

# The First Public Murder in the Tanzimat Era: Life, Trial and Execution of Emine Hanım

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## Abstract

In 1860, Emine Hanım killed her husband Ferik İbrahim Pasha. In this article, I use her murder trial to examine the interrelation between slavery, the private lives of the Ottoman ruling class, and the complexities of the judicial system during the Tanzimat period (1839–1876). I identify the limitations of nineteenth-century legal reforms and the discrepancy between the reformist ideals and the real-world complexities experienced by individuals. By paying close attention to legal issues in the Ottoman Empire during the Tanzimat era, such as *siyaseten katl* (administrative death penalty) and the inconsistent application of *kisas* (retaliation in kind), I argue that Emine's story contributes to a better understanding of the Ottoman legal system during the reform era.

## Keywords

Tanzimat – Ottoman law – Islamic law – *kisas* – Ferik İbrahim Pasha – Namık Kemal – Mehmed Sadık Pasha – *siyaseten katl* – slavery

The awful daring of a moment's surrender  
Which an age of prudence can never retract.  
T.S. Eliot, *The Waste Land*

## Introduction

On March 4, 1860, as William Knight, a barrister in the British Consular Court, was sauntering through old Istanbul and Galata, his attention was drawn to a tumultuous gathering in a “paltry little square” near Karaköy Bridge. Early that morning, the authorities had executed a man and woman, a rare sight in the Istanbul of the time owing to, it has often been suggested, Sultan Abdülmecid’s unusual dislike of capital punishment.<sup>1</sup> The man had been decapitated, and the woman strangled. Their corpses were exposed on the square all day “pour encourager les autres.”<sup>2</sup> Just as Knight was passing by in the afternoon, the bodies were taken away, each in a separate boat, towards the Imperial Arsenal. By chance, Knight had become a witness to the final act of a murder that captivated the capital.<sup>3</sup> The murder of İbrahim Pasha at the incitement of his wife in February 1860 was the foremost sensational homicide story of the Tanzimat era.<sup>4</sup> Its news made headlines in places far away from the Ottoman

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- 1 Adolphus Slade, *Turkey and the Crimean War: A Narrative of Historical Events* (London: Smith, Elder and Company, 1867), 30; Eyre Evans Crowe, *The Greek and the Turk; or powers and prospects in the Levant* (London: Rich. Bentley, 1853), 296; Charles White, *Three Years in Constantinople or Domestic Manners of the Turks in 1844*, 2 vols. (London: Henry Colburn, 1845), 1:120.
  - 2 William Knight, “Saunterings in Stamboul and Suburbs,” *Bentley’s Miscellany* LIII (1863): 411.
  - 3 Knight was also the author of a few travel and maritime books, See, for instance, William Knight, *A Diary in the Dardanelles Written on board the Schooner “Corsair,” while Beating through the Straits from Tenedos to Marmora* (London: Hunt, 1849); William Knight, *Words for the Windbound; or, a Rough Vocabulary in English and Turkish* (London: Sampson Low, 1843). Some information on Knight can be found in Anonymous, “Constantinople Association of Pilots – 1862,” *Hunt’s Yachting Magazine* 11:5 (1862): 185–86. He is wrongly identified as an “army officer in India.” See Jean Harris Slingerland, *The Wellesley Index to Victorian Periodicals, 1824–1900*, 5 vols. (Toronto: University of Toronto Press, 1989), 5:439.
  - 4 As Cemal Kafadar has written, there is nothing new for Reşad Ekrem Koçu readers. In his collection of Istanbul curiosities, this murder-curious historian dedicated an entry to İbrahim Pasha’s wife as “Emine the Husband Slayer.” He is the only historian, to the best of my knowledge, to mention the case in the last 150 years. Reşad Ekrem Koçu, “Emine Hanım (Koca Kaatili),” in *İstanbul Ansiklopedisi*, ed. Reşad Ekrem Koçu (Istanbul: Tan Matbaası, 1968), 5066–68. See Cemal Kafadar, “Mütereddit Bir Mutasavvif: Üsküp’lü Asiye Hatun’un Rüya Defteri 1641–1643,” *Topkapı Sarayı Müzesi Yıllık* 5:1 (1992): 168.

Empire, e.g., Huntsville, Missouri and Launceston, Tasmania.<sup>5</sup> In the pages of *Le Monde illustré*, the affair was described as more intriguing than anything that famous dramatists could possibly have imagined.<sup>6</sup>

Such a cause célèbre is noteworthy not only for its intriguing details and the global sensation it sparked, but also for its reflection of the transformation in the Ottoman legal system following the implementation of the Tanzimat reforms in 1839. The fate of İbrahim Pasha's wife, Emine Hanım, was sealed, literally, by the members of the *Meclis-i Vâlâ* (Supreme Council). What is significant is that individuals like Namık Kemal referenced and condemned this case years later as an instance of bypassing the authority of Sharia courts.<sup>7</sup> Their criticism was rooted in the extensive changes introduced by the Tanzimat policymakers, which led to the reconfiguration of the Sharia system. During this period, Islamic courts experienced a shift in their position within the legal structure, becoming a component of the broader judicial apparatus overseen by the centralizing Ottoman state. Avi Rubin and Iris Agmon have challenged the dichotomy between Sharia and modernity by demonstrating that, despite the changes introduced by the Tanzimat reforms, Sharia courts continued to function and adapt until the end of the Ottoman Empire.<sup>8</sup> However, Emine Hanım's trial serves as a compelling reminder of the tensions that arose from these changes, highlighting the challenges faced by lawmakers attempting to balance tradition and modernization, as well as a conservative Ottoman public's growing disillusionment with the perceived excesses of the Westernized elite.

I begin with the story of how Emine and İbrahim met, a story that provides us with a rare window into the private lives of the Ottoman ruling class during the Tanzimat era. The detailed testimonies of the principal actors, specifically

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5 See, for instance, Anonymous, "An Execution in Stamboul: Bow-String and Scimeter," *The Randolph Citizen* (Huntsville, Randolph County), 27 April 1860, 1; Anonymous, "An Execution in Stamboul," *The Cornwall Chronicle* (Launceston, Tasmania, Australia), 7 July 1860, 3.

6 Petit-Jean, "Courrier du Palais," *Le Monde illustré* IV:155 (1860): 222. When Emine murdered İbrahim Pasha, there was already a fascination, especially in the United States, with "female fiends" who killed their husbands "for distinctly flimsy reasons." See Dawn Keetley, "Victim and Victimizer: Female Fiends and Unease over Marriage in Antebellum Sensational Fiction," *American Quarterly* 51:2 (1999): 365.

7 Namık Kemal, "İnnallâhe ye'muru bil adli vel ihsâni," *Hürriyet*, 18 Janvier 1869, 5.

8 In this article, I use the term "Sharia" in its broadest sense, signifying a comprehensive corpus that governs all aspects of a Muslim's life. Based on the foundational sources of Islam – the Qur'an and Hadith – Sharia functions as a wide-ranging framework offering guidance on religious observance, personal conduct, social interactions, and legal matters. Facilitating adherence to Islam's moral and ethical principles, Sharia operates as an expansive guide that transcends a single domain of influence.

that of Emine and the murderer, Hüseyin, allow the reader to reconstruct the event from different perspectives.<sup>9</sup> Subsequently, the focus shifts to legal changes during the Tanzimat era. By examining the *siyaseten katl*, or administrative death penalty, I will show that the old forms of penalization gained new meanings during this period. This will be followed by a short account of the trial and the punishment, which sparked subsequent legal controversies, arguably the most important part of the affair. Namık Kemal's effort to try the case before the tribunal of public opinion gives us one of the first, if not the first, examples of judicial discussions in an Ottoman newspaper. By using the writings of contemporary figures, I will then contextualize the trial of Emine Hanım and demonstrate how and why the case merits scholarly attention.

Drawing upon this rich narrative, it is important to consider the broader implications of the methodological approach used in analyzing Emine and İbrahim's story. Microhistory, which may provide a unique perspective on larger historical phenomena, has been largely ignored by Ottoman historians. The paucity of such studies may be attributed to the nature of available sources, i.e., dry archival documents that often prioritize high-level political events rather than the daily lives of ordinary individuals. However, in the last decade or so, thanks to the influence of pioneering works in the field, this emphasis has shifted, and a growing body of microhistorical research now explores the experiences and narratives of individuals and communities previously overlooked in Ottoman historiography. This development has helped to unravel and clarify the complexities of Ottoman society from the ground up, offering a more comprehensive understanding of everyday life and interactions. By focusing on Emine's story, I seek to contribute to the growing body of microhistorical work in Ottoman studies, highlighting the multifaceted social and legal dynamics at play during the nineteenth century.

## Prologue

It is difficult to follow İbrahim Pasha's career in the Ottoman archives. There is another and more famous "Ferik İbrahim Pasha" who was more or less a

9 An increasing number of historians are using "*istintaknames*," or interrogation protocols. See, for example, Milen V. Petrov, "Everyday Forms of Compliance: Subaltern Commentaries on Ottoman Reform, 1864–1868," *Comparative Studies in Society and History* 46:4 (2004): 730–59; Ebru Aykut, "Toxic Murder, Female Poisoners, and the Question of Agency at the Late Ottoman Law Courts, 1840–1908," *Journal of Women's History* 28:3 (2016): 114–37. Also see Omri Paz, *Who Killed Panayot?: Reforming Ottoman Legal Culture in the 19th Century* (Oxon: Taylor & Francis, 2021), 65–66.

contemporary of the victim.<sup>10</sup> Their names appear in Ottoman sources side by side and it is sometimes hard to distinguish one from the other. According to the *Levant Herald*, “our” Ferik İbrahim Pasha was one of the young men sent to Europe by Sultan Mahmud to complete their military studies.<sup>11</sup> This information appears in other contemporary sources and may be true.<sup>12</sup> Subsequently, he served as the aide-de-camp to the Chief of the General Staff (*serasker yaveri*) and finished a successful career as the Commander of Istanbul Army.<sup>13</sup>

It is striking how different Emine’s case would have appeared if it was based solely on existing literature. Mehmed Sadık Pasha (d. 1886), for instance, born as Michael Czajkowski, famous Polish political émigré and a contemporary witness of the events in Istanbul, argued that Emine Hanım was the daughter of a Phanariot Greek of some distinction (un bey de Fanar).<sup>14</sup> In Sadık Pasha’s portrayal, İbrahim Pasha was charming and spoke several European languages with ease. İbrahim and Emine’s meeting and marriage are depicted as a great romance. According to the French journalist Petit-Jean, on the other hand, they met in Larissa during the First Turco-Egyptian War (1831–1833) when İbrahim was a young and upcoming soldier. Petit-Jean also tells a very elaborate story about their first encounter. It was love at first sight.<sup>15</sup> İbrahim asked her to marry

10 The “other” Ferik İbrahim Pasha (1815–1891) was one of the first Ottoman artists to produce Western-style oil paintings. See Sezer Tansuğ, *Çağdaş Türk Sanatı* (İstanbul: Remzi Kitabevi, 1986), 365.

11 Anonymous, “[On Thursday night last, a horrible murder was committed in the quarter of Fingiançılar],” *Levant Herald*, 22 February 1860, 504. There are two unidentified İbrahims in the list of students who were sent abroad for their military studies during the reign of Mahmud II. Mustafa Gençoğlu, “Osmanlı Devleti’nce Batı’ya Eğitim Amacıyla Gönderilenler (1830–1908) – Bir Grup Biyografisi Araştırması” (PhD diss., Hacettepe University, 2008), 188.

12 [Mehmed Sadık Pasha], *Souvenirs anecdotiques sur la Turquie (1820–1870) par Wanda* (Paris: Firmin-Didot, 1884), 168. In the French version, Emine’s name is given as “Muniré hanoum.” This book is a free translation of the Russian original, which appeared a year earlier. See Михаила Чайковского (Садык-паша), *ТУРЕЦКІЕ АНЕКДОТЫ* (МОСКВА: Университетская типография, 1883), 167. In the Russian original, she is simply referred as “ханум,” *khanum*. I would like to thank Metin Ünver for sharing this rare book with me.

13 Mehmed Süreyya, *Sicill-i ‘Osmani, yahud, Tezkire-i Meşâhîr-i ‘Osmaniyye*, 5 vols. (İstanbul: Matba’a-i Âmire, 1308/1890–91), 1:62.

14 [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 169. In the Russian original, it is *белъ изъ Фанара*. See (Садык-паша), *ТУРЕЦКІЕ АНЕКДОТЫ*, 167. Mehmet Sadık Pasha was born in Poland as Michael Czajkowski. Following the failure of the 1848 Revolutions, he converted to Islam and became an officer in the Ottoman army. See Ahmed Refik [Altınay], *Türkiye’de Mülteciler Meselesi: Macar ve Leh Mülteciler, Koşot, Rusya ve Avusturya’ya Karşı Türk Siyaseti, Türkiye, İngiltere, ve Fransa İhtilafı (1849–1851)* (İstanbul: Matbaa-i Âmire, 1926), 152; Akgün Akova, *The Eagle Under the Crescent and the Star Polonezköy* (Ankara: Republic of Turkey Ministry of Culture and Tourism, 2014), 54.

15 Text: “In Thessalia, the war broke out between Mahmoud and Mehemet-Ali. The East was shaking. Greece was agitated. The Sublime Porte needed to defend her with the most

and she accepted the proposal, albeit on the condition that he would not take a second wife, as permitted by Islamic law. İbrahim acceded to the request by “swearing an oath on every verse in Qur’an.”<sup>16</sup> The couple married and traveled around the Empire following İbrahim’s different assignments. Eventually, following the Pasha’s retirement, they lived in their konak in Mercan, Istanbul.

A very different picture is depicted in official documents: Emine Hanım was enslaved during the Greek Uprising (see Image 1).<sup>17</sup> Under normal circumstances, as Ottoman subjects, Greeks were exempt from enslavement. However, by rebelling, the Greek Ottomans broke the covenant and lost their *zimmi* protection.<sup>18</sup> Emine Hanım must have been very young, probably a child when she was captured. She was born in Agrafta, a mountainous region in Central Greece that was razed to the ground by the Ottoman army between 1822 and 1823. According to a document in the Ottoman archives, one-third of the town perished, the others either fled or were suppressed by detachments of troops during the uprising.<sup>19</sup> Young Emine was given to Tahir Efendi, the

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energetic arms. In ancient Larissa, in the homeland of Achilles, it placed a brave sentinel, the courageous İbrahim. He was a brilliant warrior whose fame already had the brilliance of the oldest and most illustrious ... Returning from an expedition, the procession of the Pasha crossed at a gate in Larissa, with a young woman followed by two slaves. Either intention, or chance or awkwardness, the young woman let a moment away the veil, which covered her features. No, never has such beauty illuminated the face of a mortal ...” Petit-Jean, “*Courrier du Palais*,” 222–23.

16 Ibid., 223.

17 BOA, İ.MMS. 17/252, 3 Şaban 1276 (February 25, 1860). This file summarizes the verbatim testimonies (*istintaks*), accompanied by an official report (*mazbata*) and a memorandum (*arz tezkiresi*) formulated to inform the Sultan. These sources reflect the government’s perspective. To provide a more balanced understanding, I examined newspapers and other narrative sources. Although I could not find the original *istintaks* in the archives, the “summary” itself, comprised of a single-spaced, ten-page Word document, ensures that the reader’s grasp of Emine’s story will be largely unaffected by the absence of the original files. In addition, the documentation of the case in the so-called Kısas registers adds another layer of context to the analysis. On the kısas registers, see, BOA, A.DVNS. NEFY.d.07, 89. Şaban 1276 (February, 1860).

