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Women's Contributions to Endowments (*Awqāf*) in the City of Algiers during the Eighteenth Century (A Study Derived from Sharīʿa Court Records)

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Abstract

The Sharīʿa court records of Algiers from the eighteenth century demonstrate that women were not merely marginal actors but rather independent economic and social agents, to whom both religious law (*Sharīʿa*) and positive law guaranteed full proprietary rights and legal capacity. These registers furnish precise and detailed evidence revealing how Algerian women of the eighteenth century exercised their economic and social rights through the institution of *waqf* (religious endowment), wherein family endowments (*al-waqf al-dharrī*) in particular functioned as a form of social protection mechanism devised by women to confront the vicissitudes of the era.
Keywords: Women – *Waqf* – City of Algiers – Sharīʿa Courts – Proprietary Rights.

Introduction

The endowment contracts preserved in the Sharīʿa court registers of Algeria during the Ottoman period constitute one of the most significant primary historical sources, shedding light on the reality of family life and the role of women in familial cohesion and economic revitalisation.

Contrary to the prevailing stereotypical image of female seclusion, the endowment contracts of women reveal a markedly different picture, in which women emerge as active agents within the family, contributors to its cohesion and social solidarity through their custodianship of endowments, and as financially autonomous individuals capable of managing and disposing of their properties with full liberty and rationality. They were not merely beneficiaries of familial wealth but rather essential partners in building, protecting, and administering the family's real estate assets across generations.

Notwithstanding the traditional discourse that portrays women in the Maghribī societies of the late Ottoman period as marginalized and excluded from economic life and legal activities, the Sharīʿa court records of Algiers furnish historical counter-evidence demonstrating their substantial presence in real estate and financial transactions.

The foregoing considerations compel us to articulate the following research problem: How did the institution of waqf, as documented in the Sharīʿa court registers of Algiers in the eighteenth-century CE, serve to highlight women's financial autonomy and legal capacity, and what were the social and urban development dimensions attendant upon these female endowment contributions?

The objective of this study is to illuminate women's contribution to the waqf system in the city of Algiers during the eighteenth century through an analysis of selected endowment documents drawn from Sharīʿa court registers, and to affirm, through empirical data, the significance of women's endowments as an economic driver and a critical social strategy that reflected women's central position within the urban civilisation of the city.

1. Historical Overview of *Waqf*

The *waqf* constitutes an instrument of devotional approach (*taqarrub*) to God Almighty, legislated by Islam as it had been by preceding monotheistic religions. It likewise serves as a mechanism for social solidarity and ranks among the most important institutions for the transfer of property, having persisted for over fourteen centuries, through which waqf has preserved Islamic societies in all their dimensions. Moreover, waqf is considered one of the institutions responsive to the exigencies of the age in the domains of management and planning down to the present day.

The earliest religious waqf in Islam was the Mosque of Qubāʾ, founded by the Prophet (peace and blessings be upon him) upon his arrival as an emigrant (muhājir) to Medina, before entering the city, while he was hosted by Kulthūm ibn al-Hidm, the elder of the Banū ʿAmr ibn ʿAwf. This was followed by the Prophet's Mosque in Medina, the abode of the Hijra, which he built in the first year of the Hijra at the resting place of his she-camel when he came as an emigrant from Mecca to Medina.

The earliest income-generating charitable endowment (waqf min al-mustaghallāt al-khayriyya) known in Islam was the endowment of the Prophet himself, consisting of seven gardens in Medina belonging to a Jewish man named Mukhayrīq, who was fond of the Prophet and fought alongside the Muslims in the Battle of Uḥud. He bequeathed: "If I am killed — i.e., if I die in battle — then my wealth is for Muḥammad to dispose of for the pleasure of God Almighty." He was killed at Uḥud while still adhering to his Judaism, and the Prophet took possession of those seven gardens and gave them in charity — i.e., he endowed them (waqqafahā). (al-Zarqa, 1998, p. 11)

It is narrated that when the verse {You will never attain righteousness until you spend from that which you love}(Qurʾān 3:92) was revealed, Abū Ṭalḥa (al-Suyūṭī, 1919, p. 907)[1] possessed a precious garden called Bayrūḥāʾ. He came to the Prophet and said: "O Messenger of God, my garden located at such-and-such a place is for God Almighty, and had I been able to conceal it, I would not have declared it." The Prophet said: "Make it over to your relatives." He thus made it an endowment (waqf) for Ḥassān ibn Thābit and Ubayy ibn Kaʿb.

