

EXAMPLES FROM THE BURSA COURT RECORDS OF WOMEN SEEKING THEIR RIGHTS IN THE 17TH CENTURY OTTOMAN EMPIRE

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ABSTRACT

Orientalists have claimed that women living in the Ottoman Empire could not defend their legal rights and interests in court. However, the women living in the Ottoman Empire were not helpless beings unable to assert their rights. In fact, they were brave enough to exercise control over men. Additionally, they consistently sought redress for violations of their rights in the local courts and in the Supreme Court of the Ottoman Empire (Divan-ı Hümayun).

In the Ottoman Empire, women's legal activities extended beyond the roles of defendant or plaintiff. They were involved in obtaining permission to remarry, appointing deputies for themselves, owning property independent of their families, selling property, running a business, and borrowing or lending money. By making the court register all of their transactions, they made these transactions official through the title-deeds they were given.

When women did not appear in court themselves, they were represented by a deputy they appointed. In other words, their business was conducted according to their wishes by proxy.

In this study, information will be presented about women's legal rights through sample documents from the 17th-century Bursa Shari'a Court Records (Bursa Şer'iyye Sicilleri) that detail why women went to court.

KEYWORDS: 17th Century, Ottoman, Bursa, Women, Court

1. The Titles Used for Women in the Bursa Court Records

The most common title for adolescent and adult women in the Court Records is “hatun” (lady). According to Islamic law, the title used for girls who are at least twelve years old and have entered adolescence (puberty) or who have physical signs of maturity is “bâliğa”¹. If none of the aforementioned signs of maturity are apparent, girls are considered adults when they turn seventeen².

In the Court Records, women are generally referred to by first their own names and then the word “binti”, followed by the father’s names and the word hatun: “...binti...nam hatun”. The word kadın (woman) is not used as a title, but as a proper noun. For example, the wording “...he married one of the palace concubines named Tûti Kadın and had a daughter with that person...”³ is used when discussing Ahmet Pasha in the Bursa Registers. When referring to female grantors, the title “sahibetü’l-hayr” is used after their names.

One of the rarer features of the Court Records is the use of nicknames for women. For example, Hundi Ağa, who lived in the Dâye Hatun Neighbourhood, sold his house in the same neighbourhood to a woman named Hanife by granting her power of attorney: “...by one of the residents of Dâye Hatun Neighbourhood Hundi Ağa binti Veli nâm hatun...”⁴.

During our investigation, we found only one woman who had made the pilgrimage to Mecca. She is mentioned in a document recording that Hacı Hatice Hatun purchased a concubine named Nazlı for 100 esediguruş (a type of currency)⁵. Ömer Demirel also found only one woman who had made the pilgrimage in his research on tereke (inheritance) records in Ankara⁶. The ratio of men who have made the pilgrimage to Mecca is much higher than that of women, which is apparent in the common use of certain nicknames for the men. The ratio may have been lower for women because of financial difficulties and the difficulty of the journey. In addition, epidemics and safety concerns may have prevented women from going⁷.

The nicknames “seyyid” and “seyyide” were used for men and women, respectively, to show that they were descended from Hz. Prophet. Additionally, in the Ottoman Empire, if a woman’s first given name began with Şerife, this was an indication that the woman was descended from Hz. Prophet⁸. This can be seen in one example in which a woman named Raziye living in the Yahşi Bey Neighbourhood lent money to a woman named “...Şerife Aişe Hatun ibnete’s-seyyid Abdülhalim...”⁹.

Grandmothers were called “cedde”, and mothers were called “valide” or “ana”. Mothers-in-law were called “kaynana”. Women mentioned in connection with their husbands were called “zevce”. Widows were called “zevce-i metrûke”, and divorced women were called “mutallaka”.

The derogatory expression “avrat” is used in the Court Records for women involved in immoral conduct, such as prostitution; such women were called fi’l şeni. Daughters who had not yet reached puberty

¹ Question: When is the time of puberty?

Answer: Somebody who professes, when s/he becomes 12 years old is baliga. M. Ertuğrul Düzdağ, Şeyhülislâm Ebussuûd Efendi Fetvaları Işığında 16. Asır Türk Hayatı, İstanbul 1983, 33.