18 Y. Hakan Erdem, *Slavery in the Ottoman Empire and Its Demise 1800–1909* (London: Palgrave Macmillan UK, 1996), 26.

19 Text: “*Asakir ve başbuğ ile bilcümle asakir ül İslam nahıye-i mezbure-i Agrafta’ya hücum ve itiham eylediklerinde bil-muharebe sülüsü miktarı ihrak ve kezalık sülüsü mikdarı kaza-i mezburdan firar ile* [When the soldiers and the commander, along with all the Muslim soldiers, attacked and invaded the aforementioned district of Agrafta, one-third of them perished in battle, and similarly, one-third of them fled from the said battle].” BOA, HAT 886/39186, 3 Cemaziyelevvel 1237 (January 26, 1822). Also see Ahmed Cevdet Paşa, *Tarih-i Cevdet*, 12 vols. (Istanbul: Matbaa-i Amire, 1309-1891/1892), 12:80. Douglas Dakin, *The Greek Struggle for Independence, 1821–1833* (Los Angeles, CA: University of California Press, 1973), 102.

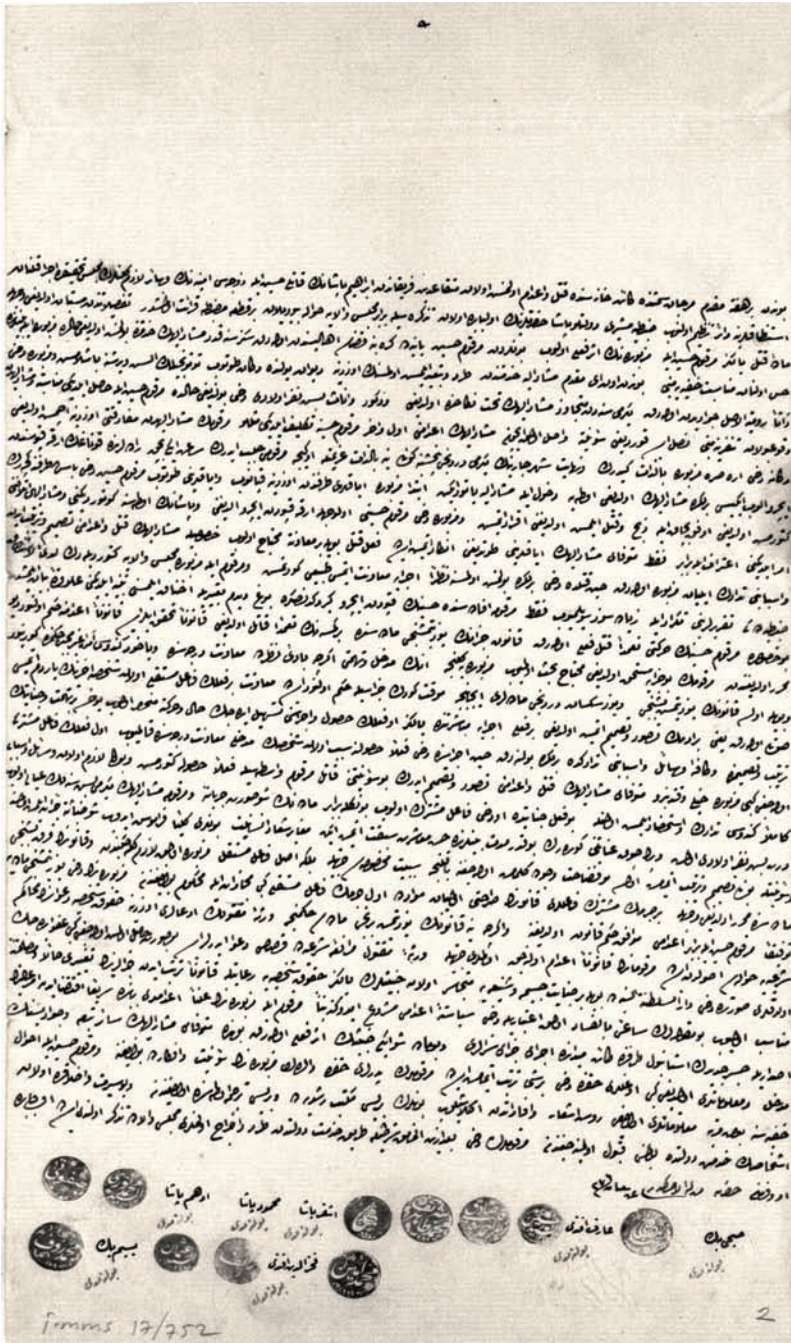


IMAGE 1 Official Report (Mazbata) summarizing Emine's case. BOA, İ.MMS. 17/252, 3 Şaban 1276, February 25, 1860.

army treasurer (*Ordu Defterdari*) and a well-known personage in the Empire.<sup>20</sup> She stated that she moved to Istanbul with him and, two years later, brought her mother to the capital. The mother stayed with her thereafter and allegedly played a part in the Pasha's murder.

Emine is an Islamic name that she adopted after her conversion. Ironically, the word signifies trustworthy or harmless. A name change was not a religious requirement, but a convention associated with a conversion. No document ever refers to her as anything but Emine. We will probably never know what her Greek name was.<sup>21</sup> Similarly, there is no information regarding her conversion to Islam. From a religious point of view, slaves may remain in their original religion. But often they did not. Even though conversion did not guarantee manumission, it might, especially if the slave owner was pious, result in better treatment.<sup>22</sup> It should be noted that Emine's mother, Mane, did not follow her daughter to the new faith and remained a Christian.<sup>23</sup>

Tahir Efendi died from heatstroke in the summer of 1832 during the campaign against Egypt.<sup>24</sup> Because of his extensive debts and large number of dependents, a certain Ali Rızâ Efendi was appointed as the trustee of his

20 On Tahir Efendi, see Mehmet Zeki Pakalın, *Maliye Teşkilâtı Tarihi (1442-1930)*, 4 vols. (Ankara: Maliye Bakanlığı, 1977), 2:473-83.

21 It would have been interesting to follow the event through Greek dailies published in Istanbul, such as *Bosphorus Telegram* and *Byzantium (Tilegrafos tou Vosporou and Vyzantıs)*. I have been unable to analyze these sources due to linguistic limitations.

22 In one of the foundational texts of Hanafi jurisprudence, *al-Hidayah*, Burhân al-Dîn al-Marghînânî (d. 1197) states that "if captives become *Mussulmans*, let not the *Imâm* put them to death, because the evil of them is here remedied without slaying them: but yet he may lawfully make them slaves, after their conversion, because the reason for making them slaves, (namely, their being secured within the *Mussulman* territory,) had existence previous to their embracing the faith." This is a surprisingly accurate English translation since it is from a Persian version of the work. The translation was prepared by the orientalist Charles Hamilton (c. 1752-92) for the East India Company in 1791. [Burhan al-Din al-Marghinani], *The Hedâya or Guide: A Commentary on the Mussulman Laws*, trans. Charles Hamilton, 4 vols. (London: T. Bensley, 1791), 2:160-61. For the Arabic original, see Burhân al-Dîn al-Farghânî al-Marghînânî, *al-Hidâyah fi Sharh Bidayat al-Mubtadî*, ed. 'Abd al-Ḥayy al-Lucknawî, 8 vols. (Karâchi: Idârat-ul Qur'ân wa 'Ulûm Al-Islâmiyya, 1417/1996), 4:242.

23 Mane is probably not her real name but a diminutive of *μάνα (mánna)*, meaning mother in Greek.

24 Anonymous, "[Adana'nın ilerisinde hararet-i şems ziyadece müessir olarak]," *Takvim-i Vekayi* (Istanbul), 5 Rebiülahir/1 September 1248/1832, 1. Also see BOA, HAT 349/19789, 29 Zilhicce 1248 (May 19, 1833). Tahir Efendi endowed a mosque, and several other charitable monuments that still stand in Istanbul. See Ali İhsan Aydın, "Üsküdar'da Defterdar Mehmed Tahir Efendi (Harem İskeleyi) Camii ve Haziresi," in *Uluslararası Üsküdar Sempozyumu VII 2-4 Kasım 2012 1352'den Bugüne Şehir*, ed. Süleyman Faruk Göncüoğlu (İstanbul: Üsküdar Belediyesi, 2014), 75-108.



estate.<sup>25</sup> Amid the chaos, Emine Hanım was “contracted” to a “scourer of stained clothes.”<sup>26</sup> Mother and daughter resided with this businessman for two years, during which period there is no information about them. With this man’s death, however, Emine Hanım was “contracted” again, this time to İbrahim Pasha. This must have been around 1835.

In the documents, Emine is often referred to as the wife of İbrahim Pasha and it is specified that they were married for more than twenty years. In other words, İbrahim Pasha freed Emine the slave and they were legally married before witnesses in a religious ceremony. What prompted him to do so? Given his active involvement in the slave trade, it is unlikely that the reason was a profound aversion to the institution of slavery.<sup>27</sup> Even if his concubine bore a child, a Muslim man was not required to marry her. His ownership was considered sufficient for children to grow up as free citizens. As *ümm-ül veled* (mother of child) she was unsaleable and would become free after the death of the master.<sup>28</sup> İbrahim made a point of marrying her and the reason can only be surmised.<sup>29</sup>

25 Ahmed Lütfi Efendi, *Vak'a-Nüvis Ahmed Lütfi Efendi Tarihi*, ed. Nuri Akyabar, trans. Yücel Demirel, 8 vols. (İstanbul: Yapı Kredi Yayınları, 1999), 4:718.

26 This is how Redhouse translated *lekeci*. James W. Redhouse, *An English and Turkish Dictionary in Two Parts: English and Turkish and Turkish and English* (London: Bernard Quaritch, 1856), 961. The man was from *lekeci esnafından*, a profession that Evliya Çelebi mentioned by name in the seventeenth century. Evliyâ Çelebi b. Derviş Mehmed Zillî, *Evliyâ Çelebi Seyahatnâmesi*, ed. Robert Dankoff, Seyit Ali Kahraman, and Yücel Dağlı, 10 vols. (İstanbul: Yapı Kredi Yayınları, 2006), 1:312. Until the reign of Mahmud II, the *lekeci*s were stationed in the same part of Istanbul, around the Beyazid Square. See M. Kâzım Çeçen, *II. Bayezid Suyolu Haritaları* (İstanbul: İstanbul Büyükşehir Belediyesi, İSKİ, 1997), 39.

27 Text: “*Bab-ı Ali Tercüme Odası ketebesinden olan mahdumu Halil Şükrü Bey'den keyfiyet sual olunduk da Pençşembe günü saat dokuzda esircilere mukaddemce satmış olduğu cariyeleeri götürmüş olduğu, parasını pederine götürdükden sonra ...* [Having asked the situation from his son, Halil Şükrü Bey, who is from the Translation Office of the Sublime Porte, he went to the slave dealers on Thursday at nine o'clock, where he had previously sold the female slaves, and after taking the money to his father ...]” BOA, İ.MMS. 17/252.

28 About the Ottoman context, Aykan writes “There was a crucial reason behind Ceyhun's insisting before the judge that her legal status had changed as a consequence of Ebubekir's official recognition. That is to say, a «mother of the child» could only be fully free if the master manumitted her during his lifetime. Otherwise, upon the death of her master, she was automatically manumitted.” Yavuz Aykan, “On Freedom, Kinship, and the Market: Rethinking Property and Law in the Ottoman Slave System,” *Quaderni storici* 52:154 (2017): 14.

29 Mehmed Sadık Pasha talks of Emine's great beauty, comparing her to Venus, Lais of Huccara and Phryne. See (Садык-паша), *ТУРЕЦКІЕ АНЕКДОТЫ*, 167. The French version mentions her beauty but without such high praises. See [Mehmed Sadık Pasha], *Souvenirs anecdotes*, 169.

The couple had five children. At the time of the murder, the oldest, Halil Şükrü Efendi, was eighteen years old and employed at the Translation Bureau as a clerk. This office was the seedbed of high Ottoman bureaucracy. Many prominent figures of the Tanzimat Era, from Grand Viziers to political opponents, began their professional lives there.<sup>30</sup> Halil Şükrü had a promising future, bolstered by strong family connections and a suitable education. However, as we will learn, his career was cut short by the murder. Another son, İbrahim, named after his father, was thirteen years old and a student at a local *Rüştiye* (civil preparatory school). After his mother's execution, İbrahim was expelled from the school because authorities suspected his involvement in the murder, albeit implicitly. There is also little Ömer, about whom no information is available in the documents. One daughter, Zaliha, is mentioned by name only in passing as a little girl. Another daughter, Hanife, was an important witness to the event and her testimony, like that of her brothers Halil Şükrü and İbrahim, was instrumental in the death sentence of their mother. There is no information about her education, but the fact that she played piano to entertain her father is remarkable and a sign of a westernized taste in music in the İbrahim Pasha ménage.<sup>31</sup>

### Enter a Murderer

One of the most important figures in a homicide case is the murderer. The man in question here is a certain Hüseyin, about whom the contemporary documentation is inconsistent. According to Mehmed Sadık Pasha, the murderer's name was originally Dimitri and he was one of Emine Hanım's loyal men whom she had brought from Salonica after her marriage to İbrahim Pasha.<sup>32</sup> According to Petit-Jean, Hüseyin was one of İbrahim Pasha's devoted

30 As Şerif Mardin points out, "almost all of the Young Ottomans started out in life as clerks in the Translation Bureau." Şerif Mardin, "The Young Ottoman Movement: A Study in the Evolution of Turkish Political Thought in the Nineteenth Century" (PhD diss., Stanford University, 1958), 96. Also see Şerif Mardin, *The Genesis of Young Ottoman Thought: A Study in the Modernization of Turkish Political Ideas* (Syracuse, New York: Syracuse University Press, 2000), 11. Ali, Fuad and Reşid Pashas, famous reformers and Grand Viziers, also worked in the Translation Bureau as scribes. See Adrian Brisku, *Political Reform in the Ottoman and Russian Empires: A Comparative Approach* (London: Bloomsbury Publishing, 2017), 146–47.

31 On the introduction of the piano to the Ottoman public during the Tanzimat, see Koral Çalgan, *Franz Liszt ve M.R. Gazimihal'in Bir Araştırması: Liszt'in İstanbul Konserleri* (İstanbul: Müzik Ansiklopedisi Yayınları, 1991), 45–46.

32 Text: "She knew that Dimitri was devoted to her and would be a docile instrument in her hands." [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 170. In the Russian original, Dimitri's name is not mentioned. See (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 167–71.

men and had been with him since his youth.<sup>33</sup> Strangely, Reşad Ekrem Koçu, an historian of curiosities, supports the latter argument by alluding to pederasty, his pet subject. In Koçu's account, Hüseyin was a beautiful boy who had fascinated İbrahim Pasha when they met in Ioannina. When the boy grew up to be a handsome young man, he attracted the attention of Emine Hanım, upsetting the conjugal harmony. Koçu does not cite any specific reference to support his contention but mentions contemporary newspapers. In this account, Hüseyin stated that he killed the Pasha because he turned his "golden name into copper."<sup>34</sup>

It was precisely at this time, that is to say just after the Crimean War (1853–1856), that a paradigmatic shift occurred in the Ottoman understanding of sexuality. In the words of Cevdet Pasha, "woman-lovers augmented in number, while boy-lovers declined as if the people of Sodom and Gomorrah were engulfed by the earth. Habitual passion and interest in boys in Istanbul, as it should be, shifted towards girls."<sup>35</sup> Cevdet Pasha linked this phenomenon to the increasing influence of Europeans in the capital.<sup>36</sup> Suggestively, homoerotic manifestations disappeared from public life in Japan and many other places around the globe at this time.<sup>37</sup> Perhaps the influence of Victorian morality threw these practices into disrepute.<sup>38</sup> The question of Ottoman sexuality has attracted significant scholarly interest and merits further investigation.<sup>39</sup> It is possible that Hüseyin wanted to exploit these changing sensibilities to

33 Text: "Terrible to his enemies, İbrahim was sweet to his friends and his servants. His Albanians loved him. Hadji Hussein one of them, almost a child, was his favorite; carried his arms and held the stirrup. Despite his youth, Hadji Hussein had the confidence of his master and this was how he learnt that İbrahim was in love." Petit-Jean, "Courrier du Palais," 222–23.