ʿUmar ibn al-Khaṭṭāb possessed a palm grove in Khaybar, among the choicest of properties. He came to the Prophet (peace be upon him) seeking his counsel on how best to dispose of it in pursuit of divine reward, saying: "O Messenger of God, I possess land in Khaybar — I have never acquired property more precious than it. What do you command me to do?" He replied (peace be upon him): "If you wish, you may immobilise its corpus (ḥabbasta aṣlahā) and give its produce in charity." (al-Bukhārī, p. 479) Thereupon ʿUmar made it such that it could not be sold, gifted, or inherited, and gave its yield in charity to the poor, the destitute, and the wayfarer (ibn al-sabīl). He vested the administration (wilāya) of this endowment in himself during his lifetime, and after his death, in Ḥafṣa bint ʿUmar, the Mother of the Believers, and thereafter in the senior members of the house of ʿUmar.

ʿUmar did not commit this endowment to writing until his caliphate. Jābir ibn ʿAbd Allāh reported: "When ʿUmar ibn al-Khaṭṭāb recorded his charitable gift (ṣadaqa), he summoned a group

[1] Abū Ṭalḥa ibn ʿUbayd Allāh ibn ʿUthmān al-Qurashī al-Tamīmī, a Companion of the Prophet (peace be upon him) and one of those given glad tidings of Paradise. He died in 63 AH at the Battle of the Camel.

of the Emigrants (Muhājirūn) and the Helpers (Anṣār), presented it to them, and took them as witnesses."

The endowments of the Companions followed in succession after the endowment of ʿUmar. It is related in the books of Sunna and Athar that ʿUthmān ibn ʿAffān [2] (al-Bukhārī, p. 32; Quḥf, 2000) (may God be pleased with him) gave charity from his wealth in a manner similar to the charity of ʿUmar. It is narrated that when he recorded his charitable gift, he took as witnesses ʿAlī ibn Abī Ṭālib and Usāma ibn Zayd, who wrote it down. The document, after the basmala, read: "This is what ʿUthmān ibn ʿAffān gave in charity during his lifetime: land whose corpus shall never be sold, gifted, or inherited; and he reserved for ʿAlī ibn Abī Ṭālib land in Yanbuʿ." (Imām, 1999, p. 202)

Among the Companions who also made endowments were Muʿādh ibn Jabal, Zayd ibn Thābit, ʿĀʾisha the Mother of the Believers and her sister Asmāʾ bint Abī Bakr, Khālid ibn al-Walīd, and Saʿd ibn Abī Waqqāṣ. Al-Zubayr ibn al-ʿAwwām endowed his houses for his children, stipulating that they could not be sold, inherited, or gifted, and that any divorced daughter of his might reside therein without causing harm or being harmed; if she became independent through marriage, she would forfeit her right.(al-Bayhaqī, p. 166)

In its earliest usage, waqf was termed ṣadaqa (charitable gift) and ḥabs (immobilisation), and only later did the term waqf emerge and become widespread. It is thus evident that waqf in Islam addressed a broader and more comprehensive purpose than it had in previous nations; it was not confined to places of worship and their accoutrements but, from the Prophet's era onward, was intended to further the public good in society[3]. Hence the scope of endowed assets expanded in accordance with the broadening of the purposes served by waqf.[4]

From the foregoing, we observe that women made endowments alongside men and demonstrated a remarkable degree of engagement with the institution of waqf. Indeed, women played a prominent role in the construction of civilisation and in the service of humanity, as evidenced by their achievements, which were no less than those of men. Numerous examples bequeathed to us by history still bear witness to this, especially during the Ottoman period.

