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# From Persecution to (Potential) Emancipation

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

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### **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

Cet article aborde la question des infractions et crimes dont les femmes esclaves furent les cibles, mais aussi les autrices à Istanbul à l'époque ottomane aux XVI<sup>e</sup> et XVII<sup>e</sup> siècles. Les sources principales de cette étude sont les textes législatifs impériaux et les registres des tribunaux de la capitale impériale et de sa banlieue proche. Les archives judiciaires demeurent les principales sources de l'historiographie ottomane au féminin. Cette contribution aborde les spécificités de l'institution servile concernant les femmes, sans perdre de vue les parallèles avec les esclaves du sexe opposé dans l'Empire ottoman. En prenant les femmes à la fois comme objets et acteurs principaux de différentes violations du droit et faits de violence, je traite simultanément des droits des propriétaires et des esclaves. Les violations de ces droits changent de teneur en fonction de l'identité et du statut juridique de leurs auteurs. Ainsi, je prends en considération, les violations commises par les propriétaires à l'égard de leurs esclaves, par les esclaves à l'égard de leurs propriétaires et par des personnes tierces vis-à-vis des femmes esclaves des autres. Les droits et obligations mutuels des esclaves et maîtres étant bien définis par le droit ottoman, nous constatons que les autorités judiciaires ont pour mission principale la préservation de la propriété privée et qu'elles ont vocation à lutter contre une quelconque remise en question de l'autorité quasi-absolue du maître sur sa propriété humaine dont la soumission inconditionnelle était requise. Les femmes esclaves, afin de faire valoir leurs droits, devaient fournir des preuves juridiques écrites irréfutables ou des témoignages fiables aux yeux du tribunal du *cadi*.

## Mots clés

esclavage – Empire ottoman – registres juridiques – droit – propriété – statut de la personne – violence

## 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-exempted state officials) and *re‘āyā* (taxpaying free subjects).<sup>1</sup> Presumably, virtually everybody in the Ottoman Empire was either male or female, free or slave, and Muslim or non-Muslim (Christian and Jewish *zimmīs*), 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.

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<sup>1</sup> Judith E. Tucker, “Law and Gender,” in Gábor Ágoston and Bruce Masters, eds., *Encyclopedia of the Ottoman Empire* (New York: Facts on File, 2009), 325. I thank sincerely Fabio Giomi, İmre Özkoray and Daniel Sentance for their insightful remarks.

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.<sup>2</sup> 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 androcentric approaches and biologically deterministic views remain common and institutionally viable in the field of Ottoman studies and beyond.<sup>3</sup> 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.<sup>4</sup> If “women’s history is also partly that of men and children,” then the history of slaves is also inevitably that of their masters.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup> Women slaveholders are also out of my scope, since the relatively abundant

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<sup>2</sup> 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.

<sup>3</sup> Karen Offen, Ruth Roach Pierson, and Jane Rendall, “Introduction,” in *Writing Women’s History: International Perspectives* (Bloomington: Indiana University Press, 1991).

<sup>4</sup> Leslie P. Peirce, “Femme: XIV<sup>e</sup>–XVIII<sup>e</sup> siècles,” in François Georgeon, Nicolas Vatin, and Gilles Veinstein, eds., *Dictionnaire de l’Empire ottoman* (Paris: Fayard, 2015), 443.

<sup>5</sup> “D’un bout à l’autre de l’Empire, la vie conjugale et familiale représentait l’idéal social pour les adultes. L’histoire des femmes est donc aussi en partie celle des hommes et des enfants.” Peirce, “Femme,” 443.

<sup>6</sup> Leslie P. Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (New York: Oxford University Press, 1993); Lucienne Thys-Şenocak, *Ottoman Women Builders: The Architectural Patronage of Hadice Turhan Sultan* (Aldershot, UK: Ashgate, 2006); Matthew S. Gordon and Kathryn A. Hain, eds., *Concubines and Courtesans: Women and Slavery in Islamic History* (New York: Oxford University Press, 2017).