² Question: When is the age of puberty for people coming from Nisa? Answer: When s/he finishes the age of seventeen. Ibid.

³ Kâmil Kepecioğlu, Bursa Kütüğü, I, Hüseyin Algül, Osman Çetin, Mefail Hızlı, Mustafa Kara, and M. Asım Yediyıldız Ed., Bursa 2009, 91.

⁴ Bursa Shari’a Court Records B 143 140a.

⁵ Bursa Shari’a Court Records B 112 27a.

⁶ Ömer Demirel, “1700-1730 Tarihlerinde Ankara’da Ailenin Niceliksel Yapısı”, Belleten, LIV/211, 1991, 947.

⁷ There are many people who died on the pilgrim path. For examples regarding this, see: Bursa Shari’a Court Records B 108 1b; Bursa Shari’a Court Records B 139 10b.

⁸ Abdurrahman Kurt, “Osmanlı Toplumunda Poligami”, Osmanlı, Güler Eren Ed., V, 1999, 404. The people that these women would marry used to be searched in the city by Nakîbü’l-Eşrâf District Governor, if the groom candidate wasn’t a match for her, the marriage used to be prevented. M. Zeki Pakalın, Osmanlı Tarih Deyimleri ve Terimleri Sözlüğü, II, İstanbul 1993, 647.

⁹ Bursa Shari’a Court Records B 88 143a.

were called “sagire kızı”. Adult daughters were called “kebire kızı”, and unmarried women were called “bikr-i bâliğa”. For the wives of the wealthy, the nobles and senior managers, “fahru'l-muhadderat” was used before their names and the title “hanım” after their names.

When referring to non-Muslim women, the titles “zimmîye” and, “nâmnasrânîyye” were used. The terms “müteveffiyeye” and “hâlîke olan” were used to refer to Muslim women after they died. “Mühtediye” was a title used for women who accepted Islam.

2. Ottoman Women’s Awareness of Court Procedure

Orientalists have stated that women in the Islamic community had a low status because of their position in the patriarchal family structure. They argue that women could not contribute economically, nor could they go to court to defend their legal rights and privileges. Moreover, it is generally believed that they were deprived of the advantages granted them by classical Islamic law, which mitigated the extremism of pre-Islamic Arab tribal law¹⁰.

According to most Orientalists, two basic features distinguish the East from the West: the East is barbaric and the source of lust. In the travel journals Europeans wrote, the Ottoman Empire is usually represented as it is in *A Thousand and One Arabian Nights*. Most of the books and travel writing produced by Europeans over the centuries about the Orient emphasize the East’s erotic aspect. According to European travellers, Eastern women are seductive, mysterious and deceptive. Rather than viewing women within their role in family life, they see them as a “source of lust.”¹¹

According to İsmail Doğan, women gradually retreated from social life into tecrid (isolation) during the transition to an established culture. In agricultural societies, women’s tecrid became a source of tension. Contrary to popular belief, tecrid is not a result of the acceptance of Islam, but a natural consequence of the social requirements prescribed by the established culture¹².

Female or male all individuals living in any society have duties that they must fulfil and comply with in that particular environment. In addition to these obligations, they are also granted some legal rights. Individuals must have some legal knowledge to understand what these duties and rights are and especially to demand protection of these personal rights and to seek redress when these rights are violated. Otherwise, they can suffer harm and can be victimized.

Based on the following case studies of women in the Bursa Court Records, it is possible to conclude that women had enough legal knowledge to protect their own rights and to seek legal redress when necessary.

For example, a woman named Fatma who lived in the Câmî-i Kal’a Neighbourhood brought a case against her husband Ahmet Efendi. She stated that she wanted to divorce her husband because she was so young; she had been made to marry Ahmet Efendi by those arguing that her husband was acting on behalf of the public (“...velâyet-i ammesi hasebiyle...”). She said, “...işbu bin doksan mahsaferü'l-hayrın dördüncü günü vakt-i zuhurda dem-i hayzımıgörüb”, meaning that she had menstruated, and gave a specific date. By presenting this evidence, she argued for the termination of her marriage and stated that she wanted to divorce her husband:

¹⁰ Haim Gerber, “Bir Osmanlı Şehri Olan Bursa’da Kadının Sosyo-Ekonomik Statüsü (1600-1700)”,

Hayri Erten, Trans. , Selçuk Üniversitesi İlahiyat Fakültesi Dergisi, 8, 1998, 327.

