From Persecution to (Potential) Emancipation Female Slaves and Legal Violations in Ottoman Istanbul according to Court Registers (16th-17th Centuries)

Hayri Göksin Özkoray

To cite this version:


HAL Id: halshs-02341345
https://shs.hal.science/halshs-02341345
Submitted on 29 Apr 2020

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L’archive ouverte pluridisciplinaire HAL, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d’enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

Distributed under a Creative Commons Attribution - ShareAlike 4.0 International License
From Persecution to (Potential) Emancipation

Female Slaves and Legal Violations in Ottoman Istanbul according to Court Registers (16th–17th Centuries)

Hayri Gökşin Özkoray
Collège de France, Paris
hayri.ozkoray@college-de-france.fr

Référence de l’article : ÖZKORAY Hayri Gökşin, « Female Slaves and Legal Violations in Ottoman Istanbul according to Court Registers (16th-17th Centuries), Journal of Women of the Middle East and the Islamic World, n°17, 2019, p.257-280. DOI : 10.1163/15692086-12341359

Abstract

This article deals with offences and crimes against female slaves, and those committed by female slaves, in Ottoman Istanbul (sixteenth-seventeenth centuries). Its main sources are imperial legislation and court records of the imperial capital, Istanbul, and its suburbs. Judicial archives remain the chief sources of early modern Ottoman historiography on gender. This contribution tackles slavery’s specificities regarding women, without ignoring the parallels with their male counterparts in the Ottoman Empire. By considering women as both objects and agents of legal violations and acts of violence, I simultaneously deal with the rights of slaveholders and slaves. Violations of these rights varied depending on the identity and juridical status of their authors, and were handled accordingly by the justice system. Thus, I consider violations committed by owners against their slaves, by slaves against their owners, and by third parties against the slaves of others. The rights and mutual obligations of masters and slaves were strictly defined in Ottoman law, although the judicial authorities upheld the preservation of private property above all. They dedicated themselves to fighting against the slightest doubt over masters’ quasi-absolute authority over their human possessions, whose unconditional obedience was required. Female slaves, in order to affirm their rights, had to provide irrefutable written proof or trustworthy verbal testimonies at the kadi courts.

Keywords
slavery – Ottoman Empire – court registers – law – property – personal status – violence
Résumé


Mots clés

Introduction

“Along with distinctions between free and slave, and between Muslim and non-Muslim, gender difference was one of the most significant distinctions” of the Ottoman legal system, other than the one between ‘askerīs (tax-exempt state officials) and re’āyā (taxpaying free subjects). Presumably, virtually everybody in the Ottoman Empire was either male or female, free or slave, and Muslim or non-Muslim (Christian and Jewish zimms), hermaphrodites, convicts, and Yezidis being respectively the notable exceptions to these operative dichotomies, dichotomies that are especially pertinent categories for the study of Ottoman slavery—the different combinations between them are heuristically most fruitful.

Writing Ottoman women’s history is no longer at an early stage (there have been significant advances in the past couple of decades), but it remains a work in progress, building on a constantly evolving literature, and must not be taken for granted. The historiography of Ottoman women can still be considered “a site of political struggle” or an area of struggle tout court, in the sense that antrocentric approaches and biologically deterministic views remain common and institutionally viable in the field of Ottoman studies and beyond. The study of slavery in the Ottoman Empire enables us to focus on women both as dominant social actors (as slaveholders) and as—sometimes resisting—underdogs (when they are enslaved). Slaveholding, which is indeed an often-neglected aspect, was just one of the possibilities for Ottoman women to exert authority. If “women’s history is also partly that of men and children,” then the history of slaves is also inevitably that of their masters. Well before being a history of emancipation, the history of Ottoman slavery is a history of dominance and, to some extent, of violence.

This article touches on some aspects of social relations, family, personal status, property, authority, enforcement and violation of law, and violence and exploitation. Women slaveholders and female slaves are far from being invisible in court records (sicillāt) and other primary sources, unless one acts in bad faith whilst reading them. Leslie P. Peirce and Lucienne Thys-Şenocak have demonstrated how women—sometimes of slave origin—ascended to power and acquired wealth, especially in the realm of the imperial harem. Here, I would be interested mainly in free women of considerably more modest conditions (mostly non-elite) and in female slaves who did not necessarily experience the same kind of upward social mobility as the sultan’s female slaves (cāriyes; although, the improvement of their social and juridical status remained possible). Since the material on hermaphrodite slaves does not go beyond the theoretical discussion led by the sixteenth-century scholar Ibrāhīm al-Ḥalabī on their legal capacity, I focus exclusively on female slaves. Women slaveholders are also out of my scope, since the relatively abundant

---

2 For a few examples that are particularly pertinent for the study of women’s history in the context of slavery and Islamic law in its Ottoman application, see Suraiya Faroqhi, “Manumission in 17th-Century Suburban Istanbul,” in Mediterranean Slavery Revisited (500–1800), ed. Stefan Hanß and Juliane Schiel (Zurich: Chronos, 2014), 381–401; as well as the works by Leslie P. Peirce, Judith E. Tucker and Madeline C. Zilfi in the bibliography below.


