

# Abortion In The Islamic-Ottoman Legal Systems

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## Summary

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Drop of child (ıskat-ı cenîn) includes both involuntary miscarriage and voluntary curetting. In all societies, from primitive to modern, a series of sanctions have been imposed concerning abortion. This study first gives a brief comparative summary of cross-cultural perspectives on abortion. Then it elaborates on the Islamic-Ottoman legal systems with a view to understanding the place of abortion. The treatment of abortion is explicated through the cases surveyed from the shari'a court registers of Ottoman Bursa and Balıkesir.

**Key Words:** Fetus, abortion, miscarriage, Islam, Ottoman.

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### **Cross-Cultural Perspectives on Abortion**

As a general rule, religions have prohibited the drop of the fetus although the sacrifice of children for various purposes have been widespread among ancient Canaanites, Greeks, Indians (Hindus) and Chinese. Abortion was accepted as a crime committed against the bodily integrity of the woman. In ancient India, the woman miscarrying or aborting her child was dismissed from her caste. Buddhism and Zoroastrian religion forbade abortion. Among Hebrews, in case of an abortion, the husband of the aborting woman was punished. If the case of abortion had led to the death of the mother, the judge inflicted capital punishment to the person who had caused miscarriage by using force, be it the husband or another man (1).

According to Meso-Assyrian law code (Article 23) abortion was punished with forced labor in royal travail. Article 50 says: "if a man beats the wife of another man and causes the drop of her baby, the baby of his wife shall be aborted in return. If the miscarrying woman dies, the man beating her shall be killed." Article 53 reads: "if a woman consummates a

voluntary abortion, she shall be impaled and her corpse shall not be buried in case her crime is proven. If she dies during abortion, she shall be impaled and denied burial." According to the code of Hammurabi (Article 209), the crime of abortion was punished with pecuniary fines. Nonetheless, in case of the mother's death the daughter of the perpetrator was to be killed in return (2).

In ancient Greece, the fetus rather than the mother was accepted as the victim of the crime. The offender was given death penalty if the fetus was animate. If it were inanimate, he went unpunished (3). In Roman law, if the fetus were aborted by a person with the consent of its parents, the agent was not punished. But if it were aborted without their consent, the agent was deemed criminal and punished. His or her accomplices, too, were punished with heavy deserts like banishment and confiscation of property. In case the mother died, the culprit was given death penalty (4).

According to Christian doctrine, human life should absolutely be respected and protected from the insemination onwards. Man is entitled to rights of personality. The most important of these is the right to life that is also inalienable for innocent creatures. The church has since the first century (A.D.) deemed abortion to be immoral. This doctrine characterizing the Catholic Church has not changed until now; nor

does it seem likely to change hereafter. Abortion, deliberately committed as a solution or remedy, is in essence quite severely opposed to moral law. Participating consciously and willingly in conducting abortive operations is a serious crime. The Church has designated excommunication as punishment for this crime that attempts on human life. “One who attempts to conduct abortion and consummates it with success is punished with excommunication”. The church wants to limit its scope of forgiveness with this dictate. It intends to show the severity of the crime committed as well as the irrecoverable damage and evil done by killing an innocent one to parents and society at large (5).

We do not observe any direct reference to abortion in the Mosaic laws. The omission of the issue demonstrates that the Jews as a threatened race attached the utmost value and sentiment to parenthood, particularly motherhood, for the future of their race. Since the beginning of their history, Jews have suffered the risk of racial and national extinction as well as exile and diaspora a number of times; they adopted demographic policies of maintaining their race through fertility, childcare and non-mixture with other races. Thus the historical and social conditions had already led the Jewish community to abstain from both infanticide and fetucide. This in turn has created no need for canonical or legal rules to be imposed by Moses and rabbis (6).