¹¹ For detailed information see: Ömer Düzbakar, “The Image of the Turkish Women in Orientalists’ Travelbooks from the “Others’ Point of View”, *Kaygı*, 10, 2008, 145-155.

¹² İsmail Doğan, *Osmanlı Ailesi-Sosyolojik Bir Yaklaşım-*, Ankara 2001, 25.

“...nikâh-ı fesh ve redeyledim...zevcim Ahmet Efendi'den tefrik taleb ederim...” (I terminated the marriage and I want my husband Ahmet Efendi to approve it). When the witnesses¹³ were called, they corroborated that Fatma had made them witnesses by saying “...nikâh-ı mezburufesh ve red eyledim...” (I terminated the marriage) when she began to menstruate. Because Fatma swore, upon request, that the things she said were true, the court ruled in favour of the divorce with the statement “...mezburAhmed Efendi'den bade't-tefrik...” (the aforementioned Ahmet Efendi divorced his wife.)¹⁴.

In the Ottoman Empire's judicial system, the courts examined legal cases between parties but were also responsible for civil registration, identification and determination¹⁵. Therefore, in addition to applying as “davacı” (complainants), women went to court for “unilateral cases”: to validate a legal consequence or process or to record or register legal appointees. In other words, they did not attend court solely for the purpose of suing. For example, women would go to court to get permission to marry again, providing evidence that their husbands had been lost (gâib) for a long time, that he had gone to another city (âhâr diyar) and died there, leaving the women legally free to marry, or that their period of delay (iddet)¹⁶ had passed. Women used the courts to ratify such developments and to legally register the appointment of a deputy to represent them in any matter. Women could be appointed as officials of institutions, such as a Zawiyah, or as tomb keepers; they were also given berat¹⁷ (certificate). Furthermore, women could own property independent of their husbands, fathers and bothers. They could sell this property, buy and run a business, lend and borrow money, and grant or loan money, as their legal rights granted by Ottoman law allowed. They could also officially register all trading operations, treaties, and contracts and could obtain certificates of incorporation (hüccet)¹⁸.

Although there were some expenses associated with these legal actions, such as fees, women were keen to obtain the documentation necessary to solve any possible disagreements in their favour. They may have felt the need to obtain documentation so urgently because they could not obtain property as easily as men, and the most secure method was through the law. Additionally, they may have felt themselves to be weaker than men or were afraid of being deceived.

¹³ For detailed information about witnessing in Ottoman courts and the features necessary for witnesses, see: Özer Ergenç, “Toplum İçi İlişkilerin Göstergesi Olarak Osmanlı Mahkeme Belgelerine Yansıyan “Şehâdet” Biçimleri”, *Journal of Turkish Studies*, 42, 2014, 109-122.

¹⁴ Bursa Shari'a Court Records B 75 8a. According to Sharia law, in order to protect and safeguard daughters, the kids who hadn't reached puberty yet, no matter how old they were, could get married by a proxy in courts. Although there are disagreements between jurists, it is stated that the marriage is valid. But when the kid reached puberty, she had the right to abolish the marriage (Hiyârü'l-bülûğ).

But she had to use her right at the moment of becoming sexually mature, otherwise she would lose her right. Halil Cin, *Eski Hukukumuzda Boşanma*, Konya 1988, 91.

¹⁵ Ahmet Akgündüz, *Şer'îye Sicilleri, Osmanlı Hukukunda Adliye Teşkilâtının Yapısı ve Fonksiyonları, Şer'îye Sicillerinin Toplu Kataloğu*, I, İstanbul 1988, 19.