34 Koçu, "Emine Hanım (Koca Kaatili)," 5068.

35 Ahmed Cevdet Paşa, *Ma'rûzât*, trans. Yusuf Halaçoğlu (Istanbul: Çağrı Yayınları, 1980), 9.

36 According to Cevdet Pasha, both Ali Pasha and Kamil Pasha began to hide their desire for beautiful boys and Ali Pasha "shunned his pederasty because of the objections of foreigners." Cevdet Paşa, *Ma'rûzât*, 9.

37 Gary Leupp argues that in Japan attitudes towards same sex coupling have changed dramatically since "Japan's incorporation into the world system in 1859." See Gary Leupp, *Male Colors: The Construction of Homosexuality in Tokugawa Japan* (Berkeley, LA: University of California Press, 1997), 202.

38 Foucault argues that the Victorian era was characterized by a significant shift in the way people thought about sexuality: a rise in the importance of moral and social norms led to the creation of new institutions, such as the family and the school, that served to control and police people's sexual behaviour. See Michel Foucault, *Histoire de la sexualité: La volonté de savoir*, 2 vols. (Paris: Gallimard, 1976), 1:9–22.

39 On this subject, see now Dror Ze'evi, *Producing Desire: Changing Sexual Discourse in the Ottoman Middle East, 1500–1900* (Berkeley and Los Angeles, California: University of

justify his murder, if such suggestions were ever voiced. However, one finds no information in official documents or contemporary Ottoman newspapers to substantiate this possibility. Nonetheless, it is difficult to ignore all these accounts, from Sadık Pasha to Koçu, as their convergence points to a grain of truth beneath the web of fabrications.

In the official documents, the portrait of Hüseyin is less captivating: He was born in the town of Grevena near Ioannina.<sup>40</sup> The inhabitants of Grevena were predominantly Christians, with a small Muslim minority.<sup>41</sup> However, there is no evidence to suggest that Hüseyin was anything other than a Muslim. Even though he conversed with Emine in Greek, there was nothing unusual about this and many people in the region were multilingual.<sup>42</sup> His father's name was Cafer, which indicates that he was not a convert, as it was customary for converts to adopt names like Abdullah (servant of Allah) or the like.<sup>43</sup> The names of father and son in fact imply a Bektashi affiliation, and there was a significant Bektashi lodge near Grevena.<sup>44</sup>

According to his testimony, Hüseyin was thirty-one years old at time of the event and had been discharged from military service. He had worked for the Pasha for approximately eight years as a manservant. The official documents accuse him of upsetting the marital bliss. İbrahim Pasha suspected a “secret affair” between Hüseyin and his wife. Emine Hanım's elder son, Halil Şükrü, corroborated this accusation by saying that his mother had long been smitten

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California Press, 2006); Başak Tuğ, *Politics of Honor in Ottoman Anatolia: Sexual Violence and Socio-Legal Surveillance in the Eighteenth Century* (Brill, 2017); Serkan Delice, “Friendship, sociability, and masculinity in the Ottoman Empire: An essay confronting the ghosts of historicism,” *New Perspectives on Turkey* 42 (2010). Also see Joseph A. Massad, *Desiring Arabs* (Chicago: University of Chicago Press, 2008). For the Persianate context, see Afsaneh Najmabadi, *Women with Mustaches and Men Without Beards: Gender and Sexual Anxieties of Iranian Modernity* (Berkeley: University of California Press, 2005).

40 In the official record, Hüseyin's home village is identified as Grebene كره بنه in the correct official Ottoman spelling. Whenever Hüseyin's own words are cited, however, it is spelled closer to its Greek form Κρηβενά (Γρεβενά). BOA, İ.MMS. 17/252.

41 See Yüksel Nizamoglu, “Yanya Vilayetinin Durumuna Dair Hazırlanan Layihalar ve Sonuçları,” *OTAM*, 33 (2013): 201. According to Cengiz Kırılı, Greek immigrants from Grevena “provided Istanbul with most of its grocers.” It should be noted there were also many grocers from Agrafta. See Cengiz Kırılı, “A Profile of the Labor Force in Early Nineteenth-Century Istanbul,” *International Labor and Working-Class History*, 60 (2001): 136–38.

42 Abidin Pasha, who was from the same region as Hüseyin, was a famous polyglot and wrote poems in Greek. See Murat R. Şiviloğlu, “Abidin Paşa,” in *Abidin Dino: Bir Dünya*, ed. Zeynep Avcı (İstanbul: Sabancı Üniversitesi Yayınları, 2007), 39.

43 See, for instance, Nikolay Antov, *The Ottoman ‘Wild West’: The Balkan Frontier in the Fifteenth and Sixteenth Centuries* (Cambridge: Cambridge University Press, 2017), 91.

44 Giorgos Mavrommatis, “Bektashis in 20th Century Greece,” *Turcica* 40:1 (2008): 223.

with Hüseyin. In fact, in his damning testimony, Şükrü Bey stated that İbrahim Pasha was not only aware of the relationship between the two and had lost faith in his wife, but also suspected that his wife was plotting to murder him. “This woman is going to strangle me,” he said to his son and asked him to “watch the doors.” Even though Emine Hanım tried to reassure her husband, Hüseyin was banished from the konak and instructed never to return. This occurred approximately ten months prior to the event.

There is no reason to believe that Hüseyin’s departure eased the strain in the konak. Between the lines, one sees the glimpse of a miserable domestic life. Recall the first line of *Anna Karenina*: “Happy families are all alike; every unhappy family is unhappy in its own way.” In this case, the family was unhappy in an obvious manner. The Pasha frequently beat his wife and possibly the entire family.<sup>45</sup> Sadık Pasha mentions his excessive drinking habits. Even though documents do not substantiate this claim, the fact that the Pasha was intoxicated when he was murdered is suggestive. Furthermore, records indicate that the Pasha suffered from a nervous disorder (*illet-i asabiye*) and that four years before the event, he went to Vienna’s cold springs for treatment.<sup>46</sup> Hüseyin maintained that almost every member of the family had asked him to kill İbrahim Pasha at one time or another: Şükrü Bey, Emine, İbrahim Bey and Emine’s mother Mane, all wanted someone to deliver them from the scourge of their lives.<sup>47</sup> Clearly, Emine was at her wits’ end. After a bad encounter with her husband, she said to her daughter, “we are all tired of your father’s irascibility. Wouldn’t it better if somebody comes and kills him?” Hanife, who may have been the only reasonable person in the konak, said that it would not be the end but rather, the beginning of their ordeals.<sup>48</sup> She was right.

After he had been sacked, Hüseyin opened a tobacco shop on Divanyolu, Sultanahmet, within walking distance of İbrahim Pasha’s konak. The move reflects shrewdness on Hüseyin’s part. Turkish tobacco was highly sought after in Istanbul following the Crimean War, and in a decade’s time, it would

45 Text: “*Pederinin huysuzluğundan ve daima kendilerini döğüp, sövdüğünden gelmiş olan acz üzerine* [Due to the constant weakness caused by their father’s ill-tempered nature and his continuous beating and cursing of them].” BOA, İ.MMS. 17/252.

46 BOA, İ.DH.. 351/23152, 4 Zilhicce 1272 (August 6, 1856), BOA, A.}MKT.MHM. 94/83, 22 Zilhicce 1272 (August 24, 1856).

47 While Hüseyin was in the house, Şükrü Bey told him “I wish a man who would come to kill and behead him.” Emine’s mother, Mane, was more direct, asking him either to kill him or find a man who would kill him. Upon interrogation, she denied this vehemently and said that she was ready to swear an oath, “if necessary, according to her religion/*katiyen aslı olmadığını ve icab ederse ayini üzerine yemin dahi edeceğini.*” BOA, İ.MMS. 17/252.

48 Text: “*bu iş olur ise asıl o zaman rahatsız oluruz ve ziyade sefalet çekeriz* [If this happens, then we will truly be troubled and suffer greatly].” BOA, İ.MMS. 17/252.

become the most valuable Ottoman product in the international market.<sup>49</sup> Hüseyin's enterprise was supported by Emine Hanım, who was clearly very fond of Hüseyin. On one occasion, she told her daughter that she gave Hüseyin a diamond ring, "so that, [she added] he will take me when something happens to your father."<sup>50</sup> During the interrogation, her chambermaid, a Circassian slave named Cihanfer, told the officers that whenever they went out, her mistress visited Hüseyin's shop. She sometimes brought him clothes that she tailored and sometimes gave him clothes belonging to the Pasha. They spoke in Greek, which she did not understand but, on a few occasions, she saw her mistress giving him some money. Curiously, Şükrü Bey twice visited Hüseyin in his shop. On one of these visits, Hüseyin asked if the Pasha was behaving nicely. When the answer was affirmative, Hüseyin looked pleased. While stirring up the charcoal in the brazier, he said "praise be to God, that is as it should be." With this ominous note, Şükrü Bey departed from the shop only a few weeks before the event.

## Murder

February 16, 1860, was a Thursday. Young İbrahim did not go to school that day. Instead, his mother sent him to Hüseyin's shop with a message, a request that he come that night. The backdoor of the house would be open. The accounts of the ensuing events, particularly the reactions of Emine and Hüseyin upon being apprehended, are inconsistent. Hüseyin, resigned to an inescapable fate, did not wish to face the consequences alone, hoping the entire family, excluding Hanife, the daughter, would share his misfortune.<sup>51</sup> Emine, on the other hand, was uncertain about her future and sought to protect her children at any cost. Consequently, young İbrahim's message was interpreted and recounted differently by each party. Hüseyin portrayed İbrahim's tone as threatening and imperious, as if to say, "Of course, you will come." Emine's account, however, framed the invitation in a more congenial light, akin to a casual social call.<sup>52</sup>

49 See Cevdet Paşa, *Ma'rûzât*, 8–9; Murat Birdal, *The Political Economy of Ottoman Public Debt: Insolvency and European Financial Control in the Late Nineteenth Century* (London: I.B.Tauris, 2010), 129.

50 BOA, İ.MMS. 17/252.

51 Text: "*Paşanın büyük kerimesi Hanife hanımdan kendisi böyle söz işitmeyip* [From the Pasha's great daughter, Hanife, he did not hear such words]." BOA, İ.MMS. 17/252.

52 Text: "*Kapı açıktır gelsin, beklerim* [The door is open, he can come. I'll be waiting]." Emine later claimed that her invitation was just a joke (*latifeden ibaret*).

Emine must have felt uneasy after sending the communication. She either did not trust İbrahim to deliver the message or did not trust Hüseyin to act upon it. In any case, when the “black cook” of the konak, a certain Ferah Kadın, announced that she would go to the wedding of an acquaintance, Emine Hanım showed inappropriate eagerness to participate in the ceremony.<sup>53</sup> This clearly raised İbrahim Pasha’s suspicion and he asked his odalisque, another Circassian slave named Seza, to join Emine. Seza went downstairs and told her mistress that she was also coming. The three left the konak and began walking towards Sultanahmet. There Emine saw her son İbrahim in Hüseyin’s shop and joined them. The cook left to mind her own business, and Seza stayed with Emine. As Emine and Hüseyin spoke in Greek, Seza could not follow the conversation. Hüseyin’s statements, however, fill the gaps in Seza’s account. According to Hüseyin, Emine told him, quietly: “your Pasha is out of control, enough is enough. You must come tonight.” If Hüseyin protested, as he purported to have done, Emine convinced him by saying that she took full responsibility. “Let it be my own head,” she said and left the shop.<sup>54</sup>

Following dinner that night, Emine Hanım urged her daughter to play the piano for the Pasha.<sup>55</sup> So Hanife and other concubines went into the piano

53 According to the documents, the wedding the cook was supposed to attend had been postponed. Emine may have asked the cook to use the wedding as an excuse, knowing that it was postponed.

54 “*Günahı boynuma*,” literally “may its sin be on my neck,” an almost prophetic statement. BOA, İ..MMS. 17/252. The *Levant Herald* provided a more sordid account: “On the evening of the 16th inst., she went, accompanied by a confidential slave, to the shop of her lover, and there bribing him with a diamond ring, worth some 7,000p., promised that, if he disposed of the old man both herself and her daughter would marry him. What passed during the negotiation is said to have been freely detailed before the Minister of the Police, and, from the report of it which has reached us, it appears that Hadgi Hussein-lover’s name-at first stoutly refused to commit the act, but that when the daughter (a young and pretty girl) was thus added to the bargain, he finally yielded and engaged to perform the deed that evening.” Anonymous, “[In our paper of Wednesday last we reported the murder of the Ferik İbrahim Pasha],” *Levant Herald*, 29 February 1860, 517. Bits and pieces of Hüseyin’s testimony are consistent with the *Levant Herald*’s account: “*Purlanta taşlı bir yüzük verib, sen paşayı telef eyle, biz mirasçı değil miyiz? Bu yüzük sende nişan dursun dediğini ... kızını kocaya vermeyip, ‘bakalım bunun vücudunu Allah kaldırır ise ol vakit bir şeye benzetiriz’ diyü giya kızını kendisine vermek fikrinde olduğunu hanımın kendisine ima eylemiş idüğünü* [After giving a diamond ring, [she said] “You kill the Pasha; aren’t we his heirs? Let this ring be a token for you ...” [She] did not give her daughter in marriage, supposedly with the idea of giving her to him, saying ‘If God takes away his life, then we can consider [the marriage];’ she hinted this to him, it was reported].”

55 The official documents state that the murder took place on Friday night around 2:30 am. This is not as late as it sounds. The Ottomans used a complicated time keeping system based on the movement of the sun. The clocks were set to show 12:00 every day at

room and played some music. This was a disguise to mask Hüseyin's entry into the house. At that moment, Seza heard the opening of an ordinarily closed two-winged door. Curious, she peeped into the hall, where she saw Emine Hanım putting a key into her pocket. Emine went downstairs and opened the door for Hüseyin. She asked him to wait there and returned to the music room. She announced that the Pasha did not want to be disturbed anymore and led them to the salon. Then she and Hüseyin went up to the Pasha's room. There are conflicting statements regarding the events that followed. Emine contended that she entered the room to stir up the charcoal in the brazier, a claim that appeared quite often in testimonies. In fact, her real motivation was to check on the Pasha. Seeing that he was lying inebriated on the sofa, she left the room and told Hüseyin not to shed blood. Rather, she instructed him to strangle the Pasha with a rope, a punishment reserved for Ottoman high officials until the proclamation of the Tanzimat Edict in 1839.

Emine's insistence on asphyxiating the Pasha rather than shedding his blood suggests that she possessed at least a rudimentary legal knowledge. According to the Hanafi law school, which was the preferred legal tradition among Ottoman scholars, capital punishment may only be imposed if the homicide involves a weapon capable of shedding blood. As Colin Imber explains, the Hanafis regard a murder as "intentional" solely when the perpetrator utilizes an "offensive weapon," that is, either a weapon designed for warfare or a tool created for taking lives. Conversely, the Hanafis classify any other means of causing death, even poisoning, as "unintentional." The same principle was also applied in Mughal India.<sup>56</sup> Therefore, Emine's decision to instruct Hüseyin to strangle the Pasha with a rope may reflect her comprehension of Hanafi law.<sup>57</sup>

According to her testimony, Emine remained outside the room until the deed was done. By contrast, Hüseyin insisted that she entered the room with him. He had a change of heart about strangulation. He had a knife on his person and descended upon the Pasha. He pressed İbrahim Pasha's face with his left hand and cut his throat with his right. At that moment, he averred,

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sunset. On February 16, 1860, the sun set at 17:48. This puts the murder at around 20:15. On Ottoman *alaturka* clocks, see Avner Wishnitzer, *Reading Clocks, Alla Turca: Time and Society in the Late Ottoman Empire* (Chicago: University of Chicago Press, 2015), 17–44.

