

EARLY MODERN WORKSHOP: Jewish History Resources

Volume 5: Law: Continuity and Change in the Early Modern Period, 2008, Yeshiva University, New York, NY

Jews at the Court of the Kadi

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ABSTRACT: One of the most astonishing phenomena of Jewish life in the Ottoman state is the widespread appeal to the kadi's court - a muslim court. I intend to describe the frequency of this norm, against explicit regulations, and explain the motivation to use the kadi's services, as well as the reasons for the ban against it. I shall conclude with the social and cultural significance of this practice.

This presentation is for the following text(s):

- Darkei Noam (Pleasant Ways)
- The court records of istanbul

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Introduction to Darkei No'am

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Ottoman Jewry was an urban society, in which, from the middle of the sixteenth century onward, the numerical and cultural dominance of Jews coming from the Iberian Peninsula was noticeable. Tens of thousands of Jews lived in the large urban centers such as Istanbul and Salonica. The population of medium-sized communities such as Izmir (Smyrna), Aleppo, Cairo, some Balkan cities and sometimes Jerusalem numbered between one and five thousand. The economic pursuits of the Jews were diverse, constituting part of the fabric of urban life, a fact that influenced both their social structure and their culture. They generally lived within an organizational framework known as a *kahal* (congregation), the Jewish community in every city comprising several congregations. The congregation was a social framework centered round the synagogue. It was governed by an elected oligarchic leadership which filled many roles, among them relations with the authorities, financial management, and the provision of various services such as a synagogue, a beyt din, a cemetery, education, poor relief, and kosher food.

Up until the nineteenth century Ottoman Jewry was a traditional and a religious society. Judaism and its heritage were central factors in defining individual and group identity and in shaping patterns of behavior and lifestyles for the majority of Jews, at least as they knew and understood it. I would only hint that these were eventually not always absolutely compatible with Jewish religious practice..

The Kadi and His Court

The court and the *kadi* who presided over it were among the most important administrative institutions and offices in the Ottoman cities. *Kadis* were appointed by the sultan upon the recommendation of the highest religious officials and were in effect civil servants of the Ottoman state. Social connections and a powerful patron were almost absolutely necessary for appointment to an important post and for advancement, and certainly had more weight in the 17th and 18th centuries than seniority and ability. The rank of the post in the hierarchy of religious offices was in accordance

with the importance of the city in which the *kadi* served, the highest status in the empire accruing to the *Sheykh-ul-Islam*, the two *kazi'askers* (chief military judges, one for the European and the other for the Asiatic provinces), and the *kadi* of Istanbul. The standing of the *kadis* was significantly enhanced during the seventeenth century and the network

of religious courts took on a more coherent and homogenous shape than in the past. The *kadi's* responsibilities were many. As the holder of religious authority and an expert on the *şari'a* and the *kanun*, he served as judge, notary, and supervisor of religious endowments (*nazir*), and was responsible, by means of the *kassam*, for the distribution of legacies. As representative of the central government he was, in effect, responsible for administration of the city and was charged with enforcement of the law, division of the tax burden, and its collection. Decrees issued by the central authorities were addressed to the *kadi*, whose responsibility it was to see that they were copied into his record books, brought to the attention of the populace, and carried out. In administering urban affairs, the *kadi* was assisted by two officials: the *subaşı*, who commanded the local police and implemented court rulings, and the *muhtesib*, whose duty it was to supervise commercial activity in the markets.

The *kadi* served as an intermediary between the local population and the state. It was through him that petitions and grievances (*şikayet*) were presented to the sultan and the Grand Vizier, and he was responsible for checking their details. Due to the *kadi's* many functions, his court became the venue in which he came into contact with residents of all religious persuasions. When the *kadi* sat in judgment he was assisted by a permanent staff that included Muslims of unchallenged credibility who would witness court decisions (*şuhud-el-hal*), a clerk, and a policeman. Important courts also appointed a deputy *kadi* (the *naib*) who filled special supervisory and investigative functions on behalf of and by authority of the *kadi*, and a messenger. The litigants could avail themselves of the services of a representative (*vekil*) and a translator.

