



## **Waqf certificates of Qurns from Harar**

### **A first assessment**

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# Essays in Ethiopian Manuscript Studies

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## Waqf certificates of Qurʾāns from Harar: A first assessment

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### Waqf and waqf of books: preliminary remarks

*Waqf* (plural: *awqāf*; in North-western Africa the word *ḥabs*, [pl. *ḥubūs*] is preferred<sup>1</sup>) is a well-established Muslim social institution which is defined by a very rich and complicated set of legal rules and norms. The simplest and most common manifestation of *waqf* is that of an inalienable endowment of assets managed by a fiduciary administrator for the benefit of a designated individual, a specific group of people or the collectivity in general.<sup>2</sup>

There are some general basic principles which govern *waqf* and its management. First, the founder (*wāqif*) must be *muʾabhal* (legally capable to act and contract); he does not necessarily have to be a Muslim. Second, the object to be endowed (*mawqūf*) can be any physical good (*ʿayn*). Third, the *waqf* must be perpetual (but consumable goods and items are admitted; Mālikī law school accepts also temporary *waqf*). Fourth, both individual and collective beneficiaries (*mawqūf ilayh*) are admitted. Members of the family of the *wāqif* are allowed as beneficiaries (*waqf ahli*). Finally, the endower has to appoint a controller (*nāzir*), in charge of supervising the implementation of the legal procedure and the subsequent correct usage of the *mawqūf* objects.

The intention (*niya*) behind a *waqf* should be always and exclusively characterized as the realization of a religious ideal. The *wāqif* has always to affirm that he/she intends to carry out a devout act and to do charity (*sadaqa*). It is only for this pious goal that the *wāqif* decides that one of his properties can be given forever for the full benefit to someone else. The reward of this charitable deed (*ağr/ tawāb*) is the intercessional prayer of the beneficiaries for the *wāqif* who hopes for the divine mercy on the Judgment Day.

The establishment of a *waqf* is attested and confirmed by a formal document, a sort of legal certificate called *waqfiyya*. It is the existence of an unambiguous (*sariḥa*) *waqfiyya* which guarantees that the *waqf* is *ṣāḥiḥ* (legally valid).<sup>3</sup>

- 1 It has been correctly pointed out that the geographical characterization of the term *ḥabs* which is nowadays more current in the Maghreb must be actually due to a later development (Déroche 2005, 331 note 114).
- 2 For a very general but quite comprehensive introduction to the *waqf* institution and system see *EP*, XI (2002), 59–99 (R. Peters et al.).
- 3 A very general introduction to the *waqfiyya* as document and legal act can be found in Özgündenli 2012.

Research on the *waqf* has been one of the most flourishing activities in Islamic studies.<sup>4</sup>

The study of the legal problems connected with origin and development of the idea of *waqf* (absent in the Qur<sup>ʿ</sup>ān but well attested in the prophetic *ḥadīṭ*) intrigued some experts in Islamic law and different hypotheses have been proposed about the way *waqf* came into existence and subsequently rooted into the Muslim society.<sup>5</sup>

Great attention has been paid to the social and economic aspects of the *waqf* institution as a tool used by many Islamic polities to assure a more equal distribution of wealth and as a way to create a kind of welfare state to protect the destitute. Most of the available scientific literature thus analyses *waqf* of economically and socially relevant items and assets (houses, schools, hospitals, hospices, public fountains, shops and plots of land) endowed by important statesmen, rulers and local governors for the benefit of their subjects.<sup>6</sup>

The specific features of the *waqf* of manuscripts and books initially did not apparently attract the attention of the scholars. However, the importance of the endowment of codices (especially of the Qur<sup>ʿ</sup>ān) for the birth and diffusion of public libraries in the Islamic world<sup>7</sup> triggered the interest for this branch of *waqf* and a relatively substantial amount of relevant data has been collected.<sup>8</sup>

In particular, the discussion among Islamic scholars on whether movable goods can be legally established as *waqf* has been studied to reconstruct the procedure which Muslim *fuqahā*<sup>9</sup> followed to justify the acceptability of *waqf* endowment of Qur<sup>ʿ</sup>ānic codices and other religious books in favour of mosques and schools first and then of any legal personality.<sup>9</sup>

Another focus of activity of the scholars working on *waqf* has been the publication of the text of the *waqfiyya*-certificates together with an assess-

4 Useful bibliographic repertoires on *waqf* are Hoexter 1998 and Abdul Azim Islahi 2003.

5 In particular, the connection between the *waqf* and the *piae causae* of the late Roman and Byzantine Empire has been long investigated (see e.g. Hennigan 2004, 52–57 for a summary of the debate).

6 See for example Deguilhem 1995 and 2008.

7 See Erünsal 2008 for a general survey of the *waqf* libraries in the Ottoman Empire. The process of formation of a *waqf* of books in classical Islam is analysed in Eche 1967, 301–307 and Kenderova 2002 (for Ottoman Bulgaria). O’Fahey and Vikør 1996 describe a *waqf* of books of the family al-Mundiri from Zanzibar.

8 A concise but very informative survey of the literature on *waqfiyyas* of books is in Déroche and Sagaria Rossi 2012, 283–286.

