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Haim Gerber

SOCIAL AND ECONOMIC POSITION OF
WOMEN IN AN OTTOMAN CITY, BURSA,
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Popular belief, if not serious scholarship, maintains that the position of women in pre-twentieth-century Islamic society was an extremely depressed one. And although scholars were always cautious on this point¹, the popular belief, shared also, it would seem, by many Orientalists, is a stubborn one. The low status of women is said to have derived from the fact that the patriarchal family was supposedly the backbone of the social structure throughout Islamic society. Women, it was supposed, were often secluded in harems and, therefore, were barred from participating in public life, which meant that they could not pursue economic occupations, or go to court to defend their interests and legal rights. Moreover, it seems to have been generally agreed that women were frequently deprived of the benevolence bestowed on them by classical Islamic law, which mitigated the extremities of the pre-Islamic tribal law of Arabia. Thus, Islam reduced the number of women allowed to a man to four, in order to ensure their better treatment. Similarly, Islam denounced the usual deprivation of inheritance suffered by women, and assigned them a share in the estate of the deceased, although this was very much less than that assigned to male inheritors. It has generally been thought that even this modest improvement in the position of women was never, in fact, effected.²

The universal applicability of this theory has been called into question by Ronald Jennings, who studied the position of women in the central Anatolian city of Kayseri.³ Jennings showed that in the seventeenth century women participated in public life. They appeared freely before the court, sued people, and were sued by others. Women in Kayseri even went so far as to sue male members of their own families, such as husbands and brothers. Moreover, women were owners of property, in which they made frequent transactions. Women were involved in no less than 40 percent of all the property transactions made in Kayseri in the first quarter of the seventeenth century. At the same time, Jennings reached the conclusion that women were only marginally involved in the artisanal and mercantile life of the city. In his words: "Evidence for the participation of women in the economic activities of the city is slight. It is not substantial enough to give any accurate picture unless it is that these areas normally were all but closed to women."⁴

Like Jennings's article, this study also seeks to analyze the position of women

in a seventeenth-century Anatolian city. Whereas Kayseri was a somewhat remote central Anatolian city, Bursa was the foremost commercial center of Anatolia at the time. In the fourteenth century it had for a while been the capital of the Ottoman Empire, and as late as the fifteenth century it was an emporium of international trade, with Italian and Persian merchants meeting there regularly. Even in the seventeenth century many foreign merchants (though not apparently European ones) often visited it. This difference was fully reflected in the position of women in the two cities. I have tried to view the question from both the legal and socioeconomic points of view. The legal position of women is part of a wider problem, which relates to the tension between the theoretical shari'a, the Islamic law of the book, and the law implicit in the kadis' records, that is, "the practice of the courts." It seems that most scholars tend naturally to the assumption that the shari'a was wholly, or almost wholly, impracticable. A good example is the Islamic law of inheritance in relation to women, which has been considered a dead issue. But thorough investigation of this assumption is long overdue, and this study purports to fill part of this gap.

In the kadis' records of seventeenth-century Anatolian Bursa women appear very different than as depicted by the common stereotype. For example, if one examines them in regard to the law curtailing the allowed number of wives to four, a surprising fact emerges. In Bursa it was possible to check this point through extensive lists of estates of people who died in the city during the seventeenth-century. For each of the deceased are supplied various details about the family, such as names of wives and children. From over 2,000 estates of males read,⁵ it is estimated that in no more than twenty cases did a man have two or more wives.⁶ Polygamy evidently existed only in theory, at least in Bursa.

The estates also make it quite clear that at least in as far as the court was concerned, the Islamic law of inheritance was applied exactly in accordance with the letter of the law. This means that wherever a woman is mentioned as an heir of the deceased, be she a wife or a daughter, she is also on the list of those getting shares, and her share is indicated. Unfortunately, this evidence cannot be considered definitive proof that women did actually inherit. For, as A. Layish has observed, the kadi may have fulfilled his duty of dividing the estate among the legal heirs according to the orthodox (shar'i) law, but later the practice of the courts actually takes effect and the woman is, in fact, disinherited by all sorts of devices – gifts to male members of the family, the establishment of family wakfs, and the like.⁷ Consequently, succession documents drawn up by the kadi are not sufficient proof that the property actually passed into the hands of the women.

The kadi records of seventeenth-century Bursa contain a large number of documents which, in effect, describe legal disputes involving women over estates and inheritances and they show that in many cases women did actually inherit. It may therefore be deduced that most, if not all, of the succession documents mentioned above were not fictitious. It is therefore not surprising that the kadi records of Bursa also contain a sizable number of estates of women (123 were used in this study). It must be admitted, however, that estates of

women were much fewer than those of men, implying that in many cases women did not inherit.