material on them consists mostly of manumission acts.\(^8\)

Slavery, as an institution, did certainly establish a distinction between women, but it also did so between genders.\(^9\) The distinction amongst \(\text{cāriyes}\) can come from the status of concubine (\(\text{otalık, şirriyye}\)), whom Leslie P. Peirce places at the top of the domestic female slave hierarchy.\(^10\) The difference between genders that is engendered by slavery, is, above all, that slave-owning women were prohibited from having sexual relations with their male slaves (as opposed to the possibility slave-owning men had).\(^11\) As J. Schacht states, legally “[t]he unmarried female slave [wa]s at the disposal of her male owner as a concubine, but no similar provision applie[d] between a male slave and his female owner.”\(^12\) According to a cosmological point of view, if men and women could be considered as basically the same creature, differentiated only by various degrees of development, then women, as well as prepubescent boys, were not necessarily a different sex, but an imperfect version of men; they were men who had not attained the ultimate stage of their growing process.\(^13\) Of course, this is just a part of the learned Ottoman mentality in “the classical age”: however, it could account for the inequality and the double standard in women’s rights. Indeed, “despite an inherited gender system that prescribed women’s subordination to men,” the study of notions such as family, patriarchy/matriarchy, and property under the prism of slavery “reveals the flexible and negotiated dimensions of social relationships and institutions.”\(^14\)

As for the sources, I propose to tackle various violations of property rights, and the rights of slaves themselves, by delving for the most part into the court registers of the imperial capital, Istanbul, and its surroundings (Eyüp, Galata, Hasköy, and Üsküdar, in modern Turkish spelling). The court registers, or \(\text{sicill}s\), of Istanbul are arguably the most well preserved of the whole Empire for the sixteenth and seventeenth centuries.\(^15\) Moreover, these sources are arguably the most important ones for the history of women in the Ottoman Empire, because the kadi courts offered a public space that facilitated legal recourse for women, on whom the legal system had a significant impact by way of regulations and chastisements, and also because the courts offered the possibility of resolving problems and conflicts independent of familial norms.\(^16\)

---

\(^8\) Faroqhi, “Manumission,” 396.


\(^12\) Joseph Schacht, \textit{An Introduction to Islamic Law} (Oxford: Clarendon Press, 1982 [1964]), 127.


\(^15\) According to Zilfi, “There are over 10 000 registers for Istanbul and its suburbs, … a robust survival rate” that is not necessarily seen in more distant provinces. Zilfi, \textit{Women in the Ottoman Empire}, 5.

\(^16\) Peirce, “Femme,” 443.
Other than the documents I discovered during my research on sixteenth- and seventeenth-century Ottoman slavery, I adopted a keyword-based methodology in the database of published court registers (accessible at kadisicilleri.org). These sources are generally quite laconic, lack the necessary context, and require extensive critical examination. They also are a potential gold mine, not only because of the variety of cases they contain, but also thanks to their potential for revealing coherent patterns for the phenomena that transpired, the behaviors and discourses of contemporary Ottomans, and the way the justice system responded. At the same time, court records offer only a limited representativity of the Ottoman society and its slaves. Besides, they generally “fail to satisfy the historian’s craving for detail, narrative expansiveness, and voice.” The vast majority of cases in the sicils related to female slaves, and to slaves in general, are acts of manumission and sale. Writing on the court records of seventeenth-century Jerusalem as a historical source, Dror Ze’evi states that

at best, they accurately reflected the situation only within the city walls, and even there only for certain social strata. We have almost no way of knowing which social groups or individuals chose to conduct their personal affairs elsewhere. Perhaps more crucial is the fact that many of the important facets of women’s lives do not reveal themselves statistically, through a multitude of records, but are better discovered in specific documents dealing with controversial or problematic issues. Given such conditions, quantitative research may lead us to the wrong conclusions.

Despite these shortcomings, court registers, especially for investigations into slaveholding, are a reliable source for a qualitative study that comprises ordinary and unusual examples. Still, they can present a distorted picture of issues where social norms did not necessarily coincide with written law. Fortunately, this is not really the case for the instances of violence inflicted on and by female slaves in and around sixteenth- and seventeenth-century Istanbul.

Various violations of rights, involving different forms of violence, are central here. The foundational violence of enslavement set aside, I will elaborate on the violence inflicted on female slaves by their masters or third parties, as well as on instances of violent crimes committed by female slaves (mostly, targeting their owners). When the author of the violence is a third party, there is a tangible violation of the slaveholder’s property rights. When the author of the violence is the slaveholder, there is a tension between the slaveholder’s privileges (taking the form of abuse) and the rights of slaves (the right to corporal integrity). When female slaves are the authors of the violence, when they commit a legal violation, we have a potential empowerment, one that points to an act that is not

18 See, e.g., Faroqhi, “Manumission,” 391.
gratuitous but that, above all, has an emancipatory purpose. It is thus preferable to follow a path that goes from persecution of female slaves to their potentially emancipatory criminality.

