

The Use of Islamic Court Records in the Study of the Status of Women in Ottoman Society

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Abstract

Islamic court records serve as an important source in the study of the status of women in Ottoman society. However, much relevant information is missing in these documents and what is contained therein cannot be taken at face value. In order to present a more balanced view of the identity of Ottoman women it is necessary to cull court records from various regions of the realm over a specific period of time, integrate them with other kinds of legal documents, and develop an effective method to alleviate the problems pertaining to their validity and reliability.

Researchers aiming to elucidate the status of women in Ottoman society from Islamic court records tend to make extrapolations that are not commensurate with this limited and irregular source. By limitedness I mean that the records of the Islamic courts are specific to a particular time and place, say, an early sixteenth-century Syrian town or a given district in late nineteenth-century Istanbul. As such, the data employed by the researcher, while descriptive of the particular sample, is not necessarily representative of the population upon which inferences are drawn. By irregularity I mean that these records do not constitute a monolithic body of material and display important variations concerning content and format. To illustrate, while some court registers include each case that came before the court, others record only special categories of transactions and litigations. Similarly, some court registers include numerous imperial decrees and other types of correspondence from the central administration while others contain none of such documents. Still others list more important matters in the front of the register and lesser ones at the end.

Studies treating Islamic court records as uniform in shape and content have offered conflicting conclusions about the status of women in Ottoman society. This study will demonstrate that there were substantial geographic and temporal variations in the Islamic court records that significantly affected the legal status of Ottoman women in the period between 1550 and 1650. The study accentuates the differences in the *ways* in which Ottoman women, Muslim and non-Muslim (*zimmi*), had access to the courts in this period. In some regions Ottoman women went to the courts largely on their own while in others they relied on their representatives (*vekils*) to enter a transaction or litigate on their behalf. This study is based on a sampling of three Shari'a registers (*sijils*) from three different regions of the Ottoman Empire in the period between 1550- 1650. The data from these registers were then compared to the findings presented by Ronald C. Jennings in his well-known article about the women of Kayseri, Karaman, Trabzon and Amasya in the same period (Table 6). The Shari'a register from Sophia is the earliest, dating from 1550 (Tables 1 and 2), followed by the Ankara register dated 1588-90 (Tables 3 and 4).

The register from Edirne, dated 1648-9 (Table 5), differs in content from these *sijils*: it is a *muhallefat defter*, which only includes transactions or litigations concerning the estates and the bequeathals of the deceased. Regional differences were manifest in this sample in terms of women's access to and use of Islamic courts. To illustrate, in Ankara only 13% of Muslim women used a *vekil* to conduct their transactions or to lodge complaints. In other words, a predominant majority of Ankara women (87%) pursued their cases on their own. In Trabzon and Karaman, by contrast, a whopping 53% of Muslim women sent a *vekil* to negotiate their case. In Amasya and Karaman, more moderate figures were in order (37% and 33%, respectively). As for Edirne, the percentage of women who relied on *vekils* soared to 67%. Even these cursory findings cast a shadow upon the validity of the sweeping conclusion made by Jennings about Ottoman society:

Like men, women came to court at their own convenience, or spontaneously, when the need arose . . . Like a man, a woman could go to court and publicly set forth any complaints and accusations she had to make, with confidence that the court would hear her fully . . . Rich women and poor women, city women and village women, Muslim women and non-Muslim (*zimmi*) women brought their business and legal problems to court day after day. They came to court regularly, freely, and openly.¹

There is no ground to generalize the status of Ottoman women in society from this data. If anything, one can discern huge regional disparities in the status of women in the mid-sixteenth to mid-seventeenth centuries. The *sijils* Jennings looked at in Kayseri, Amasya, and Karaman belong roughly to the same regional area and time period with Ankara, one of the towns investigated in this study. Yet, these *sijils* display deep dissimilarities in terms of women's access to and utilization of the judicial system. The percentage of cases involving a woman is 17% for Kayseri but 37% for Karaman; the percentage of women represented by a *vekil* is 33% in Kayseri but 53% in Karaman; and, the percentage of cases involving a non-Muslim woman is 27% in Kayseri, but non-existent in Karaman. In the light of this information only, one can safely assert that women's access to court was more restricted in Kayseri than it was in Karaman (17% against 37%), although the percentage of cases negotiated by women directly was significantly higher in Kayseri than in Karaman (67% against 47%). In Ankara a different dynamic was in effect. These women hardly brought a *vekil* to court to represent their case (13%). This may be significant because it may indicate that the women of Kayseri and Karaman lacked the ease of access to the courts as the women of Ankara. As for Amasya, the pattern of court use by women residing in that town closely followed that of Kayseri.