There existed a significant enthusiasm among women for endowing their properties in favour of mosques, mausoleums, Sufi lodges (zāwiyas), and other institutions, owing to their civilisational and intellectual role. These places preserved identity and disseminated awareness and renaissance. An exemplar of this is the founding of the Qarawiyyīn Mosque in Fez by a woman named Fāṭima bint Muḥammad al-Fihrī, known as Umm al-Banīn, and her sister Maryam bint Muḥammad al-Fihrī, who endowed her properties to establish the mosque known as the Jāmiʿ al-Andalus. Both the Qarawiyyīn and the Andalus mosques remain beacons of knowledge to this day.

2. Women's Endowments in the City of Algiers: Selected Examples

In Algeria during the Ottoman period, women contributed significantly, as evinced by the number of endowment deeds (*waqfiyyāt*) in favour of mosques, the most famous of which is the Mosque of al-Sayyida, built in the sixteenth century CE. This mosque is considered an architectural

[2] ʿUthmān ibn ʿAffān: one of the Rightly-Guided Caliphs and one of those given glad tidings of Paradise. ʿUthmān made an endowment during the Prophet's lifetime when the Prophet said: "Who will purchase the well of Rūma, so that his bucket will be among the buckets of the Muslims?" ʿUthmān purchased it (may God be pleased with him).

[3] The term *al-waqf* is used in the Arab East, while the term *al-ḥabs* is used in the Arab West (Maghrib).

[4] The term al-waqf is used in the Arab East, while the term al-ḥabs is used in the Arab West (Maghrib).

masterpiece, attested to by the French themselves, who demolished it upon their entry into Algiers in 1830 CE.

Numerous studies further affirm the active and important role played by women in the practice of endowment — a role not to be underestimated in the care of children, in providing for them, and in extending their immobilised properties to relatives and orphans. This concern may well reflect a precaution against the calamities of time that the future might conceal, thereby demonstrating the esteemed status women enjoyed within society.

We also note that women conducted the procedures of immobilisation (*taḥbīs*) themselves, with full freedom, attending the court in person. On other occasions, they delegated the task to others, such as their husbands or another individual. For example, in the endowment deed of Karīma bint Ḥasan, she was accompanied by her husband, al-Mukarram ʿalā Manzūl Āghā ibn Sulaymān al-Turkī, and her brother ʿAlī Awdbāshī.

Women specifically reserved the right of immobilisation for themselves, endowing upon themselves for the duration of their lives in accordance with the doctrine of Imām Abū Ḥanīfa al-Nuʿmān, the doctrine of Imām Abū Yūsuf, and the scholars of Balkh. They stipulated, like men, the right of usufruct for life. In some cases, they did not endow upon themselves, in the same manner as men; for instance, the legal guardian (*walīya*) Maryam bint al-Saʿīd al-Qulayʿī immobilised and endowed the entire house directly upon her children, who were to benefit from its yield.[5]

In general, women's access to family properties represented only 29.92% of the total contracts pertaining to them. Such properties were typically acquired through proprietary ownership (*milkiyya*) at 84.21%, purchase (*shirāʾ*) at 10.52%, or inheritance (*irth*) at 2.63%. It is thus observed that women's financial capacity remained limited, as economic dealings remained largely monopolised by men.[6]

Nevertheless, with respect to immobilisation (*taḥbīs*), women had a distinguished presence and position, as reflected in the number of documents we have surveyed — a relatively high number — [7]attesting to their active and highly significant role in the society of the city of Algiers.(Raymond, 2001, pp. 1–13)

3. The Strategy and Objectives of Women's Endowments

3.1 The Situation of the Husband

Men were favoured by women in endowment by virtue of their status as husbands, and consequently the contracts pertaining to female founders (*wāqifāt*) and male beneficiaries (*mawqūf ʿalayhim*) reveal the familial relationships within the household.