¹⁶ It is the period when the woman had to wait before getting married to somebody else again in the event of termination of the marriage with reasons of divorcement, annulment or death. It was named iddet in Ottoman law. Iddet, which also means finishing the effects of previous marriage and woman's being ready to get married again, is such an important legal issue that bears profundities such as understanding whether the woman is pregnant or not, in respect for the memory of the husband who died, providing the opportunity to the husband to think to return his former wife in ric'i divorces.

Fatih Karataş, *İslam Hukuku Açısından İddet ve Boşanmış Kadının Evliliği*, Kahramanmaraş Sütçü İmam University, Unpublished Master's Thesis, Institute of Social Sciences, Kahramanmaraş 2010, 4.

¹⁷ Enactments prepared in the Ottoman Empire for appointments to any office or service or salary allocation or giving titles or insignia. Mithat Sertoğlu, *Osmanlı Tarih Lügatı*, İstanbul 1986, 45.

¹⁸ A written document bearing the stamp and signature of the Kadi on the upper side and not embodying the kadi's decision, including one of the sides' recognition and the other side's approval. Ahmet Akgündüz, 21.

For example, in Muhâla'a¹⁹ divorces, in which the woman reached an agreement with her husband and sought the divorce on the condition that she give up her bride price and allowance²⁰, the divorce proposal and the process of accepting it was a private matter between husband and wife. However, though it was not necessary to legitimize the divorce in a court, women displayed a marked desire to have it officially recorded. Most of the Muhâla'a divorce records in the Bursa Court Records were registered by women. This allowed them to create the necessary written evidence and documents in advance should any possible disagreement later arise.

Women consciously used the law to their advantage when "ittihâm" issues arose. Neighbourhood or village gossip about a woman, typically about moral issues, was sometimes questioned by the conservators of the peace (ehl-i örf taifesi); sometimes, the woman asked her father or husband to question the residents of the neighbourhood about the issue. The result of the questioning favoured the woman: she was proven innocent and the issue was made a matter of legal record.

When these types of accusations had been made, the court would ask the local residents' opinion. For example, a woman named Fatma, the wife of Seyyid Abdülkerim, who lived in the Kaygan Neighbourhood, and her mother-in-law Amine Hatun, who lived in the AhmedDâi Neighbourhood, were accused of not being harmless because they used bad language. A petition was made to question the neighbours about their behaviour. When the residents of the Kaygan and AhmedDâi Neighbourhoods had been questioned, public opinion favoured the two women: "... mezburetan Fatma and her mother mezbure Amine are harmless and they are righteous and straight women...". The resolution to this situation was entered into the register in 1674²¹.

Unfounded allegations about women could result in divorce. For example, one document recorded an incident about Emine, daughter of Kasım. Emine was the wife of Mehmet, son of Hacı Ali from the Ali Paşa Neighbourhood. In 1599, the husband brought his wife Emine to the meclis-i şer'a and complained that "Some men got Emine to leave home. If she were a virtuous woman, they couldn't get her out of the house." The neighbourhood residents caused the case to be dropped, saying the woman was virtuous and "they didn't see or hear anything of her bad actions."²²

The matter of witnesses, an issue that has numerous implications for social life, was also relevant to court proceedings. In modern legal proceedings, the testimonies of men and women are considered equally valid. However, in Islamic law, discrimination is made between men's and women's testimonies. In some situations, female witnesses were not acceptable; in other situations, two female witnesses were considered equivalent to one male witness. Only in exceptional cases was one female witness considered sufficient. For this reason, the issue of testimony, as established in the canonical legal texts, is the subject of continual discussion in modern Islamic societies²³.

Women could be at a disadvantage in court because of their gender, especially when facing male opponents. Therefore, they were more likely to appoint a vekil (deputy) for themselves than men. Additionally, many women used witnesses to prove their cases and to register a legal action. Through witnesses, they could win cases and turn on-going cases in their favour. The number of cases women lost due to lack of witnesses was few.

¹⁹ For detailed information about divorce types, see: Ömer Düzbakar, "Divorce and Types of Divorce at the end of 17th Century Bursa", *Journal of Family History*, 41 (2), 2016, 118-130.

²⁰ Ibid.

²¹ Bursa Shari'a Court Records B 83 36a.