What do the *sijils* show for peripheral provinces, Trabzon, Sophia, and Edirne? Trabzon has the highest percentage of total cases involving a woman in the study (42%). At the same time, more than half of these women used a *vekil* (53%). The situation is quite different for Sophia where only 23% of the cases registered were brought by women, and of these only 23% used a *vekil*. We can infer from this information that different social and economic conditions affected the women living in these two cities. An interesting factor endemic to Sophia is that it has the highest rate of non-Muslim women using the court system (38%). When we compare this rate to that of Trabzon, which ranks third in the rate of non-Muslim women at court (12%), we see a completely different dynamic in the two cities concerning women. In Trabzon, the rate of women using *vekil*s was 53% versus 23% in Sophia. The perception that a peripheral province with a substantial non-Muslim population should make it easier for women to have free and easy access to the courts is not substantiated by the data. More information would have to be gathered before concluding *why* the registers reflect this difference.

The researcher raking through Ottoman court records for insight should proceed with caution. *Sijils* are not transparent records of social reality. Any written source represents a complex web of meanings in which an apparent social reality is blended with specific biases, contemporary codes and symbols, styles and tropes of writing, and the interventions of copiers and editors.² The difficulty presents itself not just in discarding what is irrelevant and defective but also in bringing to light what is absent. A *sijil* entry only occasionally presents verbatim statements of the plaintiff, defendant, and witnesses and seldom renders a detailed account of how the litigation actually unfolded in the court. Hence, these entries omit much relevant information. In addition, the formulaic language used in these records contrasts greatly with the spoken language of daily life. The archaic vernacular endemic to these ledgers contains many terms that no longer make sense.³ *Sijils* can contain textual differences in the same city, in the same generation, and even in the same court. To reiterate, the Edirne register dating 1648-49 is a court register of the inheritance dispute (*muhallefat*) type. At first glance, it seems similar to any other register. Each case was registered in order of appearance, recording the names and town of those involved, the transaction or case itself, followed by the witnesses, and the date.

¹ Ronald C. Jennings, "Women in Early 17th Century Ottoman Judicial Records—The Sharia Court of Anatolian Kayseri," *Journal of Economic and Social History of the Orient*, Vol. XVIII, Part 1 (1975) pp. 59-65.

² Dror Ze'evi, "The Use of Ottoman Shari'a Court Records as a Source for Middle Eastern Social History: A Reappraisal," *Islamic Law and Society*, 5: 1 (1998) p. 37.

³ Yvonne J. Seng, "The Seriyeye Sicilleri of the Istanbul Müftülüğü as a Source of the Study of Everyday Life," *The Turkish Association Bulletin* 15:2 (1991) p. 323.

A closer examination, however, reveals that it only lists cases dealing with the deceased and their inheritors. As such, this source alone cannot be used as a reliable tool in understanding the position of the *female* population of Edirne. There are no marriages or divorces recorded in it, no disputes about child custody and no entries regarding non-Muslims, male or female. Out of the 249 entries contained in the register, there are only six entries regarding charitable endowments (*waqfs*) in which the boundaries of the particular charity are defined in detail, and one lengthy official letter. Every other entry (n=242) is either a list of the estates of a deceased person (n=172) or an inheritance dispute (n=70). It is certainly unwarranted to make any kind of generalization about Edirne society from this particular register.

It would surely be interesting to compare this register to a contemporary inheritance dispute register in some other Ottoman town, such as Kayseri or Sophia. The Edirne register shows that a surprising 94% of inheritance disputes involved a Muslim woman. Of these women, a very large proportion—67%, to be exact—did not go to court, but rather designated a *vekil* to act on their behalf. The Edirne register is filled with entries concerning members of the elite military class of Ottoman society. It is undoubtedly telling to compare the percentages of cases in which Kayseri or Sophia women were involved in inheritance disputes and how many of them appeared in court themselves rather than using a *vekil*. It is equally beneficial to look at what exactly these women inherited. The estate lists and inheritance disputes in the Edirne register hint at the wealth of the military class of Ottoman society. Interestingly, most women in Edirne of the military class felt it was necessary to settle their inheritance disputes at court. Could this be due to the fact that the wealth of the members of the military were expected to return to the Ottoman Empire rather than be left as inheritance?