Women in seventeenth-century Bursa appeared in court in person and pleaded their cases freely. Thus, a woman in 1095/1683 sued someone who was alleged to have usurped a shop belonging to her. The defendant proved that he had bought the shop before the woman's husband died.⁸ In another case a woman sued someone who, she claimed, broke into her house and stole various things.⁹ These are just two examples showing women taking a very active role in the workings of the Bursa court – undoubtedly the heart of any Ottoman city. Other examples of women appearing in the court are supplied, in fact, by most of the documents cited in this study.

A fact that sheds much light on the position of women in the society of seventeenth-century Bursa is that women did not merely appear in court cases of litigation, but were involved in such disputes with male members of their own nuclear families, seemingly on an equal footing.

First, they sold property to other members of their families, and bought property from them. In 1104/1693 a woman sold a mulberry orchard to her son.¹⁰ In 1059/1649, a man sold a house to his wife for 8,000 akçe, and was paid in cash.¹¹ Similarly, one Bursa resident in 1035/1625, sold a house and two orchards to his wife.¹² In yet another case, we read of a woman selling a house to her husband.¹³ Sometimes women sold their shares in pieces of real estate, which they held in common with other members of their families, to third parties. Thus, a woman in 1068/1658 sold agricultural property she held in common with her husband to someone apparently unrelated to her.¹⁴

Doing business in court with male members of their families is one thing; quite another matter is for women to freely and openly sue them. In one case of litigation a woman sued her husband and claimed that he, unlawfully, built an addition to the house in which they lived, which belonged to her. She demanded the new addition be demolished, and her demand was granted.¹⁵ In other cases women were directly involved with male members of their families in legal conflicts over their right of inheritance. For example, a woman sued her three sons and claimed that they had disinherited her of her share in her husband's estate, which included chiefly a farm (*çiftlik*) with forty-five head of cattle. But the defendants could produce witnesses to the effect that their father, in fact, had bequeathed the asset to them before he died.¹⁶ In 1091/1680 a woman went to court to sue her two brothers; on this occasion, it was she who won the case.¹⁷

All these cases clearly show that males in Bursa were not unaware of the possibilities of disinheriting women. But they also show that women's ability to enforce the Islamic law of inheritance was not merely theoretical, but real.

Many documents in the kadi records of seventeenth-century Bursa show that women were intensely involved in selling, buying and leasing of urban and village real estate, a type of activity that was apparently most popular with women. A large number of women owned houses. In fact, of the 123 women whose estates were read for this study, a third owned houses – a large proportion indeed.

Another type of property quite often found in the possession of women was shops,¹⁸ and, in rare cases, even workshops.¹⁹ Many women owned real estate in the villages around the city. Here they owned houses,²⁰ vineyards and orchards,²¹ and even mills.²²

Women rented shops from wakfs and operated them.²³ Actually, it is not wholly clear how the rented shops (as well as those owned by women) were operated. In two interesting examples we find that shops owned by women were run for them by slaves.²⁴

Women in seventeenth-century Bursa were often involved in credit transactions, that is, they took loans mainly from wakfs, but also from individuals. The case of Fatma bt. Derviş from the village of Ada, who died in 1082/1671, was certainly exceptional. She was a widow when she died, and she owed 13,500 akçe to one wakf, 4,800 to another, by way of *istiğlal* (a loan given usually by wakfs in lieu of a mortgage),²⁵ 2,750 akçe to a third wakf (also by way of *istiğlal*), and several other sums to artisans as deferred payments for various services.²⁶ That these people and institutions were willing to extend credit to her is understandable, since she also left a large mulberry orchard and in all likelihood agricultural land, too.

Quite exceptional also was Imhani bt. Mehmed Çelebi, who died in 1093/1682 leaving an estate worth close to a million akçe.²⁷ It is noteworthy that she left children but no husband, so it is possible that in both cases the women were virtual heads of their families. The latter must have been rich for she owned a large farm in the village of Isa Bey, as well as houses. She was owed a great deal (more than a quarter of a million akçe), but she was also involved in no less than eleven loans which she took from wakfs and individuals, to the amount of about 50,000 akçe. Undoubtedly, she was quite active in business.

Most of the other cases are not as spectacular as these two. Nevertheless, it is evident that wakfs and individuals were not apprehensive about lending money to women, for women had property to mortgage, a fact expressed by the frequent use made of the *istiğlal* type of transaction.²⁸

Women gave money on credit no less than they received loans from others. Their independence of men went so far that they frequently lent sums of money to their husbands. Thus, many estates of men who died in Bursa in the century under review show signs that the men owed sums to their wives.²⁹ It is next to impossible to reconstruct from the estates the circumstances in which women lent money to their husbands. It may be argued that loans to husbands were fictitious, or else may have been intended to ensure the women's share in the inheritance. But in many places the mercantile nature of the loan cannot be doubted. For example, a woman lent 3,600 akçe to a baker in 1025/1616, which included "concealed interest" of 600 akçe.³⁰ And the enormous debt of 2,200 piasters which one Ayişe Hatun was owed by a certain Hac Mustafa is specifically described as a "legal loan" (*karz-i şar'i*).³¹ So, too, was the loan someone admitted taking from a woman in 1096/1685 in order to buy silk in Persia.³²