### The Islamic-Ottoman Legal Systems

Muslim jurists define penal law as “the rules imposed to secure the enforcement of the laws and order dedicated to the survival and development of human society in a civilized mode as revealed by God” (7). The deliberations underlying this definition, which aim to maintain the laws and regulations of social order and repose, are not different from the considerations of the present. Another definition concerning Islamic Criminal Law is as follows: “the body of laws regulating the relationships between the state and individuals in terms of designating for the outlawed acts and the due punishments to be inflicted by the state for the protection of public good” (8).

Any chapter with the title of “Muslim Penal Code” in the Islamic law in the systematic standards of our

day is absent. However, part 4 within the unique quadruplet taxonomy of the books on Muslim canonical jurisprudence covers details of criminal law under the title of “ukubât” (retribution, punishment). Crimes and punishments are designated in this part with the headings of *kitabü'l cinâyet* (book of murder), *kitabü'ud diyet* (book of blood-price), *kitabü'l-hudûd* (book of limit) and *ta'zir* (book of discretionary punishment). Although the judgments concerning the general and specific parts of criminal law are not presented in separate sections, yet they exist in detail in the works of Muslim jurisprudence. Furthermore, in books of Muslim legal theory (*usulü'l-fikih*), rights are designated as the rights of God and the rights of man. Most punishments are accepted as the rights of God. The rights of God are deemed to be public rights (9).

The basic aim of Muslim law is the protection of reason, religion, property, life and generation. All regulations worked out in penal jurisdiction must ultimately serve these ends. The aim of criminal jurisdiction is to find out concrete reality in its entire plainness. Concrete reality should be explored without leading to human rights violations. Justice should properly be realized and legal peace should be provided (10).

Islamic law was adopted as the official legal system in the Ottoman Empire (11). Yet, it was also naturally influenced by the unique characteristics of statecraft tradition of ancient Turks. Generally, the opinions of Hanefite school were put into practice in realms where Muslim law ordered explicit jurisdictions (12). In other realms where no explicit rules were imposed and thus legislative authority was delegated to the sovereign, codes of law (*kanunnâmes*) known as *örfî hukuk* (secular and customary law) were formulated according to a certain legislative procedure. Penal judgments revealed in books of Muslim canon law remained in theory most of the time. Therefore, the penal rules in books of Muslim jurisprudence written by any Ottoman expert in the canon law cannot be said to have constituted in anyway the Ottoman Criminal Law. The sources judges (*cadis*) were to use when passing judgment concerning criminal court cases were explicitly stated in *kanunnâmes* from Fatih (Conquerer) onwards, and they were officially distributed to *cadis* and law-courts during the reign of Suleyman the Magnificent (13).

The crimes committed against public and personal rights are formulated in books of Muslim canon law as *hakkullah* (the rights of God) and *hakk-ı ademi* (the rights of man). By *hakkullah*, we mean the public order constituted by Islam and the rights concerning that order. In fact, every crime violates public order in one way or another and in varying degrees but especially the latter is taken to be against public order. Muslim jurists handle rights in four categories: (1) *halis Allah hakları* (purely divine rights); (2) *halis kul hakları* (purely human rights); (3) both divine and human rights with more divine emphasis; and (4) both divine and human rights with more human emphasis (14).

Another categorization in Muslim law covers the crimes of *hadd*, those of *qisas* (talion), and those of *ta'zir* (discretionary crimes/punishment). These three conceptual categories, in fact, denote punishments of various kinds. Yet, they are commonly used as to denote crimes of *hadd*, *qisas* and *ta'zir* at the same time. *Hadd* crimes can be defined in two scopes, that is, broadly and narrowly. Broadly defined, *hadd* crimes cover the divinely and prophetically designated crimes as well as their due punishments and sanctions to which *qisas* offences also belong. As a matter of fact, *qisas* crimes and punishments, too, are explicitly stated in divine revelations. When narrowly defined, *hadd* crimes include those that are directly committed against the rights of God and whose definition and due punishments are clearly stated in the shari'a. Though subject to dispute, there are seven bodies of *hadd* crimes in the narrowest sense: theft, fornication (especially adultery), accusation of fornication (*kazf*) highway robbery, drinking wine and drunkenness, apostasy (especially from Islam to other religions) and rebellion. *Qisas* crimes encompass murder (*katl*) and assaults and battery (*müessir fiil/Gerh*). *Ta'zir* crimes, on the other hand, include those that fall outside the two categories mentioned above and whose definitions as well as due punishments are not specified by God and his prophet but left to the sovereign or the judge (15).

