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THE SECURITY OF WOMEN IN THE OTTOMAN EMPIRE

by

Selin H. Sancar

A Thesis Submitted to the Faculty of Graduate Studies
and Research, McGill University,
Montreal

in partial fulfillment of the requirements
of the degree of Master of Arts

Institute of Islamic Studies
McGill University
Montreal



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ABSTRACT

The issue raised in this thesis is the importance of dealing with the security of Ottoman women—from the 16th century to the *Tanzimat* (Reform) Era (1839-1876)—and the significance of this subject in understanding the Ottoman society in general. The thesis raises the point that if sources such as court records, *fetvas* (religious verdicts), and travelers' reports draw a somewhat different picture of the Ottoman woman from the popular image of the "oppressed woman," then it is important to know how this picture differs. Examination of these sources shows that they actually confirm one another from different perspectives. The thesis also explores how the metaphysical underpinnings of Ottoman society provided an atmosphere conducive to women's security. It attempts to find an answer to the underlying question, 'What motivated these women to take action?' by examining their physical, financial, and marital related security.

Résumé

Cette thèse soulève l'importance d'analyser la sécurité des femmes ottomanes, du XVIème siècle jusqu'à l'Ere *Tazimat* (l'Ere de la Réforme en 1876). Par ce procès, nous serons amenés à mieux comprendre la société ottomane en général. Etant donné que les directives religieuses, les procès-verbaux et les récits de voyageurs évoquent une image de la femme ottomane autre que celle généralement répandue de "femme opprimée", il est important d'exposer ces différences. L'étude de ces sources démontre que, bien que de perspectives variées, elles sont en accord. Cette thèse explique également comment les fondements métaphysiques de la société ottomane ont fourni un environnement propice à la sécurité des femmes. De plus, nous tenterons de répondre à la question "Qu'est-ce qui motivait ces femmes?", en examinant leur sécurité physique, financière et conjugale.

ACKNOWLEDGEMENTS

I would like to thank all the people who helped me and gave me courage to complete this thesis without whom would be impossible for me to bring it about. Above all writing it has been a life evolving process for me where I met wonderful people along the way, some professors and some dear friends have supported me just like my family. I am grateful to the Institute of Islamic Studies at McGill University for awarding the Scholarship which helped me during my studies in Montreal. The Director of our Department and my professor Dr. A. Uner Turgay was always there to support me even when I lost hope. I would like to thank all my teachers at McGill University for sharing their knowledge which definitely broadened my horizons. My family went under immeasurable sacrifices to make my studies possible, particularly my mother. I would not be able to start this without her, as she was a true friend, teacher, editor aside other things. I would also like to extend my special thanks to Professor Suraiya Faruqi who inspired me write on this topic of the security of Ottoman women through her course in Bosphorus University in Istanbul. She was also very kind to read the theses' draft and give her valuable suggestions. It is impossible to enumerate all the people and dear friends who helped me reach sources at libraries in Istanbul and North America, but their kind help will always be remembered. And last but not least I feel obliged to thank the two dear families - the Kalyoncu and the Jalabi families - who treated me as their daughter and sister and supported me through both financial and emotional means and were a shelter for me. I love them all.

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INTRODUCTION

The social history of the Ottomans, particularly the subject of Ottoman women, has attracted increasing attention in recent years. Researchers in the fields of Islamic Studies and Ottoman Studies are also focusing with growing interest on the issue of women. However, the Ottoman archives have been easily accessible to the researcher only for a few decades. There are millions of documents yet to be examined in order to reach a better understanding of pre-modern Islamic societies.¹

Various studies have focused on different aspects of the subject of Ottoman women, such as their legal rights or social status, but almost none have looked at the issue from the perspective of security. In this thesis the perspective of security is examined from an “insider’s point of view” as much as possible, which is a growing trend in various fields.² My argument is that without a deeper and more comprehensive understanding of the inner dynamics of Muslim societies, the picture will not be complete. Using the issue of women’s security in the Ottoman Empire to draw upon this less utilized approach will help us to see the reflection of these inner dynamics in the different venues of women’s actual lives. Fariba Zarinebaf-Shahr in her article, “Women, Law, and Imperial Justice in Ottoman Istanbul in the Seventeenth Century,” touches on this point when she notes that:

¹ According to the latest estimates, the *T.C. Başbakanlık Arşivi* (Turkish Republic Prime Ministry Archives), which contains many of the unclassified Ottoman documents, there are about 250 million documents of which only 70 million have been classified to date.

² In the fields of anthropology, sociology and history the long established modern approach of studying “the other” is being challenged more and more. The post-modern perception of these disciplines necessitates including more of the “insider’s look” or the point of view of the native of the topic of study. For an example, see Haim Gerber, *State, Society, and Law in Islam—Ottoman Law in Comparative Perspective* (New York: State University Press, 1994), p. 4.

[H]istorical scholarship has focused on the legal status of women contained in the Quran, the *hadis* (*hadith*), and the *şeriat* (*sharia*). This approach exposes the ideology of the *ulema* toward women that has influenced the development of Islamic law. Nevertheless, it fails to examine the relationship between law and *its perception by women* and the dynamic process of its use and application. In other words, owing to the limitation of published and available source material, *the actual lives of women*, their role in production, and their interaction with the rest of the society and the state are not being studied adequately (emphasis mine).³

Studies to Date

This inadequacy can also be traced back to the development of scholarship in this area. Fariba Zarinebaf-Shahr, who previously worked on a general “Recent English-Language Bibliography on Women in the Middle East,” gave a panorama in her latest article on the previous approach to the history of Muslim women:

This limitation has been mainly caused by the paucity of historical sources on women; but it is also the result of Western and native modernist (and Orientalist) biases regarding the history of the Middle East in general that has affected the nature of scholarship on women in the Islamic world. Although the Western feminist discourse has contributed to a general awareness of the contemporary plight of Muslim women, according to which only the fusion of Western culture through intellectual borrowing, colonialism, and modernization after the rise of nation-states brought about an improvement in the conditions of Muslim women.⁴

She goes on to explain the effects of different paradigms on the scholarship regarding Muslim women. The modernism paradigm which saw women prior to nineteenth century as backward and even primitive was an inhibition to accepting scientific findings and historical documents regarding women who lived in Islamic countries. This view awarded every advancement and development to the leadership of

³ Fariba Zarinebaf-Shahr, “Women, Law, and Imperial Justice in Ottoman Istanbul in the Late Seventeenth Century,” in Women, the Family, and Divorce Laws in Islamic History, ed. by Amira El Azhary Sonbol (Syracuse, N.Y.: Syracuse University Press, 1996), p. 90.

Western culture spreading modernism.⁵ Meanwhile if everything modern and Western was good, everything pre-modern and Eastern (or Islamic or Ottoman) must have been bad. This attitude can be seen in the following statement asserted at an academically oriented conference in 1954 regarding Muslim women:

The urban, peasant, or nomad woman, more or less confined, was the property of her husband, the family, or clan. She was never free to adapt an attitude, a wish, or an opinion opposed to or even divergent from that of her master on whom she depended. She had to be physically servile as well as mentally submissive, and she risked death in case of open revolt.

Deprived of her free will, of her personality, finding no support from the religion that placed her at one of the lower levels of humanity she ardently turned to superstition and adoration of saints. Often the village idiots, these "saints," alive or dead, possessed her pervert devotion. Be they gifts, prayers, or physical contacts with the tomb, she innovated and invented rites and duties whose performance represented a personal activity partially marginal to her master's life and which quenched her emotional thirst, her feelings of *insecurity* [emphasis mine] towards the future, and her secret fears.⁶

However, after much research this paradigm was replaced by some scholars with the rise and decline paradigm. According to this model, "the position of Muslim women improved during the early Islamic period, declined after the rise of the Abbasid state (with the exception of the Seljuk and the Mongol periods) until the nineteenth century, and improved again under the influence of Western culture."⁷ However, archival research and recent constructive studies done on Ottoman women, particularly the Imperial

⁴ Ibid.

⁵ Ibid.

⁶ Nada Tomiche, "The Situation of Egyptian Women in the First Half of the Nineteenth Century," in Beginnings Of Modernization In The Middle East / The Nineteenth Century, ed. William R. Polk and Richard L. Chambers (Chicago and London: The University of Chicago Press, 1968), pp. 175-76.

⁷ Fariba Zarinebaf-Shahr, "Women, Law, and Imperial Justice in Ottoman Istanbul in the Late Seventeenth Century," p. 81, 82. For an example of an article which argues that Muslim women lost their position for good after the first period of Islam see, John L. Esposito, "Women's Rights in Islam," Journal of Islamic Studies vol. 14 (1975) : 99-114.

Harem,⁸ have shown this view to be inadequate in explaining the position of women in Ottoman society. The latest view is that the status of Muslim women in general and Ottoman women in particular requires much more complex analysis, and that approaching the issue with biases only casts a veil on the history of Muslim women.

The current course of studies has changed direction greatly owing to the factual studies based on the *şeriat* court records (*Şerîye Sicilleri*) and other official documents such as collections of *Şikayet Defterleri* (Complaint Registers).⁹ In the articles and studies the common conclusions reached suggest that the status of women in the Ottoman State was not totally subordinate. They had free access to the courts. They could sue their husbands, male relatives or even local authorities if their rights defined by Islamic law were usurped. They even had relative financial independence that allowed them to spend their money for their own special expenses, invest in business ventures and found various kinds of *vakıfs* (pious foundations) since the system was based on the separate ownership of women's and men's property.¹⁰

These facts and some statistics regarding this subject have brought recent scholarship to the point of looking at Ottoman women as persons who were aware of their legal rights, who actively pursued their interests, and not only survived in, but also contributed to the society they belonged. This view poses the question of what instigated these women to seek their rights regardless of the obstacles they seemed to have had.

⁸ See Leslie P. Peirce, *The Imperial Harem, Women and Sovereignty in the Ottoman Empire* (New York: Oxford University Press, 1993).

⁹ *Şikayet Defterleri* (Complaint Registers) contain complaints and petitions to the sultan to remove the wrong doings of local authorities or other injustice done.

¹⁰ In this thesis the modern Turkish spelling is used for all Ottoman and Arabic words; however, in quotations the author's spelling is retained. Yet some words that have entered the English language like, "sultan," "or" "vizier" have been written without italics.

Looking from the Western perspective there appears to be logical discrepancies. On the one hand, for example, these women lived in a mainly segregated society and spent most of their time inside the house, particularly in larger cities. Yet, at the same time, they do not appear hesitant in going to the court to sue their husband if the husband refused to pay back money owing to them. Again, the religious sources talk about obedience to the husband. However, in many cases women had no problem with going to the *kadı* (Muslim judge)¹¹ and making legal contracts with their husbands, asking them to fulfil special conditions like not moving to another city or not marrying more than one wife. Examples like these project an image of women who had choices and who were generally in control of their lives.

This seemingly paradoxical behavior of Ottoman women has led researchers to try and unravel the mystery in light of the application of Islamic law. First, the argument was centered on whether or not Islamic legal rights of women were actually practiced. Recently, however, curiosity has urged researchers to find out what caused women to enjoy even further autonomy in various situations than was spelled out in the law. Ronald C. Jennings, in his well-known article regarding the women of Kayseri in the seventeenth century, tried to explain this phenomenon by the “Turkish Islam,” i.e. the Turkish interpretation and application of the *şeriat* (the Islamic law). Or in the same manner, Jennings also argued that the application of Islamic law was much more tolerant

¹¹ For more information on the *kadı*, see *Encyclopedia of Islam*, new ed. s.v. “Kâdî,” pp. 373-75, by E. Tyan, Leiden: E.J. Brill, 1978. And Ronald C. Jennings’s article, “Kadi, Court and Legal Procedure in the 17th Century Ottoman Kayseri,” *Studia Islamica* XLVIII (1978) : 133-172.

than expected.¹² But he also added that further research was needed in order to come up with a conclusive answer.

Haim Gerber also looked into this issue and tried to answer some of the related questions he had posed in his article, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700."¹³ Margaret L. Meriweather, who worked on the issue of children and women in Ottoman Aleppo, argued that the cultural ideals and patriarchal bias against women surprisingly didn't stop women from becoming a *vasi* (guardian),¹⁴ which required discretion and power.¹⁵

My main objective in this thesis is to take the already established direction of research one step further by examining not only the status of Ottoman women in relation to their security, but also by looking at the metaphysical matrix and value system in which they lived.

Why "The Security of Ottoman Women"?

Before answering this question we need to define the word "security." Secure from all forms of transgression would be the simplest way to define security in this thesis. The main areas of security to be examined are Ottoman women's being secure from physical abuse and violence, secure from material and financial exploitation by the more

¹² Ronald Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," Journal of the Economic and Social History of the Orient 18, part 1 (January 1975).

¹³ Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," International Journal of Middle East Studies 12 (Cambridge: Cambridge University Press, 1980), pp. 231-44.

¹⁴ A *vasi* (*wasî*) is the person responsible for the management of the property belonging to minor children and their maintenance until such time as the children came of age.

¹⁵ Margaret L. Meriwether, "The Rights of Children and the Responsibilities of Women--*Women as Wasis in Ottoman Aleppo, 1770-1840*," in Women, the Family, and Divorce Laws in Islamic History, ed. by Amira El Azhary Sonbol (Syracuse, NY: Syracuse University Press, 1996), p. 219.

powerful (i.e. women in Bursa standing up against the strong weavers guild) and even being secure from emotional distress. Therefore, the issue of security will be the window through which we look to understand the core principles that shaped Ottoman women's--and consequently men's--lives. It is hoped that this perspective will contribute to this already flourishing area of studies.

The issue of security has relevance to both contemporary Eastern and Western societies. We live in a time when the security of our earth, our countries, cities and even families and selves is threatened. I believe investigating the history (or herstory) of Muslim women's security will be relevant not only to Islamic Studies, but to other disciplines of social sciences such as women's studies, sociology, anthropology and even religious studies.

Why focus only on the security of Ottoman "women" instead of the security of Ottoman people in general? The answer to this would be the prevailing misconceptions and conditioning regarding women living in Muslim countries in general. The Ottoman context is a good laboratory due to its being the closest in time to contemporary Muslim women.¹⁶ Acceptance of the traditional image of the Ottoman woman as mainly being one oppressed by men, trapped behind four walls with no agency or autonomy in decision making, brands the Ottoman man, too, as her oppressor since oppression necessitates two parties. And, in this case, focusing on women instead of men to investigate this

Also see Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," International Journal of Middle East Studies 12 (1980) : 231-244.

¹⁶ As the Ottoman State was founded at the end of the thirteenth century and continued up to the first quarter of the twentieth century, the former Ottoman land becomes an interesting laboratory for studying about the social history of women. Throughout the centuries, the Ottoman dynasty and vast bureaucratic structure ruled over, besides Anatolia, many different regions of the three continents Asia, Europe and Africa. Many of today's Muslim countries like Syria, Iraq, Jordan, Egypt, Algeria down to the Sudan in Africa, and the Balkans in Europe came under the Ottoman rule for varying periods of time.

presumption seems logical, since, if the Ottoman woman was anything else than “oppressed,” this would automatically negate the image of the Ottoman man as “oppressor.” Looking at the interaction men had with their female family members like mothers, sisters, wives and daughters can aid us in reaching general conclusions.

When considering the significance of the topic of Ottoman women’s security, it is necessary to understand what lies at the roots of misconceptions about these women. It is usually thought that the idea of the completely servile woman originated from the Orientalist point of view, which went hand in hand with the era of colonialism. For the self-righteous Westerner of that time, **the other's** land was colorful and exotic, but its inhabitants were subordinate by nature. And projecting this attitude to other spheres resulted in shaping the early Orientalist’s point of view. The Eastern woman appeared exotic and beautiful, but all the more vulnerable to exploitation. This idea found expression in many eighteenth and nineteenth century paintings,¹⁷ music and literary masterpieces.¹⁸

The Orientalist view definitely played a role in shaping the image of the Muslim woman as oppressed.¹⁹ But a less obvious source for this image is found right in the contemporary Muslim world. Without realizing it, the Muslims who have internalized the colonization experience have perpetuated this image in their own writings. As a result of this internalization, the contemporary Muslim thinkers have done what they

¹⁷ *La Bain Turc* of Ingres who had an Orientalist perspective, was influenced by Montagu’s descriptions of the *hamam* or Turkish bath. It is one of the famous paintings which reflects the imagined other from the Westerner’s view. This painting of 1862 is at Musee du Louvre, Paris.

¹⁸ The different versions of the *Thousand and One Nights* by Galland, Edward William Lane or Burton gave a feeling of relief to the European audience by providing them an opposite or ‘negative’ to compare themselves with. See Billie Melman in Women’s Orients: English Women and the Middle East, 1718-1918 / Sexuality, Religion and Work (Hong Kong: MacMillan, 1992).

¹⁹ See Edward Said, Orientalism (New York: Pantheon Books, 1978).

supposedly were opposing. They have become defensive in face of the Western propaganda, which portrays the Muslim women as servile and weak. The Muslim intellectuals rejected the Western notion of the liberated Western woman's superiority over the servile and powerless Eastern woman. They occupied themselves trying to prove that Western women were morally corrupt, and it was argued that the stereotypical Muslim woman was superior to the so-called liberated Western woman because she was virtuous. Thus, interestingly enough, the assumption of the Eastern woman being servile and powerless persisted. Islam was the religion that had given women all her real rights; therefore, there was no problem of oppression for Muslim women like their Western sisters. Of course, by saying this, Muslims had become defensive regarding the servile image of the Eastern woman, and they had not asked if those rights were still actually being practiced or not. They had started to see the world from the Westerners' eyes, even though this was a reaction to the imposed image of the so-called liberated and active Western woman.

In reality Muslim women, as seen in the Ottoman case, were neither "liberated" in the Western sense of the word, nor "servile" to men as has been incorrectly perceived. Looking at the "security of Ottoman women" provides ample example of how the Ottoman woman saw herself and how far she was from the two poles of the argument.

This situation necessitates using a holistic approach to examine the security of women. The topic requires the investigation of both the physical data on the security of Ottoman women and also an understanding of the metaphysical principles underlying their world-view. In other words, it both requires the inclusion of analysis from the legal

and social perspective and demands the understanding of the metaphysical basis for female-male relationship in the Ottoman society and Islam.

Looking at the mystical and metaphysical concepts of the female-male relationship in Sufism or *tasavvuf* will provide us with the metaphysical aspect. I believe this glance at *tasavvuf* will give insight and make it easier to understand the principles that prevailed in the practical lives of Ottoman women. *Tasavvuf* affected a wide circle of people in the Ottoman Empire from the sultan and top administrative groups to the lower strata of the society. As it influenced the development of Ottoman music and poetry to a great extent, its effects can not be ignored in the area of social ideas and practices. For instance, the “principle of balance” between the sexes and the male and female principle could be seen in all levels of the society. The principle of balance was not the invention of the Ottomans to be sure, but they were one of the most loyal followers who practiced and even developed it at many levels from administration²⁰ to family life. With the help of this glance at the mystical dimension of Islam, I intend to bring out the underlying principles shaping the norms for security in the Ottoman society.

Scope of Thesis

The women under investigation are not restricted to the Muslim population living under Ottoman rule as women were not a homogeneous group. Women from different ethnic groups, cultures and religions were referred to as Ottoman women. However, the main law, which prevailed over the majority of these women, was Islamic Law (*şeriat*).

²⁰See The Ottoman Empire / The Classical Age 1300-1600 in which Ottoman historian Halil İnalcık demonstrates that this system of checks and balances of power was the main principle adhered to by the

Even though members of each major religious group could use their own courts,²¹ the court records (*şeriye sicilleri*) containing rulings of Muslim judges are full of cases where parties are non-Muslims who chose the *şeri* court. Therefore, I intend to include non-Muslim Ottoman women within the scope of my thesis as well. The fact that they lived on land of the same state gives enough common ground to include them. However, the works done to date mostly deal with Muslim women and this thesis' focal group will also be Muslim women.

The time period under study starts from the sixteenth century up until the Tanzimat Era²² in the first half of the nineteenth century. The period is kept quite broad due to the lack of secondary sources on the topic of women's security in the Ottoman Empire. Documentation on women's lives, or any other Ottomans' lives for that matter, seems to be more difficult to obtain before the sixteenth century. This is a relatively long period of time, but my aim is to reach as many sources as possible regarding women's security.

The thesis does not aim to focus on one particular class of women. The assumption is that the principles defining the issue of security ought to have similarities at all the levels of society. Thus while including women of the imperial harem or harems of the elite, on the one hand, women from middle-class households and the lower classes

sovereign (sultan). This principle can be traced back to the earlier Middle Eastern States and it greatly contributed to the longevity of the Ottoman dynasty.

²¹ Under the Ottoman rule each major religious group was able to attend its own courts where judges from their own religion or sect sat at the hearings. Nonetheless, Jennings mentions many cases where non-Muslims and particularly women used the *şeriat* courts to resolve their disputes finding it more expedient in matters of family law and inheritance. See Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640 (New York and London: New York University Press, 1993).

²² The Tanzimat Era of Reform in the Ottoman Empire started with the announcement of the "*Gülhane Hatt-ı Hümayunu*" in 1839.

will be considered as well. Even though the attitudes and roles of women differ greatly, it is still possible to look at common patterns. Slave women will not be included in this thesis because laws regarding slaves are of a particular nature and would require a specialized study.

As for the range of security, it should be noted that women's security while travelling or the history of crime is not dealt with in this work. Even though a few cases dealing with homicide and assault are included, it would take a more specific study on crime and the circumstances of each individual era to reach generalizations; thus, it is beyond the scope of this thesis.²³

Sources

The sources used are quite diverse but they can be put into three main categories. The first group consists of court records, the second the *fetvas* (religious verdicts) and the third, traveller's accounts. The variety of the sources gives the researcher a more holistic understanding. For instance, while examining the *fetvas* provides the religious bottom line and also the formal point of view, studying the travellers' reports gives an idea on how the image of Ottoman women appeared to an outsider. Our most reliable sources, the court records and other official documents, are reflections of real women's lives. A woman who wanted to complain about the wrongdoing of the authorities could apply to

²³ Karen Barkey, while giving an overview of the Ottoman state and society's relations between the fifteenth and nineteenth centuries in her book *Bandits and Bureaucrats*, discusses how the challenge to the state came in the form of banditry instead of peasant or elite rebellions in the seventeenth century. Many different factors affected the rise of criminal cases in general and also crimes committed against women. Thus see, Barkey, *Bandits and Bureaucrats/The Ottoman Route to State Centralization* (Ithaca and London: Cornell University Press, 1994) and Suraiya Faroqhi, *Coping With the State/ Political Conflict and Crime in the Ottoman Empire 1550-1720* (Istanbul: The ISIS Press, 1995). As well, to understand the development and structure of the law in the Ottoman Empire regarding criminal cases, see, Uriel Heyd.

the court and her application called *arz-ı hal* (written petition) would become a part of the *Şikayet Defterleri* (complaint registers). If she wanted to have a stronger edge she could obtain a *fetva* from the *Şeyhülislam* or local *müftü*.²⁴ The answer to her petition or pledge could be in the form of a *ferman* (sultanic verdict) or *hüküm* (order of the sultan) or *Hatt-ı Hümayun* (written decision of the sultan). *Kanunnames*²⁵ were sent to the officials to convey the order of the sultan and “especially toward the end of the sixteenth century, quite a few rescripts were issued which dealt with the redressing of injustices”²⁶ that were known as *adaletnames*. Records of pious foundations are also a good source of information regarding women who worked for or established a *vakıf*. In general, documentation was given importance at most levels. Jennings stated:

Great importance was given to having accurate written records. The court had its own official record book, where all of the deliberations were entered in detail, along with verbatim copies of all official correspondence reaching the court....Copies of cases heard at the court were frequently used by local people.²⁷

If a woman wished to get into any kind of contract she would go and register with the court in which case we can see the method she preferred to secure her rights. Or in the case of a death, the *kadı* supervised the division of an inheritance when the heirs asked him in order to avoid any future conflict. The *kadı sicils* (the Muslim judge’s registers) are also particularly helpful since it was also the duty of the *kadı* to step in whenever the interests of minor children or helpless women were concerned. “In such cases a list of the deceased’s possessions was inscribed in the *sicil*, and also a list of the

Studies in Old Ottoman Criminal Law, ed. V. L. Ménage (London: Oxford University Press, 1973).