Some women were so involved in credit transactions as to suggest that they were engaged in moneylending on a semiprofessional basis. Thus, Alima bt. Piri, who died in 1079/1668, was owed various sums of money by five different

people.³³ An Ayiše bt. Ali, who died in 1086/1675, was also owed sums of money by five people, one of whom was a resident of Istanbul.³⁴

In some of the cases cited we have seen women in positions reminiscent of investors in commercial ventures, which, of course, is a form of extending credit no less than granting a loan. In other cases we find women as investors pure and simple. In one rare example we find a woman as the “investor” in a commenda partnership.³⁵ In another we find a woman who handed over to a merchant 60 piasters in order to have him buy Persian silk for her.³⁶ In yet another we read in a series of documents claims on the estate of one Nur Allah b. Şeyhi. Various people invested money with him when he went to Persia. All in all, there were here ten claims, of which four were raised by women, in addition to his wife, who invested the largest sum – 1,500 esedi piasters.³⁷

An adjacent area of activity in which women seem to have been only slightly involved was trade. But at least one woman was found who was engaged in large-scale trade in textiles. She left in her estate huge quantities of *londra* – wool – and many other kinds of textiles. Incidentally, she seems also to have been a silk producer, as she also left four large silk-weaving looms.³⁸

Women in seventeenth-century Bursa owned agricultural land – the one type of property which expressed more than anything the integrity of the traditional Muslim family. The divergence between the law and practice in disputes involving agricultural property has been viewed as the most flagrant. But before we can check the relation between the theoretical and the actual in this respect, it must be emphasized that in matters of agricultural land the relevant “law of the book” was not the ordinary Islamic law of inheritance, but rather an Ottoman state law (*kanun*). By this law there was “direct succession” (*intikal-i ‘adi*) only from a deceased male land possessor to his male sons. If the deceased had only daughters and a wife (or wives), those successors had to pay a *tapu* tax (a sort of “entry fine”) to the “landowner” (be it the *spahi* or the *wakf*) in order to get the land.³⁹ There was here a major legal discrimination against daughters (who got nothing in cases where there were sons). But in a society where mortality levels were very high there was a substantial role for women because often they found themselves as the only inheritors.

There is ample evidence to indicate that the law was, in fact, implemented. In one document we read that a village woman sued a man who was alleged to have usurped an orchard which she had inherited from her father. The defendant claimed that he got the property after the woman’s father had died and that she was supposed to pay the *tapu*-tax in order to get the orchard. She declined to do so and her right in it therefore, expired.⁴⁰ In another document, two women from the village of Hamidler near Bursa sued a resident of the village who bought from the administrator of the *wakf* agricultural land left by their deceased father. They claimed that they had right of priority to pay the required *tapu* and receive the land. They also produced in court a legal opinion (*fetva*), from the *şeyhülislam* to that effect. Their case was upheld by the court.⁴¹ A similar case was made by a woman from the village of Filadar in 1090/1680, whose son died without leaving male heirs and left extensive agricultural lands. These lands were leased by the administrator of the Orhan *wakf* to a third

party. In court it became evident that the administrator had, in fact, previously suggested to the woman that she lease the land; but she refused to pay the tapu required of her. With no clear reason the court now decided to give this woman another extension of a month in which to pay the tapu and obtain possession of the land. In this case the tapu was to be fixed by impartial experts.⁴²

Whereas in the last-mentioned document the tapu was fixed administratively, in another document the procedure was the more usual: the administrator of the wakf arranged for a public auction of the land, and the figure reached was the tapu to be paid by the female successors.⁴³ In yet another similar example the tapu was decided arbitrarily by the administrator.⁴⁴

It is consequently not surprising that women were often involved in selling agricultural properties, land or otherwise. Thus, an especially large agricultural estate was sold by a certain Umm Kulthum bt. Furhad Ağa at the beginning of the seventeenth century.⁴⁵ The farm was worth 115,000 akçe, and must have been huge. In addition, possession of the agricultural land appended to the farm was sold for 25,000 akçe. Another noteworthy document describes a woman who in 1012/1604 sold an estate worth 52,000 akçe, and was paid in cash. In addition, no fewer than thirteen of the agricultural fields of the village were transferred, for the sum of 8,000 akçe. The farm itself included a large house, twenty head of cattle, two horses, a slave, and a vineyard.⁴⁶ Another woman in 1095/1684 sold to her daughter part of an estate in the same village of Küçük Su Sığırılığı.⁴⁷

The sale of agricultural land and other properties by women is one thing; their purchase of land is quite another matter, and much more revealing about the role of women in the economic and social life of the city. For selling may simply mean turning into more liquid form real estate formerly inherited. The buying of properties betrays some real mercantile interest. And our documents clearly reveal that Bursa women did not refrain from taking part in this kind of economic activity. Thus, in one document we find a woman buying a farm from the kadi of Bursa himself. This farm contained, among other things, a piece of sown land.⁴⁸ Another example is the transaction between two women (of whom one was a resident of Istanbul) in which a large farm in a village near Bursa changed hands. Here, too, extensive sown land was a part of the deal.⁴⁹