The deprivation of the wife by her husband in endowment was not one-sided; rather, the wife reciprocated in kind. This is observed through our examination of the documents: out of seventy-six endowment contracts pertaining to women, eleven women endowed their properties in favour of their husbands. Nine of them endowed upon their husbands for usufruct (11.84%) as beneficiaries during their lifetimes, while two endowed upon their husbands but as a form of exclusion (2.63%), as in the

[5] Sharīʿa Court Records, Box 27/2, No. 1.
[6] This is the same observation reached by Haniyya regarding the study conducted in Tunis.
[7] André Raymond, in his recent study, notes that out of 664 endowments in Algiers, 239 names of women appear, a not insignificant number

case of the endowment deed of Fāṭima bint Makhlūf, who endowed upon herself the usufruct of the property, then upon her son and her two daughters to benefit from its yield, and thereafter the immobilised property would revert to her husband —[8] which in effect represents a form of exclusion.

We may thus conclude from these figures that of a total of seventy-six contracts, sixty-five women did not mention their husbands in their endowment documents, representing 85.52% — a considerable proportion of those who declined to immobilise property in favour of their husbands.[9]

Exceptional Cases:

In the document of Karīma bint ʿAmmār, she endowed in favour of her husband for usufruct, but only for as long as he remained unmarried. This condition was typically used by men in documents in favour of wives and was known as conditional usufruct (*al-intifāʿ al-mashrūṭ*), designed to ensure that the endowment did not depart from the familial framework. This serves as evidence that women opposed this condition imposed by men, albeit rarely.

We also observed another case involving the legal guardian (*walīya*) Fāṭima bint al-Sayyid Muḥammad ibn al-Ḥājj ʿAbd Allāh, who endowed the house located in the Ḥawmat al-Kabābitiyya upon herself, then upon her husband ʿAbd al-Qādir and her children, stipulating that the husband should benefit from one-quarter of the yield. If he died, the endowment would revert to the aforementioned children. This is what is termed temporary usufruct (*al-istifāda al-muʾaqqata*), a condition often imposed by men to retain property within the same family.

Accordingly, we may infer that women in the practice of endowment sought to restore parity through practices akin to those undertaken by their husbands towards them, reciprocating in kind. Nevertheless, the prevailing characteristic remained that of making the husband a beneficiary of the endowment after them.

We also have another case involving Yamūna bint Sulaymān, who endowed upon her husband and then, noting that she had no children, immobilised the property in favour of the husband's children from another wife. This exemplifies women's concern for familial cohesion and their humanitarian and ethical dimension.

3.2 The Situation of the Male Offspring

The endowment practices of men were characterised by discrimination in favour of male children over female children, prioritising males in the process of immobilisation to ensure that property remained within the same family. Did women follow the same tendency?

Observation of women's contracts reveals that of seventy-six cases, fourteen women endowed in favour of male offspring. In ten cases, the male was mentioned as beneficiary immediately after the female founder. Only four cases involved the exclusion of male offspring, i.e., 5.26%.[10] This may be attributed to women's own concern for property and their desire to retain it within the family, though the percentage remains small at 13.15%. The most prominent example we observed is the endowment deed of ʿAzīza bint Shaʿbān, who endowed upon her son Muṣṭafā, then upon his children

[8] Sharīʿa Court Records, Box 18/1, No. 31.
[9] We wish to note that endowment documents do not inform us of the circumstances of women who may have been unmarried, widowed, or divorced, and who therefore did not endow in favour of a husband.
[10] Experience has demonstrated that including daughters as beneficiaries of endowment was almost impossible, as the formulae appearing in virtually all documents collectively exclude daughters from the endowment, especially in the later stages.

and his children's children; if his progeny became extinct, the endowment would revert to her two daughters, Mūmina and Khadīja.[11]

3.3 The Situation of Female Offspring

In contrast to male offspring, the figures demonstrate that women accorded considerable attention to female offspring: we recorded eighteen cases of endowment in favour of female offspring as direct beneficiaries (23.68%) after the founder. This is evidence of women's inclination towards their daughters, concern for their future, and protection of their rights — perhaps as a reaction to men's treatment of them.

By contrast, we observed four cases in which daughters were excluded from the endowment. However, women's perspective on the male and female genders does not appear to differ substantially from men's perspective, particularly when tracing the stratification of endowments across tiers; the female founder, like her male counterpart, sometimes excluded females absolutely from enjoyment of the endowed property.