²⁴ The *şeyhülislâm* was the holder of the highest office regarding religious affairs, and he was the head of the hierarchy of the *ulema*. The *müftü* is a specialist in the interpretation of the *şeriat*.

²⁵ *Kanunnames* are collections of Sultanic decrees that constitute the law in addition to the *şeriat*.

²⁶ Suraiya Faroqhi, “Rural Society, I,” *Turcica* IX (1977): 167.

²⁷ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-*

heirs specifying their relationship to the deceased.”²⁸ Obtaining some examples of these from the T.C. Başbakanlık Arşivi (Republic of Turkey Prime Ministry Archives) has helped to get first-hand tangible proof of how the security issue was handled.

1640 (New York and London: New York University Press, 1993), p. 104.

²⁸ Suraiya Faroqhi, “Rural Society, I,” Turcica IX (1977) : 167.

CHAPTER I

THE METAPHYSICAL DIMENSION

OF OTTOMAN WOMEN'S SECURITY

In order to understand a society more fully, to understand the “logic” behind the actions of men and women living in that society, it is first necessary to comprehend the underlying metaphysical principles. If we examine a culture from such an “insider’s” perspective, our observations and conclusions should become both more accurate and meaningful. Understanding the metaphysical foundation of Ottoman society will also help illuminate the ideological or intellectual inclinations of the Ottomans and will give us important hints as to how women saw the issue of security. How did they relate to the society they lived in? According to their ideals, what were their expectations of themselves? Through our attempt to answer these questions we are hoping to give a little more of the “insider’s look” which Gerber pointed to. This will be possible by giving some attention to the less visible aspects of their lives, the inspiration for their actions. In this case, the mystical dimension of Islam, *tasavvuf*,²⁹ seems to present a rich source of information to draw some conclusions from.

²⁹ *Tasavvuf* is also known as “sufism.” While the *şeriat* comprises the legalistic aspect of religion pointing at the legal implications of living in this world, *tasavvuf* deals with the essence of the micro and macro-cosmos in order to know what the human being is and how it can be developed to reach its fullest potential. In other words, while the *şeriat* tells the believer what to do and what not to do, *tasavvuf* seeks the reasons why. It is not separate from the law, but it is the essence or spirit of the religion, which was relayed through the sapiential tradition of Muslim scholars and teachers throughout the centuries. This mystic understanding of the universe was found in all major religions. For more information on Sufism in the Ottoman land please see the collection of articles in *The Dervish Lodge-Architecture, Art, and Sufism in Ottoman Turkey*, edited by Raymond Lifchez (Berkeley, Los Angeles, Oxford: University of California Press, 1992). For the insider’s perspective of an Ottoman Sufi on the topic see Cemal Kafadar, “Self and Others: The Diary of a Dervish in Seventeenth-Century Istanbul/ First-Person Narrative in Ottoman

There must be many different reasons for the Ottoman women participating in the courts in a relatively active manner. There have been various explanations as to what has encouraged these women to engage in agreements or demand the fulfilment of their marital or property rights even though they lived in a society where patriarchy was prevalent. For example, Meriweather stressed this point and found it interesting that regardless of the patriarchal structure, the Ottoman women under her study did take important legal responsibilities. One of the many ways to make sense of this situation is to look at the belief and value system of Ottoman women. Here, our major concern in doing this is to explain how Ottoman women's perception of security was consistent in itself.

The Feminine and Masculine Principles

In Islamic mysticism (*tasavvuf*), like in other mystical world-views, the whole universe is perceived as the *tecilli* (manifestation) of the One Creator, Allah. From this perspective everything is seen as One in its essence. It is believed that even though the different attributes of Allah have affected every being and determined their unique nature in this world, still they all stem from the same Creator. The aim of each being is to evolve by perfecting its attributes in order to unite with Allah. Therefore, the more evolved the person is, the greater the closeness to Allah is attained.

On the other hand, according to *tasavvuf* everything is brought about in this world through duality and the relationship of the two opposite poles, in contrast to the Oneness of Allah. The feminine *yin* and masculine *yang* principles of Taoism have their

Literature," *Studia Islamica* 69 (1989): 121-50.

counterparts in Islamic mysticism as the *cemal* and *celal* attributes of Allah.³⁰ The *cemal* attributes are the yin (feminine principle) attributes of Allah and they are reflected in each human being as love, beauty, kindness, delicacy, mercy, patience, nurturing, healing and receptivity. In general, women reflect these attributes more than men, as they were sent to this world as a manifestation of Allah's *cemal* attributes. The *celal* attributes, on the other hand, are the yang (masculine principle) attributes of Allah and they can be seen as power, strength, courage, justice, dignity, majesty and activity. They can be found in all human beings but men manifest them more. However, no matter what inclination one might have, it is believed that the state of balance between the feminine and masculine attributes is the ideal to aspire to. The person who attains this balance in her/himself is referred to as *insan-ı kâmil* (the complete, perfected and mature human).³¹ Taking Allah and His Prophet Muhammed as models of balanced attributes is described as "being garbed with the *ahlâk* (virtues) of Allah." A person who follows this model is believed to become more complete and thus closer to Allah.

Even though a woman is thought to be the reflection of Allah's *cemal* attributes, she also carries the male attributes in herself. Her male attributes must be strengthened if they are underdeveloped. Being beautiful, kind, merciful, loving and forgiving (natural feminine attributes) is not enough. She should not be silent in face of injustice, either.³²

³⁰ Sachiko Murata, The Tao of Islam / A Sourcebook on Gender Relations in Islamic Thought (Albany: State University of New York Press, 1992), p. 9.

³¹ Seyyid Hossein Nasr, An Introduction To Islamic Cosmological Doctrines (Albany: State University of New York Press, 1993), p. 163.

³² Sura Tauba, verse 23 and 24 from the Qur'an provide a basis for this understanding: "O ye who believe! Take not for protectors your fathers and your brothers if they love Infidelity above Faith: If any of you do so, they do wrong. Say: If it be that your fathers, your sons, your brothers, your mates, or your kindred; the wealth that ye have gained; the commerce in which ye fear a decline; or the dwellings in which ye delight--are dearer to you than God, or his Apostle, or the striving in his cause;--then wait until God brings about his decision: and God guides not the rebellious." See: The Holy Qur'an/ Text, Translation and Commentary

She must be brave, strong, fearless, and active when confronted with difficulties in life. In this way, by balancing her nature and fearing nothing else but God, she is thought to be closer to the ideal human being. In the same manner, the man who is generally strong, ambitious, restless, active, and commanding is expected to show mercy, help the needy, make sacrifice, be patient and forgiving and show humility and love. And through attaining the female principle's attributes he will be following closer the perfect human being's (*insan-ı kâmil*) example, which was crystallized in the character of the Prophet Muhammed (peace be upon him). Each woman or man who knows that they carry a spark from Allah's spirit and that their spirit has no particular sex, aims at getting closer to the Source through *tekâmül* (evolution). *Tekâmül* or the state of being *kâmil* (whole and complete) is sought both in the unity of the man and woman on the physical plane and also by internally developing and harmonizing each person's own feminine and masculine attributes. Thus, once the person is able to attain this inner balance, she or he finds balance in her/his surroundings.³³

Looking at the Ottoman society, it is not possible to say that the whole society was living in synchronization with *tasavvuf*; nonetheless, it is evident that *tasavvuf* had a great impact at all levels. This metaphysical understanding of Islam was reflected in many aspects of the Ottoman's lives. The notion of balance was not a nebulous philosophical

by Abdullah Yusuf Ali (Washington, DC: The American International Printing Company, 1946), pp. 444, 445.

³³ According to the mystics, even the Prophet Muhammed's (pbuh) being the last prophet can be viewed from the same perspective of balance. As the Prophet Moses (pbuh) represents the masculine principle and brought the Ten Commandments to the Jewish people, the Prophet Jesus (pbuh) is perceived as the messenger of Allah who established the feminine principle of love, mercy and forgiveness. Thus the last prophet, Muhammed (pbuh), is believed to bring into balance these two principles by fully manifesting *cemal* and *celal* attributes together, thereby completing religion.

tenet, but a fundamental principle that was manifested practically in Ottoman men and women's daily lives.

This understanding was an integral part of palace life as can be seen in various aspects, particularly the poetry of the sultans. Among literally hundreds and thousands of poems the sultans themselves wrote, many carry the notion of humility and surrender felt in the presence of Allah, the All-Powerful. The fact that they were occupied with poetry to such an extent, much like other Eastern rulers, is an indication of their balancing themselves through attaining feminine attributes. Without understanding the metaphysical principle of balance, it would be difficult to believe that the humility and submission apparent in the poems have stemmed from the hearts of the most powerful rulers of their time.³⁴

³⁴ An example of this is the lyrics (*güfte*) of an *ırak ilahî* (religious hymn) by Sultan Murad III. This hymn is in the Library of the British Museum among the Turkish Writings Catalogue (Sloane-3114)-under Ali Ufkî Bey's Turkish Songs (*Mecmuây-ı Sâz ü Söz*). See the cassette *Uyan Ey Gözlerim*, directed by Ruhi Ayangil (Istanbul: İnkılâb Ltd, 1990).

Uyan ey gözlerim gafletten uyan
Uyan uykusu çok gözlerim uyan
Azrail'in kasdı canadır inan
Uyan uykusu çok gözlerim uyan

Awaken, oh my eyes, awaken from your heedlessness
Wake up, my drowsy eyes, wake up
Azrail is after your life, believe me
Wake up, my drowsy eyes, wake up

Seherde uyanırlar cümle kuşlar
Dillu dillerince tesbihe başlar
Uyanırlar hep dağlar taşlar ağaçlar
Uyan ey gözlerim gafletten uyan
Uyan uykusu çok gözlerim uyan

At dawn all birds awaken
And start chanting in their own tongue
All trees, rocks and mountains wake up as well
Awaken oh my eyes, awaken from your heedless sleep
Wake up, my drowsy eyes, wake up

Bu dünya fânidir sakın aldanma
Mağrur olup tac ü tahta dayanma
Yedi iklim benim deyu güvenme
Uyan ey gözlerim gafletten uyan
Uyan uykusu çok gözlerim uyan

This world is ever passing, beware and don't be fooled
Don't be proud and rely on your throne and crown
Don't trust that the world is yours
Awaken oh my eyes, awaken from your heedless sleep
Wake up, my drowsy eyes, wake up

Benim Murad kulun, suçumu aîfet
Suçum bağışlayub günahım ref'et
Resûlün sancağı dibinde haşret
Uyan gözlerim gafletten uyan
Uyan uykusu çok gözlerim uyan

It's me, your servant Murad, forgive my crime
Forgiving my crime, pardon my sins
Resurrect me beneath the flag of your Messenger
Awaken, oh my eyes, awaken from your heedlessness
Wake up, my drowsy eyes, wake up

At the level of the *reaya*³⁵ the influence of *tasavvuf* can be seen in the folk tales or stories of wisdom and *aşık geleneği*.³⁶ The *tekkes* (dervish lodges) and *zaviyes*³⁷ (dervish hostels) played an important role in the establishment of Turkish Muslim Anatolia. The traditional Turkish historians like Neşrî tell how the Turks came to Anatolia through a sign of the renowned Central Asian sheik, Khodja Ahmed Yesevi.³⁸ The *ahî teşkilâtı*³⁹ is a social institution where *tasavvuf*'s role was quite pronounced.

Tasavvuf permeated Ottoman culture; it was interwoven with it from the very founding of the empire as is signified by Osman Gazi's dream. According to legend,

³⁵ *Reâyâ* are the tax-paying subjects in the Ottoman Empire, as distinct from the ruling military class.

³⁶ The tradition of reciting poetry accompanied by playing the traditional string instrument, the *saz*. This was done by the *aşık* who would either sing other's poems or his own poetry. This way of singing poetry goes back to before the acceptance of Islam by Turkish people. However the name *aşık* which means "the one in love" was used after the XVth century. This attribute was used by the *tekke* poets to distinguish themselves from the non-religious *saz*-poets. The meaning has generally been perceived as *Hak aşığı*, the one in love with Allah, which has a direct connection with *tasavvuf*. The most famous *aşık* in Anatolia is no doubt Yunus Emre. For more information see *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* vol. 3, s.v. "Aşık" by Nurettin Albayrak (İstanbul, 1991).

³⁷ The *zaviyes* played a central role in the Turkish settlement of Anatolia because Turkish groups came to live around the *tekke* and *zaviyes*.

³⁸ Khodja Ahmed Yesevî is known as the "founder of Turkish *tasavvuf*." He is the *mureed* (student and follower) of Sheikh Yûsuf Hemedânî who was a hadith (traditions of the Prophet) scholar well versed in the *şer'î* sciences. Ahmed Yesevî spread the religious and ethical principles with a plain language to the public and had a vast impact on the Turkic people in his century and centuries to come. As the famous tradition goes: "Sultân Hoca Ahmed Yesevî Hazretleri had a wooden sword. He brought it and girded it on to Sultan Hacı Bektaş Velîyyü'l-Horasanî by reciting *tekbîr* (saying 'Allah u Akbar). And also there was a burnt *od* (ember) from a mulberry tree. He grasped a branch and threw it towards Rûm (Anatolia) and said, "this branch is thrown to make it known that a man is sent from Horasan to Rûm and so they catch it from Rûm." While that branch was passing by there was a man in Konya called Sultan Hoca Fakih. He caught the ember and planted the stub of it in front of his cell. With the might of God (*Kudret-i İlâhî*) that branch grew and sprouted. Its top was burned, but its bottom was mulberry; it gives fruit to this day. Later that night Sultan Hacım and Hacı Bektaş Veli slept on their prayer rugs and a voice came from the Unseen, "Do not procrastinate, reach the land of Rûm." For this tradition and more information see *Büyük Türk Klasikleri* vol. 1, s.v. Onüç ve Ondördüncü Yüzyıllarda Türk Dünyası/Veliler ve Gâziler by Doç. Dr. A. Bican Ercilasun (Ötüken-Söğüt: İstanbul, 1985).

³⁹ *Ahî teşkilâtı* or the fraternity of Anatolian dervishes (guildsmen) played an important role in the foundation and longevity of the Ottoman State.

Osman Gazi saw a dream⁴⁰ that was interpreted by Sheik Edebâli (d. 726/1326) as a sign that Osman would found a world state.

The Middle-Eastern tradition of state rule conformed to the philosophy of *tasavvuf* as well. Just as God maintains balance between the cosmic male and female principles in the universe and is the bestower of divine justice, the sultan, as representative of God on earth, was responsible for maintaining balance between the administering *askerî* class (male principle in society) and the *reaya* (female principle in society). It was the sultan's duty as well to establish justice in his realm. The *kadı* who was, in turn, the representative of the sultan was responsible for maintaining balance and justice on the level of individuals. An example of how this worked can be seen in the attitude of the state toward the taxation of the *reaya*. Rather than an oppressive attitude toward the weaker and more vulnerable class of society, the Ottomans had the notion of being supportive and protective of them. Halil Inalcık explains:

The protection of the peasantry as a source of tax revenue was a traditional policy of the near-eastern state, and one which encouraged an attitude of tolerance. Income from the poll-tax *haraç*, formed a large portion of Ottoman state revenue of the early Islamic caliphate.⁴¹

⁴⁰ Osman Gazi's dream is very well known in the Turkish tradition even today. According to famous Ottoman historian Âşıkpaşazâde (d.889-1484) and other sources Osman Gazi would regularly visit Sheikh Edebâli's *zaviye* (dervish hospice accommodating travellers) to consult him and be in his circle. One night when Osman Gazi was staying at Edebâli's *zaviye* he saw a dream. In that dream he saw the moon from the sheik's chest entering his own chest and at the same time a tree sprung from his belly. After that he saw that the shade of this tree spread all around the world and that mountains were under this tree where water springs came forth also. When Osman Gazi told his dream to the Sheikh, Edebâli said, "Hak Teâlâ (Allah) gave you and your generation *padişahlık* (sovereignty). Mübarek olsun (May it be blessed and auspicious). My daughter Malhun Hatun became your wife (*helâlin oldu*).” Upon this interpretation Osman Gazi got married with Malhun Hatun. In some sources this name is recited as Mal Hatun and in some others Rabia Hatun. For more information see *Türkiye Diyanet Vakfı İslâm Ansiklopedisi* vol. 10, s.v. "Edibâli" by Kâmil Şahin. (Istanbul, 1994).

⁴¹ Halil Inalcık, *The Ottoman Empire / The Classical Age 1300-1600*, Second Impression (London: Butler and Tanner Ltd., 1995), p. 7.

The principle of balance was also reflected in Ottoman arts and architecture. Looking at the Ottoman mosques, the balance can be seen in the symbolism expressed through the shapes and forms of the buildings. In the mosques, for instance, keeping harmony and balance between the dome (round feminine form) and minaret (vertical masculine form) was important; neither form overpowered the other. This balance is particularly prominent in Ottoman classical masterpiece works like the Selimiye Mosque in Edirne and the Sultan Ahmet Mosque (The Blue Mosque) in Istanbul.

Although Ottoman women generally did not actively participate in public life and when they did so they veiled themselves, still the presence of the feminine principle in the public realm was very strong. The feminine attribute of beauty, for example, was prevalent everywhere in Ottoman society. Ornamentation and artistic detail were not only a part of public buildings and palace life, but they could be found on the most common of objects like drinking cups, sofa covers, wooden spoons, towels, and even the undergarments of rich and poor alike. The value of the ornamentation (ie. fabrics, jewel stones) was more costly among the rich, but beauty was definitely not a monopoly of the wealthy. Art and beauty were an integral part of public and private daily life.

*Vakıfs*⁴² are one of the most distinguishing characteristics of Ottoman society. They were interwoven with Ottoman daily life. There were *vakıfs* for establishing various public works such as schools, hospitals, mosques, libraries, food kitchens, public baths, roads, fountains, etc. There were also more uncommon *vakıfs* like those set up to feed

⁴² Wakf (or 'vakıf' in Turkish) means pious foundation. For more information see, Ronald C. Jennings, "Pious Foundations in the Society and Economy of Ottoman Trabzon, 1565-1640," *JESHO* 33 Part III (October 1990) : 271-336. Also see *Tarihimizde Vakıf Kuran Kadınlar / Deeds of Trust of the Sultans Womenfolk*, ed. Tülay Duran (İstanbul: Tarihi Araştırmalar ve Dokümantasyon Merkezleri Kurma ve Geliştirme Vakfı, 1990).

hungry cats and dogs or those set up to pay for the candles of medrese students. One unique example among thousands is the “Maraj-e Akhzar” *vakıf* that consisted of grazing pasture in Damascus for horses who had out-lived their productivity; in other words, it was a resthome for old horses where the animals were taken care of until they died.⁴³ The *vakıfs* are a prominent aspect of Ottoman society wherein we can see the female attributes of compassion, kindness, sacrifice, nurturing, healing, and love and concern for others vividly demonstrated.

When we look at actual Ottoman women, we find relatively balanced human beings rather than the weak, passive, vulnerable female stereotype fantasized by Orientalists and apologists of our present time. Ottoman women had developed the masculine principle within themselves although they were physically very feminine. The *valide* sultans (mothers of the sultans) and *saraylı* women’s *dirayet* (power in decision making) is a good example of this. Leslie Peirce looks at this issue in her article concerning Ottoman royal women and their exercise of power. It is surprising to see that the palace women, contrary to popular belief, were very much capable of administering the imperial harem and, if necessary, the empire. A number of *valide* sultans ruled in place of their sons who for reasons of adolescence or illness were not able to rule for themselves. Peirce indicates the breadth of the *valide* sultan’s power:

Women could and did play key roles in all of these sovereign functions. In the first half of the seventeenth century, when queen mothers frequently acted as regents for their minor or emotionally disturbed sons, virtually the only sultanic prerogative inaccessible to them was personal command of the Ottoman military.⁴⁴

⁴³ Mustafa Al Siba’i, Some Glittering Aspects of The Islamic Civilization (Delhi: Hindustan Publications, 1983), p. 140.

⁴⁴ Leslie P. Peirce, The Imperial Harem, Women and Sovereignty in the Ottoman Empire, p. x.

Also the *valide* sultans and other royal women used their enormous wealth mostly for the benefit of the people, thus representing the munificence of the just masculine principle. They founded many *vakıfs* and were responsible for the construction of many monumental buildings and public works.⁴⁵ Thus, in the eyes of the people these royal women were symbols of power and munificence just as the sultan was. They were also highly respected by the people as can be seen from the funeral of Sultan Murad III's mother Nurbanu Sultan. According to Peirce:

Contrary to the custom by which the sultan remained in the palace during a funeral, Murad accompanied his mother's coffin on foot, weeping as he walked, to the mosque of Mehmed the Conqueror, where funeral prayers were said. The choice of the Conqueror's mosque, the most distant of the sultanic mosques from the imperial palace, ensured both a maximum number of bystanders' prayers for Nurbanu's soul and maximum appreciation by the capital's residents of this display of royal piety and respect for the *valide sultan*. According to the historian Selanikî, the "whole world" crowded into the mosque for funeral prayers. For forty days high-ranking statesmen and religious officials were required to pay their respects at the *valide sultan*'s tomb, while the Qur'an was read continuously.⁴⁶

Not only were the royal women capable of displaying balance in their persons, but common women were able to as well. The findings generally indicate that they were not servile and oppressed as has often been claimed. The court records provide overwhelming evidence of this. Ottoman women in general did not hesitate to take even their husbands or fathers to court whenever there was a violation of their rights given to them by the *şeriat*. The court records examined to date contain thousands of cases of women taking their complaints to the *kadı* in search of justice. In situations when they

⁴⁵ See Ülkü Bates, "Women as Patrons of Architecture in Turkey" in *Women in the Muslim World*, ed. Lois Beck and Nikki Keddie (Cambridge, Massachusetts – London, England: Harvard University Press, 1978), pp. 245-260 and *Tarihimizde Vakıf Kuran Kadınlar / Deeds of Trust of the Sultans Womenfolk*, ed. Tülay Duran (Istanbul: Tarihi Araştırmalar ve Dokümantasyon Merkezleri Kurma ve Geliştirme Vakfı, 1990).