Moreover, women in Bursa were not merely involved in free trade in agricultural land. There is evidence that they actually occupied land and administered its cultivation. Thus, a wakf administrator sued a woman from the village of Timur-Taş in 1089/1678, claiming that the land she occupied has not been tilled for three years and consequently it should revert to the wakf. But the woman claimed, and produced witnesses to the effect, that she sowed⁵⁰ wheat in 1085/1674 and barley in 1087/1676. And a woman from the village of Alişar, near Bursa, who leased agricultural land in her possession to a Bursa butcher for the purpose of grazing his cattle, explained that "my lands are too extensive for me."⁵¹

Some estates of village women indicate quite clearly that they were actively engaged in agriculture. Fatma bt. Derviş, who died in the village of Ada in 1082/1671, left orchards as well as quantities of grain.⁵² Another woman, from

the village of Kazikli, who died in 1107/1696, also left various types of agricultural property, as well as grain – undoubtedly the produce of her fields.⁵³ Both women at their deaths had children but no husbands, which strongly suggests that they were widowed. It is, nevertheless, interesting that they took charge of their families' affairs. Moreover, there are some cases in which a woman died leaving children and a husband, and yet bequeathed agricultural property such as orchards, quantities of grain, and even sown grain.⁵⁴ It is consequently not to be ruled out that some women kept agricultural businesses which were separate from their husbands' properties.

Women in seventeenth-century Anatolian Bursa were to a certain extent involved in artisanship. Membership in regular guilds was rare. One example is revealed in a litigation brought against Fatma Hatun by the candlemakers' guild of Bursa. They claimed that since there had never been women in this guild she pursued the occupation illegally. She answered that what she did was perfectly legal, since she inherited a *hisse*⁵⁵ of candlemaking from her father.⁵⁶ Fifty years later a woman again sold two hisses of candlemaking and declared that she was quitting the occupation.⁵⁷

Most women artisans were probably engaged in a cottage industry and their involvement seems to have been much more substantial. It was also called the "putting out system," a system of production in which the actual producer is dependent on a merchant-financier for the provision of raw materials and for marketing, but still works at home with his or her own tools.⁵⁸ Thus, in one document a man claimed that he handed over to a woman seven *okka* of Persian silk for the purpose of bleaching (*ağartmak*). Wages agreed were 30 akçe per *okka*, and the woman raised difficulties in returning the stuff.⁵⁹ Obviously, this relates to a cottage industry system. It must have been the major system of production organization among the relatively large number of Bursa women who were engaged in silk spinning. One extremely rare and valuable document gives a survey of silk-spinning implements (*mancınık*) in Bursa in 1678. Of a total of about 300 such implements in the city, as many as 150 were owned and/or operated by women.⁶⁰ This is corroborated by another document, where someone tried to obtain a Sultan's order that would reduce the tax on the silk-spinning implements in the city. The argument put forward as justification for the request was that most workers in the occupation were "poor women."⁶¹

A third type of artisanal organization in which we find women seems to have been peculiar to them alone. They made items on their own in their own homes, evidently on quite a small scale, and sold the products in the streets and market lanes. The women had no shops and belonged to no organized guild system. They were not a part of the putting out system and were completely independent of merchants, financiers, or any other middlemen. An interesting document showing this type of enterprise is a litigation initiated by a party of eight women who sued the officeholders of the powerful silk merchants' guild (*kazazaz*). These women were producers of silk cords (*gaytancılar*), and in court they produced an old, Sultan's order attesting that by tradition they enjoyed the privilege of roaming unmolested in the city and selling their wares in whichever market they wished.⁶² The women won their case on the basis of the proverb

‘‘the old should be kept as it is.’’⁶³ Not long thereafter the situation was reversed, and the guild sued the same women, claiming that since they sold in their own market, they were obliged to share in the tax burden of the merchants.⁶⁴ But again the women won on the basis of the customary law, for they enjoyed an old privilege of being exempt from guild taxes. These two documents are important in that not only do they show women in artisanal activities, but also reveal that such women were not so easily exploited by powerful rivals.

A valuable source for the appreciation of the role of women in production, mainly textile production, is the estates. Of the 123 estates of women used in this study, 20 show women practicing some kind of artisanship. Most were engaged in spinning and weaving, indicated by the fact that their estates include a simple loom in the list of properties.⁶⁵ If the proportion in our sample of women engaged in artisanship is representative of the entire adult female population of the city, then it would mean that about 16 percent of that population was engaged in production – an impressive proportion.