**Female Slaves as Objects of Violations**

In the Ottoman Empire, mostly religious scholars, as pious Sunnis, idealized the figure of the veiled, modest woman (*muḫaddere*), corresponding to the exemplary kind of woman who lived as a secluded, chaste, and virtuous woman, seeing no one except the members of her own family and household — which was almost impossible to achieve for female slaves and women of modest condition, who needed to be regularly in public spaces for work and provisions (such as going to the market or fetching water on a regular basis).\(^{21}\) In fact, although some female slaves were owned by men as “concubines or acquired for sexual purposes,” most “functioned as maids, personal attendants, nannies, washerwomen, cooks,” or had other domestic tasks when they did not work as weavers, entertainers, secretaries, or agricultural workers.\(^{22}\) Merely being outside, and thus in contact with strangers, exposed them to potential danger. However, being home was not necessarily always safe, either (because of wicked owners). If the extreme cruelty of plantations in the Americas was far from ordinary in the Ottoman Empire, in other words, even though slaves did not perform tasks that freemen and—women would never carry out (so were not systematically abused by the very nature of their work), their legal status and social standing made them vulnerable to attacks and molestations. First of all, why and how female slaves were targeted by third party individuals?

**Violations Committed by Third Parties**

Before considering the much more structural phenomenon of abuse by masters, let us examine how third parties could be implicated in cases of violence against the female slaves of others. By “third parties,” I mean people who were exterior to the master’s or mistress’ household and who committed violent acts against female slaves. For instance, in the court registers of Üsküdar, we have the following report from April 1535:

Ahmed, son of ‘Abdu-Iláh, declared at the assembly of sharia the following: “I struck a blow against her head while Maḥmūd’s female slave was washing rags by the seaside.” Upon the aforementioned Maḥmūd’s request, what took place has been registered. (Ahmed bin ‘Abdu-Iláh me- clis-i șer’de ɨkɾar ədūb dédī ki “Maḥmūd’un ċariyesini derya ɨkenärnda bez yurken başından vurdum đarb eyledüm” deyů ɨkɾar ədūb mezkůr Maḥmūd ɭaleb ile mā hüe-tevi’ tescůl olundı.)\(^{23}\)

---

This *sicil* entry is imprecise about what happened to the female slave in question; we do not know, for example, if she sustained serious injuries or, for that matter, died. We do know that her owner petitioned the court and that the culprit, Aḥmed, confessed his misdeed. We also know nothing about the culprit’s motive or the measures taken against him after his admission of guilt. At best, we can assume that the kadi’s court took notice of the complaint with the goal, perhaps, of taking action after further investigation (especially, regarding the slave’s fate).

Despite the lack of context and factual information, we can safely assert from this case that this crime was an offence not only against the female slave, who was physically assaulted, but also against her owner, Mahmūd, who was legally liable and whose human property had been attacked. If the slave did in fact die, this would be not only murder but also an alienation of property (requiring due compensation), mainly because of the hybrid nature of slaves in Ottoman law, “simultaneously a thing and a person.” The court’s formally registering the culprit’s admission of guilt was also a way of its forcing them to settle the affair out of court (through a *ṣulḥ*, a reconciliatory and contractual agreement).

Ottoman law was an occasionally complex but generally straightforward articulation of sharia and *kānūn* (secular law emanating from the sultan). Sharia’s “limited applications, especially with regard to land tenure, taxation, and criminal law” necessitated legal provisions from the Porte, which could be based on local customs (which created a dual nature legitimized by sultanic authority and particular legal traditions). Secular law codes (*kānūnnāmes*), whilst declaring general principles, could also contain highly specific requirements on situations that were most certainly at the basis of the legal enactment itself (matters which Uriel Heyd calls trivial). Süleymān the Magnificent’s (called *kānūnī* in Ottoman Turkish, the “Lawgiver,” r. 1520–66) law code, promulgated circa 1540, was based partly on the *kānūnnāmes* of his predecessors, partly on new legislation, and included one regulation that addressed the issue of single and potentially dangerous men preying on women and children washing clothes alone near a water source. Uriel Heyd has transcribed (in printed Ottoman characters), translated, commented on, and studied the genealogy of this code. The directive in question is as follows:

> Furthermore, disreputable men shall be prohibited from coming to places where women and boys go [to] fetch water or wash clothes. Those who do not submit to this prohibition shall be chastised and a fine of one *aḵçe* shall be collected for [every] two strokes. And [people] shall not gather and sit down in front of a public bath or on the way to a public bath. And they shall not relieve themselves on a cemetery or a road. Those who after being warned do not submit to this prohibition shall be

28 Heyd, *Studies*, 88 and 126 (art. 113).
The inclusion of such a provision in Süleyman’s law code around the year 1540 shows that predatory loitering by single, shady men or demobilized sailors (levend) near fountains and other places where female slaves, among others, fetched water and washed clothes was a real public-order problem. Ahmed’s vicious attack on Mahmidd’s female slave around Üsküdar in 1535 was clearly not an isolated case, but rather the manifestation of a wider threat against those who were vulnerable in places that were remote from habitation, and which free and unfree women and children could not avoid, given that fetching water and laundering were essential domestic tasks. If the law code in question was promulgated before the plight of Mahmidd’s slave, the affair shows that the practical implementation and the enforcement of this precise regulation were quite imperfect.