56 See Radhika Singha, *A Despotism of Law: Crime and Justice in Early Colonial India* (Oxford: Oxford University Press, 2000), 15.

57 See Colin Imber, "Why You Should Poison Your Husband: A Note on Liability in Hanafi Law in the Ottoman Period," *Islamic Law and Society* 1: 2 (1994): 207–08. "According to Abu Hanifa, *kisas* is not necessary for someone who murdered [his victim] by asphyxiating, throwing from a high place or into a well." Shams al-A'imma al-Sarakhsi, *Kitāb al-Mabsūt*, 10 vols. (Istanbul: Çağrı Yayınevi, 1983), 9:152.



Emine was holding the Pasha's legs.<sup>58</sup> The deed took only a few seconds. But it was not as quiet as they anticipated. The Pasha's howls alarmed the entire family. Emine rushed into the living room saying, "do not leave the room, it might be the Nogays. They will kill you as well."<sup>59</sup> Then she locked the door. At that time, waves of Tatar immigrants were pouring into the Ottoman Empire from the Crimean Peninsula after their expulsion from Russia.<sup>60</sup> Over the next few decades, hundreds of thousands of refugees would be resettled in different parts of the Empire. Naturally, this caused friction with the local population.<sup>61</sup> But Seza, the Pasha's odalisque, was not so easily restrained. She broke the windows and began screaming. The first people to arrive at the scene were from the *selamlık*, the men's quarters of the konak. These included Şükrü Bey, a new servant who had been hired only a day previously, and a few other guests.<sup>62</sup> The doorkeepers of the adjacent konak soon followed. In no time, the police rounded up everyone in the house and took them to the police headquarters, *Bâb-i Zabtiyye*. Seza voiced her suspicion of Hüseyin. The officers found him in his shop, changing his outfit. He was cleaning up after the crime. There were cuts on his hands and some of his clothes were bloodstained. He broke down and confessed everything.<sup>63</sup>

58 BOA, İ.L.MMS. 17/252.

59 This statement is from Seza's testimony. In Hanife's testimony, "Nogays" becomes "Circassians." Seza was a Circassian.

60 Donald Quataert, "The Age of Reforms, 1812–1914," in *An Economic and Social History of the Ottoman Empire*, ed. Halil İnalcık et al. (Cambridge: Cambridge University Press, 1997), 794.

61 Considering the numbers of immigrants, criminal problems in surprisingly low. See, for instance, BOA, A.}MKT.MVL.119/28, 4 Safer 1277 (August 22, 1860).

62 The *selamlık* was the public section of a konak where male guests and callers were entertained. For details, see Benjamin C. Fortna, "Reading between Public and Private in the Late Ottoman Empire and the Early Turkish Republic," *Comparative Studies of South Asia, Africa and the Middle East* xxx:3 (2010): 564.

63 In the *Levant Herald*, we find a slightly different version: "the cries of the family soon brought some of the servants and an aide-de-camp of the Seraisker to the spot. By an accident, the aide-de-camp had seen the *hanum* enter the house of her lover that evening and suspecting her object, he now proceeded at once to the house of the tobacconist. There he found the murderer with blood on his cloths and with the knife by which the act had been done." Anonymous, "[In our paper of Wednesday last we reported the murder of the Ferik İbrahim Pasha]," 517.

## Legal Change During the Tanzimat Era

Following the abolition of Janissaries in 1826, the Ottoman Empire experienced profound transformations in every domain, from education to governance. According to Elias Gibb, Mahmud II transformed the “old half-Asiatic half-Byzantine Turkey which had carried down into the nineteenth century many of the scenes and not a few of the principles of the days of the Seljuqs and the Paleologi.”<sup>64</sup> This was no exaggeration. Tanzimat figures such as Kethüdazade Mehmed Efendi were very much aware of the vast transformations that were changing the face of their Empire.<sup>65</sup> The policies of Mahmud II reached an apex during the reign of his son, Abdülmecid, with the proclamation of Tanzimat Rescript in 1839. The Tanzimat (literally, reorganization), promised, among other things, new laws.<sup>66</sup> This undertaking was dutifully followed by Ottoman officials and a new Penal Code was enacted in 1840. In many respects, the Penal Code of 1840, and its slightly better organized successor, the Penal Code of 1851, largely imitated the old Ottoman kanunnames. They did not introduce any legal or practical novelty, but rather stipulated the appropriate penalty for each criminal offense.<sup>67</sup> Islamic legal procedures were still followed meticulously in every judicial case, and the Penal Codes of 1840 and 1851 were, in a nutshell, the products of the general codification vogue of the Tanzimat Era.

The Penal Code of 1858 was of a different order. It was a product of the zeitgeist in the 1850s. “A penal code,” as Hegel pointed out, was “primarily the child of its age and the state of civil society at the time.”<sup>68</sup> Particularly after the Crimean War, the integration of the Ottoman Empire into the European economic and political orbit increased significantly, resulting in a growing European presence in the country. The growing and increasingly complex business and political relations made the legal system, based on Islamic law, inconvenient. There was a sense of optimism and camaraderie between the Ottoman and European statesmen. Together, they organized the proclamation

64 E. J. W. Gibb, *A History of Ottoman Poetry*, ed. Edward G. Brown, 6 vols. (London: Luzac, 1905), 4:311.

65 See, for instance, Emin Emin Efendi, *Menâkıb-ı Kethüdâzâde el-Hac Mehmed Ârif Efendi* (İstanbul: s.n., 1305/1887), 57, 312–13.

66 Anonymous, *Düstûr*, Tertib-i Evvel ed., 4 vols. (İstanbul: Matbaa-i Amire, 1289-1872/1873), 1:5. For the full text, see *Ibid.*, 4–7.

67 Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2006), 129–30.

68 G.W.F. Hegel, *Outlines of the Philosophy of Right*, trans. T.M. Knox (Oxford: Oxford University Press, 2008), 207.

of the Islahat Rescript, which heralded a new and more comprehensive Penal Code, the Imperial Ottoman Penal Code of 1858.<sup>69</sup>

The new code borrowed heavily from the French Code pénal of 1810, created under Napoleon. The Code pénal was simply worded compared, for instance, to the technical Bavarian Code of 1813.<sup>70</sup> This facilitated its adaptation, as the Ottoman elite, much like their Russian counterparts, were predominantly educated in French.<sup>71</sup> A committee, which included notable figures such as Ahmed Cevdet Pasha, prepared the code.<sup>72</sup> The presence of the high ulama was intended to guarantee due respect for Islamic precepts. Yet the result was a mixed bag. The pressures of Tanzimat political life and the respect for sharia created a dual legal system. Suspects were first tried according to Islamic regulations. If they survived, this was followed by regular (*nizami*) proceedings. Even though the Tanzimat laws stated that they were not intended to replace sharia laws, the government became an interested party in the punishment of a murderer. Increasing government involvement in punishment continued with the introduction of the public prosecutor in 1870.<sup>73</sup>

### *Kisas and Siyaseten Katl*

According to the Islamic law, homicide has a tort-like character, and a trial takes place only if the victim's heirs seek to bring the culprit to court. In the Ottoman Empire, murder was relegated to the domain of private law, if the term may be permitted, where the state's involvement was minimal. When a suspect is proven guilty, a challenging task because of the complicated legal requirements, he or she is either face death in retaliation (*kisas*) or asked to pay

69 Kent F. Schull, "Criminal Codes, Crime, and the Transformation of Punishment," in *Law and Legality in the Ottoman Empire and Republic of Turkey*, ed. Kent F. Schull, M.Safa Saracoglu, and Robert W. Zens (Indiana University Press, 2016), 160.

70 Marc Ancel, "The Collection of European Penal Codes and the Study of Comparative Law," *University of Pennsylvania Law Review* 106:3 (1958): 354–55. Strangely, in a new collection of articles that analyzes the influence of the 1810 Penal Code on indigenous legal systems from Mexico to Austria, the Ottoman Empire and the Penal Code of 1858 is not mentioned once. Aniceto Masferrer (ed.), *The Western Codification of Criminal Law: A Revision of the Myth of its Predominant French Influence* (Berlin: Springer, 2018).

71 See, for instance, François Georgeon, "La formation des élites à la fin de l'Empire ottoman: le cas de Galatasaray," *Revue des mondes musulmans et de la Méditerranée*, 72 (1994): 18–19.

72 Cevdet Paşa, *Tezâkir 40 – Tetimme*, ed. Cavid Baysun, 4 vols. (Ankara: Türk Tarih Kurumu, 1991), 4:73.

73 Avi Rubin, *Ottoman Nizamiye Courts: Law and Modernity* (New York: Palgrave, 2011), 134.

bloodmoney (*diyyet*).<sup>74</sup> As mentioned before, Abu Hanifa classified homicide into three categories: intentional, semi-intentional and accidental. *Kisas* could only be demanded by the relatives in cases of intentional murder, such as when a sword is used.<sup>75</sup> Ottoman authorities exercised great caution regarding the correct procedures. In 1847, when a local Christian, Mihali, murdered Mustafa Malakaraki, a local Muslim, in the town of Kisamo (Kissamos) near Chania, modern Greece, his execution was delayed until the word intentional (*taammüd*) was added into the court decree (*ilam*).<sup>76</sup>

The available evidence suggests that the government preferred *diyyet* over retaliation whenever feasible.<sup>77</sup> This preference was consistent with practices in earlier centuries. Remarkably, even in cases of violent crime, the victim's family had the discretionary right to grant forgiveness, as happened in numerous cases.<sup>78</sup> Obviously, financial or other considerations affected family decisions. But even in cases in which undue influence can be dismissed as impossible, families manifested genuine displays of clemency. A little girl named Ümmügülsüm, for instance, the daughter of a local man of some distinction from the Morea, was murdered by a black female slave of the house, Nursiye bint-i Abdullah, who threw the little girl into a well in the garden. Nursiye confessed the deed, and the religious authorities approved her *kisas*. At the eleventh hour, however, the mother, Selime Hanım, forgave her. Evidently, Nursiye could not pay the blood money, and it is unlikely that the family would have been intimidated by their own house slave.<sup>79</sup>

If a murderer was exempted from *kisas*, this was accepted as a personal matter, and encouraged to a certain extent. However, this did not stop the

74 Rudolph Peters, "Murder on the Nile: Homicide Trials in 19th Century Egyptian Shari'a Courts," *Die Welt des Islams* 30:1/4 (1990): 102.

75 Al-Sarakhsi, *Kitāb al-Mabsūt*, 9:122–28.

76 "On the back of the document, which requested the death sentence, the authorities had written: "*lakin lafz-i taammüd tasrih olunmamağla* as the word intentional is not explicitly declared." See, BOA, MVL 36/55, 17 Şevval 1263 (September 28, 1847).

77 If there was no legal heir to follow legal procedures, the government stepped in and requested blood money. In most such cases, the government put the money into the Treasury (*Beytulmâl*). See, for instance, BOA, A.}MKT.MVL. 121/92, 16 Rabiulahir 1277 (November 1, 1860), BOA, A.}MKT.MVL. 122/53 13 Cemazeyilevvel 1277 (November 27, 1860).

78 Süleyman Beşoğlu Hasan bin Hüseyin, for instance, killed Ali bin Hüseyin with an iron rod that entered one ear and emerged from the other. The family forgave Hasan and he was sent to forced labor. BOA, A.DVNS.NEFY.d.7, 11. BOA, A.}MKT.MVL. 91/86, 1 Rabiulahir 1274 (November 19, 1857).

79 The document does not directly discuss the reason for the murder, or for clemency, but it suggests that the mistreatment of slaves should be avoided. BOA, MVL 68/24, 7 Rabiulevvel 1262 (March 5, 1846).

government from punishing the offender in accordance with the new criminal code. Consistent with Article 172, “the killer pardoned from the punishment of Qisas [*sic*] or death is put to kyrek [forced labor] in perpetuity or temporarily for not less than fifteen years.”<sup>80</sup> The preferred destination for the punishment was Vidin, Bulgaria not far from the dockyards of Ruscuk.

As Emine Hanım’s case shows, the government occasionally intervened and bypassed the institution of retaliation. This was done under the guise of an old practice, *siyaseten katl* (political or administrative death penalty). Summary executions had been an integral part of Ottoman political life for centuries before its abolition during the Tanzimat era. When Mehmed II (d. 1481) found it difficult to get rid of his Grand Vizier, Çandarlı Halil Pasha (d. 1453), due to his family connections, he replaced him, after the execution, with Zaganos Pasha, a man of *devshirme* origin. The products of the child levy system were easy to eliminate, as Mehmed learned from experience, and no questions were ever asked. After Kanuni (d. 1566), administrative death penalty could be used indiscriminately for every member of the *askeri* class regardless of their origin, and the sultan’s word was sufficient to send all-powerful viziers to their death.<sup>81</sup> From a legal point of view, this would have been difficult to justify, if such justifications were ever sought, since it was necessary to obtain a fetwa before every execution. Nevertheless, the Ottoman ulama, who were notorious for accommodating the sultans’ controversial actions, such as permitting fratricide or imposing interest, refrained from challenging the authority of their rulers. Thus, as late as 1837, the second most powerful person in the Ottoman Empire, Pertev Pasha, was executed without any formal charge.<sup>82</sup>

With the advent of the Tanzimat, however, and under the influence of Reşid Pasha, who was a protégé of Pertev, Ottoman sultans found it difficult to exercise

80 John A. Strachey Bucknill and Haig Apisoghom S. Utidjian, *The Imperial Ottoman Penal Code: A Translation from the Turkish Text, with Latest Additions and Amendments, Together with Annotations and Explanatory Commentaries Upon the Text and Containing an Appendix Dealing with the Special Amendments in Force in Cyprus and the Judicial Decisions of the Cyprus Courts* (London: H. Milford, Oxford University Press, 1913), 126. The original of Article 172 is “kisas ya idam cezalarından afov olunan katil müebheten veyahut onbeş seneden akal olmamak üzere muvakkaten küreğe konulur.” See *Ceza Kanunname-i Hümayunu*, (İstanbul: Matbaa-i Osmaniye, 1299/1881), 63.

81 On *siyasten katl*, see Ahmet Mumcu, *Osmanlı Devletinde Siyaseten Katl* (Ankara: Ankara Üniversitesi Hukuk Fakültesi Yayınları, 1963), passim.