⁴⁶ Leslie P. Peirce, *The Imperial Harem, Women and Sovereignty in the Ottoman Empire*, p. 189.

were unable to obtain their rights from the *kadı*, they even petitioned the sultan. Numerous examples will be given in the next two chapters.

The Notion of Hierarchy

Another important metaphysical principle underlying Ottoman society was the principle of hierarchy. According to Islamic metaphysics as expressed in *tasavvuf*, God was a Hidden Treasure and wanted to be known.⁴⁷ In the Divine Essence the male and female attributes are undifferentiated, but by means of polarization they became distinct in creation. The first created thing was the Universal Spirit (active masculine principle) and then, secondly, the Universal Soul (receptive feminine principle).⁴⁸ Since on the physical plane the human male represents the Universal Spirit and the human female the Universal Soul, the male has an ontological priority in the cosmic hierarchy.⁴⁹ That is the meaning behind the Quranic verse:

And women shall have rights
Similar to the rights
Against them, according
To what is equitable;
But men have a degree
(Of advantage) over them.⁵⁰
2:228

This ontological priority should not be construed as innate male superiority. Rather it is a role of distinction that carries both rights and responsibilities with it. It is always the duty of any individual to protect those below him/her in the hierarchy and to

⁴⁷ Sachiko Murata, The Tao of Islam / A Sourcebook On Gender Relationships In Islamic Thought, pp.9-10.

⁴⁸ Seyyed Hossein Nasr, An Introduction To Islamic Cosmological Doctrines (Albany: State University of New York Press, 1993), pp. 55-57.

⁴⁹ Sachiko Murata, The Tao of Islam, p. 179.

⁵⁰ The Holy Qur'an / Translation and Commentary by A. Yusuf Ali (Washington D.C.: The American

stand up for their rights. If the rights of those lower in the hierarchy are violated, then blind obedience cannot be expected. It is the natural right of the injured party to seek redress. Also the ontological priority does not always fall to men. Parallel to the male/female dichotomy, there is an elder/younger dichotomy. In Ottoman society we can find many examples of this. Although a woman's husband had a degree of ontological priority over her, she had priority over her children, including her sons. Thus we find the Ottoman Sultan bowing to only one person in the empire – his mother, the *Valide* Sultan. Uzunçarşılı's account of the *valide* procession of Selim III's mother shows the degree of deference shown to the royal mother:

The *valide*'s procession entered through the Bab-ı Hümayun, and when it came to the imperial bakery Sultan Selim came to meet his mother and gave her the oriental salute (*temenna*) three times and kissed his mother's hand through the window of the carriage, which was open on the right side, and fell in front of her and took her to the imperial harem.⁵¹

This exalted position of elderly women in the social hierarchy is pointed out by Peirce:

The junior generation was subordinated not only to elder males but also, and sometimes principally, to "post-sexual" female elders. Not only were elder women freed from many of the restrictions of female seclusion, but they also enjoyed the respect of males. A major error in the modern critique of royal women's power is the failure to recognize the distinction between female generations.⁵²

The younger always showed deference to the older. A good example of this is the strong authority of the mother-in-law in her son's home. Even among the children in a family, the elder child had a degree of priority over the younger, regardless of gender. The elder

International Printing Co. 1946), p. 90.

⁵¹ Fanny Davis, *The Ottoman Lady / A Social History from 1718 to 1918* (Westport: Greenwood Press, 1986), p. 10.

⁵² Leslie P. Peirce, *The Imperial Harem. Women and Sovereignty in the Ottoman Empire*, p. ix.

child commanded respect from younger siblings, but was responsible for their well-being, too.

In addition to a male/female and elder/younger dichotomy, there was also a stronger/weaker dichotomy for which the same rules hold true. For example, the two main social classes in the Ottoman society were the ruling elite, composed of the *askerî* (men of the sword) and the *ilmiyye* (men of the pen), and the *reaya* (composed of tradesmen and the peasantry). The stronger ruling class, which was higher in the social hierarchy, was expected to guide and protect the weaker *reaya*, while the *reaya* were expected to submit to the rule of the elite. In case of any violations of their rights, however, the *reaya* had recourse to the *kadı* and if they did not receive justice at his hands, then they could petition the sultan directly.

Haim Gerber's findings provide a good example of how the social dichotomies based on the principle of hierarchy worked. Gerber compared Debbağzade Numan's collection of one hundred and forty documents with a study done by Mary-Baumgartner on the functioning of the courts in colonial New England. Gerber points at Baumgartner's finding that the upper classes in the New Haven society used the courts to establish their domination over the lower classes. The aristocrats initiated most cases. In turn, Gerber examined court records in the 18th century Ottoman society. He looked at five different groups of people: the *askerî*, the *ulema*, ordinary male Muslims, women and non-Muslims. The outcome of this study was quite interesting:

Women won seventeen of twenty-two cases against men; non-Muslims won seven of eight cases against Muslims; commoners won six of eight cases against the *askerîs*. Only in the category of commoners against religious doctors do we find a tie of ten cases each. Thus the *sharî'a* court in the area under study cannot be said to have been a tool of the upper class. On the contrary, it seems more

proper to view it as a means for people of the lower classes to defend themselves against possible encroachments by the elite.⁵³

Jennings' findings in his study of Cyprus corroborate this view:

Similarly kadis protected the rights of non-Muslims as so that they were able to function effectively on Cyprus during the period studied. As has been demonstrated previously, non-Muslims relied on the courts frequently even for matters involving their co-religionists.⁵⁴

Although the sultan was at the apex of the social hierarchy, even he had to be just to his subjects because his legitimacy was based on the same principle. The relationship between the *kadi* and the sultan is of interest to our argument. Relatively recent arguments questioning the notion of Weberian "*kadi* justice" have brought to light the fact that the *kadi*, as the sultan's servant, was normally not interfered with by the sultan in the decisions he made. The Weberian school, which dominated the area of scholarship for a long time, had concluded that the sultan was all-powerful and ruled at will or whim. Latest research, based on case studies, on the actual application of the law in the Ottoman Empire has proven that these assumptions are unfounded. Jennings gives a good example:

Even when the Porte sent out agents to confiscate the property of *celalîs*, some of which was thought to be held by their relatives in Kayseri, the investigation had to be cleared through the court. If the agents did not prove to the kadi, for example, that a mother and daughter had been in correspondence with their rebel husbands and some of their property, nothing could be confiscated from the women.⁵⁵

⁵³ Haim Gerber, State, Society, and Law in Islam--Ottoman Law in Comparative Perspective (Albany: State University of New York, 1994), pp. 56-57.

⁵⁴ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640 (New York and London: New York University Press, 1993), pp. 75, 76.

⁵⁵ R. C. Jennings, "Limitations of the Judicial Powers of the Kadi" in Studia Islamica L (Paris: G.-P. Maisonneuve-Larose, 1979), p. 153.

The metaphysical basis behind the social structure of the Ottoman society is not only illuminating for our understanding of Ottoman women, but also the Ottoman society and Islamic society in general. Yet it should be kept in mind that this analysis is helpful in understanding the main core of the Ottoman society and it would be a mistake to assume that this principle was always adhered to. Throughout the centuries and particularly when the economic balance of the society was disturbed, it was impossible to apply these principles of balance. Much more abrupt and drastic measures were taken to put things under control and meanwhile many voices must have gone unheard. An example of this is seen in Judith Tucker's study on nineteenth century Egypt.⁵⁶ The decision of industrialization at all costs resulted in the usurpation of the rights of the economically lower classes. Similarly, for instance the *ayan ayaklanması* (the rebellion of the notables against the sultan)⁵⁷ or other political and social upheavals always affected the ones at the lower end of the hierarchical ladder the most. Also, it would be an error to assume that this principle of balance was practiced fully when the society was totally stable. However, what is remarkable here is that regardless of the wars, natural disasters, rebellions and social upheavals, the archives are full of documents attesting to the relative stability and balance exercised in the society.

In light of the metaphysical principle of balance between the masculine and feminine principles in the macrocosm and microcosm and the principle of cosmic hierarchy, the behavior of Ottoman women doesn't appear to be paradoxical after all.

⁵⁶ Judith E. Tucker, Women in Nineteenth-century Egypt (Cambridge: Cambridge University Press, 1985).

⁵⁷ The power of provincial notables (*ayan*) who played a role in the collection of taxes has attracted attention among scholars. Regarding the rise of the *ayans* and their rebellion to the central administration see, Rifaat Abou-El-Haj, The 1703 Rebellion and the Structure of Ottoman Politics (Leiden, 1984).

Unlike in a fully patriarchal society familiar to the West, Ottoman men did not have unlimited authority. The law was there also for the protection of women's rights. This point is emphasized by Ronald Jennings in his study of Kayseri court records:

What is very important is that she always had the court to turn to in her need. If a woman received in court the same protection of life and property and respect for her claims that a man received, then she could accumulate property and wealth, enter legal contracts, and demand their fulfilment by others. If the court were a place where women felt confident that they could go alone, even with a claim against neighbour, family, or husband, no wonder the women of Kayseri would put their trust in it and profit greatly from the trust.⁵⁸

In general with relatively free access to the courts and with the courts' power behind her, the Ottoman woman was able to check any unfair infringement of her rights and maintain the cosmic masculine/feminine balance in her daily life. This power must have enhanced her sense of security significantly.

CHAPTER II

THE PHYSICAL SECURITY OF OTTOMAN WOMEN

Regarding physical security, at first sight, Ottoman women appear to be fully under the protection of men. The religious opinions (*fetvas*), the family structure where men and women lived in separate and segregated households and the dress code women had to comply with all give this impression. In fact, judging from a distance makes us perceive Ottoman women as more “secured” than “secure.” However, this impression falls short in explaining the behaviour they displayed at courts as reflected in the court records. Even though the court records show only a bottom line, ie. what could not be done to women, and are far from fully revealing what their real life conditions were like, a profile of strong women emerges. And this profile does not fit the passive, servile female stereotype. Therefore how are we to explain their using their agency under these relatively restrictive conditions? What made them act? One way to explain this is the underlying notion of *hak* that meant the point of balance for Ottoman women, Muslim and non-Muslim alike. Regardless of their class, women do not seem hesitant to go to the *kadı* and ask for their rights. Of course, this differed according to city, religion and even century since the Ottoman society was not a static entity. Yet it is safe to say that in many cases women themselves used the power of the law to insure their own security or to seek justice in cases where there were violations of their physical security. They did this by taking precautions to avoid future hardship by drawing up contracts before

⁵⁸ Ronald Jennings, “Women in Early 17th Century Ottoman Judicial Records—The Sharia Court of Anatolian Kayseri,” p. 57.

marriage and made sure the conditions were kept during or after it. They also knew how to utilize a support network of family and *mahalle*⁵⁹ (neighborhood) at critical points.

Ottoman women didn't perceive of seeking justice as a part of the male domain only. They had trust and confidence in the *kadı* and they obviously believed that their bodies and property were under the guardianship of the law and the sultan⁶⁰ and ultimately Allah. But more impressive than their having the chance to seek recourse through the court of law is the consciousness women demonstrated to use it. Having a legal system that is functionable and courts that are accessible is not enough; the people's initiative to use them is essential.

Therefore, when there were violations, they sought justice to the best of their ability. Of course, the fact that the court records are full of women who asked their rights is an indication that there were injustices. However, from research done to date, it is still safe to say that many women had recourse to the courts to correct the imbalances of power if they wanted to. As pointed out by Fariba Zarinebaf-Shahr, "It is now commonplace in Ottoman scholarship to view Ottoman women as active players in the legal proceedings of the *mahkeme* courts, both as plaintiffs and defendants."⁶¹ We can not determine the number of women who could or did not reach the court for various reasons like the distance of the court, pressure and fear, poverty or simply having their problem resolved within the community through other tools of mediation. But even the number of

⁵⁹ For the Functions of the *mahalle* see Özer Ergenç, "Osmanlı Şehrindeki 'Mahalle'nin İşlev ve Nitelikleri Üzerine," *The Journal of Ottoman Studies* IV (1984) : 69-78.

⁶⁰ On the issue of seeing the sultan as the guardian and protector of justice Suraiya Faroqhi notes that, "the Ottoman political system rested on the premise that anyone, man or woman, might turn to ask for a redress of grievances." See Faroqhi, *Coping With the State* (Istanbul: ISIS, 1995), p. 14.

⁶¹ Fariba Zarinebaf-Shahr, "Ottoman Women And The Tradition Of Seeking Justice In The Eighteenth Century," *Women In The Ottoman Empire / Middle Eastern Women in the Early Modern Era*, ed. Madeline C. Zilfi (Leiden: Brill, 1997), p. 253.

women who did appear in the court records is an indication that a notion of justice existed among Ottoman women as it did among Ottoman men in matters of physical security. It is obvious that they trusted the court or else they would not have bothered to take their grievances there. Furthermore, if women weren't satisfied with the justice they obtained from the local courts, they could and did take their complaints all the way to the sultan.

As Zarinebaf-Shahr points out:

We know that women and minorities appealed to the local shari'ah courts continually, but the Sublime Porte and the imperial council were farther away and out of reach. Despite distance and great hazards, women came from as far as Egypt to petition, showing that the myth of 'royal justice' was widespread and strong enough to convince many, even those from the farthest corners of the Empire, to undertake a laborious journey to Istanbul to present their grievances in person.⁶²

In this chapter the issue of physical security of Ottoman women will be examined through three main groups of sources: first, court records and other official documents; second, the *fetvas* of the *şeyhülislam*; and third, travellers' reports. However, it is still important to seek an answer to the question of how Ottoman women approached the matter of justice. Among other factors, one of the main reasons for women taking an active role regarding their security must have something to do with the way they viewed themselves and how they perceived their place in this world. Tying this to the metaphysical principles of balance between the feminine and masculine attributes and having the notion of aspiring to be vicegerent of God on earth is one way to explain their conscious approach.

⁶² Ibid., pp. 255-56.

Court Records

Looking at the various kinds of sources, it is possible to say that the court records (*şer'iye* or *kadı sicilleri*) are perhaps the most reliable and provide the most factual information on the issue of the security of women. Particularly for researchers who are looking for what kind of problems took place in the lives of actual women, the other sources prove more secondary since they indicate either how things should be from the state's point of view through the *fermans* (imperial verdicts) of the sultan or *fetvas* of the *şeyhülislams* or how things appeared to be as reported by the travellers. After all, the court records are tangible cases where real people—not a Zeyd or a Hind⁶³—have left an imprint from their own lives in the *sicils*. Many times not having the record of the actual judgment proves to be a problem for reaching statistical results; however, the *sicil* itself often gives the reader a freedom to speculate and draw some conclusions about the attitudes of the applicants, defendants and courts in general.⁶⁴

Kadis had a central role in making it possible for women to use the courts.

Regarding women's security via the courts in Cyprus Ronald Jennings stated:

Kadis had a special obligation to protect the weak and vulnerable. Much of the relatively secure position of women may be attributed to the concern of various kadis in Lefkoşa and elsewhere on the island of Cyprus who staunchly maintained their legal rights in the face of oppression.⁶⁵

⁶³ The name *Zeyd* is generally used for men in the *fetvas*. The name *Hind* or *Zeyneb* is usually used for women.

⁶⁴ However, when Karen Barkey explains how she utilized the *kadı sicilleri* for her book, *Bandits and Bureaucrats*, she notes that they are "a biased source." She explains that, conflict is over-represented in the *sicils*. As well the problems that did not reach the court for reasons of distance or the ones that were solved in their own setting through the village elders or other intermediatory people are not included in the information. Nonetheless, she maintains that this does not limit the role of the court and actually the court was frequently used by people from all *millers* (religious and national group, nation). See K. Barkey, *Bandits and Bureaucrats/The Ottoman Route to State Centralization* (Ithaca and London: Cornell University Press, 1994), pp. 253-54.

⁶⁵ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 75.

Haim Gerber generally corroborated these findings in his study on women's position in Bursa.⁶⁶ Also Suraiya Faruqi wrote, "Jennings' remarks about the accessibility of the courts to women appear to be valid not only for the early 1600s, but for the seventeenth century in general."⁶⁷ Therefore it is appropriate to look into the physical security of women in the court records and see what happened when these were violated.

Physical violations

It is possible to determine how physical security was approached by women from the precautions they took through various means. For example, the marriage contract, which was contracted in front of the *kadı*, could include specific conditions to protect the woman from physical violence. It appears many women believed in first taking precautions to prevent the husband from taking advantage of his stronger physical nature. By this means both the woman and her family guarded her physical vulnerability through the written conditions stated at the court:

Cemile bint Hacı Halil was given in marriage to Abdul-Gaffar with two conditions (*şart*), that she would not be taken away from here and that she would not be struck contrary to the sharia [19 54-3; 20 Muharrem 1027. Cf. 54-I; 19 Muharrem 1027].⁶⁸

⁶⁶ Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700." p. 239.

⁶⁷ Suraiya Faruqi, Men of modest substance, House owners and house property in seventeenth-century Ankara and Kayseri (Cambridge, London, New York: Cambridge University Press), p. 185.

⁶⁸ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 88. Hitting ones wife in the face or beating her as to leave marks and/or draw blood from any part of the body were strictly considered unlawful and thus "contrary to the sharia."

It is also noteworthy that the contract included the condition that the woman was not to be taken away from her familiar surrounding and family. This obviously allowed for the family and friends to have closer contact with the new bride and not only helped to prevent physical abuse but also provided a kind of emotional security to her. If physical abuse and violence can be seen as the physical manifestation of emotional violence and taking advantage of the weaker party's emotional vulnerability, it would become apparent why these two conditions were mentioned together in the pre-marital contract.

Once the marriage was consummated the woman had to activate the support systems which protected her in face of physical abuse, namely the support of her family and the protection of the court. Court records show that her close family members frequently represented a woman in court to ask for her rights. However, it appears that she did not see any problem with going and applying to the court herself. There was no social taboo against it. The court records display that one way Ottoman women ensured their physical security in the marriage was by making their husbands openly acknowledge the condition that the wife could consider herself divorced if beaten by her husband:

Mustafa bn⁶⁹ Abdullah of Molu village: If I strike my wife contrary to the sharia, let her be divorced from me [23 12-7; 9 Ramazan 1032].⁷⁰

Many times when women complained about their husbands' hitting them, the husband was given a warning and was asked to declare that he would not hit his wife again by making a condition. A person's making a voluntary condition (*şart koşmak*)

⁶⁹ For some Arabic words in the quotations, I have retained the spelling of the scholars even though they may differ from person to person, i.e. some prefer "bn" over "bin" or "ibn" for the word "son."

⁷⁰ Ibid., p. 92.

had a legal consequence. To give a condition and record it in the *sicils* (registers) would oblige the person to keep his condition or word:

Yunus bn Muzaffer agreed not to strike his wife Silvi in an unlawful (*na hakk*) place [23 16-2; 20 Ramazan 1032].⁷¹

Similarly, the following court record, which is like the notarization of a voluntarily promised “condition,” also gives us a hint as to how “beating the wife” is perceived as a sin—just like drinking alcohol:

It has been recorded that the above mentioned Sefer made a condition and said, “from now on if I ever beat my wife or drink alcohol, may my wife be divorced from me three times” Date: 960/1552 [B23-1/3].⁷²

The severity of the offence required that the violator be deprived of his wife if he abused her physically. Beating was taken seriously and the husband knew that he would lose his wife if he did not take heed. Thus there were cases where the husband tried to escape the situation by denying that he gave any condition in the first place. For instance, Huseyn bn Hanefi at first acknowledged in the presence of his wife Kıdemli bint Hacı Musa that: “If I strike Kıdemli contrary to the sharia, let her be divorced from me.” [27 48-I; 26 Ramazan 1035]⁷³ A few months later he appears in the records again, this time denying that he gave a condition:

Kıdemli bint [the daughter of] Hacı Musa sets forth claim in the presence of Huseyn: My husband Huseyn made a condition (*şart*) that I was divorced three

⁷¹ Ibid. I would like to translate the Turkish phrase “*nâ hak yere vurmak*” not as “struck in a forbidden place” but “hit unjustly,” since the word “*yere*” is less likely to connote the meaning of “place” here, like for example, hitting the face of the woman. In my opinion interpreting the phrase as “hitting unjustly” is more likely since there were some very restrictive conditions where the hitting—that did not cause any harm to the woman—was allowed if she had committed certain types of wrong according to the law.

⁷² *Şerîye Sicilleri—Mahiyeti, Toplu Kataloğu ve Seçme Hükümler*, Vol. I (İstanbul: Türk Dünyası Araştırmaları Vakfı, 1988), p. 288.

⁷³ R. C. Jennings, “Women in Early 17th Century Ottoman Judicial Records—The Sharia Court of Anatolian Kayseri,” p. 88.

times if he struck me contrary to the sharia. After the condition was made he struck me contrary to the sharia. Then we made *hile* and I went to another husband and after the completion of my *'iddet* I went to Huseyn again and again he struck me contrary to the sharia. When Huseyn was asked, he said I struck Kıdemli, but I did not make a condition that she would be divorced three times. When Kıdemli was asked for proof, Çuhadar Yusuf Beşe bn Abdullah and İsrail bn Hasan testified confirming Kıdemli and the condition (*şart*). It was recorded [27 102-2; 17 Zilhicce 1035].⁷⁴

It is interesting that the woman in question apparently wanted (and perhaps loved) her husband to the extent of agreeing to make *hile*⁷⁵ which opened the door to renew her marriage with her husband Huseyn. However, the fact that he was a liar and repeatedly violated his word was a stronger factor than her desire to live with him. After all that she went through to save her relationship with her husband, she still opted for justice in the end.

On the other hand, a woman could remarry the same husband if it was not an irrevocable divorce:

(Illegible) bn Mustafa acknowledges in the presence of Havva bint Yunus: I divorced Havva because I failed to maintain a condition (*şart*). Let her come to the court. The conditions were that I provide her maintenance and that I would not strike her contrary to the sharia. The woman gave her consent to the marriage [19 42-2; 13 Cumadi I 1026].⁷⁶

However, when the condition given by the husband was not kept, many women did not hesitate to act, even if their husbands objected. An interesting example shows a husband who tried to make his wife return:

⁷⁴ Ibid.

⁷⁵ *Hile* means trick but here it is used for the tactic used by some couples to make their relationship lawful after having a final irrevocable divorce with declaring the divorce from the marriage three times. The *hukm* on this issue stems from the ayah that limited the number of repudiations a man can make in order to avoid this right being abused by the husband. However, it is seen throughout history that couples have resorted to a method where the woman consummates a marriage with another man and then gets divorced by him to remarry her first husband.