### Abortion in Islamic-Ottoman Law

The fetus is taken to be connected to and dependent on the mother in some respects until parturition.

Yet, it is at the same time accepted as a separate being with a deficient entitlement to personality and individual rights. Properties passing through inheritance and the last will are legitimately left to it. In a similar vein, when it is born dead or miscarried as a result of unlawful acts, the compensation money to be paid by the wrongdoing agent is deemed to be its legal right and passes to its heirs (15).

Muslim jurists gather in two different groups as to the religious judgment of abortion. According to those in the first group, who make up the majority, in no phases of pregnancy is abortion religiously permissible and legitimate without any reasonable and licit pretext. Putting an end by human beings to the life of the fetus who was created by God can under no circumstances be justifiable. According to the jurists in the second group, the abortion of the child during the early phases of pregnancy is not forbidden. Such an act is acceptable according to some while being abominable for others. The Pakistani Criminal Law, which adopted Muslim criminal code, distinguishes between two types of abortion on the basis of whether the organs of the child have become apparent or not (2). Those who contend that the abortion of the child during the initial phases of pregnancy is not forbidden suggest different opinions as to under what conditions and in what length of a duration it can be aborted. The principal reasons for this are the absence of any specified canonical rule on the subject and that there are no opinions conveyed from the leading imams of the four Islamic schools. Furthermore, in the doctrines of the jurists falling in the second group the inadequate medical knowledge about the fetus during their respective ages has played an important part (16).

As in many other Turco-Islamic states, in the Ottoman Empire, too, the legal doctrine of the Hanefite School was adopted as the legal framework. Besides this framework, Sufism has been quite important in the Ottoman life. In this vein, the great Sufist scholar and jurist Imam Ghazali has left a deep impact on the Ottoman thinking and sentiment. Imam Ghazali supported the idea of family planning and the use of contraceptive techniques such as coitus interrupts (*azl*) but he objected to every form of curetting, in principle, accepting it a kind of murder. In fatwa (opinion on

legal matters) books *muftis* (official expounders of Muhammedan law) and *şeyhülislams* (the heads of Ottoman clergy) dealt with sexual offences such as fornication, incest, and homosexuality but no fatwa has hitherto been discovered concerning the drop child (abortion) (17).

We need to know how children were treated, which rights they were entitled to benefit from and to what extent for a fuller understanding of the general system of justice in Ottoman society. Good training as well as defending the rights of children, who are regarded as the guarantee of our future, is vitally important (18). Children's rights in the Ottoman Empire started with their earliest and embryonic existence in the mother's womb. They were entitled to take shares from inheritance as legal heirs in the process of its partition. For example, after the death of a person, who was named Ibrahim and inhabiting the Çardak neighborhood of Bursa, his wife and daughter were announced his heirs. In addition, since his wife was pregnant, the share of the unborn baby was also registered in official documents under the category of "hisse-î haml" (the share of the baby) at the balance sheet of the total heritage (19).