The *şari'a* court, which in the heartland of the empire ruled according to the *Hanafi* school, was an official institution to which almost all subjects of the Ottoman Empire had to turn. Only Europeans whose countries had signed capitulation agreements with the state were exempt, standing trial before their consuls. Even though they suffered from a legally subordinate status, dhimmis did not refrain from turning to the *şari'a* court. Their faith and confidence in the court is clear from the fact that they presented various petitions to the *kadi*. I shall return to that point later.

Those who appealed to the court paid a set fee. The court's decision or any other formal document sought by the appellant were recorded in the court's record books (*sijil*) and a copy was handed to the litigant. Documents issued by the court had validity and value, so the populace often employed them. <In cases in which the court decreed a punishment, its implementation was entrusted to the *subaşı*. The *kanun* listed diverse and severe punishments, conforming to the severity of the offense committed and the religion of the accused. Among the best-known physical punishments were flogging and

whipping the soles of the feet, public humiliation, hard labor as an oarsman in the fleet, amputation of limbs, and various methods of execution. In the seventeenth century a variety of frightful physical punishments (*siyasat*) was as yet in force, but there was also a growing tendency to impose monetary fines. The court's decision was final and the only way to appeal was by petitioning the Grand Vizier, <whose council (*divan*) convened on Wednesdays and Fridays>, or the sultan, <whose imperial council (*divan-i hümayun* or *divan-i'ali*) sat four times a week>.

Jews at the Muslim Religious Court

The autonomous adjudication of Jews in the Ottoman Empire has been extensively discussed by my teacher Joseph Hacker, who has shown that the judicial autonomy of Jewish communities was limited to purely halakhic matters such as laws of matrimony and religious customs, and was conditional upon receipt of permission from the local rulers, for which they apparently paid the *rav akçesi*, (the annual tax levied for permission to appoint a rabbi).¹ The community lacked any real coercive power, so that appearing in its court and complying with its rulings were solely at the discretion of the litigants.² Even when the court applied to the *kadi*, requesting that he enforce one of its rulings (in an area in which it was permitted to deliver judgment), this was conditional on his willingness to do so, and at times on the ruling's compatibility with Islamic law. Actually, the Muslim judicial system was not actively forced upon the Jews, nor did the rulers take steps to conduct investigations and checks to ensure that the *dayyanim* (judges of a religious court) did not overstep the bounds of what was permitted to them. Communal solidarity, relatively comfortable conditions for its existence, and willingness on the part of the authorities to look aside, were what enabled Jews and Christians to engage in intensive judicial activity in areas beyond what was formally permitted to dhimmis. Due to the feeble legal status of the autonomous judicial proceedings, the *dayyanim* were always susceptible to threats from powerful persons and informers. The *kahal* and its judges acknowledged the formal superiority of the *şaria* and Ottoman law, especially in relation to property and money, and refrained—at least openly—from dealing with matters that were formally beyond their own authority. In practice, they endeavored to limit the application of the *şaria* and Ottoman law to issues of money and property and to widen the area of their own jurisdiction, exploiting the lenient attitude of the state authorities in this matter. Furthermore, the *hakhamim* endeavored that non-appearance in Gentile courts would be the norm of the day by enacting ordinances and coming out publicly against transgressors of the *takkanot* against the use of the Shari'a courts.

As I stated above, the local *şaria* court was intended to serve all Ottoman subjects living or trading within a certain administrative area. Only those holding the status of *askeri*, in addition to Europeans and their protégées, were exempted from this obligation. The *kadi* filled several roles, judge and notary, being only two of them. Contact with the *kadi* and having recourse to his administrative and notary services did not pose a halakhic

problem because it was an accepted rule that “*dina de-malkhuta dina*” (Aramaic; “the law of the country is binding”). It was only as time passed, bringing with it a proliferation of cases of corruption and forging of documents, that confidence in the Ottoman legal system was undermined and there were some who challenged the validity of documents drawn up in the lower courts.