<sup>7</sup> Sara Scalenghe, *Disability in the Ottoman Arab World, 1500–1800* (New York: Cambridge University Press, 2014), 138–9. The seminal account of the hermaphrodites’ situation according to Islamic law and in (medieval) Muslim politics is still Paula Sanders, “Gendering the Ungendered Body: Hermaphrodites in Medieval Islamic Law,” in *Women in Middle Eastern History: Shifting Boundaries in Sex and Gender*, ed. Nikki R. Keddie and Beth Baron (New Haven, CT: Yale University Press, 1992), 74–95.

material on them consists mostly of manumission acts.<sup>8</sup>

Slavery, as an institution, did certainly establish a distinction between women, but it also did so between genders.<sup>9</sup> The distinction amongst *cāriyes* can come from the status of concubine (*oṭalık, sūrriyye*), whom Leslie P. Peirce places at the top of the domestic female slave hierarchy.<sup>10</sup> 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).<sup>11</sup> 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.”<sup>12</sup> 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.<sup>13</sup> 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.”<sup>14</sup>

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 *sicills*, of Istanbul are arguably the most well preserved of the whole Empire for the sixteenth and seventeenth centuries.<sup>15</sup> 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.<sup>16</sup>

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<sup>8</sup> Faroqhi, “Manumission,” 396.

<sup>9</sup> Peirce, “Femme,” 443.

<sup>10</sup> Peirce, “Femme,” 443.

<sup>11</sup> Marion H. Katz, “Concubinage, in Islamic Law,” *Encyclopaedia of Islam, Three*, accessed 16 September 2016, [http://dx.doi.org/10.1163/1573-3912\\_ei3\\_COM\\_25564](http://dx.doi.org/10.1163/1573-3912_ei3_COM_25564).

<sup>12</sup> Joseph Schacht, *An Introduction to Islamic Law* (Oxford: Clarendon Press, 1982 [1964]), 127.

<sup>13</sup> Dror Ze’evi, *Producing Desire: Changing Sexual Discourse in the Ottoman Middle East, 1500–1900* (Berkeley, CA: University of California Press, 2006), 22–3, 26. Dror Ze’evi, “Sexualité,” in Georgeon, Vatin, and Veinstein, *Dictionnaire de l’Empire ottoman*, 1071.

<sup>14</sup> Madeline C. Zilfi, ed., *Women in the Ottoman Empire: Middle Eastern Women in the Early Modern Era* (Leiden: Brill, 1997), 5.

<sup>15</sup> 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, *Women in the Ottoman Empire*, 5.

<sup>16</sup> 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](http://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.”<sup>17</sup> The vast majority of cases in the *sicills* related to female slaves, and to slaves in general, are acts of manumission and sale.<sup>18</sup> 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.<sup>19</sup>

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.<sup>20</sup> 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

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<sup>17</sup> Madeline C. Zilfi, “Thoughts on Women and Slavery in the Ottoman Era and Historical Sources,” in *Beyond the Exotic: Women’s Histories in Islamic Societies*, ed. Amira El-Azhary Sonbol (Syracuse, NY: Syracuse University Press, 2005), 135.

<sup>18</sup> See, e.g., Faruqi, “Manumission,” 391.

<sup>19</sup> Dror Ze’evi, “Women in 17th-Century Jerusalem: Western and Indigenous Perspectives,” *International Journal of Middle East Studies* 27/2 (1995): 161. The emphasis is mine.

<sup>20</sup> Ze’evi, “Women in 17th-Century Jerusalem,” 161.

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 (*muḥaddere*), 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).<sup>21</sup> 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.<sup>22</sup> 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 women 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:

Aḥmed, son of ‘Abdu-lláh, 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. (Aḥmed bin ‘Abdu-lláh me- clis-i şer‘de ikrār édüb dédi ki “Maḥmūd’uñ cāriyesini deryā kenārında bez yurken başından vurdum đarb eyedüm” deyü ikrār édüb mezkūr Maḥmūd taleb ile mā hüve-l-vāқи‘ tescil olundu.)<sup>23</sup>

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<sup>21</sup> Peirce, “Femme,” 444.

<sup>22</sup> Madeline C. Zilfi, “Slavery,” in Ágoston and Masters, eds., *Encyclopedia of the Ottoman Empire*, 532–3.

<sup>23</sup> *İstanbul Kadı Sicilleri. Üsküdar Mahkemesi 9 Numaralı Sicil (H. 940–942 / M. 1534–1536)*, ed. Kenan Yıldız, (Istanbul: İsam, 2010), 521 (fol. 58v, 3rd entry).