3.4 The Situation of Relatives

By "relatives" we mean the extended family group, divided into two categories. The first category comprises close relatives, namely paternal cousins (*banū al-ʿamm*), brother's daughters (*bint al-akh*), and the like. The second category encompasses in-laws, maternal relatives, paternal aunts, and maternal uncles. The question arises as to the relationship between the transfer of family properties by women in favour of this category.

Notably, women paid particular attention to this group and endowed in favour of all categories of relatives. The paternal cousin (*ibn al-ʿamm*) was the dominant beneficiary in this process, with four cases recorded at 5.26%. The grandson (*al-ḥafīd*) received the largest share at 11.84%, followed by the sister and brother at 10% as direct beneficiaries of the endowment. As for endowments in favour of the second category, we found no trace in the documents.

However, we observed in some documents exceptional cases, such as that of "Āsiyā bint al-Faqīh Aḥmad al-Maqbūʿī," who endowed upon her sister's granddaughter to benefit immediately after her.[12] Curiously, the most excluded category among relatives was the brother, at a rate of 7.89% — likely attributable to the fact that brothers had excluded women from their own endowment practices.

3.5 The Situation of the Remaining Progeny

Women sought to ensure that male descendants benefited from endowments, in the same manner as men, without excluding any category. They did not deprive the progeny of daughters (*ʿaqb al-banāt*) — as men had done — of usufruct, and the exclusion of female-line progeny by women was rare.

Thus, *waqf* functions as a mirror reflecting the general conditions experienced by society as a whole and the family in particular, in addition to the values upon which social relations are built, both within and outside the family, as discerned through the identification of *waqf* beneficiaries.

It is worth noting that women — and specifically wives — occupied a special status, as husbands uniformly agreed on their exclusion if they remarried. At the same time, the documents reveal women's position in the society of Algiers and the freedom they enjoyed in the disposal of

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[11] Sharīʿa Court Records, Box 10, No. 34.

[12] Sharīʿa Court Records, Box 28/1, No. 89.

money and property. Their distinguished role in endowment demonstrates their own concern for familial cohesion, which is why many endowments came to be known by their names, such as Fāṭima bint Rajab Rīs, Khadīja bint Muḥammad Āghā, and others.

As for children, they were the most fortunate beneficiaries of immobilisation, as the majority of contracts were endowed in their favour — both male and female — for usufruct. In rare cases, daughters and their progeny might be excluded from benefiting from the endowment, so that property would not leave the familial framework. In this way, *waqf* was used as a tool to circumvent inheritance law (*al-mīrāth*), which grants women their legally prescribed rights.

The phenomenon of preferential treatment in immobilisation between males and females was conducted on the basis of inheritance rules in some instances and in an unregulated manner in others. Such preferential treatment among children constitutes a social phenomenon that reveals both customary influence, on the one hand, and religious background, on the other.

This concerns the social dimension; as for the economic dimension, endowment documents have the merit of identifying the most important economic activities. These documents are also fundamental to the study of the distribution of property ownership within and outside the city, thereby enabling us to identify population density on the one hand, and serving as a living testament to lineage and progeny on the other. Through *waqf*, we gain knowledge of neighbourhoods, determine the topographic features of the city, and identify the distribution of different social strata, including the dominant class in endowment affairs.

Finally, we wish to note that the provisions of usufruct often lead to the fragmentation of the endowment due to the multiplicity of beneficiaries. Consequently, each person's share diminishes until it becomes a negligible amount, causing the beneficiary to neglect and disregard it — not to mention the disputes that may arise among family members over the application of the founder's conditions regarding entitlement or exclusion, which often lead to the neglect and immobilisation (in the sense of non-functioning) of the endowment itself. This is confirmed by numerous endowment documents.

Conclusion

At the conclusion of this analytical study, derived from the Sharīʿa court records of the city of Algiers during the eighteenth century, we derive a series of historical and legal facts that reshape our understanding of the structure of Algerian society and the actual role played by women during that period.

