caught my eye. At first there was no specific reason for this except its being rather long, which, when dealing with the court records, almost always means that the case is important. When my eyes fell on the words "Kaylānī", "Qādiriyya", "Ḥamā", then I started to pay more attention. What follows is the result of much subsequent scrutiny and study, and, with the discovery of what will be referred to here as the 'Ḥamā document' in one of the few extant 18th century Ottoman court records of Ḥamā, a providentially hoped for occurrence.

1 The Documents Translated

1.1 Ḥamā Court Records, vol. XLII, 396

At the court of the noble Law and the assembly of the exalted religion in the city of Ḥamā the Protected, in the presence of the chief of the judges of Islam and eminence of the rulers of mankind, our lord and authority the judge, he who places his noble script here above,

[The plaintiff] *shaykh* 'Abdallāh *afandī*¹ b. *shaykh* Jūdī made a claim in the presence of [the defendant] *shaykh* Aḥmad *afandī* b. *shaykh* 'Abd al-Qādir. In his claim against him he said that he had given his daughter *sayyida* Ṣāliḥa² in marriage to [the defendant] and that [the defendant] had concluded a marriage contract concerning her. [However] the contract was invalid and null in its fundamental nature since [the defendant] already had under his matrimonial authority and bond of marriage four wives besides her. [The plaintiff] demanded that [the defendant] renounce her and keep away from her by declaring his marriage contract null and void according to the Law. [The plaintiff] asked that [the defendant] be questioned.

Upon being questioned, the defendant replied by saying that three months ago he had divorced one [of his four wives] and claimed that the marriage [to the plaintiff's daughter] was valid. [The defendant] was asked for a proof of what he had said about the divorce, but he could not... (produce ?) evidence and was unable to confirm his claim. So,

1 Literally 'master', this title was applied generally to educated members of the religious class. Cf. Lewis, B., s.v. "Efendī". *EI*, II (1991), 687; Bayerle 1997, 44.

2 The title *sayyid* was reserved for those who could claim descent from the Prophet, specifically in the line of the second son of 'Alī and Fāṭima, Ḥusayn. In the Aleppo document Ṣāliḥa is referred to as *sharīfa*, which technically indicated descent from Ḥasan, Ḥusayn's elder brother. Cf. Kılıç 2012, and more in general Morimoto 2012.

after this, he divorced *sayyida* Ṣāliḥa, the daughter of the said *shaykh* 'Abdallāh *afandī*, by means of the triple divorce [pronouncement] which is [among the] forbidden and illicit things (?) in the Book of Almighty God, without coercion or compulsion.³

On the strength of this, our lord the above mentioned judge ruled for the occurrence of the [thrice-pronounced] divorce by the said *shaykh* Aḥmad *afandī* on *sayyida* Ṣāliḥa, the daughter of *shaykh* 'Abdallāh *afandī*, the plaintiff. The judge also informed the defendant and divorcer, *shaykh* Aḥmad *afandī*, that she was separated from him and not lawful to him until she should marry another man [and be divorced by him].⁴

Sentence and information legally valid, worthy of due consideration, and complied with, of which he [the judge] had been asked.

What happened was written and recorded upon request in the last days of the noble month of Dhū l-Ḥijja of the year 1145 [June 1733].

Notarial witnesses (*shuhūd al-ḥāl*):⁵

Shaykh Muḥyī al-Dīn *afandī* b. 'Affān, *muftī* of Ḥamā,⁶

Sayyid shaykh 'Abd al-Mu'ṭī *afandī* b. Muḥyī al-Dīn al-'Alwānī, deputy *naqīb al-ashrāf* of Ḥamā,⁷

3 The prohibition of the threefold divorce in a single occasion, the so-called "innovative divorce" (*ṭalāq bid'ī*), is not explicitly stated in the Qur'ān, although it may be inferred from the reading of Qur'ān II: 228. It has been noted that "a question not yet conceived in the Qur'ān is that the effect of a *ṭalāq* pronounced three successive times. The traditions are divided regarding this; alongside the approval of such a thing, there is the strongest disapproval, sometimes it is even held to be invalid. In the same direction points the *ḥadīth* that, down to the caliphate of 'Umar, such a *ṭalāq* was considered to be a single one, and that 'Umar was the first to introduce into jurisprudence his view that it was a threefold one, in order to restrain people by fear of the undesirable consequences of this abuse" (Layish, A., s.v. "Ṭalāq". *EI*, X (2000), 152).

4 This procedure is called *tahlīl* in Islamic Law.

5 The *shuhūd al-ḥāl* were notarial or professional witnesses appointed and employed by the judge in order to monitor the procedures and ensure the regularity of the court sessions. Marcus (1989, 113) observes that in Aleppo "the witnesses usually included one or two court officers, but the majority of them were Muslim men not in the court's employ: people with an interest in the case, neighbors and associates of the parties, and respectable residents who happened to be in court that day for other business". For a more detailed analysis on their role and composition cf. Jennings 1978, 142-7; and also Peters, R., s.v. "Shāhid", *EI*, IX (1997), 208.

6 He belonged to the 'Alwānī family on whom see below § 2.3. Apparently Muḥyī al-Dīn acted as the Shāfi'ite *muftī*, although this is not specified in our document. Cf. Reilly 2002, 29, 62.

7 Judging by his and his father's names, he could be the son of the former. Cf. Reilly 2002, 31 fnn. 24, 62. However, he does not establish a connection between the two. The *naqīb al-ashrāf* was the head of the local descendants of the Prophet, collectively known as *ashrāf*. Cf. Haveman, A., s.v. "Naqīb al-ashrāf", *EI*, VII (1993), 926-7. On the *ashrāf* in Islamic history cf. Morimoto 2012; Kılıç 2012 for the Ottoman Empire; Salati 1990, 1992 for Aleppo. For the Arabic text of the document see below § 3.1.

Shaykh ‘Abdallāh *afandī* b. *shaykh* Sulaymān *afandī* al-‘Alwānī,⁸
Shaykh Muḥammad *afandī* b. *shaykh* ‘Umar *afandī* al-Sharābī,⁹
Shaykh ‘Abdallāh *afandī*, deputy *muftī* of Ḥamā,¹⁰
Shaykh Mūsā b. *shaykh* ‘Abdallāh al-Ḥawrānī,¹¹
Sayyid ḥājj ‘Abdallāh b. *shaykh* Muḥammad al-‘Alwānī.¹²

1.2 Aleppo Court Records, vol. XLII, 79

The case is as it was recorded. The poor Muhammad, the *qādī* of the city of Aleppo the Grey, wrote it, may God pardon him.

The legal assembly was held at the Governor’s Palace in Aleppo the Protected, in the presence of the honoured vizier ‘Uthmān Pasha, the Governor of the Province of Aleppo (the illustrious counsellor, the order of the world, the prudent manager of the affairs of the community with proper reasoning, the consummator of the important affairs of mankind with proper judgment, the arranger of the building of prosperity and felicity, the constructor of the pillars of joy and magnificence, he who is invested by the arrays of favors of the Supreme Lord, the venerable Minister) [...].

Before the above-mentioned assembly, before the presiding judge (our lord and authority, the greatly erudite learned pillar, pride of the noble lords, foremost of the highly respected notables, he who accurately formulates the legal matters of people, is himself the good deed of the days and of the nights, who discriminates between what is canonically permitted and what is forbidden, who clarifies and solves the difficulties of mankind, the judge of the Sharī‘a of Muḥammad in the protected city of Aleppo) who places his noble seal above;

With the knowledge of the pride of the most honourable and distinguished, collector of commendable acts and noble deeds) Murtaḍā *bey*,¹³ who was appointed as supervisor of the following matter by the exalted imperial power [the following occurred]:

8 He established a large family foundation (*waqf*) in 1146/1734. Cf. Reilly 2002, 35 fnn. 42, 105-6.

9 On the Sharābī family and this Muḥammad see below § 2.3.

10 No information.

11 The Ḥawrānīs were a family group with Sufi connections. Cf. Reilly 2002, 29, 38, 40.

12 No information.

13 According to Bayerle, the title *bey*, or more correctly *beg*, designated “the military-administrative heads of *sancaks* and their *tīmār* cavalry units. Eventually *beg* became a courtesy title” (1997, 19).

Sayyid Ishāq b. *shaykh* ‘Abd al-Qādir al-Kaylānī made [the following] claim. Also present were: *shaykh sayyid* ‘Umar, son of the late *shaykh* Yāsīn whose noble lineage is related to *shaykh* ‘Abd al-Qādir al-Kaylānī (may God sanctify his venerable secret); *shaykh* ‘Abdallāh, son of *shaykh* Jūdī; his [i.e. Abdallāh’s] son *shaykh* Sharaf al-Dīn; *shaykh* Muḥammad al-Sharābātī, son of ... [blank in the original], and *shaykh* ‘Abdallāh al-Ḥamdūnī. All of these are residents of the city of Ḥamā; their presence in Aleppo “the Protected” had been requested by an imperial command.

In his claim [Ishāq] said:

“In the year 1145 [/1732-33] I concluded a marriage contract with *sharīfa* Šāliḥa, the daughter of *shaykh* ‘Abdallāh, who is the son of *shaykh* Jūdī. On the night of my nuptial ceremony with her the above-mentioned defendants accused me of being already married to four women, not counting [Šāliḥa], and that she would be the fifth. They arrested me, told me that my marriage with her was absolutely null and void and separated me from her after detaining me in prison for one day and one night. I relinquished the marital gift to her (*ṭallaqtuhā mahrahā*), and they plundered and robbed my money in cash, my belongings, clothes, and household effects that were in my house in the city of Ḥamā. These [stolen goods] are as follows:

- one noble Koran, worth 40 *ghurūsh*;¹⁴
- one *ṭarrāḥa* worth 80 *ghurūsh* which contained pure gold in 1304 gold pieces, worth 5,000 *ghurūsh*;¹⁵
- two sacks with 1,000 *ghurūsh zoloṭa*;
- two golden knives weighing 80 *mithqāl*,¹⁶ worth 360 *ghurūsh*;
- fifty *mithqāl* of pearls, worth 600 *ghurūsh*;
- forty-two *mithqāl* of amber, worth 150 *ghurūsh*;
- one sable fur (*sammūr*), worth 420 *ghurūsh*;
- two furs ... (*a-z-q* ?),¹⁷ worth 160 *ghurūsh*;
- one ermine fur (*qāqūm*), worth 50 *ghurūsh*;

14 The *aqçe*, usually called ‘*uthmānī*’ in the Arab provinces, was the official Ottoman coin. From the 17th century onwards, two silver coins of European origin were preferably used, the *ghirsh* (pl. *ghurūsh*) *asadī* and the *ghirsh riyālī*. The value of the two coins was far from stable, and varied constantly over the years and from one place to another. In Aleppo, in the course of the first decades of the 18th century, the *ghirsh asadī* equalled 120 ‘*uthmānī*. In the year 1725 a new coin, called ‘new *ghirsh*’ or *zoloṭa*, was introduced. Cf. Masters 1988, 150-1; Johnson 1999; Pamuk 2000.

15 The script *ṭarrākha* seems to be an error for *ṭarrāḥa*, which defines “des petits matelas, servant plutôt de sièges en Syrie” (Establet, Pascual 1998, 111, and also, 30, 38), or a “large coussin, petit tapis de feutre qu’on met sous la selle” (193). It also means “a thing laid down or spread, as a carpet, cloth, covering” (Redhouse 1987, “ṭarrāḥa”).