9 Eche 1967, 68–74 offers a quite detailed historical excursus on the jurisprudential debate about the legal status of the *waqf* of books (see also Ayman Fu<sup>ʿ</sup>ād Sayyid 1997, 421–427).

ment of their vocabulary and structure.<sup>10</sup> *Waqfiyyas* of books received a particular attention from the scholars of manuscript studies because they provide crucial evidence to date manuscripts without colophon and contribute to the reconstruction of the history of the codices.<sup>11</sup>

### The *waqfiyya* as a text and as a document

Scholars commonly agree upon that the first *waqfiyya* known so far dates to the eighth century CE. It is a relatively lengthy text preserved in al-Šāfi'ī's famous *Kitāb al-umm* (*kitāb al-ahbās; waṭīqat ḥabs*). The document contains all the instructions concerning the way to establish a lawful *waqf* and all the technical and legal requirements to make a *waqfiyya* formally valid.<sup>12</sup>

The first dated manuscript endowed as *waqf* is the so-called Qur'ān of Amāğūr (the ʿAbbasid governor of Damascus) whose *waqfiyya* dates to AH 262 (875/876 CE).<sup>13</sup> In the following century, the practice of endowing *muṣḥaf* and other codices spread in the whole Islamic world becoming more and more common.<sup>14</sup>

Scholars who published *waqfiyya* texts highlighted the sheer and somewhat bewildering diversity of their textual structure and content.<sup>15</sup> Different model structures of *waqfiyya* certificates have been reconstructed by the specialists and proposed as a tool to analyse and describe the documents.<sup>16</sup>

Particularly striking is the different length of the *waqfiyya* documents: some of them are harmonious and beautifully composed texts, made up of a full inventory of canonical legal formulas<sup>17</sup> and religious invocations<sup>18</sup> and

10 See e.g. Massignon 1951, Kaleši 1972. Some *waqfiyyas* of *muṣḥafs* are published in James 1988, 181–183, 229–232, 234, 236, 239, 243, 248, 249. Other examples of *waqfiyyas* of books in Ayman Fu'ād Sayyid 1997, 428–451 and plates 150–156. The article of Hunwick and O'Fahey 2002 deals also with *waqfiyyas* of books from Lamu. For a very general glance at the *waqfiyyas* of books in Iran see ʿAli Rafi'ī and Mohammad Bâgher Sajâdi Khorâsgâni 2010.

11 Déroche 2005, 330–332, Kenderova 2002, 80. Many Qur'ānic fragments of the ninth century are datable thanks to *waqfiyyas* (Déroche 1987–1989).

12 Al-Šāfi'ī 1961, 59–61 (English translation in Hennigan 2004, 203–207).

13 Déroche 1990; George 2003.

14 Ayman Fu'ād Sayyid 1997, 423; Déroche and Sagaria Rossi 2012, 283–284.

15 Déroche and Sagaria Rossi 2012, 284; Kenderova 2002, 73.

16 Kaleši 1972, 55–63; Hunwick and O'Fahey 2002, 2; Kenderova 2002, 73–77; Gacek 2009, 17–18.

17 For example the formal statement of stipulation of a *waqf* containing one (or more than one) of the technical verbs *waqafa* (or *awqafa*), *ḥabbasa*, *sabbala*, *ḥarrama*, *abbada*, *taṣaddaqa* followed by the accusatives *waqfan ṣaḥīḥan ṣar'iyyan ṣarīfan*

18 Normally the *basmala*, *ḥamdala*, *taṣliya* are used as opening, quotations from the Qur'ān and *ḥadīṭ* can be found in the middle of the *waqfiyya* to strengthen the theo-



carefully kept in some register or well copied on the first page (f. 1r) of the codices; some of them instead are reduced to a couple of words coarsely written on the margins of the manuscript among a multitude of other notes.<sup>19</sup> The more laconic texts can also lack some of (or even all) the basic textual components<sup>20</sup> which give the document its full legal value. These more or less incomplete *waqfiyya* certificates were probably only abridged copies of full-fledged texts preserved in an official register<sup>21</sup>. The legally invalid *waqfiyya* extracts were copied probably to make readers aware that the manuscripts in their hands were *waqf* and had to be used according to the rules of *fiqh*.

### ***Waqfiyyas* of books from Harar**

*Waqf* in Ethiopia has been so far an almost completely unstudied field: only two general studies by Hussein Ahmed are available on this topic<sup>22</sup> but no Ethiopian *waqfiyya* has been published nor research has been conducted on *waqf* of Ethiopian Islamic books and libraries.

In the following I publish<sup>23</sup> and critically analyse six *waqfiyya* texts in Qurʾānic codices originally from Harar and now kept at the Institute of Ethiopian Studies of Addis Ababa University. The documents are arranged in a chronological order and cover a period of time between the first half or the eighteenth and the middle of the nineteenth century. The main focus of my study will be on the textual structure of the *waqfiyyas* and on their vocabulary. Moreover I shall comment upon some of the historical and prosopographical data which the documents yield, thus contributing to the further investigation of the history and culture of Harar.

The first *waqfiyya* I publish here is found in MS IES 1847 (containing the 10<sup>th</sup> *ǧuzʿ* of the Qurʾān), on f. 1r.<sup>24</sup> It is a 19-line text written in a different hand than the rest of the codex.

logical/legal background of the act and some invocations mark the end of the document.

19 Sometimes the *waqfiyya* is reduced to a seal containing the word *waqf* and the name of the donor and/or of the library (Kenderova 2002, 79).