In other situations, the culprit’s intentions appear clearer (according to the court record), which makes the assault less random and more “purposeful” (attacking someone’s human property being a way of targeting the owners themselves, maybe as retaliation in a personal vendetta). Fragmented information from a case dated 10–18 January 1551 (evâhir-i zîl-çice sene 957) mentions an assault on a female slave:

This is clearly a dispute over the use of allocated land. Besides, it is unclear whether the court scribe made an error on Turgud’s patronym (Hizir, instead of Hasan) or whether there are two Turguds. If that is the case, then Turgud bin Hasan’s testimony is in favor of Turgud bin Hizir (but then again, there is the incoherence of him referring to his own stable and slave girl). I presume that they are the same person, especially given that in cursive handwriting, Hasan resembles Hizir (even if both names occur distinctly in the register). Anyway, the alleged attack had the goal of intimidating Turgud into leaving the land on

---

29 Heyd, Studies, 88 and 126 (art. 113).
which he claimed lawful use. The assaulters, in destroying the superstructures of the plot (probably Turgud’s means of livelihood), incidentally also attacked Turgud’s slave girl, probably because she had the misfortune of being there at the time (whilst working around the beehives or at the stable). Several other individuals, who remain anonymous, confirm the account to the court. This attack on a cariye does not really target her per se; it is more a way of getting to her owner and of threatening him. A free person affiliated to Turgud, or Turgud himself, would have arguably been attacked the same way, had they been there at the time, as is shown by the case of Amed Beg, son of Ibrahim, who viciously and “unjustly” (bi-gayri hakka) battered various employees of Ahmed Celebi, son of Mustafa, including his female slave Uftade (wrongdoings recognized by the accused).31 That said, a female slave constituted a much more vulnerable target, less able to resist the two men acting as criminals. Not only was Turgud responsible for his slave’s well-being and physical soundness, but his sworn testimony was also much more efficient and solid than his slave’s at the kadi’s court against two free Muslim men in order to protect and vindicate her and to obtain due punishment for the crimes committed against his property. In the case of female slaves, not only were they their masters’ human property, but their sexuality was also commodified (like their entire being, such as male slaves), so that in case of rape, the female slave’s attacker was responsible for reimbursing the owner in the amount by which his crime had depreciated her value.32

Precisely, it was in the slaveholders’ best interests to preserve their human property’s bodily integrity because slaves who had battery marks on their bodies were deemed to be “defective,” losing considerable monetary value when this “defect” was detected by buyers. Legally, violent offences committed against slaves were regarded as “the infliction of damage to property.”33 Therefore, beyond the possible human(e) concerns, the slave’s material value was at stake. For instance, Sahba, a female slave sold to ‘Os man, son of ‘Omer, by a professional slave dealer (esirci), Mehem, son of Huseyn, who had visible battery marks on her limbs (a’zasinda eser-i darbi olma), for which the dealer, who had concealed said “defect” or “imperfection” (mu‘ayyebi), had to compensate her new master in the amount of 25 gurus.34 Furthermore, sixteenth-century counsel literature explicitly advises buyers against purchasing slaves who had been beaten by their former owners, as was the case in Kanlizade Alfi Celebi’s (d. 1572) treatise of applied ethics written in 1564 (ve soyl gulam ve ciriye ki ... sahninde çok dugulmis ola almaya).35 Nevertheless, the financial argument was insufficient to prevent slaveholders from physically abusing their

---


32 Hina Azam, Sexual Violation in Islamic Law: Substance, Evidence, and Procedure (New York: Cambridge University Press, 2015), 84–5 and 133. In the particular case of rape, the author distinguishes the Mâlikî approach as a crime against property, whereas the Hanafîs saw a moral transgression. In the case of freewomen, the property would be their legal sexuality as commodified by the dower transaction.


35 Kanlizada Alfi Celebi, Ahlâk-i A’la’, Houghton Library, Harvard University, MS Turk 28, fol. 199r.
human property. The very fact that it was possible to possess another human being opened the gate to inflicting various forms of violence on the slave’s body, which was sold, bought, owned, and used as property.