82 Pertev Pasha was dubbed the crownless king (*tuğsuz padişah*) because of his influence and power. See İbnülemin Mahmud Kemal İnal, *Son Asır Türk Şairleri*, 3 vols. (İstanbul: Orhaniye Matbaası, 1930), 2:1317. The details of his execution, in a rather romantic fashion, can be found in Lamartine’s account. Alphonse de la Lamartine, *Œuvres complètes de Lamartine: Histoire de la Turquie*, 8 vols. (Paris: Chez l’auteur, 1863), 6:418–20.

the old prerogative, and proper criminal procedures were almost universally followed.<sup>83</sup> Yet the old formula, *siyaseten katl* lingered, particularly for crimes like highway robbery, a serious offense in Islamic law.<sup>84</sup> More importantly for Emine Hanım's case, however, *siyaseten katl* could be implemented when the government sought to circumvent the legal complexities of a sharia court. In 1843, Feyzullah of Prilep, for instance, was executed because of his alleged heretical beliefs. According to the court record, he cursed Muawiyah (d. 680), the founder of the Umayyad Caliphate, and spurned the sunnah. Even worse, Feyzullah reportedly believed that Ali, the cousin and son-in-law of Muhammad, was Allah personified, and that Muhammed was merely his prophet.<sup>85</sup> These opinions were not well received by the Ottoman establishment and, after a short trial, Feyzullah was condemned to death. The document emphasized that Feyzullah's repentance was not acceptable and that his execution was legitimate, albeit only through *siyaseten katl*.<sup>86</sup>

Even in criminal cases, the government did not hesitate to use *siyaseten katl* as a convenient measure. In a recent article, Yavuz Aykan has traced the origins of this concept. Aykan suggests that Qarakhanid jurists initially formulated this notion to grant the sovereign the authority to punish not only "infidels" but also Muslims. Ottoman legal scholars subsequently expanded the scope of *siyaseten katl* by incorporating it into the larger framework of Hanafi jurisprudence, thereby increasing the legal system's capacity to impose penalties.<sup>87</sup> It is possible that *siyaseten katl* took on a public law dimension in the nineteenth century; if so, this would have been another adaptation to changing social and legal conditions. In fact, Ali Efendi's very interesting trial

83 The case of Midhat Pasha is a good example. See Avi Rubin, *Ottoman Rule of Law and the Modern Political Trial: The Yıldız Case* (Syracuse, New York: Syracuse University Press, 2018).

84 See, for instance, BOA, C..ADL. 81/ 4906 6 Rabiulahir 1274 (November 24, 1857) where Kulaksız Mehmed and his comrade Salim were politically executed (*siyaseten katl*) for highway robbery.

85 Text: "Ve haşa sümme haşa Hazret-i Ali benim Allahundur ve Hazret-i Muhammed onun peygamberidir diyü kaleme alınmaz ve lisana sığmaz bir takım kelimat [And absolutely God forbid, [he says] such words that cannot be committed to writing or uttered, like 'Hazret-i Ali is my God and Hazret-i Muhammed is His prophet']." BOA, İ..MVL. 48/915, 7 Safer 1259 (March 9, 1843).

86 Text: "Dâ'î bî'l-fesâd olduđu ber mantuk-i ilam sâbit olmağla tevbesi makbul olmayub emr-i ulu'l-emr ile siyaseten katli meşru idüğü [As the person has been proven to be a spreader of corruption (dâ'î bî'l-fesâd) through logical evidence, their repentance is not accepted, and by the order of the highest authority, their execution for political reasons (*siyaseten*) is deemed legitimate]." Ibid.

87 Yavuz Aykan, "A Legal Concept in Motion: The 'Spreader of Corruption' (sâ'î bî'l-fesâd) from Qarakhanid to Ottoman Jurisprudence," *Islamic Law and Society* 26:3 (2018): 18–19.

in 1843 offers yet another example, much like Feyzullah's case, that illustrates the various ways in which *siyaseten katl* was applied and adapted within the Ottoman legal framework.

Ali Efendi assumed the role of sheikh at the Mevlevihane in Karahisar in 1836, following the death of the previous sheikh, Yahya Efendi.<sup>88</sup> Ali Efendi was a descendant of Rumi, the thirteenth-century Sufi mystic and held a prestigious position in the Ottoman religious hierarchy.<sup>89</sup> However, he also was reported to be a man of disreputable character. In 1842, the government exiled him to Konya because of his “bad deeds.” The document sentencing him to death is not clear regarding those deeds, but his later actions allow for informed speculation. Upon demonstrating repentance, Ali Efendi was permitted to return to Karahisar, where he shocked the town's residents by becoming intoxicated daily during Ramadan. A few months after the holy month, in January 1843, Ali Efendi drugged and raped a young boy named Derviş Mustafa, a novice under his charge, with the assistance of his disciples. When Derviş Mustafa resisted, he was murdered. The case involved high profile people, the culprits accused each other, and the victim had been strangled – a detail exploited by the perpetrators as an extenuating circumstance. Ali Efendi was tried four times before the assembly of Karahisar. Eventually, the religious authorities argued that he could either be exiled for a very long time, a solution that they seemed to prefer; or else, they postulated, he could be executed through *siyaseten katl*.<sup>90</sup> In other words, he could not have been sentenced to capital punishment by a sharia court. He was put to death by royal writ and later became known as Ali Efendi the Martyr (Şehid Ali Efendi) in Mevlevi circles.<sup>91</sup>

These lawsuits show that when it was difficult to secure an execution from a purely legal perspective, the office of the Sultan, or in its name, *Meclis-i Vâlâ*, was able to apply such punishment even during the Tanzimat era. The penalty

88 BOA, AE.SMHD.II. 29/1802, 3 Zilkade 1251 (February 20, 1836).

89 Yusuf İlgar, *Tarih Boyunca Afyon'da Mevlevîlik* (Afyon: Türkeli Yayınları, 1985), 87.

90 BOA, A.DVNS.NEFY.d, 1, 99, Evâhir-i Safer 1259 (ca. the end of March, 1843).

91 Text: “*Merkumanın siyaseten katl ve idamları hususuna irade-i katia-i milükânem taallukuyla ol babda emr-i hümayun-i celadet-makrun-i padişahanem mehâbet-riz-i sunuh ve sudur olmağla muktezâ-i celâdet-ihtivasi üzre icrâ-i icâbina ibtidar olunması fermanum olmağın* [In regards to their political executions, it is imperative that our monarchy's firm decision is carried out in accordance with the imperial order of our glorious sultan, whose generosity and magnificence are boundless and whose majestic authority must be upheld].” Ibid. “He was probably executed in 1842 for reasons unknown today. He is known as “Ali Efendi the Martyr” in Mevlevi circles.” Abdulhalim Durma, *Evlîyalar Şehri Afyonkarahisar* (Ankara: Yenigün Matbaacılık, 2009), 209.

was not personal, as it had been in the past (*siyaset ederim*), but rather was issued by the impersonal agency of the state. This transition reflects what Ruth Miller calls “the law’s increasing abstraction.”<sup>92</sup> Although the institution of *siyaseten katl* may, in some respects, be viewed as a continuation of an old practice, it is crucial to underscore that it acquired an exclusively public-law-like character during the Tanzimat era. Its implementation was no longer immediate and may be connected with the concept of the “positivization of the law.”<sup>93</sup>

In other words, after 1839, *siyaseten katl* was used mostly to appease public sensibilities and not, as had often been the case previously, to punish statesmen who had fallen from grace. For instance, in 1856 when Şevki Pasha was slain by a member of his entourage because of a personal debt, the culprit, a certain Mehmed, was hanged, after legal deliberations, in a public square “owing to the shocking nature of his crime and as an example to others.”<sup>94</sup> The legal formula used to justify his execution was again *siyaseten katl*. Clearly, the nature of the crime was the determining factor in the government’s involvement in the process.<sup>95</sup> When a crime violated societal boundaries, the government took an interest and the flexible nature of *siyaseten katl* allowed the government to punish criminals without legal complexities.

A final point relevant to Emine Hanım’s case is the question of murder among family members, especially between spouses. The problem has perplexed Muslim scholars for centuries and each school came up with

92 Ruth A. Miller, *Legislating Authority: Sin and Crime in the Ottoman Empire and Turkey* (New York: Routledge, 2005), 2.

93 On the emergence of an Ottoman public, see Murat R. Şiviloğlu, *The Emergence of Public Opinion: State and Society in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 2018), passim.

94 Text: “*Pek feci olarak su-i tesiri ve insilab-ı emniyet mucibi olmasıyla ibret-ül ilgayr, bila ifate katil-i merhum siyaseten Beyazid havlisi merkezinde bulunan büyük ağaca salbıyla yirmi dört saat durduktan sonra cesedinin kaldırılması zammında* [Due to its extremely appalling effect and the resulting loss of security, the perpetrator should be executed without delay as a lesson for others. After being hanged on a large tree in Beyazid Square, his body should remain for 24 hours before being removed].” On this interesting case, see BOA, İ..MVL. 373/ 1637, 5 Zilkade 1273 (June 27, 1856).

95 For example, the murderer of Hasibe, Ismail, a habitual criminal, could not be sentenced in a sharia court since the victim’s heir was a young child. It was obvious that the government did not wish to wait for the heir to come of age. Consequently İsmail, who could not have been legally executed until the infant reached puberty (*bulûğa vusulüne kadar*), was hanged politically (*siyaseten*) in Üsküdar. See BOA, C..ADL. 21/1254, 29 Muharrem 1274 (September 19, 1857). But there are also cases in which the government had no problem waiting for *vasi* to come of age or to take the *diyet* on account of heir’s minority. See BOA, A.}MKT.MVL. 100/80, 25 Muharrem 1275 (September 4, 1858) and BOA, A.}MKT.MVL. 84/34, 6 Cemazeyilahir 1273 (February 1, 1857).



different solutions.<sup>96</sup> The Hanafis argued that “if a person inherit [sic] the right of retaliating upon his parent, the retaliation fails, and is remitted, because of the reverence for paternity.”<sup>97</sup> In many cases, *kisas* was considered void (*uskat*), if one parent killed the other. Çakıroğlu Mehmed of Sivas, for instance, murdered his wife on the suspicion that she was having an affair. He admitted shooting her with a rifle, which necessitated *kisas*, as the document emphasized, because a rifle is a deadly weapon. Yet the *fetvahane* reasoned that because the deceased “had children from the aforementioned murderer, *kisas* became void and the matter lost its religious character.” As a result, he was sent to prison for a period of not less than fifteen years in accordance with the new criminal code.<sup>98</sup>

Çakıroğlu Mehmed’s relatively lenient punishment was not a simple matter of androcentric bias. When Şerife killed her husband in the city of Bartın by striking his head with an axe in 1841, she was spared retaliation under what one might call favorable conditions.<sup>99</sup> Again, the reason was that the couple had children and thus *kisas* could not be authorized.<sup>100</sup> The existence of offspring was the decisive factor in the kadi’s judgment, as the phrase “reverence for paternity” suggests. In the absence of children, it was not unusual to see *kisas* verdicts delivered for spouses.<sup>101</sup> Naturally, children from a different partner

96 See, for instance, Abū Bakr Muḥammad ibn Ibrāhīm ibn al-Mundhir al-Nīsābūrī al-Shāfi‘ī, *al-Awsaṭ fi al-Sunan wa-l-ijmā‘ wa-l-ikhtilāf*, 7 vols. (Dār al-Kitāb al-‘Ilmiyah: Bayrūt, 2012), 2:257. Additionally, refer to Muḥammad Abū Zāhrah, *al-Jarīmah wa-l-‘Uqūbah fi al-Fiḡh al-Islāmī* (al-Qāhirah: Dār al-Fikr al-‘Arabī, 1976), 425–26.

97 See [Burhan al-Din al-Marghinani], *The Hedāya or Guide: A Commentary on the Mussulman Laws*, trans. Charles Hamilton, 4 vols. (London: T. Bensley, 1791), 4:282. Also see al-Marghīnānī, *Al-Hidāya*, 8:15. Reverence for paternity was generally shared by later Ottoman and Turkish scholars. See, for instance, Ömer Nasuhi Bilmen, *Hukukī İslamiyye ve İstilahatı Fıkhiyye Kamusu*, 8 vols. (İstanbul: Bilmen Yayınevi, 1968), 3:65.

98 BOA, A.}MKT.MVL. 125/42, 20 Şaban 1277 (March 3, 1861).

99 Despite her confession, she did not have to pay the bloodmoney in full and while in prison her needs (*infak ve iksa*) were paid from the public purse. BOA, C..ADL. 97/5829, 24 Rabiulevvel 1257 (May 16, 1841).

100 Text: “*Sagiran-ı mezburan katile-i merkumenin batunundan mütevellide olduklarından bu babda taleb-i kisas meşru olmayıp* [since the aforementioned infant was born from the womb of the executed murderer, the demand for retaliation in this regard is not legitimate].” Ibid.

101 According to one document found in the archives, Habib bin Osman’s bereaved family forgave the wife at the very last moment, probably just before the execution, for his intentional murder in 1851/52 (no precise date given in the document). It is not clear who the heirs were, but no child is mentioned. Whoever they were, they did not demand *dīyet*. This, however, did not stop the authorities from sending the wife to prison in accordance with the penal code: “*Verese-i mezbure merkumeyi kisas ve diyetten afv etmiş ise de madde-i katle amden icisarı sabit olunması cihhettiyle nizamen mücazat olunmak*

altered things. In 1852, when Abdurrahman of Kayseri was murdered at the instigation of his wife, his four children from a previous marriage demanded and secured a *kısas* for their stepmother, Şerife.<sup>102</sup> But the authorities were careful and did not demand *kısas* when the people in question were blood related.<sup>103</sup> For this reason, even in cases of matricide, it was clearly stated that the culprit could not be punished according to sharia regulations.<sup>104</sup>

### Afterwards

The murder became an immediate sensation in the capital. The *Journal de Constantinople*, the French-language newspaper of Istanbul, announced it the very next day, erroneously identifying the victim as “Muchir Abdi pacha,” an error that they corrected in the next issue.<sup>105</sup> The *Journal* informed its readers

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*lazım geleceği ve bu makule katilenin beş seneden on seneye ...* [Although the mentioned heirs have pardoned the deceased from retaliation and blood money, since it has been proven that the murder was committed intentionally, it is necessary to be punished by the law, and for this reason, the murderer will be sentenced to five to ten years].” See BOA, A.}AMD. 40/12, 1268 (1851/52).

102 See BOA, A.}MKT. 120/26, 7 Cemazeyilevvel 1264 (April 11, 1848), BOA, A.}MKT. 123/98, 25 Cemazeyilahir 1264 (May 29, 1848): “*Müteveffa-ı merhum zevcesi mezbure Şerife ile medine-i mezbureden karyelerine giderken merhum Yusuf refakat edip, esna-i rahda merhum Şerife müteveffa-i merkumu üzerinde mevcut elbise ve saatini ve daha ne ister isen veririm katil eyle ...* [While traveling together from the mentioned city to their village, the now deceased man and his wife Şerife, told Yusuf, who accompanied them, that she would give him the clothes, watch, and anything else he wanted if he killed her husband].”

103 In cases of collateral consanguinity, there were different arguments. See, for instance, a fetwa written by Sheikhulislam Mekkizade Mustafa Asım Efendi (d. 1846): “if Zeyd murders his sister’s son, Amr, can the sister, Hind, seek *kısas*.” His answer, in accordance with the fetwa tradition, was short and certain, “she can.” See BOA, HAT 522/ 25503, 29 Zilhicce 1234 (October 19, 1819).

104 See BOA, A.}MKT.MVL. 127/98, 11 Zilkade 1277 (May 21, 1861): “*veresenin merhum Şaban’dan nesne davasına kadir olmayacakları canib-i fetvahaneden beyan kılınmış ve o halde madde-i katlin icab-ı şeriatca hükm götürür mahali kalmayıb katil merhumun kanunen icra-i mücâzâtı lazım gelmiş olacağına, bu makule kıstanan af olunan katilin müebbeden ve yahud on beş seneden az olmamak ...* [It has been declared by the religious authorities that the heirs of the victim cannot demand anything from the accused, Şaban. Therefore, from a Sharia point of view, there is no place for the application of the death penalty, and the punishment of the culprit must be in accordance with the law. As the killer who is pardoned from retaliation will be subject to life imprisonment or a minimum of fifteen years in prison ...].”