20 To be legally valid a *waqfiyya* should include the founder's name (*al-wāqif*), the object of the endowment (*al-mawqūf*; in case of manuscripts, namely, number of volumes and title(s) of the book(s)), the beneficiary or usufructuary (*al-mawqūf ʿalayhi*), usually the name of the library, the condition(s) set by of the founder to the usage of the endowed object (*šart al-wāqif*), date (*taʾrīḥ al-waqf*), attestation of the witnesses (*išhād*), and the identification of the administrator (*nāzīr*) of the endowment who replaces the *wāqif* on his/her death (Hunwick and O'Fahey 1981, 2; Gacek 2009, 17–18).

21 Eche 1967, 312.

22 Hussein Ahmed 2005 and *EAE*, IV (2010), 1136–1137 (Hussein Ahmed).

23 The Arabic text is copied according to the orthography of the original.

24 See Gori 2014, 23 for a description of the manuscript.

(1) هذا ما وقف وحبس وسبل وتصدق الفقير الحقيق (2) الي الله تعالي مولانا امير طلحة بن مولانا الامير (3) عبد الله هذا الجزء ما قبله وما بعده من اجزاء (4) القران العظيم من تجزئة ثلثين لجدته حسنت (5) فاطمة مع ولدها امير صبروا بن مولانا الامير (6) علي وجميع المسلمين بمدينة هرر الخروسة وعلى مقابر (7) المدينة الي مقابر المسلمين و يرجع به الي ذلك المو (8) ضع وجعل ثواب ذلك لجدته مع ولدها امير (9) صبروا المذكورين وجعل النظر في مدة حياته (10) لنفسه ثم لأكبر اولاده الاعلى فالاعلى ما تنا (11) سلوا بطنا بعد بطن قبل الله منه بفضله ورحمته (12) قبل الله له وجعله خالصا لوجه الله الكريم وفقا صحيحا (13) شرعيا لا يباع ولا يوهب ولا يرهن ولا يورث (14) حتى يرث الله الارض ومن عليها وانت خير الوارثين (15) فمن بدله بعد ما سمعه فانما اثمه علي الذين يبدلونه (16) ان الله سميع عليم (17) وصلي الله علي سيدنا محمد وعلي اله وصحبه وسلم (18) تاريخ (19) ١١٢٧

This is what the poor, humble in need of God the Highest, our master the *amīr* Ṭalḥa son of our master the *amīr* °Abd Allāh placed in mortmain, piously dedicated, inalienably bequeathed and charitably donated: this *ḡuz*<sup>25</sup> and what precedes and follows it of its 30 *aḡzā*<sup>26</sup> for his grandmother *gisti* Fāṭima together with her son *amīr* Ṣabrū son of our master *amīr* °Alī and for all the Muslims in the city of Harar the protected and for all the cemeteries of the Muslims. It can be taken out to the cemeteries of the Muslims and be taken back to its original place. He established that the reward of this act should be given to his grandmother together with her son the *amīr* Ṣabrū above mentioned. He appointed himself as the controller of the *waqf* for the duration of his life then his elder son and then the elder and the elder of his offspring, as long as they beget, generation after generation. May God accept this act from him with His grace and mercy! May God accept and consider it as a pure action done just to obtain His generous favour and as a valid and legal *waqf* which cannot be sold, donated pledged nor inherited until God inherits the earth and what is on it. You are the best of the Inheritors! 'If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it. Surely God hears and knows'. My God bless our Master Muḥammad, his family and his companions and grant them peace! Date 1127.

The *waqfiyya* has almost all the components which are necessary to make it legally valid:

- 1) the mention of the name of the *wāqif*: *mawlanā amīr* Ṭalḥa b. *mawlanā amīr* °Abd Allāh;<sup>25</sup>
- 2) the mention of the *mawqūf*: the 10<sup>th</sup> *ḡuz*<sup>26</sup>, on which the text of the document has been written, but also all the other *aḡzā*<sup>26</sup> of the Qur<sup>ʿ</sup>ān;
- 3) the indication of the *mawqūfa labā*: the *wāqif*'s grandmother *gisti* Fāṭima and her son *amīr* Ṣabrū b. *amīr* °Alī<sup>26</sup> and all the Muslims and the cemeteries of the city;
- 4) the mention of the person to whom the spiritual reward of the *waqf* (*ṭarwāb*) goes: Ṭalḥa's grandmother and her son;

25 Tedeschi 1974, 489–490. He ruled from 1700 to 1721. *Mawlanā* (our master) appears here as an honorific title given to the emir.

26 The name does not appear in the emir lists of Harar. Ṣabrū (hypocoristic of Ṣabr al-Dīn) is the name of a saint venerated in the city (Wagner 1973, 283; Foucher 1988, 278).

- 5) the definition of the conditions of usage of the book which can be moved around but has to come back to the original location after its use;
- 6) the appointment of a *nāzir*: the *wāqif* himself *amīr* Ṭalḥa and after his death the senior of his sons and descendants;
- 7) the explicit declaration of the establishment of the *waqf*<sup>27</sup> which is inalienable and eternal;<sup>28</sup>
- 8) menace of a sanction for those who change the text;<sup>29</sup>
- 9) final *taṣliya*;
- 10) date: AH 1127 (1715/1716 CE).