16 A *mithqāl* was roughly equivalent to 4.25 grams.

17 Not identified.

one grey-white squirrel fur (*sinjāb*), worth 40 *ghurūsh*;
 one squirrel fur of the *binish* kind, worth 30 *ghurūsh*;¹⁸
 one fur *j-l-fāfa* (?)¹⁹ of the *farājiyya* kind, worth 100 *ghurūsh*;²⁰
 three wools of the *farājiyya* kind, worth 75 *ghurūsh*;
 one red ruby ring, worth 100 *ghurūsh*;
 one blue ruby ring, worth 65 *ghurūsh*;
 one emerald ring, worth 93 *ghurūsh*;
 one gilded dagger and one gilded knife, 34 *mithqāl*, worth 113 *ghurūsh*;
 one complete saddle [with ?] strap (*rakht kamar*) and one silver bridle (*bāshlaq*) made of silver, worth 130 *ghurūsh*;²¹
 one silver *rakht* of the *haydarī* style, worth 67 *ghurūsh*;
 two silver halters (*rashma*),²² worth 62 *ghurūsh*;
 two silver coated saddles, worth 97.5 *ghurūsh* e 3/4 of a *ghirsh*;
 one horse mantle (*'abā' faras*) in brocaded scarlet red broadcloth, worth 150 *ghurūsh*;
 one Homs-style brocaded horse mantle, worth 67 *ghurūsh*;
 eight silver *ṭāsāt*²³ and their coverings, weighing 900 *dirhām*,²⁴ worth 200 *ghurūsh*;
 one silver coated basin (*lakan*)²⁵ and one silver coated pitcher, weighing 600 *dirhām*, worth 150 *ghurūsh*;

18 The term *binish*, or *banīsh*, means “a long and full outer cloak or robe, formerly worn by gentlemen” (Redhouse 1987, “binish”), a “caftan très ample, à manches larges, porté le plus souvent comme vêtement de voyage ou d'équitation” (Establet, Pascual 1998, 115).

19 Not identified.

20 The term *farājiyya* means a “robe flottante, faite ordinairement de drap, à manches amples et longues, qui dépassent un peu l'extrémité des doigts, et qui ne sont point fendues” (Dozy 1877-81, “farājiyya”).

21 Establet and Pascual's definition of *rakht* is of a saddle complete with “bride, mors, rêne et tétière” (1998, 105); “furniture and trappings of a horse” (Redhouse 1987, “rakht”). According to Dozy it means “riche caparaçon d'étoffe de soie” and also “ceinture de soie, garnie de galons d'argent” (1877-81, “rakht”). *Kamar* means “any girdle or belt, especially a belt of cloth with a buckle or clasp” (Redhouse 1987, “kamer”).

22 A “strap or chain in a headstall passing over a horse's nose” (Redhouse 1987, “reshme”); a “muserolle formée d'une faisceau de chainettes d'acoyer ou d'argent” (Establet, Pascual 1998, 189).

23 “A cup, bowl, or basin convexed at bottom” (Redhouse 1987, “ṭās”).

24 A *dirhām* was roughly equivalent to three grams. In the Ottoman Empire 400 *dirhāms* were one *ukka*.

25 A *lakan* (*leğen* in Turkish) is a “smallish wash basin, a large bowl, or basin as a wash hand basin” (Redhouse 1987, “leğen”).

one silver censer and one silver *qumqum*,²⁶ weighing 500 *dirhām*, worth 130 *ghurūsh*;
 two pairs (*zawjā*) pairs of silver coated stirrups (*rikāb*), worth 85 *ghurūsh*;
 one large armband clock, worth 100 *ghurūsh*;
 one silver inkwell weighing 200 *dirhām*, worth 45 *ghurūsh*;
 fourteen cushions, worth 280 *ghurūsh*;
 samples/exemplars (*qiyāsāt*) of broadcloth, 60 *dhirā'*,²⁷ worth 130 *ghurūsh*;
 three chairs (*maqā'id*) in fine embroidery (*sūzanī*), worth 30 *ghurūsh*;
 one table cover (? *urṭā*)²⁸ of stamped broadcloth (*jūkh başma*), worth 40 *ghurūsh*;
 two silk carpets, worth 150 *ghurūsh*;
 sixty china vessels and plates, worth 240 *ghurūsh*;
 four china vessels with their plates, worth 50 *ghurūsh*;
 one brocaded bed sheet (*jārshaf*),²⁹ worth 40 *ghurūsh*;
 one Persian table cover (*urṭa*), worth 60 *ghurūsh*;
 two prayer carpets, worth 25 *ghurūsh*;
 eight *ṭāqa*³⁰ of *karmasūt*,³¹
 nine *ṭāqa* of *b-l-dār* (?),³²
 twelve *ṭāqa* of *quṭnī jālišī*³³
 six *ṭāqa* of *jitāra*;³⁴

26 A sort of metal long-necked bottle used for perfumed water. Cf. Establet, Pascual 1998, 112, 189.

27 According to Redhouse, the *dhirā'* ("cubit") of the *choha arshini* type measured 28 inches and was used for broadcloth, whereas the Aleppo (*ḥalabī*) *dhirā'* measured 21 inches and "was used in many places outside of Constantinople for all commercial purposes" (1987, "zirā'").

28 I have interpreted this term as an alternative rendition of the Turkish *urtu*, "cover" "wrap". Cf. Redhouse 1987, "urtu"; also al-Rifā'ī 2005, 107. See also below in the text for a different spelling of this term.

29 One of the many renditions of the term *sharshaf*.

30 "A piece of certain tissue" (Redhouse 1987, "ṭāqa"), the *ṭāqa*, or *tāqa*, was a standard measure for textiles, 1/20 of the Indian *kūrja* (cf. Establet, Pascual 1998, 90-1).

31 The word *karmasūt* means "taffetas chaine de soie tramé de coton" (Establet, Pascual 1998, 96).

32 No information on this term.

33 By *quṭnī* a mix of cotton and silk cloth is meant here, something similar to the *alājā*. See Establet, Pascual 1998, 94-5, 97. According to Dozy a *jāliš* or *shalīsh* is a "grand drapeau surmonté d'une touffe de crins", whereas *jālišī* or *shalīshī* means "celui qui est à l'avant-garde" (1877-81, "jalīsh").

34 According to Redhouse, *jitr* (Turkish *chetr*) is a "tent, umbrella or parasol, a veil, a women's muffler or cloak" (1987, "chetr").

five turbans (*shūsh*)³⁵ of the *jaqmaq* kind;³⁶
 four belts (*kamarband*) of the Syrian-damascene (*shāmī* ?) kind;³⁷
 seven *ṭāqa* of cloth (*qumāsh*);
 five brocaded *karmasūt*;
 four turbans of the *bandī* type;³⁸
 one *ʿūd māwardī* case weighing 1023 *dirhām*;³⁹
 one body garment.

The total value of the items and money in cash [gold and coins] whose value has been determined in the above-mentioned manner is 17.500 *ghurūsh*. Now, I demand that they return the money and the value of the goods that were destroyed. I request that they be questioned about this and about their forcing me to repudiate my wife.”

The above-mentioned defendants were questioned on the veracity of this claim. *Shaykh* ʿAbdallāh answered by saying:

“The above mentioned plaintiff had concluded a marriage contract with my daughter. On the night of the nuptial ceremony we were informed that he was already married to four women, apart from her, with four marriage contracts. We asked him about this in the presence of the judge of the Sharīʿa [court] for the city of Ḥamā at the time, and he acknowledged being married to four free women but claimed to have divorced one of them, that her legally-prescribed waiting period had passed, and that his marriage with my daughter was valid. The judge requested that he produce evidence of the conclusion of the *ʿidda* of the repudiation of one of his four wives, but he was unable to prove it.⁴⁰ Then, to avoid any doubts he divorced my daughter of his own accord”.

Shaykh ʿAbdallāh and the above-mentioned defendants denied having taken his money and goods and having forced him to give the divorce.

The aforementioned plaintiff was requested to exhibit indisputable and clear evidence to certify the veracity of his claim and was granted a ten-day delay in order to present the just proof. With the expiration of the ten days, [the plaintiff] demonstrated his inability to establish the required evidence and did not wish to oblige the defendants to take the oath.

35 Plural of *shāsh*, turban. According to Dozy (1877-81, “shāsh”) “la longue pièce de mouseline ou de soie que l’on roule autour de la calotte du turban”.

36 *Jaqmaq* literally means ‘flint’.

37 The reading is not very clear.

38 The term *bandī* could be related to a turban of Indian/Gujarati variety.

39 The term *māwardī* refers to a variety of aloe wood. Cf. Dozy 1877-81, “māwardī”.

40 According to the Sharīʿa, only upon conclusion of the prescribed period of waiting (*ʿidda*) a valid marriage is ended and a divorced or widowed woman may remarry.

As a consequence, the above-mentioned defendants rejected the plaintiff's claim with the assertion that "in the month of Jumādā II of the year preceding the date of the document [/September-October 1737] he [the plaintiff] had acquitted our legal responsibility in this legal suit and from all claims and all legal rights by way of a full and legal release accepted fully by him in the presence of an assemblage of Muslims".

The plaintiff deemed them credible and confirmed his own issuance of the full legal release in the manner documented [above].

[But then the plaintiff] said: "I was forced to give the said release under duress, being threatened by Muṣṭafā Madīnī, the attendant (*jawqadār*)⁴¹ of the Honourable Minister Sulaymān Pasha who said to me: "If you do not give them full release from this lawsuit and everything else, I will have you brought to Damascus from Ḥamā".⁴²

Then, when the said defendants requested that the aforesaid *qāḍī* in charge issue the legal ruling on this case and it became clear to [the *qāḍī*] that the said *jūqadār* Muṣṭafā Madīnī was not capable of forcing anything from this plaintiff, and what [Muṣṭafā Madīnī] had said was not anyway among those acts that suppress free will and consent, [the judge] informed [the plaintiff] that the release - which he had acknowledged and had met with the said defendants' acceptance - compromises the soundness of his legal action since it [the release] came later than the said legal action. Therefore, his legal action cannot be heard after it, unless on the basis of a new right occurring later than that [release] The judge prohibited him from further opposing them because of this, the situation being the way it is.

Notification and prohibition according to the Law, which were requested.

The case was written and recorded upon request on the 7th day of the month of Jumādā I of the year 1151 [/23rd of August 1738].

Notarial witnesses:

The pride of the accurate scholars, the most excellent of the precise erudite, His Excellency, our lord *sayyid* Yūsuf *afandī*, currently *muftī* of the city of Aleppo,⁴³

41 According to Redhouse (1987, "chohadār"), the term refers to "a lackey who walks by the side of his lord's horse, and acts as a footman indoors". *Juqadārs*, figured also among the court's police personnel (*ahl al-'urf*) alongside the ushers (*muḥḍir*). Cf. Jennings 1978, 153-4.

42 On Sulaymān Pasha see below § 2.3.

43 The historian and biographer Yūsuf b. Ḥusayn al-Ḥusaynī al-Dimashqī al-Ḥalabī (d. 1153/1740) was born in Damascus but moved to Aleppo where he became *muftī* and *naqīb al-ashraf*. Cf. Ṭabbākh 1988, 4: 479-84.