Aside from studying the female population of Ottoman society, historians have often looked at court registers to gain knowledge about the non-Muslim population of the Empire. However, it is not prudent to jump to conclusions about the non-Muslim population based solely from the statistics derived from Islamic court records. It is no secret that non-Muslims were involved in a variety of disputes and transactions in the Ottoman courts. Islamic court records are filled with marriages, divorces and other non-familial practices of non-Muslims, such as the buying and selling of property. However, not all such cases were systematically recorded in all regions at all periods of time. The non-Muslim population of Sophia may have had a different relationship with the Ottoman courts than did the populations of sparsely populated rural areas. Conversely, a city with a smaller non-Muslim population may have needed more recourse to the courts in order to protect their rights. Jennings gives interesting figures on the non-Muslim population of Kayseri. He finds that 27% of non-Muslims used the courts. However, he treats this population as one whole, failing to differentiate among various denominations.

This could be due to the special language and terminology of the court documents. Sometimes non-Muslims were recorded as simply *zimmi*, and at other times by their religious denomination. In the Sophia records of 1550, non-Muslims were all referred to with the generic term, *zimmi*. The figures for non-Muslims in the Ankara registers of 1582-88 show that 9% of the non-Muslim population appeared at the court and that they were involved in a variety of cases. Amasya and Karaman had negligible percentages of *zimmis* represented at court, 4% and 0%, respectively. By looking at the data alone, one may assert, for example, that there were more non-Muslims in Kayseri since they were more visible in the Ottoman courts than their counterparts in Karaman, Ankara or Amasya. However, it may be the case that in Ankara, fewer non-Muslims used the court even though there were more of them in the population. Again, more information is needed before drawing valid conclusions.

The Edirne register of 1648-49, as well, lists no entries for non-Muslims, apparently because it was used specifically for the members and descendants of the military class. Surely, transactions, litigations, and inheritance records of the non-Muslims, and conceivably those Muslims of more modest means, were listed in other registers, for it is hard to believe that a bureaucracy as far-reaching as that of the Ottoman Empire would skip any segment of the population. To sum, Islamic court records remain an important source in the study of Ottoman women, whether Muslim or non. However, the researcher must bear in mind that much relevant information is missing in these entries and that what is contained therein is not to be taken flatly. Another problem is that the information at hand may not be representative of the population the researcher originally set out to explore. Comparisons among different regions and time frames may create additional problems of validity and reliability. Finally, the research strategies and inferential processes determined by the adopted investigative methodology may increase the distance between the actual and the perceived reality.

Although Islamic court records have been used as the foundation for most studies pertaining to Ottoman gender studies, the study of women in Ottoman society does not have to rely exclusively on court records. *Sijils* can be integrated with many other kinds of sources to present a more balanced view of the position of women living in Ottoman society in pre-modern times

TABLE 1**SOPHIA SHARI'A REGISTER****Year covered: 1550**

Total number of <i>sijil</i> entries:	346
(-) Number of official letters and imperial decrees:	28
Net number of court cases:	318
Number of cases involving a woman:	74
Percentage of cases involving a woman:	23%

CASES INVOLVING A WOMAN (n = 74):

Woman as plaintiff		Woman with <i>vekil</i>		Non-Muslim women	
Number	Percent	Number	Percent	Number	Percent
17	23%	14	19%	28	38%

From: Galab D. Galabov (1960). *Die Protokollbücher des Kadiamtes Sofia*. Munich: Verlag R. Oldenbourg.

TABLE 2: SOPHIA SHARI'A REGISTER**Year covered: 1550****CASES INVOLVING A WOMAN (n = 74)**

Subject	Number	Percent
Monetary claims and damages	19	26%
Acceptance of guarantorship (woman for man)	2	3
Appointment of legal guardian	0	0
Alimony (non divorce-related)	0	0
Inheritance	8	11
Sale of real estate	9	12
Proof of legal age	0	0
Betrothal	0	0
Marriage	5	7
Divorce	5	7
Crime-related*	2	3
Charitable endowment (woman endower)	0	0
Granting power of attorney	19	26
To prove age	0	
For sale and transfer	3	
For monetary claims	1	
For divorce	2	
For inheritance	7	
Undetermined	6	
Other [†]	5	7
Total	74	102%

From: Galab D. Galabov (1960). *Die Protokollbücher des Kadiamtes Sofia*. Munich: Verlag R. Oldenbourg.