The second *waqfiyya* of my selection is in MS IES 1846 (containing the 25<sup>th</sup> *ḡuz*<sup>30</sup> of the Qur<sup>ʿān</sup>), on f. 1r.<sup>30</sup> It is possibly written in the same hand as the following main text. The 15-line text runs as follows:

(1) هذا ما وقف وحبس وسبل وتصدق الفقير الي (2) عفو ربه امير طلحة بن الامير عبدالله غفر الله (3) له هذا الجزء ما قبله وما بعده من اجزاء القران العظيم (4) من تجزئة ثلثين على ضريح الامير نور الامير مجاهد (5) بمدينة همر المحروسة وعلى مقابر المسلمين بالمدينة (6) المذكورة وغير ذلك وجعل ثوابه لامير نور (7) المذكور يخرج بها من المدينة الي المقابر وغيره (8) ويرجع بها الي الناظر بعد القراءة وجعل النظر في مدة (9) حيوته لنفسه ثم لأكبر اولاده فالأ (10) على ما تناسلوا بطنا بعد بطن قبل الله منه وقفا (11) صحيحا شرعيا لا يباع ولا يوهب ولا يرهن ولا يورث حتى يرث الله الأرض ومن عليها وهو (13) خير الوارثين فمن بدله بعد ما سمعه فانما اثمه علي (14) الذين يبدلونه ان الله سميع عليم (15) وصلي الله علي سيدنا محمد وعلي اله وصحبه وسلم

This is what the *amīr* Ṭalḥa son of the *amīr* ʿAbd Allāh — needy of the mercy of his Lord — placed in mortmain, inalienably bequeathed, piously dedicated, and charitably donated: this *ḡuz*<sup>30</sup> and what precedes and follows it from among its 30 *aḡzā* of the glorious Qur<sup>ʿān</sup> in its 30 parts for the shrine of the *amīr* Nūr the *amīr al-muḡābid* in the protected city of Harar and for the graveyards of the Muslims in the mentioned city and for other places than those. He established that the reward of his act go to the mentioned *amīr* Nūr. The manuscript can be taken out of the city to the graveyards or elsewhere but has to be returned to the controller after the reading. He appointed himself as the controller of the *waqf* for the duration of his life and then his elder son and then the elder and the elder of his offspring as long as they beget generation after generation. May God accept this from him as a valid and legal *waqf* which cannot be sold, donated pledged nor inherited until God inherits the earth and what is on it. He is the best of the Inheritors.<sup>31</sup> ‘If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it.

27 The technical verbs (*waqafa*, *habbasa*, *sabbala*, *taṣaddaqa*) and the usual formula *waqfan ṣaḥīḥan šarʿiyyan* are used in the text together with an invocation of God which expresses the religious motivation behind the *waqf* (*qabila Allāh minhu bi-faḍlih wa-rahmatih wa-ḡaʿalahu ḥaliṣan li-waḡhi Allāh al-karīm*).

28 In this text we found the recurring *lā yubāʿ lā yūhab la yurhan lā yūrāt hattā yarit Allāh al-ard wa-man ʿalayhā wa-huwa ḥayr al-ḥarītīn* (see Qur<sup>ʿān</sup> 19:40 and 21:89).

29 Expressed as usual quoting, Qur<sup>ʿān</sup> 2:181.

30 Gori 2014, 23

31 Cfr. Qur<sup>ʿān</sup> 19:40 and 21:89.

Surely God hears and knows'.<sup>32</sup> My God bless our Master Muḥammad, his family and his companions and grant them peace!

This *waqfiyya* has neither introductory section nor date but contains some of the most important elements to make it legally valid:

- 1) the mention of the name of *wāqif*: *amīr* Ṭalḥa b. *amīr* °Abd Allāh;<sup>33</sup>
- 2) the mention of the *mawqūf*: *ḡuz*<sup>2</sup> 25, on which the text of the document has been written, but also all the other *aḡzā*<sup>3</sup> of the Qur<sup>2</sup>ān;
- 3) the indication of the *mawqūf lahu*: the shrine of *amīr* Nūr and all the other cemeteries of Harar;
- 4) the mention of the person to whom the spiritual reward of the *waqf* (*ṭawāb*) goes: *amīr* Nūr;<sup>34</sup>
- 5) the definition of the conditions of usage of the the book which can be taken to the cemeteries but has to come back to the *nāzīr* after the reading;
- 6) the appointment of a *nāzīr*: the *wāqif* himself *amīr* Ṭalḥa and then the senior of his sons and descendants
- 7) the explicit declaration of the establishment of the *waqf*<sup>35</sup> which is inalienable and eternal;<sup>36</sup>
- 8) menace of a sanction for those who change the text;<sup>37</sup>
- 9) final *taṣliya*.

The third *waqfiyya* is preserved in MS IES 1844 (12<sup>th</sup> *ḡuz*<sup>2</sup> of the Qur<sup>2</sup>ān), on f. 2r.<sup>38</sup> It is a 12-line text apparently written in the same hand as the main text.