This *sicill* 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, Maḥmūd, 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."<sup>24</sup> 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 *şulh*, a reconciliatory and contractual agreement).<sup>25</sup>

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).<sup>26</sup> 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).<sup>27</sup> 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.<sup>28</sup> 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 *aḳçe* 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

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<sup>24</sup> Robert Brunschvig, " 'Abd,'" *Encyclopaedia of Islam, Second Edition*, ed. P. Bearman et al. (Leiden: Brill, 1960), 1:30 (section 3.i); Schacht, *Introduction*, 128: "The protection of the slave does not go beyond that of property in general."

<sup>25</sup> Işık Tamdoğan, "Justice," in Georgeon, Vatin, and Veinstein, *Dictionnaire de l'Empire ottoman*, 671; Yavuz Aykan, *Rendre la justice à Amid: Procédures, acteurs et doctrines dans le contexte ottoman du XVIII<sup>ème</sup> siècle* (Leiden: Brill, 2016), 118–9 *et passim*.

<sup>26</sup> Gábor Ágoston, "kanun," in Ágoston and Masters, *Encyclopedia of the Ottoman Empire*, 306.

<sup>27</sup> Colin Imber, "Kanun, Kanunname," in Georgeon, Vatin, and Veinstein, *Dictionnaire de l'Empire ottoman*, 677–9; Uriel Heyd, *Studies in Old Ottoman Criminal Law*, ed. V. L. Ménage (Oxford: Clarendon Press, 1973), 257.

<sup>28</sup> Heyd, *Studies*, 88 and 126 (art. 113).



severely punished. (ve daħi ‘avret ve ođlan varub řu alduđı veyā ton yudiđı yérlerine levend tã’ifesi varmaya men’ édeler, memnũ’ olmayanı ta’zır édüb iki ağaca bir aķçe cürm alına. Ve ĥammām öñinde ve ĥammām yolında cem’iyyet édüb oturmayalar ve maķbere icinde veyā yol üstinde tebevũil etmeyeler, ba‘de-t-tenbiyye memnũ’ olmayanuñ muĥkem ĥaķķından geleler.)<sup>29</sup>

The inclusion of such a provision in Süleymãn’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. Aĥmed’s vicious attack on Maĥmũd’s female slave around Üskũdar 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 Maĥmũd’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 (*evāħir-i zĩ-l-ħicce sene 957*) mentions an assault on a female slave:

Ṭurđud, son of Ĥasan, hailing from the village of İstavros, has formally filed a complaint and said: “Ṭurđud, son of Ĥızır, who is in the audience, leased for a long time a plot of land from Maĥmũd, son of Yũsuf, also present and facing him, on which he established a stable and lived for five years. Now, whilst not having the kadi’s permission, Süleymãn, son of Ĥũseyin, presently the property’s administrator, and ‘Alĩ Ćelebi, son of Murād, damaged my stable and violently beat up my slave girl.” Upon this statement, certain people also informed [the court] that the aforementioned administrator, along with ‘Alĩ Ćelebi, has damaged the stable, beat up his slave girl and destroyed his beehives, all of which has been recorded accordingly with the request. (*ķarye-i İstavros’dan Ṭurđud bin Ĥasan taķrĩr-i da’vā ķılıb dédi ki “nāzır olan Ṭurđud bin Ĥızır müvācehesinde sãbık nāzır olan Maĥmũd bin Yũsuf’dan icāre-i řavĩl ile bir miķdār yer alub ĥavlı dutub beř yıl miķdār sãkin olub ĥãliyā bi-ĥayri izn-i ķãdı yok iken ĥãliyā mütevellĩ olan Süleymãn bin Ĥũseyin ve ‘Alĩ Ćelebi bin Murād ĥavlımı bozub ve cãriyemi đarb-ı ředĩd étdi” dédikde ba’z-ı kimesne ĥaber vérdiler ki mezkũr mütevellĩ ve ‘Alĩ Ćelebi ile ĥavlısın bozub cãriyesin đarb édüb ķovanların ĥarab étdikleri mã ĥüve-l-vãķi’ bi-ř-taleb ķayd-ı sicill olundu.*)<sup>30</sup>

This is clearly a dispute over the use of allocated land. Besides, it is unclear whether the court scribe made an error on Ṭurđud’s patronym (*Ĥızır*, instead of *Ĥasan*) or whether there are two Ṭurđuds. If that is the case, then Ṭurđud bin Ĥasan’s testimony is in favor of Ṭurđud bin Ĥızır (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, *Ĥasan* resembles *Ĥızır* (even if both names occur distinctly in the register). Anyway, the alleged attack had the goal of intimidating Ṭurđud into leaving the land on

<sup>29</sup> Heyd, *Studies*, 88 and 126 (art. 113).