Yakub bn Yakub of Alaca Suluk Mahalle sets forth claim in the presence of his wife Safiye bint Hamze: For four months my wife Safiye has not lived with me; she has lived in another place. Let her be asked. Safiye says: "Ermenak Kadı Ahmed Efendi warned Yakub that if he struck me he would be divorced three times. Yakub accepted this, then he struck me contrary to the sharia, so I became divorced from him." Yakub denies this. However, witnesses (ʿudul-i muslimun) former kadı Alaeddin Efendi bn Ahmed and Mahmud bn Alaeddin Halife confirm Safiye. They heard Yakub say that Ahmed Efendi had given him this condition [Karaman 1 8-3; no. 28].⁷⁷

Women do not seem to hesitate to take their husbands to court on this issue whether they were Muslims or non-Muslims:

Husna bint Bedr (?) claimed that her husband Mergeri v. Kuluk, Armenian, always treats her cruelly (*cefa ve eza*) [3 25-3; 9 Zil-Kade 1018].⁷⁸

Not only did women take their husbands to court, but also people who witnessed a violent act directed at the wife saw it as their responsibility to inform the court. It is possible that they were also aware that if the woman died and the murderer was not identified, the whole neighbourhood would have to pay for the blood money:

Seydi Ahmed bn Mehmed and Hacı Receb Başa bn Mehmed testify that Hasan struck his wife Zahir in a forbidden (*na hakk*) place today. It was an injustice; it was ruthless [19 30-10; 28 Rebi II 1026].⁷⁹

Hasan grants his wife maintenance, admits he struck her contrary to the sharia, and divorces her [19 30-11; 28 Rebi II 1026].⁸⁰

⁷⁶ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 88.

⁷⁷ Ibid., p. 91.

⁷⁸ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 20.

⁷⁹ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 92.

⁸⁰ Ibid.

Other people did not hesitate to testify when the husband struck the wife contrary to the *şeriat*. Thus, the prospects of enforcing the condition were stronger due to the social pressure put on the husband:

When Imam Nu'man bn Abdul-Vehhab and Osman bn Mehmed and Himmet bn Ali testified that this Abdul-Celil Aga struck his wife, he took an oath that he would not strike her contrary to the sharia [23 16-4; 20 Ramazan 1032].⁸¹

As for a non-family member beating a woman, the court records have cases where either the woman or her close relative appealed to the court to get the aggressor punished.

Güllü, the daughter of Şeyhi from Görgüşan village, came to the *Meclis-i şer'* (court) with her father and rightfully claimed and said: "The shepherd of Yar Ali's son Zeynel Kethüda, followed me as I was grazing goats. Just as an excuse he said, 'Why do you bring your goats in front of mine' and because I answered and said, 'The village is ours and the pasturage and grassland is ours as well,' he hit me in the right arm and wounded me. He also hit the left side of my chest with a rock and beat me a lot. I hardly escaped from him by shouting, as a result I have no place left without a wound." Upon this, the above mentioned person's hand was examined and it was actually seen that she had a deep wound on her right hand and a scabbed wound behind that as well; wounds all over her chest have been seen (witnessed) and this situation has been recorded (to the *sicil*.) Date: Beginning of Şevval, 1041/1631 Witnesses: Hasan Bali's son Bekir, Hüsrev's son Mustafa, Abdullah's son Piyale, Mehmed's son Saz Ali, Cankulu's son Seyyid Ali and the others [H181/14 (4)].⁸²

Both in the case that a Muslim woman was physically hurt by a *zimmi* (non-Muslim) or that a *zimmi* was injured by a Muslim, women came to court to ask for law and justice to prevail:

Ummi hatun, wife of Veled of Zincirdere village: When Hoca beg of our village pulled me and struck me, I came to the *şer'* and had the *zimmi* summoned to court through official letters (*murasele*) but he fled. He did not obey the *şer'*. Let his disappearance be recorded [25 89-2; 20 Cumadi II 1034].⁸³

⁸¹ Ibid.

⁸² Ibid., p. 126.

⁸³ R. C. Jennings, "Kadı, Court and Legal Procedure in 17th C. Ottoman Kayseri," *Studia Islamica* 48 (Paris: G.-P. Maisonneuve-Larose, 1978), p.171.

Pano bint Zako of Kado Kopiya village of Morfo kaza asked that the Sharia be carried out because kassab Huseyn beşe bn 'Abdullah had struck and injured her at the village [4 171-I; II Cumadi II 1046].⁸⁴

An example of a less advantaged woman using the court when she was subjected to violence is the case of the gypsy (*kapti*) woman called Huma. Her brother arrived at the court and said his sister was beaten with a rock by another gypsy named Ramazan, and that he wanted this Ramazan to pay blood money if she died from the wounds. A group of people arrived at her place and testified to her condition but Ramazan denied that he beat Huma. However, they found another witness who testified to his beating Huma and thus it was registered in the records and a written copy was given to the Applicant. Here again a gypsy woman acted by appointing her brother and officially identified the offender. [Is 1/51 (351)]⁸⁵

Another interesting case is about indirect physical violation that resulted in physical harm. A woman had a miscarriage as a result of an attack made on her home. We understand that the miscarriage happened because the woman was frightened. In a series of registers concerning this case, the litigation of the woman was taken like a murder accusation and consequently *sulh* (peace) was made between the parties by the defendants having to pay blood money for the dead fetus.⁸⁶ The records also attest to the practice of the judicial procedure whereby public prosecution was carried out and also the way used to appoint a representative. It is also interesting to see how the offenders were obliged to admit their guilt in order to reach a *sulh* (compromise instead of retaliation):

⁸⁴ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 70.

⁸⁵ Seriye Sicilleri-Seçme Hükümler Vol. II. İstanbul: Türk Dünyası Araştırmaları Vakfı, 1989, p. 125.

⁸⁶ *Ibid.*, pp. 120-121.

The *subaşı* of Tilbaşar Nahiyesi Ferhad and another *subaşı* brought Mehmet and Ismail to the *meclis-i şer'* (court) and said: "You went over to the house of Fatma bint Ismail from Tümp village and made her miscarry her son." The accused Mehmed and Ismail out of their own choice and will acknowledged and admitted by saying: "We went over to Fatma's house and fought there. We caused Fatma's son to become miscarried." The acknowledgement of the accused, Mehmed and Ismail, was written in the *sicil* (register) [18 Safer 938/1531].⁸⁷

The reason for having this written is such: Plaintiff Abdi came to the court and took the floor: "Plaintiff Fatma appointed me as a *vekil* (power of attorney) to reach a compromise and discharge the accused on the issue of the fetus (that was miscarried)." When proof was asked for the aforementioned Abdi's attorneyship, people among upright Muslims (*udul-i muslimin*) from Tümp village Müslüm bn Mehmed and Hasan bn Mehmed witnessed and said: "Plaintiff Fatma appointed aforementioned Abdi for the *sulh ve ibra* (compromise and discharge) on the fetus issue." Their testimony was recorded in the register (23 Safer 938/1531).⁸⁸

Bayram Bey and Abdi brought Mahmud bn Halil, Mehmet bn Halil, Nebikul bn Osman, Mehmed bn Osman, Ismail bn Hasan, Mezid bn Mehmet, Mehmed bn Kasım to the court (*şer'*) and in their presence explained the matter by saying: "the accused came over to Fatma's house and they fought there. Fatma miscarried one living son. The accused caused the miscarriage." and he sued them. As an answer the accused took the floor and said: "We all went over to Bayram's house and fought. We caused Bayram Bey's wife Fatma to miscarry a dead boy." There was a lot of tension and heated arguments among the parties. Since the accused were denying that the fetus was alive the peacemaker-mediators intervened. They acted upon the *hadith* (tradition of Prophet Muhammad) that 'peace is *hayırlı* (beneficial and favorable).' In order to put a stop to the quarreling and finish the argument they paid Bayram Bey and Abdi eight thousand Ottoman akçe as *sulh bedeli* (compromise sum). At the court (*meclis*) Bayram Bey declared: "Regarding the aforementioned miscarriage, I don't have any case against or dispute with the accused Mahmud, Nebikulu, Mehmed, Ismail, Mehmed, Mezid and Mahmud from now on. If I open a case against them, may it not be heard by the judges." The mentioned Abdi as well renounced all rights to further claim and said that: "I don't have any case or dispute left regarding the aforementioned fetus. If I bring up any case or dispute, may it not be heard by the judges." The case was decided as to have no fault on the parties and this was written in the records (23 Safer 938/ 1531).⁸⁹

In the following case a woman complained against another woman. When there was no compromise (*sulh*) reached, the punishment for this crime was given as *tazir*:

⁸⁷ Ibid., pp. 120-121.

⁸⁸ Ibid., p. 121.

⁸⁹ Ibid., pp. 119-120.

To listen to the issue explained below, the court sent Es-Seyyid Halil Efendi to the house of the petitioner Aîşe bint Ibrahim from Kurb-i Cedid Mahallesi. Upon investigation he found that she said: "Three days prior to the petition, in the morning Saliha Beşe bint Ali who lived in the aforementioned neighbourhood, unjustly hit me on the belly with an iron bar. She also hit and kicked my belly with her two hands and feet and caused my two-month-old child to be miscarried. I want her to be asked and I want justice done according to the *şeriat*." After her questioning was completed the above-mentioned Saliha answered that she really beat her as described and that she admitted that the child was miscarried as a result of this. Since the aforementioned scribe noted this on the spot and reported it the court as it is, upon request it was recorded in writing that the above-mentioned Saliha required a *ta'zir* (flogging) punishment (Şevval-i Mükerrerem 3 sene 1177/1763).

Witnesses: Hacı Mustafa bn Mehmed, Mehmed Hoca bn Osman, Seyyid Hacı Halil bin Hacı Mahmud, Osman bn Abdullah, and Seyyid Abdurrahim bin Seyyid Ahmed.⁹⁰

Again when a person was injured through other reasons, people took the responsibility to inform the court about the incident. A committee for investigation would be sent by the court when there were no witnesses to a death or accident. The following is an example:

An old woman fell and injured her head in Komini (?) quarter of Lefkoşa. Behine v. Zako, Yakimo v. Manuyel, Nikolo v. Zikar (?), and another Yakimo v. Manuyel came from that quarter and reported that the woman had fallen and injured her head. They asked that someone from the Sharia go and investigate. From the Sharia Ibrahim halife bn Ahmed efendi, from the governor's office Pekçe çavuş in supervision (*mubaşeret*) for deputy (*musellim*) Ahmed aga, along with the Muslims whose names were listed below went and investigated. When the woman confirmed the assertions of the men who had come from the quarter, she affirmed that if she perished, no claim should be made against the people of the quarter for blood money (*dem* and *diyet*) (4 189-I; II Receb 1046).⁹¹

The neighborhood seemed to get mobilized in case a woman was struck by a stranger and they sought justice collectively:

Lutfullah bn Nimetullah, Mehmed bn Kucuk, Veli bn Ali, Iskender bn Hacı Ali, Ali bn Ahmed, Emir Ali Çelebi bn Hasan beg, Hasan bn Suleyman, Şaban bn Isa, Receb bn (name illegible), and others of Sarımsaklu village came to court: Ali

⁹⁰ Ibid., p. 118-119.

⁹¹ Ibid.

beg bn Mahmud beg struck Köstendil's wife at our village. She died after being confined to bed for three months. He also struck Ivan (22 42-6; 29 Sefer 1031).⁹²

Cases of rape were taken to court in a manner similar to other violations of personal property. In one example, a woman in Istanbul claimed that a boat owner had forcefully entered her house and raped her. In that case there were no witnesses but the defendant admitted to guilt himself. The law required him to admit guilt in four different court sessions for purposes of conviction.⁹³ In another example, two robbers broke into a house and raped the woman living there. They were given the death penalty *siyaseten*. In this case "the administrative justice of the sovereign overruled the *şariat* law that allowed for the next of kin to accept blood money, thus commuting the death penalty."⁹⁴ Amira El Azhary Sonbol indicates that in cases in Egypt where the victim proved her case, she was paid compensation for her loss.⁹⁵ But in the above case that was handled in an Istanbul court, the more severe death penalty was given.

The issue of honor in relation to physical security

Although in some cases violation of honor was verbal rather than physical, it is important to touch on this issue because it could affect a woman's physical security. The notion of honor was important both for women and men alike as is apparent from the court records. Being trustworthy and honorable affected the person's standing in the family, *mahalle* and society. Men or women who were considered dishonorable could be

⁹² R. C. Jennings, "Limitations of the Judicial Powers of the Kadı," p. 178.

⁹³ Haim Gerber, *State, Society, and Law in Islam--Ottoman Law in Comparative Perspective*, p. 49.

⁹⁴ Ibid., p. 100.

⁹⁵ Amira El Azhary Sonbol, "Law and Gender Violence in Ottoman and Modern Egypt," *Women, the Family, and Divorce Laws in Islamic History*, ed. Amira El Azhary Sonbol (Syracuse; Syracuse University Press, 1996), pp. 286-87.

expelled from a *mahalle*, and his or her testimony would not be considered valid at the court since others could not confirm their status as *udul-i Muslimun* (a trustworthy, just Muslim). Thus the person who was known to be dishonorable could not exercise some of his/her functions and could be less guarded and protected by society. Intentionally slandering another person or even cursing was considered to be a serious offence. As will be seen in the section on women's physical security as it appeared from *fetvas*, it was important for a woman to be known as *muhaddere* (reputable). Similar cases for men appear in the records as well. But here we will only take a few examples concerning women who were slandered by others. The first example of this kind shows a woman who came to the court herself.

Hüseyin's daughter Ayşe from Dadeği *Cemaati* brought Ali Piri's son Mehmed to the court (*meclis-i şer'*) and said: "This Mehmed has slandered me by calling me a whore." It was asked from the above-mentioned Mehmed verbally, and he denied this. Above mentioned Ayşe was asked to bring in evidence concerning her case, and Hamza's son Veli and Ibrahim's son Hüseyin who are Muslim and eligible to testify came and confirmed her. Upon request, this testimony has been recorded in the register. Date: 10-20 Ramazan 954/ 1547. Witnesses: Yakub's son Mustafa and Piri's son Halil [K4 (179)].⁹⁶

In a similar court record this time the brother of the woman petitioned the court as his sister's representative:

As Hüseyin's son Mehmed's right to represent his sister Siddi Ayşe was confirmed, he took the stand and said, 'This man Ali Kethüda called my sister Siddi Ayşe a harlot and a whore. Now I ask for her right (*haliya hak*). It was asked from Ali Kethüda, but he answered by denying it. Evidence was asked from Petitioner Mehmed. Muslims whose testimonies were accepted, Ahmed's son Fakih Ali and Mahmut's son Ahmed, testified. This was put on the record (*sicil*) Date: 18 Rebiul-evvel 938/1531 [G1/38 (120)].⁹⁷

⁹⁶ *Seriye Sicilleri--Seçme Hükümler* Vol. II (İstanbul: Türk Dünyası Araştırmaları Vakfı, 1989), p. 92.

⁹⁷ *Ibid.*, p. 137.

The violation of a woman's honor by swearing at her seems to be taken seriously by the court since women went to the court when they were called names:

Teslime bint Mahmud sets forth claim in the presence of Abdus-Selam bn Hacı Abdulkadir: When his donkey entered my vineyard and I seized it, he cursed me, calling me a whore (*kahbe*). I cannot accept this. Let him be asked. Abdus-Selam denies this. Hamza bn Hacı Mehmed and Abdullah bn Veli confirm Teslime and this is recorded (27 54-I; 6 Şevval 1035).⁹⁸

The female broker Maro of Lefkoşa asked that the Sharia be carried out against Luka v. Nikola of that city for wrongly saying that he saw her lying on a mattress with her son-in-law (*damadı*) (4 198-2; II Şaban 1046).⁹⁹

Cursing as well was considered to be a rather serious offense in early Ottoman law codes. Subjection to the bastinado (*ta'zir*) was the punishment for this offense, plus a fine of one akce for every two strokes applied. In the criminal law, cursing was a social offence.¹⁰⁰ At times it could cause unusual reactions which in turn led to a legal suit.

Rahime bint Kalaycı of Citane (?) village says before Maksud: He entered my house, struck me and hit my teeth. Maksud denied that; then he replied: Her son 'Abdul-Gaffar cursed my wife (*'avret*). Then I struck her (Rahime) (I 241-10; I Şevval 1002).¹⁰¹

Another aspect of being honorable and just entailed both women and men telling the truth in court. The importance given to this was demonstrated by the fact that oath taking was used as an important legal proof and could be used as sole evidence. Jennings noted that oath taking was utilized as proof to adjudicate in cases where there were no better forms of proof like the testimony of two eyewitnesses or confessions. However, it

⁹⁸ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 62.

⁹⁹ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 70.

¹⁰⁰ Ibid., p. 99.

¹⁰¹ Ibid., p. 100.

was not common and in Cyprus only about 4 percent of cases involved oath taking. Also oaths were administered by the *kadis* in exactly the same way to men and women, Muslims and non-Muslims.¹⁰²

Regarding oath taking, Gerber concluded that:

In a large number of cases where neither party possessed evidence, defendants were given the opportunity to swear an oath and win the case, yet they declined to do so, thereby automatically losing the case. Such refusal sometimes led to indictment for murder, entailing the death penalty. In such situations it is obvious that the motivating force was indeed a sense of guilt or a fear of God. Such situations are so common in our documents as to lead us to believe that we are confronting here something that was deep and fundamental at the time. The oath was thus seen as an effective judicial tool to secure evidence, something quite reminiscent of the medieval European ordeal, which is no longer seen today as a blind belief in superstition but as an effective judicial tool in the hands of a society highly vulnerable to the ravages of nature and hence deeply religious.¹⁰³

It is also noteworthy that in many cases where there were no other witnesses, the violator confessed his guilt. Gerber elaborated on this point saying that the “surprising phenomenon that an incredible number of defendants voluntarily admitted guilt”¹⁰⁴ must have contributed to the level of security enjoyed by the Ottoman society and particularly Ottoman women. A very important difficulty in providing justice for crimes committed against women was that many times there were not enough people around to bear witness. In this case protecting the woman from a future act of violence was very much related to the man’s acceptance of his violation in front of the law so it could be a deterrent in the future. Of course, the practice of taking oaths was also effective but not as much as voluntary admission. Gerber concludes:

¹⁰² Ibid., pp. 94-95.

¹⁰³ Haim Gerber, State, Society, and Law in Islam—Ottoman Law in Comparative Perspective, p. 49.

¹⁰⁴ Ibid., p. 48.

One can only guess that more people in this period had a guilty conscience than our modern mode of thinking would lead us to expect—possibly an aspect of the more deeply religious nature of that society.¹⁰⁵

The following is an example of voluntary admission of a homicide:

Halil bn Halil of Perestiyo (?) village of Lefkoşa, his wife Cennet, and his mother Suret are present in the court (*meclis-i şer'i şerife*) and say in the presence of the people of the village (*ehl-i karye*): Our daughter Teslime bint Halil disappeared while she was sleeping among us during the night. We requested an investigation. Ali aga and Cafer beg, who were appointed agents (*mubaşir*) by Ali Paşa and supervisor (*emin*) Perviz aga, respectively, were assigned. When they reached that village, the afore-mentioned Halil of his own volition confessed (*ikrar*). Halil said: Satan led me astray. I took my own daughter Teslime from her mother with the intention of making blood flow for the people of the village. I drowned her and left her in a ruined well (*kuyu*). Let us take the body out. Then 'AbdulKerim çavuş, one of the Muslims present, pulled out the body with a hook (*çengel*). In truth the evidence is certain. Then the aforementioned Cennet, Suret, and Halil renounced claim against the people of the village. That was registered in the court record book (*sicil*). A copy was written at the request of the people of the village (1 23-I; Receb 1002).¹⁰⁶

Fetvas

Learning about the security of Ottoman women requires looking at sources of different natures. Just as the court records and travelers' accounts that reflect the lives of real people are valid sources of information, the religious opinions of scholars (*fetvas*), particularly *şeyhülislams*, are another source to be considered. The *fetvas* influenced the way people lived, both by their religious implications (i.e. being responsible from them in front of Allah) and their direct effect on the court decisions. Therefore, to a great extent the *fetvas* can be seen as a factor that helped shape the society's values. They point out

¹⁰⁵ Ibid., p. 49.

¹⁰⁶ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 96.

the acceptable behavior by and towards women and reveal the basic logic behind the concept of security for women in the Ottoman Empire. However, reading the *fetvas* does not give the day-to-day practice of the people per se; rather it gives the *ulema*'s position on the subject in light of the religious law. Consequently, it would be a mistake to assume that the *fetvas* were examples of real life. Still the *fetvas*, being either theoretical questions directed to the religious scholars or specific questions directed to the *şeyhülislam*, are a rich source of information on the subject.

There are many examples in the *fetvas* as well where the issue can be seen as the “securing of women” rather than the “security of women.” Reading through the *fetva* collection at times gives a sense that the *fetva* is more concerned about the correctness of the *şeriat*'s literal application than the special need of the individual. However, the *fetvas* that are given can not be judged as particularly harsh on women, because a careful look reveals the same strictness and exactness for men and women, Muslim and non-Muslim alike. For instance, Şeyhülislam Ebussuud Efendi's¹⁰⁷ *fetvas* that are used in this paper clearly reflect this puritanical religious understanding and the mores and customs (*örf ve adet*) of that time.

In Ebussuud's *fetvas* the matter of women's security seems mainly to be stemming from the *ayet* (verse from the Qur'an) which states:

¹⁰⁷ Şeyhülislam Ebussuud Efendi (1490-1574) was a famous scholar of the Classical Age and remained a *şeyhülislam* close to thirty years (1545-1574) during the reigns of Süleyman The Magnificent and Selim II. See, Türkiye Diyanet Vakfı İslam Ansiklopedisi 12, s.v. “Fetava-yı Ebussuud Efendi” by Ahmet Akgündüz. Also see Mehmet Ertuğrul Düzdağ, Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı (İstanbul: Enderun Kitapevi, 1972) or Colin Imber, Ebu's-su'ud-The Islamic Legal Tradition (Stanford, California: Stanford University Press, 1997).

Men are the protectors and maintainers of women, because God has given the one more (strength) than the other, and because they support them from their means. (4:34)

Some of the other *ayets* which were taken literally and interpreted and understood according to the literal meaning of the word were carried to the *fetvas* which were based on the *şeriat* (Islamic law).

The security of a woman was to be provided either by her husband or by her closest male family members (whom she could not marry)¹⁰⁸ like her father, uncle or brother. If she was married, providing the security of the woman was first of all the husband's responsibility. In return, the woman was expected to get his permission before going out of the house.

An example of this comes in the *fetva* collection. It is asked from the *şeyhülislam* what happens if a husband prior to his Haj (pilgrimage to Mecca) orders his wife not to go out to the public bath, a wedding or see a *na-mahrem* [a man other than the permissible--unmarriageable--ones listed in the Qur'an] and he also writes these conditions and hangs them on the wall. And then he tells her that she is three times divorced from him if she does so. The answer of the *şeyhülislam* is that they will be divorced if the woman actually does those things.¹⁰⁹

¹⁰⁸ The men who are considered a woman's *mahrem* (prohibited; within the forbidden degrees of relationship for marriage) are listed in the Qur'an (24 : 31). The verse which lists people who are considered *mahrem* (whom among the believing women can display their beauty) is Sura Nur: "...their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers or their brothers' sons, or their sisters' sons, or their women, or the slaves whom their right hand possess, or male servants free of physical needs, or small children who have no sense of the shame of sex..." It is also listed in the Qur'an : 22, 23 who a man can marry and who he is prohibited from marrying.