**Violations at the Hands of Their Masters**

Slaveholders certainly had quasi-absolute authority over their slaves; however, it was always considered ethnically more advantageous for the master to be respected rather than feared by them.\(^\text{36}\) This relative propensity toward benevolence translates the encouragement of “an ethic of paternalism in master-slave relations,” even if it could not be entirely guaranteed.\(^\text{37}\) Indeed, the legal precepts and “historical tradition ... helped to protect ... slaves [in the Ottoman Empire] from the excesses to which slaves were frequently subject in the Americas.”\(^\text{38}\) Other than the sultan himself, nobody had life-and-death authority over their slaves in the Ottoman Empire, and there were strict limitations on what was deemed reasonable corporal punishment.\(^\text{39}\) The imposition of certain restraints on the rights of slaveholders did not necessarily mean an effective extension of slaves’ rights, nor a real flexibility for them. Abuse in the form of physical violence and bodily harm, or the arbitrary and completely unjustified denial of rights, did commonly occur, mainly because of the considerable leverage slaveholders had over their human property. In a way, institutionalized power, albeit with limitations, created the conditions for its own violations and abuse.

In seventeenth-century Istanbul, the violent and abusive behavior of a certain Mehmed, son of Mehmed, toward his female slave Sertāb led to his being expelled (ihrāc) from the neighborhood of Ḥvāce Ḥayrū-d-dīn, where he was apparently a disruptive resident.\(^\text{40}\) Five male Muslim residents (sükkān) of that neighborhood came to court to testify one by one (her biri takrīr-i kelām ve ta'bīr ‘ani-l-merām ēdūb) that

Mehmed, given that he drank wine and did not pray, came [home] inebriated everyday and battered his ümm-i veled with hard blows, a female slave named Sertāb, and took her to the slave market several times, in order to sell her. (Mehmed şārībū-l-ḥāmr ve bi-namāz olduğundan mā’adā her gün ser-hoş gelüb ümm-i veledi olan Sertāb nām cāriyesini đarb-ı şefid ile đarb ve bir kaç def’a mezbureyi bey’ étmek için esir bazarına götürmüşdür.)\(^\text{41}\)

Mehmed’s neighbors added that they were “grieved about his words and deeds. It is our demand that he be expelled from our district/community” (mezbûr Mehmed’ūn ef’āl ve akvâlinden müte’ezzîlerüz mahallemüzden ihrâc olınması maṭlûbîmizdur).\(^\text{42}\) The court

---


\(^\text{38}\) Zilfi, “Slavery,” 531.


\(^\text{41}\) *İstanbul Kadi Sicilleri. Bâb Mahkemesi 3 Numaralı Sicil*, ed. Rıfat Günalan, 990 (fol. 40r, 4th entry).

satisfied this demand, banishing Meḥmed from the neighborhood.

It should be pointed out that, although it was, above all, Sertāb who directly suffered from Meḥmed’s “wicked state” (ṣā‘-i ḥāl) denounced by the plaintiffs, the man in question was banished in order to preserve the peace of the district’s non-disruptive, good Muslims. In practice, it was quite common for someone to be expelled from their community, or place of residence, for having disturbed the public or moral order, and, in Meḥmed’s case, the plaintiffs obtained a clear order of banishment from the local authorities.43 Sertāb’s description as an ümm-i veled (lit., “the mother of the child”), because she had given birth to Meḥmed’s child (and that Meḥmed had formally recognized his paternity), meant that the child was to be born free, and that Sertāb became completely inalienable (which makes Meḥmed’s attempts to sell her at the slave market another illicit act) and had to be manumitted (automatically) at the latest upon Meḥmed’s death.44 Meḥmed’s abusive behavior was duly noted thanks to the complaint, although the record says nothing about Sertāb’s predicament (or about the measures eventually taken against Meḥmed in order to protect her) since she was not the plaintiff in this case. For all we know, she may have followed Meḥmed into exile, as a member of his household. Meḥmed’s punishment was inflicted because of the disturbance he had caused to his Muslim neighbors. That he had hurt Sertāb was incidental, and his formal authority over her remained intact. After all, it was completely up to him to reflect on his former behavior and decide not to recidivate against Sertāb in his new place of residence. The court’s decision, following the neighbors’ demand, consisted of moving a person away from the district, not of eliminating the possibility of such reprehensible deeds in the future. Sertāb was no longer a legally exchangeable property, but she nonetheless formally remained in her master’s possession. The multiple violations of her rights as a “child-bearing slave” were insufficient to revoke Meḥmed’s ownership of her. Madeline C. Zilfi suggests two possibilities for “instances of physical abuse which were subject to the courts”: either they “confirm some amount of slaves’ access to legal remedies,” or they are “evidence of community outrage at slave owners’ undue violence.”45 In Sertāb’s case, where the court’s legal remedy was to appease the community’s outrage, not to put an end to Sertāb’s hardship, the latter interpretation is appropriate. At least in theory, it was conceivable for the legal authorities to sell “compulsorily ... the slave of a persistent offender” such as Meḥmed himself in the abovementioned example, although this feature was out of bounds for an ümm-i veled.46

Speaking of “undue violence” in master-slave relations is of the utmost significance, because when it came to chastising a slave for wrongdoing, the Ottomans sanctioned measures of physical punishment taken by the master within “reasonable limits.” In

45 Madeline C. Zilfi, Women and Slavery in the Late Ottoman Empire: The Design of Difference (New York: Cambridge University Press, 2010), 107.
46 Schacht, Introduction, 128.
Admiral Ḥayrū-d-dīn Barbarossa’s “authorised biography” (Nicolas Vatin) written by Seyyid Murād in the 1540s, we find the expression “He had beaten and chastised, beyond the limits of what is acceptable, his slave who had not committed any fault” (*estrine bilâcürm* haddan ziyađe ďarb urub te’đib étmiş idi). The phrase clearly translates the idea of both tolerable/justified and reprehensible/unjustified violence inflicted on slaves by their masters. Again, physical mistreatment was an excessive use of the owner’s prerogatives rather than a violation of the slave’s right to protection from bodily harm.