The pride of the noble scholars, the cream of the exalted teachers, His Excellency *sayyid* Aḥmad *afandī*, currently *naqīb al-ashrāf* of Aleppo,⁴⁴

The pride of the noble and the grand, His Excellency Aḥmad *āghā*, the current *muḥaṣṣil* of Aleppo,⁴⁵

The pillar of the noble scholars and teachers *ḥājj* Ḥāmid *afandī*, son of the late Muḥammad *afandī*,

The pillar of the noble scholars and teachers, Ḥusayn *afandī* b. Aḥmad *afandī*,

The pride of the noble scholars and teachers, *sayyid* Muḥammad *afandī* b. *sayyid* 'Abd al-Salām *afandī*,

The pride of the noble scholars and teachers, Muḥammad *afandī* Qabbānī *zāda*,⁴⁶

The pride of his noble peers, Muḥammad *āghā*, the Palace interpreter [...].

2 Analysis

The two closely related documents presented here deal with a dispute over the validity of a wedding contract according to established Islamic rules. The Aleppo document also includes a claim for damages for stolen goods and an alleged remission of liability. On the one hand they are a good example of the scope and quality of the information preserved in the archives of local courts. On the other, they both are a reminder of the necessity of a cautious approach to this kind of material inasmuch the documents demonstrate, not without some problems which will be discussed later, the extent and modes of implementation of Islamic law in a specific Ottoman milieu. The setting, the social standing of the individuals involved, and the assumed circumstances of the case all contribute to make clear that this was not just another routine court case, a fact also reflected in its unusual length and ornate legal prose.

To start with, two of the litigants – far from being ordinary characters in the everyday queue of petitioners at the *qāḍī*'s tribunal – figure as important personalities in the contemporary biographical literature and are

44 On Aḥmad Ṭahazāda (d. 1177/1763-64), one of the most influential religious and political personalities of his time, cf. Ṭabbākh 1988, 7: 69-78; Wilkins 2014. Ṭabbākh records that he was *naqīb al-ashrāf* already in 1147 (1734-35) and again in 1149 (1736-37) but fails to mention that he still held the office in 1151, the year of the Aleppo document.

45 The title *āghā* ('chief') was generally reserved for officers and commanders of the Ottoman military class. In the course of the 18th century it was also given to important representatives of the merchant class. For their role and position in urban contexts cf. Wilkins 2010, esp. 173-5, 185-92; Reilly 2002, 96-8.

46 Although not much is known about them, the Qabbān *zāda* were a family of scholarly standing. Cf. Meriwether 1981, 299. For the Arabic text of the document see below § 3.2.

respected members of a Ḥamā-based clan – the Kaylānī family – with relations in other Syrian centres. From Ḥamā the Kaylānīs held the leadership of the Syrian branch of the important Qādiriyya Sufi order which extended virtually to the entire Muslim world.⁴⁷

Secondly, that the dispute had become much more than an ordinary trial is made obvious in the Aleppo document by the presence of many prominent people. Besides the chief Ḥanafī judge, also present are the Ottoman governor of the province of Aleppo, an envoy of the Ottoman Sultan, and several members of Aleppo's urban elite and notability acting as notarial witnesses. As if to add to its peculiar importance, the proceedings of this lawsuit, though duly entered and recorded in the *qāḍī's* register, reveal that the trial is actually taking place at the governor's palace, the *sarāy*, not at the *qāḍī's* tribunal.

Finally, the long inventory of personal property allegedly stolen gives us a good idea of the kind of social status and affluence enjoyed by the plaintiff, his family group and the higher ranks of the Qādirī order in general.⁴⁸ Also, this very list provides us with an interesting insight into material culture and what constituted wealth and prestige at that time.

It may seem a little odd that after an initial, and apparently brief hearing in Ḥamā a case dealing with local events and people should be further tried and recorded elsewhere, that is, in Aleppo, and not in Ḥamā itself, or Damascus, the province to which Ḥamā belonged as of the first decades of the 18th century. Some branches of the Kaylānīs, including several members of the main litigants' families, although not the litigants themselves, had relocated, either temporarily or permanently, to Aleppo in the late 17th and early 18th centuries, but the same was true, in fact even more so, for relocations to Damascus (see below § 2.3).

The choice of a new venue may very well have to do with practical purposes and motives on the part of the litigants rather than family considerations. While discussing the different views of present-day scholarship on the functioning and role of the Ottoman courts and *qāḍīs* as allegedly impartial dispensers of justice, Ergene (2003, 106) speaks of ample "evidence that the very same disputes were taken over and over again to different courts for resolution", possibly in the hope that "the decision of the new *kadi* towards the case and the litigants would be different" (107). In that case, "the ability to choose the court where the dispute was heard was critical in determining the outcome" (107). The rather flexible nature of the Ottoman legal structure was partly due to what Ergene characterises

47 Cf. Beaunel, W., s.v. "Abd al-Kādir al-Djilānī", *EI*, I (1986), 69-70; Margoliouth, D.S., s.v. "al-Kādiriyya", *EI*, IV (1997), 380-3; Zarcone, Isin, Buehler 2000; Zarcone 1996.

48 On the 'material', as opposed to 'spiritual', aspects, of the living standards of Sufis cf. among others Beldiceanu-Steinherr 1980; Fernandes 1985; Faroqhi 1988, 1976.

as “reversibility of justice” (2003, 108) an opportunity that clients of the court and litigants were willing to and did in fact make use of.

It is in the Aleppo document that we learn that a direct order from Istanbul had summoned the opposing parties before the *qāḍī* in Aleppo, probably because the lawsuit had dragged on for almost six years. It was now deemed necessary to require full supervision at a higher level of authority, such as that vested in the Pasha and the chief judge of what was still the third most important city of the Ottoman Empire, after Istanbul and Cairo. The presence of an emissary sent from the capital on behalf of the Ottoman Sultan indicates that what may have initially looked like a rather provincial affair had taken on new dimensions. Now, not only two top office holders in Syria’s political, administrative, and religious-legal spheres would be present,⁴⁹ but, also, albeit indirectly, the Ottoman Sultan himself.

2.1 The Setting: Aleppo and Ḥamā in the 18th Century

Much has been said, and quite rightly, about the decline of central Ottoman authority in the course of the 18th century, particularly its second half, to the advantage of increasingly autonomous local and regional powers established by military clans, notable families, and mercenary adventurers.⁵⁰ However, with the full display of the Ottoman chain of command, we have here one more example of sophisticated, experienced administrative procedure. For this reason, too, the two documents make for interesting reading as, amidst more and more turbulent and unstable conditions, we observe an allegedly waning central authority still willing and at times capable to look into and manage its provincial subjects’ daily lives and affairs, and in so doing, struggling to preserve its time-honoured legitimacy.⁵¹

49 Marcus (1989, 79) explains that “the tip of the power pyramid was occupied by two Ottoman officials, the governor and the *qadi*. Between them they carried out the main functions of government [...] and headed the provincial administration. Viewing them as the heads of the executive and the judiciary branches respectively is too sharp a distinction. They both took part in the processes of administration, justice, policymaking, and local politics”. Cf. also Douwes 2001, 75-83.

50 According to Marcus (1989, 16, 21) “the Ottoman Empire of the eighteenth century, widely acknowledged as an attenuated image of its former self, could still claim the status of an imposing world power [...]. Control was loose in many parts of the empire [...]. It was also a period of almost constant war between the empire and its external enemies [...]. All this had repercussions in the provinces at the level of public order, the efficiency of administration, the assertiveness of local power figures, the burden of taxation, the security of roads, the prosperity of agriculture, the patterns of trade and the fortunes of different social groups”.

51 Marcus (1989, 22, 26) points out that “the Ottoman Empire of the 18th century was not so much a centralized structure as a conglomerate of loosely held districts” where local forces played a prominent role; however, “the state remained an important actor on the local scenes, exerting its influence on events through bribery, patronage, military pressure,

Included with the rest of Syria in the Ottoman realm in the course of the swift campaign conducted by Selīm I against the Mamluks in 1516-17, Aleppo was granted the status of centre of a large territory that extended deep into southern Anatolia, as far as Mar'ash (today Maraş) and 'Ayntāb (today Gaziantep), and encompassing most of northern Syria, including Antākya (ancient Antioch) and the seaport of Iskenderūn (Alexandretta) to the West and Manbij and al-Bāb up to the Euphrates to the East.

The governorship of Aleppo became one of those posts most sought-after in the 16th and 17th centuries. The city saw major urban and economic expansion, benefiting from and fully exploiting the strategic networks of international trade that intersected and passed through the city.⁵²

Accordingly, the judgeship of Aleppo ranked among the top posts in the Empire. Besides the Great Courthouse, Aleppo had four local courts (Şalāhiyya, Jabal Sam'ān, Bānqusā, and Shāfi'iyya) operating under the supervision of the Ḥanafī judge through his deputies.⁵³ Justice could also be sought outside the official Islamic framework, in the more secular venues such as the governor's council (*dīwān*). The latter convened at his residence once a week and functioned as a sort of court of appeal. There, citizens unhappy with the *qāḍī's* sentence could hope for a revision.⁵⁴ The opposite was also true, as more often than not the Shari'a courts were solicited by disgruntled citizens and villagers to rectify abuses and mistreatments suffered at the hands of the governor and/or his officials.⁵⁵ It has been noted, quite rightly, that the frequent use by the subjects of the

and political intrigue [...]. Throughout the 18th century the Ottoman leadership remained firmly committed to preserving the traditional order. Its profound conservatism was rooted in conviction as well as in vested interest".

52 Cf. Marcus 1989, 13-15; Zeitlian Watenpaugh 2004; Masters 1988; Raymond 1998.

53 Cf. Marino 2000a; Marcus 1989, 103, 106. The presence of a specific shāfi'ite court reflected the fact that the school had been predominant in Syria prior to the Ottoman conquest.

54 According to Marcus (1989, 82) "the governor's council (*divan*) provided the most important setting for local participation in policymaking [...]. It met regularly to discuss and make decisions on local and provincial issues, such as insecurity on the countryside, food supply to the city, fiscal and budgetary problems, local appointments and popular unrest and complaints". Regular members were the governor, the *qāḍī*, the *muftī*, the *naqīb al-ashraf*, the commander of the Janissary corps, and the farmer-general of taxes. The governors were "recognized as an administrative judge [...] with the power to pass sentence on criminals independently of the sharia's court [...]. The pashas were authorized to try offenders who violated public order and security [...]. Theft, assault, fraud, violation of public morals, cursing, and disputes over inheritance, debts and property rights all reached the governor's court. Some individuals who lost in the shari'a court took their cases to the governors" (105, 107-8).

55 "The shari'a court was left to rectify their [i.e. the governors'] abuses" (Marcus 1989, 114). On the other hand, Marcus notes, the *qāḍīs'* "arbitrariness was common knowledge in the city and making a complaint to the pasha figured among the familiar forms of threats and blackmail. Also, some of them who did not get their way in the *qadi's* court vented their frustration through vexation suits to the pasha" (1989, 114).

qādī's court or, alternatively, the governor's *dīwān* did not automatically entail expectations of fair justice, rather a recognition of the fact, as Ergene notes, that "litigants sometimes shopped for alternate sites where their claims could find sympathetic ears" (2003, 108).

During the course of the 18th century ninety-nine *qādīs* and one hundred pashas held office in Aleppo. This does not necessarily indicate political upheaval or discontinuity. Rather, according to Marcus (1989, 81), this shows that Ottoman authority "depended on local assistance [...] Some of the townspeople came to participate in government and to exercise an influence on the process of decision-making".