The *sicil* records of Istanbul, as well as those of Jerusalem, testify to the constant presence of Jews in Muslim courts, whether for adjudication or for legal registration of the transfer of property, rentals, sureties, monetary arrangements, and so forth. This habit is also reflected in the Responsa literature.

By means of the *halakhah* and *takkanot*, the congregational leadership tried to meet the challenge of the *şaria* court. Ordinances enacted in cities other than Istanbul during the sixteenth and seventeenth centuries forbade turning to non-Jewish courts to adjudicate cases in which both parties were Jewish.³ These *takkanot* placed turning to a Gentile court on the same level as informing to the authorities (*'malshinut'*, *'mesirah'*) and threatened the transgressor with excommunication and ostracism. The issue of applying to a Muslim court was not limited to Ottoman Jewry alone; the Greek-Orthodox Church in the Balkans contended with the problem in a similar manner, prohibiting its believers to do so and threatening them with excommunication.⁴ The leading rabbinical figures of that time considered turning to a Muslim court to be a severe blow to the prestige of Judaism, which claims that it is able to deal with all possible situations and provide Jews with solutions in every sphere. Furthermore, they considered it to be acknowledgment of the truth, power, and superiority of Islam, a state of affairs that paved the way to conversion to Islam. Negation of the principals of Islamic law was less central to their argumentation. Such prohibitions had another motive, though it was not clearly enunciated in writing: since a *dayyan* in a case dealing with monetary matters received a fee consisting of a certain percentage of the claim, clearly the judges were not happy about renouncing it in favor of the *kadi*. I guess that the sense of the diminishing power of *hahamim* is also in the background. Another method of deligitimization was the abovementioned claim about the corruption of the judicial system.

The *haskamot* enacted during the sixteenth century were not very helpful in preventing Jews from turning to the *kadi's* court, and it seems that they were least effective in Istanbul – perhaps because of the more severe supervision of the authorities, and not a specific local trend or inclination. Apparently, the ancient *haskamah* was not accepted by the Jewish public at large and in fact was relegated to oblivion.⁵ The young Jewish community of Izmir, though, was especially prone to turning to the *şaria* court or to adjudication by foreign consuls. One *haskamah* prohibited any form of informing to the authorities or reporting inside information,⁶ but it was ineffective. In Salonika, evasion of the *haskamah* was less widespread, perhaps due to the firmness and solidarity of the Jewish community in that city. My primary assumption that the same could be said for small, closely knit communities (e.g. Jerusalem) whose members exhibited a much

greater degree of conformism, doesn't seem to be correct.⁷ The record books of *şaria* courts in several Ottoman cities support the impression gained from the Hebrew sources about the frequency of Jewish presence in Muslim courts; clearly this was widespread among the Jews as well as diverse Christian sects.⁸ The religious leadership was not prepared to compromise with such behavior and continued to censure it, though as far as I recall criticism ended in the late 17th century. It seems that later it was deemed hopeless.

A combination of circumstances can explain why Jews turned to Muslim courts, and why they did this so frequently. First of all, the *şaria* court was open and available to anyone prepared to pay a certain fee.⁹ There was no legal difficulty, such as the special Jewish vow that Jews were forced to take in European courts, and when necessary a Jew vowed on a set of phylacteries or a Torah scroll brought to the court. Secondly, conducting a case in the Muslim court had several advantages when compared with judicial proceedings in the rabbinical court: speedy adjudication—the parties pleaded their cases, the court decided, pronounced its sentence, and had it carried out all in one session, while halakhic requirements sometimes made for lengthy deliberations in the Jewish court;¹⁰ it was relatively easy to “hire” Muslim false witnesses or bribe the judge.¹¹ Another important advantage was the *kadi*'s ability to enforce his judgments, compared with the weakness of the autonomous courts, which had to contend with powerful persons in the congregation and those who refused to accept their judgment. In other cases, there were those who exploited to their own good the difference between Islamic and Jewish law. People made their choice on the basis of expediency, preferring personal interests to religious imperatives and the public good. Many of the *haskamot* prohibiting adjudication in non-Jewish courts specifically referred to laws of inheritance and certain laws of matrimony, two areas in which Jewish women were on much inferior ground than men. Thus, couples which the *halakhah* prohibited from marrying were wedded in Muslim courts, and there were women who found in the *şari'a* a way to circumvent limitations placed upon them by the *halakhah* in certain matters. We find dozens of cases dealing with inheritance in the *sijilat*.