Even though the ümm-*i veled* status was supposed to be “advantageous” for a female slave (arguably more so than a manumission contract, mûkâtêbe, because it could not be annulled), it did not necessarily protect female slaves from abuse. Whereas an ümm-*i veled* was to be freed upon her master’s death, one still finds records of heirs of a deceased master of an ümm-*i veled* trying to sell the woman, who could not be their property. Also, slave dealers could prey on newly manumitted ümm-*i veleds*. These women needed written evidence of their new status or, even better, respectable Muslims to testify favorably for them in court, as was the case of Güls-*üm*, daughter of ‘Abdu-Ilâh, who was supported by witnesses who, according to the kadi in charge, were credible. Even Ottoman subjects of free origin and condition were menaced by the phenomenon of illegal slavery. In cases designated as “proving/establishment of freedom” (*is_bât-i hûrriyyet*), victims of unscrupulous or malicious people (mostly, but not exclusively, slave merchants) petitioned the kadi’s court in order to regain effectively their freedom, a freedom that had never been alienated legally in the first place.

**Women Slaves as Authors of Violations**

When even freemen and women could be targeted by malicious individuals and sold into slavery, and especially when manumission contracts and the newly acquired freedom of certain slaves could be violated, and when legal recourse was unavailable or inefficient, resistance by way of fugitivism or other extralegal methods was the only possible response for most slaves. Besides the phenomenon of resistance, conditional forms of

---

48 *İstanbul Kadi Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, ed. Râsim Erol et al., 1117 (fol. 2r, 7th entry)—affair dated 18 April 1663 (10 râmaḍân 1073).
49 *İstanbul Kadi Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, ed. Râsim Erol et al., 1047 [fol. 70 vo, 3rd entry]—affair dated 19 September 1663 (16 şafet 1074).
51 *İstanbul Kadi Sicilleri. İstanbul Mahkemesi 3 Numaralı Sicil, (H. 1027 / M. 1618)*, ed. Yılmaz Karaca et al., (İstanbul: İsam, 2010), 571 (fol. 26r, 4th entry) and 523 (fol. 73v, 1st entry). Freedom cases of one free woman sold into slavery and one recently manumitted woman yet sold again into slavery.
enfranchisement (tedbīr) could incite some slaves to kill their masters, since sometimes the stipulation was that the slave would be freed upon the master’s death.\textsuperscript{52}

Female slaves’ resorting to violence and illegality did not have the same meaning as the violations that were inflicted on them (also violent and illegal), for it was mainly an act of resistance.\textsuperscript{53} This resistance can be understood both as resistance against unlawful (yet also legal but intolerable) acts that female slaves endured, or as resistance against the coercion of slavery itself as a social institution of subjugation. Although masters could be guilty of an excessive/abusive use of their rights over their (female) slaves, (female) slaves could be “guilty” of not complying with their duty of absolute obedience to their masters. That being said, female slaves were hardly ever involved in murders, according to documented evidence. On the other hand, there is a recurring pattern, as far as apprehended male slaves are concerned, where the murder of the master is followed by the slave’s immediate flight, which is then interrupted by the action of slave hunters (yâveci). The court records point mostly to failed attempts at gaining freedom illegally (successful escapes of slaves are generally not mentioned as such in archival material).\textsuperscript{54} Violent or mildly violent acts of resistance could also be mere manifestations of discord rather than a means of abruptly breaking off master-slave relations. The ambiguous example of Selvār is a case of “moderate” pain inflicted on a freeman by a female slave:

Yūsuf, son of Ḥamza, summoned a female slave named Selvār to the court of sharia. He expressed his grievance in the following words: “The aforementioned Selvār grabbed me by the beard and she pulled it apart.” Upon this statement, Yūsuf was asked to provide proof. Ahmed, son of Pīrī, and Īlyās, son of Hūseyin gave their sworn testimonies and the case has been registered. (Yūsuf bin Ḥamza meclis-i şer’e Selvār nam cāriyeyi ıhzār eleyüb tağrī-i meram ḵīlab aytīdi ki “mūşārūn חבר Selvār benüm şakaluma Campo ve beni [sic] şakalum қoldı” deyicem mezḵūr Yūsuf’dan beyyine ղabe olunduğda Ahmed bin Pīrī ve Īlyās bin Hūseyin şehādetleri ile s̱ābit olub tescīl olundı.)\textsuperscript{55}

What we can gather from yet another laconic excerpt of a judicial affair is indeed limited. It is unclear to whom Selvār actually belonged. The plaintiff, Yūsuf, most likely was not her owner, for two reasons. First, he is neither acknowledged as Selvār’s proprietor in the record, nor does he present himself as such. Second, were he the master, he could have dealt with the situation personally, instead of going to court, since he had the authority to decide

\textsuperscript{52} Halil Sahillıoğlu, “Slaves in the Social and Economic Life of Bursa in the Late 15th and Early 16th Centuries,” \textit{Turcica} 17 (1985): 57–8.