<sup>30</sup> *İstanbul Kadı Sicilleri. Üskũdar Mahkemesi 17 Numaralı Sicil (H. 956–963 / M. 1549–1556)*, ed. Orhan Gültekin, (Istanbul: İsam, 2010), 399 (fol. 56v, 4th entry).

which he claimed lawful use. The assaulters, in destroying the superstructures of the plot (probably ʿTurğud’s means of livelihood), incidentally also attacked ʿTurğud’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 *cāriye* 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 ʿTurğud, or ʿTurğud himself, would have arguably been attacked the same way, had they been there at the time, as is shown by the case of Aḥmed Beg, son of İbrāhīm, who viciously and “unjustly” (*bi-ğayri ḥaqq<sup>m</sup>*) battered various employees of Aḥmed Çelebi, son of Muştafā, including his female slave Üftāde (wrongdoings recognized by the accused).<sup>31</sup> That said, a female slave constituted a much more vulnerable target, less able to resist the two men acting as criminals. Not only was ʿTurğud 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.<sup>32</sup>

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.”<sup>33</sup> Therefore, beyond the possible human(e) concerns, the slave’s material value was at stake. For instance, Şahbāz, a female slave sold to ‘Os\_mān, son of ‘Ömer, by a professional slave dealer (*esīrci*), Mehmed, son of Hüseyn, had visible battery marks on her limbs (*a‘zāsında eser-i darbı olmağla*), for which the dealer, who had concealed said “defect” or “imperfection” (*mu‘ayyeye*), had to compensate her new master in the amount of 25 *ğuruş*.<sup>34</sup> Furthermore, sixteenth-century counsel literature explicitly advises buyers against purchasing slaves who had been beaten by their former owners, as was the case in Kınālızāde ‘Alī Çelebi’s (d. 1572) treatise of applied ethics written in 1564 (*ve şöl gulām ve cāriye ki ... şāhibinde çok dögülmiş ola almaya*).<sup>35</sup> Nevertheless, the financial argument was insufficient to prevent slaveholders from physically abusing their

<sup>31</sup> *İstanbul Kadı Sicilleri. Bâb Mahkemesi 3 Numaralı Sicil*, (H. 1077 / M. 1666–1667), ed. Rifat Günalan, (Istanbul: İsam, 2011), 906 (fol.123v, 3rd entry)—affair dated 11 April 1667 (16 şevvāl 1077).

<sup>32</sup> 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 Mālikī approach as a crime against property, whereas the Ḥanafīs saw a moral transgression. In the case of freewomen, the property would be their legal sexuality as commodified by the dower transaction.

<sup>33</sup> Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-first Century* (New York: Cambridge University Press, 2005), 50.

<sup>34</sup> *İstanbul Kadı Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, (H. 1073–1074 / M. 1663–1664), ed. Rasim Erol et al., (Istanbul: İsam, 2010), 1065 (fol.53r, 3rd entry)—affair dated 14 August 1663 (10 muḥarrem 1074).

<sup>35</sup> Kınālızāde ‘Alī Çelebi, *Aḥlāk-ı A‘lā’ī*, 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 ethically more advantageous for the master to be respected rather than feared by them.<sup>36</sup> 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.<sup>37</sup> 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.”<sup>38</sup> 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.<sup>39</sup> 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 Meḥmed, son of Meḥmed, toward his female slave Sertāb led to his being expelled (*iḥrāc*) from the neighborhood of Ḥvāce Ḥayrū-d-dīn, where he was apparently a disruptive resident.<sup>40</sup> Five male Muslim residents (*sükkān*) of that neighborhood came to court to testify one by one (*her biri taḳrīr-i kelām ve ta'bīr 'ani-l-merām édüb*) that