In certain cases, when the *dayyanim*—who were aware of their limitations—realized that for the public good or justice to be done an appeal to a Muslim court was necessary, they allowed a plaintiff or victim to do so, and even commanded witnesses to appear and give false testimony, against villains or those who “refused to obey the law” (Hebrew term - '*lo tzayat dinna*', '*alam*'). The right of the Jewish courts to do so was confirmed in those very same ordinances that prohibited individuals from turning to Gentile courts without permission.

In view of the weakness of the Jewish courts and the considerable advantages of adjudication in the *şaria* courts, we should probably not be surprised by the extent to which Jews applied to the latter but rather by the fact that the *kahal*'s court continued to be the authoritative body before which presumably most of the plaintiffs brought their cases. Among the reasons we may note: Jewish religious courts were easily accessible, in

contrast to the situation in the Sephardic Diaspora in western Europe or in eastern European communities; the courts were considered a-political institutions that could deal objectively with important issues in the life of a congregation; people were brought up to accept the norm that *haskamot* should be obeyed; and the relatively great extent of solidarity exhibited by Jewish society.

Turning to a Gentile court seem to have achieved legitimacy and became normative behavior in the consciousness of the public at large as soon as the first half of the 16th century. The frequent voluntary appearance of Jews in the *şari'a* courts for various purposes is instructive from several aspects. Those frequent appeals to Muslim courts cannot be understood unless we assume that Jews felt secure and expected to receive a fair trial, within the limitations set by the *şari'a* on dhimmis. This was in contrast, for example, to what was believed by European foreigners. As for the communal or religious spheres, an individual might be prepared to disregard specific *haskamot*, thus breaching congregational law and undermining community solidarity to further personal interests. This was one of the manifestations of the decline in the affinity of individuals to the *kahal* and of the increase in the number of criminals and criminal acts of various types, some of which were directed against the *kahal*. Turning to Muslim courts should be seen as a cultural marker, one that complements information from other sources about deep involvement of Jews in the life of the Ottoman city and close relations with its institutions. Even if we assume that a court translator was present at most sessions involving Jews, this still provides further evidence of the spread of the Turkish language among wider circles in the Jewish public and of some acquaintance with the *şaria*, the *kanun*, and Ottoman judicial and administrative procedures.

While the Jewish communities in the major Ottoman cities were aware of how much their autonomous judicial system was unique and would boast about it to foreigners, the *hakhamim*'s judicial authority was not universally accepted. There is even some evidence of challenging the authority of the religious courts and their judges as part of the wider phenomenon of abasing the Torah and its learners. For some persons, the *hakhamim* were a thorn in the flesh. They disregarded their decisions and refused to comply with sentences issued against them, at times even expressing outright denial of the judicial authority of the court's *dayyanim* and the validity of the *halakhah*. There were cases in which this deteriorated to informing against the *hakham* (as with Radbaz in Jerusalem) or the *dayyanim*, or even to physical attacks against them.

Bibliography

¹ Hacker, "Jewish Autonomy," and more concisely, idem, Hacker, "Spanish Exiles in the Ottoman Empire," 469–70. On this tax see above, Chapter Four.

² Hacker, "Chief Rabbinate"; Cohen, *Jewish Life*, 36–56.

³ For *haskamot* dealing with this issue, see the subject index of Hacker and Ben-Naeh,

Ordinances. See also Leah Bornstein-Makovetsky, “Jewish Informers in the Ottoman Empire in the 16th–17th Centuries,” in *Jerusalem, City of Law and Justice*, ed. Nahum Rakover (Jerusalem 1998), 309–24; Eliahu Z. Ben-Zimra, “On Informing in Jewish Community Life in Recent Ages,” in *Sefer Aviad: A Collection of Articles and Studies in Memory of Yeshayahu Wolfsberg-Aviad*, ed. Yitzhak Raphael (Jerusalem 1986), 124–28 (Hebrew).