Women in seventeenth-century Bursa were sometimes nominated to various appointments, such as guardianship (*waṣī*) of their children⁶⁶ and as administrators of wakfs, although the latter probably quite rarely.⁶⁷

The role of a number of women defies clear-cut classification in specific branches of economic life, for their activity was of a manifold nature. Not surprisingly, they are the most important examples in our data. Again I rely here on the estates, for only this source supplies us with something like a panoramic picture of the activity of the deceased, at least for some time before her death. The largest estate of a woman in the kadi records of seventeenth-century Bursa was that of Şarifa Rukiye Hatun, who died in 1094/1683. Her estate amounted to more than 1.5 million akçe, and included an agricultural estate, three houses, various debts owed to her, and a huge list of jewelry.⁶⁸ Only a little smaller was the estate of Ayiše Hatun bt. Alican Efendi (a man of religion), the wife of Ahmed Ağa b. Mehmed, who is described as *fahr el-ayan*, and so must have been an important notable. This estate amounted to a little over 1 million akçe, and included a vineyard, a big house and two others, and again a long list of jewelry.⁶⁹ These two women were certainly members of the upper class, and their estates suggest the possibility that they acted quite independently of family or other social restraints. Evidently, this type of woman was rare in seventeenth-century Bursa, but then such estates were not common among men either!

One can easily be tempted by the foregoing to imagine that women in Bursa were then on an equal footing with men. A more exact measure of their inequality is needed. The overall picture of the estates seems to make a comparison feasible. Table 1 presents the estates' averages for the 123 estates of women; table 2 summarizes the findings from estates of men.⁷⁰ The figures show that women compared poorly with the businessmen of Bursa, but extremely favorably with poor males and even with male artisans, particularly in the last third of the seventeenth century. One can only guess that a similar comparison with modern Western society would not show women enjoying greater equality.

TABLE I *Estates of women in seventeenth-century Bursa (in akçe)*

Period	N	Average "real" value of an estate
1600–1630	14	39,482
1631–1670	46	74,088
1671–1700	63	73,427

Source: Kadi records of seventeenth-century Bursa.

In discussing the social position of women in Bursa it may not be out of place to review a topic thus far not dealt with by any study based on Ottoman court records, the phenomenon of prostitution, or at least something very much akin. Data about it appears in the records in the following form: the *su-başı*, chief of police, would bring a woman to court and accuse her of having committed adultery.⁷¹ Whether actual payment was involved could in no case be ascertained. In all the cases the women were condemned to the bastinado. What is remarkable about the phenomenon is the frequency with which it was encountered. It implies that it was not a chance occurrence but a built-in characteristic of the city's social structure. And since we know that the society in question was quite puritan by any standard, it can be deduced with little doubt that the phenomenon is related to a loosening of the social control enjoyed by the family, or primary group, over the individual woman. Certainly prostitution calls to mind specifically urban, as against village-like, societies. It disputes commonly held theories that depict the Oriental city as an array of closed and compact societies, each leading lives separate from the other.⁷² This description is not commensurate with the existence of widespread prostitution, and one must, therefore, conclude that the social structure of Bursa was much more "modern" than the traditional model of the premodern Oriental city.

On the whole, it seems my findings seem to corroborate those of Jennings. Nevertheless, there are some differences, the major one being that the involvement of Bursa women in business life seems to have been far-reaching in comparison with that of Kayseri women. As shown, a large number of women in Bursa were involved in business; such involvement was not detected in Kayseri. The reason for the difference is not far to seek. Bursa must have been much more of a metropolis than Kayseri, due mainly to its geographical position and its location on important trade routes. In this context it is noteworthy, for example, that Kayseri had no Jewish population worth mentioning,⁷³ although Jews were attracted by commercial centers in the Ottoman Empire no less than in Medieval and post-Medieval Europe.⁷⁴ From the studies of Jennings we know that in this period Kayseri lacked professional money-lenders,⁷⁵ whereas Bursa had a whole group of them. So it is understandable that the relative backwardness of Kayseri was reflected in the lesser degree of involvement of women in the urban economy.

None of the foregoing shakes the concept of male supremacy in Islam. The

TABLE 2 *Average “real” value of estates of men of various occupations in seventeenth-century Bursa (in akçe)*

Period	Artisans	Merchants	Poor without occupation
1600–1630	66,163	133,395	5,662
1631–1670	43,622	156,005	8,395
1671–1700	47,676	194,750	6,847

Source: Kadi records of seventeenth-century Bursa.

law enabling men to freely divorce their wives was enough to ensure this supremacy. I have simply demonstrated that the situation was not as one-sided as was always supposed, but in a traditional Islamic context that in itself is amazing enough. The question is: How are we to account for the fact that in so pervasively patriarchal a society the position of women was not so debased as elsewhere? Twice in his article Jennings raises the possibility that the traditional Turkish attitude toward women had been quite liberal; it was only the elimination of the old Turkish culture by Arab-Islamic culture which changed things drastically. Thus Jennings says in one place: “The judicial records on which this study is based date from the period 1600–1625. Was this period before, after, or during the period in which it has been suggested that the penetration of “Arab” Islamic ideas into the more liberal “Turkish” Islam transformed the Islam of the Ottoman Empire from a religion of openness and receptivity . . . into a reactionary religion.”⁷⁶