Meḥmed, 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. (Meḥmed şarībū-l-ḥamr ve bī-namāz olduḡundan mā'adā her gün ser-ḥōş gelüb ümm-i veledī olan Sertāb nām cāriyesini ḍarb-ı ūdīd ile ḍarb ve bir kaç def'a mezbūreyi bey' etmek için bāzārına götürmüşdür.)<sup>41</sup>

Meḥmed's neighbors added that they were “grieved about his words and deeds. It is our demand that he be expelled from our district/community” (*mezbūr Mehmed'ün ef'al ve aḳvālinden müte'ezzīlerüz maḥallemüzden iḥrāc olunması maḥlūbımızdur*).<sup>42</sup> The court

<sup>36</sup> Simon Swain, *Economy, Family, and Society from Rome to Islam: A Critical Edition, English Translation, and Study of Bryson's Management of the Estate* (Cambridge: Cambridge University Press, 2013), 267.

<sup>37</sup> Zilfi, “Slavery,” 531.

<sup>38</sup> Zilfi, “Slavery,” 531.

<sup>39</sup> Zilfi, “Slavery,” 531.

<sup>40</sup> *İstanbul Kadı Sicilleri. Bâb Mahkemesi 3 Numaralı Sicil*, ed. Rifat Günelan, 990 (fol. 40r, 4th entry)—affair dated 9 December 1666 (11 cemāziyü-l-āḥir 1077).

<sup>41</sup> *İstanbul Kadı Sicilleri. Bâb Mahkemesi 3 Numaralı Sicil*, ed. Rifat Günelan, 990 (fol. 40r, 4th entry).

<sup>42</sup> *İstanbul Kadı Sicilleri. Bâb Mahkemesi 3 Numaralı Sicil*, ed. Rifat Günelan, 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" (*sū'-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.<sup>43</sup> 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.<sup>44</sup> 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."<sup>45</sup> 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*.<sup>46</sup>

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

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<sup>43</sup> Nicolas Vatin, "Bannissement, exil: La pratique classique de la relégation," in Georgeon, Vatin, and Veinstein, *Dictionnaire de l'Empire ottoman*, 147–8; Nicolas Vatin, "Population, déplacement de," in Georgeon, Vatin, and Veinstein, *Dictionnaire de l'Empire ottoman*, 971–3.

<sup>44</sup> Joseph Schacht, "Umm al-Walad," in *Encyclopaedia of Islam, Second Edition*, ed. P. Bearman et al. (Leiden: Brill, 2002), 10:924–7.

<sup>45</sup> Madeline C. Zilfi, *Women and Slavery in the Late Ottoman Empire: The Design of Difference* (New York: Cambridge University Press, 2010), 107.

<sup>46</sup> 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” (*esīrine bilā-cürm<sup>m</sup> haddan ziyāde darb urub te’dīb étmiş idi*).<sup>47</sup> 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, *mükātebe*, 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.<sup>48</sup> 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-llāh, who was supported by witnesses who, according to the kadi in charge, were credible.<sup>49</sup> 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\_bāt-i hürriyyet*), 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.<sup>50</sup>

## 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.<sup>51</sup> Besides the phenomenon of resistance, conditional forms of

<sup>47</sup> Aldo Gallotta, “Il “Ġazavāt-ı Ḥayreddīn Paşa” di Seyyid Murād,” *Studi Magrebini* 13 (1981): fol. 218v.

<sup>48</sup> *İstanbul Kadı Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, ed. Rasim Erol et al., 1117 (fol. 2r, 7th entry)—affair dated 18 April 1663 (10 ramadān 1073).

<sup>49</sup> *İstanbul Kadı Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, ed. Rasim Erol et al., 1047 [fol. 70 vo, 3rd entry]—affair dated 19 September 1663 (16 şafer 1074).