The worsening international situation – ongoing warfare between the Ottomans and the rulers of Iran until 1747 – and changing economic trends severely affected the age-old Silk Road and *hajj* caravan trade. Failing to develop "an independent political leadership" (Masters 1988, 30) as the 'Azms were doing in Damascus, Aleppo "witnessed an increasing fragmentation of the city's political elite... and could not offer any effective political resistance to Damascus' resurgence" (33). Aleppo and its merchants may have adjusted to the new political and economic conditions. However, although the city enjoyed a relative period of stability during the first half of the century, there was, as Marcus observes, a "marked change in conditions between the first and second half of the century. In the last three or four decades of the century [Aleppo] sank into a long period of crisis, experiencing a decline of economic prosperity, a sharp rise in the cost of living, a deterioration of public order, factional violence in the streets, large-scale extortion, revolts against governors, and the waning of Ottoman authority" (1989, 6).⁵⁶

If Ḥamā had lost some of the prestige and importance it enjoyed in the pre-Ottoman era, it still retained its position of official halting place along the Anatolian-Syrian pilgrimage (*hājj*) route, at the very centre of the fertile agricultural areas of Syria. As part of a general trend in Ottoman Syria, the 16th and the first half of the 17th centuries were a period of urban growth and economic development for Ḥamā (cf. Reilly 2002, 22-3, 69-85; Douwes 2009, 34-9, 66-84, 169-87). Travellers' accounts from the second half of the 17th century confirm this state of affairs. In his *Tuḥfa al-udabā' wa salwa al-ghurabā'* the Medinan Ibrāhīm b. 'Abd al-Raḥmān al-Khiyārī (d. 1671-72), speaks of a "big and populated city, with large mosques, thriving markets and green gardens" (al-Khiyārī 1969-80, 1: 183). The famous traveller Evliyā Çelebī (d. + 1682) corroborates this by providing a long and thorough list of things to see and places to go in what he calls "the

⁵⁶ Cf. also Bodman 1963. Likewise Rafeq (1990, 180), referring to 18th century Damascus, speaks of "weak administration", "attempts at enforcement of law and order", "feuding military groups, avid governors and notables [...], wide-spread poverty affecting the bulk of the population".

city of the Ancient (*qudamā'*) and the seat of the Poor Mystics (*fuqarā'*)" (quoted in Dagli, Kharaman, Dankoff 2000, 3: 39).⁵⁷

Still, this did not change Ḥamā's condition as a "small town in Syria", a fact reflected in its being included initially in the province of Tripoli and later, around 1725, into the *pashalik* of Damascus.⁵⁸ Accordingly, the city was governed by a district governor (*mutasallim*) who was answerable to the Pasha of Damascus, whereas the courthouse was managed by a deputy judge acting on behalf of the chief *qāḍī* of Damascus.⁵⁹ If anything, Ḥamā's administrative re-adjustment allowed the city to somehow withstand the socio-economic decline that affected northern Syria in the course of the 18th century.⁶⁰ This reorientation toward Damascus was reflected in and reinforced by the consolidation of the 'Azm clan's political and military power in the first half of the century.⁶¹

2.2 The Sources

As said in the introductory notes, this short study relies heavily on documentation preserved in the Ottoman court records of Aleppo and Ḥamā (*siġillāt al-maḥākim al-shar'iyya*).⁶² The significance of the court records for the study of Ottoman society is an established fact among scholars, to the extent that any investigation on the diverse aspects of Ottoman history may

57 Around 1730 the British traveler R. Pocock describes Ḥamā as a flourishing town (quoted in Douwes 2001, 50, fn. 20).

58 Cf. Reilly 2002, 23-249. However, Douwes (2001, 49, fn. 17) maintains that "it is uncertain whether the Ḥamā district became *formally* attached to Damascus before 1832". On Ḥamā cf. also Glasman 1991.

59 Cf. Reilly 2002, 24, 28. As in other major centers of Syria, a Shāfi'ite judge was present in Ḥamā.

60 According to Reilly "when the fortunes of Aleppo and northern Syria declined [...] during the eighteenth century, Hama became linked to new centers of regional wealth and power in Damascus [...]. Its transfer to Damascus in the eighteenth century reflected the increasing responsibility given to the governor (*wali*) of Damascus for the security of the Syrian pilgrimage caravan to Mecca" (2002, 23). That allowed the city to experience a population growth in the course of the 18th century, despite periods of severe economic crisis due to political or natural events. Cf. Reilly 2002, 74-5.

61 A family group of uncertain origin based in the small town of Ma'arrat al-Nu'mān as of the late 17th century, the 'Azms emerged during the first half of the 18th as paramount political leaders of central and southern Syria, including Ḥamā, whose district was often given to them as *mālikāne*, a permanent grant of revenues. Cf. Douwes 2001, 45-52, 67-75, 91-9; Rafeq 1966, 85-90; Barbir 1980, 56-64; Schilcher 1986, 29-35; Reilly 2002, 32-3, 38-9.

62 On the Ottoman Court Records, their nature and typology Faroqhi, S., s.v. "Sidjill 3.", *EI*, IX (1997), 539-45; Akgündüz 2009; Ze'evi 1998. For the court records of Syria cf. Rafeq 1976; Marino 2000a.

no longer be considered well-researched without making use of this material, whenever available.⁶³ Despite their limitations, and the fact of their occasional manipulation – something that will be discussed shortly – not only do they provide us with solid information about social order, culture, economy, urban and, to a lesser degree, rural history. They also, and quite often, significantly supplement and substantiate data from traditional literary sources, such as local historiography, chronicles and biographical literature.

The *sijillāt* have rightly been described by Marcus (1989, 8-9) as

an incomparable repository of information. The institution which produced them was at once a main court for adjudicating civil and criminal disputes, a notarial office in which the townspeople drew up their contracts and deeds, and a busy administrative agency which handled all sorts of official business in the city and province. The material in the court records appear as a hodgepodge of unrelated matters thrown together chronologically without regard to any topical order. It is precisely the raw and individualized quality of the information, coupled with its abundance and view from the inside, which make the court records unusually valuable as a historical source. They give us a vivid sense of how society actually worked, of the pursuits, practices, strategies, conflicts and accidents which wove the texture of daily life.

That said, scholars and researchers are aware of the fact that, as pointed out by Reilly (2002, 15-16),

Shari'a court registers have at times been treated as objective documentary sources from which researchers can extract reasonably reliable data in order to reconstruct historical structures and patterns [...], because the registers contain information about social and economic history that is difficult or impossible to find elsewhere. Like all sources, however, the law-court registers have their built-in biases and limitations. The registers reveal only those social processes and transactions that came under the purview of the local administration and for which a judicial record was deemed useful or necessary.

To quote Ze'evi (1998, 37),

all sources are complex webs of meaning, in which a social "reality", a series of specific biases, contemporary codes and symbols, styles and

63 Ze'evi (1998, 35), quite simply but effectively, states that "it is now inconceivable for a scholar studying Ottoman society, culture or economy, to ignore the *sijill*". Marcus (1989, 11) points out that "the development of Middle Eastern social history will depend in good measure on the creative use of this [i.e. the *sijillāt*]".

tropes of writing, the interventions of copiers and editors, all blend inextricably to form a written source. The *sijill* is no exception, although it is somehow believed to be immune from such problems [...]. The *sijills* are carefully constructed narratives in which the legal aspect, although invisible to the reader, is still the essence of the record. [...] the record discusses the case not as it actually unfolded but rather in terms consistent with legal doctrine and practice.⁶⁴

Even a quick look at the Ḥamā document shows that there is something wrong in the section of the text where the defendant is mentioned. It is the present writer's contention that the text was tampered with, and that the personal name of the defendant, Ishāq, was deleted, scratched away, and replaced with a clumsily juxtaposed and written over new name, Aḥmad. As to why this was done, I cannot offer a definitive explanation and will limit myself to a few considerations largely based on Ergene's remarks on the nature of the court records as a source.

First of all, Ergene (2003, 125) recalls that "the extent of our understanding of the stories told in the court records is very much dependent on our ability to make sense of how these documents were produced, what they hid and disclosed, and how they were used in the judicial processes". Then, he maintains that one of the problems lies in the fact that "we do not exactly know how these disputes brought to and resolved in the Ottoman courts were recorded in the court records, [whereas] many of us continue to assume that what we observe in the *sicils* is the direct and immediate representation of the court proceedings" (126).

More specifically, Reilly (2002, 16, fn. 8) notes that "the scribes who produced the registers had their own criteria for including or excluding information, and they reflected the values and assumptions of the system in which they worked". Scribes were of course not exempt from mistakes due to imprecision and poor memory so that, as noted by Ergene (2003, 126), "these documents did not have an immediate relationship with the actual court proceedings [...].⁶⁵ We notice that the paternal names or the resi-

64 Ergene (2003, 129-30) observes that "the production of the written record of any kind of performance (be it judicial, ritual, or artistic) involves a 'disposition if formalization', an inclination in the part of the 'recorder' to single out the formal aspects of the performance [...]. The *sicil* of course is nothing but a translation of a particular legal performance into a formal and immensely formulaic language. In the process of this translation, variation is eliminated, and temporal, spatial and improvisational characteristics of individual performances are left out [...]. The *sicil* severely discriminates against non verbal acts, body language, or facial expressions of the performers and privileges the spoken word against other acts of communication. That is why no confessions (*i'tiraf*) or acknowledgments (*ikrar*) found in the court records could be assumed as inherently sincere. [...] *sicils* may be significantly misleading sources".

65 Ergene (2003, 126) further observes that "there is some evidence that the proceedings were not actually recorded during or immediately after the hearings. [...] there might have

dential affiliations of some participants in the court processes are not only withheld [...] but are intentionally left blank” (126-7). To omit, exclude or hide the identity of individuals involved in the litigation process, then, was not unusual.

Secondly, when comparing the two documents one cannot but notice the conspicuous difference in length and content. What the Ḥamā document is about is essentially a marriage dispute. Albeit interesting in its own right, it is the Aleppo document which is particularly rich in detail and articulate in depicting a complex and considerably more serious legal case. Now, a rather ‘simple’ and promptly-solved case rematerialises a few years later as a very articulate situation involving robbery, intimidation, and physical assault. Such divergence is not easy to explain. Here, Ergene’s analysis is again helpful when he suggests that there were “significant differences between alternative accounts of a particular hearing. In such cases, later accounts often provide more complete descriptions of the disputes or are more explicit about the judicial proceedings than earlier ones” (2003, 126). This leads him to the very interesting remark that “the reason for the production of a second account of a particular hearing may be that *the first document inadequately represented the exact nature of the dispute and the full scope of the court’s decision*” (129; emphasis added). He then concludes by stating that “although relatively rare, substantive differences between separate accounts of a particular court hearing raise another important issue; the problem of representation. Since these accounts refer to the same court hearing, *one of them obviously misrepresents the judicial process in question*, This situation demonstrates that *the ability of the court records to accurately portray the Ottoman court processes may indeed be limited*” (129; emphasis added).

On the other hand, we have at least here one of those infrequent instances where we are able to partially mitigate what Ergene appropriately describes as the “sense of timelessness in the records” (2003, 135) and to detect to some extent the respective legal tactics employed by the opposing parties. A common feature of the court records is that they seldom, if ever, inform us about the time it took to instruct, try and conclude a lawsuit. What the *sijillāt* almost always depict is a rather swift and orderly process that effortlessly led up to its harmonious and logical conclusion, that is, the ‘just’ pronouncement by the judge.⁶⁶ Yet, keeping in mind what has been said above about the questionability of the impartial and objective nature of the judicial

existed an intermediate stage between the actual court proceedings and their recording in the *sicils*”. According to him, this lends support to the idea “that the drafts prepared by the scribes were probably not transferred to the court registers immediately but accumulated for some time until they were recorded in the registers in no particular order” (129).