هذا ما وقف وحيس وسيل وتصدق الامير احمد (2) بن الامير طلحة هذا الجزء وما قبله وما بعده من اجزاء وجعل [s.s.]القران (3) العظيم من تجزئة ثلثين على ضريح الامير عبد الله (4) المجاهد في سبيل الله بمدينة هرر النظر لنفسه في مدة (5) حياته ثم الي الاكبر اولاد الاعلى فالاعلى اولاده واولاده بعد ما تناسلوا (6) بطنا من بعد بطن ويخرج من بيته الي مقابر المسلمين (7) المذكورة بمدينة هرر وقفا صحيحا شرعيا لا يباع (8) ولا يوهب ولا يورث حتى يرث الله الارض (9) ومن عليها وهو خير الوارثين فمن بدله بعد (10) ما سمعه فانما اثمه على الذين يبدلونه ان الله (11) سميع علم (12) وصلي الله علي سيدنا محمد وعلي اله وصحبه وسلم

32 Qur<sup>2</sup>ān 2:181.

33 See note 25 above.

34 *Amīr* Nūr is the renowned ruler of Harar (d. 1567) who built the wall of the city, fought the Christian state and killed the Emperor Gālawdewos in 1559. His shrine is among the most revered in the city, see *E Ae*, III (2007), 1209–1210 (F.-C. Muth).

35 Both the standardized technical verbs (*waqafa*, *ḥabbasa*, *sabbala*, *taṣaddaqa*) and the formula *waqfan ṣaḥīḥan ṣar<sup>e</sup>yyan* are used.

36 The *waqfiyya* has the usual: *lā yubā<sup>e</sup> lā yūhab la yurhan lā yūrāt ḥattā yariṭ Allāh al-ard wa-man<sup>e</sup> alayhā wa-huwa ḥayr al-ḥāriṭin* (see Qur<sup>2</sup>ān 21:89).

37 The threat of a harsh punishment is expressed quoting, as usual, Qur<sup>2</sup>ān 2:181.

38 For a brief description of the manuscript see Gori 2014, 22.

This is what the *amīr* Aḥmad b. *al-amīr* Ṭalḥa placed in mortmain, piously dedicated, inalienably bequeathed and charitably donated: this *ḡuz*<sup>39</sup> of the Glorious Qurʾān and what precedes and follows it from among its 30 *aḡzā*<sup>40</sup> for the shrine of the *amīr* ʿAbd Allāh *al-muḡābid* for God’s sake in the city of Harar. He appointed himself as controller (of the *waqf*) for the duration of his life and then his elder son and then the elder and the elder of his progeny and offspring subsequently, as long as they beget, generation after generation. And the manuscript can leave his house and be moved to the aforementioned cemetery of the Muslims in the city of Harar. This is a valid and legal *waqf* and cannot be sold nor donated nor inherited until God inherits the earth and what is on it. He is the best of the Inheritors.<sup>39</sup> ‘If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it. Surely God hears and knows’.<sup>40</sup> May God bless our Master Muḥammad, his family and his companions and grant them peace!

The undated *waqfiyya* has a relatively short text lacking introductory prayers and formulas but still containing some of the fundamental elements which make the document legally valid:

- 1) the mention of the name of the *wāqif*: *amīr* Aḥmad b. Ṭalḥa;<sup>41</sup>
- 2) the description of the *marwqūf*: the 12<sup>th</sup> *ḡuz*<sup>39</sup> of the Qurʾān, on which the text of the document has been written, but also all the other *aḡzā*<sup>40</sup> of the Qurʾān;
- 3) the indication of the *marwqūf labu*: the shrine of *amīr* ʿAbd Allāh *al-muḡābid* (b. ʿAlī 1671–1700);<sup>42</sup>
- 4) the appointment of a *nāzir*: the *wāqif* himself *amīr* Aḥmad b. Ṭalḥa and then the senior of his sons and descendants;
- 5) the conditions of usage of the endowed object: the book can leave the house of *wāqif* and go to the cemetery;
- 6) the explicit declaration of the establishment of the *waqf* which is inalienable and eternal;<sup>43</sup>
- 7) the menace of a sanction for those who change the text of the document;<sup>44</sup>
- 8) final *taṣliya*.

39 Qurʾān 19:40 and 21:89.

40 Qurʾān 2:181.

41 This name cannot be found in the so far available lists of emirs of Harar and can be possibly identified with Aḥmad I son of *amīr* Abū Bakr the brother of *amīr* Ṭalḥa (1755–1782), on whom see Tedeschi 1974, 493.

42 Tedeschi 1974, 489.

43 The technical verbs *waqafa*, *ḥabbasa* and *sabbala* are used together with the legal formula *waqfan ṣaḥīḥan ṣarʿiyyan lā yubāʿ lā yūḥab la yurhan lā yūraṭ ḥattā yarit̄ Allāh al-arḍ wa-man ʿalayhā wa-ḥurwa ḥayr al-ḥārīt̄in* (see Qurʾān 21:89).

44 The punishment is not clearly defined but only vaguely hinted by a quotation of Qurʾān 2:181.

The fourth *waqfiyya* under discussion is found in MS IES 1848 (containing the 9<sup>th</sup> *ġuz*<sup>2</sup> of the Qur<sup>ān</sup>, f. 1r.<sup>45</sup> It is a relatively long text (21 lines) written in a different hand from that of the following main text.