⁴ See, in exenso, Rossitsa Gradeva, “Orthodox Christians in the Kadi Courts: The Practice of the Sofia Sheriat Court, Seventeenth Century,” *Islamic Law and Society* 4 (1997): 37–69. For prohibition of local Christians and Europeans against applying to the *kadi*’s court, see also Goffman, *Britons*, 51. For Europeans who refrained from appearing in the *şaria* court, see Masters, *Origins*, 66–68.

⁵ Danon, “La Communauté juive de Salonica” (part II): 112–15. The *haskamah* seems to have been renewed in Istanbul during the late 1550s and also sent to Salonika; see Rozen, *In the Mediterranean Routes*, 138–43.

⁶ Palache, *Massa Hayyim*, §79, 22b.

⁷ For evidence from Salonika about the negative public attitudes concerning turning to a Muslim court, see Medina, *Responsa*, vol. 1, sect. *Orah Hayyim*, §5, 5c; for Belgrade, see Benveniste, *Penei Moshe*, vol. 2, §57, 103b. For its complete disavowal (in Seres?), see Shlomo haCohen, *Responsa*, 4 vols. (Salonika–Venice 1586–1730), vol. 2, §144, 103c (Hebrew).

⁸ While the studies of Amnon Cohen and Haim Gerber point to the presence of Jews in the *şaria* courts, explicit statements about its scope are found in the Hebrew sources: Mizrahi and Ibn Hayyim, *Mayim Amukim*, second enumeration, §102, 159d; Eliyahu Ibn Hayyim, *Responsa*, §58, 92a; Zahalon, *Responsa Zahalon haHadashot*, §32, 70a; Baruch Kalai, *Mekor Baruch* (Izmir 1649), §34, 49d (Hebrew). (For testimony that persons who did not comply with the prohibition against turning to Muslim courts did not feel guilty, see Angel, *Responsa*, §37, 54b.) For a comparison with Christian communities in the Balkans, see Gradeva, “Orthodox Christians”: 68–69.

⁹ One study maintains that this fee was quite considerable, so that the lower economic classes were less represented among those who availed themselves of the court; see Boğac A. Ergene, “Costs of Court Usage in Seventeenth- and Eighteenth-Century Ottoman Anatolia: Court Fees as Recorded in Estate Inventories,” *JESHO* 45, no. 1 (2002): 39. This assumption makes the frequent appearance of Jews in the courts even more significant.

¹⁰ This was also noted by European travelers who were much impressed by the efficiency of the Ottoman judicial system; see also Haim Gerber, “Sharia, Kanun and Custom in the Ottoman Law: The Court Records of 17th-Century Bursa,” *IJTS* 2, no. 1 (1981): 144; Uriel Heyd, *Studies in Old Ottoman Criminal Law* (Oxford 1973), 313.

¹¹ Due to the conditions under which they filled their roles, many *kadis* tried to amass money in short periods of time and were prepared to pronounce a false judgment in return for a bribe. Gerber, “Sharia, Kanun and Custom”: 147, believes that corruption in

the Ottoman judicial system was less than is usually assumed. The decline in the quality of the Ottoman courts during the seventeenth century, especially in the provinces, played into the hands of the Jewish decisors who used this fact to de-legitimize turning to Gentile courts.