\textsuperscript{54} I should clarify that it is the Ottoman archival material in question here. For instance, Spanish subjects who managed to escape from slavery or captivity in Ottoman lands (mostly from the autonomous Maghrib provinces, but occasionally from Istanbul as well) did leave narrative accounts upon their return. For an extensive work on the documents from the Archivio General de Simancas, see Cecilia Tarruell, \textit{Circulations entre Chrétienté et Islam : Captivité et esclavage des serviteurs de la Monarchie hispanique (ca. 1574–1609)}, unpublished doctoral thesis, Paris: École des Hautes Études en Sciences Sociales, 2015, 355–364.

\textsuperscript{55} \textit{İstanbul Kadı Sicilleri. Üsküdar Mahkemesi 9 Numarali Sicil} (H. 940–942 / M. 1534–1536), ed. Kenan Yıldız, 547 (fol. 34r, 2nd entry)—affair undated, most likely after October 1534.
on a discretionary punishment (taʿẓīr) for an act of bodily harm committed by his slave (without having the authority to carry it out himself, though, because a master lacked the authority to execute any criminal sentences on his own slaves according to the Hanafites, the Hanafite school of law being the Ottoman Empire’s official madhhab). In addition, the scribe’s placing of the phrase “the aforementioned Selvār” in the plaintiff Yūsuf’s “quoted” direct speech, shows a problem common to virtually all court registers in the Ottoman Empire. Although there is a certain element of a social protagonist’s voice (be it that of a slave or a master in our case study), this protagonist’s words are paraphrased in a preconceived format by the court scribe. More broadly, Selvār’s behavior in this affair could be perceived as “out of place,” as coming from a slave toward a freeman, although it is most likely symptomatic of desperation and exasperation rather than pure viciousness. Female slaves rarely took up arms, but did occasionally do so. A lack of obsequiousness and subordination was deemed a danger to be eradicated at all costs according to the measures taken by the Ottoman authorities. Based on the evidence of narrative sources of the later period, Madeline C. Zilfi has discussed the case of a Circassian slave girl around July 1762. Awaiting her sale at a slave dealer’s lodge in Istanbul along with other cāriyes, she had “proved to be ungovernable—an unmarketable trait in any subordinate.” Upon her presumably violent chastisement by the mistress of the house (the slave dealer’s wife), the Circassian girl had stabbed her punisher to death. The girl was detained, and “it was decided that, as a warning to others who might harbour similar ideas, she should be hanged in the slave market” (esr bāżārī) at the heart of the capital. The incident was dealt with in the most radical manner by the authorities—executing the culprit was conceived as a necessary measure for the public interest, with the goal of sending a message to the city’s slave population who might think of emulating such gestures. As Zilfi rightly suggests, “Female homicides at the hands of other female householders were as exceptional as they were publicly sensational,” whereas “the murder of male owners by male slaves was more common,” whether as a form of individual or collective action. The court and mühimme (“important affairs” emanating from the Porte’s chancery) registers are replete with such affairs that exclusively involve men at both ends of the crime.

Murdering one’s master could be motivated by specific stipulations of a conditional

---

manumission agreement (*tedbîr*), according to which the master’s death might be the only condition required for a slave’s manumission (as attested in the cases of Timurîn and Mülâyım, amongst dozens of others).\(^{64}\) Obtaining manumission by the master’s wrongful death was undoubtedly in-convenient, since the master’s suspicious death would not *ipso facto* create the suitable circumstances for a formally legalized manumission. As some slave-holders violated the terms of their legal engagements (such as the manumission contracts), each slave did not feel obliged either to respect the bonds of their servitude. Fugitivism without murder was more common among female slaves, according to court registers.