الحمد لله الواقف علي سرائر ضمائر المتصدقين المطلع علي خلوص نياتهم كما هو داب (2) المخلصين المفيضين ابارها في طاعة الله والقيام بما يرضيه من بر الوالدين وصلى الله (3) على سيدنا محمد وعلي اله وصحبه الايما الراشدين وبعد فانه لما كانت نعم الله (4) علي خواص عباده تترى وسعدة الدارين بادخار المثوبات تتلوا احدهما (5) الاخرى وفضل الله يوتيه من يشا من عباده ويزيد من شكر اجرا ويجمع لمن يريد من (6) خلقه ملكا نجاشيا وثوبا وعفوا وان الذخيرة لاختيار الملوك والماترة الباقية (7) المتعطرة في صحايف الحسنات والسيرة التي تضي الزمن وهي في الاعقاب (8) باقية اقتناص شوارد المثوبات واقتباس انوار الهداية في سائر المطلوبات (9) بادر لانفاق ما منحه الله بعد ان استنخار الله في افعال توصله الى المعاد (10) العظمى ويجعل له مع احسن رفيق من الذين انعم الله عليهم من النبيين والصدقيين (11) والشهداء والصالحين وحسن اوليك قريبا مولانا وملك ازمة امرنا مليك (12) العصر وولي العزم والنصر امير المؤمنين الامير يوسف بن مولانا الامير ابو بكر (13) فوقف وحبس وسبل هذا الجزء وما قبله وما بعده ثلثين جزا لوالده (14) الامير ابي بكر ليقرأ فيه من غير تقييد بمكان ولا زمان في مقابر المسلمين (15) واين ما اتفق في مدينة هرر وجعل ثوابه له وفقا صحيحا شرعيا لا يباع (16) ولا يوهب ولا يورث حتى يرث الله الارض ومن عليها وهو خير الوارثين وشرط (17) النظري هذه حياته لنفسه تقبل الله منه وبلغه من (18) من سلامة الذات الطاهرة وطول العمر الامل والوטר وخص مقامه (19) الشريف بثواب يقدمه اذا غدا واجر يسره اذا هو في حضرة القدس (20) حضر فمن بدله بعد ما سمعه فانما اثمه علي الذين يبدلونه (21) ان الله سميع علم

Praise be to God who knows the secrets of the conscience of those who give alms, who is aware of their intentions, as He creeps inside (the souls of) the sincere people who pour out their wells to obey God and do something that makes Him satisfied, like acting respectfully towards one's parents! My God bless our Master Muḥammad, his family and his companions, the rightful *imāms*! As a matter of fact, divine graces are bestowed one by one on His selected servants and the well-being in the Hereafter follows the one in this life, the one after the other, thanks to the merits collected (during the mortal life). That is the bounty of God, which He gives to whom He wills among His servants!<sup>46</sup> And He rewards more the one who thanks Him. And to the ones He wants among His creatures, He donates at the same time a kingdom like the one of the *Naḡāṣī* and also prize and forgiveness. The provision to go to meet the Last King, the act which remains eternally perfumed in the register of the good deeds, and the life conduct which cancels the (bad things caused by) time and remains eternally in the end: all this is the hunt for the meritorious deeds dispersed here and there and the refraction of the light of the right path in all the circumstances. For these reasons, our master, the owner of the reins of our state, the king of the present time, the possessor of the last resolution and the guarantor of the victory, the commander of the faithful the *amīr* Yūsuf son of our master the *amīr* Abū Bakr rapidly took the initiative to spend what God granted him after he asked God to indicate him the best act to reach the most magnificent abode and be put together with the best companions i.e. the prophets, the virtuous, the martyrs and the saints upon whom God bestowed His grace— What a beautiful company is that! He thus placed in mortmain, inalienably bequeathed and piously dedicated this *ġuz*<sup>2</sup> and what precedes and follows it of its 30 *aġzā*<sup>2</sup> for his father so that he can read it without any limitation of place and time, in the cemeteries of the Muslims or in any other place he finds himself in the city of Harar. He established that the reward should go to him as a valid and legal *waqf* which cannot be

45 See Gori 2014, 23 for a description of the manuscript.

46 Qur<sup>ān</sup> 62:4.

sold, donated nor inherited until God inherits the earth and what is on it. He is the best of the Inheritors! He put as condition that the control of the *waqf* should be given to himself for the duration of his life. May God accept it from him and let him obtain the pure sanity of the body and the long life that he hopes and expects! May God reserve for him a noble place thanks to a reward which will make him step forward, when he will have to leave, and a compensation which will make him satisfied, when he will be in the presence of the Most Saint. 'If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it. Surely God hears and knows'.

The text of this *waqfiyya* is complete and complex but oddly enough it lacks a date. Some other components of a legally valid document are there:

- 1) a long and rhetorically constructed introductory section explaining the religious motivations and intentions behind of the *waqf*;
- 2) the mention of the name of the *wāqif*: *amīr al-mu'minīn*<sup>47</sup> *mawlānā al-amīr* Yūsuf b. *mawlānā al-amīr* Abī Bakr;<sup>48</sup>
- 3) the description of the *mawqūf*: *ḡuz*<sup>9</sup> and all the other *aḡzā*<sup>9</sup> of the Qurʾān;
- 4) the indication of the *mawqūf lahu*: the father of *wāqif*, *amīr* Abū Bakr;
- 5) the conditions of usage of the endowed object: reading in the cemeteries of Harar with no limitation of place and time;
- 6) the mention of the person to whom the spiritual reward of the *waqf* (*ṭawāb*) goes: *amīr* Abū Bakr;
- 7) the explicit declaration that the *waqf* is inalienable and eternal;<sup>49</sup>
- 8) the appointment of a *nāzir*: the *wāqif* himself, *amīr* Yūsuf;
- 9) the menace of a sanction for those who change the text of the document.<sup>50</sup>

The fifth *waqfiyya* is found in MS IES 1850 (first *ḡuz*<sup>9</sup> of the Qurʾān), f. 1r.<sup>51</sup> The text is written in a beautiful and careful hand similar to that of the following main text. Two polychrome, geometrical figures frame the *waqfiyya* similarly to what happens with the text of first *sūra* and of the beginning of the second *sūra* on ff. 1v and 2r.