<sup>50</sup> *İstanbul Kadı Sicilleri. Üsküdar Mahkemesi 84 Numaralı Sicil, (H. 999–1000 / M. 1590–1591)*, ed. Rifat Günalan, (Istanbul: İsam, 2010), 776 fol. 31r, 1st entry)—affair dated 2 May 1591 (18 receb 999). For the wider problem of the subjection of free Ottomans to illegal slavery within the Ottoman Empire, see Nicolas Vatin, “Une affaire interne. Le sort et la libération des personnes de condition libre illégalement retenues en esclavage sur le territoire ottoman (XVI<sup>e</sup> siècle),” *Turcica* 33 (2001): 149–190; Joshua M. White, *Piracy and Law in the Ottoman Mediterranean* (Stanford, CA: Stanford University Press, 2017), 41–2.

<sup>51</sup> *İstanbul Kadı Sicilleri. İstanbul Mahkemesi 3 Numaralı Sicil, (H. 1027 / M. 1618)*, ed. Yılmaz Karaca et al., (Istanbul: 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.<sup>52</sup>

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.<sup>53</sup> 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 (*yāveci*). 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).<sup>54</sup> 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. Aḥmed, son of Pīrī, and İlyās, son of Ḥüseyin gave their sworn testimonies and the case has been registered. (Yūsuf bin Ḥamza meclis-i şer' e Selvār nām cāriyeyi iḥzār eyleyüb taqrīr-i merām kılub ayıtdı ki "müşār<sup>ün</sup> ileyhā Selvār benüm şaḳaluma yabışdı ve beni [sic] şaḳalum yoldı" deyicek mezkūr Yūsuf'dan beyyine taleb olunduḳda Aḥmed bin Pīrī ve İlyās bin Ḥüseyin şehādetleri ile s\_ābit olub tescīl olundu.)<sup>55</sup>

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

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<sup>52</sup> Halil Sahillioğlu, "Slaves in the Social and Economic Life of Bursa in the Late 15th and Early 16th Centuries," *Turcica* 17 (1985): 57–8.

<sup>53</sup> Zilfi, *Women and Slavery*, 147; James Walvin, "The Culture of Resistance," in *Questioning Slavery* (New York: Routledge, 1996), 118 *et seq.*

<sup>54</sup> 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, *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.

<sup>55</sup> *İstanbul Kadı Sicilleri. Üsküdar Mahkemesi 9 Numaralı 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 (*ta'zīr*) 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*).<sup>56</sup> 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.<sup>57</sup> 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.<sup>58</sup> 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."<sup>59</sup> 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.<sup>60</sup> 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" (*esīr bāzāri*) at the heart of the capital.<sup>61</sup> 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.<sup>62</sup> 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.<sup>63</sup> 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

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<sup>56</sup> Peters, *Crime and Punishment*, 31 and 65–6.

<sup>57</sup> Madeline C. Zilfi, "Servants, Slaves and the Domestic Order in the Ottoman Middle East," *Hawwa: Journal of Women of the Middle East and the Islamic World* 2/1 (2004): 23.

<sup>58</sup> Madeline C. Zilfi, "Goods in the *Mahalle*: Distributional Encounters in the Eighteenth-Century Istanbul," in *Consumption Studies and the History of the Ottoman Empire, 1550–1922: An Introduction*, ed. Donald Quataert (Albany, NY: State University of New York Press, 2000), 291.

<sup>59</sup> Zilfi, "Goods in the *Mahalle*," 291.

<sup>60</sup> Zilfi, "Goods in the *Mahalle*," 291.

<sup>61</sup> Zilfi, "Goods in the *Mahalle*," 291.

<sup>62</sup> Zilfi, "Goods in the *Mahalle*," 292.

<sup>63</sup> Zilfi, *Women and Slavery*, 176 and 176n83.