⁶⁶ It should be said, however, that although not the norm, it is not unusual to find in the *sijills* of Aleppo accounts of the different stages of a trial, either in a single or in successive

process as implemented in the Ottoman courts and, as a consequence, the fact that the administration of justice by a particular court could be and actually was perceived, to quote once again Ergene's work, as "unfinished, temporary and subject to challenge in other arenas" (2003, 139), this idealistic picture of 'cool', fast justice needs to be, at least in part, revised.

It becomes clear from the reading of the two documents that in this case justice was slow. The legal action began in Ḥamā in 1733 and apparently ended in Aleppo in 1738. In all, the litigation process took a little over five years. This may account for the length and the elaborately detailed composition of the Aleppo document. It would be only logical to assume that during this five-year hiatus, the litigants, in Ergene's words, "conducted their negotiations and designed their strategies" (2003, 138), which were included in the formal legal structure of the Aleppo document. But before addressing the subject-matter of the case itself let us turn our attention now to the litigants themselves.

2.3 Plaintiff and Defendants

The Aleppo document identifies two of the parties involved in the lawsuit as members of the same family clan, namely the plaintiff (*sayyid* Ishāq) and one of the defendants (*sayyid* 'Umar). These two were actually distantly-related cousins, as both descended from a common ancestor, *shaykh* Sharaf al-Dīn Yaḥyā b. Aḥmad b. 'Alī al-Kaylānī al-Ḥamawī (d. 1671-72), the head of the Syrian branch of the Qādiriyya order and *naqīb al-ashrāf* of Ḥamā, whose genealogy went back directly to the great Sufi master and eponym 'Abd al-Qādir al-Jīlānī (d. 561/1166), Kaylānī/Kīlānī being the arabised form of Jīlānī.⁶⁷

According to a family tradition, one of 'Abd al-Qādir's great-great-grandsons, *shaykh* Sharaf al-Dīn Yahya, left Baghdad to settle in Ḥamā around the year 734/1334, laying the foundations of what would make of Ḥamā a "model Jilani city for those who study the political and religious role of Sufi-rooted ashraf" (Khenchelaoui, Zarcone 2000, 71).⁶⁸ Over time, the Kaylānīs established themselves as part of Ḥamā's elite group of fami-

recorded documents. Sometimes, dates regarding previous hearings or personal events of the litigants are also given in the text.

⁶⁷ Sharaf al-Dīn is reputed to have been the first Kaylānī-Qādirī of Ḥamā to hold the office of *naqīb al-ashraf*. He was honored with a visit by the Ottoman sultan Sulaymān the Magnificent. Cf. Khenchelaoui, Zarcone 2000, 1.

⁶⁸ According to Reilly (2002, 27): "the first Kaylani to leave an imprint on Hama was Ibrahim, who lived in the 17th century. He built a mosque on the right bank of the Orontes and this section of the town became the locus of the Kaylanis' presence in Hama and was also know by the name al-Kaylaniyya in the 18th century".

lies, holding the office of *shaykh* of the Syrian Qādiriyya and of *muftī* and *naqīb al-ashrāf*.⁶⁹ Together with the 'Azms and the 'Alwānīs, they came to be considered the local spokesmen of Ottoman Ḥamā, the three family clans that “dominated Ḥamā’s society.”⁷⁰ These family groups constituted an elitist class of power brokers and intermediaries generally referred to collectively as *a’yān*. As elsewhere in Syria and in the rest of the Ottoman Empire, they were “part and parcel of the system of government” (Reilly 2002, 25).⁷¹ In Ottoman Ḥamā, the Kaylānīs are to be considered as the best example of a notable family group of religious scholars boasting prophetic descent at the head of a powerful and influential Sufi order. In this the Kaylānīs followed a pattern that was typical of their times. In Reilly’s words:

The establishment or consolidation of Sufi-linked notable families in Ḥamā during the 16th and 17th centuries, with a strong element of hereditary leadership, is a noteworthy development. The extension or heightened visibility of Sufism in the Ottoman Arab lands was a general phenomenon in the Ottoman period. Sufi affiliation created horizontal ties among confreres across distances, and vertical ties within neighborhoods through the rite associated with visits to the Sufi lodges and saints’ tombs. Hence Sufism was an important parts of the consolidation or assertion of authority of notable families. (2002, 30)

69 For the *muftīs* and *naqībs al-ashrāf* of the Kaylānī family cf. Reilly 2002, 28. In the course of the 19th century several Kaylānīs managed to hold the offices of *muftī*, *naqīb al-ashrāf* and deputy judge at the same time (cf. Reilly 2002, 31). They continued to do so into the early 20th century. Cf. Weismann 2005.

70 Cf. Reilly 2002, 26-41, 61-8, 102-6, 121-3; Douwes 2001, 70-5; 173-8.

71 The term *a’yān* continues to be the object of debate and criticism. Reilly (2002, 25-6, 135-6) observes that although “the word conveys the intermediary function that these individuals and families fulfilled [...] the term needs to be disaggregated according to a distinction drawn by J. Clancy-Smith between ‘elites’ and ‘notables’ in the context of Ottoman North Africa. Her differentiation emphasizes *elites* and *notables* respective bases of power and authority [...] elites drew some, though not all, of their political authority from relationships with the state. Religious notables on the other hand tapped deep into other sources – sharifian descent, special piety, erudition, charity... the attributes demanded of the holy person. They wielded socio-spiritual and moral authority [...]. The respective bases of authority often were intertwined, but the basic distinction between people of the military and scholarly/religious status is relevant to the social structure of Ottoman towns including Hama [...]. Elites owed their ascendancy to connections to the Ottoman state, forming a kind of aristocracy of service. Notables, in addition to their connection with the state, possessed autonomous cultural capital that flowed from their illustrious ancestry, their religious learning, and their association with mosques and Sufi lodges that they or their ancestors had founded”. According to these definitions the 'Azms would belong to the first type of *a’yān*, the elite properly, while the Kaylānī to the second, the notables. For a general overview of the role of the *a’yān* in Middle Eastern societies cf. Hourani 1968.

In his well known biographical work *Silk al-durar*, the damascene scholar, Sufi *shaykh*, Ḥanafī *muftī* and *naqīb al-ashrāf* Muḥammad Khalīl al-Murādī (d. 1206/1791) presents the biographies of several Kaylānī-Qādirīs from Ḥamā and Damascus, including the two mentioned in the Aleppo document: Ishāq b. ‘Abd al-Qādir, the plaintiff, and ‘Umar b. Yāsīn, one of the defendants. Theirs and their families’ story is an interesting one.

Ishāq’s father, *sayyid shaykh* ‘Abd al-Qādir b. Ibrāhīm b. Sharaf al-Dīn al-Ḥanafī al-Qādirī al-Ḥamawī (1080-1157/1670-1739) – highly praised by al-Murādī for his personal qualities, education and high standing – was born and raised in Bagdad. Upon completing his first studies, with proficiency in the ‘three languages’ (Arabic, Turkish, Persian), he arrived in Ḥamā in the year 1095/1684 where he obtained the office of *naqīb al-ashrāf* and undertook several trips to Aleppo, Cairo, and Istanbul. Eventually he emigrated to Damascus with his children:

The reason for their moving to Damascus was that they ruled the city of Ḥamā on behalf of the [Ottoman] state, holding the city and its districts as a [tax] farm, for which they paid a considerably huge sum. That had become their special responsibility, but they were seized by the ambition of making laws (*aḥkām*), so the populace of Ḥamā, instigated by one governor, rose up against them, attacked their houses with the intent of looting and besieged them with firearms. The people of Ḥamā were shouting: ‘Death is pleasant’. This went on for a few days and the situation became hard for them, until they found an opportunity to escape. He (i.e. *shaykh* ‘Abd al-Qādir) arrived in Damascus, with his relative *shaykh* Yāsīn, and his (‘Abd al-Qādir’s) sons: *sayyid* Ya‘qūb, *sayyid* Ishāq, *sayyid* Muḥammad, *sayyid* Šāliḥ, and *sayyid* ‘Abd al-Raḥmān. That year, 1143 [1730-31], they made the pilgrimage to Mecca and upon their return they settled down in Damascus [...]. In his days there, ‘Abd al-Qādir spent huge and unlimited amounts of money and became very famous and eminent, to the extent that all the hopefuls came to him for the fulfilment of their needs, and many borrowed money from him. He made a *waqf* of his home and of some estates in Damascus.⁷² He was a good orator, a skilled storyteller and a very sociable person; he narrated poems, pleasant stories and anecdotes, and was of gentle character. He became the administrator of the ‘Aṣrūniyya school in Ḥamā,⁷³ where he also taught, then was given the judgeship of Tripoli of Syria, with a rank equivalent to the judgeship of Jerusalem. He died in the month of Dhū

72 On his considerable *waqf*, which included properties both in Ḥamā and Damascus, cf. Reilly 2002, 36; Khenchelaoui, Zarcone 2000, 65.

73 A *madrasa* built by Nūr al-Dīn Zangī in the 12th century for the great Shāfi’ite jurist Ibn Abī ‘Aṣrūn al-Mawṣilī al-Ḥalabī al-Dimashqī (d. 585/1189). Cf. Elisséeff, N., s.v, “Ibn Abī ‘Aṣrūn”, *EI*, III (1986), 681-2.

l-Qa'da 1157 [1744-45] and was buried in the Bāb al-Ṣaghīr cemetery. He had a brother, also born in Bagdad, by the name of 'Abd al-Razzāq, a poet and cultivated man. (al-Murādī 2001, 4: 53-4)⁷⁴

Al-Murādī speaks in favorable, although rather conventional terms of the plaintiff, *al-sayyid al-sharīf* Ishāq, son of 'Abd al-Qādir b. Ibrāhīm b. Sharaf al-Dīn al-Kaylānī al-Qādirī al-Ḥamawī al-Ḥanafī. He considers him among the well-known *shaykhs* of his time but limits himself to a half page of much praise and little fact, which is enough for Reilly to call him "a prominent scholar" (2002, 65), a depiction that seems a bit of a stretch.

Born in Ḥamā in 1111/1699, being the eldest of his brothers Ya'qūb, Muḥammad, Ṣāliḥ, and 'Abd al-Rahmān, our Ishāq followed his father and paternal uncles on their relocation to Damascus, took up the *qādirī* path of his family and ancestors and was respected by judges, governors and the people alike. Al-Murādī says he met him once in Damascus and was offered written amulets (*tamā'im*) and magic formulas and charms (*ta'āwīdh*). While on his way to Aleppo more than thirty years after the Aleppo trial, Ishāq met his death north of the Syrian town of Ma'arrat al-Nu'mān in the aftermath of events linked to the invasion of Syria by the Egyptian Mamluk Abū al-Dhahab.⁷⁵ He was killed in the month of Sha'bān 1185/November 1771 by some Turkish militia, probably *levend* or other irregular troops, who were after his possessions.⁷⁶ His brother Ya'qūb, a long time resident of Istanbul praised by al-Murādī for his pleasant manners and good nature, was killed there too. They were both buried outside Ma'arrat al-Nu'mān (cf. al-Murādī 2001, 4: 271-2).