²² Kâmil Kepecioğlu, II, 22.

²³ Nihat Dalgın, "Kadın ve Erkeğin Şahitliği İle İlgili Nasıldaki Düzenlemelerin İslam Hukukuna Yansımaları Üzerine Değerlendirme", *Din Bilimleri Akademik Araştırma Dergisi*, 5 (1), 2005, 8.

If a man travelled to another city for any reason without leaving enough support for his spouse and she received no news about whether he was alive or dead, the wife had to prove that this was the case to obtain a divorce. In such situations, someone who knew her husband and knew that the man had died could give testimony to the fact, and his death or disappearance would be confirmed. The widow would also receive a document—a permit allowing her to remarry.

A woman named Ümmühani residing in the Reyhan Paşa Neighbourhood investigated the fate of her husband, calling her mother as her witness. The mother asked witnesses to confirm that her daughter's husband Murat Beşe had died in Rumilin 8 months before. Ömer Beşe and Ali Beşe reported that they knew that the person named had died in Rumilin 8 months ago and that they had witnessed his death. After these testimonies were given, a permit was issued to Ümmühani, allowing her to remarry: "... müvekkile-i mezbure Ümmühani hatuna zevce-i ahara tezvice izin virilüb..."²⁴.

In the Islamic-Ottoman legal system, the rights of slaves and concubines were also protected. Of the cases involving such persons, the most common were those in which slaves and concubines brought lawsuits against their owners and the relatives of their owners who wanted to dispose of them even though they had been emancipated. A woman named Şahbaz in the Veli Şemseddin Neighbourhood complained that although her lady had emancipated her while healthy ten years ago, her lady's daughter had claimed her after her mother's death. When the witnesses were questioned, Şahbaz's statements were confirmed, and she was emancipated²⁵.

3. Women's Applications to District Courts in the Ottoman Empire

The applications made by women in the Bursa Court Records are divided into two categories based on their outcome. The first category includes applications that are only complaints, such as criminal complaints and denunciations, that do not mention any punishments or enforcement provisions at the end. The second category includes cases that resulted in a decision. Divorce, financial and forensic (criminal) cases belong to the second category. Both categories encompass women's familial or financial matters and their claims for redress of their grievances.

Although women's applications to the court did not always result in convictions and sometimes were only registered as complaints, these records could, if necessary, be used to their benefit later. These complaints could be about intimate matters and the people closest to them.

For example, if a woman whose husband was impotent did not want to live with him, she could apply to the kadi and request the termination of the marriage. In the event of such a request, if the husband admitted his impotency, the kadi gave him a one-year respite (from the date of the application)²⁶. A woman named Emine residing in the Abdal Mehmet Neighbourhood sued her husband Mehmet, stating that had married seven years ago, but he was impotent: "...innînlmağla bu ana gelince bana vasıl olmamışdır..." The court stated that the marriage was still valid and postponed the case for one year²⁷.

A woman named Ümmügülsüm, who lived in the Veled-i Yâniç Neighbourhood, went to law and complained that her husband Hacı Hasan was old but had attempted to divorce her and forced her leave; however, her husband required care. The husband stated that he was clear-headed and could take care of all of his needs without assistance: "...âkilolub umurumda vasiye muhtacolmayubrüşdüm kemalde olmağın..." When the people in neighbourhood were questioned about the situation, they confirmed Hacı Hasan's

²⁴ Bursa Shari'a Court Records B 144 50b.

²⁵ Bursa Shari'a Court Records B 90 22b.

²⁶ Halil Cin, *Eski Hukukumuzda Boşanma*, Konya 1988, 89.

²⁷ Bursa Shari'a Court Records B 112 26a.

statements. The court determined that Hacı Hasan could divorce his wife Ümmügülüm and awarded her one thousand mehr-i müeccel²⁸²⁹.

Both free women and concubines could go to law and defend their rights in Ottoman society. Slaves and concubines in the Ottoman Empire were typically prisoners of war or were obtained through trade³⁰. They were able to legally defend themselves from those who wanted to exploit them after they had been emancipated. A woman named Şahbaz residing in the Veli Şemseddin Neighbourhood went to law to complain that although her mistress had emancipated her ten years ago while healthy, after her mistress's death, the lady's daughter wanted to re-enslave her.