Jennings is undecided whether or not to accept this argument. In my opinion it should be rejected because we are dealing with a period seven centuries removed from the Islamization of the Turks, and at least three centuries removed from the establishment of the Ottoman Empire, so thoroughly Islamic in ideology. Any special attitude toward women would long since have been obliterated. By the same token, had the position of women been noticeably better in Kayseri (or Bursa) than what is commensurate with classical Islamic law, then possibly it would be more plausible to look for something specifically Turkish. But that does not seem to be the case. Women were far from being equal. Jennings has shown quite convincingly (and this is fully corroborated by the case of Bursa) that women were much more involved in the sale of property than in buying.⁷⁷ It therefore seems that women’s involvement in society and the economy was made possible for them mainly by the fact that the law of inheritance was fully effective concerning them. Nor does it seem (as Jennings suggests) that this was due to any special effort exerted in this direction by the *kadis*.⁷⁸ Had it been so, one would be entitled to expect that other areas of life would also come within the orbit of the classical shari’a, which, however, was not generally the case. That the shari’a was applicable in one area and not in others must be traceable to deeper factors than the efforts of the *kadis*. The whole issue awaits further research into Ottoman court records.

The foregoing, however, is only a partial explanation of the relatively high status of women. It seems to me that there are problems with the very postu-

lates said to be characteristic of the society under scrutiny. For example, it is dubious that the urban society of seventeenth-century Bursa was the patriarchal Muslim society of the textbooks. Not a single hint of it shows up in our sources. On the contrary, every piece of evidence examined points in the opposite direction. The phenomenon of prostitution has already been mentioned. In addition, there is no sign that family property, either agricultural or other, was held in common, or that family property belonged formally to the father. Agricultural properties of deceased fathers were divided among the individual sons, so that there was no good economic reason why large families should have been the norm. Families in seventeenth-century Anatolian Bursa were small. Polygamy was rare, but even aside from that the number of children per family was surprisingly small.⁷⁹ One reason was, of course, that mortality levels in this society were very high, even excluding recurring plagues.⁸⁰ Another reason must have been that large patriarchal families were simply not the basic social unit.

Unexpected theoretical confirmation of this comes from the recent development of the field of family structure studies in Europe. In a volume of studies dedicated to the structure of the family in the past, Peter Laslett assembles information that very forcefully shows that the concept of the presence, in the past, of the large patriarchal family as the basic social unit of almost every society, is very largely a myth in need of major revision.⁸¹ In fact, the whole volume is devoted to the refutation of this myth. Obviously, Ottoman history is not yet in a position to contribute something mature concerning this issue, but it seems to me that in Islam, no less than in other places and cultures, the traditional notion of the large patriarchal family may fruitfully be investigated anew. If my feeling is correct that at least in the Turkish area the patriarchal family was lacking or weakly represented, then this would go far to explain the relatively high position of women in Bursa.

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JERUSALEM

NOTES

Author's Note: This study is based on the court records of seventeenth-century Anatolian Bursa. The Archive is housed in the Archaeological Museum of Bursa, and the work was done there from 1973 to 1975. Registers are cited according to series (A or B), and register number (e.g., B111/325). Specific documents are cited according to folio number and date. Dates are given as they appear in the original documents. Abbreviations are used for some of the Muslim months: CI, Cemazilevvel; CII, Cemaziyelahir; RI, Rebiulevvel; RII, Rebiulahir; ZH, Zilhicce; ZK, Zilkade. The names of the other months are shortened. I wish to express my gratitude to Professor G. Baer and Mrs. Ruth Roded, both of the Hebrew University of Jerusalem, for their kindness in reading an earlier draft of this study and commenting on it.

¹ See, e.g., R. Levy, *The Social Structure of Islam* (Cambridge, 1965), chap. 2.

² G. Baer, *Population and Society in the Arab East* (London, 1964), pp. 34–43.

³ R. C. Jennings, "Women in Early 17th-Century Ottoman Judicial Records: The Shari'a Court of Anatolian Kayseri," *Journal of the Economic and Social History of the Orient*, 18 (1975), 53–114.

⁴ *Ibid.*, p. 108.

⁵ These estates were, of course, only peripherally used in the present study. They serve as the basis for the author's *Society and Economy in a 17th-Century Ottoman City*, in preparation.

⁶ E.g., see B108/322, 34b, 18 Şaban 1097; B153/369, 109b, 5 Şevval 1108. The same conclusion was reached by Barkan concerning Edirne (Ö. L. Barkan, "Edirne Askeri Kassamine Ait Tereke Defterleri," *Belgeler*, 3 (1966), 13 f.

⁷ A. Layish, *Women and Islamic Law in a Non-Muslim State* (Jerusalem, 1975), pp. 290 ff.

⁸ B111/325, 15a, 11 Muh. 1095.

⁹ B111/325, 14b, *selh-i* ZH 1094.

¹⁰ B150/366, 20a, 18CI 1104.