Concerning the crime of abortion, we can talk about mixed protected legal good since there are a multiplicity of rights such as the right of the fetus to life, the healthcare of the pregnant woman and the maintenance of descent and race as a public right (20). In other words, abortion is a crime that violates individual and public goods. In 1838 the Ottoman sultan outlawed abortion with a *firmân* (official imperial decree) on the grounds that it could lead to a serious reduction in population. Thus, the subject was associated with the future of society and the state, losing much of its personal and private aspects. In addition to this, the guardians of maidens and widows were also prohibited from hindering the marriage of such marriageable dependants. Abortion was also outlawed among non-Muslim communities and this policy was put into force through the assistance of clerical community leaders. What is more, the husband of the aborting woman was also accorded protective as well as criminal responsibility concerning this subject (2). Factors leading to abortion can be classified as hedonistic and economic. Economic

hardships, however, are more decisive than the former. Measures that were mandated in the imperial *firmân* to prevent abortion are two-tiered. One tier includes the warning of physicians and pharmacists not to give abortive medications to their clients (21). In this vein, midwives, physicians and pharmacists of Greek, Armenian, Jewish and Armenian Catholic communities were ordered not to render such medications through their patriarchs and rabbis. These professionals were offered an oath by the chief leaders of their communities to that end. Neighborhood imams were called to take Muslim midwives to the office of the prime *cadi* of Istanbul for taking the oath on the same subject. The second tier of measures was directed to put into effect the mechanisms of social control (22). In this context, the likelihood that some of the abortive medicines could have also been known by women other than professionals was assumed. This meant that when an abortion took place at a neighborhood, the case would be heard by and known to neighbors. Thus, heavy legal sanctions were imposed on those who knew about voluntary abortions but failed to report them to security forces as well as the couples involved in practicing them (17).

Before the issuing of this *firmân* there had been some measures in use to prevent abortion. In May 1789, one month after the succession of Selim III, the sale of medicines that could lead to miscarriage or abortion by physicians and pharmacists was ruled out by a *firmân*. The decision, initially covering only Istanbul area was mandated to other provinces of the empire with the issuing of an additional *firmân*. Another *firmân*, issued in January 1786, was concerned with punishing a non-Muslim dealer who had been selling prohibited plants. Although the *firmân* does not tell us what those prohibited plants were, it is possible to assume that they were most probably used for abortion. According to an order issued in March 1827, soon after the abolition of the Janissary corps, two Jewish midwives (the nickname of one of them was the bloody midwife), who had used to sell abortive pharmaceuticals to pregnant women, were punished with exile to Salonika. The same decree also orders the religious leaders of non-Muslim communities to take legal action against those community members who were involved in voluntary miscarriage and abortion. All these examples show that there

were attempted measures against abortion before the *firmân* of 1838. However, such attempts and measures become more intense, systematic and consistent with it, and remained in force until the total collapse of the empire (17).

Muslim jurists have designated the *diyât* (blood money) of the aborted child to be one-tenth of the blood money of the mother, that is, one-twentieth of the full blood money paid for a healthy man. This amount corresponded in practice to five camels, or 50 dinars or 600 drahmas (500 drahmas according to Hanefites). The sex of the aborted child does not change the amount of *gurre* (indemnity). According to Hanefites the *gurre* for an aborted Muslim child is the same for a non-Muslim child. For the remaining three sects, the *gurre* of the non-Muslim child is less than that of the Muslim child (23).

The agent causing the drop of the fetus could be an alien, the mother or the father of it. If a woman, without the permission of her husband, deliberately causes the drop of her child by taking medicine, hitting her abdomen or lifting heavy objects she is condemned to pay *gurre* (a lesser fine) if the child is aborted dead, while she is condemned to pay *diyât* (blood money) if it is born alive but dies later. If the woman miscarries her baby as a result of certain unconscious acts, she is exempted from liability to pay *gurre* or *diyât*. If she commits abortion with the permission of her husband, likewise, she does not need to pay *gurre* or *diyât*. In such a case both husband and wife are given discretionary punishments (*ta'zir*). A man causing his wife's miscarriage of the baby by such acts as beating or frightening her, he is condemned to pay *gurre* or *diyât* on the basis of whether the child was dead or live born (24). An Armenian woman named Sara, who was taken to the court by the *subaşı* (chief of police) of Balıkesir in 1670/71, confessed in four successive court sessions that she had had sex willingly with the husband of her sister, that she lost her virginity, that she become pregnant, that she aborted the female baby by using pharmaceutical when there was only one month to the delivery, and that she buried the baby with the assistance of her parents (25).