When the witnesses were questioned, Şahbaz's statements were confirmed, and the court decided to emancipate her³¹.

Non-Muslim women living in Ottoman society could also go to law and defend their rights. Christians and Jews were established as autonomous communities by the Ottoman Empire and had the right to maintain their own legal systems. Therefore, non-Muslim courts were authorized to adjudicate all personal issues but not criminal cases. Nevertheless, non-Muslims generally preferred to bring their cases before the sharia court because women had greater authority under sharia law. Moreover, these courts could punish convicts and extract fines from them, and the results of the case would often be more beneficial to the prosecutor³².

Non-Muslims could also apply for support in cases of divorce or of the death of the husband. For example, a woman named Nasrani residing in the Umur Bey Neighbourhood demanded support for herself and her son after her husband disappeared and left them without financial resources. The court allowed her a daily stipend of 4 akça for herself and 3 akça for her son³³.

4. Application to High Courts in the Ottoman Empire

Women who were not satisfied with the court process because of an unjust or heavy-handed kadi in their local courts continued their search for justice by applying to the Divan-ı Hümayûn³⁴ and other competent authorities. This practice is based on a fundamental principle of Middle Eastern government: a concept of justice that allows the public to present their complaints directly to the ruler, who would rectify the inequalities in his own house by his own order³⁵. Both sharia law and customary law applied in the Divan-ı

²⁸ A woman who has got married to any Muslim person deserves a commodity (money) with the name of bride wealth at least zhimmi. Any kind of benefit that can be compared to the commodity can also be mehr. Mehr goes into two divisions: first one is mehr-i muacel given before the marriage and the second one is mehr-i müeccel paid to the wife in the case of death or marriage expiry before the probate division. Ömer Nasuhi Bilmen, *Hukuk-i İslâmiyye ve İstîlâhat-ı Fıkhiyye Kamusu*, II, İstanbul 1950, 121-122.

²⁹ Bursa Shari'a Court Records B 112 58b.

³⁰ See for the detailed information about the rights granted to slaves and concubines in the Ottoman Empire: Ömer Düzbakar, "The Legal Rights of Slaves and Concunes According to the Shari'a Court Records of Bursa from the 16th and 17th Centuries", *The Science and Education at the Beginning of the 21st Century in Turkey*, (Olga Strelava, İlia Hristov, Kenan Mortan, PenkaPeeva, Rıza Sam, Neslihan Sam, Elena Galay, Emin Atasoy Ed.), Sofia 2013, 310-328.

³¹ Bursa Shari'a Court Records B 90 23b.

³² Dror Zeevi, *Kudüs 17. Yüzyılda Bir Osmanlı Sancağında Toplum ve Ekonomi*, Serpil Çağlayan Trans., İstanbul 2000, 203.

³³ Bursa Shari'a Court Records B 112 37a.

³⁴ The big divan which is the primarily responsible authority for the state affairs. Here, if necessary the cases which had been examined by kadis were examined again, as well as the state's political, administrative, military, financial operations. İ. Hakkı Uzunçarşılı, *Osmanlı Devletinin Merkez ve Bahriye Teşkilatı*, Ankara 1988, 1.

³⁵ Halil İnalçık, "Adâletnâmeler", *Belgeler*, II (3-4), Ankara 1965, 49.

Hümayûn. The court practices overlapped, and most of the cases brought here were sent to the kadi to be heard again³⁶.

Applications to local courts could be made orally, but it was more difficult to make an application to authorities in the capital. It was necessary to present the case in the clearest terms possible. Writing the complaint out properly would likely yield better results than an oral application. However, this would have been difficult for those who had learnt to write in local Muallimhâne. Moreover, there was the problem of delivering the petition (arzıhal) to İstanbul. A trusted person needed to be found, and the expense would be substantial. Moreover, the fees that would have to be paid in İstanbul exceeded many people's resources³⁷. Therefore, applications to İstanbul from the countryside were few and were restricted to women of means. Personal petitions from kadis and arzs (petitions) detailing issues such as the unlawful behaviour of members of the military class and unfair taxes could be brought directly to the Divan-ı Hümayûn and to the Sultan, even when he was hunting or fighting³⁸.