Ishāq's other brother 'Abd al-Rahmān, born in Ḥamā in 1130/1718 but raised in Damascus, travelled to Istanbul and was granted the office of *naqīb al-ashraf* of Damascus by the Sultan. However, faced with strong opposition from the local *ashraf*, he resigned, secluded himself in his house and died of illness in the year 1172/1758-59 (cf. al-Murādī 2001, 3: 337-46). Yet another brother of his, Muḥammad (d. 1770-1771), was also named *naqīb al-ashraf*

74 Cf. also Khenchelaoui, Zarcone 2000, 60.

75 Abū l-Dhahab was sent by the *de facto* ruler of Egypt 'Ali Bey to invade Syria and Palestine in the year 1771. He took Damascus and other cities in southern Syria. Cf. Holt, P.M., s.v. "Muḥammad Abū l-Dhahab", *EI*, VII (1993), 420.

76 The term *levend* denoted irregular militias hired by the Sultan, local governors, or even local notables. More often than not they were a cause of disorder and lawlessness, particularly in Anatolia and the Syrian lands. Cf. Kramers, J.H., Griswold, W.J., s.v. "Lewend", *EI*, V (1986), 728-9. Insecurity of major trade routes and in rural districts was still a major problem in the first half of the 19th century. Reilly (2002, 127) notes that "among the highwaymen were irregular troops who drew little distinction between tax collection and robbery".

of Damascus.⁷⁷ Of Ishāq's many children, 'Abdallāh became *naqīb al-ashrāf* of Ḥamā,⁷⁸ and a daughter was married into the 'Alwānī family.⁷⁹

Also Ishāq's cousin and opponent in court, *al-sayyid al-sharīf* 'Umar b. Yāsīn b. 'Abd al-Razzāq b. Sharaf al-Dīn al-Qādirī al-Kaylānī al-Ḥamawī al-Shāfi'ī is mentioned and commended by al-Murādī. He actually gets a slightly longer entry than Ishāq's.⁸⁰ Born in Ḥamā in 1127/1715, he too emigrated with his family to Damascus in the year 1730-31. There he spent a fortune building a new house in the old Qabāqibiyya quarter, in the Sayyida Ruḡayya area,⁸¹ but did not live to enjoy it much since he took to travelling, visiting Baghdad, Raqqā, and Aleppo repeatedly. On a particular occasion, he went to Istanbul "to alleviate the oppression on the poor people of Ḥamā at the time of Sultan Muṣṭafā Khān and was honored by the state" (al-Murādī 2001, 198).⁸² Towards the end of his life, due to the supremacy (*taghallub*) of its governors, he left Ḥamā for good to settle down in Aleppo where he died on 12 Safar 1185/27 May 1771, the same year as his rival

77 He was given the *niqāba al-ashrāf* in the year 1155/1748. Cf. al-Budayrī al-Ḥallāq 1959, 29; and also Kenchelaoui, Zarccone 2000, 60, fn. 33.

78 Cf. Kenchelaoui, Zarccone 2000, 60, fn. 34. The fact that this 'Abdallāh was a coffee-shop proprietor is good enough reason for Reilly (2002, 35, and fn. 41) to state that "not all sons of *shaykhs* and scholars followed in their fathers' footsteps". It seems to me that his tenure as *naqīb al-ashrāf* proves otherwise. Being a religious dignitary never excluded the possibility of entrepreneurial activities. In fact, Reilly (2002, 36) speaks of 'Abdallāh's father as a "scholar and business man".

79 Cf. Reilly 2002, 122. The 'Alwānīs were *ashrāf* presumably descended from *shaykh* 'Alwān al-Ḥamawī (d. 1529), a religious scholar who established a mosque and a Shādhilī lodge in Ḥamā administered by his descendants. They were originally of Shāfi'ite affiliation and many held the post of Shāfi'ite *muftī* of Ḥamā. Others, presumably out of political expediency/convenience switched to the Ḥanafī school. Cf. Reilly 2002, 31, and fn. 24. In the 18th century they held the *niqāba al-ashrāf* more often than the Kaylānīs. Reilly (65) also adds that two children and a grandson of Ishāq al-Kaylānī endowed a coffee house as a family *waqf*. A grandson of 'Abd al-Qādir al-Kaylānī married a descendant of the celebrated mystic al-Nābulusi (d. 1143/1731).

80 Cf. al-Murādī 2001, 3: 197-8; Ṭabbākh 1998, 7: 58-9. One notes the different legal affiliations of the two: Ishāq was a Ḥanafite, 'Umar a Shāfi'ite.

81 Not to be confused with the *sūq* al-Qabāqibiyya near the *sūq* al-Ṣāgha to the right side of the Umayyad mosque, the quarter of al-Qabāqibiyya al-'Atīqa is in the 'Amāra neighborhood, near the Farādīs Gate. On the rather confusing history regarding this shrine reputed to preserve the tomb of a daughter of Ḥusayn, the martyr of Karbalā', who died at four years of age, cf. Mulder 2008, esp. 161-80; Tabbāa 2007. The Kaylānīs seem to be somehow connected to the shrine: one of the stone markers that were next to the *mihrāb* of the old mosque - that is, before the renovation works that completely transformed the site - "commemorated the act of placing a store into *waqf* for the benefit of the shrine. This action was taken in the year 1725 (1713) by a figure titled His Excellency al-Tawfiq Mīrzā Bāb al-Mustawfī al-Kīlānī" (Mulder 2008, 178-9).

82 The Muṣṭafā Khān referred to is the Ottoman Sultan Muṣṭafā III (r. 1757-1774).

Ishāq. He was buried in the al-Şālīhīn cemetery.⁸³ He was *shaykh al-sajjāda* of the Qādirī order and *muftī* of Ḥamā (cf. Khenchelaoui, Zarcone 2000, 60).

‘Umar’s father Yāsīn had been more important, having succeeded his own father ‘Abd al-Razzāq as the leader of the Syrian Qādirīyya, holding the leadership of the *ashrāf* of Ḥamā and described as incredibly wealthy. It is probably due to both his position and wealth that he was able to secure for his daughter a marriage with the governor of Damascus, Sulaymān Pasha al-‘Azm (d. 1743).⁸⁴ The famous traveller and scholar ‘Abd al-Ghānī al-Nābulusī visited Ḥamā in 1105/1693 and, among others, met with “our dear friend, the pride of the great and commendable notables, his Excellency *sayyid* Yāsīn *afandī*, the *naqīb al-ashrāf* of those territories and the progeny of the illustrious and perfect master, *shaykh* ‘Abd al-Qādir al-Kaylānī [...]. We met him and were granted his generous hospitality in his beautiful mansion which overlooks the river Orontes” (Nābulusī 1998, 1: 148-9). Yāsīn *afandī* died on Friday 3 Rabī’ I 1146/14 August 1733 and was buried at the foot of the Qāsiyūn in Damascus (cf. also Khenchelaoui, Zarcone 2000, 59).

As to *shaykh* ‘Umar’s progeny, his son ‘Alī (d. 1824-25) was *shaykh al-sajjāda* and *muftī* of Ḥamā, but resigned from the *iftā’* to dedicate himself to teaching, probably in the mosque he had built and endowed as a *waqf*. ‘Alī’s brother Muḥammad Sa’dī al-Azharī (d. 1828-29) succeeded him as both *muftī* and *shaykh* of the order. He also compiled a genealogical work on his own family. Their brother Muḥammad Amīn (d. 1816-17) was *naqīb al-ashrāf* of Ḥamā (cf. Khenchelaoui, Zarcone 2000, 60-1).

83 On this cemetery cf. al-Ghazzī 1999, 2: 289. The Kaylānīs’ connection with Aleppo predates the Ottoman era. ‘Abd al-Qādir al-Jīlānī’s own son ‘Abd al-Razzāq al-Baghdādī (d. 1199) was also known as al-Ḥalabī. The order was officially introduced in Aleppo during the 16th century. Cf. Zarcone 2000, 464. Two 18th century Kaylānīs are recorded in local sources specifically as Halabī: 1) Muṣṭafā b. Yūsuf al-Khojākī al-Kaylānī al-Khalwatī al-Ḥalabī was born in Aleppo in 1045/1635-36. He moved to Damascus with his father, visited Jerusalem and Mecca, then settled in Cairo for nine years. He returned to Aleppo to become an affiliate of the *zāwiya* al-Nasīmiyya where he secluded himself for the rest of his life. He married twenty-two women in the course of his life, but only two sons and a daughter survived him. He died of fever on the 27th of Rajab 1153/18 October 1740 at the age of 108. Cf. al-Murādī 2001, 4: 252; Ṭabbākh 1998, 4: 479. 2) ‘Abd al-Laṭīf b. Faṭḥallāh al-Kaylānī al-Ḥanafī al-Ḥalabī (d. 1191/1778) was a resident of Istanbul where he served as *mudarris* in the imperial *madrasa* complex. His father was a saddle maker (*sarrāj*) in Aleppo and he also worked in the same trade, this explaining his being known as Ibn al-Sarrāj. He went to Istanbul to file a complaint on behalf of his mother about the Kaylānī family *waqf* and obtained a military license (*berāt*) for its administration. Cf. al-Murādī 2001, 3: 147.

84 When Sulaymān Pasha al-‘Azm arrived in Damascus as the new governor, in 1146/1733-34, he married *shaykh* Yāsīn’s daughter. Cf. al-Murādī 2001, 3: 54; 4: 275; al-Budayrī al-Ḥallāq 1959, 59; Ibn Kannān 1994, 437; Reilly 2002, 40, 67; Schilcher 1985, 33, 194. Schilcher notes that present-day Kaylānī sources give a different story: the marriage actually took place between Yāsīn’s granddaughter and ‘Abdallāh al-‘Azm. On Sulaymān Pasha ‘Azm, who held the governorship of Damascus in two different periods (1734-38, 1741-43), cf. also Barbir 1980, 27-9, 31-2; Marino 2000b; Grehan 2007.

As for the other defendants, their identification has proven more difficult: *shaykh* 'Abdallāh al-Ḥamdūnī could be the 'Abdallāh al-Ḥamawī al-Ḥamdūnī al-Shāfi'ī al-Azharī briefly mentioned in Kaḥḥāla's *Mu'jam al-mu'allifīn* as the author of a commentary on al-Tirmidhī's *al-Shamā'il*.⁸⁵ As to *shaykh* Muḥammad al-Sharābātī we have a recognizable family name that could identify him as a member of a family of '*ulamā'*' of Aleppo (cf. Meriwether 1981, 302-3). If so, this Muḥammad is more likely the son of 'Abd al-Karīm b. Aḥmad al-Sharābātī al-Shāfi'ī (d. 1178/1764), a well known traditionist and scholar of Aleppo who studied with 'Abd al-Ghanī al-Nābulusī.⁸⁶ 'Abd al-Karīm's son Muḥammad, born in 1131/1719, served as the Shāfi'ite *muftī* of Aleppo and died on 15 Shawwāl, 1203/July 9 1789 (cf. Ṭabbākh 1998, 7: 120-1).