¹⁰⁹ Mehmet Ertuğrul Düzdağ, *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı* (Istanbul: Enderun Kitapevi, 1972), p. 54, 147th subject.

Although a woman was protected by the law, the *fetvas* advised that she be punished just like any other person. And if she abridged the law (particularly in her religious duties), she could be physically punished¹¹⁰ by her husband:

Subject: If Zeyd tried to make Hind pray her *namaz* (performing prayer five times a day--one of the five pillars of Islam) by advising or repeating his advice and some times hitting, and then he failed, would he be a sinner?

Answer: She should be made to pray. (A. 31a)¹¹¹

However, if the husband violated his authority by harming the wife or beating her, the *fetvas* showed a tendency to remove the violation using all available means:

Subject: If Zeyd afflicts (*enva-i iza*) his wife Hind in various ways and if the *kadı* (Muslim judge) knows about this, is he able to separate her from Zeyd?

Answer: He is able to prevent him from making affliction in any possible way. (B. 38b)¹¹²

Another *fetva* talked about a woman being beaten for no reason and the reaction of the *şeyhülislam* to that was as follows:

Subject: If Amr says, “(this) is not *şer’i* (lawful), why are you beating (her)?” while Zeyd is beating his wife Hind without any reason (*bi-günah yere*), and Zeyd answers by saying, “I don’t know (recognize) the *şer*,” then what is required?

Answer: He will become a *kafır* (infidel), Hind will become separated (from her husband), she will get her *mehr* (dowry), and go and marry whichever Muslim she likes. (B. 313b)¹¹³

¹¹⁰ See R. C. Jennings, “Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri.” On p. 91 Jennings explains, “However, the court supported any women who had been beaten contrary to the sharia (*hilaf-ı şer’-i şerif*) or in an unlawful place (*na hakk yer*). The wife must not be struck on the head or face, for example, and her husband must not beat her in rage.”

¹¹¹ Düzdağ, p. 57, 166th subject.

¹¹² Ibid., p. 54, 144th subject.

¹¹³ Ibid., p. 45, 90th subject.

On the other hand, if the woman did not abide by the rules and then was physically hurt by her husband, the *şeyhülislam* didn't find either side punishable:

Subject: If Zeyd beats his wife because she went to her father's house without her husband Zeyd's permission, what is required?

Answer: Not much is required. (B. 90a)¹¹⁴

Therefore this example also indicates that a wife was required to have her husband's permission before leaving the house. From the *şeyhülislam*'s point of view both leaving the house contrary to her husband's wishes and beating are unwanted actions, hence, if both parties are at fault there is not much required legally.¹¹⁵

The issue of getting the husband's permission was carried to the extent of the woman not being able to go and see her parents if the husband did not permit her.

However, he could not prevent them from coming and seeing her either:

Subject: If Hind's husband didn't want her to go out and she had a mother whom she wanted to see and Hind's mother didn't want to come to her house, according to the *şer* (law) how frequent is Hind allowed to see her mother?

Answer: From Friday to Friday there is *icazet-i şer'iye* (lawful permission) for Hind's mother and father to come and visit their daughter and go back. (B. 38b)¹¹⁶

Above all, a woman's obedience to God took priority over obedience to her husband like in the case of when a woman had to perform her Haj (pilgrimage to Mecca) as one of the five pillars of Islam. She could go to perform her Haj with a *mahrem* (close

¹¹⁴ Ibid., p. 54, 148th subject.

¹¹⁵ Yet, if the term translated as "beating" originally meant only hitting within the limits of the *şeriat*, then the *şeyhülislam*'s response can also mean that the wife did wrong and got justly punished for it.

¹¹⁶ Ibid., p. 56, 158th subject.

male relative or a man whom she could not marry and who could be responsible for her security) even if her husband didn't give her permission to do so.¹¹⁷

The fact that the *fetvas* emphasize the supervision of a woman, at times even without her consent, shows that in the final analysis the woman was under some close protection. Even if the woman was restricted, the order of the society was more important. However, the public mobility of elder women was not as restricted in Ebussuud's *fetvas*:

Subject: In some towns if women go to the public Friday prayer are they required to be prohibited from going?

Answer: If they are young, yes.¹¹⁸

Leslie P. Peirce, author of *The Imperial Harem*, discussed this from a different angle and explained that the restriction on women was not imposed by all males towards females, stemming from a male-female dichotomy. It was more of an elder-younger dichotomy where the older men and women controlled the younger males and females who were sexually active. In other words, women past child-bearing were not as socially controlled as younger women. Peirce wrote:

It is not simply that women past childbearing no longer threatened the integrity of their husband's patriline with illicit behavior. The social construction of sexuality identified sexual activity with a lack of full maturity stemming from the inability to control physical desires that might lead to illicit conduct.....While it was the mobility of young women that was most strictly regulated, that of boys (beardless youths) and young men (the "virile" and the "hot-blooded") was also closely monitored; boys had to be protected from men's pederastic desires, while young men of a

¹¹⁷ Ibid., p. 56, 163rd subject.

¹¹⁸ Ibid., p. 60, 196th subject.

sexually aggressive age had to be kept away from women, girls, and boys.¹¹⁹

The issue of chastity in relation to physical security

A woman's protection was closely linked to her conduct outside the home and a woman being considered "*muhaddere*" (chaste and reputable) played an important role in her obtaining legal, physical or even emotional security. The following series of *fetvas* point to this and also show that the *şeyhülislam* took the customs and acceptable standards of that day's society as a basis for deciding on the question of a woman being considered honorable and chaste:

Subject: Hind who is from the village does her own work and brings her own water from the well; in this case would she be considered *muhaddere* (honorable and chaste)?

Answer: No, she would not. (A. 158a)¹²⁰

Yet if a man's wife is not *muhaddere* for the reasons given above this is not seen as a situation serious enough to affect his standing in the society. A question asked inquires if the *imam*'s wife takes care of the outside chores like bringing water and taking the animals to the pastor similar to other women in the village, would this affect the *imam*'s reputation and prevent him from leading the public prayers at the mosque. And the answer of the *şeyhülislam* is a plain "no."¹²¹

The criteria used for a woman's good reputation are reflected in the following *fetvas*:

¹¹⁹ Leslie P. Peirce, *The Imperial Harem / Women and Sovereignty in the Ottoman Empire*, p. 280.

¹²⁰ Mehmet Ertuğrul Düzdağ, *Şeyhülislam Ebussuud Efendi Fetvaları Işığında 16. Asır Türk Hayatı*, p. 55, 153rd subject.

¹²¹ Ibid., p. 68, 253rd subject.

Subject: Would Hind who goes to the *hamam* (public bath) and wedding be considered *muhaddere*?

Answer: Yes, if she goes with *ırz u vakar* (honor and dignity) and *hadem ü haşem* (servants and slaves). (B. 197b)¹²²

Subject: If Hind goes to the *hamam*, wedding celebration and sight-seeing to the other *mahalle* (neighborhood), is she considered *muhaddere*?

Answer: Yes, if she goes with dignity. (A. 158a)¹²³

And in another *fetva*, Ebussuud Efendi explained: "The important point in being considered a *muhaddere* is not related to adhering to the boundaries of the exalted *şeriat* (*hudud-i şeriat-i şerife*). Because even among the *kafırs* (infidels) there is--the concept of--*muhaddere*."¹²⁴

The following is a case in point where there is a connection between the woman's being *muhaddere* and defending her rights in court even if her husband does not permit her to do so:

Subject: If Zeyd gets into conflict with Hind who is a *muhaddere* (reputable, chaste woman), according to the *şer* (law) can Hind's husband say, "I will not be a representative (of my wife), and I am not content to appoint another person either" and prevent Hind from appearing before the judge"?

Answer: If Hind is *muhaddere* he is unable not to appoint a legal representative. Because it is not permissible (*caiz*) to waste legal rights (*hukuk*). If she doesn't come in person, the legal officer should order the appointment of a legal representative (*vekil*) and make a person represent her (rights). (B. 197a)¹²⁵

Since mainly the husband was responsible for the wife's security and maintenance, in principle he had the right to expect her to protect his honor when he was

¹²² Ibid., p. 55, 154th subject.

¹²³ Ibid., p. 55, 155th subject.

¹²⁴ Ibid., p. 55, 156th subject.

¹²⁵ Ibid., p. 56, 157th subject.

absent. In turn, her financial rights were as clear and undebatable. She had absolute control over her finances and according to the law she could even send her husband to jail if he refused to pay any debt he owed her. In the example below these principles are brought to a most “unusual” balance by the *şeyhülislam* in the solution he gave:

Subject: If Hind wanted to put Zeyd in prison for the debt he owed her, would Zeyd be able to say: “Your intention in having me put in jail is to go to do a *hilaf-ı şer* (against the law) business. Thereupon let them put you in the women’s prison and I will pay your *nafaka* (allowance)”?

Answer: If she doesn’t have someone to protect (*hıfz*) her, with the decision of the judge, he is able to imprison her with himself on the condition that there is a separate cell. (B. 183b)¹²⁶

Here the examples show that the religious verdicts gave the protection of women (physical and otherwise) priority over all other things including personal freedom. (This notion was also true for men and the securing of the streets. For example, men and women could not go out after a certain hour at night.)

Travelers’ Reports

The reports of European travelers to the Ottoman Empire are also an important contribution to the overall understanding of the Ottoman society. The writings of these travelers are eyewitness accounts on many issues, including the security of Ottoman women and the behavior of men toward them. These traveler accounts were not always accurate; many contained fabrications sometimes due to their biases and sometimes

¹²⁶ Ibid., p. 56, 162nd subject.

because of inadequate information.¹²⁷ Nevertheless, there are many European travelers and even residents who gave accurate information about the Ottoman Empire.

The *fetvas* give the religious and legal bottom line and the court records give actual examples from the Ottomans' lives where we understand what could not be done by observing the application of law. Yet the travelers' reports and memoirs give us the sense of how the Ottomans lived on a daily basis. They provide us with the general customs and life style of the society or the mores that are seen as distinct by an outsider. When the foreigners came to the Ottoman lands, they were very interested in comparing their own country and the place they were visiting. Elisée Reclus who visited Turkey during the latter part of the 18th century described Turkish men's behavior to their wives as follows:

The Turk is kind and just toward his family. He is generally more respectful of marriage and family ties than are Europeans. Although it is always stated to the contrary, women's status among Muslims is not lower than that of Christian women in Europe. Women here have absolute sovereignty in their houses and are always treated kindly and courteously.¹²⁸

Another writer and traveler Edmondo de Amicis shared Elisée's point-of-view:

Turkish women are usually treated with the refinement of a chevalier. No one would attempt to raise a hand against a woman. Even during times of rebellion and disorder no soldier would touch a loud and boisterous woman. Men behave like a very polite friend to their wives. Their respect toward their mothers is infinite...

Turkish women are absolutely free. This truth can be easily seen. Those who say Turkish women are slaves deserve to be laughed at.¹²⁹

¹²⁷On this issue see Judy Mabro, Veiled Half-Truths--Western Travelers' Perceptions of Middle Eastern Women (London, New York: I. B. Tauris & Co Ltd Publishers, 1991). Also see Billie Melman's work, Women's Orient: English Women and the Middle East, 1718-1918 / Sexuality, Religion and Work (London: Macmillan Academic and Professional Ltd, 1992).

¹²⁸ Elisée Reclus, "Nouvella Geographie Universalle, (1884)," in Yabancılarla Göre Eski Türkler, by Prof. Ah. Djevad (İstanbul: Yağmur Yayınevi, 1974), pp. 45, 46.

¹²⁹Edmondo de Amicis, "Constantinople (Paris: 1883)," in Yabancılarla Göre, p.72.

A German tradesman H.U. Krafft, who fell to prison for his debts in the Ottoman lands, had a chance to observe the different attitudes of Muslims and he was surprised to see that ordinary women could take their husbands to court for neglecting them:

The wives of common men have the right to sue their husbands at court if they do not give their right and cease paying attention to them and fall in love with someone else. If the woman does not want to part from such a man she has to put up with him without complaining or has to accept a bigger punishment. Many men who were given to court in this manner had fallen to our prison. When they entered with anger, aggressiveness and impatience the other prisoners would give them a sip of water in a wooden ladle and we would welcome them in a ridiculing manner, feeling pity for them. This way that person would cool down and if he were patient his situation would get better in a short time. Meanwhile his friends would try to mediate between the couple. Later on that person would be free with less ridicule and harm in three to four days or in a period longer than that. In a situation like this, particularly we Germans would have beaten the daylights out of her.¹³⁰

Much can be said about the motives and mindsets of the European travelers who came to the Ottoman lands and it is necessary to use their works discriminately. At times Eurocentricism or at other times their aim to delegitimize their own country's morals to justify their actions led them to change facts as they wrote their memoirs. By stripping the statements of their biases and interests, it is possible to find many objective observations as well. However, it is necessary to take only the facts which coincide with the other legitimate sources of information like the court records and *fetvas*.

The following examples and quotations from European travelers' reports regarding male/female relationships in the Ottoman society seem to be consistent with others. They indicate that Ottoman women were generally secure from physical abuse:

Because the centuries-old traditions and religious laws protect women at all levels of society, there are no raped girls, no children abandoned in the streets, no duels and no suicide. Any woman who believes she is right can chase away a

¹³⁰ H. U. Krafft, *Türklerin Elinde Bir Alman Tacir-Ein schwabischer Kaufmann in türkischer Gefangenschaft*, translated by Turgut Akpınar (İstanbul: İletişim, 1996), pp. 54, 55.

male spectator with a rock or stick in her hand. A powerful man who hits his wife will find the whole neighborhood against him with the slightest signal from his wife.¹³¹

Porter confirms the above statement by saying:

There is nothing so shameful to a Turk as striking a woman. When a man becomes angry, he leaves a woman's presence.¹³²

And regarding men's behavior La Baronne Durand De Fontmagne states that "Turkish men are extremely soft towards women... It is said that no Turkish man mistreats his wife."¹³³ Another foreigner, Lady Ramsay, who spent seventeen years in the Ottoman Empire, compared violence against women in her own country and in Turkey. She wrote:

Cases of brutality on the part of a man towards his wife are a hundred times commoner among the lower classes of this country (Great Britain) than they are in Turkey.¹³⁴

D'Ohsson, who was an official in the Swedish embassy in Istanbul for many years during the 18th century, wrote that the Ottoman religious and judicial system took a strong stand against mistreatment of women:

Anyone who behaves badly towards a woman, regardless of his position or religion, cannot escape punishment because religion generally commands women to be respected. For this reason both the police and judges deal very severely with anyone who ill-treats women.¹³⁵

The conduct of the people in public places appears to be a natural extension of the general attitude towards women that was prevalent. Famous woman traveler Lady W.

¹³¹ La Baronne Durand De Fontmagne, Kırım Harbi Sonrasında İstanbul (Paris: 1902), trans. by Gülçiçek Soytürk (İstanbul: Kervan Kitapçılık Basın San. ve Tic. A. Ş., 1977), p. 258.

¹³² Porter, "Observations Sur La Religion, Le Lois, Le Government Et Les Moeurs Des Turcs," in Yabancılarla Göre, p. 31.

¹³³ La Baronne Durand De Fontmagne, Kırım Harbi Sonrasında İstanbul, (Paris: 1902), pp. 243-44.

¹³⁴ W. M. Ramsay, Every-Day Life in Turkey (London: Hodder and Stoughton, 1897), p.108.

¹³⁵ M. De M. D'Ohsson, 18. Yüzyıl Türkiye'sinde Örf ve Adetler, translated by Zerhan Yüksel (İstanbul: Kervan Kitapçılık A.Ş.), p. 225. (Tercüman 1001 Temel Eser 3)

Montagu wrote that, "no man can touch a woman or follow her in the streets."¹³⁶ Castellan also noted that women were not seen as sexual objects in the street. He wrote, "Turks are extremely respectful to women. They consider it *haram* (a sin) to stare at women in public places."¹³⁷ Lady Craven took this matter one step further and suggested that Turks in their conduct towards women are an example to all other nations."¹³⁸

Nonetheless, there were many other travelers who wrote about the Ottoman family life and the life inside the harem without having any first hand experience like Penzer. These Westerners' point of view was much debated among the travelers. Recent studies have established that these travelers perceived everything belonging to the psychological "other," and this made him or her judge the Ottoman society and show it as the opposite of the exalted "self."

¹³⁶ Lady Mary Wortley Montagu, Letters from the Levant During the Embassy to Constantinople 1716-18, reprint ed. (New York: Arno Press & The New York Times, 1971), p. 127.

¹³⁷ A. L. Castellan, Lettres Sur La Grece, L'Hemmespont et Constantinapole (1811), vol. II, p. 226.

¹³⁸ Lady Craven, "A Journey through the Crimea to Constantinople in a Series of Letters Written in the Year 1786 (Paris: 1789)," in Billie Melman's work, Women's Orients: English Women and the Middle East, 1718-1918 / Sexuality, Religion and Work (London: Macmillan Academic and Professional Ltd, 1992), p. 88.

CHAPTER III

MARITAL RELATED SECURITY

For Ottoman women, marriage was an integral part of life, even more so than for Ottoman men. It might have been possible for certain groups of men like janissaries and others belonging to the *askerî sınıf* (military class)¹³⁹ or, in some cases, dervishes (religious ascetics) not to get married. But women had none of these constraints to prevent them from marrying. And, moreover, marriage did not necessarily take place only once in a lifetime. It was common for women to remarry after divorce or the death of their husbands, and in some cases they even remarried their former husbands after divorce. It was usual for widows to marry again regardless of their age. It is noteworthy that women in general, regardless of their social status or wealth, had little difficulty in marrying. In fact, one scholar states that, in general, single life was not tolerated by the Ottoman society.¹⁴⁰ Thus since most women married at least once in their life, it is appropriate to consider marital security and its impact on Ottoman women.

Although marriage customs differed from region to region, there was usually a period of betrothal between a man and woman followed by signing of the marriage contract and then consummation of the marriage. The betrothal period allowed the couple

¹³⁹ It must be noted that the translation of the word *sınıf* into English as 'class' is actually not an accurate translation. The word *sınıf* comes from the word *tasnif* with the letters *sad*, *nun* and *fa* at its root. And it connotes more of a 'classification' and 'grouping' than the separate 'social classes' in society which existed throughout the Middle Ages in Europe. In Turkish the word *esnaf* also stems from the same root, which indicates the varying groups of tradesmen and artisans. This gives a more accurate meaning to the four *sınıfs* in the Ottoman society: The Men of the Pen, Men of the Sword and Men of the Religion and the *Reaya* (the ruled class). For more information on the formation of these *sınıfs* (classes) see Halil İnalcık, The Ottoman Empire, The Classical Age 1300-1600, p. 100.

¹⁴⁰ Hedda Reindl-Kiel, "A Woman Timar Holder In Ankara Province," JESHO 39,4 (Leiden: E.J.Brill,

to get to know each other and ascertain whether or not they were compatible with one another. However, here instead of looking at the general customs and traditions that surrounded marriage, we will look into the security related applications that affected women's lives.

Marriage Contract

A marriage contract drawn prior to marriage was one of the most influential tools that shaped women's security both in the marriage and, if it did not last, after it. The contracts would normally include conditions safeguarding the wife's interests. The main areas of interest were the husband's remaining in the marital home, his refraining from taking another wife or concubine, his acceptance of the wife's children from a previous marriage and his pledge to support them, and his providing a clothing allowance for the wife. It was understood by both parties that failure to fulfill the conditions of the contract meant the other party could seek divorce. For the wife this meant that she could demand and receive a divorce without forfeiting any part of the dowry or if agreed at the marriage contract by forfeiting a minimum amount of her delayed dowry.¹⁴¹

The following are some typical marriage contracts recorded at the court:

Zaynab bint 'Abdullah married her betrothed, Ahmad ibn Muhammad ibn 'Umar, before the Hanafi *qadi*. The *muqaddam* was 4 gold Maghribi dinars, and the *mu'akhkhar* was set at 3 dinars due her upon his death or on their separation. Other conditions of Zaynab and Ahmad's contract included that she receive an allowance of half a silver Sulaymani dinar every month. Furthermore the husband pledged that if he were to take a second wife, mistreat Zaynab, or change her residence against her will, (that upon her presenting proof of such

1996), p. 16.

¹⁴¹ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," p. 103.

allegations) and was willing to cut her *mu'akhkhar* by one dinar, then she would be *taliqa* (divorced) one *talqa* "with which she would own herself" (Jami' al-Hakim 966/1559, 540:200-898).¹⁴²

There were other cases where the bride would put a stipulation about having one of her relatives live with them in the marital home. This was to prevent the husband later on from treating the relative as an unwanted person or refusing to take care of him/her in the house. Just like the woman had the right to put this condition in the contract, the husband also had the right to refuse it from the start without causing any false expectations.

The marriage between Sharaf al-din Mussa ibn Mohammed and 'Aisha bint 'Ali ibn 'Isa (identified as an adult virgin—*bikr baligh*) stipulated that the "said husband consented to live with his wife's mother Hajja Mansura bint 'Isa al-Bishari." The dowry in this case amounted to 33 new gold Sultani dinars, of which 18 were paid in advance. Both the amount of the dowry and the payment arrangements indicate that 'Aisha was a bride of some wealth. It should be noted that the bride's father represented his daughter in this contract, which was typical for Alexandria (957/1550 1:134-641).¹⁴³

Just as it was typical in Alexandria to have the father present at a wedding contract, it was also common elsewhere in the Ottoman lands. Abdal-Rehim pointed out in his Egyptian study, however, that some women did not have a *veli* to represent them at the *nikah*, which, according to him, indicates women were quite independent at times. This might also be related to the balance of power between the bride and groom and the ability to draw up a contract that would be enforceable in the future considering the leverage of the bride. If she had the wealth or power to protect her rights if things went awry, then she could be found marrying without a *veli*. We can assume that a young and inexperienced girl, in particular, would not be left alone to deal with a husband whose

¹⁴² Ibid., p. 98.

¹⁴³ Ibid., pp. 98-99.

stronger position could tempt him to violate some of the rights of the more vulnerable wife. Therefore, the custom of having a *vekil* who is a close male relative represent the bride would be helpful for securing her rights.