وبعد لما كان الوقف من الحسنات المحبوبة والقربات (2) المطلوبة بادر إليها ورغب ما فيها رجا لوعده وخوفا (3) لوعيده إليها العبد الفقير الحقير الذليل إلى مولاه الغني (4) العزيز الكريم الأمير عبد الشكور بن الأمير يوسف (5) المرحوم عن أبيه الأمير يوسف ابن الأمير ابو (!) بكر المجاهد (6) في سبيل الله تع تجاوز الله عنه هذا وقفا صحيحا (7) شرعيا لا يباع ولا يوهب ولا يرهن ولا يورث حتى (8) يرث الله الأرض ومن عليها وانت خير الوارثين فمن بدله (9) بعد ما سمعه

47 The epithet *amīr al-mu'minīn* does not normally occur among the titles carried by the emirs of Harar.

48 Tedeschi 1974, 491. He ruled from 1747 to 1755.

49 The usual verbs *waqafa*, *habbasa* and *sabbala* are used together with the formula *waqfan ṣaḥīḥan ṣar'iyyan lā yubā' lā yūḥab la yurḥan lā yūraṭ ḥattā yariṭ Allāh al-ard wa-man 'alayhā wa-huwa ḥayr al-ḥarīṭīn* (see Qurʾān 21:89).

50 As usual, Qurʾān 2:181 is quoted to threat those who will dare to change the text of the document.

51 See Gori 2014, 23 for a description of the codex.

فانما ائمه علي الذين يدلونه ان الله (10) سميع عليهم قبل الله له وجعله خالصا لوجهه الكريم (11) الباقي الدائم امين (12) وذلك بمدينة هرر في شهر شعبان سنة ١٢٠٣ من الهجرة (13) النبوية على صاحبها افضل الصلاة والسلام

*Waqf* is one of the amiable good deeds and one of the desirable actions which bring closer to God. Therefore, the poor, humble servant, contemptible in front of his Rich, Powerful and Generous Lord, the *amīr* °Abd al-Šakūr son of the deceased *amīr* Yūsuf, in favour of his father the *amīr* Yūsuf son of the *amīr* Abū Bakr *al-muġāhid* for God's sake (may God the Highest forgive him!), rapidly desired to obtain the reward which is given for those actions, hoping in the promise of his Lord and fearing His menace. This is thus a valid and legal *waqf* which cannot be sold, donated, pledged, nor inherited until God inherits the earth and what is on it. You are the best of the Inheritors! 'If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it. Surely God hears and knows'. May God accept it and consider it as a pure action done just to obtain His eternal and everlasting favour! Amen!

This has been done in the city of Harar in the month of *ša°bān* 1203 of the prophetic *hiġra*—the best of prayers and blessings be upon the one who did it!

The *waqfiyya* has a relatively long text but lacks some of the basic legal constituents which are necessary to make the document valid: the description of the *mawqūf* (possibly the *ġuz*<sup>2</sup> [18<sup>th</sup>] of the Qur<sup>ān</sup> on which the *waqfiyya* is copied) and the appointment of a *nāzīr*.

The document is thus made up only of:

- 1) an introductory passage highlighting the religious background of the act;
- 2) the mention of the name of the *wāqif*: *amīr* °Abd al-Šakūr b. *amīr* Yūsuf (1783–1794);<sup>52</sup>
- 3) the indication of the *mawqūf labu*: the father of the *wāqif*, the deceased *amīr* Yūsuf;<sup>53</sup>
- 4) the explicit declaration of the establishment of the *waqf* which is inalienable and eternal;<sup>54</sup>
- 5) the menace of a sanction for those who change the text of the document;<sup>55</sup>
- 6) place (Harar) and date: AH *ša°bān* 1203 (October–November 1789 CE).

The sixth *waqfiyya*, in MS IES 1845 (18<sup>th</sup> *ġuz*<sup>2</sup> of the Qur<sup>ān</sup>),<sup>56</sup> f. 1r, is written in a hand which appears to be different from the rest of the manuscript. The 15-line text runs as follows:

52 *Amīr* °Abd al-Šakūr is probably one of the most renowned emirs of Harar; on him see *EAE*, I (2003), 36 (Ahmed Zekaria).

53 *Amīr* Yūsuf b. Abī Bakr ruled between 1747 and 1755 (Tedeschi 1974, 491).

54 The common formula is used: *waqfan šabīḥan šar°iyyan la yubā° la yūhab la yurḥan la yūrat ḥatta yarit° allah al-arḍ wa-man °alayha wa-huwa hayr al-wāritin* (see Qur<sup>ān</sup> 21:89).