The documentary evidence has demonstrated that the prevailing mental image regarding the "marginalisation of women" or their "exclusion from financial legal capacity" is a misrepresentation of the documentary reality. Algerian women in the Casbah emerged, upon closer examination, as independent economic actors, property-owners possessed of sophisticated legal awareness, and investors who utilised the institution of waqf to empower their families and serve their society.

The study of the reality of the family in the city of Algiers during the Ottoman period through the documents of "women's endowments" constitutes the cornerstone of a re-reading of the social and economic history of the city, far from ready-made stereotypical narratives. These documents and legal entries have been transformed from mere "dry legal contracts" into a living mirror that translates the minutiae of family life and human bonds within its historic neighbourhoods.

The endowment documents of women in Ottoman Algiers are not merely property records; they are documents attesting to an advanced cultural and familial consciousness. Through the institution of women's endowment, the Algerian family was able to build an economic safety net, preserve the dignity of its sons and daughters, and contribute to the stability of the city's society and the continuity of its urban development over long periods of time.

Refreences

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Appendices

Women's Endowments: These statistics are derived from a study of 200 endowment documents pertaining to women in the city of Algiers during the eighteenth century.

Table 1: Endowments within the Family Framework

	Husband	**Son**	**Daughter**	**Offspring through Male Line**	**Daughter's Son**	**Daughter's Daughter**
Usufruct	09	10	18	15	02	03
	11.84%	13.15%	23.68%	19.73%	02.63%	03.94%
Exclusion	02	05	04	05	/	01
	02.63%	06.57%	05.24%	06.57%	/	01.12%
Total	11	15	22	20	02	03
Percentage	14.47%	19.73%	28.94%	26.31%	02.63%	03.94%

Note: No cases were recorded for "son's son" as this falls within the category of progeny (*al-ʿaqb*). "Son's daughter" similarly falls within the category of progeny.

Table 2: Endowments outside the Family Framework

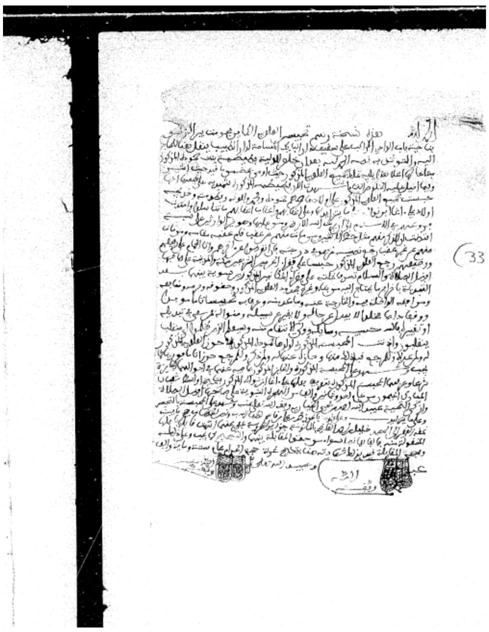
	Brother	**Sister**	**Grandson**	**Granddaughter**	**Paternal Cousin**	**Paternal Cousin (female)**	**Maternal Uncle**	**Maternal Aunt**	**Paternal Uncle**	**Paternal Aunt**	**Manumitted Male**	**Manumitted Female**

Usufruct	03	05	09	03	04	/	/	02	/	/	02	/
	03.94%	06.57%	11.84%	03.94%	0.56%	/	/	02.63%	/	/	02.63%	/
Exclusion	06	02	01	00	03	/	/	01	/	/	01	/
	07.89%	02.63%	01.31%	/	03.94%	/	/	01.31%	/	/	01.31%	/
Total	09	07	10	03	07	/	/	03	/	/	03	/
Percentage	11.84%	09.21%	18.15%	03.94%	09.21%	/	/	03.94%	/	/	03.94%	/

Table 3: Other Cases

	Sponsored Person	Mother	Son-in-Law	Relatives (unspecified)	Relatives without specification
Usufruct	01	00	00	00	/
	01.31%	/	/	/	
Exclusion	/	01	01	02	
	/	01.31%	01.31%	02.63%	

Note: No case of endowment upon the father was recorded. "Relatives" are mentioned without specification.



[Figure: Sharīʿa Court Register, Box 18/1, No. 33]