The following is another typical example of a marriage contract:

Abu'l-Hassan ibn Ibrahim ibn 'Abdullah, ...married the virgin Ghajariyya bint Khalid ibn Mohammed al-Maghrabi. The contracted *mahr* was 30 new gold Sultani dinars, of which 8 dinars were received by her mother Ward, and 22 dinars were designated as *mu'akhkhar*. Abu'l-Hassan also committed to pay her 6 silver ansaf as a monthly clothing allowance and agreed on her following conditions: if he were to take a second wife "in any manner"; if he were to travel more than once a year or move to a far away place for good; or if he were to beat her violently leaving marks; then he would be entitled to withhold no more than a quarter of the remaining dowry, which would be indisputably hers if she chose to divorce him. In this particular contract, because the bride's father had been absent for over six years, it was her uncle who represented her in the marriage (al-Barmashiyya 994/1589, 707: 113-711).¹⁴⁴

Another issue given importance in many contracts was the husbands' traveling. This was particularly important to women in port towns¹⁴⁵ where the husband might be away from the home for long periods of time and even years:

In a typical case from Dumyat, the husband agreed: "If I travel [and leave] my said wife for a period exceeding six months... or if I move her from the port (i.e. Dumyat) against her will and [she] can prove this legitimately, and if my said wife releases me of 1/4 dinar of her *mu'akhkhar*, [then] she can be divorced 'one divorce' with which she would own herself" (Dumyat, sijillat 1005/1597, 28; n.p. 28).¹⁴⁶

Mehir

The payment of *mehir* (dowry) to the bride was one of the main marital securities Ottoman women had. It could be in the form of money, property or jewelry, or any form

¹⁴⁴ Ibid., p. 99.

¹⁴⁵ Ibid., p. 102.

¹⁴⁶ Ibid.

of valuables given to the woman by the husband. Differing from “drahoma,” the money received by the husband upon marriage or bride price paid to the father or closest male relative, *mehir* was solely for the wife to use. To prevent any misunderstandings and disputes from arising, the form and amount was recorded in the marriage contract. Usually one part of the *mehir* would be paid at the signing of the marriage contract (*mehr-i muaccel*), and the rest (*mehr-i müeccel*)¹⁴⁷ would be paid upon divorce or death of the husband. The wife could refuse to obey her husband until the previously agreed amount of *mehir* was paid.¹⁴⁸

Even though many times a virgin’s dowry was higher than of a divorced woman, the amount depended on the desirability, independence or wealth of the bride. Consequently, a wealthy and/or desirable woman who was previously married in actuality often received a higher dowry compared to most virgins of the same town or class.¹⁴⁹ The amount of the dowry was asked for and agreed upon by the bride’s family for the security of their daughter.

Only if the wife waived the *mehir* or gave it to her husband out of her free will, would she be unable to obtain the security of *mehir*. Otherwise the husband was obliged to give it to the wife as a consequence of marriage. An interesting question comes to the *şeyhülislam* on *mehir*, which illuminates the approach:

¹⁴⁷ These terms are used as *mahr-i muqaddam* and *mahr-i mu’akkhar* for the Arab Provinces.

¹⁴⁸ Galal H. El-Nahal, *Judicial Administration of Ottoman Egypt in the 17th Century*, (Minneapolis: Bibliotheca Islamica, 1979), p. 44.

¹⁴⁹ Abdal-Rehim Abdal-Rahman Abdal-Rehim, “The Family and Gender Laws in Egypt During the Ottoman Period,” p. 103.

Subject: If Zeyd divorced Hind after saying: “(I heard that) you were a whore before I got married with you,” is he able to refuse to give her *mehir*?

Answer: No. (A. 51a)¹⁵⁰

Thus paying the dowry was a right stemming from marriage under Islamic law.¹⁵¹ However, the manner followed varied from place to place and family to family. Usually the payment consisted of two parts where usually about half of the amount was paid in advance and half upon death of the husband or divorce. It even became due to the children of the woman as inheritance if the woman died after divorce without receiving her remaining *mehir*. In other cases, again depending on the position of the bride and her independent wealth or experience, she could receive most or all of the dowry before the marriage was consummated. Previously married women in particular who may have experienced difficulty in getting their dowry were likely to ask for a major payment in advance since the amount of *mehir* was very frequently disputed when the wife demanded separation.¹⁵² The following is an example of an elite family from the wealthy Egyptian city Dumyat:

Al-Sharif (a title of nobility denoting descent from the Prophet Muhammed) Mohammed ibn al-Sharif ‘Abd al-Qadir al-Ladhiqi married Manals, the adult virgin daughter of Shihab-Aldin ‘Ali ibn ‘Umar al-Ladhiqi, for a dowry of 30 gold Sultani dinars, 25 of which were paid in advance, the rest to be paid to the bride in installments over 20 years. The husband was also to pay her 1 dinar

¹⁵⁰ Ibid., p. 57, 168th subject.

¹⁵¹ See the Qur’an Nisa Sura, verse 4: “And give the women (on marriage) their dower as a free gift: but if they of their own good pleasure, remit any part of it to you, take it and enjoy it with right good cheer.” And also see the same Sura verse 20 and 21: “But if ye decide to take one wife in place of another, even if you had given the latter a whole treasure for dower, take not the least bit of it back: Would ye take it by slander and a manifest wrong? And how could ye take it when ye have gone in unto each other, and they have taken from you a solemn covenant?”

¹⁵² Abdal-Rehim Abdal-Rahman Abdal-Rehim, “The Family and Gender Laws in Egypt During the Ottoman Period,” p. 103.

yearly as clothing support as long as she remained his wife (Dumyat, sijillat 1005/1597, 28:n.p.-28).¹⁵³

The method of payment differed from place to place and family to family. Sometimes the advance *mehir* was paid in gold and the delayed *mehir* in silver as in the following example:

Salim ibn Khidr ibn Shihhata al-Damanhuri married his betrothed, Salima, an adult virgin, daughter of 'Ali ibn Yahya. The dowry was set at 7 new gold Sultani dinars and 200 new Silver Sulaymani dinars to be paid in equal installments over twenty years, payment to be made at the end of each year. Furthermore, he agreed to provide her with "winter and summer wardrobes" (al-Barmashiyya 994/1587, 707: 113-711; Mahjub 1993,34).¹⁵⁴

In cases where the marriage contract does not mention the amount of dowry it is most likely that the woman waived her right to the amount of *mehir*, which would be in the range given to other women of her own class. In other cases the amount recorded is a very small amount which makes one think that she either lacked social leverage or a male relative or *veli* to negotiate for higher amounts of *mehir*. In these cases it should be noted that *mehir* could not serve as a means of real security for the woman's post-marital situation which presumably must have caused these women to remarry for purposes of security when they did not have a family to live with.

Nafaka

Yet another important area of women's material security in marriage was *nafaka* (maintenance allowance). According to Islamic law the husband is responsible for the full maintenance of his wife and children. Married men are obligated to provide their

¹⁵³ Ibid., p. 102.

wives with the level of support to which they are accustomed.¹⁵⁵ Even if the husband is absent from the home for a long period of time, disappears, or goes bankrupt, he is still responsible. Also after divorce he is responsible for the wife's maintenance for a period of three months (*nafaka-i'iddet*) during which time it is canonically determined whether or not she is pregnant.

If the husband failed to pay the *nafaka*, his wife could take him to court and the *kadı* would force him to pay it. According to Rifat Özdemir who studied the Ottoman court records of Kırşehir during the period of 1880-1906, "When the records are examined, many are found which show that the *qadı* implemented the laws to the letter, that according to the conditions of the times the *qadı* assigned to women a daily allowance called *nafaka ve kisve baha*, and the husbands were held responsible for its payment."¹⁵⁶

The following is a case in point:

Hanzade bint-i Bayram came to the court. Her husband left her after three months. She had no money to spend and she asked for *nafaka*. The court awarded her two *akças* per day (Çankırı Şer'iye Sicili, no. 2, p. 332, Ruling 259).¹⁵⁷

The *kadı*, among his many other duties, was responsible for looking after those who were left without protection. Women who were not given the due *nafaka* by their husbands frequently went to the court. Jennings explains how this worked:

¹⁵⁴ Ibid., p. 99.

¹⁵⁵ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640* (New York and London: New York University Press, 1993), p. 34.

¹⁵⁶ Rifat Özdemir, "Kırşehir'de Ailenin Sosyo-Ekonomik Yapısı," *The Journal of Ottoman Studies*, Vol. IX, (İstanbul: Enderun Kitapevi, 1989), p. 120.

¹⁵⁷ İlber Ortaylı, "Anadolu'da XVI.Yüzyılda Evlilik İlişkileri Üzerine Bazı Gözlemler," *The Journal of Ottoman Studies* I (İstanbul: Enderun Kitapevi, 1980), p. 38.

The court had the authority and the responsibility, to ensure that women were adequately supported by their husbands, and children by their fathers. Even after being divorced, women were entitled to that for a fixed time period. Children who inherited property from deceased fathers often were supported by their property, although first the mother or another guardian had to secure the kadi's permission. Fathers, on the other hand, unless impoverished, were expected to support their children from their own wealth without using the children's inheritances from their mothers. Other guardians, of course, could not be expected to expend their own resources on an orphan if he had inherited property, although to do so was honorable. The maintenance allowance (*nafaka*) and clothing allowance (*kisve*) were awarded as per diem allotments, which incidentally are accurate indicators of the minimal cost of living.¹⁵⁸

The following is an example of a divorced women being allotted nafaka for her daily expenses:

Cemile hatun bint 'Abdullah, divorced wife of janissary Mustafa, has two akce/day allotted for her maintenance (IA 5-3; 9 Ramazan 988).¹⁵⁹

Divorce and Remarriage

We are able to test how the system, which provided marriage-related security to the Ottoman women, functioned when the marriage came to a dissolution. This could be an irrevocable divorce that separated the couple before the law for good; unless the woman consummated marriage with another man and then divorced, she was unable to remarry her former husband. However, if there was not an irrevocable breakage of the marital bond, then it was common that the couple remarried agreeing on new conditions. At first all the other marital securities such as *mehir* and *nafaka* and the strictness with which they are adhered to might seem a little overly pronounced and too materialistic to some. Yet the many number of court cases indicate that indeed there was a need to take

¹⁵⁸ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 97.

¹⁵⁹ Ibid.

precautions since it appears that the vulnerable party, in this case the woman, experienced abridgement of her rights when she divorced. At least the woman seems to be able to voice her concerns through the mediumship of the court using her written documents, the testimony of witnesses and *fetvas*. Thus it is important to examine divorces in order to comprehend more fully the overall impact of marriage related security on Ottoman women's lives.

Cemile bint 'Abdullah claimed that her husband Mustafa bn 'Abdullah had done her a great evil by not giving her dowry and maintenance allowance after he divorced her: She wants the Sharia carried out (I 14-6; 17 Ramazan 988).¹⁶⁰

The above example shows that the wife was aware of her rights upon divorce and she wanted to make sure she received her due share. This example seems to be the kind where the husband declared the marriage void by divorcing his wife unilaterally. In general, divorce was a simple procedure considered to be the undoing of the marriage contract:

Divorce was normally done unilaterally by the husband, who had to pay a maintenance allowance to make sure that the wife was not pregnant. After completing that waiting period, the divorced woman would marry anyone she wanted. The *hul'* divorce, technically made at the request of the wife, or by mutual agreement, carried less social stigma on the man; the wife's formal acquiescence therefore had to be recorded. There is no basis for guessing the frequency of divorce. Except in the case of *hul'* it could be a costly procedure for a husband.¹⁶¹

Divorce does not seem to be a complex and strenuous procedure and there is no evidence of the Ottoman society's stigmatizing divorce and divorced women. In cases when women wanted to get divorced from their husbands they could do so with the

¹⁶⁰ Ibid., p. 71.

¹⁶¹ İlber Ortaylı, "Anadolu'da XVI. Yüzyılda Evlilik İlişkileri Üzerine Bazı Gözlemler," The Journal of Ottoman Studies I (Istanbul: Enderun Kitapevi, 1980), p. 35-36.

husband's acquiescence. This type of divorce was called *hul'*. In such cases the women would forego the dowry and sometimes even pay compensation to their husbands. Court registers are full of such cases. It was not difficult for women to ask the court to register their *hul'* divorce.¹⁶² In fact, Abdal-Rehim points out that there were no cases found in his study which the *kadı* denied the wife's request for divorce even when the husband objected.¹⁶³ Therefore, the husband's having the right to divorce the wife unilaterally did not prevent the wife from seeking divorce when she felt she could no longer stay in the marriage. The following are examples of *hul'* divorce:

Rabi'a bint Hasan of Terbiyodi quarter of Lefkoşa has as legal agent Mustafa bn Huseyn for acknowledging (*ik/ık*) in the presence of 'Ali bn 'Abdullah: Rabi'a is 'Ali's wife, but they are incompatible (*'adem-i imtizac*). She gave him (*hibe*) a house (*menzil*) at the quarter; now he renounces claim to it. Rabi'a renounces claim to 5000 akce *mehr-i mu'eccel* and to maintenance allowance (*nafaka'-i 'idder*) and they make *hul'*. Neither has any further claims against each other (4 148-3: I Şevval 1045).¹⁶⁴

When Inan Paşa bint 'Ali renounced through her legal agent (*vekil*) Halil bn 'Ali all claim to any payments from her husband Ya'kub bn Hudaverdi of Lefkoşa, both parties agreed to divorce by her request and a *huccet* of *hul'* was issued (I 325-2; I Zil-Hicce 1002).¹⁶⁵

Dalal bint Muhammed al-Si'udi, who asked her husband, 'Ali Bakr ibn Baraka al-Dallal, to divorce her in return for 5 silver dirhams for compensation. He agreed to that request and divorced her (Dumyat, sijillat 1005/1597 35:65-204).¹⁶⁶

When she experienced sexual incompatibility and dissatisfaction from the relationship, the wife was able to request divorce either by mutual consent or *hul'*

¹⁶² Amira El Azhary, "Law and Gender Violence in Ottoman and Modern Egypt," p. 281.

¹⁶³ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," p. 106.

¹⁶⁴ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 28.

¹⁶⁵ *Ibid.*, p. 91.

¹⁶⁶ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," pp. 105, 106.

divorce. There is even a miniature painting that illustrates the *kadı*'s court hearing the case of a woman whose husband is not fulfilling her sexual rights. The illustration depicts the *kadı* inspecting circumstantial evidence—in that case a wax candle shaped like a male sexual organ.¹⁶⁷ The following is a case in point:

Fatma bint Süleyman of 'Arab Ahmed quarter makes a claim (*dava/tk*) against Ahmed bn Musa: I was Ahmed's wife. We were incompatible at night in bed (*semerde adem-i imtizac olmağla*); we have separated (*mufarakat iktiza*). We made *hul* and I renounced my delayed dowry (*mehr-mu'eccel*) and maintenance (*nafaka*'-i *'iddet*). Now Ahmed claims that we are still married. When proof is asked of Fatma, from upright Muslims, Muharrem bölükbaşı bn Mehmed and 'Abdun-Nasr bn 'Abdul-Celil confirm her (4 20-2; III Sefer 1044).¹⁶⁸

Since the husband was required to pay for the wife's maintenance for the duration of pregnancy it was also seen that the wife might relinquish that right to obtain divorce:

Kulthum bint Ahmad ibn Mohammed asked her husband to divorce her in return for a compensation of 1 silver nisf of her delayed dowry. Because she was pregnant and therefore had the right for alimony until she gave birth, she also gave up her right to such support as part of the bargain for her husband to divorce her (Mahfaza Dasht, sijillat 1005/1597 110:n.p.-371).¹⁶⁹

Remarriage Contract

In cases of divorce when the husband did not make the third, final repudiation, the husband could take his wife back, if both parties were willing, within the three months that the *şeriat* allowed him. But any reconciliation between them had to be on the basis of a brand new marriage contract with new conditions and dowry.¹⁷⁰ There are many examples of this. The following mentions the new dowry that was agreed upon:

¹⁶⁷ The miniature is in the Islam Eserleri Museum at Sultanahmet, Istanbul.

¹⁶⁸ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 28.

¹⁶⁹ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period", pp. 105, 106.

¹⁷⁰ Ibid., pp. 105, 106.

A few days after their divorce Zeyni (?) bn Kıkıç Hamze of Lefkoşa and his former wife 'Ayna bint 'Abdullah remarried. She received a mere 400 akce then (I 33-2,5; 1 Şaban 1002).¹⁷¹

There are literally hundreds of thousands of marriage, divorce, reconciliation, and remarriage contracts recorded in *şariat* court records. In most remarriage contracts, the wife included conditions that took into consideration her new situation and her previous experience with the man she was remarrying.¹⁷² This included the wife receiving the full sum of her dowry in advance and putting stricter conditions:

Halima bint Abdullah ibn Abu'l-Qasim al-Maghrabi, "returned to the custody" of her husband, 'Abd al- 'Aziz ibn Sha'ban, who had divorced her two times. A brand new dowry of 5 gold Maghribi dinars was agreed upon and paid in advance. The remarriage took place in front of the Maliki judge (as was usual with Maghribi's) (Alexandria, sijillat 957/1550, 1:144-680).¹⁷³

Fatima bint Salim ibn Mohammed, also "returned to the custody" of her divorcé, Muhamed ibn Khidr ibn 'Abdullah, who paid her a new dowry of 6 new gold Sultani dinars, all paid in advance. The husband also pledged a monthly clothing allowance of 5 silver nisfs and agreed to have her son from a previous marriage "live at his place, eat from his food, drink from his drink, and sleep on his bed." He also accepted the condition that if he were to take another wife or if "another woman was to prevail upon him" then Fatima would be divorced from him and would own herself (al-Hakim, sijillat 966/1559, 540:23-103).¹⁷⁴

The case of Latifa tells a story in itself giving hints that she was divorced from him in the first place because of his taking another wife. This obviously caused her to put heavier conditions as a stronger deterrent. Since she was desired as a wife again, she made her conditions clear:

When Latifa bint 'Ali ibn Musa agreed to remarry Yahya ibn 'Ubayd bin 'Ali, she received, in advance, a new dowry of 4 gold dinars, as well as a commitment

¹⁷¹ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 27.

¹⁷² Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," pp. 106, 107.

¹⁷³ Ibid.

¹⁷⁴ Ibid., p. 107.

that he would pay her 5 silver nisfs monthly clothing support. In return, she released him from a 14-gold-dinar debt to which she had been entitled from their first marriage. As condition for remarrying him, Latifa required that, if he were to take back his other divorced wife at any time, then Latifa would be automatically divorced from him three times, whereby she could never become his wife again, unless she first married and lived with another man (Misr al-Qadima, sijillat 1037/1627 95:223-1010).¹⁷⁵

Polygamy

As in the case above, polygamy clearly constituted a reason for divorce and even if divorce did not take place it was perceived as a problem. Abdal-Rehim confirms this:

Polygamy was clearly a source of problems in marriage, and the profusion of cases in which conditions related to second wives were added to remarriage contracts shows that it was both an issue of concern among wives, and at the same time, notwithstanding the complete acceptance that polygamy was legitimated by the *shari'a*, not really acceptable in Egyptian society. Polygamy constituted one of the principle reasons for divorce as evidenced by court records.¹⁷⁶

If divorce took place for violating the condition of not having more than one wife, then it depended on the woman if she wanted to go back to her husband. If she chose to she would more likely put heavier financial conditions in the remarriage contract:

Fattuh bint 'Abdullah agreed to remarry Muhammad ibn 'Ali for a *muakhkhar* of 3 1/2 new gold Sultani dinars. Fattuh also declared that she held in her trust the sum of 10 dinars owed to her husband in the form of legitimate debt preceding the date of the remarriage. Hence, we can conclude that the advanced dowry in this case was still pledged for her winter and summer wardrobes similar to that of her peers as well as her other matrimonial rights (al-Salihiyyia al-Nijmiyye, sijillat 1004/1596, 317:251-956).¹⁷⁷

Shams bint Yusif ibn 'Ali al-Maghribi al-Andalusiyya, who accepted to return to the custody of her divorcé, 'Ali ibn Ahmad al-Maghribi al-Andalusi (both were of North African/ Andalusian origins) for a *mu'akhkhar* of 9 new gold Sultani

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

¹⁷⁷ Ibid., p. 108.

dinars. The husband also pledged to pay for winter and summer wardrobes of a quality equal to that of her peers (al-Salihiyye al-Nijmiye, sijillat 964/1557, 445:13-35).¹⁷⁸

Heavier conditions in the remarriage contracts makes one think that it was the husband who was at fault in these cases. Apparently wives felt the need to take even further precautions before remarrying their former husbands to minimize any future problems. And these new conditions do not seem to cause much difficulty for the husband since he wanted to remarry his wife. However, remarriages did not always have new written conditions. Some of them only included a new dowry, which was required by the *şeriat*.

Although polygamy was a principal reason for divorce, it was not a widespread phenomenon in Ottoman society. Scholarly research to date corroborates this. Even though the studies deal with different localities and dates, it is interesting to find similar results. For example, in his book on Cyprus, Jennings concludes that, "very little evidence of polygamy is found; probably it was uncommon."¹⁷⁹ And in Gerber's study on Bursa in the seventeenth century, he included 2000 male estates to find that only 20 men had two or more wives indicating that, "polygamy evidently existed only in theory, at least in Bursa."¹⁸⁰ In another study done by Abdurrahman Kurt on Bursa during the Tanzimat Era the results show that Gerber's findings were not unique for the seventeenth century. Kurt's unpublished conference paper entitled *Tanzimat Döneminde Kadının Sosyo-Ekonomik Konumu, Bursa Örneği (1839-1876)* (Women's Socio-Economical Position in

¹⁷⁸ Ibid.

¹⁷⁹ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 29.

¹⁸⁰ Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," p.

the Tanzimat Era: The Example of Bursa, 1839-1876) includes his study of 361 married men's *tereke* (estate) records. The results were as follows: 353 (97.8%) of them were monogamous; 7 (0.5%) men had two wives; there were none with three wives; and only one man had four wives (0.3%). The general percentage of polygamy was 2.2 percent.

Another study by Said Öztürk also confirms that the difference in percentage for polygamy varied at most 7 percent among the Ottoman cities of Istanbul, Edirne, Bursa, Ankara, Damascus and various cities in Anatolia. His study also reveals that the leading factor in marrying a second wife was the absence of children or a male child by the first wife. For instance, when he took a group of 95 people who had more than one wife, the number of children they had was rather small: 115 children. This gives 1.2 number of children per person. Öztürk concludes that the leading reason for these men marrying a second time is their desire to have a child.¹⁸¹ The results of scholars regarding the small incidence of polygamy in Ottoman society are confirmed by travellers' reports.¹⁸²

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¹⁸¹ Doç. Dr. Said Öztürk, "Osmanlı Ailesi Üzerine Düşünceler," in *İlim ve Sanat Dergisi* (January-February 1997) : 62.

¹⁸² 18th and 19th century travellers M. de M. D'Ohsson and Elisée Reclus talked about monogamy being the prevailing practice in their books. D'Ohsson says that very few Muslims had more than one wife. He explains that the difficulty of looking after all the women, the fear of upsetting the peace in the house, and the parents' refusing to give their daughters to married men prevented polygamy. And he adds that many times men could marry a girl only on the condition of not marrying another woman. See, M. de M., D'Ohsson, *18. Yüzyıl Türkiye'sinde Örf ve Adetler*, Tercüman Binbir Temel Eser 3 translation Zerhan Yüksel (İstanbul) p. 206. Reclus in his 1884 book wrote that among Asian Ottomans polygamy was not widespread and even some cities like Foça were fully monogamous. See Elisée Reclus, *Nouvelle Geographie Universelle, La Terre et Les Hommes* vol. IX (1884) p. 45.