105 Anonymous, “[Un crime horrible],” *Journal de Constantinople*, 18 Février 1860, 1; Anonymous, “[Dans une chronique locale contenue dans notre numéro de samedi],”

that the culprits were “conducted to the Zaptiye under heavy guard.” Hüseyin, it claimed, was the “tchiboukdji” of İbrahim Pasha. A *çubukçu* (in modern Turkish orthography) is the person responsible for the maintenance of smoking pipes in wealthy households and traditionally was very close to his master.<sup>106</sup> It is not possible to verify this information, but it aligns well with Hüseyin’s later choice of occupation as a tobacco dealer.

We know surprisingly little about Ottoman criminal procedures during the Tanzimat Era. Officially, torture and other forms of corporal punishment were abolished after 1839, yet the archives are filled with Tanzimat petitions by people who complained of maltreatment at the hands of authorities.<sup>107</sup> Judging from available documents, both Hüseyin and Emine appeared too eager to talk during their interrogations. As noted, they blamed each other and answered questions without much hesitation. In writing down the testimonies, the state authorities used a dry and almost clinical language. In France, only a few decades previously, Pierre Rivière was bullied by his interrogators with questions like “How, you wretch, does not the sight of this instrument cause you to shed a tear?”<sup>108</sup> In the case of Hüseyin and Emine, the officers were careful not to show any personal feelings in the documents.<sup>109</sup>

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*Journal de Constantinople*, 20 Février 1860, 4. The Ottoman newspapers, *Takvim-i Vekayi* and *Ceride-i Havâdis*, the official and semi-official gazettes respectively, were careful and talked about the murder only after the executions took place. For the *Takvim*’s version of the event, see Anonymous, “[Mercan Semtinde Kain Hanesinde Maktulen Vefat Eden],” *Takvim-i Vekayi*, 581, Şaban/March 1276/1860, 2. For the *Ceride-i Havâdis* see Anonymous, “[Mütekaidîn-i Ferikân-ı Kirâmdan İbrahim Paşa Evvelki Hafta],” *Ceride-i Havâdis*, 14 Şaban/7 March 1276/1860, 1–2.

106 The loyalty of *çubukçu* for their masters was proverbial: “mais toujours est-il que, dans les repas, dans les visites, dans les conseils, tout Samoan d’une certaine maturité et d’une certaine importance, est accompagné de son pigeon et a derrière lui son porte-oiseau, comme un dignitaire turc a son tchiboukdji.” M. H. De Coux, “Excursions dans quelques-unes des îles évangélisées – Samoa,” *Revue contemporaine et Athenaeum français* v:XXVIII (1856): 612.

107 An order from 1845 stipulates that one should not torture or maltreat suspects above and beyond what the sharia permitted. BOA, C..ADL. 83/4986, 21 Zilhicce 1262 (December 10, 1846). On the banning of torture and its later “sporadic use,” see Omri Paz, “The Policeman and State Policy: Police Accountability, Civilian Entitlements, and Ottoman Modernism, 1840–1860s,” in *Society, Law, and Culture in the Middle East*, ed. Dror Ze’evi and Ehud R. Toledano (Warsaw, Poland: De Gruyter Open Poland, 2015), 116–18. Also see İbrahim Halil Kalkan, “Between Medicine and Honor: The Legal Ban on Torture in the Ottoman Empire, 1840–1858,” *Journal of the Ottoman and Turkish Studies Association* 4:1 (2017): 31–53.

108 Michel Foucault, *I, Pierre Rivière, Having Slaughtered My Mother, My Sister, and My Brother: A Case of Parricide in the 19th Century*, trans. Frank Jellinek (Lincoln and London: University of Nebraska Press, 1982), 38.

109 There is only one slip. Once, Hüseyin and Emine are referred to as *habisler* (villains).

After their cross-examination, Hüseyin and Emine were brought before the *Meclis-i Vâlâ* or what the *Journal de Constantinople* calls the “Grand Conseil de Justice.” The *Meclis-i Vâlâ* was established in 1838 as the highest legislative and judicial authority to preside over the reforms of the Empire. Despite a habitual pruning of its administrative powers, at the time of the event it was still the highest appellate court that reviewed and approved the decisions of Islamic (*şer’i*) and regular (*nizami*) tribunals. Among its permanent members, there was a house Mufti (*Meclis-i Vâlâ Müftüsü*) who oversaw the conformity of decisions to Islamic principles. In practice, the *Meclis-i Vâlâ* had no jurisdiction over criminal lawsuits, but in cases of great importance it functioned as a court of first and last instance.<sup>110</sup> Here, the culprits did not add anything to their original testimonies, although Emine insisted that she had asked Hüseyin to strangle the Pasha. She again denied taking part in the act of murder.<sup>111</sup>

The judgment was delivered with surprising speed, only two weeks after the murder. Hüseyin’s case was hopeless from the very beginning, as the ruling openly indicated.<sup>112</sup> There was not much discussion of his guilt or the punishment that he deserved. Little İbrahim was barred from his school, and Şükrü Bey was barred from the Translation Bureau, without the possibility of reinstatement. The anonymous author of the adjudication reluctantly noted that they were not directly complicit in the murder. However, it was evident to the author that they had some knowledge of the clandestine relationship between their mother and Hüseyin. The adjudicator emphasized that men with such weak moral character should not be employed in state service.<sup>113</sup> The concubines and the other members of the household were declared innocent, including a new slave girl named Fikriyar who had been purchased only two weeks previously and was unaware of what was happening in the house. The

110 See, for instance, the relevant clauses of 1851 Penal Code. Ahmed Lütfi, *Mirat-ı ‘Adalet Yahud Tarihçe-i ‘Adliyye-i Devlet-i ‘Alîyye* (İstanbul: Kitapçı Ohannes, 1304/1886-87), 160–61. Also see, Mehmet Seyitdanlıoğlu, *Tanzimat Devrinde Meclis-i Vâlâ, 1838–1868* (Ankara: Türk Tarih Kurumu Basımevi, 1994), esp. 118–21.

111 BOA, İ.MMS. 17/252.

112 According to Article 170, “If a person’s being a killer with premeditation is proved according to law, sentence for his being put to death is passed according to law.” See Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, 125. The original of the article is “*Bir kimsenin taammüden katil olduğu kanunen tahakkuk eyler ise kanunen idamına hüküm olunur.*” See *Ceza Kanunname-i Hümayunu*, 63.

113 Also see BOA, A.ŞMKT.MVL. 115/3, 18 Şaban 1276 (March 11, 1860). This is the order written to the Ministry of Education to expel İbrahim Bey permanently from the school and subsequently from state service.

names of the other guests suggest that they were from modest backgrounds and were present by accident.<sup>114</sup>

With regard to Emine, however, the text is detailed and technical. An undercurrent of anxiety runs through the screed, attempting to justify the death sentence. This anxiety is interesting. It clearly shows the emergence of a new legal discourse and its internalization by the Ottoman authorities. Only recently, women were thrown into the sea for less serious offenses and without any trial.<sup>115</sup> The author of the adjudication went to great lengths to explain that Emine was a joint perpetrator (*fail-i müsterek*), or even the sole perpetrator (*fail-i müstakil*) of the crime. Thus, she rightfully could be executed under Article 45, which stated that “in cases where there is no explicitness (*sarahat*) in the law, joint perpetrators in an offence are punished as is a sole perpetrator of such offence.”<sup>116</sup>

However, Emine was not executed under Article 45. Instead, the author of the adjudication asserted that Emine was a *sâ’î bi’l-fesâd* (spreader of corruption), which justified her political (*siyaseten*) execution. Muslim jurists often use the phrase *sâ’î bi’l-fesâd* to refer to habitual criminals, drawing on Qur’an al-Ma’idah 5:33, which mentions “those who ... spread mischief in the land.” This is an ominous formula because its adoption “invariably entailed the death penalty, even for relatively light offences.”<sup>117</sup> In a modified form, it was, for instance, pronounced against Feyzullah of Prilep (*dâ’î bi’l-fesâd*). Like the concept of *siyaseten katl* to which it is closely related, *sâ’î bi’l-fesâd* helped the sultan to circumvent the sharia penalties. Dede Cöngi, a sixteenth-century

114 These were Portakalçı (Orange Seller) Ömer and Çöpcü (Dustman) Hasan. The servant who was engaged only a day before was Mehmed from Ürgüp, a town in Cappadocia. BOA, İ.MMS. 17/252, 3 Şaban 1276 (February 25, 1860). Perhaps the family was ostracized from high Ottoman society because of İbrahim Pasha’s erratic behaviors.

115 See, for instance, the execution of prostitutes by “*deryaya ilka*” in 1808. Cabi Ömer Efendi, *Cabi Tarihi: Tarih-i Sultan Selim-i Salis ve Mahmud-i Sâni Tahlil ve Tenkidli Metin*, ed. Mehmet Ali Beyhan, 2 vols. (Ankara: Türk Tarih Kurumu Basımevi, 2003), 1:195. The following is from a letter written by Lord Sligo to Lord Byron in 1813: “In consequence, and in compliance with the strict letter of the Mahomedan law, he ordered this girl to be sewed up in a sack, and thrown into the sea, – as is, quite customary at Constantinople.” Thomas Moore, *Life, Letters, and Journals of Lord Byron: Complete in One Volume with Notes* (London: John Murray, 1839), 178. Also see one of Selim III’s orders, written in his hand, demanding a woman’s execution by throwing her into the sea in a sack, BOA, HAT 199/10077, 29 Zilhicce 1205 (August 29, 1791).

116 Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, 32. The original of the article is “*Bir cürmün müsterek failleri kanunun sarahati olmayan mevadde ol cürmün faili müstakili gibi mücazat olunur.*” See, *Ceza Kanunname-i Hümayunu*, 15.

117 Haim Gerber, *State, Society, and Law in Islam: Ottoman Law in Comparative Perspective* (Albany, New York: State University of New York Press, 1994), 98.

Ottoman jurist, argued that the death penalty may be applied, using *sâ'î bi'l-fesâd* to murderers who asphyxiated their victims.<sup>118</sup> Several sections in the penal codes of 1840 and 1851 deal with the chastisement of “spreaders of corruption.”<sup>119</sup> However, the Kanunname of 1858 omits the issue, probably because of its archaic connotations.

By levying the charge of *sâ'î bi'l-fesâd* without the support of a fetwa, the court breached the fundamental principle of the Penal Code of 1858. According to Article 171, “as the effect of the law cannot defat the personal rights, if there are heirs to the victim, the trial is assigned to sharia courts.”<sup>120</sup> In other words, Islamic law had precedence of jurisdiction over regular Nizami courts. But Emine’s case was never recounted in a sharia court, despite the existence of multiple heirs. According to the official document, this was not necessary. The author reasoned that if the case had been tried before a kadi, there would have been two possible outcomes. First, the heirs could have demanded retaliation, in which case the result would be the same. Alternatively, they could have forgiven her, something that the anonymous author found extremely disconcerting.<sup>121</sup> For him, showing clemency in a murder of this magnitude

118 Ahmed Akgündüz, *Osmanlı Kanunnameleri ve Hukuki Tahlilleri*, 11 vols. (İstanbul: OSAV, 1992), 7:142.

119 Text: “*Sâ'î bi'l-fesâd olanlar iki suretten hâli olmayıp birisi kavlen ve diğeri fiilen olacağından meselâ bir adam diğeri bir adamı ve yahud bir takım ademleri Devlet-i Aliyyeye ve kavanin ve nizâmâta mugayir harekete tergîp vadisinde fesatlı sözler söyleyecek olursa bir seneden beş seneye kadar fesadın derecesine göre vaz'ı kürek oluna* [Those who propagate corruption may do so in two ways: verbally or physically. For instance, if an individual incites another person or a group of individuals to act against the Sublime State, its laws, and established order through seditious language, they shall be sentenced to forced labor for a duration ranging from one to five years, based on the severity of their corrupt actions].” Lütfi, *Mirat-ı 'Adalet Yahud Tarihçe-i 'Adliyye-i Devlet-i 'Aliyye*, 130–31. For the full text of the Penal Code of 1840, see Lütfi, *Mirat-ı 'Adalet Yahud Tarihçe-i 'Adliyye-i Devlet-i 'Aliyye*, 127–50. The same article appears in the 1851 Penal Code, see Lütfi, *Mirat-ı 'Adalet Yahud Tarihçe-i 'Adliyye-i Devlet-i 'Aliyye*, 154. In the 1851 Penal Code, a new article was added for *sâ'î bi'l-fesâd* in the countryside: “*Taşralarda zuhur eden erbabı cünhadan katl ve sâ'î bi'l-fesâd olan büyük kabahatlardan maada* [Other than the great crimes committed by those who rebel in the provinces and those who strive to spread corruption].” Ibid., 171–72. For the full text of 1851 Penal Code, see Lütfi, *Mirat-ı 'Adalet Yahud Tarihçe-i 'Adliyye-i Devlet-i 'Aliyye*, 150–76.

120 Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, 126. The original of the article is “*Hüküm-ü kanuni hukuk-u şahsiyeyi iskat edemeyeceğinden maktûlün veresesi var ise anların iddiaları üzerine hukuk-ı şahsiye davası mehâkim-i şer'iyeye havale olunur.*” *Ceza Kanunname-i Hümayunu*, 63.

121 It should be noted that under common law, a wife who kills her husband is guilty of petty treason, which was punishable by being burned at the stake. This law was only abolished by the Offences against the Person Act 1828. See Deirdre Palk, *Gender, Crime*

and wickedness was not appropriate from any point of view.<sup>122</sup> The culprits, he concluded, would be executed near the Istanbul side of the New Bridge, in the paltry little square of William Knight.<sup>123</sup>

The text of the adjudication was later published, almost its entirety, in *Cerîde-i Havâdis*.<sup>124</sup> One significant omission, however, was the section in which the authorities attempted to justify the absence of the kadi court. The administration was aware that it was violating the law and sought to avoid doing so blatantly. Evidently, if Emine had been tried in a kadi court, she would not have been executed. As previously discussed in detail, *kıyas* was not applicable among family members, and from the perspective of sharia, this would have sufficed to set her free. Even if the plaintiffs had not been her own family, they would also have needed to establish precisely what Emine and Hüseyin did, since Islamic law does not recognize collective responsibility for homicide.<sup>125</sup> Moreover, as Colin Imber points out, “in cases of indirect killing, where A orders B to kill C, the law fixes liability on the contract killer, B. Unless A physically compelled B to carry out the act, he is not liable.”<sup>126</sup> Emine maintained that she acted under duress and coercion, alleging that Hüseyin threatened to kill her if she did not cooperate with him in committing the murder.<sup>127</sup> The sharia, with its inflexible application of criminal procedure, made it very difficult to prove a case even under more favorable conditions. Consequently, the authorities went to great lengths to enforce the death penalty upon her.

The decision to execute Emine is intriguing, especially when contrasted with the scrupulous observance of legality evident in contemporary cases. As Avi Rubin has argued, a new legal culture emerged within the Ottoman

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*and Judicial Discretion 1780–1830* (Suffolk: Royal Historical Society/Boydell Press, 2006), 33; Kirsten T. Saxton, *Narratives of Women and Murder in England, 1680–1760: Deadly Plots* (Farnham: Ashgate, 2009), 16.

122 Text: “*Halen ve maslahaten münasib olmayıb.*” BOA, İ.MMS. 17/252.

123 Text: “*Cisr-i cedidin İstanbul tarafına kain meydanda.*” BOA, İ.MMS. 17/252.

124 Anonymous, “[Mütekaidîn-i Ferikân-ı Kirâmdan İbrahim Paşa Evvelki Hafta],” 1–2.

125 On collective responsibility for homicide, see al-Sarakhsî, *Kitâb al-Mabsûṭ*, 9:127. Also see, Peters, “Murder on the Nile: Homicide Trials in 19th Century Egyptian Shari’a Courts,” 106–07.