There are a number of verses in the Qur'an ruling out deliberate miscarriage and abortion. "Slay not your children, fearing a fall to poverty, We shall provi-

de for them and for you. Lo! The slaying of them is great sin." (26). Another verse concerning this issue is "And when the girl child that was buried alive is asked for what sin she was slain" (27). This verse also forbade infanticide through the burial alive of girl children that was a common practice among the pre-Islamic Arabs for reasons of poverty and lack of nutrition and equated abortion to murder (28).

Some of miscarriages are caused by lack of conformity to sanitary and medical measures, malnutrition, women's indifference to their pregnancy, their exposition to overexcitement during their pregnancy, living in conditions of fear and hurry, receipt of a news all of a sudden that shakes them severely, chronic or contagious diseases (particularly of venereal type) in one or both of parents (24). An example of miscarriage due to severe fear was seen in Bursa in 1602. Mehmet, the son of Mustafa, was a long-time immoral person. He entered women's public bath in Kiremitçioğlu neighborhood by force, threatening with his arm. He wounded a few women and caused miscarriage by three women out of fear. The bath-holder and a number of men could catch Mehmet and take him to the court with great difficulty, only in the same garment (29). Another example of early delivery or miscarriage took place in Balıkesir in 1631/32. When the hook used in the execution of death penalties was brought from its suburban location to Tahtakale area near the downtown by the head official of Karasi district, the notables of the town demanded the removal of the hook to some remote place else, complaining that pregnant women who see it miscarry their babies out of fear (30). When an agent causes a miscarriage the case is carefully examined. If the baby miscarried is dead and the mother also dies, the agent is condemned to pay *gurre* for the dead born baby and a full *diyât* for the mother. If the baby dropped out is alive but dies later, in this case the agent is punished with paying two full *diyets*, one for the baby and one for the mother (24). A person who gives drug to a pregnant woman for miscarriage is severely punished for exceeding intention if both the baby and the mother die through the effect of the drug given. The agent is condemned to pay *gurre* for the dropped baby and *diyât* for the death of the mother (2).

In Ottoman history, we also come across with instances where family members had been subject to li-

tigation for causing the death of a pregnant woman or her un-born baby. An example concerning such a case took place in Balıkesir in 1631/32. The vice governor of Karasi district, Recep, filed a complaint about a person named Mustafa for causing the death of both his wife and her un-born baby by beating the latter. When the woman witnesses were called to give their testimony, they testified in favor of Mustafa, saying that his wife had died due to plague and not out of battery (31).

In case a criminal litigation is filed against someone with the accusation of causing miscarriage, the cost of proof then lies with the accuser. If the accused confesses part of the offence such as battery but denies that the miscarriage stemmed from his act, then the other party is held responsible to prove that the baby was lost due to his act. If the accused admits battery as his offence and that it caused miscarriage, but claims that the baby dropped was dead while the victim claims just the opposite, that is, the baby dropped was alive but died afterwards, then proving the latter case rests with the claimant (24). An example to this is about Ümmügülsüm, the wife of Mehmet who is the son of Yusuf. Although it was claimed that Ümmügülsüm had miscarried her baby due to fear of her husband, her husband Mehmet stated in the court in February 1587 that neither something like that had happened nor his wife had told him anything of the kind (32).

Since these issues require technical knowledge in the present day, the judge gives his decision on the basis of a report submitted by a co-opted medical expert or a group of experts. For example, he can decide whether the baby was lost due to battery or not; if so, whether it was alive or dead at the time of drop. The lung of a dead-born baby sinks down when put into water since it does not yet perform respiratory function. If the baby drops alive and dies afterwards, this means that the lung has started to respire, as a result of which it floats in the water (2).