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Darkei Noam (Pleasant Ways)

Darkei No'am

Mordekhai haLevi, 17th century

Translated by Yaron Ben-Naeh, Hebrew University, Jerusalem, Israel

R. Mordekhai haLevi, Darkei No'am, Venice 1697, Even Ha'ezer, 35, 117b:

"Reuven quarreled with Shimon his father in-law and they went to the Muslim court and Shimon spent money for bribery and brought false Jewish witnesses and they declared that Reuven divorced his wife in front of them in the Muslim manner in *talak tlata* [=triple divorce] in which according to their law it is impossible to remarry her unless in an illicit way which is forbidden for us; and with many frauds and bribes that Shimon gave they [=the *kadi's* court] received and affirmed the testimony of these scoundrels, and then Shimon charged again Reuven his daughter's dowry, and the court ordered him to pay this huge sum of about 3000 gurush and the sum has been written in a *hujjet-i sher'iyye*. And after all that they came before the *beyt din* and Shimon told Reuven that if he will divorce his daughter with a valid get he will concede that debt and he would tear the *hujjet*, but if he won't, he would imprison him and would harass him in any possible way because of this debt, and Shimon was a forceful person that was able to do so. And the members of the *beyt din yud bet* told them that if Reuven will be reconciled to divorce as long as the *hujjet* and the obligation will exist, he is considered as divorcing because of *ones* and under duress, therefore there is no other way but that he shall tear the *hujjet*, and will write a *berat* that he paid his debt, otherwise it is not enough, as he might make a copy of the *hujjet* from the *sijil*, as they are accustomed to do. Anyhow the *beyt din* members were worried because of the *talak tlata* as in the muslims law the husband can not possibly remarry his divorcée unless through a forbidden manner which may not be done. Therefore, even though the ones of the debt and the pestering Reuven is still not allowed to keep her, so he is still *anus* (=compelled) in giving the get. But this has been solved of itself, as the woman was pregnant while the *talaq* has been done, and then she gave birth to a baby boy, and the gentile sages gave a *fetva* that in a case such as that a woman is allowed to return to her husband because her

birth of a baby boy comes instead of *istihlal* which according to them allows her remarriage; but now we come back to the ones of the aforementioned hujjet; and some of the decisors advised to list debts and fines on the father of Reuven, by writing a hujjet on the father for a known sum, and it shall be given to a third party, and if after tearing the hujjet written on Reuven he will be willing to divorce, they shall tear the second hujjet as well, but if he shall not want to divorce then the third person shall hand the second hujjet to Shimon and he will be repayed [117c] the other sum which he [Reuven]owed, and that this is not ones for he divorces by his own will, therefore he ordered to act in this manner. And the plaintiff asked wether it is indeed sufficient to remove the ones of the get, or not.

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דרכי נעם Darkei No'am Mordekhai haLevi, 17th century

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R. Mordekhai haLevi, Darkei No'am, Venice 1697, Even Ha'ezer, 35, 117b:

ר' מרדכי הלוי, דרכי נעם, ונציה תנ"ז, אה"ע, לה, קיז ע"ב: "ראובן נתקוטט עם חמיו שמעון ונתעצם הריב והלכו לעש"ג ופיזר שמעון הוצאות ושוחדו" [ת] והביא עידי שקר פריצים מבני עמינו והעידו שבפניהם גירש ראובן את אשתו בתו של שמעון הנז' בנימוסי הגוים בטלא"ק תלא"א שאי אפשר כפי נמוסיהן לחזור לכונסה כי אם בדרך איסור ועבירה שאי אפשר ליעשות בדינינו ועל ידי רוב הונאות ושוחדות שפיזר שמעון הנז' קיימו וקבלו עדות אלו הפריצים וחזר אח"כ שמעון ותבע מראובן סכי כתובת בתו וחייבוהו בערכאותיהן לפרוע הסך של הכתובה והוא סך גדול קרוב לשלשה אלפים גרושים ונכתב הסך הנז' בחוג'ה שרעיית ואח"ר [ר] כל זה באו לב"ד ואמר לו שמעון לראובן הנז' שאם יגרש בתו ויפטרנה בגט כשר ימחול לו אותו חוב ויקרע החוג'ה ואם לאו יאסרנו בבי"ת [ת] האסורים ובנגישות בכל הבא בידו בעד פרעון החוב הנז' והיתה ידו של שמעון תקיפה לעשות ככל היוצא מפיו. אמרו להם הב"ד י"ב שאם באולי יתרצה ראובן לגרש כל עוד שהחוג'ה וחייובה קיימת הרי זה מגרש מחמת אונס ומפחד החוב והנגישות שיש לאל ידו לעשות לכן אין שם שום תקנה אלא שיקרע החוג'ה וגם יכתוב לו ברא"ה [=בראת] ר"ל [=רוצה לומר] שהגיעו החוב שאם לא כן אין בקריעת החוגא ממש שיכול לחזור להעתיקה מן אל סגי"ל כמנהגם. ומ"מ היה לבם של ב"ד נוקפם מענין הטלא"ק תלאת"א כיון שבדיניהם אינו יכול להחזירה בשום פנים כי אם דרך איסור ועבירה שאי אפשר ליעשות. אם כן אעפ"י שיתבטל אונס החוב והנגישות עדיין אינו רשאי ראובן לקיימ' [ה] ואם כן הוה ליה מצד זה אנוס עדיין בענין נתינת הגט, אלא שלזה נתקן הדבר מאליה שהיתה האשה מעוברת כשנעשה הטלא"ק ואח"כ ילדה זכר ובאה קְתוּרָא מחכמי הגוים שכשאירע ענין כזה הותרה האשה לחזור לבעלה אחר הטלא"ק כי לידתה זכר הוא במקום אסתחלא"ל המתיר בנימוסיהם אלא שחזרנו לענין אונס החוג'ה הנז'; ויש מן המורים שהורו לעשות על אביו של ראובן חובות וקנסות דהיינו שיכתבו על האב חוג'ית בסך ידוע ויותן ביד שלישי אם אחר קריעת החוג'ה של אותו החוב הנכתב על ראובן בנו יתרצה ויפטור את אשתו בגט כשר יקרעו גם זאת החוג'ה [ה] השני' [ה] ואם לא יאבה ראובן לגרש אז ימסור השליש החוג'ה השנית ביד שמעון ויפרע ממנו [קיז ע"ג] אותו הסך השני הכתוב עליו ושזה אינו אונס דמגרש [מ] עצמו ולכן הורה לעשות תקנה זו. ושאל השואל אם יש בתקנה זו ממש לסלק אונס הגט או לא"

Publisher: Darkei No'am, Venice 1697, Even Ha'ezer, 35, 117b

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The court records of istanbul Istanbul sher'iyeye sijilleri 1662

Translated by Yaron Ben-Naeh, Hebrew University, Jerusalem, Israel

Hasköy, vol. 3, p. p. 82 «Divorce and Dowry-I»

Poshtire binti Avraham the Jewess who lives in the Kiremitçi Ahmet Çelebi neighborhood in Hasköy, came to the court and sued Bunyamin v. Hanuka the Jew: “The mentioned Binyamin used to be my husband. He divorced me with an Islamic formula of *talak-i selase*, but now he wants to remarry me. I ask you to question him and forbid him to approach me.” After questioning, the mentioned Avraham denied the charge and said: “Three years ago I married to her and our dowry was 100 *riyali guruş*. Two months ago she took her belongings and left the home for her father’s home.” When the mentioned Poshtire was asked to bring evidence for her case, Musa v. Yahuda and Kalef v. Baruh the Jews from the same community offered their testimonies according to which the events took place as the mentioned Poshtire described. After their testimonies were accepted, what happened was registered on 25 Şevval 1072 (12 June 1662).

Hasköy, vol. 3, p. page 83 «Divorce and Dowry-II»

Poshtire binti Avraham the Jewess, who lives in the Kiremitçi Ahmet Çelebi neighborhood in Hasköy, came to the court and sued Bunyamin v. Hanuka the Jew: “The mentioned Bunyamin married to me three years ago, and agreed to pay 100 *guruş* as a delayed dowry. When he divorced me, I sued him to get the money. At the beginning he denied that he had divorced me, but then the court decided in favor of me. However, he has still not paid the money. I request from you to question him”. After questioning, the mentioned Bunyamin accepted that he owed her 100 *guruş*. He was demanded to pay the money to her in full. What happened was registered on 29 Şevval 1072 (16 June 1662).

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