55 The threat is expressed, as usual, quoting Qur<sup>ān</sup> 2:181.

56 For a description of the manuscript see Gori 2014, 22.



الحمد لله وسلام على عباده الذين اصطفى (2) وبعد ان الوقف من الحسنات المحبوبة (3) والقربات المطلوبة بادرت اليها ورغبت (4) لما فيها رجا لوعده رجا وخوفا لوعيده (5) الامة الفقيرة الحقيرة الذليلة لمولاهما (6) الغني العزيز الكريم جست كلثومه (7) بنت كوشم جراد المرحوم لزوجها الامير (8) عبد المنان بن الامير ابو (!) بكر المرحوم تجاوز (9) الله عنه وقفا صحيحا شرعيا محررا (10) لا يباع ولا يوهب ولا يرهن ولا يورث (11) حتى يرث الله الارض ومن عليها وانت (!) (12) خير الوارثين فمن بدله بعد ما سمعه فانما (13) اثمه على الذين يبدلونه ان الله سميع عليم (14) قبل الله له وجعله خالصا لوجهه الباقي الدائم (15) امين

Praise be to God and peace upon His servants whom he selects. *Waqf* is one of the amiable good deeds and one of the desirable actions which bring closer to God. Therefore, the poor, humble servant, contemptible in front of her Rich, Powerful and Generous Lord, *gisti* Kalṭūma daughter of the deceased *kūšim ḡarād* rapidly desired to obtain the reward which is in those actions, hoping in the promise of her Lord and fearing His menace. Therefore for her husband the *amīr* °Abd al-Mannān son of the departed *amīr* Abū Bakr (may God forgive him) established this as a valid, legal and recorded *waqf* which cannot be sold, donated, pledged nor inherited until God inherits the earth and what is on it. You are the best of the Inheritors! 'If someone alters it after having heard it, then the sin of doing so will fall upon those who alter it. Surely God hears and knows' (Qur'ān 2:181). May God accept it and consider it as a pure action done just to obtain His eternal and everlasting favour! Amen!

The relatively short text has an introductory part made up by a *ḥamdala*, a *salām* and a brief but clear explanatory phrase which makes reference to the religious basis of the *waqf* act.<sup>57</sup> The legal constituents of the *waqfiyya* are all present, except for the *maḥqūf* (possibly the *ḡuz*<sup>58</sup> [18<sup>th</sup>] of the Qur'ān on which the *waqfiyya* is copied) and the *nāzīr*:

- 1) the name of the *wāqifa*: *gisti* Kalṭūma b. *kūšim ḡarād*;<sup>58</sup>
- 2) the indication of the *maḥqūf lahu*: her husband *amīr* °Abd al-Mannān b. *amīr* Abī Bakr;<sup>59</sup>
- 3) the clear declaration that the *waqf* is inalienable and eternal;<sup>60</sup>

57 *Al-waqf min al-ḥasanāt al-maḥbūba wa-min al-qurubāt al-maṭlūba bādarat ilayhā wa-raḡibat li-mā fihā raḡā'an li-wa' d rabbihā wa-ḥawfan li-wa'idih.*

58 *Kūšim ḡarād* is the title carried by the governor of the so far not identified region of Košim (Cerulli 1942, 6–7).

59 This name does not appear in the emir lists of Harar. According to Tedeschi 1974, the *aftāl ḡarād* (governor of Zayla) °Abd al-Mannān b. *amīr* Muḥammad was the father of *amīr* Abū Bakr II (ruled from 1834 to 1852). The text of the *waqfiyya* actually reverses the parental relationship between the two.

60 The usual technical verbs are lacking but the standard formula *waqfan ṣaḥīhan ṣar' iyyan, muḥarraran* is used in which the last adjective apparently hints to the existence of a register where the deed was copied and kept. The common cluster of prohibitions *lā yubā' lā yūḥab la yurhan lā yūrat ḥattā yariṭ Allāh al-arḍ wa-man °alayhā wa-huwa ḥayr al-ḥāriṭīn* (cfr. Qur'ān 19:40 and 21:89) declares the eternal duration of the *waqf*.

- 4) menace of a sanction for those who change the text of the document;<sup>61</sup>
- 5) a final prayer and invocation of God's reward in the Hereafter.<sup>62</sup>

### Some tentative final observations

The *waqfiyyas* of books from Harar confirm the general tendency of this kind of text to show wide differences in length and structure. Moreover, all the *waqfiyyas* studied here lack some of the fundamental textual elements needed to be legally valid. They should be thus considered as simple notes written down as a reminder to invite the readers to use the manuscripts according to the rules of *waqf*. The question arises as for where the full-fledged original documents were kept as no register of *waqfiyyas* has been so far discovered in Harar.

In a comparative perspective, the *waqfiyyas* of Harar show some resemblance with the *waqfiyyas* of Lamu.<sup>63</sup> However, the similarities remain too general and vague to be taken as a hint to any possible connection between the two geographical and cultural areas.

Only further research will enable us to draw a clearer picture of the different forms of *waqfiyya* in Ethiopia and in East Africa.

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- 61 Also in this document we find the quotation of Qurʾân 2:181 as a threat to those who dare alter the text of the document.
- 62 *Qabila Allâh labu wa-ğâʿ alahu ḥâliṣa li-wağḥib al-bâqî al-dâʿim*: the invocation underlines once more the sole religious aim behind the *waqf*.
- 63 Similarities can be detected in the structure and language of the texts and in the usage of the same quotations of the Qurʾân (see Hunwick and O'Fahey 1981, passim).

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