*Claims related to theft, murder, rape, battery, insult, prostitution, and home burglary.

[†]Adoptions, service contracts, manumissions, other slave-related claims and transactions.

TABLE 3: ANKARA SHARI'A REGISTER NUMBER 2**Years covered: 1588 - 90**

Total number of <i>sijil</i> entries	1,800
(-) Number of official correspondences and imperial decrees	164
Net number of court cases	1,636
Number of cases involving a woman	249
Percentage of cases involving a woman	15%

CASES INVOLVING A WOMAN (n = 249):

Woman as plaintiff		Woman with <i>vekil</i>		<i>Zimmî</i> women	
Number	Percent	Number	Percent	Number	Percent
30	12%	33	13%	20	9%

From: Halit Ongan (1974). *Ankara'nin İki Numaralı Ser'iyeye Sicili: 1 Muharrem 997 - 8 Ramazan 998 (20 Kasım 1588 - 11 Temmuz 1590)*. Ankara: Türk Tarih Kurumu Basımevi.

TABLE 4: ANKARA SHARI'A REGISTER NUMBER 2**Years covered: 1588 - 90****CASES INVOLVING A WOMAN (n = 249)**

Subject	Number	Percent
Monetary claims and aamages	41	16%
Acceptance of guarantorship (woman for man)	4	2
Appointment of legal guardian	10	4
Alimony (non divorce-related)	6	2
Inheritance	25	10
Sale of real estate	32	13
Proof of legal age	3	1
Betrothal	8	3
Marriage	13	5
Divorce	26	10
Crime-related [†]	28	11
Charitable endowment (woman endower)	6	2
Granting the power of attorney:	33	13
To prove age	1	
For sale and transfer	1	
For monetary claims	6	
For divorce	5	
For inheritance	2	
Undetermined	18	
Other [‡]	14	6
Total	249	98%

From: Halit Ongan (1974).

[†]Claims related to theft, murder, rape, battery, insult, prostitution, and home burglary.

[‡]Adoptions, service contracts manumissions, other slave-related

TABLE 5**ED/RNE SHARI'A REGISTER NUMBER 33
(MUHALLEFAT DEFTER □)****Years covered: 1648-49**

Total number of <i>sijil</i> entries:	249
(-) Number of official correspondences	1
(-) Number of bequeathals	172
(-) Number of charitable endowments	6 (men: 4; women: 2)
Net number of personal dispute cases	70
Number of cases involving a woman	66
Percentage of cases involving a woman	94%
Number of entries involving a non-Muslim	0

CASES INVOLVING A WOMAN (n = 66):

Woman without <i>vekil</i>		Woman with <i>vekil</i>	
Number	Percent	Number	Percent
22	33%	44	67%

From: Edirne 33 Numarali Ser'iyeye Sicili (1648-49), Microfilm No. 4651, Milli Kutuphane Bakanligi, Ankara.

TABLE 6**COMPARISON OF THE JUDICIAL RECORDS OF KAYSERI, AMASYA, KARAMAN, AND TRABZON* WITH THOSE OF ANKARA,† SOPHIA,‡ AND EDİRNE§**

Jurisdiction	Period	Total cases	Total cases involving a woman	%	Total women with <i>vekils</i>	%	Total <i>zimmi</i>	%
Kayseri	1603-27	10,592	1,827	17%	606	33%	561	27%
Amasya	1624-26	304	72	24%	30	37%	3	4%
Karaman	1618	248	91	37%	61	53%	0	0%
Trabzon	1618-20	363	154	42%	82	53%	18	12%
Ankara	1582-88	1,636	249	15%	33	13%	20	9%
Sophia	1550	346	74	23%	17	23%	28	38%
Edirne	1648-49	249	66	27%	44	67%	0	0%

*Culled from Table 1 (p. 60) in R. C. Jennings, "Women in Early 17th Century Ottoman Judicial Records—The Sharia Court of Anatolian Kayseri," *Journal of Economic and Social History of the Orient*, Vol. XVIII, Part 1 (1975) pp. 53-114.

†Ongan (1974).

‡Galabov (1960).

§Microfilm No. 4651, Milli Kutuphane Bakanligi, Ankara.