In the Ottoman Empire, when a woman discovered during her waiting period after divorce that she was pregnant, she could demand a regular livelihood until the child was born. If the former husband did not believe this, then the woman was sent to a midwife for examination. A woman named Kerime who

was living at Abdal Mehmet neighborhood in Bursa had divorced from her husband Şaban 23 days ago. She demanded a regular livelihood from him until the birth of the child but her former husband did not believe her pregnancy. As a result, the court decided to send Kerime to a midwife named Fatma who was residing in Hoca Yunus neighborhood for examination. Since her pregnancy was proven during the check-up, her husband Şaban was made liable to pay a livelihood of ten akçes per day (33). A woman, who is divorced or whose husband dies, is to wait for three months and ten days before contracting a new marriage. This waiting period is called *iddet* and required for the discovery of whether or not she is pregnant from her former husband. In other words, this is a method of designating the father of the child. In the Karakedi neighborhood of Bursa in 1677, a woman named Ismihan, the daughter of Hüseyin, could prove that although she was pregnant when her husband died, she lost the baby six days after the death of her husband, the court permitted her to marry another man without completing the normal course of waiting period (34).

The issue of abortion should first of all be understood within the context of Ottoman social, healthcare and demographic policies. The rise of the idea of establishing public hospitals shows that the Ottoman state has started to take initiative about and invest in social health. From 1774 onwards, serious military defeats suffered at successive wars with powerful states such as Russia and Austria led to intense public debates about administrative and social restructuring as well as demographic policies directed to preventing decreases in population. As a matter of fact, following the *Vaka-i Hayriye* (abolition of the Janissary corps by Mahmut II), *Tibbhâne-i Âmire* (the first imperial medical school) and *Cerrahhâne* (the first imperial hospital) were established on March 14, 1827 (35). The state attached great significance to public health by issuing from 1836 to 1876 43 different orders or by-laws concerning the major issues of public health such as quarantine, quality and profession of physicians, dentistry, surgery, pharmaceuticals, midwifery, and mandatory vaccination (36).

One issue that needs to be stressed here is the cases of abortion in which foreign physicians were in-

volved. One of the most interesting cases of this kind is perhaps about a German doctor named Mari Zibold. She used to work at the *Mekteb-i Askeriye-i Şahâne* (the imperial military school) during the reign of Abdülhamit II, and conduct abortion for money in Beyoğlu (Pera). Upon a complaint filed against her, a number of sanctions were proposed to be inflicted on her, including the prevention of her abortive services, her dismissal from her post in the military school and her deportation. Sultan Abdülhamit II ordered state officials to take Madam Zibold's photographs and deport her from the Ottoman lands as soon as possible. Her photographs would be dispatched to all frontier gates of the empire and her return would thus be prevented. When the case was submitted to the German embassy in Istanbul, the embassy contended that Madam Zibold could not be deported unless the Ottoman authorities provided sufficient official and written proofs about her involvement in conducting curettage. The process of proving took a long time. Correspondence between Ottoman and German officials started on October 14 1904 and continued until January 7 1905. Madam Zibold was thus forced to quit Istanbul (37). This controversy reflects very well the conditions under which the empire used to suffer towards its eventual collapse. It took great pains to deport a German doctor who had been repeatedly caught in the illicit acts of conducting abortion.

Foreign travelers who visited Ottoman Empire during the late 18<sup>th</sup> and early 19<sup>th</sup> centuries report that abortion was being practiced freely and without any limit among Muslims. They observe that no normal anxiety existed in Muslim population concerning this practice (17). However, whether travelers are objective and resorting to exaggeration in their approaches to the observation and representations of the cases they faced is subject to suspicion. Not infrequently have many foreign observers given data that are in conflict with official registers and generalized a single case or a few cases to whole society (38).

Unborn babies are the greatest sufferers during wars no matter they are in their mothers' wombs. *Mutasarrıf* (governor of a provincial subdivision) Salih Bey stated, in a report he sent to the West Front on April 14 1921, that 18 cases of fetucides took place

during Greek atrocity when giving the numbers of martyrs, ruined places and other casualties (39).