126 Colin Imber, *The Ottoman Empire, 1300–1650: The Structure of Power* (London: Palgrave Macmillan, 2003), 223.

127 Text: “*Her vakit kendisi şu ademi telef edeyim, sen de kurtul ben de kurtulayım dîmekte ve kendisine muvafakat etmemekte olduğum halde nihayet bu söz ile bıkdırıp eğer ölmez ise konağa gelir ve duvardan aşar seni telef ederim diyü ben de havf edip* [Every time, he persistently told me, ‘Let me get rid of this person, so that both you and I will be saved,’ even though I did not agree with him. In the end, with these words, he wore me down. He said that if he doesn’t die, I will come to the mansion, climb over the wall, and kill you. This left me feeling fearful].” BOA, İ.MMS. 17/252.

Empire, characterized by a gradual yet growing emphasis on adherence to the law.<sup>128</sup> Examples of this transformation can be discerned already at the time of Emine's trial. Consider, for example, the case of the Kuleli conspirators who plotted to assassinate Sultan Abdülmecid in 1859. Instead of being executed, they were exiled to several locations within the Empire. Earlier, the authorities were reluctant to incorporate clauses related to *lèse majesté* from the French Code Pénal into the 1858 Ottoman Kanunname.<sup>129</sup> By appealing to the principle of “no penalty without law,” the conspirators were spared the death penalty, much to the chagrin of Âli Pasha and Fuad Pasha.<sup>130</sup>

Emine, however, was executed and the people of Istanbul did talk about the murder. In an article he wrote nine years after the event, Namık Kemal began by saying, “it is well-known that his wife had Ferik İbrahim Pasha executed by a servant.”<sup>131</sup> Kemal was one of the founders of the Young Ottoman movement, which advocated a constitutional monarchy based on an idealized version of Islamic history.<sup>132</sup> At that time, he was living in London in exile and writing for *Hürriyet* (Liberty), funded by the disillusioned Egyptian prince, Mustafa Fazıl Pasha.<sup>133</sup> From Europe he could criticize the regime from a safe distance.

128 Rubin, *Ottoman Nizamiye Courts: Law and Modernity*, 85–87.

129 The relevant clause was Article 86: “L'attentat ou le complot contre la vie ou contre la personne de l'Empereur, est crime de lèse-majesté; ce crime est puni comme parricide, et emporte de plus la confiscation des biens.” L. Rondonneau, *Corps de droit français, civil, commercial et criminel: contenant les codes Napoleon, de procedure civile, de commerce, d'instruction criminelle, des delits et des peines, et le tarif des frais et depens en matiere judiciaire* (Paris: Garnery, 1810), 447. On the Kuleli conspiracy, see Burak Onaran, *Détrôner le sultan: deux conjurations à l'époque des réformes ottomanes: Kuleli (1859) et Meslek (1867)* (Paris: Peeters, 2013), 83–254.

130 Text: “*Sâlifü'z-zikr fedâilerin Zât-ı Şâhân'ye sù'-i kasdleri tebeyyün eylemiş ise de mezkûr maddeler kanun-nâme-i hümayundan tayyedilmiş olduğundan padişah hakkında olan sù'-i kasdlerine idâm hükmü tertîb ettirilemeyip sâir efrâd-ı nâs hakkında olan sù'-i kasd edenler gibi kürek ya kal'a-bendlik cezâlarıyla mücâzât olunmalarına mecbûriyet görüldü* [Although the aforementioned assassins' malicious intent against His Majesty became evident, since the mentioned clauses were not included in the Imperial Law Code, it was not possible to impose a death sentence for their malicious intent against the Sultan. Therefore, it was deemed necessary to punish them with penalties such as rowing or imprisonment, just like those who had malicious intent against ordinary people].” Cevdet Paşa, *Tezâkir 13–20*, ed. Cavid Baysun, 4 vols. (Ankara: Türk Tarih Kurumu, 1991), 2:83.

131 Kemal, “İnnallâhe ye'muru bil adli vel ihsâni,” 5. This is a long article. Emine's story is at the beginning of section [x].

132 On Namık Kemal's ideas, see Mardin, *The Genesis of Young Ottoman Thought*, 283–336. Also see Şiviloğlu, *The Emergence of Public Opinion*, 174–221.

133 Mardin, *The Genesis of Young Ottoman Thought*, 47–56.



Like many prominent members of his generation, his career began at the Translation Bureau in 1857. He was almost the same age as Halil Şükrü Efendi, the oldest son of Ferik İbrahim Pasha. In all probability, they knew each other well as they worked in the same office with only a handful of other employees.

Namık Kemal contended that the “great masters” wanted to make an example of Emine to deter other women.<sup>134</sup> He focused his attacks on what he perceived as a chronic disdain for sharia principles. He was troubled by the open disregard for Article 171, which guaranteed the heirs’ rights consistent with Islamic law.<sup>135</sup> In Kemal’s opinion, with two heirs present, the case should have been assigned to an Islamic court. “The judge had no right whatsoever,” he stated, “in exceeding the boundaries designated by sharia and *kanun* in this particular instance.”<sup>136</sup> By comparing members of the *Meclis-i Vâlâ* to ill-informed and self-righteous religious authorities (*müftî-i mâcin*), Kemal denounced Emine’s execution. According to him, the use of the *sâ’i bi’l-fesâd* formula to execute Emine was “mere stuff and nonsense.”<sup>137</sup> Kemal further asserted that, by placing their seals on the document, the members of *Meclis-i Vâlâ* were indirect perpetrators (*amir-i mücbir*) in the murder of a woman who, as an accomplice, should not have been subjected to capital punishment according to the law.

Mehmed Sadık Pasha, a contemporary of the event and Istanbul resident, contended that the punishment was administered “selon le Tanzimat.”<sup>138</sup>

134 Text: “*Büyük efendilerimiz sirayet mahzurundan korktuklarından mıdır nedir, kadının mücerreden idamını arzu ettiler.*” Kemal, “İnnallâhe ye’muru bil adli vel ihsâni,” 6.

135 An interesting case highlights the importance of Article 171 and the uniqueness of Emine’s situation. In 1864, an African (Habeşi) slave killed his master, Yüzbaşı Ali Ağa, in Mecca. He claimed that his master tried to rape him (*fül-i şeni*), and that he shot him to protect himself. The investigators argued that Ali Ağa was known for his moral rectitude and such behavior was out of character. Eventually the verdict was premeditated murder and the culprit was sentenced to death as an example to other slaves living in the holy city. The fact that the heirs of the deceased were unreachable made the situation complicated. In the end, the man was politically (*siyaseten*) executed. It was, however, emphasized that because Article 171 guaranteed the heirs’ rights, if they appeared, they would be compensated from the state treasury. BOA, MVL 770/52, 2 Zilkade 1280 (April 9, 1864).

136 Even if İbrahim Pasha had no heirs, Kemal argued, Emine’s role was only aiding and abetting. Thus, she should have been punished consistent with Article 175, which stipulated that “the person who is an auxiliary to a killer is put to kyurek [forced labor] temporarily.” See Bucknill and Utidjian, *The Imperial Ottoman Penal Code*, 129. The original of the article is “*muîn-i katil olan kimse muvakkaten kürege konulur.*” *Ceza Kanunname-i Hümayunu*, 64.

137 Kemal, “İnnallâhe ye’muru bil adli vel ihsâni,” 6.

138 [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 172. In the Russian original, наказали по танзимату. (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 169.

His account aligns with the official version, with the exception of one or two points. As mentioned above, he asserted that Hüseyin's name was Dimitri and that the marriage between Emine and İbrahim Pasha was a great romance. On the whole, he accurately relates the details of the murder. According to Sadık Pasha, the SheikhuIslam (chief mufti) declined to approve the penalty on the ground that Emine Hanım was not indictable according to the Islamic law.<sup>139</sup> The same information can be also found in *Le Monde illustré*, published only three weeks after the executions:

However, according to an ancient and touching Eastern custom, when a Muslim fell under the blows of an assassin, his closest relatives are assembled and asked if they want blood for blood. It is this custom which the Grand Mufti has called for observation: he successively questions all the children of Ibrahim-Pasha. – do you want, he said to them, the blood of your mother for that of your father? – and everyone answers: – No. – Let her live then! And you, he exclaims, turning to the Sultan's officer who is waiting at the door, tell the Commander of the believers that I refuse my fetwa for the death of Emine.<sup>140</sup>

If true, the SheikhuIslam's refusal to sanction Emine's execution is one of the most interesting parts of the affair. Again, like many other aspects of Emine Hanım's life, it is impossible to verify this refusal in official sources. Yet there is enough circumstantial evidence to suggest that the story might be more than simple fabrication. For one, the ruling on Emine Hanım does not include any religious reference.<sup>141</sup> This is atypical because even in cases of *siyaseten katl*, one frequently finds an allusion to an Islamic authority, either as the *fetvahane* (as in the case of Sheikh Ali Efendi) or *i'lâm-ı şer'i* (as in the case of Feyzullah of Prilep). The sanctioning of a religious authority was not an obligation. After

139 [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 171. (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 169.

140 Petit-Jean, "Courrier du Palais," 223.

141 At the time of the event, the *Meclis-i Vâlâ Müftüsü* was Sirozîzâde Mehmed Tahir Efendi (d. 1865), a man of little distinction. Mehmed Süreyya, *Sicill-i 'Osmanî, yahud, Tezkire-i Meşâhîr-i 'Osmaniyye*, 4 vols. (İstanbul: Matba'a-i Âmire, 1311/1893–94), 3:248–49. Apparently, he was not involved in the decision. But his seal was affixed to the judgment as "Şerif Mehmed Tahir." This does not necessarily mean that he approved Emine's execution, merely that he was present. Nuri Pasha, for instance, was recorded as "not present during the moment of sealing (*hîn-i temhirde bulunamadı*)," others, like Şevket Pasha, were excused as *na-mizaç* (indisposed). Some, like Edhem Pasha, were registered as *bulunmadı* (not present). These absences and indispositions are common in every *Meclis-i Vâlâ* decision and probably do not mean any disagreement with the decision.

all the *siyaseten katl* formula was designed to circumvent Islamic restrictions. Nonetheless, considering the prevalence of religious references in similar cases, the absence of such in Emine Hanım's case suggests a noteworthy deviation.

Throughout Ottoman history, it was rare for Ottoman ulama to oppose the sultan in any meaningful way. Following the removal of the janissaries in 1826 and the beginning of the Tanzimat era, a forced harmony between *fetva* authority and lawmakers prevailed, with only one notable exception: the brief tenure of Sheikhulislam Mehmed Sâdeddin Efendi (d. 1866), who held the office from 1858 to 1863.<sup>142</sup> During Emine's trial, he was the highest *fetva* authority. Contemporary sources portray him as an obstinate man. He was a descendant of a famous sixteenth-century scholar, Hoca Sâdeddin Efendi (d. 1599) and had a great sense of his own importance.<sup>143</sup> Cevdet Pasha often criticized him for his distant and convoluted relationship with the Sublime Porte.<sup>144</sup> Due to his rigidity on religious questions, Âli Pasha and Fuad Pasha complained about the Sheikhulislam's lack of understanding.<sup>145</sup> Ahmed Lütfi Efendi refers to him as a man who often overstepped the bounds in observing the rules of the *ilmîyye* profession.<sup>146</sup>

One wonders if Lütfi Efendi was thinking of Emine's case when he made this observation. Did the Sheikhulislam really decline to sanction the penalty, as Sadık Pasha contended, by saying that he could not issue a *fetva* against the precepts of the Qur'an?<sup>147</sup> In the Russian original account of Sadık Pasha, he emphasized that it was "particularly the dignitaries and the people enlightened by Western education" who demanded the execution of Emine and who were appalled by the refusal of the Sheikhulislam.<sup>148</sup>

142 In his research on the *Majlis al-Ahkam* registers, Khaled Fahmy found no "ruling that passed a death sentence on a murderer who had not already been given such a sentence by a *qâdi*." Khaled Fahmy, "The Anatomy of Justice: Forensic Medicine and Criminal Law in Nineteenth-Century Egypt," *Islamic Law and Society* 6:2 (1999): 264. Note that whereas the power of the Ottoman ulama declined in the nineteenth century, in Qajar Persia, they gained exceptional political weight. Nikki R. Keddie, "The Roots of the Ulama's Power in Modern Iran," *Studia Islamica*, 29 (1969): 33.

143 Rifat Efendi, *Devhatü'l-meşayih maa zeyl* (İstanbul: s.n., n.d.), 132–34.

144 Text: "*Tarîk-i ilmîyyenin Bâbüâlî'den bu kadar bu kadar ba'd ve münharif gitmesi münasip değildir.*" Cevdet Paşa, *Tezâkir* 13–20, 155.

145 Cevdet Paşa, *Ma'rûzât*, 47.

146 Ahmed Lütfi Efendi, *Vak'a-Nüvis Ahmed Lütfi Efendi Tarihi*, ed. Münir Aktepe, 15 vols. (İstanbul: İstanbul Üniversitesi Edebiyat Fakültesi Yayınları, 1984), 10:103.

147 (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 169. [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 171.

148 (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 169. In French, the statement reads, "Cette décision du chef religieux de l'islam terrifia tout la société musulmane, principalement les hauts dignitaires." [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 171–72.

Following the announcement of the penalty, the denizens of Istanbul gathered day after day at the Karaköy bridge, anticipating the execution. Each morning, rumors circulated that the sentence would be carried out that day, and curious onlookers obstructed the road for days.<sup>149</sup> The *Levant Herald* reported that the delay was due to the difficulty of finding an executioner.<sup>150</sup> Eventually, “a gypsy” was secured. On March 4, shortly after 5 o’clock in the morning, Hüseyin and Emine were brought to the square.<sup>151</sup> Hüseyin was on foot, with his hands tied behind him, and Emine was sitting on a sedan chair. When she saw the two upright poles and the crossbeam, she broke into a low cry, asking for mercy (*aman, aman*). After being informed that she would be exiled, she was led into a wooden shed that had been constructed for the occasion.<sup>152</sup> There Emine was seized, and the noose slipped over her head. Following a brief struggle, her dead body was carried out and hung up on the frail-looking gallows.<sup>153</sup>

Next, an officer read out the court’s decision. Hüseyin was asked to kneel. He did so without hesitation or resistance. A bystander remarked that he looked like a man who had died yesterday.<sup>154</sup> The executioner unsheathed his sword and struck near the juncture of the shoulder and neck. He fell on his face and made a few convulsive movements. Three additional blows were required before the head could be severed from the trunk. Then it was placed face up next to the body. Placards announcing their crimes were stitched to their shirts. While Hüseyin was clothed in tatters, Emine wore a fine dress, claret-colored robe with wide yellow leather boots.<sup>155</sup>

149 Anonymous, “[On a pu remarquer],” *Journal de Constantinople*, 6 Mars 1860, 2.

150 Text: “The sentence has been confirmed by the Sultan and would, we are assured, have been already carried into effect but for the difficulty experienced in finding an executioner for the woman who, equally with her paramour, is to die by hanging. A man, however, has been sent for to Broussa [Bursa] and on his arrival the execution will at once take place.” Anonymous, “[In our paper of Wednesday last we reported the murder of the Ferik İbrahim Pasha],” 517.

151 Anonymous, “[The Execution in Stamboul],” *Levant Herald*, 7 March 1860, 519–20.

152 Anonymous, “An Execution in Stamboul: Bow-String and Scimitar,” 1; Anonymous, “[On a pu remarquer],” 2.

153 The *Levant Herald* changed its tone in their last issue reporting the event: “Since last week, we have been informed that jealousy, and not a criminal intrigue, with the male murderer, had been the impelling motive of the woman’s share in her husband’s death. The latter, it appears, had taken to himself a young slave, and maddened by his refusal to turn away this trespasser on the conjugal domain, the wretched wife planned and accomplished the old man’s death as we have related.” Anonymous, “[The Execution in Stamboul],” 520.

