

Ottoman and Jewish Authorities Facing Issues of Prostitution and Adultery: 1700-1900

ABSTRACT

Leah Bornstein-Makovetsky¹

The purpose of the present paper is to discuss the ways in which the eighteenth- and nineteenth-century Ottoman authorities, on the one hand, and Jewish community leaders (secular leaders) and Jewish legal authorities (*dayanim*), on the other, handled cases of adultery and fornication among Jews.

Ottoman society between 1700-1900 was a religious society, and therefore all members of the Jewish communities were subject to the Jewish communal organization and committed to the observance of Jewish law.

Jewish communities in the Ottoman Empire had ways to force their members to obey Jewish sexual morality laws. Jewish communities had to address in the Jewish courts, most of the problems of Jewish society, including moral issues, both serious and minor. They used for this purpose all means available to them, including turning to the Ottoman authorities. Jewish law, in contrast to Islamic law,

differentiates between the concepts of "adultery" and "fornication"._For this and other reasons, the Jewish authorities preferred to resolve such cases on their own, and only when there was no alternative would they turn over those accused to the Ottoman authorities -- Muslim courts and governors.

¹ Associate Professor in the Department of Jewish Heritage at Ariel University.

Most Jewish women in the Ottoman Empire suspected of adultery during the eighteenth and nineteenth centuries were not denounced by the Jewish courts (as adulterers. In cases in which adultery by the wife was certain, Jewish *dayanim* and community leaders insisted that the husband divorce his wife, without submitting the woman to any other form of punishment. In extreme cases when the husband insisted on staying with his adulterous wife, the *dayanim* and the community leaders turned him over to Muslim courts or to Ottoman authorities. In such cases the Jewish courts did not keep the matter secret. The handing over of adulterers to Ottoman authorities took place also when the accused couple refused to comply with the orders of the Jewish court, or when a report from the Jewish community came to the attention of the non-Jews. In some cases, individuals appealed directly to the Ottoman authorities with the request that Jewish adulterers be punished.

When they were turned over, Jewish adulterers, men and women, were frequently punished by a Muslim court or by Ottoman governors and their subordinates according to Islamic law. The regular punishments were brutal lashes, exile and fine.

The overall incidence of sexual offenses as a basis for divorce was quite low in Jewish communities throughout the eighteenth and nineteenth centuries. It appears that among the reasons adduced for divorce, adultery, prostitution and ill repute accounted for only 2-5% of the cases.

It appears that sexual relations between unmarried men and women was more common than adultery. The Jewish authorities were asked to intervene only in problematic cases, such as those involving a man's refusal to marry the mother of his future child, or instances in which someone complained in the Jewish court or before the commissioners of offences that the woman was a fornicator.

Extant sources inform us that problems of low-level sexual immorality came up even in the most conservative communities, such as Aleppo. Under these circumstances, some communities enacted modesty rules and regulations.

Jewish legal authorities- *dayanim* and Jewish law deciders (*posekim*) were called upon to address the issue of the status of children born as a result of extramarital relations.

In general, children begotten by unmarried couples did not pose a *Halakhic* problem because they were considered legal according to Jewish law and were not considered bastards (*Mamzer*) Very few cases are attested in which the father's name was not available. Once born, the child in such a case would be referred to as "*shtoki*" among the Jews and was only permitted to marry a convert or a slave who had been freed from bondage. Extramarital pregnancy did not necessarily lead to punishment for unmarried women in Jewish society. Cases of this type were typically not turned over to the Ottoman authorities; Rarely were children born of adulterous unions declared bastards in Jewish society.