There are also prostitutes among women who resorted to abortion (40). What is more, there were families who deliberately caused their daughters to miscarry their babies by beating or other cruel means in case they had been impregnated as a result of rape. In 1652, a person named Hacı Bayram from the village of Kasunlar in Balıkesir area caused by beating his daughter to drop her child who had been impregnated as a result of rape (41). Economic problems arising from wars and riots have not only increased the illicit sexual offences such as prostitution (42), but they also have forced pregnant women whose husbands died or disappeared in wars to incline to drop their babies, fearing that they would be unable to rear them in case they gave birth to them.

### *Conclusion*

The League of Nations, which was established with a view to eliminating the perils of wars and constituting peace and repose in the world, adopted the first Declaration of Children's Rights in Geneva on October 26 1924. Nevertheless, the break out of a new war in 1939 led to the suspension or postponement of the convention on children's rights. In 1948, the UN general assembly adopted the Universal Declaration of Human Rights within the scope of which children's rights and liberties were inadequately represented. Thus, to prepare a separate agreement for the specific conditions and protective needs of children were started. The UN general assembly where the delegates of 78 countries were present accepted with unanimity the Agreement of Children's Rights on November 20 1959. However, in the next thirty years, for the member states a new and binding agreement has been required. Thus, efforts made to that end enabled the UN general assembly to adopt a new convention on children's rights with unanimity on November 20 1989. The agreement, opened to signature on January 28 1990, was signed by 61 states the same day. Signed by 20 more countries on September 2 1990, the convention was put into effect with the force of an international law. By the endorsement of the UN general assembly, Turkey signed the document on February 14 1990. The Turkish parliament

accepted the agreement on December 9 1994. The Agreement of Children’s Rights was published in the Turkish official gazette on January 27 1995. It thus became one of Turkey’s internal legislation under the law numbered 4058, and was put into effect (43).

When the contents of the successive international declarations of children’s rights, whose foundations were constituted in the twentieth century, are examined carefully, it can be said that Ottoman Empire had since long adopted similar applications. It assigned certain

rights to children even before they were born. While doing this it did not exert any religious or ethnic discrimination upon its subjects. It must no doubt be this just order which sustained the empire for more than six centuries despite its multi-national and multi-ethnic texture as well as its expansion to a vast geography. However, the empire fell so weak in international diplomacy during its later periods that it could not even deport foreign doctors who were engaged in conducting abortive operations although such activities were strictly outlawed. Furthermore, there has been a remar-



Figure 1: The woman had had sex willingly with the husband of her sister, that she aborted the female baby by using pharmaceutical when there was only one month to the delivery (Balıkesir Shari’a Court Registers 702 124a-b)