Since the middle of the XVII century, the practice of resorting to the court had become more widespread³⁹, and the number of applications had increased. Of great importance are the cases in which women to applied to İstanbul independently; in such cases, women from the countryside "officially" represented their families⁴⁰. These examples clearly show that Ottoman women's access to judicial authorities and government agencies began in the XVII century, long before the influence of Western legal practices began to be felt in the XIX and XX centuries⁴¹.

This is evident in court records about the Şeyh Vanî Mehmet Efendi Pious foundation. Vâkıf-ı mezbur's daughter Seyyide Hatice Hatun, acting as a trustee, petitioned the Divan-ı Hümayun, appealing for acquittal from financial obligations in Anatolia.

She stated that she was a trustee of the foundation, in accordance with the terms of foundation, as had been asserted in a previous document: "...evladiyet ve meşrutiyet üzere evkaf-ı mezbureyekemâ-kânbervechi şart-ı vâkıf mütevelliyeye olub..."⁴². This document shows that women could apply to the Divan-ı Hümayun and could also have duties in foundations.

Women also applied to the Divan-ı Hümayun to seek their rights when they were dealt with unjustly by a senior officer. Saliha Hatun presented her case to the Divan-ı Hümayun in 1745 and said that Halil Ağa, who was then the Bursa Mütesellim, had swooped her house because of a personal grudge and without cause. She stated that she had barely been able to save her life and wanted the situation to be examined in the place⁴³.

Women in Ottoman society were not disenfranchised and unable to seek justice; they were courageous enough to exercise influence over men. For example, a merchant named Hacı Ahmet complained to the Divan-ı Hümayun because of his former wife Saliha Hatun. The response to the complaint indicated that Hacı Ahmet divorced his wife, Fatma: "...mihrin ve nafakasının virüb bunun zimmetinde bir akça ve bir hibe hakkı kalmayubdahl olunmak icabider hali yoğikenmezbur hatun kanaat itmeyüb hilâf-ı

³⁶ FaribaZarrienbah-Shahr, "Osmanlı Kadınları ve 18. Yüzyılda Adalet Arama Geleneği", *Modernleşmenin Eşiğinde Anadolu Kadınları*, Madeline C. Zılfi Ed., İstanbul 2000, 250.

³⁷ Suraiya Faroqhi, "18. Yüzyıl Anadolu Kırsalında Suç, Kadınlar ve Servet", *Modernleşmenin Eşiğinde Anadolu Kadınları*, Madeline C. Zılfi Ed., İstanbul 2000, 26.

³⁸ Halil İnalçık, "Şikâyet Hakkı: Arz-i Hâl ve Arz-i Mahzarlar", *Osmanlı Araştırmaları*, VII-VIII, 1988, 33.

³⁹ Zarrienbah-Shahr, 243.

⁴⁰ Faroqhi, 26.

⁴¹ Zarrienbah-Shahr, 245.

⁴² Bursa Shari'a Court Records B 148 36a.

⁴³ Kâmil Kepecioğlu, *Bursa Kütüğü*, II, 181.

şer'-i şerif rencîde ve remîdeitmekden halli olmaduğun..." The man expressed that although he had divorced his wife and had given her alimony and the bride wealth, he continued to be intimidated and harassed by her. The document ends with an injunction to resolve the issue by acting according to the fetwa given in the shaykh al-islam and providing proof of the divorce, warning, "...tekrar emrim varmağa muhtac eylemeyesin..."⁴⁴.

Numerous additional examples demonstrate that women viewed the court as an institution that would defend their rights and a place to which they could have recourse in situations of injustice and unfairness. Remarkably, in most of these cases, the kadis preferred to believe the women's testimonies and issued judgements against the men. This may be a reflection of religious practices because the person obliged to provide evidence is the prosecutor. Notably, however, if the kadis had wanted to prevent women from receiving justice, they could undoubtedly have easily found a loophole in these requirements⁴⁵. It can be seen that generally justice was executed, but it is likely that the kadis sometimes behaved unjustly, as evidenced in individuals' appeals to higher court authorities.