However, this seems problematic. First of all, in the Aleppo document the *qādī*'s secretary and scribe forgot to insert, or deliberately left out, the name of the father of this Muḥammad. Secondly, the same document states clearly that all the persons involved in the case are from Ḥamā. Finally, at the time of the events, this Muḥammad was in his early teens, therefore definitely too young to be called *shaykh*. All this makes the identification tempting but tentative, and ultimately dubious. It could very well be that Sharābātī is a misspelling for Sharābī, a family group of second rank notables from Ḥamā. If so, this Muḥammad could be the *shaykh* Muḥammad *afandī* b. *shaykh* 'Umar *afandī* al-Sharābī listed among the notarial witnesses in the Ḥamā document.⁸⁷

Unfortunately, I was not able to find information on *shaykh* 'Abdallāh b. *shaykh* Jūdī and his son *shaykh* Sharaf al-Dīn. Their title of *shaykh* indicates that they may have been people of religious reputation and standing or, alternatively, chiefs of a quarter or masters in a craft guild, as the term '*shaykh*' had many implications.

2.4 The Imperial Officials: The Governor, the Judge and the Sultan's Envoy

The 'Uthmān Pasha (d. 1160/1747) mentioned in the document is among the great Ottoman governors of 18th century Aleppo (cf. al-Murādī 1988, 3: 168-70; Ṭabbākh 1998, 3: 258-65). His full name is 'Uthmān al-Wazīr b. 'Abd al-Raḥmān Pasha b. 'Uthmān al-Durkī al-Ḥalabī who

⁸⁵ Cf. Kaḥḥāla 1957, 6: 51. No date of death is given but only that he was alive in the year 1133/1721.

⁸⁶ Cf. Ṭabbākh 1998, 7: 38-40; Murādī 1988, 3: 70-2. On his father Aḥmad (d. 1136/1723-24) cf. Ṭabbākh 1998, 6: 433-4.

⁸⁷ The Sharābī traced their origins to a *shaykh* Yūsuf of the Sa'diyya Sufi order who built a lodge there. Cf. Reilly 2002, 29-30.

was born and bred in Aleppo, but thanks to his father's dealings he managed to get the highly coveted position of head of the *çavuşiyya* in Istanbul.⁸⁸ From then on, his career took a steep climb *muḥaṣṣil* and then *mutasallim* of Aleppo,⁸⁹ governor of Tripoli of Syria with the rank of *wazīr*, then of Sivas, Damascus – here he acted as leader of the pilgrimage caravan – and finally Aleppo in the year 1150/1737. Three years later, he was assigned in rapid succession to the cities of Adana, Bursa, Bagdad, Sidon, and Jedda. He died in Mecca in the month of Dhū l-Qa'da 1160/November 1747. In Aleppo he built a large mansion, a mosque, a *madrasa*, and a soup kitchen for the poor, all of which he included in a religious endowment.

As for the presiding judge, his name, Muḥammad, appears on the top left side of the document. Most likely he is the Jarāḥī Muḥammad 'Ālim mentioned by the historian of Aleppo Kāmil al-Ghazzī as the Ḥanafī chief *qāḍī* for the year 1151/1738 (cf. Ghazzī 1999, 1: 239).

No information was available to me concerning the Ottoman envoy, Murtaḍā *bayk*.

2.5 The Historical Significance of the Case

We have already argued that it is highly likely that the Ḥamā document was tampered with and 'amended', probably in an effort to conceal the identity of the man who was first the defendant in the Ḥamā document, then later the plaintiff in the Aleppo document, *shaykh* Ishāq b. 'Abd al-Qādir al-Kaylānī. So, it will not be necessary to go over that again here. At any rate this fact does not affect the subject-matter of the trial, though, of course it does have historiographical implications with regard to the *sjillāt* studies.

Beyond that, however, the Aleppo document informs us that in the last hot days of August 1738 a group of prominent Ḥamā residents entered the judge's court, convened, significantly, in the palace of the governor of Aleppo to seek the *qāḍī*'s assistance and judgement on a troublesome case which had festered for more than five years. It reminds us of how important the Islamic courts were at this time in the socio-political and economic arrangements of Syria. Here is an example of the highest levels

88 The Turkish term *çavuş* referred to "officials staffing the various Palace departments" and to "low-ranking military personnel" (Mantran, R. s.v. Cā'ūsh", *EI*, II (1991), 16). The head of the *çavuş* attended "dīvān meetings in readiness and was in charge of the protocol [...]. He was one of the aghas in the *aḡayān-i rikāb-i hümāyūn* and always carried a silver staff" (Bayerle 1997, 30).

89 The *muḥaṣṣil* was a revenue officer, usually the chief collector of provincial taxes. The *mutasallim* acted as deputy governor of a province.

of government and society turning to Islamic law and its representatives to settle their disputes. It is a document which shows us how Sharī'a law was interpreted and applied and that this law was significant to both the identity and effectiveness of this society's functioning.

If we take the first of the two documents, the Ḥamā document, at face value, then the judge's job had been rather simple, as is indicated to by the relatively short length of the text. Upon the defendant's (*shaykh* Ishāq's) failure to produce evidence of his having divorced his fourth wife so as to establish that his marriage contract with the plaintiff's daughter, Ṣāliḥa, was legally valid and binding, the judge obliged *shaykh* Ishāq to repudiate Ṣāliḥa – about whom, regrettably, we know practically nothing – by means of the irrevocable triple pronouncement of divorce (*ṭalāq*). Though this kind of divorce was reprehensible (*makrūh*), if not downright prohibited (*ḥarām*), it was generally considered legally valid and binding by the jurists (see § 1.1). In any case, the Islamic principle prohibiting one man from having more than four wives simultaneously had been easily applied. On its own then, the Ḥamā document offers one occurrence of polygamous practice. As noted by scholars of the Ottoman court records of Syria, polygamy was not really the norm and for obvious socio-economic factors actually quite rare.⁹⁰

It is clear that what in Ḥamā began and apparently ended as a dispute over the lawfulness of a marriage contract, in Aleppo became a serious quarrel over not only the said contract but also on the physical threats, attack, detention and pillage allegedly suffered by *shaykh* Ishāq in Ḥamā at the hands of the defendants. Among the latter we find the bride's father, and Ishāq's own relative, *shaykh* 'Umar al-Kaylānī. We do not know exactly what happened in the five-year gap between the two hearings, but, as noted above, the litigants may have been busy, to quote Ergene's words, a "complicated and informative struggle for evidentiary documentation" (2003, 139), a pattern often observed in the court records.

In any case, it is significant that here we have an example of at least one notable family making its internal quarrels public. At least some Kaylānīs dared to air their internal disputes publicly by turning to the Islamic courts for a settlement. In so doing they also divulged to the governmental hierarchy the internal break-down of family solidarity, something which might have weakened their standing before the Ottoman state on the whole.

Despite its ornate textual structure, underneath its aseptic legal discourse and the rigid formulas which were part of standardised Ottoman-Islamic legal procedure, the Aleppo document conveys a complex picture

90 Cf. Marcus 1989, 199-200; Reilly 2002, 50-1; Establet, Pascual 1994, 55-7. Reilly actually quotes the 'Ḥamā document' as a rare example of polygamous marriage involving four wives. Not knowing of the 'Aleppo document', he obviously cannot appreciate the full implications of the case.

of a succession of dramatic events narrated by the litigants themselves in the first-person.⁹¹

On first sight, it would seem that *shaykh* Ishāq, unhappy with the Ḥamā judge's sentence, had since that time been trying to plead his case before what he thought might be more sympathetic ears. The Aleppo document could indicate that he may have wanted to distance himself from the long reach of the political power of Damascus, as we read that, according to *shaykh* Ishāq, a certain Muṣṭafā Madīnī, described as an attendant of Sulaymān Pasha al-'Azm, threatened to take him to Damascus, likely implying that he would have had to face trial by the governor. Although the Aleppo judge did not make much of this threat, it is interesting to note that the contemporary governor of Damascus Sulaymān Pasha, the second member of the 'Azm clan to hold this top post, was married to a sister of *shaykh* 'Umar b. Yāsīn al-Kaylānī, the main opponent of *shaykh* Ishāq in the case. There may well have been good reason for Ishāq to doubt that he would receive impartial treatment in Damascus.⁹² Apparently, we have here clear evidence of the way politics indeed played a role in the operation of the Islamic courts, at least once a local family (the 'Azms) were elevated to state power.

However, a closer study of the document's narrative and the litigants' statements show that the case was so constructed as to inevitably bring about the legitimate and lawful rejection by the judge of the plaintiff's claims and allegations (cf. Ergene 2003, 135). The document registers that the *qāḍī*'s decision was based on three facts: first of all, despite a ten-day delay granted to him, *shaykh* Ishāq was not able to present a 'valid proof' to back up his claim;⁹³ secondly, he did not require the defendants to take the oath, as was his right according to Islamic legal procedure. Finally, he admitted to having released the liability of the defendants "from all claims and legal rights". This latter admission was a clear statement of his defeat. One wonders what pressures were exerted upon him to make him cave in prior to the hearing and even to provide a statement with that result. One cannot help asking a rather simple but obvious question: why did *shaykh* Ishāq decide to proceed with his legal action, with all its costs in terms of time and money, if he knew he did not have the necessary evidence and had already released the

91 However, according to Ergene (2003, 134), it would be wrong to "identify the quotations in the *sicil* with the actual words of the litigants" since "there are indications in the court records that what is reported in the *sicils* as the speech of the litigants is in fact the translation of their voices into the official language of the legal system", so as to produce "a legal statement that was acceptable according to existing legal and religious norms".

92 On the matrimonial strategies, both endogamous and exogamous, of Ḥamā's notable families cf. Reilly 2002, 35-41.

93 Ottoman judicial practice did not strictly require plaintiffs to produce their proofs right away. Rather, if requested, it was common usage to allow for a few day delay (cf. Ergene 2003, 140).

defendants from their guilt? Already prior to the hearing he had precluded any chance of success in court (cf. Ergene 2003, 139-40).

It seems clear then that in fact it was the defendants who were the real initiators of the Aleppo hearing rather than *shaykh* Iṣḥāq. They staged the event with his compliance and submission. They, not him, had mustered the legal means to end the lawsuit once and for all before a more authoritative, and presumably more scrupulous, court, and so they did.

To my knowledge, neither the Ḥamā nor the Aleppo court records provides further mention of this case or its participants, leaving us to search for further evidence to interpret what was really going on here. However, despite this serious defeat and the loss of much money and valuable personal effects, *shaykh* Iṣḥāq seems to have carried on with his life in such way as to deserve an entry in one of the most important and well-known biographical collections of his times, as we have seen. Ironically, he would meet his fate at the hands of brutal robbers who, as it had happened in Ḥamā many years before, looted and pillaged his belongings.

3 The Arabic Texts

3.1 The Ḥamā Document

الأمر حسبما حرر فيه نمقه القفير اليه [...] محمد القاضي بمدينة حلب الشهباء غفر له بمجلس الشرع الشريف و محفل الدين المنيف بمدينة حماة المحمية لدى صدر قضاة الإسلام شرف ولاة الأنام مولانا و سيدنا الحاكم الشرعي الموقع خطه الكريم أعلاه ادعى الشيخ عبد الله أفندي بن الشيخ جودي بمواجهة الشيخ أحمد أفندي بن الشيخ عبد القادر (?) أفندي قائلاً في دعواه عليه أنه خطب ابنته المدعوة السيدة سالحة منه و عقد نكاحه عليها و أن العقد غير صحيح و باطل من أصله لكون معه و في عصمته و تحت عقد نكاحه أربع زوجات غيرها و يطلب رفع يده و منعه عنها بإبطال عقد النكاح بالطريق الشرعي و سأل سؤاله فسئل من المدعى عليه فأجاب بأنه من مدة ثلاثة أشهر طلق الواحدة و ادعى صحة النكاح فطلب منه بيعة تشهد له بما أجاب به في الطلاق فلم... (?) بيعة و عجز عن الإثبات ثم بعده طلق السيدة سالحة بنت الشيخ عبد الله أفندي المذكور بالطلاق الثلاث المحرمات في كتاب الله تعالى من غير إكراه و لا إجبار فبموجب ذلك حكم مولانا الحاكم الشرعي المومى إليه لوقوع الطلاق الثلاث الواقع من الشيخ أحمد أفندي على السيدة سالحة بنت الشيخ عبد الله أفندي المدعى و عرف المطلق الشيخ أحمد أفندي أنها بنت منه لا تحل له حتى تنكح زوجاً غيره حكماً و تعريفاً صحيحين شرعيين معتبرين مرعيين مسؤولاً فيهما و كتب ما وقع و سطر بالطلب في أواخر شهر ذي الحجة الشريفة سنة خمس و أربعين و مائة و الف.