¹¹ B73/274, 3a, Muh. 1059.

¹² B45/239, 14a, *evasit-i* Muh. 1035.

¹³ B73/274, 3b, Muh. 1059.

¹⁴ B132/347, 12a, 13 ZK 1068.

¹⁵ B71/272, 44b, 10 Muh. 1059.

¹⁶ B154/370, 36b, *evail-i* RI 1010.

¹⁷ B75/276, 55b, 17 Muh. 1091.

¹⁸ See, e.g., B36/230, 197b, *evasit-i* RI 1027; B107/321, 105b, 12 Muh. 1093.

¹⁹ B71/272, 27b, 24 ZK 1058.

²⁰ See, e.g., B42/236, 30a, *evail-i* Safer 1032; B75/276, 51 b, 26 ZH 1090; B137/382, 84a, 4 Muh. 1084.

²¹ B111/325, 91a, 16 ZK 1095; B87/289, 7b, 7 RII, 1060; A161/255, 18a, *evahir-i* CI 1046; B59/253, 85a, *evahir-i* ZK 1044.

²² B130/345, 13a, *evasit-i* CI 1066; B75/276, 30b, 15 Ram. 1090, where a woman bought two very large mills.

²³ See, for example, B50/244, 87b, *evasit-i* Safer 1039.

²⁴ B285/513, 42a, *evail-i* Muh. 1089; B17/197, 64a, CII 1007.

²⁵ The borrower "sells" a house to the *wakf*, and immediately thereafter the *wakf* leases the house to the borrower. The "rent" in 17th-century Bursa, was invariably 10 percent of the price of the house. On all this see in more detail, Gerber, *Society and Economy*, chap. 7.

²⁶ B91/296, 71a, 4 Muh. 1082.

²⁷ B142/357, 33b, 18 Muh. 1093.

²⁸ See, e.g., B45/239, 41b, *evahir-i* RI 1035; B118/332, 101a, *evail-i* Muh. 1028; B118/332, 57a, *evahir-i* Şaban 1027; A195/800, 134a, *evasit-i* CII 1002.

²⁹ E.g., B142/357, 63a, 11 RII 1094; B204/428, 86b, 22 Ram. 1089; B204/428, 85a, 22 Ram. 1089; B142/357, 125b, 22 ZK 1095. Such examples in the estates amount to several hundreds, so one must conclude that this pattern was very widespread.

³⁰ B36/230, 87b, *evahir-i* ZK 1025.

³¹ B103/316, 8a, 2 ZK 1085.

³² B111/325, 117a, 8 RII 1096.

³³ B91/296, 5b, *selh-i* RII 1079.

³⁴ B137/382, 57a, 25 RII 1086. See also B72/273, 45a, *evasit-i* CI 1057.

³⁵ B144/359, 35a, 29 RII 1095.

³⁶ B45/239, 69a, *evasit-i* CI 1035.

³⁷ B59/253, 149a, *evahir-i* Ram. 1045.

³⁸ B137/382, 26b, 11 RI 1085.

³⁹ Ö. L. Barkan, "Türk Toprak Hukuku Tarininde Tanzimat ve 1274 (1858) Tarihli Arazi Kanunnamesi," *Tanzimat* (Istanbul, 1938), pp. 344 ff.

⁴⁰ B111/325, 130b, 3 CII 1096.

⁴¹ B35/229, 26b, *evasit-i* Şevval 1025.

⁴² B75/276, 51b, 26 ZH 1090.

⁴³ A195/800, 91a, *evasit-i* ZH 999.

⁴⁴ A156/207, 116b, 10 Şevval 1012.

⁴⁵ A156/207, 72b, 4 Receb 1012.

⁴⁶ A156/207, 105b, 8 Ram. 1012.

⁴⁷ B144/359, 35b, 1 CII 1095. For other examples see B102/315, 83a, 8 ZK 1112; B51/245, 113a, *evasit-i* ZK 1040; B42/236, 68b, *evahir-i* CI 1032; B83/284, 49b, 7 Receb 1056.

⁴⁸ B42/236, 40a, *evail-i* RI 1032.

⁴⁹ B111/332, 86b, *evasit-i* ZH 1027. See also: A161/255, 189a, 13 Muh. 1048.

⁵⁰ *Zer ettirdüm*, meaning, of course, that it was not she personally. See B112/326, 53b, 24 ZK 1089.

⁵¹ *Tarlalarım ziyade olmağla* – B150/366, 43b, 14 Şevval 1104.

⁵² B91/296, 71a, 4 Muh. 1082.

⁵³ B152/368, 88a, 5 Receb 1107.

⁵⁴ B149/364, 19a, 18 RI 1099.

⁵⁵ *Hisse* may be translated as “a share.” But what it really means is that production of this commodity was limited by (customary) law to 51 “shares.” No one who had no “shares” could produce candles at all; and anyone who had “shares” could produce only according to the number of “shares” he had. See on this H. Gerber, “Guilds in 17th-century Anatolian Bursa,” *Asian and African Studies*, 11 (1976), 78.