CHAPTER IV

FINANCIAL SECURITY

As women comprised a more vulnerable segment of the society, it is very important to look at their financial standing and see if they were able to practically utilize the financial advantages that were legally theirs. The fact that the woman's security would be fortified with her financial standing in the family and the society she lived in, makes it necessary to examine how these were realized in the actual lives of women. Among the main sources of income, property, land or other goods were the inheritance and gifts she received, the income from her real estate, the *mehir* given to her upon marriage and the trade activities or business she was involved in.

First of all, according to law women could acquire property and dispense of it as they wished. The principle of separation in property was applied. Women's money or property was not joined to the husband's property as a family unit upon marriage. She was fully responsible for her own belongings, money or property and the income ensuing from her financial activities. This aspect was one that particularly impressed Western women travellers because they did not have the right to independently inherit and own property until later times.

The Ottoman woman was considered responsible as an individual in the court of law. Yet her husband or other close relatives were responsible for her maintenance and she was not obliged to pay for any of her family members or herself. The advantage of being guaranteed maintenance and not being responsible for anyone's support was balanced by her receiving half what a brother would receive in most inheritance shares. The amount

of inheritance a woman would receive was calculated and carefully recorded by the tax officials who recorded all property inheritance in the *Tereke Defterleri*.¹⁸³ From these official documents we are able to learn what women owned and what they inherited from their families. As it appears from the various documents, the practice of receiving less inheritance does not seem to inhibit the Ottoman woman's urge to acquire wealth or prevent her from pursuing her financial rights.

Once again the most important source of documents we have at hand are the official court records where we see stories of real women who took action when their material security was threatened. It seems that Ottoman women took financial violations quite seriously, seeing them as a step leading to other kinds of violations. In turn, the inviolability of women's property holdings was consistently upheld by the court in many cities. Women knew that, no husband, father, or other relative could sell, rent, or make use of any part of a woman's property without their consent.¹⁸⁴ In the case that a woman's property was sold against her wishes, the *kadı* cancelled the sale as soon as she proved she owned the property. This occurred more commonly when as a child she was still under the legal protection of a guardian as in the case below:¹⁸⁵

Emine bint Hacı Musa has for *vekil* Huseyn bn Huseyn: When my *müvekkile* was under age, her *nazir* Seydi Ahmed sold houses belonging to her at Sultan

¹⁸³ The estate of the deceased was recorded in the *Tereke Defterleri* by the state officials for inheritance and tax purposes.

¹⁸⁴ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 65.

¹⁸⁵ This legal protection or the office of overseeing the child's financial affairs need not always be held by someone other than the parents. Certain complaints came from children who were done wrong by their parents. For example, since the father could be the guardian of the orphan child, he sometimes abused this position by using up the inheritance left by the mother for maintenance expenses when it was already the father's responsibility to maintain the child financially.

Hamamı mahalle to Hacı Hasan. Now she is of age and wants them back. The court orders them given to her (23 48-8, 9: 16 Muharrem 1033).¹⁸⁶

A man could give some valuable land or property to his wife or a father could give of his property to his daughter if he wished in addition to the regular division of property in inheritance since the shares of women are usually smaller:

Abdull-Kerim çavuş, called Kara Baş, stated (*t.k.*) : I give my garden (*bağçe*) of known boundaries as a gift to my daughter Fatma, and my houses (*evler*) of known boundaries at Kızılkule quarter on Lefkoşa as a gift (*hibe*) for my daughter 'Ayşe. If I die, let my son 'Abdul-Halim not interfere (I 29-5; 28 Receb 1002).¹⁸⁷

A woman's ownership in property and land was proven by witnesses and sometimes a *fetva*. It is possible to see both women themselves or their *vekil* (legal representative—who would sometimes be a relative) to ask for their property back on their behalf:

Aftab bint Abdullah has *vekil* for the matter her son-in-law (*damad*) Süleyman bn Pir Ali, who sets forth claim in the presence of Mahmut bn Osman: In regard to the vineyard at Incesu next to Kıkıç Ine Hoca, Kasım beg, the mountain, and the stream. Fatma bought it in 1014 from Mirza, and then she sold it in 1015 to Aftab for 64 *ak altun*. Mahmut occupies it. I have a *fetva*. Mahmut also claims to have bought it. 'Udul-i Muslimin Mehmet Fakih bn Ali and Kasım bn Subhan Virdi confirm Aftab's claim. After *ta'dil* and *tezkiye* their testimony is accepted. So the property is Aftab's in accordance with the *fetva* (25 18-1; 18 Sefer 1034).¹⁸⁸

In another example from the Üsküdar Şeriye Sicilleri, "Melike bint Mürsel, ...represented by her husband, claimed that she had not received the inheritance due to her from her father's estate and was appointed two vineyards (*bağ*) in Bulgurlu in exchange as a compromise agreement (*bedel-i sulh*)."¹⁸⁹

¹⁸⁶ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 67.

¹⁸⁷ *Ibid.*, p. 23.

¹⁸⁸ R. C. Jennings, "Limitations of the Judicial Powers of the Kadı" in *Studia Islamica* L, p. 157.

¹⁸⁹ Yvonne J. Seng, "The Üsküdar Estates (Tereke) as Records of Everyday Life in an Ottoman Town,

In other cases it was not uncommon to see one of the woman's parents asking for their daughter's right that had been usurped by their son-in-law:

In a petition submitted by Banafse on Rebi'l-Awwal 1085/April 1675, she complained that her son-in-law, Halil the Janissary had illegally taken the house and *çiftlik* (agricultural estate) of her deceased husband, which were inherited by her daughter Fatma, Halil's wife (Majer 1984, fol. 25a, no. 4).¹⁹⁰

These demonstrate the notion of the inviolability of women's property by her husband and the girl's parents' genuine effort to protect their daughter's financial rights even after she was married.

On the other hand, problems stemming from money or property dealings amongst women were also found:

Mumine bint Kıkıç Mehmed of Hasbek mahalle sets forth a claim (*takrir-i kelam*) in the presence of Ayşe bint Ali: Ayşe occupies my property at the *mahalle*. Ayşe claims she already made *sulh* and paid Mumine 5 *guruş*. Kıkıç Osman bn İne Hoca and İbrahim bn Mehmed confirm her (25 24-1; 27 Sefer 1034).¹⁹¹

Sakina bint Mustafa of Lefkoşa made claim (*da'va*) against Hadice bint 'Abdullah who has her agent (*vekil*) Yusuf çavuş bn 'Abdullah: Formerly she gave me 3000 akçe as a loan (*karz-ı hasen*). I have paid part. Hadice denies this; a male and two female witnesses confirmed Sakina's testimony and it was accepted (I 159-2; 19 Rebi 'II 1002). Hadice claimed that the original debt was 13,711 akçe but she had compromised (*sulh*) for 10,711 akçe (I 163-I; III Rebi 'II 1003).¹⁹²

In case there were no witnesses to the violation of the woman's financial security, an oath was proposed to the woman just like in the case of Raziye bint Halil of Lefkoşa. She had no proof that her husband and uncle had sold her house. She took an oath that

1521-1524," (Ph.D. dissertation., University of Chicago, 1991), p. 233.

¹⁹⁰ Fariba Zarinebaf-Shahr, "Women, Law and Imperial," p. 90.

¹⁹¹ R. C. Jennings, "Limitations of the Judicial Powers of the Kadi" in *Studia Islamica* L, p. 180.

¹⁹² Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, p. 24.

the sale had been made without her consent. On the basis of her oath, the sale was cancelled.¹⁹³

However, if the woman declined to take an oath, the situation could be reversed:

Mustafa beg bn 'Abdullah says (*b.m.*) that his wife 'Ayşe, whom he has divorced, had Pervane beg as agent (*vekil*): The dowry (*mehr*) of Pervane beg's daughter 'Ayşe, who was my wife, was 4000 akce. She gave it to me as a gift (*hibe*). Pervane denies the claim. When an oath is proposed to 'Ayşe, she declines to take it (*nukul*).¹⁹⁴

There were also cases where women were appointed as *kefil* (guarantor) for others including their husbands:

Hiristne of Pahna village of Evdim nahiye was ordered in accordance with the Sharia to pay the debt of her husband Peraşkoge v. Hiristofi to 'Abdur-Rahman kethuda bn Ismail (4 4-3; III Şaban 1043).¹⁹⁵

The Christian Ottoman women were also prompt in asking for their rights even if against their own church:

The Armenian woman Mogal bint Haristo, mother and guardian of the orphans of Ilyas of Terbiyodi quarter, presented a fetva showing that certain property which the administrator of the church of that quarter claimed as vakf could never be legally made into a vakf because she owned it (4 129-3; III Receb 1045).¹⁹⁶

Women's inheritance rights were also scrupulously upheld by the court. Any property a woman inherited was exclusively hers to use as she saw fit, and she was entitled to all revenues which accrued from it. Regarding the Bursa court records he examined, Gerber concluded that:

All these cases clearly show that males in Bursa were not unaware of the possibilities of disinherit women. But they also show that women's

¹⁹³ Ibid.

¹⁹⁴ Ibid., p. 25.

¹⁹⁵ Ibid., p. 70.

¹⁹⁶ Ibid., p. 87.

ability to enforce the Islamic law of inheritance was not merely theoretical, but real.¹⁹⁷

A way women supported their claims was to take a legal document from the court that proved their ownership of the land they owned:

When Miliye (?), daughter of the late Mustafa of Aya Yorgi Yeros village of Lefkoşa nahiye, was given possession by title deed (*tapu*) of the field (*tarla*) of her late father, a *huccet* was given to her (4 227-3; Cumadi I 1035).¹⁹⁸

Rahime hatun, widow and executrix of the late Hasan beg of Limosa, presented a title deed (*temessuk*) in her possession order to secure possession of her late husband's 30 dönüm of arable fields (*tarla*) (4 78-2; III Receb 1044).¹⁹⁹

From the records we can see that men did attempt in different ways to usurp the property of women, but many women who fought for their rights not only had their rights upheld, but also gained material security in the process. An interesting example comes from Bursa:

Imperial Edict to the *kadı* of Bursa: A woman named Hayrunnisa applied with a petition saying that the house at the Çancı district of Bursa, which she inherited from her father, was seized unjustly by a man from the same district, Mehdi Ibrahim who said: "Your mother sold the house to me as your power of attorney (*vekilin sıfatıyla*)". This edict was written since she informs that, the aforementioned Mehdi Ibrahim came to Istanbul before and they attended the court in the presence of the Kadiasker. However, when he was warned about providing proof for the attorneyship (*vekalet*), he asked for time from the court by saying, "Let me bring my witness" and then he fled. Thus I command that he be brought to Istanbul to attend my court (Evader-i Zilhicce, sene 1056).²⁰⁰

Imperial Edict to the Beylerbeyi and *kadı* of Trabzon and *kadıs* of Giresun: A man named Süleyman who was domiciled in Giresun was married but since he lived in another place the wife (...) was allotted *nafaka* (support) through an official document from the court, however, she died before receiving the *nafaka* and *kisve baha* (clothing allowance) which was sent. Her daughter who lives in

¹⁹⁷ Haim Gerber, "Social and Economic Position of Women in an Ottoman City, Bursa, 1600-1700," p. 233.

¹⁹⁸ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 90.

¹⁹⁹ Ibid., p. 91.

²⁰⁰ Ibid., p. 417.

Trabzon, applied to Istanbul and asked for the *mihr* and *nafaka* from Süleyman, which was transferred to her according to the *şer'* by way of inheritance. He refrained from giving by fabricating excuses, even though the *kadı* sent someone he persisted in not giving it and did not listen to the order of the *şeriat*. This has been officially recorded and documented. Thus I command that the aforementioned Süleyman be brought to Trabzon before the court and the *mihr* and *nafaka* which he refrains from giving with false excuses must be taken from him and given to the rightful woman's husband Mustafa, whom she appointed as her *vekil* (power of attorney) (App. date 1056).²⁰¹

Males claiming their inheritance rights accruing from their mothers is another indication that women did indeed own land, houses and separate household effects apart from their husband's as in the following example:

Ibrahim beşe bn Abdullah of Kara Keçili mahalle acknowledges (*ikrar*) in the presence of Hızır v. Arslan: My late mother left a menzil with *sofa*, *tabhane*, *şirahane*, *su kuyusu*, and *muhavvata* at the *mahalle* next to Arzuman, Iskender and, on two sides, the road; she also left a vineyard at Kayadibi *nahiye*, next to Migirdic, Kıkıç, Köse, and the road; and left household possessions. When I asked for my share of inheritance from my mother Hatun Bola, the *muslihun* intervened and *sulh* was made for a cloth (*dulbend*) and a storage place (*anbar*) (27 42-4; 21 Ramazan 1035).²⁰²

A study on the court registers of Galata, Istanbul, done by F. Müge Göçek and Marc David Baer, also reveals that some women owned considerable amounts of capital. For example, Fatma Hatun's wealth reached 138,000 *akçes* and was mostly comprised of even greater wealth of a total value of 54,520 *akçes*, 12,000 of which was in cash.²⁰³

The inventoried property of the Galata women as it appears in the Islamic court registers gives us information about their daily lives in the family. Their possessions of clothing, bedding, kitchenware, bathware, luxury items of furs and jewelry and

²⁰¹ *Mühimme Defteri* 90, ed. Mertol Tulum (Istanbul: Türk Dünyası Araştırmaları Vakfı, 1993), p. 35-36.

²⁰² R. C. Jennings, "Limitations of the Judicial Powers of the Kadı" in *Studia Islamica* L, p. 180.

²⁰³ Fatma Müge Göçek and Marc David Baer, "Social Boundaries of Ottoman Women's Experience," in *Women in the Ottoman Empire/Middle Eastern Women in the Early Modern Era*, edited by Madeline C. Zilfi (Leiden-New York-Köln: Brill, 1997), p. 50.

investments in property and cash capital²⁰⁴ must have gone a long way in enhancing their financial security.

In a study made on the estates of women in Üsküdar, a woman named Kamer, apparently of a farming family, owned her own house, a water buffalo cow and calf, a black buffalo and a sheep. However, produce from the farm was not indicated in the estate since such items appeared as the property of males in families that farmed.²⁰⁵

The land regime of the Ottoman Empire, which looked for the ultimate usage of the land under the control of the *sipahi* for tax purposes, curtailed the application of the *şeriat* by not giving the daughter her share of inheritance. Jennings states:

The Karaman *Kanunname* of 1583 (991) states that, although daughters of reaya formerly could not inherit *çiftlik*s, an imperial order now requires that, if a deceased reaya had no sons and if his daughter asks the sipahi for her father's land and if she is capable of using it, she should be given the *çiftlik* (47). The older position is stated in the Karaman *Kanunname* of 1528 (935): If a reaya dies and his son and daughter remain, his *çiftlik* goes to his son and his daughter gets no share (48). Neither of these stipulations appears as favorable to daughters as the Islamic system of inheritance, although presumably the requirements of the sharia could still be met by giving a daughter her share of inheritance in houses and movable goods while a son got land.²⁰⁶

Even though the logic was to make maximum usage of cultivable land, the stipulations were not absolute. If the daughter could cultivate the land, by paying a relatively small registration fee to the *tımar sipahi*, she could obtain special provisions and got her share in the land when there was no other son:²⁰⁷

The governor (*sancak beğî*) knows that Christian (*zımmiye*) Belime (?) sent a man to my Porte. It was said that her father died without male children (*evlad-ı zukur*), so lands in her possession were given to sipahis, interfering with her

²⁰⁴ Ibid., p. 52.

²⁰⁵ Yvonne J. Seng, "The Üsküdar Estates (Tereke) as Records of Everyday Life in an Ottoman Town, 1521-1524," (Ph.D. dissertation, University of Chicago, 1991), p. 256.

²⁰⁶ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," pp. 113, 114.

²⁰⁷ Ronald C. Jennings, *Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640*, pp. 33, 34.

father's lands. If anyone dies without a son or a brother, his land goes to *tapu* for another. If he has a son or a brother, it goes to him. And daughters who have the ability to perform agriculture may request their father's lands. It is my order. Registration fee (*resm-i tapu*) of 300 akce may be taken for the best lands, 200 akce for average land, and 100 akce for the worst land (I 100-2; 1 Rebi'I 1002).²⁰⁸

Fetvas are precise on a woman's financial and property rights which include the ownership of slaves. For instance, if the husband gave his *cariye* (female slave) as a gift to his wife, then the slave belonged solely to the wife and the husband no longer had any rights on the slave. According to the *şeyhülislam*, if the husband had sexual relations with his former slave and had a child from her, stoning the husband to death was required in that case, because this was an act of *zina* (fornication).²⁰⁹

In short, the picture that emerges as a result of looking into various sources is a vivid one. Women appear to be vigorously involved in property sales and seem to keep appearing in the courts either to pursue their rights or be sued. Their access to financial security is the least contested kind of security they had which sheds light on their self image as well: women were definitely conscious of their financial security.²¹⁰

Occupations

Today the occupation of a woman gives us an idea about her social standing, financial independence and even self-image to a certain extent. However, it is interesting that we apply the same criteria to the women throughout history measuring their status in the society. I believe this must not be so, particularly when looking at their security.

²⁰⁸ Ibid., p. 23.

²⁰⁹ Ibid., p. 122, 550th subject.

²¹⁰ Between 1603 and 1627, 40% of all land and property transfers involved at least one woman in Kayseri. See, R.C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 114.

Following the criteria of modernization and industrialization regarding women's activity, can lead us to a false conclusion, leaving us with the impression that Ottoman women were not that secure after all because they were less likely to work outside the home to earn money, since they were most of the time inside their homes and were occupied with inside-the-home activities.

However, this approach falls short in explaining the extent of the financial activity in which Ottoman women participated, particularly in selling and buying property, and the inheritance they left as listed in the *Tereke Defterleri*. They do not appear to be generally moneyless and powerless to live on their own if circumstances required it. To the contrary, they appear to be supported by their immediate family, husband or the society and the state. Thus when evaluating their occupations, which are few in variety, it is important to take them in their own circumstances because Ottoman women display the same self-confidence and knowledge of their legal rights as a working woman of the twentieth century, if not more. Also it is evident that, even though many women were not likely to be found working outside the home and family, they were provided a reasonable level of maintenance by the traditional system. This was assured by the court because the *Şeriat* required that men pay for the full maintenance of their wives and children.²¹¹

Yet, regardless of this relatively financially protected and secure environment, women do not seem to be indifferent to managing their own finances. To the contrary, there were many who were actively involved in administering their own and other's finances. Some were occupied in administering the finances of a *vakıf*, or working as a

²¹¹ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, pp. 33, 34.

broker in trade. In towns of small industries, many women were also active in the workforce²¹² sometimes to the extent of forming a union and protecting their interests in face of powerful guilds. An example comes from the Bursa silk industry. Eight women who were producing silk cords had encountered the opposition from office holders of the powerful silk guild (*kazzaz*) and they sued them producing an old sultanic order that gave women the freedom to sell their products wherever they wished. However, the men appealed to the Porte to stop these women from selling their goods in the market arguing that they had to pay taxes for it. They secured an order; however, this time women appealed to the sultan themselves and got the previous order repealed. They were not disturbed again.²¹³

Women were in general less visible and even absent in many occupations. Yet, it would be helpful to mention the occupations women were seen in, in order to know the source of additional financial support they had. Working women could be seen among the artisan class as spinners, weavers, and embroiders. They sometimes sold their products in public baths or well-to-do households and sellers were frequently Jewish or Armenian women.²¹⁴ Women were also employed in fields of service to other women such as bath attendants, servants, mid-wives, nurses, wet-nurses and entertainers for women. The area they were most active in was real estate. Court records show that many women actively bought and sold property. In Abraham Marcus' study of Aleppo records

²¹²Women had a very important role in the active camlet industry, or at least that was the case in Magosa where spinning and preparing wool for the camlet industry was vital to the prosperity of that city. See Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 31.

²¹³ Haim Gerber, "Position of Women in the Ottoman Empire, 1600-1700," pp. 237, 238.

²¹⁴ Ian C. Dengler, "Turkish Women in the Ottoman Empire: The Classical Age," Journal of the Economic and Social History of the Orient, Vol. XXVI, Part III, p. 231.

for 1750-51, women appeared in 67 percent of house transfers and they made up 40 percent of the dealers.²¹⁵ Interestingly, Marcus also indicated that in cases of divorce women frequently bought the husband's share of the house.²¹⁶ The following statistics regarding women in Cyprus corroborate that women were actively involved in real estate transactions:

One of the most important rights which women, had concerned buying, selling, and inheriting land and property. Between 1580 and 1637 the judicial records reveal a steadily increasing proportion of women in both land and property transfers. In 1593-1595 (1002-1003) 15% of land transfers and 13% of the property transfers involved at least one woman. By 1609-1611 (1043-1046), the proportion of land transfers involving women had increased to 31%, while the proportion of property transfers held steady at 30%. The total proportion of all transfers had increased from 14% to 26% to 30% during those periods.²¹⁷

However, women having various occupations outside or inside the home, and having considerable amount of wealth should not be directly translated into power. Money did mean financial security to a great extent, but not always power. This was not only true for women but men also. The merchants could have a considerable amount of money but this was not equated with being in the most powerful position in the society. Only after the *ayan* movement in the eighteenth century, did this situation change.

²¹⁵ Abraham Marcus, "Men, Women And Property: Dealers in Real Estate in 18th century Aleppo," Journal of the Economic and Social History of the Orient, Vol. XXVI, Part II, p. 144.

²¹⁶ Ibid., p.155.

²¹⁷ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 33.

Guardianship

From the perspective of women's security it is important to see women's role in guardianship over minors since women applied for and received financial support when they were unable to maintain the affairs of the minors that they were responsible for. On one hand, women received financial support to look after minors and, on the other hand, they administered the minor's finances. In general we have discussed the ability of the woman to "receive" her security. Here the woman's being a guardian also entails her "giving" security to others while maintaining her own. As a parent or legal guardian she exercised power and discretion. If we can establish that she was a trusted and secure (*emîn*) person and that she was frequently given this responsibility, then this would show that she was secure before more powerful persons, groups or institutions. We reach this conclusion through the mirror effect that relationships have in general. Since the power dynamics usually consistently follow through the hierarchy in a society as the more powerful oppresses the less powerful, the less powerful in turn oppresses the lesser powerful. For example, when we look at an oppressed (*mazlum*) group of women, they are more likely to display signs of oppression in their dealings with others less powerful than themselves and act as they were acted upon. However, we are not accustomed to looking at this the other way around. Actually women's ability to handle the affairs of minors who were both their children and/or other minors they were close to, would say something about their own security. For this reason, I believe it is important to show the capability of Ottoman women in being guardians. In a way this is like the acid test of the system of women's security.

In the marriage the father was responsible for the maintenance of the children.