الشيخ محيي الدين أفندي العلواني بن عفان مفتي حماة
السيد الشيخ عبد المعطي أفندي قائم مقام نقيب الأشراف بحماة بن شيخ محيي الدين العلواني
الشيخ عبد الله أفندي بن الشيخ سليمان أفندي العلواني

الشيخ محمد أفندي بن الشيخ عمر أفندي الشرابي
الشيخ عبد الله أفندي وكيل الإفتاء بحماة
الشيخ موسى بن الشيخ عبد الله الحوراني
السيد الحاج عبد الله بن الشيخ محمد العلواني

3.2 The Aleppo Document

لما عقد المجلس الشرعي بسراي حلب المحروسة بحضور الدستور المكرم المشير المفخم نظام العالم مدبر أمور الجمهور بالفكر الثاقب متمم ملامح الأنام بالرأي الصائب (...) الوزير الخطير حضرة عثمان باشا (...) والي ولاية حلب حالاً (...) ادعى بالمجلس المعقود المذكور لدى مولانا و سيدنا العالم العلامة العمدة الفهامة فخر الموالي الكرام صدر الأعالى الفخام محرر قضايا الأنام حسنة الليالي والأيام مميز الحلال من الحرام حلال مشكلات الأنام حاكم الشريعة المحمدية بمدينة حلب المحمية الواضع خطه الشريف أعلاه (...) بمعرفة فخر الأماجد والأكارم حاوي المحامد و المكارم مرتضى بك المعين من قبل السلطنة العلية مباشراً في هذا الخصوص الآتي الذكر السيد الشيخ اسحق بن الشيخ عبد القادر الكيلاني بمواجهة الشيخ السيد عمر بن المرحوم الشيخ ياسين المتصل نسبه الكريم بالشيخ عبد القادر الكيلاني ، قدس سره العزيز و الشيخ عبد الله بن الشيخ جودي و ابنه الشيخ شرف الدين و الشيخ مصطفى الشراباني بن... (?) و الشيخ عبد الله الحمدوني الجميع من أهالي مدينة حماة المطلوب إحضارهم بحلب المحروسة بالأمر العالي و قال في دعواه إني كنت في سنة خمس و أربعين و مائة و الف عقدت نكاحي على ابنة الشيخ عبد الله بن الشيخ جودي المذكور الشريفة سالحة و أن المدعى عليهم المرقومين ليلة زفافي عليها ادعوا عليّ أي متزوج بأربع نساء غيرها و أنها خامسة و تغلبوا عليّ و قالوا أن نكاحي عليها باطل و فرقوا بيني و بينها بعد أن حبسوني يوماً و ليلة و طلقتها مهرها و نهوا دراهمي و حوائجي و أمتعتي التي كانت موجودة في داري بمدينة حماة و هي مصحف شريف قيمته أربعون غرشاً و طراحة قيمتها ثمانون غرشاً فيها ذهب عتيق عدته ألف و ثلاثمائة و أربعة ذهبات حساباً عن خمسة آلاف غرش و كيسان فيها ألف غرش زلطة و سكينتان من الذهب وزنهما ثمانون مثقالاً قيمتهما ثلاثمائة و ستون غرشاً و خمسون مثقالاً من اللؤلؤ قيمتها ستمائة غرش و اثنان و أربعون مثقالاً من العنبر قيمتها مائة و خمسون غرشاً و فروة من السمور قيمتها أربعمائة و عشرون غرشاً و فروتان ازق قيمتهما مائة و ستون غرشاً و فروة قاقوم قيمتها خمسون غرشاً و فروة سنجاب قيمتها أربعون غرشاً و فروة سنجاب بنش قيمتها ثلاثون غرشاً و فروة جلفافة فراجية قيمتها مائة غرش و ثلاثة أصواف فراجية قيمتها خمسة و سبعون غرشاً و خاتم ياقوت أحمر قيمته مائة غرش و خاتم ياقوت أزرق قيمته حمسة و ستون غرشاً و خاتم زمرد قيمته ثلاثة و تسعون غرشاً و خنجر و سكين مذهبان بأربعة و ثلاثين مثقالاً قيمتهما مائة و ثلاثة عشر غرشاً و رخت كمر و باشلق من الفضة قيمتهما مائة و ثلاثون غرشاً و رخت حيدري من الفضة قيمته سبعة و ستون غرشاً و رشمتان من الفضة قيمتهما اثنان و ستون غرشاً و سرجان مفضضان مطليان قيمتهما سبعة و تسعون غرشاً و نصف غرش و ثلث غرش و عباءة فرس من الجوخ الأحمر الاسكرلات المقصب قيمتها مائة و خمسون غرشاً و عباءة فرس من عمل حمص مقصبة قيمتها سبعة و ستون غرشاً و ثمان طاسات و أعطيتها من الفضة وزنها تسعمائة درهم قيمتها مائتان غرشاً و لكنة و إبريق من الفضة مطلي وزنهما ستمائة درهم قيمتهما مائة و خمسون غرشاً و منجرة و مقمم من الفضة وزنهما خمسمائة درهم قيمتهما مائة و ثلاثون غرشاً و زوجا ركاب مطلي ومفضضة قيمتها خمسة و ثمانون غرشاً و ساعة كبيرة قيمتها مائة غرش و دواة من الفضة وزنها مائتا درهم قيمتها حمسة و أربعون غرشاً و أربع عشر مخدة قيمتها كائة و ثمانون غرشاً و قياسات جوخ

ستون ذراعاً قيمتها مائة و ثلاثون غرشاً و ثلاثة مقاعد سوزني قيمتها ثلاثون غرشاً و ارطا جوخ بصره قيمتها أربعون غرشاً و طنفستان من الحرير قيمتهما مائة و خمسون غرشاً و ستون جنقاً و طبقاً من الصيني قيمتها مائتان و أربعون غرشاً و أربع جنقات صيني مع صحنونها قيمتها خمسون غرشاً و جارشف مقصب قيمته أربعون غرشاً و ارطة عجمية واحدة قيمتها ستون غرشاً و سجادتان قيمتهما خمسة و عشرون غرشاً و ثمان طاقات كرمسوت و تسع طاقات بلدان و اثنا عشر طاقة قطني جاليسي و ست طاقات جنارة و خمسة شوش جقمقي و أربعة كمربندات شامي و سبع طاقات قماش و خمس كرموتيات مقصبة و أربع شوش بندي و كبسة عود ماوردي وزنه ألف و ثلاثة و عشرون درهماً و ملبس بدن مجملته قيمتها و النقود و الأشياء المعينة قيمتها على الوجه المحرر أعلاه سبعة عشر ألفاً و خمسمائة غرش و إني الآن أطلبهم بالنقود و قيمة الأمتعة حيث كانت هالكة و التمس سؤلهم عن ذلك و عن إكراههم فيّ على طلاق زوجتي المزبورة فسئل المدعى عليهم المرقومون عن حقيقة هذه الدعوى فأجاب الشيخ عبد الله المذكور قائلاً أن المدعى المزبور كان عقد نكاحه على ابنتي المزبورة و أنه ليلة الزفاف بلغنا أنه متزوج بأربع نساء بأربعة عقود غير ابنتي المزبورة و سألناه عن ذلك لدى الحاكم الشرعي حينئذٍ بمدينة حماة فأقر بأنه تزوج بأربع من الحرائر و ادعى أنه طلق إحداهن و انقضت عدتها منه و أن نكاحه وقع صحيحاً على ابنتي [فطلب] الحاكم الشرعي منه بينة على انقضاء عدة المطلقة من نسائه الأربع المذكورات فعجز عن إثبات ذلك و لدفع الريبة طلق ابنتي بعد ذلك طابعاً و أنكر الشيخ عبد الله و المدعى عليهم المزبورون أخذهم الدراهم و الأمتعة و الإكراه على الطلاق فطلب من المدعى المزبور بينة عادلة تشهد له بطبق دعواه و أمهل إلى عشرة أيام لإحضار البينة و بعد مضي المدة المذكورة أظهر العجز عن إقامة البينة و لم يرغب في تحليف المدعى عليهم ثم دفع المدعى عليهم المرقومون دعوى المدعى المزبور بأنه كان في جمادى الآخرة من منذ سنة ماضية قبل تأريخه بذيله قد أبرأ ذمتنا عن هذه الدعوى و عن جميع الدعاوى و كافة الحقوق الشرعية إبراءً عاماً شرعياً مقبولاً منه بحضور جماعة من المسلمين قبولاً تاماً ، فصدقهم على صدور الإبراء العام منه لهم على الوجه المحرر و قال إني كنت مكرهاً على إبرائي المرقوم بتهديد مصطفى مديني جوقة دار حضرة الوزير المحترم سليمان باشا بقوله لي إن لم تبري ذمتهم عن هذه الدعوى و غيرها و إلا أحضرتك من حماة إلى دمشق الشام ثم لما التمس المدعى عليهم المرقومون من المولي المشار إليه الحكم الشرعي في ذلك و ظهر لديه أن مصطفى مديني الجوقة دار المرقوم غير قادر على إيقاع شيء بهذا المدعى و أن قوله ذلك ليس مما يعدم الاختيار و الرضا و أعلمه أن الإبراء الذي أقر به المقابل بالقبول من المدعى عليهم مانع من صحة دعواه المذكورة حيث كان متأخراً عنها و أنه لا تسمع دعواه بعده إلا بحق جديد متأخر عنه و منعه عن التعرض لهم بسبب ذلك حيث كان الأمر كذلك إعلاماً و منعاً شرعيين مسؤلاً فيهما ، و كتب ما وقع و حرر بالطلب في اليوم السابع من شهر جمادى الأولى لسنة إحدى و خمسين و مائة و ألف

فخر العلماء المحققين مختار الفضلاء المدققين حضرة مولانا السيد يوسف أفندي المقتي بمدينة حلب حالاً
فخر العلماء الكرام زبدة المدرسين الفخام حضرة السيد أحمد أفندي نقيب الأشراف بحلب حالاً
فخر الأماجد و الأكارم حاوي المحامد و المكارم حضرة أحمد آغا محصل حلب حالاً
عمدة العلماء و المدرسين الكرام الحاج حامد أفندي بن المرحوم محمد أفندي
عمدة العلماء و المدرسين الكرام حسين أفندي بن أحمد أفندي
فخر العلماء و المدرسين الكرام السيد محمد أفندي بن السيد عبد السلام أفندي
فخر العلماء و المدرسين الكرام محمد أفندي قباني زاده
فخر الأقران الكرام محمد آغا ترجمان السراي

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