Lacking a support network during flight, and because of the busy activity of fugitive-slave hunters in the Istanbul province, escaped female slaves often found themselves in dire material conditions soon after escaping. However, individual cases contain rare and surprising elements that do not fit the general pattern, as in the following example. Toward the end of 1679 (ševvâl—zi-l-ka‘de 1090), Şâhbâz, a female slave, was apprehended in Eyûp, where her owner, Ísmâ‘îl, lived.\(^ {65}\) She had taken some gold and other valuable and insignificant items from her master’s house before escaping. On capture, she claimed to be of free origin (*hüurretî-l-ayl*) and to have been sold into slavery by her husband, Muṣṭâfâ, in Edirne (*zevci mûstaфа nam kimesne beni Edirne‘ye getürüb ardından câriye olmak üzere bey‘ âmek ile tedawiil edüb*).\(^ {66}\) She failed to provide the court with any proof or witnesses to her allegations, so Ísmâ‘îl’s word prevailed over hers. Besides Şâhbâz’s possibly true allegations about her life story, what is also remarkable in the case is the presence of accessories or accomplices for her evasion. Ísmâ‘îl claimed to “have found her in the house of two *zimmî* inhabitants of Eyûp, Şâhin, son of [...] and his wife Drâkô, daughter of Ḥristô, hailing from the İslâm Beg neighborhood” (* İslâm Beg mahallesi ahâlisinden haçîrân bi-l-meclis Şâhin veled [...] nâm zimmî ile zevcesi Drâkô bint-ı Ḥristo‘-nâm Naşrânîyeyenîn sâkin olduklarî meclîde buldum*).\(^ {67}\) It is impossible to know whether the Christian couple were compassionate towards Şâhbâz’s plight and wanted to help her, or manipulated her into robbing some of her master’s valuable belongings in exchange for her freedom. What is certain is Şâhbâz’s own retrospective take on the events: “At that time, being led astray by the *zimmîs*, I had stolen the aforementioned goods and escaped” (*zimmîlî ıgâšıyla vakt-ı mezkûrda eşyâ-yi mersâmeyi âlîz ve firâr etmiş idim*).\(^ {68}\) After the plan failed, Şâhbâz dissociated herself altogether from her accomplices; her only remaining

---


legal and immediate way of (re)gaining her freedom was to convince the kadi of her free origin and the illegality of her servitude.

Slaves, in fleeing, could end up breaking off their ties with their masters, although not necessarily in the way intended (which was to quit life in servitude altogether). Upon being apprehended by a professional slave hunter, fugitive slaves entered into the custody of the kadi’s court, and a daily sum of expenses (nafaka) was fixed for their material well-being (to be reimbursed later by their owner). So began a customary period (müddet-i ‘örfiyye) of 100 days (or three months) during which the court waited for the owner to claim their slave; if no owner came forward during these three months, the slave could be auctioned by the court.69 So, a failed evasion could simply result in a change of owner.

Whereas the kadi’s court was responsible for protecting the slaveholder’s property rights during the müddet-i ‘örfiyye, profiteers always lurked around—captured fugitive slaves were also part of a lucrative business. In May 1590, a “warden of fugitives” (zābitü-l-avābük) was found guilty of having sold Yāsēmin, a fugitive slave belonging to Peymāne Ḥatun, daughter of Mahmūd, without having waited until the end of the müddet-i ‘örfiyye. A gaoler in Galata, Ḥasan, son of ‘Abdu-llāh, had confessed the warden’s wrongdoing (müddet-i ‘örfiyyesi tamām olmadan bey’ étmişdir).70

While serving as an instrument of social and legal norms, the respect of this customary period could also be explained in purely material and financial terms: the 100-day period was deemed reasonable for the masters to present themselves. Beyond this time frame, it was less feasible for the court to keep a fugitive slave in custody; it was much more profitable and interesting to proceed to their auction, even though such slaves fetched lower prices at market. In short, unfortunately for the resisting slaves, an illegal attempt to exit slavery could be reversed by a legal regulation pulling them back into slavery.


Conclusion

It can be quite revealing to compare what happened when slaves from the Janissary corps resisted with what happened when privately owned domestic slaves did so. Janissaries could terrorize the imperial capital during transitions between reigns, in order to gain as much leverage and liberality as possible from the grandees (beginning with the new sultan), whereas there was intransigence and severity on behalf of the authorities when ordinary slaves were merely suspected to lack due obedience toward their owners. This tangible contrast stems from the fundamentally different nature of coexisting regimes of servitude within the Ottoman Empire.

The sharp distinction between the slave-owning rights of the sultan and those of ordinary masters points to another asymmetry: restrictions on the rights of slaveholders did not always correlate with an improvement in the rights of slaves. Such a correlation did exist, nevertheless, when it came to the absence of the right of life-and-death for ordinary masters over their slaves. In theory, legal provisions protected slaves from ill treatment and vicious bodily harm, but the same legal system that condoned servitude without reserve, and which gave almost absolute authority to slaveholders over their human possessions, perpetuated and institutionalized the very conditions and patterns that slaves attempted to resist, combat, and escape. When facing unlawful actions and plain abuse, slaves could, as a last resort, rely on the court. Acting disobediently, unlawfully, and in violation of their owners’ property rights had, above all, an emancipatory and empowering purpose, but the cases documented in the court registers show how this rather radical (but not infrequent) approach was more an impasse than a permanent solution.

Bibliography

Manuscript Source

Ḳınāḷızāde ‘Alī Čelebi, Ahlāk-ı A‘lā’t, Houghton Library, Harvard University, MS Turk 28 [n.d.].

Published Sources


Secondary Literature


Zilfi, Madeline C. “Slavery.” In Ágoston and Masters, Encyclopedia of the Ottoman Empire, 530–3.