Upon divorce the custody of the young child was many times given to the mother²¹⁸:

Divorced women were usually given custody of their children, the husband being responsible to pay child support during a legitimate period determined by the *shari'a*, after which the child was expected to go to live with his or her father. Court records, however, show that children usually remained with the mother even after that age was reached. The amount of alimony and child support was very often decided in court, and wives were known to go to court demanding that such support be increased or that the court force the husband to pay the amount of support stipulated at the time of divorce.²¹⁹

An example of this comes from the beginning of the 17th century:

The Hanafi *qadi* gave Amna bint Ibrahim custody of her son, Abu Zayd, following her divorce and estimated a nursing fee of 1/2 fidda to be paid by her divorcé, the boy's father. Because the latter refused to pay, the judge gave Amna permission to borrow against the money owed her and made the divorcé legally bound to repay it. Amna's custody of Abu Zayd was assumed to last for two years whether she remarried or remained single, lived in town, or moved elsewhere. She was expected back in court after the expiration of the two years, when her custody would be extended, as was usual in such cases (Tobon, *sijillat* 1008/1600, 188:57-201).²²⁰

In case of the husband's death, a guardian was appointed by the *kadi* to oversee the affairs of the child. Many times the mother was appointed as the legal guardian:

Mu'mina bint Zayn al-Din 'Abdul-Rahman, the Shaykh of Suq al-Ruba'iyya al-Zahari (i.e., a man of some consequence) was made guardian of her minor daughter, Salha, from her deceased husband, Shihab, the merchant "to look into her [daughter's] affairs and interests and dispose of them by selling, buying, taking and giving, receiving funds or spending, in all legitimate dispositions; and to do what guardians are entitled to do legitimately until the said minor reaches maturity, understands her religious duties, and legitimate handling of money" (al-Qisma al-'Arabiyya, *sijillat* 1035/1626, 57:27-394).²²¹

²¹⁸ Even though it has been thought that the deceased husband's father or brothers would have the guardianship of the orphaned children, Abdal-Rehim says in the Ottoman example, "Most *madhahib* agreed that, when a husband died, the wife was entitled to become the guardian of her minor children, with powers over their interest and property." See Abdal-Rehim Abdal-Rahman Abdal-Rehim, p. 109.

²¹⁹ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," p. 108.

²²⁰ Ibid., pp. 108-109.

²²¹ Ibid., p. 109.

Another register mentions how the mother was the overseer of her children's property:

The *qadi* assigned Tajat bint Zayn ibn Karim al-Din as guardian for her two sons, Ahmad and Khatun, after the death of her husband, Muhammad ibn Muhammad ibn Muhiyy-al-Din, the merchant of Suq al-Shuhub. As guardian, she was expected to control their substantial fortune, which they inherited from their father, including buying, selling, trading and all other kinds of dispositions until they were capable of handling their own money (al-Qisma al-'Arabiyya, sijillat 1035/1625, 267:n.p.-322).²²²

Even if the guardians were non-Muslim, they were "usually referred to as guardians before the *Şeriat*:"²²³

Gaine (?) bint Gazel (?), an Armenian, was guardian before the Sharia and mother (*valide*) of a minor son (*sigar oğlu*) of the late Armenian Mosis (4 9-2; I Ramazan 1043).²²⁴

Aside from the guardian an overseer could be appointed as well:

When a guardian was needed for the minor son Isma'il of the late Mahmud of Lefkoşa, the mother Ummi was appointed and his uncle Nasrullah çavuş was made overseer *nazır*. 5 akce/day was allotted (I 149-4; Rebi 'II 1003).²²⁵

In another case a man who was appointed guardian for his grandchildren resigns and asks the court to appoint his daughter:

Rodoslu Süleyman bn Seydi stated (*t.m.*) before his daughter Ayla: I was guardian for her orphans, the minor boy (*sagır oğlu*) Mehmed and the minor girl (*sagire kız*) Belkıs. I have resigned. Let the guardianship (*vasiyet*) go to my daughter. She accepts (3 4-3; 3 Zil-Hicce 1018).²²⁶

²²² Ibid.

²²³ Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 72.

²²⁴ Ibid..

²²⁵ Ibid., p. 26.

²²⁶ Ibid.

When the mother was unable to meet the financial demands of maintaining the children's needs, she could sell their property and pay for their needs. However she would report this at the court to prevent injustice:

Ayşe bint Tuvana (?), mother and guardian of the minor children of the late Nebi beşe of Lefkoşa, acknowledges and states (*ik/ik*) before Ferencesko of Laçe village of Lefkoşa kaza: A house (*menzil*) at the village is sold to Ferencesko for 800 akce in order to pay a debt for maintenance allowance (*zaruret-i deyn-i nafakaları için*) (4 141-3 I Ramazan 1045).²²⁷

Hacer bint Yani, guardian and mother (*valide*) of the minor Musa Seydi bn Mehmed, for herself and as legal agent states (*b.k.*) before Cyprus mutesellim Hasan kethuda who has Piyale beg as agent. She may sell some of the orphan's property if it is most useful (*enfi'a*) to do so (3 52-4; II Cumadi II 1019).²²⁸

Like women, men also could ask to use the property of the minor they were responsible for guarding. One example is included here to show how a minor girl's property was utilized for her maintenance:

Mehmet beşe bn Yusuf, guardian of the minor daughter of the late Mustafa of Kaymaklı village, states (*bk/tm*) at court: Now I have become guardian. Maintenance and clothing allowance are necessary from her inherited property (*mal*). Four akce/day is allotted (4 73-2; II Receb 1044).²²⁹

The mothers took precautions to prevent disputes regarding inheritance to their children:

It is registered at the request of the aforementioned Ayla that her minor son's share of inheritance was 32,000 akce, her daughter's share 16,000 akce (3 4-6).²³⁰

Before marrying, women also took precautions to safeguard their children's position in the union and prevent oppression or undue harm to their children. This is explained by Abdal-Rehim:

²²⁷ Ibid., p. 98.

²²⁸ Ibid., p. 26.

²²⁹ Ibid., pp. 97, 98.

²³⁰ Ibid., p. 26.

When the bride brought with her children from a previous marriage, she often included conditions in the marriage contract pertaining to the security and support of these children, for which she was the *waliyya*. A typical example is that of Mas'uda bint Muhammad ibn Abi Bakr that he accepts her children from a previous marriage. The typical entry in the marriage contract in such a case reads: "The said husband confirmed he knew that his said wife [has] a son born from another [man]. He (i.e., the husband) accepts that he (i.e. the son) will eat from his (i.e. the husband's) food and drink form his drink and sleep on his bed without compensation"(al-Zahid 957/1551, 1:183-824). It is interesting to note that, in this particular case, the wife must have been of some wealth because she owned the house the couple was to reside in: "The husband accepted to dwell with his wife in her house of residence and that neither she nor her son would demand any rent from him as long as they live together."²³¹

Another example supports these findings. The bride 'Aisha bint 'Ali ibni Sulayman al-Maghribiyya, added a condition to the contract that required her bridegroom, Mu'allim Shahab al-Din al-Tahhan, to accept that her children from previous marriage would live with them and that he be responsible for their support in return for his lodging in her home. A proxy was used to marry her, even though she received the *muqaddam* of 6 gold dinars (of a total ten) "by her own hands" (al-Zahid 957/1551, 1; 183-824).²³²

A few of the recent articles on family law in Ottoman *Şeriat* courts, women, minors and children give some detailed information on the application of Islamic law regarding the security of women. Illuminating the dynamics in the issues of *vilayet* (the bride being married off by a *veli*), *mehir* and *küfüvvet*, they explain how the Ottoman courts allowed different *mezheb*'s interpretation of these matters.²³³

The functioning of *vilayet* as an oppressive device seems to be strengthened in time with a more patriarchal, that is authoritative, structure prevailing. However, the main idea behind the institution is to protect the bride from any possible encroachments

²³¹ Abdal-Rehim Abdal-Rahman Abdal-Rehim, "The Family and Gender Laws in Egypt During the Ottoman Period," p. 99.

²³² Ibid., pp. 100,101.

²³³ Particularly one thorough article by Amira El Azhary Sonbol explains how with the standardization of law a more patriarchal version of the Hanafi law was taken as basis for the modern law codes in Egypt regarding guardianship. See, Sonbol, "Adults and Minors in Ottoman *Shari'a* Courts and Modern Law," in Women, the Family, and Divorce Laws in Islamic History, ed. Amira Al Azhary Sonbol (Syracuse, NY: Syracuse University Press, 1996), pp. 236-256.

of her rights by the future husband. I do not agree that the institution of *vilayet* was merely a formality.²³⁴

The European travellers say that the husbands hardly ever oppressed their wives. This in part suggests that there were active support systems available to women. In this case not only women, but also men close to the woman are found in this supporting position as *veli*, which serves as a deterrent to the husband's being oppressive.

²³⁴For example, Al Rahman gives an example and concludes that this was a formality. "The dowry was substantial, amounting to 12 new gold dinars, 6 of which she received 'by her own hands,' indicating the social independence of the wife. Still, even though it is clear that the wife contracted her own marriage, a *vekil* whose relationship to her is not made clear in the contract. This should make us pause and ask whether using a *vekil* may, in many situations, have been no more than a formality related to social traditions." This might be so only where the position of the bride was strong enough to be a deterrent to the husband abusing his strong position and not giving her due rights.

CONCLUSION

The issue raised at the beginning of this thesis was the importance of dealing with the security of Ottoman women and the significance of this subject in understanding the Ottoman society in general. If the *fetvas*, the court records, and the travellers' reports draw a somewhat different picture of the Ottoman woman than the popular image of the "oppressed woman," then it is important to know how this picture differs. Examination of these sources showed that they actually confirm one another from different perspectives. First of all, the Ottoman woman's image as a weakling who was without any security and deprived of her rights has been dispelled. On the other hand, the Ottoman woman does not appear to be a "liberated" woman in today's terms either. Especially the *fetvas* of the famous sixteenth century Şeyhülislam Ebussuud Efendi show the theoretical bottom line for the security of Ottoman women. And this bottom line was clearly saying that the woman needed to be protected even if this meant she would be under strict scrutiny. This legal and religious point of view at first glance may seem to partially confirm Nada Tomiche's views; but a closer look reveals that the intention behind the *fetvas* was not to suppress women but to protect them. The logic of the *fetvas* did not allow for leaving a woman in an insecure environment where she would be vulnerable to misconduct, violence or any other kinds of abuse, and according to the *şeyhülislam* this could be almost any place where the woman was left alone. The *fetvas* denounce violating a woman physically, socially and financially in their own unique way but also see her as the weaker sex who may need disciplining by the husband's hand. And

the legal consequences are quite harsh to anyone who attempts to transgress these lines, male or female, since the *fetvas* were frequently used as evidence in the courts.

On the other hand, many travellers' reports paint a different picture, a picture of utmost respect for women, let alone restriction. Should this be seen as a discrepancy between the *fetvas* and the travellers' reports? Not necessarily so, because while one points at the legal bottom line, the other describes the practice as it appears. It is quite feasible that these were both true at the same time, just like two sides of a coin are both valid. Jennings and Gerber looked into the same question but did not come up with a clear idea on this matter. Jennings, for example, tried to explain the high level of women's participation in the courts by the Turkish culture's influence on the application of Islam:

In Kayseri it was the consistent and conscientious enforcement of the sharia by the court that made possible the apparently good position of women. Whether it was ninth century sharia, or nineteenth century sharia, or "Arab" sharia, or "Turkish" sharia, it was a development of the sharia that was clearly and coherently administered by a series of kadis with the active support of the local ulema for over a quarter of a century in Kayseri and was surely considered to be THE sharia by all the people involved. Limited samples from Trabzon, Amasya, and Karaman indicate that women used the courts there frequently and that they regularly represented themselves in court; they seem to have exercised control over their own property and to have inherited. If any "Turkish" customs had influenced the legal position and social and economic position of women in Kayseri, that can only be determined by further studies in sicils in Turkish and Arabic provinces of the empire.²³⁵

However, Gerber did not find this satisfactory. Gerber saw a difference between the described Islamic laws and the actual application of the *şeriat* as well. But he did not have a clear explanation for this phenomenon and indicated that there is need for further

²³⁵ R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records--The Sharia Court of Anatolian Kayseri," p. 114.

research on this question before we can explain the reason why women were relatively active in the social life like in property transactions and representations at the court, if not in public office. Here, I would like to suggest that there is not much reason for thinking this was a discrepancy. As the Council of Europe Human Rights Director, Pierre-Henri Imbert, has stated at the 4th European Ministerial Conference on Equality Between Men and Women (Nov. 13-14, 1997) held in Istanbul, "The law always shows what one cannot do, but it never shows what one should do ideally." The Ottomans, both men and women, seem to have frequently done what they thought they should do rather than sufficing with the letter of the law. They generally practiced the underlying "principles" of the religion instead of making do with the bottom line. For example, the emphasis that the Ottomans placed on the principle of charity in their daily lives, not limiting themselves to the Islamic law which required people to give only 2.5 percent of their wealth to the needy as *zekat* (as one of the five pillars of Islam), can be seen from this perspective. Polygamy is another case in point. The *şeriat* forbids marrying more than four wives; that is the bottom line. However, in the Qur'an God recommends monogamy because most men would be unable to deal "justly" with more than one wife, which is a condition of polygamy.²³⁶ The fact that the overwhelming majority of Ottoman men had monogamous marriages can be largely explained by their adherence to the principles of Islam rather than the letter of the law. For the Ottomans the kind treatment and fairness

²³⁶ In the Qur'an, verses 3 and 129 of the Nisa Sura mention this issue. It is preferable for men to suffice with one wife: "If ye fear that ye shall not be able to deal justly with the orphans, marry women of your choice, two or three or four; but if ye fear that ye shall not be able to deal justly (with them), then only one, or (a captive) that your right hands possess. That will be more suitable, to prevent you from doing injustice." (4:3) "Ye are never able to be fair and just as between women, even if it is your ardent desire: but turn not away (from a woman) altogether, so as to leave her (as it were) hanging (in the air). If ye come to a friendly understanding, and practice self-restraint, God is oft-forgiving, most merciful." (4:129) See The Holy Qur'an/ Text, Translation and Commentary by Abdullah Yusuf Ali, pp. 179, 221.

towards women was the basic principal to be applied before looking into the details of the law. We can say that as long as there was mutual respect and other social balances were given due regard, the descriptions of the above-cited travelers' reports were accurate. But in general, when there was disorder and a violation of a woman's security, then the *fetvas* drew the bottom line, ensuring minimum if not optimal security.

A strong faith that justice would prevail seems to be indicated by the variety and number of court cases dealing with the issue of women's security that were brought to the courts mostly by women. And the court records also provide a more realistic perspective on the lives of women in the Ottoman Empire, showing how problems were approached. The key to understanding why the women had such strong faith in the courts is pointed to by Gerber:

I believe we may have here in a nutshell an answer to those who apply to the *kadi* system their own modern way of thinking—those who question how this system of law could function at all without any technical means to investigate and obtain evidence. The case of the oath suggests that we may be influenced by our hidden ethnocentric blinders concerning this system of law, and that it is time we tried to view this legal system on its own terms. Fear and religiosity may have been tools as effective in the hands of the Ottoman judiciary as are investigative authority and technology in the hands of a modern judiciary.²³⁷

In other words, the legal system, which was one of the Ottoman woman's strongest support systems, was intricately linked to the metaphysical principles underlying Ottoman society. Although many Muslims have lost sight of this fact today, there is great respect for the feminine principle in Islam. The *cemal* (feminine) attributes of God such as Merciful, Compassionate, Beautiful and Forgiving are just as highly regarded as the *celal* (masculine) attributes such as Majestic, Wrathful, and Avenger. In fact, a sound hadith

²³⁷ Haim Gerber, State, Society, and Law in Islam--Ottoman Law in Comparative Perspective (New York:

states that, "God's Mercy precedes His Wrath." It should come as no surprise, then, that Ottoman men were generally respectful towards women, and that Ottoman women sought legal redress for any infringements of their rights. Also there is emphasis in Islamic metaphysics on balance between opposites, or the avoidance of the two extremes (*ifrat*/excessiveness and *tefrit*/deficiency). Justice lies between the two extremes of oppression and submission. It was a natural extension of the Ottoman women's religiosity to complain to the court whenever the balance of justice was upset. The metaphysical underpinnings of the Ottoman society provided an atmosphere conducive to women's security.

The legal system, as has been demonstrated by the many court records included in this thesis, provided the vehicle for Ottoman women to maintain their security. Not only did the letter of the law guarantee security of life, property and honor to Ottoman men and women, but the courts were accessible to women from all strata of society. The courtroom doors were not closed by exorbitant legal costs, which prevent many Western women as well from seeking justice in court today. Nor were there social taboos, which prevent many contemporary Muslim women from taking male family members to court. The accessibility of the courts to women has been demonstrated by studies of records in various Ottoman courts. Jennings' findings regarding women in Cyprus support this point:

On the other hand women did make serious claims at the court with some regularity. They made claims against janissaries, against police from the governor's office, and against the sipahis. They made complaints against husbands, father, sons, and other relatives without any difficulties. Women also

State University of New York Press), 1994, p. 50.

had to answer serious legal charges made against them, almost always in person, for using a legal agent (*vekil*) at such a time was not permissible.²³⁸

The general protective attitude of the *kadis* towards women's rights further enhanced Ottoman women's chances of obtaining justice when their security had been violated. In his study on Ottoman law, Gerber gave statistical proof of the *kadis'* protective approach to the weaker party which included women in cases against men. Jennings made a similar finding regarding *kadis* in Cyprus:

One of the special duties of *kadis* was to look after the interests of all women. In response to this opportunity, women especially from Lefkoşa, but also from other towns, and even a number of villages took advantage.²³⁹

In cases when women were not satisfied with the decision of the *kadi*, they could take their case to the sultan by petitioning the Imperial Council. Fariba Zarinebaf-Shair explains that resort to sultanic justice was not uncommon for women:

We know that women and minorities appealed to the local shari'ah courts continually, but the Sublime Porte and the Imperial Council were farther away and out of reach. Despite distance and great hazards, women came from as far as Egypt to petition, showing that the myth of 'royal justice' was widespread and strong enough to convince many, even those from the farthest corners of the Empire, to undertake a laborious journey to Istanbul to present their grievances in person."²⁴⁰

In addition to benefiting from a favorable metaphysical atmosphere and a sound legal vehicle, there were also strong social supports that enhanced the security of Ottoman women. First of all family members actively supported them. This support was not

²³⁸ R. C. Jennings, Ronald C. Jennings, Christians and Muslims in Ottoman Cyprus and the Mediterranean World, 1571-1640, p. 32.

²³⁹ Ibid.

²⁴⁰ Fariba Zarinebaf-Shahr, "Ottoman Women and the Tradition of Seeking Justice in the Eighteenth Century," pp. 255-6.

limited to the emotional sustenance and financial maintenance that girls received in their childhood. When they got married usually the father or another male relative was present during formalization of the marriage contract. This gave the bride social leverage and indicated to the bridegroom that she was not alone and vulnerable. After she got married, in case of any physical harm the woman's family home was there for her to return. This was also the case when she was widowed or divorced. There are many cases where either the mother or the father defended the rights of their daughter suing their son-in-law for the injustice he had committed. A case in point is the following Imperial Edict which is a response to the petition of a girl's father against the son-in-law:

Imperial Edict to the Paşa of Özi and *kadı* of Tekfur-gölü: A man called Osman came to Istanbul and informed that his son-in-law Mustafa who is the governor (*mutasarrıf*) of Çakırcı village, tied to Tekfur gölü district, divorced his daughter and did injustice by seizing her gold bracelet, her silver *sorguç* (aigrette worn on the head) and silver basin (*sim ileyen*). The above mentioned (Mustafa) was invited to the court yet he escaped. This honored edict orders that he be caught and brought to my court (*Asitane-i Saadet'üme*) in Istanbul (Fi 11 Rebi'ü'l-ahir, sene 1056).²⁴¹

In addition to family support, Ottoman women were able to rely on neighbors and others if needed to tell the truth in court. This support sometimes took the form of testimony in court as to the circumstances of a particular case or as witnesses of character. Sometimes support from others took the form of physical assistance. In the case of cruelty on the part of a husband towards his wife, the matter was not seen as a family affair that should be resolved between man and wife. The people around, women or men, saw it as a duty to intervene where physical violations took place. Lady Ramsay related an event where she saw a village woman following her husband who was going to the

²⁴¹ *Mühimme Defteri 90*, ed. Mertol Tulum (İstanbul: Türk Dünyası Araştırmaları Vakfı, 1993), p. 152.

fields. The man told his wife several times to return to their home, but she kept following him. Finally, exasperated, the man picked up the slightly built woman and threw her against a wall. Several other women who were also on their way to the fields immediately picked up rocks and threw them at the man, some of them hitting him. It is interesting that the man showed no reaction to the women; he just continued walking towards the field as if their interference was to be expected.²⁴²

The metaphysical milieu of respect for the feminine principle in Ottoman society, a legal system protective of women and considerable social supports she could rely on in time of need were all significant factors in enhancing the security of Ottoman women; but the most crucial agent was the Ottoman woman, herself. By pursuing redress of any violations of her security – as far as at the level of the sultan, if necessary -- she became her own watchdog of justice. Whenever there was a movement toward the pole of oppression in her life, she took action to restore the balance even if it was against her closest male (or female) relatives or government officials. What gave the Ottoman woman the courage to stand up for justice almost at all costs? Among other contributing factors, one reason seems to be her religiosity or God-consciousness. Julia Pardoe, who visited Turkey in 1836, noted that:

No occupation, whether of business or pleasure, is permitted to interfere with the religious duties of a Turkish female, however distinguished her rank; nor has locality or circumstance any influence in deterring her from their observance. It is a common occurrence to see the sister of the Sultan alight from her araba at Kahaitchana, or any other public place in which she may chance to find herself when her accustomed hour of prayer arrives; and, when her slaves have spread her prayer-carpet, kneel down within sight and sound of the crowds that throng the walk, as calmly and collected as though she were shut within one of the gilded chambers of her own Serai.²⁴³

²⁴² W. M. Ramsay, Every-Day Life in Turkey (London: Hodder and Stoughton, 1897), p. 109, 110.

²⁴³ Julia Pardoe, City of the Sultan and Domestic Manners of the Turks, in 1836, Vol. III, p.88.

If we accept that religiosity was a strong motive behind the Ottoman woman's actions, can we conclude that it guaranteed her security? The abundance of court records shows otherwise; there were violations of her security. But we can conclude that the Ottoman woman for one reason or another put justice foremost in her life, and that she was generally able to achieve legal redress when her security was violated.

This is an interesting point because it seems that "religiosity" is also at the basis of many modern and post-modern women's oppression. It determines not only the way the Muslim woman views herself but also the way she is seen from outside. It is significant that this outsider's view has at times even been internalized by other Muslims, as was described in the introduction of this thesis. It appears that religion is able to both liberate and subjugate women, depending on how they perceive religious principles. This apparent paradox makes more sense if we understand that religion or law or social circumstances are not of themselves fully liberating or subjugating. It is the people, and in this case women, who give meaning to and interpret them according to their world-view. At least it seems safe to say that although Ottoman women didn't have the notion of women's rights in the modern sense of the word, they surely understood the concept of *hak* or justice. This enabled them to reach a state of consciousness whereby they could exercise their own agency in society.

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