154 Anonymous, “[The Execution in Stamboul],” 520.

155 From the *Journal de Constantinople*: “C’est hier qu’a eu lieu sur cette place à Stamboul l’exécution des deux assassins. Le tutundji a eu la tête tranchée et a été laisse quelques

Sadık Pasha recounts that the children bore witness to their mothers' last moment and wept inconsolably. In his rendition of the event, they did not live long after Emine's execution and all died before the end of the year. This information, in fact, is not completely accurate. Five years later, during the reign of the next sultan, Halil Şükrü wrote a petition and asked to be reinstated in public service, albeit in a modest capacity. He only alluded to the event and lamented his destitution (see Image 11).<sup>156</sup> No evidence exists to suggest that his request was granted, and the family does not resurface in the archives. After the murder, Ferik İbrahim Pasha's konak was abandoned. Nobody wanted to live there. The plot remained unoccupied for an extended period, even after the building was demolished, as it was believed to be cursed.<sup>157</sup> Over a decade later, the American Bible Society purchased the land, having sought unsuccessfully a location in old Istanbul since the Crimean War.<sup>158</sup> According to Sadık Pasha, Emine's story became something of a legend, but eventually, he wrote, it was forgotten like everything else.<sup>159</sup>

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heures en spectacle à la population. Sa complice a subi, suivant la sentence, la peine du gibet. Deux caïks ont emporté les deux cadavres qui ont été inhumes dans la soirée." Anonymous, "[On a pu remarquer]," 2. For the settlement of İbrahim Pasha's estate, a certain Remzi Efendi, the director of Royal Treasury Commission was appointed. БОА, А.}МКТ.НЗД. 309/73, 2 Ramazan 1276 (March 24, 1860). I have not been able to locate the estate records in the archives.

156 БОА, МVL 457/95, 29 Cemazeyilevvel 1281 (October 30, 1864). For a copy of the original document, see Image 11.

157 I am deeply grateful to my friend Yavuz Sezer, who passed away at a young age from COVID-19, for helping me to establish the exact location of the konak.

158 Johann Strauss, "Müdafaa'ya mukabele et Mukabeleye müdafaa: Une controverse islamo-chrétienne dans la presse d'Istanbul (1883)," in *Querelles privées et contestations publiques: le rôle de la presse dans la formation de l'opinion publique au Proche Orient*, ed. Christoph Herzog, Raoul Motika, and Michael Ursinus (Istanbul: Éditions Isis, 2002), 56. In an unpublished manuscript, Ahmed Sâfi writes: "At Mercan hill, in Istanbul, opposite the Rıza Pasha's konak, the estate of Maktul (the Slain) İbrahim Pasha was bought by this accursed race (*kavm-i menhus*). They constructed a big building and named it Bible House. This is the center of their officers who became the instruments of the propagation and the circulation of the new religion that they were trying to ..." Ahmed Sâfi, *Sefinetü's-Sâfi*, 18 vols. (Süleymaniye Manuscript Library: Microfilm Archives, no: 02096-005), 8:693. A tentative index of this work was prepared by Necdet Tosun. See, Necdet Tosun, "Kültür Tarihimize Işık Tutan Mühim Bir kaynak: Sefinetü's-Sâfi," *İLAM Araştırma Dergisi* 1:2 (1996): 181–89.

159 (Садык-паши), *ТУРЕЦКІЕ АНЕКДОТЫ*, 171; [Mehmed Sadık Pasha], *Souvenirs anecdotiques*, 173.

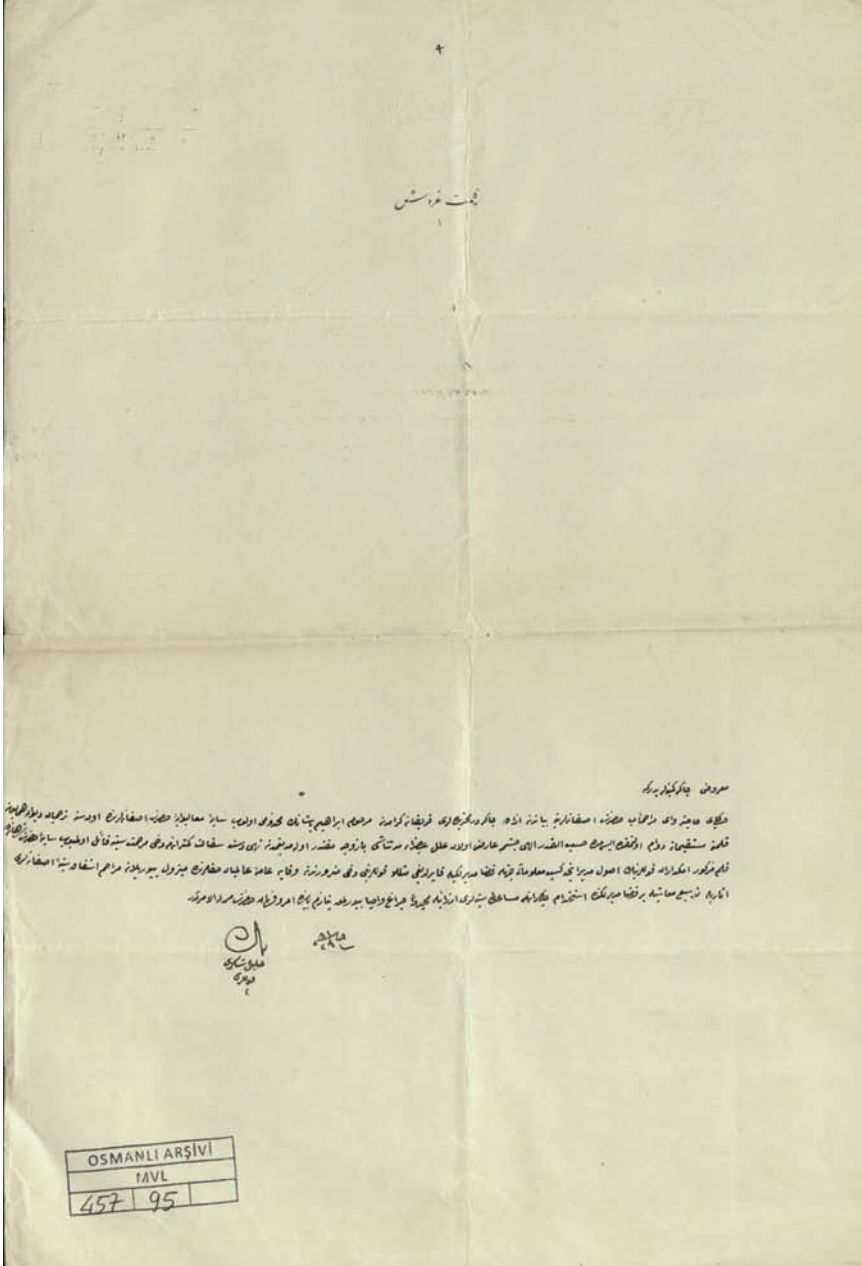


IMAGE II Halil Şükri's plea for reinstatement in public service. BOA, MVL 457/95, 29 Cemazeyilevvel 1281, October 30, 1864.

## Conclusion

In this article, I have attempted to contribute to the growing body of literature on legal reform in the Ottoman Empire during the nineteenth century. Numerous scholars have enriched our understanding of the complex legal transformations that transpired in the empire. Building on their work, I have explored and analyzed the subtleties of legal development, elucidating these changes through the lived experiences of individuals. The unfolding of Emine's story highlights the unpredictability of legal practice and the potential for manipulation within the system during the Tanzimat period. By juxtaposing the aspirations of reform with the lived realities endured by individuals like Emine, a woman and former slave, I seek to improve our understanding of the limitations and tangible challenges of legal reforms in the nineteenth century. Through this analysis, I hope to provide readers with a more comprehensive and nuanced appreciation of the complex interplay between the ideals of reform and the lived experiences of those entangled within the system.

The first half of the Tanzimat age marked a transitional period during which sharia and *kanun*, in the traditional sense of the word, lost their hegemony. This is not to say that the rule of law was fully implemented in the following years. On the contrary, until the end, the ruling elite attempted to influence the judiciary through coercion and enticement.<sup>160</sup> Regular criminal procedures, however, were followed for the sake of appearances. When Abdülhamid resolved to eliminate his archenemy, the reformer Midhat Pasha, he had to navigate through all kinds of bureaucratic obstacles.<sup>161</sup> In the end, Midhat was sent into exile. The fact that the Pasha later died under suspicious circumstances is nearly inconsequential. What is significant here is the authorities' inability to execute Midhat through *siyasten katl*, which was not applied in the 1880s. After Emine's trial, the terms *siyaseten katl* and *sâ'î bi'l-fesâd* vanished from legal terminology, except for one or two insignificant cases.<sup>162</sup> Was the continuation

160 Just a few months before the First World War, Enver Pasha, the most powerful man in the Empire, arranged the court-martial and execution of a "simple major" on the General Staff, Aziz Ali Bey (later famous as Aziz Ali al-Misri). Djemal Pasha, *Memories of a Turkish Statesman 1913–1919* (New York: George H. Doran Company, 1922), 63. On his trial, also see BOA, DH.KMS. 19/16, 6 Cemaziyelevvel 1332 (April 2, 1914). Aziz Ali Bey survived Enver Pasha's fury and lived to be one of the most important leaders of the independent Egyptian state. He died as an octogenarian in Cairo in 1965. See Eliezer Tauber, *The Emergence of the Arab Movements* (London: Frank Cass, 1993), 99–326.

161 On this event, see now Rubin, *Ottoman Rule of Law and the Modern Political Trial*, passim.

162 A bandit named Salih Rapa who was active in the region of Debar seems to have been the last person executed by *siyaseten katl* in the Ottoman Empire. His sentence was passed

of *siyaseten katl* during the Tanzimat Era an archaic peculiarity, a revolutionary camouflage, or conjuring of the “spirits of the past” during a period of great social transformation?<sup>163</sup> There is no clear-cut answer to this question. *Siyaseten katl* was more palatable than the newly emerging secular law, while still bearing its earlier connotations of sultanic authority.

The legal discourse surrounding Emine’s execution is also noteworthy. Both Namık Kemal and Sadık Pasha pointed out the unlawfulness of the decision. Such internalization of legal norms is striking. Especially in the first quarter of the nineteenth century, life in the Ottoman Empire, to use Hobbes’ formula, was “solitary, poor, nasty, brutish and short.” When one reads the chroniclers of the time, such as Câbî Ömer Efendi (d. 1814) or Şânizade Mehmet Ataulah Efendi (d. 1826), it is difficult to avoid the feeling of accidental survival.<sup>164</sup> The period between 1820 and 1830 witnessed the abolition of the janissary corps and the Greek War of Independence and was characterized by state violence. Westerners who visited Istanbul during this period mention headless trunks, sometimes of respectable locals, lying in the street as if part of the scenery.<sup>165</sup> However, only a few decades later, in the 1860s, the death of an ordinary woman created a sensation in Istanbul. The Tanzimat may have failed to

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in 1875. On his activities, see BOA, A.}MKT.MHM. 477/17, 18 Şaban 1291 (September 30, 1874). On his sentencing, see BOA, İ.MMS. 51/2214, 29 Zilhicce 1291 (February 6, 1875). When Agob veled-i Karabet (Agop Karabetyan) tried to assassinate the Armenian Patriarch, Khoren Aşıkyan (r. 1888-1894) in 1894, it was suggested that he should be executed by administrative death penalty (*idareten ve siyaseten idamı*). The language of the document is illuminating. Agob was depicted as an anarchist (بر انارشیتست), and it was argued that because of the importance of the affair, the case should not be dragged out in courts, and he should be executed as soon as possible (*sürüncemede bırakılmayarak ve mahkemeye veya Divan-ı Harbiyeye düşürülmeyerek*). See BOA, İ.HUS. 22/28, 18 Ramazan 1311 (March 25, 1894). This suggestion, however, was not acted upon, and Agob was later sentenced to fifteen years in prison. BOA, A.}MKT.MHM. 695/5, 20 Ramazan 1311 (March 27, 1894).

163 In the *Eighteenth Brumaire of Louis Bonaparte*, Marx wrote: “The tradition of all the dead generations weighs like a nightmare on the brain of the living. And just when they seem engaged in revolutionizing themselves and things, in creating something that has never yet existed, precisely in such periods of revolutionary crisis they anxiously conjure up the spirits of the past to their service and borrow from them names, battle cries and costumes in order to present the new scene of world history in this time-honoured disguise and this borrowed language.” Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte* (Moscow: Progress Publisher, 1972), 10.

164 See, for instance, Cabi Ömer Efendi, *Cabi Tarihi: Tarih-i Sultan Selim-i Salis ve Mahmud-i Sâni Tahlil ve Tenkidli Metin*, ed. Mehmet Ali Beyhan, 2 vols. (Ankara: Türk Tarih Kurumu Basımevi, 2003), 2:728–29.

165 Rev. R. Walsh, *A Residence at Constantinople during a Period Including the Commencement, Progress, and Termination of the Greek and Turkish Revolutions*, 2 vols. (London:



establish the rule of law in the western sense of the term, but it re-established, or perhaps one should say, introduced, the Islamic ideal of *adl* (justice) as the most important yardstick by which actions and decisions were judged.<sup>166</sup>

Emine's story also has a distinctly human aspect. Although her execution may be explained as a product of new secular laws or archaic practices, ultimately, the decision was made by a sultan who, by all accounts, abhorred the death penalty. He could have easily spared her life, but he did not. This decision warrants further exploration. The bane of Abdülmecid's life was his wives. "My women ruined me," he reportedly said just before he died at the age of thirty-nine.<sup>167</sup> The statement is consistent with his character. According to contemporary reports, one of his consorts, Serfiraz Hanım, subjected Abdülmecid to ridicule throughout Istanbul.<sup>168</sup> Cevdet Pasha chronicled her dalliance with an Armenian lover, a musician known as Küçük Fesli (the man with little fez), who was eventually assassinated by hitmen hired by the palace.<sup>169</sup> This scandal took place just before the murder of İbrahim Pasha.<sup>170</sup> Perhaps the trial and the executions were the actions of a man who, as Namık Kemal argued, wanted to make an example of Emine, a lesson to all other unfaithful wives. Emine's story tells us a lot about slavery, the private life of the Ottoman elite and the judicial procedure during the Tanzimat era. Does it also reveal something about Abdülmecid himself?

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Frederick Westley and A. H. Davis, 1836), 2:13; Charles MacFarlane, *Constantinople in 1828: A Residence of Sixteen Months in the Turkish Capital and Provinces with an Account of the Present State of the Naval and Military Power and of the Resources of the Ottoman Empire*, 2 vols. (London: Saunders and Otley, 1829), 2:392–93; James Ellsworth de Kay, *Sketches of Turkey in 1831 and 1832 by an American* (New York: J. & J. Harper, 1833), 375.

166 This emphasis on Islamic justice may be related to "the Islamic Roots of the Gülhane Rescript." See Butrus Abu-Manneh, "The Islamic Roots of the Gulhane Rescript," *Die Welt des Islams* 34: 2 (1994): 173–203.

167 Cevdet Paşa, *Tezâkir 13–20*, 11, 129.

168 Ibid. 65. Also see M. Çağatay Uluçay, *Padişahların Kadınları ve Kızları* (Ankara: Türk Tarih Kurumu, 1980), 147–48.

169 Cevdet Paşa, *Tezâkir 13–20*, 3–4.

170 The adventures of Serfiraz were notorious between 1272–1275/1855–1859.

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