4. Women's Unsuccessful Petitions to the Court in Bursa

A woman named Ümmühan residing in the Dâye Hatun Neighbourhood claimed that she had been forced to muhalaa (divorce with payment) by her husband Mehmet: "... benimlemuhâlaa ol yohsa seni katlilerimdeyü daima bana cefâ ve eziyet ve beni darbidüb...". She also asserted her right to thirty thousand akça alimony. When her husband was questioned about the issue, he both denied that the alimony was thirty thousand akça and stated that his wife had requested the divorce. His wife could not prove her claims, and when Mehmet swore that what he had said was true, Ümmühan's suit was dismissed⁴⁶.

A dispute that frequently arose after muhâlaa divorces was the issue of whether the bride wealth should be granted to the husband or the wife. A woman named Saliha, who was from the Kassab Hüseyin Neighbourhood but resided in İstanbul, deputed her brother İbrahim to represent her in a case against Veli Beşe, who she had divorced one year ago. According to the documents, she had divorced Veli Beşe by giving him five thousand akça prenuptial support (mehr-i müeccele) and spousal support, but in her statement—"...hin-i hullasagire ve nabaligaolmagla hibesi sahihe olmamagın..."—she claimed that she was too young when she had given him the money and that the settlement was therefore invalid, ultimately requesting that aforementioned amount be returned to her. When Veli Beşe was questioned about the situation, he said, "...hin-i hullaâkile ve baligaolmagla...". He claimed that the amount of the bride wealth had not been five thousand, but two thousand, and that when Saliha had divorced him, she was of sound mind and had reached puberty. Because he proved his case with witnesses, Saliha's case was dismissed⁴⁷.

One of the applications made to courts was the solemnization of marriages by proxy. Hacı Hüseyin, residing in the Hazreti Emir Neighbourhood, wanted his deaf son to marry the deaf daughter of a woman named Belkıs and gave 100 esediguruş as mehr-i müeccele. However, Belkıs attempted to marry her daughter to somebody else and did not return Hacı Hüseyin's mehr-i müeccele. When the witnesses were questioned, Hacı Hüseyin's claims were confirmed, and Belkıs was warned to return the money given her as mehr-i müeccele⁴⁸.

There were clearly economic motives for such cases, which were crafted to deceive the opponent and the law. There are also examples in which women whose income was limited attempted to demand a stipend that had already been given to them at the risk of being embarrassed in court and receiving a warning.

⁴⁴ Bursa Shari'a Court Records B 285 48b.

⁴⁵ Dror Zeevi, 205.

⁴⁶ Bursa Shari'a Court Records B 75 67b.

⁴⁷ Bursa Shari'a Court Records B 75 77b

⁴⁸ Bursa Shari'a Court Records B 83 59a.

CONCLUSION

Women are indispensable to societies. Women have been the most important factor in the development of their own families and of society. In the Ottoman Empire, among the factors that determined the position of women, the most important were the principle of public order and the religious principles that formed the basis of the law. Moreover, transition to settled life from a nomadic lifestyle and the effects of interactions with other cultures cannot be ignored.

As shown in the Bursa Court Records that we used as the main source for our research, different titles were used for women based on their age, marital status, social status and religious affiliation.

In the Ottoman Empire, courts were open to women and men. Women had enough legal knowledge to protect and defend their rights when necessary. They could also go to law to protect their husband's rights. Women could go to law at will, just as men did, regardless of whether they were Muslim or non-Muslim, slaves or free. However, women did not go to court as often because two female witnesses were equivalent to one male witness. Nevertheless, women still went to courts to complain, protect their rights or defend themselves when they were accused.

The women who were not satisfied with the local courts because the kadis were unjust, applied pressure, or misconducted their duty in the local courts, applied to the Divan-Hümayun, which was the highest court of appeals.

The records also reveal that women sometimes used the law dishonestly in addition to seeking justice. The primary motive for such deception was economic. Women whose income was limited attempted to gain advantages at the expense of being embarrassed in court and receiving a warning.

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