⁵⁶ B53/247, 105a, *evahir-i* Şevval 1042.

⁵⁷ B143/358, 44a, 21 RI 1093.

⁵⁸ See, e.g., J. Kulischer, *Allgemeine Wirtschaftsgeschichte des Mittelalters und der Neuzeit*, Vol. 2 (Munich, 1965), pp. 113 ff.

⁵⁹ B103/316, 6b, ZK 1019.

⁶⁰ B112/326, 6b–7b, CII 1089.

⁶¹ Başbakanlık Arşivi, Istanbul, Maliye Defterleri 9506, p. 158, 7 CI 1134.

⁶² Ordinarily the free practice of trade was restricted in Bursa by various privileges of the guilds. See Gerber, “Guilds,” pp. 74 ff.

⁶³ B111/325, 12b, ZH 1094 – *el-kadim yutrak ala kidamihi fehvasınca*. This saying is often cited in legal cases in the court records of Bursa, as a legal basis for decisions, and it can definitely be said to constitute the main basis for the customary law of the Ottoman Empire. The origin of this saying is not wholly clear. Nevertheless, it may be noted that it recurs among the famous “general principles” which appear in the preamble of the *Mecelle* (principle 6), in which context it is generally traced back to Ibn Nujaim, a 15th-century Egyptian theologian. See: O. Öztürk, *Osmanlı Hukuk Tarihinde Mecelle* (Istanbul, 1973), pp. 122–123. But it seems to be so vital a part of the Ottoman customary law that it is doubtful whether its roots do not lie much deeper than that.

⁶⁴ B111/325, 46a, 4 CI 1095.

⁶⁵ Examples: B134/349, 33b, 15 Muh. 1077; B149/364, 63b, 5 Safer 1100; B129/344, 93a, *evail-i* CII 1067; B187/410, 27b, 18 CII 1109; B153/369, 12a, 27 Muh. 1106.

⁶⁶ A.161/255, 55b, *evail-i* ZK 1046; B73/274, 119a, *evail-i* RII 1060; B50/244, 85b, 15 Safer 1039.

⁶⁷ B71/272, 116b, *evasit-i* RII 1059.

⁶⁸ B142/357, 79a, 25 ZH 1094.

⁶⁹ B204/428, 98a, *evail-i* RI 1076. See also: B142/357, 33b, 18 Muh. 1093.

⁷⁰ For purposes of clear presentation the tables include only averages. The complete details and analysis concerning the estates owned by men are given in my forthcoming *Society and Economy in a 17th-Century Ottoman City*. The figures serve here only for purposes of comparison, we may note the following: N for the first third of the century is 14; for the second third 46; and for the last third 63. By “real” figures we mean that the estates contain, of course, nominal figures. In order that these figures be comparable with each other, they have been deflated on an index of wheat prices, derived from the estates of over 2,000 people who died during the century. Wheat was chosen because it constituted then, as it does today, the basis of the Anatolian diet. Taking the middle third of the century as 100, this price index was 77; 100; 129. Admittedly, this is a very approximate procedure but, nevertheless, we think it does much to cancel out the distortion inherent in the nominal figures due to inflation.

⁷¹ Examples: B103/316, 41a, 28 CI 1086; B112/326, 93a, 28 Safar 1090; B111/325, 15b, 16 Muh. 1095; B111/325, 70b, 6 Şaban 1095, where six women together were brought to trial!

⁷² This was, for example, Max Weber’s view (see M. Weber, *The City* [New York, 1968], pp. 80–81). Cf. also I. M. Lapidus, “Muslim Cities and Islamic Societies,” in his (ed.) *Middle Eastern*

Cities (Berkeley and Los Angeles, 1969), p. 51. Undoubtedly for some areas and periods this view is correct; for Bursa it seems unwarranted.

⁷³ See R. C. Jennings, "Zimmis (Non-Muslims) in Early 17th Century Ottoman Judicial Records," *Journal of the Economic and Social History of the Orient*, 21 (1978), 226.

⁷⁴ Thus, there were no Jews in Izmir in the 16th century, but a massive immigration there began as the city started to grow at the beginning of the 17th century.

⁷⁵ See R. Jennings, "Loans and Credit in Early 17th Century Ottoman Judicial Records," *Journal of the Economic and Social History of the Orient*, 16 (1973), 177–180.

⁷⁶ See Jennings, "Women," p. 56; also p. 113 for a second example.

⁷⁷ *Ibid.*, p. 99.

⁷⁸ *Ibid.*, p. 114.

⁷⁹ In a random sample of 200 estates it was found that the average number of children per family was 2.15.

⁸⁰ Thus, in 1684 there was a plague that wiped out as much as a quarter of the population or more. For further details, see Gerber, *Society and Economy*, chap. 1.

⁸¹ P. Laslett, ed., *Household and Family in Past Time* (Cambridge, 1972), pp. 5 ff.