چو در سه روز بعد از آن که از جنین او غایب گردید، واقعه آن ملک شاهی چون اولاد محمد مصطفی نام منتهی محل شرعی شریفه در یک روز مصطفی نام کشتی الصحنه و مخزنه لغو کرد و عواید او را به خان قریه عظیم بیخ اولوب ایچنه و آنانه و صنانه کجه کجه اولوب اولسون سیست اولونون و بدو حفظ جانی بر سعادت مقوله اوجما لغو وارو اولمش کلن خبر محمد شریف قریه اولوب النده آتت که بدو مسلمانن کی برنجیده ایدوب هزارفت و دوشنعت ایدرک بنم کتت چاره عده اولان عورتلر قانمنه کیرتت لشیبو قیلمدن موجود اولان کوردی عریان ایدوب عورتلرک اوزرینه بیج ایلدکنده برتاج خاقانی چالوب طوفندن بتم خاقانم و ایک خاقان و اچی وضع کل ایدوب فریادی ایلدکننده بجای اولوب بند اچی قانم کلوب مسلمان ایلد هزار زور و ذاریله اقد ایدوب احضار ایلدکنر برکنده نه آنحضرت خبر محمد دست اولوب ضوضون خبر رسوا اولدندقد و بن نفس اقسهر کتندنه کوردی سلیمان نام کتندنکلا و عواید اولوب کندم داچی کردی عیلم قانم قیوسته واروم کلن اچی ویر کیم بدم دیوانچار ایتیکنه قیایا استیلا حسین بن علی و محمد حسن و احمد محمد و اولام مصطفی و عثمان محمد علی و السید علی لعلیه حسن و سکندر بن عبداله و بیاد بن عبداله و قودم علی و قودم علی و حسین عبداله و حسین حسن نام کتندنکلا و کتندنکلا محض تقاضا یه نظر جن اولوب نه الواقیه خبر محمد بوگون متانده الیه و کوردی ایلد عورتلر قانمنه کیرتت عریان ایدوب عورتلرک اوزرینه جوم ایدوب برتاج خاقانی بر اغله ایدوب و خبر رسوا چینی خاقان و ایک خاقان و اچی وضع کل ایدوب فریادی ایلدکننده کیرتت مسلمانن برتوشوب قانم ایچندن جیمه دیم دیوانه شریف ایلدکننده نه آنحضرت و استرکیه شریف ایلد کیرتت قبولده واقعه اولوب عاقبه خود بر سه روز و ده حال از جمع اولان سفوسو باش کلیم ایلدکنده اولوب برین خاقان و کوردی و اولام خاقان کلن

السید قودم محمد علی	ایچان اسم مصطفی	محمد صلیم	خان علی بن عثمان
حوران بیگ افسر کل	محمد ادر	محمد حسن	عبدالبنی
ضو دافق قانم	محمد ادر	محمد حسن	عبدالبنی

Figure 2: The man entered women’s public bath by force, threatening with his arm. He wounded a few women and caused miscarriage by three women out of fear. (Bursa Shari’a Court Registers B 17 6b)

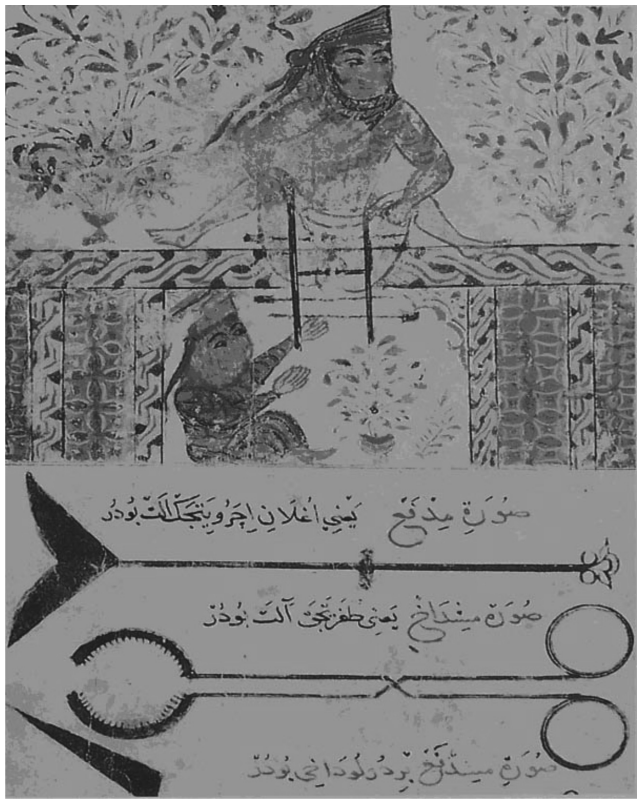


Figure 3: The implements used for curretting Woman in Anatolia 9000 Years of the Anatolian Woman, Turkish Republic Ministry of Culture, Istanbul 1994, p. 219.

kable increase in the number of miscarriages at times of war and rebellion. We can count economic troubles and the atrocities of enemy soldiers among the major reasons that account for this shift.

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