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 Timurhân and Mülâyim, amongst dozens of others).<sup>64</sup> Obtaining manumission by the master's wrongful death was undoubtedly inconvenient, 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 (şevvâl—zîl-ka'de 1090), Şahbâz, a female slave, was apprehended in Eyüp, where her owner, İsmâ'îl, lived.<sup>65</sup> 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 (*hürretü-l-aşl*) and to have been sold into slavery by her husband, Muştafâ, in Edirne (*zevcim Muştafâ nâm kimesne beni Edirne'ye getürüb ardından câriye olmak üzere bey' etmek ile tedâvül édiüb*).<sup>66</sup> She failed to provide the court with any proof or witnesses to her allegations, so İsmâ'îl's word prevailed over hers. Besides Şahbâz'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. İsmâ'îl claimed to "have found her in the house of two *zimmî* inhabitants of Eyüp, Şāhin, son of [...] and his wife Drākō, daughter of Hristō, hailing from the İslām Beg neighborhood" (*İslām Beg mahallesi ahālisinden hāzırān bi-l-meclis Şāhin veled [...] nām zimmî ile zevcesi Drākō bint- i Hristō nām Naşrāniyyenüñ sākin oldukları menzilde buldum*).<sup>67</sup> It is impossible to know whether the Christian couple were compassionate towards Şahbâz's plight and wanted to help her, or manipulated her into robbing some of her master's valuable belongings in exchange for harboring her. What is certain is Şahbâz's own retrospective take on the events: "At that time, being led astray by the *zimmî*s, I had stolen the aforementioned goods and escaped" (*zimmîler iğvāsıyla vaqt-ı mezkūrda eṣyā-yı mersūmeyi aḥz ve firār étmiş idim*).<sup>68</sup> After the plan failed, Şahbâz dissociated herself altogether from her accomplices; her only remaining

<sup>64</sup> *İstanbul Kadı Sicilleri. İstanbul Mahkemesi 12 Numaralı Sicil*, ed. Rasim Erol et al., 1115 (fol. 4r, 4th entry)—affair dated 25 April 1663 (17 ramađān 1073); *İstanbul Kadı Sicilleri. Hasköy Mahkemesi 5 Numaralı Sicil*, (H. 1020–1053 / M. 1612–1643), ed. Baki Çakır et al., (Istanbul: İsam, 2011), 551 (fol. 37, 2nd entry)—affair dated 17–26 August 1633 (evāsıṭ-ı şafer 1043).

<sup>65</sup> *İstanbul Kadı Sicilleri. Eyüb Mahkemesi (Havâss-ı Refîa) 90 Numaralı Sicil*, (H. 1090–1091 / M. 1679–1680), ed. Rasim Erol et al., (Istanbul: İsam, 2011), 702 (fol. 31v–32r).

<sup>66</sup> *İstanbul Kadı Sicilleri. Eyüb Mahkemesi (Havâss-ı Refîa) 90 Numaralı Sicil*, (H. 1090–1091 / M. 1679–1680), ed. Rasim Erol et al., 702 (fol. 32r).

<sup>67</sup> *İstanbul Kadı Sicilleri. Eyüb Mahkemesi (Havâss-ı Refîa) 90 Numaralı Sicil*, (H. 1090–1091 / M. 1679–1680), ed. Rasim Erol et al., 702 (fol. 31v).

<sup>68</sup> *İstanbul Kadı Sicilleri. Eyüb Mahkemesi (Havâss-ı Refîa) 90 Numaralı Sicil*, (H. 1090–1091 / M. 1679–1680), ed. Rasim Erol et al., 702 (fol. 31v).



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 (*naḫaḫa*) 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.<sup>69</sup> 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-avābık*) was found guilty of having sold Yāsemin, a fugitive slave belonging to Peymāne Ḥatun, daughter of Maḫmūd, 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' étmişdiür*).<sup>70</sup>

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.

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<sup>69</sup> Hayri Gökşin Özkoray, “Une culture de la résistance ? Stratégies et moyens d'émancipation des esclaves dans l'Empire ottoman au XVI<sup>e</sup> siècle,” in *Mediterranean Slavery Revisited (500–1800)*, 412; Yvonne Seng, “Fugitives and Factotums: Slaves in Early Sixteenth-Century Istanbul,” *Journal of the Economic and Social History of the Orient* 39/2 (1996): 154.

<sup>70</sup> *İstanbul Kadı Sicilleri. Galata Mahkemesi 15 Numaralı Numaralı Sicil, (H. 981–1000 / M. 1573– 1591)*, ed. Rifat Günalan et al., (Istanbul: İsam, 2012), 419 (fol. 26v, 2nd entry)—affair dated 6–15 May 1590 (evā'il-i receb 998).

## 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.<sup>71</sup> 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.

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<sup>71</sup> Nicolas Vatin and Gilles Veinstein, *Le sérail ébranlé. Essai sur les morts, dépositions et avènements des sultans ottomans, XIV<sup>e</sup>–XIX<sup>e</sup> siècle* (Paris: Fayard, 2003), 106–7.

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